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AUTHOR'S SUMMARY

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Structure, Organization and Procedural Foundations of First-instance Civil Justice in Bulgaria from 1878 to 1948 and Comparison with the Current Regulations

Doctoral student: Aleksandar Velinov Angelov
Research supervisor: Assoc. Ph. D. Petya Stefanova Nedeleva

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Composition of the scientific jury:

INTERNAL MEMBERS:

1. Prof. Dr. Ekaterina Mihaylova

2. Assoc. Prof. Dr. Denitsa Topchiyska

Reserve internal member: Assoc. Prof. Dr. Deyana Marcheva

EXTERNAL MEMBERS:

1. Prof. Dr. Tencho Kolev

2. Assoc. Prof. Dr. Petar Bonchovski

3. Assoc. Prof. Dr. Mihail Malchev

Reserve external member: Prof. Dr. Boyka Cherneva

I. GENERAL CHARACTERISTICS OF THE DISSERTATION WORK

1.1 Relevance of the topic and practical importance of the research

The dissertation entitled "Structure, Organization and Procedural Foundations of First-instance Civil Justice in Bulgaria from 1878 to 1948 and Comparison with the Current Regulations" traces the main moments of the development of justice in civil cases in our country.

Judicial activity is based, on the one hand, on the judicial institutions that are called upon to carry it out, and on the other hand, on the procedural laws that regulate the order in which the proceedings develop, respectively, and the duties that should be performed by the judges in this regard . In view of this, the optimal structure and organization of the courts, as well as the adequate procedural legislation, are conditions for the speed and quality of the administration of justice.

The study of the development of the first-instance civil justice is accompanied by the analysis and comparison between the current regulations and the previous regulations, which makes it possible to draw conclusions about whether any legislative decision is more appropriate compared to another and based on positive findings examples from history ie. through the search for well-forgotten good decisions of the past, to bring forward proposals for upgrading and improving the current law. And undoubtedly, by studying the past, we can benefit both from the good decisions that were made, and also from the mistakes that were made, by not repeating the same ones. In addition to what has been stated, the analysis of the main institutes of the separate regulations that existed historically also gives us the opportunity to more correctly orientate in the ideas embedded in them by searching for the understandings in science and practice on the relevant issue from the point of view of the thinking of contemporaries.

I believe that in the Bulgarian legal-scientific literature, the interrelationship between the development of judicial institutions and the procedural foundations of their activity has not been the subject of complex scientific research. Seen from this point of view, the question can yield a number of answers that could not be found if only the structure or only the procedural regulation were examined, nor if we looked at the issues only from the historical or only from the legal side.

1.2 Purpose, subject and tasks of the research

The purpose of the dissertation is to examine the development of first-instance civil justice in Bulgaria in the period from 1878 to 1948 and to make a comparison between the regulations in force at that time and the current legislation, and on this basis to draw the corresponding positive and negative examples.

The object of the research are the judicial laws and laws regulating civil proceedings in Bulgaria during the period from 1878 to 1948, as well as the Law on the Judiciary and the Civil Procedure Code in force at the time of the preparation of the dissertation.

The subject of the study is the regulation contained in these normative acts, respectively the system of courts established by virtue of this regulation and the internal organization of the same, as well as, on the other hand, the basic provisions based on the procedural laws regarding the consideration of first-instance civil proceedings and the related duties of the court.

The main tasks that have been set before the research are based on following the development of our administration of justice and comparing the regulation of main institutions from it to derive positive and negative examples of legislative decisions, respectively on this basis to draw conclusions and for a possible upgrade of our existing law, and in addition to clarify the actual meaning of certain legal norms by clarifying the authentic ideas that are embedded in them.

1.3 Methods of scientific research

In connection with the complex nature of the research, the historical, systematic and comparative approaches were used as a priority. The object of study is analyzed by tracing multiple elements, as well as the structural and functional relationships between them.

Numerous methods are included in the methodological base of the research: logical methods (induction, deduction, analysis, synthesis, analogy), systematic method and modeling, comparative-historical, comparative-legal, as well as other methods.

1.4 Volume and structure of the dissertation work

The dissertation consists of a total of 340 pages, with an introduction, three chapters and a conclusion.

The main part of the study is arranged as follows:

• In the first chapter, the structure and organization of the first-instance civil justice administration in Bulgaria in the period 1878-1948 is examined, and the existing judicial institutions carrying out this activity are affected, including issues related to the status of judges. This chapter, in turn, is divided into separate parts dedicated to each of the judicial laws in force during this period, as well as an analysis of each of them.

• The second chapter is entitled "Procedural Foundations of First-instance Civil Justice in Bulgaria in the period 1878 - 1948." and it examines the order in which the proceedings were conducted.

• In the third chapter - " Structure, Organization and Procedural Foundations of First-instance Civil Justice in Bulgaria from 1878 to 1948. Conclusions", a comparison with the previous system is also included in the consideration of each of the essential issues, and on this basis the relevant conclusions were drawn. In addition, this part examines the development and current status of the regulation regarding the invitation of the parties to an agreement and the order proceeding

II.

CHAPTER ONE

STRUCTURE AND ORGANIZATION OF FIRST-INSTANCE CIVIL JUSTICE IN BULGARIA IN THE PERIOD 1878-1948

The first chapter of the dissertation deals with the issues related to the structure and organization of first-instance civil justice in Bulgaria in the period 1878-1948, or in other words, the existing judicial institutions serving as the first instance in civil cases and their internal organization. Within the framework of the same, the judicial system in our country underwent a significant development, as five laws regulating this matter were in force, which also underwent numerous amendments during their operation.

We can reasonably assume that the new Bulgarian judicial system, including the system of courts, arose from the Liberation of Bulgaria, which is why the research is focused on the history of these institutions within the Third Bulgarian State.

After the Liberation of Bulgaria, a Russian administrative authority was lawfully temporarily established in Bulgaria, the purpose of which is to prepare our country for independent handling of all issues related to governance. During the time of this temporary authority - in 1878, Temporary Rules for the organization of the judicial part in Bulgaria (Temporary Rules of Court) were adopted, which were approved on August 24, 1878 by the Russian Imperial Commissioner Prince Alexander Dondukov-Korsakov. They regulate the creation and functioning of the courts, which should carry out the activity of administering justice. The basis for the preparation of these normative rules is the Russian Statute for the Organization of Judicial Institutions from 1864.

Pursuant to the Provisional Rules for the Judicial Branch Organization, arbitration courts, general courts and special courts have been established in Bulgaria. Arbitral tribunals cannot be considered as typical judicial institutions, nor as bodies of judicial authority. These are, in practice, the elders' councils in the villages, where judicial power is assigned to non-professional entities, and there is no obligation to refer disputes and cases to these bodies. The competence of this type of institution is limited, which is justified, perhaps, mostly by the fact that, in relation to the decision-making bodies, there are basically no requirements for educational qualifications or professional experience, and their authority is relied upon. In view of this, it cannot be assumed that they are part of the current understanding of the

judicial system, which also follows from the very regulation in the rules, where arbitral tribunals are indicated as a separate institution from general courts.

The typical judicial institutions that were created on the basis of the temporary court rulesare the general courts - the district courts and the regional (provincial) courts. The competence of the district courts extends within the boundaries of the district or within the boundaries of several districts, of the district courts – within the boundaries of the district (province). Subsequently, the Supreme Court of Cassation was added to them.

From the above, it is clear that at the very beginning of the existence of the Third Bulgarian State, there was a three-level structure, in which the district courts were the first-instance professional court, and the regional (provincial) courts were an appellate instance, analogous to today's appellate courts, as in functional at the top of the pyramid stands the created Supreme Court.

The first Bulgarian law on the organization of the courts was adopted on May 16, 1880 and was approved by decree No. 226 of May 25 of the same year of Prince Alexander Battenberg, as it was promulgated in the State Gazette issue 47 of June 2, 1880, from which date it entered in effect. It can be reasonably concluded that it is this law that gives rise to the existence of the judicial system of the new Bulgarian state, because it was created and adopted by Bulgarian politicians, who should be assumed to have taken into account the current reality at that historical moment, and its purpose is not only the temporary solution of the issues, but the construction of permanently operating and time-resistant institutions. The law replaces the Provisional Rules for the Organization of the Judicial Part in Bulgaria,

Art. 1 of this law specifies the judicial institutions that are authorized to carry out judicial activity in the country, and there is a significant difference in this regard with the structure that was built on the basis of the Temporary Rules. According to the new regulation, the judicial power belongs to the following bodies:

Justices of the Peace

District Courts

Courts of Appeal

The Supreme Court of Cassation.

