

To the Scientific Jury of the Procedure for
“Associate Professor”
In Constitutional Law
At the Faculty of Law of Sofia
University "St. Kliment Ohridski"

OPINION

in a competition for the academic position of Associate Professor,
announced for the needs of the Faculty of Law of Sofia University “St. Kliment
Ohridski” (SG No. 65 of 28.07.2023) in the scientific specialty Constitutional
Law, field of higher education Social, Economic and Legal Sciences (3.),
professional field Law (3.6.)

Candidate: **Senior Assistant Professor Plamena Dimitrova Penova, PhD**

The opinion is prepared by Prof. Plamen Kirov, PhD

Dear members of the Scientific Jury,

By Order No. RD-38-485/08.08.2023 of the Rector of Sofia University I have been appointed as a member of the Scientific Jury for the competition for “Associate Professor” in Constitutional Law for the needs of the Faculty of Law of Sofia University “St. Kliment Ohridski”. At the first meeting of the scientific jury I was assigned to prepare an opinion.

The only candidate in the competition for the position Associate Professor is Senior Asst. Prof. Plamena Dimitrova Penova, PhD. She is a long-time lecturer at the Faculty of Law of Sofia University. She is a Senior Assistant Professor at the Faculty of Law of the University of “St. Kliment Ohridski”.

According to the the requirements of the Law on the Development of the Academic Staff in the Republic of Bulgaria and the regulations for its application, the candidate has submitted a complete set of documents for participation in the competition. All the legal and regulatory requirements have been complied with in the announcement of the competition.

Plamena Penova graduated from the Faculty of Law of the Sofia University in 2007 with a Master's degree in Law. In 2012, she acquired the educational and scientific degree "Doctor of Law" in Constitutional law at the Faculty of Law of the University of “St. Kliment Ohridski” after successfully defending her dissertation thesis on "Local self-government in the Bulgarian constitutional model after 1991". Since 2015 she has held the academic position of "Senior Assistant Professor" at the Faculty of Law. The candidate in the competition is a conscientious lecturer, she is perceived by her fellow faculty members and students as a dedicated lawyer with a thorough professional knowledge and at the same time as in-depth and thorough scientific researcher.

The professional legal experience of Plamena Penova is related to holding various expert and teaching positions. On the basis of employment contract No. RD22-1294/05.06.2015 until now she is a “Senior Assistant Professor” in the

Department of Constitutional Sciences of the Faculty of Law. She conducts lecture courses and seminars in the discipline Constitutional law, lectures in Parliamentary law in the "Law" specialty, as well as seminar exercises in the "International Relations" specialty. She is also a lecturer at the Academy of the Ministry of Internal Affairs from 2014 until now in the disciplines of Constitutional law, Constitutional foundations of public administration and Local government.

Plamena Penova has also worked in expert positions at the National Revenue Agency, as a legal consultant in private companies, and since 2014 she has been a lawyer. The practical experience gained from the mentioned positions has a beneficial influence on the conduct of Plamena Penova's scientific researches, while at the same time her in-depth legal knowledge is of great benefit in the performance of the mentioned positions.

Plamena Penova is a serious and thorough author with interests in the field of little researched scientific areas such as: constitutional foundations of local self-government, parliamentary and deputy mandate, legal acts of the Council of Ministers, constitutional immunities, parliamentary procedures. She participated in the current competition with a solid quality scientific production of scientific publications: a monograph, 4 studies and 5 scientific articles, developed and published after obtaining the PhD scientific degree.

All of them have been published in established legal publishers and specialized collections. The presented works do not repeat those developed in the procedure for obtaining the scientific degree of Doctor of Law.

The announced competition is necessary for the needs of the Faculty of Law in view of the submitted reference for the teaching of constitutional law and electoral law subjects. The only candidate in the competition Plamena Penova, PhD meets all the requirements for holding the academic position of "Associate Professor in Constitutional law", and the minimum national indicators are met.

The list of publications demonstrates the candidate's deep interest in Constitutional law.

It is evident from the attached reference that the publications of Senior Assistant Professor Plamena Penova, PhD have been cited by numerous authoritative researchers in the field of law, as evidenced by the attached reference.

An independent monographic work on the topic: "The Council of Ministers in the Bulgarian parliamentary model" is presented in the competition. The monograph offers a comprehensive concept and functional analysis of the place and role of the executive branch of government in the person of the Council of Ministers in the parliamentary republican government of Bulgaria, according to the 1991 Constitution.

The monographic work is a comprehensive modern study of the position of the government in the model of parliamentary government established in our country. It takes into account the trends in the relationship between the subjects of the legislative, executive and judiciary that have developed over the last twenty years. These relationships are significantly different in their dynamics compared to the period of the first decade of the 1991 Constitution. Through a very original, thorough and comprehensive approach, Penova, PhD analyzes the application of the principle of separation of powers in its horizontal, vertical and temporal aspects in a parliamentary form of government. The relations of the Council of Ministers are characterized with great precision not only in the classical triad of legislative, executive and judiciary, but also in the government-president configuration. I believe that the presented monograph is an extremely rich theoretical thesis, conclusions and proposals scholarly work that reveals parliamentary government not only as an institutional static, but also as a dynamically functioning system of state governance. In this sense, the practical value and utility of the work is extremely high.

