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ABSTRACT

THESIS FOR THE AWARD OF EDUCATIONAL AND SCIENTIFIC DEGREE "DOCTOR"

CONSTITUTION, INTERNAL ORGANISATION AND COMPETENCE OF THE MUNICIPAL COUNCIL

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I. GENERAL CHARACTERISTICS OF THE DISSERTATION

§ 1. Relevance of the study

The Constitution defines Republic of Bulgaria as a unitary state with local self-government. The systematic place of this provision in Chapter One "Fundamental Principles" speaks unequivocally of the importance that the founding power attaches to local self-government. This is for a reason. Local authorities are the first to encounter the problems and needs of citizens. They are called upon to ensure the provision of public services and the improvement of settlements, and to provide reliable living, recreational and sporting conditions for citizens.

According to Article 136, para. 1 of the Constitution, the basic administrative-territorial unit in which local self-government is implemented is the municipality. The public body of local self-government in the municipality is the municipal council (Article 138 of the Constitution). Its activities have been the subject of a number of theoretical analyses. There is a wealth of case-law on the acts adopted by it. However, the subject continues to hold the attention of theorists and legal practitioners because of its continuing relevance. The activity of the local government body is linked to the daily needs of citizens and organisations, which at times outstrip the current legal

framework. This necessitates a constant search for new and effective legal solutions to meet them.

§ 2. Subject and tasks of the study

The subject of the study is the municipal council as a public body under the current legislation. The work examines the functions, structure and authority of the local self-government body, its relations with other public bodies, citizens and organizations, the different types of acts of the municipal council, the procedure for their issuance, the conditions of legality that must be met and the means of ensuring their legality.

For the analysis of the subject thus formulated, several tasks should be performed. First of all, to clarify the meaning of the concept of "local self-government" and its development in the different historical periods of the Bulgarian state, taking into account the subject of the present work in the examination of the historical development of local self-government, special attention is paid to the role that was assigned to the municipal council in the relevant period. It is also necessary to analyze the concepts of "municipality" and "public bodies of the municipality" in order to determine the place of the municipal council in the system of state and administrative bodies.

Inevitably, this also requires an examination of its relations with other administrative bodies, including central and territorial ones.

A highlight of the work is the internal organisation of the City Council. The work aims to reveal the peculiarities of the constitution of the municipal council as a collective body directly elected by the population for a certain term. In this regard, the procedure for convening the first meeting of the newly elected municipal council and the significance of the oath-taking by the newly elected municipal councillors should be studied. This task cannot be accomplished without revealing the peculiarities of the legal status of the president of the municipal council and of the municipal councillors who make up the collective body. As an extremely controversial issue in practice, serious attention should be paid to the grounds provided for in the legislation for prematurely termination of the powers of municipal councillors.

A striking example of the independence of the municipal council is the possibility given by the law to adopt its own rules of organisation and activity. The analysis of the legal nature of these regulations, defining its internal organisation - its committees and its interaction with the municipal administration is important for revealing the peculiarities of the municipal council.

It is unthinkable to fully examine an administrative body from the point of view of the administrative law without analysing and systematizing its powers and the legal nature of the acts adopted in their implementation. In order to clarify the limits of these powers, it is necessary, on the one hand, to examine the mechanisms provided for their protection and, on the other, the means of controlling the acts adopted by the municipal council.

§ 3. Research Methodology

Various methods of scientific knowledge are used to achieve the scientific goal and to fulfill the tasks which are set. The historical and legal analysis carried out reveals the legal nature of local self-government and the place that the municipal council had in the different stages of the historical development of the legal system. The comparative legal method helps to highlight the peculiarities of the model of local self-government in our country. The general scientific methods of cognition also find their application: description, comparison, the method of scientific analysis and synthesis, the inductive and deductive methods.

The research is based on a study of the relevant legislation in force and repealed, on our and foreign theoretical developments in the field of local self-government, on the practice of the Constitutional

Court of the Republic of Bulgaria, on the case law of the Bulgarian courts and especially of the Supreme Administrative Court, as well as on the administrative practice, mainly of the municipal councils of the largest municipalities - Sofia Municipality and Plovdiv Municipality.

