OPINION

by Prof. Georgi Stefanov Ivanov, Dr. Habil., lecturer at the Department of Private Law at the Faculty of Law of Varna Free University "Chernorizets Hrabar".

Subject: competition for the academic position of "Associate Professor" in a professional field 3.6. "Law "(Civil and Family Law)" for the needs of the Faculty of Law at Sofia University "St. Kliment Ohridski", published in the State Gazette, issue 57 of 2020

1. Brief information about the candidates in the competition.

One candidate participates in the competition - Chief Assistant Professor Ventsislav Lyudmilov Petrov, Ph.D.

Ventsislav Petrov graduated in Law from the Law Faculty of Sofia University "St. Kliment Ohridski "in 2009. In 2011 he graduated from the same faculty with a degree in International Relations.

From 2011 to 2015 Ventsislav Petrov held the academic position of "assistant" in the Department "Civil Law" at the Faculty of Law at Sofia University "St. Kliment Ohridski ", and since 2015 - the academic position of "Chief Assistant". He conducts classes in the subjects "Civil Law - General Part", "Family and Inheritance Law" and "Obligation Law".

From 2016 to 2017 Ventsislav Petrov held the academic position of "assistant" in the Department "Private Law" at the Faculty of Law at the University of Veliko Tarnovo "St. Cyril and St. Methodius", and since 2017 - the academic position of "chief assistant". He conducts a lecture course in "Family and Inheritance Law" to Law students, as well as a lecture course on "Family Law" to students in "Social Activities" specialty and "Entrepreneurship in the social sphere" specialty.

In 2015 Ventsislav Petrov acquired education and scientific degree "Ph.D.".

Since 2019 Ventsislav Petrov is a member of the Union of Scientists in Bulgaria.

Since 2011 Ventsislav Petrov has been registered as a lawyer at the Sofia Bar Association.

2. Fulfillment of the requirements for holding the academic position.

2.1. Fulfillment of quantitative requirements.

It is evident from the above that the candidate has held the academic position of "assistant" and "chief assistant" for a longer period of time than the required legal minimum. His auditorium work in the last three academic years is above the set norm.

To participate in the competition, the candidate has submitted a monography and 14 articles published in periodicals in Bulgaria and abroad. The attached table consists 14 citations of the candidate by other authors. The submitted publications and citations cover the minimum legal requirements for holding the position.

After acquiring the academic position of "Chief Assistant" Ventsislav Petrov has participated with reports in 21 scientific conferences.

2.2. Fulfillment of quality requirements.

The researches of Ventsislav Petrov, Ph.D. are mainly in the field of Inheritance law, as well as in the Family law. His article publications also analyze property law issues related to the protection of property rights by *actio rei vindicatio* and *actio negatoria*, as well as law of obligations and civil procedural issues in connection with *actio Pauliana*.

The scientific production of Ventsislav Petrov, Ph.D. is deep and analytic. In a correct polemical plan are shown reasoned own opinions on a number of theoretical issues or additional arguments are presented in support of opinions to which the candidate joins. Imperfections in the legal framework have been revealed and the case law has been critically analyzed. A number of proposals de lege ferenda have been made, which deserve support.

3. Synthesized assessment of the main scientific and scientific-applied contributions of the candidate.

3.1. The habilitation work "Inheritance of obligations and responsibility for legacies". Sofia, 2020 in a volume of 459 pages is the first in our law literature monographic study of the liability of the successors of a deceased individual person to his creditors and legatees. The first scientific contribution of the candidate can be found in the systematic examination of the liability to these two categories of persons – he summarizes general rules for satisfaction of creditors and legatees, based on the identity of their debtors and the object of their satisfaction - the estate.

Also of a contributing nature is the study on the legal facts of debt inheritance, which is considered in historical and comparative plan in view of the adopted system of inheritance – system of acceptance or system of refusal, which legal fact includes a different number of elements (three, respectively two). It is concluded that in both systems the heir becomes acquire the debt at the time of the death of the testator. Debt inheritance is compared with other ways of acquiring a debt - a contract for the transfer of inheritance, debt substitution and subjective passive novation.

Contribution is also the text about the criteria for determining a testamentary disposition as universal or private according to the various practical hypotheses.

The analysis of the exceptions to the general rule that legatees are not liable for inheritance debts is also contributing. The advantage of creditors over legatees in satisfying their rights is determined not as a privilege (except in the case of Article 67 of the Inheritance Act), which is associated with enforcement, but as a material preference of a creditor to a legatee in the voluntary payment of inheritance debts and legatees, which preference appears in the case of acceptance of the inheritance by benefit of inventory. Arguments are presented against the opinion

expressed in the doctrine, according to which the legatee is liable subsidiary and limited for inheritance debts; the author assumes that the legatee is liable to creditors for his personal obligation, which arises from a special hypothesis of groundless enrichment.

Arguments have been added in support of the opinion that the purchaser of an estate is not a person to whom the inheritance debts pass, as he acquires the inheritance from the heir-seller and not from the testator.

Scientific contributions are also contained in the last (fourth) chapter of the work, which is unconventionally larger in volume than the previous three chapters taken together.

