

To the Scientific Jury for the application procedure for associate professor in administrative law and administrative procedure at the Faculty of Law of the Sofia university “Saint Kliment Ohridski”

## O P I N I O N

On the occasion of procedure for obtaining the academic position of “associate professor” for the Faculty of Law of the Sofia university “Saint Kliment Ohridski” (in State Gazette, issue 87 from 19.10. 2021) in the scientific field of administrative law and administrative procedure, field of higher education Social, economic and legal sciences (3.), professional field Law (3.6.)

Candidate: **Chief Assistant Professor Dr. Svetla Ivanova Yankulova**

As drafted by: **Prof. Dr. Plamen Kirov**

Respectable members of the scientific jury,

By Ordinance No. RD-38-553/22.11.2021 I have been appointed as member of the scientific jury of the call for academic position of “associate professor” in administrative law and administrative procedure for the needs of the Faculty of Law of the Sofia university “Saint Kliment Ohridski”. At the first session of the scientific jury, I was assigned with the draft of an opinion.

The only candidate for the selection procedure is Chief Assistant Professor Dr. Svetla Ivanova Yankulova. She has been a long-term lecturer at the Faculty of Law of the Sofia university “Saint Kliment Ohridski”.

According to the requirement of the Act on the Academic Staff Development (AASD) and the regulation for its application, the candidate has submitted a full set of documents for participation in the procedure. At the announcement of the latter all normative requirements were kept.

Svetla Yankulova has graduated the Faculty of Law of the Sofia university “Saint Kliment Ohridski” in 2000 as Masters of Law holder. Consequentially she specialized Law of the European Union at the Sofia University, along with several other specializations with foreign institutions and international organizations (University 2 Nancy- France among others). In 2014 she obtained educational and scientific degree “PhD’ in administrative law and administrative procedure at the Faculty of Law of the Sofia university “Saint Kliment Ohridski”. As of 2003 she occupied the academic position of “Chief Assistant Professor” at the Faculty of Law.

Her professional legal experience is related to various other expert and head staff at the administrative structures- member of the political cabinet of the Minister of interior affairs (2001- 2003); legislative adviser at the “Legislative activity and EU law” directorate of the National Assembly (since 2003).

Svetla Yankulova is a serious and in-depth author with interest in the sphere of little-known scientific fields such as: participation of the prosecutor in the administrative process, nature of administrative jurisdictions, administrative

sanctioning; management in the field of adjudication. She participates in the present competition with solid in its quality scientific production of 8 scientific publications: monography and scientific papers, developed and published after the acquisition of the “PhD” degree. They are all published by renowned legal publishing houses and specialized editions. The submitted works do not repeat the ones, developed for the PhD procedure.

Clearly by the here attached information the publications of Chief Assistant Professor Dr. Svetla Yankulova are quoted by a number of authoritative researchers in the field of law. An overall of fifteen citations are listed.

During the selection procedure an independent monographic work was submitted with the following theme: “Administrative jurisdictions”. The monography offers comprehensive concept and functional analysis of the administrative jurisdictions and administrative adjudication in the context of the separation of powers.

In the work were analyzed the most important aspects of the current legislation and were reached conclusions on the problematic issues. It was accentuated on the topicality of the contemporary regulation of the institute of administrative jurisdictions. Based on the analysis of the legislation in force and the case law of the Constitutional court was justified the need for the development of administrative jurisdiction as adjudicational bodies. The comprehensive research and in-depth clarification of the distinction between the notion of administrative adjudication and administrative justice allows for the creation of a foundation for the development of an exhaustive concept, serving as ground for the adoption and development of administrative jurisdiction in our legal system. The extraction of the features of administrative jurisdictions and the justification of their types without a doubt prove the necessity of their detailed regulation in the legislation with clear provisions on the matters of their place in the system of adjudication bodies and to delimit coherently the subject and criteria for their activity. The monographic work has serious practical contribution, inasmuch as it deduces the characteristics of the administrative jurisdictions not only as a

theoretical problem, but also contains concrete *de lege ferenda* proposals for the creation of such bodies in specific spheres of state government.

In the focus of the attention of the author is the development of the national legal theory and the positive law regulation regarding the realization of the subjective rights and obligation of the citizens and the organizations in the administrative relations. It was outlined that there is need of creation of certain legal standards in the formulation of the competence of the state bodies, which have the quality of administrative jurisdictions.

In the monography and especially its second chapter the case law of the Constitutional court on the matter of the existence and the legal nature of administrative jurisdictions is subjected to scientific criticism. Unequivocally a high grade is deserved for the well-ground understanding of Svetla Yankulova for the creation of constitutional regulation of the administrative jurisdictions, inasmuch to the present their existence and competency is derived only through legal interpretation.

