

ADMINISTRATIVE DISTRICTS IN THE REPUBLIC OF SERBIA – CONSTITUTIONAL STATUS AND PERSPECTIVES

*Dr. Marko Stanković**

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Introduction: Districts in Serbia have a long tradition, dating back to the early 19th century. In that period, they performed competences of state administration and local self-government at the same time. Serbia left the socialist model of constitutionality and returned to liberal-democratic constitutional institutions in 1990, and districts have their new position in constitutional system – districts are exclusively regional offices of ministries, a form of territorial deconcentration of power. Their main function is to accomplish orders issued by central administrative authorities (ministries). First part of this paper analyzes development of administrative districts and their current position in the constitutional system of Serbia (status, organs and competences). Second part of the paper discusses some options for improving of the position of administrative districts in the future, within the possible reform of the territorial organization of Serbia.

Materials and methods: The methodological basis of the research consists of general scientific and special methods of cognition of legal phenomena and processes in the field of constitutional and administrative law: the method of systemic structural analysis, method of synthesis of socio-legal phenomena, the comparative legal method, formal logical method, historical method.

Results: The analysis showed that the status of administrative districts should be changed. Administrative districts in the Republic of Serbia are offices (branches) of ministries that perform tasks of state administration. They are therefore a kind of regional state administration bodies and organizational units of ministries. On the other hand, the existing districts, 29 of them, can represent a good basis for introduction of second level of local self-government in the Republic of Serbia. In this way, districts could obtain some competencies to conduct independently, by their own organs, elected directly by the citizens. In addition, districts would be able to keep their existing prerogatives and thus become a kind of “mixed” territorial units, which would unify functions of local government and local self-government. After all, municipalities in Serbia in many ways already have such a character. This solution would increase efficiency and democratic nature of the system in Serbia and strengthen the position of local self-government. However, in order to improve the position of

* **Dr. Marko Stanković**, University of Belgrade Faculty of Law, Belgrade (Serbia), Department of Public Law, Associate Professor
ORCID ID: 0000-0003-3471-7037
e-mail: stankovicm@ius.bg.ac.rs

districts in Serbia in this manner it is not enough to perform only revision of laws, but also the constitutional revision as well.

Conclusions: *The main conclusion is that districts should change their legal nature. They should become "mixed" territorial units (administrative and self-governing). In that way, they would be very similar to Serbian districts of the 19th century. Reform of the territorial organization of the Republic of Serbia, which seems inevitable, should seriously consider changing of the legal status and nature of districts. They could become respectable territorial units, which could have "mixed" character, so they could unite in themselves both functions of state administration and functions of local self-government. Such a character, which existed in the Serbian constitutional tradition for a long time, would allow districts, as both administrative and self-governing units, to establish more solid relationship between local communities (municipalities and cities) and institutions of central government. Their territorial, economic and demographic potential would be a solid basis for increasing of efficiency of local self-government and state administration in the Republic of Serbia. Besides, application of this model would completely overcome senseless regionalization project, which would surely bring more damage than good.*

Introduction

System of government in the Republic of Serbia under the 2006 Constitution and status of public administration

System of government in the Republic of Serbia according to the Serbian Constitution of 2006¹ is specific – by its external characteristics, it is a semi-presidential system, and by an internal, it is "rationalized" parliamentary system (*parlamentarisme rationalisé*). If we take purely formal criterion for differentiation of parliamentary and semi-presidential system, i.e. the method of election of the President of the Republic, there is no doubt that system of government in Serbia is semi-presidential, because President of the Republic of Serbia is elected directly. On the other hand, if we adopt an essential criterion, i.e. the position and powers of the central state authorities (Parliament, Government and Head of the State) then Serbian system of government is without doubt parliamentary system. The Venice Commission gave a similar opinion: "The Constitution provides for a clearly parliamentary system of government with a relatively weak although directly elected President. Having regard to the experience with the use of presidential powers in other new democracies, this choice is welcome. As regards the particular design of the system, the President might have

been given a somewhat stronger role concerning appointments to independent positions"². Organ of operative executive power in the Republic of Serbia is the Government (art. 122 of the Constitution), because it holds almost the entire executive power in its hands. In other words, the Government of the Republic of Serbia has all the features typical for a parliamentary system of government. The Government, therefore, has a triple role: political, executive and controlling.

