

NATIONAL REFERENDUM IN REPUBLIC OF BULGARIA

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Abstract: *A referendum, which is a form of expressing the will of citizens, plays an important role in democratic state systems. It is a tool that complements the model of representative power that is dominant in many countries, allowing citizens to directly participate in the decision-making process. In this context, the referendum, as a tool that complements the representative form of government, has found its place in the constitutions of many post-communist countries in Europe, including Bulgaria.*

The article presents an analysis of the national referendums of this Balkan country, taking into account both the historical context and current legal provisions regulating this form of civic participation. The analysis is based on a review of legal provisions and a study of historical examples of referendums in Bulgaria, including those related to political transformations after the communist period. In the context of the current challenges of democracy and public participation, the analysis of national referendums in Bulgaria aims to provide a deeper understanding of the role of this form of direct democracy in the Bulgarian political system and the possible implications for the future of citizen participation in the decision-making process.

Key words: *Bulgaria, direct democracy, participation, political system of the Republic of Bulgaria, referendum.*

Introduction

A referendum, which is a form of expressing the will of citizens, plays an important role in democratic state systems. It is a tool that complements the model of representative power that dominates in many countries, allowing citizens to directly participate in the decision-making process. Nowadays, it is the most frequently used instrument of direct democracy, considered „the most democratic form of governance”³. There are more and more opinions that direct democracy, which is currently based mainly on the institution of referendum, does not pose a real threat to representative governments.

However, there is a clear tendency to „incorporate” tools of direct democracy into them, which enrich this form of government, complement it, but do not replace it⁴

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³ M. Jabłoński, *Referendum de lege lata i de lege ferenda*, „Przegląd Prawa i Administracji”, red. B. Banaszak, vol. 39, 1997, s. 78.

⁴ E. Olejniczak-Szałowska, *Prawo do udziału w referendum lokalnym. Rozważania na tle ustawodawstwa polskiego*, Łódź 2002, p. 22.

In this context, referendum as a tool complementing the representative form of government has found its place in the constitutions of many post-communist countries in Europe, including Bulgaria. Although many of these countries share many common features and experiences with the political transition process, there are clear differences in their legal systems that affect the regulation of direct democracy tools, including national referenda.

The aim of this article is to analyze the national referenda in Bulgaria. Both the historical context and the current legal provisions that constitute the basis for organizing and conducting national referendums in this Balkan country will be presented. The analysis aims to provide a more complete understanding of both the referendum institution itself, its role in the democratic system of Bulgaria, and possible implications for the future of this form of citizen participation in the decision-making process.

National referendum in Bulgaria

The first legal act containing information on direct democracy in Bulgaria was the 1909 law regulating the possibility of appealing to the people in the form of popular voting. However, this document did not refer to the national level, but to the local level. On its basis, it was possible to vote among residents on matters falling within the competence of city council⁵. The first popular vote at the country level took place on November 19, 1922 and concerned the indictment of Ivan Geschov, Stoyan Danev and Alexander Mailnow-Kosturkov for committing war crimes during World War I. The referendum was organized on the basis of the Act of October 14, 1922 on citizen voting, and was carried out using two-color cards: white ones meant "yes"- support for the accusation, and a vote cast on a black card meant "no" – against the accusation. The use of two-color cards was de facto contrary to the principle of secret voting. The vote itself was compulsory and over 74% of those eligible to vote voted "yes". As a result of changes in the political scene, the arrested ministers were released in 1923 and ultimately no charges were brought against them⁶.

Citizen voting was also called for in Bulgaria on September 18, 1946. The referendum was carried out pursuant to the Act of July 26, 1946 on the referendum on the abolition of the monarchy and the introduction of a people's republic in Bulgaria⁷. 91.63% of citizens entitled to vote took part in the vote, and 95.63% of voters supported the republican form of government⁸. Romyana Bogdanova points out that the institution of monarchy in Bulgaria was actually abolished by referendum, but the very idea of changing the government was the result of external and internal conditions, including tension and escalation of the political conflict in the country. Regency Council, replacing Simeon II as head of state was replaced by a new council made up entirely of members of the Bulgarian Communist Party, the dominant force of the Fatherland Front⁹. There are opinions that the referendum was inconsistent with the so-called the Tarnovo constitution. According to this

⁵ A. Rytel-Warzocho, *Referendum ogólnokrajowe w państwach Europy Środkowo-Wschodniej*, Warszawa 2011, p. 179.

