RESUMES

of the works following defending doctoral thesis

Scientific work (publication) № 1: Monograph

Petar Iliev. ***Principles of Organisation and Functioning of the Judicial Power in the Bulgarian State of Law,*** **ISBN 978-619-7295-21-4, Sofia, publishing house RA Euromedia OOD, 2023**

Main goals of the study:

The first goal of the monograph is to provide, for the first time in the Bulgarian legal science, a comprehensive and complete study, analysis and systematization of all important principles of organisation and functioning of the judicial power in the light of their relations and interactions with the substantial elements, aspects and dimensions (both material and formal) of the Bulgarian state of law.

The second goal of the monograph work is, for the first time in the Bulgarian legal science, to classify the above-mentioned principles into two large groups - primary (original) and secondary (derivative), as well as to clarify the criteria for this distinction.

The third goal of the work is to present and discuss the principles of organisation and functioning of the judicial power both in the context of their internal relations and correlations, as well as through the prism of the principles and values of the Bulgarian state of law.

The fourth goal of the monograph study is to upgrade, enrich and further develop the existing scientific knowledge (in both theory and practice) on the legal matter examined in the context of the jurisprudence of the Constitutional Court and judicial practice.

Main directions of the study's tasks:

First direction of the scientific tasks: thorough and detailed systematization, analysis and clarification of all important principles of organisation and functioning of the judicial power in the Bulgarian state of law; justification and clarification of the leading role and fundamental importance of the principle of independence of the judicial power within the system of principles of organisation and functioning of the judicial power in the Bulgarian state of law.

Second direction of the scientific tasks: to study in detail the lines dividing the judicial power and other powers in the context of the classical theory and the modern doctrine for separation of powers and their connection to the constitutional principle of the state of law; to justify the law-enforcement purpose and legal essence of the judicial power and its interaction with the elements of democracy and state of law; to outline the main characteristics of the organization and functioning of the judicial power in the context of the Bulgarian state of law.

Third direction of the scientific tasks: to elucidate the roles, place and functions of the independent „subsystems“ ("microsystems") within the macrosystem of the judicial power in the Bulgarian constitutional model – the differences between the original intent of the Bulgarian Constitution's creators and the dynamics of the subsequent regulative amendments; to outline the specifics and the differences in the legal methods, the legal approaches and legal means, used by each of the subsystems of the judicial power in the Republic of Bulgaria and the different intensity (degree of legal influence) of their law-enforcement activities; to clarify the distinctions and interactions between the subsystems of the court and the prosecutor's office in the Bulgarian constitutional model; analysis of the constitutional role of the court as a guarantor for the protection of the fundamental rights, freedoms and legal interests of the legal subjects, as well as for the legally compliant implementation of the public power by the institutions; examination of the constitutional functions of the prosecutor's office in the state of law; clarification of the constitutional place and role of the investigative bodies in the judicial power of the Republic of Bulgaria; outlining the distinctions between the various law-enforcement activities of the court, the prosecutor's office and the investigative bodies; substantiation of the conclusion, that within an organisational and structural aspect, the courts are the foundation and the spine of the judicial power, while in a functional aspect their activity are its most important and decisive manifestation.

Fourth direction of the scientific tasks: systematization and analysis the elements and particularities of the legal essence of the administration of justice in the Bulgarian constitutional model and their connections with the constitutional principle of the state of law; the substantiation of the conclusion, that in the Bulgarian state of law the leading function of the court is one of administering justice, which is one of the fundamental functions of exercising state authority; the formulation of the scientific thesis, that the judicial power exercises the function of administering the law (judicial) function of the state and the need of guarantees for its independence arises therefrom.

Fifth direction of the scientific tasks: analysis of the relationship between the terms "administration of justice" and "justice" in the legal doctrine and jurisprudence; outlining the lines of distinction between the court's law-enforcement (judicial) function and its other types of functions.

Sixth direction of the scientific tasks: review and analysis of the jurisprudence and case law, and on these grounds, justification of suggestions for reasonable changes to the regulatory framework, governing the organization and functioning of the judicial power.

Seventh direction of the scientific tasks: an analysis, from the perspective of the public law, of the state of law principle in the Bulgarian model of government and clarification of its connection and interactions with the principles of organisation and functioning of the judicial power in the Republic of Bulgaria.

Relevance and significance of the problems:

The contradictions in the jurisprudence of the Constitutional Court and the case law of the Bulgarian courts of justice on these matters, especially in the course of the last two decades, create problems, which pose many and important questions to the scientific community, the administration of justice and the legislation, and these matters require answers corresponding to the necessity of solving the problems. Another problem is the lack of comprehensive and new monographic studies on these matters. The identified problems are important prerequisites to the need of the present independent, thorough, comprehensive and complete monographic study on the jurisprudence-oriented subject.

The problems are current and significant, and are in an area of great interest to science and the judicial practice.

The relevance of the problems studied in the work stems from the new trends and changes in the system of the judicial power, the dynamics of the conditions of its functioning, the development of legal relations within its subsystems and its external interaction with the other branches of power. All this has a significant impact on the overall organization and functioning of the judicial power, which is an institutional guarantee for the rights and freedoms of citizens, and this leads to the justification of critical views towards part of the existing constitutional jurisprudence and case law, as well as towards some aspects of the regulatory framework.

The significance of the problems investigated in the present work stems from the constitutional place and human rights role of the judicial power in the configuration of the division of powers in the light of the particularities of the Bulgarian state of law and the need for a thorough study of the problems accumulated over the years for the purpose of reaching good options for their rational solution.

The relevance and significance of the monograph study also derive from the need for a new development of scientific knowledge on this extremely important topic and the aspiration to formulate suggestions for the purpose of solving the problems, as well as the justification of suggestions *de lege ferenda* for changes and improvement of the regulatory framework and the argumentation of recommendations for increasing the effectiveness of the judicial power and its subsystems in the context of their connections and interactions with the principles and values of the state of law, as well as its material and formal dimensions.

Subject of the study:

All important principles of organization and functioning of the judicial power in the light of their connections and interactions with the substantial elements, aspects and dimensions (material and formal) of the Bulgarian state of law have been researched, analyzed and systematized.

The above principles have been classified into two large groups - primary (original) and secondary (derivative), and the criteria for this distinction have as well been clarified.

The principles of organisation and functioning of the judicial power both in the context of their internal relations and correlations, as well as through the prism of the principles and values of the Bulgarian state of law, have been presented and discussed.

The problematic legal issue, which is the subject of the study, is examined in the context of the jurisprudence of the Constitutional Court and the case law.

All important principles of the organization and functioning of the judicial power in the Bulgarian state of law have been systematized, analyzed and clarified; the leading role and fundamental importance of the principle of independence of the judiciary within the system of principles of organization and functioning of the judiciary in the Bulgarian state of law is substantiated and clarified.

The lines dividing the judicial power and other powers in the context of the classical theory and the modern doctrine for separation of powers and their connection to the constitutional principle of the state of law have been studied; the human rights purpose and legal essence of the judicial power and its interaction with the elements of democracy and state of law have been justified; the main characteristics of the organization and functioning of the judicial power in the context of the Bulgarian state of law have been outlined.

The roles, place and functions of the independent „subsystems“ ("microsystems") within the macrosystem of the judicial power in the Bulgarian constitutional model have been clarified, outlining the differences between the original intent of the Bulgarian Constitution's creators and the dynamics of the subsequent regulative amendments; the specifics and the differences in the legal methods, the legal approaches and legal means, used by each of the subsystems of the judicial power in the Republic of Bulgaria and the different intensity (degree of legal influence) of their law-enforcement activities have been specified; the distinctions and interactions between the subsystems of the court and the prosecutor's office in the Bulgarian constitutional model have been clarified; the constitutional role of the court as a guarantor for the protection of the fundamental rights, freedoms and legal interests of the legal subjects, as well as for the legally compliant implementation of the public power by the institutions has been analyzed; the constitutional functions of the prosecutor's office in the state of law have been examined; the constitutional place and role of the investigative bodies in the judicial power of the Republic of Bulgaria has been clarified; the distinctions between the various law-enforcement activities of the court, the prosecutor's office and the investigative bodies have been outlined; the conclusion has been justified, that within an organisational and structural aspect, the courts are the foundation and the spine of the judicial power, while in a functional aspect their activity are its most important and decisive manifestation.

The elements and particularities of the legal essence of the administration of justice in the Bulgarian constitutional model and their connections with the constitutional principle of the state of law have been systematized and analyzed; the conclusion, that in the Bulgarian state of law the leading function of the court is one of administering justice, which is one of the fundamental functions of exercising state authority, has been substantiated; the scientific thesis, that the judicial power exercises the function of administering the law (judicial) function of the state and the need of guarantees for its independence arises therefrom, has been formulated.

the relationships between the terms "administration of justice" and "justice" in the legal doctrine and jurisprudence are analyzed; the lines of division between the court's law-enforcement (judicial) activity and its other types of activities are outlined.

The following primary principles of organization and functioning of the judicial power in the light of the principles and values of the Bulgarian state of law were examined and researched: 1. Independence of the judicial power; 2. Legality as a direct manifestation of the general constitutional principle of the state of law (rule of law); 3. The budgetary independence of the judicial power as a financial basis of its independence; 4. Administration of justice in the name of the people; 5. Constitutional and legal basis of the courts of justice; 6. Court instances; 7. Appealability of judicial acts; 8. Constitutional inadmissibility of extraordinary courts of justice; 9. General clause for judicial appealability of administrative acts; 10. Equality of the parties in the judicial process; 11. Competitiveness in the judicial process; 12. Establishing the truth (truth in the course of the process); 13. Publicity in the consideration of cases; 14. Motivation of justice-administering acts; 15. Right to defence; 16. Access to court and obligation to consider and resolve claims; 17. Participation of jurors in the administration of justice in the cases determined by law; 18. Independence (autonomy) in decision-making and organizational independence (including in personnel matters); 19. Independence in the matters of real estate management of the judicial power; 20. Mandates of the three senior magistrates (the President of Supreme Court of Cassation, the President of Supreme Administrative Court and the Chief Prosecutor), the administrative heads in the system of the judicial power, the elected members of the Supreme Judicial Council and the members of the Inspectorate of the Supreme Judicial Council; 21. Unification of the legal status of magistrates (judges, prosecutors and investigators); 22. Non-substitutability of magistrates under certain conditions; 23. Functional immunity of all magistrates.

The following secondary principles of organization and functioning of the judicial power in the light of the principles and values of the Bulgarian state of law were examined and researched: 1. Political neutrality; 2. Impartiality; 3. Incompatibility with certain positions and activities; 4. Inner conviction of the magistrates; 5. Official secret; 6. Fairness of the process; 7. Reasonable duration of the process (when considering and deciding the cases); 8. Official start; 9. Competitive principle in the appointment, promotion and transfer of magistrates; 10. Random selection through the electronic distribution of cases and files according to the order in which they were received; 11. Bulgarian language in which proceedings are to be conducted before the bodies of the judicial power; 12. Notification by the magistrates to the bodies of the judicial power, which have the power to refer cases to the Constitutional Court; 13. Right to appeal to the European Court of Human Rights in Strasbourg.

A review and analysis of the jurisprudence of the Constitutional Court and the case law has been made, and on this basis suggestions for reasonable changes to the regulatory framework regulating the organization and activity of the judicial power have been substantiated.

A very thorough and systematic analysis has been made of the principle of the state of law in the Bulgarian model of government and its connections and interactions with the

principles of organisation and functioning of the judicial power in the Republic of Bulgaria have been elucidated in detail.

Structure of the study:

In terms of structure, the monograph consists of an introduction, four chapters, which have in turn been divided into paragraphs and a conclusion. It has a table of contents and a bibliographic reference, containing the specified literature in Bulgarian and literature in foreign languages. There is also a substantial number of footnotes.

The first chapter is entitled "The Independent Judiciary In The System Of Separation Of Powers" and includes the following three paragraphs: § 1. „Lines Of Distinction Between The Judicial Power And The Other Powers In The Context Of The Classical Theory And The Modern Doctrine For Separation Of Powers“; § 2. „The Independent "Subsystems" Within The Framework Of The Macrosystem Of The Judicial Power In The Bulgarian Constitutional Model - The Original Intention Of The Creators Of The Constitution Compared To The Dynamics Of Legislative Amendments“, and § 3. „The Independent Administration Of Justice As A Functional Quintessence And Proper Functioning Of The Judicial Power In The Classical Model Of Separation Of Powers“, the latter having in turn three sub-paragraphs: 3.1. „Legal Essence Of Administration Of Justice“, 3.2. „Relationships Between The Terms "Administration Of Justice" And "Justice" In The Public Law Doctrine And The Jurisprudence Of The Constitutional Court“ and 3.3. "Distinctions between the law-administering (judiciary power) function of the court and its other types of functions“.

The second chapter is entitled "Primary Principles Of Organization And Functioning Of The Judicial Power" and it encompasses twenty-three paragraphs: § 1. „Independence Of The Judicial Power“; § 2. “Legality As A Direct Manifestation Of The General Constitutional Principle Of The State Of Law (Rule Of Law)“; § 3. “The Budgetary Independence Of The Judicial Power As A Financial Basis Of Its Independence“; § 4. “Administration Of Justice In The Name Of The People“; § 5. “Constitutional And Legal Basis Of The Courts Of Justice“,§ 6. “Court Instances“; § 7. “Appealability Of Judicial Acts“; § 8. “Constitutional Inadmissibility Of Extraordinary Courts Of Justice“; § 9. “General Clause For Judicial Appealability Of Administrative Acts“; § 10. “Equality Of The Parties In The Judicial Process“; § 11. “Competitiveness In The Judicial Process“; § 12. “Establishing The Truth (Truth In The Course Of The Process)“; § 13. “Publicity In The Consideration Of Cases“; § 14. “Motivation Of Justice-Administering Acts“; § 15. “Right To Defence“; § 16. “Access To Court And Obligation To Consider And Resolve Claims"; § 17. “Participation Of Jurors In The Administration Of Justice In The Cases Determined By Law“; § 18. “Independence (Autonomy) In Decision-Making And Organizational Independence (Including In Personnel Matters“); § 19. “Independence In The Matters Of Real Estate Management Of The Judicial Power“; § 20. “Mandates Of The Three Senior Magistrates (The President Of Supreme Court Of Cassation, The President Of Supreme Administrative Court And The Chief Prosecutor), The Administrative Heads In The System Of The Judicial Power, The Elected Members Of The Supreme Judicial Council And The Members Of The Inspectorate Of The Supreme Judicial

Council“; § 21. “Unification Of The Legal Status Of Magistrates (Judges, Prosecutors And Investigators)“; § 22. “Non-Substitutability Of Magistrates Under Certain Conditions“; § 23. “Functional Immunity Of All Magistrates“.

