OPINION

by **Assoc. prof. Ventsislav Lyudmilov Petrov**, **Ph.D.**, lecturer at the Faculty of Law of Sofia University "St. Kliment Ohridski", member of the scientific jury in a competition for the academic position of "Associate Professor" at the University of Plovdiv "Paisii Hilendarski", field of higher education 3. Social, Economic and Legal Sciences, professional field 3.6. Law (Civil and Family Law), announced in the State Gazette, No. 98/19.11.2024, determined by Order No RD-22-67/16.01.2025 of the Rector of the University of Plovdiv "Paisii Hilendarski"

Dear Mr. Chairman of the Scientific Jury,

Dear members of the Scientific Jury,

Two candidates are admitted to participate in the competition - Dimitar Topuzov, Ph.D. and Ivan Mangachev, Ph.D. Therefore, I will analyze the scientific papers presented by each of them and their compliance with the other criteria in separate points in my opinion.

1. Regarding the candidate Ivan Mangachev.

1.1. Habilitation work

1.1.1. General characteristics

The candidate has submitted as a habilitation work the monograph "Settlement Finality. Legal Framework", Sofia: Ciela, 2013. The paper covers 283 pages, but without the appendices (a comparative table of the texts of a directive with national legislation), the exposition ends on page 215.

The monograph is the first study of the problems of settlement finality in Bulgaria.

Its first chapter is devoted to the legal framework of the problem and its historical development. There are interesting historical details in it, but one part of them of them seem to be unrelated to the appearance and development of the settlement finality.

The second chapter of the paper examines the subjects of systems with settlement finality.

Chapter Three examines the elements of the settlement finality mechanism - the settlement finality agreement, the settlement account, the transfer order, the securities. The features of the agreement are outlined as a sui generis transaction. A deeper clarification of its features as a type of the contract, typical for any scientific study of the type of a contract, can be recommended.

The last chapter is devoted to the specifics of insolvency proceedings at settlement finality.

1.1.2. Scientific contributions

First of all, the scientific audacity of the author to undertake a comprehensive monographic study on an issue on which this has not been done in the Bulgarian legal doctrine should be positively assessed (certain aspects of the problem have been studied in some studies devoted to other topics, such as Kalaidzhiev, A. Cashless Payment, Sofia: Sibi, 1999).

Some of the de lege ferenda proposals are also of a contributing nature (some of the proposals made have already lost their relevance due to the amendments to the legal framework since 2012, while others are still relevant). Among them, as a scientific contribution, the proposal to regulate the finality of settlement in a separate act can be distinguished; to supplement the provision of Art. 630, para. 1 of the Commercial Act or of Art. 236 of the Civil Procedure Code with a requirement to indicate the time and minute of opening insolvency proceedings in the court decision; his proposals regarding the future regulation of clearing houses, etc.

1.1.3. Recommendations and critic notes

The monograph was published in 2013 and, as stated in the introduction, its relevance is as of 05.10.2012. During this period, numerous changes in the regulatory framework have occurred. The Payment Systems and Payment Services Act of 2009 was repealed and another Act with the same name was adopted in 2018. Numerous amendments have been made to the Public Offering of Securities Act. Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 has been adopted at EU law level (mentioned by the author at project level). All these changes lead to a decrease in the relevance of the study. Certainly, the author, given his extensive knowledge in this matter, could update his research and give it the much-needed relevance.

The work hasn’t a basic scientific thesis, a concept, that the author should lay down and prove within the framework of the overall research. The consideration of multiple scientific problems does not seem to be united by a common scientific center that represents a comprehensive concept of settlement finality. This fact would lead to a more solid argumentation of each of the author's theses.

1.2. Other publications

For participation in the competition, the author has also submitted 14 articles.

The conclusions from some of the presented articles are incorporated into the monographic study, therefore they will not be subject to independent analysis. Such are TARGET 2 and Settlement Finality, Acta Universitatis Danubius. Juridica, Vol 7, No 1 (2011); Participants in a system with settlement finality, Electronic Legal Site "Gramada"; The Payment Transaction in European and Roman Law, Ius Romanum, Universum iuris romani, Issue II/2017, p. 491-500.

