

OPINION

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Professional field 3.6 Law
Scientific subject Civil and Family Law
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Subject: Scientific works submitted for participation in a competition for the academic position of "Associate Professor" in the professional field 3.6. Law (Law of Obligations), announced by the New Bulgarian University (NBU) in State Gazette, issue 14/18.02.2022, with **Chief Assistant Professor Dr. Silvia Stoyanova Tsoneva** as the only candidate

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

Evident from the self-assessment report presented by **Ch. Assistant Professor Dr. Silvia Stoyanova Tsoneva** and the written evidence attached thereto, as well as the report of 21.11.2021 of the Attestation Commission for long-term attestation, the candidate has held the position of chief assistant at NBU for more than two years and meets the minimum national requirements under Article 2b of the Development of Academic Staff in the Republic of Bulgaria Act (DASRBA). For some indicators she has even collected more than the required points.

The competition documents contain also written evidence presented by **Ch. Assistant Professor Dr. Silvia Stoyanova Tsoneva**, which show that she also meets the additional requirements under Art. 58, para. 1 of the Regulation on the development of the academic staff at NBU (indicators in groups Ж, 3 and И in the individual assessment table).

There is no duly proved plagiarism in the scientific works of the candidate.

The application of **Ch. Assistant Professor Dr. Silvia Stoyanova Tsoneva** meets the minimum national requirements and the additional requirements of NBU for holding the academic position of "Associate Professor" in the professional field 3.6. Law.

II. Research (creative) activity and results

1. Evaluation of the monographic work, including evaluation of the author's scientific and science-applied contributions.

In her application for this competition **Ch. Assistant Professor Dr. Silvia Stoyanova Tsoneva** has presented a published habilitation monograph "Compensation for damages in case of contractual liability", NBU Publishing House, 2021, 424 pages, which in none of its parts repeats the author's dissertation work for which she obtained "Doctor" degree.

The habilitation work is structured in an introduction, three chapters and conclusion. In a legally logical consequence, the following topics are examined: the basic theoretical foundations for determining the losses to be compensated and for calculating the compensation for pecuniary damages, and at the end several special types of damages, including compensation for non-pecuniary damage, compensation for damage in the event of rescission of the contract, liquidated damages and compensation determined in accordance with the benefits gained by the debtor.

The book is the first comprehensive and systematic monographic study on the remedy of damages for breach of contract in our modern legal literature. There can be no doubt that the legal issues, which have captured the author's attention, are of timeless importance and are

always relevant for the doctrine and the practice. The work makes use of a very rich scientific apparatus, takes advantage of a large number of national and foreign academic resources and thus enables the author to apply widely the comparative law method of scientific research. This adds to the scholarly value of the work. Its usefulness for the doctrine and practice is further enhanced by the skillful involvement of relevant case law and its analysis in the course of the book. References to academic sources and judicial acts are made correctly and in good faith. The authors' theses are substantiated profoundly; scientific controversy is handled correctly and with respect for the different opinions.

Based on an in-depth and well-argued theoretical analysis, the author has reasoned a number of original views, which contribute to issues of primary importance for the institute of compensation of damages for breach of contract. Among the contributions to outline comes the author's interesting approach to the chosen topic, which focuses on clarifying the principles applicable to the determination of reparable losses and determining the amount of compensation due. The successful implementation of this original research approach by Ch. Assistant Professor Dr. Silvia Tsoneva is also supported by her in-depth, academically gained knowledge of economics and its skillful use to enrich the legal analysis. Of particular importance is this part of the study devoted to a deeper analysis of the relationship between the concepts of direct and immediate loss and foreseeable loss, as well as the specific problem of breaking the chain of causation in view of the concepts of direct and indirect loss (Chapter 1).

Important for improving the legal framework is the well-founded proposal of the author to statutory regulate that the creditor is entitled to recover the expenses he has incurred in attempting to reduce the loss, including in cases where he actually failed in his efforts. Of interest for the doctrine and practice in our country is the well-argued explicative conclusion that damages for breach of contract must be determined in accordance with the positive contractual interest. Our jurisprudence can take advantage of the survey made in Chapter 2 of the different methods for calculating the compensation and the formula advanced for calculating the compensation due, based on the monetary equivalent of the outstanding performance and other factors (costs that the creditor had to incur, lost profits etc.).

