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INTERPRETATION IN PUBLIC LAW

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Abstract

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RELEVANCE OF THE TOPIC OF THE DISSERTATION

In the aftermath of the socio-economic changes of the 1980s to the present day, the interpretation of public law has given rise to some fundamental questions which are interpreted in a contradictory manner or give rise to discussions about their correct application. For this reason, in our work we have focused precisely on this legal matter, which needs analysis and practical solutions.

Many of these essential issues relate to the re-establishment of administrative justice as specialised justice. Another part stems from the implementation of the new Constitution of 1991 and its amendment from 2023. With the accession of Bulgaria to the European Union, significant issues have arisen due to the application of national law in conjunction with supranational Union law. The problems in the legal field, which we have separated as substantial, go beyond the administrative law due to their complexity. This complexity comes from the interaction with other branches of public law such as constitutional law, tax and financial law, criminal law, sociology of law.

Complications in the interpretation of tax and financial law are a normal consequence of significant changes in the financial and economic system. In criminal law, there are differences (increase or disappearance) in the reprehensibility of actions precisely because of the new social conditions of life. The jurisprudence of the judicial bodies is also a reflection of the socio-economic changes in the Republic of Bulgaria. There is a recognition of intensity in their interpretative activity. The entire judicial system has been reformed - a Constitutional Court, administrative courts have been established, the Supreme Administrative Court has been restored. The ordinary courts, which

adjudicate in administrative punishment and in criminal law, also take into account problems requiring interpretation of the applicable public law.

To the problems of interpretation of the law in our national legal system, we must add the specifics of the procedural activity of the EU Court in Luxembourg and the Court of Human Rights in Strasbourg. The application of international instruments, the ECHR, the Charter of Human Rights and EU acts by these courts also has an impact on interpretation in both national and European legal systems.

The facts listed above give reason to focus on the more important peculiarities in the interpretative activity in public law, since the sectors that generalize public law have the same method of legal regulation of public relations - public authorities.

In view of the renewed administrative justice, the new constitutional justice and EU law, we have focused on the interpretation of the new principles of administrative European law and procedure and the interrelationship with other branches of law. We have focused on the interpretative activity in superimposing the Union norms over the domestic (national) and specifics that we find essential and which have manifested themselves in the period since Bulgaria's accession to the EU until now and are still controversial. At the end of the study, we have made a retrospective of the demonstrated specifics of interpretation before the reform, as well as of future trends related to applied digitalization, as an up-to-date focus in law enforcement and interpretation of the newly introduced electronicization in the proceedings of administrative authorities and courts. There is no complete work on this subject in our doctrine, which is why we hope it will be useful and useful.

METHODS OF RESEARCH

generalological methods of analysis and synthesis, induction and deduction are used. Comparative legal methods have been used, historical methods have been used, and methods of sociology of law have been used.

STRUCTURE

The work is the second updated and supplemented edition of the published monograph 'Interpretation in public law' in 2023, prompted by the amendment of the Constitution of the Republic of Bulgaria and the subsequent Decision No 13/2024 of the Constitutional Court of the Republic of Bulgaria. On some topics, we have supplemented the study due to the need for more detailed analyses.

The work consists of three parts and a conclusion.

The first part is entitled 'Interpretation of **substantive rules** of public law'. The second part is entitled 'Procedural**specificities of** interpretation in national, European and international justice' and the third part is entitled 'Development **of interpretative** activity in public law'. Each part is divided into sections with subsections, with the sections bearing a title and the subsections detailing the topic from the dots section.

CONTENTS OF DISTERSTATIONAL LABOUR

The introduction clarifies the objectives of the study and the need for it. It is emphasized that the work examines complications, manifested in case law and their interpretation. Hypotheses have been chosen that are both topical and contradictory in either doctrinal opinions or jurisprudence, are substantial and create difficult problems in law enforcement. Covered are the sectors included in the title of public law, united by the governmental method of regulation. The link with EU law is justified.

Part One **examines the substantive specifics of** interpretation in public law. In the beginning, an overview of new legal institutes and their interpretation, as

well as the dynamics of the legal principles used, is made. Examples are given of various EU institutes such as 'constitutional identity', with conflicting views on its implementation. Domestic law also provides an example of dynamics in applicable principles - RACs with interpretation of the restorative effect of a repealed law with a single effect. The complexity of the interpretation of cross-industry legal relationships in practice is justified. The legislative activity takes into account the fact that the time period after the socio-economic reform is difficult, because at the same time the domestic legislation must not contradict the Union, the dynamics of the new social relations require timely regulation, which further creates conditions for the creation of unclear legal norms. The conclusion is underlined that in the Bulgarian model of interaction of the three authorities, combined with the supranational European courts **in interpreting the legal norm, the main aim of the legislator is to be sought.** A comparative analysis of the interpretation in administrative law with other branches of public law has been carried out. Systematically, the principles of interpretation in administrative law, which are very specific in this sector, are examined first. The regulatory procedure is cited as an example of differentia specifica. It is only in administrative law that the same body of state authority simultaneously has the competence to create and apply a regulatory norm. Only here does the **administrative authority also have the specific competence for authentic interpretation provided for in the Law on Normative Acts.** Our doctrine on the **legal framework**of the Court of Justice of the European Union when reviewing decisions issued by administrative authorities is examined in a condition of discretion. **The Court of Justice should not have jurisdiction to review** the declaration of intent of the national administrative authority by interpreting a discretionary act.

The specificity of the interpretative activity in the administrative law sector is outlined, that the material norms are divided into **many special laws, such as**

government bodies. This volume and comprehensiveness is the reason for a more complex interpretative work, in view of the logical and systematic interrelationships between the applicable legal rules. Another peculiarity in the interpretation of administrative law sources is that in addition to regulatory nature, there are sources of a more specific nature / non-state sources, administrative contracts, soft law acts /. It is established through an analysis of the case-law **that the substantive legality and the existence of the competence of the administrative authority** have given rise to disputes most often, and the legal rules governing them have been interpreted accordingly most often.

In the comparative analysis of the interpretative activity in the administrative punishment, similarities and differences in the interpretative methods with the criminal law are found. It is established that in criminal law, in different periods of time, the reprehensibility of the act is different, according to the socio-economic specifics, which affects the interpretation of the concept of 'public danger'. **It was concluded that in criminal law and in administrative criminal law, the importance of the interpretation of the disposition and the hypothesis in the legal rule, which define the act as a crime/offence and the degree of public danger, is greater. Penalty as an element of the legal rule is more pronounced and its interpretation is less frequent.**

The legal institution of the 'minor offence' regulated in Article 28 ZANN has been analysed. Interpretative Decision No 1/2007 of the Varhoven kasatsionen sad (Supreme Court of Cassation) interpreting **the expression 'may'**contained in the ZANN has been commented on. **TP clarified with interpretation that the expression does not imply the exercise of discretionary competence by the punishing administrative authority.** Other hypotheses related to the concept of a 'minor case' have also been analysed, taking into account **the**

problem that in our legislation there were no criteria for classifying the act as a minor case and the court applied mainly repetitive criteria in the case-law, as there was no rule of principle in the ZANN. The optimization of this institute is discussed, initially through case-by-case interpretation, doctrinal criticism, sporadic regulation in specific laws and finally - general regulation in ZANN /2020. Specificity in administrative substantive law with long-standing contradictory opinions in doctrine and practice is the competence of the administrative authorities / incl. and the new norm regarding organizations under par. 1 APC / to interpret norms in their law enforcement activity. The practice of the Supreme Administrative Court with regard to an issued interpretative act of an administrative body (SJC) is studied, as well as the peculiarities of an issued administrative act, in which the motives contain a casual interpretation. It is examined the request to an administrative body to provide clarification on the relevant content of a rule in the exercise of its control competence. Arguments from the jurisprudence are presented which point to a gap in the law. *De lege ferenda,* our proposal is that the APK should provide for a 'form of interpretative act' issued by an administrative authority. The possible legal forms of interpretation by an administrative body are distinguished - informal /instructions, letters, clarifications /, issuance of instructions under Article 15 of the ZNA, as well as a request for authentic interpretation if an administrative body is the author of a normative act. The interpretation in the imposition and implementation of coercive administrative measures is studied. **The conclusion that the interpretation of the legal framework of the coercive administrative measure is complicated comes** from the reference made in Article 23 of the ZANN to the 'relevant special law or decree', each with specific features in the field of governance. The problem of the competition of subjective rights is highlighted as particularly topical when the CPA restricts the 'free' actions of the legal entity in order not to infringe the rights of another person. Several cases of the Constitutional Court of the Republic of Bulgaria have been submitted in

recent years, in which the Constitutional Court considers that the restriction of subjective rights is 'unbalanced' in relation to the public interest. **A general conclusion about the insufficient** regulation of the PAM and the update of Article 58e ZANN of 2021, according to which the PAMs are absent from the listed challengeable acts, is justified. The double competence of the same administrative authority, which issues a coercive administrative measure and is an administrative penal authority, is considered to be a problem of interpretation. De lege ferenda is proposed to optimise the two provisions in the ZANN, as well as an announcement to the legislator for precision in the 'sizing' of the balance of rights. An analysis is made of the interpretation of the relatively new institute in administrative law - the executive fine (Article 290(3) of the APK). Some authors believe that it is a coercive administrative measure, others that it is an administrative punishment, third that it is an executive method. We have added to our conclusion that more detailed regulation of this institute is needed. We find specifics in the interpretative activity with the effect over time of secondary legislation. The analysis of the topic is illustrated by regulations governing public procurement**.** A systematic logic of interpretation is presented, in view of the specificity of the effect of these acts over time - rules of transitional and final provisions of the secondary legislation are superimposed, together with constitutional principles and principles of the APK. A conclusion is drawn concerning pre-existing legal relationships arising from the previous legal provision, as well as a conclusion on interpretation in case of overlapping of several acts – an administrative act, an administrative contract or a civil contract, a secondary administrative act, a legal act and amendments to the secondary legal act over time.

