

## **OPINION**

**by Assoc. Prof. Ginka Valerieva Simeonova, PhD, lecturer at New Bulgarian University**

**Subject: competition for the academic position of Associate Professor in the field of higher education: 3. Social, Economic and Legal Sciences, professional field:**

**3.6. Law (Administrative Law and Administrative Process) at the Faculty of Law of Sofia University "St. Kliment Ohridski",**

**Candidate**

**Ch. Asst. Prof. Kapka Svetoslavova Georgieva – Atanasova, PhD**

### **I. Information about the competition**

The competition for the academic position of "Associate Professor" in the field of higher education "Social, Economic and Legal Sciences", professional field 3.6 Law (Administrative Law and Administrative Process), was published in the State Gazette, no. 92 of 18.11.2022.

On the basis of Art. 4 and Art. 25 of the Law on the Development of the Academic Staff in the Republic of Bulgaria (ADASRB); Art. 57, par. 1-2 of the Regulations for the Implementation of the Law on the Development of the Academic Staff in the Republic of Bulgaria (RILDASRB); Art. 1 and par. 3 of the Regulations on the Conditions and Procedure for the Acquisition of Scientific Degrees and for Holding of Academic Positions at Sofia University "St. Kliment Ohridski" and the decision of the Faculty Council of the Faculty of Law, adopted by Protocol No. 3 of 13.12.2022, by Order No. 38-663/20.12.2022, I have been appointed as an external member of the scientific jury in the announced competition for the academic position of "Associate Professor" in the professional field 3. Social, economic and legal sciences in the professional field, 3.6. Law (Administrative Law and Administrative Process) at Sofia University "St. Kliment Ohridski", Faculty of Law.

In the competition for Associate Professor of Administrative Law and Administrative Process at the Faculty of Law of Sofia University "St. Kliment Ohridski" Ch. Asst. Prof. Kapka Svetoslavova Georgieva-Atanasova, PhD, is the only candidate.

After a meeting of the Eligibility Committee held on 19.01.2023, it was decided that the only candidate in the competition, Ch. Asst. Prof. Kapka Svetoslavova Georgieva-Atanasova, PhD, meets the eligibility requirements under Art. 105, par. 1, items 1-3 and 5 of the RCPASDAPSU.

At the first meeting of the scientific jury held in the announced competition for the academic position "Associate Professor" in the professional field 3.6. Law (Administrative Law and Administrative Process) I was appointed to give an opinion on the materials submitted by the candidate for participation in the competition.

### **II. Information about the applicant**

Kapka Svetoslavova Georgieva-Atanasova received her higher legal education at “St. Kliment Ohridski” University. She has an MA in Law since 2006. Since 2012 she has been an Assistant Professor at the Faculty of Law of Sofia University “St. Kliment Ohridski”, Department of Administrative Legal Sciences, since 2016 – Ch. Assistant Professor in the same department. Since 2015 she is a Doctor of Law with a defended dissertation on “The Administrative Acts of the Energy and Water Regulatory Commission in the field of energy”. Alongside her academic career, Kapka Georgieva-Atanasova worked as an inspector-lawyer in the Directorate “Forfeiture in favour of the State” at the Commission for Illegally Acquired Assets in the period 2006-2012 and as an advisor in the political cabinet of the Deputy Prime Minister for Justice Reform and Anti-Corruption in the period 2017-2019.

