



**C2D - Centre for Research on Direct Democracy**  
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**Bulgaria:**  
Country Report

**Daniel SMILOV**

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## CONTENT

1. Introduction.....	1
2. Subject matter of popular votes.....	2
3. Techniques and procedures for popular votes.....	4
3.1. The 1983 Law: National and local referendum.....	4
3.2. Public discussion.....	5
3.3. General meetings of the population.....	5
3.4. The 1996 Law: National and local referenda.....	5
3.5. General meeting of the population.....	7
3.6. Petition.....	7
4. Plebiscites and referenda.....	8
5. Forms of government and referendum.....	10
6. Participation and turnout.....	11
7. Influence of political parties, movements and other pressure groups on direct democracy.....	11
8. Regional and local experiences.....	13

# Direct Democracy: country-report on Bulgaria

**Daniel Smilov**

## 1. Introduction

The 1991 Constitution of the Republic of Bulgaria proclaimed the principle of people's sovereignty in Article 1(2): "the whole power of the state stems from the people. It is exercised by the people directly, and through the bodies envisaged by the Constitution". However, the constitutional practice developed in the country, and the laws adopted since 1991, have rendered the direct forms of democracy largely inoperative, especially at the national level. Bulgaria has become a party state, in which the major political decisions are a monopoly of the parties in power, and the controlled by them representative bodies. The forms of direct democracy have been diminished to an instrument of party politics, an instrument, which, for the last ten years, has fallen into disuse. Direct democracy cannot be, even theoretically, an effective check to representative democracy in Bulgaria, because the adopted legislation on national referenda and plebiscites allows for the representative bodies of state power to determine both the subject-matter and the timing of any national popular vote: in fact, they have an effective veto on every proposal for referendum. Only at the local level can direct democratic decisions compete with the decisions of representative bodies. Thus, generally, the importance of direct democracy as such in Bulgaria concerns mainly the local level, while at the national level it is important only as an instrument of governmental policy.

Except for the provisions on people's sovereignty, the 1991 Constitution included two general rules on the issue of direct democracy. Firstly, that the calling of referenda is within the jurisdiction of the National Assembly<sup>1</sup>, and secondly, that the President of the Republic has the right to determine the precise date of the referendum.<sup>2</sup> On the basis of these provisions, there was a new law on plebiscites adopted by Parliament in 1996.<sup>3</sup> Between 1989 and 1996, the communist law of 1983, as far as it did not contradict the Constitution, remained in force, together with an ordinance of the State Council on the application of the law.<sup>4</sup> In what follows I will discuss the legal arrangements envisaged by these documents as well as the practices in the sphere of direct democracy developed in Bulgaria since 1989.

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<sup>1</sup> Article 84(5).

<sup>2</sup> Article 98 (1).

<sup>3</sup> *Law on Plebiscite, (Zakon za dopitvane do naroda)*, Official Gazette No. 100, 1996. Hereinafter, 1996 Law.

<sup>4</sup> *Law on Plebiscite (Zakon za dopitvane do naroda)*, Official Gazette No. 28, 1983; hereinafter, 1983 Law. *Ordinance (Ukaz) of the State Council on the Application of the Law on Plebiscite* No. 1791, Official Gazette No. 48, 1983; hereinafter, 1983 ordinance.

## 2. Subject-matter of popular votes

### The 1983 Law

The 1983 Law provided for two major forms of direct democracy: public discussion (*obsuzhdane*) and referendum. The first form consisted in a popular "consultation of opinion" on a draft law or a draft of another act of the National Assembly, the State Council,<sup>5</sup> and the local councils (legislatures). The referenda, on the other hand, which were a popular vote on particular measures, could be national and regional. National referenda could be carried out on questions from the competence of the National Assembly; local referenda could be held on issues falling into the jurisdiction of the relevant municipal legislatures (local councils). The law envisaged another form of direct democracy - the so-called general meeting of the population - which concerned particular populated areas (cities, towns, villages) or parts of them (neighbourhoods, quarters, etc.), and could be held on issues relating to the infrastructure and the public facilities, and the modernisation of social and cultural institutions.<sup>6</sup>

