

REVIEW

from Prof. Ivan Rushev, Dr. Habil.,
professional field 3.6 Law
scientific specialization civil and family law
Sofia University “St. Kliment Ohridski” Law Faculty,

submitted on the competition for academic position of “**Professor**” in the field of higher education 3. Social, economic and legal sciences, professional filed 3.6. Law (Civil Procedure Law), Master’s Faculty, Law Department, publicized in State Gazette (SG) 94/10.11.2023

Respected colleagues, members of the scientific jury,

On the basis of Decision №4/19.12.2023 of the Academic Council of New Bulgarian University (NBU), Order of its Rector №3-PK-78/21.12.2023 is issued, with which a scientific jury is appointed for the competition announced in SG 94/10.11.2023 for filling the academic position of “Professor” in the professional field 3.6. Law (Civil Procedure Law), Master’s Faculty, Law Department. In relation to this an Order of the Rector of NBU 3-PK-86/23.01.2024 is issued which appoints me to draft a review on this competition, for which Assoc. Prof. Todor Panaiotov Kolarov, Dr. Habil. from the Civil Law Sciences Section of the Law Department of NBU is the only candidate.

Based on art. 29a of Development of the Academic Staff of the Republic of Bulgaria Act (DASARBA), art.62, para. 2 and para. 4 of the DASARBA Regulation and Ordinance Development of the Academic Staff of NBU, **I present this review on the announced competition, respectively on the scientific contributions of the works presented and the scientometric criteria of the only candidate in it.**

Following the template for the structure of a review/opinion on a competition for the academic positions of associate professor and professor at the NBU, provided for in its Ordinance on the development of the academic staff, I first present my

I. Assessment of compliance with the minimum national requirements and the requirements of New Bulgarian University

From the written evidence presented in the present procedure, it is clear that the only candidate in the competition, Associate Professor Todor Panaiotov Kolarov, significantly exceeds the minimum national requirements for scientific and teaching activities, defined in Art. 2b DASARBA and DASARBA Regulation, as well as the additional requirements laid down in the cited Ordinance for the development of the academic staff of New Bulgarian University, according to Table of indicators for opening a procedure for announcing a competition for filling the academic position of professor in professional field 3.6. Law.

The candidate graduates with a master's degree in the specialty "law" at the Faculty of Law of the University “St. Kliment Ohridski” (1998), obtained a **Doctorate in International Public Law** from the Plovdiv University (PU) "Paisii Hilendarski" (2012) and the **scientific degree "Doctor of Sciences" in professional direction 9.1. "National Security" at the NBU** (2018).

For more than thirteen years, he has taught a wide range of legal disciplines in various academic positions on university level: **chief assistant** in EU Law at PU "Paisiy Hilendarski" (2012-2017); **guest lecturer**, and subsequently – elected **Associate Professor** of Civil Procedure Law at **Varna Free University (2011-2014)**; **Associate Professor** of Civil Procedural Law at NBU and **Adjunct Associate Professor** of the disciplines "Public International Law" and "Combating Organized Crime and Corruption" at the **American University in Bulgaria**.

Associate Professor Kolarov has gained considerable experience in the administration of the educational process as the **Head of the National and International Security Department (NISD)** at NBU. His experience as an **attorney, legal advisor and consultant to numerous international organizations, leader/participant** in a significant number of projects managed by them: to the **Council of Europe; CEPOL**; as Chairman of the **Regional Anti-corruption Initiative** - an international intergovernmental network based in Bosnia and Herzegovina, uniting 9 countries from South-Eastern Europe (2018-2019); as a consultant to the **United Nations Office on Drugs and Crime** and for the European Commission (EC). He is a speaker at a number of international forums organized by the United Nations Office on Drugs and Crime; worked at the headquarters of the **World Bank in Washington** (2001-2003) and the **U.S. Department of Justice in Sofia** (2004-2011). He has extremely rich international experience in the antitrust group of "**White and Case**" in Washington (2001), in the **World Trade Organization (WTO)** in Geneva (2002), in the **European Commission** in Brussels (2003). A scientist and specialist with an impeccable reputation, during the period 2011-2012 Assoc. Prof. Kolarov was the Chairman of the national **Commission for the establishment of property acquired from criminal activity (CEPACA)**.

