

PLOVDIV UNIVERSITY "PAISII HILENDARSKI"

LAW FACULTY

PUBLIC LAW DEPARTMENT

ABSTRACT

ON A DISSERTATION PAPER FOR OBTAINING THE
DOCTORAL DEGREE

**LOCAL SELF-GOVERNMENT IN CITIES WITH
DISTRICT DIVISION**

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Field of higher education 3. Social, economic and legal studies

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Radoslav Yordanov Mitev has enrolled as a full-time doctoral student in the doctoral program "Administrative Law and Administrative Procedure" at the Public Law Department of the Law Faculty of Plovdiv University "Paisii Hilendarski" on 1.3.2019. Assoc. Prof. Konstantin Pehlivanov Ph.D. was appointed as an academic supervisor. He was dismissed with the right of defense on 1.3.2022.

The dissertation entitled "Local Self-Government in Cities with District Division" has undergone a preliminary review in the Departmental Council of the Public Law Department on 15.02.2023. By decision of the Faculty Council of the Law Faculty, it has been admitted to defense before a scientific jury with members as follows:

Internal members of the scientific jury:

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Assoc. Prof. Bogdan Dragnev Yordanov Ph.D.

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INTRODUCTION

§.1. Relevance of the research

The topic of local self-government in the cities with regional division in the Republic of Bulgaria, and in a number of other European countries, in recent decades has become more and more relevant in the conditions of the new challenges facing the states and society. The appearance of modern social relations has changed significantly under the influence of new factors and processes, the main ones of which are: globalization; the revolutionary progress of technology and science; global climate change and environmental pollution; demographic changes and the permanent process of population aging; the migration processes among the population in Bulgaria, and in Europe as a whole, and the concentration of the population in large cities; new threats to health security (e.g. infectious diseases such as COVID-19), etc. The listed circumstances and trends have a direct impact on the development of large cities and the living standards of the population in them. The topicality of the topic is predetermined by the fact that the organization and management of large cities, in the conditions of the indicated serious risks and trends, requires an in-depth and comprehensive study, within which to systematize the good legislative decisions, the gaps and imperfections of the current Bulgarian legislation governing the various aspects of local government.

The topic of the dissertation is complex and its correct and thorough research requires not only legal analysis, but also the study of issues from other scientific fields, such as administrative-territorial division, urbanism and city planning, demography, public administration.

§.2. Subject and tasks of the research

The subject of the dissertation is the theoretical and legal foundations of local self-government in cities with district divisions

in the Republic of Bulgaria. The scientific research has two goals: the first goal is to carry out an in-depth and comprehensive analysis of the regulatory framework of local self-government in cities with district divisions in the Republic of Bulgaria, including the legal status of district mayors and their role in the implementation of local policies. The second goal of the study is to reveal the gaps and imperfections of the relevant legal framework, with a view to formulating appropriate recommendations for improving and modernizing the model of local self-government in cities with regional divisions in the Republic of Bulgaria. In order to achieve the stated goals, the key factors that have an impact on the development of local self-government in cities with regional divisions in the country, as well as the legal instruments and mechanisms that can contribute to achieving the upward development of the said government in the context of modern European policies.

The dissertation presents a systematized analysis of the main concepts and institutions in the field of local self-government and administrative-territorial division, adopted in the doctrine and jurisprudence of the Bulgarian courts, the knowledge of which ensures a better interpretation and practical application of the tolerable legislation.

Tasks of the research

To fulfill the above-mentioned goals, the following scientific tasks of the study have been formulated:

1. To analyze and reveal the essence of the concept of local self-government in the Bulgarian doctrine and the content of the main concepts and institutions included in it;
2. To trace the historical development of local self-government and the administrative-territorial structure in the Republic of Bulgaria, including the legislative approach concerning the organization and management of large cities in the Republic of Bulgaria, applied during the various historical stages;

3. To analyze and evaluate the effectiveness of the legal framework for the constitution of districts in large cities in the Republic of Bulgaria;
4. To investigate the legal status of the mayor of a region in Bulgarian cities with regional division and his powers according to modern Bulgarian legislation;
5. To analyze the concept of local self-government in Europe on the basis of applied European policies and European acts adopted in this area;
6. To assess the impact of the policies of the Council of Europe and the European Union on the development of local self-government in the member states, and more specifically in the Republic of Bulgaria;
7. To reveal the factors that have a key impact on the state and development of large Bulgarian and European cities, as well as the prospects and trends for their development;
8. To define the gaps and imperfections in the Bulgarian legislation regarding the functioning of local self-government in cities with regional divisions in the Republic of Bulgaria;
9. To justify and formulate appropriate recommendations *de lege ferenda* to improve the legal framework of local self-government in cities with regional division in the Republic of Bulgaria, including the relevant legal status and powers of regional mayors and the need to establish regional councils.

