

**POLITICAL PARTICIPATION AND PROTEST REGULATIONS IN THE
REPUBLIC OF BULGARIA IN 2013**
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Abstract: *Holding a meeting or demonstration is a constitutional right (Art. 43 of the Constitution). The order is defined in the Law on gatherings, meetings and manifestations, and every municipal council shall issue an ordinance regulating the details for conducting such events in their country. However, the ongoing protests and counter-protests in Bulgaria have caused debates regarding the mass gatherings out in the open under the Bulgarian Law on gatherings, meetings and manifestations. Entered into force on 2.02.1990, the law does not seem a sufficient answer to the people's expectations for responsiveness to current conditions and dynamic public relations. The present article aims to indicate new practices in the forms of political participation in Bulgaria in 2013.*

Keywords: political participation, protests, regulations, Law on gatherings, meetings and manifestations

1. Introduction

Examining the different forms of political participation in liberal democracies and their role and place in the modern political process in the Republic of Bulgaria is directly related to the understanding of what politics is.

The term policy is of Greek origin and is perceived and defined in different ways. The term is often seen as a process, activity, attitude, way of management, etc. One of the basic definitions is “a process in which a group of people, whose interests might first be different, reach collective decisions generally regarded as binding for the group and imposed as a common policy.” Another definition of the term is “relationships between large social groups in which they express and defend their interests.”

Politics as a process is associated with the management of the state, the distribution of values and the protection of public and

private interests, and this determines its importance for the development and existence of society. In this sense, politics is a positive thing and the functioning of public formations and political organizations is impossible without it. A mandatory part of the political process is also the participation of its main actors.

2. Legal Regulation of the Political Process

The legal regulation of state institutions, political parties and administration determines their functions in the process, but it is more important to consider the outcome of the political participation of the governed ones, and in particular in the Republic of Bulgaria in 2013, when there were held a number of protests and elections, and they undoubtedly are the main forms of political participation in democratic systems.

It is hard to talk about forms of political participation in totalitarian and authoritarian regimes, which implies the presence and their manifestations mainly in constitutional-pluralistic political systems. Usually these political systems are associated with the modern understanding of democracy. The very concept of democracy has a broad use; sometimes it is misused, being used even by totalitarian and authoritarian regimes, but in its proper use it is mostly a set of principles for the proper functioning of society.

Some of these principles are popular sovereignty, rule of law, separation of powers, freedom, equality of opportunities, party pluralism, constitutionalism, elections, market economy and others. Liberal democracy is often criticized and this has been done for a good reason, but it is only the liberal democracy which has the opportunity for real and genuine political participation as well as regulation of the political process of the main subject in the political system – the civil society.

3. Protests as a Constitutional Right

Following the adoption of the Constitution of the Republic of Bulgaria by the Seventh Grand National Assembly of the 1991 various types of political participation in the political process are legally regulated.

Although there has been expressed some criticism on the results of the course of “Transition”, as it is called in Bulgaria (the period of transition from a totalitarian political regime to a democratic political system), it is also appropriate to point to domestic and foreign policy successes over about a twenty-five-year period, and one of them is the formation of a political culture of participation in a part of the Bulgarian society.

Constituting the main characteristics of modern elections and referenda as an opportunity and means for legitimate transmitting and receiving of political power is enshrined in Art. 10 of the Constitution - elections, both national and local referenda are held on the basis of

universal, equal and direct suffrage by secret ballot. The Election Code that is frequently changed specifies the particular details of active and passive suffrage, principles, etc.

The 1991 Constitution provides for other forms of political participation through the text from Article 43 “(1) Citizens shall have the right to assemble peacefully and without arms for meetings and demonstrations. (2) The procedure for the organizing and holding of meetings and demonstrations shall be established by statute. (3) No authorization shall be required for meetings held indoors.” The actual regulation of social relations in this aspect is enshrined in the Meetings and Demonstrations Act.

One of the main forms of political participation in the modern world is the protest. One cannot ignore the impact of this form of political participation of social networks, but it is, in our opinion, mostly a positive one. In 2013 in the Republic of Bulgaria there were held a number of protests related to the dynamically changing political environment and dissatisfaction of a part of the Bulgarian society connected to the effectiveness of the political system. In this form of participation, indirectly, one may note the impact of foreign policy factors, but it is still necessary to examine the objective facts that determine the “Transition” as a “negative” one, namely what has been displayed by sociological agencies final place of the Republic of Bulgaria in very important public spheres compared with the Member States of the European Union.

4. Restrictions

The existing confusion among the public and especially the organizers of the protests (parties or citizens) is that the notification or registration regime is an unconditional one and the obligation of the party/coalition or civic movement, which organizes a protest or demonstration, is limited only to an application to the mayor, who is not entitled to refuse the event. This is actually not so. The notification mode means that

the mayor once received a request to conduct this type of activity in a public place should solve it, if the provisions of a special law restrictions are not met. The right of rallies, meetings and demonstrations is a basic civil right, which is guaranteed in Art. 43 para. 1 of the Constitution of the Republic of Bulgaria. This right, however, may be limited in cases provided by law. The possibility of limiting the right of the mayor of the municipality where the event will take place is provided in the exhaustively listed four hypotheses in Article 12 para. 2 of LGMM:

The President of the Executive Board of the Municipal People's Council, or the mayor, respectively, is entitled to prohibit the holding of a gathering, a meeting or a manifestation in those cases where there exist unquestionable data evidencing that:

- 1. they are aimed at a forcible transformation of the constitutionally established public and state system or are directed against the territorial integrity of the country;*
- 2. they endanger the public peace in the respective population centre;*
- 3. they endanger the public health in an epidemic situation announced beforehand;*
- 4. they infringe the rights and freedoms of other citizens. The requirement of the legislature to limit such events requires reliable information about the presence of such risks. The assessment of the evidence of such dangers is imposed by the legislature as a manifestation of discretion of the mayor.*

Analysis of judicial practice in such cases shows that it takes the threat of present dangers of harming the relevant public relations to be a real one, not potential. This means that the refusal of the mayor to organize such an event should be based on concrete evidence which beyond reasonable doubt proves the existence of a real threat to public relations mentioned in the four legal hypotheses. The role of evidence in judicial proceedings, for example, can play written evidence of the Ministry of Interior,

containing operational information that the protest will include persons who can commit violations of public order, or that persons participating in the event are preparing to carry out illegal actions, etc.