II. Research (creative) activity and results:

To participate in the competition, with a request to be peer-reviewed, Assoc. Prof. Kolarov has chosen to present a monographic work and three publications in journals indexed in Scopus, second quartile, in the field of "Law".

1. Evaluation of the author's scientific and scientific-applied contributions in his monographic work:

The monographic work presented by Assoc. Prof. Kolarov on the topic: "**Procedural substitution in the civil procedure. Sofia: Ciela (2023)**", ISBN 978-954-28-4420-4, contains 246 pages and does not repeat the works submitted by the candidate for the educational and scientific degree "Doctor", the scientific degree "Doctor of Sciences", nor those for occupying the academic position of "associate professor". **The topic is definitely a scientific novelty, and in its in-depth development the author has definitely reached many significant scientific contributions.** Being the first theoretical work in the Bulgarian doctrine, dedicated to procedural substitution as an atypical procedural legitimation in the legal claim process, the work can undoubtedly be defined as a complete and in-depth comprehensive and systematic theoretical study of this institute, in which the right to initiate a lawsuit, in the hypotheses explicitly provided for in the law, belong to a person other than the real party in interest holder of the substantive right.

The used general and special **methods of scientific research** have contributed to the depth of the presented scientific content. The polemic with existing views (where it is conducted), as well as with certain mandatory judicial practice, is conducted with respect for the theses expressed in other works. The monograph is based on the use of a **substantial number of case law, which is thoroughly discussed. The scientific language** is professionally used, the presentation is clear, the author's theses are succinctly and comprehensibly presented. The work, both in language and in the content of the supported theses, on its whole conveys the style of an experienced author.

The monograph is **structured** in five chapters: I. General characteristics of procedural substitution; II. Distinguishing procedural substitution from other legal institutes. Controversial hypotheses; III. Types of procedural substitution; IV. Conditions for admissibility of procedural substitution. Implementation of the protection in case of procedural substitution; V. Legal consequences of the procedural substitution, as well as a conclusion and bibliographic reference, containing 66 titles in Bulgarian and 27 in foreign languages.

The deftly chosen structure of the work allows the author's ideas to be developed and presented in an understandable to the reader manner, to achieve the scientific goals and tasks set by him, and the wording of each of the chapters and their content contributes to the comprehensive presentation of the individual characteristics of the institute.

In the first chapter of the monograph, entitled "*General characteristics of procedural substitution*", the author presents a brief historical and comparative legal analysis, an overview of the origin and process of introducing procedural substitution into the doctrine in Germany and Spain, and from there - into their national legislations. The chapter ends with a thorough characterization of procedural substitution, a contribution that can also be viewed in the systematic mode in which its main legal features are presented.

Chapter two of the discussion is devoted to the distinctions of procedural substitution from similar legal institutes. After considering several unequivocally qualified hypotheses in practice, the author presents in detail and in a systematic manner the differences between procedural substitution and procedural representation as legal institutions, which is a contributing point in the Bulgarian legal doctrine and conducive to a significant extent to the clarification of their legal essence. In itself, the original and systematic pattern of presenting the distinctions of procedural substitution with other legal institutes is in itself a contribution to the Bulgarian procedural law doctrine.

More precisely, in this chapter, the main points of the characteristics of procedural substitution and succession in the process (**point two**) are consistently presented in a comparative legal plan; the intervention of a supporting party (**point three**) and companionship (**point four**) are examined in detail and separately, the general features of the procedural substitution with the considered legal figures are brought forward.

The characteristics of the prosecutor's actions as a party to the civil process stand out as a **significant contribution** in this chapter. The author aptly disputes the thesis prevailing in our doctrine that the prosecutor acts as a procedural substitute in the process of protecting the rights of other legal entities - individuals or legal entities (**point five**). **Of a contributing nature** is the

scientific substantiation of the author's understanding that the CEPACA does not have the characteristics of a procedural substitute in proceedings for confiscation of illegally acquired property (**item six**).