The justice of the peace is a sole authority, and the district and appeal courts, as well as the Supreme Court of Cassation, are collegial institutions. The mentioned structure of the court system was introduced for the first time with this law, and in terms of the functional relationship, respectively the instance relationship between the courts in the vertical, the system has many similarities with the current one. The main court of first instance is the

justices of the peace, and the district courts function both as a first instance in relation to certain cases and as an appellate authority in relation to the judgments of the justices of the peace.

One of the biggest innovations introduced by this first Bulgarian judicial law was the creation of the institute of justices of the peace (sometimes referred to in the legislation as "justices of the peace", which name is also legal). They can be considered an analogue of the currently existing district courts, since the comparison of the two institutions according to different criteria shows many similarities.

First of all, both the justices of the peace according to the Courts Organization Act from 1880, and the district courts in their current form, are the main court of first instance from the point of view that, according to the procedural rules that regulate generic jurisdiction, it is they who consider as the first instance the larger part of the cases. This, apart from when comparing the types of cases falling within the competence of the justices of the peace and the district courts, is also clearly visible from the reported statistics on the activity of the two judicial institutions - for example, it is evident from the summarized annual statistics, in 1907 for the justices of the peace judges in the country (122 in number) have received a total of 487,037 cases (of which 345,233 civil cases and 141,804 criminal cases), and they have closed a total of 467,984 cases, of which 288,378 cases have been closed with a decision and ended with conciliation or termination. 179,606 cases, and accordingly, in the same year, the district courts (at that moment 24 in number) initiated a total of 52,850 cases (of which 22,191 civil cases and 30,659 criminal cases) and closed a total of 50,866 cases, of which closed with a decision 28,180 cases and 22,686 cases ended with reconciliation or termination

Secondly, the magistrate's court examines and decides cases alone or with the participation of non-professional members of a judicial panel, insofar as in certain cases criminal proceedings require the participation of jurors. But the essential thing is that the justice of the peace does not participate in court panels together with other professional judges in the consideration and decision of cases, which is the situation in the district courts. This principle corresponds to the fact that, even at the present moment, the judges at the regional level mainly rule alone, and it is only stipulated that in some criminal proceedings, jurors will participate together with them in the court composition.

In addition to this, the justice of the peace always examines disputes as a first instance, and essentially, in contrast to the district courts at that time, which, in addition to first instance, also consider appeal cases - they check as a second instance the judicial acts of the

justices of the peace (i.e. of another judicial institution), as well as rule on requests to cancel final decisions of justices of the peace. A little later in time - after the adoption of the Law on Municipal Courts in 1887, justices of the peace began to carry out the functions of checking some of the acts of these courts, but municipal courts cannot be defined as a judicial institution in the true sense. because with them the administration of justice is entrusted to bodies that represent part of the municipal authorities, which are not professional judges by definition. On the other hand, currently the district courts also perform the functions of checking acts of the administration, which activity can be defined as appellate review, but this does not change the understanding that it is the district court nowadays that is the main court of first instance.

An interesting feature and at the same time a significant difference between the justices of the peace and today's district courts is a power contained in the Judiciary on capital cases, which are under the jurisdiction of the justices of the peace since 1880. This normative act contains a regulation that has no subsequent analogue and would appear inadmissible nowadays, as contradicting both the Constitution and international acts concerning human rights. According to our first judicial law, there is no representative of the prosecutor's office at the level of justices of the peace, i.e. at the level of the main court of first instance, which is why justices of the peace are also assigned functions within the competence of this institution, including the initiation of criminal proceedings.

By means of the Magistrates' Courts introduced by the adopted first judicial law, significantly more guaranteed access to justice was ensured for the citizens, inasmuch as these institutions were located closer to them compared to the district courts of the previous period (although further from the magistrates' courts, which in practice, they are in every municipality), and at the same time, the administration of justice carried out by them is binding and appears to be typical of a judicial institution. The institution of justices of the peace has stood the test of time for a considerable period, and in practice it was finally not denied, but was transformed into a form which was accepted as more suitable, but which did not differ substantially in its characteristics (district courts).

According to Art. 103 Courts Organization Act as of 1880, all officials of the judicial department are appointed and transferred by the Prince on the proposal of the Minister of Justice, with the exception of assistant secretaries. Anyone who is appointed as a judge for the first time is obliged to take the oath for this position in the presence of all members of the general assembly. It can be seen that the law introduces the appointment of judges, which is

conditioned by the proposal of the Minister of Justice, accordingly, it is in accordance with the expressed view in this direction by the executive power, which is then confirmed by a princely decree. There are several general requirements that must be met by any person who is appointed as a judge, as well as special requirements that apply to appointments at different levels of the judicial system.

Immediately after the adoption of the first Bulgarian judicial law, the actual construction of our judicial system began based on the new regulation. To the extent that even before the entry into force of the law in the Principality of Bulgaria there were in practice similar courts to the district, appeal and Supreme Court of Cassation, these judicial institutions are more about adapting the existing structures to the new law, and regarding the judges, there is also a de facto transformation of positions and their performance by the same persons who have performed them up to that point. In view of this, the greater challenge is the introduction of the practice of justice of the peace, including both the formation of the judicial institutions themselves, and the appointment of judges and officials in them.

The Courts Organization Act of 1880 contains many loopholes in the regulation of matters relating to the operation of judicial institutions. The issues of both their organization and personnel issues concerning the appointment of magistrates and employees, the transfer of their service and the termination of legal relations have been settled extremely succinctly, including the idea of the explicit introduction of irremovability of judges has not yet been reached. The requirement that almost all of them be appointed by princely decree must have created significant obstacles to the timely filling of posts, especially in the case of court officials. Regarding the judges, the application of the principle of appointment by the Prince on the proposal of the Minister of Justice probably led to the emergence of grounds for dependencies, especially in the absence of irremovability of the magistrates. These are undoubtedly serious shortcomings, but when evaluating a law that operated within a radically different historical period and socio-economic situation, a much more complex approach should be taken and, undoubtedly, it should be taken into account whether the previous situation was more good. I believe that such an answer cannot be given, because, whatever its vices, the law introduces an initial regulation which could subsequently be built upon, but still provides for our judicial system to be one step forward to more modern times.

The second law on the organization of the courts, which actually operated in the new Bulgarian history, was adopted by the National Assembly on November 30, 1898 and was approved by decree No. 130 of the same year of Prince Alexander Battenberg, as it was promulgated in the State Gazette issue 7 of January 12, 1899, and it entered into force on that

date. The same has undergone quite significant changes during the period of its operation, and some of the changes introduce radically different rules on the same issue, but it should be borne in mind that the system of judicial institutions itself, as well as the internal structure of the same, are practically not underwent significant changes compared to the previous law.

