

OPINION

by **Prof. Georgy Ivanov Mitov, Dr. Sc.**,
professor at the Sofia University 'St. Klement of Ochrid', Law Faculty,
Department on Criminal-Law Studies

Member of the academic jury as established for the competition procedure of the Sofia University 'St. Klement of Ochrid' for filling the academic position 'Associate Professor' in the field of higher education 3.6. 'Law', specialty 'Criminal Law', open for the needs of the Law Faculty, as announced in SG Issue No:24/17.03.2023.

Dear members of the academic jury,

A single candidate in the competition procedure for the academic position 'Associate Professor' is ch. ass. Iva Dimitrova Pushkarova, PhD.

I. GENERAL PRESENTATION OF THE CANDIDATE AND THE SCIENTIFIC MATERIALS UNDER REVIEW

I have personally known Iva Pushkarova since her first appointment in the Law Faculty. I have been following with interest her academic creative development, lecturing, and career growth. It can safely be stated that in a short period of time – within the last decade, she successfully achieved recognition as a profound scientist in the field of Criminal law who commands respect in the scientific circles. She is a responsive and reliable colleague, who is well-regarded in the academic community. University students attend with pleasure her classes and share praising feedback for her style and teaching methods, as well as for her academic knowledge.

Iva Pushkarova graduated in law and history from the Sofia University 'St. Klement of Ochrid'. She specialised English and EU Law in the University of

Cambridge. In 2005 she entered the Law Faculty of the Sofia University ‘St. Klement of Ochrid’ as an Assistant, and in 2011 – the Ministry of Interior Academy as an Associate professor. She conducts classes on Criminal law and lectures on International Criminal Law in the ‘Law’ and ‘International Relations’ specialties of the Sofia University Law Faculty. Until 2021 she had been conducting a lecturing course entitled ‘Juvenile Justice System’ as part of the Master Programme ‘Social-Correctional and Probation Activities with Delinquents’ in the Faculty of Education and Arts Sciences of the Sofia University, specialty ‘Social Pedagogy’.

In 2008 she successfully defended her PhD thesis entitled ‘Forms of Organised Crime under the Criminal Code of the Republic of Bulgaria’.

The candidate has presented for review 10 academia publications – the PhD dissertation being one of them, while the rest are 1 monography, 3 studies, and 6 articles.

The materials have been submitted with the necessary precision and satisfy the formal requirements of the Regulation on the Conditions and Procedures for Acquisition of Academic Titles and Occupation of Academic Positions in the Sofia University ‘St. Klement of Ochrid’.

II. GENERAL CHARACTERISTIC AND ASSESSMENT OF THE STUDIES UNDER REVIEW

1. The habilitation thesis is a monography entitled ‘Pardons in the Bulgarian Criminal Law and in the Practice of the Head of the State’ (Sofia: Siela, 2020, 407 pages, ISBN:978-954-28-3245-4), prof. Boris Velchev, Dr.Sc., and Ass. Prof. Ralitsa Ilkova, PhD, eds.

The study is structured in an introduction, five chapters, a conclusion and a bibliography containing 101 titles (67 in Bulgarian and 34 in a foreign language). The footnotes are 381 in total. The manner of presentation is balanced and

appropriately structurally divided following a classic pattern – each chapter is subdivided in paragraphs in which the issues under discussion as parts of the study subject matter are presented in separate items.

The monography is a complete and complex study of the institute of pardon combined with a research of the practice of the head of the state in the pardon procedure. It enriches the penal-law doctrine and additionally develops basic aspects of this important institute of the state penal policy (since the issuing of the previous and only publication on the topic – Velchev, B. Pardons under the Criminal Law of the Republic of Bulgaria, S.: Sofi-R, 2001, 255 pages – more than 20 years have passed). The abundant experience of the author as Head of the Pardons Committee with the President of the Republic has allowed consideration to be given to practical issues related to the exercise of the supreme state mercy towards convicted person while discussing the major study matters.

The monography provides a substantial contribution to the criminal-law doctrine by the elaborated entirely new and complete concept of pardon and the specific features of this institute in comparison to other legal instruments for alleviation of the penalty. The pardon peculiarities when applied to different penalties and with respect to different legal principles have been developed in depth and detail. This adds huge practical value to the thesis and establishes the study as highly worthy guidelines for legal practitioners.

