

TO

THE SCIENTIFIC JURY

appointed by Order № RD 38-255 / 06.07.2020

OPINION

by **Trayan Konstantinov Konov**, Ph.D., Associate Professor in Civil and Family Law at the Department of Civil Law Studies, Faculty of Law, Sofia University "St. Kliment Ohridski"

in a competition for the academic position of "Associate Professor" in Civil and Family law, professional field 3.6., for the needs of the Faculty of Law of Sofia University "St. Kliment Ohridski" announced in SG issue 57 of 26.06.2020, with the only candidate Chief Assistant Professor **Ventsislav Lyudmilov Petrov**, Ph.D.

1. INFORMATION ABOUT THE CANDIDATE:

The only candidate in the competition Chief Assistant Professor Ventsislav Lyudmilov Petrov, Ph.D. was born in 1985 in Veliko Tarnovo. In 2011 he graduated with a master's degree in Law from Sofia University, as well as a master's program at the same faculty, majoring in International Relations under the program "Private Relations with Cross-Border Consequences in the EU".

From 01.09.2011, based on a competition, the candidate holds the academic position of "assistant professor" in the Department of Civil Law Studies at the Faculty of Law of Sofia University "St. Kliment Ohridski", and since the end of 2015 he has held the position of "chief assistant professor" in the same department. Since 2016 he has been an assistant professor, and since 2017 a chief assistant professor in the Faculty of Law of the University of Veliko Tarnovo "St. Cyril and St. Methodius".

On 20.07.2017 in the capacity of a Ph.D. student in the Department of Civil Law studies at the Faculty of Law of Sofia University "St. Kliment Ohridski" and after successful public defense of the dissertation of topic: "Revocation of the renouncement of inheritance by the creditors of the heir" receives the scientific-educational degree "Ph.D.".

Ventsislav Petrov, Ph.D. has been registered as a lawyer at Sofia Bar Association since 2011. He is a lecturer at the Krastyu Tsonchev Lawyer Training Center, a member of the General Assembly of Sofia University, the Faculty Council of the Faculty of Law, an individual member of the Union of Scientists in Bulgaria. (since 2019), a member of the Disciplinary-Administrative Council of the National Basketball League (2017 - 2019).

2. TEACHING ACTIVITY:

As a lecturer at the Faculty of Law at Sofia University, the candidate has conducted seminars in the disciplines: Civil Law – General Part, Family and Inheritance Law and Obligation Law, as well as assigned single lectures to full-time and part-time students in the same disciplines and has participated in conducting semester exams in them. He reads the lecture course on Family and Inheritance Law and conducts seminars on Property Law to the students in full-time and part-time education in the Faculty of Law of University of Veliko Tarnovo “St. Cyril and St. Methodius”.

As a lecturer at the Faculty of Law at Sofia University, Ventsislav Petrov, Ph.D. is known for his solid erudition, his ability to present extensively, but also accessible, the study material, as a demanding and fair examiner, which is why he enjoys great interest and respect from students, as well as the respect of colleagues - lecturers.

Ventsislav Petrov, Ph.D. actively participates in the activities of the Civil law seminar, in the organization and preparation of student’s teams for competitions in solving cases, as well as in the activities of other student and teaching scientific and public organizations.

3. SCIENTIFIC PUBLICATIONS:

The scientific work of the candidate includes two monographs and 32 articles and scientific reports. The candidate has participated with reports in numerous international and national scientific conferences. From the submitted reference for implementation of the minimum national requirements under Art. 26 ZRASRB for scientific field 3, social sciences, professional field 3.6. Law, it can be seen that the

candidate exceeds the required minimum for the individual groups of scientometric indicators.

4. EVALUATION OF THE SCIENTIFIC PUBLICATIONS ON THE COMPETITION:

4.1. The candidate has submitted for participation in the competition and review one monography - the habilitation thesis: "Inheritance of debts and liability for legacies", S: Siela, 2020 (460 pages) and 14 scientific articles.

4.2. The monography "Inheritance of debts and liability for legacies" is the first work in our country devoted to a comprehensive study of the inheritance of the obligations of a deceased individual person and the satisfaction of his creditors. The author accepts that despite the different legal facts, due to the identity of the obliged persons and the competition of the rights of creditors and legatees in developing the concept of satisfaction of creditors of the estate the liability for legacies should be analyzed. The author describes the subject of the research, which includes problems of inheritance law and law of obligations studied in their historical and comparative legal context. Conceptual proposals *de lege ferenda* are also presented. The content of the monography is structured in four chapters, introduction and conclusion, includes 955 footnotes and list of references, containing 313 titles in Bulgarian, English, German, French, Russian, Serbian and Macedonian.