There were no issues excluded from the scope of the referendum law: on the face of it, every issue within the jurisdiction of the National Assembly or the local councils could be put on a referendum. However, it should be kept in mind that the law was adopted at the height of communists' power in Bulgaria: there were numerous other ways of controlling the civil society like semi-official organisations (the Komsomol, trade unions), the communist party structures, and, of course, the police. Legal restrictions on the scope of issues to be put on referenda were virtually unnecessary, since the government was always able to control the agenda of any popular vote through other means. To a large extent, the law was a piece of propaganda, meant to demonstrate the "democratic" character of the regime, as well as to provide an instrument for the government to organise orchestrated shows of public approval for its policies.

### The 1996 Law

In general, there are four forms of direct democracy envisaged by the new law: national referenda, local referenda, general meetings of the population, and petitions. Petitions are proposals from the population of a municipality to the local legislature for the adoption of particular measures: this form of direct democracy amounts only to a kind of "initiative for decision-making".<sup>7</sup>

Subject-matter of national referenda could be questions from the competence of the National Assembly (the republican legislature). These competencies are enumerated in Article 84 of the Constitution, and include, most importantly, the exclusive power to legislate. However, national referenda cannot be carried out on issues concerning amendments to the Constitution, the state budget

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<sup>5</sup> The State Council was a form of collective presidency under the communist constitution, empowered to issue normative acts: it was abolished after 1989 and replaced by a standard presidential institution.

<sup>6</sup> Article 32 of the 1983 Law.

and taxes. Also, matters within the competence of the judicial power,<sup>8</sup> the Constitutional Court,<sup>9</sup> and the Grand National Assembly cannot be subject to referenda.<sup>10</sup> Finally, there could be a specially provided by law procedure for decision-making on particular issues, which excludes the possibility of referendum.<sup>11</sup>

Local referenda can be organised on "questions of local importance, which are within the competence of the local bodies of self-government (bodies of local government)".<sup>12</sup> The following issues cannot be a matter of a popular vote at the local level: the municipal budget and taxes; questions, for the resolution of which there is a special law providing different procedures.

General meetings of the population can be held on questions concerning the government of a particular municipality, namely: the improvement of the infrastructure and the facilities of the municipality; hygiene; common use of infrastructure and municipal property; harvesting; the protection of municipal arable lands and forests; the conditions of raising domestic animals in the populated areas; public order in the municipality; protection against vermin; other issues, envisaged by law.<sup>13</sup>

Petitions can be filed on questions of municipal importance: the subject matter is coextensive with the competence of the local government bodies.

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<sup>7</sup> Article 2(1) Law 1996.

<sup>8</sup> These include essentially the adjudication of cases, and the judicial defence of individual, corporate and state rights. See Article 117 of the Constitution.

<sup>9</sup> These include: interpretation of the Constitution; decisions on the constitutionality of legislation, other acts of the National Assembly, and acts of the President, decisions on conflict of jurisdiction among the major branches of power; decisions on the constitutionality of treaties before ratification; constitutionality of political parties and associations; the legality of the election of the President and the deputies in the National Assembly; impeachment of the President. See Article 149 of the Constitution.

<sup>10</sup> The Grand National Assembly has jurisdiction on the following issues: the adoption of a new Constitution, decisions concerning the territory of the country, the structure and form of government (basic separation of power issues), changes in the procedure of amendment to the Constitution, changes in Article 5(2,4) and art. 57 (1,3) of the Constitution. [These articles concern the issue of the direct effect of the constitutional norms, the priority of ratified international treaties to domestic legislation, the inalienability of basic rights, and the possibilities of limitation of some basic rights during the state of war or emergency.

<sup>11</sup> Article 5(6) of the 1996 Law. These questions include the election of parliament and government, the election of president, for which procedures there are special laws (or constitutional provisions).

<sup>12</sup> Article 21 of the 1996 Law.

<sup>13</sup> Article 40(1) 1996 Law.