In the work we have explored a new aspect in the interpretation of discretionary competence, which comes from **the** applicable European administrative law. The focus of interpretation is on **fundamental rights and their protection.** Several

cases of the European Court of Human Rights /the case of I.D. v. Bulgaria 2005, the cases of *Obermeier v. Austria* and *Terra Woningen B.V.* 1990 are analyzed. The fundamental right claimed to be affected by the administrative act is the requirement of Article 6 § 1 for 'access to a court'. The ECtHR considers that the review courts are prevented from examining the facts relevant to the resolution of the dispute where the national rule restricts the court to a mere examination of the limits of the discretion of the body on which they should have ruled. The typification of the type of control in the national legislations over the discretion of the body is studied. 'full jurisdiction' where the administrative court can examine the question 'substantively' and 'self-limitation of jurisdiction' where national law does not allow the court to carry out a substantive examination, as is the case under Bulgarian law in Article 169 of the APK. To clarify the peculiarities of interpretation in this topical question for the ECtHR, foreign authors have been analyzed, and Jan S. Oster's comparative analysis of the legal systems of Germany and the United States provides a useful guidance on the question. Oster concludes that **'civil and criminal courts decide while administrative and constitutional courts control', which is a starting point in interpreting the scope of judicial review of administrative acts.** Oster gave practical criteria through the Chevron case in the United States. Oster commented on the so-called errors - **"non-discretion,**abuse of discretion and excess of discretion. In our work, we have compared the Bulgarian legislation in Article 169 of the APK with the analysis of the German legislation in Oster, and we have found terms used by the author as 'balancing deficit', 'balancing disproportionality' in the exercise of administrative discretion useful to our law, identifying their content with the Bulgarian Article 6 of the APK (principle of proportionality). We have put emphasis on Austin's conclusion on the interpretation of the concept of 'undefined legal term', which always requires **expert** assessment in law enforcement. As regards the balance between the rights of the addressees of the

act and the discretion of the authority, Austin maintains that, although difficult, the legislator must ensure that citizens have access to justice and administrative authorities must have discretionary powers. To that end, it clarifies the so-called 'Chevron doctrine' used in its interpretation. We have presented the relevant stages and their content in an applied interpretation. The first stage contains classical instruments in the interpretation of the legal norm - study of the normative text, definitions from dictionaries, construction of the norm, legal structure, legislative purpose and legislative history. The next step is 'reasonability' in the interpretation of an unclear legal rule, which includes – language, legislative history, the political objective of the legislator. The comparative analysis of interpretative activity in the US and Germany at discretion allows us to compare the peculiarities of interpretation in Bulgarian legislation. We have expressed our opinion that in Bulgarian administrative law the German model is overvalued, and the elements of the American model are more distant to the current interpretative and legal activity in our public law.

The principle of application of the higher level normative act and the principle of legality are analyzed in detail, as the provision of Art. 5 of the APK is interpreted contradictory in both doctrine and practice. As a complication, the interpretation has also been added in the conformity of the national legislation with that of the EU. Opinions of about ten of our scientists are presented, which are not one-way. We have emphasized on Article 16(1) of the ZNA, according to which the state authorities are obliged to notify the authority empowered to repeal the normative act of the discrepancy between it and an act of a higher degree. We have argued in our opinion that the right **to ignore a lower legal rule contrary to a higher rule is conferred as a competence only on the judicial authorities. An administrative authority cannot encroach on the jurisdiction of the courts and ignore, at its own discretion and by its own interpretation, a directly applicable rule.** Since substantive legality is often

the subject of divergent opinions, we have made **a more general proposal de lege ferenda, namely to declare null and void the act issued by an administrative authority in violation of the competence under Article 16(1) of the ZNA (obligation to notify the authority entitled to repeal the rule contrary to a higher-ranking normative act). The** argument is that exceeding or changing jurisdiction is incompetence. Following this, a detailed comparative analysis of the specificities of interpretation with other branches of public law– **constitutional, financial, tax, criminal, international, EU law – was carried out on the basis of the most up-to-date and distinct specificities.** The similarities and differences in interpretation in the sector of constitutional law compared to the interpretation in administrative law are outlined. The fundamental difference is commented that the interpretative activity in constitutional law is mainly focused on the law enforcement activity of the Constitutional Court (CC). In our opinion, the constitutional administration of justice can comment on interpretation in a narrow and broad sense. In the narrow sense, the interpretation of the Constitution itself, as an explicit competence of the Constitutional Court, can be distinguished by the types of interpretation – normative, causal and conform. In a broad sense, the interpretative activity of the Constitutional Court consists in interpreting the constitutionality of the legal norms in our legal system when resolving cases subject to constitutional justice. Abstractivity as a norm-making technique we have compared with the norms containing principles in the APK, and for this reason we have found some proximity in the interpretative methods. As a specific feature of the interpretative work of the Constitutional Court, we have identified **the form of the interpretative act** issued by the Constitutional Court. Our conclusion is that this act **has unwritten requisites and follows a sequence that is constant for each act, despite the fact that each case has distinctive characteristics. Unlike the interpretative procedure regulated in the JSA with regard to, e.g., interpretation in criminal law, neither the**

Constitutional Court Act nor its Rules of Procedure regulate a formally detailed interpretative procedure. The specificity of the interpretation of the Constitutional Court is the principle **of identifying the purpose of the legislature as a principle provoked** by European judicial practice. **A particularly significant specificity in the interpretation of the Constitutional Court has been identified, namely the so-called normative** complex. **The current Decision No 13/24d uses the terms 'positive' and 'negative', corresponding to good clarity in the normative order or, conversely, creating ambiguity or even contradictions in it.**

It is specifically analysed whether the repeal of texts from the Act amending the Constitution/ZIDK/ the effect of the repeal can be ex tunc or ex nunc.This problem is different from the principle interpretative question about the effect of the norm over time, as it concerns only the revision of the Constitution. In Decision No 13 of 2024, the Constitutional Court correctly interpreted the maintenance of existing rules prior to the amendment of the Constitution. **We have highlighted Prof. Penev's argument concerning the implementation of *the interpretative method – reductio ad absurdum (interpretation by reduction to absurdity) We have summarised that* in this complicated hypothesis, the resolution of which was the subject of different and contradictory opinions in doctrine and practice, the Constitutional Court decided with categorical certainty an unclear and unsettled legal issue that prevented new interpretations, contradictory opinions and problems in law enforcement.**

A comparative analysis of constitutional norms with legal norms in laws and regulations is made, highlighting the specifics of the interpretation of constitutional norms with a view to their direct effect. Opinions have been submitted on the phenomenon of 'polyvalence' in the interpretation of a constitutional provision (P. Penev). We have concluded that **a rule of law**

always has direct effect, whereas a constitutional rule can only contain a principle or have an indicative content. Then, in order to apply it, it will be necessary to create a legal norm accordingly. In summary, only part of the constitutional norms are directly applicable, but another part needs mediation through a legal norm.

A further conclusion about the similarity in the interpretation of constitutional and administrative rules is that their interpretation assesses the conformity with the purpose of the law. The issue of constitutional rules and the legal gap and its impact on interpretation is analysed in detail. The doctrinal classification of the constitutional provisions of **two groups and several subgroups, justified by Prof. P. Penev, is discussed. We believe that the classification has an important purpose in filling the legal gap,** especially in the application of the constitutional provision with direct effect. In the work we have also highlighted some recurring in the years specifics in the constitutional interpretation, with the relevant conclusions from their analysis. We have illustrated with examples from case law. We have paid special attention to the topical issue of the interpretation of the concept of 'function' of an administrative head in the judicial authorities, as well as the concept of 'mandate'. We take into account relevant differences in their interpretation in administrative law. For example, a 'mandate' in constitutional law is interpreted as 'trust', giving trust. In administrative law, the term 'mandate' has only one meaning: the duration of the jurisdiction conferred by law on an administrative authority. In civil law, the term 'mandate' has the prevalent meaning of 'order to do something'. **This example is illustrative of the interpretation of the same concept in the different branches of our legal system, which is decisive for the precise enforcement consistent with the legislator's objective.** The issue of indirect interpretation of the Constitution by the administrative body is discussed, as well as a comparative analysis with opinions from foreign doctrine

and practice. The relationship with the legal consequences in administrative law is illustrated by the application of Article 4 of the APK and an interpretative decision of the Constitutional Court adopted on the occasion of an administrative act, with an indirect interpretation applied by the authority. Again, it is concluded, commented on above, that an official interpretation of a conflict between a lower norm and a higher-ranking one has only a judicial body. In addition, we add the possibility for the lower court to make a direct reference to the CJEU for a preliminary ruling if it interprets instructions of a higher court that they are contrary to EU law. An analysis is also made of the most recent amendment of the KRB, namely the possibility **for all courts in the hierarchy of the judicial system to refer to the Constitutional Court in case of finding a contradiction of a legal norm applicable in a case they are considering with a constitutional norm.** Due to the novelty of the amendment of the KRB, **we have summarized the main mistakes that are made when the lower-ranking courts refer the case to the Constitutional Court and have led to the dismissal of the case as inadmissible. This classification of erroneous claims brought before the CC would be of practical use**, **in order for the CC to rule on the merits of all requests for interpretation made by all courts**. In this regard, the hypothesis of Article 54(1) p .4 of the Code of Administrative Procedure is examined, whereby the administrative authority must suspend the procedure for issuing an individual administrative act in proceedings pending before the Constitutional Court, with the object of challenging the applicable rule in the procedure for issuing the act. **Suggestions for optimizing the APC and arguments are given.**

In the part where we have examined the similarities and differences in interpretation with financial and tax law are those of Acad. P. Stoyanov to modern scholars of financial and tax law. As a specificity of the interpretation of the tax laws, P. Stoyanov emphasizes the strict observance of the constitutional

framework and the circumscribed competence of the administrative body. As the main difference between the administrative act that creates an obligation for a legal entity and the tax act that establishes an obligation, we have highlighted the declaratory nature of the financial/tax act and the reasons for this qualification. The conclusion by which we summarize the main difference in the interpretation of legal rules of financial law and administrative law is that in financial law, if the rule is unclear and imprecise, the initiative for its interpretation lies first with the entity to whom the financial act is addressed. Thus, as he understands the rule of the tax law, he will make his statement in the tax return, for example, and subsequently the financial administrative authority will identify its interpretation with that of the addressee, establishing the correctness of the facts. We have expressed the view that **provision should be made for 'preliminary binding instructions' from the tax authority on a uniform interpretation of an unclear rule of financial law and that the act clarifying the rule should be equally binding on both the tax authority and the addressees of the rule.** Another specificity in the interpretative activity of the financial/tax authority when issuing the administrative act, as well as of the court when checking its legality, is the application of the grounds of Article 146 of the APK in conjunction with the special Article 160(2) of the DOPK. The problem that has been subject to interpretation since the establishment of the DOPK is that the grounds for legality in Article 160(2) of the DOPK do not explicitly comply with the purpose of the law. In examining the legality of a tax act, several provisions are currently superimposed, namely Article 160(2) of the APK, Article 146 of the APK and Article 146(2) of the Additional Provisions to the DOPK, in order to determine compliance with the purpose of the Act. This issue should be optimised, especially as the case-law of the EU Courts on compliance with the purpose of the law in interpreting an applicable rule has now entered into force. Regarding the ambiguity and incompleteness in the tax laws, we have examined the criteria offered by P. Stoyanov for their

interpretation. Problems in the interpretation of financial law are studied, such as "borrowed concepts" in the tax law from foreign laws, a distinction is made between a budget law and the general administrative act, taking into account the doctrine and the opinion of authors.

It is commented on the doctrinal opinion that in modern tax legal doctrine, as a specificity of interpretation, it should be taken into account that a direct effect of a constitutional rule cannot be realized.

