

## **REVIEW**

by Prof. Dr. Simeon Vladimirov Tasev - University of National and World Economy - Sofia,  
Field of Higher Education 3. "Social, Economic and Legal Sciences", Professional field 3.6.  
"Law" (Civil and Family Law);

of the materials submitted for participation in a competition for the academic position of  
**‘professor’** at the University of Plovdiv “Paisii Hilendarski” in the field of higher education  
3. Social, economic and legal sciences professional field 3.6 law (Civil and family law)

In the competition for ‘professor’, announced in the State Gazette, issue no. 57 from  
26.06.2020 and on the website of Plovdiv University "Paisii Hilendarski" for the needs of the  
Department of Civil Law at the Faculty of Law, as a candidate participates Assoc. Prof. Dr.  
Lyuba G. Panayotova - Chalakova.

### **1. General presentation of the received materials**

#### **Subject:**

With order № P33-4706 from 25.09.2020. of the Rector of the University of Plovdiv  
"Paisii Hilendarski" (PU) I am appointed a member of the scientific jury of the competition  
for the academic position of 'professor' in PU in the field of higher education 3. Social,  
economic and legal sciences, professional field 3.6 law (Civil and Family Law), announced for  
the needs of the Department of Civil Law at the Faculty of Law.

Only one candidate has submitted documents for participation in the announced  
competition: Assoc. Prof. Dr. Lyuba G. Panayotova - Chalakova from Paisii Hilendarski  
University of Plovdiv.

- The set of paper materials presented by Assoc. Prof. Dr. Lyuba G. Panayotova -  
Chalakova is in accordance with the Regulations for development of the academic  
staff of the University of Plovdiv, and includes the following documents:
- Application for participation in the competition;
- Curriculum vitae according to the European model;
- Information on compliance with the minimum national requirements;
- List of publications;

- Annotations of the materials for the competition in Bulgarian and English;
- Research document;
- Declaration of originality and authenticity;

The candidate Assoc. Prof. Dr. Lyuba G. Panayotova - Chalakova has submitted for review a total of 17 scientific papers, of which one monograph and 16 articles.

The monograph entitled “Property - Development and Perspectives, Influence of the Constitutional and European Judicial Practice” is accepted for review, Sofia, Ciela, 2019, 416 pp. ISBN 978-954-28-2783 - 2. This monograph is outside the dissertation and outside the habilitation work of the candidate. The submitted articles as well as the respective research projects are also taken into account in the final evaluation. For the purposes of the competition, the dissertation on the topic "The real right to build" is not reviewed, as well as the work that was a habilitation for the academic position of "Associate Professor" - "Replacement and Bulgarian civil law", S., Fenea, 2013. The presented monographic work, published on the basis of the defended dissertation "Superficies in Bulgarian property law", S., Fenea, 2009, ISBN 978-954-9499-34-6 is not reviewed.

Scientific papers outside the issues of the competition are not reviewed.

Documents (in the form of official notes) for the candidate's participation in scientific and educational projects, as well as the required citations are also presented.

The presented three published monographic works, together with the dissertation, cover the necessary scientometric indicators according to the reference submitted by the candidate.

## **2. Brief biographical data**

From the data presented in the autobiography it can be said that Assoc. Prof. Lyuba Panayotova - Chalakova has followed a path of upward career development. She started as an assistant at the Faculty of Law in 1998. For 22 years she has been teaching various civil law disciplines. At the same time, it has its development in the field of legal science. Initially as a doctoral student at the Institute of State and Law, BAS, later after successfully defending a dissertation, as a senior assistant, doctor of law at the Law Faculty. In 2013 Lyuba Panayotova - Chalakova is habilitated in the Law Faculty of the Paisii Hilendarski University of Plovdiv. Since 2015 she

also holds the position of Head of the Department of Civil Law at the Faculty. She has consistently held administrative positions at the University - she was deputy. Chairman of the Supervisory Board, as well as a member of the Academic Council. She has lectured on important civil law disciplines such as Property Law, Civil Law, Notary, Cadastre and Register, Intellectual Property Law and others.

