

## **OPINION**

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On materials submitted for participation in the competition for the academic position of Associate Professor at University of Plovdiv

Field of higher education 3. Social, economic and law sciences; professional area 3.6 Law; Civil and Family Law

In the competition for the academic position of Associate Professor, published in State Gazette, issue 57 of 26 June 2020 and on the internet page of University of Plovdiv, for the needs of the Civil Law Chair at Paisiy Hilendarski University of Plovdiv, participates the candidate Chief Asst. Prof. Angel Yordanov Shopov, PhD.

### I. General presentation of the procedure and materials

1. By order No. R33-4705 dated 25.09.2020 of the Rector of University of Plovdiv I have been appointed a member of the scientific jury in the competition for the academic position of Associate Professor at the University of Plovdiv, in the field of higher education 3. Social, economic and law sciences; for the needs of the Civil Law Chair at the Law Faculty.

One candidate has submitted documents for participation in the competition, namely Chief Asst. Prof. Angel Yordanov Shopov, PhD, from the University of Plovdiv.

The package of submitted documents in paper version meets the requirements of the University Rules for Academic Career (PRASPU).

The candidate participates in the competition with one monograph and eight papers, published in specialized law periodicals and in proceedings, on the topic of the monograph. Twenty publications outside the current competition are also listed.

2. Angel Shopov graduated in LLM in Law at the Law Faculty of University of Plovdiv in 1999. The candidate has been holding the academic position of “Assistant Professor” and “Chief Assistant Professor” since 2001.

He obtained his PhD in 2013. He made specializations in Italy, Netherlands and Switzerland.

He is a member of Bulgarian Association in Comparative Law. He participates in collective and individual research projects.

## II. General characteristics of the candidate's activity

1. The candidate (as Assistant Professor, Senior Assistant Professor and Chief Assistant Professor) has been teaching the subjects Civil Law - General Part, Obligations, Non-Governmental Organizations, Private International Law, for non-law students – EU Law and Intellectual Property Law.

According to Certificate from the package of submitted documents, Chief Assistant Professor Angel Shopov, PhD, has auditorium employment for the academic year 2020-2021 as follows – 168 hours lectures in Civil Law - General Part, 10 hours lectures in Legal Protection of Consumers and 18 hours seminars in Civil Law - General Part.

Angel Shopov, PhD has prepared in co-authorship two textbooks.

He had taught at the Consumer Protection Law Clinic.

During the period 2013-2015, Angel Shopov, PhD was an academic mentor of two student projects.

The above mentioned gives grounds for a high assessment of the educational and pedagogical activity and preparation of the candidate.

2. Scientific research of Angel Shopov, PhD is in the field of Civil Law - General Part and of Consumer Law. They are characterized by depth and analyticity, and in a correct polemical tone the candidate substantiates a number of his own opinions. Imperfections of the legal framework have been revealed and the case law has been analyzed.

The monograph “Deceit as a Ground for Nullification of Contracts, S., 2019, 223 p. is the first particular and complete legal study on the concept of deceit in Bulgarian civil law. This work is a natural continuation of the first monograph of the candidate, which is devoted to another ground for nullification of contracts, staying relatively closer to the deceit - the mistake.

The quality of this habilitation work is the extensive historical and comparative legal interpretation. As their result, the conclusion was made that the Bulgarian legal regulation of deceit as a ground for contracts’ nullification is closer to this of the *Bürgerliches Gesetzbuch (BGB)* and in addition, it has common features with these of the Italian and French civil codes. The case law on the application of deceit is examined in detail. Bulgarian legal regulation of deceit is analyzed in Art. 29 of the Obligations and Contracts Act (OCA), as well as the relevant provisions of the Consumers’ Protection Act (CPA) and of the Competition Protection Act (CmPA), which regulate general and special prohibition of unfair commercial practices.

The in-depth study of the legal requirements for relevance of deceit: deliberate misleading; creation of a false idea of reality in a potential contract party; the conclusion of a contract as a result of this misconception, also serve as a contribution.

The intention to deceive is qualified as a kind of unfairness, without the need to aim causing losses to the other contractual party or the intention to obtain any benefits by the deceiving party. It is compared with the intention in precontractual and contractual liability.

