

SCIENTIFIC REVIEW

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of a dissertation for the award of the educational and scientific degree "Doctor"

in the field of higher education 3. Social, economic and legal sciences

professional field 3.6 Law

doctoral program "Administrative Law and Administrative Procedure"

Author: Vasil Mladenov Petrov

Topic: "Constitution, Internal Organization and Competence of the Municipal Council"

Scientific adviser: Assoc. Prof. Dr. Bogdan Dragnev Yordanov - Paisii Hilendarski University of Plovdiv

1. General description of the submitted materials

By Order № RD-21-1717/05.10.2023 of the Rector of the University of Plovdiv "Paisii Hilendarski" I was appointed a member of the scientific jury to provide a procedure for the protection of dissertation on "Constitution, Internal Organization and Competence of the Municipal Council" for acquiring the educational and scientific degree "Doctor" in: field of higher education 3. Social, economic and legal sciences, professional field, 3.6 Law, doctoral program "Administrative Law and Administrative Process".

The author of the dissertation is Vasil Mladenov Petrov - PhD student at the Department of Public Law with supervisor Assoc. Prof. Dr. Bogdan Dragnev Yordanov from Paisii Hilendarski University of Plovdiv.

The set of paper materials presented by Vasil Mladenov Petrov is in accordance with Art. 36 (1) of the Regulations for development of the academic staff of the University of Plovdiv.

The doctoral student has submitted three publications in peer-reviewed scientific journals.

2. Brief biographical data about the doctoral student

Vasil Mladenov Petrov is a legal consultant in the Plovdiv Municipal Administration. He has extensive experience in public administration in the field of local self-government. He is a member of election commissions.

She graduated from the Faculty of Law of the University of Plovdiv with a master's degree in law.

He speaks Russian, German, English to varying degrees.

3. Relevance of the topic and expediency of the set goals and objectives

The author himself defines the relevance of the study as a consequence of modern management trends in Bulgaria with regard to the development of one of the main bodies of local self-government - the municipal council. His work has been the subject of a number of theoretical

analyses. There is also a wealth of case-law on the acts adopted by it. That is why the subject is of interest to legal theorists and practitioners, proving its relevance. The activity of the municipal council as a local government body is related to the daily needs of citizens and organisations, which at times precede the current regulatory framework. This necessitates a constant search for new and effective legal solutions to meet them.

In the study, the doctoral student sets the following tasks:

- to clarify the meaning of the concept of 'local self-government' and its development in the different historical periods of the Bulgarian state, with special attention paid to the role played by the municipal council in each individual historical period;

- to analyse the concepts of 'municipality' and 'municipal bodies' in order to highlight the place of the municipal council in the system of state and administrative bodies;

- analyse the relations of the municipal council with other administrative bodies, including central and territorial.

The scientific output presented shows that these tasks have been largely achieved.

4. Research methodology

The doctoral student uses a methodology of developing the dissertation work through a set of research tools, including a review of specialized scientific literature in the field of public law - study of reports, articles and scientific publications related to the researched issue; analysis of regulatory documents.

The historical-legal analysis presented here reveals the legal nature of local self-government and the place that the municipal council has had at different stages of the historical development of the public-law system.

The comparative law method helps to highlight the peculiarities of the local government model in force in our country.

The study is based on the relevant current and repealed legislation, the case law of the Constitutional Court of the Republic of Bulgaria, the case law of the Bulgarian courts and especially of the Supreme Administrative Court, as well as the administrative case law, mainly of the municipal councils of the largest municipalities - Sofia Municipality and Plovdiv Municipality.

5. Characteristics and evaluation of the dissertation

The dissertation is well structured. The volume required for a study of this category is respected. The subject is disertable in itself, although it is very broad and difficult to cover both theoretically and practically.

In Chapter One, the author examines the essence of the term „self-government“ on the basis of the achievements of Bulgarian legal doctrine, as a democratic form of government, in which it is not a question of bureaucratic-hierarchical subordination of authorities at different levels, but of relativity - self-government as opposition to the central government. A distinction is made between self-government and centralisation. The three main systems of local government - English, French and the mixed, also called Prussian - are analysed. Attention is paid to the impact of European Union law and the European Charter of Local Self-Government on local government. Local self-government is delimited by deconcentration, decentralization, municipal self-government, federation, state-political autonomy and administrative autonomy.