### 3. Techniques and procedures for popular votes

#### The 1983 Law

##### 3.1. National and local referendum

Initiative (proposal for a referendum): National referendum could be initiated by the standing commissions of the National Assembly, the parliamentary factions, the deputies, the Council of Ministers, the Supreme Court, the prosecutor general, and, most importantly, the State Council. Also, 30 000 voters could file a proposal for referendum. Finally, the law provided an opportunity for some communist organisations, like the Fatherland Front, the Bulgarian Trade Unions, the Komsomol, and the Central Co-operative Union, to initiate referenda: of course, since the dissolution of these organisations after 1989, the provision has become obsolete. Since there was no genuine separation of powers in the communist system of government, the apparent proliferation of the right to initiative is misleading: the political activities of all those bodies and organisations were controlled by the communist party and its Central Committee.

Local referenda could be initiated by: the standing commissions in the local legislatures, the local councillors (representatives), the executive committees of the local councils (substitute for mayors), the heads of public organisations, labour collectives, one tenth of the voters.

The proposals for referenda should be reasoned, and may be accompanied by a draft law or a draft decision.

Decision on referenda: The final decision on the holding of national referendum is to be taken by the National Assembly, by a majority vote. The decision on local referendum is to be taken by the local councils (again by majority vote). These decisions are to be taken within two months after the filing of the proposal.

If the proposal for referendum is turned down by the relevant body, a reasoned response is sent to the initiator within a week after the decision was taken.

Setting the date and the form of question: The date for national referendum is set by the State Council; for local referenda - by the executive committee of the municipal council (the collective mayor). The voters can choose between two types of ballot sheets - "yes" and "no". If the proposal for a referendum is accompanied by a draft decision or a draft normative act, the deciding body is obligated to include the proposals on the ballot-sheet question as they are: if there is no concrete formulation of the question (no draft decision or draft law), the deciding body determines it.

Voting: The voting in national referendum is organised by the State Council, and, in general, the procedures for national elections are followed. The administration of the vote is a responsibility of the Central Electoral Commission and its regional bodies. Local referenda are administered by the (collective) mayors of the municipalities, and the relevant electoral commissions. The voting is secret. In order for a decision to be passed, more than half of the voters, having the right to participate in the referendum, must vote in the affirmative. (All registered voters have the right to participate in national

referenda, while only the citizens of and the permanent residents in the relevant populated area have the right to participate in local referenda).

Entering into force: The result of a national referendum is to be announced in the Official Gazette within two weeks after the vote; the results of local referenda are published by the relevant local council in the local press. The decision enters into force after publication.

### 3.2. Public discussion

Public discussions, which are held on particular draft acts of the National Assembly, the State Council, and the local councils, follow similar procedural patterns, as the referenda. Discussions could be national and local, depending on the body whose act is to be "discussed". Below, I will point out only the differences between the referenda and the discussion procedures. Firstly, in terms of final-decision making, the holding of a national public discussion could be resolved not only by the National Assembly but also by the State Council (even on matters concerning draft laws). Secondly, the measure is not voted upon, but is "discussed" on meetings of the population or "collective" meetings at workplace. On the basis of these discussions reports are compiled and sent to the body which organises the discussion (the State Council or the executives of the local councils). These bodies "generalise" the information and send it to the bodies which have the right to final decision on the matter: the National Assembly in case of draft-laws, the State Council for ordinances (ukaz), and the local councils for local measures. The deciding bodies, however, are not legally bound by the "generalised" reports, although they are supposed to take them into account. Finally, there are some other minor procedural differences between referenda and discussions: for instance, citizens over 16 could participate in discussions, while only citizens over 18 could take part in referenda.

### 3.3. General meetings of the population

This form of direct democracy is reserved for issues with relatively minor importance, concerning the problems of a particular town, city, village or part of them. The decision for the calling of a general meeting is to be taken by the local council, and the organisation of the vote is administered by the council's executive body (the mayor). The decision is to be taken by an open vote: more than half of all entitled to participate must vote in the affirmative for a decision to be passed. A secret vote must be carried out on issues involving financial participation on behalf of the citizens. Only one general meeting a year could be held.

