

OPINION

By Prof. Dr. Emilia Parvanova Panayotova, member of the scientific jury in the call for academic position of “associate professor” – in the field of higher education as follows: 3. Social, economic and legal sciences, professional field 3.6 Law and subject: Administrative law and administrative procedure at the Faculty of Law of the Sofia university “Saint Kliment Ohridski”, as announce in SG, issued 87 from the 19th of October 2021, with applying candidate Chief Assistant Professor Dr. Svetla Ivanova Yankulova.

1. In the selection procedure for the academic position of associate professor in administrative law and process at the Faculty of Law of the Sofia university “Saint Kliment Ohridski”, Chief Assistant Professor Dr. Svetla Ivanova Yankulova is the only candidate. For the application procedure she submits eight scientific papers, which were published after the defense of her dissertation. One of them is research work qualifying for the academic degree- monograph “Administrative jurisdictions” (Sofia, Mont Ltd, 2021, 287 pp.), and the rest are articles.

2. Svetla Ivanova Yankulova holds a master’s degree in Law from the Sofia university “Saint Kliment Ohridski”. From 2003, she has been an assistant professor and from 2014 she has been a holder of a PhD degree after a successful defense of her dissertation with topic “The Prosecutor in the administrative process”. From 2008, she holds a Master’s in International Law degree- EU Law, has obtained postgraduation qualification in “Legal and judicial system of the EU” with the University of Nancy, France. Svetla Yankulova successfully leads seminar classes with the students from the Faculty of Law in administrative law and administrative procedure, as well as lectures in administrative adjudication, notwithstanding that she was also assigned lectures at the Faculty of Geology and Geography in administrative law and administrative procedure. It should be stressed that Chief

Assistant Professor Dr. Svetla Yankulova successfully combines her teaching, scientific research and practical activity. From 2001 until 2003, she was a parliamentary secretary at the political cabinet of the Minister of interior affairs. From 2003 on, she is a legislative referent at the “Legislative activity and EU law” directorate and participates through her expert’s research on bills and drafts of opinions for compliance with the Constitution, with the legislation in force, with the EU law, with the international agreements, which are in force for Republic of Bulgaria at the sessions of the leading committee at the adoption of bills at first and second voting. At the same time, she participates in a number of seminars and conferences dedicated to contemporary problems of public law, also works on projects for improvement of the effectiveness of the students’ practicums. The research papers of Chief Assistant Professor Dr. Svetla Yankulova are published here as well as abroad.

3. The monography “Administrative jurisdictions” is the first complete scientific research on the bodies that carry the features of an administrative jurisdiction, that was published after the adoption of the Constitution of Republic of Bulgaria from 1991. It is characterized with a structure which includes an introduction, three chapters, conclusions, and bibliography.

The work stands out with the numerous contributory moments, part of which are the following:

- presenting in detail the theoretical views regarding the notions of “adjudication” and “justice”, the dispositions of the Constitution, which serve as a base for the delivery of justice were subjected to an analysis, there is a review of the case law of the Constitutional court, in which it discussed the essence of “administrative adjudication”.

- the developed in the theory features of adjudication are subject to analysis along with their reflection in the legislation in force. The derived from the case law of the Court of Justice of the EU criteria for “jurisdiction” are also discussed, which, despite the fact that are developed for the purposes of the preliminary ruling procedure, could serve for the future regulation of administrative jurisdictions in the Bulgarian legislation.

- the special and administrative jurisdictions that existed when the 1991 Constitution of the Republic of Bulgaria was adopted were examined. It is found that some of them continue to operate and new ones are created, even though the current Basic law does not provide for extrajudicial adjudicational bodies.

- subject to critical analysis are the arguments based on which the Constitutional court allows for administrative jurisdictions to serve administrative justice. In relation to this the question of the practical need for non-judicial bodies to adjudicate is considered as well from the stance that there should be an explicit constitutional provision of the public bodies that could act as administrative jurisdictions.

- a *de lege ferenda* proposal was made for chapter six of the Basic Law to include provisions on: fields of state government, in which it is admissible for administrative jurisdictions to solve legal disputes; requirement for their formation and membership, for the procedure before them and the legal effect of their decision, as well as to guarantee their autonomy and independence from the executive. At the constitutional level should also be regulated the appeal of the decisions of the administrative jurisdictions before courts, since the general clause of Art. 120 of the Constitution covers the administrative, not the adjudicational acts such as the decisions of the administrative jurisdiction.

