

OPINION

Regarding: Competition for the position Associate professor in 3.6. Law (criminal law), called by SU “St. Kliment Ohridski” and promulgated in the State Gazette, issue 30 of 15 April 2022

Applicant: chief assistant Nikoleta Kirilova Kuzmanova, Doctor of Law

Reviewer: Prof. Lazar Georgiev Gruev, Doctor of Legal Studies

The competition for Associate professor in criminal law for the needs of the Faculty of Law at SU “St. Kliment Ohridski” was promulgated in the State Gazette, issue 30 of 4 April 2022. The only applicant in the competition is Nikoleta Kirilova Kuzmanova, chief assistant at the Faculty of Law, Doctor of Law who submitted her documents before the statutory deadline.

At its first meeting, held on 17 June 2022, having carefully reviewed the documentation for the competition, the academic panel unanimously concluded that ‘chief assistant Dr Nikoleta Kirilova Kuzmanova meets the minimal number of required points by category for the different academic degrees and academic positions, stipulated in the Rules and Regulations for the Implementation of the Law for Development of Academic Staff in the Republic of Bulgaria and based on that she was allowed to participate in the competition for assuming the position “Associate professor” in 3.6 Law (Criminal Law)’

The candidate and I do not have publications in co-authorship, nor are there any other reasons for conflict of interest.

I have known Nikoleta Kuzmanova since she was a student. As a student she demonstrated a considerable interest in criminal law, interest which has developed and grown into a long-lasting connectedness, to put it differently – in a professional career. Just a few months after graduating from the Faculty of Law at SU “St. Kliment Ohridski” in 1999 she participated and won a competition as a full-time lecturer – an assistant in Criminal Law – at the Academy of Ministry of Interior and at the same time (in 2000) she became a part-time assistant at the Faculty of Law at Sofia University. Her dream to become a full-time lecturer at SU became a reality in 2012 when she won the competition for assistant. In October 2014 she successfully defended her dissertation on the topic “Legal Protection of Citizen’s Political Rights” and she was awarded educational and scientific degree “Doctor of Law”.

Due to the relentless logic of life, the attitude of the government to teaching staff at higher educational institutions; similarly to the majority of the colleagues from her generation, Nikoleta Kuzmanova, in addition to her teaching activity had to find other jobs – she has worked at the National Assembly, the Council of Ministers, the Ministry of Justice, Ministry of Interior, State Agency “National Security”. We do not have to list all the specific job titles but it should be pointed out that, with a few exceptions, they are all expert positions and directly connected with legislative activity, including the drafting of new laws or working on the amendments and changes of different legal acts. It should be acknowledged that this type of work is always of

value for a researcher in the field of law because it contributes to broadening their horizons, gives them the opportunity to keep abreast of the dynamic legislative process and – this is of greatest relevance – supports the teaching process and adds certain variety and topicality to it.

After participating in a competition and consequently being awarded the position “chief assistant” the Faculty Council took a decision to assign our colleague Kuzmanova some lectures in criminal law and also independent organization and administration of the exams for the students at the Faculty of Law. I have had the opportunity to observe in person this process and can without any hesitation state that she performs at a very high level. She diligently prepares for the classes, updates the materials, if legislative changes require it, illustrates the theoretical formulations by presenting appropriate practical hypotheses. She applies innovative methods in teaching and her main aim is not to turn the students into quiet observers of what is happening, but quite the opposite – she tries to provoke their active participation in the debates on specific topics. And she succeeds. She is a careful and demanding examiner. She does not create fake self-esteem showing demonstrative strictness, however, she does not ignore the gaps, explains the omissions and therefore she fairly assesses the knowledge that students demonstrate in the exam. Over the years she has actively contributed to the work of the interest group in criminal law and to a great extent it is due to her efforts that this especially useful form of extracurricular activity with the students has achieved excellent results.

The management of the Faculty of Law assessed Nikoleta Kuzmanova’s organizational and administrative skills without questioning them and assigned her to important positions with great responsibilities such as: “Scientific secretary of the Faculty of Law”(2014 – 2016) and “Secretary for the accreditation issues” (since 2019 – present). She was part of the team who organized several scientific conferences of the Department of Criminal Law, joint conferences with other departments included.

The overall review of the scientific works of the applicant (2 monographs, 2 chapters in a monograph, 11 articles and 4 studies)¹, along with those specifically intended for the participation in this competition (1 monograph, 4 articles and 4 studies) which are carefully described in the reference form, points at several clearly defined tendencies:

The first one is formal. I am referring to the relative regularity of publication activity over time which is evidence for constant creative efforts and respectively for the results achieved by the candidate. The second one is extremely important and should be emphasized. It is about the interdisciplinary approach used in a number of her studies, it is about the perceived relation between the issues related to criminal law and those related to constitutional, administrative and financial law or the rights of man². This provides evidence that the author of these texts has well

¹ I truly believe that the review of the entire scientific production of the candidate, and not only the works submitted for the participation in the specific procedure, is an important criterion for evaluation in the cases when the candidate is applying for assuming an academic position (academic degree), namely because it is an application for an academic degree – in this particular case “associate professor” – and not just for acquiring a scientific degree. Of course, I have to observe the formal requirements, and I will definitely do that.