The third chapter is entitled "Secondary Principles Of Organization And Functioning Of The Judicial Power" and it encompasses thirteen paragraphs: § 1. “Political Neutrality“; § 2. “Impartiality“; § 3“. "Incompatibility With Certain Positions And Activities“; § 4. “Inner Conviction Of The Magistrates“; § 5. “Official Secret“; § 6. “Fairness of the Process“; § 7. “Reasonable Duration Of The Process (When Considering And Deciding The Cases)“; § 8. “Official Start“; § 9. “Competitive Principle In The Appointment, Promotion And Transfer Of Magistrates“; § 10. “Random Selection Through The Electronic Distribution Of Cases And Files According To The Order In Which They Were Received“; § 11. “Bulgarian Language In Which Proceedings Are To Be Conducted Before The Bodies Of The Judicial Power“; § 12. “Notification By The Magistrates To The Bodies Of The Judicial Power, Which Have The Power To Refer Cases To The Constitutional Court“; § 13. “Right To Appeal To The European Court Of Human Rights In Strasbourg".

The fourth chapter is entitled "The State of Law Principle" and it contains four paragraphs: § 1. "The State Of Law Concept In Legal Theory And Constitutional Jurisprudence And Its Connection To The Principle Of Separation Of Powers"; § 2. „The Principle Of The State Of Law And Permissible State Intervention In The Life Of Civil Society And The Private Property Sphere“; § 3. „The State of Law Principle As A System Of Public Law Requirements Towards Laws And The Legislative Regulation Of Public Relations“; § 4. „The State Of Law And Proportionality When Limiting The Exercise Of Rights“.

Methods used in the study:

Analytical method (method of analysis); synthetic method (method of synthesis); teleological method; axiological (value-based) method; organizational method; functional method; normative and analytical-normative method; historical method; sociological method; institutional method; structural-functional method; case studies method (presentation, review and critical analysis of specific decisions); comparative legal method; method of studying national legal systems through examples; mixed method.

Study results:

In the Bulgarian legal science, the present scientific work is the first monograph that comprehensively and completely researches, analyzes and systematizes all important principles of organization and functioning of the judicial power in the light of their connections and interactions with the substantial elements, aspects and dimensions (material as well as formal) of the Bulgarian state of law.

Furthermore, for the first time in the Bulgarian legal science, the above-mentioned principles in the present work are classified into two large groups - primary (original) and secondary (derivative), and the criteria for this distinction are clarified.

For the first time in the Bulgarian legal science, the principles of organization and functioning of the judicial power are presented and discussed in an independent monographic study, both in the context of their internal relationships and correlations, as well as through the prism of the principles and values of the Bulgarian state of law.

The monographic study builds on, enriches and further develops the existing scientific knowledge (both theory and practice) on the examined legal matter.

In its entirety the topic is a scientific novelty and its very detailed and thorough development based on the jurisprudence of the Constitutional Court and the case law can be acknowledged as a scientific contribution.

The problems under consideration go beyond the subject of constitutional law and have a complex and are of an interdisciplinary character with a predominantly public law focus, which is why substantial knowledge from various areas of law was applied in the work on the problem (constitutional law, administrative law, financial law, civil procedure, criminal procedure, administrative procedure, general theory of the state, general theory of law, organization of human rights institutions, structure of the judicial power, philosophy of law, sociology of law, etc.) and ability to reach a complex understanding in the presentation of the developed matters.

A useful particularity of the work is the discussion and systematization of the views and concepts in a large number of judgments of the Constitutional Court of the Republic of Bulgaria and the case law, as well as the connections between them, and this is a source of valuable information and conclusions about essential aspects of the matters under consideration.

The scientific approach used in the monograph study is a thorough presentation and critical analysis of the most important judgments concerning that particular legal sphere issued by the Constitutional Court, Supreme Court of Cassation, the Supreme Administrative Court, the Bulgarian courts of justice, the Court of Justice of the European Union, the European Court of Human Rights under the form of *case studies* (studies of specific cases) clearly illustrates the practical application of the presented theses, the justified conclusions and the conclusions reached. The latter are a good and stable basis for the recommendations and suggestions *de lege ferenda* formulated in the work for relevant amendments and additions to the current legal framework and the improvement of judicial practice as well as the constitutional jurisprudence.

From a jurisprudential perspective and in the context of the principles, the values, material and formal dimensions of the Bulgarian state of law, the scientific work defines and clarifies important legal concepts pertaining to the legal matter relating to the principles of organization and functioning of the judicial power.

A legal characterization of the principles of organization and functioning of the judicial power is made and the particularities and the aspects of their legal essence are presented and analyzed, as well as the connections, interactions and patterns between them, examined through the prism of the aspects and particularities of the Bulgarian state of law.

The comparative legal and historical reviews, and analyses of individual legal institutes, concepts and essential aspects of the legal system of the principles of organization and functioning of the judicial power are useful both in terms of the science as well as the case law.

Where necessary, the work has analyzed the different concepts and positions in the Bulgarian legal science on the issues related to these principles in a doctrinal, historical, axiological, teleological and practical context.

The criticism of certain aspects of the constitutional jurisprudence and judicial practice, as well as the conclusions regarding the existence of problems are important prerequisites for the formulation of the recommendations and suggestions *de lege ferenda* for changes in the existing legal system of the principles of organisation and functioning of the judicial power, while the aspiration of the monograph study is for these recommendations and suggestions to be always developed in the light of the established principles and values of the Republic of Bulgaria's state of law.

The systematization and classification of the principles of organization and functioning of the judicial power in the present scientific work present a unified and comprehensive theory of the said principles.

The study justifies conclusions regarding the existence of important patterns and essential internal dependencies, determining the interactions and correlations between all these principles in the context of a complete and unique "cybernetic" system, which all of them together build up as an organic whole and indivisible unity.

The detailed, integral and critical analysis of the case law of the Constitutional Court, the Supreme Court of Cassation, the Supreme Administrative Court, the Bulgarian courts of justice, the Court of Justice of the European Union, the European Court of Human Rights makes the study useful for legal practitioners.

The conclusions and suggestions formulated in the monograph are a valuable basis for the future development of legal studies and scientific discussions on this legal matter and are of help to the law-making and regulation-making practice.

A thesis is formulated, that the organization and the activity of the judicial power in the Republic of Bulgaria is based on certain principles, which represent an achievement of the constitutional, democratic state and state of law and have a direct connection to, and interaction with its particularities, aspects and values. The three legal essences of these principles are formulated in theoretical aspect: firstly, they are independent legal principles; secondly, they are prerequisites, conditions and guarantees for ensuring the independence of the judicial power; thirdly, they are manifestations and forms of the independence of the judicial power in the light of the Bulgarian state of law.

Although in the context of the Bulgarian state of law, some of the principles of organization and functioning of the judicial power are regulated in the Constitution while others are regulated in the laws, some are primary (original) and others are secondary (derivative), while all of them together in their capacity as a single, harmonious and complete system, are of great importance for ensuring and stabilizing the independence of the judicial power.

The thesis has been justified that the primary (original) principles of organization and functioning of the judicial power are of basic and fundamental importance, represent essential constitutional regulation and boast a high degree of legal abstraction and stability, while the secondary (derivative) principles derive from the primary and are their detailed further development, objective manifestation and subsequent form of concretization. The conclusion is presented that between the primary and secondary principles there is a genetic (organic) and functional relationship in the context of the complete and specific "cybernetic" system that all of them together form and which is part of the larger, integrating them in its very self, system of principles values and rules of the Bulgarian state of law. Therefore, it is necessary to examine and analyze the principles of organization and functioning of the judicial power in the Republic of Bulgaria in the light of their structural connections, relevant correlations and dynamic interactions with the elements and specifics of the Bulgarian state of law. The following important legal pattern has been formulated – the principles of organization and functioning of the judicial power both strengthen and ensure the principles and values of the state of law, and on the other hand – the principles and values of the state of law fulfil the role of guaranteeing mechanisms, ensuring the principles of organization and functioning of the judicial power, as well as the full and effective implementation of its functions and powers.

The main criteria for outlining the lines of distinction between the judicial power and the other powers in the state of law have been established and formulated in a theoretical aspect:

First, the conclusion is justified that unlike the legislative and executive powers, which are political in nature, the judicial power has human rights protection nature by purpose and is legal by nature. The judicial power has a constitutional mission to protect the legal order, the justice (i.e., the material dimensions of the state of law) and legal security (i.e. the formal dimensions of the state of law), and to restore balance and harmony in the legal sphere by preventing, suppressing and eliminating any and every form of lawlessness, misuse or arbitrariness.

Secondly, the thesis is defended, that it is inadmissible for the judicial power to reflect and represent third party interests or be a conduit of any interests, unlike the legislative and executive power, which always (directly or indirectly) express, represent and protect certain public interests and this is something rather normal for them in their existence as two political authorities.

Third, the understanding has been justified that in the continental European legal family, the bodies of the judicial power, as a general principle, do not have law-making powers, unlike the other two powers (legislative and executive), whose institutions carry out important law-making functions (in the Republic of Bulgaria, the National Assembly adopts primary legal norms, contained in the laws, and the executive authorities create secondary legal norms, embodied in the regulations). The legal doctrine sometimes shares the notion of the normative nature of the consistent judicial practice and interpretative acts of supreme courts, noting their important role as "secondary" or "indirect" sources of law.

Fourthly, it has been established that the bodies of the judicial power, as a rule, act upon referral and do not exercise their powers on their own initiative (this applies in full only to the

courts of justice, while as for the other bodies of the judicial power – the case law reveals a number of particularities and exceptions), unlike the legislative and executive powers, which usually take the initiative for the adoption of acts or for the performance of actions, without the need to be deliberately referred to.

A conclusion has been justified that in a broader macroaspect, the judicial power is an instrument for the achievement of socially necessary, publicly useful, legally admissible and reasonable goals, intended to satisfy the inherent human strive for a good and fair life. The judicial power applies the objective law to resolve a specific legal dispute wherein rights and legal interests are affected (threatened or violated) and by ruling on the legal dispute and giving legal protection in a specific case, the judicial power restores the balance in the legal sphere and in a more general aspect protects the principles and values of the state of law.

The conclusion has been reached that on the one hand, without an independent judicial power there can be no state of law or rule of law. This is because the independent judicial power is one of the most substantial elements of any state of law, including the Bulgarian one. On the other hand, all the other elements of the state of law, to one degree or another (directly or indirectly) also interact along certain lines with the independent judicial power in the context of the dynamic balance of the complete and comprehensive system of the separation of powers.

The conclusion has been justified that each subsystem of the judicial power carries out a certain type of human rights protection activity, which differs from the activities of the other subsystems. The various subsystems of the judicial power carry out different and specific types of human rights protection activities and use different legal means, legal methods and legal approaches and because of this legal pattern, the intensity (the degree of legal impact) of individual human rights protection activities is different and is differentiated based on certain criteria.

One of the most important conclusions in the study is that in an organizational and structural aspect the courts of justice are the basis and foundation of the judicial power, and in a functional aspect their activity is the most important and decisive manifestation of the Judicial power. The legal protection, provided by the court, has the greatest legal intensity and the highest legal effect, and the means, methods and means used by the courts of justice are also characterized by an extremely high degree of legal impact. An understanding is maintained that in a constitutional state and one under the rule of law, only the court is the independent, objective, neutral and impartial human rights institution, which is expected to clearly and categorically resolve the legal dispute in compliance with the law.

Another important conclusion is that the administration of justice is the functional core, the fundamental quintessence, and the traditional and essential function of the judicial power. The concentration of the administration of justice in the courts of justice is an essential characteristic of the modern state of law. The elements and the specifics of the legal essence of the administration of justice in the Bulgarian model of state government should be considered and studied precisely in the context of their connections with the principles and values of the state of law.

A conclusion is justified that in the light of the decisions of the Constitutional Court, the two concepts "administration of justice" and "justice" are used as interchangeable, equivalent and coincidental in their content in the current Constitution of 1991, insofar as according to the constitutional jurisprudence, the administration of justice is carried out only by courts of justice, while the non-judicial and especially administrative bodies cannot administer justice.

The thesis for the existence of a strong connection between the principle of independence of the judicial power, the guarantees for its provision and justice as the most essential and decisive functioning of the Judicial power is justified. An understanding is shared that in case judicial functions are assigned to bodies outside the judicial power, this will constitute a change in the form of state government.

The conclusion is substantiated that it is constitutionally permissible for the law to assign the resolution of the legal dispute to an independent body outside the system of the courts of justice, but only on the condition that the final decision can, if the interested parties so request, be taken by a court referred by appeal, that is, in a state of law the last and decisive resolution regarding the protection of the rights and freedoms of legal subjects always belongs to the court.

The opinions of the Constitutional Court regarding the non-jurisdictional activities of the court of justice have been reviewed and systematized: cases of so-called „disputed and undisputed administration of civil relations". In such cases the Constitutional Court also uses the term „administration in court form" – court activity, which falls into the category of non-fundamental (other than administration of justice) activities. These are proceedings, where no legal disputes are being resolved, but assistance is provided to the legal subjects in the course of exercising their personal or proprietary rights. On the other hand, however, the judicial administration does not exhaust the hypotheses of an activity, which does not have a law-administering nature, assigned to the courts of justice by law.

The conclusion has been justified that the independence of the judicial power is a basic prerequisite for its authority and prestige. The thesis is formulated that the state of law cannot exist without the independence of the judicial power, and the independence of the judicial power is impossible without the values, principles and elements of the state of law. A systematization of the various types of judicial independence is given - organizational (structural), functional, institutional (organic), procedural, administrative, personnel-related, financial (budgetary), and it is established that all of them are only separate aspects and manifestations of the single principle of the judicial power's independence. The position is supported that from the point of view of the values and the principles of the state of law, the latter play the role of specific functional guarantees, ensuring (directly or indirectly) the independence of the judicial power in its capacity as a protector of human rights and legal authority within the system of the modern separation of powers. The view that the independence of the judicial magistrate refers not only to the application of the substantive law, but also to the application of the procedural law and covers the consideration of the evidence, has been justified. A statement is formulated that in the Republic of Bulgaria the independence of the judicial power is inextricably linked to the form of state government and is an irrevocable

component thereof, i.e., the principle of independence of the judicial power in the Bulgarian constitutional model and the guarantees for this independence must always be examined in the context of a "cybernetic" system of principles of state administration.

The conclusion has been justified that the principle of independence of the judicial power can be fully realized solely in the context of its systematic and fundamental connection to the principle of legality, which is the most important manifestation of the constitutional principle of the state of law ("rule of law"). This is because there is a direct and primordial connection between the principle of legality and the principle of independence of the judicial power in the light of the values and the specifics of the state of law ("rule of law").

Based on the jurisprudence of the Constitutional Court, a principle position has been derived and accepted that the formal dimension of the state of law (principle of legal certainty) contains in itself a requirement for legal stability, legal certainty, legal predictability and justified legal expectations.