Point 5 explores the difference between interpretation in administrative law and interpretation in criminal law. An analysis is made of the specifics in the interpretation in criminal law, which is carried out by different bodies in the judicial system - the Prosecutor General or a court. **The question of whether the Public Prosecutor's Office can interpret a provision of the law that concerns its activities is examined. An example is provided of a referral to the** Supreme Court of Cassation concerning the contradictory application of the provision of Article 198 of the NPK on the disclosure of the investigation materials. **In our view, the conclusion in this case is that there is a typical legal lacuna and that lacuna leads to a contradictory application of a rule that cannot be interpreted in the absence of entirely relevant legislation.** The Supreme Court of Cassation justifies its argument with the addition that it is necessary to 'casuistically list hypotheses for the permissible granting of permission by the prosecutor for the disclosure of investigation materials'. However, according to the Supreme Court of Cassation, such a case-by-case enumeration does not constitute an interpretative activity. In this regard, the HCCJ distinguishes when it will have interpretative jurisdiction – *"if* this issue was raised before the courts in specific cases and they have expressed contradictory views in their decisions". Similarly, **the case-by-case enumeration of hypotheses** in the law-enforcement activities of the authorities is a specific feature of administrative law where an administrative authority has

so-called ‘operational autonomy’. In the application of Article 198 of the NPK, the prosecutor is in a somewhat similar situation. The analogy is very conditional, as proximity lies only in the right of the competent authority to lawfully authorise an action, which involves a discretion to assess circumstances and facts leading to a negative or positive decision. In one case, to the prosecutor, in the other case, to the administrative authority. In administrative law, however, the assessment has its own legal regulation – now in the APC and previously in the APA. In summary, the HCCJ justifies the concept of **‘interpretative jurisdiction’** in its definition, although it does not refer to it that way. It is clear from the grounds that it can be stated with certainty that, in legal literature, the concept of interpretative jurisdiction has its own content and differs from any other type of competence of management bodies. In the law enforcement activity of the judicial authorities, there is also interpretative competence of the different authorities according to the matter in which they implement it. Moreover, there is a distinguishing criterion of interpretative jurisdiction between the types of judicial authorities themselves. Beyond the scope of the interpretative competence, the definition of the Supreme Court of Cassation analysed highlights the existence of the other two legal interpretative possibilities – an authentic interpretation by the state body that adopted the legal norm, namely the National Assembly. The second other method, justified by the Supreme Court of Cassation in the order, is to pronounce the Constitutional Court with an interpretative decision if there is a contradiction between Article 198 of the NPK and the provisions of the Constitution on the presumption of innocence, privacy, housing and correspondence. In the theory of law, an authentic interpretation is usually an interpretation by the author of the normative act, but in practice, any instruction, letter or other form of interpretative will for the application of an act issued by a body expressly entrusted with the application of the normative act is regarded as an ‘extended version’ of an authentic interpretation. Thus, in the order, the Supreme Court of

Cassation justifies that, under Article 126(2) of the KRB, the Prosecutor General has the express power to 'supervise the legality and methodological guidance of the activities of all prosecutors'. This constitutional provision also determines this version of the interpretative competence of the Prosecutor General. The CC has a practice in which it points to this competence of the Prosecutor General. The conclusion is that the Prosecutor General may issue an act containing cases of application of Article 198 of the NPK – instruction, methodology, instruction. Indeed, it is precisely by issuing these acts that the Prosecutor General exercises the power of 'methodological guidance'.

In this sense, there are also grounds in Decision No 13/2024 of the Constitutional Court of the Republic of Bulgaria, which justify the rejection of Article 126(2) of the ZIDK as being contrary to the current Constitution. **The methodological guidance, in turn, includes the creation of common rules for the performance of prosecutorial activities, which have a lasting, repeated effect and contain instructions to prosecutors on the approaches and rules, ways and actions by which to exercise their powers.** Our general conclusion on the current legislation following Decision No 13/24 of the Constitutional Court is that the competence of the Prosecutor General to issue methodological instructions, exercising his function of general supervision of legality, is confirmed as constitutional and confirms the conclusions we set out before the amendment of the Constitution. The current Constitution has practically strengthened the **status of the Prosecutor General as the methodological head of prosecutorial activity.** While the second manifestation of the function "supervision of legality" - to implement the envisaged procedural actions in specific cases, is limited to the scope of the competences provided for by law. Thus, the figure of the Prosecutor General came closer, in our opinion, to the status of administrative head, with powers of an indicative nature in principle and addressed to the prosecutors at the relevant levels of the structure of the Prosecutor's Office, to which the issue subject to the

instructions is relevant. **In our opinion, this legal status of the Prosecutor General does not prejudice the supervision of legality, which continues to be carried out by the higher prosecutor in respect of the prosecutorial acts issued by the lower prosecutor.** Therefore, the interpretation of the function "supervision of legality" should combine both the supervision of specific prosecutorial acts by the higher prosecutor with procedural competence for this, as well as the competence of the Prosecutor General related to the procedural actions provided for in other laws - e.g. resumption of administrative penal proceedings, annulment of final decisions in criminal cases, referral to the Constitutional Court, etc.

The work examines the tacit declaration of intent in administrative law and the difference with criminal law. In administrative law, the silence of the administrative authority is a type of declaration of intent, according to Article 58(1) to (4) of the APK. The principle is that a declaration of intent is a refusal to do something requested by an entity – a citizen or an organisation. In criminal law, there is no presumption of interpretation of an 'implied declaration of intent' made or expected to be made by a public authority, e.g. an authority of the Ministry of the Interior. Also, with the adoption of the APK in administrative law, the silence of the AO also has a second presumption, albeit exceptionally with the consent of the authority. In criminal law, even pre-trial authorities (e.g. investigators from the Ministry of the Interior) should express clear and specific wills. There is no presumption of the will of an authority in criminal law. There, the presumption of innocence of the accused or suspected person operates and this is the reason for not regulating a tacit statement of intent .**The difference between discretion in administrative law and internal conviction in criminal law is analyzed, since to** some extent the two concepts represent a subjective attitude to certain facts and circumstances of the administrative authority and the judge)the prosecutor in criminal law. This subjective attitude is shaped by framework criteria set by the law, which is valid for both sectors. However, the

framework criteria in administrative law are related to the search for the most efficient, cost-effective, correct solution. In criminal law, the framework criteria are linked to the legal conditions laid down for the subjective and objective aspects of the act. In both cases, it is a thought process that involves the commensurability of two or more criteria and forming a conclusion related to the final act (administrative, court decision or public prosecutor's decree). In both sectors, the discretionary decision of administrative authorities and the internal conviction of the punishing authority are formed on the basis of an interpretation of the norms, and the difference should be added that in the criminal sector the assessment of the moral and ethical norms currently adopted in society is also paramount. In the administrative sector, too, these moral norms can be included in the circumstances that form the assessment of the authority. In administrative criminal law there is an analogy with criminal law, while the situation in administrative positive law is more complicated. A particular hypothesis is regarding the internal conviction in criminal law and the comparison with the discretionary competence in administrative law. The principle of internal conviction of the judge/prosecutor is inherent in criminal law and procedure. With the adoption of the APK in 2006, a similar principle was explicitly laid down in Article 6(4) of the APK for the issuing of an act by the administrative authority. This is the principle of proportionality where the administrative authority has discretion. In both sectors, the law ensures that the proof is carried out in such a way as to reach the maximum degree of truth. Both codes include rules on the elimination of bias on the part of the body deciding the legal issue. Both processes ensure equality of the parties in the judicial phase.

Attention is paid to the so-called predictive interpretation, which has long been proposed in foreign doctrine. It explains the benefits of this interpretation and presents the opinions of V. Lazarev in the Russian doctrine

A. I. Denisov, Y. A. Sokolov, A. M. Zhilin. Their claim is substantiated that by the methods of forecasting it is possible to capture in the eyes of the legislator future social relations and their development after their emergence, but, in our opinion, their connection with other social relations, the mutual influence of one on the other, the many nuances and diversity of their manifestations in connection with the many other social relations and their nuances of manifestation would not be predicted. The opinion of Prof. Gillian E. Metzger is also presented, according to which it is necessary to clarify the interrelation in the interpretative activity in administrative and constitutional law - whether the interpretation of administrative law rules is separate, whether it waits for the interpretation of constitutional rules, how they are compared over time, whether they can be independent, and when. A separate part of the paper analyses the relationship between national public law, EU law and international law and the current specificities in the interpretation of legal rules.

At the beginning of the section, the current challenges to EU law are discussed, such as the optimization of the regulation of the protection of fundamental rights, the affirmation of the principle of the rule of law, the establishment of the European Public Prosecutor's Office, the development of the digital economy, pointed out by Prof. Popova.

Specificity is the interpretation of the concept of ‘constitutional identity’ by analysing our and foreign doctrine. Commented is the complication, caused by Article 19, § 1 TEU, that the judges of the Member States have the dual status of national judges and union judges when making preliminary references to the Court of Justice of the EU. The provision of Article 7a of the Law on Normative Acts, according to which a normative act may be issued in our national law for the purpose of implementing and applying acts of the European Union or international treaties concluded by the European Communities, is also commented. It is argued that this new scope also extends the scope of

interpretation of the applicable rules in terms of several aspects of Article 7a – whether the legal rule was created to serve an EU act, whether there is any legal rule at all that is necessary for the enforceability of an EU act or whether there is a gap in domestic law, whether a legal rule existing before the adoption of Article 7a is contrary to an EU act. The opinion of Rositsa Baltadzhieva and Ivan Todorov, who identify three criteria for the implementation of the so-called 'Europeanisation' of the national legal systems of the EU Member States, is examined.

A separate sub-paragraph analyses the interpretation of the domestic constitution and compliance with EU law as supranational law. Commented are the interpretation of the judges of the Polish Constitutional Court with regard to the relation Constitution of Poland – EU law, as well as the Resolution of 21 October 2021 of the European Parliament with an interpretation in a reciprocal aspect of this ratio. Consideration is given to the part of the EP Resolution which contains in a single aggregate the listed legal bases that apply at the moment, interpreting the necessary legal conditions for a country to participate fully in the EU. The interpretation covers the legal bases on which the hierarchical force of EU law over the national constitution is based, as well as the legal bases for the full functioning of the State-EC/e.g. financial relations/Summary of the rules listed in this Resolution visualise the aggregate minimum of legal bases that presupposes the hierarchical subordination of the constitution of an EU Member State (in this case Poland) to EU law. It is clear that the European Parliament is subsuming these legal bases, which would be valid for any EU Member State, as grounds proving the hierarchical bindingness of EU law over the national constitutions of states. For this reason (seeking the common denominator), we do not go into the following parts of the European Parliament Resolution /EP/, which specifically concern the Polish state and are mainly expressed in

procedural relations between the executive authorities of the Polish state and the EU bodies (applications on the constitutional case, answers, etc.).

In this EP Resolution, there are parts that express the interpretation of specific rules of EU law and their application, which is relevant for doctrine and practice. We refer to point 9 of the EP resolution, according to which 'EU Treaties may not be amended by a decision of a national court and that Article 91 of the Polish Constitution recalls that a ratified international agreement forms part of the national legal order, that it must be directly applicable and that its laws prevail in the event of a conflict of laws'. This part of the EP act clearly justifies the relationship between the Constitution and EU law.