§ 4. Author's note on the scientific novelty of the research and the more substantial proposals de lege ferenda

The municipal council is considered as an executive body, possessing its differentia specifica - its priority task is the implementation of local self-government.

It is argued that the form of the relationship between the powers of the municipal council and the mayor of the municipality under the current Bulgarian law represents a peculiar, intermediate model, standing closest to the "weak mayor - council" type.

In the work a number of proposals for improvement in the organization of the activities of the municipal council and in the legal framework related to the issues under study are made. De lege ferenda proposals are made in relation to the constitution of the municipal council and the oath-taking of municipal councillors in order to clarify the rules and ensure legal certainty. It is argued that a time limit should be set for elected municipal councillors to take the oath of office,

failing which the next person on the list should be declared elected or, failing that, the seat should remain vacant.

When examining the status of the chairman of the Municipal Council, it is justified that the early termination of his powers in the hypothesis of Art. 24, para 2, item 3 of the Local Self-government and Local Administration Act - LSLAA should be subject to judicial review. The regulation on conflict of interest concerning the chairman of the municipal council is criticised, as it allows a chairman suspended for conflict of interest to continue as a municipal councillor.

The dissertation examines in detail the prerequisites for the early termination of the powers of municipal councillors. Specific proposals are made for amendments and additions to the substantive legal prerequisites for this, as well as for the unification of the proceedings under Article 30, paragraph 6 and Article 30, paragraph 6 of the LSLAA in order to protect the political rights of the citizens.

The necessity for exercising the passive electoral right and the grounds for early termination of the mandate of the municipal councillor to be symmetrical is justified. In this regard, specific wordings of Article 397 of the EC and Article 30, paragraph 4, item 2 of the LSLAA are proposed.

It has been argued that the holding of a full-time postion in the administration of the Regional Governor of the administrative district in which the municipality concerned falls should also be incompatible with the mandate of a municipal councillor therein.

The dissertation thoroughly examines the rights and obligations of municipal councillors and the protection they receive from the law in carrying out their activities.

In relation to the internal organization of the Municipal Council, the rules of organization and activity, the Presidential Council, the party factions and the committees were examined. With regard to the committees, a proposal was formulated to provide in the rules that the composition of the committees should respect the ratio between the party factions represented in the municipal council.

An original contribution is the consideration of the legal dimensions of the system of the arrangement of councillors in the council chamber.

Concerning the unit under Art. 29a of the LSLAA, the conclusion is drawn that it is necessary to explicitly supplement Art. 10, para. 3 of the Civil Servant Act that no competition shall be held for the head of the unit referred to in Article 29a of the LSLAA, and that it shall be stipulated in the MLAA that the employees of the unit shall be appointed under an labour relationship.

The competence of the municipal council is examined by analyzing its powers through their subject classification: in the exercise of local self-government, organizational and other.

A distinction is made between legal and non-legal acts of the council. The legal ones are in turn divided into administrative and non-administrative acts of the municipal council.

Both the traditional forms of control over the municipal council - control by the mayor of the municipality, by the regional governor, prosecutorial supervision and judicial control, as well as the alternative forms of control are indicated and analysed. The control exercised by the municipal council over the mayor of the municipality is also examined.

De lege ferenda proposal has been made for the public mediator under Article 21a of the LSLAA to create the possibility to challenge the by-laws of the municipal council which violate the rights and freedoms of citizens.

§ 5. Practical significance of the study

The results of the research presented in the dissertation may find their application in improving the legislation in the field of local self-government. They can also serve municipal councils to improve their activities for the benefit of the local community.

Next, the dissertation could be used by legal practitioners in the field of local self-government, by law students, as well as to enhance the legal culture of all Bulgarian citizens.

§ 6. Print length and Structure of the Dissertation

The dissertation is 195 pages long, including a table of contents and a list of references used. Structurally, it consists of an introduction, four chapters, a conclusion and a bibliography.

II. BRIEF OUTLINE OF THE DISSERTATION CONTENT

Introduction

The introduction of the dissertation justifies the relevance and necessity of the study of the municipal council as a body of local self-government from the perspective of administrative law science. The subject, aims, objectives and methodology of the research are defined.

