

**TO THE MEMBERS OF THE SCIENTIFIC JURY,  
DETERMINED BY ORDER № R33-4705/25.09.2020  
OF THE RECTOR OF UNIVERSITY OF PLOVDIV  
PAISIY HILENDARSKI**

**REVIEW**

**By Professor Ivan RUSCHEV, Dr. Sc. Jur., Department of Civil Law,  
Faculty of Law, Sofia University "St. Kl. Ohridski "**

On materials, submitted to the competition for the academic position of Associate Professor at University of Plovdiv, published in Darzhaven vestnik, issue 57 of 26 June 2020, for the needs of University of Plovdiv "Paisiy Hilendarski" (PU); Field of higher education 3. Social, economic and law sciences; professional direction 3.6 Law; Civil and Family Law.

Grounds for submission of the review: participation in the scientific jury for the competition, determined by Order № P 33 - 4705 / 25.09.2020 of the Rector of PU "Paisiy Hilendarski".

**COMPETITION INFORMATION**

The announce for the competition for the academic position of Associate Professor at University of Plovdiv was published in Darzhaven vestnik, issue 57 of 26 June 2020 for the needs of University of Plovdiv "Paisiy Hilendarski" (PU); Field of higher education 3. Social, economic and law sciences; professional direction 3.6 Law; Civil and Family Law.

The only one who applied for participation in it (application, reg. index R2 - 37 / 18.09.2020) is Mr. ANGEL YORDANOV SHOPOV, Ch. Assistant Professor, PhD in Law at the Law Faculty (LF) of PU. After checking the submitted documents, the Admissibility Commission has accepted that the application was submitted in time, i.e. the application and the documents attached to it meet the requirements of ZRASRB, PPZRASRB, and of the internal acts of the University of Plovdiv. Separately, the examination carried out by me in terms of procedure led me to the same conclusion.

**INFORMATION ABOUT THE CANDIDATE IN THE COMPETITION**

Mr. Angel Yordanov Shopov was born on May 19, 1976. He obtained a master's degree in law in LF at the University of Plovdiv "P. Hilendarski". He has an impressive teaching experience. Since 2001 so far he has passed through all levels of academic teaching at the Faculty, having successively held the positions: Assistant Professor, Senior Assistant Professor and Chief Assistant Professor, leading for law students the subjects Civil Law – General Part, Obligations, Non-profit Legal Entities (NGOs) (since 2012); Private International Law (2002 - 2004) and for non-law students: European Union Law (2004/2005); Protection of Intellectual Property (since 2014).

From 2002 to 2005 Mr Shopov was a lecturer at the Legal Clinic for Consumer Protection at the Foundation "Center for Legal Aid". In June 2013, he completed a training at the Faculty of Law of the University of Fribourg, Switzerland on an individual research project "The obligation to apply the most favorable law for the consumer" (a post doc specialization). In March 2013 he obtained the educational and scientific degree "PhD in Law" at the Institute

of Legal Sciences at BAS, after successfully defending a dissertation on "Mistake as a Ground for Nullification of Contracts".

In 2005 he made a specialization in the field of Civil Law in The Hague, the Netherlands, with a successfully developed individual research project on "The Content of Misbelief as an Element of the Deceit" (in English). In November - December 2002 he is a fellow of the Italian Ministry of Foreign Affairs at the University of Foreigners (*Università per stranieri*) in Perugia, Italy. Since 2019 he has been an arbitrator in the Arbitration Court at the Association for the Development of Law.

Teaching activity: Ch. Assistant Professor A. Shopov, PhD fully complies with the norm for academic employment, adopted by the Academic Council of PU; develops new seminars, textbooks and teaching materials. Simultaneously with teaching and research, he takes an active **part in international and national projects of scientific-fundamental and scientific-applied nature** (e.g. "Project to improve the effectiveness of higher education"). Participant and coordinator in three collective research projects of the Law Faculty of the University of Plovdiv, funded by the SRF: "Free Exchange of Goods - Legal and Economic Aspects" (2013-14); "Soft Law and Its Significance for Bulgarian Law" (2015/16); "Dynamics of Bulgarian Law in the Context of European Legal Systems" (2017/18).