§3. Research methodology

In the dissertation, a complex research method is applied, which includes several independent methods, namely: normative, historical, comparative legal, systematic and formal-logical method. The applied approach provides the highest degree of comprehensiveness, comprehensiveness and depth of the analysis of the researched topic, which contributes to the realization of the formulated goals and tasks in the dissertation work.

§.4. Scientific novelty of the study

In Bulgarian legal doctrine, quite a number of scientific studies have been carried out by prominent scientists who analyze various aspects of local self-government and the applied legislative approaches regarding the regulation of the administrative-territorial structure in the country, including: historical development, essence and goals of local self-government; legal status of local self-government bodies; functions and powers of local authorities; models of administrative-territorial division and other aspects.

However, the topic of local self-government in cities with district division remains out of the focus of Bulgarian scientists. Sources are available in the literature that address individual aspects of the chosen topic, but so far it has not been developed in its entirety. Given the above, the author of the present dissertation attempts to fill this gap in the doctrine. In this sense, the current dissertation is the first comprehensive study of local self-government in cities with regional divisions in the Republic of Bulgaria. Within the framework of this research, a number of specific issues of the topic have been analyzed, among which are: the legal framework for the organization and management of cities with regional division; the normative order for the constitution of regions in the country; the legal status of regional mayors and their functions, powers and duties; the legal status, essence and functions of the regional councils that existed in the past in the big cities of the Republic of Bulgaria as a form of citizen participation in local governance and other current aspects of the topic.

§.5. Practical significance of the study

The main conclusions and proposals *de lege ferenda*, presented in the dissertation work, could be applied by the state authorities of the Republic of Bulgaria in the implementation of subsequent reforms in the field of local self-government, and more specifically in the management model of cities with regional division. They can serve the local self-government bodies as a basis for the reorganization of

their activity, which will achieve its higher efficiency, as well as providing conditions for real participation of the local population in the management of issues of local importance. Next, the dissertation could be used as a practical guide by legal practitioners, experts in the field of public law, law students, as well as to increase the legal culture of all Bulgarian citizens.

§.6. Volume and structure of the dissertation work

The dissertation consists of 203 pages, including a table of contents and a list of the literature used. The content structure is divided into an introduction, five chapters, a conclusion and a bibliography.

In the introduction , arguments are presented in separate sections for the relevance of the research, its subject, goals and tasks, the applied methodology of the research, as well as the scientific novelty of the work. Conclusions and guidelines are formulated regarding the practical significance of the work, data regarding its volume and structure are described.

In the first chapter of the dissertation, a brief analysis of the main concepts and institutions in the theory of local self-government and administrative-territorial organization, presented by various authors in the Bulgarian doctrine, is presented. A good knowledge of the nature and content of relevant terms and institutions is important for the correct application of legal acts and the interpretation of literary sources.

In independently separated sections of the first chapter of the work, the author traces the historical development of the concept of local self-government - from the period of its emergence in the Bulgarian state to its regulation in modern Bulgarian history. A detailed analysis of the reforms carried out in the administrative-territorial structure of the Republic of Bulgaria, their specifics and characteristics is presented.

In the second chapter of the work, a study of the concept of zoning of the big cities in the country was carried out, again from its origin to its modern vision. The author traces the legislative approach applied in regulating the legal framework regarding the constitution of districts in the large cities of the Republic of Bulgaria. Presented are the currently valid legal norms that regulate: the legal status of the mayor of a region; the normative rules for the election of the mayor of a region and for incompatibility; the legal nature of the acts of the district mayor. In the last section of the Second Chapter, the legally established forms of control over the activity of the mayor of a region are examined, as well as their analysis in the Bulgarian legal doctrine.

The third chapter of the dissertation presents a detailed analysis of the functions, powers and duties of the regional mayors in the cities with regional division in the Republic of Bulgaria, established in the current Bulgarian legislation. The author in separate sections, consistently and systematically, conducts an analysis of the powers of the mayor of a region, regulated in the Law on Local Self-Government and Local Administration, the Law on Territorial Planning, the Law on Public Procurement, the laws that regulate property and finance management issues of the municipality (the Law on Public Finances, the Law on Local Taxes and Fees, etc.), as well as in other special laws. An overview is also presented of the by-laws in which the powers, functions and duties of the district mayors in the Republic of Bulgaria are listed, and more specifically in the relevant regulations and rules of the Metropolitan Municipal Council, Plovdiv Municipal Council and Varna Municipal Council

The fourth chapter of the dissertation is devoted to the concept of local self-government in Europe and examples of governance from selected European cities. The author studies the activities and policies of the Council of Europe (CoE) regarding local self-government, as well as their impact on the functioning of local authorities in the Republic of Bulgaria. The main acts adopted by the Council in the field of local self-government have been analyzed, and in particular:

the European Charter for Local Self-Government; The strategy for innovation and good governance at the local level; The Code of Good Practice for Citizen Participation in the Decision-Making Process. A separate section presents the vision of the European Union (EU) for the development of local and regional self-government in Europe. The main views of European bodies and institutions on the essence of the principle of local and regional self-government, proclaimed in the founding treaties of the EU, are presented. In a separate section, the author analyzes the impact of EU law on the activities of local and regional authorities in the member states, and more specifically in the Republic of Bulgaria. In the last section of the Fourth Chapter and in its subsections, a comparative legal analysis of the regulatory framework of local self-government and regional division in selected European cities is presented, namely: Paris, Athens and Budapest. In the final section of the chapter, the author outlines the trends and perspectives in the development of large European cities, in the context of current policies and actions of the EU.

