

OPINION

By Assoc. Prof. Natalia Vasileva Kiselova, PhD

In an announced competition for the academic position of “Associate Professor” in the professional branch: 3.6. Law (Constitutional Law) at the Law Department of St. “Kliment Ohridski” Sofia University,

Published in State Gazette, 65/28.07.2023

I. Information about the candidate in the procedure

1. By order # ПД 38-485 of 08.08.2023 of the Chancellor of “St. Kliment Ohridski” Sofia University (SU), I have been appointed as a member of the scientific jury for filling a vacancy for the academic position of "Associate Professor" at Sofia University in the field of higher education: 3. Social, economic and legal sciences, professional branch: 3.6. Law (Constitutional Law), announced for the needs of the Department of Constitutional Legal Sciences (CLS) of the Law Department (LD) of the SU. For the vacancy announced in the State Gazette, 65/28.07.2023, and on the SU website, documents were submitted by Chief Assistant Professor. Plamena Dimitrova Penova, PhD, the only candidate, lecturer in the Law Department at the Sofia University. All documents and the development of the procedure are in accordance with the requirements of the legislative and university acts for the development of the academic personnel.

Chief Assistant Professor Plamena Penova, PhD, has been a teacher at the Law Department of “St. Kliment Ohridski” University since 2015. The candidate completed her higher legal education at the Faculty (2007) and was later a PhD. student at the Department of Constitutional and Legal Sciences (2008-2012). She has been a PhD in Law since 2013 in the scientific specialty: Constitutional Law, with the topic of the dissertation "Local self-government in the Bulgarian constitutional model after 1991" (Diploma No. SU 2013-132/25. 10. 2013). She successively passed through the academic positions of part-time assistant professor (2014) and Chief assistant professor (from 2015 to the present). During the attestation of the academic staff of the Law Department in the period 2015-2022, this was evaluated with excellent results.

Chief Assistant Professor Plamena Penova, PhD, actively participates in the activities of the Law Department of “St. Kliment Ohridski” SU. From 2019/2020, she has been a lecturer in the compulsory discipline "Constitutional Law" in the specialty: Law, part-time mode of

attendance, at the SU, and in the "Police" Department of the Academy of the Ministry of Internal Affairs.

Currently, the candidate teaches at seminars and/or reads lectures in the specialty: Law - full-time and part-time at the Law Department.

2. Along with her academic commitments, Chief Assistant Professor Plamena Penova, PhD, is an attorney at the Burgas Bar Association.

3. Within the framework of the vacancy for the academic position "Associate Professor", Chief Assistant Professor Penova has submitted a list of all publications for in the vacancy, an author's report on the contributions, a report on the fulfillment of the minimum national requirements under Art. 2b of Development of the Academic Personnel in the Republic of Bulgaria Act for scientific field: 3. Economic, social and legal sciences Professional branch: 3.6 Law, and references of citations with a full bibliographic description of the cited and citing publications.

4. I know the candidate personally. Her enrollment in the department as a PhD student, and later her appointment as a full-time assistant, gave us the opportunity to work together since 2008.

Ms. Penova is tolerant in her relationships with her colleagues, and is a patient and dedicated teacher, respected by the students.

She participates in the promoting constitutional law science among students. She is distinguished by a marked thoroughness and theoreticity of her research, which is increasingly rarely found in the publications of younger legal scholars.

II. Scientific research activity

1. The candidate in the procedure submitted for review:

1.1. Monography "The Council of Ministers in the Bulgarian Parliamentary Model", Sci. Ed. Kapka Georgieva - Atanasova, Baltika-2002, B., 2023, 556 p., ISBN 978-619-7353-73-0.

1.2. **Nine scientific articles** and studies in the field of Constitutional Law:

1.2.1. "The normative enactments of the Council of Ministers. Essence and features" // - In: Constitutional studies 2018. Current trends in democratic constitutionalism, Scientific ed. Prof. Plamen Kirov, D.Sc., 2021, pp. 135-149, ISBN 978-954-07-5183-2.

1.2.2. "Constitutional principles and their reflection in local self-government in Bulgaria" // - In: Application of constitutional principles in public and private law. Jubilee international scientific conference, on the occasion of 25 years of the Law Department of St.