The skilful conduct of a scientific polemic with the view adopted in the Interpretative Decision on Interpretative Case No. 4/2016 of the General Assembly of the Civil College of the Supreme Court of Cassation and its motivation should be emphasized. In supporting his position, the author takes a stance in the dispute as whether the bankruptcy receiver can be characterized as a procedural substitute (**point seven of chapter two**). As a leading thread not only in this chapter, but also carried out consistently in the entire content of the monograph, thus giving it a contributing character, the author's innovative approach to defining and highlighting the significance of the legal interest in procedural substitution should be appreciated.

In **chapter three**, the author introduces four criteria for determining the types of procedural substitution, to each of which he devotes a separate point. These are the criterion of whether the main party in the process is the real party in interest (**point one**), according to which he defines procedural advocacy and procedural subrogation; according to the type of legal proceedings in which procedural substitution is manifested - whether it is observed in the claim, in the protective measures proceedings, in the enforcement process or in some non-claim court proceedings (**point two**). **Point three** of this chapter is devoted to the other classification criteria for determining the type of procedural substitution: whether the procedural substitute protects an individual or collective interest, and **point four** – to whether he acts on the active or passive side in the process. The introduction of these criteria for determining the proposed types of procedural substitution, in itself, should also be evaluated as a **contribution to our scientific literature**.

The essence of substitution as a legal institution is most consistently developed in **chapter four**, where the author outlines the specifics of the implementation of protection through procedural substitution in the claim process and in the enforcement proceedings. This view of the institute is definitely **new and has not been applied so far** in our procedural legal doctrine. Contributing points are found both when considering the prerequisites for admissibility (**point one**) and in considering the question of the merits of the claim (**point two**).

The final **fifth chapter** is devoted to the legal consequences of exercising rights under the procedural substitution. The influence of this institute, especially on the subjective and on the objective scope of *res iudicata*, has been discussed in detail. Of a contributing nature is the clarification of the issue of the liability of the procedural substitute to the substituted and to third parties, the specifics of the distribution of responsibility for expenses and others.

2. Assessment of the contributions in the other attached publications, including assessment of the peer review requirement of the publications.

In the current competition, Assoc. Prof. Kolarov has chosen to present four articles published in authoritative foreign journals, indexed in Scopus, second quartile in the field of “Law” and in Web of Science:

(a), *Historic analogs of civil confiscation of unexplained wealth – the case of Bulgaria*“, публ. в Journal of Financial Crime. Vol. 27 No. 2, 2020. pp. 561-571. ISSN 1359-0790 The journal is indexed in Scopus, second quartile in the field of "Law";

(b) „Challenges in settling non-conviction based civil confiscation of unexplained wealth“, публ. в Journal of Money Laundering Control. Vol. 24 No. 3. 2021. pp. 483-490. ISSN 1368-5201. The journal is indexed in Scopus, second quartile in the field of "Law" and in Web of Science;

(c) „International commercial arbitrator addressing money laundering sua sponte“, also published in the indexed in Scopus, second quartile in the field of "Law" and in Web of Science Journal of Money Laundering Control. Vol. 25 No. 3. 2022. pp. 637-644. ISSN 1368-5201.

(d) Assoc. Prof. Kolarov participates in the competition with yet another article, „Legal professionals’ effectiveness as anti-money laundering “gatekeepers”, published in a edited collective volume - PERACEK, Tomas. & MOREIRA, Fátima Castro (Eds.) Doctrina et Usu in Business Law. pp.163-174. 2023. ISBN 9786069535165 (E-Book).

All four are devoted to issues of scientific and public interest in the fight against corruption and the confiscation of ill-gotten wealth, with the applicability of the legal consequences of anti-money laundering measures in international commercial arbitration. The topics are those in which the author has a widely recognized competence with in-depth knowledge and experience - theoretical and practical. Apart from the profound knowledge of the subject which the author demonstrates in them, his de lege ferenda proposals are extremely valuable.

