

REVIEW

**by Prof. Dr. Malina Nikolova Novkirishka-Stoyanova,
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University "Paisii Hilendarski"**

**regarding the competition for the academic position of "professor" in
the field of higher education 3. Social, economic and legal sciences,
professional field 3.6 Law, scientific specialty "Civil and Family Law",
announced in the State Gazette, issue 57 of June 26, 2020 from the
University of Plovdiv "Paisii Hilendarski"**

1. Details of the procedure and general presentation of the materials received

The competition for the academic position of "professor" in the field of higher education 3. Economic, social and legal sciences, professional field 3.6. Law, scientific specialty "Civil and Family Law" was announced for the needs of the Department of Civil Law (KGPN) of the Faculty of Law (LA) at the University of Plovdiv "Paisii Hilendarski" (PU), and the announcement was published in SG, issue. 57 of June 26, 2020. The composition of the scientific jury is determined by Order № P33-4706 / 25.09. 2020 of the Rector of PU.

The only candidate in the procedure for holding the academic position is Assoc. Prof. Dr. Lyuba Georgieva Panayotova-Chalakovska. The set of paper materials presented by the candidate in the competition Assoc. Prof. Lyuba Panayotova Chalakovska is in accordance with the Regulations for development of the academic staff of PU (PRASPU) and includes the following documents:

1. application form to the rector for admission to participation in the competition;
2. CV in European format;
3. diploma for higher education with acquired educational qualification degree "master" - notarized copy;
4. diploma for educational and scientific degree "doctor" - original or notarized copy;
5. diploma (certificate) for academic position "associate professor" - notarized copy;
6. list of the scientific works;
7. reference for observance of the minimum national requirements;
8. declaration for originality and authenticity of the attached documents;
9. annotations of the materials under art. 76. from PRASPU including self-assessment of the contributions;
10. certificate of work experience;
11. documents for educational work;

12. documents for research activity.

The candidate has submitted a total of 17 scientific papers, of which one monograph, two studies and 14 articles, which were accepted for review. At the meeting of the scientific jury on 08.10.2020 a check was made in connection with the minimum required points by groups of indicators for the various scientific degrees and academic positions, regulated by the Regulations for the Implementation of the Law on the Development of the Academic Bodies in the Republic of Bulgaria and it was found that the candidate fully meets these criteria and is allowed to participate in the competition for the position of "Associate Professor" in 3.6 Law (Civil and Family Law). At the same meeting I was assigned to prepare a review of the competition procedure and the candidate participating in it.

2. Brief biographical data about the candidate

Associate Professor Dr. Lyuba Panayotova-Chalakovska graduated from the Faculty of Law at the University of Plovdiv in 1997 with a degree in Law.

In the same faculty from 1998 to the present he works as an assistant (1998-2006), chief assistant (2006 - 2012) and associate professor (2013 to the present). In the period 1999-2004 she was a doctoral student at the Institute of State and Law at the Bulgarian Academy of Sciences - Sofia, defending her doctoral dissertation on "The Real Right to Build" in 2006. In 2013 she published her habilitation thesis "Replacement and Bulgarian Civil Law ", Sofia, Feneya, 2013, and since the same year and until now she has held the academic position of Associate Professor in the Department of Civil Law. Since 2015 and until now she is the head of KGPN in the Law Faculty of the University of Plovdiv, also from 2015 to 2019 she is a Deputy Chairman of the Control Board of the University of Plovdiv, and since 2019 she has been a member of the Academic Council of the University of Plovdiv.

The main research interests of Assoc. Prof. Lyuba Panayotova-Chalakovska are in the field of civil and family law, mainly in property and contract law, but there are also publications on family law, inheritance law, protection of cultural values, intellectual property and others.

3. General characteristics of the candidate's activity

3.1. Educational and pedagogical activity of the candidate

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The scientific and teaching career of Assoc. Prof. Lyuba Panayotova - Chalakovska has been developed mainly in the University of Plovdiv since 1998 and until now. Conducts seminars, then lectures on Property Law, Notary,

Cadastre and Property Register, Intellectual Property Law. Participates as a lecturer and Master's program "Public Administration" of the Law Faculty of the University of Plovdiv with the discipline "Property Rights. She has specialized at the universities of Nantes (France), Friborg and Neuchatel, Switzerland and at the Swiss Institute of Comparative Law in Lausanne. She was the research supervisor of a doctoral student who completed his dissertation and was expelled with the right to defense, as well as a member of scientific juries in competitions for academic positions.

