

REVIEW

by Prof. Emiliya Aleksandrova Drumeva, PhD

Professor at Plovdiv University "Paisii Hilendarski"

on participation in a competition

for the academic position of Associate Professor

at the Faculty of Law of

Plovdiv University Paisii Hilendarski

Field of higher education: 3. Social, economic and legal sciences;

Professional field: 3.6. Law (Constitutional law).

The competition for Associate Professor was announced in the State Gazette No. 57 of 26.06.2020.

1. I have been appointed a member of the scientific jury of the competition for the academic position of Associate Professor at the Faculty of Law of the University of Plovdiv Paisii Hilendarski **in the professional field 3.6. Law (Constitutional law).**

Only one candidate has submitted documents for participation in the announced competition: Radoslava Dimitrova Yankulova, Doctor of Law, Chief Assistant at the Faculty of Law, Department of Public Law at Plovdiv University Paisii Hilendarski.

The materials submitted by the candidate - monograph (thesis for the attainment of an academic rank), articles and references are in accordance with the law. All works submitted for participation in the competition have been published after the date of acquisition of the educational and scientific degree "Doctor of Law", meet the requirements of Art. 24, para 1, item 3 of Academic Staff Development Act of Republic of Bulgaria (ASDARB) and Art. 53, para. 1, item 3 of the Implementation regulations of the ASDARB and are subject to review. The work for attainment of academic rank with which R. Yankulova PhD

participates in the competition according to the requirements of the law is the monograph "Constitutional Justice and the Protection of Fundamental Rights" (Sofia, 2020, Ciela Publishing House, 215 p., ISBN 978-954- 28-3195-2).

At its first meeting, the scientific jury decided that Chief Assistant Professor Radoslava Dimitrova Yankulova, PhD meets the minimum required points by groups of indicators, regulated in IRASDARB and on this basis is allowed to participate in the competition for the academic position of Associate Professor in the professional field 3.6. Law (Constitutional law).

2. Radoslava Yankulova PhD was born in 1986. In 2010 she graduated with honours from the Faculty of Law of Plovdiv University "Paisii Hilendarski" as a Master of Law. Radoslava Yankulova, who demonstrated her scientific affinity even then, continued to develop as a full-time doctoral student at the Institute of State and Law at the Bulgarian Academy of Sciences. In 2014 she successfully defended her dissertation on "Constitutional Process"; she was awarded the scientific degree of Doctor of Law.

The research activity of Radoslava Yankulova, PhD should be considered and evaluated through the prism of her work as a university lecturer. In 2014, Yankulova PhD started working as a Chief Assistant Professor in the Faculty of Law of Plovdiv University Paisii Hilendarski. In the past years the candidate conscientiously and responsibly conducts seminars on the obligatory discipline "Constitutional Law"; applies both traditional and modern forms of education, encourages discussion, case solving, the formation of legal but also innovative thinking.

In addition to seminars on "Constitutional Law", Yankulova PhD has taken part of the lectures on this mandatory discipline for full-time and part-time students; she delivers a lecture course on the separate elective course "Constitutional Justice", as well as other lecture courses and cycles - Family and Inheritance Law, Legal Protection of Persons with Mental Illness and Mental

Disabilities, etc.; she teaches in the Master's program of Public Administration at the Faculty of Law.

High recognition for the professional qualities and analytical abilities of Yankulova PhD is her work as a senior legal expert at the Constitutional Court of Republic of Bulgaria. She is the secretary of the editorial board of the multilingual magazine of the Constitutional Court "Constitutional Studies".

Dr. Yankulova has also engaged her scientific knowledge, administrative skills, and personal integrity as a member of the editorial board of the specialized online legal journal of the Faculty of Law of the University of Plovdiv - STUDIA IURIS.

Radoslava Yankulova PhD has affirmed herself with her high academicism, professionalism and erudition. She has trained and educated generations of young lawyers in love and fidelity to law, introducing them to the subtleties and richness of legal theory, which is a contribution to the legal field and especially in the field of legal education, and the preservation of its good traditions.

3. It is logical for the review to focus on the thesis for attainment of academic rank, which is "Constitutional Justice and the Protection of Fundamental Rights" (Sofia, Ciela Publishing House, 2020, ISBN 978-954-28-3195-2). In terms of its volume, subject matter and in view of the presence of a scientific editor (Assoc. Prof. Konstantin Pehlivanov, PhD), the work corresponds to the formal requirements for the scientific genre "monograph", regulated in § 1, item 10 of the additional provisions of ASDARB.

The work is a monographic study on the primary field of the activity of each constitutional jurisdiction - the protection of fundamental rights. The protection of the rights of the individual is the main goal and intention of the constitutional state: the organization of the State itself, embedded in the Constitution as an instrument of controlled government, is conceived and established in order to implement the rights and freedoms. Even the Declaration of the Rights of Man

and of the Citizen of 1789 in France postulated it: without separation of powers and protection of rights there is no Constitution (Art. 16).

With the subject matter of the work for attainment of academic rank, the author remains true to her scientific interest in this important issue, and again manifests and affirms herself as its in-depth researcher. "Daring to reach towards" a scientific research of such a fundamental subject for law, testifies to the awareness of the need for basic scientific research, provokes reflections, searches and finding solutions, which undoubtedly represents a contribution to legal science.

