

OPINION

by Prof. Darina Zinovieva, Faculty of Law
PU "P. Hilendarski"

on a dissertation on:

THE INDIRECT REVIEW OF THE LEGALITY OF ADMINISTRATIVE ACTS by **Tanya Vladimirova Daskalova**

for acquiring the educational and scientific degree of Ph.D. in the professional field
3.6. Law, Doctoral Program "Administrative Law and Administrative Process" in
Plovdiv University "P. Hilendarski", with academic supervisor: Assoc. Prof. Konstantin
Pehlivanov

1. GENERAL NOTES

I have been appointed as a member of the scientific jury by Order No RD-22-811 of
2.04.2025 of the Rector of the Plovdiv University 'P. Hilendarski'.

Tanya Daskalova graduated in Law at the FL of the University of Plovdiv. She has
been a full-time doctoral student since 2022 at the Faculty of Law of the Plovdiv
University 'P. Hilendarski' and, after completing her doctoral studies, she was get the
right to defend the dissertation. He is a lawyer at the Plovdiv Bar Association.

At the first meeting of the scientific jury, it was established that it meets the minimum
national requirements under Article 2b(2) and (3) of the ZRASRB.

Tanya Daskalova has three published articles related to the topic of work.

The presented autoreferate is comprehensive and correctly reflects the contributions
of the work.

2. ANALYSIS AND CONTRIBUTIONS OF DISPERTATIONAL LABOUR

The dissertation is written on a topic that is always up-to-date due to the systematic
applicability of indirect control of the legality of administrative acts. The subject is also
complex in nature as a legal study.

At present, in this unity and in this system, I am not aware of any other such actual work. Therefore, the choice of this topic alone should be qualified as a contribution to our legal doctrine.

The content of the work is divided into an introduction, three chapters and a conclusion, and I deem that the system is appropriate.

In the Introduction, Tanya Daskalova explains that the topic has different sub-topics, such as the way in which the preliminary question of the legality of the administrative act is raised, the powers of the court concerned to rule on that legality, the involvement of the persons concerned, the legal effect of the indirect judicial review carried out.

She rightly points out that these issues should be examined both in detail and in their entirety in order to highlight the conclusions and proposals for optimizing legislation and practice. The author also highlights the inclusion in the study of European Union law. Thus outlined by the author, these goals show her view of the topic in breadth, which deserves high praise.

In the first chapter, the author clarifies the basic concepts and essence of indirect judicial review of the administrative act, setting out the doctrinal conclusions of other authors who have studied parts of this topic, both retrospectively and now. I highlight the distinctions with similar legal figures as, for example, the difference with the incidental declaratory action under Article 212 of the Code of Civil Procedure.

In Chapter Two, Tanya Daskalova examines the manifestation of indirect control in case-law as a continuation of the first chapter, which is predominantly theoretical.

It is a good approach to distribute the study of indirect control in different sectoral processes - civil, criminal, administrative-penal and administrative process.

Thus, it has achieved comparability of the features that are manifested in the indirect review of the legality of the administrative act in each of them. The conclusions regarding the explicit regulation of the exercise of indirect control in the different types of procedural laws are part of the contributions resulting from the comparative analysis. For example, the analysis of hypotheses from different laws in which civil or criminal proceedings are aimed at assessing the legality of an administrative act should be assessed positively.

The analysis of the provisions of the APK, which, by interpretation, indicate a legal framework for indirect control, is of a contributing nature. These are the analysis of

Article 5 of the APK, Article 204(3) of the APK (in conjunction with Article 128(1)(6) of the APK) and Article 299(1) of the APK (in conjunction with Article 128(1)(7) of the APK). With expert knowledge, the author examines the administrative and penal process and the manifestations of indirect control over the ascertainment act for administrative violation. The analysis of various special laws in which there is a manifestation of indirect control, such as declaratory proceedings under the SMLDA, should be assessed positively.

In Chapter Three, the focus of the study is on foreign legislation and the regulation of indirect control over administrative acts. The analyses of the respective laws containing hypotheses of indirect control and the general conclusions about this legal institute in the different legal systems are of significant importance. Such are the analysis of England and Wales, Germany, France, Belgium, Spain. The examination of the 'objection of illegality' under Article 277 TFEU in EU law and its applicability is also of a contributing nature.

In the conclusion, Tanya Daskalova justifies the conclusion on the efficacy and role of indirect control. It gives its assessment of its usefulness, especially where direct judicial review is excluded (e.g. outside the time limits for direct challenge, in the cases of exclusion of direct challenge under Article 120, paragraph 2 of the Constitution). The attempt for a more detailed definition, as well as the proposal for optimizing Article 5, paragraph 1 of the APK, deserves interest.

In summary, the author Tanya Daskalova has managed to build a comprehensive picture of the complex legal institute of indirect control over the administrative act from different basic aspects. It shows in-depth knowledge in administrative law and procedure, in civil and criminal proceedings. The insight into the details of the problem she poses impresses with its precision and thoroughness. The dissertation of Tanya Daskalova shows high legal erudition, courage and scale in the research thinking of the author. Bibliography and case law have been used to an exceptional extent. The dissertation has a contributing character to our legal doctrine and in my opinion is one of the most meaningful research works of a doctoral student in recent years.

3.CRITICAL NOTES

The study could be shortened in the first chapter, where basic theoretical assumptions on indirect control are explained more extensively. The author could expand the study with problems in indirect control of administrative acts in the practice of Member States whether the EU and the possibility for national courts to ignore acts in contradiction with Community acts. If the author accepts the latter recommendation, it is up to her to decide whether to make a separate study or to include it in the content of a future book, which I recommend to publish.

CONCLUSION:

In view of the above and the legal requirements, I give my **positive assessment** and recommend to the scientific jury to vote positively for the award of the scientific degree "Ph.D" to **Tanya Vladimirova Daskalova** for acquiring the educational and scientific degree "Ph.D" in the professional field 3.6. Law, Doctoral Program "Administrative Law and Process" in Plovdiv University "P.Hilendarski".

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