

OPINION

by Prof. Dr. Silvi Vassilev Chernev - Lecturer in Civil Procedure at the University of Plovdiv "Paisiy Hilendarski" and BFU

ABOUT: the materials presented in the competition for the academic position "Associate Professor" in the University of Plovdiv (PU), field of higher education 3. Social, economic and legal sciences, professional direction 3.6. Law, Civil and Family Law for the needs of the Department of Civil Law of the Law Faculty (LF). The competition for "associate professor" was announced in the Darzhaven vestnik, issue 57 of 26.06.2020 and on the website of the PU.

Dear Members of the Scientific Jury,

I present an opinion on the candidacy of Ch. Assistant Professor Dr. Angel Yordanov Shopov for participation in a competition for the academic position of 'Associate Professor' at Plovdiv University "Paisii Hilendarski".

By order № R33-4705 of 25.09.2020 of the Rector of the University of Plovdiv "Paisiy Hilendarski" (PU) I was appointed a member of the scientific jury of the competition for the academic position "Associate Professor" in PU, field of higher education 3. Social, economic and legal sciences, professional direction 3.6. Law, Civil and Family Law announced for the needs of the Department of Civil Law of the Law Faculty (LF).

Only a candidate has submitted documents for participation in the announced competition:

Ch. Assistant Professor Dr. Angel Yordanov Shopov, Lecturer in Civil Law at the Paisiy Hilendarski University of Plovdiv.

1. General presentation of the procedure and the candidate

1.1. General presentation of the received materials

Presented by Ch. Assistant Professor Dr. Angel Yordanov Shopov set of materials is in accordance with the Regulations for the development of the academic staff of PU, and includes the following documents:

1.1.1. Documents of a general nature (diploma for acquired scientific degree "Doctor", various, required by law references for teaching and learning activities, etc.).

1.1.2. Scientific papers: "Deceit as a Ground for Nullification of Contracts". Sibi Publishing House, 2019, 8 articles and studies on the topic (presented for evaluation in this competition). Another 20 works are indicated, which have not been applied for the current competition, but outline the publication activity of the candidate.

All scientific papers that are submitted in connection with this competition are accepted for review and are reported in the final evaluation.

2. Brief biographical data of the applicant:

2.1. Angel Yordanov Shopov graduated from the Paisii Hilendarski University of Plovdiv, LLM in law in 1999. After completing a compulsory traineeship and successfully passing a theoretical and practical state exam in law, he started working as an Assistant Professor (later Senior Assistant Professor and Chief Assistant Professor) at the University of Plovdiv "Paisiy Hilendarski". He has obtained the degree of PhD after successful defense of a dissertation on "Mistake as a ground for the nullification of contracts" in the IDP of BAS in 2013. The candidate has specialized in *Università per stranieri* in Perugia, Italy, in TMC Acer Institute, The Hague, the Netherlands and in the University of Fribourg, Faculty of Law, Switzerland.

2.2. The candidate has participated in numerous academic conferences and research projects.

2.3. He speaks and uses English, Italian, French and Russian.

2.4. As a leading lecturer in the field of civil procedure at the Paisiy Hilendarski University of Plovdiv, I have long-term impressions of the candidate's work as a lecturer in civil law and other disciplines. These impressions are excellent.

3. General characteristics of the candidate's activity

3.1. The candidate is a long-term lecturer in civil law subjects at the Faculty of Law of the University of Plovdiv "Paisiy Hilendarski" (from 2001 to the present): for law students - in Civil Law – General Part, Obligations, NGOs, Private International Law (2002-2004), and for

non-law students - European Union Law (2004/5), etc. He has a high level of teamwork skills and appropriate approaches to students.

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 "Deceit as a Ground for Nullification of Contracts", ed. Sibi, 2019

3.2.1. General characteristics of work

3.2.1.1. The scientific work presented for the competition is a monograph on an important institution of civil law, falling at the heart of its general theory. There is no other work dedicated to this institute in our legal literature. The predominant number of studies are contained in courses and textbooks on civil law, or in more general studies devoted to the annulment of declarations of will.

3.2.1.2. The book consists of 224 pages, divided into Introduction, three chapters and conclusion. 3.2.1.2.1. In the Introduction the author justifies the choice of the topic. He refers to the lack of special scientific research, to the proximity to another reason for nullification - the mistake. The "two-faced" nature of the deception is emphasized - a combination of error plus morally reprehensible behavior. The main moments of the work are traced.

3.2.1.2.2. Chapter One is entitled "The Concept and Historical Development of Legal Views on Deceit" The first paragraph is devoted to the place of deception among the other vices of the will. The exposition focuses on the psychological explanations of the vices of the will; the impact of a number of factors is investigated and an attempt is made to define deceit as a particular vice of will.

A detailed overview of the historical development of the institution of deception is made, which traces the development of the notion of *dolus* and its content in ancient Rome, followed by the formation of the so-called *exceptio doli*, in which we could look for the roots of modern institute of deceit in the ancient Rome. The author examines the roots of deception in the early and late Middle Ages, following the development of the views of postglossators, canon- and natural- lawyers. Special attention is paid to deceit in the period after the French Revolution. The regulation under the Napoleonic Code is presented and a comparison is made between the development of this regulation and the corresponding regulation under German law. A comparative study is made of the latest regulation under Code Civil, that under BGB,

under Italian *Codice Civile* and the Bulgarian LOC. The chapter ends with a summary of the historical development and its connection with modern regulations.

3.2.1.2.3. Chapter Two is entitled "The factual composition of deceit as a ground for the nullification of contracts."

Before proceeding to an analysis of the individual elements of the factual composition, the author offers additional comparative legal data and describes the approach to the regulation of Bulgarian law.

