

TO THE SCIENTIFIC JURY,
appointed by Order № P 33 / 25.09.2020 of the Rector of PU "Paisii Hilendarski"

REVIEW

by Prof. Ivan Rushev, Ph.D.,
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Concerning a competition for the academic position of "Professor",
in the field of science: 3. Social, economic and legal sciences ",
professional field: 3.6. Law, announced in SG, no. 57 / 26.06.2020

Distinguished members of the scientific jury,

The competition was announced for the needs of the Law Firm of the University of Plovdiv "Paisii Hilendarski", according to a decision of the AC of the university. I am included in the composition of the scientific jury for the competition with Order № P 33-4706 / 25.09.2020 of the Rector of PU "Paisii Hilendarski", and by decision of the jury I am determined to prepare a review of it. The only candidate in the competition is Assoc. Prof. Dr. Lyuba Georgieva Panayotova - Chalakova, Department of Civil Law, Faculty of Law, Paisii Hilendarski University of Plovdiv.

On the grounds of art. 29a of Law for the Development of the Academic Staff in the Republic of Bulgaria, art. 62, para. 2 and para. 4 of the Regulations for application of Law for the Development of the Academic Staff in the Republic of Bulgaria, I present my review of the announced competition, resp. - on the scientific contributions of the submitted works and the scientometric criteria of the only candidate in it.

INFORMATION ABOUT THE CANDIDATE IN THE COMPETITION

Assoc. Prof. Dr. Lyuba Panayotova-Chalakova was born in 1975, she graduated in 1997 at the Law School of the University of Plovdiv "Paisii Hilendarski". Since 1998 he is a judicial candidate in the District Court - Plovdiv. In the same year, after winning a competition, she was appointed assistant professor of civil and family law at the same faculty.

During the period 2000-2004 he was a doctoral student in civil and family law at the Institute of Legal Sciences at the Bulgarian Academy of Sciences, and in 2006 he obtained the educational and scientific degree "Doctor of Law" with the dissertation "Property Law". She has been appointed to the academic position of "Chief Assistant" at the Law Faculty of the University of Plovdiv "Paisii Hilendarski", where she teaches civil law disciplines - property and contract law. He is the author of a number of articles and studies in specialized legal publications, as well as two monographs in the field of civil law: "Superficies in Bulgarian property law" (based on the defended dissertation) and "Replacement in Bulgarian civil law". With the second monograph he habilitated for the academic position "Associate Professor" in the Law Faculty of the University of Plovdiv "Paisii Hilendarski". Since 2007 she has been registered as a lawyer in the Bar Association - Plovdiv. He has two scientific specializations - in France and in Switzerland.

Assoc. Prof. Dr. Lyuba Panayotova-Chalakovska participates in various conferences in the country, incl. with international participation. Its presence with scientific reports in: Jubilee scientific conference on the occasion of the 25th anniversary of the Law Firm of the University of Plovdiv "Paisii Hilendarski" (report on "The concept of things", published in the Collection "Law - Traditions and Perspectives", Ciela) Norma, S. 2018, pp. 135 - 151. ISSN 978 - 954 - 28 - 2625); in an international conference in memory of Assoc. Prof. Dr. Christian Takov with a report on "Specifics of co-hereditary relations in the application of the presumption under Art. 69 ZS "(published in: Collection of scientific research in memory of Assoc. Prof. Dr. Christian Takov, UI " St. Kliment Ohridski ", Sofia, 2019, pp. 192 - 198, ISBN 978-954-07- 4746-0); in Scientific readings dedicated to the 140th anniversary of the adoption of the Tarnovo Constitution ", organized by the Law Firm of the University of Plovdiv " Paisii Hilendarski "(with a report on " Control of proportionality and property rights - the impact of European and constitutional practice ", published in: Proceedings Scientific readings dedicated to the 140th anniversary of the adoption of the Tarnovo Constitution", organized by the Law Faculty of the University of Plovdiv " Paisii Hilendarski ", S. Ciela, 2019, ISBN 978-954-28-3043-6, pp. 389-40); in the Conference "Law and Cultural Values", held on 16.11.2018, where he participated with a report on "Peculiarities in the ownership of cultural values in Bulgarian law", published in "Ciela Norma", issue. 9-10, 2019 ISSN 1314 - 5126, p.5 - 33); in an international colloquium on "Motherhood - traditions and perspectives", held at the Law Faculty of the University of Plovdiv in September 2019. with a report on "Some property aspects of motherhood regulated in family law" and many others.