### **3. General characteristics of the candidate's activity**

Assoc. Prof. Dr. Lyuba Panayotova - Chalakova has an active educational and pedagogical activity. For many years she has led seminars for students in the disciplines of Civil Law - General, Property Law, Obligation Law. She is currently lecturing on the subjects Real Law, Notary Activity, Cadastre and Property Register and Intellectual Property Law. He is actively involved in his capacity as head of the department and in the training of doctoral students at the faculty. She is the initiator of the meetings of doctoral students held in the Law Faculty for the purpose of training and improvement. The dissertation of a doctoral student of Assoc. Prof. Panayotova - Chalakova is forthcoming.

My overall assessment of the candidate's scientific activity is entirely positive, given the fact that over the years Assoc. Prof. Panayotova has a tangible presence in legal periodicals. She established herself as a serious scholar in the field of civil law. Undoubtedly, her active participation in national and international scientific forums. The presented monographs and articles for the competition are convincing proof of successful scientific development.

In this part of the presented review an analysis of the last monograph of the candidate will be made with priority. And subsequently to the submitted articles. Together, they represent the main contributions and scientific achievements of Assoc. Prof. Panayotova. The overall impression from the monograph "Property - Development and Perspectives, Influence of Constitutional and European Judicial Practice" is very good. It meets the requirements of the law and the regulations for the development of the academic staff. It contains: Introductory part; five heads; conclusion; bibliography. The total volume of the dissertation is 416 pages. Numerous works by well-known Bulgarian authors have been used, as well as by foreign authors from different language groups.

At first glance, the title of the monograph outlines a very ambitious goal for the author, because as Assoc. Prof. Panayotova herself mentions in the introductory part, no one can cover the issues

of property. From this point of view, as a recommendation, the title could be the following: "Influence of constitutional and European case law on property". In this way, it will be emphasized that it is precisely this emphasis that is sought, and not all property issues that are inexhaustible. Still, I find that the short historical part, which, in the author's words, aims to trace the "thread of time", has its own contribution because it gives a brief historical perspective on the modern view of property. I find that the historical approach to seeking explanations for legal institutions is very appropriate, especially for property, which has changed depending on historical times, politics and socio-economic factors.

Assoc. Prof. Panayotova has shown some courage in dealing with this topic, given the serious changes and challenges in Bulgarian law after our accession to the EU. And especially in view of the orientation of the Bulgarian legislation towards enhanced protection of human rights. Bulgarian society undoubtedly needs an expanded protection of property, special measures and new concepts. And all this, as the author of the monograph repeatedly emphasizes, is related to the development of man as an individual and a value. Viewed in this way, the monograph has its place among modern publications related to human rights issues. Its contribution as a whole is that it connects in an interesting way problems from the relatively "conservative property law" with this modern trend.

The individual chapters of the monograph outline various problems, but all of them require a good knowledge of both Bulgarian and foreign legal literature on property issues, as well as a good knowledge of the case law of the Constitutional Court and the European Court of Human Rights in Strasbourg.

I could say that there are significant contributions to the development of Bulgarian property law and theory in the following aspects:

1. Ownership is presented in an evolutionary development in Chapter One, influenced by many reasons. In many places in the book it is reminded that lawyers should not forget "the historical conditionality for one or another legal regulation, for one or another interpretation of the law". Of paramount importance is § 2 of Chapter One of the monograph, in which the author briefly and clearly conveys the modern concept of property rights and the existing legal systems of property. I find the comparison and the search for the place of the Bulgarian system of real rights to be useful and appropriate.

2. There are also contributing moments in terms of the concept of things. The author notices changes in these properties under the influence of European law. The changes in

connection with the traditional classifications of the things are considered. A certain critical look is given in the monograph of the lost balance in the very large expansion of the concept of things. Special attention is paid to the autonomous European concept of property, which differs from the concept in the domestic law of the countries of the continent. Assoc. Prof. Panayotova's view that in order to be protected by the European institutions, the objects are sufficient to represent "significant property value" for their owners, without the need to be material in nature, has a significant moment for Bulgarian law.

3. Of paramount importance for our legal theory is the consideration as possessions within the meaning of Protocol 1 of the ECHR of such objects as clients, social benefits, administrative permits, reasonable expectations, right to work, human body, intellectual property, etc. It has been mentioned that this trend has been criticized in the European legal literature.