⁶ *Database and Search Engine for Direct Democracy*, <https://www.sudd.ch/event.php?lang=en&id=bg011922>; T. Kostadinova, *Bulgaria 1879-1946 - The Challenge of Choice*, Boulder 1995, pp. 50-52.

⁷ E. Gdulewicz, *Wstęp [w:] Konstytucja Ludowej Republiki Bułgarii*, Wrocław 1979, pp. 9-10.

⁸ D. Nohlen, P. Stöver, *Elections in Europe: A Data Handbook*, Nomos 2010, p. 375.

⁹ R. Bogdanova, *Ликвидиране на монархията в България чрез референдум*, „Исторически преглед” 1-2/2002, p. 116.

act, the state system could not be changed by referendum, but only by decision of the Grand National Assembly, convened on the initiative of the tsar¹⁰. During the period of political changes, in the early 1990s, attempts were made to question the referendum and the republican form of government introduced as a result. Ultimately, the republican form of government was confirmed in the 1991 Constitution¹¹.

The legal act that included the provision regarding citizen inquiry was the constitution of December 4, 1947. Under its provisions, Bulgaria is a People's Republic with a representative government. Power comes from the people and belongs to the people. It is implemented through representatives and citizen votes. The highest organ of state power is the National Assembly, which has full legislative power, but can ask questions to the nation¹². The organization of the vote was the responsibility of the National Assembly¹³. The Constitution does not specify, among other things, the subject of voting, the procedure and principles of its organization, the effects and conditions allowing it to be considered binding. The institution was never used because the provisions of the Constitution were not clarified in the laws¹⁴.

Provisions on direct democracy were also included in the socialist constitution of Bulgaria of May 16, 1971. According to its provisions in the Republic of Bulgaria, all power comes from and belongs to the people. Power is implemented by the people through representative bodies or directly¹⁵. In the latter case, direct exercise of power by citizens was possible with respect to popular vote, popular consultation and referendum¹⁶. The Constitution does not refer to the Act for statutory regulations regarding referendums. Pursuant to Art. 78, the National Assembly decides which issues and in what order will be resolved by voting¹⁷. It is worth noting that the constitution itself was adopted by way of a referendum organized under the Act on conducting a nationwide referendum on May 16, 1971. Also this time, two-color ballots were used (red - vote for "yes", white - vote for "no"). During voting, it was possible to use a voting booth, and the voters' chosen card was placed in an envelope that they received along with the voting cards¹⁸. 97.7% of citizens entitled to vote took part in the referendum, and 99.75% of those who voted were in favor of adopting the constitution¹⁹.

Another legal act containing provisions on direct democracy was the Act of March 30, 1983 on seeking the opinion of the people. Already in the introduction, it was emphasized that „at the stage of building a mature socialist society, the development of direct democracy, attracting the working masses to direct participation in the establishment of laws and other state acts and in the management of the state are of particular importance." The purpose of the act was to create uniform legal norms that would enable citizens to directly consult draft laws and resolve, by way of referendum, matters falling within the

¹⁰ Y. Kolev, 1946: *Third Bulgarian Kingdom ends with a referendum*, <https://bnr.bg/en/post/100450616/1946-third-bulgarian-kingdom-ends-with-a-referendum>, P. Tsekov, *Direct democracy. An overview of history and practices*, Sofia 2005, p. 43.

¹¹ *The referendums in Bulgaria*, <https://bnr.bg/en/post/100181764/the-referendums-in-bulgaria>

¹² Конституция на Народна република България, 1947, <https://parliament.bg/bg/18>, art. 17.

¹³ *Op.cit.*, art.19.

¹⁴ Конституция на Народна република България, 1947, <https://parliament.bg/bg/18>

¹⁵ Конституция на Република България от 18.05.1971 г., <https://www.parliament.bg/bg/19>, art. 2.