FULFILLMENT OF THE REQUIREMENTS FOR TAKING THE ACADEMIC POSITION

Fulfillment of the quantitative requirements: The candidate in the competition for "professor" far exceeds the National minimum requirements according to art. 2b Law for the Development of the Academic Staff in the Republic of Bulgaria, and art. 1a, para. According to the indicators from Group A, Assoc. Prof. Panayotova-Chalakovska has 50 points, according to the indicators from group B - 100 points, according to the indicators from group D - 330 points, according to the indicators from group E - 155 points, or a total of 780 points, which significantly exceeds the required national minimum of 550 points.

VALUATION OF ACADEMIC AND TEACHING ACTIVITY

Assoc. Prof. Dr. Lyuba Panayotova has extensive teaching experience. Since 1998 she has passed through all levels of academic teaching: assistant (1998-2006); from 2000 to 2004 - PhD student at the Institute of State and Law, BAS (diploma for acquired educational and scientific degree "Doctor of Law" - 2006). During the period 2006 - 2012 he was a chief assistant in the law firm of Paisii Hilendarski University of Plovdiv, and since 2013. to date - holds the academic position of "Associate Professor" at the Law Faculty of Paisii Hilendarski University of Plovdiv. Since 2015 Until now, Assoc. Prof. Dr. Panayotova - Chalakovska is the head of the Department of Civil Law at the Law Faculty of the University of Plovdiv "Paisii Hilendarski". During the period 2015 - 2019 she was Deputy Chairman of the Control Board of PU, and from 2019. and currently a member of the Academic Council of the University. Conducts a lecture course and seminars on Property Law, Notary Activity, Cadastre and Property Register, Intellectual Property Law; Participates in the Master's program "Public Administration" with the discipline "Right to Property".

After holding the academic position of "Associate Professor" under Art. 65 PRASPU, she presents the monograph "Property - development and prospects, the impact of constitutional and European case law" and 15 articles with which she participated in this competition.

In conclusion on this section I accept the teaching activity and the academic competence of Assoc. Prof. Dr. Lyuba Panayotova-Chalakovska fully comply with the requirements of the announced competition for the academic position of "professor" in the scientific field: 3. Social, economic and legal sciences, Professional field 3.6. Law, scientific specialty civil and family law.

GENERAL CHARACTERISTICS OF THE PRESENTED SCIENTIFIC WORK

In the announced competition, the candidate Assoc. Prof. Dr. Lyuba Panayotova-Chalakovska has indicated 16 papers: a monograph "Property - development and prospects, the impact of constitutional and European case law" and 15 articles published in refereed journals with scientific review or in edited collective volumes.

Published, on the basis of a defended dissertation for the award of educational and scientific degree "Doctor", the monograph "Superficies in Bulgarian property law", the habilitation work "Replacement in Bulgarian civil law", as well as all other works in connection with obtaining educational and scientific degree doctor's degree, resp. - for holding the academic position of "associate professor" are not included in the scientific production submitted for the competition.

The scientific output of the candidate can be summarized in several areas: 1. constitutional, property and European aspects of property rights, 2. things in historical aspect, the new concept of things in European legal doctrine and practice of the CJEU, classifications of things; 3. things and cultural values; things and objects of intellectual property, 4. relations between co-owners (co-heirs); 5. other problems indirectly related to the right of ownership and the things as their object: 5.1. compensation of owners in case of expropriation of properties; 5.2. rent; 5.3. changes in the property in case of enforcement.

EVALUATION OF THE SCIENTIFIC AND SCIENTIFIC-APPLIED CONTRIBUTIONS:

A. IN THE HABILITATION WORK: EVALUATION OF THE ACHIEVED SCIENTIFIC-APPLIED RESULTS AND SCIENTIFIC CONTRIBUTIONS AND RECOMMENDATIONS

The subject of review in this part is first of all the monograph "Property - development and perspectives, influence of the constitutional and European jurisprudence" presented for participation in the competition, S. Ciela, 2019, 416 pages ISBN 978-954-28-2783- 2, resp. the presence of contributions in it.

