

Plovdiv University "Paisii Hilendarski"

OPINION

By: Assoc. Prof. Svetla Marinova Kaneva, scientific specialty "Theory of State and Law. Political and Legal Studies", University of National and World Economy

Subject: competition for associate professor in professional field 3.6. Law (Theory of State and Law)

1. Information about the competition

The competition was announced by the Paisii Hilendarski University in the State Gazette No. 98/19.11.2024. According to the Order No. RD-22-446/18.02.2025 of the Rector of Paisii Hilendarski University, I participate in the scientific jury of the competition

2. Brief information about the candidates

In the announced competition for the academic position of Associate Professor in the professional field 3.6. Law, scientific specialty "Theory of State and Law" at the Paisii Hilendarski University of Applied Sciences only one candidate participated - Assoc. Dr. Dimitar Vulkov Hanev, lecturer at the Department of Legal Sciences of the Faculty of Law of Paisii Hilendarski University, who has submitted the required documents.

Dimitar Hanev graduated in Law at the Master's Degree of the Faculty of Law of Paisii Hilendarski University, Plovdiv in 2004. In 2005 he joined the Department of Theory and History of Law at the Faculty of Law of the University of Plovdiv on a basic contract, where he continues to work to this day.

In 2015 Dimitar Hanev defended his doctoral dissertation on "Legal liberty as a Form of Legal Right" in the scientific specialty (doctoral program) "Theory of State and Law. Political and Legal Doctrines" at the Faculty of Law of Plovdiv University "Paisii Hilendarski".

3. Fulfilling the requirements for the academic

Principal asst. Dr. Dimitar Hanev has submitted documents and attached evidence for fulfillment of the national and university quantitative and qualitative requirements for the academic position of Associate Professor.

From the submitted references it is evident that the chief asst. Dimitar Hanev fulfills the National Requirements for the Academic Position "ASSISTANT PROFESSOR". The references are correctly made and reflect the main scientific achievements (published books, articles, studies and reports, citations of the scientific publications), as well as the main qualitative recognitions of the society concerning the candidate for the Docent of Paisii Hilendarski University.

The candidate fulfills all the minimum national requirements and additional faculty requirements - he has obtained the PhD degree and has published an independent monograph on the topic of the competition for the PhD degree, as well as a published book based on a defended dissertation for the award of the PhD degree, additional study, article, citations. Two monographs, one on the topic of the doctoral dissertation and the other stand-alone on the topic of the competition - "Legal Reasoning", one study, one article, and citations in peer-reviewed monographs and volumes and citations and reviews in non-peer-reviewed journals were submitted for review.

4. Evaluation of teaching and learning activities

It is evident from the submitted reference of the Paisii Hilendarski University that Assoc. Dr. Dimitar Hanev conducts lectures and exercises in the disciplines General Theory of Law and lectures in the Fundamentals of Law.

The teaching hours are in front of undergraduate and graduate students, and are closely related to the scientific field of the publications and the announced competition for "Associate Professor". The transcript annexed to the documents shows that the applicant has completed the required teaching load during the period following the appointment to the academic post of 'Senior Lecturer'.

From the materials presented and from her research and teaching activities, I can assert that the candidate has a high professional background, provides students with up-to-date and useful knowledge and develops in them skills that support their successful professional realization.

5. Brief description of the presented scientific

For the participation in the competition chl. asst. Dr. Dimitar Hanev has submitted 2 monographs, 1 study, 1 article and citations of his work. No plagiarism has been proven in the publications. The main (habilitation) work of the head as. Dr. Dimitar Hanev "Legal Reasoning: concept and theory", PU "Paisii Hilendarski, 2025, ISBN 978-619-281-017-7. The content is structured in two chapters, an appendix and a conclusion, it is theoretically and logically sound and has a length of 180 pages.

The main objective of the monographic study is related to the analysis of the topic of legal justification, mainly considered with its two aspects conceptual and legal-theoretical. The author justifies problematic as an independently significant issue in the system of jurisprudence and methodologically connects it with epistemology and legal studies. The author's reasoned epistemological approach as the cornerstone of the philosophy of the Modern Age determines its significance for the theory of law and for the whole legal studies. Building on Kantian philosophy, in particular the influence of rationalism as a philosophical doctrine, the author has organized the exposition following the Kantian philosophical system and also proves that Kant's idealism is incompatible with the realities of modern society. The methodological approach of the study is legal-philosophical, and the methodology

used is critical and analytical. The conclusions of the study, given the fundamental nature of the topic, are factual rather than normative.