The view that the budgetary independence of the judicial power is the principle guaranteeing the sound financial basis of all other forms of independence of the Judicial power is justified. The thesis is presented that the lack of financial security of the judicial power creates the danger of blocking or hindering its activity, and this impact negatively the fundamental rights of citizens, such as the right to defence. The latter proves the organic and functional connection between the budgetary independence of the judicial power and all the institutional and legal mechanisms for protecting the rights, freedoms and legal interests of citizens and legal entities within the system of the Bulgarian state of law. Arguments have been provided in defence of the fundamental concept that the human rights function of the state of law has its stable financial guarantees and material- and resource support in the budgetary independence of the judicial power, while the balanced and stable budget of the judicial power leads to a balanced and stable exercising of the function of human rights protection of the constitutional and democratic state of law.

A position is expressed that the constitutional formula for the implementation of justice in the name of the people is a reflection of the old classical maxim that the state judicial function must be exercised in the name of the bearer of sovereignty, since this legitimizes, in a democratic context, the entire judicial power in the state of law.

In the context of the principle of constitutionality and legality of the courts of justice a proposal de lege ferenda has been justified that it would be good and useful to consider and develop in the most effective way possible the future creation of commercial courts of justice and appellate commercial courts of justice as a completely new pillar of specialized justice (commercial), which new courts of justice are to take over the resolution of most or more the substantial categories of commercial disputes, as well as other merchant-related disputes, and as a third (cassation) instance in the field of commercial justice the important role of the Supreme Court of Cassation should be preserved. The judicial districts of the commercial courts of justice may coincide with the judicial districts of the district courts of justice. The de lege ferenda proposal details the different categories of legal disputes that are to be resolved by the first-instance commercial courts of justice, if they are eventually created.

The above proposal and recommendation *de lege ferenda* for the establishment of commercial courts of justice will require the relevant rational and adequate amendments and additions to the Judicial Power Act, the Commercial Act, the Cooperatives Act, the Civil Procedure Code, the Commercial Register and Non-Profit Legal Entities Act and others. The possible future legal establishment of first-instance commercial courts of justice will require the creation of appellate commercial courts of justice, which will act as a second (appeal) court in relation to the first-instance judicial acts issued by the commercial courts of justice. With this possible future transformation and new configuration of the commercial justice system, it will be reasonable and useful for the Supreme Court of Cassation to retain its powers as a third instance court in commercial law disputes in the Republic of Bulgaria and to rule as a cassation instance in relation to second instance cases (appeal) judicial acts of the future appellate commercial courts of justice.

The principle of the various instances has been considered as the next important principle of organization and functioning of the judicial power and that the instances are conditioned by the different levels ("floors") within the structure of the judicial power. The conclusion was made that the three-instance proceedings can be accepted as a principle in the civil and criminal proceedings, while the two-instance proceedings in the administrative court proceedings, from which, however, exceptions are possible in some categories of cases, and in this regard, considerations that may be relevant are of the nature of legitimate and significant procedural values, such as the speed of administration of justice, procedural discipline and procedural economy, as well as relieving the relevant supreme court from excessive workload, so that it can fully exercise its powers of supreme judicial supervision for the precise and uniform application of laws in the relevant type of justice. Based on the case law of the Constitutional Court, the position is presented that a special law can limit the instance division of the judicial proceedings, without, however, being able to eliminate access to a court, because access to a court must always be available and the right to judicial protection must always be guaranteed regardless of the possibility of limiting the number of judicial instances in the judicial proceedings.

The thesis was made that the principle of appeal is logically and immanently connected with the principle of the instances. Furthermore, the appealability is related to the right to defence, because the right to appeal is part of the right to defence and is its manifestation. In the light of the jurisprudence of the Constitutional Court, the opinion is presented that even if, in certain cases, the legislator has the power to exclude the appeal of certain judicial acts, this exclusion will not be unconstitutional provided it is justified by, and on the grounds of the existence of legitimate and significant constitutional goals or higher values taking precedence, and provided the principle of proportionality is respected, as well as the formal and material dimensions of the constitutional principle of the state of law.

Arguments have been provided in support of the position is argued that the principle of the constitutional inadmissibility of extraordinary courts of justice consists in the prohibition of the existence of courts of justice, which in a historical context were created in the past under extraordinary and exceptional socio-political circumstances and the law applied by them was different from the generally established substantive and procedural law applied by the other courts of justice (general and specialized).

In the context of the decisions of the Constitutional Court, the general clause for judicial appeal of administrative acts has been examined in detail as a principle that is a manifestation of the human rights protection function of the state of law, wherein the administration of justice is an instrument for guaranteeing legality in the sphere of public administration. In the light of the jurisprudence of the Constitutional Court, the conclusion is justified that in exceptional cases the legislator can limit the judicial appealability of a separate type of administrative acts without falling within the scope of fundamental rights or the principle of the state of law, provided that the exceptions can be justified and warranted only by utmost important and legitimate interests of citizens and society or higher constitutional values.

The position has been argumented that the principle of equality of the parties in the judicial process is a manifestation of the general constitutional principle of equality in rights and equality before the law is an inherent element of the broader concept of a fair trial. Despite that the parties in the judicial process have different procedural roles and different procedural qualities, they must have equal procedural rights, as well as equal opportunities for exercising their procedural rights. All conditions being equal, similar cases should be treated alike. The bodies of the judicial power must apply the laws precisely and equally to all persons and cases they apply to.

The thesis that the principle of competition is immanently connected with the principle of equality of the parties in the process is supported. Competition requires each party to have the right to be heard by the court before the passing of any act affecting its rights and interests. The parties must state the facts on which they base their claims and submit evidence in support thereto. In this sense, the court must guarantee the parties the opportunity to make factual statements, to formulate their requests and provide evidence. The court should provide an opportunity for the parties to familiarize themselves with the requests and arguments of the opposing party, with the subject of the case and its progress, as well as to express an opinion thereon.

The constitutional principle of establishing the truth in the process, which is primarily connected with the requirement that the acts be based on the actual facts relevant to the case, is examined. The truth of the facts must be established according to the procedure and with the means provided for such purpose by the relevant procedural law. The court is obliged to provide the parties with an opportunity, and assist them in establishing the truth.

A basic principle in the implementation of the judicial power is that every legal entity has the right to a public trial and the thesis is substantiated that the principle of publicity in the process strengthens the democratic legitimacy of the bodies of the judicial power and their acts, and thereby, the public trust in them. This principle is also connected to the obligation of the bodies of the judicial power to ensure the openness, accessibility and transparency of their actions. Arguments have been provided in favour of the conclusion that publicity in court proceedings ensures the impartiality and legality of the court's actions, as well as the truth of the factual statements of the parties and guarantees fairness and trust in justice, and hence the functioning of the court in accordance with the principle of the state of law. The position that the limitation of publicity in the judicial process is permissible only in case it is justified by the achievement of a legitimate goal and is proportional to this goal, has been derived.

The importance of the principle of motivating the acts of administration of justice is manifested in several main areas found in the judgments of the Constitutional Court: the position is presented that the provision of motives is a prerequisite for public trust in the court and reinforces the persuasiveness and logical consistency of the judgments, judgments and conclusions of the court; the opinion is expressed that the judicial acts that are not yet final (subject to judicial review) and their motivation are of great importance to the effective and full exercise of the right to appeal; the view that judicial acts and their motives are public property of the entire nation in its capacity as sovereign, is upheld.

In the light of the case law of the constitutional jurisdiction, the understanding that the basic, universal, personal and procedural right to protection is an essential principle on which the judicial power is built and functions, is stated. It is not an absolute right and its exercise can be limited in the name of higher constitutional values and significant and legitimate interests of the democratic society, by implication in compliance with the principle of the state of law and its formal and material dimensions, as well as the requirement for proportionality. The right to judicial protection is in direct relation with the prohibition for denial of justice.

Based on the constitutional jurisprudence, the thesis is supported that the principle of access to court and justice in the state of law is one of the objectified forms reflecting the broader principle of justice of judicial procedures and that in the state of law, when it concerns administering justice, access to court must always be ensured. The conclusion has been made that there are organic and functional connections between access to court and justice, on the one hand, and the right to legal protection and justice in the process, on the other hand. The thesis has been expressed that in case a state, through its legislative or executive power, unjustifiably takes away or limits citizens' access to the judicial power, then such a state is no longer a state of law.

Arguments have been provided in support of the position that the principle of participation of jurors in the administration of justice in the cases defined by law is an important condition for the democratic and legitimate exercise of administering justice by the judicial power. The understanding has been shared, that the Bulgarian judicial model of juries is closer in its specifics to the Schofen model of juries.

The principle of autonomy (independence) in decision-making and organizational independence (including in personnel matters) of the judicial power is one of the most important guarantees for all forms of independence of the Judicial power. The Supreme Judicial Council has a key role in this area.

The independence of the judicial power requires that it be provided with sufficient material resources, including real estate properties granted by the state (principle of independence in the management of the real estate properties of the judicial power), in order to perform its constitutional functions without danger of its independence being affected.

The thesis has been justified that the mandate principle of the three high magistrates (the President of Supreme Court of Cassation, the President of Supreme Administrative Court and the Chief Prosecutor), the administrative heads in the system of the judicial power, the elected members of the Supreme Judicial Council and the members of the Inspectorate of the Supreme Judicial Council guarantee the stability and independence of the bodies of the

magistracy, as well as the legal status of the persons holding positions in these bodies. The democratic state under the rule of law does not allow indefiniteness in the exercise of state power, because indefiniteness destroys the principle of popular sovereignty. The view is expressed that the mandate principle in the judicial power is a constitutional and legal means for democratic constitution, organization and functioning of the magistracy bodies. Arguments have been stated in support of the thesis that the mandate principle is a guarantee instrument, strengthening the democratic legitimacy of the judicial power and ensuring independence, consistency, stability, efficiency and continuity within the bodies of the judicial power and their functioning.

The principles of unifying the legal status of the magistrates (judges, prosecutors and investigators), their irreplaceability under certain conditions and their functional immunity are guarantee mechanisms, ensuring their independence, impartiality and the free formation of their inner conviction based on the law and the collected evidence only.

The principle of political neutrality of the magistrates is also one of the forms of existence of the fundamental principle of the judicial power's independence, and at the same time represents a prerequisite and guarantee for this same independence, as well as for their impartiality and the free formation of the internal conviction of the magistrates on the grounds of on the law.

The thesis is developed that the principle of impartiality of the magistrates also results from the requirement for their independence, a manifestation of this same independence, but an imperative guarantee mechanism ensuring the free formation of their inner conviction. Furthermore, the impartiality is a strong guarantee for justice, the establishment of the truth, and also ensures the principles of equality and competition of the parties in the process, but at the same time is derived from them.

The principle of incompatibility of the magistrate functions with external positions and activities, is one of the most important guarantees for the independence, impartiality and inner conviction of judges, prosecutors and investigators, and hence for the competitiveness and equality in the process, as well as for justice and establishment of the truth.

There is a direct and strong connection between the independence of the judicial power and the impartiality of the magistrates, on the one hand, and the principle of free formation of their inner conviction, on the other hand. The conclusion has been justified that independence and impartiality guarantee inner conviction, which in turn ensures the full realization of the first two values and at the same time is an important form of their objectification.

The thesis has been justified that the matter of the protection of official secrecy as a principle in the magistracy is an important guarantee for the independence of the judicial power and for the compliance with the principle of separation of powers, and hence for the effective protection of the rights and legal interests of the parties in the process, the free formation of inner conviction and the establishment of truth.

The important conclusion was made that the principle of justice in the judicial power and in the process is an essential manifestation of the material (substantive) dimension of the

state of law principle ("state of justice"). The thesis has been justified that the requirement for a fair trial has a sound relationship with the principles of competition and equality of the parties in the process, the right to defence, as well as with quick access to court and resolution of the case in reasonable time.

Arguments have been provided in support of the position that the principle of a reasonable time in the consideration and resolution of cases is a manifestation of the principle of legal certainty, expressed in legal stability, legal certainty, legal predictability and justified legal expectations. In the context of the case law of the Constitutional Court, legal certainty is the formal dimension of the broader constitutional principle of the state of law (rule of law) - the so-called formal state of law.

A conclusion is reached a legal pattern is established, that the principle of the official start is in directly proportional dependence to the principle of establishing the truth in the process (the more the official start is strengthened, the more the establishment of the truth is strengthened) and in inversely proportional dependence with the principle of competition and equality of the parties in process (as the more the official start is strengthened, the more the competitiveness and equality of the parties in process weakens).

The thesis is formulated that the competitive principle in the appointment, promotion and transfer of the magistrates is closely related to the principles of justice (material state of law), legal predictability and legal certainty (formal state of law), equality and competition.

The conclusion is reached that the principle of random selection through electronic distribution of cases and files according to the sequence of their arrival guarantees the independence of the bodies of the judicial power and the impartiality of the magistrates, and hence the fairness of the process.

Arguments have been stated in support of the thesis that the principle of using the Bulgarian language in proceedings before the bodies of the judicial power is a manifestation of the principles for truthfulness and accessibility, on the one hand, and the right to legal protection and access to justice, on the other hand, and moreover, this principle is also an expression of unitary nature of the Republic of Bulgaria's form of government, as well as of the principle of popular sovereignty.

The principle that the magistrates are obliged to notify the bodies in the judicial power, which have the power to refer to the Constitutional Court, regarding any contradiction between the law and the Constitution, is one of the important forms of protection of the supremacy of the Constitution, and hence the protection of the principles of the state of law and the rights and freedoms of citizens.

The thesis has been justified that the right to appeal to the European Court of Human Rights in Strasbourg is a manifestation of the fundamental right to protection and at the same time it is an expression of the complex interactions between the domestic and international law, and the commitment of the sovereign nation-state to the international democratic community and its supranational legal and institutional order.

All principles of organization and functioning of the judicial power must be considered and applied in the light of the fundamental constitutional principle of the state of law in the Republic of Bulgaria. The state of law concept in the legal theory and the constitutional jurisprudence must always be interpreted and examined in the light of its immanent connection with the principle of separation of powers.

Based on the jurisprudence of the Constitutional Court, the conclusion was drawn that the principle of the state of law always puts on the agenda the current and essential question of permissible state intervention, also including through the bodies and instruments of the judicial power, in the life of the citizen society and the sphere of private property and it is justified that the principle of the formal state of law, related to the requirement for legal certainty and legal predictability, is manifested in the prohibition of the state legislatively reorganizing any already existing legal relations in a way that harms, affects or limits the rights or legal status of entities who have already acquired legally the corresponding rights or legal status according to the previous legal framework of the relevant public relations.

The principle of the state of law manifests itself as a system of public law requirements towards the laws and the legislative regulation of public relations. This is especially important for the judicial power, which is called upon to apply the laws when resolving specific legal disputes. In the light of the case law of the Constitutional Court, the view is justified that the internal contradictions, collisions, ambiguities, uncertainties and inaccuracies in the law, when they are substantial enough and call into question the suitability of the law to regulate the social relations that it is called upon to settle, violate the principle of the state of law and render such a law unconstitutional. Such a situation also affects the human rights protection activities of the bodies of the judicial power.