The 1996 Law

### 3.4. National and local referenda

Initiative: Proposals for national referenda may be made by: one fourth of all deputies in the National Assembly; the Council of Ministers; and the President of the Republic . Local referenda in a municipality can be initiated by: one fourth of the local voters; one fourth of the local councillors (the

representative in the municipal legislatures); the mayor of the regional municipality; the mayor of the municipality. Local referenda within a "mayoralty" (or a municipality without a legislature, but with an (elected) mayor) can be initiated by: one fourth of the local voters; one fourth of the local councillors; the mayor of the mayoralty; the mayor of the municipality. The proposal for a referendum is to be presented in written form to the chairman of the local council, who is to table a vote on the motion within a month after its receipt.

Decision on the proposal (initiative): Decisions on national referenda are taken by the National Assembly by a simple majority vote. The decision of the National Assembly determines the concrete formulation of the question: the assembly is not bound by the formulation in the proposal. The question must be formulated in such a way as to be possible to be answered by "yes" or "no". Also, the decision must rule on the campaign for the referendum and its organisation: this should be done by taking into account the principle of fairness. Within a month after the voting in the assembly, the President of the Republic determines the date of the referendum, which could be no earlier than two months and no later than three months after the publication of the decision of the assembly in the "Official Gazette".

Decisions on local referenda are taken by the local councils by an absolute majority vote. If, however, the initiative is supported by more than half of the population of the municipality (or the relevant local voters), the council cannot turn down the initiative, and must take a decision for the holding of a referendum. In its decision, the local council determines: the date of voting, which cannot be earlier than one month and later than two months from the date of the decision; the precise formulation of the question, which must allow for an "yes/no" answer; the organisation of the campaign; and the financial arrangements.

There is a special procedure for the initiation of a local referendum concerning a particular group of decisions by the local councils. If the council decides to take a loan from a bank or another financial institution, privatise, give under concession, or rent municipal property of considerable importance, if it undertakes the construction of expensive buildings or infra-structural facilities (requiring capital investment), it should publicly announce its decision. If within 20 days from the announcement one-fourth of the local voters file a petition for a referendum on the issue, the mayor of the municipality should table the vote within two weeks.

Voting: In national referenda voting is secret, and follows the general requirements of the electoral law. The referendum is valid if more than a half of all enfranchised voters have taken part in it. The decision is considered adopted if more than half of the actual voters have voted in the affirmative.

Local referenda also require secret voting. The results are valid only if half of the registered local voters have taken part in the poll; the decision (which is the subject-matter of the referendum) is considered adopted if more than half of the voters have supported it.

Entering into force: The decision adopted in a national referendum is published in the Official Gazette, and enters into force three days after publication. However, the legality of the results of the

referendum can be challenged before the Supreme Administrative Court by the bodies and individuals entitled to initiate the referendum, within seven days of announcement of the results by the electoral commissions. The Supreme Administrative Court decides on the appeal within a week, and its decision is final. The National Assembly is obliged to adopt the acts, necessary for the implementation of the referendum decision. If the proposal for a decision has been rejected in the referendum, the same subject-matter cannot be put on popular vote within the following three years.

Within seven days, the legality of the decisions of local referenda can be challenged by the holders of the right to initiative before the relevant regional court, which renders a final decision within a week. The decision is to be published by the local council within two weeks after the results are known. The council is obliged to pass the necessary for the implementation of the referendum decision normative acts. If the proposal voted on in the referendum has been rejected, the same issue cannot be put on a popular vote within the next two years.