Chapter I. Concept of local self-government. Development of local self-government in Bulgaria.

§ 1. Self-Government

The analysis of the topic at hand inevitably requires an initial clarification of the concepts of 'self-government', ,'local self-

government', 'decentralisation' and 'deconcentration'. In this first paragraph, the essence of the term "self-government" is drawn out 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 the organs of power at different levels, but of relativity - self-government as opposition to central government." A distinction is made between self-government and centralization.

§ 2. Basic theories and systems of local government. European Charter of Local Self-Government.

The second paragraph of Chapter One of the dissertation discusses the concept of local government as a form of self-government. It is presented firstly through the main theories of its nature - the public and the state.

The three main systems of local self-government are analysed - the English, the French and the mixed, also called Prussian.

Attention is paid to the impact of the acquis communautaire and the European Charter for Local Self-Government on local self-government.

§ 3. Local Self-Government in Bulgarian Legal Doctrine

This paragraph traces the views expressed in our legal doctrine on the nature of the concept of "local self-government".

The arguments of the prevailing view in the doctrine, to which the author subscribes, that local government draws its power from the state, as a type of decentralization in which the politically active population only decides matters of local importance, only allocates resources, and does so within the framework of the nation-state, which retains various means and means of control.

§ 4. The concept of "local self-government". Distinction from similar concepts.

From the analysis made in the preceding three paragraphs, the main features of the concept of "local self-government" have been drawn out, as a manifest form of self-government, i.e. of people's power, a mark of democracy, a basic form of decentralization on a territorial principle, whereby a group of people living in a certain territory independently and independently - on their own responsibility - manages an essential part of public affairs granted to them as competence by the state power, which may limit self-governing bodies only when it is explicitly

Local self-government is distinguished from deconcentration, decentralization, municipal self-government, federation, state-political autonomy and administrative autonomy.

§ 5. Development of Local Self-Government in Bulgaria in the Period until the Third Bulgarian State

It traces the development of local self-government in our lands from the Slavic tribal organization (the Zadruga), through the forms of local self-government during the First and Second Bulgarian State, as well as during the Ottoman rule.

Attention is drawn to the period of the Renaissance, during which Bulgarian municipalities were increasingly burdened with state functions and at the same time began to play an important role in the Renaissance process: building and maintaining churches, supporting monasteries, opening schools.

§ 6. Development of local self-government in Bulgaria in the period 1879 - 1991.

6. 1. Laying the Foundations of Local Self-Government in the Third Bulgarian State

The principle of local self-government in Bulgaria was adopted by the Constituent Assembly (February 10, 1879 - April 16, 1879), charged with the task of drafting the constitution of the new Bulgarian state. Art. "The territory shall be administratively divided into districts, counties and municipalities. A special law shall be made for the regulation of this administrative division on the beginnings of self-government of the municipalities."

Although the principle of self-government of municipalities is enshrined in the first provisions of the Tarnovo Constitution, it does not receive its further development in the constitutional text. With this broad freedom of the established authority, the legal framework in the following decades was marked by dynamics and conjuctural legislative changes.

6. 2. Regulation of local self-government under the Interim Rules on Municipal Urban and Rural Government and the Law on Municipalities and Urban Government

The first normative acts in the new Bulgarian state, which regulate the local self-government and the administrative-territorial structure of the country, are examined. Characteristic of this period are the appointment of mayors by central state bodies, limited powers for municipal councils, the possibility of "disestablishment" of municipal councils by central state bodies on general and ambiguous grounds.

6. 3. Regulation of local self-government under the Urban Municipalities Act and the Rural Municipalities Act and after the coup of 19.05.1934.

It was not until 1886 that local self-government found its satisfactory legal regulation with the adoption of the Urban Municipalities Act and the Rural Municipalities Act. The creation of

two laws was justified by considerations of a great difference in the range of activities of urban and rural municipalities. Nevertheless, the legislator provides for equal rights and obligations for both urban and rural municipalities. In these laws, the beginning of self-government of municipalities is widely covered. The municipal council plays an important role and possesses in many cases decisive power. Although repeatedly amended and supplemented, both laws remained permanent legislation on the subject until 1934, when they were repealed.

