

## **OPINION**

**by Hristo Yordanov Paunov, PhD -  
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for the materials submitted for participation in the competition  
for the academic position of "Associate Professor"  
at the Faculty of Law of Plovdiv University Paisii Hilendarski  
in the field of higher education 3. Social, economic and legal sciences,  
professional field 3.6. Law  
(Constitutional law)

The only candidate in the competition for "Associate Professor", for the needs of the Faculty of Law, announced in the State Gazette, issue 57 of 26<sup>th</sup> June 2020, is Radoslava Dimitrova Yankulova.

### **1. General description of the procedure**

By order no. P33-4173/26.08.2020 of the Rector of Plovdiv University Paisii Hilendarski (PU) I was appointed a member of the Academic Jury in a competition for the academic position of "Associate Professor" at PU in the field of higher education 3. Social, economic and legal sciences, professional field 3.6. Law (Constitutional Law), announced for the needs of the Faculty of Law.

Only one candidate has submitted documents for participation in the announced competition: Chief Assistant Professor Radoslava Dimitrova Yankulova, PhD from the Faculty of Law of Plovdiv University Paisii Hilendarski.

The set of scientific materials presented by Chief Assistant Professor Radoslava Dimitrova Yankulova, PhD is in accordance with the Regulations for the development of the academic staff at Plovdiv University Paisii Hilendarski. At its first meeting, the academic jury decided that Chief Assistant Professor Radoslava Dimitrova Yankulova, PhD covers the minimum required points by groups of indicators, regulated in the Regulation on the Implementation of the Academic Staff Development Act of Republic of Bulgaria, 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. Brief information about the candidate**

Radoslava Dimitrova Yankulova was born 19th November 1986 in the city of Plovdiv. She graduated from the Faculty of Law of Plovdiv University Paisii Hilendarski in 2010, with a degree in Law.

Radoslava Yankulova was a doctoral student at the Institute of State and Law at the Bulgarian Academy of Sciences. She acquired the Educational and Scientific Degree Doctor of Law in 2014, and in the same year she started working as a Chief Assistant Professor at the Faculty of Law of Plovdiv University Paisii Hilendarski. Since 2018, Radoslava Yankulova has been working as a senior legal expert at the Constitutional Court of the Republic of Bulgaria.

Radoslava Yankulova is a member of the editorial board of the specialized online legal journal *Studia Iuris* of the Faculty of Law of Plovdiv University Paisii Hilendarski.

As can be seen from the presented biography, the teaching and scientific activity of Chief Assistant Professor Radoslava Yankulova, PhD is in the field of Constitutional Law. She has specialized abroad in Switzerland, Great Britain, Austria and the Federal Republic of Germany. The candidate has extensive experience in teaching, which is a prerequisite and guarantee for the good quality of practical and theoretical classes with students.

## **3. General characteristics of the research work of the candidate for attainment of an academic rank**

The arch work for attainment of an academic rank, which Radoslava Yankulova, PhD has presented for participation in the competition, is entitled "Constitutional Justice and Protection of Fundamental Rights" (Sofia, Ciela Norma AD, 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 the Academic Staff Development Act of Republic of Bulgaria.

The monograph is dedicated to the protection of fundamental rights as a leading trend in the work of modern constitutional courts. The monograph examines in detail the forms of indirect and direct access of citizens to constitutional justice. Central emphasis is placed on the institute of the constitutional complaint and its manifestations in a comparative legal aspect. The author outlines the parameters of future introduction of a constitutional complaint in the legal system of Republic of Bulgaria.

Chapter One of the monograph is entitled "Protection of Fundamental Rights". It traces the historical stages of the emergence and development of fundamental rights and the awareness of the need for reliable mechanisms for the protection of fundamental rights.

The author substantiates the thesis that the establishment of reliable mechanisms for the protection of rights is a supporting beam in the construction of any democratic society and a key indicator for defining the state as a state of law. Historically, the three main models for the protection of human and civil rights and freedoms have been described. The Constitutional Control is presented as an instrument for the protection of fundamental rights, as the legitimacy of the control over constitutionality and the ways for indirect access of the citizens to constitutional justice are outlined. Attention is paid to the protection of fundamental rights in the legal environment of the European Union.