### 3.5. General meeting of the population

This form of direct democracy, as already discussed, concerns the decision of local questions in municipalities, districts of municipalities, mayoralties, and quarters of populated areas. The general meeting involves all local voters. It is called by the mayor of the relevant local unit, either upon his or her own initiative or upon a decision of the municipal council or a petition of one-fourth of the population. The mayor must announce the general meeting, and schedule it no later than three days after the announcement: the time of the meeting must be not within standard working hours so that it could be attended by the majority of the people. The meeting has quorum if more than half of the local voters do attend it; if not a majority of the people has turned out at the scheduled time, the meeting is to be postponed with one hour. If again there is no majority, the meeting may proceed if at least one-third of the local voters are present. The voting procedure is open, and decisions are taken with a simple majority. If the municipality is too large for a single meeting of its members, several separate meetings are to be carried out, following the above-described procedure. In such a case, the decision is finally deemed adopted if it has managed to attract a majority (more than half of the votes) of all the people voting in the different meetings. The decision is to be publicly announced by the mayor: on its basis, he issues the relevant orders or makes a proposal to the municipal council to pass the relevant normative acts for its implementation. If the mayor considers that the decision of the general meeting runs against the interest of the municipality or the relevant local unit, he or she may stop its implementation and bring the issue before the municipal council. The council has the right to a final decision on the matter, which must be taken within a month after receipt.

### 3.6. Petition

The petition, as mentioned above, is an instrument for making a popular proposal to a local council to adopt a particular measure within its jurisdiction. The petition procedure can be initiated by no less

than 100 local voters; in mayoralties with less than 200 people the right to initiative belongs to one-fifth of the voters. The initiators form a committee, which is registered by the mayor. The committee starts the collection of signatures on authorised by the mayor forms. The obtaining of signatures must be totally voluntary and must respect the right of the citizens to express freely their opinion. The time for collection of signatures is one month. The petition is deemed successful, if one-fourth of the local voters have given their signature. The petition is to be given to the chairman of the local council, who tables a vote on it within a month after receipt. The council deliberates and decides on the petition by a simple majority vote.

#### 4. Plebiscites and referenda

The brief description of the Bulgarian mechanisms of direct democracy, presented above, makes clear that the drafters of the legislation have attempted to reduce the opportunities for direct exercise of power by the citizens as much as possible. The restrictions are firstly visible at the level of initiation. According to the 1996 Law, national referenda can be initiated only by representative bodies and elected individuals: there are no possibilities for the citizens to even propose the holding of a referendum. In this respect, the communist 1983 law paradoxically provides a more liberal arrangement by allowing 30, 000 citizens to initiate referenda: having in mind the background of the totalitarian society against which the law was adopted, however, the liberal character of the procedure is simply misleading. Even after the reforms of 1989, the 1983 law proved to be dormant at the national level, because there were many other restrictive mechanisms, outweighing the relatively more open initiation procedure. Thus, the decision making process concerning the final decision on the holding of referenda remained in the hands of representatively elected bodies (the legislature, the State Council), and they were by no means bound by the opinion of the initiators. The 1991 Constitution in practice entrenched this restriction by giving the power to the National Assembly to call referenda. The 1996 Law simply fleshed out the general structure envisaged by the Constitution. Yet it managed to introduce some further restrictions on the right to referendum: for instance, it prohibited the holding of a second popular vote on one and the same issue within a certain period of time. Finally, in a bizarre from a constitutional point of view manner, the law restricted the right of the President to determine the precise date of the referendum: it limited the choice of the President (to a period of one month), while the text of the Constitution does not require such a limit. Thus, a procedure which was supposed to be consensually controlled by the President and the National Assembly was left entirely in the hands of the parliamentary majority.<sup>14</sup>

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<sup>14</sup> Article 98(1) of the Constitution simply grants the right to the President to "determine the date for the holding of national referendum". The law was adopted at a time when there was a conflict between the President of the Republic (representative of pro-reform parties) and the ex-communist Videnov government. This explains the anti-presidential bias of the government-sponsored bill, although it does not justify the inconsistency with the Constitution.

These remarks point to the fact that the plebiscitary elements are reduced to a minimum in the legislative regulation of direct democracy in Bulgaria, especially at the national level. As a result, there has been no national referendum since the transition started in 1989.