Another group of articles is devoted to the problems of nationalization. Such are "The Legal Forms of Nationalization in the Banking Sector: Comparison and Brief Commentary of Directive

2014/59/EU" - "Commercial and Contract Law", 2014, "The Law on Declaring State Ownership of the Properties of the Families of the Former Kings Ferdinand and Boris and of Their Heirs - Nationalization, Expropriation, Confiscation or Statization?" -V: The work of Prof. Konstantin Katsarov through the prism of modern law. Collection of papers from a scientific conference dedicated to the 125th anniversary of the birth of Prof. Konstantin Katsarov, 7 November 2023, NBU, New Bulgarian University Press, 2024, pp. 186-202; "Forced Expropriation and Nationalization as Forms of Nationalization". - "Property and Law", 2009, No 6; "The nationalization of the "Franco-Bulgarian Bank" - Electronic legal site "Gramada". They show the author's interests in this matter and end with conclusions with a scientific contribution, such as the conclusion about the legal essence of the declaration of the properties of the families of the former kings Ferdinand and Boris and their heirs as state property, carried out with the law of the same name, which the author characterizes as statization.

In the article "Active solidarity and its application in bank lending". - Commercial and Contract Law, 2024, No. 11, examines the unsettled hypothesis of active solidarity in Bulgaria, and makes a comparison with some other legal phenomena. The conclusion about the need for an explicit regulation of active solidarity can be shared, but some remarks can be made with regard to the statement – the thesis that if one creditor collects the entire receivable, he acts as a representative of all the others cannot be shared; It is not correct to refer to Prof. Gerdzhikov, given that in the commentary dedicated to the collateral in substantive and procedural law, the chapter on solidarity was written by Prof. Ruschev (and not by the scientific editor of the work O. Gerdzhikov) and so on.

In the article "Stabilization Proceedings – Past, Present and Near Future" - Gramada Electronic Legal Site, the author justifiably expressed doubts about the applicability of stabilization proceedings in Bulgaria as early as 2017.

The report by Mangachev, Iv., S. Tsoneva - Martin Santisteban, Sonia and Sparkes, Peter (eds.) Protection of immovables in European legal systems - is not actually a scientific article, but rather a solution to certain property law cases, which is why it will not be analyzed.

In the article "On the codex rationes, codex (ratio) accepti et expensi and receptum argentarii" - Electronic legal site "Gramada" traces the legal framework of the entries made by Roman citizens and Roman bankers in order to account for their payment transactions. The author makes an interesting analogy between the receptum argentarii and the modern liability in the execution of payment transactions

In the article "On the Bank Concepts of "Deposit", "Deposit" and "Account", Electronic Legal Site "Gramada", the author quite fundamentally examines and compares the three concepts.

The articles "The Uniform Rules for Guarantees Payable on Demand (EPGPP) and the Bulgarian Case Law" - Electronic Legal Site "Gramada" and "The Claim under Art. 71 of the Commercial Code" - Electronic legal site "Gramada" show the author's interest in various institutes

of commercial law. The last article bears a title much broader than its essence, insofar as it reflects a specific problem of the claim under Art. 71 of the CA.

1.3. Compliance with the other requirements under Art. 24, para. 1 ZRASRB

The candidate has a PhD degree, acquired after doctoral studies at New Bulgarian University.

The candidate has held the academic position of "Assistant" and "Chief Assistant" for at least two years. In fact, he has been teaching as an assistant and chief assistant for much more – 17 years, as evidenced by the official note from NBU.

Ivan Mangachev meets the minimum national requirements under Art. 2b, para. 2 and 3, respectively of the requirements under Art. 2b, para. 5 of the Law on the Implementation of the Minimum National Requirements for Occupying the Academic Position of Associate Professor, as evidenced by the submitted Reference for the fulfillment of the minimum national requirements for occupying the academic position of Associate Professor, as evidenced by the submitted documents.

2. Regarding the candidate Dimitar Topuzov

2.1. Habilitation work

2.1.1. General characteristics

The candidate has presented as a habilitation work the monograph "The Principles of European Family Law and the Possibilities for the Development of Bulgarian Property and Matrimonial Legislation", Sofia: Ciela, 2024 (302 pages); without the appendices (Principles of European Family Law), the volume of the study is 287 pages.

Chapter One is dedicated to the Commission on European Family Law (legal status, structure, objectives) and other organisations contributing to the harmonisation of family law in Europe. The individual principles of European family law are also examined. Not only are they exposed, but an in-depth analysis and comparison with other phenomena is also made.

In the second chapter of the work, an assessment is made of the compliance of the legal framework in Bulgaria with the matrimonial property relations with the above-mentioned principles. The author has taken a position in which cases there is such a position and in the regulation of which institutes he is absent.

