

## **OPINION**

**by Prof. Dr. Tencho Kolev - member of a scientific jury appointed by order № RD 38-254 / 06.07.2020 in a competition for the academic position of "Associate Professor" in the professional field 3.6 Law (General Theory of Law), announced in SG, no. 57 of 26.06.2020 at the Faculty of Law of the Sofia University "St. Kliment Ohridski"**

### **Competitive procedure.**

For the needs of the Department of Theory and History of State and Law at the Law Faculty of Sofia University "St. Kliment Ohridski" in SG, issue 57 of 26.06.2020, a competition was announced for the academic position of "Associate Professor" in the field of 3.6 Law (General Theory of Law). In the procedure for conducting the competition in accordance with the Rector's Order № RD 38-254 / 06.07.2020 I was appointed an internal member of the scientific jury. During its first meeting, the jury took a decision, in accordance with which I was assigned to write this opinion.

The only candidate who appeared and was duly admitted to participate in the said competition is Ch. Assistant Professor Dr. Simeon Efimov Groysman, full-time lecturer at the same department. After confirming the conclusion that Ch. Assistant Professor Groysman complies with the national minimum scientometric requirements set out in the Development of the academic staff in the Republic of Bulgaria act and its implementing regulations, as duly described in the first protocol of the work of the scientific jury, and adding that the candidate then significantly exceeds these requirements - as with his submitted papers, and even more so with his entire research output so far, I proceed to analyze the submitted candidacy for associate professor.

### **Biographical data about the candidate.**

Simeon Groysman was born in Dobrich in 1987. He graduated from a language high school in his hometown (2006) and the Faculty of Law at Sofia University "St. Kl. Ohridski" with a master's degree in Law (2011). In the same faculty he won a competition for a full-time assistant in General Theory of Law in 2012. He successively held the positions of assistant and chief

assistant (from 2016 until now) leading seminars on General Theory of Law, lectures on Philosophy of Law together with courses for non-legal degrees from other faculties of the University and Erasmus courses in English (Theory and Constitutional Organization of Public Power; Philosophy of Law) for visiting foreign students.

Assistant Groysman has additional experience, confirming his professional suitability for the position, both in the field of teaching (lecture course on General Theory of Law at the Academy of the Ministry of Interior from 2018 until now), in legal practice (as a lawyer in Sofia Bar Association), as well as the responsible position of Scientific Secretary of the Faculty of Law of Sofia University responsible for organizing public defenses of dissertations and competitions for academic positions from June 2016 to May 2020.

The candidate speaks English and Russian, uses German and Italian languages, and is distinguished by a broad general knowledge, which - if I might add, is necessary for any scientist in the field of higher education and specifically in law, but particularly for researchers in the field of general theory of law and legal philosophy.

### **Overview of the presented scientific production.**

Ch. Groysman presented an impressive list of publications for participation in the competition, namely 10 articles and a monograph. His total publication assets amounted to over 30 titles, including a published dissertation, which is a good indicator given his age and experience.

The work presented – **Law and power. From the unlimited state to the postmodern supremacy of rights.** S., Ciela, 2020, 444 p., is essentially a complete and comprehensive monographic study, fulfilling the formal requirements for habilitation books, given in the applicable legislation.

The presentation consists of an introduction, seven sections, a conclusion and a bibliography. The book considers law and power as interrelated phenomena through the consistent analysis of their understanding of the plane of the history of ideas and conceptualizing them as concepts from the legal positivist position stated by the author. The book defends in detail the Kelsenian version of legal positivism. Its alternatives are widely discussed, and the reader is given a complete picture of the large-scale disputes that legal science had and continues to have on the

relation between law and power. A positive impression is given by both the explicit development of the methodology used and the detailed conceptual analysis applied throughout the study that implements one of the main tasks that legal science has traditionally assigned to the general theory of law - that of constructing legal concepts.

The author consistently presents and defends his ideas on key issues such as the distinction and interaction of general theory and philosophy of law, the system of methods of legal science and the role of the legal method for positivist legal thought. He gives definitions to law, power and coercion, outlining a wide scope of his research, but managing to preserve the monographic course of the analysis. An important role is played by the given broad definition of coercion, which models the concept of law as an order of organized coercion, directing legal research to the areas of social psychology and influence of the risk of sanction over human behaviour.