In the light of the constitutional jurisprudence, the conclusion was drawn that proportionality (symmetry) in limiting the exercise of rights is an essential manifestation and element of the constitutional principle of the state of law and this important point must always be taken into account by the bodies of the judicial power. The thesis is presented that any limitation in the exercise of a right must be suitable, adequate, as soft and sparing as possible and at the same time a sufficiently effective means for achieving the constitutionally justified, legitimate and significant goal, and this poses the important question of finding the correct measure and reasonable balance in the activity of the judicial power in the protection of rights and freedoms. The conclusion was drawn that the restriction of a right is permissible only when this exception does not affect the constitutionally recognized fundamental rights and freedoms of citizens or when another, higher, but explicitly constitutionally proclaimed value, must be protected as a priority. The principle of proportionality is regulated in the Treaty on the European Union, according to which the content and form of the functioning of the Union cannot exceed what is necessary to achieve the objectives of the treaties. This principle applies both to the bodies of the European Union, as well as to the member states, including the bodies of the judicial power of the member states.

Scientific work (publication) № 2: Study

Petar Iliev. *Supreme Judicial Council – structure, composition, organization and powers.* – In: *Constitutional Studies 2016. 70 Years of Republic*, ISBN 978-954-07-4556-5, Sofia, University publishing house „St. Kliment Ohridski", 2018, 98-125.

Goal and tasks of the study:

By systematizing and analyzing the important elements and essential specifics of the structure, composition, organization and powers of the Supreme Judicial Council ("SJC"), the scientific work has the purpose and tasks to build on the existing scientific knowledge about the Supreme Judicial Council and be useful for training in public law academic disciplines, as well as to give a new impulse for an impartial and independent scientific discussion on a rational, logical and positive legal basis regarding the issues under consideration.

Subject of the study, relevance and significance of the problems:

The conflicting scientific views and positions on these issues, especially in recent times, are a problem that raises many and important questions within the legal theory and the case law and these questions require answers corresponding to the need to solve the problem. Another problem is the lack of comprehensive scientific studies on these issues. The identified problems are prerequisites to the need for thorough and novel scientific research on the subject, on a positive legal basis.

The problems are currently relevant and significant, and are in an area of significant interest for the science and the case law. The relevance of the problems investigated in the work arises from the new trends related to the Fifth Amendment to the Constitution of the Republic of Bulgaria and the changes in the positive legal regulation of the SJC, the conditions of its activity, and this inevitably affects the aspects and the specifics of the structure, composition, organization and powers of the SJC in its capacity as the highest administrative and staff authority within the judicial power. The significance of the problems investigated in the work derives from the constitutional place and important role of the SJC, the constitutional and legal aspects of its organization and activity, as well as from the need for a thorough investigation of the problems and finding options to solve them. The relevance and significance of the work also derive from the need to develop scientific knowledge on this public law topic, especially in the context of the aim to formulate recommendations and suggestions for increasing the effectiveness of the organization and the activity of the SJC.

The important legal-normative elements, particularities and aspects of the structure, composition, organization and powers of the Supreme Judicial Council have been studied in the latter's capacity as the highest administrative and personnel body of the judicial power, whose mission is to be the body that represents the judicial power in its relations with the other authorities, ensures and defends its independence, determines the composition and the organization of the work of the bodies of the magistracy and ensures financially and technically their activity, without intervening in the exercise of their human rights protection functions.

Methods used in the study:

Analytical method (method of the analysis); synthetic method (method of the synthesis); teleological method; organizational method; functional method; normative and analytical-normative method; institutional method; structural-functional method; mixed method.

Study results:

The thesis has been derived and justified that the SJC has been granted important in their nature, wide in scope and completely real powers in the sphere of administration, organization, staffing and budgeting within the judicial power. The view is upheld that the main constitutional mission of the SJC is to be the body that represents the judicial power in its relations with the other authorities, ensures and defends its independence, determines the composition and the organization of the work of the courts of justice, the prosecutor's offices and investigative bodies and provides financial and technically for their activity, without intervening in the exercise of their human rights protection functions.

In a positive legal aspect, the principles on the basis of which the SJC should carry out its activities, are presented: the principles of legality, independence, proportionality, truthfulness, equality, independence and impartiality, speed, accessibility, publicity and transparency, consistency and predictability.

Arguments have been provided to support the position that within the context of the configuration of the separation of powers the SJC performs important representative functions on behalf of the judicial power and this is confirmed by the established legal position that in exercising its powers, it interacts with the President of the Republic of Bulgaria, the National Assembly, the Constitutional Court, the Council of Ministers, the Minister of Justice and the administration of the Ministry of Justice, as well as with other central and territorial bodies of the executive power, and also cooperates with the state organizations of judges, prosecutors and investigators, court officials, with other non-profit legal entities operating in the field of justice.

All significant functions and powers of the SJC plenum, as well as its work procedure, have been examined and systematized from a positive legal point of view. The specifics in the structure, the organization and the configuration of the entire composition of the SJC and the way of its formation are presented and explained – the election of the "parliamentary" quota, the election of the "judicial" ("professional") quota and the appointment by the president of the three senior magistrates who are members of the SJC by right, the composition of its two collegiums, their activities, as well as their functions and powers according to their professional focus.

The thesis has been justified that currently the structure of the SJC corresponds with the principle of bicameralism (presence of two collegiums), which guarantees the separate administrative management of the judges, on the one hand, and of the prosecutors and investigators, on the other hand.

The well-argumented opinion is presented that the SJC's parliamentary quota is the main conduit of political influence inside the judicial power. The SJC is "politicized" above all through the personal substrate of the parliamentary quota chosen by the National Assembly, which is a political institution, and thereby these political impulses are reflected and reproduced

again and again along the vertical axis at all levels of the judicial power. The political nature of the appointing body colours the selection procedure itself with different political nuances, and hence creates prerequisites for a corresponding orientation of the selected candidates. The conclusion has been justified that the qualified majority introduced by the constitutional legislator does not however fundamentally change the practically political election of the SJC members, as included in the parliamentary quota, because the National Assembly is a political institution consisting of political representatives and the parliamentary election procedure itself is also largely political in nature.

A view is expressed that the principles of motivating the nominations, publicity and transparency, rivalry and competition, as well as assessment of the qualities of the candidates in the parliamentary procedure for choosing the members of the SJC from the parliamentary quota, should not be overestimated, because the case law proves that sometimes the application of these principles is only nominal and formal, and this, in turn, in certain cases renders meaningless the good intention of the legislator, who introduced these principles with constructive intentions.

The requirements towards the candidates for elective members of the SJC, elected by the National Assembly, as well as the rules regarding the proposing the candidates, have been systematized. The specifics of the main phases of the work procedure of the parliamentary commission are presented, which examines the suggestions made and listens to the candidates, and based on practical data, the conclusion is drawn and substantiated that the practice of the commission so far shows that to a large extent and in many aspects the commission's report is formal, being mainly reduced to a retelling of the relevant legal provisions and use of general expressions. From here, the conclusion can be drawn that the content of the commission's reports needs to be more concrete and definite. In the context of the practical aspects of the parliamentary procedure for the selection of the members from the "political" quota in the SJC, the conclusion is drawn and it is recommended that the opinions and questions from the non-governmental, academic and scientific sectors should be given more thorough attention, and not only considered to be pure formally.

The requirements towards the candidates and to the propositions made for the electable members of the SJC by the judges, prosecutors and investigators have been clarified, and the phases of the procedure have been examined: phase for admissibility of propositions, phase for hearing candidates out, phase for opinions and questions to candidates and phase for voting on propositions. The SJC members from the judicial power quota are directly elected by secret ballot. The thesis has been justified that the principle of direct election of the SJC members from the quota of the judicial power guarantees that between the vote of the electing magistrates and the result of the election there are no intermediate and mediating elements breaking or distorting the vote. The conclusion was drawn that the secret ballot, in turn, should ensure a real opportunity for the electing magistrate to freely express his inner volitional decision in accordance with his convictions, conscience and judgment.

The specifics related to the mandate of the elected members of the SJC and the grounds for their early dismissal, the requirements for incompatibility with positions and activities and the rules governing their remuneration are presented.

Special attention is paid to the systematization and clarification of the specifics of the procedure of contesting the decisions of the SJC plenum and collegiums.

Important aspects of the manner in which the commissions, elected by the SJC and assisting its work, were discussed. Special emphasis is placed on the study of the important parts of the organization, composition and activity of the Commissions on attestation and competitions at the two colleges of the SJC.

Scientific work (publication) № 3: Study

Petar Iliev. *The Judicial Power In The Configuration Of The Separation Of Powers.* – In: *Constitutional Studies 2014-2015. 25 Years of Democratic Transformation in the Republic of Bulgaria*, ISBN 978-954-07-4298-4, Sofia, University publishing house „St. Kliment Ohridski", 2017, 395-417.

Goal and tasks of the study:

In the light of the critical analysis of the views in the constitutional jurisprudence and the concepts in the legal doctrine to upgrade and enrich the scientific knowledge about the aspects and the specifics of the legal nature and purpose of the judicial power, the criteria for its distinction from the other authorities, the connections and the interactions of the judicial power with the principle of separation of powers, the organizational and functional specifics of its internal subsystems and the distinctions between them, the fundamental role of the courts of justice as the basis of the judicial power, presentation and systematization of the theoretical views for the elements of the administration of justice as the quintessence of the judicial power, presentation of the theoretical understandings for the connections between administration of justice and justice, initial attempt for systematization of the principles of the judicial power in the context of review and analysis of positive legal regulations, the constitutional jurisprudence and legal theory. The other goal of the scientific research is to support the education of students in the specialty "Law" in the academic disciplines "Organization Of Human Rights Institutions" and "Organization Of The Judicial Power", as well as in the academic disciplines studying procedural law branches, through a new systematization and further development of scientific knowledge on the issue under consideration as a new beginning of future legal research on this extremely important legal matter.

Subject of the study, relevance and significance of the problems:

The aspects and the specifics of the nature and purpose of the judicial power as the third main function in the classic triad of the separation of powers have been researched, clarified and systematized; distinctions and differences between the judicial power and the other powers; structure of the subsystems of the judicial power and the differences in their human right protection activities and the means, methods and methods used - the differences between the intention of the constitutional legislator and the understanding of the National Assembly, reflected in the current regulations and specifically in the Judicial Power Act; the courts of justice as the basis of the judicial power; main aspects and particularities of the administration of justice and the relationship between the concepts of "administration of justice" and "justice".

An initial attempt was made to systematize the judicial power principles in the context of review and analysis of positive legal regulations, the constitutional jurisprudence and legal theory, and efforts were made to establish new lines of scientific basis for future more detailed, complex and comprehensive studies on this legal matter.

The contradictory constitutional and legislative practice on these issues, especially in the last two decades, is a problem that poses many and important questions before the public legal sciences, the administration of justice and law-making, and these questions require answers corresponding to the need to solve the problem. Another problem is the lack of comprehensive and new scientific research on this issue. The established problems are important prerequisites to the need for a thorough scientific study on the subject, giving a new impetus to the future scientific works in this sphere.

The problems are both relevant and significant, and are in an area of great interest to science and the judicial practice. The relevance of the problems investigated in the work stems from the new dynamics of changes in the system of the judicial power, the conditions it functions in, the legal relations in its subsystems and its interaction with the other authorities, and this has a significant impact on the organization and the implementation of the functions of the judicial power, and this leads to the justification of critical views towards a on part of the existing constitutional and judicial jurisprudence as well as some aspects of the regulatory framework. The significance of the problems studied in the work stems from the constitutional place and the essential role of the judicial power within the configuration of the separation of powers and the need for a thorough study of the problems and finding options for their resolution. The relevance and significance of the work stem also from the need for the development of new scientific knowledge on this topic and the formulation of suggestions for solving the problems, improving the legislation and justification of recommendations for increasing the effectiveness of the judicial power, its subsystems and the interaction between them.

Methods used in the study:

Analytical method (method of analysis); synthetic method (method of synthesis); teleological method; axiological (value) method; organizational method; functional method; normative and analytical-normative method; historical method; sociological method; institutional method; structural-functional method; mixed method.

Study results:

The examined problems exceed the subject of constitutional law and have a complex interdisciplinary nature with a predominantly public law orientation, which is why the study of the problem used knowledge in various legal branches and the ability for complex evaluation in the presentation and analysis of the questions asked.

The thesis for the human rights protection purpose and the legal essence of the judicial power has been derived and substantiated. The conclusion was drawn that it was intended as a necessary barrier against excessive interference of the other two powers in the life of civil society, as well as an institutional guarantee for the rights and freedoms of the individual. The

view is presented that the judicial power was entrusted with the task of protecting the legal order by neutralizing any manifestation of tyranny, despotism, abuse and arbitrariness.

The criteria for distinguishing between the judicial power and the other powers in the configuration of the division of powers have been formulated and the differences have been systematized.

The judicial authority applies objective law to resolve a specific legal dispute wherein the rights and legitimate interests of certain legal entities (individuals, legal entities or the state) are affected (threatened or violated). By resolving the legal dispute and by providing legal protection in each separate case, the judiciary power restores the legal order, while in a broader aspect, defends such values as the rule of law, legal security and legal stability.

The position is defended, that the will of the constitutional legislator was to have three clearly distinguished subsystems in the judicial power (courts of justice, prosecutor's office and investigative bodies), and not two (courts of justice and prosecutor's office, part of which should be the investigation body), as is currently the current regulatory framework in the Judicial Power Act. Although the three subsystems, conceived by the creators of the Constitution, carry out human rights protection activity, the important conclusion is argumented that these are three different types of human rights protection activity, and this preconditions and necessarily requires the existence of three relatively independent and institutionally separated subsystems of human rights protection bodies within the judicial power itself, and namely – the subsystem of judicial authorities, the subsystem of prosecution authorities and the subsystem of investigative authorities. Considering that prosecution bodies and investigative bodies carry out two different types of human rights protection activities, it is neither logically, nor rationally justified for them to be placed together within the same subsystem. The prosecutor's office and the investigation bodies separately use different legal means, different legal methods and different legal approaches, and, furthermore, the intensity (degree of legal impact) of their law-enforcement activities is different and should be differentiated.

The conclusion was drawn that the human rights protection activity of the courts of justice differs fundamentally from that of the prosecution and investigative bodies and this is because the legal protection provided by the subsystem of the judicial bodies has the greatest legal intensity and the highest legal effect. The means, methods and methods used by the courts of justice are also characterized by an extremely high degree of legal impact. Arguments have been provided to support the position that of all bodies of the judicial power, only the courts of justice belong to the category of decisive human right protection institutions. In a comparative legal theoretical context, the conclusion is formulated that the administration of justice is the functional core, the fundamental quintessence and the traditional and essential function of the judicial power.

