

REVIEW

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concerning: competition in the field of higher education

3. Social, economic and legal sciences, professional field

3.6. Law (Administrative Law and Administrative Process),

Published in the State Gazette, issue 87 of 19.10.2022,

with only one candidate participating –

Chief Assistant Professor Dr. Svetla Ivanova Yankulova

According to Order no. RD 38-553/22.11.2021, based on a decision of the Faculty Council of the Faculty of Law of the Sofia University "St. Kliment Ohridski", I have been appointed as a 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). At the first meeting of the scientific jury I have been assigned to present a review of the materials submitted for the competition. The materials has been submitted to me in accordance with the procedure laid down in the regulations. They meet the requirements set out. In the competition for "Associate Professor" only one candidate takes part – Chief Assistant Professor Dr. Svetla Yankulova.

I was delighted to be part of the scientific jury for this competition. I have known Dr. Yankulova for more than 15 years. We have been working together since she joined the Faculty of Law of Sofia University "St. Kliment Ohridski". My impressions of her as a person,

as a teacher, and as a researcher are very good. She has both the qualities and the desire and opportunity to develop along the steps of an academic career. Dr. Yankulova graduated in law in 2000 and started working in the Ministry of the interior affairs. Since 2003 she has been working in the administration of the National Assembly of the Republic of Bulgaria as a legal expert in various positions. This has helped her to gain practical experience and to build a systematic knowledge of the development of Bulgarian legislation during the last few legislatures. In 2003, following a competitive selection process, she has been appointed as a full-time assistant professor of Administrative Law and Administrative Process, where she has worked ever since. She conducts seminars and lectures at the Faculty of Law and other faculties of Sofia University. In 2014 she successfully defended her PhD thesis on "The Prosecutor in the Administrative Process". This work was published as a monograph in 2016. All this shows an accomplished and motivated teacher and researcher. The next step, which is the most logical in view of Dr. Yankulova's qualities and abilities, is to participate in a competition for the academic position of "Associate Professor" and holding this position after its completion.

According to the requirements of the Act on Development of the Academic Staff in the Republic of Bulgaria and other normative acts in this field, the main and mandatory prerequisite for participation in such a competition is the submission of a habilitation thesis. Dr. Yankulova participated in the competition with the monographic research in "Administrative Jurisdictions".¹ The submitted thesis has a structure and content that allows it to be a full-fledged study of the matter to which it relates. The volume is nearly 300 pages. There are a separate introduction, three chapters, a conclusion and references used. Noteworthy literature. More than 100 monographs, textbooks, studies and articles by various authors are listed. Dozens of judgments of Bulgarian courts and practice of European institutions are presented.

¹ Yankulova, S. *Administrative Jurisdictions*, Sofia: Mont, 2021, ISBN 978-619-231-6.

This shows the conscientious attitude of Dr. Yankulova to the research and her willingness to cover the literature that is relevant to the topic of the monograph. There is one more thing that deserves respect and recognition - with this volume of cited and used literature the author pays tribute to all her colleagues who have worked before her in this and related subjects. This speaks of continuity and appreciation of the work of colleagues in the professional community.

With this monograph Dr. Yankulova presents us a new and topical study of a classical issue for Bulgarian and for the administrative law in general - that of the place, nature and necessity of administrative jurisdictions and their place according to the constitutional framework of Bulgaria. The author's views on the existing jurisdictions, their practice and acts are also presented. The practice of the Constitutional Court, the Supreme Administrative Court and other judicial institutions is analyzed.

Chapter 1 is entitled "Adjudication and justice". It has a general and theoretical character. Here administrative jurisdictions are examined in the light of the separation of powers. An analysis of the constitutional texts related to justice and adjudication by non-judicial bodies and their essence has been made. The existence of some inconsistency in the use of these concepts and their content is reflected. The analysis of the possibility of administrative adjudication also being administered by administrative bodies or bodies outside the judiciary is interesting. It is noteworthy that the author accurately presents the existing opinions and analyses their nature and the conditions that gave rise to them. She makes an analytical study of the criteria for distinguishing the activity as adjudication. I believe that in a subsequent publication the author should draw conclusions, highlight her own opinion on the existence and peculiarities of administrative adjudication from the point of view of the constitutional structure of Bulgaria and its legal system. Perhaps some thought should be given to unifying the use of the terms "justice" and "adjudication" in the Basic law.

Notwithstanding this criticism, Chapter 1 is a good basis for developing the topic and the author's theses.