In fact, the previous scientific production and interests of R. Yankulova testify that the "big topics" of constitutional law do not frighten her, on the contrary, they provoke her to in-depth research and to (in most cases) non-standard, and innovative approach and exposition.

By developing questions fundamental for law, the scientific works of R. Yankulova have a high cognitive significance and contribution, competently and skilfully introducing the Bulgarian reader to the genesis, development and modern perception of main concepts and understandings in law, which facilitates their "landing" and implementation in the modern Bulgarian conditions.

3.1. The topic and its development in the work for attainment of academic rank fit into the efforts of theory and practice to achieve the significant goals of legal science, and thus it is a topic and task of high scientific and practical significance. The development of a topic with such a broad subject undoubtedly represents greater difficulty for the candidate, as it presupposes a broad-based analysis and synthesis, and at the same time - in-depth research. The author has successfully coped with the breadth of the subject by providing a wealth of factual material, which increases the cognitive value of the work.

To achieve the objectives of the study, several scientific methods were used, primarily regulative and formal. The application of the comparative law method is especially successful, which adds high cognitive quality to the work. The

complex application of scientific methods undoubtedly contributes to achieving the goals of scientific research.

The result of the used methods is successful; the author applies them and achieves the main task of the research with breadth of the exposition and substantiation of the conclusions. The individual legal structures are developed from different aspects and in depth. Each part of the study contains contributing moments, and Chapter Three of the exhibition is full of suggestions *de lege ferenda*.

3.2. The structure of the work for attainment of academic rank having the indicated wide specificity of the researched subject acquires independent significance; its purpose is to organize the content of the study into a complete logical construction. This was done successfully - the exposition follows the logic of the structure. The scientific work is concentrated in separate blocks of issues, marking and highlighting the main arteries of the studied issues, with an in-depth emphasis on those of them that are debatable. The selection of jurisprudence is relevant to the topic. Rich scientific literature by Bulgarian and foreign authors related to the subject of the research has been studied; the citation of opinions and arguments is done in good faith and correctly.

Footnotes contribute to consolidating the overlapping theses. The study contains references to shorthand diaries of the National Assembly and the VII-th Grand National Assembly, which is a study of empirical material of original value and testifies to the author's deep interests in theory and practice. She works with a rich scientific critical apparatus and clear concepts, which makes the expose understandable and practical. The exposition and the accompanying commentary testify to a very good level of applied scientific analysis and synthesis, which adds to the entire work of attainment of academic rank a meaningful significance and practicability.

3.3. Chapter one of the work for attainment of academic rank introduces retrospectively the main stages through which the doctrine of the fundamental

rights of citizens is born and evolved; the author shares and adds her own view to the common understanding that the consolidation and protection of rights belong to the most important values of modern constitutionalism.

The development focuses on institutionalized control of constitutionality as a tool for the protection of fundamental rights; the concept of the legitimacy of the constitutional justice as a new dimension of democracy, outside its majority component, is also developed and supplemented. It is concluded that the protection of fundamental rights is the meaning and purpose of the functioning of every constitutional court, and the mechanisms for triggering constitutional control contribute to the achievement of this goal in practice.

The emphasis in the first chapter is on the opportunities for indirect access of citizens to constitutional justice. In the context of incidental control of constitutionality, a relatively new trend towards decentralization of constitutional control has been highlighted. The importance of the arsenal of tools available to citizens to seek protection of their rights before the Constitutional Court, in addition to the vertical - in the relationship "state-citizen", is studied in the perspective of the doctrine of horizontal action of fundamental rights. These are elaborations with undoubted usefulness, made with knowledge and erudition and have a *contributing nature*.

3.4. Chapter two is devoted to the constitutional complaint as one of the forms of personal and direct protection of fundamental rights. The statement is on a broad basis - the origin of the constitutional complaint as an institute; criteria for classification of the types of constitutional complaint; comparative legal analysis of the legal framework of the constitutional complaint in several European countries. Despite the existing comparative nuances of the individual constitutional complaint, the author skilfully manages to highlight the main characteristics of this institute. Of particular value is the presentation on working models of constitutional complaint in countries with traditions in the field of constitutional justice, which are received when introducing the institute in other

legal systems. The works are made concisely, with depth and expert knowledge, which is a contribution to the constitutional theory and practice.

3.5. The last third chapter - focuses on the individual protection of rights before the Constitutional Court of Bulgaria. The author shares the conclusion that under the current constitutional order the Constitutional Court of Bulgaria has an important role in the protection of fundamental rights and analyses its available powers by which this protection is achieved. The powers of the Constitutional Court as "an external power" are examined through the prism of constitutional identity as a core of values encoded in the fundamental rights of citizens, which is permanent and cannot be remodelled under the weight of supranational processes and influences. The difficulty in defining the core of ancient values and principles lies in the fact that constitutional identity as a concept is not contained in the current Bulgarian Constitution. The author copes with this challenge by managing to highlight the elements outlining the profile of the Bulgarian constitutional identity.