With regard to the financial relations between the EU Member States and the EC, we find it essential in the part of point 11 of the EP resolution that suspends payments or makes financial corrections in Poland due to the lack of judicial independence. It is justified that this determines the risk for the lawful spending of European funds.

These parts illustrate different ratios between the constitutional, financial and tax domestic law of a Member State and EU law as a principle. However, in the same EP resolution, there is also a text that presupposes a possible interpretation of existing EU acts, or presupposes the issuance of a subsequent act. We infer from the example of Poland that, however prognostic the EC legislature may be, legal relations follow the dynamics of social relations and that it is therefore difficult for a legislative act of Community law to be stable to the point of absoluteness and to require no interpretation. An analysis has been made of Prof. Stoilov's thesis on the existence of complex EU acts to be applied and interpreted, for the above reasons.

It is justified that we found a discrepancy in the objectives of interpretation of international treaties concluded by the EC and international treaties concluded between individual countries. It is concluded that in the first type

of international treaties, there is an interpretation that goes from the inside out (from national law to EU law), i.e. a prevalent meaning is given to EU law, which is explainable because the EC is a party to the treaty. While in the interpretation in the traditional (conditionally we call it so, to distinguish it from the international treaties with the EC country), there is a tendency towards a broader interpretation of clauses of international treaties with a prevalence of the national legal norm. The difficulty of interpretation in the application of a clause in an international treaty is the relationship with a national rule. The conclusion is justified that although international treaties contain an element of universalism and relativism, the legal system still needs improvement.

The act that gives states the opportunity to deviate from international norms is UN General Assembly Resolution 64/174. Explicitly, however, these deviations are limited – only if they protect a traditional value for the state Presented as an example, a judgment of the European Court of Human Rights illustrating the court's interpretations of the term 'delegation' from an international act, for the purposes of the specific case at stake.

Here, the ECtHR directly applies filling a gap in international law by interpreting the scope of the term 'delegation' in the above-mentioned Resolution. The same judgment also illustrates filling a gap by interpreting the concept.

The specifics in the interpretation of European law and Bulgarian law are the norms regulating financial social relations in Community law and national law, considered also through the prism of constitutional law. In this respect, the opinion of Prof. M. Belov on the concept of "financial constitutionalism" is analyzed. In the legal literature, it is questionable whether such a concept should exist, the need for a legal interrelation between national laws related to the spending of public finances and Community laws is commented.

The general conclusion regarding the substantive specificities in the interpretation in public law is that there is interaction in different sectors and subsectors. A sharp boundary between them exists only in isolated principled hypotheses. The genesis of this interaction comes from the method of legal regulation of social relations – the government method.

In Section 7 of Part One, systematically after comparative analyses of the interpretation in the various branches of public law, we have focused on the specifics manifested in all branches of public law. This concludes Part One, with regard to substantive questions of interpretation.

A long-standing problem arises when interpreting the word 'may' as an operative part and an imperative because of its dual meaning. Decisions of the Constitutional Court, the Supreme Administrative Court, clarifying the meaning of expressions containing the word 'may' have been examined, because in a word combination with other words of the common language, there is a different interpretation.

Another recurring problem is the interpretation of additional provisions of a law in line with the purpose of the law. In the current legislation, the inclusion of DR is becoming more intensive, and the explanation, in our opinion, is the alignment of the legislation with EU law, as some laws entirely regulate public relations in a new way. Other reasons are the ratio specific to a general law, as is the case with the concept of 'administrative contract' within the meaning of the ZUSESIF, clarified in the Additional Provisions, and Article 19a of the APK, which regulated this legal figure later and in a more general context.

Examining the doctrine and the main ZNA and the Decree on the application of the ZNA, we find that Bulgarian law provides a legal possibility for rational practical flexibility in the process of legislation by creating DR. At the same time, the misinterpretation of the DR leads to a

significant distortion of legal rules of the act concerned, which, in a chain systematic interpretation of other rules, build an erroneous direction of interpretation deviating from the purpose of the law. We have referred to the practical solutions of Prof. B. Spasov as rules for the interpretation of the Additional Provisions. The principle in Article 37(1) UZNA is that 'words or expressions with a well-established legal meaning shall be used in the same sense in all normative acts' is the basis. However, rational flexibility is expressed in the following two paragraphs, with special legal techniques provided for in legislative work (paragraph 2) and in interpretative work (paragraph 3). We have given examples of complications in interpreting the DR of a separate law in order to illustrate the practical doctrinal research on the subject.

We have identified as our conclusion the phenomenon of a 'competitive interpretation of additional provisions' of two or more laws. In order not to 'distort' the interpretation in a different direction from the purpose of the law, with this complication, we have proposed interpretation techniques that should be applied cumulatively. In the study of this issue, we have also paid attention to an additional complication regarding the semantics of terms used in the DR. We have illustrated with judgments and critical opinions in the doctrine. We propose **to introduce de lege ferenda into the LNA two optimizations - in each administrative body with competence to issue a regulatory act to introduce an element of the procedure for the issuance of the regulatory act, with subject - review of the terminology in the project/1/ and optimization of the LNA in the part of the impact assessment procedure./2/.**

We have specifically analysed the problems of interpretation by the lower court of an interpretative act of a supreme court, and in particular we have highlighted the practice of further interpretation by a lower court of an interpretative act issued by a supreme court. We have substantiated the analysis

with the application of Interpretative Decision No 1/2011 of the Supreme Court of Cassation (VKS), commenting on specifics such as whether the court is *obliged to apply* ***the interpretative decision in the event of a change in the interpreted or related legal rules;*** *can it* oppose the interpretative act because of radically altered social relations, which are regulated by a legal norm. Another phenomenon, which we have called **consistency in interpretative methods, is also considered. We have illustrated specifics in the logical application of such a sequence with an analysis of the Decision of the Constitutional Court.**

After reflections on a possible ordering of interpretative methods (e.g. starting with historical interpretation), we have summarized the conclusion that it is not appropriate to formalize the interpretation as a logical sequence of methods, as this would limit the thought process and the freedom to arrange the judgments in order to arrive at a reasoned and clear answer of the interpreter on a complex norm that is complicated for interpretation.

An analysis is also made of the interpretation of the law institute 'one-off law', as it is an up-to-date phenomenon and there are divergent views in law enforcement. The doctrine is commented on, as Decision No 3/2020 of the Constitutional Court, which, with strong legal arguments, gave, in our opinion, the right direction of interpretation, and the case-law of the Court of Justice also points to this meaning.

PART II of the work is entitled 'PROCESSUAL SPECIFICATIONS OF INTERPRETATION IN NATIONAL, EUROPEAN AND INTERNATIONAL JUSTICE" and it is clear from the title that we have analysed the procedural specificities manifested in the interpretation in public law.

Systematically, the first analysis clarifies the question of the entities that initiate an interpretation in law enforcement, since the doctrine not uniform

on the question of whether each entity can interpret a source of law or the interpretation of a source of law should be carried out by a certain institution (e.g. judicial). Doctrine opinions of Prof. Kino Lazarov, Prof. I. Todorov, Prof. B. Spasov are presented. It is concluded that even before the adoption of the APK, the administrative authorities, applying the law, interpret, but with the adoption of the APK, this competence is explicitly regulated, which practically does not significantly change the competence of the administrative authority, but demonstrates the Europeanization of our national law.

We have paid special attention to the specifics that are manifested in the interpretative activity of jurisdictions, both national and supranational. One of the main issues that are relevant and problematic for the courts is discussed - they must or can carry out an indirect review of the constitutionality of legal norms that are contrary to the Constitution of the Republic of Bulgaria (CRB). Opinions in legal literature are clarified by analysing case-law examples. Criticism has been expressed of the legislative body, the National Assembly, for failing to remedy the consequences of an unconstitutional law, and the author considers that **Article 22(4) of the ZKS is being infringed,** and this author also considers that the cascade of court cases and the application of an annulled law is ‘legitimate legal arbitrariness and a legal vacuum’, an opinion with which we agree. The same author illustrates the implementation of the indirect control of a specific EU act, which the courts in Bulgaria carry out and gives examples of several decisions of the district courts, as well as of the concept of ECtHR judgments "sustainable case law of the ECtHR". In this regard, the opinion of Professor Iv has been analysed. Todorov, who formulated for the first time in our doctrine and the concept of European administrative law and argued in detail. It is important for the study that Professor Todorov concludes that, from the point of view of the administrative authority, European procedural law is fragmented and uncoordinated, explaining in detail the argument that we also support,

pointing to the example of the Algera v.Common Assemble case. As a general conclusion regarding the procedural administrative legal methods for interpretation of the sources of law in our country, we note the existence of complexity in the interpretative activity with a view to the application of national principles in the administrative process, but bound by the procedural principles of European administrative law. On the other hand, there is also complexity in the interpretation of national rules in relation to supranational rules and, finally, there is also complexity due to the contradictions identified in the decisions of the national courts. Prof. At. Semov's opinion is also emphasised. He argued the importance of the question 'determining whether a situation falls within the scope of the PES' in relation to the interpretation of the applicable law.

Specificities in the interpretation of the normative administrative act in domestic legislation are analysed, which are expressed in the interpretation of the definitions in the APK for a normative administrative act in Article 75(1) of the APK and a sub-statutory normative act (Articles 185 to 195 of the APK). Doctrine opinions of Prof. E. Kandeva, of Dr. G. Nedev are presented. We have expressed our opinion on which act may be of a public law nature and we have reflected on the legal characteristics of the Rules for the Management, Order and Supervision in Condominium Ownership (repealed) (FRUNCE). We have included these questions in Part Two with a view to determining whether administrative courts or civil courts have jurisdiction.

Specific features in the interpretation of administrative acts are the increasingly widespread use of 'atypical administrative acts' and 'soft law' acts.

The issue and challenge of guidelines, methodologies, recommendations, rules, etc. are analysed. Case-law is presented showing the difficulties in qualifying the legal characteristics of this type of act, their binding nature, their proximity to

the normative act or their difference from it. Accordingly, the specific features of the procedures for issuing and contesting them have been analysed. Opinions about national, international and EU acts, from the doctrine of Prof. R. Tashev, Prof. Iv. Ruschev, Assoc.prof. K. Pehlivanov are present.

In order to clarify and distinguish whether an act is normative or not, we have set up a criterion system that would provide an answer and hence clearly define the lawful elements of the procedure for their issuance and contestation. It clarifies the concertation acts, which are often included in the procedural regulation and determines the authority leading the procedure when it is complicated with the involvement of multiple authorities.

At present, the question of whether the Codes of Ethics, as well as other acts of professional organizations or bodies that manage a profession, but are not explicitly provided for in the LNA to be defined as normative, are subject to an impact assessment in the procedure for their adoption, is topical and controversial. Proposals have been made to optimise this production. **A separate section analyses the specifics of the interpretation of the exclusion from contestation of an administrative act, which is regulated in Article 120(2) of the KRB.**

There has been much controversy on this issue before the Constitutional Court. Listed are the decisions of the Constitutional Court, in which it ruled with a normative interpretation. In principle, the Constitutional Court maintains that direct regulatory exclusion is possible only in exceptional situations. The subject matter of the cases shall contain the determination of the measure, the framework and the situations where a law may provide for the exclusion of challenging the administrative act. However, an explicit pronouncement of the Constitutional Court regarding the exclusion of types of administrative acts, according to the classification established in our doctrine, we find in isolated cases. Doctrine opinions on the specifics of this exclusion have been studied, such as that of G. Nedev on the balance of rights and his analysis of RAC No

14/2014. The opinion of V. Kanatova-Buchkova has been studied, which details the interference with rights and interests.