Associate Professor Lyuba Panayotova-Chalakovska has many years of experience as a lecturer and established researcher in the field of civil law. She has participated in numerous scientific conferences and seminars, and in many of them she was a member of the organizing teams and compiler of collections of reports and articles.

3.2. Scientific activity of the candidate

The candidate in the competition for professor in the scientific specialty "Civil and Family Law" at the University of Plovdiv Assoc. Right. She has 3 monographs - "Superficies in Bulgarian property law", S., Fenea, 2009 (published dissertation), "Replacement and Bulgarian civil law", S., Fenea, 2013. (habilitation thesis for associate professor) and "Property - development and prospects, the impact of constitutional and European jurisprudence", S., Ciela, 2019, 416 pp. ISBN 978-954-28-2783 - 2- presented in this procedure. He is also the author of 16 studies and articles published in non-peer-reviewed journals with scientific review or published in edited collective volumes. She has also cited 20 citations in such publications and monographs. She has participated with reports in 5 university, national and international scientific conferences. He has participated in many national and international research projects (Project BG05M2OP001 - 1.002- 0005 - C01, Center of Competence "Personalized Innovative Medicine (PERIMED); International project № 1320180013" Legal protection of intellectual property: Who needs it? Why? "; International project "Stimulating the respect of intellectual property rights among young customers in Bulgaria and Portugal in support of innovation, creativity and entrepreneurship"; International project under the program "ERASMUS +" and concluded Contract № 2019-1-BG01-KA201-062268 "Innovative English studying through EU legislation promotional talks by ICT tools"; Project № CF17-YUF-006 for organizing and conducting the Jubilee International Scientific Conference on the occasion of the 25th anniversary of the Faculty of Law of the University of Plovdiv "Law - Traditions and Perspectives"; Project № BSF-18-Law-008/2018 "International Scientific Conference on" Law and Cultural Values "; International project "PHYSICS AND THEOLOGY - YESTERDAY AND TODAY", and is currently the leader of the project "Property relations in law - development and prospects", № ФП19 - ЮФ - 003 to the fund "Scientific research" in PU.

For participation in the competition, the candidate Assoc. Prof. Lyuba Panayotova-Chalakovska submitted for review the above-mentioned monograph entitled "Property - Development and Perspectives, Influence of Constitutional and European Judicial Practice", published by Ciela, Sofia, 2019, 416 p., as well as 16 studies and articles published in peer-reviewed scientific journals and journals.

In the first place, one should take into account the monographic work "Property - Development and Perspectives, Influence of the Constitutional and European Judicial Practice". S., Ciela, 2019. 416 pages with an impressive bibliography in Bulgarian, French and English present the main problems related to the concepts of property and property rights both from the traditional property law position and in a new and unexplored so far in Bulgarian legal literature perspective of analysis of the practice of the Constitutional Court of the Republic of Bulgaria, the European Court of Human Rights in Strasbourg and the Court of Justice of the European Union in Luxembourg. As the author emphasizes, in the modern protection of property at national and European level (given the tradition in European countries and the general foundations of the legal regulation of property rights, created in Roman law) there is a "crisis of property law in its identity, unity and coherence ", but also new trends. The regulation of traditional property and non-property elements of property rights is changing, European jurisdictional control is increasing and changes are gradually being imposed both in doctrine and in practice in connection with the protection of supranational property, which is different from the protection of property rights in national legal systems.

The monograph is with a significant volume of 416 pages and has the traditional structure of the Introduction, five chapters with an expanded structure in paragraphs and subsections and Conclusion.

In the introduction, in addition to the argumentation of the author's personal interest in the topic and the formulation of the main tasks of the study, the main findings are made, which impose this unconventional view of the legal institution of property - one of the most stable and identifying any legal system. The author emphasizes the growing importance of the institute of property rights not only as a property law institute, but as a system of norms for complex protection and guarantees for citizens not only nationally, but also in the European Community. The analysis in this direction in the whole work is one of the essential scientific contributions in the investigated problems.