The peculiarities of the individual elements of the factual composition are considered successively: with regard to the deliberate misleading, an analysis of the content of the intent is made. Special attention is paid to the precontractual obligation for information and its connection with the intent. A comparison is made between the intent of deceit and the intent in precontractual and contractual liability.

In the following part, the second aspect of this element is considered - the misleading (in)action. The achievement of delusion through actions, through inaction is considered, considering the features of inaction in deceit, including through a comparative review.

The following part is an analysis of the second element of the factual composition - the misconception of the actual situation in deception - the scope of the error in deceit and the particular issue of deceit in aleatory contracts are considered.

The fourth paragraph of this chapter deals with the third element of the factual composition: the link between the deliberate misconception and the deceived party's decision to conclude the contract. Along with the peculiarities of intent and their impact on the final characteristics of the consequences of deceit, the author considers different approaches to assessing the decisive impact of deception.

3.2.1.2.4. The last chapter - Third - is devoted to special cases of deceit: deceit by third parties. It also contains a broad comparison between deception and criminal fraud.

3.2.1.2.5. The work ends with a conclusion, which is a kind of annotation - it contains a description of the scientific analysis of the issue.

3.2.2. Positive qualities

3.2.2.1. First of all, the detailed and in-depth knowledge of the author of a considerable volume of literature should be mentioned: 114 titles in Cyrillic (Bulgarian and Russian) and 69 works in several foreign languages are cited.

3.2.2.2. This also applies to the large-scale case law and arbitration practice (including those of foreign countries), as well as the practice of criminal courts.

3.2.2.3. The explanation reveals extensive knowledge not only in the field of civil law, but in the history of law (especially this knowledge of details of the institutions considered and related in Roman law, medieval law, late medieval law and modern law (since the era of the French Revolution) Reading the work establishes serious knowledge of the general theory of law and of criminal law. The author freely deals with various theoretical concepts directly related to the studied legal institute and manages to outline the specifics of the phenomenon in general theoretical and interdisciplinary-comparative terms. The revealed high degree of legal erudition gives to the work a serious and comprehensive information feature.

3.2.2.4. The whole work also speaks of the high general and linguistic literacy of the author.

3.2.2.5. As significant contributing moments I would highlight the following:

- the presentation of the relevant regulation under the so-called soft law - PECL (Principles of European contract law); UNIDROIT PICC (Principles of International Commercial Contracts) and the DCFR (Draft Common Frame of Reference), which will undoubtedly play a significant role in the future development of our national legal framework;

- the substantiation of the so-called (by the author) "two-sided nature" of the deceit as a ground for annulment of contracts (unilateral transactions), expressed in a past cognitive process on the one hand, but also the presence of moral reprehensibility - on the other;

- the precise and clear formulation of the elements of the current factual composition of the civil fraud (i.e. deceit) (Art. 29 of the LOC) on the basis of a broad historical and comparative legal review;

- the study of hypotheses in which the behavior of persons other than the parties to the transaction in question may lead to the creation of misconceptions in the deceived person;

- the subtle distinctions between 'deception' and 'error' as separate grounds for the nullification of contracts;

- of particular usefulness is the parallel consideration and differentiation of the scope of criminal and civil fraud, etc.

3.2.3. Weaknesses identified:

3.2.3.1. Despite the in-depth analysis of the legal institute in question, the author neither comes to conclusions about the suitability of the current legal framework, nor, as a result of a critical review, makes proposals for its improvement.

3.2.3.2. In the course of the analysis of certain aspects of a relatively particular issue of civil law (such as deceit), the author often repeats things already said (for example, the description of the factual composition), while deliberately omitting from the explanation of problems that have serious theoretical and mostly practical significance: e.g. the relationship between the rights to annul a contract due to deceit or to terminate such a contract (in the case of consumer contracts - footnote № 2 to Chapter Three) or the factual composition of the fraud - e.g. those which provide for the protection of the financial interests of the EU (EC) - footnote № 49, Chapter Three.

3.2.3.3. Out of the author's field of research remains the civil procedural issues related to deceit (in contrast, serious attention is paid to the procedural aspects in distinguishing between criminal and civil fraud). For example, in the case of consistent treatment of deceit (nullification of a contract due to deceit and the author's proposed subsequent treatment of claims under Article 12 of the LOC), the question of the significance (obligatory force) of the reasons of the judicial decision on nullification for the next civil procedure determining of the existence of precontractual liability under Article 12 of the LOC.

It could be said that the above-mentioned features of work at this point do not in fact constitute significant weaknesses that reduce the value of the analysis.

3.2.4. The presented works outside the habilitation one are many in number and represent an independent interest, but the restricted volume of the opinion does not allow their detailed discussion.

CONCLUSION

The scientific works of Angel Yordanov Shopov presented for the competition fully meet the requirements of the law. They contain an extensive and in-depth analysis of the problems of the classical institute of civil law, which is significant from a theoretical and especially from a practical point of view in the context of the established in recent years' low standards of good faith in our civil turnover. The work uses extremely extensive literature in Bulgarian and foreign languages, covers numerous case law of the Bulgarian courts and some foreign courts. The candidate demonstrates remarkable in depth and volume of knowledge and abilities for analysis.

Angel Yordanov Shopov's teaching qualities are no less impressive.

In view of the above, I PROPOSE the RESPECTED Scientific Jury to propose to the competent authority to take a decision that Ch. Assistant Professor Dr. Angel Yordanov Shopov take the academic position of "Associate Professor" in scientific field 3.6. Law and scientific specialty "Civil and Family Law" at the Faculty of Law of University of Plovdiv "Paisiy Hilendarski".

11.11.2020

Prepared by S. Chernev