We **are of the opinion that if it is excluded by law to challenge the normative administrative act, the court will never be able to interpret the degree of vice of this act. Thus, in legal reality, a 'perceivedly null and void' legislative act will operate and produce legal effects, thus creating uncertainty in the legal system.**

Another problem that arises from the question of exclusion of a challenge to a legislative act is the judicial indirect review of such an act.

We have examined the specifics of the interpretation of indirect judicial control in two directions - in the positive administrative law and in the administrative penal law. The court's interpretation of the subject matter of the dispute also includes an interpretation of the applicable legal provision of the legislative act. We consider that the issue of the incomplete general clause has not yet been fully resolved. The decisions of the SC have contributed significantly to overcoming problems of interpretation and implementation. However, the problems expressed above show that any exclusion adopted with an absolute argument for the existence of such an exclusion will always be an infringement of the rights of individuals. I. Todorov and K. Lazarov also expressed considerations relating to disputes under an international law act, as well as considerations of legal certainty and legitimate expectations under Article 13 of the APK. All the above considerations complicate the interpretation and application of the provision of Article 120(2) of the KRB, stressing that the opinions expressed have been published recently and are up to date. We are of the opinion that the subject of the exclusion of administrative acts from being challenged before a court could be considered and considered in greater detail, and a variant of challenging administrative acts under a full 'general clause' could be reached.

The analysis of indirect control in criminal justice and administrative acts is relevant not only in the implementation of the administrative punishment, but also in the termination of the same and the referral to the prosecutor for the purpose of initiating criminal proceedings. It is also relevant in the event of the reopening of a court decision that has already entered into force contesting a penalty order under Article 70(1)(7) ZANN. Finally, it is also relevant to the application of the principle non bis in idem, when the administrative penalty proceedings are resumed, in connection with a conviction in criminal proceedings and the imminent annulment of the penalty order, for example.

In general, the question is also relevant in situations where there is a reassessment of the public danger by the relevant authority and hence the procedural actions in the direction – from criminal to administrative-penal proceedings or vice versa – in the direction from criminal to administrative-penal proceedings, by terminating the first proceedings initiated.

In this regard, reference should be made to Interpretative Ruling No 113/1982 of the General Assembly of the Supreme Court in Bulgaria, which indicates the actions of the prosecutor in connection with the reassessment of the public danger and the termination of criminal proceedings with a referral to an administrative penal authority for the imposition of an administrative penalty, as it lists the criteria for the objective and subjective side of the act in such reassessment. This section analyses the current problem of the interpretation of the principle non bis in idem and the main criteria, known in practice and doctrine as the Angel criteria, in order to assess whether there is an offence under Article 6 of the ECHR.

The next part of the work analyses the imposition of an administrative penalty in the implementation of 'blanket' legislation. An examination has been made of the interpretation of the expression 'unless the act is a criminal offence' in the legal provision. Opinions on **legal** doctrine, mostly critical, are presented

because of the argument that the blanket rule significantly complicates the assessment of the judicial authorities. T. Georgieva suggests optimizing the legislation by specifying the compositions of crimes and violations. An example is the imposition of an administrative penalty in the case of an administrative offence, which requires the enforcement of an administrative act, but the person does not act and does not implement it. In this case, the interpretation by the penal authority would be too broad, which must assess the subjective side, the objective side and other elements of the composition of the administrative offence, but must also carry out a legal assessment of the legality of the administrative act for which there is an established legal order (challenge of the administrative act). The penal authority must examine any relationship between each element of the composition and each element of the issuance and/or execution of the administrative act (e.g. in the case of official crimes regulated in the Penal Code or inactions of the competent administrative authority). An analysis is made of the interpretation of a blanket rule in connection with determining the composition of an administrative violation. The peculiarity is that there is a reference to another rule which has been established by another competent authority for that purpose. These are, for example, the provisions of a law which state that 'whoever breaches a rule of a regulation shall be punished by ...'. No matter how general the blanket rule is, it always specifies the composition of the infringement in the referral by another rule of a special law. But even then the punishing authority directly applies the norm of the specific normative act (law or regulation). In this part, there is an interpretation by the penal authority, but only with regard to the logical scheme of the referral until the specific applicable legal rule is established. An indirect interpretation may exist in relation to the contradiction which the penalising authority establishes if there is a contradiction in the hierarchy of normative acts between the latter specific norm and a higher normative act. Here, the complication would arise from the fact that the interpretation must also be consistent with the principle

that the position of the person should not be aggravated. In the case-law of the courts, it is common for the court to stay the case and to refer to the constitutional court a question relating to a conflict between a rule of law and a constitutional rule. This is the case in Case No 9 of 2019. The positive role of the amended KRB from 2024 is clarified, with which any court can suspend the case and refer the case to the Constitutional Court, as before the amendment, e.g. the cassation instance was the administrative court, without the right to refer the case to the Constitutional Court.

Specificity is the question of the conflict of a norm with a higher act. If this discrepancy is established by the court in the interpretation of the applicable rule, there is no express procedural provision in the criminal and/or administrative penal law, analogous to Article 4 of the APK, that the court applies the higher legal rule. In this case, legal literature and practice have established the practice that, if there is such a contradiction, the court should consider that there is no legal rule governing the composition of an offence. Thus, Prof. L. Gruev explains that when a blanket norm refers to a normative act, but this normative act suffers from the most significant defect, namely its announcement according to the relevant legal order, it lacks such a norm. He also gives an example with administrative acts that supplement a normative rule. Thus, in his view, when an administrative authority issues an administrative act ‘in the example – a general administrative act’), but that act is not notified to the addressees under the relevant legal order, there will be a gap and no criminal liability will apply. We agree with the conclusion in view of the absence of a rule in the procedural law – the NPK or the NPK. ZANN, which regulates the application of interpretation in terms of conflict of inferior normative act with superior in the realization of criminal, respectively administrative and penal responsibility.

Analyzed is the interpretation of the indirect elements used by the punishing authority, which are relevant to elements of the classification of the act. These are the situations in **which an** administrative act has been issued in relation to the composition of the offence or offence, often referred to as 'in the composition', the punishing authority is required to assess its legality in accordance with the applicable law, in this case Article 146 of the APK and the five grounds for legality of that act. However, in practice, it is possible for the punishing authority to examine elements of the subjective side or the objective side of the act, the composition of an infringement, according to the influence of an unlawful element of an administrative act issued. Thus, for example, if an administrative act should have been issued in writing, but it was issued orally and it was this defect in the administrative act that influenced the knowledge of the perpetrator and therefore he did not comply with the act, and the non-compliance is a composition of an infringement, it is unquestionably to be interpreted by the punishing authority as lack of subjective party to the act. In this case, the court categorically carries out indirect control over the issued administrative act, because if the text of the norm explicitly prescribes a written form, and the act is issued orally, and this violation of the APK has a direct and immediate connection with the subjective side of the act, the punishing authority should respect the vice of the administrative act in the grounds of its act. An indirect review by the punishing authority is also possible where the law expressly excludes an administrative act from appeal, namely its execution or non-execution is an element of the composition and the outcome of the criminal case will depend on the assessment of its legality. On this specificity, we have presented the opinion of Prof. K. Lazarov. We have illustrated the hypotheses of indirect control with examples from the case-law and with up-to-date opinions from the legal literature. In view of the contradictory case-law of the appeal panels of criminal courts on the topicality of the application of Article 355 of the NK, it is probably due to the interpretation in the cross-sectoral application of

the legal rules of the two branches of administrative law and criminal law. There is still no interpretative solution on this issue, which is clearly necessary. In the part of the work entitled ‘Requests of a party to the case for interpretation of decisions of the administrative courts’, a study was carried out on the possibility of interpreting judicial acts, for which the APK provides for the subsidiary application of the CPC. A review of the case-law is made, giving an example of the court's refusal to interpret and commenting on its arguments.

The following part examines the interpretation of words and concepts in the procedural part of public law. The case-law illustrates this by commenting on the ambiguity of an applicable rule in the judgment, which arises from the use of the word ‘incompatibility’ in relation to the expression ‘requirements of the law’. The Supreme Administrative Court annulled the judgment as unlawful precisely because it disagreed with the court’s interpretation and misapplication of the rule as a result of the interpretation.

The paper provides an analysis of the decisions of the Constitutional Court, which appeared for the first time a year ago, in which the qualification is given.’ **For this purpose, foreign authors are also studied in order to make a comparative analysis of this type of acts in administrative and constitutional law.** Rainer Arnold believes that a political type of decision by an authority can be subject to judicial review. G. Bliznashki also commented that the Constitutional Court could rule on ‘political disputes of a constitutional nature’. Decision No 8/22 in Case No 4 of 2022 is analysed and the grounds point to other decisions of the Constitutional Court concerning an act of the National Assembly which violates equal legal opportunities for participation of all parliamentary parties in forming political will and issuing the act that is the subject of the constitutional case. **Comparisons of acts of the National Assembly with administrative acts have been made and it has been concluded that Article 21 of the Code of Administrative Procedure does not**

apply to the legal characterisation of the act of the National Assembly and that its repeal is therefore based on breaches of constitutional rules and principles and a specific substantive law. This example gives us reason to **optimize our legislation by creating a procedural normative act that regulates the constitutional proceedings in greater detail than the Rules of Organization of the Constitutional Court.**

The section 'Ex officio analyses of the interpretative work of courts' provides up-to-date analyses of the interpretative work of courts of both domestic and EU law. The current legal framework of the interpretative activity is presented, Section Tenth of the Judicial System Act (JSA), the Rules of Procedure of the Supreme Administrative Court, regulating the activity of the newly established interpretative unit, the Rules for Joint Interpretative Decrees of the Supreme Court of Cassation and the Supreme Administrative Court. A critical analysis of the 2021 amendment to the JSA on the interpretative competence of ZANN rules provided to the Supreme Administrative Court and the Supreme Court of Cassation is made and a proposal for streamlining legislation is justified.

The part on the analytical work of the courts mentions the obligation of the Supreme Administrative Court to publish them in an annual bulletin, but notes an expansion of the analysis of interpretative work through various additional forms. Another topical issue that the Supreme Court of Cassation decided with TP No 1 of 2022 is the **interpretation** in the event of the disappearance of a plea. An analysis is made of a category of interpretative acts in criminal law, which should automatically be considered as tacitly repealed due to the repeal of the 1971 Constitution. This direct correlation between the interpretative activity of the courts in relation to a rule of law and a constitutional rule is a ground for automatic tacit lapse of the interpretative acts, expressed formally and explicitly in the new interpretative act. Similarly, the reasons justifying the annulled parts also lapse in the context of legal automatism.