In the conclusion of the dissertation, the conclusions reached regarding the effectiveness of the current regulatory framework of local self-government in cities with regional divisions in the Republic of Bulgaria and in the EU are presented. Taking into account the key contemporary challenges facing major European cities, the author outlines the prospects for their future development, in the context of the goals and ideals of a United Europe. The gaps in the legal framework of local self-government in cities with regional divisions in the Republic of Bulgaria are summarized. On the basis of his conclusions, the author formulates recommendations *de lege ferenda* for improving the current Bulgarian legislation regulating the various aspects of local self-government in cities with regional divisions in the country.

The bibliography includes a complete list of cited sources from Bulgarian and international legal doctrine, a list of cited court decisions of the Bulgarian courts and the CJEU, as well as the Internet sources used.

CHAPTER I. Historical overview of the emergence and development of local self-government and administrative-territorial organization in Bulgaria

§.1. Basic concepts in the doctrine of local self-government and administrative-territorial organization

The in-depth analysis of the researched topic requires a good knowledge of the essence of the main concepts and institutions, of their main characteristics and specifics. The terms "self-government", "local self-government", "decentralization", "deconcentration", "administrative-territorial unit" and "administrative-territorial division" can be mentioned as the most important among them. They have been the subject of a number of studies carried out by representatives of Bulgarian legal science, they have also been interpreted in the jurisprudence of the Bulgarian courts. In the following paragraphs of the work, the theoretical views concerning the content, goals and application of the mentioned concepts and institutes in the Bulgarian legal doctrine will be presented in a systematized form.

The essence of the concept of "local self-government" has been analyzed by the Bulgarian lawyer Prof. Zhivko Milanov, who advocates the following view: "Local self-government is a basic structure in the system of social organization in any democratically built country. Local self-government is an inalienable right of every citizen to participate in the governance of the country at all levels both through the forms of direct democracy and through bodies elected by him. The right to local self-government is realized through the respective territorial community. Local self-government is built and functions within a certain administrative-territorial unit".

According to Prof. Boris Spasov, local self-government should be understood as "the original implementation of authority powers arising from popular sovereignty, and not as "authority ceded by the

state to municipalities, which would render self-government meaningless".

Apart from the Bulgarian doctrine, the concept of "local self-government" has also been interpreted in the practice of the Constitutional Court of the Republic of Bulgaria. In Decision No. 9 of 2000 on Constitutional Case No. 6 of 2000, he defined local self-government as a form of decentralization of state power with the aim of enhancing the role of self-governing communities in resolving issues of local importance.

In the legal framework, the legal definition of the term "local self-government" is given in Art. 17, para. 1 of the Local Self-Government and Local Administration Act. According to the said provision, "local self-government is expressed in the right and the real possibility of citizens and their elected bodies to independently decide all issues of local importance, which the law has provided in their competence" in the expressly listed spheres, such as: municipal property; municipal enterprises, municipal finances, taxes and fees; municipal administration; organization and development of the territory of the municipality and its settlements; education; healthcare; culture; improvement and communal activities; social services; environmental protection and rational use of natural resources; disaster protection and other areas. In Art. 17, para. 2, the legislator expressly regulates that citizens participation in the management of the municipality both through the bodies they have elected and directly through a referendum and a general meeting of the population.

The above-mentioned legal definition of the term "local self-government" is in accordance with the provisions of the European Charter of Local Self-Government, which act is part of the country's internal law. For comparison, according to Art. 3 of the Charter the notion of local self-government should be understood as "the right and real possibility for local communities to regulate and manage within the law, under their responsibility and in the interest of their population, an essential part of public affairs". A read of the two

definitions shows that they generally overlap in content. Art. 3, paragraph 2 of the Charter also lists the forms through which the right to local self-government is exercised, such as: through councils and assemblies whose members are elected on the basis of free, secret, equal, direct and general elections and which may have executive bodies responsible to them. The mentioned provision also provides that the possibility of such forms being citizen assemblies, referenda or any other legal means for direct participation of citizens in local self-government is not excluded.

§.2. Emergence and first stages in the development of local self-government and administrative-territorial organization in Bulgaria

For the sake of historical completeness, the forms of local self-government during the First and Second Bulgarian States, as well as the surviving forms of local self-government during the Ottoman rule, have been traced.