While the above restrictions are indisputable, the other restrictions that are associated with the site of the protests, which cannot be around the buildings of the Council of Ministers, the National Assembly, the Presidency and the military sites, meet resistance from civil society. Protests at military sites explicable put on the agenda the logic to protect national security, but the ban on meetings before symbols of state power raises bewilderment. Here analysts see an attempt to limit freedom of expression of the will in the form of protest. One can only guess whether representatives of the institutions are scared of popular discontent, or it is purely and simply about reasons of security with the introduction of this measure.

Another restriction imposed by law, is related to the time zone of the events - the prohibition of protests being held from 10 pm to 6 am, which must be strictly monitored to ensure the tranquillity of the citizens. The notice of the time and route of the manifestation, which was increased to 72 hours before the day of its conduct, was interpreted by civil organizations as an attempt to win the administration the time to exert pressure to cancel the event. The administration in turn opposed that it is a purely technical measure to ensure better coordination with the Ministry of Interior to ensure traffic safety. What is of interest is the provision of Article 8 para. 2 of LGMM derogating that of Article 8 para. 1 of the law by saying that in urgent cases the notification deadline for a meeting or rally is one day.

With a note of regret, it can be noted that another limitation provided on the grounds to change the law, namely the use of animals and agricultural machinery during the protests, eventually did not fall within the legal framework, which has a rather

negative effect as there are preconditions for cruel treatment or causing distress to the animals in violation of the Animal Protection Act, violations of the Road Traffic Act in the part for movement of agricultural machinery in the streets, etc. Ultimately, the right to protest is not absolute and unlimited and its implementation can not violate the rights of other citizens as well as other laws. The possibility to appeal the ban on holding a rally in court is new and at the same time a key point in the law as production occurs on one instance, it is quick, and the court decides within 24 hours. Thus, citizens gain confidence that they will not become victims of administrative arbitrariness that produces unjustified bans on protests. With greater precision of the system there could be arranged an option to appeal the ban during the first administrative appeal to the higher authority in accordance with the provisions of Article 45 of the Local Self-Government and Local Administration Act, which provides for the acts of the mayor to appeal in front of the governor, as far as another law does not provide for this. If an appeal by the administrative procedure fails, only then does it lead to a court not to burden the work of the courts. Apparently the legislator took the view that such a procedure will become even more cumbersome (short periods of the protests). For parties and civic movements the costs would not be a problem, but for small groups of people, and more recently those that are socially disadvantaged, it already appears to be a problem. However, the practice will show what the most appropriate solution will be.

The other fact in the current legislation that makes impression is the low amount of fines for violations of the law which cannot act as a deterrent for offenders. We are witnessing rallies often out of control and thrive in serious violations of public order, and such cases can be confined to the imposition of fines. The negative consequences that might arise in the

protests are incomparably larger relative to the size of the fines. What are needed are increased control activities of the police in preventing individuals with provocative intent of this type of open-air gatherings. Another group of analysts see the introduction of fast judicial proceedings and administrative measures against offenders for violations of LGMM as the regulation of sports hooliganism. They think that this would have a significant effect on persons whose intentions are an intended provocation. Other experts think it is appropriate for serious violations to be criminalized by introducing appropriate changes in the Criminal Code, and as alternative punishment of a fine to provide imprisonment of up to three months or probation while milder cases of violations can be punished as before, by administrative order. There has been an idea of certain political circles in Bulgaria for the notification regime to be replaced with an authorization regime, which was not accepted well in society. The prevailing public opinion took the view that this will lead to administrative arbitrariness and citizens' rights to protest will be trampled.

5. Conclusion

The changes in the forms of political participation of the Bulgarian society are determined by various factors and dynamics that are characteristic of the process of globalization in which the contemporary political process is manifested.

The findings, which are imposed by the analysis of the law show that there are controversial issues that are not fully overcome.

We need a serious legislative justification of restrictions on protests around the Presidency, for example, as the existing one is unable to tame the passions. It is necessary to increase the penalties anticipating new administrative penalties and regulation of criminal responsibility for the most serious cases in which the breach of obligations under this law is in direct connection with caused substantial damage

to the state or other citizens. Thus, the legislator is facing a really difficult task to balance the provision of a higher right to open expression of citizenship and at the same time to preserve the rights and freedoms of citizens who do not want to

protest or suffer due to protests. Without doubt, in the manifestation of will and firm determination, this balance will be achieved in accordance with public expectations of an adequate response on behalf of the administration.

Bibliography

Blackwell, compilers: David Miller and others, *Encyclopedia of Political Thought*. CSD, S., 1997, p. 375.

Edited by Georgi Yankov, *Political Science*. UP "Economy", 2001, p. 9.

Constitution of the Republic of Bulgaria. Available at <http://www.parliament.bg/bg/const>

Law on gatherings, meetings and manifestations, Prom. SG. 10/2 Feb 1990, amend. SG. 11/29 Jan 1998. Available at <http://www.legislationline.org/documents/action/popup/id/6724>