Our conclusion is that we can define as a legal phenomenon precisely this phenomenon in the interpretation in criminal law – namely the role of social influences on life in the state, which can and would influence inner conviction. **An additional argument of the Supreme Court of Cassation is the radical change of social relations, which give rise to an objective impossibility to use the interpretation of a certain norm, which is still in force at a certain time, but has no impact on the social consciousness, respectively on the inner conviction of the reprehensibility of the act and on the severity of this reprehensibility.** In point 8, the focus of the study is the interpretation of the interpretative acts of the courts. An analysis is made of the assessment of the relevance of the interpretative act, taking into account a gap in the current legislation to verify the relevance of existing interpretative decrees/decisions of the Supreme Courts – the SAC and the SCC. A doctrinal opinion of R. Tashev about the need for such a periodicity of assessment is also presented. Variations enabling the interpretation or annulment of an interpretative act issued have been examined – e.g. there was a legal gap on the basis of which a TP/TA was issued, but at a certain point in time it was filled by the adoption of a legal rule. At the same time, in addition to the existence of a legal rule, there is an existing TP/TA. A tacit annulment is not regulated, and therefore the SAC must pronounce explicitly and annul the interpretative act. There is a difference in the criminal law interpretation from the interpretation of administrative law, taking into account the approach in criminal guidance, guidance in an interpretative act of details from the subjective or objective side in the classification of acts constituting criminal offences regulated in the Penal Code. The administrative section discusses the criteria according to which the judges of the Supreme Administrative Court have drawn up such an analysis of the interpretative acts. Our observations have been drawn on the question whether a dissenting opinion is permissible in an interpretative act, in view of the fact that it is issued in order to unify opposing views on the interpretation of

the same legal rule. We find a difference in the interpretative activity of criminal courts with the interpretative activity in administrative law. In criminal law, the matter is more sustainable because it is not tied to such a dynamic of changing social relations as exists in the regulation of administrative law.An analysis of the interpretative activity of the Constitutional Court is also made, taking into account studies by the doctrine of R. Tashev, E. Mihaylova, P. Penev.

We have based our conclusion on the more optimal benefit in practice of amending the norm for the publication of decisions of the Constitutional Court to be separated - such of an interpretative nature in a separate part, and decisions of a casual nature in another part, which will give focus and facilitate the interpretative process of domestic law in its entirety.

A relatively extensive part of the study of **specifics in the interpretation of EU and international treaty norms with the Republic of Bulgaria and the interrelation with national public law is separated.** The interpretation of the Charter of Fundamental Rights in the EU (CFREU) is specifically analyzed, looking at complications such as how the Charter compares with the constitutions of the Member States, whether there is parallelism or hierarchicality in the grading of legal force. Doctrine views on these issues are discussed. The conclusion is that the interpretation of the Charter of Fundamental Rights of the EU is still a topical issue, given the existence of the ECHR as an international instrument and the interpretation of the relationship between the two instruments. It examines the case-law of the Court of Justice of the EU, which clarifies the problematic hypotheses. Examples are also given from the case-law of the Supreme Administrative Court in Case No 4/2015, the Supreme Administrative Court cannot draw a reasoned conclusion on the existence/lack of standing of different categories of entities without interpreting the relevant legal rules and principles of European Union law, which it does not have competence to do. The provision of Art. 267, para. Article 1 of the Treaty

on the Functioning of the European Union (TFEU) states that the Court of Justice has exclusive jurisdiction to interpret the Treaties and acts of the EU institutions. Our conclusion is that the Court of Justice of the EU has jurisdiction to rule on the interpretation of questions relating to the legitimate circle of persons who may challenge acts of administrative authorities, considering that they are contrary to the Charter of Fundamental Rights of the European Union. Opinions of the Bulgarian doctrine are also mentioned, and R. Yankulova believes that by adopting the Charter "the concept of fundamental rights is also an effective institution of European law. R. Arnold argues that the CFREU should be applied instead of the national constitution. Prof. G. Popova considers that the CFREU can appear as a legal standard for the interpretation of domestic law in the context of the application of EU law vis-à-vis national courts. **Summarized on this point, our opinion is that as long as the national constitution regulates the fundamental rights of citizens, it should be implemented as a matter of priority. It is only if there is an unregulated right or obligation in the national constitution that the relevant court should apply the CFREU as an immediate supranational Union act with an analogous substantive subject matter, namely fundamental rights in the field of social welfare.**For the sake of completeness of the study relating to interpretation,**the direct and indirect application of EU law, which we find to be specific in its interpretation,** is examined. Doctrine opinions of Prof. Iv. Todorov, who divides the issued acts into two types - issued by direct and indirect administration, with the scope of direct administration covering EU bodies and the scope of indirect administration covering national authorities. Specifics are found in the precise designation of organs that have a status that does not define them definitively to one or the other category. Hence, the specificity also affects the competence that they have to issue relevant acts and, finally, the specificity is also in the body that can exercise control over the issued act if its addressees consider that it was issued unlawfully. It is more

complicated to identify bodies within the scope of indirect administration, such as Eve. Todorov suggests a good criterion, namely that 'their power is to issue individual administrative acts to implement the rules of EU law'. We agree with I. Todorov's conclusion that the legal framework is not clear enough and creates practical problems in its application with regard to the competence of the indirect administration. Todorov proposes criteria such as requirements for the indirect application of EU law by national administrative authorities, which should be applied in practice. **The new institute of the European Public Prosecutor's Office (EPPO) has been studied, and since its establishment in Bulgaria there have been divergent opinions on its status.** Opinions are discussed in our doctrine on the reasons for its creation and role in the EU. So is I. Kotorova points out as part of the reasons to establish a European Public Prosecutor's Office the abolition of customs controls, the free movement of goods, people, as well as technical progress in banking and money transfers. **The question raised was whether the amendments to the JSA concerning the territorially located European prosecutors were contrary to Article 126 of the KRB. We have expressed the view that, for the duration of their term of office, they have a conditional dual status – delegated prosecutors in the supranational jurisdiction, but located in that supranational jurisdiction – the territory of the State,**in view of the specific nature of their activity and the exercise of their jurisdiction under Article 11 of the Regulation. An analysis of the Regulation is made, prevailing the interpretation of Article 15 that this act does not affect the national systems of the Member States as regards the way in which criminal investigations are organised. Analyzed are its structure, its designation as an EU body. An important element is that there is no provision for the competence of a national authority managing the judicial and prosecutorial system to scrutinise that authority, which lies outside the national judicial system. In this sense, Article 126 of the KRB is not relevant to the supranational prosecutorial jurisdiction, but regulates only the systems of

national judicial authorities specified in the norm. The specifics of the interpretation of the European Convention on Human Rights (ECHR) are discussed. The various interpretations of an international treaty to **which Bulgaria is a** party are explained. Illustrated also by decision of 02.05.2007 in complaint n 71412/01 "Agim Behrami and Bekir Behrami against France" and in complaint n 78166/01 "Ruzdi Saramati against France, Germany and Norway". The decision is of the ECtHR, but the peculiarity is that the court rules on the interpretation of two separate states, defendants, who interpret differently the same applicable provision of Art. 35, para. 1, with regard to the question whether all national judicial remedies have been exhausted by the applicant. In the administration of justice based on the ECHR, we find specificity in the interpretation of the concept of 'third party concerned' by the European courts. It was clarified by a judgment of the ECtHR of 2 May 2007, in which it was argued that the status of 'third party concerned' did not exist in relation to two States against which an individual's complaint was directed. In the Decision, the United Nations appears as a third party and is invited to participate in the case and to be defended, ex officio, by the panel itself. Our doctrine expresses an opinion on the designation of third parties in cases before the Court of Justice of the EU by R. Baltadzhieva and Iv. Todorov, which is linked to casuistics, in connection with which the Commission issues acts with adverse effects /sanctions, coercive measures and other acts that the CJEU interprets as an 'act with probable adverse effect'. The authors claim that there is uncertainty as to who exactly are the 'third parties concerned', referring both to foreign doctrine and to the CJEU cases cited. Iv. Todorov raises as a problem of interpretation the question of "hearing of the so-called shared administration where there is a European administrative authority and a national administrative authority with the same substantive competence and gives as an example customs authorities or authorities related to the Structural Funds.

A separate section examines the interpretation of the jurisdiction of the Court of Justice**.** In Case C-316/91 European Parliament v Council (additional financial act), the Court of Justice found that, in addition to the acts referred to in Article 288 TFEU, decisions and directives may, depending on the content and purpose of the act, be the subject of challenge other acts which may bind the Member States.

Here we have made an analogy with the principle in Bulgarian administrative law regarding the coordination of wills between several administrative authorities. With regard to the other peculiarity that the guiding principle is the content and not the name of ***an act, we have also drawn an analogy with Bulgarian administrative law, since in the case-law of the Supreme Administrative Court there is a persistent view that it is not the name of the act that matters, but its content.*** We find almost complete similarity with the five grounds accepted in Bulgarian administrative law for the legality of the adopted/issued act, which produces legal effects for its addressees, by comparing them among themselves.

As a further problem in the system, we have analysed **the interpretation of the legal grounds for annulment of an act issued by an EU body.**

Iv. Todorov submitted that, where the action for annulment was **well founded,** the Court of Justice declared the act null and void. The interpretation of the partial annulment takes the form of several hypotheses. This is illustrated by Case C-21/94 *European Parliament v Council*. The specificity lies in the possibility of suspending the effects of the annulment until the competent institution has adopted an act to replace the annulled act. **An important conclusion related to the subject of the study is that when comparing with the Bulgarian administrative process, EU law takes into account that there should be no gap in the law that can be obtained by judicial means. It is noteworthy that EU law specifically seeks clarity in the interpretation of**

legal rules, on the one hand, and completeness, in order to fill a possible gap, on the other. However, filling a gap must be predictable, give the competent authority time to regulate, and only then does the repeal have legal effect. This approach of the Court of Justice with a view to the overall optimisation of justice in the administrative and constitutional sectors deserves attention. In our constitutional justice, this approach has been adopted to some extent, and the National Assembly must explicitly adopt a rule that the Constitutional Court has repealed as contrary to KR Bulgaria. In administrative justice, there is no rule obliging the competent authority to issue a normative act if it is declared null and void or annulled. The general provision in the APK is in Article 304 that the authority should make good the damage and restore the legal situation. The annulment of a statutory instrument issued by an administrative authority, which is in principle analogous, is compared. With regard to the annulled law by the Constitutional Court, similarly, the legislator undertakes to regulate public relations with a new norm when a norm of the law is repealed as being contrary to the Constitution. Thus, in the European constitutional legal doctrine it is assumed that the algorithm of modern constitutional justice follows this order. **In a special part of the work, an analysis of effective access to justice is made, interpreting also the degree of effectiveness.** The interpretation of effective access to justice is discussed in ECtHR rulings. Reference is made to a judgment of the ECtHR stating that, at the time when the case was referred to the ECtHR, there was a legal vacuum and the consistent case-law of the courts led that court to conclude that there was no effective access to the judicial system. The ECtHR also determines when there is and when there is no certainty of such access when interpreting the text of a law on access to a judicial body. The ECtHR also concluded that the court's interpretative decision was equivalent to a 'substitute' rule of law, which is a procedural condition for the admissibility of an action before the ECtHR. This is clear from the example of the ECtHR's judgment in *First Chamber, I.D. v.*

Bulgaria, no. 43578/98, of 28 April 2005. The conclusions of that judgment of the ECtHR are relevant, since it is clear from the case-law of the ECtHR that the court also accepts as evidence the settled case-law of the courts where the judgments are on the same substantive issue and with the same content.