As an indisputable novelty, he should first of all define the subject of scientific research of the monograph - the development of property rights in historical and legal perspective, evolving under the influence of economic, social and political factors.

Chapter one of the monograph: "Property - historical and legal aspects" discusses the phenomenon of property from its inception to its classical conceptualization in FGC. The author tried to introduce a modern concept of property by generally tracing the right to property in different legal systems. The historical and comparative legal review itself is of contribution.

In the second chapter, refracted through the prism of past, present and future in legal matters, the concept of things is commented on. Following the process of creating broader legal concepts, special attention is paid to the trend in modern European law to expand the definition of the concept of property. The conclusion is justified that there is already an autonomous European concept of property, different from the concept in the domestic law of the countries of the continent. For its construction, various objects of law of an intangible nature are equated to property, in order to obtain protection. However, in the absence of corporality, the new definition of European law recognizes their protection before the relevant institutions only insofar as they represent "significant property value" for their owners. The study of this concept on the territory of Bulgarian law has a contributing character. Such are the new parallels that are drawn between "real (real) and" personal (personal, in the sense of relative) "subjective rights. From a purely systematic point of view, the consideration of the types of subjective rights in the chapter devoted to objects - things, can hardly be supported.

The recent political-sociological (and moving away from the legal) perspective in the examination of the European and constitutional powers (the concept of "European" powers is unclear) of the owners has found expression in Chapter Three. In the exposition an attempt is made to consider and present the classical powers of possession, use and disposition through the prism of the respective case law. An important point is the introduction of many common features in the practice of the Constitutional Court of the Republic of Bulgaria and the European Court of Human Rights, when ruling on similar issues, such as restrictions or violations of any of the powers of the owners. It is established that the content of the powers of disposal and use in the practice of the CJEU is enriched, which receive a wider protection in comparison with the classical national law.

The conclusion reached by the applicant in Chapter Four regarding the guarantees of the right to property is the search for a balance between two interests - the public interest and that of the individual owner. The other concluding conclusion that the author makes there is that the European Court of Human Rights is developing an evolutionary case law aimed at responding to social change in the rapidly evolving modern world. These changes necessarily affect the concept of property and the rights over it. It is important to highlight two processes in this regard, which the applicant does - expanding the regime and the content of protection - on the one hand and the impact that European practice has on the traditional understanding of property rights and property - on the other.

One of the most significant new phenomena that the author explores is the so-called "socialization of property" - the emphasis on the personal significance of property in the new European practice. The European Court of Justice is already seriously emancipated from the national rights of the Member States and goes beyond the traditional framework of protection. There are numerous cases under Art. 1 of the Protocol, which also protects the non-property rights of individual citizens, which are considered in inseparable connection with property. Given this enhanced defense, the author reaches the following conclusion of a contributory nature - a crisis of property law in "its identity, unity and coherence." Of fundamental theoretical nature is the candidate's attempt to rethink the division of material and personal rights. It is argued that a right may be protected under the Convention only because it shows a property interest worthy and important to man, without necessarily requiring it to be a property interest.

An important place in the monograph is given to the increase of the so-called "European control", i.e. the aspiration of the ECtHR to impose in its practice the protection of a "supranational" (not as an affiliation, but as a significance) property, different from the protection provided by national regimes. Dictated by the broader perspective that the modern vision for the protection of human rights provides.

In general, the monograph should be defined as the first in our country scientific research with a strong program, and not just - legal and technical nature, which promotes European doctrine and practice in the matter of the new concept of property and the scope of rights over them. But not only that - his important contribution is that he is trying to implement these modern European ideas on the ground of the very outdated traditional understanding of property rights in our country. The few critical remarks to the exposition, mainly related to the transposition and translation of constructs from the European doctrine of the practice of CJEU and ECtHR in the Bulgarian theory, do not affect the high evaluation of the reached conclusions and their original argumentation.