§. 3. Review of the development of local self-government and administrative-territorial organization after Liberation

During the Provisional Russian Government, the administrative structure of the Bulgarian lands was a primary concern. The first important act issued by Prince Cherkassky was *the "Instruction for the establishment of the initial military police department in the lands occupied by the troops"*, approved on June 3, 1877. With it, the Turkish administrative division of "sanjats", "kaazis", "nahiyas" and "municipalities" was preserved, and the same were renamed to "provinces", "districts", "districts" and "municipalities". The separation of "districts (vilaets)" was not adopted by Prince Cherkassky, which is why it was dropped. On the basis of the mentioned instruction, the "Project for civil administration in the sanjaks and districts" was adopted, approved on July 7, 1877 and subsequently supplemented with the "Project for the temporary rules for the governing (administrative) councils in the districts and cities in Bulgaria". According to him, "city councils can be created both in large and smaller cities."

In 1879, the Constitution of the Bulgaria was adopted, with which the foundations of the legislative system of local self-government and local administration in the country were laid. The first Bulgarian supreme law promulgates the principle of local (municipal) self-government, which applies "not only in the economic sphere, but also in the administrative-territorial structure of the country". The Tarnovo Constitution also introduces the basic principles of the administrative-territorial structure, as in the initial draft of the Organic Statute of the Principality, adopted in January 1897, it was laid down that the territory is administratively divided into districts, neighborhoods and municipalities. After the adoption of the Tarnovo Constitution, the model of a three-level territorial organization was introduced in the country: the territory of the Bulgaria is divided into districts, regions and municipalities (Article 3 of the Tarnovo Constitution). The main unit for self-government development is the municipality. In order to establish the specified administrative division, it is planned to draft a special law on "*principles of self-government of the municipality.*" The first model of territorial organization in the country was implemented in the period 1880 - 1934.

After the reforms of 1934, the second model of territorial organization was introduced into the Bulgarian legislation, which established the triad "regions - districts - municipalities".

Of interest, in view of the topic of the study, is the approach that was applied during this period to the capital Sofia. The legislator pays particular attention to the specific situation of the Metropolitan Municipality, confirmation of which can be found in the aforementioned acts (e.g. in the Metropolitan Municipality Act, the Urban Municipalities Act, and other acts). As a result of this trend, in 1922 even a special normative act was adopted - the Law on the Metropolitan Municipality, which introduced the rule that the Law on Urban Municipalities also applies to the Metropolitan Municipality, but at the same time excluded the application of some of its texts to

the Metropolitan Municipality . The provisions of the said normative act regulate that the Metropolitan Municipality has one Central Council, one Central Administration, six regions, managed by nine-member regional councils, which elect a mayor of the region and two of his assistants and six regional offices. The structure of The central board includes 31 members. According to research in the studied literature, 12 of them were appointed by the Minister of Internal Affairs and Public Health from among the elected district councilors, and 18 are elected by the district councils. The mayor is appointed by royal decree on the proposal of the Council of Ministers also from among the elected district councilors. He is not responsible to the Central Municipal Council. The central mayor is removed from office by government decree and is equal in rank to the district governor.

The cited norm is an interesting prototype of the current legislation - that the Metropolitan Municipality is a unit with a special status and rank of an region - and at the same time an early testimony to the foresight of the rule maker; awareness that the administrative-territorial structure and the activity of executive bodies in a large city is a special matter and should differ from the structure of ordinary municipalities.

§.4. Review of the development of local self-government and administrative-territorial organization in the period 1944-1989.

With the adoption of the Constitution of the People's Republic of Bulgaria in 1947, significant changes occurred in the country's political governance and economic development. Regarding administrative-territorial organization, Art. 47 of decrees that the territory of the People's Republic of Bulgaria is divided into municipalities and districts, and in 1961 the latter were replaced by districts. The Supreme Law establishes that other administrative-territorial units can be created by law. In Art. 48 of the Constitution, it is established that municipal and district councils are bodies of state

power in municipalities and districts. The Supreme Law defines municipal and district governments as bodies of the executive power. During the analyzed period, " *the executive and administrative bodies of the local government function horizontally with the relevant people's council, and vertically with the relevant bodies of state government*" .

In 1951, with an amendment to the People's Councils Act, it was established that the organization of local bodies is carried out at three levels: district, municipal and regional, and people's councils are elected at all three levels. Regional People's Councils may be established in cities with regional divisions. According to Art. 3 of the People`s Councils Act, the municipality includes the settlements of the respective settlement system, and a municipal people's council is elected on its territory with its seat in the settlement, which is the center of the settlement system. On the territory of the district, a district people's council is elected with its headquarters in the district city. The Act was amended again in 1964, 1969 and 1978.

