New Bulgarian University, Law Department

Peter Vladislavov Slavov, Ph.D candidate in
"Constitutional Law" programme

GUARANTEES FOR CONSTITUTION-COMPLIANT LEGISLATION

Abstract of Dissertation paper for acquisition of a Ph.D degree

Academic Tutor: Prof. Ekaterina Mihaylova, Ph.D

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INTRODUCTION

More than three decades after the current Bulgarian Constitution was adopted – embodying traces of the famous Tarnovo Constitution of 1879 as well as of the spirit and the modernism of the contemporary parliamentary democracies, we still are faced with bad legislation practices and quite often such ones which turn out to be in contradiction to the Constitution. "Parliamentarism is qualified constitutionalism" writes Dr. Alexander Girginov in his work "The State organization of Bulgaria[1]", but is it self-sufficient to guarantee the compliance of the adopted legislation with the Supreme Law of the land?

The main guarantee-mechanism for protection of the Constitution obviously functions properly, as for these 30 years the Constitutional Court – being the supreme protector of the Supreme Act has intervened many times and declared unconstitutional regulations, which contradict to the Constitution.

Yet, is this sufficient and can only this mechanism guarantee, that one or another temporary "majority" in the Parliament will not stray from the principles and the traditions of the modern State with Rule of Law and market economy the way they have been inscribed in the Constitution?

The fact, that five of the six amendments to the Supreme Law are in the chapter "Judiciary" and with a 6th amendment under way at the time this paper is being prepared[2], proves undeniably, that the contemporary Bulgarian Constitution has its own flaws and it is necessary to have them amended.

Thus, the main question to which this work will seek the answer will be :

[1] Gerginov, A, "The State organisation of Bulgaria", page 603, Sofia, new release of NBU under the supervision and with introduction of Prof. E. Mihaylova, Sofia, 2021

[2] Please, check the Act for Amendment of the Constitution, No. 49-354-01-83 as of 28/07/2023: https://parliament.bg/bg/bills/ID/165057, available on 22.12.2023 г. 10:00

"Are the guarantees in the Constitution enough and sufficient to ensure constitutionally compliant legislation, respectively – what can be improved, should these reveal not to be functioning properly?"

Btw., part of the genesis[3] of these problem could be found in the two of the predecessors of the contemporary Constitution of the time of the Totalitarian communist state.

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The Dissertation consists of 248 pages and more than 100 academic sources and begins with an introductory part where the main goal and the subject of the research are defined along with the main issues to be analysed, the methodology and the possible solutions. The expected scientific contribution of the paper also has been defined mostly in the form of specific propositions for additional guarantees for compliant with the Constitution legislation.

In part I of the work has been summerised the historical perspective and the three preceding Constitutions adopted after the Liberation of Bulgaria in 1878, which undoubtedly, have placed their marks upon the contemporary Supreme Law – the strongly democratic especially for the time it was adopted "Tarnovo" Constitution of 1879 and the two constitutions of the time of the Communist State – the "Dimitrov" and the "Zhivkov" Constitution.

Then, in part II, the main theories of parliamentarism and legislation are discussed with the accent on the Representative Theory (French theory) and the Theory of Instruments (German theory), along with the procedures for starting a legislative initiative, the ensuing discussions, the way a Law is adopted by the Parliament as well as how its other acts are voted, in view of the possibilities for current civil control upon these acts and processes as a guarantee for adopting compliant with the Constitution legislation.

[3] E.g. the position of Prosecutor General influenced by the Soviet constitution to be found in the "Dimitrov's" and "Zhivkov's" supreme laws and also added to the initial project o the contemporary Constitution of 1991.

The State bodies involved in the legislation procedures are also analysed **in part III** along with their functions with stress upon prevention[4], current[5] and subsequent[6] control for avoiding unconstitutional legislation.

Part IV mainly concentrates upon the procedures for adopting and amending the current Supreme Law, respectively for adopting a new Constitution in the context of the need of guarantees for compliance with the active Constitution of this process, as well as of working mechanisms for protection of the Supreme Las against unwanted and unconstitutional interventions. The only attempt (as of the time of preparing this paper) to initiate a procedure of introducing in the Parliament a project for "new constitution" and calling for a Supreme National Assembly has also been analysed. The word "new" in this case has been underlined on purpose, as the systematic analysis of the project for "new" constitution, proposed by the Parliamentary group of Political Party GERB in 2020, turned out to be up to 90% identical with the current Constitution.[7].