Property law issues in its various aspects is a topic that has predominantly occupied the candidate since his first works. The monograph presented in the competition shows the high professional scientific level of Assoc. Prof. Dr. Panayotova-Chalakovska is a worthy continuation of her lasting scientific activities, which outline her as one of the best authors in our country in this field.

Therefore, MY MAIN RECOMMENDATION to the candidate could not be other than to continue with her inherent tendency to in-depth analysis, scientific integrity and talent to study it. In order to be able to apply modern European ideas in this field in the field of Bulgarian property law, of which she is an excellent connoisseur.

B. OTHER ARTICLES AND STUDIES SUBMITTED FOR REVIEW:

The second part of my review is essentially devoted to highlighting the contributing moments in the other 15 independent articles with which Assoc. Prof. Dr. Lyuba Panayotova - Chalakovska, participates in the competition for professor. As I have already mentioned above, in the part regarding the general characteristics of the presented scientific papers, in my opinion the SCIENTIFIC PRODUCTION of the candidate can be summarized in several areas, and I will consider its articles and studies in general, namely as belonging to one of these classification groups. It is true that some works can be considered as belonging to more than one of these groups, but the choice to refer them for review to this category, I have determined according to the prevailing issues in them. I think that this division gives me the opportunity to present the contribution moments in them in the best way for the candidate:

1. Constitutional, property and European legal aspects of the right to property. Apart from the habilitation thesis “Property - Development and Perspectives, Influence of the Constitutional and European Judicial Practice”, which I reviewed above, to this first group I also refer to the works indicated by the candidate in the Annotations of the attached materials after receiving the academic position “Associate Professor”. Art. 65 PRASPU, resp. in the List of scientific publications of Assoc. Prof. Dr. Lyuba G. Panayotova - Chalakovska for the period after acquiring the academic position of "Associate Professor", with which she participates in the competition for "Professor" and which are subject to review, under numbers 4, 6, 12 , 15.

In the article “Control for proportionality and the right to property” mentioned under № 4 (influence of the European and constitutional practice) - In: Collection “Scientific readings dedicated to the 140th anniversary of the adoption of the Tarnovo Constitution”, organized by the Law Firm of Paisii Hilendarski University of Plovdiv “, S. Ciela, 2019, ISBN 978-954-28-3043-6, the new from a theoretical point of view issues of control of proportionality in connection with the right to property are considered. The author considers this concept as the search for a balance between the common interest and that of the individual owner. The inadequacy and relative nature of the protection of property rights has been criticized. It is

argued that the reason for this is the refrain in the European and constitutional courts in this matter of a more serious control and the invalidation of only extremely serious interferences with property, clearly exceeding any normality.

The article under № 6. "Non-traditional views on property in the case law of the European Court of Human Rights / Protocol № 1 of the European Convention on Human Rights /", Norma, 2018, № 2 (February), ISSN 1314-5126, examines the new practice of the ECtHR, which imposes a completely different view of property, but also provokes objections from supporters of the traditional understanding of property in property law. The author finds the deeper reasons for this confusion and resistance, rooted in the classical provisions of the general theory of civil law - the division between property and non-property rights. The author's substantiation of the new tendency is of a contributory nature - the property should be considered as a set of property assets, bringing benefits for the legal entities. In addition to enriching property law doctrine, this new concept of property is the result of a long evolution at national and European level, and the author foresees the future impact of this practice on law in individual countries.

12. "European and constitutional aspects of the powers of owners" - Legal Thought, 2017, №1, p.28 et seq. ISSN 1310 - 7348. The article examines the concept of property rights in a broader context than traditionally perceived in our literature, which is only as a real subjective right. He points out that nowadays property is protected not only by civil law, but is also a problem in the constitutional and European practice of various courts. The analysis in the article contributes to broadening the horizons of this real right, leaving its consideration only as an object of domestic civil law.

In the publication under № 15. "Property - Historical and Legal Aspects" - Studia iuris, 2014, № 2. <http://studiaiuris.com/en/14;jsessionid=2655D7E5E16D9D837F68EE8614DFA748>, ISSN 2367-5314 property is presented as a phenomenon - object of research from various sciences. It is justified that it should be considered from different aspects: as a historical perspective of origin and development; as existing legal systems of property and as a theoretical setting showing the ideas behind the various legislative definitions.