What also contributes is the analysis of material element of deceit – the misleading behaviour. Both deception caused by actions (active, positive vice of will) and the misleading through inaction (passive, negative deception) are considered. The conclusion is argued that the legal requirements of deceit in contracting process could be covered not only by deliberate omission but also through combining action and inaction. Emphasis is placed on the non-

fulfillment of the precontractual obligation to disclose information under Art. 12 OCA.

Scientific and scientific-applied contributions are also contained in the analysis on the second element of the legal requirements of deceit - the false idea of reality of the deceived contractual party. Based on a thorough examination of the statements set forth in Bulgarian and foreign legal doctrine, as well as on our case law, it is concluded that for the existence of a deceit relevant to the annulment of a contract, it is sufficient for the deceived to be misled. Further on, mistakes may also be encountered that would not be inherently relevant to the annulment (e.g. in motive, in value, error in calculation).

The analysis on the application of deceit in *pacta aleatoria* (e.g. maintenance and care contracts, contracts with financial instruments, insurance contracts) is also interesting.

Considering the third element of the legal requirements of deceit - the conclusion of a contract due to the misrepresentation, it was argued that the French-law division of deceit into main and accidental (*dol principal* and *dol incident*) is irrelevant under Bulgarian civil law, as in both cases the deceived has the right to annul the contract.

The study on deceit by a third party, which has been examined through comparative perspective and in accordance with the court and arbitration case law, is also of a contributory nature. It is reasonable to conclude that this deceit should be classified as a subjective complication of its factual composition and not so much as an exception to the principle that it should come from the other party.

The comparison between the deceit and the criminal fraud on the pursued goals, legal requirements, scope of application, etc. is also of important in terms of contribution.

The habilitation work and the articles published thereon, as well as the publications that the candidate determines outside the competition, are cited (as a rule, in essence and in a positive way) by a number of Bulgarian authors in a significant number of works. Two quotations in French are also given.

### III. Critical remarks and recommendations

1. The habilitation work would have more significant scientific and practical value and completed form, if the following issues had been scrutinized - the detection of the deceit under Art. 32, Para 2 of the OCA and the procedural aspects of our legislation for relevance of nullification.

2. In my opinion, the deceit should be considered not only in relation to the traditional (classical) contracts under the OCA, but also in relation to other acts, such as the stabilization plan, which according to Art. 795 of the Commercial Act can be annulled due to threat or deceit.

3. Proposals *de lege ferenda* should also be substantiated with regard to provisions based on Art. 29 of the OCA, which would be in accordance with the analysis of such provisions made in the monographic work.

### IV. Conclusion

1. The documents and materials submitted by Angel Shopov, PhD meet all the requirements of ZRASRB, PPZRASRB and the relevant regulations of Paisiy Hilendarski University of Plovdiv. The normative scientometric requirements are covered.

2. The candidate has submitted a sufficient number of scientific papers published after the acquisition of his PhD, which have not been used in the acquisition of this degree. In the publications of the candidate there are original scientific, scientific-applied and applied contributions, which are printed in journals and scientific collections. His theoretical developments have practical applicability, as most of them are directly oriented to the teaching activity (teaching work) of the candidate. The scientific and teaching qualification of Ch. Assistant Professor Angel Shopov, PhD is undoubted.

The results achieved by Ch. Assistant Professor Angel Shopov, PhD in his teaching and research activities fully comply with the specific requirements in the professional area of "Law" and in particular at the Law Faculty, adopted in connection with the Regulations of the University of Plovdiv for the application of ZRASRB.

After getting acquainted with the materials and scientific papers presented in the competition, analysis of their significance and contained in them scientific, scientific-applied and applied contributions, I consider it reasonable to give a positive assessment and recommend the scientific jury to draw up a report - proposal to the Faculty Council of the Law Faculty for the election of Ch. Assistant Professor Professor Angel Yordanov Shopov, PhD for the academic position of "Associate Professor" at the University of Plovdiv "P. Hilendarski" in the professional area of "Law" ("Civil and Family Law").

26.10.2020

Prepared by:

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