² See the carefully described in the reference form articles and studies: “The Principle of Lawfulness and the Administrative Penalty “Detention at a Division of the MoI””; “About Implementing art. 40, para. 2 of the Constitution of the Republic of Bulgaria”; ; „Reasons for Administrative Fines in the Special Part of the Criminal Code (discussion questions); “The Scope of Legal Protection of the Financial System” and others.

understood one of the main specific features and tasks of criminal law, namely to regulate public relations in all spheres of public life; and at the same time this provides proof that the author is not afraid to further elaborate this subject matters, to substantiate and justify with arguments her theses and ultimately to suggest changes, needed for more efficient law enforcement. The third special feature (tendency) is related to the practical aspect of a significant number of publications. These can be grouped in two categories – either through the specifically formulated *de lege ferenda* suggestions – or in the analysis and discussion of specific acts of the Supreme Court instance³. The clearly stated attitude and personal opinion of the author illustrate creative maturity, self-esteem based on knowledge and experience and, last but not least – the understanding that there is need for a connection (interaction) between theory and practice. This is of particular importance in Criminal Law.

The monograph “Freedom of Religion and Criminal Law” is extremely interesting, profound and innovative work which any author should be proud of. Not getting self-important. The author presents a 250-page paper focused on a slightly (not to say barely) researched in the doctrine problem, which, however, is at the base of every civilized society and presents a kind of criterion for its maturity. The understanding that addressing this issue is also a kind of criterion for the maturity of the author is also true. What we need here is not simply analyze the respective constituent elements of the Criminal Code following the familiar scheme: object, objective aspect; subject and subjective aspect. A more comprehensive, profound and challenging analysis is needed, an analysis which would include first and foremost the philosophical base for notions like freedom of thought – freedom of religion – freedom of atheist ideas; a very careful observation and analysis of the relations state – religion and the link of that relation to the individual freedom of each person and all that interpreted in the light of the specific task criminal law and its specific characteristics perform, interpreted as a guarantor of this freedom. It is obvious that this subject matter is something that the author has taken interest in for a long time, that the works are the result of in-depth analysis and the formulated theses are adopted on the basis of reasoning which makes them readable and comprehensible even for the reader that is not tempted by criminal law. The body of the work impresses with its skillful, timely and inevitable referring to, analysis and comment of issues in the fields of the theory of human rights, constitutional law and European law which are closely related to the main topic. It is this, and I will repeat that again, complexity of the work that is deemed the main contribution of the author. The work combines, on the one hand, research based on observing the historical development of the framework, in the context of the changing public environment, and on the other – the comparison of the framework with the European standards with reference to hate crimes. This gives Nikoleta Kuzmanova the possibility to formulate and substantiate the respective specific *de lege ferenda* suggestions which are logical because they are the result of a logically written piece of work and in this way are its logical conclusion. This contribution should definitely be emphasized. I like the interactive approach of the author. The conclusions and suggestions are clearly formulated and it becomes obvious that they are adopted by the author. Along with that, as a true researcher would do, a possibility is presented for the body of the work to provide a

³ See articles: “Tendencies in the Interpreting Activity of General Assembly of the Criminal Bar of the Supreme Court of Cassation after 1991”; “About the Principles of Criminal Law in the Interpretative Decision №3/2015 of the of General Assembly of the Criminal Bar of the Supreme Court of Cassation” and others.

good reason for discussion based on a different perception or different ideas related to the subject matter under consideration. What could be better than that?

It is my conviction that the esteemed reviewers will discuss in detail other more specific contributions in the monograph and therefore I do not have to repeat them here. However, I will repeat the main conclusion, i.e. that the monograph “Freedom of Religion and Criminal Law” is a piece of work which presents its author as a mature researcher who has managed to demonstrate her ability to find, study and analyse problems which are of relevance to the theory of criminal law and to propose changes in the law which will contribute to its improvement. This means that the work contributes to the development of theory and is also important from a practical point of view which earns it a high recognition.

Based on the above stated about the teaching, scientific and organizational qualities of the candidate I give an overall high assessment and without any doubts the following

Conclusion: The entire research and teaching activity of the applicant and in particular the submitted habilitation work give me enough reason to vote in favour of a decision of the academic panel with which it will suggest that the Faculty Council of the Faculty of Law at SU “St. Kliment Ohridski” would vote for appointing chief assistant Nikoleta Kirilova Kuzmanova, doctor of law, an Assistant professor in 3.6. Law (criminal law) in the competition promulgated in State Gazette, issue 30 of 15 April 2022.

18 July 2022

Prof. Lazar Gruev