In 1959, the Presidium of the National Assembly, based on Art. 35, para 5 of the Constitution of the People's Republic of Bulgaria issued a "Decree on a new administrative-territorial division of the territory of the People's Republic of Bulgaria and on the establishment of temporary district executive committees". The Law on People's Councils was also amended, closing down the district people's councils and giving broad powers to the district people's councils. This reform is undertaken with the aim of decentralization of management, which will lead to acceleration of the development of the national economy and improvement of the structure of the state and local authorities. Another important factor was reported, namely: the concentration of the population in the cities and the depopulation of the Bulgarian villages.

§.5. Local self -government and the administrative-territorial structure after the adoption of the constitution of the Republic of Bulgaria in 1991.

Article 135 of the Constitution pays attention, albeit with reference, to the structure of large cities and establishes in para. 1 that "the territorial division and the powers of the metropolitan municipality and other large cities are determined by law" (ie, again by delegation to the powers to an ordinary National Assembly).

The constitutional principles regarding local self-government and the administrative-territorial structure of the country have been further developed in modern Bulgarian legislation. In 1991, the 7th Great National Assembly adopted the Law on Local Self-Government and Local Administration, which regulates in detail public relations related to local self-government and local administration, as well as the powers of local self-government bodies, property issues and the finances of the municipality, etc. questions. With the adoption of the Act, "changes are made in the status of settlements in the country - industrial, railway, mining, etc. are closed. settlements, introducing two categories - towns and villages". In the first edition of the LSGLAA, the creation of boroughs from neighboring municipalities on a voluntary basis and joint financing was envisaged, but this legal construction was canceled by the amendments to the normative act adopted in 1995. One of the most important innovations that the legislator regulated with the edition of the Act from 1995, is the introduction of regional councils and the mayors of regions and town halls.

CHAPTER II . Legal framework for the constitution of districts in large cities. Legal status and powers of the district mayor

1.1. In 1964, a new reform was carried out in the administrative-territorial structure of Bulgaria , with Decree 244 of 1964 of the Presidium of the National Assembly abolishing the districts of Plovdiv-city and Varna-city, and by 1987 the number of districts in the country was established 28 (1 urban and 27 territorial). In the doctrine, opinions cited in the dissertation work are presented that the aim of the mentioned reform is " *the process of concentration of the rural population and the construction of the material base of the industry to take place in more cities, thereby expanding and stabilizing the supporting skeleton of the national system of settlements*".

1.2. The Constitution of the Republic of Bulgaria from 1971 also adopted the two-tier system of dividing the country into municipalities and districts. Sofia is divided into administrative-territorial regions. Other administrative-territorial units may be established by law. Bodies of state power and people's self-government in municipalities, regions and districts are the municipal, district and district people's councils. During this period, the implementation of the Law on People's Councils (with amendments) continues, as does the activity of people's councils, including the regional councils. However, the new supreme law declares them to be bodies of the people's self-government.

1.3. In modern Bulgarian legislation, the concept of the specific status of large cities in the country is increasingly being used. With the adoption of the Constitution of the Republic of Bulgaria in 1991, a new stage in the country's development began. The Supreme Law in Art. 135, para. 1 declares that the territory of the Republic of Bulgaria is divided into municipalities and regions, and the territorial division and powers of the Capital Municipality and other large cities are determined by law. Other administrative-territorial units and self-government bodies in them may be established by law. On the basis of the supreme law, important normative acts in the field of local self-government and the administrative-territorial structure of the country

were adopted. First of all, in 1991, the LSGLAA was adopted, which regulates public relations related to local self-government and local administration, as well as the powers of local self-government bodies. In 1995, with amendments to the LSGLAA, regional councils and mayors of regions and town halls were introduced. Secondly, the legal system of the administrative-territorial division of the country has been regulated by the Administrative Territorial Organization Act of 1995. The normative act explicitly prescribes the order for the creation of the separate administrative-territorial units in the country, the order and conditions for the formation and closure of settlements and settlements entities, the procedure for carrying out administrative-territorial changes and other important issues. In 1995, the Law on the Territorial Division of the Metropolitan Municipality and Large Cities was adopted, which regulates the territorial division of the Metropolitan Municipality and cities with a population of over 300,000 people. Three years later, a new important administrative-territorial reform was carried out in the country, within which the existing 9 districts were closed and 28 new districts were established.

§.2. Constitution of districts in large cities in modern Bulgarian legislation

The Constitution of the Republic of Bulgaria does not provide for an explicit administrative-territorial division of city districts. In this regard, the Constitutional Court of the Republic of Belarus clarifies in its jurisprudence that at the constitutional level, only regions and municipalities are defined as administrative-territorial units, and the requirement for the zoning of large cities is decided by law. This is the Law on the Administrative-Territorial Organization of the Republic of Bulgaria of 1995. The mentioned normative act reaffirmed the principle established at the constitutional level that the main structural units of the country's territory are the municipalities and regions. Secondly, the Act regulates town halls and regions as constituent administrative-territorial units (art. 2, paragraphs 1 and 2).

