OPINION

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Professional field 3.6 Law
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About: Announced by SOFIA UNIVERSITY "ST. KLIMENT OHRIDSKI” competition for the academic position of **associate professor** at the Faculty of Law, field of higher education 3. Social, economic and legal sciences, professional field 3.6 Law, scientific specialty Civil and Family Law (published in SG, issue 57 of 26.6.2020 d.)

With a single candidate: Chief assistant Ventsislav Lyudmilov Petrov, Ph.D. in law

Habilitation thesis: "INHERITANCE OF OBLIGATIONS AND LIABILITY FOR LEGACIES", Sofia: Siela, 2020, 460 pages

Grounds for the opinion:
Order № RD 38-255 of 6.07.2020 of the Rector of Sofia University “St. Cl. Ohridski” and a decision of 08.09.2020 under protocol № 1, from the first meeting of the scientific jury regarding the assignment of the preparation of reviews and opinions on this competition

1. **General assessment of compliance of the candidate with the minimum national and other requirements for holding the academic position "Associate Professor" under Art. 24 in connection with Art. 2b ZRASRB and Art. 1a, 2, 53 PPZRASRB, as well as with the conditions**

under art. 4 et seq., Art. 105 of the Regulations on the terms and conditions for acquiring scientific degrees and holding academic positions at Sofia University from 23.01.2019.

As can be seen from the documents submitted by the candidate, he acquired Ph.D. degree in 2015 with the topic of the dissertation "Revocation of the renouncement of inheritance by the creditors of the heir" in the same scientific specialty, which announced the current competition for the academic position "associate professor". The candidate holds the academic position of "assistant professor" in the Faculty of Law of Sofia University, Department of Civil Law Studies, from September 1, 2011, and from November 27, 2015 until now he held the academic position "chief assistant professor".

Ventsislav Petrov conducts seminars in the disciplines Family and Inheritance Law, Civil Law - General Part and Obligation Law. From 1.03.2017, until now, the candidate also holds the academic position of "chief assistant professor" at the Law Faculty of the University of Veliko Tarnovo "St. Cyril and St. Methodius ”, where he lead lectures on the subject of Family and Inheritance Law to students in Law; he leads classes in other disciplines for students in Law and in other specialties.

The candidate participates in this competition with a published monography entitled "Inheritance of obligations and liability for legacies". Sofia: Siela, 2020, 460 p., which does not repeat in any part the dissertation for obtaining the educational and scientific degree "Ph.D.", as well as with 14 articles and scientific reports published in Bulgarian and foreign publications (specialized legal periodicals and collections) after the date of the public defense of his dissertation and not on its topic.

The candidate has participated in numerous national and international scientific conferences with presentations, which have been published and indicated as part of the reviewed scientific production in this competition.

Evidenced by the attached reference, the scientific papers presented by the candidate and 14 citations in scientific publications correspond to 475 scientometric points, formed as follows: 50 points in indicator A; 100 points in indicator B, 215 points in indicator D and 110 points in indicator E. They fully cover and even exceed in some of their components the minimum national requirements for holding the position of "associate professor", provided in Art. 2b, par. 2 and 3 ZRASRB and Art. 1a PPZRASRB, namely: 50 points in indicator A; 100 points in indicator B, 100 points in indicator D, 50 points in indicator E.

There are no data for proven plagiarism in the scientific works of the candidate in accordance with the procedure established by law.

In view of the above, I find that the candidate meets the minimum national and other regulatory requirements for holding the academic position of "Associate Professor" under Art. 24 in connection with Art. 2b ZRASRB and Art. 1a, 2, 53 PPZRASRB, as well as the conditions under Art. 4 et seq., Art. 105 of the Regulations on the terms and conditions for acquiring scientific degrees and holding academic positions at Sofia University from 23.01.2019.

2. Habilitation work: evaluation of the obtained scientific-applied results and scientific contributions and some recommendations with a view to future editions of the work

The habilitation work presented by the candidate for participation in the present competition on the topic “Inheritance of obligations and liability for legacies”. Sofia: Siela, 2020, 460 p. is the first in our doctrine comprehensive and systematic monographic study on the inheritance of the debts of the testator and the liability for the legacies made by him.

it is indisputable that the legal issues on which the author's attention is focused, V. Petrov, Ph.D. is timeless in importance and always relevant in doctrine and practice, due to the considerable relative share of this category of legal disputes in the total volume of civil cases. Despite the fact that over the years more than one or two authors have been tempted by certain aspects of the topic of inheriting the debts of the testator and the satisfaction of legatees, the work of Chief Assistant Professor Ventsislav Petrov, Ph.D. can claim to be the first comprehensive study on these issues in our country.

