

## **REVIEW**

**by Prof. Dr. Ivan Todorov Todorov**

of a dissertation work for the award of the educational and scientific degree **Doctor**

in: field of higher education                      3. Social, Economic and Legal Sciences

professional direction                              3.6 Law

doctoral program                                  *Administrative Law and Administrative Process*

**Author:** *Tanya Vladimirova Daskalova*

**Thesis:** *Indirect Control of the Legality of Administrative Acts*

**Scientific supervisor:** *Assoc. Prof. Konstantin Pehlivanov, PhD – PU Paisiy Hilendarski*

### **1. General presentation of the submitted materials**

By Order No ПД-22-811 / 02.04.2025 г. of the Rector of Plovdiv University Paisiy Hilendarski (PU) I have been appointed as a member of the scientific jury to ensure a procedure for the defense of a dissertation work with thesis *Indirect Control of the Legality of Administrative Acts* for the award of the educational and scientific degree **Doctor**.

The set of materials on paper presented by **Tanya Vladimirova Daskalova** is in accordance with Art. 36 (1) of the Regulations for the Development of the Academic Staff of Plovdiv University.

The PhD candidate has attached 3 publications.

The PhD candidate has significant practical experience in the field of her dissertation.

### **3. Brief biographical data about the PhD candidate**

The PhD candidate Tanya Vladimirova Daskalova graduated from Plovdiv University Paisiy Hilendarski in 2004. From 2005 to 2007, she worked as a junior inspector at the Directorate Regional Labor Inspectorate - Plovdiv. From 2008 until now she has been a lawyer, registered with the Bar Association - Plovdiv. Since

2022, she has been a doctoral student in Law at the Plovdiv University Paisiy Hilendarski. She is fluent in English, German and Russian. She completed a one-year training in EU law organized by the Krastyo Tsonchev Central Legal Education Center.

### **3. Relevance of the thesis and appropriateness of the set goals and objectives**

The thesis is extremely relevant. First of all, because there is a serious discrepancy in the practice of the Supreme Administrative Court, and also a discrepancy between part of the judicial practice and the doctrine. Even in Decision 14/2014 there is a discrepancy between the decision itself and the dissenting opinion of the two constitutional judges who were judges in the Supreme Administrative Court.

This is the first major study on the topic. And the topic is significant because indirect judicial control over the legality of administrative acts is carried out not only by administrative courts, but also by all other courts, as well as by arbitration courts.

### **4. Knowledge of the problem**

The dissertation demonstrates not only the detailed theoretical but also the practical knowledge of the problem, determined by the extensive practical experience of the PhD candidate and the impressive scientific apparatus and case law that she used.

### **5. Research methodology**

The PhD candidate uses a thorough analysis of each issue and makes significant generalizations. He manages to skillfully combine the scientific apparatus with significant judicial practice, including that of the Constitutional

Court and the Court of Justice of the EU. She successfully and consistently applies all methods of interpreting legal norms.

## **6. Characteristics and evaluation of the dissertation work**

The dissertation work is characterized by a skillful combination of analysis of the regulatory framework and case law and impressive scientific contributions.

## **7. Contributions and significance of the development for science and practice**

A scientific contribution is the overall characteristic of indirect control over administrative acts. Namely – the possibility in all judicial proceedings and after the expiration of the deadlines for direct judicial control, to exercise control over all types of administrative acts, regardless of the body that issued them, including acts on which direct judicial control is excluded. An important characteristic is that the judicial body can exercise indirect control, except upon objection, and *ex officio*, i.e. without referral, when the outcome of the case depends on the assessment of the legality of the administrative act. And another important characteristic – with the exception of criminal proceedings, the assessment of the judicial body is in the reasons and does not have the force of a *res judicata*. As a result of these conclusions, the author gives a definition of indirect control over the legality of administrative acts.

A significant contribution is the author's analysis and conclusions on the possibility of incidental judicial review in criminal proceedings despite the presence of the force of *res judicata* on the legality of the administrative act in the exercise of direct judicial review. The author's reasoning on the inclusion in the force of *res judicata* of that part of the grounds of the verdict, which constitute indirect review of administrative acts, when this is relevant for establishing whether a crime has been committed, is interesting and original.

