

## **OPINION**

**written by Assoc. Prof. Dr. Boyka Cherneva,**

external member of the scientific jury for evaluation of the materials,

submitted for participation in a competition for

acquiring the academic position of "Associate Professor"

in the Faculty of Law of Sofia University "St. Kliment Ohridski", field of higher education 3. Social, economic and legal sciences,

professional field 3.6 Law (General theory of law)

By order № RD 38-254 / 06.07.2020 of the Rector of the Sofia University "St. Kliment Ohridski" I have been appointed as a member of the scientific jury in an announced competition for the academic position of "Associate Professor" at the Faculty of Law of Sofia University in the field of higher education 3. Social, economic and legal sciences, professional field 3.6 Law (General Theory of Law), published in the SG, no. 57 of 26.06.2020.

Documents for participation in the competition were submitted by **Chief Assistant Professor Dr. Simeon Efimov Groysman.**

### **Details of the candidate in the procedure**

Ch. Assistant Professor Dr. Simeon Groysman obtained a master's degree in Law at the Faculty of Law at Sofia University "St. Kliment Ohridski", where he continued his academic career from 2012 until today. He successfully defended his doctoral dissertation on "Morality and legal validity according to contemporary legal positivism." He successively held the positions of "Assistant" and "Chief Assistant" in the Department of Theory and History of State and Law at the Faculty of Law of Sofia University.

Dr. Simeon Groysman is a lecturer on the implementation of Regulation (EU) 2016/679 on personal data protection. He served as Scientific Secretary of the Faculty of

Law at Sofia University in the period June 2016 - May 2020. Dr. Groysman is a lecturer in the discipline "General Theory of Law" at the Academy of the Ministry of Interior.

The academic development and the scientific publications presented under the competition procedure testify to the interests of the candidate in the field of philosophy and general theory of law. Within the competition for the academic position of "Associate Professor" Dr. Groysman has submitted for review 11 scientific publications: a monograph and 10 scientific articles published in well-known scientific journals and collections. Summaries of the publications are also presented and a precise and correct reference for the original scientific contributions is prepared. There is a condition for the candidate for the academic position "Associate Professor", provided in the Development of the academic staff in the Republic of Bulgaria act, to submit a published monograph or equivalent publications in specialized scientific journals, which do not repeat publications submitted for the educational and scientific degree "Doctor".

Simeon Groysman's publications are recognizable and cited in scientific papers. The attached reference for the implementation of the minimum national requirements under Art. 2b of the said Act shows that the candidate meets the minimum national requirements for holding the academic position of associate professor of 3.6 Law (General Theory of Law). The publications contain scientific contributions in the field of general theory of law.

### **Evaluation of the scientific contributions of the candidate Simeon Groysman**

Dr. Simeon Groysman participates in the competition with a monographic study in the field of general theory of law, which enriches the theoretical legal literature - Groysman, S. **Law and power. From the unlimited state to the postmodern supremacy of rights.** S., Ciela, 2020, 444 p. The author analyzes the relationship law - power on the basis of a unified system of concepts and philosophical concepts. The monograph has a strong opinion and expresses the author's conviction of the necessary connection between philosophy and theory of law. The legal interpretation of philosophical topics is a challenge to which Dr. Simeon Groysman responds with a precise analysis of a number of theoretical areas. The scientific work is characterized by critical evaluations, objectivity and consistency in presenting the views of the cited authors. The consistently and thoroughly developed methodology is impressive. The author has definitely managed to form and express a comprehensive theoretical concept to explain the complex relationship

between law and power in the context of modern law. It takes into account the postmodern development of law and clarifies its main manifestations in the field of human rights. Dr. Simeon Groysman offers a new perspective on rights, looking at their supremacy. In this way, the author continues the scientific research on the definition of the relationship between law and power, reaching the idea of the rule of law. Theoretical explanation is given to the material aspect of the rule of law, the subject of a number of modern constitutional and other studies.

The candidate's ability to combine philosophical and theoretical analysis contributes to the high scientific value of the work. The presentation is logically consistent, reasoned and skillfully supports the presented ideas. The historical review is subject to theoretical conclusions. The author notes the importance of historical research for the theory of law and uses them to determine the evolutionary development of phenomena, which he clarifies by examining basic legal concepts. He outlines the historical and philological basis of the Western European understanding of the relationship between law and power.

The scientific value of the monographic research contributes to the development of science in the field of general theory of law. It is a scientific work that will definitely be useful in teaching law students. The monograph contains significant scientific contributions, which can be summarized in four main groups.

First, Dr. Simeon Groysman *contributes to the relationship between philosophy and theory of law*. He presents in detail and analyzes the views on the relationship between law and power, set out in the framework of basic legal theories. For the first time in Bulgarian legal science is given a detailed critical analysis of the libertarian-legal theory of V. S. Nersesyants.