- arguments in support of the thesis, that regarding the judicial appeal of the decisions of the administrative jurisdiction on the application of the law, the referral to the first instance court appeal under the Administrative Code of Procedure is not suitable.

- consideration of the more important cases in the Bulgarian legislation, in which one could pose the question whether one public body could act as an administrative jurisdiction. Consideration is paid to the peculiarities and the flaws of the current normative regulation, which lead to the dropping out of some of the features of adjudication and do not allow the categorization of the respective body as administrative jurisdiction- on the application of the law or on the administrative punishment.

- regarding the activity of the administrative sanction jurisdictions there are numerous proposals *de lege ferenda*, the most important of which are as follows: to create more guarantees for independence in the resolution of disputes related to administrative violations by single member sanctioning authority, which is part of the same organization system or is a superior to the public officer, that has established the administrative violation; with the view of the imposition of administrative sanction by independent collective authority there should be unification of the approach to the determination of the drafter of the act and the sanctioning authority, and to create more guarantees for the autonomy and the independence of the sanctioning body; the function of a sanctioning authority to be allocated to the independent collective authority, not to its chairman; to include approval by the court or the public prosecution of the agreement by which the administrative punishment procedure might end- thus the upkeep of the rights of the violator and the principles of the administrative punishment will be guaranteed.

Bearing in mind the outlined above achievement of the work qualifying for the academic position, undoubtedly one reaches the conclusion that it carries the

necessary theoretical and practical significance for the clarification of the legal nature of the administrative jurisdiction with the view of the lack of constitutional regulation of these bodies. The scientific value of the monography is conditioned by the applied research methods as well. The in-depth knowledge of Chief Assistant Professor Dr. Svetla Yankulova of the relevant to the discussed problems case law of the Bulgarian courts, the Court of Justice of the EU, as well as the Constitutional court of Republic of Bulgaria, contributes to the achieved results too.

4. Chief Assistant Professor Dr. Svetla Yankulova presents for the application procedure eight more scientific papers. These are: Is the National Expert Medical Commission (NEMC) an administrative jurisdiction? (Medical law and healthcare, 2021, No.3, 25-44), Ruling of the administrative sanctioning authority with an agreement, In: Administrative justice, 2021, No.5, 50-21, Is the “Disputes” Department of the Patent Office an administrative jurisdiction? (Property and Law, 2021, No.11, 67- 77), Administrative jurisdictions as adjudication bodies (De jure, 2021 (23), No. 2, 214-221), The property sanction under Art. 83 of the Administrative Violations and Sanctions Act (De jure, 2019 (19), No. 2, 168- 174), Participation of the prosecutor in the administrative process according to the Bulgarian legislation (Law and State in the Modern World: State, Problems, Trends and Development [III International "Maltsev Readings" - in memory of Honored Scientist of the Russian Federation, Corresponding Member of the Russian Academy of Sciences, Doctor of Law, Professor Maltsev Gennady Vasilievich, Belgorod, 21-22 April 2016], Belgorod: GIK LLC, 2016, 129-163), Origin and development of the prosecutor’s institution (135 years since the adoption of the Tarnovo Constitution. [Collection of reports from scientific conference dedicated to the 135th anniversary of the adoption of the Tarnovo Constitution], Sofia, Sibi, 2014, 444-449).

The listed above published works are dedicated to topical matters of administrative law and procedure. In all of them the author lays down her argued opinion on the discussed problems. The articles are not only of theoretical, but also of practical use. They can be used as much for improvement of the legislation, as for unification of its interpretation and application.

5. Overall the scientific work of Chief Assistant Professor Dr. Svetla Yankulova shall receive positive evaluation due to the pointed out theoretical and practical importance of her papers. Nevertheless, through her work she demonstrates her ability to identify important social problems, to investigate them thoroughly and to offer convincing ways for their resolution.

In conclusion, considering all of the above regarding the educational, practical and scientific research work of Chief Assistant Professor Dr. Svetla Yankulova I find that she fulfills all of the conditions for the academic position of “associate professor” according to Art. 24, par. 1 of the Act on the Academic Staff Development in Republic of Bulgaria. Due to this, I recommend the scientific jury to propose to the Faculty Council of the Faculty of Law at the Sofia University "St. Kliment Ohridski” to select for the position of associate professor of administrative law and administrative procedure Chief Assistant Professor Dr. Svetla Yankulova.

City of Sofia
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Signature:
(Prof. Dr. Emilia Panayotova)