

**TO**

**THE SCIENTIFIC JURY**

awarding the academic position "Professor"

in the professional field 3.6 Law

(Labour and Social Insurance Law), announced by the  
Sofia University "St. Kliment Ohridski"

**STATEMENT**

From Assoc. Prof. Dr. Yaroslava Dimitrova Genova,

Faculty of Law, University of Plovdiv

“Paisii Hilendarski”, Department of Civil-law sciences

**1. About the competition**

In the competition for the academic position of "Professor", in professional field 3.6. Law, scientific specialty "Labour and Social Insurance Law" at Sofia University "St. Kliment Ohridski", published in the State Gazette, issue 22 of 16.03.2021, there is only one participant - Nina Milkova Gevrenova, Associate Professor at the Faculty of Law, Sofia University, Department of Labour and Social Insurance Law.

**2. About the candidate**

Nina Gevrenova graduated with honors with Master's Degree in Law from Sofia University in 1992, and in the same year, she became Assistant in labour law and social insurance at the Faculty of Law at Sofia University. In 2014, she was habilitated as an Associate

Professor of "Labour and Social Insurance Law" with a habilitation thesis "Special protection of workers and employees with reduced working capacity". Since 2017 till now, she is the Head of the Department of Labour and Social Insurance Law at the Law Faculty of Sofia University. In 2007, Nina Gevrenova acquired the scientific and educational degree "Doctor of Law" in professional field 3.6. Law, "Labour and Social Insurance Law" with a dissertation "Rules for internal labour order - a non-state source of labour law". Over the years, she has held all academic positions, as follows: Assistant - from 06.10.1992 to 06.03.2000, Junior Assistant – from 07.03.2000 to 07.07.2003, Senior Assistant - from 08.07.2003 until 01.07.2014, Associate Professor - from 02.07.2014 till present.

Nina Gevrenova is an established university lecturer, with long experience and indisputable competence and professional training of the highest order, necessary to hold the academic position of "Professor". At the Law Faculty of Sofia University, she conducts lecture courses on "Labour Law", full-time and part-time form of studies, and "Insurance Law", also full-time and part-time studies. She also conducts lecture courses at other faculties of Sofia University, as follows: Faculty of Pedagogy, Legal Aspects of Social Activity, Master's Program; Faculty of Public Administration, Labour Law, Master's program; Faculty of Economics, Labour Law, Master's degree. Nina Gevrenova leads a variety of lecture courses in other universities, as follows: the Veliko Tarnovo University, Faculty of Law, Labour Law and Insurance Law; Faculty of Economics, "Labour Law", specialty "Human Resources Management" and "Labour Law", specialty "Accounting and Control", the NBU, School of Management, "Labour Law", Master's program and "Management of Differences", Master's program. Nina Gevrenova leads and develops programs for numerous practical seminars organized by RAABE, BCCI and others in the field of labour law, health and safety conditions at work, current changes in labour legislation and others.

Nina Gevrenova has a very rich and diverse practical professional experience in the field of labour and social insurance law, human resources management, etc. She was an expert in: the Ministry of Justice, PHARE Program (1996-1997); in the Tripartite Council for Social Cooperation at the Ministry of Labour and Social Policy in connection with draft laws on labour law, health and safety at work (2000-2009) by the Bulgarian Chamber of Commerce and Industry; USAID on the project "Labour Market Project-Harmonization of the Bulgarian Labour Law with EU Legislation" (2003-2004). During the period 2012-16, Nina Gevrenova was a member of the Legal Council of the President of the Republic of Bulgaria. She was also Chief Legal Adviser (2004-08) and HR Director of BTC AD, and sine 2000, she is a registered

lawyer at the Sofia Bar Association. She was an arbitrator and conciliator in resolving collective labour disputes at the National Institute for Conciliation and Arbitration.

Nina Gevrenova is the author / co-author of five monographs, including the dissertation, nine studies, twenty-one articles, five collections, textbooks and others.