Thus the hypothesis will be discussed, whether it is admissible to introduce to the Parliament such a "template-project" with the argument, that the primary legislator of the Supreme National Assembly will anyway be able to change it in any way he pleases and even exit the framework of the initial project. Respectively, doesn't such an approach (should we assume that it is admissible) pose a considerable threat especially to the compliance with the Constitution of the certain legislation initiative and would the newly adopted "constitution" be subject to control by the Constitutional Court the way, any Law for amendment of the Constitution adopted by an orginary General Assembly is subject as to art. 149, (1), p. 2[8].

Part V. Concentrates on several possible amendments, which could improve the efficiency of these mechanisms and also, the possibility to introduce some new mechanisms has been analysed on the basis of the conlusions of this work, the quoted academic literature, the practice

[4] E.g. the introduced with the Rule of Order of the 43rd National Assembly and continued by all subsequent Parliaments requirements for Initial impact assessment of the legislation projects proposed in the National Assmebly by the MPs.
[5] E.g. the possibility to refer to the Constitutional court by a group of at least 1/5 of the MPs with a request to give guidelines as to how should be understood specific regulations of the Constitution when there is a doubt for a possible contradiction with it by a certain legislative proposal.
[6] The right of 'veto' of the President as to art. 101 of the Constitution, for example.
[7] Statement of prof. Plamen Kirov, expressed in front of the media: https://e-vestnik.bg/32900/proektat-na-gerb-za-konstitutsia-nedonosche-ili-palno-nedorazumenie-komentari-ot-yuristi/, available on 22.12.2023 г. 10:00
[8] Както е посочено и в диспозитива на Решение № 3 по конституционно дело № 22/2002 г.

of some National Assemblies and the Constitutional Court also being anslysed and last but not least – based also on by personal experience as MP in the 43rd National Assembly in the period 2014-2017 and the more that 100 legislation proposals I made many of which gained support the became part of the current legislation and thereafter also as a lawyer and member of the Supreme Bar Council in the mandate 2021-2025 with several proposal for addressing the Constitutional Court on unconstitutional legislation.

The final part summarizes the conclusions made so far for the effectiveness of the existing in the Supreme Law guarantee mechanisms to ensure constitutional legislation.

Part VII referrers to the academic sources and literature, transcripts of the sessions of several different Parliaments, the practice of the Constitutional Court, essays, publications, issues of State Gazette etc.

SUBJECT OF THE WORK is the analysis of the initiation and proceeding of the legislation process and the existing guarantee mechanisms of its compliance with the Constitution – such as:

- preemptive – the right of legislative initiative; the public discussion; the primary impact assessment; the debates between first and second voting the the Plenary and the parliamentary commissions;

- subsequent (controlling)– "veto" by the President; referring to the Constitutional Court of a possibly unconstitutional act; subsequent impact assessment and possible legislation changes in result of problems or unsatisfactory results being discovered.

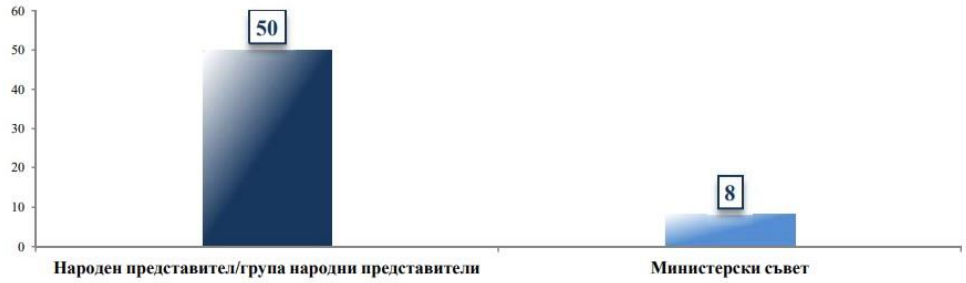
The chart below shows how "proforma" the requirement for public discussion and impact assessment could be approached by some deputies (e.g. the so called "Fuel cartel Act" was introduced to the National Assembly by a group of deputies with only 1 page impact assessment.)

There are 50 new Acts or Law amendment acts introduced by deputies as compared to only 8 by the Council of Ministers for the period 19.04.2017-31.907.2017.

В периода от 19 април 2017 г. до 31 юли 2017 г. в регистър „Законопроекти“ на Народното събрание са регистрирани 58 законопроекта, които, според изискванията на ЗНА и ПОДНС, трябва да бъдат придружени с предварителна оценка на въздействието[2].

Разпределение на законопроектите, регистрирани в Народното събрание, за които следва да бъде извършена оценка на въздействието

Брой законопроекти, според техния вносител



- ✓ законопроекти за изменение и допълнение на съществуващ закон – 36 бр.;
- ✓ законопроекти за изменение на съществуващ закон – 9 бр.;
- ✓ законопроект за допълнение на съществуващ закон – 7 бр.;
- ✓ проект на нов закон – 6 бр.