The thesis has been justified that the administration of justice, organization and activity of the judicial power are based on certain principles and an initial attempt has been made for their systematization in a synthesized form and in the light of their positive legal regulation, specifying the main lines of their legal support. The fundamental thesis that the leading and most important of all these principles is the independence of the judicial power has been proven.

Scientific work (publication) № 4: Study

Petar Iliev. ***The Bar Association as an Institutional Guarantee of Fundamental Rights.*** **– In:** ***Constitutional Studies 2012-2013. Constitutionally Legal Protection of Fundamental Rights and Freedoms,*** **ISBN 978-954-07-3786-7, Sofia, University publishing house „St. Kliment Ohridski", 2014, 275-305.**

Goal and tasks of the study:

For the first time in the Bulgarian legal theory to systematize, classify and clarify the important aspects and the specifics of the legal essence of the attorney-at-law profession and the lawyer profession as an institutional guarantee for fundamental rights in the light of the constitutional jurisprudence, the case law and the practice of other state authorities, as well as to present, systematize, clarify and analyze on a legal-normative basis the important principles in practicing the lawyer profession and the specifics in the lawyer's relations with clients, the court and fellow lawyers.

Subject of the study, relevance and significance of the problems:

The conflicting views and positions in the legal theory and the collisions in law enforcement practice on the Bar Association issues, especially in the last two decades, is a problem that gives rise to multiple important questions in the legal doctrine, the administration of justice and rule-making and these questions require answers corresponding to the need to solve the problem. Another problem is the lack of complete and modern scientific research on this issue.

The problems are currently relevant and significant, and are in an area of significant interest for the science and the case law. The identified problems are prerequisites to the need for thorough and detailed scientific research on the subject. The relevance of the problems studied in the work stems from the new trends and changes in the relations related to the Bar Association and the exercise of the lawyer profession, and this inevitably affects the organization and activity of the Bar Association and the lawyers, and leads to the justification of new views towards the existing constitutional jurisprudence, court practice and positive legal regulation. The significance of the problems investigated in the work stems from the important place and public role of the Bar Association as a constitutional and human rights protection institution, which is an essential institutional guarantee for the fundamental rights of citizens and for the principles and values of freedom and democracy.. Hence the need for a thorough study of the above-mentioned questions and finding options for solving the problems. The relevance and significance of the work stem from the need for development of novel scientific knowledge on this topic, especially in the context of the academic discipline "Organization of Human Rights Institutions" and the introduction of a new academic discipline "Bar Association" in the "Law" specialty.

A systematization and classification of the main principles in the exercise of the lawyer profession was made on a positive legal basis. The constitutional aspects and the legal essence of the Bar Association and the legal profession have been studied and analyzed; the Bar

Association as a human rights protecting- and constitutional institution; exercising the lawyer profession as a constitutional activity for legal assistance and protection of the freedoms, rights and legitimate interests of legal entities; relevant decisions of the Constitutional Court, Supreme Court of Cassation, the Supreme Administrative Court and The Commission for the Protection of Competition; particularities and basic rules governing the lawyer's relationship with clients; particularities and basic rules governing the lawyer's relationship with the court; particularities and basic rules governing relations between lawyers.

Methods used in the study:

Analytical method (method of analysis); synthetic method (method of synthesis); teleological method; axiological (value) method; organizational method; functional method; normative and analytical-normative method; sociological method; institutional method; structural-functional method; method of case studies (presentation, review and critical analysis of specific decisions); mixed method.

Study results:

The topic examined in the context of the analysis of the problems and the views reflected in the relevant decisions of the Constitutional Court, a number of court decisions and the case law of the European Court of Human Rights in Strasbourg, is a scientific novelty in the constitutional theory and its very detailed development can be usefully adopted in the light of the training in the academic discipline "Organization of Human Rights Institutions", which is traditionally accepted as part of the constitutional and legal sciences, as well as a support for the introduction of a new academic discipline "Bar Association" in the training for the "Law" specialty.

For the first time in the constitutional sciences, an attempt was made for a systematic and thorough examination of the constitutional status and constitutional significance of the lawyer profession and the exercise of the lawyer profession as a type of constitutional activity. The most important aspects and particularities of the Bar Association as a constitutional human rights institution and public law corporation with known public law functions have been clarified, while the study on these issues was carried out in the context of the case law of the Bulgarian Constitutional Court and the European Court of Human Rights in Strasbourg.

In the study, the existing scientific knowledge on this important matter is upgraded and can be presented as a special part of the subject of the "Organization of Human Rights Protection Institutions" academic discipline. In this way, favourable conditions are gradually and consistently created for the future introduction of a new academic discipline "Bar Association" in the study of the specialty "Law" and the study can be accepted as a suggestion in this direction.

The studied issues exceed the constitutional and legal matter and are of a complex interdisciplinary nature. In the development of the issues, considerable knowledge in various legal fields and complex evaluation were applied, while keeping the aim to achieve a synthesis in the presentation of the developed issues.

Based on a study of the applicable regulations and analysis of the constitutional jurisprudence, the important conclusion is substantiated that the Bar Association is by its nature

a constitutional and human rights protection institution, and its activity is a constitutional activity. The lawyer profession is the only free legal profession to which the Constitution has dedicated provisions for, and this in itself proves the thesis of the great public as well as constitutional importance of this profession. The position is expressed that the Bar Association, along with the various aspects of the human rights functions it performs, is one of the institutional guarantees for ensuring the principle of the separation of powers, as well as for protecting the distinction between the political state and the civil society.

The thesis is formulated that the Bar Association is a constitutional institution, which in its essence is the "transmission" mediating the relationship between the legal subjects, on the one hand, and the entire complex of procedural mechanisms and legal regimes intended for the protection of their rights and freedoms. The constitutional activity carried out by the Bar Association is defined as highly qualified professional legal assistance, whereby the legal entities navigate more adequately and more easily through the "labyrinth" of normative instruments and procedural rules related to the exercise and protection of their rights and legitimate interests. The conclusion was drawn that thanks to this assistance, the legal entities get the opportunity to exercise their rights more effectively and more fully, thus realizing their full legal, social and economic potential.

In the light of the constitutional jurisprudence and the case law of the European Court of Human Rights in Strasbourg, arguments have been provided to support the thesis that the Bar Association is a public law corporation with mandatory membership of lawyers and has known public law functions for organization, control and disciplinary power over lawyers.

Based on the presentation and analysis of the relevant case law of the Supreme Court of Cassation, the fundamental conclusion is substantiated that the functions of the Bar Association are strongly related to the constitutional right to defence under Art. 56 of the Constitution, and that the lawyer profession regardless of the established principle of self-support, according to which it generally speaking resembles economic activity, has a specific regulation from the point of view of management and subject scope.

Based on some decisions of the Commission for the Protection of Competition ("CPC"), it is concluded that Article 2, para.1 of the Bar Association Act, which stipulates that the lawyers activity is carried out at the expense of the latter, means that for the activities performed the lawyer must always receive payment, i.e., the lawyer activity is always remunerative.

Again, in the light of the case law of the CPC, the conclusion is substantiated that due to the remunerative nature of the lawyer activity, it represents, in essence, an independent economic activity. It falls within the scope of the concept of "economic activity" derived from the case law of the Court of European Communities, insofar as it represents a regularly performed or job-based paid activity "provided by free professions regardless of the goals and results of the activity". The fact that lawyers and law firms are treated as taxable legal entities comes in support of this definition of the lawyer activity. Arguments have been presented to support the view that law firms are "enterprises" in the sense of the Protection of Competition Act and in their capacity as such carry out economic functioning of the territory of the Republic of Bulgaria. That is why the competition rules generally apply to them.

A thesis is justified on the grounds of the case law of the Supreme Administrative Court („SAC“) that the purpose of the Legal Assistance Act is to guarantee the equal access of people to justice by ensuring effective legal protection, with funds provided by the republican budget. The purpose of the norms is to create opportunities for all citizens, regardless of their financial status, to receive qualified legal assistance and protection before all courts, and this corresponds to the requirements of Art. 47 of the Charter of Fundamental Rights of the European Union and the principle of Art. 6 of the European Convention on Human Rights and Fundamental Freedoms ("ECHRFF").

Based on the relevant practice of the Supreme Administrative Court, the thesis was stipulated that the goals of the lawyer's activity are of public importance - assisting citizens and legal entities in the protection of their rights and legal interests, and the exercise of the lawyers profession is constitutional activity for legal assistance and protection of the freedoms, rights and legitimate interests of the legal entities.

In the context of the case law of the Supreme Administrative Court, the understanding is presented that in its various manifestations, the lawyer's activity is legislatively formulated as the protection of the rights and legal interests of his "trustees and clients", and when it is carried out before the court, this activity is defined as "representing and defending the trustees and clients". The view of the Supreme Administrative Court is presented, that the main, essential element of the right to defence is the right of citizens to protect their rights by using the assistance of a qualified defending person - a lawyer. It depends solely on the will of the citizen whether to take advantage of this constitutional right and entrust his defence to a lawyer. Based on the relevant provisions of the ECHRFF and the International Covenant on Civil and Political Rights, the conclusion was drawn that the lawyer can protect the rights and legal interests of a certain person only insofar as he is chosen by the same, insofar as he is entrusted with his trust by the free will and discretion of the latter.

On a positive legal basis, the aspects and the specifics of the basic principles in the exercise of the lawyer profession, as well as the specifics and the basic rules governing the relations of the lawyer with the clients, the relations of the lawyer with the court and the relations between the lawyers, have been systematized and clarified.

Scientific work (publication) № 5: Study

Petar Iliev. ***Constitutional And Legal Aspects Of The Right of Ownership In The Context Of The Jurisprudence Of The Bulgarian Constitutional Court.*** **– In:** ***Constitutional Studies 2012-2013. Constitutionally Legal Protection of Fundamental Rights and Freedoms,*** **ISBN 978-954-07-3786-7, Sofia, University publishing house „St. Kliment Ohridski”, 2014, 85-130.**

Goal and tasks of the study:

To research, analyze and systematize the most important constitutional aspects of the right to property in the light of the jurisprudence of the Bulgarian Constitutional Court.

Subject of the study, relevance and significance of the problems:

All significant constitutional aspects of the right of ownership have been studied and analyzed in the context of the relevant decisions of the Constitutional Court of the Republic of Bulgaria, which can be accepted as fundamental in the field of this specific legal matter. The contradictory case law of the Constitutional Court on these issues, especially in the course of the recent years, is a problem that raises many important questions before the scientific community, the administration of justice and law-making, and these questions require answers matching the need to solve the problem. Another problem is the lack of comprehensive or novel scientific research on this issue.

The problems are currently relevant and significant, and are in an area of significant interest for the science and the case law. The identified problems are the required prerequisites to the need for thorough scientific research on the subject. The relevance of the problems investigated in the work stems from the new trends and changes in the economic system, economic conditions and economic relations, and this inevitably affects the aspects and the specifics of the right of ownership, which is the basis for the entire economy, while this leads to the justification of critical views regarding the existing constitutional jurisprudence on the constitutional aspects of the right of ownership. The significance of the problems studied in the work stems from the important place and role of the right of ownership and its constitutional aspects and the need for a thorough study of the problems and identifying the options for their resolution. The relevance and significance of the work derive from the need to develop scientific knowledge on this topic for the purposes of increasing the effectiveness of the application of the constitutional aspects of the right of ownership in the case law.

Methods used in the study:

Method of case studies (presentation, review and critical analysis of specific judgments); analytical method (method of analysis); synthetic method (method of synthesis); teleological method; axiological (value) method; organizational method; functional method; normative and analytical-normative method; historical method; mixed method.

Study results:

The analysis of a large number of judgments issued by the Constitutional Court is a particular merit of the work, since this is a source of valuable information and conclusions regarding essential aspects of the issues under consideration. The used scientific approach of thorough presentation and critical analysis of the most important judgments of the Constitutional Court under the form of case studies clearly illustrates the practical application of the theses presented and the substantiated conclusions.

An upgrade and enrichment of the existing scientific knowledge on the issue under consideration in the light of the constitutional jurisprudence accumulated in recent years has been carried out, with the contradictions presented and the principle theses, conclusions and conclusions substantiated, which can be a good basis for overcoming the problems and restoring the harmony in the views of the National Assembly and the understandings of the Constitutional Court for the constitutional aspects of the right of ownership.

In the light of the decisions of the Constitutional Court, it has been clarified that in the exercise of private property, all legal entities are equal (Article 19, paragraphs 2 and 4 apply not only to citizens and legal entities, but also to the state and municipalities), systematization has been made of the distinguishing criteria in the constitutional jurisprudence, on the basis of which to determine which property should be considered private and which is public.

The opinion of the Constitutional Court is presented, that the exclusive ownership of the state on the properties specified in Art. 18, para. 1 of the Constitution, is public, i.e. it is a question of a special type of public state property and according to the Constitutional Court the other objects and resources that are owned by the state and municipalities are their public or private property depending on their type and purpose, and attention should be paid to two more characteristics of the objects that are the exclusive property of the state: these objects of public state property can belong only to the state and they are specified in the Constitution itself due to the importance they have, and thus their inalienability is ensured by a regulation of constitutional rank.

On the basis of the case law of the Constitutional Court, the thesis was formulated that the exclusive state property is the ownership over the objects and resources referred to in Art. 18, para. 1 of the Constitution, which is considered to be of national public law significance and universal utility, i.e. national public law significance and universal utility are the two main features that characterize the objects declared in art. 18, para. 1 of the Constitution as exclusive state property. The thesis is presented that the public legal significance can be determined in different ways and according to different criteria, for example depending on the economic value and characteristics of the object, its uniqueness, etc.

In the context of the decisions of the constitutional jurisdiction, the conclusion that the Constitution protects the ownership in the broadest sense of the word, i.e. all rights with economic value, also including the receivables. Thus, for example, a private law receivables cannot be declared to be state receivables. It can be compulsorily expropriated, but only under the conditions of Art. 17, para. 5 of the Constitution – existing state needs that cannot be met in any other way and following a prior and just compensation.

Based on a number of decisions of the Constitutional Court and with additional arguments, the fundamental conclusion is supported for the broader understanding of the Constitutional Court regarding the right of ownership under Art. 17 of the Constitution. Considering this view of the Constitutional Court, it could be added, outside the context of the above-mentioned decision, that the protection under Art. 17 of the Constitution covers receivables, rights in rem, as well as all other ownership rights. The view is upheld that it is unconstitutional for the state, through a law passed by the National Assembly, and not by agreement with any of the parties, to intervene ("step in") in an existing legal relationship between equal private legal entities, turning itself into a participant in this legal relationship and determining the conditions of its development. Arguments have been stated in support of the thesis that it is constitutionally inadmissible for the state to place itself in the position of a privileged party in the legal relationship, as through the law it creates an opportunity to fulfil the obligations it has entered into by offsetting its counterclaims.