All works presented for review were published after the acquisition of scientific degrees ("doctor" and "doctor of sciences" out of print after assumption of the academic positions of "Chief Assistant Professor" and "Associate professor") and the occupation of academic positions under DASARBA - "Chief Assistant Professor" and "Associate Professor" and do not repeat those that have been reviewed for the needs of previous competitions.

3. Citation of the candidate's works by other authors. The list of citations in scientific publications, indexed and referenced in world-renowned scientific information databases, monographs and collective volumes, presented by the candidate shows 2 of his articles cited in publications of foreign authors published **in foreign scientific publications**; 1 article is cited in two different monographs by different foreign authors in **peer-reviewed foreign publications**; 9 of his writings are cited (including more than once) in monographs and collective volumes **with scientific reviews published in our country**; 6 scientific publications of the candidate are cited in **non-refereed scientific journals with scientific review, published at home and abroad.**

4. Evaluation of results of participation in research and creative projects and application of the obtained results in practice. The candidate in the competition has participated as a consultant in research and creative projects with international participation on issues of high public importance such as migration, security, civil confiscation, mutual recognition by individual countries of judicial acts, fight against money laundering, various forms of economic crimes, etc. The results of these projects are intended for the improvement of legislation and implementation practice in the specified areas, as can be seen from the self-assessment report attached to the materials for this competition.

III. Academic and teaching activity

1. Auditory and non-auditory activities, work in the electronic training module "MOODLE - NBU", provision of student practices and internships, work with students and doctoral students.

The candidate has solid and indisputable experience in academic teaching of legal disciplines, having successively held the above-mentioned (in the biographical part of this review) academic positions at universities: Chief Assistant Professor in EU Law at PU "Paisii Hilendarski" (2012-2017) guest lecturer, and then Associate Professor of Civil Procedural Law at Varna Free University (VFU) "Chernorizets Hrabar" (2011-2014); Associate Professor of Civil Procedural Law at the NBU and Adjunct Associate Professor of International Public Law and Combating Organized Crime and Corruption at the American University in Bulgaria.

He also participated in the improvement of the Master's programs at NISD, with the changes reflected in the 2023/2024 catalog. He was also the initiator and organizer of the international scientific conference "Rights and Security" (April 27 - 28, 2023).

The candidate has published (in co-authorship with doctoral students Cv. Lekova and I. Dakhlianova), "Handbook of civil procedure law", S.: Ciela. 2022 in a volume of 366 pages with a rich bibliography and copious case law - a particularly valuable aid intended for the preparation of law students, not only from the NBU, on the mandatory discipline of Civil Procedure Law. The work is also widely used as a convenient quick reference source by legal practitioners.

Assoc. Prof. Kolarov is also an active participant in the development of a successfully launched new Political Science program (in English), with two courses offered: POLS317 EU Development Policies and POLS436 Security in Europe: Dangers, Risks, Countermeasures.

2. Work with Erasmus students.

Доц. Коларов е изнесъл на английски он-лайн лекция на тема „Техники за пране на пари (14.05.2022 г.), а през периода 8.05-12.05.2023 г. и изнесъл цикъл лекции (също на английски език) на тема „Техники за пране на пари и юристите“, съставляващи преподаване в контекста на мобилност на студенти по Erasmus+, за които е бил определен от домакинстващата институция Neapolis University Pafos, Кипър.

3. Evaluation of teaching in student surveys.

According to the surveys conducted among NBU students, the teaching done by Assoc. Prof. Kolarov is very highly rated. The average grade from the student surveys for the last ten semesters - 4.53/5.00 proves indisputably the satisfaction of his students with the knowledge and teaching skills provided by the candidate.

IV. Administrative and public activity.

1. Participation in collective management bodies of the NBU. Assoc. Prof. Kolarov has accumulated considerable experience in the administration of the educational process as the head of the National and International Security Department (NISD) at NBU and as a member of the Academic Council of the university.

