

## **REVIEW**

**by Prof. Dr. Silvi Vassilev Chernev - Lecturer in Civil Procedure Law at the University of Plovdiv "Paisii Hilendarski" and Burgas Free University**

REGARDING: The materials submitted for participation in the issue announced in SG no. 57 of 26.06.2020 competition for the academic position of 'professor' at the Plovdiv University "Paisii Hilendarski" 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.

DEAR MEMBERS OF THE SCIENTIFIC JURY,

I present the following opinion on the candidacy of Assoc. Prof. Dr. Lyuba Georgieva Panayotova - Chalakova for participation in a competition for the academic position of 'professor' at Plovdiv University "Paisii Hilendarski":

### **1. General presentation of the procedure and the candidate**

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

By order № P 33-47 06 of 25.09.2020 of the Rector of Plovdiv University "Paisii Hilendarski" (PU) I was appointed a member of the scientific jury of the competition for the academic position "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.

The only candidate who has submitted documents for participation in the announced competition is:

Assoc. Prof. Dr. Lyuba Georgieva Panayotova - Chalakova, lecturer in property law at the University of Plovdiv "Paisii Hilendarski".

The set of materials presented by Assoc. Prof. Dr. Lyuba Georgieva Panayotova - Chalakova is in accordance with the Regulations for development of the academic staff of PU and includes the required documents:

1.1.1. General documents (CV, list of publications, various required by law references for teaching and learning activities, etc.)

1.1.2. Scientific works: Monograph - "Property - development and prospects, the impact of constitutional and European jurisprudence", S., Ciela, 2019, 416 pp. ISBN 978-954-28-2783 - 2 and numerous articles (17 in number) published in the period after her habilitation in 2013). All these works should be accepted for review and taken into account in the final evaluation of the candidate.

## **2. Brief biographical data about the applicant**

2.1. Lyuba Georgieva Panayotova - Chalakova graduated from the University of Plovdiv "Paisii Hilendarski", majoring in law in 1997, after which she worked as an assistant, chief assistant and associate professor of property law at the University of Plovdiv "Paisii Hilendarski". She completed her doctoral studies at IPN - BAS, where she successfully defended her dissertation in 2006. In addition to Property Law, she teaches courses in Notary, Cadastre and Property Register, Intellectual Property Law, as well as a course in Property Law in Master's program "Public Administration" at the Faculty of Law of the University of Plovdiv "Paisii Hilendarski".

2.2. The candidate is the head of the Department of Civil Law, a member of the Faculty of Law, a member of the Academic Council. She was also Deputy Chairman of the Control Board at the Paisii Hilendarski University of Plovdiv.

2.3. She is fluent in Russian, French and Spanish and to the extent necessary for her scientific work, English.

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

3.1. The candidate is a long-term lecturer in civil law (property law, notary, cadastre and property register, property rights) at the Faculty of Law of the University of Plovdiv "Paisii Hilendarski" (from 1998 to the present). She has conducted a significant number of seminars and lectures in these disciplines.

As a colleague-lecturer in the field of civil procedural law at the University of Plovdiv "Paisii Hilendarski" I have long-term impressions of the candidate's work as a teacher of property law and examiner of state exams in civil law. My impressions are

excellent both professionally and personally and collegially. My impressions of her work as the head of the department and her participation in the bodies of academic management are positive.

3.2. In view of the purpose and scope of this opinion, I will focus primarily on the evaluation of the presented habilitation work - the monograph - "Property - development and prospects, the impact of constitutional and European case law", S., Ciela, 2019, 416 p. ISBN 978-954-28-2783.

### **3.2.1. General characteristics of the candidate's work**

3.2.1.1. The scientific work presented for the competition is an attempt for a fundamental study of a basic institute of law - the right to property, and it should be emphasized that the author has considered this institute in many aspects (not only from a strictly legal point of view). The exhibition is extremely rich - covers the development of the institute, starting from the most ancient sources, with a special emphasis on antiquity (ancient Rome and ancient Greece), goes through the regime and the understanding of property in the Middle Ages; special attention was paid to the subsequent French Revolution substantially new understanding of property, reflected in the so-called Napoleonic Code (Code civil). The regime of the institute in French law and its related rights, as well as in Anglo-Saxon law, is considered. Special attention is paid to the ownership regime in the Bulgarian lands during all individual periods.

A remarkable characteristic of the work is that the author considers not only the legal framework of property, but the essence of the phenomenon itself and the trends in the development of the concept of property and its legal regime. The presentation is not limited to an analysis of existing concepts and relevant legal norms, but also presents trends emerging in the practice of the courts, the Constitutional Court of the Republic of Bulgaria, the ECHR, the courts of individual EU countries and constitutional courts (or similar bodies). ) in a number of countries.

3.2.1.2. The elaboration is in an impressive volume of 416 pages, distributed in a preface and five chapters and a conclusion.

3.2.1.2.1. After a short introduction, in which the author explains the placement of the topic and the approach to its consideration, follows Chapter One, which is entitled

"Property - historical and legal aspects." After a rich and in-depth historical review, modern concepts of the phenomenon and approaches of different legal systems are presented (pp. 16 - 65).

3.2.1.2.2. The second chapter is devoted to the concept of things; existing classifications of items according to different criteria. The chapter again contains an extensive historical overview. The third paragraph considers the so-called intellectual rights as an object of property (including the trends observed in this direction in the practice of the ECtHR). The fourth paragraph is devoted to special objects of property of disputable nature, which have also gained importance due to the practice of the ECtHR (clients, shares, receivables, administrative decisions and social benefits) - pp. 66 - 162.