Chapter II clarifies the nature of the municipality as a legal entity in which local self-government is exercised. Characteristics of the municipality are considered - territory, population, name, symbols, legal entity municipality. A classification of the bodies of the municipality into primary and secondary, those not established in the constitution, has been carried

out. The mayor of the municipality, the mayors of districts and municipalities, the deputy mayor, the chief architect of the municipality, the chief architect of the district and the specialized executive bodies of the municipality are presented with a general description. As regards the secretaries of municipalities and districts and the ombudsman under Article 21a of the Local government and local administration act, it is accepted that they do not constitute public authorities in the legal sense of the term.

The Municipal Council is considered as an executive body with the corresponding characteristics. It is defined as a state and administrative body that exercises its powers on the basis of, in execution of and within the framework of the law, and its activity has a subordinate, secondary character.

The characteristic features of the systems for the division of powers and responsibilities between the main bodies of the municipality - the mayor and the municipal council - are presented; in theory, they generally fall into four main types: "strong mayor-council", "weak mayor-council", "council-manager" and "commissions".

Chapter Three provides a detailed critical analysis of the procedure for the early termination of the mandate of municipal councillors. Specific proposals have been made for amendments to the substantive requirements and for the unification of the procedure under Article 30 (6) and Article 30 (7) of the Local government and local administration act with a view to the full protection of citizens' political rights.

The concept of 'constitution of the municipal council' has been clarified by means of a normative analysis. Its importance is indicated in view of the fact that, according to Article 23 (6) of the Local government and local administration act, the municipal council continues to perform its functions until a newly elected municipal council is constituted.

The Rules of Organisation and Activity of the Municipal Council are defined as a normative administrative act - a by-law, within the meaning of Article 75 (1) of the Code of Administrative Procedure. The administrative rules contained therein are mainly procedural rules governing the procedure for adopting Council acts.

In the last Fourth chapter, various issues are discussed in order such as the constitution of the municipal council; the chairman of the municipal council; the legal status of the municipal councillors; the internal organization of the municipal council; the rules for the organization and activity of the municipal council; the presidium; party factions; standing and temporary committees, etc.

6. Contributions and significance of development for science and practice

One of the main contributions of the dissertation is the in-depth analysis of the main features of local self-government. According to him, this is a manifest form of democracy, a mark of democracy, a basic form of decentralization on a territorial basis, in which a group of people living in a certain territory independently and independently - on their own responsibility - manages an essential part of public affairs, conferred on them as a competence by the state power, which can limit self-governing bodies only when this is expressly provided for in the law and only by lawfulness. Local self-government frees central state authorities from local problems and makes it easier for them to focus on national ones. The municipal council, as a collective representative body elected in free elections, has a decisive role in shaping the policies of the self-governing unit and is a sign of the level of democracy in the state and the real existence of local self-government.

The statute of the chairman of the municipal council, his duties and his remuneration are examined. There is reason to believe that the premature termination of his mandate in the case of Article 24 (3) (2) of the Local government and local administration act should be subject to judicial

review. The procedure for the early termination of the mandate of municipal councillors has been subjected to a detailed critical analysis.

The fact that the conflict-of-interest regime concerning the chairman of the municipal council has been criticised as it allows a chairman who has been removed for a conflict of interest to continue to be a municipal councillor can also be taken as a useful point. All municipal councillors should meet high moral and ethical standards and be guided in their work by the interests of the citizens of the municipality rather than by their own personal interests. The provision of Article 80 (1) of The law on the confiscation of unlawful property provides that the establishment of a conflict of interest with an act that has entered into force is grounds for dismissal from office, but under the current legislative authorisation, the chairman will continue to hold the public office of municipal councillor.

We cannot agree with the doctoral student's conclusions that the municipal bodies are part of the system of the unified state apparatus for power influence on society. In practice, this approach merges state administration with local government as an alternative.

The main contribution was made by the proposals for changes in the regulation of the constitution of the municipal council and the swearing in of the municipal councillors. It was argued that a time limit should be set for elected municipal councillors to take the oath, otherwise the next on the list should be declared elected or, in the absence of such a vacancy, it should remain vacant.

The question of the autonomy of the municipal council in relation to the possibility, granted by law, of adopting its own rules of organisation and operation is also relevant. Analysis of the legal substance of these rules, defining its internal organisation - its committees and its interaction with the municipal administration - is important for revealing the peculiarities of the municipal council.

