

OPINION

On the scientific publications of Iva Dimitrova Pushkarova, PhD, candidate for the academic position 'Associate Professor' in Criminal Law in the Department of Criminal-Law Sciences of the Law Faculty of the Sofia University 'St. Klement of Ochrid'

by Ass. Prof. Juliana Mateeva, PhD, ass. prof. at the Varna Free University 'Chernorizets Hrabar' and the South-West University 'Neophyt Rilsky' – member of the academic jury

I am appointed member of the Academic Jury by Order № RD-38-182/21.04.2023 of the Sofia University Rector in the present competition procedure for the academic position 'Associate Professor' in higher education field 3.6. Law (Criminal Law) for the purposes of the Law Faculty, Department of Criminal-Law Studies, as announced in SG Issue No:24/17.03.2023. I present this Opinion in execution of this Order.

The only admitted candidate is Iva Dimitrova Pushkarova, PhD.

She has a very impressive biography, which initiates with a master degree in law by the Law Faculty of the Sofia University and a degree in history as a second specialty, as well as specialisation in English and EU law in the University of Cambridge. In December 2008 the candidate successfully defended her PhD thesis entitled 'Forms of Organised Crime under the Criminal Code of the Republic of Bulgaria' in the Sofia University. In 2012-2017 Dr. Pushkarova was Executive director of the Bulgarian Judges Association till 2011 and Head of the Pardons Committee with the President of the Republic during 2012-2017. She was the leading author of the State Concept for Criminal Policy, 2009-2010, the State Concept for a New Criminal Code, 2009, and the State Concept for Juvenile Justice Policy, 2011, as well as Member of the 2009-2011 Minister of Justice Working Group on Drafting a New Criminal Code. Since 2005 she has been a consultant to the Council of Europe and European Commission on issues of criminal-justice reform initiatives in a number of European states and on the monitoring of the implementation of EU directives, as well as an expert or a manager of more than 100 study projects conducted by various Bulgarian and international organisations and institutions. For a long period of time she has been a guest-professor at the National Institute of Justice. In 2012 she was awarded the Sofia University 'Young Scholar' Award.

Since 2010 Iva Pushkarova has been teaching Criminal Law in the specialty 'Law' and International Criminal Law in the specialty 'International Relations' and 'Law' in the Law Faculty of the Sofia University (as ch. ass.). Since 2011 she has been conducting Criminal Law courses in the Ministry of Interior Academy, and since 2012 - as Assistant Professor there.

The reference to the science-metric indicators of Dr. Pushkarova - a total of 425 metric points to which the publications under review correspond – is consistent with the minimal requirements for the academic position 'Associate Professor' (300 points).

The Citations check-list indicates the impressive number of over 150 identified references to her publications, which exceeds multiple times the minimal requirements.

The summary list of the candidate's publications is very convincing. It includes: 5 monographies, 4 of which in individual authorship, 29 book chapters, 8 books, 9 studies, 3 textbooks, and 71 articles. Out of them, with view of meeting the minimal national requirements within the meaning of Article 26, subparagraph 2 and Article 4, subparagraph 1 of the LDAPRB, the following are presented for review: 11 publications, including 1 monography, 3 studies, and 6 articles. All of them must be accepted for review as none of them repeats or is integrated in the habilitation thesis or the PhD dissertation thesis.

As an author, Dr. Pushkarova does not resist difficult or provocative topics. By itself, the choice to write on the issues of pardon in succession to authors such as Dr. Aleko Konstantinov and prof. Boris Velchev, Dr.Sc., reveals academic courage. The *monography 'Pardon in the Bulgarian Criminal Law and in the Practice of the Head of the State'* (S.:Siela, 2020, 407 pages) allows that a huge variety of contributions with doctrinal significance be outlined. For example – the historical periodization of pardon; the classification of the types of pardon according to their impact over the legal relations of penalty execution and the past-conviction status of the person with respect to the type of the penalty; the priority of the regular institutes for alleviation of criminal oppression over pardon; pardon by means of substitution of the life penalties; the identification and description of the phenomenon 'collective pardon'; the substantiation of the thesis that probation measures cannot be independently pardoned either as elements of the penalty of probation, or as measures imposed during the probation periods of conditional imprisonment and conditional preliminary release; the well-defended *de lege ferenda* proposals. At the same time the contributions bear distinctive practical relevance. Such examples are: the methodology for recognition of the exceptionality of pardon in various fact situations; the established system of minimal criteria and approaches defining a standard for recognition of pardon applicability and assessment of the presence of grounds justifying pardon; the integration of the Bulgarian experience as a best practice within the ECtHR standards; the description of the conditions for pardon in cases of different types of penalties and at different stages of penalty execution where grounds for pardon may occur; the systematization of violations of fundamental legal principles which may justify pardon. All of these achievements determine the high appreciation of the habilitation thesis under review and have properly been reflected in the self-assessment Author's Presentation of Achievements.

