

REVIEW

By Prof. D.Sc. Lazar Georgiev Gruev of the materials presented in the competition competition for the academic position of “Associate Professor” at the Faculty of Law of Sofia University in the professional field 3.6 Law (Criminal Law), published in the SG, no. 22 of 16.03.2021

Only one candidate participates in the competition - Chief Assistant Professor Dr. Miroslava Borisova Manolova.

At its first meeting, held on 20.05.2021, after a thorough review of the competition documentation, the scientific jury unanimously concluded that the candidate "covers the minimum required points by groups of indicators for the various scientific degrees and academic positions provided for in Regulations for Application of the Development of Academic Staff in the Republic of Bulgaria Act and on this basis, she is allowed to participate in the competition for the position of "Associate Professor" in the professional field 3.6 Law (Criminal Law).

I have known the candidate personally for many years and also from her works. By nature, Miroslava Manolova is a modest, unobtrusive person, which does not mean, however, that she is ready to give in when she thinks she is right and have to defend a certain position. For me, this is a good characteristic for a scientist, because I have always considered the strength and persuasiveness of the arguments are more important than their forceful, intrusive and impudent presentation. In this sense, for me she has potential for development and should only be supported and encouraged in her upcoming performances in the teaching and research fields.

Miroslava Manolova graduated from the Faculty of Law at Sofia University “St. Kliment Ohridski” in 1995 with very good success and after

the obligatory legal experience as a judicial candidate she started working as an investigator in the Sofia Investigation Service (1997 - 2000). These three years of practice probably finally formed her interest in criminal law and are undoubtedly a school where, along with the skills acquired during the pre-trial proceedings, the problems in their dynamics can be seen. She encounters them "face to face". For Miroslava Manolova, I think, this is also a period in which she gradually parted with the illusions of the student's romantic idea of the investigation and saw directly the problems arising in the investigation aimed at realising the criminal responsibility.

For the thinking person - and Miroslava is exactly like that - this is undoubtedly a challenge to search for the truth in more depth, and to discuss the problems in a complex way, in their interconnectedness. This is, in my opinion, the reason why in 1999-2000 she applied for an assistant in criminal law at our Faculty of Law. The competition ended successfully and since March 2000 she has been an assistant, four years later - a senior assistant, and since 2009 - until now - chief assistant in criminal law. She successfully defended her dissertation (the topic is "Drug Crimes") and since October 2014 she has a doctorate in law.

Her work as a lecturer - she teaches Criminal Law at the Faculty of Law, and in recent years at the Faculty of Philosophy - has been combined with work outside the Sofia University. She has consistently been the chief jurisconsult at the Ministry of Culture (2005-2006), as well as a legal advisor in the Legislative Advisors Department of the National Assembly of the Republic of Bulgaria (since 2006). Such a biography is typical of law teachers of her generation. Some factors must be taken into account and appropriate conclusions have to be drawn. To move from the high-paying position of investigator to work as a regular assistant with a meager salary means only one thing - a strong desire for development and love for teaching

and research. At the same time, the conditions necessarily force you to work in another (outside Sofia University) place, even if only for the sake of physical (yours and your family's) survival. The good thing about Miroslava Manolova was that she managed to start working as a legal advisor in one of the most important directorates of the National Assembly and her work on drafting opinions, participating in discussions, working groups and contested debates on the preliminary preparation of bills, their assessment of compliance with the Constitution and EU law, was not only interesting and dynamic, but also especially useful for shaping her as a broad-based legal professional who is able to see a problem through a comprehensive view of the interdisciplinary approach, something especially important for any specialist tempted by criminal law. Namely the criminal law that is the branch of current law that is the most closely connected (and inseparably) with the other elements and parts of the legal system. This influence and complex view, by the way, are visible and find their projection in the scientific works of Miroslava Manolova. Her participation in various projects, a total of five for the last ten years, also contributes to this. Teamwork on a project is one of the criteria for creativity, ability to coordinate your views with other (co) participants and discipline to fit the specific development in the limits of the final conclusion. I say this because it is evident from the topics of these projects, detailed in the competition documentation, that it shows purposefulness and consistency, while proving the qualities of Miroslava Manolova as a maturing young scientist who is not afraid of the challenges of the current situation.