Dr. Shopov is also a participant in the Group on Immoral Contracts of the multi-year international project "The Common Core of European Private Law" since 2014 (co-rapporteur on Bulgaria). Annually he participates in the jury of national student competitions for scientific essays in private law and civil procedure (2013-2020), organizer in the Association for solving cases in civil and commercial law, participant in the preparation of the National Student Competition for solving cases in civil and commercial law of Sofia University and test evaluator (2013-2015); Lecturer of training seminars for magistrates organized by the Supreme Judicial Council in the field of contract law (2015).

Scientific activity: numerous publications in foreign and Bulgarian journals and collections. Participation in international, national, regional, departmental, university and other congresses, conferences, symposia and seminars - specified in the documents attached to the application for participation in the competition.

Administrative and other activities: participation in working committees at the level of the department, LF, university, etc., participation in the organization and holding of scientific and other prestigious forums for the University, with performances at regional, national or international level. Apart from that, in the Law Faculty of PU Ch. Assistant Professor Dr. A. Shopov holds the administrative positions of Faculty Erasmus + Coordinator and Academic Mentor in the project "Student Internships".

**GENERAL ASSESSMENT OF CONFORMITY OF THE QUALITY OF THE CANDIDATE WITH THE MINIMUM NATIONAL AND OTHER REQUIREMENTS FOR OCCUPYING THE ACADEMIC POSITION "ASSOCIATE PROFESSOR" under Art. 24 in connection with Art. 2b ZRASRB and Art. 1a, 2, 53 PPZRASRB:**

In this competition the candidate participates with the published monograph "Deceit as a Ground for Nullification of Contracts". S.: Sibi. 2019, 224 pp. ISBN: 978-619-226-138-2, which does not repeat in any part the dissertation defended for the acquisition of educational and scientific degree "Doctor/PhD in Law" in 2013 on "Mistake as a Ground for Nullification

of Contracts". Mr Shopov presents for review 8 articles published in Bulgarian (in specialized legal periodicals and collections) mainly after the date of public defense of his dissertation and which are not on the topic of the latter. The candidate has participated in numerous national and international scientific conferences with papers that have been published and are indicated as part of the scientific production - subject to discussion in this competition.

As can be seen from the attached reference, the scientific papers submitted by the candidate and 33 citations in scientific publications correspond to 465 scientometric points, formed as follows: 50 points in indicator A; 100 points in indicator B; 165 points in indicator D; 65 points in indicator D and 75 - in indicator E. They seriously exceed in some components the minimum national requirements for holding the position of "associate professor", provided in Art. 2b, para. 2 and 3 ZRASRB and Art. 1a PPZRASRB, namely: 50 points in indicator A; 100 points in indicator B, 100 points in indicator D, 50 points in indicator E.

There is no evidence of plagiarism in the scientific papers of the candidate.

In view of the above, I find it indisputable that **the candidate Ch. Assistant Professor Dr. Angel Shopov exceeds the minimum national and other regulatory requirements** for holding the academic position of "Associate Professor" under Art. 24 in connection with Art. 2b ZRASRB and Art. 1a, 2, 53 PPZRASRB, as well as meets the conditions of the Regulations for the terms and conditions for acquiring scientific degrees and holding academic positions in PU

#### **HABILITATION WORK: EVALUATION OF THE ACHIEVED SCIENTIFIC-APPLIED RESULTS AND SCIENTIFIC CONTRIBUTIONS AND RECOMMENDATIONS**

The evaluation of the contributions that I report in the work, resp. - insignificantly few critical remarks to it, I do not make in a separate place, and they are systematically included in the review of the work, respectively - following its structure.

**The habilitation work** presented by the candidate for participation in this competition on the topic "Deceit as a Ground for Nullification of Contracts", Sofia: Sibi. 2019, 224 pp. ISBN: 978-619-226-138-2 **is undoubtedly the first in our doctrine comprehensive and systematic monographic study on the place of deception among the vices of will.**

The author's well-chosen structure of the work, built in an introduction, three chapters and a conclusion, contributes to the successful achievement of the research objectives, aimed at in-depth and comprehensive theoretical coverage of the most important for doctrine and practice issues of deceit as a ground for annulment of contracts. This classical legal issue is extremely important and always relevant not only because of the considerable relative share of this category of legal disputes in the total volume of civil cases in our country, but also because of its own doctrinal difficulty. Although over the years many authors, in one form or another, have been tempted by certain aspects of the subject of nullification, **the work of Ch. Assistant Professor Dr. Shopov rightly claims to be the first complete study on the issues of nullification due to deceit in our country.**