The delineation of what Groysman calls “principles of legality” presents in an original way the important topic of ensuring the fairness of legal regulation and limiting the possibilities for state arbitrariness through the very internal forms of law as a culturally and sociologically separate normative regulator. Considering the “principles of legality” as natural cultural expectations towards law, the author succeeds in emphasizing the link between law and justice, without using natural law ideas.

The work includes an extensive part on the historical development of the ideas of the state and law in order to present a conceptual analysis and doctrine of the relationship between law and power. For this purpose, the author uses an original dichotomy between “axiological and instrumental understanding of law“. This division is built as a tool suitable for the comparison of legal theories from different eras. In this connection its use in the educational process should be encouraged. Here I am pleased to note that the developed axiological understanding of law as an “external corrective, limitation and creator of any social power“ is based on the sociological-axiological approach I use. In this sense, the author has shown both the knowledge and the skillful use and suggestion to build on various theories set forth in our legal science. This is generally evident from the extensive bibliography used, which is everywhere carefully and conscientiously cited in order to present various theses, regardless of whether the author supports them or not.

I believe that Assistant Groysman's consistent exposition on the Latin notions of power, the idea of the “epochs of law”, the development of sovereignty in thinking about law and on

power in classical German legal theory enriches Bulgarian legal science. It will be useful both for the scholars in the field of general theoretical legal sciences and for the students in the law faculties.

The main concluding sections of the considered monograph are its two concluding sections. In the sixth section, entitled “The Basic Norm as a Projection of Power Relations“, the author gives his comprehensive analysis of the normative doctrine of law, which shows his special sympathy for the scientific formulations of Hans Kelsen. As a result, a good condensed basis for the study of legal normativism is provided. In his detailed analysis of the Basic Norm as a key to Kelsen's teaching, S. Groysman gives a clear map of Bulgarian and international Kelsenian thought. The provided original understanding of the essence of the Basic Norm goes beyond the traditional logical analysis and searches for the social meaning of legal thinking and forming a complete thesis on the relationship between law and power. As for the compilation of his overall concept of the relationship between law and society, the author leaves the purely legal constructions of normativism. A balanced positivist position is expressed, respecting the different ways of influencing society on the law, which supports the idea that the final question of the existence or non-existence of the legal system is ultimately a question of its legitimacy, and therefore its justice.

In the seventh section of the book called “The authorities and the functioning of the legal order”, the author develops his previously formulated understandings, offering a network of related views on key concepts such as the source of law, subjective right, legal sanction. In this regard, it is worth noting with support both the systematic nature of the exposition and the developed view, as well as the courage to argue with various representatives of legal science, be it with the author of the presented opinion. There is an approach to integrity in conceptual analysis, providing a system of conceptual understandings in the general theory of law instead of fragmentation in the correction and rethinking of individual concepts.

The concluding paragraph of the section, presenting the “legal order as an power order”, is a successful attempt to give a comprehensive concept of the role of power as a basic interaction that characterizes legal processes. In this sense, for the readers of the monograph the connection between law and power is undoubtedly revealed and well protected. The original analogies between Kelsen's teaching and Prof. J. Stalev's theory of the process as a defense-sanction are impressive. In this regard, Groysman uses an elaborated “broad” notion of sanctions in law, which, although controversial in terms of traditional theory, has its place as a concept in our science.

The conclusion of the book is worth discussing in the context of some of the subtopics in the study, through which the author finds a place in his general theoretical work on specific current worldwide issues of law, namely legal populism, the increase of the importance of supreme and constitutional courts, the idea of the so-called “post-sovereignty”, the debate on the individual constitutional complaint, the restructuring of legal thinking with an emphasis on human rights. The latter gave the author reason to speak in an original way about the “supremacy of rights” and to present this idea not only legally and doctrinally as a current form of the rule of law, but also ideologically as an important element in contemporary radical political visions. Combining this set of topical issues in a comprehensive well-arranged monographic study, which does not miss the law and power as its main focus, S. Groysman shows good skill for scientific writing and scientific thinking, which strengthens the impression that before the reader lies a full habilitation work.

**The articles** presented at the competition show the high research activity of the author in the years after the defense of his doctoral dissertation, including the pursuit of publishing in accordance with a wide range of scientific interests (general theory of law, legal philosophy, history of legal ideas) in Bulgarian as well as in English and Russian.