„Referral to the Constitutional Court by citizens“ is the title of Chapter Two of the monograph. Here, the author outlines the question of how citizens as holders of rights and freedoms can reach the Constitutional Court in order to restore legal justice in their personal space. The two possibilities offered by comparative constitutional law are indicated:

- indirect access - in this case the direct access to the Constitutional Court remains reserved for the bodies at the highest levels of public authority, and the citizens can refer it indirectly.

- direct access - in this model, citizens have the right to file a constitutional complaint, as a strong means of protecting fundamental rights and freedoms through the institute of constitutional justice.

Radoslava Yankulova, PhD points out the different criteria for classification of the types of constitutional complaint, showing the relations and distinctions between them. She summarizes the main characteristics of the institute of constitutional complaint.

This chapter of the monograph also examines the models of constitutional complaint in Germany, Austria and Spain, which are leading and followed in the introduction of the institute in other countries. The mechanisms for direct access of citizens to constitutional justice in the Czech Republic, Poland, and Croatia are also analysed.

Chapter Three of the monograph, entitled "Protection of Fundamental Rights in the Constitutional Justice of the Republic of Bulgaria", traces the process of protection of fundamental rights through the available powers of the Bulgarian Constitutional Court.

The interpretative power of the Bulgarian constitutional jurisdiction is analysed, as well as the abstract control for constitutionality of the laws, the specific (incidental) control for constitutionality, as well as the ruling of the Constitutional Court on the conformity of the international treaties concluded by the Republic of Bulgaria before their ratification, as well as the compliance of the laws with the generally recognized norms of the international law and with the international treaties to which Bulgaria is a party.

This chapter of the monograph presents the main "pros" and "cons" the introduction of the constitutional complaint in the legal order of Republic of Bulgaria. The author summarizes that the common denominator between the leading doctrinal "concerns" related to the incorporation of the institute of constitutional complaint in our country is that they are surmountable. A number of de lege ferenda proposals have been made in relation to the institute of the constitutional complaint.

I can make the conclusion that the presented monograph is consistent with its purpose to outline the role of constitutional justice in the field of protection of fundamental rights - in this sense, the research work for the attainment of an academic rank of Radoslava Yankulova, PhD, contains a number of scientific and applied achievements. The elaborations of the individual chapters are characterized by versatility, in-depth presentations and analyses, and scientific integrity. The completeness and broad framework in which the problems are studied is a contribution to the constitutional law science and a favourable informative environment for the readers.

The conclusions and recommendations made by the author contained in the paper represent a contribution to science with a high degree of knowledge. The research work for the attainment of an academic rank is characterized by good legal language; it is written concisely and with erudition; the content of the individual chapters testifies to in-depth knowledge, scientific and legal thinking, the author's ability to analyse the researched subject, and to synthesize conclusions and recommendations with insight and analysis of scientific problems.

The research work for the attainment of an academic rank of Radoslava Yankulova, PhD is a scientific study of a fundamental issue for constitutional law; the research is on a broad basis, done with skill and erudition.