¹⁶ A. Rytel-Warzocho, *op.cit.*, p. 186.

¹⁷ Конституция на Република България от..., art. 78.

¹⁸ E. Gdulewicz, *op. cit.*, p. 16.

¹⁹ D. Nohlen, P. Stöver, *op.cit.*, p. 375.

competences of representative state bodies, in particular the State Council²⁰. The essence of public consultations was the direct participation of citizens in the discussion and resolution of matters falling within the competence of the State Council and the National Assembly, as well as „more important matters falling within the competence of the People's Councils”²¹. Public consultations are carried out by way of discussion (drafts of laws and other bills of the National Assembly and draft laws of the State Council and People's Councils) or by referendum²² (for the purpose of adopting laws or by way of a binding resolution of other matters falling within the competence of the National Assembly, as well as for the resolution of matters falling within the competence of the State Council and the People's Councils). A referendum may be conducted by voting or by a general meeting of citizens²³. The right to participate in the referendum is available to Bulgarian citizens who have the right to vote on the day of the referendum. With regard to public consultations conducted through discussion, the right to participate in them has been extended to persons who are over 16 years of age on the date of the consultation²⁴. The entities entitled to submit to the National Assembly and the Council of State a request to hold a national referendum included: the State Council, standing committees of the National Assembly, parliamentary clubs, members of parliament, the Council of Ministers, the Supreme Court, the Prosecutor General, the National Council of the Fatherland Front, the Central Council of the Bulgarian Trade Unions, Central Committee of the Dimitrov Union of Communist Youth, Board of the Central Cooperative Union, minimum 30,000 voters. The referendum proposal should include a justification for the vote and indicate the type of direct democracy tool planned to be used, i.e. discussion or referendum²⁵. The only body empowered to issue a decision to hold a national referendum is the National Assembly. In the case of discussions on the bill, the Council of State was additionally mentioned²⁶. The Act also provided for an information and explanatory campaign²⁷. Setting the date for the national referendum is the responsibility of the State Council, and organizing the vote is the responsibility of the State Council and the National Council of the Patriotic Front²⁸. The functions of the central commission for conducting the referendum are vested in the Central Electoral Commission, while the voting itself is carried out by local commissions at three levels²⁹. Voting takes place using two ballots of different colors with the words „yes” and „no”. Voting papers are invalid if they do not correspond to those in the established pattern, are torn or completely crossed out, or if there are two or more voting papers in the envelope³⁰. The result of the national referendum is announced by the National Assembly within two weeks and published in the Journal of Laws. A referendum proposal is considered adopted if more than half of the

²⁰ Закон за допитването до народа, Държавен вестник, брой 28 от 8.IV, wstep.

²¹ Op.cit., art. 1.

²² In addition to the national referendum, the act provided for the organization of local referenda. The right to participate in them was granted to Bulgarian citizens who temporarily or permanently reside in a given community and who had the right to vote on the day of voting. Op. cit., art. 4.

²³ Op.cit., art. 3, art. 18.

²⁴ Op.cit., art. 4.

²⁵ Op.cit., art. 8.

²⁶ Op.cit., art. 9.

²⁷ Op.cit., art. 12.

²⁸ Op.cit., art. 19-20.

²⁹ Op.cit., art. 21.

³⁰ Op.cit., art. 24.

voters entitled to participate in the referendum voted for it. In matters not regulated by the Act, the provisions of the Electoral Act shall apply³¹. The Act did not indicate any restrictions on the subject of the referendum, but taking into account the political realities at that time and the fact that the final decision to hold a referendum rested with the National Assembly, it was not necessary. Despite detailed statutory regulations, in practice no national referendum was held based on it.

