

REVIEW

by Prof. Dr. Ivan Todorov Todorov

of the materials submitted for participation in
a competition for the academic position of **Professor**
in Sofia University St. Kliment Ohridski

in: field of higher education 3. Social, Economic and Legal Sciences
professional direction 3.6. Law (Finance and Tax Law)

In the competition for **Professor**, announced in the State Gazette, issue 96/17.11.2023, as a candidate participates **Assoc. Prof. Dr. Atanas Ognyanov Simeonov** from the Faculty of Law at Sofia University St. Kliment Ohridski.

1. General presentation of the submitted materials

Subject:

By Order No. RD-38-630/29.11.2023 of the Rector of Sofia University St. Kliment Ohridski (SU), I have been appointed as a member of the Scientific Jury of a competition for the academic position of **Professor in SU** in the field of higher education 3. Social, Economic and Legal Sciences, professional direction 3.6 Law (Finance and Tax Law), **announced for the needs of the Faculty of Law.**

Only one candidate submitted documents for participation in the announced competition:

Assoc. Prof. Dr. Atanas Ognyanov Simeonov, from the Faculty of Law at Sofia University St. Kliment Ohridski.

The submitted by **Assoc. Prof. Dr. Atanas Ognyanov Simeonov** set of materials in paper format **is in accordance** with the Regulations for the Development of the Academic Staff of SU, and includes the following documents:

- CV
- a diploma of higher education and its attachment – in original for verification and 1 copy of each
- Diploma for educational and scientific degree Doctor – in original for verification and 1 copy
- Document for scientific title or academic position – in original for verification and 1 copy
- Certificate of work experience in the specialty
- Documents proving the fulfilment of the requirements under Art. 115, para. 1, item
- Medical certificate certifying mental and physical health - original
- Certificate of criminal record, certifying the absence of an imposed penalty "deprivation of the right to exercise a certain profession or activity" - original
- List of publications, inventions and other scientific and applied results:
 - a/ list of all publications
 - b/ list of publications submitted for participation in the competition
- List of publications, conferences, projects and scientific guides generated by the Authors System, in cases where the candidate already holds an academic position in Sofia University St. Kliment Ohridski
- Reference for the fulfilment of the minimum national requirements for the relevant scientific field and the additional requirements of Sofia University St. Kliment Ohridski, to which the necessary evidences and declaration according to the sample are attached (in the cases of Article 115, paragraph 1, item 5 a) and b))
- Citation reference with full bibliographic description of cited and citing publications
- A reference for the original scientific contributions to which the relevant evidence is attached
- Reference for the indicators under Art. 122, para. 2 with appropriate evidence (with an inventory and attachments)

- Scientific works submitted for participation in the competition, structured and numbered according to the list
- Summaries of reviewed publications in Bulgarian and in one of the languages traditionally used in the relevant scientific field (in one document).
- A copy of the announcement in the State Gazette.

The candidate **Assoc. Prof. Dr. Atanas Ognyanov Simeonov** has submitted for review 1 monograph, 2 studies, 8 articles and 3 study guides.

2. Brief biographical data of the candidate

The candidate Assoc. Prof. Dr. Atanas Ognyanov Simeonov graduated in Law at the Faculty of Law of Sofia University St. Kliment Ohridski in 1997. In 1999 he became an assistant in Financial and Tax Law at Sofia University St. Kliment Ohridski, Faculty of Law, Department of Administrative and Legal Sciences. In 2002 he became a senior assistant, and in 2008 – chief assistant. In 2008 he obtained a scientific and educational degree Doctor of Law with thesis topic “Customs Obligation”. Since 2014 he is Assistant Professor in Finance and Tax Law at Sofia University St. Kliment Ohridski, Faculty of Law, Department of Administrative and Legal Sciences. He is a member of the editorial board of the journal “Contemporary Law”.

3. General characterization of the activities of the candidate

As can be seen from the attached documents in the competition procedure, the candidate has completed the entire ladder of the teaching activity at the Faculty of Law of the SU. The included valuable study guides show his commitment to teaching work.

It is my assessment that the candidate has done extensive research on the most relevant and current issues of tax and customs law.