The 2006 Constitution establishes the public administration as a separate unit in its systematization, within the part on the organization of the state, which means that the provisions referring to public administration are not present in the section on the Government. "The Constitution does not list the activities of the public administration, but only defines who performs them ('ministries and other public administration bodies, stipulated by the Law')" [7. P. 21]. The public administration holds the same power (executive power) as the Government. That is very clear from constitutional provisions specifying that the public administration shall be accountable for its work to the Government, which defines the internal organization of ministries and other public administration bodies and organizations.

Considering the circumstance that the affairs of state administration cannot be accom-

¹ Ustav Republike Srbije [Constitution of the Republic of Serbia]. Službeni glasnik Republike Srbije [Official Gazette of the Republic of Serbia] No. 98/2006.

² The European Commission for Democracy through Law – Venice Commission. Opinion No. 405/2006. P. 11.

plished solely from one center, it is necessary for central authorities to have their agents on entire national territory. This is the purpose of administrative districts of the Republic of Serbia. Administrative districts are part of public administration. They are branches of ministries, which thus perform state administration tasks outside their seat. Administrative districts, therefore, are not a form of territorial decentralization, but form of administrative deconcentration. They are units of state administration, not local self-government.

The Constitution also provides possibility of delegation of public powers and public services (art. 137). Firstly, public powers and public services may be delegated to various levels of territorial decentralization. In the interest of more efficient and rational exercise of citizens' rights and duties and satisfying their needs of vital importance for life and work, a law may stipulate delegation of performing particular affairs falling within competences of the Republic of Serbia to the autonomous province and local self-government unit. The Republic of Serbia, autonomous provinces and local self-government units may establish public services. Secondly, particular public powers may be delegated to enterprises, institutions, organizations and individuals, according to the Law. Thirdly, particular public powers may be also delegated to specific bodies through which they perform regulatory function in particular fields or affairs, according to the Law. As stipulated by the Constitution, affairs or duties for which public services are established, their organization and work shall be stipulated by the Law.

Territorial organization of the Republic of Serbia and a position of administrative districts

In addition to the horizontal or functional separation of powers between different authorities (legislative, executive and judiciary), vertical or territorial division of powers is equally important in modern rule of law. In Serbia, it is carried out between the Republic of Serbia itself, on the one side, and units of territorial autonomy and local self-government, on the other. These are forms of territorial decentralization, because of their independence from the state. In addition, there is a territorial division of the Republic of Serbia to administrative districts, which do not represent a form of territorial decentralization, but rather a form of administrative deconcentration of power. Deconcentration is an organizational form of the state that implies complete

subordination of non-central central organs, without any independence from the central government. That is why Duane Lockard stated that local government is a public organization authorized to rule and manage very limited domain of public affairs (special policies) on a relatively small territory, which is part of regional or state authorities. According to him, local government is located at the bottom of the pyramid of state institutions, on whose top is the state government, and federal units, regions or provinces are in the middle [5. P. 451].

The Constitution of the Republic of Serbia of 2006 has raised local self-government and provincial autonomy to the rank of constitutional principle (art. 12). Moreover, Constitution has defined provincial autonomy and local self-government as citizens right "which they shall exercise directly or through their freely elected representatives" (art. 176). Contents of this right are concretized in the section of the Constitution on territorial organization (part seven, art. 176-194). All of that support the fact that the Constitution of Serbia of 2006 sets vertical (territorial) division of power in a very high position in the constitutional system.