The deep understanding and presentation of the well-established in the Bulgarian legal scholarship views of the nature of administrative jurisdiction is an undoubtful merit of the monographic work. There is a comprehensive argumentation of the distinction between the institute of challenging of administrative acts in the administrative procedure and the adjudicative activity of administrative jurisdictions. This lets the author to outline the specifics of the powers of the respective authorities, as well as the legal effect of their adjudicational acts. With theoretical and practical contribution is the comparison between the understanding of the Court of the European union for the institutionalized jurisdiction, which can address it for preliminary ruling and the understanding according to the Bulgarian legal theory and legislation. The criteria of the Court, although not directly applicable regarding the Bulgarian legislation on this matter, could serve according to Svetla Yankulova for the future general legislative regulation of administrative jurisdiction. The in-depth insight on the matter, including from historical aspect, allows for the deduction of the respective

legal features and to formulate as theoretical conclusion precise definition of administrative jurisdiction. This, of course, undoubtedly is a merit and theoretical contribution of the scientific work.

Of special interest are the reflections of the author of the monography on the competence and the activity of the Commission for protection of the competition as administrative jurisdiction in all three directions of its work- public procurement disputes, concession disputes and disputes related to the rules on competition. On the other hand, attention was paid also to administrative sanctioning jurisdictions, whilst making a distinction of their activity from other administrative sanctioning bodies, which do not hear and resolve legal disputes.

Svetla Yankulova offers a reconsideration of the legal regulation of administrative sanctioning jurisdictions in correspondence with the principles of independence and objectivity. In the relation some very concrete proposals are made with the view of introduction of more guarantees of independence when deciding disputes on administrative violations by a single member sanctioning body, which is in the same organizational system or is superior to the authority, which established the administrative violation. In direct link to the creation of more guarantees for serving justice when sanctioning administratively are the proposals for review of the legislative solutions, which provide for administrative sanctioning by individual administrative act, but not with sanctioning decree, as well as the function of sanctioning authority to be assigned only to the chairman of collective administrative bodies, instead of the collective body as whole. The proposal of the author for legislative provision for approval by a judicial or prosecutor's act of the agreement, by which the administrative sanctioning procedure could be completed as per the amendments of the Administrative Violations and Sanctions Act (AVSA), holds great importance.

The presented for the selection procedure articles contain original scientific contributions on the subject of research. Svetla Yankulova has pointed out precisely the achievements in the memo on the scientific contributions. The analysis of the publications of the candidate shows that a central place in them is

occupied by matters, related to the activity of state authorities in the field of administrative reform, the participation of the prosecutor's office in the administrative procedure, the property sanctions under AVSA, the characteristics of the administrative jurisdictions as adjudicative bodies, the agreement in administrative sanctioning. The various aspects of the researched matters are published in prestigious editions and have been presented at different forums, in which the candidate took part.

The presented by Svetla Yankulova scientific works stand out with the following characteristics: they are related only to unresearched or lightly researched legal matters; they cover topics with great theoretical and practical significance; they are developed with the use of knowledge from different fields of law.

The quality of the scientific work of Svetla Yankulova, presented in the selection procedure, cover completely the legal requirements. They contain several scientific contributions. The publications have not only theoretical, but also great practical significance. The candidate demonstrates high ability to formulate and defend scientific theses.

In the presented scientific works are encountered separate inaccuracies, not so well-grounded stances, occasions of self-directed criticism of the current legislation without pointing out proposals for its improvement. At some places there is also ungrounded refusal to step into the scientific polemics. These insignificant weaknesses are not of such nature that could deteriorate the numerous contributions and undoubted merits of the publications of the candidate. The analysis of the scientific achievements of Svetla Yankulova decidedly lead to the conclusion that they are a novelty in the administrative law science and enrich the existing knowledge in this field of legal doctrine. All things considered the scientific works are standing out with precision and exhaustiveness.

The review of the teaching and scientific research activity of Svetla Yankulova shows there are all the legal grounds for the occupation of the academic position of “associate professor” at the Faculty of Law of the Sofia university “Saint Kliment Ohridski”. The presented monography and the others scientific works constitute great achievement for the development for the Bulgarian legal science and deserve positive evaluation.

Considering the analysis and the conclusions of the present opinion on the scientific works, submitted for the selection procedure I positively keep the stance that the candidate Svetla Yankulova covers all of the requirements of the Act on the Academic Staff Development in the Republic of Bulgaria for the acquisition of the academic position of “associate professor”. Due to this with a firm conviction I propose to the respectably scientific jury to adopt a decision and to propose the election of Dr. Svetla Yankulova for the academic position of “associate professor” of administrative law and administrative process – professional field 3.6. Law, filed of higher education 3. Social, economic and legal sciences.

### **Conclusion**

Considering the contributions of the presented works, the overall scientific oeuvre and long-term teaching activity of the candidate, I propose to the respectable members of the scientific jury to vote positively on the adoption of a decision, which should propose to the Faculty Council of the Faculty of Law of Sofia university “Saint Kliment Ohridski” to select Svetla Ivanova Yankulova for the academic position of “associate professor” in the scientific field of administrative law and administrative procedure.

Sofia

12.02.2022

Authored by:

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