The monograph of Assoc. Prof. Atanas Simeonov *Issuing decisions on the application of the customs legislation of the European Union*, University Press St. Kliment Ohridski, Sofia 2023, presents the first and extremely serious study in Bulgaria of the new

customs regulations introduced with the Customs Code of the Union and has an impressive volume of 501 pages. The regulatory framework has been amended several times with regulations. Regulation 2021/414, which defines the technical arrangements for the development, maintenance and use of electronic customs systems in the EU, is also of significant importance. The author makes a large-scale study comparing national legal systems with those required by the EU. A significant scientific contribution is the establishment of the problems of the national customs legal system and the legal system of the EU. The contribution of the well-argued proposals for improving the legal framework with the aim of interaction of the national information systems with the systems introduced by the EU is also significant. In particular, I would note the excessive administrative complexity of the procedures and the lack of an effectively functioning single information system of the EU. This leads to major delays in communication between customs administrations in individual countries. The author concludes that even at the present moment it is very difficult to track the movement of goods from the customs authority before which they are presented to the receiving customs authority. The bureaucratic obstacles facing traders are also too great, which leads to unfavourable economic consequences.

The author identifies a significant problem - that the procedure for issuing individual administrative acts in the Customs code of the EU did not comply to the required extent with national legislation. Mechanisms are proposed to overcome the problem.

One of the significant scientific contributions of the author is the justification of the proposal to build a common customs administration of the EU. Initially, the determination of customs duties is the competence of the EU, which is also a customs union. The uniform determination of customs duties, which are also one of the essential sources of revenue for the EU, presupposes not only uniform regulations and, in particular, uniform procedures, a uniform information system, but also a uniform administration. This will qualitatively improve the interaction between its individual units.

The detailed legal analysis in the monograph also shows the lack of definitions for important concepts. As e.g. definition of the term "goods". The author offers a definition.

A significant contribution of the author is his conclusions that it is inadmissible to require the applicant, when issuing binding information, to indicate the legal basis for determining the origin. It is correctly stated that the activity of customs is a legally regulated activity of state bodies. And the state authorities should make the relevant legal conclusions in order to issue the relevant act or perform the relevant legal actions. The applicant must provide the facts, not draw the legal conclusions. The assignment of non-specific obligations to the applicant creates an administrative burden inherent in the parties to the proceedings before the customs authority. Reducing the administrative burden is also explicitly set as a goal in the “Customs 2020” program.

Unfortunately, until now, no synchronization has been achieved in the work of the EU customs administrations, which is ultimately stated in the EC's "Customs 2020" program. The analysed shortcomings in the regulatory framework and the proposals for changes in it are a significant contribution to the construction of an overall unified and much more effective administration and, in general, a system for collecting customs duties in the EU.

The author offers numerous and detailed proposals for changes in the regulatory framework, which represents a significant scientific contribution.

The author has very accurately captured a significant shortcoming of the national customs system in the Customs Act. When this act refers to the Tax-Insurance Procedure Code and Administrative Procedure Code, the lack of synchronization between the three normative acts is evident.

The number of studies, articles and teaching guides presented by the candidate is impressive. I will dwell on the essential scientific contributions in some of them.

In the study *Decisions relating to binding information issued under the Union Customs Code*, New Bulgarian University (NBU) Publishing House, Law Journal of New Bulgarian University (NBU Law Journal), Issue: 1, 2023, a detailed analysis of the problems of the customs administration in the EU member states is made. A number of contradictions are found in the application of customs legislation. The author makes suggestions for overcoming them.

In the article *Revocation and amendment of favourable decisions under the Union Customs Code*, "Norma" Magazine, issue: 4, 2023, p. 1-13, Ciela Publishers, ISSN (online): 1314-5118, for the first time in Bulgaria, important issues from the implementation of the Customs Code of the Union are being investigated. The author identifies a number of problems in the process of issuing individual administrative acts and proposes changes in practice and in the regulatory framework.

In the article *Customs offenses and penalties in the legislative framework of the European Union*, 50 YEARS OF THE LAW ON ADMINISTRATIVE OFFENCES AND PENALTIES - HISTORY, TRADITIONS, FUTURE, University Press St. Kliment Ohridski, 2020, p. 74-83, ISBN:978-954-07-4975-4, the need for the unification of the administrative penal regulations in the EU is substantiated, in order to prevent unequal treatment of customs operators.