The third chapter, entitled "Prospects for Improving the Regulation of Matrimonial Property Rights and Obligations", contains reasoned proposals de lege ferenda for improving the legal framework in Bulgaria and bringing it in line with the Principles of European Family Law.

2.1.2. Positive features and scientific contributions

The author has a clearly expressed thesis in the introduction – that the Principles of European Family Law can be the basis for a complete modernization of the legal framework of matrimonial property relations in Bulgaria. This original and modern thesis has been defended

methodically and consistently throughout the work through a wide range of methods for scientific research.

With a high degree of abstraction, the main characteristics and legal nature of the principles are deduced. This is done for the first time in Bulgarian legal literature. In the foreign language literature, some of these characteristics are indicated, and this is correctly quoted by the author; Other features, however, were summarized for the first time by him (at least in the foreign language literature known to the author of the opinion).

On the basis of a thorough analysis, a number of inconsistencies between the Principles and the legal framework in Bulgaria have been identified. Reasonably, for the first time in the literature, it is indicated what this discrepancy consists of and an opinion is taken which solution is more appropriate – of the Bulgarian legislator or of the Commission. The author also draws conclusions in which cases there is a compliance of the Bulgarian legislation with the Principles and therefore no legislative change is needed (for example, with the Principle of Equality between Spouses and the Full Legal Capacity and Legal Capacity of Each of the Spouses; compliance in some parts with the Principle of Contribution to the Needs of the Family, etc.).
Each of the many proposals made de lege ferenda can be qualified as a scientific contribution. The proposals for establishing a claim for awarding the monetary equivalent of the contribution due by the other spouse should be highlighted with the greatest contribution importance; for the introduction of a rule by virtue of which, if the marital home is used under a lease agreement concluded by one of the spouses, the other spouse acquires ex lege the status of tenant (the creation of such a reflexive action, in addition to protecting the family, would also be in favor of the landlord and would be in line with the joint liability of the spouses under Art. 32, par. 2 of the Family Code and Art. 36, par. 2 of the Family Code); establishing the possibility of judicial empowerment for one spouse to act as a representative of the other in case this other spouse is unable to express his/her intentions (no matter how dangerous this proposal may be to the interests of the person represented); settling the obligation of the spouses to provide information about their personal property and about the transactions concluded (as the author rightly notes, completely unknown to our law).

As an independent scientific contribution, due to its fundamental nature, it is necessary to point out the original author's thesis that Bulgarian law does not establish a general regime of spouse property relations. D. Topuzov presents a detailed argumentation of what is meant in the Roman legislation and in the Principles under "primary regime" (which is obviously different from the expression "basic regime", as the legal regime of the community in Bulgaria is defined) – rules for property relations that apply regardless of the applicable regime. It concludes which rules (written or derived by interpretation) can be qualified as general under the current Bulgarian law (the right to dispose of personal property, the right of spouses to

negotiate their property relations), as well as which should be established through legislative amendments (protection of the family home, right to information).

2.1.3. Recommendations and critic notes.

Some comments may be made that are more in the nature of the personal opinion of the author of the opinion and/or recommendations.

The author uses the literal translation of parental responsibility, namely "parental responsibility". Insofar as the term "liability" has several long-established meanings in our country (as a debt; as negative property consequences for the person who caused the damage, etc.), it should be recommended that the phrase "parental rights and obligations" (or "parental rights") used in our country legally and accepted in doctrine and practice.

Chapter One contains too much information about the Commission on European Family Law and the principles it develops. It is undoubtedly useful for the reader, but the exposition in some places has an informative character, unrelated to the theses presented by the author.

Although the proposal for the introduction of a primary property regime is appropriate, the systematic place proposed by the author – in Chapter Three of the Family Code – is very debatable. This chapter is dedicated to non-property relations between spouses. Therefore, it may be more appropriate to situate the rules on the primary matrimonial property regime in the next chapter, before the regulation of each of the three matrimonial property regimes.

2.2. Other publications

For participation in the competition, the candidate has also submitted 13 articles and one chapter of a collective monograph.

Some of the articles are related to the topic of the monographic work. Such are the articles presented by him under the numbers 1, 3, 5, 9, 11 and 12. It should be noted that some of them also have an independent meaning, insofar as the questions raised in them are considered in more detail than in the monograph.

The remaining articles deal with various issues related to family law institutes (with the exception of article number 6, which deals with inheritance law). In the article number 2, the author skillfully defends the original (and, of course, not indisputable thesis) that in the event of subsequent placement of one spouse under interdiction, the chosen matrimonial regime is suspended.