St. Cyril and Methodius VTU and 25 years since the adoption of the Constitution of the Republic of Bulgaria, 6-7 Oct. 2016, Sci. Ed. Prof. Tsvetan Sivkov, St. St. Cyril and Methodius University Publishing House, V. Tarnovo, 2017, pp. 165-174, ISBN 978-619-208-118-8.

1.2.3. "Constitutional legal aspects of parliamentary immunity" // - In: Constitutional studies 2014-2015. 25 years of democratic transformation, St. Kliment Ohridski University Publishing House, S., 2017, pp. 432-450, ISBN 978-954-07-4298-4.

1.2.4. "On the election of mayors in the Bulgarian model of local self-government" // - In: Constitutional Studies 2014-2015. 25 years of democratic transformation. St. Kliment Ohridski University Publishing House, S., 2017, pp. 157-174, ISBN978-954-07-4298-4.

1.2.5. "Local self-government under the effect of the Tarnovo Constitution" // - In: 135 years since the adoption of the Tarnovo Constitution. Compilation from a scientific conference dedicated to the 135th anniversary of the Tarnovo Constitution., comp. and edited by Prof. Vasil Mrachkov, D.Sc., Sibi, S., 2014, pp. 299-311, ISBN 978-954-730-891-6.

1.2.6. "Immunity of political representatives - comparative aspects and contemporary trends" // - In: Constitutional studies 2017. "Post-democratic" constitutionalism, compiled and edited by Prof. Plamen Kirov, St. Kliment Ohridski University Publishing House, S., 2021, pp. 135-161, ISBN 978-954-07-5179-5.

1.2.7. "Immunity in the current constitutional law of the Republic of Bulgaria - types and legal framework" // - In: Constitutional studies 2016. 70 years of the Republic, compiled and edited by Prof. Plamen Kirov, D.Sc., St. Kliment Ohridski University Publishing House, 2018, pp. 126-162, ISBN 978-954-07-4556-5.

1.2.8. "Constitutional guarantees of the right to local self-government" // - In: Constitutional studies 2012-2013. Constitutional protection of fundamental rights and freedoms, St. Kliment Ohridski University Publishing House, S., 2014, pp. 341-366, ISBN 978-954-07-3786

1.2.9. "Termination of the mandate of the National Assembly", IN PRINT, Law Journal of the New Bulgarian University, ISSN 1314-5797.

The teaching and scientific activity of Chief Assistant Professor Plamena Penova, PhD, comply with the conditions provided for in art. 24 of Development of the Academic Personnel in the Republic of Bulgaria Act and the requirements of the Regulations for the Implementation of the said Act, as well as the conditions under Art. 105 of the aforementioned Regulations for occupying the academic position of "Associate Professor" at the Law Department of the St. Kliment Ohridski Sofia University.

2. The main scientific contributions in the field of Constitutional Law, contained in the monography presented as the main habilitation thesis, "The Council of Ministers in the Bulgarian Parliamentary Model", should be explicitly noted:

2.1. The monographic work is the third independent and comprehensive study in Bulgarian constitutional law science, dedicated to the government (Council of Ministers) as an institute of Constitutional Law. Stefan Balamezov wrote a three-volume edition on Comparative and Bulgarian constitutional law, which went through five editions in the period 1935-1948 and was reissued in 1993. The first volume is dedicated to the Tarnovo Constitution and the executive power and is entitled "The Bulgarian Constitution. The role of government. President. Council of Ministers.". The first independent book of St. Balamezov is also dedicated to the subject of executive power in the conditions of a monarchy - "Ministers - their role and their power - in the parliamentary monarchy" (S., Iskra press, 1914. 132 p.). The second lawyer who worked on the subject is Boris Spasov. His publications "Issues of executive power" (S., Siela, 1998, 108 p.) and "Executive power" (S., Siela, 2001, 124 p.) are devoted to the main provisions of the regulation after the entry into force of the current national constitution before 1991

The publications of contemporary authors E. Tanchev¹, G. Bliznashki², Pl. Kirov³, Tsv. Sivkov⁴, M. Belov⁵ and others are of great significance as well.