The teaching guides fill a significant void in the training of tax and customs law and would even have a significant practical importance for the work of the customs and tax authorities with a view to preparing and creating a uniform practice.

4. Evaluation of the candidate's personal contribution

Formulated contributions and results obtained are definitely the personal merit of the candidate.

5. Critical observations and recommendations

I do not find significant flaws or incompleteness in the scientific works submitted for review.

Perhaps the author could consider whether the national customs authorities should apply the APC on matters not settled by the Customs Code of the Union, based on the provision of Art. 2, paragraph 1 APC, which stipulates that the code shall apply to administrative proceedings before all authorities of the Republic of Bulgaria, unless otherwise established by law. The author points out that there is no reference in the Customs Code of the Union to the national administrative proceedings in the member states. Such a

reference is not contained in the Bulgarian Customs Act either. That is why, according to the author, the APC does not find application in the procedure for issuing decisions by the Bulgarian customs authorities, because by law, in the case of the Customs Code of the Union, another different procedure has been established, which in the sense of Art. 2, paragraph 1, last proposition APC represents another procedure established by law, which excludes the possibility of the Bulgarian customs authorities applying the APC when issuing decisions.

Art. 2, para. 1 APC stipulates that "*The Code applies to administrative proceedings before all bodies of the Republic of Bulgaria, insofar as the law does not establish otherwise.*" That is, it is provided by a special law that the APC shall not be applied in whole or in part, and not that another proceeding is established by law. The fact that there is a special procedure regulated in a special law or in the Customs Code of the Union does not mean that the APC does not fully or partially apply to the unsettled cases. The purpose of the general law on administrative procedure, such as the APC, is to apply to all pending cases in the special laws. And both Customs Code of the Union and Customs Act are special laws.

The author could possibly consider the question of whether after Art. 44, paragraph 4 of the Customs Code of the Union stipulates that the procedure for appealing the decisions taken must be aimed at "*quick confirmation or correction of the decisions taken by the customs authorities*", this constitutes a prohibition on appeal under the APC for the court to annul the acts of the customs authorities, because in this appeal it can annul them. Although the administrative courts, when they cancel the decisions, always return them to the administrative bodies for a ruling, in fact according to Art. 173, para. 2 APC, the court is obliged to decide the matter on its merits except in cases of operational autonomy and nullity of the act due to incompetence. And in the case of judicial review, the illegal act should be fully or partially annulled, because an illegal part of the act cannot be preserved. Ultimately, the court will have to issue the act instead of the administrative body. Would that not mean that the act was corrected by becoming lawful? The purpose of Art. 44, par.4 Customs Code of the Union obviously aims for speed. And speed is not

achieved by cancellation and new administrative proceedings and an act, which is again subject to appeal. The court should simply fulfil its duty and issue a decision on the merits. The Court of the EU, in its permanent practice, accepts that all administrative acts are subject to judicial review, unless they concern national security. Therefore, it would be difficult to accept that an act of European law would provide that an act is not subject to judicial review.

CONCLUSION

The documents and materials submitted by the applicant meet all the requirements of the Act on Development of the Academic Staff in the Republic of Bulgaria (ADASRB) and the other relevant regulatory requirements.

I rate very highly the presented scientific works. There are numerous and significant scientific and scientific-applied contributions. I also highly appreciate the teaching activity of the candidate.

I categorically support the candidate Assoc. Prof. Dr. Atanas Ognyanov Simeonov for the academic position of Professor.

I recommend to the Scientific Jury to prepare a report-proposal to the Faculty Council of the Faculty of Law of Sofia University St. Kliment Ohridski for the selection of Assoc. Prof. Dr. Atanas Ognyanov Simeonov for taking the academic position of Professor at Sofia University St. Kliment Ohridski in: field of higher education 3. Social, Economic and Legal Sciences, professional direction 3.6. Law (Finance and Tax Law).

12.03.2024 г.

Reviewer:

(signature)

(Prof. Dr. Ivan Todorov Todorov)