The author has deeply based his theses on the **two-faced nature** of deception as its most essential feature, distinguishing it from other vices of will. Its closeness to the other ground for annulment of the contracts is highlighted, which also took place in case of incorrect cognitive process in the person expressing the will - the mistake. Adopting a new approach, namely that morally reprehensible behavior, external to the expression of the will, justifies the tort nature

of deceit and vice, the author concludes that **the individual components of deceit "cross the border" between basic civil law institutions** - invalidity and liability. Which undoubtedly represents a contribution to civil law theory. Fundamentally new is the argumentation of the thesis that, despite the serious proximity to the mistake, in deception the legislator gives wider protection to the person with a vitiated will.

Contribution is in itself a detailed **historical review of the legal views on deceit**: from Roman law, through the Middle Ages, through their separation into an independent doctrine as a result of the efforts of French legal thought before French *Code civil* (FCC), enrichment with some of its characteristic modern features in the pandect school, which BGB perceives to a significant extent in order to arrive at the analytical distinction in the regulation of deceit in the LOC of the features of BGB, from those in FCC, resp. - in Italian *Codice civile* (ICC).

A very good impression is made by the **harmonious logical sequence** in which the author exposes the elements of legal requirements of deception, while at the same time examining in detail their specifics: 1. deliberate misleading (where the content of intent is analyzed). The argumentation of the deceit committed through inaction is of a contributing nature here. 2. The second element of the legal requirements - the misconception of reality in the deceived. 3. And on the occasion of the third element of the legal requirements - under the influence of his misconception that the deceived to conclude the specific contract, as a matter common to the defects of the will, the decisive impact of deception is examined in detail.

The problem of partial nullification due to deceit is **also contributing**, pointing out that it is in this case that the division between "main" and "accidental" deceit (*dolus causam dans* and *dolus incidens*, respectively) acquires practical significance.

The last chapter deals with two special cases - deceit by third parties and the comparison between deception and criminal fraud. **Regarding the deceit by third parties, the author substantiates the understanding that it should not be qualified as an exception to the principle of the relative effect** of nullification and correctly defines it as a particularly subjective complication of the factual composition. The **detailed comparison between deceit and criminal fraud** was used not for its own purpose, but to emphasize the diverse nature/consequences of fraud in law in general. In this part, the reviewed work goes beyond the boundaries of civil law, which gives the study an **interdisciplinary** character. The candidate came to the reasonable conclusion that due to the different legal requirements, fields of application and legislative approach to the compared institutions, they cannot clearly show interdependence, and it is possible that the two types of fraud exist together and separately, without mutually exclusive. **A valuable characteristic of the work, which increases the level of scientific research, is the fact that the understandings in Bulgarian legal science and the maintained conclusions are checked once** - in view of the accepted conclusions in practice **and the second time - are "verified"**, compared with basic ideas of modern foreign theory and practice on nullification for deceit. The regulation of deceit in some of the more significant sources of the so-called soft law has been had in mind.

Most of the proposals made *de lege ferenda* should also be considered serious and appropriate.

The small critical remarks to some parts of the explanation are not able to shake my categorical **high assessment of both the conclusions reached and their original argumentation, which characterize the work. The scientific audacity of the author to**

develop this classic in nature issues, the argumentation of his original conclusions in the highly "competitive environment" of many famous authors, contribute to this opinion.

**MY MAIN RECOMMENDATION TO THE CANDIDATE** is to continue with his inherent depth and scientific integrity to investigate, after the mistake (subject of his doctoral dissertation) and the current habilitation thesis on deceit, the other grounds for annulment of contracts. So that our legal literature could see a complete, complete research of the matter on these grounds. For this Ch. Assistant Professor Dr. Angel Shopov has proven to be the best researcher in this field.

#### **OTHER ARTICLES AND STUDIES SUBMITTED FOR REVIEW:**

**The other 8 publications are related to the topic of habilitation work and represent a detailed examination of certain aspects** of the three key issues that addressed the candidate in his monograph - the concept of deceit, its factual composition as a vice of will and its special hypotheses.