In other words, local self-government and territorial autonomy are institutions that are completely separate from the state and its power. State can delegate them some of its own competences. On the other hand, administrative districts are institutions directly tied to the state. The concept of the administrative district is determined by art. 38 of the Law on state administration³, which stipulates that administrative districts are established for carrying out of tasks of state administration outside the headquarters of state administration. State administration bodies, in their sole discretion, perform certain tasks in administrative districts and they can establish their own regional units in districts by an act on internal organization and systematization of work.

Local self-government and territorial autonomy are constitutional institutions, because they are provided in the Constitution, which also regulates the basics of their position in the Republic of Serbia. On the contrary, administrative districts are not even mentioned in the Constitution, but only in laws and regulations.

According to the Law on state administration (art. 39), Government forms administrative districts by its regulation, which determines the area and the seat of each administrative district. The Government is obliged to define areas of administrative districts in order to enable ratio-

³ Službeni glasnik Republike Srbije [Official Gazette of the Republic of Serbia]. No. 79/05, 101/07 and 95/10.

nal and efficient work of regional units of the state administration in districts. By Regulation on the establishment of administrative districts, Government also determines conditions under which state administration authorities can establish a regional unit for two or more administrative districts, one or more municipalities, city or autonomous province. Regulation on administrative districts of the Government of the Republic of Serbia establishes 29 districts in the Republic of Serbia.⁴ Single district includes territories of 3-12 units of local self-government (municipalities and cities) in its composition. Every district has its seat in the largest city of the district. Regulation does not contain the provision about activities of ministries and special organizations in the City of Belgrade, the capital of the Republic of Serbia, considering that the city of Belgrade and municipalities in its composition does not make administrative district. This is because the seats of all the ministries and special organizations are in Belgrade, and the Regulation prescribes the manner of performing tasks of ministries and special organizations outside of their headquarters.

Position of districts in Serbian constitutional tradition

One of important issues that should be considered in this paper, before the current situation of administrative districts in the Serbian constitutional system is exposed in detail, is a matter of historical merits of the district as a legal institute in Serbia. It is necessary, therefore, to see whether the districts that exist in Serbia today are institutes of a later date, or in the past there were similar territorial units, which can be considered the forerunner of the present administrative districts.

Generally speaking, Serbia can be proud of its rich constitutional tradition. Back in the 19th century, it had very progressive constitutions kind of even developed European democracies did not have. Serbia had preserved that tradition of liberal-democratic constitutionalism in the 20th century, initially as an independent Kingdom, and after World War I as a part of the Kingdom of Serbs, Croats and Slovenes (i.e. First Yugoslavia). The Second Yugoslavia, which was created during World War II and which adopted the socialist model of constitutionality, was not a fertile soil for the development of liberal-democratic constitutional institutions, to which Serbia returned after the adoption of the Constitution of 1990. That trend of development of liberal-democratic constitutionalism in its social-

democratic form continued after the adoption of the current Constitution of 2006.

It is well known that districts in Serbia exist almost two centuries. However, districts in Serbia in the 19th century were formally supposed to be units of local self-government, which in that period had three stages. Constitution of Serbia of 1838 (so-called "Turkish constitution") was the first act of the highest legal power to regulate the position of local self-government in Serbia. By that Constitution, Serbia was divided into 17 districts; districts were divided into counties, and counties into municipalities. Taking into consideration status and powers of local organs, it can be said that this system was actually a system of local government (*administration locale*), which has been an integral part of the central state government, and not a system of local self-government. According to Marko Pavlović, "system of local government in Serbia looked like a French system of centralization, founded by Napoleon" [8. P. 365]. Districts were administrative-territorial units and form of deconcentration of power, without any self-governing features [6. P. 209]. Later Constitution of Serbia of 1869 did not improve the situation in terms of reducing centralism, although it was the first modern Serbian constitution, drafted and technically equipped according to modern European standards. Legislation from this period did not give any autonomy to the local units (municipalities, counties and districts), even in domain of tasks that were obviously of local importance.