Chapter 2 is "Concept of Administrative Jurisdiction". Here the author analytically and carefully examines the nature and features of the administrative jurisdiction. She correctly notes that there is no explicit definition of what is adjudication and what is administrative jurisdiction. This can be done after analyzing and discovering the jurisdictional features. It is only in this way that one can come to the conclusion that a body is an administrative jurisdiction. This conclusion is important because it is determinative of the nature of jurisdiction, irrespective of its organisational or structural position. What is important is the analysis and the conclusion that Dr. Yankulova draws from it that "not all features or elements of a jurisdiction are equally relevant to its identification"². There are some of primary and determinative importance, others are supplementary or relative. It is interesting to analyse the indicia of the existence of jurisdiction as requirements or circumstances that define the activity as jurisdictional. A significant novelty in the presented monograph is the analysis of the concept of "jurisdiction" according to the case law of the Court of Justice of the European Union. This is important because this issue is not raised in our national law, but can be a basis for the development of the law on administrative jurisdictions. I consider this part of the work to be a significant contribution to Dr. Yankulova's work.

Paragraph 3 of Chapter 2 would be of interest to specialists. The nature of administrative jurisdictions as adjudicatory bodies is presented. This means that the features examined and European practice are "superimposed" on historical developments, constitutional and legislative solutions and the conformity of laws with them. The analysis of why administrative jurisdictions are needed in the system of state bodies in resolving specific legal disputes not by the courts but by other

² Yankulova, S. Administrative Jurisdictions, Sofia: Mont, 2021, p.42

state structures is valuable. Both this paragraph and the chapter in general conclude with the need for judicial oversight by the courts, specifically by the Supreme Administrative Court. Interesting and important is the author's thesis that Decision № 6 of 2008 of the Constitutional Court recognizes the lack of administrative jurisdictions as constitutionally established bodies, but legitimizes them in our country.³

The title of Chapter 3 is "Types of Administrative Jurisdiction". Here the author presents the existing classifications of administrative jurisdictions and the criteria on which they are based. The two main types of jurisdictions are considered - those in law enforcement, which resolve legal disputes in relation to the law enforcement activity of the executive authorities and those relating to the administrative sanctioning activity of the state authorities. Greater attention has been paid to the first type, which is natural with this structure and with these goals that have been declared by the author of this serious and thorough study. What is valuable here, in my opinion, is Dr. Yankulova's view of the existence of requirements for the establishment of administrative jurisdictions.

Based on the presented critical analysis of Dr. Yankulova's monograph, I believe that this is a very serious study with great practical and theoretical value. This is the first and main study after the adoption of the Constitution of the Republic of Bulgaria in 1991 and the accumulation of the practice of the Constitutional Court and of various judicial institutions. It thus fills a serious gap of years and for years to come.

There are a number of contributing moments in the presented monograph. Among them is the proposal to unify the concepts of "justice" and "adjudication" in the Basic law. The expanded and

³ Yankulova, S. Administrative Jurisdictions, Sofia: Mont 2021, pp. 134-135; Decision No. 6 of 2008 of the Constitutional Court in case No. 5 of 2008.

modernized examination of the characteristics of administrative jurisdictions is also important and of fundamental significance. The analysis of the acts of the Constitutional Court is valuable, which shows that this important institution has evolved in its understanding of jurisdictions. Proposals for changes in the normative acts regarding the administrative jurisdictions are also an important contribution.

The other works presented in the competition procedure are also of a high level, analytical, logically justified and valuable for the development of legislation and jurisprudence. They are of interest to a wide range of specialists.

It is important to me that Dr. Yankulova is positively evaluated by the professional community. Her works are often cited in the legal literature by various authors, including me. This means that they have value and are important for the development of science.

The submitted reference for the fulfilment of the minimum national requirements under Art. 2b of the Act on the Development of the Academic Staff in the Republic of Bulgaria, professional field 3.6. Law (Administrative Law and Administrative Process), shows that Dr. Yankulova has done what is necessary, and in a number of cases even more, by meeting and exceeding the minimum national scientometrics for holding the academic position of “Associate Professor”. The reference reveals the active position of the candidate for the academic position of “Associate Professor” in relation to the requirements set by the law. There is no evidence of plagiarism within the meaning of paragraph 1, point (7) of the additional provisions of the Act on the Development of the Academic Staff in the Republic of Bulgaria in Dr Yankulova's peer-reviewed scientific works.

Based on what has been stated so far in my review, I confidently declare my firm belief that Chief Assistant Professor Dr. Svetla Yankulova must be elected and hold the academic position of "Associate Professor" in the field of Administrative Law and

Administrative Process. I express my positive opinion and call on the other members of the scientific jury to make such a decision. I believe that for Dr. Svetla Yankulova this is a high appreciation of her work so far as a teacher and researcher, as well as an incentive for development.

Sofia, January 4, 2022

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