In its general rules, the law regulates that judicial institutions are:

The municipal courts, established by the law of December 18, 1887

Justices of the Peace

District Courts

Courts of Appeal

The Supreme Court of Cassation

It can be seen that the structure of the courts has been preserved as in the first judicial law, with the only addition being the municipal courts, which had already been established before that time by virtue of a special law and which, with a long period of interruption, also functioned on a more late stage in our country. In view of these similarities, the conclusion follows that the law of 1889 is not aimed at a radical structural change, but at correcting imperfections regarding the internal structure of the institutions and the way of forming their numerical composition, while on the other hand, it solve several important problems of a different nature that have left lasting traces in our judicial system until recent times:

- introduction of the institute of "candidates for judicial office";
- the conditions for the appointment of a judicial position;
- the introduction of partial irremovability.[1]

The law also regulates that the Supreme Court of Cassation, in a general dispositive session on the proposal of the Minister of Justice, also rules on issues that in practice raise doubts and are decided unequally by the courts, as the interpretations that the Supreme Court gives in this case to the laws are made public by order of the Minister of Justice for the information and guidance of the courts. This is, in fact, the interpretative activity of the supreme court, which is particularly relevant at the present time, but under the current legislative framework, the circle of bodies that can take initiative in this direction is significantly expanded.[2]

"One of the important innovations is the creation of a new system for appointments to the judicial department. It takes into account the shortcomings of the old law, as well as the

[1] Tokushev, Dimitar. The judiciary in Bulgaria. Sofia, Sibi, 2003, p. 183

[2] See Art. 125 ZSV (Promulgation, SG No. 64/07.08.2007)

needs of practice. Its core is the requirement that three candidates must present themselves for each vacant position. In this way, the administrative and judicial beginnings are combined when filling up the composition of the courts. For a vacancy for a justice of the peace and a member of a district court, the general meeting of the relevant district court elects and presents for appointment three candidates for each position who meet the conditions provided for in the law. The general meeting of the appropriate court of appeal makes proposals for the positions of chairman or vice-chairman of the DC and member of the AC."[3]

This type of appointment procedure is also contained in subsequent judicial regulatory acts - until 1948 (while there is also a period during which it was not available), while the requirement for transparency of the process is increasingly strengthened - in relation to most positions, it must be there is clarity about the proposed candidates.

In Chapter II "District Courts", Section II of the Law, the status of the "Candidates for judicial positions" institute, newly introduced by it, is regulated. Its introduction aims to create a mechanism for the acquisition of practical experience by graduates of legal education, as well as for the selection of persons for appointment to judicial positions.

The law introduces a number of special requirements applicable to the occupation of each judicial position, which significantly increased the qualifications that candidates for appointment should possess. As an exception, there is already the possibility that persons who do not have a legal education can be appointed as judges, and this is permissible only in relation to justices of the peace, but at the same time relatively large practical experience is required for them, specifically as a judge. These higher requirements are justified by the current situation at the time of the adoption of the law, which is undoubtedly significantly different from the one that was present when the first judicial law was adopted, since there were already many more lawyers in Bulgaria and that with practical experience.

In 1911, changes were made to the law regarding the requirements for holding judicial positions, as well as the creation of a Supreme Judicial Council and the introduction of a unified state table for appointment to office and promotion. The law of 1910 introduced a uniform, state table in which the names of candidates meeting the conditions for each individual office were entered. Art. 122 stipulates that no one can be appointed to the office of judge or prosecutor of any hierarchical level, as well as be promoted to a higher office, if he is not previously enrolled in it. In 1917, new amendments to the Judiciary Act were passed, mainly concerning the requirements for appointment and promotion, as well as the procedure

[3] Yochev, Evgeni. The judicial system in Bulgaria. History, principles, institutes 1879 - 1944, Ruse, Ruse University "Angel Kanchev", 2011, p. 109

for doing so. The provisions related to the previously introduced system - the appointment and promotion tables, as well as those concerning the creation and functioning of the Supreme Judicial Council - have been repealed[4].[4]

The institute of irremovability of judges was introduced for the first time in our country precisely with the Law on the Organization of the Courts of 1899. The regulation of irreplaceability in a relatively short period of time has undergone significant changes, especially with regard to the conditions that should be present in order for a judge to become irreplaceable. This is a topic that has caused many disputes and in which there are frequent changes in our legal framework. The question is related to the status of the judges who administered justice in Bulgaria, and in general it can be stated that irreplaceability means that the judge must be given the necessary peace of mind so that he can work without fear of adverse consequences when he acts in accordance with the law and your inner conviction.

In 1920, the Law on Mobile Justices of the Peace was passed. In accordance with its name itself, this law aims to bring the administration of justice closer to citizens by regulating the organization of the activities of justices of the peace, in which they do not sit in one specific seat, but in several such that are located in different points of the precinct to be more physically accessible to the people who relate to them. With this normative act, no changes were introduced regarding the system of courts, nor was the place of justices of the peace changed within the same. The changes concern the organization of their activities, as well as the manner of conducting proceedings falling within their competence.

In addition to the mobility of justices of the peace, the law also contains provisions aimed at helping to simplify and speed up court proceedings, which regulation can be defined as quite controversial. The targeted results are formally expressed in making justice closer and more easily accessible to the population, as well as making it cheaper for people, saving them certain expenses. In practice, however, the Law on Mobile Justices of the Peace and the changes made with it have received a lot of criticism from their contemporaries, especially from the lawyers' guild, and there are opinions that practically no facilitation of citizens has been achieved, but on the contrary, that their rights have been violated.

The third law on the organization of the courts, which was active in the new Bulgarian history, was adopted by the National Assembly on December 9, 1925 and was confirmed by decree No. 59 of December 27 of the same year of Tsar Boris III, as it was promulgated in the

[4] See Yochev, Evgeny. The judicial system in Bulgaria. History, principles, institutes 1879 - 1944, Ruse, Ruse University "Angel Kanchev", 2011, pp. 145, 146

State Gazette, issue 226 of January 2, 1926. It is from the last date that the law is in force, with the exception of its provisions, which are found in connection with the budget, which come into force from April 1, 1926 by virtue of Art. 208 of the Transitional Rules to the Act.

In the general rules, the law provides that judicial institutions are:

Justices of the Peace

District Courts

Courts of Appeal

The Supreme Court of Cassation

The Courts Organization Act of 1926 regulated the return to the principle of creating a special table, which was the basis for the appointment and promotion of judges, analogous to the table introduced with amendments to the previous judicial law and canceled in 1917.

The law does not introduce radical changes compared to the previous law on the judicial system, and the essential points should be the change regarding the issue of the irremovability of judges, which is aimed at strengthening this institution and applying it to a larger number of persons , as well as, on the other hand, the return to the order for the appointment and promotion of magistrates, abolished in 1917, by means of a table specially created for the purpose, containing a kind of ranking of the candidates.

The next normative act regulating the matter is the Ordinance-law on the organization of the courts, approved by decree No. 174 of 06.11.1934 and promulgated in a supplement to the State Gazette, issue 182 of 12.11.1934.

According to the same, the judicial institutions are:

District Courts

Regional courts

Courts of Appeal

The Supreme Court of Cassation

A little later, but also from November 12, 1934, it was regulated in the law that, in addition to these judicial institutions, in every municipality there is also a municipal court, whose organization and competence is regulated by a special law, accordingly in this way it was restored and this institution.

The Ordinance-Law of 1934 introduced a different judicial system in our country compared to that of the previous normative acts in the same field, including practically putting an end to the existence of the justices of the peace and the district courts introduced by the Law on the Organization of the Courts of 1880. In principle, the district courts created by it

are the former magistrates' courts, but it cannot be assumed that there is a direct transformation of one into the other, as is evident from the text of Art. 203, some of the magistrates' courts continue their activity in the form of district courts, while others cease to exist. The district courts, on the other hand, originate from the district courts that existed before the adoption of the Ordinance-Law, and in terms of the level of administration of justice in the judicial system, they continue the same function.

It is also foreseen according to Art. 42, that each department of the Supreme Court of Cassation is obliged to maintain a register of the decisions that are relevant to judicial practice and the necessary index to it for references, and the entry in this register must contain the name of the reporter, an indication of the interpreted article and the most a summary of the court's interpretation. Based on the division directories, the clerk of the court compiles a general directory for the entire court, arranged by laws and texts. It should be assumed that the creation of this register and index had a positive impact on the quality of justice administration, as it can be defined as a kind of information system, increasing the practical knowledge and skills of the courts to apply the laws. To date, the practice of the supreme courts, and of the courts in general, is essential both for the lower courts and also for the parties in the court proceedings, who can study the same and accordingly orientate themselves in the way which the laws are interpreted by the judicial authorities, and the accessibility at the moment is incomparable to that during the studied period, but undoubtedly the judicial regulatory act of 1934 has its merit in the direction of improving the awareness of judges and citizens about the judicial practice of the Supreme Court of Cassation.

Regarding the appointment and promotion of judges, the practice of drawing up special tables on the basis of which personnel decisions are made has continued.