Chapter I is devoted to the historical and legal aspects in the development of property. The extremely concentrated analysis of this issue is impressive, which in itself is in a volume sufficient for the creation of an independent monograph. However, the author focuses only on the main lines of development of property rights and from this position the relevant part of

the work can have both didactic and methodological significance.

From the standpoint of my research in Roman law, I consider the significant contribution of the author in Chapter II of the work, devoted to the development of the concept of things and the breaking of traditional classifications. The conclusions made for the approximation of modern property law doctrine to the achievements of Roman jurisprudence in this matter undoubtedly take into account the theories presented in recent decades in the novels, which seek a useful model of unification of people, property, capital and space in a single supranational structure. represented the Roman Empire at one end of the chronological dimension and the European Union at the other. The idea of balancing the public and private interests in the protection of the rights of owners, regulated by different systems, but within these political structures, is undoubtedly a starting point in the practice of both the Constitutional Court of Bulgaria and the EU courts. The more modern concept of this protection as part of the integral protection of human rights can adopt the flexible dogmatic framework of Roman jurisprudence, which takes into account reality and creates the basis for the "dematerialization" of property, including rights in the category of *res incorporales*. And despite the fact that this category is significantly richer, related to the development of society, science, technology, etc. in modern times, it is based on the ancient idea of possession - both property and rights in view of the specific economic, social, political and legal reality.

Chapter III summarizes property rights and the European Convention on Human Rights (Additional Protocol № 1 to the ECHR) and, first of all, some non-traditional views on property in ECtHR practice. The author presents new concepts about the objects of property rights (clients, social benefits, administrative permits, reasonable expectations, right to work, human body, etc.), moderately and reasonably criticizing the tendency for "hyper-proprietary", which creates a danger of ignoring the classical understanding of property and its legal protection. The reflections on the changes in the content of the right of ownership and the new dimensions of the powers of the owners are also interesting (in §2 of Chapter III). I take this opportunity to recall that if we follow the traditional model of Roman law, according to which possession is not included in the so-called. "Classical triad", while maintaining its autonomous position of factual relationship with legal significance, a solution can be found to many new problems in the exercise of the powers of the owner in the context of national and Community law. The author has rightly omitted this element of the "triad" and has focused mainly on disposition and use. In this regard, one can consider a further development in articles on the issue of harvesting (the Roman triad includes *usus*, *fructus* and *abusus*), as well as the interpretation of *abusus* not only as an order but also as an abuse of rights.

In reality, Chapter IV and Chapter V of the monography can be considered as independent monographic studies, related to the infringement of the right to property in various hypotheses (expropriations, restrictions and encumbrances, etc.), argued by the public interest and public benefit. Many interesting findings and conclusions can be found, as well as an in-depth analysis of the defense by both the Constitutional Court of Bulgaria and the ECtHR and the European Court. The guarantees for the right to property are considered in the extremely current light for the application of the principle of the rule of law and it is in such a perspective that the case law is presented. Some negative trends have been reported, as well as proposals for overcoming them. It is important to analyze the concept of proportionality when taking into account the balance between private and public interest, supported by the relevant decisions of the courts at the highest level in the country and in the EU. It is in these two chapters that I believe that is the main focus of the study, as the author presents her point of view both in dogmatic terms and in connection with the improvement of practice and here are the significant scientific contributions to the subject.

The conclusion includes the summaries reached on the specific practical dimensions of the protection of property rights at both national and European level.

The author's scientific contributions can be outlined, beyond the specific conclusions, theoretical constructions and proposals of a practical nature, in the creation of an integral, balanced, well-argued and written in authoritative legal language research on a particularly important issue in civil science that matters both nationally and at EU level.

More **16 publications in peer-reviewed and non-peer-reviewed scientific journals and journals** are presented in the competition procedure which can be grouped by topic as follows:

- on the concept of things - "The concept of things", "Cultural values of tangible and intangible nature. Comparison and connection with the objects of intellectual property", " Peculiarities in the regime of ownership of cultural values in Bulgarian law ", " Property and intellectual property ", " Development in the classification of things in civil turnover / res in comercio / and things outside civil turnover / res extra commercium / ", " Development in the classification of immovable and movable property. Influence of European law and case law ":

- on restrictions, expropriation, compensation, etc. - "Compensation - a guarantee against arbitrary actions with regard to the right to property", "Property - historical and legal aspects";

