O P I N I O N

Regarding: Competition for an associate professor, field 3.6 Law (Criminal Law) as announced by the Sofia University St. Kliment Ohridsky

SG, No. 103 of 10.12.2021

Candidate: Chief Assist. Prof. Krasimir Nikolov Manov, Doctor of Law

Scientific Reviewer: Prof. Lazar Georgiev Gruev, Doctor in legal studies

The sole candidate participating in the competition for an associate professor in criminal law at the Faculty of Law of the Sofia University St Kliment Ohridsky is Chief Assistant Professor Krasimir Nikolov Manov, Doctor of Law.

At its first meeting, which was held on 14 February 2022, the scientific jury examined thoroughly the available competition documentation and unanimously concluded that "*Chief Assist. Prof. Krasimir Nikolov Manov satisfies the minimum requirements in the respective categories of indicating factors for the various scientific and academic degrees, in accordance with the provisions of the Implementation Rules of the Development of the Academic Staff in the Republic of Bulgaria Act and in accordance with that he has been granted admission to the competition for the position of "Associate Professor" in the field 3.6 Law (Criminal Law)*".

I know personally the candidate from the time when he was admitted to the university, as well as from his works. We are not co-authors of published articles and there are no other grounds justifying the possible existence of a conflict of interests.

It goes without saying, that the role (the scope) of an opinion in the frames of a similar competition is narrower as

compared to the one of a reviewing opinion and in general it should be limited, or in other words focused on the assessment of the presented habilitation thesis. I am going to only partially consider this traditionally accepted view and I shall not bring forward detailed biographical data about the candidate; nor shall I analyse in details the rest of the scientific works presented for the purpose of the participation in this competition as long as I am convinced that this will be done in due manner by the respected reviewers. The latter shall not yet serve as an impediment for me to come back to the data from the curriculum vitae or the appraisals of the other scientific works in order to formulate my reasons for the final general conclusion of this opinion. For I have always considered this final conclusion should find its foundation not only and exclusively in the assessment of the scientific production (putting an emphasis on the habilitation thesis), but also in the candidate's qualities and capacity as a lecturer. As he has applied also for that — for the academic post of an associate professor, which means a teacher, a lecturer.

I have no personal impressions of the style of Krasimir Manov as a lecturer; I have yet only indirect ones – accumulated in the course of holding the end of term or state examinations, or during the hearing of the conclusive scientific sessions of the criminal law study group. Indeed, these impressions are good. In most cases students demonstrate their firm knowledge, analytical capacity and ability to make comparisons, good argument skills and, this is important, ability to back up their arguments with practical examples. It is not unjustly so. Like most colleagues alongside his activity as a lecture, Krasimir Manov does not spare his efforts on other fields. I am picking but two of these as mentioned in his CV. He has been a lawyer (independent) since 2005 and since 2007 — a mediator (entered into the Single Register). That has doubtlessly had its direct impact on his activity as a lecturer. "Submerged" in the practice he (without any efforts) has been able to back up the academic theories thaught and to enrich his

presentation with examples thus making it accessible for his students. The latter is in fact valid also as regards his scientific works. Some of them are devoted to and concern essential issues of the general provisions of the Criminal Code and others, mainly regarding the crimes against the cultural heritage and the economic crimes, examine in details separate groups of criminal offences from the special provisions of that code. This symbiosis between scientific research and practical experience has always been of use for both of the aforementioned and in our case has proven to be particularly fruitful in the course of students' teaching. Mr Manov is ready to enter into discussion with his colleagues; he loves the debate and does not demonstrate any impatience, let alone neglecting the opinion of the others. In case he challenges a standpoint, he puts forward his arguments but he always hears the other party's arguments at the same time. These are qualities that should be found as a principle in any university professor and it is good that the colleague Krasimir Manov proves to have them too. We can most probably see here the contribution of his participation in trainings in "Communication", "Conflict Resolution", "Structured Debates", rhetoric, etc.

The habilitation thesis "Criminal Mental Impact" is a work of which the author should be proud. This is a serious research on a subject that merits habilitation and that has attracted a weak attention in our legal literature so far.

The research is in such a length that allows the author to develop his theses at ease and in depth. There are no superfluous deviations or arbitrary reflections on matters of common knowledge. This is a very logically conducted research as regards the consistency of the main issues raised. The author gradually analyses, precisely in their logical consistency, first and foremost the questions regarding the mental impact and certain fundamental concepts of criminal law; next he elaborates on the problems of the mental impact in the light of certain institutes of the general part of the Criminal Code and in conclusion –

totally naturally – he examines the issues that pose some offences connected to the mental impact. That means only one thing. The author reflected upon the significance of the topic in its entirety and revealed skilfully the various issues in their, let me repeat it, logical consistency. He did that with perfection.

The language is good. The work is easily read, which has always been a prerequisite for its rationalization by the reader. The words and their natural flow do not stammer the thought and they do not trouble the reading, which for me has always been a clear sign that the author "masters" the subject matter; that he has submerged in it and has been able to transmit without any difficulty his messages to the audience.

In fact, which are those messages and what is their contributing potential?