### **3. Evaluation of the scientific and applied-scientific contributions of the scientific works**

Nina Gevrenova participates in this competition with the following works: a monograph: "Essential content of the individual employment contract", Sofia, Ciela, 2021; three studies: "Termination by the employer of the employment contract with trial period", Legal Council, Sibiu, №1 / 2020; "On some issues regarding the internal salary rules as a non-state source of labour law" Current issues of labour and social insurance law. V. XI. S., Un.Ed. "St. Cl. Ohridski", 2020, "The trial clause - postulates, problems and reality" Yearbook of Sofia University, Faculty of Law, Volume 86, 2019; seven articles: "Labour remuneration - regulation, interests and realities" Part One. Legal Review, 2017, № 2, "Additional remuneration for acquired length of service and professional experience - regulation, expectations and realities". Second part. Legal Review, 2017, № 7-8, "On some issues for the specified terms of individual employment relationships" Anniversary collection dedicated to the 80th anniversary of Prof. D.Sc. Vasil Mrachkov. S., Labour and Law, 2014, 277-298; "Social services - concept and basic legal characteristics" Judicial world, 2014, "Social services - concept and basic legal characteristics" Judicial world, 2014, № 1, "Effective legal protection - the new challenge to labour legislation" Current issues of labour and social insurance law. V. VII. The challenges facing the Bulgarian labour legislation. S., Univ. ed. "St. Cl. Ohridski", 2015; "The subjective right of non-compliance with the term of the given notice - essence, procedure for exercise and legal consequences" DE JURE, 2018, Official edition of the Faculty of Law of the University of Veliko Tarnovo "St. St. Cyril and Methodius" and "The right to social assistance in the context of social support and social service" Current issues of labour and social insurance law. V. X, S., Univ. ed. "St. Cl. Ohridski", 2018.

The monograph "Essential content of the individual employment contract" is the first comprehensive and original study in Bulgarian labour law literature of the essential content of the individual employment contract. The monograph is based on the author's approach to the

study of the features and prerequisites for negotiating the provision and use of labour force and the mandatory contractual elements. Such an approach is used for the first time in Bulgarian labour law doctrine. The monograph contains a rich and correct scientific apparatus based on successful use of methods of legal research that are established and adequate to the topic. The structure is logical and well thought out so that it allows a comprehensive and systematic study of the elements included in the essential contractual content. The analysis of all elements of the substantive and non-substantive content, covering the limits of contractual freedom, the grounds for invalidity of the clauses and the consequences of their replacement by the relevant provisions, logically substantiates the theses expressed by the author. Assoc. Prof. Gevrenova uses her own approach and applies new criteria to answer the question which of the stipulations that make up the employment contract belong to the essential contractual content and which do not. Most of the normative-legal analyzes contained in the exposition also concern practical problems, and the conclusions drawn lead to substantiated proposals for their solution. Undoubtedly, the key scientific contribution of the monograph is that the theoretical elaborations have a clear connection with the current labour legislation and law enforcement in the field of employment contracts and their conclusion and interpreting. The theses and conclusions of Assoc. Prof. Gevrenova show in-depth knowledge and objective analysis of the current practice of the Supreme Court of Cassation and the Supreme Administrative Court.

The monograph contains the following main valuable scientific contributions:

Contributing to the enrichment of the labour law doctrine is the new concept introduced by Assoc. Prof. Gevrenova of essential content of the individual employment contract as a content, without which the employment contract cannot be concluded, which she derives on the basis of three constitutive features: explicit regulation, parties' consent, failure to create an employment relationship in the absence of consent on the essential content (p.17-26);

The understanding that parties, while negotiating the elements of the non-substantive content, are legally limited, is also contributing, as the legislator imperatively restricts the boundaries for using labour force, prohibiting non-state sources to regulate and change them.

There are contributing moments in the study of the job position as an element of the content of the employment contract, especially with regard to the procedure for drawing up and entry into force of the job description, as well as proposals for arranging more effective protection of the employee in case of change of job description.

Another contribution is the analysis of the freedom to negotiate the volume of basic labour rights, basic remuneration, paid annual leave and the notice period, when the legislator introduces imperatively minimum thresholds and allows negotiation or settlement according to more favourable standards for employees.

Great worth brings the analysis of the additional remuneration for length of service and professional experience, and the theses related to the options for settling parameters more unfavourable in comparison with the normatively established ones for its occurrence, payment and increase.

Proposals made and argued in detail for amendment of Art. 66, Para. 1 of the Labour Code, aimed at specifying the type and number of the elements of the essential content, have a contributing character.

Proposals for improvement of the sanction given by the state regarding the functioning and normative action of the collective labour agreements, the internal salary rules and the rules for internal labour order, which should increase the efficiency of the protection of labour rights, also bring great worth.