At the local level, although the arrangements are not so restrictive, still there are principles which substantially limit the right to direct democracy. In the first place, these are the quite demanding initiation requirements - one-fourth of the population can move to propose a popular vote. (In this respect, the Bulgarian Association of Young Jurists campaigned for the reduction of the threshold to one-tenth of the local voters, but to no avail.)<sup>15</sup> Secondly, the decision-making power is entirely in the hands of the representative bodies of the state: the popular initiatives for referenda are not legally binding for the local councillors, and, theoretically, they can turn down an initiative. Legally binding are only proposals supported by more than half of the local voters, an arrangement which is undoubtedly curious from a constitutional and political point of view. Finally, there are other restrictions on the right to direct democracy, prohibiting repeat votes on the same issue within two years. As a result of all these, the importance of direct democracy has been reduced dramatically at the local level as well. There have been local referenda, but they have concerned mainly two issues: the administrative division of the country, and changes of names of towns and villages. In the first place, small towns with relatively strong economies have been pushing to form their own separate municipality;<sup>16</sup> in the second, some of the towns and cities were named after Communist leaders (Mihailovgrad, for instance), which led to changes after 1989.<sup>17</sup>

What are the constitutional advantages and disadvantages of the Bulgarian model of direct democracy? On the positive side, it seems it has been instrumental in the streamlining of the party system and the channelling of the political process through parliamentary means. Despite the volatility of the region, Bulgarian parliamentarism has proven quite stable: all major questions of the country have been dealt with within parliament, and "street democracy" has been confined to the margins of political life.<sup>18</sup> Political activity has become a monopoly of the political parties, while other public

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<sup>15</sup> See the on-line archives of the weekly Kapital (in Bulgarian), article 8/8/1998.

<sup>16</sup> See, for instance, **Olga Raeva**, *Financial Interests Force the People of Three Towns to Leave the Rhodopi Municipality*, (in Bulgarian), Kapital on-line archives, 8/31/ 1997.

<sup>17</sup> Not all of those towns are willing to change their names, however: most prominently, Blagoevgrad and Dimitrovgrad (both of them in Southern Bulgaria) resist pressure from the government to change their names in a referendum. The reformist Union of the Democratic Forces reportedly contemplated administrative strategies to change the names of some of the cities without referenda, but these have proven unsuccessful up to now. See **Galina Stoyanova**, *Regions and Regional Governors - Kostov's Nightmare*, (in Bulgarian), Kapital on-line archives, 11/27/1998.

<sup>18</sup> The most notable exception to this principle was the resignation of the Videnov government, and the dissolution of the National Assembly in early 1997 under the pressure of public protests. These protests were mainly organised by the *opposition parties*, however, and took place when there was a clear parliamentary alternative to the old government, which, in my mind, confirms the claim I have put forward.

associations, like trade unions, social movements, etc. have had quite limited political role in the Bulgarian transition. Of course, not only the direct democracy arrangements are responsible for this character of the Bulgarian political process: many other factors, which will be briefly discussed in the next section, have contributed to that effect as well. Nevertheless, the direct democracy arrangements are revealing of and reinforce the rationale of the political system.

On the negative side, it could be argued that the restrictive direct democracy rules might have weakened the political involvement and the process of structuring of Bulgarian civil society. Civil society pressure groups (NGOs, movements, clubs, etc.) have a very small institutional chance to influence policy making, even at the local level. It is difficult to estimate the effect of the direct democracy arrangement on the development of the non-governmental sector. In any case, at present, Bulgaria has a relatively strong non-governmental sector, the independence of which, however, seems to be problematic. The gravity of the party state seems to be too strong and to engulf most of the NGOs in party politics in one way or another (essentially, through the mechanisms of party funding). Bulgaria is leaning towards a German model of political foundations, with the caveat that the whole interaction between parties and foundations is not legally regulated, which gives grounds to various allegations of corruption and lack of transparency.<sup>19</sup>

Thus, despite the lack of institutional means of political impact in terms of direct democracy, the non-governmental sector in Bulgaria is involved in (party) politics: this has been helped by the cascade of elections through which the country has gone since 1989 (four general, two direct presidential, and three local elections). So, the problem is not so much in the disengagement of civil society from politics, but rather the character of this engagement. It is problematic to what extent the non-government sector is an independent protector of public interest, and to what extent it is an instrument of partisan policies.