2. The other group of publications covered by the review falls under the heading: historical items, the new concept of items in European legal doctrine and the practice of the CJEU; classifications of items. They shall cover the publications referred to in № 11, №10 and № 14.

The publication under № 11. "The concept of things" - In :. Proceedings "Law - Traditions and Perspectives", Jubilee Scientific Conference on the occasion of the 25th anniversary of the establishment of the Law Faculty of the University of Plovdiv "Paisii Hilendarski", S. Ciela Norma, 2018, pp. 135-151, ISSN 978-954-28-2625 the development of the general concept of property as a basic concept of private law. The theoretical difficulties in the attempts to derive a general definition of things, applicable to all branches of law, from the concepts of things in civil law - general part and in property law, are pointed out. The impact of European practice exerted on the construction of a new concept of things is indicated.

№ 10. Development in the classification of items in civil turnover (*res in commercio*) and items outside civil turnover (*res extra commercium*), Studia iuris, 2018, № 1, available at <http://studiaiuris.com/en/14;jsessionid=2655D7E5E16D9D837F68EE8614DFA748>, ISSN 2367 - 5314. It is assumed that the classification of things known from Roman law had a meaning different from today's, because it covered different categories of things: *res omnium communes*, *res divinis juris*, *res publicae*, looking for their modern analogues. The classical division of private and public things, incl. on the property

of the religions in our country and the so-called *res nullius* - important for the special ways of acquiring property through conquest.

In the article under № 14. “Development in the classification of immovable and movable property. Influence of European Law and Judicial Practice”, *Property and Law*, 2017, № 9, p.13 et seq. ISSN 1312 - 9473 takes into account the changes in the classical division of movable and immovable property, the reasons for this are considered: most already the accession of Bulgaria to the EU, the implementation of the European Convention on Human Rights, the Additional Protocol, 1 thereto, as well as the case law of the courts in Strasbourg and Luxembourg.

3. Property and cultural values; items and objects of intellectual property - this topic includes the publications в 3, № 5 and № 7 mentioned in the Annotations and the List

Publication № 3. „Cultural values of tangible and intangible nature. Comparison and connection with the objects of intellectual property” - *Property and Law*, 2019, № 10, p.81-87, ISSN 1312-9473 considers the types of cultural values that are heterogeneous as objects - both those of tangible and intangible nature .

In the article under № 5. "Peculiarities in the regime of ownership of cultural values in Bulgarian law", *Ciela - Norma*, 2019, issue 9-10, p.5-33, ISSN 1314-5126 different classifications of the types of cultural values are considered .

The publication under № 7. “Property and Intellectual Property”, *Property and Law*, 2018, № 3, p.75, ISSN 1312-9473 traces the commonalities between the law on property and intellectual property, also influenced by the practice of the ECtHR.

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4. Relationships between co-owners (co-heirs) shall include the publications referred to under №2 and № 9

Article referred to under № 2. “Specificity of the co-inheritance relations in the application of the presumption under Art. 69 3C4 - In: Collection of scientific researches in memory of Assoc. Prof. Dr. Kristian Takov, IM “St. Cl. Ohridski”, S. 2019, p.192 - 198, ISBN 978-954-07-4746-0. The article outlines the specifics of the relations between the co-heirs in the application of the presumption under Art. 69 of the Insurance Act, emphasizing the intention in the acquisition prescription and the presumption under Art. 69 of the Land Code and hypotheses are pointed out, imposing a different attitude towards the owners.

№ 9. “The application of the presumption under Art. 69 ZS to relations between co-heirs (Comment in connection with TR T1 / 06.08.2012 of the Supreme Court of Cassation) “, Property and Law, 2018, № 7, p. 44, ISSN 1312-9473. In the article an attempt is made to reconsider permits in TR № 1/2012. of the Supreme Administrative Court of the Supreme Court of Cassation on the application of the presumption under Art. 69 ZS in relations between co-owners. The new arguments that the author introduces are that the kinship between the co-heirs and the knowledge that the common property was received by a common heir, presupposes a moral behavior - not to conquer the ideal parts of the other co-heirs. While in establishing co-ownership in another way, such specificity in the relationship is missing. It is argued that the presumption cannot be considered rebutted solely by the finding of co-inheritance.