In the light of the case law of the Constitutional Court, the view is presented that the exercise of the right of private ownership necessarily includes the procedure established by law for the collection of receivables. This equality, according to the Constitutional Court, also refers both to the material content of the right of ownership, as well as to the procedural guarantees for its protection – Art. 17, para. 1 of the Constitution and it is a necessary prerequisite for the participation of the state as an equal subject of economic relations in the conditions of a market economy. The Constitution excludes the possibility of creating a third, intermediate type of property - private property that benefits from the regime of public property. The constitutional principle of equality of holders of the right to private ownership excludes the creation of a special order other than the general order for the collection of private state receivables.

According to the jurisprudence of the Constitutional Court and in the context of clarifying the essence of ownership rights, the concept was formulated that the state cannot by law unilaterally change the terms of a contract it has concluded and it is inadmissible for it to create for itself by law any advantageous and privileged rules under any already concluded contracts.

The understanding of the Constitutional Court for the inapplicability of the method for compulsory execution against assets and sums of money that are property of the state can be reasonably criticized, because it is essentially in contradiction with the earlier jurisprudence of the Constitutional Court, which expresses the opinion that the exercise of the right to private property necessarily includes the procedure for the collection of receivables as established by law. It can be concluded that the newer jurisprudence of the Constitutional Court is in complete contradiction with the older, but correct views of the Constitutional Court itself. Therefore, the correct constitutional and legal understanding would be that it should in relation to state institutions it should be possible to enforce enforcement on funds, items and assets that are private state property and this conclusion stems from the fundamental constitutional difference and distinction between the private and public property of the state. In its recent case law, the constitutional jurisdiction incorrectly states that the actions of the financial authority of the debtor institution, as well as the mandatory intervention of the superior authority, can never be arbitrary. The last conclusion of the Constitutional Court does not correspond to the facts of the objective reality and the case law, when it is precisely the creditor with a judicially recognized claim who sometimes finds himself in the helpless legal position of a subject who "asks" the state institution to fulfil its obligation, and the state institution fails to perform - neither in the respective current financial year, nor in the following financial years. In this way the creditor's interests may remain neglected and seriously affected, and the arbitrariness of certain state institutions may become their constant practice precisely because of the lack of adequate and effective means by which the creditor can collect his receivables from the owing state institution.

Likewise, in its more recent jurisprudence, the Constitutional Court supports the controversial understanding that the introduction of a privileged procedural mechanism for collecting bank receivables (lightened, simplified, accelerated and cheaper procedural order) is entirely constitutionally compliant. Such decisions of the Constitutional Court create basis for a precedent that in the future may result in many problems to be solved by the legislator and the constitutional jurisdiction itself. There will come a time when, the constitutional principle

of equality between private legal entities in the course of implementation of economic activity will ask more questions than the Constitutional Court can give rational and logical answers to. In the future it will be increasingly difficult to present the contradictions in the case law of the Constitutional Court by the soft and delicate expression "development in the Constitutional Court's jurisprudence". Moreover, these contradictions sometimes affect the constitutional foundations of the economic system of the Republic of Bulgaria, the foundations of private property and the principles of the free market economy.

Scientific work (publication) № 6: Article

Petar Iliev. *Constitutional Foundations of National Security.* – In: *Modern Dimensions in European Education and Research Area*, ISSN 2367-7988, Volume 10/2022, Academic Publisher "Za bukvite – O pismeneh" University of Library Studies and Information Technologies, 2022., 212-219.

Goal and tasks of the study:

To systematize, clarify and analyze the aspects and the specifics of the constitutional foundations of national security in the light of the decisions of the Constitutional Court and the constitutional legal theory and to expand the scientific knowledge on this matter.

Subject of the study, relevance and significance of the problems:

Through the prism of the constitutional jurisprudence and the public law theory, the aspects and the specifics of the constitutional foundations of national security in its legal existence of a constitutional principle and constitutional value have been systematized, clarified and analyzed, while the connections and interactions between national security and other fundamental constitutional principles and values have been examined.

The development of the jurisprudence of the Constitutional Court on these issues, especially in the last twenty years, is a factor that raises many important questions before the scientific community, the case law and the rule-making and these questions require answers, and make relevant the need to solve the accumulated problems. Another problem is the lack of comprehensive and novel scientific research on this issue that examine this issue through the prism of the case law of the Constitutional Court and the constitutional doctrine. The identified problems are the required prerequisites to the need for thorough scientific research on the subject.

The problems are currently relevant and significant, and are in an area of significant interest for the science and the case law. The relevance of the problems studied in the work derives from the new geopolitical trends, transformations and crisis situations in the system of national security and the dynamics of the distribution of the powers of the highest institutions of power in the sphere of national security and the relations between them, and this logically affects the aspects and specifics of the constitutional foundations of national security. The significance of the problems studied in the work stems from the important place and role of the constitutional foundations of national security and the need for a thorough study of the problems

and finding the possibilities to solve them. The relevance and significance of the work derive from the need to develop scientific knowledge on this topic for the purposes of increasing the effectiveness of law enforcement practice in the field of the constitutional aspects of national security.

Critical views on the existing constitutional jurisprudence and law enforcement practice on the issues for the constitutional foundations of national security are substantiated in the legal theory.

Methods used in the study:

Method of case studies (presentation, review and critical analysis of specific judgments), analytical method (method of analysis); synthetic method (method of synthesis); axiological (value) method; organizational method; functional method; normative and analytical-normative method; institutional method; mixed method.

Study results:

A special feature of the work is the analysis of a significant number of Constitutional Court decisions, and this provides useful information that substantiates important conclusions regarding essential aspects of the issues under consideration. The applied scientific approach of thorough presentation and critical analysis of the most important decisions of the Constitutional Court under the form of case studies (presentation, review and critical analysis of specific decisions) clearly illustrates the practical application of the presented theses and the substantiated conclusions.

An upgrade and enrichment of the existing scientific knowledge on the issue under consideration in the light of the constitutional jurisprudence accumulated in recent years has been carried out, with the contradictions presented and the principle theses, conclusions and conclusions substantiated, which can be a good basis for overcoming the problems and restoring the harmony between the understanding of the government and the Constitutional Court regarding the constitutional aspects of national security.

A thesis has been substantiated that the national security is a constitutional value and has constitutional importance of principle in the legal system, the jurisprudence and the political practice of the democratic and law-abiding states. The thorough and comprehensive clarification of the legal essence and the content of the notion of „national security“ always requires an analysis from a constitutional law perspective and scientific study, using the methodology, instruments and scientific constructions of constitutional law science. This is so, because the primary legal foundations of the national security are established, settled, and guaranteed in all modern constitutions. Hence follows, that these foundations are above all constitutional.

Arguments have been provided to support the view that a strong and inseverable relation exists between the national security, on the one hand, and the other fundamental constitutional principles and values, such as the sovereignty, the separation of powers, the rule of law (supremacy of law), the independence and the territorial integrity of the state, the supremacy of the constitution, the fundamental principles of the political and economic system, the distinction

between the political state and the civil society, the fundamental rights and freedoms and their constitutional guarantees, on the other hand.

The position has been formulated , that one of the most important constitutional and institutional guarantees of the national security, the sovereignty, the independence and the territorial integrity of the state, are the armed forces. This proves the existence of a common constitutional and guarantee mechanism of institutional type, which ensures both the national security as well as the other close constitutional principles and values, it forms a uniform organic entity with and a sort of a cybernetic system. This understanding confirms the existence of stable constitutional foundations of the national security and reveals the broad constitutional context, within which the essence and the content of this value are to be analysed for the purposes of the scientific discourse and the practice of the constitutional law. This is so, because it is precisely the constitutional law that lays the fundamental legal foundations of the national security and settles its most important constitutional guarantees.

Arguments have been provided in support of the thesis that the constitutional law is the legal field, that transforms the national security in a value of higher order and bestows upon it constitutional meaning, constitutional content and constitutional rank. It is precisely the constitutional law that builds the entire complex system consisting of fundamental and most essential constitutional principles and values, an important part of which is also the national security. On the one hand, this proves in an indisputable and categorical manner the organic and functional relation between the national security and the constitutional law, while on the other hand it determines their common constitutional foundations, because ultimately both the national security and the constitutional law have a common legal foundation, found in the constitution as an Organic law and Supreme law.

The supreme institutions of the state authority (the parliament, government and head of state) possess a number of constitutional powers in the sphere of the national security and defence. The conclusion has been reached that the harmonious interaction, cooperation and coordination between these high-level state bodies is one of the guarantees for a meaningful and effective defence of the national security as a constitutional value.

The thesis is formulated that the planning, preparation, organisation and the financial provision in the sphere of the national security are likewise of utmost importance for the guaranteeing the other constitutional values and principles such as the sovereignty, the independence and the territorial integrity of the state, and thereby the life, health and fundamental rights and freedoms of the citizens.

Scientific work (publication) № 7: Article

Petar Iliev. ***The Ratification Powers Of The National Assembly And International Treaties In The Context Of The Jurisprudence Of The Constitutional Court of The Republic Of Bulgaria.*** **– In:** ***Constitutional Studies 2014-2015. 25 Years of Democratic Transformation in the Republic of Bulgaria*****, ISBN 978-954-07-4298-4, Sofia, University publishing house „St. Kliment Ochridski", 2017, 134-143.**

Goal and tasks of the study:

To systematize and analyze the ratification powers of the National Assembly and international treaties in the light of the jurisprudence of the Constitutional Court of the Republic of Bulgaria and to expand the scientific knowledge in this interdisciplinary legal sphere.

Subject of the study, relevance and significance of the problems:

The collisions in the jurisprudence of the Constitutional Court on the issues regarding the ratification powers of the National Assembly and international treaties create problems that pose questions to the public law theory and international practice, that require answers.

The relevance of the problems studied in the work stems from the new geopolitical challenges and global changes in the system of international relations and international public law as their regulator, and the dynamics of interactions between the domestic law and international public law. These factors also affect the case law of the Constitutional Court and sometimes lead to internal contradictions and ambiguities in it, which become grounds for critical positions.

The significance of the problems considered in the work derives from the important constitutional and public law role of the powers of the National Assembly in the field of international treaties and international relations of the Republic of Bulgaria.

The types of international agreements that are necessarily subject to ratification or denunciation by law have been studied; the matter whether, in addition to those listed in Art. 85, para. 1 of the Constitution international treaties, the National Assembly can also ratify and denounce others as well, has been clarified; the definition of "international treaty" in the jurisprudence of the Constitutional Court has been examined; the constitutional requirements for the precedence of international treaties over the norms of domestic legislation that contradict them are discussed; comments are made regarding the status and legal effect of international treaties ratified by Bulgaria before the entry into force of the Constitution; the important particularities of the requirement for limiting the principle of the direct effect of international treaties in the field of criminal law and the specifics of this type of international treaties are systematized; the essence of the denunciation of international agreements is clarified; the issues regarding the essence of the ratification law as a law in a formal sense, are discussed.

Methods used in the study:

Method of case studies (presentation, review and critical analysis of specific decisions), analytical method (method of analysis); synthetic method (method of synthesis); teleological method; functional method; normative and analytical-normative method; institutional method; mixed method.

Study results:

The examined problems exceed the limits of constitutional law and have a complex and interdisciplinary nature, which is why knowledge from various legal branches (constitutional law, public international law, general theory of the state) and an ability to form complex

evaluation in the course of the presentation of the developed issues were applied in their analysis.

A useful particularity of the work is the discussion and systematization of the views and concepts in the decisions relevant to this matter as issued by the Constitutional Court of the Republic of Bulgaria, as well as the connections between them, and this is a source of important information and conclusions regarding the specifics of the matters discussed.

The used scientific approach of presentation and critical analysis of the most important decisions of the Constitutional Court in the discussed legal matter under the form of case studies (studies of specific cases) clearly shows the practical application of the presented theses, the reasoned conclusions and the conclusions made.

In a jurisprudential aspect and in the context of constitutional theory and international legal doctrine, important legal concepts from the legal sphere concerning the ratification powers of the National Assembly and international treaties of the Republic of Bulgaria are defined and clarified in the scientific work.. A legal characterization of these concepts is made and the specifics and aspects of their legal nature are presented.

The comprehensive and critical analysis of the case law of the Constitutional Court and the legal framework adds make the study useful to the legal practitioners and international relations specialists.

The critical opinion is presented that the Constitutional Court of the Republic of Bulgaria shares the rather controversial thesis that, in addition to those international treaties listed in Art. 85, para. 1, the National Assembly can ratify and denounce others as well. A conclusion is reached that the Constitutional Court made an incorrect expansive interpretation of Art. 85, para. 1 of the Constitution, for which principled critical remarks have been justified.

The definition of "international treaties" as supported in the constitutional jurisprudence was examined, namely that international treaties by their nature represent bilateral and multilateral international agreements concluded between countries with the participation of the Republic of Bulgaria and regulated by international law, regardless of their form and name (contracts, treaties, agreements, protocols, etc.)

The issue of the constitutional inadmissibility of concluding international agreements that contradict the constitutional provisions was discussed. In this line of thought, special attention is paid to the power of the Constitutional Court under Art. 149, para. 1, item 4 of the Constitution, according to which the Constitutional Court can rule on the compliance of the international treaties concluded by the Republic of Bulgaria with the Constitution prior to their ratification, which is a special hypothesis of preliminary (preventive) constitutional control. The conclusion is reached that, unlike its earlier jurisprudence, the Constitutional Court currently maintains the opinion that after the ratification of the relevant international treaty, it, together with the ratification act, constitute a single and indivisible organic whole and therefore, the object of constitutional control after ratification can be both the law of ratification, as well as the norms of the ratified international treaty. This conclusion is based on the understanding that the ratification (confirmation) law incorporates the ratified international treaty and the two

should be considered as one complete act that can be challenged as unconstitutional in all of its parts. Hence the conclusion that the possible unconstitutionality of the international treaty makes the act of its ratification unconstitutional as well.

Analysis has been made of the conditions and requirements under which the international treaties concluded by the Republic of Bulgaria become part of the domestic law of the country and have priority over these norms of the internal legislation, which contradict them.

The legal consequences related to the legal status of those international treaties where any of the above conditions and requirements are not met, are discussed.

The issue of the legal validity of international treaties under the current Constitution has been examined and based on the case law of the constitutional jurisdiction, the thesis has been reached that their legal validity is determined depending on the following criterion: whether there was an obligation for their promulgation or not.

The matter regarding the principle of the direct effect of international treaties in the field of criminal law is commented on and the understanding that this principle is significantly limited due to the specifics and structure of criminal law norms is derived. In the context of the case law of the Constitutional Court, the situation has been established that international treaties usually do not define the elements of crimes and the type and amount of punishments, but only indicate in a more general form the main characteristics of the acts (actions and omissions), declared to be criminal, allowing individual states to specify and further detail the elements of the crime and determine the punishments. In the constitutional jurisprudence it is accepted that the realization of the criminal responsibility for the perpetrators of the crimes is a sovereign right of each individual state and is therefore a matter directly related to sovereignty. The thesis, useful for the rule-making and judicial practice, is derived, that the expressions and concepts used in international treaties, which are contained as elements in crimes provided for in domestic legislation, can, however, serve for meaningful clarification of these compositions or elements thereof.

