Summary of the Dissertation

"PROTECTION AGAINST GROUNDLESS ACTIONS AND OMISSIONS OF THE ADMINISTRATION"

by Mina Yaneva, doctoral student at the Institute of State and Law, Bulgarian Academy of Science

According to the provision set out in Art. 56 of the Constitution of the Republic of Bulgaria, every citizen has the right to protection when his/her rights or legitimate interests are violated or threatened. A function of this constitutionally regulated right is the procedure for protection against groundless actions and omissions of the administration, regulated in Chapter Fifteen of the Administrative Procedure Code (APC).

The concepts of "groundless action" and "groundless omissions" of the administration are new to the Bulgarian administrative legislation. The legislative framework poses a number of problems, both for law enforcement, including for the administration of justice, and for legal science. One of the significant problems is whether the groundless actions and omissions of the administration constitute administrative acts within the meaning of Art. 21, para. 1 and 4 and Art. 65 of the APC and when, under what hypotheses, the remedy under Art. 250 et seq., respectively Art. 256 of the APC is applicable. The need to study the question posed is determined by the different answers given in the doctrine and case law.

This dissertation aims to clarify the concepts of "groundless action" and "groundless omissions" of the administration by answering all relevant questions concerning the legal nature of these concepts and specifying the scope of application of the remedy regulated in Chapter Fifteen of the APC, as well as other possibilities for protecting the rights and legitimate interests of the persons affected by the respective groundless actions and omissions. The problem of clarifying the essence

of the aforementioned concepts is of particular importance for the administration of justice in the field of administrative justice, as it serves as a guarantee for observance and protection of the legitimate rights and interests of citizens and organizations affected by the groundless actions and omissions of the administration. Therefore, the correct definition of the concepts ensures the effectiveness and applicability of the protection under Chapter Fifteen, aimed at safeguarding the rights and freedoms of citizens and their organizations, as well as clarifying the remaining avenues of protection for the affected parties.

The law – Art. 250, para. 1 of the APC, regulates " groundless actions" as such *"carried out by an administrative body or official, which are not based on an administrative act or the law*". Art. 256, para. 1 of the APC characterizes the "groundless omissions" as "*inaction of the administrative body under an obligation arising directly from a normative act*", as para. 2 of the same provision stipulates regulates that "*the failure to perform factual actions that the administrative body is obliged to perform by virtue of the law is subject to challenge within 14 days from the submission of a request to the body for its performance*".

The existing opinions are opposite with regard to the answer to the question whether the unjustified actions and omissions constitute administrative acts within the meaning of Art. 21, para. 1 and 4 and Art. 65 of the APC. At the same time, the correct definition of unjustified actions and omissions as administrative acts or their distinction from the latter is essential for the assessment of the possibility of protection against them, namely whether it can develop only under the special procedure of Art. 250 et seq. APC and Art. 256 of the APC or also under the general procedure for protection against individual and general administrative acts.