2. Public activity.

The impressive consulting activity of Assoc. Prof. Kolarov to the Council of Europe, CEPOL as an expert in the thematic categories of higher education and research was mentioned

above; anti-corruption and anti-money laundering, to the United Nations Office on Drugs and Crime, to the headquarters of the World Bank in Washington and the U.S. Department of Justice in Sofia and many others. Noteworthy are his participation in the governing bodies of prestigious international organizations, and in particular - his election as the Chair of the Regional Anti-Corruption Initiative (2018 - 2019), his nomination for "Lawyer of the Year" (2022) in category "Justice abroad", his long-standing membership in the Bulgarian Association of International Law, his rich practical experience as a practicing lawyer, legal advisor and consultant to numerous international organizations and projects administered by them.

3. Attracting students to the program.

With the significant efforts made in the teaching of compulsory disciplines and the promotion of new, dynamically developing branches of practically oriented knowledge, Assoc. Prof. Kolarov, as invited by various universities and prestigious national and international organizations, has contributed to a significant extent to the success of NBU programs and in attracting students to them.

V. Personal opinion of the candidate.

I have the honor of knowing Assoc. Prof. Kolarov from his teaching years at VFU "Chernorizets Hrabar", where he obtained his habilitation as a lecturer in Civil Procedure Law, a large part of the works with which he participated in the current competition was known to me before that, and my personal impressions of the candidate are excellent. Assoc. Prof. Kolarov is highly valued among the collegial legal community, a teacher respected by his students and a specialist in his field, devoted to science and teaching. He possesses highest degree of collegiality and ethics, which are so rare today. More than one colleague has reached out to his knowledge for advice and assistance, and he has always responded promptly and professionally.

VI. Opinions, recommendations and notes on the activity and achievements of the candidate

The theoretical and practical usefulness of the study would be augmented if, in subsequent editions of the monograph, beyond the undisputed contribution of delineating the main features of procedural substitution, its main legal conclusions are drawn more clearly and some of the considered practical hypotheses are supplemented. It would be good to develop the argumentation regarding the legitimacy of the procedural substitute in more detail. It is advisable to present the more important propositions *de lege ferenda* more systematically in the conclusion.

The indicated critical remarks (rather, recommendations for improvement) do not in any way reduce the importance of this unquestionably successful monographic work and are not of the nature to undermine my conviction that with it the candidate Assoc. Prof. Kolarov shows that he is worthy for the academic position of "Professor" in the professional field 3.6. Law (Civil Procedural Law), Master's Faculty, Law Department.

Conclusion

The documents and materials presented by Assoc. Prof. Todor Panaiotov Kolarov fully cover all the requirements of the DASARA, the Regulations for its implementation and the Ordinance on the development of the academic staff of NBU.

The candidate in the competition has submitted a significant number of scientific works published after he assumed the academic position "Associate Professor". They contain original theoretical and practical contributions that have received authoritative recognition. A significant part of them are published in scientific journals, referenced and indexed in international databases with scientific information. The summary of the presented scientific output of Assoc. Prof. Todor Kolarov shows the seriousness, analyticalness, systematicity and thoroughness of his research. The candidate in the competition proves his ability to choose for development significant and topical problems of great theoretical and practical significance. An important feature of the peer-reviewed scientific works is their theoretical depth, logical interrelation and practical focus.

After reviewing the materials and scientific works presented in the competition, analyzing their significance and the scientific, scientific-applied and applied contributions contained in them, **I confidently give my positive assessment and recommend the scientific jury** to recommend to the Academic Council to appoint Assoc. Prof. Todor Kolarov to **the academic position "Professor" in the field of higher education 3. Social, economic and legal sciences, professional direction 3.6. Law (Civil Procedure Law) in the Master's Faculty, Law Department.**

March 14, 2024

Sincerely:

(Prof. Ivan Rushev, Dr. Habil.

**Associated Member of the
Bulgarian Academy of Science)**