The author's study of the methods (linear and proportional) for price reduction and the distinction made between the monetary assessment of the damage, presented as loss of value due to non-performance, and the *quanti minoris* claim (claim for reduction of price/remuneration) in case of defects in purchased/worked out goods is a contribution to theory and case law. The author's view that compensation may be awarded also for future loss, provided it is certain to result, is well grounded. The monograph makes place to discuss the issue, disputed in doctrine and practice, about the time for assessing damages and suggests a well-founded solution. The explicative conclusions of the author about the compensation of non-pecuniary damages resulting from the breach of contract (Chapter 3 of the monograph) are also useful for the doctrine and practice.

The recommendation of the author that the court explores the foreseeability of the non-pecuniary damage resulting from the negligent breach of contract is appropriate and deserves support. Arguments are presented in support of the author's view that the compensation under Art. 88, para. 1 of the OCA in case of termination of the contract must be measured according to the positive interest. Liquidated damages with their inherent compensatory function are considered in a new perspective. An original proposal is made that compensation for breach of contract is determined not according to the loss caused to the creditor, but in view of the benefits that the defaulting debtor has gained from the non-performance.

The list of the monograph's positive aspects and contributions given in this opinion is only illustrative and does not exhaust the merits of the peer-reviewed monograph of Ch. Assistant Professor Dr. Silvia Tsoneva. It should be emphasized that the work fulfills the requirements

for habilitation work, provided by active legislation (Art. 24, para. 1, item 3 RASRBA), as well as the high standards established by NBU for quality of the scientific works.

2. Evaluation of the contributions contained in the other publications, made after the appointment at the academic position "Chief assistant", including assessment of the requirement that publications are peer-reviewed.

Apart from the habilitation work discussed hereto, **Ch. Assistant Professor Dr. Silvia Tsoneva** participates in this competition with two other very serious scientific works: "**English and Bulgarian tort law**", Avangard Prima, Sofia, 2019, 409 pages, and the scientific article "**Horizontal effect of fundamental human rights in the relations between private parties**" - In: Collection of the Scientific Conference "Human Rights - 70 years after the adoption of the Universal Declaration of Human Rights". Prof. D.Sc. M. Novkirishka-Stoyanova, Assoc. Prof. M. Belov, Ph.D. Assistant Professor Dr. D. Nachev, "St. Cl. Ohridski" Publishing house, 2019, pp. 158-170.

"English and Bulgarian tort law" is the first comparative law study in our specialized legal literature on English tort law presented in comparison with Bulgarian tort law. The structure of the work follows the system of English tort law. The legal institutes of the latter serve as a legal-logical center around which the study is focused. Comparisons with Bulgarian tort law aim to discover the functional counter parts of relevant English law institutes in Bulgarian law and to highlight their specific characteristics.

The work reveals **Ch. Assistant Dr. Silvia Tsoneva's** outstanding knowledge of the English system, practice and doctrine, as well as a perfect command of the English legal terminology in the field of the study. This work is the best reference source that students, PhD students, postgraduates and all lawyers and linguists can wish for when they have to deal with English tort law without having a good command of the English legal terminology. At given places the comparative law review encompasses also the regulation of other national legal systems (Germany, France, etc.).

In the list of scientific contributions presented in this procedure, the candidate rightly pointed out that the in-depth comparative study of English and Bulgarian tort law facilitates the understanding of a number of soft-law instruments such as the Draft Common Frame of Reference and the Principles of European Tort Law. In general, this unique study enriches the Bulgarian legal literature. With its great scholarly value, it is a reliable reference point for academics in the field of private law and for practicing lawyers. These aspects provide a perspective to the contribution of this study to the development of the Bulgarian legal scholarship.

The article "Horizontal effect of fundamental human rights in the relations between private parties" is dedicated to a legal issue particularly relevant nowadays, which is insufficiently studied in our country, namely the impact of fundamental human rights on the relations between private parties. Contributing to our jurisprudence is the author's conclusion that there is a process of "constitutionalization" of private law, which can be seen in the influence of the concept of fundamental personality rights, especially on contract and tort law. The author sees the essence of this process in the fact that private law increasingly perceives individual's fundamental rights as a value appraised through the lens of the basic principles governing civil relations and adapts itself to the concept of respect and protection of fundamental rights.

3. Citation from other authors

Pursuant to the requirements of the Development of the Academic Staff Act, as well as the requirements of NBU for the competition for associate professor, a minimum of 50 points are required. The self-assessment report and the presented materials show and certify 30 citations of **Dr. Silvia Tsoneva's** articles in monographs and collections with scientific review. Thus,

in terms of citation by other authors the applicant exceeds the minimum national requirements for indicator Д12 of the table for individual assessment.

