

STATEMENT OF OPINION

by Prof. Aneliya Mingova, J.D.,

Member of the Scientific Jury appointed under Order No 10-180/ dated 9 September 2022 issued by the Rector of Burgas Free University in connection with the competition for the academic position of "Associate Professor" in the Professional field: 3.6. Law /Civil and Family Law/-1 at the Centre for Legal Studies with Burgas Free University

I. Anna Cholakova, J.D., is the only candidate at the competition announced in the State Gazette, issue 55 of 15 July 2022, for the academic position of "Associate Professor" in the Professional field: 3.6. Law /Civil and Family Law/-1 at the Centre for Legal Studies with Burgas Free University. At present she is Chief Assistant at the Centre for Legal Studies with Burgas Free University.

The candidate's brief professional biographical data indicate, as follows: In 1994 Anna Cholakova acquired Master's degree in Law at the Faculty of Law of St. Kliment Ohridski Sofia University. From July 1995 to July 1996 she was a judicial trainee at the District Court of Burgas. For the period October 1995-June 1997 she was a part-time assistant in Insurance Law at the Centre for Legal Studies with Burgas Free University. From 1996 until 2000 Anna Cholakova worked as a legal advisor at the Regional Administration of Burgas Region. Since 2001 up to the present she has been successively an assistant and chief assistant at the Centre for Legal Studies with Burgas Free University. After completion of her doctoral studies in Civil and Family Law at the Faculty of Law and History of Neofit Rilski Southwest University - Blagoevgrad, in 2015 she acquired Doctor's degree in Civil and Family Law. She has worked on a number of educational projects. She speaks Russian and English.

II. For her participation in the competition the candidate submitted the following works, published after the defence of her dissertation, namely:

1. Monographs:

a/ The Inheritance Transmission. Sofia, Nova Zvezda, 2022;

b/ Child Recognition under Bulgarian Law. Burgas, 2017.

2. Publications of Conference Reports:

a/ The UN Convention on the Rights of the Child and the Effective Regulatory Framework on Child Recognition in the Family Code of the Republic of Bulgaria. International Scientific Conference of BFU, June 2015.

b/ Bulgarian Family Law in the Last 25 Years - Development and Perspectives. Jubilee Scientific Conference of BFU, June 2016.

c/ Development of the Black Sea Coast Act - a Guarantee for Sustainable Development of the Region. Scientific Conference of BFU, June 2018.

d/ On the Right of Inheritance in Case of Replacement due to Unworthiness. International Scientific Conference in Memory of Assoc.Prof. Christian Takov, St. Kliment Ohridski Sofia University, June 2018.

3.Articles:

a/ Acquisition of Vacant Inheritance by the State and Municipalities under Article 11 of the Inheritance Act. Journal of Legal Studies, 2019.

b/ Surrogate Motherhood - Some Ethical and Ethical-Legal Issues. *Studia Iuris* Journal - electronic edition of the Faculty of Law at Paisiy Hilendarski Plovdiv University, issue 2/ 2020.

c/ Will the Effect of the Chosen Matrimonial Property Regime Be Suspended if One of the Spouses is Subsequently Placed under Injunction. /In support of the negative answer. Published in a collective volume titled "Marriage and Spouse Relations. Discussions on Family Law Issues." Paisiy Hilendarski Plovdiv University, Plovdiv, 2022. /p.14/

d/ Inheritance Transmission in Roman Private Law - Genesis and Development. Journal of Legal Studies, 2020.

e/ Legal Characteristics of the Right of Inheritance. Collection of Studies in Honour of the 80th Anniversary of Prof. Tsanka Tsankova, J.D. St. Kliment Ohridski University Publishing House, Sofia, 2022.

As it can be seen from the presented report, Chief Assistant Cholakova has met both the minimum national requirements for occupying the academic position announced in this competition, and the additional requirements set by BFU with respect to it.

III. General Characteristics and Scientific Contributions in the Presented Monographic Work titled "Inheritance Transmission".

1. It is the main monographic work that is subject to reviewing. It consists of 186 pages and follows the standards established in our scientific literature, containing Introduction, four chapters with a total of 19 paragraphs with structurally separated accents and Conclusion, followed by Bibliography consisting of 66 titles in total, out of which 50 are in Bulgarian and 16 - in a foreign language. In Chapter 1 the author traces the development of the considered legal institution in a historical and comparative-legal aspect, considering successively its development in Roman private law, the legislations of France, Germany, Austria, Russia, as well as in the law of the Republic of North Macedonia. The author fluently moves to the next paragraph in order to consider the development of the legal system in Bulgarian inheritance law. This wide range of comparative legal and historical research of the institution leads in Chapter 2 to the convincing derivation of the concept and characterization of the legal nature of inheritance transmission and the factual elements that give rise to it, as well as to the logically deduced and defended relations and distinctions from similar legal arrangements. Chapter 3 is dedicated to legal entities that assume the right of inheritance based on inheritance transmission: which persons can be transmissars and for whom inheritance transmission is limited. Chapter 4 examines the legal consequences resulting from inheritance transmission. In the Conclusion the author summarized the conclusions and proposals reached.

2. The work that is considered here gives sufficient grounds for a positive general assessment with respect to its capacity of a monograph: in terms of relevance and significance of the chosen topic; by its structure covering the essential aspects of the institution; and by its content – with a view to its level of profound and specific theoretical analysis, the ability to draw theoretical conclusions and generalizations with a theoretical and also a practical focus.