4.2.1. As general contributing elements of the research should be mentioned the deep analysis of the problems that debt inheritance arises, problems that in the Bulgarian literature under the current legal regime seem definitely underestimated as "inheritance" from the time when the problems of Inheritance Law were ideologically neglected, and as well as the detailed historical and comparative legal review of the permits for inheritance of obligations and the different concepts of how their implementation is organized.

The monography shows the author as a mature scientist who aptly selects the subject of his research and through a deep analysis of many problems that the current system and the doctrine of it, pose or leave unresolved, reaches logical conclusions, whose practical significance is indisputable.

4.2.2. Among the many specific scientific contributions (also mentioned in the author's reference), the following should be especially emphasized:

4.2.2.1. The study of the historical detachment of the inheritance of obligations from the concept of continuing the personality of the testator and the transition to the idea that the obligation is patrimonial rather than a personal relationship, the detail of which is a novelty in Bulgarian civil literature;

4.2.2.2. The differentiation of the legal facts which arise the inheritance of an obligation in connection with the different systems of acquisition of the estate - system of opening (refusal) and system of acceptance;

4.2.2.3. The argumentation of the conclusion that the incapable heirs have limited liability, even if they have not accepted the inheritance under benefit of inventory, as well as the conclusion that the state is limited liability only in the hypothesis of Art. 11 of the Inheritance Act, but not in the case of inheritance by will (unless it has explicitly accepted the inheritance under benefit of inventory), argued with the position that the state cannot refuse the inheritance under Art. 11 of the Law, but may refuse inheritance by will;

4.2.2.4. The detailed argumentation of the thesis that the acceptance of the inheritance by benefit of inventory limits the liability of the heirs not to value, as accepted by the case law today, but to the objects on which the enforcement can be applied - Art. 429, par. 1 of the Civil Procedure Code, in which the effect of merger is overcome and there are two property complexes, as well as the thesis that in case of separation under Art. 67 of the Inheritance Act there is no limitation of the liability of the heirs;

4.2.2.5. The systematization of the various guarantees of the creditors in case of limited liability of the heirs;

4.2.2.6. The critical analysis of the ratio in the inheritance rights of the state and the municipalities under art. 11 of the Law (after 1999), leading to different types of legal succession and from there to inheritance of obligations by the state, if possible the significant inheritance assets to be acquired by the municipalities, which is able to damage the creditors of the deceased;

4.2.2.7. The question of establishing a procedure for centralized liquidation of the estate, no matter how controversial this proposal may seem from a practical point of view, is undoubtedly based on the ambiguities mentioned by the author regarding the knowledge of a number of relevant circumstances in the discovery of the inheritance and its content, which in today's information technologies and databases in

various registers should be easily overcome in the interests of heirs, creditors and legatees.

4.3. The articles presented in the competition:

4.3.1. The candidate has submitted 14 scientific articles for participation in the competition and review. Some of them: "The modern concept of inheritance of obligations and its relationship with the Roman familia" - *Ius Romanum*, 2017, 1, p. 1-10; "Joint and several liability and separate liability of the heirs for hereditary obligations - short comparative and historical overview. - Fundamental and applied researches in practice of leading scientific schools, Vol. 28, No. 4, 2018, p. 114-116 (in English); "Comparison between inheritance and other ways to change the debtor". - *Scientific papers of the University of Ruse "Angel Kanchev" for 2018, Volume 57, Book 7, 2018, p. 116 -120*; "The right of inheritance - Roman legal foundations". - *Ius Romanum*, 2019, special issue *Theo noster, Studia in memoriam Theodori Piperkovi*, p. 81 - 89; "Obligations of the heir who accepted the inheritance under benefit of inventory for giving an account". - *Scientific papers of the University of Ruse "Angel Kanchev" for 2019, Volume 58, Book 7.1., 2020, p. 114-117*, mainly examine issues included in habilitation work (above 4.2.), therefore they will not be commented separately.

4.3.2. The other publications are devoted to issues of Civil law – general part, related to the Draft Law on Individuals and Support Measures; problems of Family law, Inheritance law, Property law and Law of obligations, as well as some of their procedural problems.