PURPOSE OF THE RESEARCH is on the basis of historical review and comparative analysis of the Supreme Laws in Bulgaria and the guarantee mechanisms in them as to the contemporary Bulgarian Constitution to identify the guarantees for compatibility with the Constitution of the legislation process and to point out the good and the bad practices.

Based on the analysis above specific proposals have been worked out for improvement of the legislation *de lege ferenda* and for better compliance with the Constitution through the control the Constitutional Court exercises including the possibility Bulgarian citizens and legal entities directly to address it[9] as a guarantee for complete screening and compliance of the newly adopted legislation with the Constitution.

[9] Two main approaches have been identified for access to the Constitutional Court: the first – introduction of Individual constitutional claim /ICC/, which is less recommendable in view of the difficulties other countries which have done that experience as result of the overwhelming “wave” of claims (e.g. Germany, Turkey); The second approach is to broaden the access of citizens and legal entities by giving wider powers of the institutions as to art. 150 (3) and (4) of the Constitution – the Ombudsman and the Supreme Bar Council as well as to every Court which has encountered a possibly unconstitutional regulation while resolving a case pending in front of it.

THE MAIN OBJECTIVE of the research is:

- to analyse the creation and development of the guarantees for constitutional legislation in the four Supreme Laws adopted after the Liberation of Bulgaria in 1878;

- to research both theoretically and practically these guarantee mechanisms and their effectiveness in the contemporary Bulgarian Constitution;

- based on the analysis above to point out the possible flaws of the guarantee mechanisms for constitutional legislation process and to make proposals accordingly for their improvement;

- to propose new guarantee mechanisms in the Supreme Law for constitutional legislation, which is not adopted in violation of the Supreme Las and to draft specific propositions for amendments in the legislation.

USED METHODOLOGY:

- Firstly - the historical method in order to identify the origin of the guarantee mechanisms for constitutional legislation, their development and the contemporary issues;

- Secondly – the comparative legal method which follows the evolution of the mechanisms for constitutional legislation and their effectiveness;

- Finally – the normative, systematic and functional methods wheras a wide range of legislation initiatives have been analysed which contradicted the Constitution. Their development and the final outcomes have been scrutinized as well as the ensuing actions by the authorities with competence to protect the Constitution.

Based on the above an analysis as to whether the existing guarantee mechanisms for constitutional legislation process have worked out properly or if not – what the causes have been.

The endeavor for THE SCIENTIFIC CONTRIBUTION of this Dissertation consists in the analysis carried out on the effectiveness of the existing guarantee mechanisms for consti-

tutional legislation process, in the identification of possible weaknesses and in the recommendation made for their overcoming referring to amendments in the current legislation as well as to introducing new guarantee mechanisms.

THE TARNOVO CONSTITUTION

Many of the main principles of the Tarnovo Constitution can be found in the contemporary Bulgarian Constitution and thus also most of the guarantee mechanisms for constitutional legislation process introduced in it.

The strictly formal procedures for either introducing a legislation initiative or proposing amendments in the Supreme Law itself; the time constraints for such initiatives; the possibility to request a new debate and vote on a specific law (i.e. the right of a 'veto'); the prerequisite to publish a Law in the official state journal in order to enter into force – all these can be found both in the Constitution of 1879 and the contemporary Supreme law of the Republic of Bulgaria:

- Thus for example the regulation of art. 43 of the Tarnovo Constitution (stating that the Bulgarian State is governed as to the legislation adopted and published as to the given by the Constitution order) can be found also in art. 4[10] and art. 5, (5)[11] of the contemporary Constitution;

- The prerequisite of art. 44 of the Tarnovo Constitution for mandatory preliminary discussion by the National Assembly of a Law project or of a proposal for amending an existing Law exists also in art. 88 (1) of the present Constitution[12];

- The requirement of art. 104 of the Tarnovo Constitution for a quorum of 50% + 1 of the MPs, so that the National Assembly can adopt its acts can be found in art. 81 от the Constitution of Bulgaria[13];

- Art. 108 of the Tarnovo Constitution gives the legislation initiative to the King and the MPs, while the contemporary Constitution in its art. 87 empowers the MPs and the

[10] Art. 4, (1), second sentence: „It is governed by the Constitution and the Laws of the State."
[11] Art. 5, (5): „All legislation must be published. The regulation enter into force three days after being published unless they state otherwise"
[12] Art. 88, (1), first sentence: „Laws are discussed and adopted by two votes which take place on different sessions."
[13] Art. 81, (1): „The National Assembly opens its sessions and adopts its acts whenever there are present more than the half of the MPs"

Council of Ministers with one specific issue, however – the Council of Ministers is the only one to introduce to the Parliament the State Budget;

THE "DIMITROV's" and THE "ZHIVKOV's" CONSTITUTION of the time of the totalitarian communist state

On the other hand, along with the progressive spirit of the European values of the democratic societies and liberal democracy the contemporary Bulgarian Constitution is marked also by its two predecessors of the time of the communist state – the "Dimitrov's" Constitution of 1947г. and the „Zhivkov's Constitution" of 1971 (named after the communist leaders of the time).

