TO

THE SCIENTIFIC JURY

OPINION

by Prof. Dr. Ogniyan Hristov Stamboliev

on the competition for the academic position of "Professor" in Civil procedure,
code 3.6 "Law",
announced by Sofia University "St. Kliment Ohridski" in the
State Gazette, issue 5 of 17.01.2025

DEAR MEMBERS OF THE SCIENTIFIC JURY,

I. In the competition announced by Sofia University "St. Kliment Ohridski" for the academic position of "Professor" of Civil Procedure in the professional direction 3.6. "Law", one candidate participated - Assoc. Prof. Dr. Kameliya Nikolaeva Tsolova. In announcing and conducting the competition, all requirements of the law have been met to date.

II. Kameliya Nikolaeva Tsolova graduated in Law from the Faculty of Law of Sofia University "St. Kliment Ohridski" in 1994.

From 01.03.1999, after winning a competition, she was appointed as an "Assistant Professor" in the discipline of Civil Procedure Law at the Faculty of Law of Sofia University "St. Kliment Ohridski", successively holding the academic positions "Senior Assistant Professor" since 2005 and "Chief Assistant Professor" since 2009.

In 2009, he successfully defended his dissertation on the topic "The Assisting Party in the Judicial Claim Process". Since 22.05.2013, after winning a competition, he has held the academic position of "Associate Professor" in the discipline of Civil Procedural Law with a habilitation thesis on the topic "Partial Claim", and in the following years he has been leading a lecture course in this discipline.

III . To participate in the competition, Kameliya Tsolova has submitted one monograph and eight articles and studies.

The monograph "Transfer of Disputed Right" contains a number of contributing points, the more significant of which I will point out below.

1. The presented work represents the first monographic study of the institute of transfer of disputed right in Bulgarian procedural theory. It presents the author's understanding of the essence and various manifestations of the institute, taking into account the achievements in Bulgarian civil procedural science and judicial practice. A characteristic feature of the study is that other people's opinions are accepted or criticized in a reasoned and justified manner.

2. The main issues that arise in the transfer of disputed rights have been analyzed in detail and in depth – regarding the subject matter of the case, the type of procedural legitimacy of the main party-

transferor and the problem of the application of the rule set out in Art. 235, para. 3 of the CCP regarding the court's obligation to take into account the transfer transaction when issuing the court decision, when the conditions for this are met.

The understanding has been well-founded and argued that under the current regulation, the transfer of a disputed right does not cause ex lege or by way of amending the petition of the claim a change in the subject matter of the initiated proceedings, which means that the case continues to be conducted regarding the right of the transferor, and not regarding that of the transferee.

As a consequence of the above statement, the author has also argued her thesis that the transfer of the disputed right does not lead to a change in the procedural legitimacy of the transferor.

It is also worth noting and well-argued that the provision contained in Art. 226 of the CCP does not exclude the application of Art. 235, para. 3 of the CCP with respect to the transfer transaction. It should be taken into account when issuing the court decision, when the conditions for this are met.

3. The study of the scope of the concept of disputed right within the meaning of Art. 226 of the CCP has theoretical and practical significance. The understanding that it includes not only the right that is the subject of the case, but also other rights of the parties – such as are incompatible with the rights under the claim or which determine their procedural legitimacy should be supported.

4. A significant theoretical contribution is the study of res judicata as a defense and sanction in the transfer of a disputed right. The understanding has been derived that the basis for the transferee's being bound by the res jidicata of the judgment under Art.

226 para. 3 of the CCP is the dependence of his legal position on that of his transferor, and not the criticized argument that this is due to the existence of procedural substitution. This leads to the other important conclusion that the transferee is bound by the res judicata of the judgment for the period preceding the conclusion of the transfer transaction.

5. The study of the application of the institute of transfer of disputed right in the condemnation claim process is original and of significant contribution. Following its main position that the current regulation allows a condemnation decision to be issued upon transfer of the disputed claim in the pending process, but not as an enforceable title in favor of the claimant (the transferor), but as an enforceable title in favor of its private successor in title**.**

6. Scientific contributions are also contained in the conclusions reached on a number of other issues in the monograph – regarding the limited application of the institute in the constitutive claim process and in claim proceedings under Part Five of the CCP, as well as those regarding its inapplicability in proceedings for controversial judicial administration of civil relations and in arbitration proceedings.

7. To participate in the competition, Kameliya Tsolova has also submitted eight publications - studies and articles.

The publication "Procedural Significance of the Registration of Claims under Art. 114 of Ownership Act “, presents arguments in support of the understanding that the requirement for registration of all claims provided for in the law gives rise to the same intra-procedural (Art. 114, para. 2 of the Ownership Act) and extra-procedural (Art. 226, para. 3 of the CCP) consequences.

The two publications "Compulsory or optional necessary comrades are the parties to a contract following a third party's claim for its nullity“ and „On the Types of Necessary Companionship and Interpretative Decision No 3/2016 of the General Assembly of the Civil Chambers of the Supreme Court of Cassation“, are in connection with the interpretative practice of the Supreme Court of Cassation, and they mainly discuss the criteria for distinguishing between mandatory and optional necessary companionship.

The article „On the Applicability of Article 226 of the Code of Civil Procedure in Proceedings Concerning the Controversial Judicial Administration of Civil Relations “ contains arguments that the institute of transfer of disputed right does not apply in these proceedings, including in the proceedings under Art. 32, para. 2 of the Ownership Act.

In the study "On the Reasons of the Negative Declaratory Claim for Ownership ", serious arguments are presented in support of the understanding that the negative declaratory claim for ownership has grounds and it should be introduced by the plaintiff in the claim as one of the three features individualizing its subject matter.

In the article " On the question whether the power of attorney for the conclusion of the substantive contract empowers the proxy to conclude the arbitration clause in the contract " considerations are presented that the Bulgarian positive legal framework does not contain a requirement for explicit authorization to conclude a contract with an arbitration clause included therein.

The study " Some Questions Regarding the Recognition of Joinder Claims " contains an in-depth analysis of the various issues that arise in connection with the recognition of objectively joined claims. It should be supported by the conclusion that the granting of

a judgment upon recognition of all or some of the joined claims is not always permissible.

Interesting procedural issues are also discussed in the article "Admissibility of Reversal of Effective Rulings, rendered in Action Procedure "

IV. The scientific works submitted for participation in the competition by Assoc. Prof. Kameliya Tsolova fully meet the requirements of the law. As I noted, they contain significant scientific achievements that have not only theoretical but also practical significance. The candidate has demonstrated her research and scientific potential. The publications submitted, as well as her teaching activities, motivate me to propose to the scientific jury to award her the academic position of "Professor“ of Civil Procedure.

All of the above gives me reason to recommend the academic position of "Professor “in Professional field 3.6. Law, specialty "Civil Procedure" at the Faculty of Law of Sofia University "St. Kliment Ohridski" to be elected Assoc. Prof. Dr. Kameliya Nikolaeva Tsolova.

…….. Jury member: ……

/Prof. Dr. Ogniyan Stamboliev/