These constituent units can only exist within the municipalities and in this sense their autonomy is limited.

The 1995 Act expressly regulates the procedure for creating the administrative-territorial units established in the country. The constitution of city districts is regulated in Chapter Two, Art. 10, which provision lists two hypotheses, namely:

1. **mandatory** creation of districts in the capital and in cities with a population of over 300,000 people by the Parliament and
2. **possible** creation of districts in cities with a population of over 100,000 people by decision of the Municipal Council.

Establishment of city districts in cities with a population of more than 100,000 people according to Art. 13 is not so easily applicable. This is because, in this hypothesis, the legislator has regulated an apparently easy-to-implement legal construction concerning the decision-making to create districts in this type of cities. In essence, however, the established order enables both bodies to which powers are delegated in the proceedings - the mayor of the municipality and the municipal council - to block the procedure for creating districts in large cities due to various objective or subjective reasons, for example in case of interference and influence by the political parties to which the Mayor or the majority of municipal councilors belong.

The subject of a separate study in the paper is the tradition in our legal and administrative system, terminated in 1999, of regional councils in large cities. The author supports the ideas of their restoration, as he finds that their activity will contribute significantly to achieving better management of cities with regional division, as well as to more efficient and expedient solving of issues of local importance. Last but not least, with the restoration of the district councils, real conditions will be created for the effective participation of citizens in solving issues of local importance. Through regional councils, the representativeness of citizens will be increased at the regional level, which in practice is closest to their daily life problems

(education, environment, transport, etc.). In view of the above, I believe that *de lege ferenda* rules should be laid down in the relevant legislation to restore the existence of regional councils in the regions of Bulgarian cities. Regarding the functions of the regional councils, they can be constituted as supporting bodies of the Municipal Council and the regional mayor, i.e. partially with their status under the repealed legislation.

§.3. Legal status of the mayor of a district

The void in the supreme law regarding the legal status of the district mayor, and also of the district as an administrative-territorial unit, was overcome with the additions to the 2006 Local Self-Government Act and Administration Act, with which the legislator explicitly determined that executive power bodies in the district and the mayor's office are respectively the mayor of the region and the mayor of the town hall (art. 38, para. 1 of 3 of the former and art. 19, para. 3, item 2 of the latter).

In the practice of the Supreme Administrative Court of the Republic of Bulgaria, the principle position that the mayors of regions are bodies of the executive power and not of local self-government, which are subordinate to the mayor of the municipality, has also been confirmed. In a number of cases, the Supreme Court stated that the mayor of a region is an administrative body, different from the mayor of the municipality, with independent material competence. Also, the Supreme Administrative Court accepts that the mayor of a region is a body of the constituent administrative-territorial unit in the municipality, i.e. is a municipal body that has administrative legal personality. The dissertation cites numerous court decisions on the issue in support of this thesis.

§.4. Legal regulation of the election of the mayor of a region

Regarding the legislative approach to the election of the mayor, the historical review of the Bulgarian state development shows

that in the period from Liberation to 1934, the mayor was elected by the municipal council (in urban and rural municipalities), then appointed by the Minister of the Interior works for the cities and from the district director for the villages. In different periods, the mayor's institution was regulated as a sole or collective body (the latter hypothesis was regulated in 1978).

Regarding the election of district mayors, the legislative approach has been amended several times in the last decade. Thus, in 1999 and 2011, the provisions of the Local Self-Government Act regulate that the mayor of a region is elected by the municipal council on the proposal of the mayor of the municipality. In particular, Art. 38a of the Local Self-Government Act decreed that the mayor of a district in the Capital Municipality and in cities with regional division is elected by the Municipal Council on the proposal of the mayor of the municipality for the term of office of the Municipal Council. The latter elects district mayors by secret ballot with a majority of more than half of the total number of councilors. If one or more regional mayors are not elected in this order, the chairman of the municipal council calls a new election meeting within 14 days, and the mayor of the municipality can make a new proposal no later than seven days before the meeting. In this hypothesis, the candidate who received more than half of the votes of the councilors present is considered elected. In the event that regional mayors are not elected again or no proposal is received from the mayor of the municipality, the municipal council elects the regional mayors on the proposal of the municipal councilors. The candidates who received more than half of the votes of the councilors present are considered elected.

The currently valid version of Art. 38, paragraph 2 of the Local Self-Government Act regulates that the mayor of the municipality, as well as the mayors of regions and town halls, are elected directly by the population for a period of 4 years under the conditions and according to the procedure determined by the Election Code. The election is carried out on the basis of general, equal and direct suffrage by secret ballot. The procedure and conditions for conducting the

election of the mayor are established. In this regard, the norms of the Code regulate that the elections for mayors are produced according to a majoritarian electoral system with candidate lists registered in single-mandate constituencies of: parties and coalitions; initiative committees. Any party or coalition registered with the Central Election Commission (CEC) may participate in the elections for municipal councilors, mayors of municipalities, mayors of regions and mayors of town halls independently or in different local coalitions for each type of election. Initiative committees for the promotion of independent candidates may be created and participate in each type of election. Thus, direct elections were held when the figure of the mayor of a district was introduced in 1995, 2007, and more recently in 2015 and 2019, for now, for the upcoming local elections in 2023, the situation is likely to remain the same.

