

## STATEMENT

*by Prof. Dr. Sasho Georgiev Penov,*

*Member of the scientific jury in an announced competition for holding the academic position of “Associate Professor in the professional field 3.6. Law (Administrative Law and Administrative Process)”, published in the State Gazette, issue 87 of 2021, for the needs of Faculty of Law, Sofia University "St. Kliment Ohridski"*

According to Order No. RD – 38-553/22.11.2021 of the Rector of Sofia University “St. Kliment Ohridski”, I have been appointed as a member of the scientific jury for the announced competition. Documents and scientific works for participation in the competition were presented by Chief Assistant, Doctor of Law Svetla Ivanova Yankulova.

I am familiar with the applicant's teaching activity since she joined the Faculty of Law of Sofia University in the Department of Administrative Legal Sciences in 2003 on the basis of a successful competition for an assistant professor in Administrative Law and Administrative Process. I believe that she has performed her duties as a lecturer in good faith and has been perceived by her fellow lecturers and students as a dedicated lawyer with in-depth professional knowledge.

Svetla Yankulova's scientific work is distinguished by her choice to study clearly outlined problems in the development of Administrative Law. On the basis of her scientific contributions in 2014 she successfully defended her PhD thesis for the award of the educational and scientific degree "Doctor of Law". Due to the significance of her conclusions, her scientific works are often cited in a positive light in the Bulgarian legal literature, and only a part of the citations is attached to the documentation of the competition.

The applicant's participation in national and international conferences and projects is correctly indicated in the references submitted to the documentation.

In parallel with her teaching and research activities, Svetla Yankulova has been working as an expert since 2003 in the Legislative Advisors Department at the National Assembly. In this way, she has gained significant experience in the legislative process, on the one hand, and, on the other hand, her knowledge supports the legislative process, which also contributes to the quality education of law students.

For participation in the competition and in fulfillment of the requirements of Art. 24, para. 1, item 3 of the Act on the Development of the Academic Staff in the Republic of Bulgaria, scientific works have been submitted that do not repeat those submitted for the acquisition of the educational and scientific degree "Doctor" and are only part of the candidate's scientific publications:

- published monograph –Administrative Jurisdictions, *Sofia: Mont, 2021, 287 pages* (including references);

- articles: Is the National Expert Medical Committee an administrative jurisdiction? – *In: Medical Law and Health Care, issue 3 of 2021, 25-44*; Adjudication of the administrative sanctioning body with an agreement. – *In: Administrative Justice, issue 5 of 2021, 5-21* ; Is the Disputes Division of the Patent Office an administrative jurisdiction – *In: Property and Law, issue 11 of 2021, 67-77*; Administrative jurisdictions as adjudicatory bodies – *In: De jure, issue 2 of 2021 (23), 214-221*; The property sanction under Article 83 of the Law on Administrative Offences and Penalties. – *In: De jure, issue 2 of 2019 (19), 168-174*; Participation of the prosecutor in the administrative process under the Bulgarian legislation. – *In: Law and State in the Modern World: State, Problems, Trends and Development [III International "Maltsevsk readings", Belgorod, 21-22 April 2016], Belgorod: Publishing House "GIK", 2016, 129-163*; Origin and development of the prosecutorial institution. – *In: 135 years since the adoption of the Tarnovo Constitution [Proceedings of a scientific conference dedicated to the 135th anniversary of the adoption of the Tarnovo Constitution], Sofia: Sibi, 2014, 444-449*. A total of six articles (six articles) were presented.

The monograph "Administrative Jurisdictions" is distinguished by its relevance in the contemporary legal framework. It contains a complete and comprehensive study of the subject defined in its title - the institution of administrative jurisdictions. On the basis of the analysis of the current legal framework and the case law of the Constitutional Court, the need for administrative jurisdictions as adjudicatory bodies is justified and developed, which opinion I consider justified. In my opinion, by in-depth clarifying and distinguishing the concepts of "justice" and "adjudication", by drawing out the characteristics of administrative jurisdictions under national and European Union law and by distinguishing the types of administrative jurisdictions, it is indisputably demonstrated that *de lege lata* administrative jurisdictions exist and *de lege ferenda* such jurisdictions can be established, taking into account the need to clearly regulate in the legislation the place of administrative jurisdictions in the system of non-judicial adjudicatory bodies, and clearly outline the criteria for their activities. In this sense, the monograph has a serious practical contribution, because the characterization of administrative jurisdictions is not only a theoretical problem, precisely studied in the monograph on the basis of the development of our national legal theory and positive legal framework, but also a practical problem directly affecting citizens and organizations in the realization of their subjective rights and obligations in administrative legal relations with state bodies and the delineation of the competence of state authorities.

In the overall content of the monograph, and especially in Chapter 2, paragraph 3, the critical analysis of the Constitutional Court's case law on the issue of the existence of administrative jurisdictions is revealed, and the scientific criticism of the decisions is argued. The author logically justifies the proposal to regulate the status of administrative jurisdictions in Chapter 6 of the Constitution "Judicial Power" (p. 133) rather than to derive their existence by interpretation.