The author has drawn particular attention to the normative nature of the rules of procedure of the municipal council, for which many arguments can be made. It has no personally designated addressees and contains rules of conduct. The fact that the provisions of the Rules of Procedure concern a specific group of persons in a specific relationship with the Municipal Council does not give it the character of an individual or general administrative act. The rules of procedure are not concerned with which persons and how often they will be in the position of the addressees. The Rules of Procedure deal with matters relating to the organisation and functioning of the Municipal Council, specifying higher-ranking acts, in particular the Local government and local administration act. The public relations in question are regulated by law and should therefore be specified in a by-law. This is also the case with the provision of Article 76 (3) of the Code of Administrative Procedure, according to which municipal councils issue normative acts regulating accordingly higher-level normative acts on public relations of local importance. We therefore fully support the doctoral student's conclusion that the rules governing the organisation and activities of the municipal council are a normative administrative act within the meaning of Article 75 (1) of the Code of Administrative Procedure, since they contain administrative law rules, concern an indefinite and unlimited number of addressees and have multiple legal effects.

Other conclusions formulated in the dissertation are also interesting:

- the author supports the prevailing doctrinal view that the form of relationship between the powers of the municipal council and the mayor of the municipality adopted in the context of the Local government and local administration act is of the type 'weak mayor/council'. The accumulated practice of law enforcement and its changes over the years rather point to a peculiar, intermediate pattern;

- analyses and supports the view expressed in a number of municipal council rules that the resignation of a municipal council chairman, as an expression of his personal will, should not be put to a vote but should take effect immediately after the announcement of the statement of termination to the municipal council;

- presents a different classification of the powers of the municipal council - powers to exercise the functions of local self-government; structural (organizational) powers and other powers;
- a de lege ferenda proposal has been made for the Ombudsman under Article 21a of the Local government and local administration act to be able to challenge the by-laws of the Municipal Council which infringe the rights and freedoms of citizens.

7. Evaluation of the dissertation publications

Along with the dissertation, Vasil Petrov offers for review three separate publications presented as reports at established scientific forums. The publications meet the legal requirements, being published in refereed collections and carrying the necessary points for obtaining the educational and scientific degree „Doctor“.

Two of the three publications were incorporated to varying degrees into the dissertation, and some of their contributions were mentioned above in the review. Therefore, we will not dwell on them again, but will indicate as a recommendation that the doctoral student in the future, when participating in future scientific forums, also focus on other current topics of local government.

The third publication - *Changes in the Law on administrative offences and penalties of 2020 and the ordinances of the municipal councils*, considers some of the controversial legislative decisions that were proposed in the administrative penalty with the new provisions in the Law on administrative offences and penalties. The doctoral student's primary focus is on administrative punishment, unpaid community service, which he uncritically accepts and sees as a promising future for our legal system. An interesting point in the publication is the doctoral student's reflections on the possibility of pre-judicial control over the legality of the administrative acts of the municipal councils in the consideration of administrative and criminal cases.

8. Recommendations for future use of dissertation contributions and results

Some of the critical remarks and recommendations have been mentioned so far, but we summarize some of them:

- the dissertation will be enriched if the author proposes a more in-depth theoretical analysis of the phenomena he presents for consideration;
- it is necessary to present to a greater extent the personal view of the author, as a result of which more specific proposals will be formulated for solving the considered problems.

CONCLUSION

The dissertation to some extent contains scientific-applied and applied results, which represent a contribution to science and meet the requirements of the Law for development of the academic staff in the Republic of Bulgaria, the Regulations for application of the Law for development of the academic staff in the Republic of Bulgaria and the respective Regulations PU "Paisii 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 University of Plovdiv for application of the Law for the development of the academic staff in the Republic of Bulgaria.

The dissertation shows that the doctoral student Vasil Mladenov Petrov theoretical knowledge and professional skills in the doctoral program "Administrative Law and Administrative Process" demonstrating qualities and skills for independent research.

No signs of plagiarism have been identified. The sources used are correctly cited and indicated in the literature.

Due to the above, I give my positive assessment of the research presented by the above-reviewed dissertation, abstract, results and contributions, and I offer the esteemed scientific jury to award the educational and scientific degree "Doctor" of Vasil Mladenov Petrov in higher education. education 3. Social, economic and legal sciences, professional field, 3.6 Law, doctoral program "Administrative Law and Administrative Process".

20.12.2024

Reviewer:
Assoc. Prof. Dr. Boyan T. Georgiev