The first chapter ‘General Characteristic of the Pardon as an Institute of the Criminal Law’ is theoretical and backgrounds the whole study. It starts with an analysis of the historical and comparative legal development of the institute. The fundamental features of pardon as a criminal-law institute, as well as basic peculiarities of its exercise in the practice of the head of the state, have been presented in a general framework. Specific hypotheses of multiple penalties, conviction for multiple crimes, conviction by a foreign court, and etc., have also been thoroughly examined. The theoretical analysis enriches the criminal-law

doctrine with the construction of integral concept of the legal nature and implementation of the right to pardon.

The second chapter is dedicated to the types of pardon – full and partial, and pardon by means of replacement of the penalty. Very useful and valuable is the clarification of the competition among them, especially in the context of specific case examples. An achievement is the elaboration - for the first time – of the hypotheses of pardon in respect to life imprisonment and life imprisonment without commutation.

In the third chapter detailed scrutiny has been given to pardon with respect to the different types of penalties, where the application of the institute has been compared according to the respective penalty's goals, grounds for application, and peculiarities during implementation. The clarification of the 'competition' between pardon and the powers of the head of the state to remit non-collectable state claims which originate from the penalties of fines and confiscation must also be pointed out as a supplementary and separate contributive achievement.

The fourth chapter is dedicated to pardon in competition with other institutes for alleviation of the penalty – conditional sentencing to imprisonment, conditional preliminary release of adults, preliminary release of juveniles, delay and suspension of the execution of the penalty, amnesty, and etc.

The fifth chapter provides an intriguing perspective of the research by studying the right to pardon in correlation with the effects of basic legal principles – legality of the criminal offence, legality of the penalty, non-retroactivity of the penal law, goal-orientation of the penalty, proportionality of the penalty, equality before the law, the best interest of the child, humane-treatment principle. Subjected to research is the balance between the expression of supreme state mercy and the potential risks of violation – respectively, for 'compensation' of such violation - of a basic legal principle. This whole part of the monography must also be defined as contributive to the criminal-law theory and practice.

There are a number of general and concrete contributions with academic and theoretical-and-practical significance in the habilitation thesis (some of them already mentioned). I do share and support the 19 points of achievement as pointed out by the candidate in the self-assessing author's Point of Reference For Original Scientific Contributions. However, I can add to them some more which I find to be present in the thesis under review.

Based on the rich empirical material analysed by the author a complete and modern concept of pardon has been reached, based on this institute's nature of an exceptional instrument for reduction of the penalty's gravity. When defining pardon as an exceptional institute, the basic elements of the typical cases have been outlined. Well-substantiated is the conclusion that priority should be granted to the regular legal institutions for alleviation of penal oppression and not to pardon.

A methodology has been constructed to secure reaching possible solutions in different typical and similar fact situations and with due consideration to the specific peculiarities of each individual case.

Exceptionally useful for both the theory and the practice is the developed standard for pardon in cases of life imprisonment without commutation.

The thesis is readable and properly structured and this makes it easy to use. It uses very precise legal language. The opinions are well-substantiated and reflect the author's professional position. The argumentation is appropriate and shows the broad scientific knowledge of the author and her skills for in-depth analysis of the relevant literature and empirical data. Bibliographic resources have all been properly and honestly referred to.

2. The rest of the publications present for review (3 studies and 6 Articles) also show the broad scale of academic interests of the candidate in the fields of Criminal and International criminal law. They also reflect Iva Pushkarova's depth and comprehensiveness in analyzing and elaborating on particular issues and finding their place and correlation connections with the respective study matter.

III. CONCLUSION

The favourable opinion on the academic publications under review and the general assessment of the academic and lecturing performance of ch. ass. Iva Dimitrova Pushkarova, PhD, with due regard to the requirements of the Law on the Development of the Academic Personnel in the Republic of Bulgaria, its Enforcement Regulation and the Regulation on the Conditions and Procedures for Acquisition of Academic Titles and Occupation of Academic Positions in the Sofia University 'St. Klement of Ochrid' justify my unconditional opinion that the candidate possesses the necessary qualities and satisfies the requirements as set out in the competition procedure to assume the academic position 'Associate Professor' as announced by the Sofia University for the purposes of the Department of Criminal-Law Studies of the Law Faculty in the field of higher education 3. Social, Economic, and Legal Sciences, professional area 3.6. 'Law' ('Criminal Law'), and can occupy this academic position.

Therefore, I do propose that the honorable academic jury should submit to the Faculty Council of the Law Faculty a proposition to elect ch. ass. Iva Pushkarova, PhD, 'Associate Professor'. Accordingly, I call the rest of the jury members to join me in favour of that motion.

Author of the Opinion:

May 2023

Prof. Georgy Mitov, Dr. Sc.