This is because the work offers a comprehensive and logically coherent dogmatic thesis about the transfer of the debts of the testator by way of inheritance to other persons and the satisfaction of creditors and legatees. Original and useful is the author's attempt to justify a general concept of liability for inheritance debts and satisfaction of legatees, based on the identity of liable persons, the existence of common rules for satisfying the creditors of the testator and the legatees, as well as competition between them for satisfaction over the same property (p. 12 of the monography).

The author's well-chosen structure of the work, built in an introduction, four chapters and a conclusion, contributes to the successful achievement of the aims

of the research, directed at deeper and more comprehensive theoretical coverage of the most important issues of doctrine and practice of the liability of his successors. For this purpose, in logical sequence are shown the legal facts which arise the inheritance of obligations with its historical and comparative legal aspects, the scope of the inheritable obligations, the circle of persons which inherit the obligations of the deceased, as well as the legal consequences of the inheritance of obligations and the emergence of liability for legacies. With this scope and content, the work on the chosen topic reveals this degree of legal-logical integrity, completeness and depth, which reveal the study study as a monographic work.

The study is based on a very rich but at the same time carefully selected bibliography, including more than 300 bibliographic items (monographies, textbooks, commentaries, scientific studies and articles), of which 283 in Cyrillic (Bulgarian, Russian, etc.), and the rest in several foreign languages (English, German, French). The work has a rich subline, covering 955 notes, most of which with subject content and reference to the used bibliographic sources and case law.

In general, the research of V. Petrov, Ph.D. reveals the desire for an innovative approach in the analysis of the rich legal issues, which arise from the inheritance of obligations and liability for legacies. In many places the exposition has a polemical character, as the scientific polemic is conducted correctly, in a constructive spirit, with arguments and with collegial respect for the authors, whose views are disagreed with. The systematization of the main scientific conclusions in the conclusion of the work makes a particularly good impression, which presents in a synthesized form the essential content of the author's scientific thesis. In the same spirit, the systematic presentation of the proposals substantiated in the research for improvement of the regulation in the legal matter considered by the author deserves high praise. For the most part, these proposals are relevant, substantiated and detailed in the study and their perception can contribute to modernization and improvement of the system.

The paper contains numerous and significant scientific contributions, the explanation of which in this opinion is hardly possible. Among some of the more important achievements of contribution to the development of the doctrine are the clarification of the legal facts which lead to inheritance of obligations by comparison and distinctions from other ways of change of the debtor, such as the sale contract of estate, debt substitution and subjective passive novation (p. 94-102). The occurrence of certain changes in the obligation, which are missing in the universal succession of the obligations mortis causa, has been rightly

highlighted. The enrichment of the argumentation in support of the view of Prof. P. Venedikov that the right of the heir who contributed to the increase of the value of the inheritance under Art. 12, par. 2 of the Law arises after the opening of the inheritance and that it is not identical with the right of the same heir against the testator while the latter was alive (p. 130-134). In many places in the paper additional arguments have been added, and in some places substantially new arguments, in support of views already expressed by other scholars, which contributes to the continuity and development of legal doctrine in the materials covered by the study. Examples in this regard are the appropriately substantiated proposal to explicitly regulate the possibility of the testator's creditors to have a claim against the municipality in the hypothesis of Art. 11 of the Law in connection with Art. 66, par. 2 (p. 432); the view that against the municipality in the hypothesis of art. 11 of the Law may be exercised the right under Art. 68. Also of interest are the arguments presented by the author in support of the view that the limitation of the liability of the heirs who accepted the inheritance by benefit of inventory is in relation to the objects and not by value (size) - p. 288 et seq., p. 432. The highlighted contributions are only a small part of the contributions contained in the habilitation work of V. Petrov, Ph.D. and are mentioned rather as separate examples for illustrative purposes.

In occasion of subsequent editions of the paper I would recommend to the author in arguing of the opinion that in the current version of Art. 61, par. 2 of the Law, the limitation of the liability of the heirs, who accepted the inheritance by benefit of inventory, is in relation to the objects, and not by value (size), to make a comparative analysis of this hypothesis with the hypothesis of beneficium separationis bonorum under Art. 67, par. 1 and 2 of the Law, in which the legal separation of the testator's property from the personal property of the heir who accepted the inheritance is really achieved (see also Art. 112, b. "E" of the Insurance Act) and this is done in the interest of the creditors/legatees who requested the separation. These comparison and distinction are more than necessary, provided that the thesis is maintained that the acceptance of the inheritance under benefit of inventory under Art. 61, par. 2 of the Law has as a consequence the separation of the inheritance from the personal property of the heir accepted by benefit of inventory, and not only the value limitation of the liability of such heir for the obligations and legacies.

