

OPINION

from Prof. Yanka Tenenva Tyankova, Veliko Tarnovo University (VTU) "St St Cyril and Methodius" Law Faculty, appointed member of the scientific jury with Order № 3-PK-183/24.03.2022 of the Rector of New Bulgarian University (NBU)

on the scientific production, presented for participation in the competition for the academic position of Professor I professional field 3.6. Law (Civil Procedure Law), announced by NBU, Master's Faculty, Law Department in State Gazette (SG) 94 of 10.11.2023, with Assoc. Prof. Todor Panaiotov Kolarov, Dr. Habil. as a candidate.

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

To participate in the thus announced competition, documents were submitted by Associate Professor Todor Panaiotov Kolarov. It can be seen from them (self-assessment report and the documents attached to it), the candidate meets the national requirements regulated in Art. 2b of the Law on the Development of the Academic Staff in the Republic of Bulgaria (ZRASRB) and those of the PPZRASRB. NBU additional requirements for appointment to the academic position "Professor" in professional field 3.6 Law, envisaged in the Ordinance on the Development of the Academic Staff at the NBU (NRAS), have also been fulfilled, with those in groups B, Д, E, Ж, 3 and И of the Table with the scientometric indicators markedly exceeding the benchmarks and point in them being more than sufficient.

The candidate T. Kolarov, a participant in the current competition, graduated from higher legal education in 1998 at Sofia University "St. Kliment Ohridski", Faculty of Law. Subsequently, he obtained the educational and scientific degree "Doctor" in Public International Law at the Plovdiv University "Paisii Hilendarski" (March 02, 2012) and the scientific degree "Doctor of Sciences" in professional field 9.1. "National Security" from NBU (2018). The dissertation for the award of the educational and scientific degree "doctor" is on the topic: "Judicial cooperation between the European Union Member States in confronting trans-national organized crime" with scientific supervisor Prof. Dr. Jasmin Nikolova Popova, and the dissertation for the award of the scientific degree "Doctor of Science" is on the topic "Security in the EU mixed agreements".

Throughout his career Assoc. Prof. Kolarov has assumed all academic positions in various universities in our country: Chief Assistant Professor in EU Law at Plovdiv University "Paisii Hilendarski" in the period 2012-2017; guest lecturer and Associate Professor in Civil Procedure Law at the Varna Free University (from 2011 to 2014) with the topic of the habilitation thesis "Securization and confiscation of illegally acquired property in the civil

procedure". Currently, Associate Professor in Civil Procedure Law at NBU; Adjunct Associate Professor In Public International Law and Combating Organized Crime and Corruption at the American University in Bulgaria.

The candidate has extensive professional experience as a legal advisor and international consultant to the Council of Europe, the World Bank in Washington, the U.S. Department of Justice in Sofia, the United Nations Office on Drugs and Crime and other international and European organizations. In the period 2011-2012, he was the Chairman of the Commission for the establishment of property acquired from criminal activity.

Conducive to his in-depth knowledge in the field of law is the fact that the candidate is also an attorney-at-law.

Regarding the candidate, no plagiarism has been established according to the law (I am not aware of any) in the scientific works submitted for the competition.

II. Research (creative) activity and results

2.1. General characteristics of the dissertation work

For participation in the competition, the candidate has submitted the monograph "PROCEDURAL SUBSTITUTION IN THE CIVIL PROCEDURE", S.: Ciela, 2023. This monograph does not repeat the scientific works presented by him for the acquisition of the educational and scientific degrees "Doctor" and "Doctor of sciences", neither for the academic position of "Associate Professor". The book is 246 pages long and is structured in five chapters, a conclusion and a bibliography. It has 257 footnotes. The literature used includes 93 titles, of which 66 are in Bulgarian and 27 in foreign languages.

The individual chapters are symmetrically arranged and logically connected to each other, which allows for better and deeper absorption by the readership. Chapter one contains a general description of procedural substitution as an institution of civil procedural law, including a thorough analysis of the concept of procedural substitution. The conclusions of the author are drawn on the basis of thorough historical review of the legal system of procedural substitution in Bulgaria. In the second chapter, a comparison is made between procedural substitution and other legal institutes such as: procedural representation, succession in the process, intervention of the supporting party, joinder. Apart from this, the questions regarding the procedural substitution and the actions of the prosecutor, the bankruptcy receiver in the bankruptcy proceedings and the Commission for combating corruption and confiscation of illegally acquired property were discussed. Chapter three is dedicated to different types of procedural substitution, classified according to whether the main party in the interest participates in the proceedings, according to the legal proceedings, according to whether individual or collective interests of the substituted person are protected, etc. In the fourth chapter, the conditions for the

admissibility of the procedural substitution are considered, distinguishing the peculiarities when considering the claim on admissibility and on the merits. The last fifth chapter includes an analysis of the legal consequences of procedural substitution, the subjective and objective limits of *res judicata* in procedural substitution and the liability of the procedural substitute. The monograph ends with a conclusion containing brief summary of author's conclusions.