The fifth law on the organization of the courts - Organization of People's CourtsAct was adopted by the Great National Assembly on March 4, 1948 and was promulgated in the State Gazette issue 70 of March 26, 1948. It is the first judicial law that was adopted after the establishment of the new power and after the adoption of the Constitution of 1947. Given the significant changes that have occurred in the governance of our country and in the socio-political life, in terms of the judicial system, it is the adoption of this law that marks the end of the historical period that is the subject of the present study, as in practice it established a new judicial system and a different status of judges.

According to Art. 1 of the Law on the Organization of the People's Courts, justice in the People's Republic of Bulgaria is administered by the district courts, the district courts and the Supreme Court of the People's Republic, adding to the provision that in addition to these

courts there are local people's courts and other special courts established with special laws. The Supreme Administrative Court and the Military Court of Cassation were closed, and their tasks were assigned to the Supreme Court.

It can be seen that the court system is now three-tiered, consisting of district and district courts, as well as a supreme court, and the appellate court that existed until then in our history is absent from it. This type of court was subsequently restored, and this happened much later - in 1998.

Judges are supposed to be elected positions with a corresponding mandate, and an interesting point is that the law also provides for the possibility of recalling them. According to Art. 36, they can be revoked by the authority that selected them - i.e. the relevant district people's council or the National Assembly.

III.

CHAPTER TWO

PROCEDURAL FUNDAMENTALS OF FIRST INSTANCE CIVIL JURISDICTION IN BULGARIA IN THE PERIOD 1878 – 1948.

The second main part of the dissertation includes a study of the procedural foundations of first-instance civil justice in Bulgaria in the period 1878 - 1948. The aim is to analyze the procedural order in which the courts considered civil proceedings as first instance, so that, based on such the clarified picture to be carried out and a comparison between the regulation in the specified period and that based on the procedural laws in force at the moment, as well as on the basis of this analysis to bring out positive examples. At the beginning of the chapter, a few words are included about the overall development of our legislation after the beginning of the Third Bulgarian State.

During the period 1878 - 1948, several civil procedural laws were successively in force in our country, i.e. those that have regulated the order in which the general courts consider the civil cases under their jurisdiction. At the beginning of this period, when there was still no legislation adopted by the Bulgarian law-making body, the relevant issues were settled by the Temporary Rules for the Organization of the Judicial Branch in Bulgaria. Gradually, the regulation was replaced by normative acts, discussed and adopted according to the order provided for in the Tarnovo Constitution. Prof. Silyanovski explains the development of our civil procedural law in the following way: "The main source of Bulgarian civil procedural law is the Law on Civil Procedure. It has been in force since February 8, 1892, and has undergone a number of amendments and additions since then. More substantial amendments and additions took place in the years 1907, 1922 and 1930, when the law was adopted as a new one. The original source of our civil procedure law is the Russian Statute of Civil Procedure of 1864. For its time, the Russian statute was one of the best procedural laws in Europe, because it legalized the latest achievements of the science of the time. The amendments and additions that are being made to our civil procedure law have just been completely borrowed from the Austrian and German civil procedure laws."[5]

[5] Silyanovski, D., Civil Proceedings. Sofia, court printing house - AD, 1938, Part One, p.43

Chronologically speaking, the procedural laws containing legal norms that regulated the conduct of proceedings in civil cases are the following:

- Proceedings in the civil cases under the jurisdiction of the justices of the peace since 1880.[6]

- Civil Procedure Act 1892[7]

- Warrant Proceedings Act 1897[8]

- The Mobile Justices of the Peace Act 1920 [9]

- Civil Procedure Act 1930 [10]

The analysis of the norms contained in these normative acts is aimed at clarifying the order in which each of them provided for the conduct of legal proceedings and, more specifically, the general claim proceedings, which are the most numerous and therefore appearing determining for the activity of the bodies, and correspondingly the most significant from the point of view of society. Thus, it is possible to see what the activity of administering justice was actually expressed in, i.e. roughly speaking, the "work" of the judges from the judicial institutions operating at the relevant period. The research concerns basic issues concerning the first-instance civil proceedings - the regulation of the essential stages through which the consideration of cases passes and which are related to various obligations of the court. Clarification of the regulations relevant to each of these stages of the proceedings gives an idea of the judicial activity of the judges, insofar as it clarifies what activities, respectively efforts, they should have made in order to examine and conclude a civil proceeding under the general claim procedure.

In order to be able to create a comparable basis for comparison, in relation to civil justice, the following main questions from each of the main legislative systems in force during the period have been examined:

1. Basic principles - expressly regulated in the law

2. Parties and Representation

3. Jurisdiction – generic and local

Legal proceedings

[6] State Gazette, issue 49/04.06.1880
[7] State Gazette, issue 31/8.02.1892
[8] State Gazette, issue 277/15.12.1897
[9] State Gazette, issue 101/06.08.1920
[10] State Gazette, issue 246/01.02.1930

4. Composition of the court

5. Filing a claim - content of the claim; verification of the claim

6. Response to the claim

7. Scheduling of an open court session

8. Preclusions

9. Court hearing

10. Evidence

10.1.1 Burden of proof

10.1.2 Collection of Evidence

11. Decision - including the legally provided possibilities for deviating from the general procedure for rendering a decision

12. Appeal of the decision

All these issues, looked at individually and in their totality, give their reflection in relation to the workload of judges, which in general affects the speed and quality of the administration of justice. Of course, these important characteristics are also determined by many other factors - the state of social relations in general, the phase of economic development in which the society is located, the development of education and many others. The workload of judges is of utmost importance for their ability to maintain certain satisfactory levels of speed and quality of justice. The very concept of workload is also complex, it cannot be measured solely by the number of cases that have been initiated or have been examined by a given court or judge, because the complexity of the proceedings that are hidden behind the numbers reflecting the receipts and the work done, as well as many other issues related to it.

The first procedural law, which fully regulates court proceedings in civil cases in Bulgaria and which, in accordance with the Tarnovo Constitution, was adopted by our legislative body, is the Law on Civil Proceedings, approved by decree of 15.12.1891, under No. 447, published , State Gazette, issue 31 of 02/08/1892

The law regulates the procedural order by which all judicial institutions administer justice, in contrast to the previous regulation, which is found in various legal acts. It is important to specify that this law also regulates separately the proceedings in civil cases conducted before the district courts and those conducted before the justices of the peace, and the latter is actually regulated as a special proceeding, in which certain deviations from the general rules applicable to district courts, including separately regulated the types of evidence that can be collected. Due to the stated particularity of the law, the presentation first examines

the proceedings before the district courts, which is the general one, and then the peculiarities, the differences from it, concerning the proceedings conducted before the justices of the peace as the first court instance.

The Civil Procedure Act of 1892 provides for the following methods of gathering evidence:

Witness testimony

Learning through people around you

Written evidence

Tally sticks

Confession

Oath

Assumptions

Site tour

Expert opinion (people)

The proceedings end with a decision, as pursuant to Art. 635 of the Civil Code of 1892, when the court finds it impossible to issue a decision in a final form already at the court session, it can only issue a resolution, which is signed by the president and the members of the court participating in the issue of the decision, and is proclaimed in the open court session.

The proceedings before the magistrates are intended to be simpler in each of its stages, and from the content of the legislation it is clear that speed is aimed at, both in terms of the court's activity and in the actions of the parties, as this is a consequence of the idea invested in this judicial institution was to be a quick and cheap court that would be convenient for litigants. Testimony, written evidence, confession, oath, on-site inspection and expert opinion are provided as possible means of evidence in this proceeding. Regarding the collection of evidence, there are no conceptual differences with the order applicable to the district courts, and apart from that, in the absence of express rules, respectively, and a ban on application, magistrates are guided by the provisions applicable to general proceedings, i.e. there is no obstacle to the proof in the trial being based on the other methods that were discussed above. An interesting feature is that when a subpoena is requested when written evidence is contested, the magistrate is not competent to decide this pre-trial dispute and accordingly it is foreseen to stop the proceedings before him and to send the documents that are declared subpoena to the prosecutor to the local district court, which may refer the matter to that higher court.

The law also introduces an exception to the general rule that first-instance decisions are subject to appeal, such as for claims whose cost does not exceed one hundred BGN, pursuant to Art. 111 it is regulated that the decisions of the justices of the peace are final and the parties have the right to appeal them only by cassation procedure.