(1) Judicial and Arbitration Practice On the Contracts' Avoidance, Caused by Deceit. Pravna misal, 2004, No 2, pp. 101-110. ISSN 1310-7348

**In this relatively early article, which, however, marks the lasting interest of the candidate in the topic**, the judicial and arbitration practice on the application of Art. 29 of the LOC were covered. Subject to detailed analysis is the case law of the last 13 years preceding the publication. All typical judicial acts are covered. **The article is among the first successful attempts of the author to connect the practical approach with the theoretical achievements on the problem.** Using arguments from civil law theory, the author states his scientific position, accepting or criticizing the conclusions reached by the jurisprudence in a number of court and arbitration decisions.

(2) Notes about Two Questions, Which Are Observed by the Latest Judicial Practice, On the Border of Deceit and of Criminal Fraud. – In: Bourgas Free University. International Academic Conference. Collection of Scientific Works. Vol. 3. 11th -13th June 2004. Bourgas. 2004, pp. 112 – 116.

The article examines aspects of the applied fields of deceit and criminal fraud. Although different legal phenomena, the author outlines the commonalities between civil and criminal fraud, focusing on two of their coincident points in the light of case law. The article is also interesting from another point of view - it provides an opportunity to trace **the evolution, the enrichment of the author's views, which found a more complete expression in the reviewed habilitation work**, published 15 years later.

(3) *Dolus* and Deceit in Contracts' Formation. – In: 100 years from the birth of prof. Mihail Andreev. Sbornik statii. Sofia. 2011, p. 542 – 550. The author compares the notions of *dolus* in Roman law, on the one hand, with modern ideas of deceit as a ground for the nullification of contracts, on the other. Based on the historical analysis, he seeks the genesis of the idea of deception as a vice of will. Following the development of the institute, Dr. Shopov came to the conclusion that such a clearly formed vice could not be distinguished in the law of Ancient Rome. However, he substantiates the idea that even there the deceiving acts were treated as contrary to good faith and were attacked by various legal means. He comes to the conclusion with a **contributing character** that it was the morally reprehensible behavior that

was "targeted" both today and in Antiquity. However, as the legal framework develops, it introduces new and different effects of protection against such behavior.

Roman jurists did not make a clear distinction between the deceit in contracting and the intent as a precondition for civil liability, referring to both of them as *dolus*. This is somewhat a sign of their underdeveloped legal system, but even then, as today, the two-faced nature of deceit is recognized.

(4) The Crime "Fraud" and the Deceit in Contracts' Formation - A Comparison. - In: Iybileen sbornik po sluchay 100-godishninata ot rozhdenieto na akad. Liuben Vasilev i prof. Zhivko Stalev i 90-godishninata ot rozhdenieto na prof. Vitali Tadzher. S. 2013, p. 360-396. ISBN 9786191630172. The study compares these two legal phenomena, substantiating a conclusion about their different factual compositions. Which explains why there is no obstacle for civil and criminal fraud to coexist in legal reality, without being mutually exclusive.

Analyzing in detail the practice of criminal and civil courts, the study outlines in detail the differences and commonalities in the fields of application of the two types of fraud, in which I see the **scientific contribution. The work further develops the author's initial ideas in his first article in 2004 and constitutes a significant transition** to his final ones, reflected in the habilitation work reviewed above.

(5) "On the Legal Requirements of Deceit in Contract Formation", *Studia iuris*, 2015, № 1, p. 1-10, <http://web.uni-plovdiv.bg/paunov/Stidia%20Iuris/broi%201%20-%202015/Angel%20Shopov.pdf>, ISSN 2367-5314. In this article the different approaches to the regulation of deceit in contracting in the main legal systems - the continental and Anglo-Saxon - are analyzed. The factual composition of the deceit in the Bulgarian law according to art. 29 of the LOC, and the review covers the basic models of continental law (French, German and Italian). These legal solutions are compared with the Bulgarian approach, looking for similarities and differences. As a result of **in-depth analysis, the author substantiates two essential characteristics**: that the elements of the factual composition of deceit as a defect of will, in countries with continental legal systems, are the same and that this defect of will combining legal facts (psychological and material), reflecting opposing views and interests, must be present in both parties to the contract - the deceived and the deceiver.