The first part of the paper is concerned with an analysis of the concept of justification in law. Four chapters are devoted to this issue, presenting starting positions, theoretical and methodological premises to arrive at an analysis of legal justification in a legal-institutional context. Similarities and differences between the concept of justification and related concepts such as reasoning, interpretation, proof, and argumentation are highlighted. The fundamental conclusion for legal theory is made that justification in a broad sense could be identified with thinking and in a narrow sense with argumentation. It is adequately specified that argumentation in the broad sense includes legal knowledge, to which process truth-finding also pertains, while in the narrow sense the emphasis is on discourse, rhetoric, and the persuasion of a person or audience.

The role of the Kantian tradition within legal thinking is explored and the thesis of the existence of two forms of justification in law, namely theoretical and practical, is defended. Special attention is paid to the cognitive aspects of the problem. Fundamental categories in cognitive science, such as cognition, rationality, information, and meaning are examined. Legal reasoning is outlined as a cognitive process developing in the individual consciousness of a person, which is situated in an intellectual environment requiring him to cognize by using legal categories and directed towards the construction of legal meaning. It is concluded that the legal environment defined by the author as discourse is institutionally and socially set by the legal order. The relation between justification as a cognitive process, on the one hand, and the moral qualities and inner conviction of the justifying subject, on the other, is examined

Analyzed in terms of legal theory is the legal thinking in the formation of legal institutes. In this regard, justification in law is in a particular social setting defined by cultural, historical, economic and ideological markers expressed in institutional form. With a view to theoretical rationality, these markers are inferred as beliefs and

convictions established in society about social reality as factual and existing, constructed from institutional facts.

The second part also consists of four chapters that trace the development of the main trends in modern legal theory since the 17th century through the prism of the problem of legal justification in law. The tasks of this chapter are presupposed by the accepted distinction of rationality into theoretical and practical rationality, which model has adopted the conclusions of the previous section. Theoretical rationality refers to thinking about law as abstract and contextual and shapes general and descriptive notions of law, while in the latter it is concrete and factual and aims to derive practical and prescriptive judgements. In view of the theory of legal justification and its first part, the theory of the concept of law, the socio-political preconditions that have determined the development of legal theory are outlined, where they are categorized historically and chronologically. The main conclusion is that the concept of law as an image and notion is formed under the pressures of the particular cultural and historical environment, and hence the corresponding pattern of adjudication. Justification as a cognitive process is contextually dependent on the institutional environment of the legal system, which is reflected in the mind of the justifying subject and in the form of general initial conceptions of social and legal reality. Correspondingly, the beliefs and convictions of legal practitioners also determine the reasoning for their legal decisions.

The relationship of legal reasoning with social reality and with the legal professions is legitimately and scientifically sought. The conclusion is made about the importance of role requirements to the qualities of the subject who constructs legal meaning, the normative prototypes of the scientist, the judge, the legislator are indicated.

The theories of less known authors in this country, such as Eugen Ehrlich, Herman Kantorovich, Emilio Betti, as well as authors with a strong presence, such as Haim Perelman, Jürgen Habermas and Robert Alexy, are scientifically sound and adequately systematized. The most significant theories of the 20th century, such as

those of Hans Kelsen, Carl Schmitt, Ronald Dworkin and Herbert Hart, are also presented as polemical clash.

Significant conclusions are systematized on the basis of the proposed model of a possible theory of legal justification, which should consist of at least two parts: 1. A theory of the concept of law and 2. A Theory of Legal Decision; The author derives a fundamental evolutionary summary of the various aspects of psycho-cognitive legal approaches that reflect an understanding of issues related to the concept of law and that are difficult to separate from thinking about it. As a result, the notion of law that emerges within a theoretical strand depends on the conceptual positioning and *grounding* (as a construction of meaning) that is emphasized within this process (p. 40). Legal justification is legitimately summarized as a complex process within which the subject of justification is both the consumer and the creator and constructor of legal meaning, which in ontological terms would also imply the concept of law itself. *Any attempt to construct a theory of legal justification must take this into account.*

In the last part of the work, "Legal Reasoning", the conclusions of the study are applied. Adjudication is analyzed as a function of cognitive capacity to judge. Along these lines, the concepts of enforcement and adjudication are presented as derivatives of the cognitive functions of *execution* and *adjudication*. The nature of the jurisdictional function is explored and described through its three main characteristics, which are *adjudication*, *adjudication* and *res judicata*.

The other monograph is based on the doctoral dissertation of Assoc. Dr. Dimitar Hanev, namely "Legal Right and Legal Liberty". It explores the classical subjective right-liberty relationship in the legal order of liberal society. Legal liberty is defined as an individual and guaranteed by the law possibility to follow a certain behavior, as a result of freely made choice by legal subjects.