In their place, after the Nineteenth of May Coup, Ordinance-Laws were passed for rural municipalities, for urban municipalities and for the metropolitan large municipality, which abolished the electivity of most of the members of municipal councils, and made mayors appointive. These changes are part of an overall change in the state mechanism, manifested in the elimination of parliamentarism and political pluralism, the strengthening of centralization, the imposition of executive power over the legislative power and the deformation of local self-government.

6. 4. After 09.09.1944.

On 06.12.1947 a new constitution came into force. It embodied two fundamental ideas. The first was the "unity of power". In the new constitutional model, the organs of state are hierarchically

dependent on each other, their apex - the National Assembly and its Presidium exercises all power. The second idea is the principle of "democratic centralism". According to it, all organs should be elected and, at the same time, lower-level organs are subordinate to a higher-level organ. The principle of local self-government - incompatible with the above principles - is not enshrined in the newly adopted constitution.

Chapter II. The place of the municipal council in the current legal framework of local self-government in the Republic of Bulgaria.

§ 1. Sources of the current legal framework of local self-government in the Republic of Bulgaria

The Constitution of the Republic of Bulgaria - CRB lays the foundations of the legal framework of local self-government in Bulgaria. Evidence of the importance attached by the founding power to this institution is the inclusion of local self-government as part of the basic principles (Article 2, para 1). Already from this provision of the current constitution some conclusions can be drawn about the legal framework of local self-government. Paragraph 2 of Article 2 of the CRB emphasises that the territorial integrity of the Republic of Bulgaria is inviolable. Therefore, the place of local self-government is within the unitary state. The State has the obligation, through

budgetary and other means, to support the normal activities of municipalities (Article 20 and Article 141, para 5 of the CRB).

In the paragraph the other more important sources of the current legal framework of local self-government in the Republic of Bulgaria are mentioned. This includes the European Charter of Local Self-Government - ECLS, which, according to Article 5, para 4 of the CRB, is part of the domestic law of the country and takes precedence over those provisions of domestic law that contradict it. It has been noted that at present it can be assumed that the internal regulation of local self-government is aligned with it, while the issue of the financial resources available to local self-government bodies (Article 9 of the ECLS) and the so-called "financial decentralisation" remains controversial.

§ 2. The municipality as a legal entity. Characteristic features.

Before proceeding to the discussion of the municipal council as a local self-government body, the paragraph clarifies the nature of the municipality as the legal entity in which it takes place under the Bulgarian law in force. Its characteristic features are examined: territory, population, name, symbols, the legal person of the municipality and its organs.

2. 1. Territory

The municipality is a territorially separate unit of the territory of the state. The territory of a municipality is that part of the land surface lying within the boundaries of the sovereign state, which includes the localities with their adjacent lands. It is what distinguishes a municipality from other municipalities.

2. 2. Population

According to the current legal framework, the population of a municipality consists of all citizens who have a permanent address on its territory (Art. 13 of the LSLAA).

Considered in relation to each other, the territory and the population of the municipality as its features reveal its essence as a territorial community - primarily a distinct human community, but also a community of material resources and financial means. A municipality could not exist with a territory alone without including in it a settlement, i.e. a permanent population. To put it differently, a municipality is more than an administrative-territorial unit; it is the platform (instrument) for self-government of a group of people permanently living in a particular place, through which, on their own responsibility, they decide on issues of local importance.

2. 3. Name

The main identifying feature of the municipality is its name. According to Administrative Territorial Division Act, the name of the

municipality is the name of the locality - its administrative centre (Article 7, para 3).

2. 4. Symbols

The LSLAA allows municipalities to define their own symbols to shape their identity (Art. 16). The power to do so is vested in the municipal council (Art. 21, para 1, item 21).

2. 5. The legal person of the municipality

The legal person of the municipality raises a separate set of issues that are briefly addressed in the item. The understanding of the legal doctrine that legal personhood is important for guaranteeing the autonomy of municipalities, their governance and the use of property is shared.