The Civil Procedure Act of 1892 was replaced by the Civil Procedure Act of 1930, which was approved by Decree No. 37 of 01.23.1930, promulgated in a supplement to the State Gazette, issue 246 of 01.02.1930 Pursuant to Art. 1022 of this Act, it repealed all civil procedure decrees previously in force and came into force on April 1, 1930.

It should be borne in mind that in the process of the development of the regulation of civil proceedings there was no sharp change between the regulations based on the Law of 1892 and that of 1930, but there were intermediate changes that came into force at the already in 1922, on the basis of which a smooth transition to a newer approach in terms of the way proceedings are conducted is ascertained.

As in the case of the previous civil procedure law, again the regulation of the procedure by which all judicial institutions examining civil proceedings are fully concentrated in it. Also, the proceedings in civil cases held as first instance before the district courts and those for which the district court is competent are again regulated separately, the latter being in fact regulated as a special proceeding, in which some deviations from the general rules applicable to the district courts are provided for courts (including the types of evidence that may be collected). Art. 34 Civil Procedure Act from 1930 provides that in cases for which no special rules are provided, the district judge is guided by the rules for the proceedings before the district courts, with the exception of those of them which prescribe the exchange of papers between the parties and the signing of the claim by a lawyer. In view of this structuring of the law, accordingly, the exposition first examines the proceedings before the regional courts, which is the general one, and then the deviations from it, provided for the proceedings conducted before the district courts as the first instance.

Significant new moments in the regulation of first-instance civil proceedings are the introduced different development of the process in its preparatory part, i.e. before the holding of an open court session, namely the double exchange of documents, as well as the planned designation of a judge-reporter, who will single-handedly collect the evidence admitted by the court panel.

Regarding the conditionally separated stages through which the first-instance court proceedings go, Prof. Siljanovski explains that the same can be divided into three stages. The first covers the preparation of the case, starting with the presentation of the claim, and ending

with the rendering of the ruling under Art. 110 Civil Procedure Act, i.e. the ruling by which the court rules on the preparatory documents submitted by the parties.

The second stage covers the actions of the judge-reporter (Article 112 et seq. of the Civil Procedure Act), consisting in the collection of the evidence admitted by the court, and the third stage is consideration of the case in a court session.[11]

The law stipulates that after the double exchange of documents between the parties is completed, the case is submitted to a disposition hearing, in which the court decides by ruling which of the evidence requested by the parties is allowed and which is rejected, and at the same time the court appoints a judge- reporter to collect the admitted evidence.

Regarding the proof, it is regulated that the following methods can be used for the inclusion of evidentiary material:

Witness testimony

Learning through people around you

Written evidence

Tally sticks

Confession

Oath

Assumptions

Site tour

Expert opinion.

There is also a significant change with regard to the participation of the prosecutor in civil proceedings compared to the original regulation according to the Civil Code of 1892, namely that, unlike the previous procedural law, the prosecutor is no longer a mandatory participant, except in exceptional cases, insofar as in the Civil Procedure Act of 1930 lacks a reproduction of the provision governing the giving of a conclusion by the prosecutor. With an amendment to the Judiciary Act, it is regulated that the prosecutor or deputy prosecutor may take part in the consideration of cases in the civil departments, but are no longer obliged to do so.

The law introduces specific restrictions regarding the possibility of appealing certain categories of decisions, namely that the right to appeal is placed depending on the evidence on the basis of which they were decided. According to Art. 485 Civil Procedure Act of 1930,

[11] Silyanovski, D., Civil proceedings. Sofia, court printing house - AD, 1938, part Two, page 76

against any decision of the district court, as a first instance, the parties have the right to file an appeal, and since 1934 the rule has been added that the decisions of the district court, rendered in disputes, resolved on the basis of: 1) on confession only; 2) only on a decisive oath, and 3) only on a promissory note, or only on a promissory note and other, or only on other written evidence, when the truth of these evidences has not been challenged, are subject only to a cassation appeal. It can be seen that the restriction is based on the conclusion that since these written evidences have not been challenged as to their authenticity, there is a greater degree of certainty that the facts to which they relate actually occurred, accordingly, the chance of the decision being incorrect is smaller.

Civil Procedure Act from 1930 regulates the so-called a temporary decision, which in practice does not appear to be special rules regarding the issuance of a final judicial act, but a type of summary procedure, over which the district court is competent. This regulation contains parts of the arrangements for summary and injunctive proceedings, and the purpose of the temporary decision is, in relation to certain types of claims, to reach an enforceable title more quickly, while at the same time ensuring the possibility of presenting objections by the defendant, as and for switching to the general claim procedure, if such a need is found. The speed that the law requires of judges when considering such type of proceedings is balanced by the relief that the temporary decision can be issued without holding an open court session, as well as the need to give reasons for the temporary decision only in the presence of an appeal filed against the same.

Proceedings before the district courts are regulated in Book One, entitled "Proceedings in the District Courts". As stated above, it is a special proceeding, and the general proceeding is the proceeding in which the district courts consider the cases. The district judge is guided by the rules of proceedings before the district courts, with the exception of those rules that prescribe the exchange of papers between the parties and the signing of the claim by a lawyer. The specifications are understandably aimed at simplifying production and ensuring greater speed. Unlike the proceedings before the district court, here the law introduces a different concept for the development of the process, as the preclusions are not placed in connection with the exchange of documents. Art. 31 of the Civil Procedure Act of 1930 regulates that in the first hearing of the case, the parties are obliged to explain the factual side of the case, to make and justify all their requests and objections and to indicate the evidence that supports them, accordingly this is also the final moment, in and the defendant should make his objections and indicate the evidence in defense of his theses.

Regarding the proof, including the burden of proof and the means of gathering evidence, no special rules are provided for the first-instance proceedings before the district courts, therefore these matters are settled according to the rules that the law provides for this before the district courts.

An essential specificity is what is regulated in Art. 36 rule that the district judge does not write reasons for decisions that are not subject to appeal. In this way, the work of the main court of first instance is significantly facilitated, as in cases that are anyway considered less important, as far as the legislator has foreseen that the final judicial acts on the same are not subject to appeal before another court, it is not required and the preparation of reasons for the objectified dispositive by the court. And the decisions in question are indicated in Art. 39 of the Civil Code of 1930, which provision stipulates that the decisions of district judges in personal claims and in rem claims for movable property, the cost of which claims does not exceed BGN 2,000, are final and not subject to appeal.

IV.

CHAPTER THREE

STRUCTURE, ORGANIZATION AND PROCEDURAL FUNDAMENTALS OF FIRST-INSTANCE CIVIL JUSTICE IN BULGARIA TO THE PRESENT MOMENT AND COMPARISON WITH THE REGULATION IN THE PERIOD 1878-1948. CONCLUSIONS

The third chapter of the dissertation is dedicated to the comparison between the regulation of the structure, organization and procedural foundations of the first-instance civil justice administration in Bulgaria in the period 1878-1948 and the regulation in its current form (in accordance with the Law on the Judiciary, promulgated, State Gazette, issue 64 of 007.08.2007, as amended: last amended and supplemented, issue 32 of 26.04.2022, in force as of 27.07.2022), as well as the formation of the basis of this comparison of conclusions for possible improvement of our legislation. The general courts operating at the time of the research were examined, respectively the appointment, promotion and, in summary, the status of the judges administering justice in them, as well as the procedural rules on the basis of which they carry out first-instance civil justice, and accordingly, these issues were compared with those related to the same regulations that operated in the period 1878-1948.

At the present time, a system of courts similar to the one operating during the research period operates in our country, in which there are again four levels: district courts, district courts, courts of appeal and the Supreme Court of Cassation, with first-instance justice being carried out by the first two types of judicial institutions. It should be pointed out that, in contrast to this similarity, during the time period covered by the study, the system was different, with no appellate court. The restoration of this instance and its existence to this day shows that the existence of this institution was necessary, accordingly it was legally returned to our legal framework.

Over time, our judicial legislation has undergone constant and dynamic development in several directions, which happened both in the period 1878 - 1948, and this process also continues at the present moment.