The Constitution of 1888, which is considered the most liberal and probably the best Serbian constitution of all times, introduced parliamentary system in the Kingdom of Serbia. It retained traditional territorial division of the country into districts, counties and municipalities. There were 15 districts in Serbia, and according to the Constitution (art. 161) there were state authorities as well as self-governing bodies in districts (district assemblies and permanent district committees). In other words, districts, as the highest units of territorial organization of the country, had a double role – they were holders of both state power and local self-government. So the constitutional and legal provisions in Serbia of that time stopped halfway between deconcentration and decentralization of power.

As it can be concluded from this brief overview of status of districts in Serbia, even though in 19th and early 20th century districts in Serbia were formally units of local self-government, they largely were only a form of deconcentra-

⁴ Službeni glasnik Republike Srbije [Official Gazette of the Republic of Serbia]. No. 15/06.

tion of state power. They held that character in the Kingdom of Yugoslavia (1918-1941), when they were purely administrative units [4. P. 452], and such a character they have had in the period from 1990 until today. Therefore, it can be said that districts as units of territorial deconcentration in Serbia have a long tradition of nearly two centuries. Their present position is very similar to the position they had throughout history, although they often had certain elements of local self-government, which they are missing today.

Administrative districts as a form of administrative deconcentration in Serbia

In simple terms, an administrative district is a part of the territory of the Republic of Serbia where certain functions are performed outside the seat of state administration departments. Ministries perform tasks of public administration for the entire territory of the country and therefore they are central and the highest authorities of state administration. Organs of administrative districts are offices (branches) of ministries that perform tasks of state administration only in the administrative district as a part of the territory of the Republic of Serbia. They are therefore a kind of regional state administration bodies and organizational units of ministries. This definition of administrative districts fully corresponds to the concept of centralized unitary state defined by *Marcel Prélôt*: "Thus centralized unitary state assumes a geometric form of the pyramid. Orders come down from the top (from the capital city) and go to the base (to the last village). The same way are human, financial and natural resources activated at various local and provincial levels rise from the base to the top" [10. P. 227].

According to the Law on state administration of 2005, former "districts" have obtained the name of "administrative districts", which is more precise and more appropriate, but their essence remained unchanged. Administrative district is still formed for conducting state administration outside the headquarters of the state administration. In addition to the lack of independent scope of competences, administrative districts have neither independent normative function nor directly elected authorities. They also lack organizational, budgetary and financial independence from the central government. The whole purpose of administrative districts lies in taking into account of local particularities when performing tasks of state administration and in conducting a factual decentralization of their carrying out.

Districts are regional centers of state authority and they do not have any form of self-gov-

ernment. Administrative district in Serbia has two important characteristics. The first is that it is a part of the national territory, which executes operations of state administration and forms a peripheral administration bodies. The second characteristic is that peripheral administration bodies, formed in administrative districts are directly subordinated to ministries as central and the highest authorities of the state administration in the Republic of Serbia.

As stated above, it is clear that administrative districts are form of territorial deconcentration, not territorial decentralization. Thus, they are not units of second level of local self-government (so-called mid-level), which would be located above the municipality as a unit of first level. Tasks of state administration performed in districts are not tasks transferred or delegated by the state to local self-government, but only lowering of state administration from central to non-central authorities. Organs in administrative districts are not directly elected by local population, but appointed by minister or the Government. Unreduced scope of responsibilities of central organs is conducted by organs of administrative districts, who act as agents of central authority. Administrative districts are form of physical dislocation of performing of indivisible and unique state administration, i.e. form of execution of state administration tasks outside of the headquarters of the ministries. It is only technique of centralization of state administration. In this way, administrative districts are just an "extended arm of ministries".