The current Bulgarian Constitution of July 12, 1991 contains very general provisions regarding the national referendum. According to the Constitution, the power of the state belongs to the people, which implements it directly and through the bodies established by this Constitution³². All national and local elections and referendums are conducted on the basis of universal, equal and direct suffrage, in a secret ballot. However, the organization and procedure for conducting elections and referenda are determined by a separate act³³. Every citizen over 18 years of age has the right to participate in a referendum, except for persons deprived of voting rights by a court decision or serving a prison sentence³⁴. The resolution to hold a national referendum is adopted by the National Assembly³⁵, and the President of the Republic of Bulgaria sets its date³⁶. It is worth noting that internal law (both the Constitution and the laws) does not provide for citizens' legislative initiative. The bodies listed in the Constitution as authorized to introduce a bill include: Any Member of the National Assembly or the Council of Ministers; one quarter of the Members of the National Assembly and to the President to introduce a constitutional amendment³⁷. The legal act regulating the conditions, organization and procedure for conducting a national referendum in Bulgaria is Act on the direct participation of citizens in state power and local self-government. The Act indicates, among others: general principles of direct participation of citizens in governance, which include: free expression of will; universal, equal and direct participation in a secret ballot; equal access to information about the subject matter of the case to be resolved; equal conditions for presenting different opinions³⁸.

Pursuant to the Act, the right to participate in a national referendum is granted to citizens of the Republic of Bulgaria who are entitled to vote and have permanent residence in the territory of the country on the day of voting³⁹. The financial resources for its implementation come from the state budget⁴⁰. One or more issues may be put to a vote. The subject of voting are matters of national importance falling within the competence of the National Assembly. Decisions cannot be made in a national referendum regarding the date of the presidential election, the amount of taxes, fees, benefits and contributions for work and insurance, or the state budget. Citizens also cannot decide by vote on the rules of procedure of the National Assembly, the full text of laws and codes, or ratified international agreements. In the latter case, the vote may take place before the agreement is ratified. The powers of the National Assembly regarding: appointing and dismissing the

³¹ *Op.cit.*, art.31.

³² Конституция от 13.07.1991, art. 1. <https://www.parliament.bg/bg/const>

³³ *Op.cit.*, art. 10.

³⁴ *Op.cit.*, art. 42.

³⁵ *Op.cit.*, art. 84.

³⁶ *Op.cit.*, art. 98.

³⁷ *Op.cit.*, art. 87.

³⁸ Act on the direct participation of citizens in state power and local self-government 12.06.2009, art.1.

³⁹ *Op.cit.*, art. 4.

⁴⁰ *Op.cit.*, art. 5.

government and individual ministers are also excluded from voting; creation, transformation and abolition of ministries; or electing and dismissing the president of the Bulgarian National Bank and the heads of other institutions specified by law. Citizens cannot also initiate a referendum on matters related to the adoption and approval of the annual reports of the Supreme Court of Cassation, the Supreme Administrative Court and the General Prosecutor, submitted by the Supreme Council of the Judiciary, on the application of the law and the activities of courts, prosecutors and investigative bodies; the Prosecutor General on the activities of the Prosecutor's Office in the field of applying the law, combating crime and implementing penal policy; bodies appointed in whole or in part by the National Assembly, if the law so provides. The national referendum cannot also concern the appointment of Members of the Constitutional Tribunal, the Supreme Council of the Judiciary and its Inspectorate, as well as the Ombudsman and the National Audit Office (supervising the implementation of the budget) and their organization, competences and mode of operation. Bulgarians entitled to vote by popular vote cannot decide on matters of impeachment, war and peace, or the introduction of martial law or state of emergency in their country⁴¹.

The initiative to hold a national referendum may be submitted to the National Assembly by: at least one fifth of the members of parliament; President; The Council of Ministers; at least one fifth of municipal councils; a group of citizens entitled to vote who have collected signatures of support for their initiative of not less than 400,000 citizens entitled to vote. The signatures have to be collected in 90 days⁴². A request for a national referendum contains one or more questions to which citizens answer „yes” or „no”. The questions are written in common Bulgarian and are short, precise and clear⁴³. The decision to hold a referendum is made by the National Assembly no later than three months after submitting the application to the Speaker of the National Assembly. Voting is preceded by checking the number of signatures supporting the referendum initiative. In addition, the application is analyzed by committees indicated by the Speaker of the National Assembly, including the so-called leading committee⁴⁴. After the National Assembly adopts a resolution on organizing a referendum, the President sets a voting date and does so no later than one month from the date of adoption of the resolution by the National Assembly. Voting takes place on a day off from work, no earlier than two months and no later than three months from the date of announcement of the decision of the National Assembly⁴⁵. The Council of Ministers is responsible for the organizational and technical preparation of the referendum. The council's responsibilities include primarily the preparation of information material containing the following information: content of the question; short information about the reasons for organizing the referendum; information about the date, place and order of the referendum⁴⁶.