According to the submitted self-assessment report, the candidate not only meets, but also exceeds the national minimum requirements for holding the academic position of Associate Professor at Sofia University, in accordance with Art. 2b of the ADASRB and with Art. 1a, par. 1 of the Regulations of its implementation. The candidate collects the following required scores for all groups of indicators set out in the RIADASRB as follows:

- Group from indicators A (50 from 50 required)
- Group from indicators B (100 from 100 required)
- Group from indicators D (122.5 from 100 required)
- Group from indicators D (110 from 50 required)
- Indicators under Art. 112, par. 2 of the Regulations on the Conditions and Procedure for the Acquisition of Scientific Degrees and Academic Positions at Sofia University “St. Kliment Ohridski”:

(a) Additional indicators related to scholarly activities

1. During the academic year 2020/2021, the candidate provides:

1.1. lectures and seminars in administrative law 1.2. lectures and seminars in administrative process 1.3. lectures in international administrative law 1.4. lectures in refugee law 1.5. lectures in administrative law and public administration

2. During the academic year 2021/2022, the candidate provides:

2.1. lectures and seminars in administrative law 2.2. lectures and seminars in administrative process 2.3. lectures in international administrative law 2.4. lectures in refugee law 2.5. lectures in administrative law and public administration

3. During the academic year 2022/2023, the candidate provides:

3.1. lectures and seminars in administrative law 3.2. lectures and seminars in administrative process 3.3. lectures in international administrative law 3.4. lectures in refugee law 3.5. lectures in administrative law and public administration

(b) Additional research-related indicators

1. Participation in the following conferences:

- 135th Anniversary of the Adoption of the Tarnovo Constitution, 2014
- 100th Anniversary of the Supreme Administrative Court, 2014.
- Media in Bulgaria: 30 Years Later, 2019

## 2. Organization of the following conferences:

- 50 Years of the Law on Administrative Offences and Penalties - History, Traditions, Future, 2020.
- The Reform of Administrative Punishment from 2020, 2022

The candidate has a Doctor degree in Law (3.6 Law - Administrative Law and Administrative Process) with the dissertation entitled "Administrative Acts of the Energy and Water Regulatory Commission in the Field of Energy"; She has held the academic position of "Ch. Assistant Professor" for 5.5 years, during which time she has conducted lectures and seminars and is an outstanding practitioner with proven achievements in the field of administrative law and administrative procedure; has submitted a published monographic work "The Proceedings on Granting Protection to Foreigners under the Asylum and Refugee Act" and other publications in specialized scientific journals in the field of the competition with significant scientific contributions that do not repeat those submitted for obtaining the educational and scientific degree "Doctor"; meets the minimum national requirements of Article 2b of the ADASRB for scientific area 3. "Social, Economic and Legal Sciences", professional field 3.6. Law (382,5 out of 300 required), fulfils the additional requirements of Sofia University "St. Kliment Ohridski"; there is no plagiarism in her scientific works proven in the statutory order.

### III. Information on the submitted works

The monograph "The Proceedings for Granting Protection to Foreigners under the Asylum and Refugee Act", Sofia: Nova Zvezda, 2022, ISBN: 978-619-198-168-7, is 299 pages long. Containing 432 footnotes, the author refers to 89 items of scientific literature (monographs, studies and articles) in Bulgarian (76 items), Russian (1 item) and English (12 items).

The monograph thoroughly examines the case law: acts of the administrative courts and the Supreme Administrative Court, as well as the constitutional practice on the issue under study. The monograph consists of an introduction, three chapters divided into sections, a conclusion and a bibliography.

It is an original work, containing valuable scientific contributions, representing the first comprehensive and in-depth analytical study in administrative law theory, which examines the procedures for granting protection to foreigners under the Bulgarian legal framework.

The study is structured in such a way as to pay attention chronologically to the established traditions in our country in relation to the protection of persons coming from other countries and before the establishment of the international regulation in this field. Alongside the domestic legal framework of the issue, the author rightly recognizes that scholarly analyses must also be carried out through a careful reading of international instruments in the field. I approve of the candidate's efforts to substantiate and prove the thesis of the interdependence of the rules related to the procedures for granting protection to foreigners with those regulated in other branches of international law - protection of human rights, humanitarian law, international criminal law, child protection. This approach demonstrates the author's comprehensive knowledge of all relevant institutions necessary for the important and scientific conclusions related to the topic under study.