Therefore, administrative districts have their place in the Law on state administration, and not in the Law on local self-government or the Law on territorial organization of Serbia. Administrative district is not a constitutional institute, it is an internal matter of organization of ministries. The Constitution of Serbia establishes autonomous provinces, as a form of territorial autonomy, and municipalities, cities and the city of Belgrade, as a form of local self-government. So it would be against the Constitution to establish administrative districts as units of territorial organization of Serbia. Administrative district is a form of functional decentralization, or administrative deconcentration, which means performing of administrative functions by district bodies which are relocated in different administrative areas.

It is also wrong to perceive administrative districts as a form of regionalization of the country, which implies division of the state territory to economically and geographically completed units. Regionalization establishes large territorial units, which enjoy large autonomy, so di-

vision of the state territory should be made by taking into account of economic, territorial, cultural and other characteristics. Division of the territory into regions is performed to yield functional and socially organized territorial units, which should be the basis for a compact social community. On the other hand, division of the state territory into administrative districts takes into account different criteria, because administrative district is primarily in service of administrative deconcentration. Therefore, it is carried out by taking into account factors relevant to the performance of state administration, not of territorial autonomy.

Competences of administrative districts – Peripheral organs of ministries in administrative districts do not have an original jurisdiction. According to the Constitution of Serbia, all affairs of state administration are responsibility of ministries and only their performance may be organized through peripheral organs within the territory of administrative district. Therefore, there cannot even be discussed about “entrusting of state administration, because jobs conducted by organizational units always remain under the jurisdiction of ministries and special organizations”.⁵ According to the art. 43.3 of the Law on state administration, the ministry responsible for administrative affairs supervises the purpose of technical services of administrative district, monitors qualifications of its employees and issues instructions to its organs. There is no self-government in administrative districts – there is neither original jurisdiction, nor self-governing bodies. All responsibilities and authorities remain exclusively national. Since organs in administrative districts do not have independent scope of competences, but perform tasks from the scope of ministries, therefore ministries are generally authorized to undertake certain jobs from district authority and perform them directly.

Law on State Administration (art. 38) also prescribes tasks performed by districts: 1) to solve in administrative matters in the first instance or in second instance when they are in the first instance solved by holders of public powers; 2) to supervise the work of holders of public powers, and 3) to conduct inspections.

Organs of administrative districts – Ministries are the highest authorities of state administration in the Republic of Serbia and all competences of state administration are concentrated in them. Nevertheless, administrative function also involves direct contact of the public administration bodies with citizens and therefore

there is a need to make administration authorities closer to citizens, i.e. to make them available to the public. Therefore, ministries, as central administration organs, can form their peripheral organs and organizational units to perform some duties of state administration in parts of the national territory. Administrative district is the first degree of state administration and Ministry is the second degree. Peripheral organs of state administration formed in administrative districts, as parts of the national territory, perform some of administrative functions of the state. There are two organs of administrative districts: manager and council.

Manager of Administrative District is responsible to provide conditions for performing activities of administrative district and for realization of cooperation with the authorities of municipalities, cities and autonomous regions in the performance of the state administration. Manager of Administrative District is appointed by the Government on four-year term, and he/she is responsible for conducting of activities of administrative district. Manager is also obliged to cooperate with the Government official who manages state administration bodies in implementation of programs and plans in regional units and observes regional units in their behaving according to instructions, guidelines and other orders of Government. Competences of the Manager of Administrative District are regulated by art. 40.2 of the Law on state administration and art. 7.2. of the Regulation on administrative districts. Manager of Administrative District among other things “coordinates the work of district regional units and monitors implementation of directives and instructions issued to them; monitors the execution of work plans of district regional units and ensures conditions for their work; monitors the work of employees in regional offices and proposes launching of disciplinary proceedings against them; cooperates with local units of state administration bodies that are not formed for the district; cooperates with municipalities and cities and performs other duties specified by law.”