It should be noted that even once, in 2003, the mayor of the region was appointed by the mayor of the municipality.

§. 5. Legal regulation of the incompatibility of the mayor of a region

In Bulgarian legislation, the legal definition of the term "incompatibility" is contained in § 1, item 7 of the DR of the Law on Combating Corruption and Confiscation of Illegally Acquired Property, such as: "occupying another position or carrying out an activity which, according to the *Constitution or law is incompatible with the position of the person holding a high public office*". This norm does not provide for specific grounds for incompatibility and cannot be applied independently, but refers to the KRB and the relevant special laws. Incompatibility can be established only and to the extent that the relevant facts coincide with the hypothesis of the norms contained in these laws.

In connection with the application of Art. 41, para. 1 of Local Self-Government Act, the Supreme Administrative Court with Decision No. 4403 of 14.04.2020 following Case No. 1336/2020 states that the provision aims " *to prevent any possibility of a conflict of interest and abuse of power by the persons referred to in the provision. It excludes combining the functions of the mayor of a municipality with commercial activity and with representative and management rights in commercial companies. The requirement is strictly formal, it is valid for the entire period of the mandate and is dictated by the will of the legislator to exclude any potential possibility of conflict of interest and abuse of official rights.*

§.6. Legal nature of acts of the mayor of a region and control over his activities - the acts issued by the mayor of the region are by their nature individual administrative acts, in some private cases it is possible to issue general acts. He has no right to issue normative acts. The legal theory of its legal personality and the control over the acts issued by it have been studied.

CHAPTER III. Powers of The District Mayor

The main powers and functions of the mayor of a region are listed in Art. 46 of the Local Self-Government Act, as they are determined by type and volume according to the fact that the region is a constituent administrative-territorial unit and at the same time is the basis of local self-government. In this sense, each district mayor exercises the powers assigned to him by law only within the respective district for which he was elected. But there are a number of powers that are outside the general framework of the Local Self-Government Act, which have been analyzed in detail.

The Law on Territorial Planning is the normative act that regulates public relations related to the planning of the territory, investment planning and construction in the Republic of Bulgaria, and defines the restrictions on property for planning purposes.

The mayors of regions are contractors within the meaning of Art. 7, item 1 of the Public Procurement Act and should spend the funds allocated for the needs of the region in accordance with the provisions of the PPC and the by-laws (arr. from the provisions of Art. 38, para. 1 of the Local Self-Government Act and art. 19, para. 3, item 2 of the Administration Act , defining the mayor of a region as a body of executive power, confirmed in the Methodical Instruction of the AOP regarding the status of the mayors of regions as contracting authorities under the zoning after the changes in the ZMSMA and ZA).

The mayor of a region has many significant powers in relation to the management of municipal property, examples of which are given in the dissertation work.

The powers of the regional mayors in the Capital Municipality and the municipalities of Varna and Plovdiv, as regulated by the acts of the municipal councils, have been analyzed in detail.

According to the Law on Public Finances, mayors of municipalities actively assist the mayor of the municipality in the preparation of the budget forecast and the draft budget.

The powers under the Condominium Law and the special role of the mayor of the district in the cases of guardianship and guardianship, which are special cases known in practice but not systematized in the legal literature, are traced.

CHAPTER IV. The concept of local self-government in Europe and examples of governance in some large European cities

§.1. Introduction

The dissertation research on local self-government would be incomplete if it did not reflect the rich legal base of the Council of Europe, for which local self-government is a special value, and the acts of the European Union.

An important trend that has been observed in recent years in Europe, and in a number of member states (e.g. Italy, Spain, Germany, Austria, Switzerland, Belgium), is the increasingly intensively developing regionalization, as "regions are the main *cells of the European political space, forming the so-called "Europe of the Regions"*". The doctrine states that "*regionalism is the view that has been most associated with the progress of the European integration process. According to this view, the state will have to gradually transfer more functions to the regions, including the main administrative-territorial units*" (Kyuranov, Deliev, Penev, Problems of Decentralization and Local Self-Government in the Republic of Bulgaria) This process cannot help but have an impact on the constituent administrative-territorial units, such as, for example, town halls and regions in Bulgaria. In the following sections of the dissertation, the main relevant acts of the Council of Europe and the European Union are examined and an attempt is made to analyze the place and role of local self-government, and in particular the management of large European cities, in the context of the processes of decentralization and regionalization in European countries.