The study entitled '*Abduction in Cummulation with Other Crimes: Jurisprudence Problems of Legal Qualification and Penalty Individualisation*' identifies and offers solutions to a number of various practical issues in respect to the correlation of the crime of abduction to other types of criminal offenses - extortion, robbery, murder, criminal exposure to risks of harm to life or health, illegal imprisonment, sexual crimes, taking hostage, human trafficking, hooliganism, and etc. Discussion is focused on different approaches towards

the construction of the legal qualification and the types of concurrent crime. Author's conclusions have high practical value and rest only upon factual situations which have been established by the Bulgarian courts.

The study entitled '*Serial Crime in Bulgaria: Criminological Characteristic and Judicial Practice*' uses interdisciplinary approach by applying combined criminological, legal, psychological, and historical analyses to all cases in the Bulgarian practice during the second half of 20th century. As the phenomenon is exceptionally rare and understudied, the greatest significance should be – and rightfully has been – attached to the practical scientific aspects of serial crime which exactly have drawn the author's attention, with, however, due respect to the relevance of the theoretical aspects. Serial-crime cases from the Bulgarian practice have been organised in a typology and criteria for recognition of the phenomenon in borderline cases have been developed; factors which provoke the phenomenon have been outlined; systematic analysis has been applied to outline the serial-crime features, perpetrator's profile and evolution of criminal motives and *modus operandi* in the mechanisms of the series.

The study entitled '*Recovery and Reflection Period Granted by the International and EU Law to Victims of Human Trafficking: European Practice*' presents a doctrinal definition of the institute and distinguishes it from the residential rights of a foreigner while he/she is present within the territory of a receiving state. The dual nature of the recovery and reflection period as designed to respond both to the protection needs of the victim and the interests of justice, is clarified. Scrutinized are the models of integration of the supranational standard in the national legislative and jurisprudential systems of 27 Member-states to the CoE Convention for Fight against Human Trafficking. The relevant ECtHR case law has been analysed; the victimological profile of the victim and the criminological structure of human trafficking in different groups of Member-states have been outlined.

The article entitled '*Maritime Piracy as an International Crime. Differentiation From Similar Crimes Under The National Law*' briefly follows the historical development of the offense and its relevance to the Bulgarian legal history. The publication clarifies the features of the crime of maritime piracy as an international crime 'against humanity' as outlined by the definition under Article 101 of the 1982 UN Convention on Maritime Law. Maritime piracy has been distinguished from similar phenomena, such as crimes motivated by lucrative purpose, maritime terrorism, etc. The applicability of the Bulgarian Criminal Code to the phenomenon as defined by the international law has been analysed and the relevance of Article 341b CC has been discussed.

The articles entitled '*Pardoning According To the Law of Men and God: A Glance at The Influence Of The Christian Ethics And Doctrine Over Granting Of Supreme Mercy and Pardon In Roman Legal Tradition*' supplement the habilitation thesis by developing – using methods of fundamental science – the historical and normative-ethical origins of pardon.

The article entitled *'Adaptation of Penalties Imposed By A Foreign Court Within Transfer Procedures Of Bulgarian Nationals'* identifies some of the most frequently met in practice challenges in respect for the enforcement of a life penalty imposed by a verdict of a foreign court after the convicted person has been transferred in Bulgaria, which occur before the Bulgarian justice system due to the serious differences in the gravest-penalty regimes among the different jurisdictions, and suggests a systematic approach towards finding solutions, which has been demonstrated by relevant example cases from the practice.

The article entitled *'Criminal Repression Established for Preventive and Regulative Purposes: Issues in Cases of Criminal Protection of Administrative Regulations and Duplicating Administrative and Criminal Offenses'* elaborates on the process of massive utilization of the criminal legislation for preventive and regulative purposes, as well as on the legislative technique it finds expression in. The concept of 'inflation of the criminal law' which has been previously introduced by the author is additionally developed within the context of the concepts of overcriminalisation and overpenalization.

The article entitled *'Schemes of Financial and Economic Crime in Europe: Bulgarian Judicial Practice'* presents a criminological characteristic of the modus-operandi mechanisms of financial and economic crimes and outlines their common features, classifies them retrospectively, and subjects them to economic analysis. Under discussion are problems frequently encountered in practice - competition of qualifications under Articles 219-220 and Article 282 and following of the Criminal Code. A conclusion is substantiated that the general accepted interpretation according to which the perpetrator of the general officials' crimes under Chapter Eight of the Special Part of the Criminal Code cannot be a person engaged in the private sector, must be considered contrary to the law.

Dr. Pushkarova's works excel in their exceptional scientific depth, acute practical focus, interdisciplinary nature, and invariable present-day relevance. I hereby consider that the scientific production as presented by the candidate fully satisfies and in fact substantially exceeds both in quality and in quantity the requirements for the assumption of the academic position 'Associate Professor' as set out in the LDAPRB and its Enforcement Regulation. Based on that I am of the opinion that the academic jury of which I am a member should adopt the decision that ch. ass. Iva Pusharova, PhD, should occupy the academic position 'Associate Professor' in Criminal Law in the Department on Criminal-Law Sciences in the Law Faculty of the Sofia University 'St. Klement of Ochrid', in favour to which I shall, with profound conviction, vote

23.05.2023

opinion prepared by:

Varna

/Ass.Prof. Juliana Mateeva, PhD/