In the administrative district there is a *Professional Service*, in charge of professional and technical support to Manager of Administrative District and district activities common to all district units of state administration. Professional Service of the administrative district is managed by Manager of Administrative District, who decides about rights and duties of employees in the Professional Service. Ministry responsible for administrative affairs supervises the purpose of

⁵ Ustavni sud Srbije [Constitutional Court of Serbia]. Odluka [Decision] IU No. 42/92.

work of Professional Service of administrative district, monitors qualifications of its employees and issues instructions to it.

Article 42 of the Law on state administration regulates the issue of the *Council of Administrative District*, as well as the Regulation on the functioning of the Council of administrative district. The Council consists of the Manager of Administrative District and mayors from the area of administrative district. Council coordinates relations of the district regional units of state administration and municipalities and cities in the area of administrative district, and makes proposals to improve functioning of the administrative district and other regional units of state organs in the area of administrative districts. Meetings of the Council are convened and chaired by Manager of Administrative District, and held at least once in two months. Manager of Administrative District is required to provide proposals of the Council to the Minister responsible for administrative affairs, who is also obliged to inform at least once a year about activities and work of the Council of Administrative District. Council of Administrative District, *inter alia*, coordinates the work of district regional units of state administration and municipalities and cities from the territory of administrative district and suggests how to improve the work of administrative districts.

Network of regional authorities in district does not have to coincide with the number of ministries, but needs to be adapted to the particularities of each district. In other words, there is no parallelism between ministries and regional authorities in the district, but regional authorities are established in accordance with needs of the particular district. State administration organ, which decides to perform one or more of state administration functions in administrative district forms its regional unit in charge of performing the duties assigned to it by an act on internal organization and systematization of jobs. Moreover, district administration bodies perform state administration tasks in the whole area of the administrative district, but it does not exclude possibility of dislocation of some officers or smaller units to headquarters of municipalities that are part of the administrative district.

Perspectives of Serbian administrative districts in the future

The current system of territorial organization in Serbia has certain weaknesses, which removal is necessary in the upcoming period. One of main weaknesses of the system of local self-government in Serbia is its structure and

territorial base, founded on large and strong municipalities with an average of over 40,000 inhabitants, which by far exceeds the European average. It generates many problems in practice, such as the distance of citizens from the seat of local authorities, uneven size of municipalities etc. However, reform of the existing structure is being considered for a long time. One of the possibilities is to reduce size of existing municipalities simultaneously with the introduction of either units of territorial autonomy (regions) in the entire national territory, or units of local government of second degree.

Project of regionalization of the country was considered for almost two decades in Serbia. According to that project, the entire territory of the Republic of Serbia should have been divided into six to 13 regions [9. P. 166-168]. However, this model is definitely abandoned. Therefore, the existing districts, 29 of them, can represent a good basis for introduction of second level of local self-government. In this way, districts could obtain some competencies to conduct independently, by their own organs, elected directly by the citizens. In addition, districts would be able to keep their existing prerogatives and thus become a kind of "mixed" territorial units, which would unify functions of local government and local self-government. After all, municipalities in Serbia in many ways already have such a character. This solution would increase efficiency and democratic nature of the system in Serbia and strengthen the position of local self-government, which is yet by Carl Friedrich rightly described as "the basis of constitutional democracy" [3. P. 199]. See also on the question: [11; 12].

Size of existing districts is very appropriate, their citizens are already used to their existence and in a sense feel their belonging to their districts, and it is known that in the case of local self-government this "traditional" element has an important role. Changing the status of districts from purely administrative units to "mixed" self-governing-administrative units, would enable creating of adequate re-division of existing municipalities. Number of municipalities in Serbia would be increased so they could become much closer to their citizens. After all, the model of "fragmentation" of municipalities was already implemented in three out of six former Yugoslav republics (Slovenia, Croatia and Macedonia), and in one of them (Croatia) there is a two-level local self-government.