The legal person of the municipality is defined as one of public law, standing closest to the legal entity of the state bodies, also called legal entities - institutions. It has been noted that in the literature the view has been expressed that the municipality also possesses features of corporate legal entities - as an association of people. It is argued that these understandings do not contradict each other, but on the contrary help to fully characterize the legal person of the municipality. Unquestionably, the municipality is charged with important public law functions which it is obliged to perform. To that end, the municipal authorities have public authority and the ability to use

coercion. In support of the view of the municipality as a corporate body, it is argued that the organs of the municipality - the municipal council and the mayor - are directly elected by the population with political rights. Also, according to Article 136, para 2 of the CRB, the boundaries of municipalities are determined after consultation with the population. The possibility of direct participation of citizens in local self-government is also widespread in the legislation.

2. 6. Public bodies of the municipality - overview

A distinction is made in the paragraph between the terms municipality and municipal authorities. A classification is made of the bodies of the municipality into primary (constitutional or more immediate) and secondary (intermediate), i.e. those not established in the constitution.

Presented with general characteristics are the mayor of the municipality, the mayors of districts and town halls, the mayor's deputy, the chief architect of the municipality, the chief architect of the district and the specialised executive bodies of the municipality.

With regard to the secretaries of municipalities and districts and the public mediator under Article 21a of the LSLAA, it is accepted that they do not constitute state bodies in the legal sense of the term.

§ 3. Legal Characteristics of the Municipal Council

The Municipal Council is considered as a body of the executive power with the relevant characteristics. It is defined as a state and administrative body which exercises its powers on the basis of, in implementation of and within the framework of the law, its activities being of a subordinate, secondary nature.

It also sets out the characteristics that the City Council possesses. The subordination, subordination and hierarchical dependence characteristic of the executive branch of government are narrowed down considerably with regard to the municipal council, since it embodies the independence of the territorial community within certain limits. Also, the municipal council does not have its own administration, but its activities are supported and ensured by the municipal administration.

The opinion was expressed that, considered as an executive body, the municipal council has its differentia specifica - its priority task is the implementation of local self-government. This quality is set out "before brackets" in the legal framework, which defines it as a "body of local self-government" in Article 138 of the CRB and Article 18, para. 1 of the LSLAA.

The Municipal Council is designated as the territorial authority. In view of the scope of its competence in terms of subject matter, the municipal council is a body with general competence,

which covers all matters of local importance in so far as they are not within the exclusive competence of other bodies.

An analysis is made of the norm of representativeness determining the number of municipal councillors according to the population of the municipality based on the population registers kept by the municipal administrations.

§ 4. Relations between the municipal council and the mayor of the municipality.

4. 1. Theoretical statement of the question

The point presents the characteristics of the systems of sharing powers and responsibilities between the main bodies of the municipality - the mayor and the municipal council. In theory, these are broadly reduced to four main types: 'strong mayor-council', 'weak mayor-council', 'council-manager' and 'committees'.

4. 2. The current model under the LSLAA

The prevailing understanding in the doctrine is that, under the LSLAA, the form of the power relationship between the municipal council and the mayor is of the "weak mayor-council" type. It is argued that the accumulated practice in the application of the law and its amendments over the years rather point to a kind of intermediate model.

The direct election of the mayor, who is not a municipal councillor, strengthens his personal responsibility to the voters, but without the support of the municipal council, he could not implement his policies. At the same time, de lege lata, the municipal council could not terminate the mayor's powers, but could blast key proposals, including the budget. It is this possibility of "blockage" that poses a risk to the implementation of local government in the current model. In summary, to achieve efficiency in the work of the municipal bodies, the model of the LSLAA requires good coordination and interaction.

Chapter III. Constitution of the Municipal Council. Internal organization.

§ 1. Constitution of the Municipal Council

1. 1. First meeting

The concept of "constitution of the municipal council" is clarified through a normative analysis. Its importance is pointed out given the fact that according to Article 23, paragraph 6 of the LSLAA, the municipal council continues to perform its functions until the newly elected municipal council is constituted.