2.2. Evaluation of the scientific and scientific-applied contributions of the dissertation work

The monograph "PROCEDURAL SUBSTITUTION IN THE CIVIL PROCEDURE" is an original study dedicated to an actual problem of great practical importance. It is the first independent, comprehensive and systematic study of procedural substitution in our procedural doctrine. The structure of the study, thoroughly examined in the previous Section II, item 2.1, shows that the author logically connected the individual parts of the monograph, organized in the five chapters, achieving a positive end result, namely: to trace the emergence of this legal institute, its introduction into procedural law, as well as the subsequent development of the institute of procedural substitution in Bulgaria in order to reveal its specific legal features. The implementation of this institute in practice has also been traced, with the emphasis on the legal consequences of this implementation (i.e. the goals and scientific tasks set by the author have been fulfilled). The author's conclusions are based on in-depth knowledge and analysis of the legal framework, and in the course of the presentation various general and special methods of scientific research were used. The author has a good command of the terminology, and the exposition is logical and coherent. The work was developed on the basis of broad scientific apparatus, including Bulgarian and foreign literature related to the topic of the study in several languages. A comprehensive commentary on judicial practice has been made, analyzing numerous definitions and decisions of the Supreme Court of Cassation, including interpretive decisions.

Undoubtedly, the contributive nature of the work is expressed in the fact that for the first time in the doctrine a complete monographic study of the procedural substitution from its origin in our country to its modern regulation is offered, and the analysis was carried out by applying the historical and comparative legal method of scientific research. Among the contributions of the work, the distinctions made by the author between procedural substitution and other similar legal institutes in Chapter II of the monograph should be explicitly pointed out. In this sense, the author's original idea to analyze the controversial hypotheses regarding procedural substitution and bankruptcy receiver stands out. All the opinions in the doctrine and judicial practice have been considered, according to which in some cases the receiver is considered a procedural substitute of the debtor, and in others — a procedural substitute of the creditors. A historical overview of the doctrinal concepts embedded in the works of Prof. Silyanovski and Prof. Katsarov was also made. Finally, the author advocates his opinion that the bankruptcy receiver cannot be considered a procedural substitute for either the debtor or the creditors,

recognizing the concept of Prof. Katsarov that the receiver is an official who acts under the mandate of the court. The special hypotheses of procedural substitution and the actions of the prosecutor and those of the CEPACA were also examined. The conclusions drawn are original and contributing, that the receiver (as a body in bankruptcy proceedings) cannot be a procedural substitute, that the CEPACA is not a procedural substitute for the state, and the prosecutor in the different hypotheses may or may not be a procedural substitute, based on the analysis of the practice of the Supreme Court of Cassation and its interpretive decisions. The classification of different types of procedural substitution based not only on the generally known, but also on additional classification criteria set forth by the author is of a contributing nature. It is noteworthy that in this chapter, the author has made distinction between procedural substitution and procedural representation, referring to the historical analysis of the legal system, which in the old doctrine led to comingling of the two institutes. Other conclusions, which the author has precisely systematized in the separate chapters, as the end result of the in-depth research, have contributive character.

2.3. Evaluation of the contributions in the other attached publications made after the appointment to the academic position "Associate Professor".

For participation in the current competition, Assoc. Prof. T. Kolarov also presents several scientific publications (articles and scientific reports), printed in scientific publications, indexed and referenced in world-famous databases, namely: *Historic analogs of civil confiscation of unexplained wealth – the case of Bulgaria*, B: Journal of Financial Crime. Vol. 27 No. 2, 2020. pp. 561—571. ISSN 1359-0790. Scopus indexed in the field of Law; *Challenges in settling non-conviction based civil confiscation of unexplained wealth*, B: Journal of Money Laundering Control. Vol. 24 No. 3. 2021. pp. 483—490. ISSN 1368-5201. Scopus indexed in the field of Law and in Web of Science; *International commercial arbitrator addressing money laundering sua sponte*, B: Journal of Money Laundering Control. Vol. 25 No. 3. 2022. pp. 637-644. ISSN 1368-5201, similarly indexed in Scopus and in Web of Science. The fourth article *Legal professionals' effectiveness as anti-money laundering "gatekeepers"*, is published in: PERACEK, Tomas. & MOREIRA, Fátima Castro (Eds.) *Doctrina et Usu in Business Law*. pp.163-174. 2023. ISBN 9786069535165 (E-Book).

The articles submitted for participation in the competition should be highly graded, which fact is also proven by their publication in scientific publications, indexed and referenced in world-renowned databases.