According to the author, and I agree with him in that, the topic regarding the criminal mental impact has been underestimated in the literature and to that effect its thorough rationalization and monographic presentation undoubtedly demonstrate contributing features, as long as it allows for more detailed, in-depth and extensive clarification of fundamental criminal law institutes, as well as that of separate criminal offences. However, I do not agree with the author that the examined topic has been underestimate by the legislator. I would like to illustrate my statement with an example taken from the offences against persons. In my opinion, the legislator assessed, previewed respective provisions and arranged systematically the potential forms of mental impact in the separate offences, taking above all into consideration their immediate object (subject respectively). Regarding the homicide, the legislator introduced the qualifying feature „*in a particularly painful manner for the murdered victim*"; regarding the personal injuries — by way of affecting the anatomical integrity – "*causing pain and suffering*"; regarding the insult through words and actions – affecting the personal dignity; regarding the compulsion – by

way of using force or threat – through interfering with the ability to form free will in the decision making process, etc. Therefore it appeals to me that the question is not a matter of legislative provision but rather it regards the appraisal, the discussion and the consideration of the problem regarding the incriminated mental impact in the scientific literature and the practice applying those legislative provisions.

Examples for the contribution of the work can be found, as a matter of fact, in all parts of the monographic research. Thus, for instance in the light of examining the classification of the offences into conduct (formal) and result (material) crimes (p. 45 – 59). Although I do have certain questions regarding this part of the work, which I am going to pose in a while, the mere fact that the author confronts with such an issue, which has been controversially interpreted in the theory, and he sets out his view challenging well-established opinions and he does so in a confident manner, is a fact, which in itself is worth respect and should be assessed positively.

Furthermore, I consider, for example, the part of the discussion regarding the *actus reus* "preaching" (p. 153—167) also of a contributory nature. Here, as a result of a thorough and accurate analysis, the author even makes a specific proposal *de lege ferenda* (p.167) — and he makes it totally in place, despite some elusive statements in the introduction that this is not the purpose of the research.

What needs to be highlighted in particular is the practical aspects of contributions in the work, especially as regards Chapter 3, which thoroughly interprets the problems of the criminal mental impact of the various specific constituent elements of criminal offences. This part will be of immediate benefit for law enforcement authorities in their overall understanding of the meaning and legislator's logic in the realization of the criminal liability as regards offences implying mental impact.

I would like to raise some questions that in my view deserve to be discussed. The first concerns the elaboration regarding the formal and material criminal offences related to the mental impact (Chapter I, paragraph 1.5). Already in the first paragraph (p.45) the author puts "*a further question – regarding the classification of crimes* **OR** (emphasis added) *their constituent elements in the light of the consequences which they caused and that have been indicated amongst these elements*".

This question concerns in my opinion the problem about the relationship between the notions "criminal offence" and "constituent elements of a criminal offence", which is a prima facie well known textbook subject matter. Nonetheless, what is the reason for which I raise it? In Manov's view, we have to examine separately the material and formal crimes, on the one hand, and the material and formal constituent elements of criminal offences, on the other hand. I fail to understand something here. Since if he is right, we should talk about the crime "theft" and we should contemplate whether this crime is a formal or a material one, and separately, as something different, we should consider "the constituent elements of the crime offence theft" and whether they are of formal or material nature, taking into account the criteria set out by the author himself. It is yet well known that crimes "in general" do not exist; there exists a concept of a criminal offence, and each one is described (indicated, depicted) by a set of indicators, which we designate as the „constituent elements of the crime offence". Thus, when we state, for example, that the homicide is a material and harmful crime, we do so because we analyse the signs by which the legislator defined it in the relevant provision of the specific part of the Criminal Code, i.e. by analysing the constituent elements of that criminal offence. For that reason, I do not think that there can be two separate classifications (of crimes and of the constituent elements of criminal offences) because, if they are separate, they should be independent, which means that it is possible to classify a given

crime as a material one and to claim that the constituent elements of the same criminal offence are of formal nature.

In addition, I have another question regarding the brief analysis of personal injuries or more generally regarding the crimes affecting human health. According to the author, "*the problem in practice comes from the banal and rather formalised way of thinking when analysing the constituent elements of the criminal offences*" (p.30); and somewhat further: "*and the names of the crimes create such an association – "personal injury" clearly does not lead to an association with a mental disability*." (p. 30-31). The problem in my opinion is not in the banality, nor in the formalised way of thinking, nor in the designation. Because, as he points out, we examine crimes against human health, perceived as "*the unity of the individual's physical, mental and social well-being*" (p. 30). It goes about the fact that, as I pointed out above, the legislator emphasises on the method by which the object is affected: here, in the case of personal injuries – by way of affronting the bodily integrity of the respective person; as regards the insult – verbally or by action, etc.; the legislator, however, does not forget, and he may not forget, that any unlawful interference with the anatomical integrity is accompanied by pain or suffering, that is, it results in certain negative psychological processes. The strongest evidence is that the mere fact of causing pain and suffering without health disorder (in the sense of bodily harmful act) has been incriminated and, as regards the other more serious cases, they by their nature contain inherently namely pain and suffering. Therefore, once again, the issue is not in the legislation but in the interpretation and Krasimir Manov's particular merit, which I would like to stress strongly, is that he raises this issue, he rings the bell, and he insists on rethinking the analysis and application of the constituent elements of criminal offences related to the mental impact; the latter I consider as an undisputed contribution.

Let me conclude as follows: the work is a decent habilitation thesis that demonstrates a degree of maturity of its author, which satisfies all the requirements of the legislation and the well-established tradition regarding the criteria for habilitation in our Chair. For that reason, it deserves a positive assessment.

Taking into account the aforementione, I reach the following CONCLUSION:

The candidate's overall scientific and teaching activities, and in particular the habilitation thesis presented to me, allow me to vote in favour of a decision by which the scientific jury would propose to the Faculty Council of the Faculty of Law, Sofia University St Kliment Ohridski to nominate Chief Assist. Prof. **Krasimir Nikolov Manov**, Doctor of Law, as an associate professor in field 3.6 law (criminal law) in the frames of the competition published in SG **No 103/10.12.2021.**

14 March 2022

(Prof. Lazar Gruev)