The works submitted by **Dr. Silvia Tsoneva** for participation in this competition do not show signs of plagiarism within the meaning of § 1, point 7 of the Additional Provisions of the RASRBA.

III. Teaching and learning activity

The candidate meets all the criteria of NBU for teaching load, for all categories. **Dr. Silvia Tsoneva** was appointed an assistant at NBU in 2001. She passed through the academic positions of senior assistant (2005) and chief assistant (2012).

She teaches the following classroom and extracurricular classes in the NBU Master degree Program of Law: LAWN 505 Training course in Law of Obligations, LAWN 504 Law of obligations (since 2020/2021), LAWN 622 Consumer protection law, LAWN 911 Stock exchange law, LAWN 611 Paperwork in Law of obligations. She is also one of the lecturers of the course "Practicum in Civil Law Studies". She teaches the course LEAB081 Civil Law /in English/ in the program "Applied Linguistics" at NBU and the course "Current issues in Business Law" /in English / in a program of NBU and the University of York. She is responsible for the student's study group in Law of obligations at NBU.

The candidate is in full compliance with the requirements for working with the electronic training module "MOODLE - NBU".

For the last ten semesters of her teaching **Ch. Assistant Dr. Silvia Tsoneva** got an average grade Very good 4.47 (with a maximum score of 5.00) from the student satisfaction surveys.

Ch. Assistant Dr. Silvia Tsoneva participated in the trainings organized by the library and the Center for Career Development and Training Resources of NBU to improve the quality and methodology of teaching and to increase her knowledge and skills when working with library and information services.

To sum up, the teaching and learning activities of the candidate comply with the statutory requirements of the law and the additional criteria of NBU for groups Ж, З, И of the table.

IV. Administrative and public activities

Dr. Silvia Tsoneva worked in the administration of the New Bulgarian University as a director and program consultant of the NBU Program of Law during the period from 2005 to 2017, as a member of the Accreditation Commission at the Faculty of Master Programs, as a member of the Program Council of the Program of Law and the Council of the Department of Law of NBU. She was member of the editorial board of the Law Journal of NBU (from 2005 to 2022) and is member of the editorial board of "Studies in the field of law and politics. Miscellanies ", published by the Faculty of Law, Administration and Economics of Kujawy and Pomorze University in Bydgoszcz (since 2017). She is member of the Union of Lawyers in Bulgaria.

Dr. Silvia Tsoneva is also Erasmus Coordinator for the NBU Program of Law.

V. Personal impressions of the candidate (if any)

I know **Ch. Assistant Dr. Silvia Tsoneva** since 2004, when I started working at NBU and I can confidently say that she is a learned expert, prolific scholar, beloved teacher, loyal and ethical colleague, trustworthy and very good person. She is respected by professors, employees and students. I know from the students I teach that they have very good impression from **Ch. Assistant Dr. Silvia Tsoneva** as a teacher who is demanding, dedicated to her work,

explaining the subject in an easy to understand way and providing very good training. I believe that the applicant **Ch. Assistant Dr. Silvia Tsoneva** is very suitable for the academic position "Associate Professor of Law of Obligations", that this will be fully in the interest of students, that she will contribute to the good quality of teaching and the development of the academic board of the Department of Law of NBU, and therefore I fully support her application for the position.

VI. Opinion, recommendations and remarks on the activities and achievements of the candidate

I allow myself to recommend to **Ch. Assistant Dr. Silvia Tsoneva** that after the completion of the habilitation procedure she focuses her efforts on writing a dissertation thesis for the degree "Doctor of Science". I am convinced that Dr. Tsoneva has the necessary theoretical knowledge, research experience and qualities for this and I wish her success, for which I have no doubt!

CONCLUSION

Based on the above considerations, I am convinced that **Chief Assistant Professor Dr. Silvia Tsoneva** meets all the substantive legal requirements established in the RASRBA, RARASRBA and the internal acts of the New Bulgarian University for holding the academic position "Associate Professor" in the professional field 3.6. Law (Law of Obligations) at NBU, Department of Law, and therefore propose to the esteemed scientific jury to vote positively.

Date: June 19, 2022

Signature:
Prof. Ekaterina Mateeva, S.J.D.