It also seems to me that in connection with the distinction made on p. 107-108 of the study between the concepts of non-transferable and non-inheritable obligations, it would be good to point out some examples of the difference

between inheritable obligations (which, according to the author, are included in inheritance) and transferable obligations, so that this classification does not stand only as a doctrinal postulate, without clearly stated practical significance.

Without going into my other remarks, I will allow myself to point out that the proposal de lege ferenda of the author of p. 433 of the work to amend the provision of Art. 1 of the Law, as the term “place of living” is replaced by “habitual residence”, needs deeper consideration and in all cases more solid legal reasoning. The proposal gives the impression of mechanically borrowing and transferring the binding of the last habitual residence (respectively lex loci ultimi habitationis) of Regulation (EU) 650/2012, which performs a specific legal function in EU private inheritance law, namely to take into account the growing trend towards cross-border mobility of individuals in the EU and related changes in attitudes towards the concept of personal law of individuals. In the international private law of EU (and in our International Private Law Code - Art. 48, par. 7, Art. 89, par. 1) habitual residence is a factual situation, the occurrence of which does not require any registration in the country of establishment. The use of the "last habitual residence" link in Regulation (EU) 650/2012 is logically consistent with the freedom of movement of natural persons in the EU and is used as a factor in determining the closest link between the testator and a national legal order (see Article 2 of Bulgarian International Private Law Code). The concept of "(last) habitual residence" within the meaning of the international private law of EU and, in particular, Regulation (EU) 650/2012, is autonomous (has its own Community content and functions) and cannot be mechanically identified with the concept of "residence" within the meaning of Art. 1 of our Inheritance Act. We should not forget that by providing that "the inheritance is opened at the time of death in the last residence of the deceased", the provision of Art. 1 of the Inheritance Act (as amended, which entered into force on April 29, 1949, promulgated SG No. 22/1949 and which has not been amended so far) was legally and logically consistent with the content of the term “place of living” according to the Law on Persons of 1907, which regulated place of living as one of the features of legal individualization of persons. The provision of Art. 1 of the Law on Persons defined the “civil place of living” of a person as the place “where he has the main seat of his affairs and of his interests”. Place of living was a concept different from residence, e.g. from the place “where the person has his/her ordinary home” (art. 1, par. 2 of the Law on Persons). The transfer of the place of residence of one person to another place with the intention to establish his main job there was treated by Art. 2 of the Law on Persons as a change of place of living and to prove

such an intention it was necessary to submit an application to the municipality that is leaving, respectively - to the municipality where the new place of living or other means of evidence is established (Art. 2, par. 2 of this Law). The interpretation of these provisions shows that even at the moment when the provision of Art. 1 of the Law, the regulation of the place of living took into account the need for certainty and stability of this feature of the civil status of the person. Upon its entry into force on 10 September 1949 (SG No. 182/49), the Law on Persons and Family, which repealed the Law on Persons, regulated in its Art. 7 place of living as one of the legal-individualizing features of the personality. Until the amendment of Art. 7 the Law on Persons and Family (SG, Issue 90 of 1956) the place of living is the place where the person has established to live permanently or predominantly, and after this change the residence has already been acquired by entering in the register of the population of the settlement in which the person has been established to live permanently or predominantly (argument of art. 7, par. 1). With this wording the provision of art. 7, par. 1 of the Law on Persons and Family existed until its repeal by the Civil Registration Act, (promulgated SG, issue 67 of 1999, in force from January 1, 2000). With the entry into force of the Civil Procedure Act, the residence as a legal-individualizing mark of the natural persons was abandoned and replaced according to Art. 1, par. 3 of the Civil Procedure Act with the legal sign “permanent address” within the meaning of Art. 93 of the Civil Procedure Act as “the address in the settlement in which the person chooses to be entered in the population register”. Respectively - from the repeal of Art. 7, par. 1 and the entry into force of ZGR our theory and case law without hesitation subject the provision of Art. 1 of the Law on corrective interpretation, assuming that the inheritance is opened at the last permanent address of the deceased (which can be only one and must be located on the territory of the Republic of Bulgaria). The review of our legislation from the last six to seven decades shows that due to the important material and procedural importance of the place of opening of the inheritance, the settlement with which the testator was at the time of his death in such administrative legal connection is perceived as such to provide a sufficient degree of certainty in the interest of legal certainty. The norms of the Bulgarian civil law, intended to regulate civil legal relations without an international element, do not regulate the notion of “habitual residence”. It is a concept of International Private Law defined in the International Private Law Code. In this situation, if the replacement proposed by V. Petrov in Art. 1 of the Law on “place of living” with “habitual residence”, this means in view of the legal definition of Art. 48, par. 7 of the International Private Law

Code, it must be assumed that the inheritance is located in the place where the testator last (before his death) actually established himself to live predominantly, and to determine this place will have to take into account in each case "circumstances" of a personal or professional nature, arising from the person's lasting ties with that place or from his intention to establish such ties” (end of the citation of Art. 48, par. 7 of the Code). For the stated reasons it seems to me that the proposed amendment to the provision of Art. 1 of the Inheritance Act will cause such practical difficulties in determining the location of the inheritance that it will cause many more legal problems than it is expected to solve.