A significant contribution of the author is the analysis of the indirect administrative process carried out by administrative bodies.

Of significant practical importance are the conclusions of the author that judges avoid carrying out indirect judicial control. This is especially evident in the criminal process and at the first instance in the administrative-criminal process, due to the lack of explicit legal regulation. And without establishing whether the act, relevant for the resolution of the case, is lawful, the case will be decided incorrectly if the administrative act is unlawful.

The comparative legal review of indirect judicial control, including in the practice of the Court of Justice of the EU, is of great theoretical importance.

The *de lege ferenda* proposals for improving the legal framework are significant scientific contributions. I highly appreciate the author's specific proposals for additions and changes to the Criminal Procedure Code and the Criminal Procedure Code. The author justifies the necessity of legal regulation of indirect control in the Criminal Procedure Code in order to force judges to exercise indirect control. This is of essential importance in the criminal process, where there should be no doubt about the legality of administrative acts relevant to the issuance of a lawful verdict.

Of utmost importance is the author's proposal to adopt a provision providing for the possibility of exercising indirect administrative control in the proceedings for challenging administrative acts under administrative procedure for establishing **the nullity** of an administrative act. No less important is the regulation of incidental control over the acts and actions of the enforcement authority in the executive administrative process.

A scientific contribution is the detailed justification of the admissibility of implementing indirect control over administrative acts.

## **8. Assessment of dissertation publications**

The publications reflect the main contributions of the dissertation.

## **9. Author's abstract**

The abstract accurately reflects the main points, conclusions and proposals set out in the dissertation.

## **10. Critical remarks and recommendations**

I do not find any significant shortcomings or incompleteness in the dissertation..

Perhaps the author could consider whether the Civil Procedure Code should *de lege ferenda* regulate the establishment of the “*legality of administrative acts*”, instead of only the nullity and material illegality of such acts. Illegality of an administrative act also occurs in the event of substantial procedural violations. However, in the administrative process, the annulment of the act due to illegality, based on substantial procedural violations, does not always mean that the nullity or material illegality of the act cannot be established. And in the criminal process, as well as in the civil and administrative process, in indirect control it is essential whether the act is null and materially illegal. Because only this can affect the legality of material legal relations in other legal branches.

For the same reason, it could be considered whether to supplement Art. 5, para. 1 of the APC with a second sentence, which would read: “... *The same applies when it is established that a significant violation of administrative procedural rules was committed when issuing the relevant by-law.*” The case law under the APC and the CPC also focuses on establishing only the nullity and material illegality of the normative administrative acts.

## **11. Recommendations for future use of the dissertation contributions and results.**

The dissertation, with a volume of 440 pages and significant scientific contributions, is an excellent basis for publishing a monograph on the topic.

## CONCLUSION

The dissertation work contains scientific, scientifically applied and applied results that represent an original contribution to science and meet all the requirements of the Development of the Academic Staff in the Republic of Bulgaria Act (DASRBA), the Regulations for the Implementation of DASRBA and the relevant Regulations of Plovdiv University Paisiy Hilendarski. The presented materials and dissertation results fully comply with the specific requirements of the Faculty of Law, adopted in connection with the Regulations of the PU for the implementation of DASRBA.

The dissertation shows that the PhD candidate **Tanya Vladimirova Daskalova** possesses in-depth theoretical knowledge and professional skills in the doctoral program *Administrative Law and Administrative Process* by demonstrating qualities and skills for independently conducting scientific research.

Due to the above, I categorically give my positive assessment of the dissertation work, abstract, achieved results and contributions, and I propose to the esteemed scientific jury to award the educational and scientific degree **Doctor** to Tanya Vladimirova Daskalova in the field of higher education 3. Social, economic and legal sciences, professional direction, 3.6 Law, doctoral program “*Administrative Law and Administrative Process*”.

23<sup>rd</sup> May 2025

Reviewer: .....

**Prof. Dr. Ivan Todorov Todorov**