2.3. Citations by other authors

As can be seen from the data contained in the self-assessment report, some of Assoc. Prof. Kolarov's scientific publications have been cited in scientific publications, indexed and referenced in world-renowned databases of scientific information. Two other of his scientific writings are cited in articles by foreign authors published in such scientific publications and in monographs by foreign authors, respectively in collective volumes with scientific review published abroad. The author also has numerous citations in works published in our country, which are monographs or collective volumes with scientific review, as well as in non-refereed scientific journals with scientific review. These circumstances substantiate the conclusion that the scientific output of Associate Professor Kolarov finds a wide response among specialists in our country and abroad, which is proof of its scientific significance.

III. Academic and teaching activity

Todor Kolarov joined New Bulgarian University, Master's Faculty, Department of Law in 2014, when he was appointed to the position of “Associate Professor”.

He teaches the Civil Procedure Law discipline at the Law Department, Commercial Law and Fundamentals of Law at the Department of Economics; as well as various academic disciplines in the field of International Public Law and international relations in the Department of National and International Security.

In his capacity of an NBU academic staff, Assoc. Prof. Kolarov has given public lectures, both at the invitation of other universities and of a number of international organizations (already mentioned on several occasions above). As an example, the last ones are: the online lecture on "Techniques for money laundering", given in English on May 14, 2022; the lectures on "Techniques for money laundering and the lawyers (in English)" under the Erasmus+ program, organized and held at the invitation of Neapolis University Pafos, Cyprus (May 8- 12, 2023) and others. Associate Professor Todor Kolarov was a member of international research projects, he also participated in organizing and holding scientific conferences, gave public lectures, and led trainings outside the NBU.

The academic teaching and learning activity of the candidate Assoc. Prof. Kolarov corresponds to the national requirements and the additional criteria of the NBU in groups Ж, 3, И of the table.

IV. Administrative and public activity

The fact that the candidate is the Head of the National and International Security Department at NBU and a member of the Academic Council of NBU shows that he has extensive experience in the field of educational process management.

His significant public activity, noted in part I, namely his expert and consulting activities to various international and European organizations (the Council of Europe, the headquarters of the World Bank in Washington, the U.S. Department of Justice in Sofia and many others) shows the professional expertise of the candidate, which has undoubtedly been evaluated by these European and international organizations. We should also note the fact that the candidate has been nominated for "Lawyer of the Year" in 2022 in the "Justice Abroad" category.

V. Opinions, recommendations and notes on the activities and achievements of a candidate

Some recommendations can be made to the monographic work submitted for participation in the competition. I believe that the scientific work could acquire a complete form if it contained an introductory part (introduction) in which arguments justifying the relevance of the research, the necessity of this research, the scientific goals and tasks set by the author, as well as being reflected at which point in time the legislation is analysed. Regarding the conclusion, my recommendation is that it should be more extensive and thorough and contain *de lege ferenda* proposals. Likewise, in my opinion, in Chapter II, in which a distinction is made between procedural substitution and other legal institutes, it would have been better to separate two independent sections, so as not to mechanically mix legal institutes such as joinder, intervention of a supporting party, etc. with the participation in the civil proceedings of the prosecutor, bankruptcy receiver and CEPACA. It is to be pointed out that this chapter should also include the National Revenue Service (NRS), which is a procedural substitute for the state (respectively the municipality) for claims under Art. 608, para. 1, p. 2 and p. 3, in relation to Art. 625 Commercial Act, i.e. public dues to state or municipality (Article 162 Tax and Social Security Procedure Code), related to the commercial activity of the debtor, or private dues to the state. Further, I consider the author's opinion that the bankruptcy receiver cannot be considered a procedural substitute for either the debtor or the creditors as radical, since the careful analysis of the provisions and the judicial practice justify the conclusion that, in the exercise of some of his competences, he can in some cases be a procedural substitute for both the debtor and the creditors with a view to achieving the goals of the bankruptcy proceedings.

The aforementioned recommendations do not change my opinion that the monograph and scientific publications submitted by the author for participation in the competition have many advantages, which should undoubtedly be evaluated positively.

VI. Conclusion

In view of the above, I believe that Associate Professor Todor Panaiotov Kolarov meets the conditions and requirements for holding the academic position of "Professor" in law, as his

overall teaching, administrative and public activities should be evaluated positively. The monograph and the other publications with which he applied contain original contributions to the Bulgarian legal science.

In conclusion, I recommend to the Scientific Jury to take a positive decision and to propose to the NBU Academic Council to elect Associate Professor Todor Panaiotov Kolarov to the academic position of "Professor" of New Bulgarian University in the professional field 3.6. Law (Civil Procedure Law).

Prof. Dr. Yanka Tyankova