Voting takes place on previously prepared ballot papers with the referendum question or questions and the answers „yes” and „no”. The voter places the ballot in the envelope and throws it into the ballot box. The Card is considered invalid⁴⁷, if: it was not put in an envelope; does not match the model ballot, all answers have been crossed out; no answer has been selected. Dirt and possible damage do not invalidate the card, as long as the voter's will can be clearly stated⁴⁸. The results of the national referendum are announced

⁴¹ Op.cit., art. 9.

⁴² Op.cit., art. 10.

⁴³ Op.cit.

⁴⁴ Op.cit., art. 13.

⁴⁵ Op.cit.

⁴⁶ Op.cit., art. 16.

⁴⁷ The Act does not distinguish between valid votes and valid ballots.

⁴⁸ Op.cit., art. 19.

by the Central Electoral Commission within 5 days of the end of the vote⁴⁹. A proposal that is the subject of a referendum is adopted if at least the same number of voters took part in the vote as voted in the last elections to the National Assembly and if more than half of the voters taking part in the referendum vote chose „yes”. If the proposal that is the subject of the referendum has not been voted on, a national referendum on the same issue may be organized no earlier than two years from the date of the referendum. An interesting situation is when the number of voters in the referendum was smaller than the number of voters in the last elections to the National Assembly, but exceeded 20 percent of citizens entitled to vote, and more than half of those taking part in the referendum voted „yes”. In such a case, the subject of the referendum proposal is submitted to the National Assembly and is considered by it as a draft resolution⁵⁰.

After the political changes in Bulgaria that took place in the early 1990s, national referendums were organized three times. On January 27, 2013, the subject of the referendum was nuclear energy. 61.49% of voters supported the referendum question *Should nuclear energy be developed in Bulgaria through construction of a new nuclear power plant?*⁵¹. The referendum was invalid due to too low turnout (20.22%)⁵². A similar situation occurred in the case of two subsequent referenda. In the vote held on October 15, 2015, although 72.79% of voters answered the question *Do you support being able to vote remotely electronically when conducting elections and referendums?*, the turnout was too low (40.5%)⁵³. In turn, in the vote conducted on November 6, 2016, only 0.2% failed to recognize it as valid. This time, voters answered three questions: *1. Do you support MPs being elected by a majority electoral system with an absolute majority in two rounds?*, *2. Do you support the introduction of compulsory voting in elections and referendums?* *3. Do you support the annual state subsidy granted to finance political parties and coalitions to be one lev for every vote received in the last parliamentary elections?* 71.95% of voters answered yes to the first question, 61.89% to the second, and 72.16% to the third⁵⁴.

Summary

The history of national referendums in Bulgaria shows how this form of direct citizen participation in the decision-making process plays an important role in the political life of the country. From the first national referendum in 1922 on war charges against former ministers, to the more recent referendums of 2013, 2015 and 2016 on nuclear issues, the use of electronic voting, and how political parties are financed, we have seen evolution and change in citizens' approach to their participation in shaping the country's policy.

Current Bulgarian law governing national referenda contains a number of precise rules and restrictions that aim to ensure that referendums are constitutional and do not violate the principle of separation of powers. There are also some challenges, such as low turnout, which makes referendums held invalid. This, in turn, leads to questions about the

⁴⁹ Op.cit., art. 22.

⁵⁰ Op.cit., art. 23.