The issue of defining denunciation as a form of cancellation of a ratified international act has been investigated and the legal consequence of this has been clarified, namely that with denunciation the Republic of Bulgaria ceases to be a subject under this treaty. The thesis is presented that the denunciation has effect only for the future.

The view of the formal nature of the ratification law is supported and in this context the thesis is substantiated that with such a law only one ratification of the already concluded international treaty takes place, and this is a classic example of a special type of law, namely "*law in formal meaning*".

Scientific work (publication) № 8: Article

Petar Iliev. *Legal Essence Of The Decisions Of The National Assembly. – Society and Law*, ISSN 0204-85-23, vol. 2/2015, edition of the Union of Lawyers in Bulgaria, Sofia, 2015, 17-26.

Goal and tasks of the study:

To systematize, classify and clarify from a legal-theoretical and practical point of view the specifics and aspects of the legal essence of the National Assembly's decisions in their capacity as non-normative legal acts of the parliament, quoting specific examples from the parliamentary practice.

Subject of the study, relevance and significance of the problems:

The contradictions in the parliamentary practice and legal theory regarding the legal nature of the decisions of the National Assembly create problems for which the scientific community must present possible solutions. These problems are current and significant, and are in an area of great interest to the science and the judicial practice. The identified problems provide an impetus for the current research on the subject with a mostly practical orientation, but with a certain scientific and theoretical focus.

The relevance of the problems investigated in the work is related to the dynamics of exercising those of the National Assembly's powers, the legal result of which is the adoption of decisions as non-normative legal acts. Sometimes the National Assembly makes mistakes and inaccuracies in its work precisely because of a misunderstanding, on the part of the people's representatives, of the specifics of the legal essence of parliamentary decisions, and this gives rise to critical views towards a part of the existing parliamentary practice in the past years.

The significance of the problems investigated in the present work stems from the constitutional place of the National Assembly and the important role of its decisions in the system of the division of powers in the context of the specifics of the Republic of Bulgaria's parliamentary government and the need for a rethink and discussion of the problems accumulated over the years with a view to outlining options for their rational solution.

The relevance and significance of the study have as a prerequisite the need for a new expansion of the scientific knowledge on this important topic and the aim to identify proposals and recommendations for solving the problems.

The specifics and the aspects of the legal essence of the decisions of the National Assembly have been brought out and analyzed; the legal effect of parliamentary decisions was discussed; the various types of parliamentary decisions are systematized and classified; special attention is paid to specific particularities of the constitutive and fact-finding decisions of the National Assembly; the aspects of the parliamentary procedure for adopting decisions are clarified: the specifics of the phases of submission, discussion, voting and promulgation of the decisions of the National Assembly are analyzed; the legal essence, nature and legal consequences of the decisions of the internal bodies of the National Assembly - chairman and vice-chairmen of the National Assembly and parliamentary committees were examined.

Methods used in the study:

Method of case studies (presentation, review and critical analysis of specific decisions), analytical method (method of analysis); synthetic method (method of synthesis); organizational

method; functional method; normative and analytical-normative method; historical method; institutional method; mixed method.

Study results:

A useful feature of the work is the examination and systematization of the positions and understandings stated in a large number of decisions of the National Assembly concerning its relations with the government and posing the big question whether the parliament can oblige the government to decide or do something or can only recommend it, but without obliging it, and the examples presented in the study are a source of valuable information and conclusions regarding essential aspects of the issues under consideration.

The scientific approach used for the presentation and critical analysis of the most important decisions of the National Assembly in the considered legal sphere, under the form of case studies, illustrates the practical realization of the argumented theses. The latter theses are the basis for the conclusions and recommendations formulated in the work for solving the identified problems.

The conclusions and suggestions in the study are a good basis for the future enrichment of scientific research and for debates on these legal issues, and support the parliamentary practice.

The thesis is formulated that a significant part of the decisions of the National Assembly are constitutive, a number of examples are given, but there is also a significant number of constitutive decisions.

The conclusion was drawn that the non-normative decisions of the National Assembly can be classified depending on the type of powers exercised, i.e. it is precisely the type of parliamentary powers exercised, that is the distinguishing criterion in this case.

The important thesis is substantiated that in the context of the Bulgarian model of parliamentary governance, it is inadmissible for the parliament to oblige with its decisions the higher bodies of the executive power to undertake or abstain from taking certain actions, because such an obligation represents an unjustified interference of the National Assembly in the activities of the government or the relevant minister, and this affects the independent functions and powers of the executive power and the postulates of the principle of separation of powers in the state of law. With its decision the National Assembly can only recommend the government to undertake or abstain from undertaking certain actions, but not to oblige or assign it. The government is not a subordinate body of the parliament, but is an independent state body, standing at the top of the executive power and is one of the highest institutions of power.

<u>Scientific work (publication) № 9: Article</u> (whose number of characters corresponds to the requirement for number of characters for study works)

Petar Iliev. ***Proposals For The Rationalization Of The Bulgarian Model For The Distribution Of Law-Making Functions Between The Parliament And The Government. –***

In: *Theo Noster, Collection in memory of assistant professor Teodor Piperkov,* ISBN 978-954-07-3801-7, Sofia, University publishing house „St. Kliment Ochridski", 2014, 290-307.

Goal and tasks of the study:

For the first time in the Bulgarian legal science, to substantiate and formulate specific suggestions for the rationalization of the Bulgarian model for the distribution of law-making functions between the National Assembly and the Council of Ministers by introducing the institute of delegated legislation, based on the successful constitutional and practical experience of mainly Spain and partly of Great Britain.

Subject of the study, relevance and significance of the problems:

The relevance of the problems investigated in the paper stems from the expanding comparative law trends in Europe and around the world towards the introduction and implementation of the institute of delegated legislation in the context of new and dynamic challenges such as the parliamentary time being short for the purpose of adopting laws on all vitally issues important to the society, the tendency towards "technization" and the increasingly pressing need for expert technical knowledge in law-making, as well as the need for a quick legislative response in emergency or emergency situations (in national, regional or global scale).

The significance of the problems investigated in the present work stems from the constitutional regulations and the important role of delegated legislation in Western Europe in recent decades and the need for a thorough study and systematization of their valuable experience as a good basis for upgrading scientific knowledge on this significant problematic, especially in the context of the use of this knowledge for realizing the possibilities for the future and rational introduction of the institute of delegated legislation in Bulgaria as well, naturally taking into account the specifics of the Bulgarian state administration and the specifics of the Bulgarian system of separation of powers.

The relevance and significance of the study also result from the need for a new development of public law knowledge on this extremely important topic and the aim to justify and formulate a concrete, complete and complete proposal *de lege ferenda* for future introduction of the institute of delegated legislation in the Republic of Bulgaria, based on a comparative legal analysis of the successful constitutional and practical experience mainly of Spain and partly of Great Britain.

The specifics of the current Bulgarian model of distribution of law-making functions between the parliament and the government have been studied; the reasons for the need to introduce the institute of delegated legislation in the Republic of Bulgaria for the future are formulated; a suggestion for the adoption of some of the valuable and effective elements of the Spanish model of delegated legislation has been justified; suggestions for models for control over delegated legislation in the event of its possible future introduction *de lege ferenda* in Bulgaria have been formulated; suggestions have been made for parliamentary control over the delegated legislation – parliamentary control through a positive resolution procedure, parliamentary control through a negative resolution procedure and parliamentary control

through the activities of the so-called monitoring parliamentary committee; an option for judicial control over delegated legislation is suggested; also, arguments have been given in support of suggestions for constitutional control over delegated legislation and suggestions for public control exercised by civil society.

Methods used in the study:

Analytical method (method of analysis); synthetic method (method of synthesis); teleological method; organizational method; functional method; normative and analytical-normative method; historical method; sociological method; institutional method; structural-functional method; comparative law method; method of studying national legal systems through examples; mixed method.

Study results:

For the first time in the Bulgarian legal science, the scientific work substantiates and presents a complete and comprehensive proposal *de lege ferenda* for the future introduction of the institute of delegated legislation in the Republic of Bulgaria based on a comparative legal analysis of the successful constitutional and practical experience mainly of Spain and partly of Great Britain, while specific suggestions *de lege ferenda* have been formulated for the establishment of various types and forms of control over delegated legislation, which are possible to be implemented in the context of possible future changes in the Bulgarian model of parliamentary governance. Furthermore, for the first time in the Bulgarian legal science and within the framework of the above-mentioned suggestions *de lege ferenda*, the specifics and the various possible types and forms of control over the delegated legislation in the event of its possible future introduction in Bulgaria have been clarified and classified. The suggestions *de lege ferenda* justified and formulated in the work in their totality and in the context of the systemic connections and correlations between them have the character of a comprehensive theory and strategy for the possible future introduction of the institute of delegated legislation in Bulgaria.

The comparative legal reviews and analyzes of the specifics and the aspects of the institute of delegated legislation, as well as the possibility for adaptation and possibly the application of new legal concepts in this very specific legal sphere, are useful for the Bulgarian legal science.

The criticism of the current Bulgarian model for the distribution of law-making functions between the parliament and the government, as well as the conclusions for the existence of problems in this area are important prerequisites to the formulation of the suggestions *de lege ferenda* for changes in the configuration of the law-making functions between the parliament and the government by the future introduction of the institute of delegated legislation in the Republic of Bulgaria under the relevant and effective forms of control.

Scientific work (publication) № 10: Article

Petar Iliev. ***Factors For Violation Of Competence And Types Of Violations. Legal Remedies For Addressing The Consequences Of Violations Of Competence. – Norma,*** **ISSN 1314-5126, vol. 7/2014., Sofia, publishing house „Ciela Norma“, 2014., 70-78.**

Goal and tasks of the study:

For the first time in the Bulgarian public law theory, to systematize and classify the factors for violation of the competence of state bodies and to derive and outline the specifics of the most typical types of violations of the competence principle.

Subject of the study, relevance and significance of the problems:

The contradictions and gaps in the public law doctrine and the case law of the Bulgarian courts of justice on the issues of factors of violation of competence and the types of violations impose problems that require answers to numerous important questions presented before the scientific community, the administration of justice and rule-making for resolution. Another problem is the lack of novel and modern research on these issues. The identified problems are important preconditions to the development of the questions in the present study on the jurisprudential-focussed subject.

The problems are current and significant, and are in an area of great interest to science and the judicial practice. The relevance and significance of the problems investigated in the work also stem from the need to enrich and further develop scientific knowledge on this extremely important topic.

The groups and subgroups of factors for violating the competence of state bodies are systematized and classified; the most typical violations of the principle of competence are specified; the requirement for competence as one of the requirements for legality of public law acts is examined; the issue of which state body is competent was discussed; the types of competence are classified and their particularities are presented; the issue for the lack of competence is raised as one of the most serious and the most substantial flaws of public law acts; the legal essence and specifics of the void public law act is clarified; legal remedies against the nullity of public law acts issued in the absence of competence have been systematized.

Methods used in the study:

Analytical method (method of analysis); synthetic method (method of synthesis); functional method; normative and analytical-normative method; institutional method; mixed method.

Study results:

For the first time in the Bulgarian legal science, the work comprehensively and completely researches, analyzes, systematizes and classifies the factors for violations of the competence of state bodies, and brings out and outlines the specifics of the most typical types of violations of the principle of competence. The issues are presented and discussed in the context of the most important views and concepts in the legal doctrine and the case law of the supreme courts.

Furthermore, the study builds on the existing scientific knowledge on the studied legal matter in a new and practical direction.

A useful feature of the work is the presentation, discussion and systematization of the positions and understandings in the case law, as well as the connections between them, and this is a source of valuable information and conclusions regarding essential aspects of the issues under consideration.

The legal reviews and analyzes of individual legal institutes, concepts and essential aspects of the legal framework of the studied matter are useful to science and the case law. Where necessary, the work has analyzed the different concepts and positions existing in the Bulgarian legal science on the issues in a doctrinal, historical and practical context.

The integral and critical analysis of the case law of the Bulgarian courts of justice makes the study useful to legal practitioners. The conclusions and suggestions formulated in the work can be valuable basis for the future development of legal studies and scientific discussions on this legal matter and are of help to the practice of administering justice and making laws.

The conclusion has been justified that the principle of compliance with the competence of state bodies is one of the fundamental pillars of the state of law and the related legal certainty and legal stability.

Scientific work (publication) № 11: Article

Petar Iliev. *Constitutional Foundations Of The Economic System And Property According To The Tarnovo Constitution.* – Collection "*135 Years Since The Adoption Of The Tarnovo Constitution*", ISBN 978-954-730-891-6, in connection with the scientific conference dedicated to the 135th anniversary of the adoption of the Tarnovo Constitution, organized by the National Assembly of the Republic of Bulgaria, Sofia university „St. Kliment Ochridski", University of Veliko Tarnovo „St. Cyril and Methodius" (15.04.2014). Sofia, publishing house „Sibi", 2014, 312-320.

Goal and tasks of the study:

For the first time in the Bulgarian legal science to research, analyze, clarify and systematize the specifics and the aspects of the constitutional foundations of the economic system and property during the operation of the Tarnovo Constitution.

Subject of the study, relevance and significance of the problems:

The contradictions and gaps in the Bulgarian legal theory regarding the constitutional foundations of the economic system and property under the Tarnovo Constitution create problems that pose numerous important questions to the scientific community.

The relevance and significance of the study stems from the need for a new analysis of the post-liberation legal system of ownership, while showing it all due respect, a historical parallel with modern constitutional legal understandings for ownership and a modern reassessment of the development of scientific knowledge on the extremely important institute of ownership in

the context of the stage of the development of Bulgarian constitutionalism, operating at the time of the Tarnovo Constitution.

The inviolability of the right of ownership and the protection of private and public property under the Tarnovo Constitution was investigated; the different types of holders of the right of ownership are distinguished according to the Tarnovo Constitution; the broad understanding of the Tarnovo Constitution on ownership and ownership rights is considered; the principle of equality between the holders of the right to private property is derived; the essence and content of the concept of "state property" according to the Tarnovo Constitution are clarified; the reasons and methods for expropriating and encumbering state properties are discussed; the basic legal possibility for foreigners and foreign legal entities to acquire private property rights on real estate (including land) on the territory of the Tsardom is indicated; the grounds and conditions ("state and public benefits" and/or "fair advance salary") the forced expropriation of properties that are privately owned are analyzed; the constitutional right of association - basis for the creation of commercial companies as subjects of the economic system is examined; the constitutional concept for the distinction between public and private property under the Tarnovo Constitution and its logical and consistent reflection in the post-liberation Property, Ownership and Easements Act ("POEA"); it has been discussed that "public" property in the sense of the current Bulgarian Constitution of 1991 is a kind of modern analogue of the post-liberation legal understanding of public property from the era of the Tarnovo Constitution; the concept of the public and private properties of the state, i.e. the distinction between public and private state property according to the Tarnovo Constitution is clarified; the reasons for the transformation of an object from public state property into private state property based on the dropping of its "general use or for public protection purpose" are commented on; the legal regime of public state property and private state property is analyzed; inalienability is indicated as an immanent quality of the public state property; the legal regime of water sources that are public state property is commented on; the prohibition for encumbering public state property with real rights of third parties as an important principle of the economic system in the operation of the Tarnovo Constitution and the exceptions to this prohibition are discussed; the distinctions between the properties of the regional districts and the municipalities that are intended for general use (also called "public properties"), as well as of private properties, are examined; the inalienability of public property of regional districts and municipalities and the exceptions to this principle were commented on; the differences between the public state property and the public property of the regional districts and municipalities are formulated.