4. Interesting from the point of view of the development in the traditional property law is the thesis of the author that the classical powers of the owners possession, use and disposal are undergoing changes. And these changes are again related to the case law of the Constitutional Court and the European Court of Human Rights. Assoc. Prof. Panayotova skillfully proves her thesis by giving as examples a number of court decisions, as well as theoretical comments. A difficult challenge is to compare the decisions of the two courts in similar hypotheses. It is stated in the monograph that they are pronounced in a similar way in cases of restriction or deprivation of property, and that the very content of property rights is developed and enriched. These classical powers, also known from Roman private law, received a broader protection than the classical domestic law.

5. The discussion in Chapter Four of the monograph on guarantees of property rights is also important. Violations of the right to property are subject to protection not only by means of domestic civil law / revandication, negative claims, claims for determination of boundaries, etc./. They are already subject to protection through the decisions of the Constitutional Court and the Strasbourg Court. These two jurisdictions build on internal protection and thus strengthen guarantees for citizens. This is the contribution thesis of Assoc. Prof. Panayotova, through which she seeks the connection "national - supranational", as well as the connection "civil law - constitutional law" in the protection of property. Moreover, she points out that there is increased control, which includes the criterion of proportionality. It is well known that in the modern world "property rights are in the field of different protection systems, both domestically and internationally". There can be no logical connection between these systems. But the

contribution of this monograph is that it attempts to prove this by referring to a very rich case law.

I welcome the special attention paid by the author to the societies of the countries of Eastern Europe, to which Bulgaria also belongs. The conclusions reached by Assoc. Prof. Panayotova in this regard are of contribution importance. These conclusions are the result of a deep knowledge of the nature of legal institutions and the historical conditionality of the respective era. Individualism as a principle is enshrined in the French Civil Code and the codes adopted on its basis in Europe. And this was a natural resistance to royal absolutism in those days. But property rights are evolving, becoming more social, and should be regulated in a new way in modern constitutions. Assoc. Prof. Panayotova has noticed a kind of return to the outdated individualistic models of the XIX century. And the explanation she finds is the special situation of the countries of Eastern Europe, which, rejecting totalitarian regimes, need "inviolable and sacred private property" in their new constitutions.

6. Next in contribution is the chapter in which the author discusses the right to property and the ECHR / Additional Protocol № 1 to the ECHR /. It is clear from this chapter that it is Protocol 1 of the Convention that extends the regime and content of the protection of property. Based on the texts of the Protocol, the European Court of Human Rights is developing its evolutionary case law. And here is the conclusion that Assoc. Prof. Panayotova reaches to that "European practice has an impact on the traditional understanding of property law and property." I believe that the strength of this influence is not yet noticeable, but the situation may change in the future.

7. The reasoning that Assoc. Prof. Panayotova makes about the so-called "socialization of property" is interesting and she points out that they are well developed in European doctrine. She quotes and shares the opinions of some foreign authors in this regard in the monograph. For example, the position that "the European Court of Justice emancipates itself from the national rights of the Member States and goes beyond the traditional framework of protection". The monograph addresses one of the traditional divisions of property rights and non-property rights. It has been argued that certain non-property rights can be protected under the Convention only because they show a property interest worthy and important to man. It seems to me that it is not necessary to go so far as to blur the line between these rights. The non-property rights and interests of citizens are also seriously protected in domestic law.

There are also contributions in the last chapter of the monograph, which outlines the enhanced protection of property. According to the position expressed by Assoc. Prof. Panayotov, the ECtHR strengthens the protection in case of confiscation, violation or damage to the substance of the property. Except with Art. 1 of the Additional Protocol, property is already protected by other texts of the Convention, which operate in parallel.

The author indicates in depth the objects of protection and the applicable regimes. From a theoretical point of view, modern issues of the so-called "Crisis in property law". It is said that a "specific postmodernism in property law" is occurring. For Assoc. Prof. Panayotova there are all the prerequisites for increasing European control in modern law. I share her conclusions that the case law of the European Court of Human Rights is trying to impose the protection of a supranational property. However, I do not think that this should be welcomed 'with enthusiasm' in any case. Understandable from the text of the monograph is the author's desire to acquaint us with these new trends, to outline them, to try to explain them. And in this regard, her work already resonates in the scientific community. This is evidenced by the attached citations of the book in articles and new monographs. I think that the scientific discussion on property issues sought by Assoc. Prof. Panayotova is already present and this is one of her achievements.