The monograph logically and clearly outlines the basic principles in the field of protection of foreigners, which are recognized and established in the international and EU legal order, as well as in our domestic law. Particular attention is paid to the prohibition of refoulement (non-refoulement), as it accompanies the entire procedure for granting protection and determines the interpretation and application of many specific rules. The author clearly distinguishes between the different types of protection granted under Bulgarian law. In this regard, two of the types - "asylum" and "refugee status" - are discussed in detail.

In the context of the analysis of the competence of the different state authorities granting the different types of protection to foreigners under Bulgarian law - international protection and asylum - the monograph also focuses on the grounds for granting asylum by the President, and for the first time in the administrative law theory subject of analysis are both the grounds established in the 1991 Constitution and the additional grounds contained in the SAR. The *de lege ferenda* proposals made to refine the provisions of the latter are of exceptional theoretical and practical value.

I consider the author's analysis of the administrative bodies with competence in the field of international protection in its two varieties - refugee status and humanitarian status - and her characterization of the system of state bodies in Bulgaria to be a significant contribution to legal science. In the context of the research made on the main guidelines given by the EU to the Member States in determining to whom powers should be granted and their application in the Bulgarian legal system, PhD Georgieva-Atanasova also critically analyses the issues related to the names of the different state bodies, namely - the lack of a systematic approach in defining them and the difficulties that are created in determining the exact location of a state body, which is essential in terms of the possibilities for control over its acts and actions and to influence the adoption of its decisions.

Special attention is paid in the submission to the executive branch, and in particular to the chairpersons of state agencies. The legal status of the chairperson of the SAR and the deviations in the requirements for the position, which are observed when comparing the special Asylum and Refugees Act and the general Administration Act, are also examined in detail.

The author also thoroughly analyses a question of the utmost theoretical and practical importance, namely whether the administrative authority exercises the powers in the conditions of operational autonomy or in the conditions of bound competence. Examining this aspect of the SAR Chairperson's work as well, the focus is on the power to grant international protection, justifying the view that the legislator has not expressed its will in a clear and unambiguous manner, but it is necessary to derive it by interpretation, which is a prerequisite for the formation of contradictory case law on the issue. The view that the competent authority should issue its acts in the context of binding jurisdiction is justified.

With scientific precision and thoroughness, which show not only excellent theoretical but also practical knowledge, the author analyses all stages and issues of the relevant administrative proceedings on granting, withdrawing or terminating the protection of foreigners. Particular attention is also given to the judicial review of the flawed administrative acts rendered in order to protect the administrative rights of aliens.

The monograph unambiguously focuses on the procedural aspects of the protection of foreigners through a comprehensive study of the procedural rules for granting different types

of protection to foreigners by the Bulgarian state, as well as the possibility of control over the acts of the competent authorities issued in the proceedings, without abandoning the consistent critical analysis of the provisions governing them. The author's elegant approach in analysing the imperfections of the regulation should not distract us from the general systematicity, consistency, thoroughness and comprehensive knowledge and opportunities for well-founded criticism that stand out in the presented monographic work. The own analysis and the presented reasoned view on the analysed issues contribute significantly to the scientific and practical value of the monographic work.

In the realities of the times in which we live, the monograph is particularly relevant and provides concrete proposals for overcoming the problems that arise in the application of the research regime to counterfactual cases. In this regard, I find extremely valuable and timely the proposals for legislative changes *de lege ferenda*, which in many places in the monograph are made by the Ch. Asst. Prof. Kapka Georgieva-Atanasova, PhD.

The candidate also participates in this competition with the following other publications:

**The possibility to impose administrative penalties by individual administrative act.** In. Proceedings of the conference “50 Years of the Law on Administrative Offences and Penalties – History, Traditions, Future”, Sofia, UP “St. Kliment Ohridski”, 2020, pp. 241-251. ISBN 978- 954-07-4975-4.