One of the main lines of changes is the regulation of the terms and conditions for the appointment and promotion of judges, which are still debatable issues and the attempts to solve the emerging problems continue to cause constant changes in our current legislation. The interest in these issues originates both from those outside the system - from the public, which has an interest in transparency and quality justice, and also from within - from the

magistrates, insofar as they are also concerned about the protection of the public interest, and on the other hand, in a personal capacity, they have an interest in legal and objective promotion procedures, in order to have their opportunity to develop in the system.

The presentation touches on the development of the issue over the years, and it is evident that it is extremely difficult to find the ideal solution, which is confirmed by the huge number of attempts that have been made in this regard, and perhaps the most correct conclusion is that there is no a perfect solution, as the balance should always be sought between, on one hand, the as objective as possible assessment of the qualities of the candidates for promotion and, on the other hand, that this assessment and, accordingly, the promotion should be carried out in a reasonable time frame, so as not to hinder the staffing of the courts. However, the important thing is to always look at the details in the settled procedure so that you can see exactly where the problems are concentrated and react so that the process is optimized. Regarding the question of who should carry out the evaluation of the qualities of the candidates for promotion, perhaps the most suitable solution has been found at the moment - it is done centrally by a specially formed committee, determined on a random basis. It can be seen that in the past the main criticisms in this regard were in relation to precisely who makes the assessment and that there is a possibility of promotion outside of the peculiar ranking, and the conclusion made on the basis of the comparison is that the centralized commission is the more appropriate way, and not the judgment of the better candidates to be made by the general meetings of the superior court.

Another topic that, due to its great importance, has caused many disputes and in which there are frequent changes in the regulatory framework, is the irremovability of judges. There are many disputes regarding the conditions under which it occurs, and in this regard there are many amendments in the laws, as well as the constant criticism that it does not occur already at the time of appointment. It should be pointed out that even at the present time this is not the case - irreplaceability is acquired after a certain period of the occupation of the position. But on the other hand, in the current legislation, including for magistrates who have not acquired irreplaceability, provisions are applicable that regulate in the same way as for the others, the grounds on which there may be adverse interference in their legal sphere, and the same functional immunity is also applicable, i.e. the necessary security for these magistrates is ensured to the same extent, which will facilitate their peaceful activity in the administration of justice.

When comparing the structure and internal organization of the courts in the period 1878 - 1948 and the one at the present time, the following example can be cited, which could

serve as a possible proposal to change our current legislation - in the direction of introducing authority for judicial assistants to rule independently on certain matters concerning the administration of affairs. The report examines in detail the figure of the candidates for judicial office acting under the previous regulation, and as a result of the analysis of their status and the comparison with the law currently in force, it was clarified that they were in practice in a position that was something in between the current situation of junior judges and judicial assistants. With the repealed regulation, it is clear that the functions of the candidates for a judicial position change depending on the length of their service, and at the beginning they come closer to the current figure of the judicial assistant (the main function is the preparation of draft decisions, determinations, indictments and written conclusions, under the guidance of judges and prosecutors). After serving one year and with a corresponding positive evaluation, they receive a certificate that they have proven their knowledge of the judicial part, and upon receiving it, on the one hand, they have the right to a higher salary, but at the same time, their competence is significantly expanded.

At present, the judicial proceedings in civil cases are governed by the Civil Procedure Code of 2007, promulgated State Gazette, issued 59 of 20.07.2007 (as last amended by State Gazette No. 15 of 22.02.2022). The exposition compares the regulations under this law with those in force during the period 1878-1948, with the focus being on each of the main points of the envisaged order for consideration of first-instance civil proceedings.

The Civil Procedure Code of 2007 does not differentiate in the regulation of general claims proceedings depending on which court is competent as the first instance – district or district. It can be seen that this is a significant difference with the arrangement under the previous laws, the subject of the study, where the legislator wanted to give more speed and greater simplicity to the proceedings before the justices of the peace, subsequently before the district courts.

In detail, the dissertation deals with the issue of local jurisdiction, which is very important for the activity of the courts, since on the one hand, in certain cases, it is a prerequisite for better access to justice, i.e. to guarantee the convenience of citizens and their real opportunity to address and defend themselves before the court, and on the other hand, it is important to regulate the workload of individual bodies, which is valuable for the administration of justice as a whole. It is important to point out that the concentration of many cases in one court leads to difficulties and delays in the judicial activity of the institution, which ultimately affects the real access to justice - the citizens, although they participate in court proceedings in a convenient for instead of them, in practice they have to wait for the

resolution of the disputes beyond the reasonable terms, i.e. in certain cases, the more inconvenient court in terms of location, which would provide more timely protection, appears to be the more favorable option for the protection of their rights. In view of this, the regulation of local jurisdiction should be amended whenever a more favorable decision in this direction is identified, taking into account all relevant factors. It should also be pointed out that in practice the individual courts of the same level have never been equally loaded and it would be illusory even to think that an absolutely equal load could be reached, but adequate measures should be taken whenever possible, so that the imbalance can be less.

From the judicial practice under the repealed laws, an example of abuse of the right to choose a local jurisdiction, granted to the plaintiff, and this right was used in practice not according to the meaning put into it - specifically to a legal relationship based on a concluded loan agreement, a second defendant is formally joined in the form of a guarantor, the sole purpose of which is to have jurisdiction at the latter's address, which address is practically more convenient for the plaintiff. To the extent that there are still cases of abuse of procedural rights, including in relation to the right to choose a locally competent court, a proposal has been made to overcome such practices. For example, the current regulation could be supplemented by introducing a mandatory rule for the court to monitor ex officio, by virtue of which claims against a borrower (who is a consumer) should be brought and considered by the court at his current address, respectively in the absence to such person at his permanent address, regardless of whether the claim is also directed against other persons. Thus, this particular unfair practice would be overcome, as despite the presence of a guarantor under the contract, whose address is determined by another court as competent, the proceedings will be heard in the place more convenient for the actual debtor under the contract.

Another affected aspect is the activity of the first instance court in preparing a report on the case. When comparing the procedural regulation of the holding of the court session, it is clear that both the previous legislation and the current civil procedure code require the court to make such a report. This requirement is related to the introduction of clarity regarding the subject of the case, after the possible clarifications of the factual statements of the parties have already been made, as well as the disputed points between them have been determined. This stage is of important importance for the proceedings, as it practically channels the subsequent procedural actions and efforts of the parties, which is why the arguments for saving time and omitting the obligation to report the case would appear disproportionate in this case. In view of this and taking into account the understanding woven into the previous laws about the necessity and obligation of the report in the case, one can think of a future development in an

upward line, emphasizing the importance of this duty of the court, namely in the direction of the report being prepared and announced of the parties as early as possible - at the moment when the positions of the parties are clarified. The current regulation allows the court to prepare a draft report of the case, but this rule can be upgraded by providing imperatively that the court of first instance always prepares a draft report of the case and familiarizes it with the parties before the first open court session, except in the cases when this preparation is impossible due to the fact that it is necessary to clarify and specify the factual statements, which has to be carried out in a court session.

Both at the moment and in the previous laws, there is a provision related to preclusions in civil proceedings. In the comparison, it can be concluded that the current regulations are adequate to the way in which the proceedings themselves develop and have the positive feature that the preclusion for engagement of evidence occurs immediately after the announcement by the court of the report on the case, i.e. the moment when it is assumed that the parties have clearly perceived the subject of the proceedings, where the dispute between them is focused in relation to the relevant facts and possibly they were instructed by the court that they do not point to evidence for certain circumstances, respectively on this basis they can already make a full assessment of whether they should request the collection of additional evidence, beyond the requests made before that moment.

Differences, determined mostly by the development of society as a whole and the increase in education, are also observed in terms of the means of proof in the process. The Civil Procedure Code of 2007 regulates the following evidentiary means by which the facts subject to proof in the case are established:

Eyewitness testimony (as well as eyewitness testimony)

Explanations of the parties

Written evidence

Experts (expertise)

Inspection and certification

It can be seen that some of the methods used in the past have been abandoned, and the exposition explains in detail what the essence of them was, as well as the cases in which they were used, and the conclusion is that their abandonment happened naturally in the course of of the development of public relations.