The procedure for convening the first meeting is examined, as well as the legal significance of the oath that the newly elected municipal councillors take before it. An in-depth analysis is made of the repealed versions of the law governing the oath and the

consequences of failure to take the oath. It is argued that a time limit should be set for elected municipal councillors to take the oath, failing which the next person on the list should be declared elected or, failing that, the seat should remain vacant.

1. 2. Chairman of the Municipal Council

The election of the Chairman of the newly elected City Council was considered as part of the council's constitution proceedings at the first meeting. An analysis of the functions of the Chairman is made, taking the view that he is not an independent public authority, since he has no powers of government and does not issue legal acts.

The status of the Chairman of the Municipal Council, his duties and remuneration are clarified. The opinion is justified that the early termination of his powers in the situation provided for in Article 24, para 3, item 2 of the LSLAA should be subject to judicial review.

§ 2. Municipal Councillor

2. 1. Legal status of municipal councillors

Pursuant to Article 18, paragraph 2 of the LSLAA, the Municipal Council consists of the elected municipal councillors. Like any collective body, its shape is determined by the persons forming its

will. This necessitates the inclusion of an analysis of the legal status of councillors in this thesis.

2. 2. Early termination of the powers of municipal councillors

The regulation on the early termination of the powers of municipal councillors is subject to a detailed critical analysis. Specific proposals are made for amendments and additions to the substantive legal prerequisites for this, as well as for the unification of the procedure under Article 30, paragraph 6 and Article 30, paragraph 6 of the LSLAA in order to protect the political rights of citizens.

The prerequisites for exercising the passive electoral right and the grounds for early termination of the mandate of the municipal councillor shall be symmetrical. In this regard, specific wordings of Article 397 of the Election code are proposed: "Bulgarian citizens who (...) are not serving a prison sentence, have not been sentenced to imprisonment for intentional crimes, or have not been disqualified from holding a public office shall be entitled to be elected as municipal councillors and mayors...." and Article 30, para 4, item 2 of the LSLAA: "where, after his election, he has been convicted by a final judgment imposing a custodial sentence for a deliberate crime or where the execution of the custodial sentence has not been suspended, and where he has been disqualified from holding public office."

It is argued that there is a need to align the norm of Article 30, paragraph 4, item 7 of the LSLAA with Article 397 of the Election code, as it is currently in line with the current regime for registration of candidates under the Local Elections Act (ex.).

2. 3. Rights and duties of the municipal councillor

The rights and duties of municipal councillors are examined. Regarding the right to question municipal councillors, the opinion is expressed that it is necessary to establish by law the possibility to question the mayors of districts and town halls, given their direct election.

With regard to the remuneration of the municipal councillors, it is stated that it is necessary to repeal Article 36, Paragraph 2 of the LSLAA due to contradiction with Article 34, para 1 and 2 of the LSLAA.

2. 4. Protection

In order to enable the effective performance of the duties of a municipal councillor and to safeguard his independence in the exercise of his powers, the legislation provides for certain protections. Examples are given in historical and comparative law, as well as the current legislation.

§ 3. Internal organization of the Municipal Council

3. 1. The Rules of Procedure of the Municipal Council

The Regulations of procedure of the Municipal Council are defined as a normative administrative act - a sub-legislative administrative act within the meaning of Art. 75, para 1 of the Code of Administrative Procedure, as it contains administrative law norms, applies to an indefinite and unlimited number of addressees and has multiple legal effect. The administrative law provisions contained therein are mainly procedural, regulating the procedure for the adoption of the Council's acts.

The issues which by virtue of an express statutory delegation should necessarily find their regulation in the Rules of Procedure are indicated, as well as those which are inherent in the Rules of Procedure of the Municipal Council and should find their solution therein.

3. 2. Presidential Council

It is reasonably understood that there is no obstacle to the Rules providing for the existence of a Presidential Council, defining its composition and entrusting it with subsidiary and advisory functions.

3. 3. Party factions

Party caucuses are voluntary associations of municipal councillors that are formed on the basis of their affiliation to a particular political party or coalition. Usually, the rules of procedure of the municipal councils confer on the party factions certain organisational and procedural rights and obligations in relation to their participation in the meetings of the municipal councils.