Methods used in the study:

Analytical method (method of analysis); synthetic method (method of synthesis); teleological method; axiological (value) method; organizational method; functional method; normative and analytical-normative method; historical method; sociological method; institutional method; comparative law method; method of studying national legal systems through examples; mixed method.

Study results:

For the first time in the Bulgarian legal science, the work comprehensively and thoroughly researches, analyzes, clarifies and systematizes the specifics and the aspects of the constitutional foundations of the economic system and property during the operation of the Tarnovo Constitution. These particularities and aspects are presented and discussed in the study both in the context of their internal relations and correlations, as well as through the prism of the principles and values of the Tarnovo Constitution and the legal doctrine in post-liberation Bulgaria.

The problems under consideration exceed the limits of the subject of constitutional law and are of a complex and interdisciplinary nature, which is why knowledge from different areas of law was applied in the study of the problem.

In a theoretical aspect and in the context of the principles and values of the Tarnovo Constitution, the scientific work defines and clarifies important legal concepts pertaining to the legal matter related to the right of ownership. A legal characterization of the right of ownership has been made and the specifics and aspects of its legal character under the effect of the Tarnovo Constitution and the legal regulations relevant at that time have been analyzed and clarified.

The historical review and analysis of individual legal institutes, concepts and essential aspects of the legal system of the right of ownership in post-liberation Bulgaria are useful to the science.

The Tarnovo Constitution protects the ownership rights, regardless of who is the holder of the corresponding right and regardless of what the object (subject) of this right is. The Tarnovo Constitution grants equal protection to the rights of private property of private legal entities - individuals and legal entities, as well as the rights of public and private property of public legal entities - the state, regional districts, municipalities and public institutions. In this way, the widest possible constitutional protection is given to all types and forms of property, regardless of who is the owner of the ownership rights. Moreover, no restrictions are even placed on ownership rights in connection with the citizenship of natural persons (whether they are Bulgarian citizens or foreign citizens), respectively in connection with whether the legal entity was established (respectively registered) in the Tsardom of Bulgaria or in another country.

The manner in which the Tarnovo Constitution understands the term of ownership is wide-ranging and multifaceted. The Tarnovo Constitution reflects the idea, which was modern for its time, that the constitutional concept of ownership is broader and richer in content than the narrow material law concept of ownership. The reasonable legal conclusion can be maintained that the Tarnovo Constitution protects all types of ownership rights (i.e. all pecuniary rights), and not only the ownership right in a narrow sense. The opinion should be shared that in the sense of Art. 67 of the Tarnovo Constitution the expression "ownership rights" should include all types of ownership rights, namely - ownership rights (the right of ownership and limited ownership rights - the right of construction, the right of use, easement rights), bond rights (receivables), as well as ownership rights on intangible goods created as a result of a creative process (ownership rights related to objects of intellectual property).

The exercise of the right to private property necessarily includes the procedure for the protection of this right as established by the law. The creators of the Tarnovo Constitution knew the modern idea that the practical meaning of the definition "private" is expressed, above all, in the operation of the principle of equality between the bearers of the right to private property. This equality refers both to the material content of the right of ownership, as well as to the procedural guarantees for its protection.

The spirit of the Tarnovo Constitution introduces and guarantees the principle of equality as a necessary prerequisite to the participation of the state as an equal subject of private law relations under the conditions of a market economy. This also significantly determines the legal face of the constitutional fundamentals of the economic system in the development of the post-liberation Bulgarian state. The non-admission of constitutional privileges for private state property leads to the alignment of the state with the other private legal entities and results in constitutionally justified legal expectations for the latter entities.

Moreover, the Tarnovo Constitution excludes the possibility of creating a third, intermediate type of property - private property that benefits from the societal (public) regime. It should be noted that privileges in the exercise of the state's property rights are admissible solely and only in the sphere of societal (public) state property. However, the same does not apply to private state property. The latter case the principle of equality and non-admission of privileges must be guaranteed.

A peculiarity of the Tarnovo Constitution is that it does not set any restrictions in relation to the legal possibility for foreigners and foreign legal entities to acquire private property rights over real estate (including land) on the territory of the Tsardom. This created the prerequisites for the rapid influx of foreign investment capital even in the first years after the adoption of the Tarnovo Constitution. From here we can draw the reasonable conclusion that the Tarnovo Constitution protects the economic activity not only of the Bulgarian subjects and legal entities, but also of foreigners and foreign legal entities and strives to introduce conditions of equality.

The constitutional concept of distinguishing between public (public) and private property was not foreign to the creators of the Tarnovo Constitution. This is evidenced by the fact that the legal explication of this constitutional concept found expression later in one of the most effective and "long-lasting" laws in the Bulgarian legislative history, namely the Property, Ownership and Easements Act ("POEA").

In the first Bulgarian constitution (the Tarnovo Constitution) and in the last Bulgarian constitution (the Constitution of 1991), the differentiation between public (respectively public) property, on the one hand, and private property, on the other hand, is connected to three main criteria, which are clarified.

It is characteristic of the public state properties that they are inalienable, while the private state properties can be alienated according to the laws applicable thereto. Therefore, one of the fundamental characteristics of public state property under the Tarnovo Constitution is the prohibition for its alienation.

An important principle of the economic system under the Tarnovo Constitution is and the one for prohibition of encumbering public state property with third parties' rights in rem.

The broad and rich constitutional understanding of ownership according to the Tarnovo Constitution and the legislation of the third Bulgarian state adopted on this basis is an important prerequisite to the development of the dynamics of the economic system and the full-fledged development of the principles implicitly invested in the Tarnovo Constitution of free economic initiative and relative legal equality between the various legal entities that are holders of the right to private property and participants in private legal relations.

Scientific work (publication) № 12: Article

Petar Iliev. *Powers Of The National Assembly In The Field Of Defence. – Society and Law*, ISSN 0204-85-23, vol. 8/2013, edition of the Union of Lawyers in Bulgaria, Sofia, publishing house „Feneya", 2013, 29-45.

Goal and tasks of the study:

To systematize, clarify, analyze the aspects and the specifics of the powers of the National Assembly in the field of defence in the light of the decisions of the Constitutional Court, the constitutional theory and the applicable regulations and to upgrade scientific knowledge on the matter.

Subject of the study, relevance and significance of the problems:

The collisions in the views of the Constitutional Court over the past years and the "scientific vacuum" created in the constitutional doctrine on the issues of the powers of the National Assembly in the field of defence create problems and pose questions before the scientific community and the constitutional jurisprudence that require solving. The problems are current and significant and are in an area of great interest to the science and the constitutional jurisprudence.

The relevance and significance of the problems studied in the work result from the new geopolitical challenges, crisis situations and global changes in the defence system in recent decades and the related dynamics of the configuration and the distinctions between the powers of the higher institutions of governance in the sphere of defence, as well as the specifics found in the constitutional legal relations between them. It is these factors that lead to the need to enrich and further develop scientific knowledge on this extremely important legal issue.

The relationship between the defence implemented by the armed forces and the constitutional values of sovereignty, security, independence of the country and its territorial integrity have been studied; the defence of the Republic of Bulgaria as part of the national security; general characteristics, systematization and classification of the powers of the National Assembly in the field of defence; deciding the issues of declaring war and concluding peace; allowing the sending and use of Bulgarian armed forces outside the country, as well as the stay of foreign troops on the territory of the country or their passage through it; declaration of martial law or other state of emergency on the entire territory of the country or on a part thereof at the

suggestion of the President or the Council of Ministers; clarification of the specifics and the elements of the concepts for "passage", "stay", "foreign troops", "territory of the country", "sending", "use" and "Bulgarian armed forces"; particularities of the military and non-military nature of the passage and stay of foreign troops; distinction between the powers of the National Assembly and the government in the field of defence; the relations in the field of defence between the decisions of the National Assembly, the laws adopted by it and the international treaties of a military and military-political nature.

Methods used in the study:

Method of case studies (presentation, review and critical analysis of specific decisions), analytical method (method of analysis); synthetic method (method of synthesis); teleological method; axiological (value) method; organizational method; functional method; normative and analytical-normative method; institutional method; structural-functional method; mixed method.

Study results:

The work systematizes, clarifies, analyzes the aspects and the specifics of the powers of the National Assembly in the field of defence in the light of the decisions of the Constitutional Court, the constitutional theory and the applicable regulations and enriches the scientific knowledge on the matter.

A useful particularity of the study is the presentation, discussion and systematization of the positions and understandings in the decisions of the Constitutional Court, as well as the connections between them, which is a source of valuable information and conclusions regarding important aspects of the issues under consideration.

The legal reviews and analyzes of individual legal institutes, concepts and essential aspects of the legal framework of the studied matter are useful to science and the case law. Where necessary, the work has analyzed the different concepts and positions existing in the Bulgarian legal science on the issues in a doctrinal and practical context.

The integral and critical analysis of the constitutional case law of the Bulgarian courts of justice makes the study useful to legal practitioners. The conclusions and suggestions formulated in the work can be valuable basis for the future development of legal studies and scientific discussions on this legal matter and are of help to the practice of constitutional and legal practice.

The scientific approach used for the presentation and critical analysis of the most important decisions of the Constitutional Court in the considered legal sphere, under the form of case studies, illustrates the practical realization of the argumented theses. The latter theses are the basis for the conclusions and recommendations formulated in the work for solving the identified problems.

The most important decisions of the Constitutional Court concerning the powers of the National Assembly in the field of defence are presented and analyzed. Based on the jurisprudence of the Constitutional Court, the criteria for distinguishing between the military

and non-military nature of the passage and stay of foreign troops on the territory of the country, as well as the sending and use of armed forces outside the country, are specified. The constitutional lines for distinguishing between the powers of the higher institutions of public authority in the sphere of national security and the distribution of their competence in these matters are stated. The concepts of "passage", "stay", "foreign troops", "territory of the country", "sending", "use" and "Bulgarian armed forces" have been clarified and defined in the light of the constitutional jurisprudence. The distinctions between the types of acts through which the powers of the National Assembly can be exercised in the field of defence - a decision, a law or an international treaty - have been analyzed, and the specifics of the relationships between them have been clarified.

Scientific work (publication) № 13: Article

Petar Iliev. *Freedom Of Religion And Belief In Constitutional Theory And In The Jurisprudence Of The Constitutional Court Of The Republic Of Bulgaria. – Norma,* ISSN 1314-5126, vol. 8/2013, Sofia, publishing house „Ciela Norma“, 2013, 72-85.

Goal and tasks of the study:

To systematize and clarify all essential particularities and elements of the legal essence of freedom of religion and belief in the light of the constitutional theory and the jurisprudence of the Constitutional Court of the Republic of Bulgaria, by building on the existing scientific knowledge in this legal sphere.

Subject of the study, relevance and significance of the problems:

Legal regulation of freedom of religion and religious creeds in the Constitution of the Republic of Bulgaria; regulation of relations between the state and religions; legal essence of the principle of secularization; types of relations between the state and religious communities depending on the institutionalization of the principle of secularization (separation of religions from the state); particularities, connections and distinctions in the subjects of legal regulation under Art. 13 and Art. 37 of the Constitution; legal aspects of the concepts "religion", "religious community" and "religious institution"; the triad "thought-conscience-religion" as a manifestation of the spiritual-intellectual sphere of the personality; legal characteristics and elements of the constitutional right (freedom) to choose a religion and religious views and the right of association on a religious basis (freedom of religious association) in the light of the decisions of the Constitutional Court; legal limits and restrictions in the exercise of the constitutionally guaranteed freedom of religion; obligation of the state to assist in maintaining tolerance and respect between believers of different faiths, as well as between believers and non-believers; principle of non-interference of the state in the internal affairs of religious communities and institutions; respect for the religious identity of the person as a basic constitutional principle in the context of the constitutional jurisprudence and its equality with the principle of respect for atheist views; connection of the latter two principles with the supreme constitutional principles of humanism, tolerance and respect for human dignity (Preamble of the Constitution); the right to practice religion by creating or participating in a

religious community and the issue of the legal personality of religious communities and their registration as separate legal entities in the common legal space; the role and competence of the legislative body in determining the order and conditions under which a religious community can acquire the status of a legal entity.

Methods used in the study:

Method of case studies (presentation, review and critical analysis of specific decisions); analytical method (method of analysis); synthetic method (method of synthesis); teleological method; axiological (value) method; organizational method; functional method; normative and analytical-normative method; historical method; sociological method; institutional method; structural-functional method; comparative law method; method of studying national legal systems through examples; mixed method.

Study results:

A special feature of the study is the presentation, clarification and systematization of the views in the decisions of the Constitutional Court, as well as the connections between them, thus providing valuable information and substantiates important conclusions regarding essential aspects of freedom of religion and belief.

The used scientific approach of clarification and critical discussion of the most important decisions of the Constitutional Court on the considered legal issue under the form of case studies (studies of specific cases) illustrates the practical realization of the argumented theses. The latter are the basis for the conclusions formulated in the work.

The comprehensive and critical analysis of the constitutional jurisprudence is useful to the legal practitioners. The conclusions and suggestions formulated in the work can be valuable basis for the future development of legal studies and scientific discussions on this legal matter and are of help to the practice of constitutional and legal practice.

The notion that art. 13 of the Constitution postulates and guarantees the autonomy and self-governance of religious communities and the institutions they create when solving their internal affairs, is clarified. The state cannot interfere and administer the internal organizational life of religious communities and institutions. This is regulated by the statutes and the other internal organizational rules.

There is a shared understanding that the Constitution excludes the possibility of granting collective rights to different religious groups.

Based on the constitutional jurisprudence and the legal doctrine, the notion is upheld that the traditionality of the Eastern Orthodox religion expresses its cultural-historical role and importance for the Bulgarian state, as well as its current importance for state life.

Based on the case law of the Constitutional Court, the view is supported that respect for religious identity is a basic constitutional principle, which is derived from the supreme constitutional principles of humanism, tolerance and respect for human dignity, and the conclusion that the Bulgarian Constitution and the Religious Creed Act correspond to the most liberal democratic standards in this sphere.