§.2. Impact of the Council of Europe on the development of local self-government

The Council of Europe is active in issues related to the development of local self-government in Europe, through which democratic governance and real participation of citizens in public life

is achieved. Therefore, the CE drew up a European Charter of Local Self-Government (ECHA), which was opened for signature on 15 October 1985 and entered into force on 1 September 1988. Subsequently, the text of the ECHA was enriched by an Additional Protocol on the right to participate in cases of local government, adopted on November 16, 2009, in force since June 1, 2012. The mentioned protocol is a pan-European legal instrument that affirms the right of citizens to participate in the management of public affairs as a basic democratic principle shared by all member states of the Council of Europe.

Structurally, the EHMS consists of three parts. The first part regulates: the provisions that define the basic principles of local self-government; the need for a constitutional and legal basis for local self-government; the concept of local self-government; the principles concerning the content and limits of the powers of local authorities and other issues. The definition of the term "local self-government" established in Art. 3, paragraph 1 of the EHMS. The provision states: "*local self-government means the right and real possibility for local communities to regulate and manage within the law, under their responsibility and in the interest of their population, an essential part of public affairs.*". In Art. 3, para. 2 of the ECHR lists non-exhaustively the means and forms through which the said right could be exercised. Such can be, for example, councils or assemblies, where emphasis is placed on the need for their members to be elected through free, secret, equal, direct and general elections. EHMS also allows the said councils or assemblies to have executive bodies that should be responsible for their activities. Next, according to the ECHR, the right to local self-government could also be exercised through citizens' assemblies, referenda or any other form of direct citizen participation, when permitted by law. The aim of the European legislator is to guarantee to the highest degree the effective activity of the local self-government, at the center of which should be the citizens. Contemporary trends in the development of urbanism and management in large cities are traced, with examples from France (Paris), Greece (Athens), Hungary (Budapest) being given.

§.3. Local and regional self-government in the politics of the European Union

In Bulgarian legal doctrine, the creation of this permanent European body is defined as " *an expression of the evolution of the role and competences of local and regional EU authorities and "a response to the desire to bring the decision-making process closer to citizens through regional and local participation in the European integration process."* (Zh. Popova, Law of the European Union).

§.4. Legal framework of local self-government and regional division in selected European cities

For the purposes of the dissertation, it is a contribution to indicate real examples and good practices from the management of some large cities in Europe - Paris (France), Athens (Greece), Budapest (Hungary). Without claiming that the administrative-territorial structure, the constitution of bodies and the management decisions therein are necessarily directly applicable, the study of management models provides ideas and good examples that can be borrowed and adapted.

Conclusion and proposals for improving the legal framework

The analysis of the legal framework of local self-government in the cities with regional division in the Republic of Bulgaria and the accumulated practice of the Constitutional Court and the courts gives reason to make the following proposals *de lege ferenda*:

1. To introduce a legal definition of the term "large cities" in the sense of Art. 135 of the Constitution.

2. To unify the legal regime for the territorial division of all cities in the country with a population of more than 100,000 people (if it is assumed that this is a large city in the sense of the KRB), by adopting a new normative act, i.e. this division should be carried out by law not only for the Metropolitan Municipality and for cities with a population of more than 300,000 people, as regulated in Art. 13, paragraph 1 of Administrative Territorial Organization Act, and for cities with a population of over 100,000 people.

3. In the event that the proposal from item 1 is adopted, a new procedure for the constitution of districts in cities with a population of more than 100,000 people will be introduced in the legislative act, and the decision-making authority regarding the creation of new districts in large cities will be assigned of the National Assembly, after applying one of the legally established forms for citizens' participation in local government, i.e. by reporting the result of the declaration of will of the population in the respective city. I believe that the specified order does not represent an unjustified interference in local self-government, as it protects the interests of citizens to a higher degree, overcoming the imperfection of the current legal system, which is expressed in the possibility of blocking a decision in the specified sense by the Municipal Council and the Mayor of the municipality.

4. While maintaining the established prerequisites for the creation of districts in large cities under Article 12 of Administrative Territorial Organization Act, to the requirement for the presence of a population of more than 25,000 people in the relevant district, it should be explicitly added that the specified statutory minimum for the number of the population includes only the persons who have a permanent address in the relevant area.

5. To regulate explicitly the legal premises, under which the procedure for creating districts in the country's major cities should be carried out.
6. To restore the legal possibility to constitute regional councils in cities with regional divisions in the country.
7. In the event that the proposal under item 6 is accepted, the regional councils should be constituted as supporting bodies of the municipal council and the regional mayor, i.e. partially with their status under the repealed legislation. The powers of the regional councils, however, should be expanded, compared to their regulation in the repealed legislation, by including in their competence the resolution of issues related to the daily needs of the population at their place of residence, with the administrative service of individuals and legal entities, with the beautification and sanitization of the territory of the region, as well as issues from the field of education, ensuring a clean environment, transport, etc. questions.