## 5. Forms of government and referendum

The discussion in the previous section, as well as points made earlier, depict Bulgaria as a parliamentary, party regime, in which the plebiscitary elements of government are reduced to a minimum. Not only the concrete arrangements of direct democracy, but other elements of the constitutional structure of the country support this claim. In the first place, the Constitution cannot be amended by a referendum: only representatively elected bodies (the Grand National Assembly) may change the basic law, while the ordinary National Assembly may introduce minor amendments through a complex qualified majority procedure. Secondly, political parties are the only legally authorised associations to participate in elections. The electoral system is a pure proportional one, which consolidates the parties, while the 5% threshold streamlines the party system in general.

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<sup>19</sup> The lack of a law on foundations, as well as the obsolescence of the party law contributes substantially to the lack of transparency.

Furthermore, the whole decision-making process is majoritarian, which concentrates a lot of power in the governing party: the Constitutional Court is the only effective check, but the record of the Court is patchy in this respect, especially concerning areas such as media regulation and independence of the judiciary. (In this vein, there is no individual complaint procedure; the Court may be addressed only by institutions, controlled by the parties as a rule). Finally, the powers of the presidency are quite restricted in Bulgaria, although the president is directly elected. He cannot appeal directly to the population - he cannot call a referendum under any form. In this relation, there have been proposals by some Bulgarian constitutional lawyers to strengthen the presidential veto (which now can be overridden by a simple majority), and to connect it with a possibility of calling a referendum on the vetoed piece of legislation.<sup>20</sup> There has been no significant public debate on the issue, however, and the present tendency is towards limiting the presidential powers, not expanding them.

## 6. Participation and turnout

As already mentioned, there has been no national referendum since the reforms started in 1989. At the local level, I have no systematic information on participation in referenda. In general, there have been a few local referenda, concerning mainly renaming of cities and changes in the administrative division of the country. There is a special procedure for changes of the status of administrative units: not every change is possible, and there are legal criteria which have to be met before amendments are initiated (for instance, the new division should not include in one and the same municipality populated areas the distance between which is more than 20 km.) But these condition once met, the proposed change must be voted on a referendum, after which the Council of Ministers legalises it. Turnouts have been sufficient for the passage of decisions. Since referenda have not been held on political issues (proper), their direct effect on the political process (even at the local level) seems negligible. The indirect effects, such as the streamlining of the party system, were already touched upon in previous sections.

## 7. Influence of political parties, movements and other pressure groups on direct democracy

Although there have been no national referenda since the start of the reforms, the issue of direct democracy has featured prominently in the strategies of the political parties and the NGOs in Bulgaria. In this section I will briefly review the positions of the major parties on issues related to referenda and plebiscites.

### Bulgarian Socialist Party (the former communist party)

The first major issue of direct democracy in Bulgaria concerned the way of adoption of the new constitution. The BSP had an absolute majority in the constituent assembly (1990-1991) and together

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<sup>20</sup> Evgenii Tanchev, *Kapital weekly on-line archives*.

with some non-communist parties (the social-democrats, the agrarians, and others) was able to adopt the new 1991 Constitution, against the vehement opposition of the Union of Democratic Forces. Pursuant to the agreements reached at the Round Table Talks, the UDF insisted on a referendum for the adoption of the constitution: at that time, the UDF leaders considered that the communist sponsored constitution will legitimise the BSP and will continue its stay in office. To prevent that, the UDF left the constituent assembly and started campaigning for its dissolution and for the calling of referendum. However, the Constitution was adopted without the support of the UDF, the constituent assembly was dissolved, and new elections were called, which were lost by the BSP. The issue of constitutional referendum was effectively buried: although some constitutional theorists, as Bruce Ackerman, feared that the lack of constitutional referendum will undermine the legitimacy of the basic law, the authority of the Bulgarian 1991 Constitution has never come under serious attacks after its adoption. At present, it is recognised by the whole of the political elite.

The second issue of direct democracy which has spurred strong feelings among the socialists is the Bulgarian aspiration for NATO membership. The BSP insists on a referendum on this issue, hoping in this way to block the accession process, which is sponsored by the UDF. During the Kosovo crisis the BSP called for a referendum on the policy of the government towards NATO, and especially on the issue of opening the Bulgarian airspace to NATO aircraft. The controlled by the UDF National Assembly of course thwarted the attempt.