Beyond the findings of the ECtHR, we **have also added our conclusion that, where the legislature excludes an administrative act from appeal on the basis of Article 120(2) of the KRB, it provides a direct and shorter route for the individual to challenge it before the ECtHR if a provision of the ECHR has been infringed. Therefore, when the Bulgarian legislature seeks to exclude an appeal under the conditions that determine a number of decisions of the Constitutional Court (public danger, crisis situation, etc.), it should weigh up the balance between the direct route to bringing an action before the ECtHR and the possibility of enabling the act to be challenged at national level before a national court.**

As a continuation of the system, the interpretation of the substance of the concept of 'effective administration of justice' has been examined.

The division into two parts of the concept of 'effective administration of justice', namely access and the substance, is relevant in the application of the ECHR, since effective access is ensured only through domestic law, whereas effective administration of justice on the substance of the dispute is subject to interpretation by the ECtHR itself. Therefore, we have taken into account that the effectiveness of the administration of justice has essentially different aspects, but as specifics in the interpretation, we have separated the application of Article 4 of the KRB, Article 119 of the KRB, and Article 125(2) in conjunction with Article 120(2) of the KRB. The case-law in Bulgaria on liability for damages resulting from the actions of a registration judge and the subsequent interpretation of the legal nature of the act of registration, the legal status of the registration judge and the subsequent conclusion on the application of the

relevant law under which compensation for damages is to be sought - ZODOV or Article 45 of the Obligations and Contracts Act is analyzed. The SCC considers that the court should classify the claim of its own motion. As can be seen from this example, the classification of the subject matter of the case is of fundamental importance not only for the applicability of the legal procedure, but also for actions for damages. Undoubtedly, the effectiveness of the administration of justice in our country is also guaranteed by the possibility of compensating the person who has suffered damage from unlawful justice. An analysis is made of the request of the plenary assembly of the Supreme Administrative Court, under which case No 1 of 2022 was opened and DCC N2 of 23. Examples are provided where laws (ZOP, ZZO) regulate a procedural procedure that leads to ineffective administration of justice and inadequate protection of the rights of individuals. We have examined a legislative provision which did not provide for the legal nature of the subject-matter at issue sufficiently or with sufficient precision and provisionally refer to it as 'indirect exclusion from administrative judicial review'. We have given examples of nine current laws that are referred to in the constitutional case. The legal phenomenon of 'incidental exclusion of administrative acts from challenge before an administrative court by means of a statutory provision is commented upon and we have justified the thesis, norms with the content of Article 135 et seq. The APK should exist and be applied, but when their application becomes regular and is related to a specific law (the two circumstances in cumulation), the legislator should eliminate the reason.

We have examined the subject matter of Constitutional Case No 1/2024, in which the plenary session of the Supreme Administrative Court sought to establish a clear criterion for the fundamental delimitation of the jurisdiction of cases, which is relevant to the effectiveness of the substantive administration of justice.

In order to better clarify the question of the jurisdiction of the courts subject to the constitutional case, a thorough historical review of the doctrine has been made in a comparative legal aspect. Opinions of Acad. Petko Staynov with criteria according to which the legislator proposes to regulate jurisdiction - civil or administrative court in a dispute containing mixed factual composition or of unclear legal nature, which is subject to interpretation. The final conclusion of P. Staynov is the method of regulating the legal relationship as a final criterion. Following the historical review, modern administrative justice is examined on the issue of its effectiveness and determination of jurisdiction in relation to the subject matter of the dispute, where it is subject to interpretation. Examples are given where one of the entities is governed by public law, but the legal relationship is governed by a civil law rule, which also determines the jurisdiction of the dispute before a civil court. More attention is paid to the mixed compositions that exist in the legal reality and a special law explicitly regulates their creation and development, including the jurisdiction of the disputes that have arisen (e.g. the Public Procurement Act, the Concessions Act, the relatively new Public Enterprises Act). It is established that there is no contradiction in the case-law of the Supreme Administrative Court when separating the administrative act from the act with private law effects and examples of decisions of the Supreme Administrative Court are given. It examines the situation in which a civil dispute falls within the jurisdiction of an administrative court, namely compensation for damage caused by unlawful acts of the administration. The explanatory memorandum to the draft APC states that the aim of the legislature is ‘procedural economy and overall protection of citizens’, which indicates a comprehensive conceptual legislative solution. Cases before the ECtHR concerning a violation of Article 6(1) of the ECHR in the aspect of lack of ‘access to a court’ under the ECHR have also been analysed. Illustrated is the thesis of the court with the cases I.D. v. Bulgaria, Obermeier v. Austria, the case TERRA WONINGEN v. the Netherlands. An analysis of the

interpretation of the legislation governing the liability of the State and municipalities in national and European law is naturally systematic.

The difference between public and private law is analysed in national law when liability is claimed for damage caused by an unlawful activity/action by the injured party to the executive/state authority. Problematic hypotheses directly affecting public authorities are examined. The principles and objectives of the SMLDA are examined in two aspects - substantive (representing precisely the restorative function) and procedural (representing the order and rules by which the request is proved). The legal doctrine of so-called 'light order' is commented on. Case-law examples of complications in interpreting rules on the relationship between material and non-material damage caused to an addressee of state coercion, implemented by administrative means, are discussed and the principle applied in European law is commented.

A special part of the work analyses the legal framework in Article 203 of the Code of Administrative Procedure concerning the obligation of the State and municipalities to compensate for the damage caused by unlawful actions of the administrative authorities. Analytical comparison was made with ZODOV. The reasoning is illustrated by examples from the SAC jurisprudence, where both EU acts and a specific ECHR rule are applied, justified by poor transposition of an EU directive with regard to EU acts and violation of a Convention.

In connection with the claim for damages, the term 'officials' in Article 213 of the APK has been clarified. A number of controversial hypotheses concerning this concept, compensation or damage, have been commented upon. Thus, in the commentary are Article 205 of the APK, regarding the claim for compensation, it is against the legal entity in whose composition the specific official is located, Article 19(3) of the ZANN, and specifically in financial law is expressed the opinion that lost profits should not be compensated. Article 120(1) of the Public Finance Act, which provides that where the administrative body is financed from

the state budget, the funds are to be paid from the budget of the first-level spending unit and, where they are insufficient, from the budget of the Ministry of Finance, reflects the following specificity in the implementation of financial responsibility. When the property liability is ordered by the court against a municipality, the funds are paid through a loan to the municipality. This is the interpretation of the Constitutional Court in Judgment No 15 of 2010 in Case No 9 of 2010.

Another specificity of public law is related to the repeal of a normative administrative act and the compensation of the addressees of that act for damages they have suffered as a result of the implementation of the rules contained in the act. The case-law of the administrative courts on the application of the SMLDA to the effects of an annulled administrative act – an ordinance, a decree of the Council of Ministers, an ordinance of the Municipal Council – is controversial. The subsequent Interpretative Decision No 2/2016 in case No 2/2015 of the Supreme Administrative Court was analysed, according to which the subjects of the norms of the repealed normative act cannot have claims against the state for damages from illegal normative acts. An analysis of the interpretative decision is made, taking into account that it is precisely the complexity of the interpretative activity between a general and a special law, combined with the retroactivity of a normative act and the admissibility of such an exception, that provides the answer to the interpretation contained in the TP of the Supreme Administrative Court. The concept of 'damage' and its interpretation in the context of the study are also analysed. A topical issue has been raised, with contradictory case-law of the Supreme Administrative Court, concerning the interpretation of the admissibility of an action for damages from an annulled administrative act as unlawful and returned to the administrative authority with instructions for a new ruling. **We have expressed our opinion that, in order for there to be damage suffered, it must be decided by an**

administrative act on the substance of the matter that is the subject of the administrative procedure.

The section 'Interpretation in Community law and specificities in the administrative administration of justice' analyses the hierarchy of instances in the administration of justice, including national and supranational instances. In the doctrine, administrative courts, the Supreme Administrative Court as a cassation instance, the Court of Justice of the European Communities and the ECtHR are presented in sequence. The specificities of interpretative **activity in the Community judicature are analysed, such as the interpretation of terms in a Community order for reference/the concept of 'internal communication', 'internal considerations', 'communication',** etc., contained in the Directive chosen by way of example. We have drawn three conclusions. The importance of specialized dictionaries with legal definitions is emphasized.

We have specifically analysed 'mediation' and the administrative agreement as an institutional prerequisite for referral to the European courts, commenting on the administrative agreement in Article 20 of the APK and mediation under the Mediation Act, taking into account the repeal of the part of the law on mediation in a pending dispute.

An analysis of the financial liability of the State is made in point 19.
and public authorities in the event of a breach of EU law, such as examining the cases of an act issued contrary to a national rule and a Community rule. Liability in the case of a non-transposed or incorrectly transposed directive has been examined in detail, and it is the interpretation that is relevant in order to assert whether it has been transposed. Opinions from the doctrine of Zh.Popova, Iv.Todorov, St.Kostov are commented. Examples from jurisprudence are given.

An analysis is made of the reasoning of the judgments of the national courts, in view of the hypothesis of interpretation that the insufficient reasoning and arguments of the court violate the requirement of Article 6 of the ECHR.

Opinions from the doctrine of Judge I. Alexandrova are studied. The concept of ‘materiality **of the breach of EU law’** is analysed as a specificity of interpretation in the application of EU law and determination of the cases of materiality.

Paragraph 20 deals with certain specific features of the legal force of requests for preliminary rulings made by administrative courts to the Court of Justice of the EU. An analysis is made of Decision No 2/2022 of the Constitutional Court of the Republic of Bulgaria, containing the algorithm to be followed by the national court in each specific case. A conclusion is drawn as an ‘extended **substantive legal basis’** for the legality of an administrative act, suggesting that it should be used conditionally only in legal literature. An analysis is also made of Decision **No 5/2022 of the Constitutional Court of the Republic of Bulgaria, which contains** the necessary details of the so-called ‘assessment of compliance with Community law’ and would serve the practical usefulness of the courts. Our conclusion is that the formal interpretative method of referring cases to the Supreme Administrative Court (administrative, tax and financial law cases) or the Supreme Court of Cassation (criminal cases) and the Supreme Court of Cassation and the Supreme Administrative Court (administrative-criminal cases) for an interpretative decision or ruling would cross the procedural path of the court either to the Community court or to the Constitutional Court. In this sense, interpretative cases in public justice have an essential procedural importance, in addition to the trivial long-standing importance associated with overcoming contradictory practice or ambiguity in law. Our legal literature is commented on with the view that a possible reference for a preliminary ruling should not be replaced by an interpretative decision. Paragraph 21 analyses general procedural issues that we find relevant for the interpretation in the community. Issues of constitutional law, such as the interpretation of an unclear constitutional rule, have been addressed.