The articles numbered 4 and 8 are an overview of the practice of the Supreme Court of Cassation on certain issues, and the author groups the individual judicial acts according to their unifying features related to the adopted opinions. Although they are overview, they express the author's thesis on the questions posed. Particularly useful are the conclusions in the second article regarding the legitimacy of a third party to challenge the presumption of paternity, which coincide with the later adopted legislative solution.

In article number 6, the author defends his views on testamentary capacity – that an emancipated minor cannot make a testament; that minors cannot dispose of what they have earned in exchange for their own labor by testament; that those who are completely banned due to mental illness can make testament. The fact that those views are not shared by the author of the present opinion and that there are sufficient arguments to the contrary does not in any way detract from the scientific value of the work, which is characterised by logical argumentation.

The article "Is Post-divorce spousal maintenance in Bulgarian law obsolete? (No. 9) the author presents an original thesis on the need to change the regulation of alimony between former spouses, based on an analysis of the change in socio-economic conditions in recent decades.

In the article "On the Form of Validity of the Marriage Contract" (No. 10), the author defends the thesis that the parties cannot agree on any other form of validity than the one established by law, even if it is more severe.

In the article "Practical issues in the absence of an agreement on the ratio of shares", the candidate defends a thesis that was subsequently not adopted by TR 3/2015 GCC. However, the author's argumentation is original, logical and consistent.

Dimitar Topuzov is also the author of a chapter of a collective monograph in English. language representing family and inheritance law in Bulgaria in the International Encyclopaedia of Laws series. His participation in such a prestigious publication is a good testament to his international authority as a scientist.

The candidate also presents a textbook on Family and Inheritance Law, in which he is a co-author and which is useful for students studying this matter.

2.3. Compliance with the other requirements under Art. 24, par. 1 of the ZRASRB

Dimitar Topuzov meets the minimum national requirements under Art. 2b, para. 2 and 3, respectively of the requirements under Art. 2b, para. 5 of the ZRASRB for occupying the academic position of associate professor, as evidenced by the submitted Reference for the fulfillment of the minimum national requirements for occupying the academic position of Associate Professor, as evidenced by the submitted documents.

3. Comparison between the indicators of the two candidates

It is evident that both candidates have significant teaching experience and scientific production, which has its merits. The results of the two will first of all be compared according to the main indicators under Art. 26, par. 1 of the ZRASRB (item 3.1.), and then according to the additional indicators under Art. 27, par. 4 of the ZRASRB (items 3.2 and 3.3 of the opinion).

3.1. A comparison between the quantitative scientometric indicator – **the total number of points** – shows that Dimitar Topuzov has 845 points and Ivan Mangachev – 580 points, so there is a difference of 265 points in favor of the candidate Dimitar Topuzov.

3.2. Undoubtedly, both candidates have a serious **scientific production**. I consider that Dimitar Topuzov has some important advantages in this indicator.

3.2.1. First of all, his research (especially when comparing the monographs presented by the candidates as habilitation works) is much more up-to-date.

3.2.2. Secondly, the scientific works presented by him fully correspond to the disciplines in which the teaching load for the competition is provided - lectures on Family and Inheritance Law and Civil Status Acts. D. Topuzov has presented a monograph and articles dedicated to the problems of family and personal law, and the works presented by Iv. Mangachev are on commercial law and banking law.

3.3. It is obvious that both candidates have serious teaching experience. The experience of Dimitar Topuzov (not only as seminars, but also as many hours of lectures assigned annually) fully corresponds to the provided teaching workload with which the competition was announced – lectures on Family and Inheritance Law and Civil Status Acts. Ivan Mangachev has taught classes in Commercial Law, as well as in other disciplines combining knowledge of Commercial and Bank law (Legal Regime of International Financing, Stock Exchange Law, Regulatory Framework of Bank Lending), but not in purely civil disciplines, for the purposes of teaching which the competition was announced.

Conclusion

Based on the above, I propose the following ranking of the candidates in the competition:

- **First place: Dimitar Topuzov, Ph.D.**
- **Second place: Ivan Mangachev, Ph.D.**

Therefore, my opinion is that the scientific jury should propose to the Faculty Council of the Faculty of Law of the University of Plovdiv "Paisii Hilendarski" to elect Dimitar Topuzov as Associate Professor in the field of higher education 3. Social, Economic and Legal Sciences, professional field 3.6. Law (Civil and Family Law).

14.03.2025

Author of the opinion:.....

(Assoc. prof. Ventsislav L. Petrov, Ph.D.)