An idea for the possible upgrade of our current legislation can be taken from the regulations that existed in the past, regarding the sanction introduced in the case of failure to provide evidence in connection with a challenge to the authenticity of a document within the

period provided by law, as well as in the recognition of the dispute raised as unfounded - the awarding of costs to the relevant party was foreseen, including the imposition of a fine. Apart from the issue of the imposition of the fine, the basis of which could hardly be substantiated nowadays, since it is not a question of a clear abuse of law, the need for an explicit regulation of the assignment of the costs related to the proof should be subject to discussion in proceedings to challenge the authenticity of a document of the party that lost that dispute, as it exists in the Civil Procedure Act since 1930. This would create more guarantees that the right to challenge the authenticity of a document, the exercise of which undoubtedly complicates and delays the process, is used in good faith, as well as that the opposite party more carefully evaluates whether to declare that it will use the document so disputed, and in addition it should be indicated that such an understanding is also found in the current judicial practice and the same is justified by the relatively independent nature of the proceedings on contesting the authenticity of documents.

A significant difference between the current regulation and that in the laws of 1892 and 1930 is also found in the inserted different concept regarding the announcement of the judicial act. According to the repealed laws, it is provided that the decision, respectively the resolution, be read in an open court session in front of the parties present, after which reasons for the act should be drawn up within a specified instructional period. The present regulation provides for the issuance of a single judicial act - a decision, including reasons and dispositive, which should be carried out by the court within a period established by law after the conclusion of the court session, in which the oral contests have been started and the case has been announced for decision, and only the enactment of some of the acts in the criminal process has similar features. But the specificity of civil proceedings includes much more sources of law - many more normative acts that regulate various aspects of civil relations, and in the case of criminal proceedings, the difficulties are rather in the disclosure of the objective truth, which should be ensured by the court in court session, regardless of the activity or passivity of the parties, and accordingly, the outcome of the case is not predicated in this regard on the fulfilment or non-fulfilment of obligations related to the allocated burden of proof. In view of this, for a civil proceeding it is in principle better for the court to have more time to study the legal framework, as well as to assess the established facts based on the rules provided for in the Civil Procedure Code, after the evidence committed by the parties has been collected to prove the relevant facts.

An important issue related to judicial decisions is the requirement that they contain reasons. The activity of judges in the preparation of court decisions is, in principle, one of

those that take the most effort and time, and these resources should be kept in mind that, in principle, they are not unlimited. Quite often in recent years, the question of regulatory changes has been raised, which would make it possible for some categories of legal acts not to require motivation, which would accordingly save the expenditure of effort and time, which would remain for other, more important activities. In this regard, the presentation clarified that historically in our legal framework there is a precedent (in the Civil Procedure Act of 1930) for part of the decisions rendered by the district courts not to require them to contain reasons - these are the decisions that according to the same law, they are not subject to appeal.

The possibility of issuing court decisions and legal acts in general, which do not contain reasons, has also been brought to the attention of the Constitutional Court in order to clarify the conformity of the idea with the norms of the Constitution. The decision assumes that the requirement to give reasons applies to all judicial acts, not only those that resolve legal disputes, while the legislator is free to set requirements for the form, structure and content of the reasons, respecting the established by the fundamental law imperative that every judicial act be issued on the basis of clear and accessible (i.e. known) for all legal considerations.

I believe that the decision of the Constitutional Court should not be taken as a ban on finding ways to ease the work of the courts related to the issuance of judicial acts, but rather that these attempts should continue, and the reasons for this decision should be used accordingly as a guideline for what amendments are permissible to be proposed and possibly adopted, so that there is no contradiction with the Constitution. Because it should be borne in mind that the overloading of courts with work also leads to a decrease in the intensity of the protection they provide to citizens, to a delay in the administration of justice and to a decrease in its quality. Therefore, it is very important to find the balance between requirements and realities, so that the administration of justice does not become formal law enforcement, without deepening when solving individual cases.

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realities, so that the administration of justice does not become formal law enforcement, without deepening when solving individual cases.

There is no denying that legal proceedings are not equal in legal and factual complexity. There is a regulation in the Criminal Procedure Code that allows for a different content of the reasons for a sentence in cases where there are no contradictions between the evidence. In contrast, in the Civil Procedure Code, the regulation of the court decision rendered in the general order does not provide for such a differentiation - by virtue of Art. 236, para. 2 of the Civil Procedure Code, the court sets out reasons for its decision, which indicate the requests and objections of the parties, the evaluation of the evidence, the factual findings and the legal conclusions of the court. In view of the above, I believe that it would also be appropriate in the Civil Procedure Codeto provide for an exception with regard to the required assessment of the evidence in cases where there are no contradictions between the collected evidence, which would be a small step, but apart from the possible small time saved by the shorter decision, it should be borne in mind that such a change would also be a signal that the law adopts the concept that cases of low factual and legal complexity should not be given the same effort and spent the same time to prepare the judicial solution, as in complex cases.

Again, in connection with the search for ways to ease the work of judges, one should take into account what was explained when considering the regulation based on the Civil Procedure Act of 1930, the so-called a temporary decision, representing a type of summary procedure for the examination of civil cases by the main court of first instance, which provision is missing in our current law. From the analysis of the norms concerning this procedure, we can derive ideas that are also appropriate to be discussed with the aim of possibly upgrading the current legislation on this basis. An essential feature of this proceeding is that after the exchange of papers, respectively providing the opportunity for the defendant to familiarize himself with the claim and defend himself, the court has the possibility to rule on the merits of the claim in a closed session. It should be noted that a similar proposal to include such a possibility in the current law has also already been raised. Indeed, in view of the overall regulation of the temporary decision, it is clear that it does not have the effect of a res judicata, but at the same time the possibilities of appeal were limited, i.e. in many cases, the relevant dispute has found its final solution in this order. Undoubtedly, in the presence of a regulation that would, in certain cases, allow the rendering of a decision in the case without an open court session having been held beforehand, it would be much faster to reach the rendering of the final judicial act and, at the same time, the work of the judges would be

eased. Such a possibility in the law can be presupposed, for example, by the procedural behavior of the defendant (even if only in the hypothesis of an explicit acknowledgment on his part), including if its use is applicable to a relatively small number of cases, then this would also generate a beneficial effect for the activity of the courts..

As separate questions for the third chapter of the dissertation (outside of the regulation of the general claim process), the development of the writ proceedings in Bulgaria and the development of the legislation concerning inviting the parties to an agreement are considered. The separation of these two issues and their separate consideration is due to several main reasons. The warrant proceedings arose shortly after the beginning of our modern administration of justice, and the same is of extreme importance for the activity of the main court of first instance, both in the historical period in question and in the present day. The number of writ proceedings that the courts of first instance consider is huge, correspondingly huge is the number of citizens and subjects in general who are faced with such proceedings, respectively this type of activity of the courts. The regulation of warrant proceedings, as well as the court's activity under it, reflects the workload of the courts, which is determined by the number of cases that can be concluded only within the framework of warrant proceedings, which, as a rule, takes much less time for both the court and of the parties, compared to the common claim process. As warrant proceedings have undergone changes in the past, and continue to undergo changes in the present day, I think it makes sense to consider reviving some of the ideas that were settled in the repealed legislation, which could accordingly improve the current regulation. The question of the development of the legislation concerning the invitation of the parties to an agreement is important, because the aspiration towards voluntary settlement of the dispute and the conclusion of the case with an agreement is an immanent feature of the court of first instance, especially of the main instance, since the establishment of judicial institutions. The name "justice of the peace" is not accidental, as it emphasizes his conciliatory function. The mentioned two separate questions are structurally placed in the third chapter of the presentation, which is dedicated to the current regulation and its comparison with the previous ones. This is due to the possibility of making a comprehensive review of the laws in force on these matters in a tighter version in this way, and not of separate parts when considering the general regulation for each period, and this approach makes it possible to more clearly highlight the positive and negative features of each regulatory decision.

When clarifying the development of the procedural legislation regarding the invitation of the parties to an agreement in the court proceedings in civil cases, it was found that over

the years there has been a certain shortening of the normative regulation in this regard. However, that is regardless of the formal presence of a legislative retreat from the conciliation function of the court, especially from the strengthened such function in the past of the main court of first instance, the understanding on this issue categorically continues to be that the court is obliged to make all possible efforts in this direction. Voluntary settlement of disputes is a desirable outcome of the proceedings, both for the parties and for the courts themselves, and accordingly, with a more committed attitude of the judges to this issue, it is very likely that more disputing parties will be motivated to settle. Considerable help in this direction could be given by a well-functioning judicial mediation system, and considerable efforts are being made in this regard, including the introduction of mandatory mediation in some cases has recently been discussed in depth. All these efforts could yield very positive results, so they should be approached with due care, responsibility and understanding of their importance.