The monograph outlines two thematic groups of issues around which the paper is built. The first thematic core is related to the concept and realization of legal right.

The distinction between the methodological and doctrinal (legal-dogmatic) role of the concept of subjective right is clarified. The historical development of the theory of legal right worldwide and in our country is presented. A distinction between form and content of legal right is proposed and defended, taking the view that form refers to the power of the holder, seen as a rule of conduct, and content to the goods through the legal right itself. Wesley Hofeld's theory of the forms and realization of legal right is presented.

The second thematic center of the monograph "Legal Right and Legal Liberty" are the issues that relate to the concept and realization of legal liberty as its form. An analysis and systematization of liberty as a political, logical and legal category is made. The concept of liberty is examined from a logical point of view by placing it in the context of the deontic categories of "permitted", "obligatory", "prohibited". The concept of liberty is examined in three theoretical modules as the ground of legal right, as its form and as a sphere not regulated by law.

For reviewing is also submitted a study by Asst. Dr. Dimitar Hanev, namely "System of Forms of Legal Rights". – In: Property relations in law: Development and perspectives. Plovdiv: PU "Paisii Hilendarski", 2021. The study has a volume of about 35 pages and is a continuation of the author's research in the subject of subjective rights. The question that is the center of the study is proving the author's thesis that in terms of its formal structure the subjective right is not a monistic category. The subject of the analysis is whether the powers through which the subjective right is realized in different normative hypotheses can build a unified and comprehensive system of the subjective right in a complete form.

The publication further develops the distinction between the form and content of rights, arguing that the content refers to the goods and the form to the behavioural power of legal subjects, through which the goods are "consumed". The entitlement of holders of subjective rights is examined in terms of the legal relationship, presented as a normative prototype of possible deontic dependencies.

As a final result of the analysis, the distinction between a logical and a doctrinal system of the forms of subjective law is introduced and it is generalized that these two systems do not necessarily coincide. The doctrinal system of the forms of subjective law proposed by the author includes oppression, legal authority and legal freedom.

For reviewing was submitted also an article by prof. as. Dimitar Hanev, "The Idea of Soft Law and the Concept of Validity in Legal Reasoning. – In: Soft Law and Contemporary Law. Sofia: Sibi, 2017, pp. 36-50. The article analyzes the problem of validity from the perspective of legal reasoning through the prism of the doctrine of "soft law" in international relations. The idea of validity is seen not as a quality of legal norms, but as a cognitive quantity that requires reality to be considered binary (as valid-invalid). Validity is seen as a manifestation of man's theoretical and practical rationality, which creates a corresponding projection in law. The notion that reasoning valid rules of conduct only formally and through conceptual definitions is unrealistic is defended. The paper is a prototype of the submitted habilitation thesis.

Citations of established foreign and Bulgarian scholars and researchers in the field of General Theory of Law and branch legal sciences of the works of Asst. Doctor Hanev.

In summary, it is concluded that in quantitative and qualitative terms the scientific production of the head. as. Dr. Dimitar Hanev is in accordance with the minimum national requirements for the academic position of Associate Professor.

6. Synthesized assessment of the main scientific and applied

The presented scientific production contains undisputed scientific and scientifically applied contributions on the fundamental issues addressed by the candidate. Although they could be expressed more summarily, given their substantive and thematic interconnectedness, I accept the contributions highlighted by the candidate in the compiled Statement of Major Scientific Contributions. They comply with the requirements of Article 54 of the PPPADRB and are in line with the

achievements contained in the submitted scientific production. The candidate's scientific publications are an indication of his or her long-standing and sustained scientific interests in the field of general legal theory and the philosophy of law, which have made it possible to achieve depth, logical coherence, consistency and systematicity in the scientific research. The ability to carry out critical scientific analysis and to draw new perspectives on the topics under consideration is evident.

7. Main critical remarks and recommendations

My main recommendation to the future work of the head. as. Dr. Dimitar Hanev is to direct his efforts to the publication of a textbook or a manual, in which to systematize the issues developed by him so far, and thus to support the absorption of the material by the students.

8. Conclusion

The scientific research and teaching work of Asst. Dr. Dimitar Valkov Hanev meet all the requirements of the Law on the Development of Academic Staff in the Republic of Bulgaria and the Regulations for its application for the academic position of "Associate Professor". His scientific works are thorough, developed at a high scientific level, dedicated to significant problems in the scientific field of the competition. This gives me grounds to confidently recommend to the distinguished members of the scientific jury to vote positively for the election of As. Dr Dimitar Valkov Hanev for the academic position of Associate Professor in the professional field 3.6. Theory of State and Law".

21.03.2025

Signature:(Assoc. Prof. Dr. Svetla Marinova Kaneva)