3.2.1.2.3. The third chapter is entitled "Property rights and the European Convention on Human Rights (including Protocol No. 1 to this Convention) - pp. 163 - 218.

The first paragraph is devoted to non-traditional views on property rights in the case law of the ECtHR. Initially, the content of the protection of property rights under Additional Protocol № 1 is considered, and subsequently the author focuses on expanding the concept of property through its possible application to the so-called "reasonable expectation", and even to the protection of non-property rights, and as well as the notion of socialization of property rights.

The third point of this paragraph is devoted to European case law on the human body. The second paragraph deals with European and constitutional aspects of the individual powers included in the scope of the right to property - the power to dispose in its various dimensions, as well as the right of use (considered in a dualistic sense).

3.2.1.2.4. Chapter Four is entitled "Guarantees of the Right to Property" (pp. 219-355).

The author considers the issue of guarantees of property rights in the light of the principle of "rule of law". The modern requirements for quality of the legal basis are consistently considered; for access to justice and, above all, for compensation in the event of deprivation of property rights, including in cases of restriction of property rights. The requirements for observing the necessary balance between the private interest and the general (public) interest are considered. The entire presentation is based on the practice of the ECtHR and constitutional practices. The chapter ends with generalized conclusions.

3.2.1.2.5. The last chapter is devoted to the Enhanced Protection of Property Rights (pp. 356 - 398).

The statement is again based on the regulation of the ECHR and the relevant case law. The terms "deprivation of property", "protection of the substance of property", the factor "time" (in connection with the provision of protection) are considered in this light. The issue of specific procedural guarantees such as the "right of access to a tribunal" and compliance with the requirements of a "fair trial", etc. is addressed. Finally, attention is paid to the so-called "pilot decisions" of the ECtHR. The chapter ends with a conclusion.

3.2.1.2.6. The whole work ends with a Conclusion (pp. 399 - 404), which briefly sets out the main provisions of the development and especially the findings on the phenomenon of property and its legal framework as constantly evolving. Emphasis is placed on the need to rethink ideas and future development of the legal framework in accordance with such a rethink.

### **3.2.2. Positive qualities of work**

3.2.2.1. First of all, it should be pointed out that we are facing a development that differs sharply from the majority of works in the field of legal science, which are usually reduced to a cursory historical and comparative legal review, analysis of the positive legal framework of an institute, the relevant case law and to the possible formulation of proposals for improvement of the analyzed system. In the present case, the author had the ambition to place the phenomenon (property rights) in an extremely broad context - not only historically (and in remarkable breadth and depth), but she considered the development of ideas for this concept - ideas that have far exceeded traditional views passing from one civilization unit to another over the centuries. The same applies to legal science - hardly anyone will dispute that to this day the vast majority of lawyers deal with concepts carried in its essence by Roman law. This is where I find the main value of this work - the attempt to outline a modern picture of understandings of property (property rights) worldwide and to put on the agenda the need to expand our understanding of property in today's complex world. It should also be noted that the statement on the development of understandings of property, types of property, the content of property rights at all times is based on an analysis of the case law of the ECtHR (including Additional Protocol № 1 of the ECHR), the case

law of the Court of Justice , as well as to constitutional courts, including the Constitutional Court of the Republic of Bulgaria.

3.2.2.2. The work reveals the author's high erudition: remarkable knowledge in a number of areas of law, including law in the field of human rights protection, Community law; constitutional right; naturally excellent knowledge in the field of civil law, including property law, intellectual property law, etc.

The author knows in detail the development of the central concept and the corresponding system in Bulgaria - she freely handles the peculiarities of this system and the sharp turns it has undergone during the revolutionary socio-political changes in the last two centuries: the transition from Turkish rule to autonomous system; in the establishment of the totalitarian system in the late 1940s, and finally - the significant socio-political changes in the attempt of our society to return to the principles of a free, open society and market economy.

3.2.2.3. The scientific apparatus is impressive - 79 titles in Cyrillic 81 in Latin.

3.2.2.4. In this case, the overall work can be classified as a contribution, both in terms of its design and in terms of implementation.

3.2.2.5. The overall impression of the work under discussion is that this is a fundamental study of property, which is a significant stimulus for the development of the legal and scientific community in the field of law, which in turn would lead to a substantial development of the legal framework.

### **3.2.3. Weaknesses identified:**

If there was no deliberate requirement to form an opinion, I find it inappropriate to look for weaknesses in such research.

What I would find a relative weakness is the construction of the work in the last two chapters, which leads to some repetitions.

Also, in the course of presenting the opinions of the courts, the author's presence sometimes fades.

3.2.4. The presented works outside the habilitation department are numerous and demonstrate that in this case we are talking about an in-depth scientist who for a

significant number of years has accumulated a remarkable volume and quality of scientific production.

## **CONCLUSION**

The scientific works of Lyuba Georgieva Panaytova-Chalakovska presented for the competition meets the requirements of the law to the maximum extent. As mentioned, the presented monographic work is of the highest quality and is characterized by exceptional usefulness - usefulness that far exceeds the daily application of the property system. With it, the author creates an occasion to expand and modernize our ideas about property and to rethink our attitude to its legal framework. The candidate is a fully educated scientist and lecturer.

In view of the above, I PROPOSE the RESPECTED Scientific Jury to propose to the competent authority to decide on the appointment of Assoc. Prof. Dr. Lyuba Georgieva Panaytova-Chalakovska to the academic position "Professor" at Plovdiv University "Paisii Hilendarski" in the field of higher education: 3. Social, economic and legal sciences; professional field: 3.6. Law (civil and family law).

08.11.2020  
(signed)

Reviewer:

Prof. Dr. Silvi Chernev