#### **4. Other publications of the candidate in connection with the competition**

In addition to the research thesis "Constitutional Justice and the Protection of Fundamental Rights", Radoslava Yankulova, PhD participates in the competition with several publications, which are published in periodical legal journals and collections, namely: **„Outlook for constitutional justice as an instrument for protection and defence of the Constitution“** - Studia Iuris, Issue 1/2014, ISSN 2367-5314; **„The constitutional complaint as a means of protection of religious freedoms before the Federal Constitutional Court of Germany“** - In: Current aspects of religious tolerance in Bulgaria, EcoPrint, 2014, ISBN 978-619-7109-04-7; **„Horizontal action of fundamental rights in the light of the marriage contract - the German experience“** - In: Family Relations in a Changing World, Sofia, Sibi, 2014, ISBN 978-954-730-889-3; **„The rights of children and their place in the Bulgarian constitutional model“** - Legal Thought, vol. No. 2/2015, ISSN 1310-7348; **„Protection of fundamental rights through constitutional justice in Republic of Bulgaria 800 years after Magna Carta“** - Studia Iuris, Issue 2/2015, ISSN 2367-5314; **„Voting rights also for people with intellectual disabilities and mental health problems?“** - Legal Thought, vol. No. 3/2016, ISSN 1310-7348; **„Prohibition in the practice of the European constitutional courts“** - Legal Thought, vol. No. 3/2017, ISSN 1310-7348; **„Referendum as an object of constitutional control“** - In: Law - Traditions and Outlook, Sofia, Ciela, 2018, ISBN 978-954-28-2625-5; **„For the indirect access of citizens to constitutional justice“** - Studia Iuris, Issue 2/2018, ISSN 2367-5314; **„Voting rights for people with intellectual disabilities and mental health problems - international standards“** - Legal Thought, vol. No. 2/2019, ISSN 1310-7348; **„Constitutional justice and the protection of fundamental rights“** - In: Scientific readings dedicated to the 140th anniversary of the adoption of the Tarnovo Constitution, Sofia, Ciela, 2019, ISBN 978-954-28-3043-6.

The above-mentioned publications develop issues and legal constructions on main topics of constitutional law, constitutional justice, and human rights. As a general characteristic of the publications of Radoslava Yankulova, PhD submitted for participation in the competition, I note that the previously developed topics are fundamental to the nature of the state and law. In addition to the knowledge of 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, and in multilateral aspect. They disseminate knowledge and culture.

## **5. Critical remarks and recommendations**

The research thesis of Radoslava Yankulova, PhD, for the attainment of an academic rank "Constitutional Justice and Protection of Fundamental Rights" lacks an Introduction, as well as a Conclusion, which is somewhat puzzling, having in mind the classical understanding that such literature should contain introductory words and a summarizing and concluding analysis. Their presence would be especially useful for readers who are not familiar in detail with the researched issues.

Regarding the conclusions made in the monograph, it can be pointed out that some of them are well argued, but for others more legal argumentation could be added.

As a critical note it can be pointed out that although the author at the end of her work has listed a significant number of sources and rich in content bibliography, finally in the References there is no summarizing reference to the practice of the Constitutional Court of Bulgaria, which is cited in the main text of the monograph, as well as foot notes.

One remark of a technical nature - some of the footnotes are not formatted according to bibliographic citation standards.

These critical remarks and recommendations cannot change the conclusion that the candidate Chief Assistant Professor Radoslava Dimitrova Yankulova, PhD has sufficient scientific and teaching qualities to acquire the academic position "Associate Professor".

## **6. Conclusion**

The documents and materials submitted by Chief Assistant Professor Radoslava Dimitrova Yankulova, PhD meet the requirements of the Academic Staff Development Act of Republic of Bulgaria (ASDARB), the Regulations for Implementation of the ASDARB, and the Regulations for the Development of the Academic Staff of Plovdiv University Paisii Hilendarski. The candidate in the competition has submitted a sufficient number of scientific papers published after the materials used in the defence of the Educational and Scientific Degree of "Doctor". In the works of the candidate there are scientific and applied contributions, which have received recognition, as a representative part of them have been published in journals, scientific collections, and independent publications. The theoretical developments of Radoslava Yankulova, PhD have practical applicability, as some of them are directly oriented to the educational work. The scientific and teaching qualification of Chief Assistant Professor Radoslava Yankulova, PhD is undoubted. The results achieved by her in the educational and research activity correspond to the regulative requirements.

After getting acquainted with the materials and scientific works presented in the competition, an analysis of their significance and contained in them scientific, scientific-applied and applied contributions, I find it reasonable to give my positive evaluation, and recommend to the Academic Jury to prepare a Report-proposal to the Faculty council of the Faculty of Law for the election of Chief Assistant Professor Radoslava Dimitrova Yankulova, PhD for the academic position of "Associate Professor" at Plovdiv University Paisii Hilendraski in the professional field 3.6. Law (Constitutional law).

The opinion was prepared by: .....

(Assoc. Prof. Hristo Paunov, PhD)

**17<sup>th</sup> September 2020**