Proposals for job title definitions, job description, full-time work are also contributing.

Of contributing nature to the theory is undoubtedly the statement that the legislator had the will to enable parties to the employment contract to determine two types of place of work: permanent and "mobile", which Assoc. Prof. Gevrenova supports by indicating the prerequisites under which permanent and mobile place of work are agreed, as well as the limits within which the permanent place of work is determined.

Scientific novelty is the distinction and definition of two types of workplace: "mobile" (as an exception) and "permanent" (as usual). For the first time the thesis is argued that in the sense of Art. 66, Para. 1, item 1 and Para. 3 of the Labour Code, parties agree on both the type of place of work and, possibly, its boundaries. Detailed analysis of many variants of lawful determination of the clauses regarding the place of work is a valuable contribution; so is considering the ways for judicial protection of employees in the hypotheses of violation of the legal requirements. Also new is the analysis of the hypotheses of lack of clauses regarding the type and boundaries of the place of work, as well as their replacement by legal norms (p.96-136).

The thesis that, according to Art. 66, Para. 1, item 8 of the Labour Code, parties firstly agree on the type of working time (full or part-time), after which they agree on its "duration" and "distribution", is of contributing nature. With full-time work, parties agree with the normatively determined duration - this is a thesis that significantly deviates from the hitherto accepted on this issue by the labour law doctrine. The author's contribution lies in the analysis of the invalidity of the stipulations, with which the full working hours are calculated and / or distributed, as well as the conclusion that they are replaced by rules contained in the regulations. Another contribution is the proposals *de lege ferenda* regarding Art. 66, Para. 1, item 8 of the LC. The analysis of the legal significance of the stipulation for duration of working hours is valuable, including regarding the rights of employees to remuneration, length of service, paid annual leave, periods of insurance, etc. (p.137-180).

Scientific contributions are contained in the analysis of the basic remuneration and the systems for its payment (p.181-228). A novelty is the thesis about negotiating the system for calculation and amount of basic remuneration, as well as the competition between different sources regulating the amounts of basic remuneration, the pricing under the duration-of-work system, and the establishment of the imperative limits of contractual freedom. The thesis that the lack of a clause on the amount of basic remuneration does not lead to full, but to partial invalidity of the employment contract - which Assoc. Prof. Gevrenova advocates - brings new arguments in the existing controversy on this matter, as she also substantiates the hypotheses of replacing the missing stipulation with other rules. A moment of great importance in the work is also the consideration of the contractual kind of the payment system.

In connection with the habilitation work, despite its undoubted merits and contribution to the labour law doctrine, some recommendations can nonetheless be made. Consistently throughout the presentation, Assoc. Prof. Gevrenova adheres to certain terms which she uses instead of the corresponding legal ones, without any justification of the reason. The strongest impression in this respect is the replacement of the legal term "worker and employee" only with "employee" to denote the one party to the employment contract. Two other recommendations in essence are related to the fact that the regulation of Art. 66, Para. 1 of the Labour Code, studied in the monographic work, has undergone significant development and enrichment, both in 1992 and in 2004 - the reasons for these changes, had they been considered, would have probably shed additional or new light on some of the issues under study, as they would have had a role to play in the argumentation of some of the theses. Although the study is based on the Bulgarian legal framework, the study of the issue of the content of the employment contract

would undoubtedly benefit from an analysis based on the comparative law method, as well as from looking at the theory of contract as a civil law institute.

The submitted studies and articles show the candidate's ability to make logical and reasoned analyzes, to research current topics and to formulate interesting and substantiated proposals for changes in the current legislation.

Nina Gevrenova not only meets, but also exceeds the national minimum requirements for holding the academic position of "Professor" at Sofia University according to the ADASRB (Art. 26) and the Rules on its implementation (Art. 1a, Para. 1), as can be seen from the submitted Information on the implementation of the national requirements under Art. 26 of the ADASRB for scientific field 3. Social Sciences, professional field 3.6 Law, Labour and social insurance law.

#### **4. Conclusions**

**Given all the above, it is with deep conviction that I propose Assoc. Prof. Nina Milkova Gevrenova be elected as "Professor" in the professional field 3.6. Law, scientific specialty "Labour and Social Insurance Law" in the Law Faculty of Sofia University "St. Kliment Ohridski".**

Sofia, June 19, 2021

Kind regards,.....