3. The work also contains a number of specific scientific contributions, including but not limited to the following ones:

3.1. In this study for the first time the prerequisites for the legal origin of the factual elements leading to inheritance transmission are systematized and clarified in detail, as a result of which the concept of it was defined, including distinguishing the concepts of "inheritance transmission" and "inheritance by transmission";

3.2. The analysis regarding the legal entities to which the right of inheritance passes by transmission when it is not exercised, is quite interesting. Here, the arguments substantiating the thesis that an incompletely adopted person

can be a transmissar stand out, as well as the additional argumentation in support of the opinion on the theory that the state and municipalities cannot be transmissars.

3.3. The analysis and conclusions regarding the legal consequences of inheritance transmission deserve special attention. In this regard, special emphasis is given to the study of legal succession volume in case of transmission, including the reasoning and arguments that the right to a reserved portion, due to its legal nature, cannot be subject of inheritance by transmission in particular;

3.4. Among the scientific achievements of the work are the proposals *de lege ferenda* made in it and systematized in the conclusion- more specifically the ones regarding:

a/ Addition of a new paragraph to the provision of Article 57 of the Inheritance Act that the successors of an heir under a will who died before exercising his/her right to accept or renounce the inheritance, may acquire this right of his/hers by transmission if they accept the inheritance.

b/ systematic rearrangement of the irrefutable presumption under Article 10a of the Inheritance Act, so that it is to include heirs by will too;

c/ adoption of a new paragraph in Article 51 of the Inheritance Act which is to provide a separate time-limit for the transmissars to accept the inheritance of the former deceased person, after they have been duly notified by the competent court.

d/ establishing a special rule in Article 61 of the Inheritance Act regarding the transmissars, whereas the term for acceptance of the inheritance by inventory shall commence upon opening the transmitent's inheritance.

e/ excluding the possibility for the right to a reserved portion under Article 28 of the Inheritance Act and the rights under Article 12, Paragraph 1 of the Inheritance Act to pass by transmission together with the right of inheritance.

3.5. Quite interesting are also the proposals for changes in the legislation, primarily aimed at facilitating the practical application of inheritance transmission: These are: introduction of a centralized system for settling relations on the occasion of open inheritance, where the prerequisites for inheritance transmission are to be established; a change in the regulations regarding the contents of the certificate of inheritance, so that it is to be possible for the transmissars to legitimize themselves as special indirect heirs of the first testator by it.

IV. The other research papers submitted in this competition for review also demonstrate in their entirety the candidate's researching skills and broad-spectrum interests in the field of civil law and more specifically in the field of family and inheritance law. Both the specific topics on which these publications are focused and their content, are sufficiently convincing of Cholakova's research capabilities. They demonstrate her ability to find and make a profound analysis of some of the specific current issues of family and inheritance law, for example: the problems of surrogate motherhood; the effect of a spouse's subsequent injunction with respect to the matrimonial property regime chosen; the right of inheritance in case of replacement due to unworthiness. Cholakova shows interest and makes a thorough analysis of the child recognition as an essential legal institution in our family law, dedicating her monographic work to it, including the relations with an international element in the correlation of the legal framework in the Bulgarian Family Code and the UN Convention on the Rights of the Child. Her theoretical interests and research possibilities and achievements are also revealed by those of her works dedicated to legal concepts that are fundamental to a respective field, such as, e.g., the legal characteristics of the right of inheritance. The author has an in-depth knowledge of the legal framework in the legal areas she explores – for example, the work in which she considers its development and prospects for it in Bulgarian family law in the last decades.

V. The previous academic career of Chief Assistant Anna Cholakova, J.D., also deserves a positive assessment. In her teaching activity at the BFU's Centre for Legal Studies, she has prepared the following courses in the Moodle platform for the BFU's Centre for Legal Studies, namely: a/ a comprehensive course in Property Law /Master's degree programmes/; b/ a comprehensive course in Family and Inheritance Law /Master's degree programmes/; c/ part of the Civil Law course – the general part /Master's degree programmes/. She also prepared a semester project on civil law /Master's degree programmes/. She has also participated as an academic mentor in all the phases of the Student Practices project. As a lecturer she has gathered considerable experience, reflecting her broad and profound knowledge of civil law theory and practice and presented to her students in an expert academic manner.

VI. In conclusion, I express my firm conviction of the professional qualities of Chief Assistant Anna Cholakova, J.D., as a competent and thorough researcher in the field of family and inheritance law, possessing indisputable skills for in-depth analysis of the chosen subject, as well as for theoretical conclusions and generalizations. This is evident from the works submitted for review, in which she makes a successful attempt to derive specific proposals *de lege ferenda*, which, besides being theoretical, also aim at achieving results oriented for

application in judicial practice. In addition, Anna Cholakova is also a lecturer of proven proficiency in the field of civil, family and inheritance law at the Centre for Legal Studies at BFU.

Basing on the aforesaid, I give a positive assessment and shall vote for the scientific jury to propose to the Faculty Council of the Centre for Legal Studies to award to Chief Assistant Anna Cholakova, J.D., the academic position of **"Associate Professor" in the Professional field: 3.6. Law /Civil and Family Law/ at the Centre for Legal Studies with Burgas Free University.**

20 October 2022

Prof. Aneliya Mingova, J.D.