*Secondly*, the scientific contributions are aimed at clarifying a number of legal concepts related to the relationship between law and power. The author presents the view of power in a legal context as a universal social phenomenon, beyond its traditional consideration in relation to state power and the separation of powers. At the heart of this understanding is the view of law as a social phenomenon, which is why a number of legal sociological views and ideas are used in the work, such as Weber's sociological concept. Therefore, there is also a rationalist conception of power, detached from its predominantly political context, which is definitely a scientific contribution. The concept of normative power is set and discussed. The author comes to conclusions about basic legal concepts and their individual manifestations. He presents his own concept of the sources of law,

proposes a rethinking of the concept of legal sanction and discusses the power elements in the conceptual dimensions of subjective rights.

*Third*, the monographic study contains a legal-philosophical and theoretical analysis of coercion in the context of legal positivism and the principles of legality. Coercion is seen as one of the main features defining law in positivist theories. The author proposes to overcome the "narrow force" notion of coercion. Simeon Groysman also examines the state-citizen-rights relationship in the context of contemporary legal postmodernism through the theme of law and sovereignty.

*Fourthly*, the scientific contributions in the study of a number of theoretical views and directions, which have gained special popularity in the theory of law, should be noted. The study contains "a sociological reading of the Kelsen Basic Norm as a universal legal answer to the question of the relationship between fact and norm." The theoretical views of Joseph Raz are presented, which are discussed in connection with the Bulgarian concept of authority and others.

The monographic study also contains a number of other scientific contributions related to the main problems of the relationship between law and power. Many philosophical and historical references are combined in a comprehensive general theoretical view of the contemporary postmodern concept of law and the supremacy of rights.

For the purposes of the procedure, Dr. Simeon Groysman presented 10 scientific articles. In the article **“Republican Legality and Emergency Power: Reflections on the Machiavellian Reading of the Roman Dictatorship [In Bulgarian]”** (Ius Romanum, Iuventutes 2017, pp. 1-12), the author uses the term “supremacy of rights” for the first time. The author considers the place of the institute of dictatorship in the state system of the Roman Republic in view of its renaissance interpretation. Simeon Groysman presents and comments on original views of Carl Schmitt and Niccolo Machiavelli.

The scientific article **“Legal principles as purposive legal standards [In Bulgarian]”** (In: Scientific Readings on Legal norms and Legal Principles", ed. Pl. Panayotov, D. Valchev, Kr. Manov, S. Groysman, Sofia, "St. Kl. Ohridski" Publishing House, 2017, pp. 333-349.) contains an interesting concept of law as a system of general and individual prescriptions. Simeon Groysman proposes that legal principles can be seen as targeted legal prescriptions aimed at guaranteeing certain values.

In the article **“Criminal law as protection of values [In Bulgarian]”** (Scientific readings in memory of Venelin Ganev and Nikola Dolapchiev, Eds. Pl.

Panayotov, D. Valchev, S. Groysman, Kr. Manov, Sofia, "St. Cl. Ohridski" Publishing house, 2017, pp. 292-312.) Simeon Groysman justifies the need to use an axiological approach to ensure the link between the validity and legitimacy of the legislation. This allows the author to reach conclusions relevant to the theory of criminal law and criminal procedure. He argues that the penal code can be seen as a codification of values and criminalization as a value process.

Scientific contributions are also contained in the article **"Law and Power: Dialectics of Boundary [In Bulgarian]"** (Law and Boundaries, ed. D. Valchev and S. Groysman, Sofia, "St. Cl. Ohridski " Publishing house, 2018, pp. 163-186). The author considers the dual nature of legal regulation - the simultaneous conferral of power and limitation of power, aptly called by him the "dialectic of the boundary" between law and power.

The scientific article **"The Omnipresent Administration [In Bulgarian]"** (Ius Romanum, 1/2018, pp. 548-591) contains an analysis of the concept of modern administration used by Max Weber, making a comparison with medieval management models. The tendency for expansion of the social control through the understandings for the development of the administrative by-law norm-making and the over-regulation of the public relations is clarified.

Original scientific contributions are also contained in the articles **"The power to punish and the power to educate [In Bulgarian]"**, **"Sovereignty of Law and the Legal State: A Contemporary Point of View on the Theory of Hugo Krabbe"**, **"On the symbolic power of the Bulgarian criminal law [In Bulgarian]"**, **"Legal Realism versus Legal Ideology: On Explanatory Models of Judicial Activism"** и **Law and Power: On the idea of V. S. Nersesyants of power theories of law [In Russian]**.

### **Conclusion**

The scientific and teaching activities of Dr. Simeon Groysman fully meet the conditions of the competition for the academic position of "Associate Professor". They are in accordance with the requirements of Development of the academic staff in the Republic of Bulgaria act and the Regulation for its application. I express a POSITIVE EVALUATION and consent of the Scientific Jury to decide to propose to the Faculty Council of the Faculty of Law to elect Ch. Assistant Professor Dr. Simeon Efimov Groysman for holding the academic position of "Associate Professor" at Sofia University

"St. Kliment Ohridski"- field of higher education 3. Social, economic and legal sciences,  
professional field 3.6 Law (General theory of law).

19.10.2020 г.

Assoc. Prof. Dr. Boyka Cherneva