Structurally, the monograph includes an introduction, four chapters, a conclusion and a list of references. The volume of the study is over 500 pages and the bibliography is respectably rich. There is a comprehensive and thorough examination of numerous scholarly studies, constitutional and case law, parliamentary precedents and specific acts of government, which enable a comprehensive examination of the exercise of executive power. The systematics of the work are good, which prevents falling into repetitions and at the same time contributes to the construction of serious scientific constructions and thoroughness in their justification and presentation.

The first chapter of the monograph presents and explains the form of state government in the Republic of Bulgaria and the place of the Council of Ministers in it. The constitutional legislator defines our state as a republic with parliamentary government. The author of the monograph systematically clarifies the defining elements of this government, as well as its national peculiarities, which distinguish it from other European parliamentary models. Numerous factors (political system, political regime, dynamics of political changes, etc.) that influence the functioning of parliamentary government in Bulgaria are examined. According to Penova, PhD specific political factors prevent the creation of stable traditions in the national model of parliamentary governance and move us away from the classical models. Interesting in this respect is the analysis of the hypothesis in which the parliamentary elected government remains beyond the reach of parliamentary control, thus avoiding political responsibility for the actions of the state administration.

The scientific work examines the relationships within the triangular configuration parliament-government-president, as well as the relations of the Council of Ministers with the Constitutional Court and the judiciary. It examines the process of executive power formation based on the political trust of parliament in consolidating a parliamentary majority that elects and supports the government.

A special place is given to the analysis of the so-called shared powers of the Council of Ministers and the President, which characterize our model of parliamentary government and give it a kind of hybrid character. The author's thesis that the existence of a special caretaker government does not lead to a retreat from the parliamentary form of government is interesting.

The Second Chapter is devoted to the constitutional position of the government. First of all, the content of the concept of government is clarified. It analyses the institutionalisation of the Council of Ministers with its constitutional structure, mandate and powers. A special place is given to the procedure of forming a government and its deficiencies are thoroughly identified and described with a view to practical examples. The author's reflections on the place and role of the government's political program as a determinant of the priorities of state governance are of a contributory nature. The comparison of "negative" and "positive" parliamentarism is interesting, as well as the study of the role of the Bulgarian president in the procedure under Article 99 of the Constitution.

The proposed classification of the governments has an indisputable contribution. The various types of government are characterized on the basis of political and legal criteria, the system of which is an original scientific construct.

The competence, activities and acts of the Council of Ministers are discussed in chapter three of the scientific work. The author rightly foregrounds the study to the functions of government and their determining role in relation to the competence and acts of government. The acts of the government - their legal nature and legally - the political consequences they give rise to are systematically and thoroughly examined.

Particularly interesting are the author's reflections regarding the orders of the Council of Ministers and its rules of procedure. The justified and reasonable idea of adopting an independent Law on the Council of Ministers has a contributory nature and character. This idea is also relevant in the context of the proposed successive amendments to the Constitution.

The responsibility of governments is discussed in the last chapter of the scientific work. Here, the individual forms of parliamentary control are characterized, analyzing all aspects of ministerial responsibility - political and legal.

The studies and articles with which Plamena Penova participated in the competition have a high scientific value. The article dedicated to the normative acts of the government is interesting and topical. It systematically examines the various acts of the Council of Ministers, defines their legal nature and their legal consequences. Another current and interesting topic that found a place in the publications is that of the various immunities and the problems – moral, ethical, political and legal – that our modern times projects on them. The study "Termination of the mandate of the National Assembly" is also of a contributory nature with a view to clarifying the constitutionally limited grounds for terminating the powers of the representative body. Also highlighted is the study "Constitutional Guarantees of the Right to Local Self-Government", which links the constitutional principles and mechanisms of self-government to the requirements of the European Charter of Local Self-Government.

The scientific works presented by Plamena Penova are distinguished and characterized by the following features: they refer to both fundamental and poorly researched problems of constitutional law; cover topics of important theoretical-applied importance; were developed using knowledge from extensive and broad comparative law analyses.

The quality of the candidate's scientific works presented in the competition fully meet the requirements of the law. They contain numerous scientific contributions. The publications have not only theoretical, but also substantial practical significance. Plamena Penova demonstrates a high ability to formulate and argue her scientific theses.

In the presented scientific works there are individual inaccuracies and poorly argued theses. In some places there is also an unjustified refusal to

engage in scientific polemics. These minor weaknesses are not of a nature to affect the numerous contributions and indisputable merits in the candidate's publications. The analysis of Plamena Penova's scientific achievements leads to the conclusion that they are a novelty in constitutional law science and enrich the existing knowledge in this area of legal doctrine. In general, scientific developments are distinguished by precision and thoroughness.

Considering the analysis and the conclusions in this opinion on the scientific works presented in the competition, I categorically stand by the opinion that the candidate Plamena Penova meets all the requirements of the Law on the Development of the Academic Staff in the Republic of Bulgaria for holding the academic position "Associate Professor". Therefore, with firm conviction, I recommend to the respected scientific jury to make a decision and to propose the election of Penova, PhD to the academic position of "Associate Professor" in Constitutional Law - professional field 3.6. Law, field of higher education 3. Social, economic and legal sciences.

Conclusion

In view of the contributions in the presented works, the overall scientific creativity and the long-standing teaching activity of the candidate, I recommend the respected members of the scientific jury to vote positively for the decision to propose to the Faculty Council of the Faculty of Law of SU "Kliment Ohridski" to elect Plamena Dimitrova Penova to the academic position "Associate Professor" in the scientific specialty Constitutional Law.

Sofia
08.11.2023

Prepared the opinion:
Prof. Plamen Kirov, PhD