The teaching activity of the candidate is concentrated in the field of criminal law. For many years she has been leading the seminars in the disciplines of criminal law, general and special part, with the third and fourth year students at the Faculty of Law. After the defense of her doctoral dissertation in 2014, by a decision of the Faculty of Law Miroslava

Manolova was assigned the lecture course in Criminal Law in the master's program in social and criminal psychology at the Faculty of Philosophy. As a teacher, she is calm and balanced. She presents the material with understanding and always refracts the theoretical problem through the prism of its practical dimensions. The work in the National Assembly helps her in this respect, namely the fact that she always feels the pulse of dynamic changes, knows the genesis of the problems and is able to present to students the different points of view in the discussions. She is not afraid to present her views on an issue to the audience, even when they differ from commonly accepted ones. She "hears" students' questions, sometimes caused by misunderstanding, and is able to present her version of the answer. This unobtrusive dialogue between teacher and student should be encouraged, in my opinion, and supported in the future. At the same time, she is demanding and often genuinely gets angry and excited when a student is unprepared or apparently has not made enough effort to understand a problem. What has been said, as well as my personal impressions, allow me to conclude that Miroslava Manolova has the necessary qualities of a good teacher, as well as potential that should be supported and encouraged in the future.

Miroslava Manolova's scientific production is within the normal range both in terms of volume and number of publications, as well as - and this is important - the rhythm of the publication. The general list includes two monographs and twelve articles. The monograph "Drug crimes" (2015) is a revised and supplemented publication of the doctoral dissertation defended in 2014. Two articles precede the defense and are related to its subject matter, which means that these works should be excluded from the discussion and the evaluation in the final decision in the present proceedings and should be taken into account only in the general context of this review.

It is not clear to me why the candidate himself excludes from the general list of her works some of them published after the defense of her doctoral dissertation, including one in Russian and another in English. In the official documentation she presents a list of publications for participation in this competition, including a monograph - "Why Do We Punish? The Theoretical and Normative Model of the Purposes of Punishment in Bulgarian Criminal Law" (2021) and six articles, which should obviously be the subject of discussion and analysis in this review.

The six articles were published rhythmically in the period 2016 - 2019 in prestigious, scientifically peer-reviewed publications of the Faculty of Law of Sofia University "St. Kliment Ohridski" and are related to the topic of the monograph. It is noteworthy that in general, the work of the candidate, after the defense of the dissertation on an important issue of the special part of criminal law, is oriented to the general part, and if we add the works outside the list of participation in this competition, we should note that these are topics that are principled and summarize some basic, general theoretical issues.

The works presented in the competition contain many new scientific formulations, enrich the existing knowledge in the field of criminal law and for the most part facilitate the case law and the legislation. The conclusions made in them are based on an in-depth and critical analysis of both the current legislation and the used scientific literature. Some of these works address fundamental and even interdisciplinary issues such as: the consideration of retributive theory and the impact of this theoretical view on the development of the American judicial system; Aristotle's views on justice and its two forms - distributive and corrective ones; the populism in the field of criminal law as a threat to the development of society; the in-depth study of the problem of the proportionality of the crime (its gravity) and the

punishment, as well as the constantly increasing, in the words of the author, "overcriminalization" as one of the essential problems of our time and the realities in the legislative practice.

This general description of the main ideas developed in the presented works, which is far from exhaustive, shows categorically that Miroslava Manolova has diverse scientific interests and analyzes in her works important issues for criminal law as well as issues relevant to our time. At the same time, she develops some interesting, sometimes controversial, but always important in practical importance issues that go beyond the strict framework of criminal law. It is obvious that part of the candidate's scientific production raises basic, principled and more general problems, while other works are dedicated to important, I would even call them "eternal" issues, in line with the very dynamic in modern conditions legislative practice. This shows the methodicalness, precision and depth of the researcher in the difficult task of analyzing the main issues of the general part, I would even say, the philosophy of criminal law. Miroslava Manolova deserves praise for that.

The presented habilitation work "Why Do We Punish? The Theoretical and Normative Model of the Purposes of Punishment in Bulgarian Criminal Law" is a monograph worthy of habilitation, impressive with the breadth of the problems seen and analyzed, with its professionalism and what is important to emphasize - with a definite, confident and balanced position on fundamental issues of criminal policy. The work is a significant contribution to issues of great importance for criminal law and at the same time goes beyond its framework without, however, leaving the foundation and the point of view of setting and addressing individual problems, namely through the prism of this legal branch. The work has all the qualities and, without a doubt, meets the requirements for obtaining the title of "Associate

Professor". The work contains important and principled statements that are well formulated and substantiated.

The question "Why do we punish" is eternal. It is, to one degree or another, a part and is contained in many works on the general part of criminal law because it affects its foundation, making sense of its existence in general. This in itself is a matter of the philosophy of criminal law. Dr. Manolova chooses one of the possible points of view (positions) for its consideration, namely - through the prism of the purposes of punishment, trying to outline and analyze the theoretical and normative model of Bulgarian criminal law. The experiment is successful.

The essay is the first of its kind such a large-scale and in-depth study of the purposes of punishment. It draws on the efforts of some of the brightest minds in our field in recent centuries, analyzing theories of their origin, development and - importantly - impact on overall social and societal life. The utilitarian, retributive, as well as the mixed theories (ie. the basic ones) of punishment are methodically and systematically considered in the first chapter. Their principles and the criticisms they provoke have been clarified. Obviously, a good command of English allows the author to present, explain and analyze a huge number of works by leading scientists in the field, to critically interpret their view and to present them to the reader in their logical sequence and interconnectedness.