One of the merits of the monograph is the upgrading on the established understandings in the Bulgarian legal literature with new theoretical formulations based on the current legal framework. The in-depth knowledge of the issue in historical aspect allows to draw theoretical conclusions and to propose specific amendments to the

legislation in order to improve it, systematized in the conclusion of the monograph. The distinction between the contestation of administrative acts according an administrative procedure and the adjudicatory activity of administrative jurisdictions (pp. 56-60) has a concrete practical orientation in regulating the powers of the relevant bodies and for understanding these powers. The comparison between the European Court of Justice's understanding of an institutionalized jurisdiction that may refer a preliminary ruling to it and the understanding of an administrative jurisdiction according to Bulgarian legal theory and legal framework is of theoretical and practical contribution ( pp. 119 - 122). I share the conclusion that the European Court of Justice`s criteria have no direct application in Bulgarian legislation and should not be introduced in it in any special form, but they may serve the legislator in future regulation of administrative jurisdictions. On p. 125 in the monograph as a final conclusion is given a precise definition of administrative jurisdiction.

Of practical value are the considerations in Chapter 3 of the monograph on the activities of the Commission for protection of competition as an administrative jurisdiction in disputes over public procurement and over concessions and of the administrative sanctioning jurisdictions, which are scientifically distinguished from other bodies that are not essentially administrative jurisdictions.

The proposals in Chapter 3 of the monograph for rethinking the legal framework of administrative sanctioning jurisdictions are well-founded and in line with the principles of objectivity and independence. These are the proposals “to create more guarantees for the autonomy of the single sanctioning authority, which is in a departmental system with the official who has established an administrative violation or is his superior”; “to assign the function of sanctioning authority to the independent collective body rather than to its chairman”, “to abolish the absurd provisions in the legislation which provide for an administrative sanction to be imposed by an individual administrative act rather than by a penal decree.” These proposals are directly related to ensuring greater fairness in administrative sanctioning.

The articles submitted for participation in the competition have original scientific contributions to the topics studied in them, correctly indicated in the reference for scientific

contributions. They are distinguished by a clear outline of the topic under discussion, setting out the problems accompanying the legal framework and proposals for their solution.

I believe that the documents and scientific works submitted for participation in the competition show that the legal requirements of the Act on the Development of the Academic Staff in the Republic of Bulgaria and the requirements of the Regulations on the conditions and procedure for acquiring science degrees and holding academic positions at Sofia University "St. Kliment Ohridski" for holding the academic position of "Associate Professor" have been complied with. Svetla Yankulova has acquired the educational and science degree "Doctor" in the professional field 3.6. Law (Art. 26, para. 1, item 1 of the Act on the Development of the Academic Staff in the Republic of Bulgaria). She has held for more than two years the academic position of "Chief Assistant Professor" (Art. 24, para. 1, item 2 (a) of the Act on the Development of the Academic Staff in the Republic of Bulgaria) and is a proven specialist in practice (Art. 24, item 1 (d) of the Act on the Development of the Academic Staff in the Republic of Bulgaria). A published monograph and other scientific publications in the field of the competition are submitted, which do not repeat those presented for the award of the educational and science degree "Doctor" (Art. 24, para. 1, item 3 of Act on the Development of the Academic Staff in the Republic of Bulgaria). Svetla Yankulova's scientific and teaching activities meet the minimum national requirements under Art. 2b, para. 2 and 3, respectively Art. 2b, para. 5 of the Act on the Development of the Academic Staff of the Republic of Bulgaria and the Regulation for its implementation (Art. 24, para. 1, item 4 of the Act on the Development of the Academic Staff in the Republic of Bulgaria). There is no evidence of plagiarism in the scientific works submitted for the competition (Art. 24, para. 1, item 5 of the Act on Development of the Academic Staff in the Republic of Bulgaria). Thus, the requirements of Art. 105, para. 1 of the Regulations on the conditions and procedure for acquiring science degrees and holding academic positions at Sofia University "St. Kliment Ohridski" are met. In accordance with Art. 112, the reports referred to in Art. 107, para. 12-14 of the Regulations on the conditions and procedure for acquiring science degrees and holding academic

positions at Sofia University "St. Kliment Ohridski" are presented. Their analysis shows that the conditions for the academic position of "Associate Professor" are fulfilled.

On the basis of my opinion, I express a positive assessment of the results of the scientific and teaching activities of Svetla Yankulova presented for participation in this competition. The positive evaluation gives me a reason to vote "FOR" her nomination for election by the Faculty Council of the Faculty of Law at Sofia University "St. Kliment Ohridski" for the academic position of "Associate Professor in the professional field 3.6. Law (Administrative Law and Administrative Process)".

Sofia, January 10, 2022

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