A comparative analysis of the SIV and the EC as legal regulation of the groupings is made, analyzing the SIV acts and the EU acts. It is concluded that the purpose of the SIV legislation was primarily economic. The so-called General Terms and Conditions of Supply (GTCs) are mainly subject to interpretation. Doctrinal views on the objectives of EU acts and the specificities of the so-called "Autonomous interpretation" are commented. It is concluded that **the interpretative activity in the Member States of the SIV is simpler in terms of sectoral specificities, using mainly the methods of interpretation of civil law relationships.**

PART THREE explores the development of interpretative activity in public law, which gives us a comprehensive picture of the specifics in individual periods of the socio-economic development of our country and, accordingly, of our legal system. We have divided the analysis into three sections, analyzing first the period before Bulgaria's membership in the European Union, then in section two are analyzed the peculiarities in the current time period after the socio-economic changes in Bulgaria and after Bulgaria's accession to the European Union. and finally the development of e-Justice and interpretation is presented, as a start in the current period and a predictive expansion of digitalisation in law. The first section provides an overview of the doctrines related to the ambiguity of legal rules. Opinions of R. Tashev, Z. Stalev are presented, highlighting the opinion of Z. Stalev, who distinguishes the interpretation of legal acts from the interpretation of ‘individual legal acts’, as the distinguishing criterion for filling gaps in the legal framework by the method of analogy. We have made a logical connection with the new Art. 18a of the LNA in 2016, which introduced a requirement for discussion of the draft normative act and for normative forecasting of each new law / amendment and supplement. Our conclusions are that analogy can be realized as an interpretative

tool only in a specific period of social relations, because of their specificity and relations between the subjects in society. The doctrine of 'legal forecasting' is commented on, and its implementation is found in the legal framework for the assessment of the impact of legislation in the NAFA. An analysis is made of the most severe form of imperfection in the legal system - the gaps in the individual branches. Opinions of authors from the Russian doctrine are presented, examples from the Romanian legislation, the German and the specifics of the analyzed issue are given. A general conclusion is drawn for a logical interpretation as a prevalent interpretative method.

The theory of social governance from the eighties is analyzed, which doctrine considers the possibility by interpretative methods of forecasting to be covered by the legislator's view of future social relations and their development. In the theory of social management, the construction of mathematical models for forecasting was also discussed. All of this, taken together, was aimed at overcoming legal loopholes, contradictions between the legal system and, ultimately, a shift in the classic interpretation of the law.

A separate section summarises the doctrine regarding the interpretative work in the period under consideration. Vitali Tadzher's opinions on the sources of law and interpretation and the role of interpretative acts of the Supreme Court are commented.

A detailed historical overview of the legal framework of the interpretative decision of the Supreme Court during the period of validity of the Constitution of 1971-Constitution of 1991 is given. The Law on the organisation of courts and interpretative decisions issued on its basis are considered.

Law on the organization of courts and interpretative decisions and interpretative decrees, as well as the specifics of their adoption and legal grounds. Issues in the legal literature that have been the subject of discussion, such as the interpretative competence of the general assembly of the Supreme Court and other discussions

on applicable methods of interpretation, are presented. The relationship between a regulatory normative act and an interpretative decree is considered, as a peculiarity for the interpretation in public law is the relationship between a regulatory normative act and an interpretative decree of the SC. Views of V. Tajer, V. Zahariev, B. Spasov are discussed. Some practical ideas are presented to help overcome the problem of legal gaps in the period under review, which are summarized through sociological methods and give an idea of legal thinking and good practices in the period. The role of dissenting opinions is analyzed by commenting on the procedural order for their discussion and assessing the need for them. The norms of the Criminal Code and the peculiarities of their interpretation during this period are discussed.

Section 2 presents the specifics in the current time period after the socio-economic changes in Bulgaria and after Bulgaria's entry into the European Union.

Interpretative specificities of the EU Courts are analysed, presenting views from the legal literature on EU law. Prof. A. Semov argues that the methods of interpretation of PMV/SPV have never been systematized by the CJEU in their entirety. Semov suggests **consistency of application of interpretative methods.** Another specificity at the present time of application of EU law are the new principles of administrative European law, analyzed by Iv. Exclusion from judicial review in EU justice and the doctrine expressed by R. Baltadzhieva and Iv.Todorov.

A special section analyses the interpretation related to the issuance of an electronic fiche and an electronic administrative act, both in the application of the ZANN and in the application of the new provisions in the APK. Interpretative decisions of the Supreme Administrative Court are presented, as well as doctrinal opinions of Prof. V. Kiskinov.

The term ‘metalinguistics in law’ is considered and problems in automation in law are analysed. Doctrine opinions of Prof. A. Kantardzhiev, Prof. E. Kandeva, Prof. T. Kolev are presented.

Point 3.1 analyzes the computer automation of the legal system, considering the automated processing of parts of the legal system through electronic data sets as real products of exceptional utility for the legal practitioner and for interpretation in law. The institute of Law Impact Assessment is specifically examined, but from the point of view of its development and possibly the compilation of "forecast analysis" through computer systems (automated). The opinion of Prof. N. Yonkova, who studies precisely computer forecasting and solving court cases electronically, is presented. De Lege Ferenda, we have made a proposal at EU level to implement an analogue of electronic legal systems, which would greatly facilitate the interpretation of the EU courts and the national justice system, taking into account the problems.

The CONCLUSION part summarizes the conclusions and proposals for optimizing legislation and practice.

The book explores specifics in the interpretation of the branches of public law, united by three characteristics: timeliness, long-standing contradictions in their interpretation and essential for doctrine and practice in public law.

In this regard, the features of public law are clearly distinguished, outlining the circle within which these significant problems in interpretation and law enforcement are analyzed - administrative law in its interrelation with constitutional law, financial and tax law, criminal law, EU and international law, sociology of law.

Comparing the interpretative specifics of administrative law and procedure with other branches of public law reveals similarities and differences, and the conclusions are important for doctrine and practice in order to avoid their

erroneous mixing. Special attention is paid to EU and public international law and the applicable interrelationship with administrative law and procedure, again in the context of the current complicated hypotheses.

Our goal is to create both an up-to-date and a panoramic view of the interpretative specifics in public law, manifested so far in the practice of the administrative courts, the constitutional court in our country, in connection with the practice of the European and international courts.

The analysis concludes that in the interpretation of public law, an imposed principle of the CJEU is the search for the purpose of the law. The optimal methods of interpretation in each sector of public law are clarified and the relation with these methods in administrative law is established. It is concluded that complications in the interpretative activity of this sector come from the volume of normative acts characteristic of administrative law and the superimposition of the interrelations between the applicable legal rules, both in the sector itself and with other sectors and with supranational EU law. However, this large volume is unavoidable due to the many special laws set out in the special part of administrative law, and therefore the complexities of interpretation are an accompanying feature of law enforcement in national and European administrative law. It clarifies the interpretation of specific non-state sources of law, such as internal rules of institutions, instructions, clarifications and forms of so-called soft law acts. It is examined which of the five indicators of legality of administrative acts is most often subject to interpretation in the law enforcement activity - the competence of the authority and the substantive legality. The most recent issues in the application of coercive administrative measures are presented, namely the competition between citizens' rights and their limitation, together with proportionality as a condition of EU law and the jurisprudence of the ECtHR. The analysis of legislation and a number of conclusions with lasting practical relevance are useful in practice, e.g. if a law

provides for the circumscribed competence of an administrative authority, a regulatory act cannot provide for discretion, etc. In criminal law and administrative penal law, the need for a periodic assessment of the public danger of the acts and, accordingly, legal reprehensibility is justified, since the discrepancy between them affects interpretation in law enforcement. A significant conclusion is drawn from the comparative analysis of the determination of the severity of the punishment in equity and the issuance of an administrative act under the discretionary competence of the authority, due to the errors in the administrative punishment and interpretation. The specifics in the interpretation of the European Public Prosecutor's Office are studied, with the raised topical issues at national and Community level regarding its status and competence. The study of the institute of a minor case in the administrative punishment establishes a long-standing lack of criteria for classifying the act as a minor case, which were developed by the courts. In this regard, the amendments to the ZANN in 2020 are being discussed, which partially resolved the issue of the establishment of several principle criteria. Tax and financial law highlights the specificities of the declaratory act, the interpretation of non-compliance with the purpose of the law and other substantive issues. The procedural part of the work explores a number of specifics of interpretation in the process, with intertwining of interrelations in the branches of public law. The need for the introduction of a rule for the issuance of an interpretative act by an administrative authority through referral is justified precisely for the issuance of such an act. A detailed distinction is made between interpretative competence and an authentic interpretation regulated by the LNA. The relationship between the discretion of the administrative authority, the interpretation of a rule of law governing that jurisdiction and the limitation placed on the review of national judicial decisions by the EU judicature is justified. The rare acts of public law of a political nature, so named by us, are presented because of the application of a constitutional rule related to the consideration by the Constitutional Court of

political pluralism. Emphasis is placed on the interpretation of words and concepts in the various branches of public law, which have created complications in law enforcement. A number of conclusions have been drawn with regard to interpretation in indirect judicial review. Issues related to the requests of parties to the cases for interpretation of court decisions, complications in holding the state and municipalities liable for damages related to contradictory practice are discussed, and solutions are proposed. Specificities in interpretation are highlighted in the Charter of Fundamental Rights and Freedoms, the European Convention on Human Rights, where we have found a problem that is relevant and at the same time essential to public law. Special attention is paid to the interpretation related to effective access to justice, hypotheses from requests for preliminary rulings from administrative courts to the EU Courts and a number of other issues of current interest in principle in EU law and the interrelation with the administrative process. The management methods for analysis and evaluation of the interpretative activity of the courts, including the Constitutional Court of the Republic of Bulgaria, are discussed and proposals for their optimization are made. The substantive and procedural parts take into account the 2023 amendments to the Constitution of the Republic of Bulgaria, underpinned by relevant analyses of Decision No 13/24d of the Constitutional Court. In the last part of the third work, an overview and analysis of the development of the interpretative activity in public law in the Republic of Bulgaria are made and the benefits and negatives of applying interpretative methods and the corresponding for the period legal regulation of the interpretation - socialist period, the current period, including our membership in the EU and the future development, including e-Justice. In view of our personal experience in programming information systems, we have tried to give a personal opinion on the possible benefits and problems in applying the so-called artificial intelligence in law.

The overall work deals with real case studies, cases of the Constitutional Court of the Republic of Bulgaria, administrative courts and the Supreme Administrative Court, ordinary courts, courts of the European Union, including a large volume of court decisions. Each analysis of the specifics in the interpretation ends with a specific conclusion and / or with a proposal for optimization, which we do not cover them in the final part, due to their diffuseness in the overall work.

Publications of Darina Zinovieva in relation to dissertation

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