- legal protection at national and European level - "Control of proportionality and property rights / influence of European and constitutional practice", "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 human / ", European and constitutional aspects of the powers of owners ";

- other property law issues - "Specifics of co-inheritance relations in the application of the presumption under Art. 69 ZS ", "The application of the presumption under Art. 69 of the Land Code to relations between co-heirs / comment in connection with TR № 1 of 06.08.2012, OSGK of the Supreme Court of Cassation / ", "Some considerations in connection with the lease agreement in agriculture / in connection with etc. № 1/2018. , ex. № OSGTK / ", "Fees for attachment of the debtor's receivables in bank accounts ", "Changes that occurred in real estate in the course of enforcement proceedings. "

They represent both a complete focus on the real estate issues as an object of the candidate's research, and significant results of these studies. These articles and studies presented for the competition show the depth of an already established young scientist, who does not worry about the challenges of "big topics", such as property rights, skillfully and delicately argues with both the authors of scientific works and with the pronounced decisions in the case law and contributes to the study of this issue in detail and in a new reading in the modern era.

The 20 citations in monographs, articles and studies of authoritative colleagues mentioned by the candidate Assoc. Prof. Lyuba Panayotova-Chalakovska (and probably many more, which, however, cannot be exhaustively established in the existing identification system) are proof of the importance of her research, their knowledge and use in Bulgarian civilist literature.

4. Assessment of the personal contribution of the candidate

All works of Assoc. Prof. Lyuba Panayotova Chalakovska presented in the competition are her personal author's product. They reflect her specific creative style, as well as scientific precision, competence and balance, accurate reference to the works of other authors and the case law and the originality of her research. It can be said that it contributes to the development of Bulgarian civilization and in particular on property issues in the original way.

5. Critical remarks and recommendations

I would refrain from any critical remarks that would reflect my view on this issue, but would not be an objective assessment of the monograph and the articles submitted in the competition.

However, given the importance of the analyzes and some particularly original conclusions, I recommend the author to consider participating with her scientific results in international forums and presenting them in foreign languages, which would be not only in view of her scientific exposure, but also the presentation of Bulgarian civil science and its established

representatives in a dignified manner before the European legal community.

6. Personal impressions

I am especially impressed by the scientific depth of the candidate Assoc. Prof. Lyuba Panayotova-Chalakovska, as well as by her systematic and consistent work on a given issue, in which she invests special diligence and strives for maximum knowledge and exhaustion of discussion problems, bringing extensive argumentation of various authors, with knowledge of literature and case law at national and European level and skillful use of their perfect language training.

I would also like to note the author's remarkable interest in Roman jurisprudence, as her monographs and articles reveal particularly interesting observations and ideas about the continuity of law from ancient Rome to the present day. I am also impressed by the many discussions and debates we have had in the framework of our excellent personal and collegial relations, in her constant striving to explore a topic diachronically and in her in-depth analytical approach.

Conclusion

The documents and materials submitted by the candidate in the competition of the University of Plovdiv for a professor in a professional field 3.6. Law, scientific specialty "Civil and Family Law" Assoc. Prof. Dr. Lyuba Panayotova Chalakovska meet all meet the requirements of the Law on the Development of Academic Staff in the Republic of Bulgaria, the Regulations for the implementation of Law on the Development of Academic Staff in the Republic of Bulgaria and the relevant Rules for the Development of Academic Staff of Plovdiv University. She has presented a sufficient number of scientific papers published after those used in the defense of PhD degree and in the procedure for associate professor at the Law Faculty of the University of Plovdiv. Her works contain original scientific contributions, published in journals and scientific collections. The results achieved by the candidate in the teaching and research activities fully comply with the regulatory requirements for holding the academic position of "professor".

In view of the above, I express my positive assessment and recommend to the scientific jury to propose to the Faculty Council of the Faculty of Law of Plovdiv University "Paisii Hilendarski" Assoc. Prof. Dr. Lyuba Panayotova-Chalakovska to be elected to the academic position "Professor" in higher education. 3. Economic, social and legal sciences, professional field 3.6. Law, scientific specialty "Civil and Family Law".

Plovdiv, November 3, 2020

Reviewer: (signed)

(Prof. Malina Novkirishka-Stoyanova)