Legal solution under which districts simultaneously have partial self-government, on the one hand, and a role of agents of central government organs, on the other, may be criticized because it is not in accordance with the principles

of modern democracy, where self-government excludes every form of strict state control. But the trend that local communities are controlled by central authorities, unfortunately, is also present in Western democracies, even in England, which is considered the cradle of the local self-government. Therefore, Hilaire Barnett says that local authorities today are purely a creation of the law: in accordance with this "only powers which they have are those conferred by the sovereign United Kingdom Parliament" [1. P. 401].

However, in order to improve the position of districts in Serbia in this manner it is not enough to perform only revision of laws, but also the constitutional revision as well. The Constitution, in fact, expressly provides single level local self-government, i.e. only municipalities, cities and the City of Belgrade as units of local self-government (art. 188). Therefore, appropriate corrections in the seventh part of the Constitution should be performed (art. 176-193), which would be very desirable, since that part is one of the weakest points of the current Constitution of Serbia of 2006.

If districts in Serbia get "mixed" character in the future, adjective "administrative" should be left out from their name. Furthermore, in addition to the existing state organs (Manager of Administrative District and Council of Administrative District), which would still be responsible for conducting of the affairs of the state, two self-governing bodies should be introduced – District Assembly and some kind of executive body (which could be either an individual or a collective body). District citizens should elect district Assembly on direct and free elections by secret voting. Self-governing organs in districts and their competences should be regulated in accordance with the European Charter of Local Self-Government of 1985.⁶ This Charter is ratified and adopted by the Republic of Serbia, which is a member state of the Council of Europe, as a part of its internal law. This model, which includes parallelism of state and self-governing organs and functions within the local unit (district), had existed on several occasions in Serbia throughout its constitutional history. The best example of such kind of organization is the one that was introduced by the Serbian Constitution of 1888 and the Law on organization of districts and counties of 1890.

Accepting of this model would allow eliminating of a number of weaknesses of the current system of local self-government in the Republic of Serbia, such as, for example, deciding in the second instance in administrative matters that

are in jurisdiction of municipalities. Under the current system, in which the local self-government has only one stage, proper solution to this problem cannot be found, while with the introduction of the second-degree problem would be solved in a logical and natural way.

Conclusion

Administrative districts in the Republic of Serbia are not a constitutional category. They are established by Law and by regulations as administrative units of deconcentration of powers, without any autonomy in terms of organs and jurisdiction. Such position of districts has certain tradition in the Serbian constitutional system and it was set up based on the old French model of state administration [2. P. 614-615]. In some periods, districts had purely administrative character, and sometimes received some self-governing powers. As branches of ministries, districts are now deprived of any self-governance and they represent only transmission for the execution of decisions made by central organs of administration. Real position of districts clearly follows from this. It is obvious why they do not have their own independent authorities and independent jurisdiction and why they are entirely subordinated to higher administrative bodies in accordance with the principles of centralism.

Reform of the territorial organization of the Republic of Serbia, which seems inevitable, should seriously consider changing of the legal status and nature of districts. They could become respectable territorial units, which could have "mixed" character, so they could unite in themselves both functions of state administration and functions of local self-government. Such a character, which existed in the Serbian constitutional tradition for a long time, would allow districts, as both administrative and self-governing units, to establish more solid relationship between local communities (municipalities and cities) and institutions of central government. Their territorial, economic and demographic potential would be a solid basis for increasing of efficiency of local self-government and state administration in the Republic of Serbia. Besides, application of this model would completely overcome senseless regionalization project, which would surely bring more damage than good.

However, project of changing of the legal nature of districts requires a thorough reform of the existing legal framework. First of all, it is necessary to change the Constitution and then to bring some appropriate laws, which would

⁶ Council of Europe. European Charter of Local Self-Government. European Treaty Series – No. 122.

re-define a legal position of districts. Holders of constitutional and legislative power will need to come up with appropriate solutions about jurisdiction and level of autonomy of districts in relation to the state, which would not be an easy task. Therefore, in addition to holders of political power, prominent representatives of Serbian legal science should be included in this project

in order to make the final solution well-founded. There is no doubt that the combination of perceptions of legal scientists and pragmatic politicians would be a good “laboratory” to achieve the model of territorial decentralization which would be a purposeful solution for the Serbian constitutional system.