3. 4. Standing and temporary committees

The existence of committees in the municipal council is explicitly provided for in the LSLAA - in the eponymous Chapter Six of the law. Unlike party factions, their existence in the internal organization of the council is mandatory. A proposal has been formulated to provide in the rules that the composition of the committees shall respect the ratio between the party factions represented in the municipal council.

3. 5. The meeting room of the Municipal Council

The legal dimensions of the system of the arrangement of councillors in the council chamber are examined. It is pointed out that the existence of a special room dedicated to the meetings of the local self-government body elevates its authority.

3. 6. The Unit under Art. 29a of the LSLAA

The employees in the unit support the activity of the Chairman of the Municipal Council in the exercise of his powers in the preparation, convening and holding of the meetings of the Municipal Council and its committees (Article 29a, paragraph 3 of the LSLAA). These functions of the unit make it a kind of administration of the municipal council.

Chapter IV. Competence of the Municipal Council

§ 1. The concept of "competence"

The doctrinal conceptions of this concept, which is characteristic of the organs of state power, are set out. The types of jurisdiction outlined in the legal science - material, by degree, by time and by place in relation to the municipal council are examined. Concerning temporal jurisdiction, an example is given with Art. 17a, para. 1 of the Municipal Debt Act, according to which the municipal council may not adopt decisions to incur long-term municipal debt after 39 months have elapsed since its election.

§ 2. Acquisition of competence by the municipal council

Specific examples outline the different ways in which the municipal council acquires competence through legislation: primary or secondary (depending on the function of the body) - directly or indirectly.

§ 3. Powers of the Municipal Council

An overview of the existing classifications in the Bulgarian legal doctrine is made. For the purposes of the study the following classification of the powers of the municipal council is proposed: powers to exercise the functions of local self-government; spatial (organizational) powers and others.

§ 4. Means of protecting the competence conferred on the municipal council

The paragraph discusses the options available to the City Council under the law to ensure the free exercise of its powers.

The possibility for municipal councils to raise before the CC disputes of competence between them and the central executive bodies is analysed.

§ 5. Acts of the Municipal Council

In view of the fact that jurisdiction is exercised through the acts issued by the relevant authority, the acts adopted by the municipal council are examined. A distinction is made between the legal and non-legal acts of the council. The legal acts, in turn, are divided into administrative and non-administrative acts of the municipal council. Administrative acts are examined according to their division into

individual, general and statutory acts. A distinction is made with internal administrative acts.

§ 6. The legality of the administrative acts of the municipal council

According to Art. 45, par. 12 of the LSLAA, the rules of administrative procedure established by law shall apply to matters not regulated by this law. This law is the Code of Administrative Procedure and its general rules on the issuance of individual, general and normative administrative acts will find their subsidiary application in the issuance of administrative acts by the municipal council. The defects which lead to the nullity of administrative acts are well established in legal theory. They are also laid down in Article 146 of the Code of Administrative Procedure. The particularities in this respect in the acts of the municipal council are discussed in the paragraph. The rules on the communication of council acts are also analysed.

§ 7. Control over acts of the municipal council

The current legislation contains a number of means for ensuring the legality and expediency in the activities of the municipal council and in the sphere of local self-government in general, the municipal council being both the subject and the object of control activity. Both the traditional forms of control over the municipal

council - control by the mayor of the municipality, by the regional governor, prosecutorial supervision and judicial control, as well as alternative forms of control are indicated and analysed. The control exercised by the municipal council over the mayor is also examined.

A de lege ferenda proposal has been made for the public mediator under Article 21a of the LSLAA to create the possibility to challenge the by-laws of the municipal council which violate the rights and freedoms of citizens.

Conclusion

Given the dynamic development of social relations in the sphere of local self-government and the constant new challenges it faces, the present work does not claim to have exhausted the issues on the topic. The scholarly discussion on the constitution, organization and operation of the municipal council will certainly continue. The results achieved in the field of administrative law, and in other areas of scientific knowledge, should be used both by the legislator to improve the legal framework and by the municipal councils themselves to improve their activities for the benefit of the local community.