Assoc. Prof. Panayotova has submitted for review a number of articles. It is obvious that a large part of them are on the topic of the monograph. They will not be analyzed in detail, because some of the conclusions in them have found their logical place in the text of the book. They are mentioned here only as evidence that the author has worked over the years on some more complex issues on property, and on other topics. I point out the following articles: Compensation - guarantee against arbitrary actions with regard to the right of ownership, Property and law, no. 1/2019; Specifics of the co-hereditary relations in the application of the presumption under Art. 69 ZS, In: Collection of scientific researches in memory of Assoc. Prof. Dr. Christian Takov, University Publishing House "St. Kliment Ohridski ", Sofia, 2019; Cultural values of material and intangible nature. Comparison and connection with the objects of intellectual property. - Property and law, issue 10/2019; Proportionality control and the right of ownership / influence of European and constitutional practice. In the collection "Scientific readings dedicated to the 140th anniversary of the adoption of the Constitution of Tarnovo", organized by the Law Firm of the University of Plovdiv "Paisii Hilendarski", Ciela, 2019; Peculiarities in the regime of ownership of cultural values in Bulgarian law. Ciela norm, no. 9-10, 2019; 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 / , Ciela Norma magazine,

issue 2/2018; Property and intellectual property. Property and law, no. 3 /2018, p. 75 - 85. ISSN 1312 - 9473; Some considerations in connection with the lease agreement in agriculture / in connection with etc. № 1/2018, ref. OSGTK. Property and law, no. 6/2018; The application of the presumption under Art. 69 of the Insurance Act to relations between co-heirs / comment in connection with TR № 1 of 06.08.2012, OSGK of the SCC /. Property and law, no. 7/2018; The concept of things - In: collection "Law - traditions and perspectives", Jubilee scientific conference on the occasion of the 25th anniversary of the law firm of PU "Paisii Hilendarski", Ciela Norma, 2018; European and constitutional aspects of the powers of the owners - Legal Thought Magazine, issue 1/2017; Development in the classification of immovable and movable property. Influence of European law and case law. Property and law, no. № 9/2017; Changes that have occurred in real estate in the course of enforcement proceedings - Property and law, no. 5/2015, etc.

#### 4. **Assessment of the candidate's personal contribution**

As a reviewer, I appreciate the personal contribution of the candidate Assoc. Prof. Dr. Lyuba Panayotova - Chalakova for the above publications. I believe that the commented contributions and obtained results are a personal merit of the candidate, of her preparation and erudition. She has a deep knowledge of the subject of property law, but she also has serious knowledge in the field of European law, as well as good language skills. The combination of these qualities is a prerequisite for the achieved high scientific results.

### **CONCLUSION**

**In conclusion**, regardless of the critical remarks and suggestions made above, the overall impression of the scientific activity and activity of Assoc. Prof. Dr. Lyuba G. Panayotova - Chalakova is entirely positive. The documents and materials presented by Assoc. Prof. Dr. Lyuba G. Panayotova - Chalakova meet all the requirements of the Law for the Development of the Academic Staff in the Republic of Bulgaria, the Regulations for application of the the Law for the Development of the Academic Staff in the Republic of Bulgaria and the respective Regulations of PU "Paisii Hilendarski".

The candidate in the competition has submitted a sufficient number of scientific papers published after the materials used in the defense of ONS "Doctor" and the acquired scientific position "Associate Professor". In the works of the candidate there are original scientific and



applied contributions, which have been recognized as a representative part of them have been published in journals and scientific collections.

Theoretical developments have practical applicability, as some of them are directly oriented to the educational work. The scientific and teaching qualification of Assoc. Prof. Lyuba G. Panayotova - Chalakova is undoubted.

After getting acquainted with the materials and scientific works presented in the competition, analysis of their significance and contained in them scientific, scientific-applied and applied contributions, I find it reasonable to give my positive assessment and recommend to the Scientific Jury to prepare a report-proposal to the Faculty. Council of the Faculty of Law for the election of Assoc. Hilendarski "in professional field 3.6. law (Civil and family law)

November 5, 2020 r.

Reviewer: (signed)

Prof. Dr. Simeon Tasev