I would like to note that these and other possible remarks and recommendations do not in any way reflect to the high general assessment that the study of Chief Assistant Professor V. Petrov, Ph.D. and, in general, his overall scientific output and teaching qualities, which are beyond doubt and should be highlighted specifically in this procedure.

3. Evaluation of the other scientific publications of the candidate

The candidate also participates in the current competition with 14 articles published in specialized legal periodicals, as well as in collections of scientific publications of various Bulgarian universities, and one of the publications is Ukrainian. The predominant part of the presented articles are on the topic of habilitation work or are related to it (for example: The modern concept of inheritance of obligations and its connection with the Roman familia. - Ius Romanum, 2017, No 1, p. 1-10; About the inheritance community. - Property and Law, 2018, No 4, p. 43-50; The right to inheritance - Roman legal bases. - Ius Romanum, 2019, special issue Theo noster, Studia in memoriam Theodori Piperkovi, ISSN 2367-7007, p. 81-89; Joint and several liability and separate liability of the heirs for hereditable obligations - short comparative and historical overview. - in: Fundamental and applied researches in practice of leading scientific schools. Volume 28, Number 4, 2018, p. 114-116; Comparison between inheritance and other ways of changing the debtor. - in: Scientific works of the University of Ruse "Angel Kanchev" for 2018, volume 57, book 7, 2018, p. 116-120; About the inheritance community. - Property and Law, 2018, No 4, p. 43-50; The obligation of the heir, who accepted the inheritance under benefit of inventory, to give an account. - in: Scientific papers of the University of Ruse "Angel Kanchev" for 2019, volume 58, book 7.1, 2019, p. 114-117, etc.), and others are devoted to legal issues not related to the habilitation work (for example:

About the nature of *actio negatoria* as a ownership claim and the need for its registration. - in: Yearbook of Sofia University "St. Kliment Ohridski". Faculty of Law. Vol. 86 Sofia: St. Kliment Ohridski University Publishing House, 2019, p. 257-267, About the legal nature of the claim under Article 30 of the Family Code - in: Scientific papers of the University of Ruse "Angel Kanchev" for 2017. , Volume 56, Series 7, Legal Sciences, 2017, p. 36-39, Objections against the existence of the creditor’s right in the procedure under Article 135 of the Law for obligations and contracts in the case law - Commercial and Obligation Law, 2017, No. 6, p. 32-39; Once again for *actio rei vindicatio* form a co-owner against a third party. - De iure, 2018, No 2, p. 169-173, etc.). All articles submitted for participation in this competition were published after the candidate took the academic position of "Assistant Professor" and were not presented in any form in a previous procedure for holding an academic position or for acquiring Ph.D. degree. All of them, despite the relatively modest volume of some of them, and the debatable nature of some of the author's thesis represented in them (in the article Place of opening of the estate under Bulgarian law in the context of EU law. - in: Actual issues of the positive law in the context of the membership of the Republic of Bulgaria in the European Union. Veliko Tarnovo: Faber, 2018, p. 119-124), are at the required theoretical level and have a rich scientific apparatus, covering domestic and foreign sources and case law.

CONCLUSION

Based on the above considerations, I am convinced that the candidacy of chief assistant professor Ventsislav Lyudmilov Petrov, Ph.D. meets all the necessary substantive requirements under Art. 24 in connection with Art. 2b ZRASRB and Art. Art. 1a, 2, 53 PPZRASRB, as well as with the conditions under Art. 4 et seq., Art. 105 of the Regulation on the terms and conditions for acquiring scientific degrees and holding academic positions at Sofia University from 23.01.2019 for holding the academic position "Associate Professor" in the field of higher education 3. Social, economic and legal sciences, professional field 3.6 Law, scientific specialty Civil and Family Law, at the Faculty of Law of Sofia University “St. Kliment Ohridski”.

In view of this, I propose to the honorable scientific jury to vote positively and to propose to the Faculty Council of the Law Faculty of 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 field of

higher education 3. Social, economic and legal sciences, professional field 3.6 Law, scientific specialty Civil and Family Law, for which I will vote positively.

18th October 2020 ……..

Prof. Ekaterina Mateeva, Dr.Habil.