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АДМИНИСТРАТИВНЫЕ ОКРУГА В РЕСПУБЛИКЕ СЕРБИЯ – КОНСТИТУЦИОННЫЙ СТАТУС И ПЕРСПЕКТИВЫ

Введение. Округа в Сербии имеют давнюю традицию, относящуюся к началу XIX века. В этот период они одновременно выполняли функции государственной власти и местного самоуправления. В 90-е годы Сербия отказалась от социалистической модели конституционализма и вернулась к либерально-демократической модели, а округа сегодня занимают иное положение в конституционной системе. Они являются исключительно региональными отделениями министерств, формой территориальной децентрализации власти. Их основная функция – исполнение решений центральных административных органов (министерств). В первой части данной статьи анализируются вопросы развития административных округов и их нынешнего положения в конституционной системе Сербии (статус, органы и полномочия). Во второй части статьи рассматриваются возможности улучшения положения административных

округов в будущем в рамках возможной реформы территориальной организации Сербии.

Материалы и методы. Методологическая основа исследования состоит из общих научных и специальных научных методов анализа правовых явлений в области конституционного и административного права: метод системного структурного анализа, метод синтеза социально-правовых явлений, сравнительно-правовой метод, формально-логический метод, историко-правовой метод.

Результаты исследования. Анализ показал, что положение административных округов в Республике Сербии должно быть изменено. Административные округа в Сербии находятся в подчинении министерств, которые осуществляют государственную власть. Это своего рода виды региональных органов государственной власти и организационные подразделения министерств. С другой стороны, 29 из ныне дей-

ствующих округов являются хорошей основой для введения второго уровня местного самоуправления в Республике Сербия. Таким образом, округа могли бы самостоятельно осуществлять определенные полномочия через свои собственные органы, которые бы непосредственно избирались гражданами. Кроме того, они могли бы сохранить и свои действующие полномочия и, таким образом, стать своего рода «смешанными» территориальными единицами, которые объединили бы функции местной власти и местного самоуправления. В конце концов, районы в Сербии во многом уже имеют такой статус. Это решение позволило бы повысить эффективность и демократичность конституционного строя в Сербии и укрепить позиции местного самоуправления. Однако, чтобы изменить и улучшить положение округов в Сербии, недостаточно просто внести изменения в законодательство, необходимы и конституционные изменения.

Обсуждение и заключение. Основной вывод заключается в том, что правовое положение округов в Сербии должно быть изменено. Они должны стать «смешанными» территориальными единицами (административными и самостоятельными). Таким образом, по правовому положению они стали бы очень похожи на сербские округа из XIX века. Реформа territori-

альной организации Республики Сербия, которая представляется неизбежной, должна включать изменение правового статуса и характера округа. Они могут стать важными территориальными единицами, которые могут иметь «смешанный» характер, объединяя функции как государственного управления, так и местного самоуправления.

Данный характер округа, который долгое время существовал в конституционной традиции Сербии, позволит им, как административным и самостоятельным единицам, наладить более тесные связи между местными территориальными единицами (районы и города) и институтами центральной власти. Их территориальный, экономический и демографический потенциал станет прочной основой для повышения эффективности местного самоуправления и государственного управления в Республике Сербия. Кроме того, применение этой модели полностью опередило бы бессмысленный проект регионализации, который, несомненно, принесет больше ущерба, чем выгоды.

Марко Станкович,
доктор юридических наук, профессор,
Белградский университет, юридический
факультет, кафедра публичного права

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самоуправление, административная децентрализация, территориальная организация Республики Сербия

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Administrative district, Republic of Serbia, public administration, local self-government, administrative deconcentration, territorial organization of the Republic of Serbia