

OPINION

Regarding the competition for academic position “Associate professor” of Criminal Law with applicant Dr NIKOLETA KIRILOVA KUZMANOVA

By Associate professor Dr Daniela Doncheva, Faculty of Law at PU “Paisii Hilendarski”

With Order ПД-38-255/23.05.2022 issued by the Rector of SU “St. Kliment Ohridski” I was appointed member of the academic panel for the competition promulgated in State Gazette, issue 30 of 15 April 2022 by Sofia University “St. Kliment Ohridski” for the assumption of the academic position “Associate professor” of Criminal law, area of study 3. “Social Sciences, Economics and Law”, professional field 3.6. (Law). Only one applicant has submitted documents for the competition – Chief assistant Dr Nikoleta Kirilova Kuzmanova.

Chief assistant Dr Nikoleta Kirilova Kuzmanova has graduated in Law from the Faculty of Law at Sofia University “St. Kliment Ohridski”. She has worked as assistant at the Faculty of Law at Sofia University, Department of Criminal Law Studies and as chief assistant since 2012.

In 2014 she successfully defended her doctoral dissertation on the topic: “Legal Protection of the Political Rights of Citizens” and was awarded educational and scientific degree “doctor”.

Chief assistant Dr Nikoleta Kuzmanova has acquired extensive experience as expert in the field of law while working for the legislative and executive branches of the Republic of Bulgaria, she has participated in various commissions and working groups for drafting legal acts.

The applicant has long teaching experience and good organizational and communicative skills. She stands out with excellent professional qualities in teaching legal subject matter and in conducting in-depth scientific research into the topics she works on.

Chief assistant Dr Nikoleta Kuzmanova meets the requirements set forth in the Law for the Development of the Academic Staff in the Republic of Bulgaria and she was admitted to participation in the competition with a good reason.

For her participation in the current competition she has submitted a list with publications – four articles, four studies and one monograph entitled “Freedom of Religion and Criminal Law”. The monograph has 243 pages.

The monograph consists of introduction, three chapters and a conclusion, a list of quoted literature.

In **Chapter One**, the author analyses the legislative decisions in the constitutional framework for strengthening the freedom of religion and the impact on the content of this framework regarding the relationship between the state and the religious institutions during the different historical periods, as well as on the relevant international and European standards. The chapter presents an explanation of the legal content of the concepts “faith”, “religion”,

“creed”, “denomination” in the constitutional framework in different historical periods and their relevance to the legal framework.

Chapter Two is dedicated to the legal protection of freedom of religion as a guarantee for its normal execution. It encompasses both the protection of the free choice of religion and of the external behavior which is a manifestation of this choice. The research presents a comparison between the setting up and the development of this protection in the 1896 Criminal Law to the active regulation in the Penalty Code today. The presented analysis is structured according to the types of crimes which are of importance to the subject matter discussed while observing the generally accepted standard for clarifying the features of constituent elements along with recognizing the connection between the respective penalty law and the constitutional framework of the freedom of religion during the respective historical period.

Chapter Three studies the importance of criminal law as part of the legal framework concerning the freedom of religion as a legislative mechanism for guaranteeing the efficiency of the bans and restrictions related to this freedom. They embody the boundaries of separation of the state and the law from the religious institutions and religion. The setting up and development of the framework of bans and restrictions is based both on the protection of the state interest from non-intervention of religions institutions in the state governance and of the public interest through creating real boundaries for observing constitutional principles for equality, fairness and tolerance in the rule of law state. Analysis has been conducted of the reasons for bans and restrictions which are the criteria for evaluating the legislative framework concerning their violation. The author outlines several possible approaches – through the setting up of independent constituent elements of violations or through the implementation of the existing ones of the respective type of violation. The assessment is based on the importance of the value at which the specific reason for ban or restriction concerning the freedom of religion is aimed at.

The conclusion contains the most important conclusions drawn in the research.

The habilitation paper is the first research into the legal protection of the freedom of religion. The author has conducted an in-depth analysis into the historical development and into the modern legal framework of the protection of one of the main freedoms – that of religion as a constitutional one.

The author skillfully uses the technique to analyse a specific subject matter, develops it from a historical and modern point of view and subsequently formulates a conclusion which is fully justified and represents a summary of the research or provides an answer to a question that has been raised. The author has clearly and distinctly formulated an opinion which is not made simply for the sake of it. The text is well-structured and easy to read.

There are a few contributions that can be outlined in the monograph:

This is the first fully monographic research into the Bulgarian criminal law theory which views in detail the legal protection of the freedom of religion as a guarantee for its regular manifestation and the subject matter related to the legal liability concerning the violation of constitutional bans and restrictions related to expressing this freedom.

A detailed comparative analysis of the used terminology is made. The constitution and the laws use the terms – “faith”, “religion”, “creed”, “denomination” and their derivatives. A conclusion related to their identity is drawn. Based on that conclusion suggestions are made

aimed at harmonizing the terminology in the national legal framework which is in line with international and European standard relevant to the legal framework of the freedom of religion. It is suggested that “freedom of religion” should be adopted as the name of the main freedom of man.

The research presents an analysis of the legal framework and the theoretical understanding of the content of the freedom of religion as a key freedom concerning their relation with the state – religious institutions relationship during the respective historical period and on that basis the boundaries within which the state develops its legal regulation are outlined.

In view of the conclusion that the legal framework needs improvement, some changes are suggested, namely all crimes against freedom of religion should be grouped within section III, chapter three of the Specific part of the Criminal Code; the formulation of the constituent elements which envisage criminal liability for the participation in an organization or a group set up to commit crimes against the freedom of religion; the constituent element of the crime “desecration of a religious building or a religious symbol” should also be changed and the author has developed certain guidelines in that respect.

The work stands out with the profound analysis of the subject matter discussed, the accuracy of the terminology used. This is why I think that it would be appropriate if the author is more specific when using the term “victim” with reference to “religious institutions as a type of religious association”. I also believe that it would be interesting if special attention is paid to the terms from the Criminal Code “racist” and “xenophobic” motives when formulating a special constituent element of a crime and whether “religious” motives feature should be envisaged.

The professional and academic background of Chief assistant Dr Nikoleta Kirilova Kuzmanova, her teaching experience, professionalism and personal characteristics fully meet the requirements of the Law for the Development of the Academic Staff of the Republic of Bulgaria for assuming the position “associate professor”.

Having studied the materials and scientific works submitted for participation in the competition and having analysed their importance and the scientific contribution, I believe that Chief assistant Dr. Nikoleta Kirilova Kuzmanova meets the requirements for assuming the academic position “Associate professor” in academic field of study 3. “Social Studies, Economics and Law”, professional field 3.6. “Law”, specialty “Criminal Law”.

I give a positive assessment of the teaching and research activity of Chief assistant Dr. Nikoleta Kirilova Kuzmanova.

I recommend that the Academic panel advise the Faculty Council at the Faculty of Law that it should vote in favour of appointing Chief assistant Dr Nikoleta Kirilova Kuzmanova to the academic position “associate professor” at the Faculty of Law at SU “St Kl. Ohridski”, academic field of study 3. “Social studies, Economics and Law”, professional field 3.6. “Law”, specialty “Criminal Law”.

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/Assoc. prof. Dr Daniela Doncheva/