Quality of the monography is the detailed and deep analysis of Art. 61, par. 2 of the Inheritance Act and clarification of the circle of persons who are limited liable for inheritance debts, which in historical and comparative plan is compared with the traditional for Bulgarian inheritance law unlimited liability of the heirs. The author's conclusion that the incapable, the state and public organizations always are limited liable, regardless of how they accepted the inheritance and whether an inventory was made, also deserves support. The suggestion of the author for new content of Art. 61, par. 2 of the Law, which refers only to the incapable, partial capable and the state.

The thesis is substantiated that the limitation of the liability occurs at the moment of registration the acceptance by benefit of inventory in the book under Art. 49 of the Inheritance Act, critically examining the other opinions in the doctrine and case law.

As a result of a detailed historical, teleological and comparative legal interpretation, additional and new arguments have been put forward in support of the opinion that in case in acceptance by benefit of inventory the limitation of liability is not by value but by objects, therefore the heir is not liable with his personal property but only with the estate.

The author considers that the limited liability should be considered not by the court, but by the bailiff in the procedure of enforcement.

A scientific contribution is the research on the separation of the estate form the property of the heir under Art. 67 of the Law, which is compared with the acceptance by benefit of inventory.

Art. 62 of the Law and the different interpretations of this text in the doctrine are object of critical analysis. The author strongly supports the thesis that the acceptance by one of the heirs should in no way reflect on the right of inheritance of another heir.

The systematization of the guarantees for protection of the rights of the creditors is also of contribution importance: the prohibition for transfer of assets from the estate under art. 65, par. 1 of the Inheritance Act; the obligation of the heir accepted by benefit of inventory to describe all rights form the estate known to him in the inventory; the obligation of the heir accepted by benefit of inventory to manage the estate; the obligation of such heir for giving the report for the management to the creditors and legatees.

The legal relationship between the heir and the legatee has been clarified as a one-sided obligation. The legatee is designated as the creditor of the heir, not of the testator or the estate.

The different types of legacy are analyzed analytically in view of their subject - individually determined property, generically determined property, obligation right, copyright, inheritance estate, commercial enterprise, as well as the indirect legacy.

The study on the two systems for satisfaction of creditors and legatees which are defined as centralized and decentralized and are considered in historical and comparative plan, is also of a contributory nature. The disadvantages of the decentralized system applied in our country are shown, as the necessity of introducing a centralized procedure for opening of the estate is argued. The legal settlement of a procedure on the basis of Art. 553 - 593 of the Civil Procedure Code

regarding the proceedings on open inheritance, but with a different name and inclusion of a number of new provisions - for the legitimacy for the application making the inventory, protective measures, etc.

3.2. Scientific contributions are also contained in other publications submitted by the candidate, which are not part of the habilitation work.

In the article “About the legal nature of the claim under Art. 30 of the Family Code” a number of arguments are presented in support of the thesis that the claim under Art. 30 is always condemnation, regardless of whether its subject is real rights or obligation rights of the other spouse, which does not correspond to the dominant opinion in the doctrine for the constitutive nature of a claim when its object are obligation rights.

The article “About the inheritance community” substantiates the conclusion that upon acceptance of the inheritance by two or more heirs, co-ownership arises over the shares of the testator. This supports the view that transferable effect cannot occur automatically.

Also of interest are the arguments set out in the article "Once again about the *actio rei vindicatio* from a co-owner against a non-owner" in support of the opinion in part of the doctrine and case law, according to which the co-owner can demand the possession over the whole property, but not just over the part he owns.

Scientific contributions are also contained in the other articles that the candidate has submitted for participation in the competition (regarding the active testamentary capacity, the hypotheses under which it is necessary to calculate a mass under Article 31 of the Inheritance Act, *actio negatoria*, the objections against the existence of the creditor’s right in the proceedings under Article 135 of the Law of obligations and contracts, etc.).

4. Main critical remarks and recommendations.

I don’t agree with the opinion shown on page 117 of the monography that a commercial enterprise of an individual person cannot be expressed as a fractional part of the entire property of this person. In

practice, a commercial enterprise is always a fractional part of this property, which is identifiable and can be determined at a certain moment (death of the testator).

Maybe it is not proper to use arguments (p. 120 of the monography) based on Ordinance № 1 on keeping, storing and accessing the commercial register and the register of non-profit organizations in qualifying the taking over of an enterprise as a terminating or non-terminating method regarding the ownership of the heirs over the property of the dead individual person merchant, as this Ordinance should regulate only the technology of the registration.

The candidate may be recommended to publish a textbook in the subjects he teaches.

5. Conclusion.

The monography presented by the candidate and his other scientific works have a high scientific value. This, as well as the teaching and administrative activity of the candidate give me grounds to assume that he meets all requirements of the of the Act for development of academic staff in the Republic of Bulgaria, Regulation for applying of the Act for development of academic staff in the Republic of Bulgaria and the internal acts of Sofia University “St. Kliment Ohridski” for holding the academic position of “Associate Professor”.

In conclusion, I recommend to the scientific jury to make a proposal 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" in the professional field 3.6. "Law" (Civil and Family Law).

2th October 2020. Prepared by:

(Prof. Dunes G. Stefanov)