4.3.2.1. In the publications related to the issues raised by the Draft Law on Individuals and Support Measures: "Active testamentary capacity under the Draft Law on Individuals and Support Measures". - *Contemporary Law Magazine*, 2017, № 3, p. 25-33; "Changes in the regulation of the conditions for marriage according to the Draft Law on Individuals and Support Measures". - "Application of Constitutional Principles in Public and Private Law". *Proceedings of the Jubilee International Scientific Conference "25 Years of the Faculty of Law of University of Veliko Tarnovo "St. Cyril and St. Methodius" and 25 years since the adoption of the Constitution of the Republic of Bulgaria"*. Veliko Tarnovo, University Publishing House "St. Cyril and St. Methodius", the candidate presents a detailed critical analysis of the problems that the

change of the concept under the Draft Law would create in Inheritance and Marriage law;

4.3.2.2. In the publication dedicated to Family law issues and their procedural problems: "About the legal nature of the claim under Art. 30 of the Family Code". - Scientific papers of the University of Ruse "Angel Kanchev" for 2017, volume 56, series 7, Legal Sciences, 2017, p. 36-39, the candidate argues alternatively to the thesis accepted in the doctrine that the claim is always condemnatory;

4.3.2.3. Publications related to others inheritance issues different from those studied in the monography (above 4.2.): "About the inheritance community". - Property and Law, 2018, vol. 4, p. 43 - 50; "The need to form a mass from which the preserved part of the estate to be restore. Trends in Case law". - Property and Law Magazine, 2018, Vol. 12, p. 46 - 51; "Opening of the inheritance according to the Bulgarian law in the context of EU law". - Actual issues of positive law in the context of the membership of the Republic of Bulgaria in the European Union, Veliko Tarnovo, "Faber", 2018, p. 119 - 124, albeit brief, contain an analysis of actual and controversial issues, on which the candidate presents a reasoned and in many cases original analysis;

4.3.2.4. In the publications dedicated to Property law issues and related procedural issues: "Once again about *actio rei vindicatio* from a co-owner against a third party". - De jure magazine, 2018, vol. 2, p. 169 -173 and "About the legal nature of *actio negatoria* as a type of ownership claim and the need for ist registration". – Yearbook of Sofia University, Faculty of Law, Volume 86, 2019, p. 257 - 267, the applicant after critical analysis accepts that a co-owner may demand the possession of the whole property and unlike Decision № 4 of 06.11.2017 in Interpretive Case № 4/2015 of the Supreme Court of Cassation, that *actio negatoria* should also be registered;

4.3.2.5. In the article "Objections against the existence of the creditor's right in the proceedings under Art. 135 of the Law for obligations and contracts in Case Law", Commercial and Obligation Law Magazine, 2017, vol. 6, pp. 32-39, the candidate analyzes the argumentation of the contradictory practice that gave rise to an interpretation. d. № 2/2017 of the Supreme Court of Cassation, OSGTK, arguing the less represented then thesis that the defendant in the claim under Art. 135 of the CPA may challenge the claim with which the plaintiff identifies himself, a thesis which was

later indirectly accepted in item 2 of the Interpretative Decision of 09.07.2019 in the cited case.

4.3.3. In summary, the articles commented here show the candidate's affinity for actual topics in various fields of Civil law, which, although in brief, explores and comments in depth, arguing in many cases original conclusions of theoretical and practical significance.

5. CONCLUSION:

In view of the above, I find that Chief Assistant Professor Ventsislav Lyudmilov Petrov, Ph.D. meets the criteria under the Act for development of academic staff in the Republic of Bulgaria and the Regulation on the terms and conditions for acquiring scientific degrees and holding scientific positions at Sofia University "St. Kliment Ohridski" for holding the academic position of "Associate Professor" under 3.6. Law (Civil Law), in the Law Faculty of Sofia University "St. Kliment Ohridski", and I recommend the scientific jury to make a decision, which proposes to the Faculty Council of the Faculty of Law at Sofia University "St. Kliment Ohridski" Chief Assistant Professor Ventsislav Lyudmilov Petrov, Ph.D. to be elected to the academic position of "Associate Professor" under 3.6. Law (Civil Law), in the Faculty of Law at Sofia University "St. Kliment Ohridski".

20th October 2020

Associate Professor Trayan Konov, Ph.D.