#### Union of Democratic Forces

The Union of Democratic Forces relied substantially on popular supports in the beginning of the transition in its battle with the well-institutionalised ex-communist BSP: therefore, appeal to the popular will was one of the major rhetorical weapons in the UDF arsenal. This weapon was skilfully exploited in the confrontation around the adoption of the Constitution: the calls for a referendum and the leaving of parliament, together with the staunch pro-reform stance, turned out to be winning messages in the 1991 electoral environment. After coming to power, however, the UDF did not reopen the issue of constitutional referendum - partly, because, on its own, the party controlled just over a third of the electoral votes, as shown by the parliamentary elections.

At present, the UDF is against a referendum on the NATO accession process, and, in general, against popular votes on the European Union accession process. As to the first issue, the rejection of the BSP initiative for a referendum over the permission for NATO aircraft to use Bulgarian airspace is instructive. As to the second issue, however, there are some hints of a change in the position of the party, which came just after the European Commission laid down the closure of the Kozloduy nuclear power plant (some of its reactors, in fact) as a precondition for beginning accession negotiations. In

public speeches, prime-minister Kostov called for a consensual decision on the matter, and left the door open for a popular vote on it.<sup>21</sup>

Finally, in the first years of the reforms a strong monarchist faction was a part of the UDF. The monarchists insist on a referendum for the restoration of the monarchy in Bulgaria, and the re-enactment of the 1879 Turnovo Constitution. After winning the presidency in 1996, and the majority in parliament in 1997, the UDF has distanced itself from the monarchist cause, both ideologically and institutionally. The monarchists are now a separate party, playing a marginal political role.

#### Movement for Rights and Freedoms (Turkish minority party)

The Turkish minority party has been largely indifferent to the issue of national referenda, because, obviously, they can hardly serve its purposes (a majoritarian way of decision-making is not the best means for the protection of minority rights). Still, it is possible that the Movement may be involved in "strategic voting" bargains, on issues of NATO and EU accession, for instance. At the local level, the party has been involved in referenda on the administrative division in the regions controlled by it.<sup>22</sup> (Referenda on cultural autonomy, administrative autonomy, secession, etc. are banned by the Constitution and the 1996 Law- in general, local elections may concern only issues within the jurisdiction of local councils.)

## 8. Regional and local experiences

As I have referred to the issue of direct democracy at the local level throughout this paper, in this section I will briefly enumerate some problems, which although not pressing at the moment, are potentially disturbing for the future:

There is no regulation of campaign finance for national referenda. Theoretically, every decision about a national referendum should specify campaign rules, but this again leaves great discretion in the hands of the parliamentary majority of the day. The problem is relevant for the local level as well.

The Constitutional Court has not ruled on the issue of direct democracy, although there are obvious contradictions between the Constitution and the 1996 law.<sup>23</sup>

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<sup>21</sup> The calling of a referendum as a strategic move in the negotiations with the EU has been considered earlier, as well. See **Mina Rudozemska**, *Referendum as a Demonstration of Will to Join Europe*, (in Bulgarian), on-line Kapital weekly archives,

<sup>22</sup> See, for instance, *Unsuccessful Voting on New Administrative Division in Kurdzhali*, (in Bulgarian), on-line Kapital weekly archives, 4/25/98.

<sup>23</sup> There was an interesting case before the Constitutional Court, concerning the 1946 referendum on the abolition of the monarchy. In 1998, the Prosecutor General addressed the Court asking it to proclaim the referendum invalid and unconstitutional, and thus, to restore the Turnovo Constitution. The Court held the complaint inadmissible - see Determination of the Constitutional Court No. 1, 1999.

In certain areas, newly adopted legislation has provided opportunities for public participation in the decision-making processes. A case in point is the environmental impact assessment procedure.<sup>24</sup> Although the participation rules are not "direct democracy", they bring a plebiscitary element in particular decision-making processes.

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<sup>24</sup> See **Daniel Smilov**, *Bulgaria: Imposing Burdens - Controlling Factory Effluent into Rivers*, in *Administrative Justice in the New European Democracies*, Budapest 1998, p. 169.