5. Other problems indirectly related to the right of ownership and property as their object. Articles under под 1, № 8, № 16 and № 13 submitted for review belong to this group.

5.1. In the publication referred to under № 1 - “Compensation - guarantee against arbitrary actions with regard to the right of ownership”, Property and Law, 2019, issue 1, p.8 et seq. ISSN 1312-947. The issue of the right to compensation of the owners of expropriated properties is commented on, in view of the practice of the Constitutional Court and the ECtHR. It is established that the compensation of the owners is sufficiently clearly recognized when it comes to serious and serious violations in the exercise of this right.

5.2. Problems with the lease of agricultural land. The article cited under № 8. “Some considerations in connection with the lease agreement in agriculture (in connection with item № 1/2018 of OSGTK, SCC)”, Property and Law, 2018, № 2, p.53 and ISSN 1312 - 9473, deals with a private issue related to the lease, cited in cit. interpret. case, namely - whether the substantive prerequisites provided for in the amendment to Art. 3, para. 4 of the ZAZ, when an annex to a lease contract concluded after the amendment of the provision is entered. It is maintained that this is a rule governing competition between several landlords in the case of co-ownership of land and it is recommended that such an inspection be carried out in order to guarantee the rights of the co-owners of the land.

5.3. Article Ппо 16 “Changes in real estate in the course of enforcement proceedings”, Property and Law, 2015, № 6, with ISSN .ISSN 1312-9473. presents some of the problems posed by changes made in the course of enforcement in real estate and makes an analysis of existing case law and theoretical solutions at this time. The impact of this change on the rights and interests of various legal entities - bailiffs, debtors, third parties, banks, etc. : the impact of creditors' claims for a change in the purpose of property in enforcement proceedings; changes in real estate on which a mortgage has been established; impact of the construction of the property and the extension of the mortgage on the one built afterwards.

I exclude from the publications submitted for review, mentioned under Та13 of the Annotations (respectively - from the List of publications of the applicant), the article “Fees for attachment of receivables from the debtor in bank accounts - Norma, 2017, № 1, p. 43 and et al., in co-authorship with Ivaylo Vassilev, ISSN 1314 - 5126, on formal grounds - lack of consent given by the co-author for its presentation in the competition.

EVALUATION OF THE CONTRIBUTIONS IN THE OTHER PUBLICATIONS REQUESTED FOR REVIEW BY THE CANDIDATE IN THE COMPETITION: The presented 15 articles show the ability for independent scientific research by the candidate. They confirm the positive assessment substantiated above in the review of her habilitation thesis.

CONCLUSION:

The documents and materials presented by Assoc. Prof. Dr. Panayotova - Chalakova fully meet all the requirements of ZRASRB, the Regulations for its implementation PZRAS of PU "Paisii Hilendarski".

The candidate in the competition has submitted a sufficient number of scientific papers published after those used in holding the scientific position of "Associate Professor" at the University of Plovdiv. They have original theoretical and applied contributions that have received authoritative recognition. A significant part of them have been published in scientific journals, referenced and indexed in international databases with scientific information. The summary of the presented scientific production of Assoc. Prof. Dr. Lyuba Panayotova leads to a conclusion about the depth of her research, both in the field of property rights and in the whole spectrum of her civilistic activities. The candidate in the competition proves his ability to choose to develop significant and topical issues of great theoretical and practical importance. An important characteristic of the peer-reviewed scientific papers is their theoretical depth, logical interrelation and practical orientation.

After getting acquainted with the materials and scientific works presented in the competition, analysis of their significance and the scientific, scientific-applied and applied contributions contained in them, I confidently give my positive assessment and recommend to the scientific jury to award associate professor Dr. Lyuba Panayotova Chalakova academic position of "professor".

23.11.2020

(Prof. Ivan RUSCHEV, Ph.D.)