2.2. The monograph "The Council of Ministers in the Bulgarian Parliamentary Model" submitted in the present procedure is the first independent monographic study in constitutional law theory dedicated to the Council of Ministers. It comprehensively examines the topic of the government and its functioning in the model of parliamentary government established by the Constitution of the Republic of Bulgaria from 1991.

The monograph examines arrangement at constitutional level, the theory and practice of the issues presented through the prism of the horizontal division of powers and the established executive power in the form of the government as a state body and political institution. At the same time, the multi-aspect public law character of the researched topic and its complexity make it mandatory for the inclusion of knowledge from other legal branches, which achieves a

¹ Introduction to Constitutional Law. S., Sibi, 2003, 480 p.

² The constitutional position of the government. - Modern Law, 1994, No. 2, 7-23; Council of Ministers. S., St. Kliment Ohridski University Publishing House, 2021, 88 p.

³ The President in the Bulgarian constitutional model. S., Sibi, 2004, 320 p.; Establishment of the representative government in Bulgaria. S., Siela, 2015, 556 p.

⁴ Centralization and decentralization in state administration. (An attempt at a theory of public administration). S., Society of European Law, 2015.

⁵ The institutions of executive power in continental European constitutionalism. S., Sibi, 2013, 536 p.

complete and thorough look of the research. Furthermore, the monograph considers the need for research and the practical aspects of the issues related to the status and activities of the Council of Ministers, and the interaction of the government with the institutions of public power in the parliamentary model of the Republic of Bulgaria in the conditions of rationalised parliamentarism. Therefore, the subject of the formation and functioning of the government has been studied both in the legal-theoretical and in the context of the political-practical.

2.3. The adopted form of government is determined by the way in which the political institutions in the country are configured and interact, and more precisely, by the ratio between the legislative and executive powers. In this aspect, the institutional structure of the executive power in each individual country is important. In the parliamentary form of government adopted in the European republics, the executive power is predominantly led by a collective government headed by a prime minister (chairperson of the Council of Ministers), while the head of state is removed from exercising real executive power and authority, and in most parliamentary democracies they are only nominal and representative.

2.4. The monograph also traces the characteristics of the model of parliamentary governance in Bulgaria. Although elements of rationalised parliamentarism were adopted with the Constitution of 1991, it is the government precisely that is connected with the "deviations" of the Bulgarian model compared to traditional models of European parliamentarism. We can see the deviations both in relation to the procedure for creating a government by parliamentary means, and in relation to the possibilities for the various constitutional states of the bearer of executive power, as well as the possibility of forming an official government by the head of state. The impossibility of the parliamentary government to dissolve the National Assembly ahead of schedule makes the parliament constitutionally and politically dominant in relations with the cabinet. The monograph analysis of the relationship between the National Assembly and the Council of Ministers shows the statics and dynamics of the functioning of the parliamentary model in Bulgaria.

2.5. The Council of Ministers is the most complex constitutional body among those of state power from the point of view of the diversity of its manifestations, structure, composition and forms of activity, which arise from its special constitutional and political status, established by virtue of the legal framework in the Basic Law of the country, and has no analogue among other bodies in the constitutional system. The complex nature of government shows both its political nature and its legal "identity" as the holder of executive power in the state and part of the administration.

The emphasis of the monograph is the constitutional aspects of the arrangement of the government (formation, composition, structure, functions, acts, responsibility). A number of proposals *de lege ferenda* have been made.

3. There are also contributing moments in the other publications presented by the candidate in the procedure, which I have grouped at my discretion:

3.1. Regarding local self-government (*article* "Constitutional principles and their reflection in local self-government in Bulgaria" // collection Application of constitutional principles in public and private law: jubilee international scientific conference, on the occasion of 25 years of the Law Department of St. St. Cyril and Methodius VTU and 25 years since the adoption of the Constitution of the Republic of Bulgaria, Oct. 6-7, 2016, St. St. Cyril and Methodius Publishing House, V. Tarnovo, 2017, pp. 165-174, ISBN:978-619- 208-118-8; *article*: "On the election of mayors in the Bulgarian model of local self-government" // Constitutional studies 2014-2015. 25 years of democratic transformation in the Republic of Bulgaria. St. Kliment Ohridski University Publishing House, S., 2017, with .157-175, ISBN 978-954-07-4298-4; *article*: "Local self-government under the effect of the Tarnovo Constitution" // 135 years since the adoption of the Tarnovo Constitution, Compilation from a scientific conference dedicated to the 135th anniversary of the Tarnovo Constitution, editor/s: Prof. Vasil Mruchkov, D. Sc., Sibi, 2014, pp. 299-311, ISBN 978-954-730-891-6; *studies* "Constitutional guarantees of the right to local self-government" // Constitutional studies 2012-2013. Constitutional protection of fundamental rights and freedoms, St. Kliment Ohridski University Publishing House, S., 2014, pp. 341-366, ISBN 978-954-07-3786-7).