The analysis of the issue of the purposes of punishment in the Bulgarian criminal law is especially detailed. It covers both a historical overview of the development of the legal framework and the dynamics in the theoretical justification of the main problems related to the purposes of punishment. The culture in the controversy with the other authors, who discussed this problem to one degree or another, as well as the clearly motivated position of Dr. Manolova herself, makes a gratifying impression.

The specific examples and the detailed analysis of legislative decisions related to the special part of the Criminal Code as well as the selection of examples from different chapters of the code (kidnapping; drug-related crimes; transport crimes, etc.) point to the author's ability to illustrate her thesis about creeping populism in a convincing way, and it can only regret that the attention was paid only to examples related to the punishment of "imprisonment" and the opportunity was missed (and it would further "thicken" the analysis) to discuss amendments to the law, all in the direction of increasing sanctions for other punishments (e.g. the economic crime under Article 235, paragraph 5 of the Criminal Code and the penalty of a fine). This, in my opinion, omission can be corrected in subsequent studies on the topic, if the author decides that this would be interesting and useful.

The assessment of a habilitation thesis presented in a competition for an associate professor differs, in my opinion, from the assessment of a dissertation paper in terms of quality and especially regarding the achievements we are looking for and analyzing. I will explain.

The work of Miroslava Manolova "Why Do We Punish? The Theoretical and Normative Model of the Purposes of Punishment in Bulgarian Criminal Law" is a mature, well-thought-out and competently presented study of an important issue from a general theoretical, even philosophical point of view and unquestionably proves the author's ability to: first, discover, identify and formulate an essential question; secondly, to center the title and clearly indicate the main content of the study; third, to structure the development, subordinating the individual chapters to the main scientific task, keeping the balance between them well; fourth, to study, present and analyze the relevant and substantial research on this issue of both foreign and Bulgarian scientists; fifth, to support her conclusions with accessible studies on specific issues; sixth, without hesitation to challenge

and criticize in a constructive and dialogical manner both the opinions of established scientists and the legislative practice related to the research topic; seventh, to identify the main "sources" of often unsuccessful legislative decisions, naming them by their exact names - populism and the desire to meet public expectations. The list of these significant contributions may continue. However, this is not necessary.

For such an essay, even more devoted to such an issue as that for the purposes of punishment, it does not matter whether we agree with all the above. On the contrary. If it provokes the reader to think and desire to share his vision, so much the better.

Science is not a coincidence of understandings, but always an attempt to substantiate different opinions. Personally, I would like to see, along with the extremely detailed commentary of foreign authors (especially in Chapter One) more gaze at some Bulgarian researchers of the last century such as Romano, Nikov and others as well as their comparison with established names such as Dolapchiev. I also wanted to hear the author's comment on a correctly quoted statement by the then Minister of Justice (p. 99) and whether it did not contain the idea of a dualistic sanction system - in the context of the 1968 Criminal Code and in particular Art. 1, para. 2. Because then the question "Why do we punish?" would necessarily go beyond the analysis only of punishment and its goals and would discuss more fully the problems of the truly philosophical question "why", seen as a complete process of reaction to a crime.

I accept and agree with Miroslava Manolova's proposals that it is necessary to carry out an in-depth study of criminological data as well as of the public opinion before adopting any major amendment to the Criminal Code. I cannot disagree because this is the voice of reason, which, unfortunately, is increasingly absent in legislative practice, displaced by the

conjunction of topicality and populism. In this regard, authors such as Dr. Manolova should be encouraged and congratulated for the clearly formulated, professionally sustained position.

If we add to what has been said that the language of the essay is good, the exposition is readable and fascinating, the quotations, although in places heavier and more extensive than usual, are correctly indexed, we will conclude that the essay deserves a good evaluation.

Undoubtedly, at least for me, the topic will not leave the author and vice versa - the author will return to it in her next works, which I encourage because I am convinced that there is a room for upgrading and supplementing.

Taking into account the individual thematic elements of this review, considered separately and in their entirety, I come to the following CONCLUSION:

The overall scientific, teaching and research activity of the candidate and in particular the presented habilitation work convincingly give me reason to vote in favor of a decision by which the scientific jury to propose to the Faculty Council of the Faculty of Law of Sofia University "St. Kliment Ohridski" to elect Ch. Assist. Prof. Dr. Miroslava Borisova Manolova for an academic position of "Associate Professor" in the professional field 3.6. Law (Criminal Law) in the competition announced in SG, issue 22 of 16.03.2021.

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Prof. D.Sc. Lazar Gruev