By elaborating the question of the missing institute of the constitutional complaint, the author focuses her research efforts to unleash the potential of the Bulgarian Constitutional Court in accordance with the established European standards. The main lines of the ongoing polemics have been outlined in good faith and in detail; the issues that are waiting for an answer by the legal circles and the society are presented and summarized, and the understanding (already widely shared in the society) about the proven need for something more in the protection of the constitutionally proclaimed rights of citizens is maintained in a well-ground manner, i.e. for the urgent need for the introduction of the constitutional complaint as a functioning legal institute. The work for attainment of academic rank makes a proposal for a Bulgarian version of a constitutional complaint, which is synchronous with the other forms of individual legal protection through the Constitutional Court. It is worth noting that the author refrains from entering the space of political decisions, but keeps the research

exclusively in the scientific field, which undoubtedly deserves a positive assessment. The exposition and the arguments themselves contain knowledge and persuasiveness, with which the research on the direct access of the citizens to the Constitutional Court represents a comprehensive contribution of high scientific and practical significance.

3.6. I can conclude that the work for attainment of academic rank of R. Yankulova PhD contains a number of scientific and practical achievements. The elaborations are characterized by versatility, in-depth presentations and analyses, and scientific integrity. The completeness and the broad framework in which the problems are studied undoubtedly represent a contribution to the constitutional science, and a favourable cognitive environment for the expected positive evolutionary development of the system.

The conclusions and recommendations contained in the paper, made by the author, represent a contribution to science with high knowledge and applicability in practice.

The work for attainment of academic rank is characterized by very good legal language; it is written concisely and with erudition; scientific developments testify to in-depth knowledge, scientific and legal thinking, ability of the author to analyse the research subject, and to synthesize conclusions and recommendations with insight, and analysis of scientific problems.

Radoslava Yankulova's thesis for attainment of academic rank is an in-depth scientific study of a fundamental issue for constitutional law; the research is made on a broad basis, done with skill and erudition.

I do, however, have a critical (wishful) note: the thesis would have benefited if it had contained an introduction and conclusion that have become classic elements of the structure of the scientific genre monograph. However, the counter-argument against this critical note is that the field of constitutional justice and protection of fundamental rights goes through a dynamic development and

the “open-end” of the monographic study is an appropriate form for further inquiries.

4. Another major topic in the scientific work of R. Yankulova, PhD is the constitutional protection of children and people with intellectual disabilities and mental health problems. In the article "Voting rights for persons with intellectual disabilities and mental health problems - international standards", Journal of Legal Thought, Vol. 2/2019 the author outlines the current international standards related to the exercise of voting rights by people with mental disabilities. The main focus is on Article 29 of the UN Convention on the Rights of Persons with Disabilities and its interpretation in the light of the object and purpose of the Convention and the practice of the UN Committee on the Rights of Persons with Disabilities. The relationship between Article 29 of the Convention and other international instruments related to the political participation of citizens has been studied. The practice of the countries which are parties to the Convention in the process of compliance with the requirements of Article 29 is also analysed. R. Yankulova PhD has dedicated a number of articles to the rights of people with intellectual disabilities and mental health problems. All these works reflect current trends, contain reflections and suggestions of a *contributory nature*.

The article "Children's rights and their place in the Bulgarian constitutional model", Journal of Legal Thought, Vol. 2/2015 traces the attitude of the constitutional legislator to children and their rights in the context of the evolutionary development of the concept of children's rights. Criteria have been deduced to serve as a guide in the process of explicit regulation of the rights of the child at the highest, constitutional level.

I can conclude that the articles with which Yankulova PhD participates in the competition elaborate on questions and legal constructions on the main topics of constitutionalism. They are fundamental to human rights and constitutional law. In addition to the traditions of the Bulgarian legislation, the theory, as well as the practice of other countries, with the characteristic for the author scientific

precision and exhaustiveness, have been studied in depth, in many aspects. They spread knowledge and culture.

CONCLUSION:

The documents and materials submitted by Chief Assistant Professor Radoslava Dimitrova Yankulova PhD meet all the requirements of the Academic Staff Development Act of Republic of Bulgaria, the Implementation Regulations of the ASDARB, and the Rules for the Development of the Academic Staff of Plovdiv University Paisii Hilendarski.

The candidate in the competition has presented enough and significant scientific papers published after the materials used in the defence of the PhD dissertation. They contain original scientific contributions that have practical applicability in lawmaking and public life, while at the same time being directly useful in educational work. The high scientific and teaching qualification of R. Yankulova PhD is beyond doubt. The results achieved by her in teaching and research activities comply with regulatory requirements.

After getting acquainted with the materials and scientific papers presented in the competition, after the analysis and finding of the scientific and practical contributions contained in them, I give my positive assessment and recommend the Scientific Jury to prepare a report-proposal to the Faculty Council of the Faculty of Law to elect Assistant Professor Radoslava Dimitrova Yankulova PhD for the academic position of Associate Professor at Plovdiv University Paisii Hilendarski in the professional field 3.6. Law (Constitutional law).

Reviewer:

(Prof. Emiliya Drumeva PhD)

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