The presented articles and studies analyse the historical and contemporary aspects of the constitutional foundations of local self-government.

3.2. Focus on the legal institute "immunity" (*article* "Constitutional legal aspects of parliamentary immunity" // Constitutional studies 2014-2015. 25 years of democratic transformation in the Republic of Bulgaria, St. Kliment Ohridski University Publishing House S., 2017, pp. 432-451, ISBN 978-954-07-4298-4; *studies* "Immunity of political representatives - comparative aspects and contemporary trends" // Constitutional studies 2017. "Post-democratic" constitutionalism, St. Kliment Ohridski University Publishing House, S., 2021, ISBN 978-954-07-5179-5, pp. 135-161; *studies* "Immunity in the current constitutional law of the Republic of Bulgaria - types and legal framework" // Constitutional studies 2016 70 years of the Republic, St. Kliment Ohridski University Publishing House, 2018, pp. 126-162, ISBN 978-954-07-4556-5).

The publications submitted analyze a legal institution that goes beyond the limits of the constitutional framework and has a significant social and political significance.

3.3. Emphasis on the executive power (article "The legislative enactments of the Council of Ministers. Nature and features" // Constitutional studies 2018. Current trends in democratic constitutionalism. St. Kliment Ohridski University Publishing House, S., 2021, pp. 135 - 149, ISBN 978-954-07-5183-2).

The development of the secondary legislation of the government raises new challenges to the legislative activity and the detailed regulation of public relations. On the border with administrative law, with the increase of the secondary legislation being created, this topic will become more and more relevant in the future.

3.4. Problems of representative governance (study "Termination of the mandate of the National Assembly" // in print, Law magazine of the New Bulgarian University, ISSN 1314-5797).

The author gives possible permissions to the questions posed in the publication. The topic is also relevant in view of the possible constitutional revision in the constitutional debate that has started.

4. Pursuant to the latest changes in the Development of the Academic Personnel in the Republic of Bulgaria Act (amend., SG, 30/2018, in force from 04.05.2018) I find a scientific contribution in the submitted publications; there is originality of ideas in the works submitted under the procedure, credibility of the scientific data in the publications submitted by the author, Penova, PhD.

5. Critical remarks and recommendations

Specific remarks and recommendations can be made to the publications presented in the procedure or a different opinion can be expressed. However, this is part of the academic dialogue that should be conducted in the field of academic publications.

Posts show thoroughness, good legal language, and an independent opinion as a citizen and lawyer.

CONCLUSION

The documents and materials, as well as the habilitation thesis, presented by Chief assistant professor Plamena Dimitrova Penova, Ph.D, for the vacancy for the academic position of "Associate Professor" in Constitutional Law meet all the requirements of the Development of the Academic Personnel in the Republic of Bulgaria Act, the Rules for the Implementation of the said act and the Rules for the Terms and Conditions for acquiring scientific degrees and occupying academic positions at „St. Kliment Ohridski“ Sofia University. They contain

scientific contributions that have been published in the presented monograph, in journals and in scientific collections. Theoretical developments also have practical applicability. Penova's scientific and teaching qualifications are unquestionable. Based on this, I find it reasonable to give my positive assessment and confidently recommend to the Scientific Jury to prepare a report-proposal to the Department Council of the Law Department of the Sofia University for the election of Chief Assistant Professor Plamena Dimitrova Penova, PhD, to the academic position of "Associate Professor" at St. Kliment Ohridski Sofia University by field of higher education 3: social, economic and legal sciences, professional branch: 3.6 Law (Constitutional Law).

9 November 2023

Assoc. Prof. Natalia Vasileva Kiselova, PhD