Regarding the development of the writ proceedings in Bulgaria, it is important to say that the same has been used by creditors in a large number of cases in which they decide to seek judicial protection of the rights claimed by them, as for comparison, the number of applications for issuing of enforcement orders significantly exceeds the claims submitted to the courts. In the cases where the claim is practically undisputed, but at the same time there has been no voluntary performance by the debtor, this proceeding is the faster and cheaper way of obtaining an enforceable title.

When comparing and analyzing the system of warrant proceedings at the present time and that in the period from 1897 to 1952, two questions can be brought out that need to be assessed from the point of view of a possible upgrade of the current legislation.

The first of them consists in the fact that if, instead of only the enforcement order issued on the basis of the application, as regulated by the law currently in force, the debtor is also served with a claim containing a full description of the claim, with any written evidence attached to it and if other evidentiary requests are made, the debtor and future defendant will have the opportunity for a more thorough assessment of whether to file an objection. He will be able to orientate himself at this point in time as to how the claim proceedings would proceed based on a declaratory action filed and whether he actually has any arguments and evidence to counter those stated by the plaintiff. Thus, in the end, the debtor will be able to make a more in-depth assessment of whether he has grounds to file an objection, since an

unfounded filing may cost him significant additional costs, in some cases exceeding the amount of the claim itself.

Another significant difference between the regulation of the warrant proceedings according to the Act on Writ Proceedings of 1897 and the Civil Procedure Act of 1930, respectively, and a basis for reasoning, we can also find in the regulation of the question of the applicable statute of limitations in relation to the claimed claim to the judgment of the court for the issuance of an execution order. In the current law, this question is irrelevant to the court, and regardless of whether the statute of limitations has expired, which can be inferred from the alleged occurrence of the demandability of the claim, an execution order is issued, respectively, the question can be raised and examined only at an explicit objection was made by the debtor within the scope of the claim proceedings for the claim brought by the applicant to establish the claim. On the other hand, there are numerous cases in which it is reached to the conduct of claim proceedings for declaratory claims, in which the debtor, in accordance with the provisions of the Civil Procedure Code, needs to be represented by a special representative, in which in practice the only possible objection is that of expired repayment statute of limitations, insofar as the lawyer appointed by the court actually has neither information nor evidence about the actual content of the legal relationship between the creditor and the debtor. Many similar situations would be avoided if the court had the power to assess whether the claim asserted by the applicant could reasonably be opposed by an objection of lapsed statute of limitations, including assessing possible claims of suspension or interruption of the statute of limitations. The specified authority for the court competent to consider the application for the issuance of an execution order could be introduced by means of an addition to the currently effective Civil Procedure Code, such as to Art. 411, para. 2, which norm governs the cases in which the court rejects the application, a point was added, which reads as follows: the claim may be opposed with a reasonable objection of expired statute of limitations, considering including the allegations in the application for suspension and interruption of the statute of limitations. In this way, there would be a significantly greater protection for the debtor, since if it is clear based on the allegations that the statute of limitations should have expired, then an order will not be issued, which does not prevent the creditor from defending his claim under the general order.

V. SCIENTIFIC CONTRIBUTION

The scientific contribution, which is the result of the study of the development of first-instance civil justice in the period 1878-1948 and the comparison of this previous regulation with the current regulation, is expressed in the clarification of basic issues falling within this subject, as well as in the preparation of proposals to upgrade our current legislation.

Within the framework of the study, the development of the first-instance civil justice administration in Bulgaria in the period from 1878 to 1948 was followed and a comparison was made with the current regulation, including relevant judicial practice in terms of time and subject-matter was affected on basic issues concerning the examination of civil proceedings. The development of the judicial institutions carrying out this activity and their internal organization is also shown, as well as the way in which their functioning is ensured in terms of personnel.

Through the study of the development of the legislation concerning the invitation of the parties to an agreement, the essence of the conciliatory function embedded in the concept of the main court of first instance in Bulgaria, which has been an immanent feature of it since the creation of our judicial institutions, has been clarified.

The presentation of the main moments of the development of the warrant proceedings clarifies the essence of this institute, as well as illustrates the various forms in which it manifested itself. From the analysis carried out on this issue, appropriate legislative decisions contained in the repealed normative acts stand out.

The dissertation also clarified the essence of evidentiary methods, which are no longer part of our current procedural law, respectively, at the moment there is no current court practice that is relevant and clarifies the same.

The following proposals have been made to upgrade the current legislation:

- Introduction of the power for judicial assistants to decide independently on certain matters concerning the administration of cases, derived on the basis of the study of the existing regulation of candidates for judicial office;
- Imperative regulation of local jurisdiction for claims against a borrower (who is a consumer), by virtue of which the same must be brought before the court at the defendant's current address, respectively in the absence of one at the permanent

address, regardless of whether the claim is also directed against other persons and at the same time, the presence of the court's power to monitor ex officio this jurisdiction, with the aim of preventing abuse of the plaintiff's right to choose a competent court, which respectively violates the rights of the more vulnerable party in the legal relationship;

- Introduction of an obligation for the civil court to always prepare a draft report on the case and familiarize the parties with it before the first open court session, except in cases where this preparation is impossible due to the fact that it is necessary to clarify and specify the factual statements of the parties, which has to be done in court. The proposal was derived on the basis of the analysis of the understanding woven into the previous legislation regarding the necessity and obligation of the report on the case, respectively the meaning of the same;
- Regulation in the Civil Procedure Code of the assignment of the costs related to the proceedings on the dispute of the authenticity of a document to the party that lost this dispute, in order to create a guarantee that this right is used in good faith by the disputant and to avoid the unjustified delay of the process;
- Introduction of an exception with regard to the required assessment of the evidence when rendering the court decision in cases where there are no contradictions between the collected evidence, by analogy with the existing option in the Criminal Procedure Code. This, in addition to saving judges time, would also signal that the law embraces the concept that cases of low factual and legal complexity should not be given the same effort and time spent in preparing the judgment as in complex ones. case studies, respectively, significant efforts should be directed to the latter;
- Regulation of the possibility of issuing a court decision in a civil case in certain cases, without having previously held an open court session, which was based on the study of the existing proceedings for the issuance of a temporary decision;
- Upgrading the regulations concerning the writ proceedings by introducing the rule that the debtor is served with a claim containing a full description of the claim, with any written evidence attached to it and other evidentiary requests made, instead of only the execution order issued on the basis of the application, as regulates the law currently in force. This would allow him to have a more thorough assessment of whether to file an objection and save himself from incurring significant additional costs, in some cases exceeding the amount of the claim itself, if the objection turns out to be unfounded;

- Introduction of the power of the court in the injunction proceedings to assess whether the statute of limitations has expired in relation to the claimed claim, including the allegations in the application for its suspension and interruption. In this way, significantly greater protection would be given to the debtor, because if, based on the allegations, it is clear that the statute of limitations should have expired, an order will not be issued, which does not prevent the creditor from defending his claim in the general way.

The results of this research work have served to prepare the following publications:

- "The History of Sofia District Court through the Prism of the System of the Main Court of First Instance in Bulgaria" - published in the "Society and Law" magazine, issued 8/2021.
- "Development of the legislation regarding the invitation of the parties to an agreement in court proceedings" - published in the "Society and Law" magazine, issue 10/2021
- Report on the topic "Development of Warrant Proceedings in Bulgaria", presented at the 11th National Conference of Doctoral Students, Postdoctoral Students and Young Scientists in the Field of Legal Sciences, organized by the Institute of State and Law at the Bulgarian Academy of Ssciences, July 2-4, 2021, Kazanlak , which has been accepted for publication in "Collection of Reports from the 11th National Conference of Doctoral Students, Postdoctoral Students and Young Scientists in the Field of Legal Sciences ", Institute of State and Law at the Bulgarian Academy of Ssciences, 2021.

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