**On the issue of the legal aid to persons displaced from the Republic of Ukraine.** In: Administrative Justice, 2022 (2), pp. 5-14

**The principles of administrative law according to the Tarnovo Constitution and their content today.** In. 135 years since the adoption of the Tarnovo Constitution, Sofia: Sibi, 2014, pp. 391-403, ISBN 978-954-730-891-6

**Judicial supervision of the operational autonomy of the administration.** In. 100 years Supreme Administrative Court, UP “St. Kliment Ohridski”, 2014, pp. 199-206. ISBN 978-954-07-3794-2

**On the implementation of Article 40, paragraph 2 of the Constitution of the Republic of Bulgaria,** (co-authored with Assoc. Prof. Dr. Nikoleta Kuzmanova). In. “Media in Bulgaria – 30 years later), Sofia: New Bulgarian University, 2020, pp. 101-124, ISBN 978-619-233-143-6, published at <https://law.nbu.bg/bg/publikacii/mediite-vbylgariq-30-godini-pokysno-nacionalna-nauchnoprakticheska-konferenciq>

The submitted for the competition scientific works of Ch. Asst. Prof. Kapka Georgieva-Atanasova, PhD, not only meet but exceed the requirements of the law. They clearly demonstrate the author's ability to prove and analyse her theses through a reasoned and detailed legal analysis. The candidate's scientific works are distinguished by a thorough and comprehensive analysis and the ability to propose adequate and significant concrete solutions in the direction of improving the legal framework and law enforcement. The conclusions, generalizations and proposals *de lege ferenda* contained in the works are not only scientific but also of great practical significance, are fully in line with societal needs and jurisprudence and constitute an undisputed contribution to the field of administrative law and procedure.

I can confidently assert that PhD Georgieva-Atanasova's scientific searches are related to topical issues and certainly contribute significantly to the development of administrative law theory and practice.

#### IV. Personal impressions of the candidate

I have known Georgieva-Atanasova, PhD, since 2012, when I was a PhD student at the Department of Administrative Law of the Faculty of Law of Sofia University "St. Kliment Ohridski". She is an extremely well-prepared professional with clearly expressed and substantiated scientific ideas. Her brilliant theoretical background goes beyond the boundaries of administrative law and process, which helps her to explore problems in depth and to establish with ease the connections and interdependencies in the legal matter. Her practical experience enables her to comprehensively cover and analyse the matter, correctly and timely identifying the deficits in the regulatory framework, to which she proposes concrete and workable solutions. Next, PhD Georgieva-Atanasova is also a dedicated colleague who can always be counted on to respond to a question, scientific discussion or activity. As a member of the Faculty Council of the Faculty of Law, she has demonstrated her decision-making capacity on more than one occasion. In the opinion of her colleagues, her contribution to the development of the Faculty is unquestionable.

She is well respected among students and is perceived as a dedicated lecturer whose theses are presented in an accessible but rigorous logical sequence and clear argumentation. All of this is reflected in her scholarly writings, which display not only a thoroughness of research, scholarly and practical reasoning, but also a love of law in general.

#### V. Conclusion

In conclusion, given the overall assessment of the teaching activity, scientific and practical work of Ch. Asst. Prof. Kapka Svetoslavova Georgieva-Atanasova, PhD, I believe that she fully meets the minimum national requirements of Article 2b of the ADASRB for scientific area 3. "Social, Economic and Legal Sciences", professional field 3.6. Law (382,5 out of 300 required) and the additional requirements of Sofia University "St. Kliment Ohridski", therefore I give my *positive opinion*.

I confidently recommend to the esteemed scientific jury to take a decision to propose to the Faculty Council of the Faculty of Law of Sofia University "St. Kliment Ohridski" Ch. Asst. Prof. Kapka Svetoslavova Georgieva-Atanasova, PhD, to be elected to the academic position of "Associate Professor" in the field of higher education 3. Social, Economic and Legal Sciences, in the professional field 3.6. Law (Administrative Law and Administrative Process).

17.02.2023

Prepared the Opinion:

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