The overall view of the presented articles makes it possible to trace how S. Groysman previously conscientiously and in depth studied the historical questions, which he later presented in the considered monographic work<sup>1</sup> and how he formulated his philosophical understandings of law and power<sup>2</sup>. The author's aspiration to participate in the interaction between the branch and theoretical legal sciences is demonstrated with his active position in relation to the annual scientific readings organized by the Department of Theory of State and Law and the Department of Criminal

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<sup>1</sup> **The following articles are relevant in this regard:** a) Republican Legality and Emergency Power: Reflections on the Machiavellian Reading of the Roman Dictatorship [In Bulgarian], *Ius Romanum*, *Iuventutes* 2017, pp. 1-12.

b) The Omnipresent Administration [In Bulgarian], *Ius Romanum*, 1/2018, pp. 548-591.

c) Sovereignty of Law and the Legal State: A Contemporary Point of View on the Theory of Hugo Krabbe – In: *Rule of Law at the Beginnings of the Twenty-First Century*, ed. M. Belov, Eleven International Publishing, 2018, pp. 45-68.

<sup>2</sup> **See a)** Law and Power: Dialectics of Boundary [In Bulgarian] - In: *Law and Boundaries*, ed. D. Valchev and S. Groysman, Sofia, “St. Kl. Ohridski” Publishing house, 2018, pp. 163-186.

b) Law and Power: On the idea of V. S. Nersesyants of power theories of law [In Russian] - In: *Jurisprudence in the modern world: Russia and Bulgaria*, Moscow, Prospect, 2020, pp. 266 - 282.

c) Legal Realism versus Legal Ideology: On Explanatory Models of Judicial Activism – In: *The Role of Courts in Contemporary Legal Orders*, ed. M. Belov, Eleven International Publishing, 2019, pp. 139-152.

Law of Sofia University, including the presented articles, dealing with current legal and criminal law issues<sup>3</sup>. Thus, due attention is paid to the interaction between general theoretical and branch legal sciences, which is an important part of the responsibilities of every lecturer who wants to hold an Associated professor position.

#### **Assessment of the candidate.**

The overall positive assessment of the presented scientific production is dictated by the high level of the scientific conclusions presented in it and the scientific contributions formulated. The new theses and interpretations proposed by the author are correctly presented by him in the summary of the claimed scientific contributions. The high number of citations in view of the author's youth should be noted separately. In the attached list there are 21 with citations of his works with different scientometric weight. This fact shows the good response that Assistant Groysman receives from the scientific community.

S. Groysman - both in the presented monographic work and in his articles, and earlier in his dissertation research, demonstrates a rare among our younger generation of theorists knowledge and desire to discuss on the great authors in the field not only of general theory and philosophy of law, but also of sociology and political philosophy. His research uses for the purposes of Bulgarian legal science authors like Kelsen, Jellinek, Weber, Bodin and Machiavelli, Krabbe, Hobbes and Rousseau, Foucault, Arendt and Marcuse. In this way, the candidate shows his suitability for research and teaching in a wide range of disciplines – general legal theory, history of legal and political ideas, philosophy of Law, which are traditionally taught by those holding the positions such as the one for which the competition is.

I can express my favorable personal impressions of the candidate in view of our joint work on his doctoral dissertation and in the teaching of the discipline “General Theory of Law”, both to law students and to international relations students at the Faculty of Law at Sofia University “St. Kliment Ohridski”. S. Groysman has always taken an active part in university life, participating in

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<sup>3</sup> See a) 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.

b) Criminal law as protection of values [In Bulgarian] - In: 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.

c) The power to punish and the power to educate [In Bulgarian] - In: Contemporary challenges to criminal law, eds. Pl. Panayotov, G. Mitov, N. Kuzmanova, Sofia, “St. Cl. Ohridski” Publishing House, pp. 275-290.

important events for our department and faculty, including but not limited to organizing conferences, taking care of international cooperation, participating in accreditation procedures of doctoral and master's programs, working on scientific compilation of collections, which are described in detail in the documents presented.

### **Conclusion**

In conclusion, I formulate my categorical opinion that the candidate Ch. Assistant Professor Dr. Simeon Efimov Groysman meets all the requirements provided in Art. 24 of Development of the academic staff in the Republic of Bulgaria act for holding the academic position of "Associate Professor".

For this and all the above reasons, I give to his candidacy for the competitive position my positive assessment and I recommend to the scientific jury to propose to the Faculty Council of the Faculty of Law Ch. Assistant Professor Dr. Simeon Efimov Groysman to be elected to the academic position of "Associate Professor of General Theory of Law", for which I will confidently vote at the upcoming final meeting of the procedure.

Signature:

(Prof. Dr. Tencho Kolev)

Sofia

12.10.2020 г.