⁵¹ Референдум за развитието на ядрената енергетика в Република България, https://web.archive.org/web/20130107010002/http://www.mvr.bg/referendum_2013.htm

⁵² Резултати от Национален референдум 27.01.2013 г. за страната, <https://results.cik.bg/referendum/rezultati/index.html>

⁵³ Б. Рилска, *Референдумът ще е само за електронното дистанционно гласуване (обновена)*, https://www.dnevnik.bg/bulgaria/2015/07/28/2581202_referendumut_shte_e_samo_za_elektronnot_o_distancionno/

⁵⁴ Резултати от национален референдум, <https://results.cik.bg/pvnr2016/tur1/referendum/index.html>

effectiveness of this democratic tool in practice. It would be worth paying attention to this problem and looking for possible reasons that limit the possibility of using this form of direct democracy. Undoubtedly, a significant obstacle to the development and, above all, the use of direct democracy tools in Bulgaria, in particular the organization of a referendum, is the high number of signatures that must be collected in order to conduct a vote (a minimum of 400,000 citizens entitled to vote, in a country where approximately 6,000,000 people). Another problem is the variable turnout, which depends on the number of people who voted in the last elections to the National Assembly.

It should be noted that although in some cases referendums were not considered valid due to too low turnout, this does not reduce their importance as an expression of the will of citizens and a form of democratic participation. It is worth emphasizing that although national referendums in Bulgaria are relatively rare, they are an important element of democracy. Citizens have the opportunity to express their opinion on matters important to them and the future of the country. Therefore, while national referenda in Bulgaria do not always lead to changes in the country's policies, they are an important part of the democratic process and remain an important tool that citizens should be able to use more than before.

References

1. Bogdanova R., *Ликвидиране на монархията в България чрез референдум*, „Исторически преглед” 1-2/2002.
2. Database and Search Engine for Direct Democracy , <https://www.sudd.ch/event.php?lang=en&id=bg011922>.
3. Gdulewicz E., *Wstęp [w:] Konstytucja Ludowej Republiki Bulgarii*, Wrocław 1979.
4. Jabłoński M., *Referendum de lege lata i de lege ferenda*, „Przegląd Prawa i Administracji”, red. B. Banaszak, vol. 39/1997.
5. Kolev Y., 1946: *Third Bulgarian Kingdom ends with a referendum*, <https://bnr.bg/en/post/100450616/1946-third-bulgarian-kingdom-ends-with-a-referendum>
6. Конституция на Народна република България, 1947, <https://parliament.bg/bg/18>.
7. Конституция на Република България от 18.05.1971 г.
8. Конституция от 13.07.1991, art. 1. <https://www.parliament.bg/bg/const>.
9. Kostadinova T., *Bulgaria 1879-1946 - The Challenge of Choice*, Boulder 1995.
10. Nohlen D., Stöver P., *Elections in Europe: A Data Handbook*, Nomos 2010.
11. Olejniczak-Szałowska E., *Prawo do udziału w referendum lokalnym. Rozważania na tle ustawodawstwa polskiego*, Łódź 2002 .
12. Резултати от Национален референдум 27.01.2013 г. за страната, <https://results.cik.bg/referendum/rezultati/index.html>.
13. Референдум за развитието на ядрената енергетика в Република България, https://web.archive.org/web/20130107010002/http://www.mvr.bg/referendum_2013.htm
14. Рилска Б., *Референдумът ще е само за електронното дистанционно гласуване (обновена)*, https://www.dnevnik.bg/bulgaria/2015/07/28/2581202_referendumut_shte_e_samo_z_a_elektronno_distancionno/
15. Rytel-Warzocha A., *Referendum ogólnokrajowe w państwach Europy Środkowo-Wschodniej*, Warszawa 2011.
16. *The referendums in Bulgaria*, <https://bnr.bg/en/post/100181764/the-referendums-in-bulgaria>
17. Tsekov P., *Direct democracy. An overview of history and practices*, Sofia 2005.
18. Закон за допитването до народа, Държавен вестник, брой 28 от 8.IV.
19. ЗАКОН ЗА ПРЯКО УЧАСТИЕ НА ГРАЖДАНИТЕ В ДЪРЖАВНАТА ВЛАСТ И МЕСТНОТО САМОУПРАВЛЕНИЕ от 12.06.2009.