The approach of the continental legal systems is compared with the solutions of the more important sources of the so-called Soft Law and the Anglo-Saxon legal system. The author finds that the regulation of the sources of "soft law" is much more detailed than the provision of Art. 29 of the LOC. Quite different, according to him, is the approach of the Common law, where the figure of fraudulent misrepresentation, developed within the institute of misrepresentation, is applied to cases similar to deceit. However, the latter is characterized by a wider scope.

(6) Deceit by Third Party in Contract Formation. - В: Право и права. Сборник в памет на проф. П. Ташев. С., 2016, p. 462-477;

The main conclusion reached by the author in the article is the changing starting point in relation to the relevance of deceit by third parties. I also see in it a **contributive moment**. The classical view describes deceit by third parties as a major exception to the principle of relativity governing deception-based nullification. Many hypotheses are considered when its author is not *de facto* the counterparty of the deceived. Even legal systems, which at first glance

accept as an unshakable the classical principle of relativity in deceit, allow many exceptions to it. They are the subject of research by the author, which justifies the **usefulness** of the study.

(7) *Dolus bonus* in Roman and Contemporary Law, Ius romanum, 2016, № 1, c. 285-295, <http://iusromanum.eu/documents/> or <http://iusromanum.eu/i/2016-commercium>, ISSN 2367-7007

The study focuses on the content of the *dolus bonus* in Ancient Rome and today. Its relation to the *dolus malus* and its place in the *dolus* construction are considered. Modern law most often discusses the problem of deceit as a ground for nullification of contracts. The differences between the noble lie (*dolus bonus*) and the intent (element of deception) are outlined. Numerous regulations that act as an external limite of the *dolus bonus* have been analyzed. The conclusion shows that, according to them, this phenomenon should not even create the possibility of misleading or harming the interests of the addressees. The study, having a strong historical-legal and comparative-legal character, helps to distinguish between the hypotheses of deceit in modern private law. In which I see its **indisputable contributing character**.

(8) Contracts' Formation through Deceitful Omission - In: Soft law and contemporary law, S., 2017, c. 84-117. ISBN 978-619-226-005-7

The literal reading of Art. 29 of the LOC, requiring misleading as an element of the factual composition of the deceit as a ground for annulment of the contracts, leads to the conclusion that only active actions on the part of the deceiver are required. However, it is not disputed in the literature that deliberate silence can also provoke a deceptive conclusion of a contract. The thesis is developed substantiated by the author, which also represents a contribution to the national doctrine.

The analysis focuses on the conditions for classifying of inaction as deceiving, set by local or selected foreign legislation, according to doctrine and practice. The author has also taken into account the provisions of the sources of soft law with fundamental importance for private law - the UNIDROIT Principles, the Principles of European Contract Law (PECL) and the Common Frame of Reference Project. The rich base of sources of the so-called "soft law" makes research **useful and unique in the matter of deceit** as a ground for nullification.

**EVALUATION OF THE CONTRIBUTIONS OF THE OTHER PUBLICATIONS, provided by the candidate Ch. Assistant Professor Dr. Angel Shopov for review. The presented 8 studies and articles show the high ability for independent scientific research of the candidate in the competition Ch. Assistant Professor Dr. Angel Shopov. They confirm the positive assessment substantiated above when reviewing his habilitation thesis.**

## CONCLUSION

Based on the above mentioned considerations, **I find categorically** that the participation of Ch. Assistant Professor **Dr. Angel Yordanov Shopov** in the competition for the academic position of "Associate Professor" according to the published code of scientific filed, **meets all the necessary substantive requirements** under Art. 24 in connection with Art. 2b ZRASRB and Art. 1a, art. 2 and art. 53 PPZRASRB, as well as the conditions of the Regulations for the terms and conditions for acquiring scientific degrees and holding academic positions at the PU

under the announced competition. From a formal-legal point of view, the prerequisites for a valid competition are also present.

In view of the above, **I propose convincingly to the esteemed scientific jury to vote positively and to propose to the Faculty Council of the Law Faculty of the University of Plovdiv "P. Hilendarski" Ch. Assistant Professor Dr. Angel Yordanov Shopov to be elected to the academic position of "Associate Professor" in the field of higher education 3. Social, economic and legal sciences, professional field 3.6 Law, scientific specialty "Civil and Family Law", which I will do with the highest degree of confidence in the qualities of the candidate.**

**20.11.2020**

**Prof. D. Sc. Iur. Ivan Rushev**