The strongest mark undoubtedly is the presence of the institution "Prosecutor General" in art. 126, (2); art. 129, (2) and (4) and art. 130, adopted mostly after the "Dimitrov's Constitution", although at present the Prosecutor General is being elected by the Supreme Judicial Council and not the politicians in the General Assembly[14].

Part 1.2. of the Dissertation deals in details with the "conciliatory" procedure, described by prof. B. Spasov in regard of the way the project of the "Dimitrov's Constitution" was sent to the soviet colleagues to Moscow for review and how it came back with the addition of "Prosecutor General" as to the Soviet model.

Thus this position, although changed to some extent, has been retained also in the contemporary Constitution of 1991г. whereas now he/she are not a direct function of the politicians in the Parliament (being elected by the Supreme Judicial Council). Still, the excessive "parliamentary quota" in the SCC of 11 people, out of 25, elected by the parties in the National Assembly,

[14] At the time of completion this work there has been formally introduced a proposal for amendment of the Constitution No. 49-354-01-83 of 28/07/2023: https://parliament.bg/bg/bills/ID/165057 (available on 22.12.2023 г. 10:00), which envisages to keep the position of Prosecutor General whereas the latter will no longer be appointed by the President upon proposal of the Supreme Judicial Council, but will be appointed of the Prosecutors' Council. Even more disturbing is the proposal to create an option for reelection of the acting Prosecutor General and even though the MPs who suggest that argue, that the mandate of the PG is reduced to 5 years from 7 now, with the reelection option he/she will acquire the longest mandate in the Constitution of 10 consecutive years! On 20.12.2023 the final vote took place and with State Gazette 106/2023 the amendments were published, whereas the term of the PG was restricted to one 5-year term, yet still he will be elected by the Supreme Prosecutors Council, 6 of its 10 members to be elected by the Parliament.

the dominance in practice of the Prosecutor General over the Prosecutors Council (and thus also over the changes and appointments within the Prosecutors office), and even somewhat the existing domination of the whole SCC and the continuing lack of an effective mechanism for investigation and temporary suspension from office of the Prosecutor General and his deputies while being investigated remain a source of political interference in the work of the independent judiciary. With the "sixt amendment" to the Constitution of 2023, the PG is elected by the Supreme Prosecutors Council for a 5-year-term.

The most evident example as to the above is the way in the VII Supreme National Assembly and in violation of the rules for adopting the new constitution in art. 126, (2) was added the sentence[15], that *„the Prosecutor General exercises General supervision for law compliance the methodological guidance over all prosecutors"*. The lack of precise legal definition of the term „legal compliance and methodological guidance over the work of the prosecutors [16]" had lead in some earlier versions of the Law on the Judiciary so that the Prosecutor's office was deemed „unified and centralised"[17], and all prosecutors and investigators are „to report and follow the orders of the Prosecutor General". These provisions were also amended with the "sixt amendment" and the PG no longer exercises General supervision for law compliance, while the methodological instructions are subject to protest in front of the court.

The so-described problem could be summerised by saying that five of the six amendments to the Constitution have taken place in its chapter VI. "Judiciary".

[15] Art. 126, (1) states that the Prosecutors' office is in line with the structure of the courts. However, the Constitution does not envisage e "Chief Court" with a "Chief Justice" etc.

[16] Unfortunately, this remained unclear even after constitutional case № 18/ 2022, whereas the request by the Council of Ministers for some deliberation of these regulations in the Law on the Judiciary was declined by the Constitutional Court

[17] Please check the regulations of art. 136 of the Law on the Judiciary until the amendments made by the 43rd National Assembly, State Gazette No.62 of 09.08.2016 г.:
Art. 136, (3) (abolished with SG 62/2016) „The Prosecutors office is unified and centrilised. All prosecutors and investigators report to the Prosecutor General."

GUARANTEE MECHANISMS FOR CONSTITUTIONAL LEGISLATION PROCESS IN THE CONSTITUTION OF BULGARIA

The main guarantee mechanisms for constitutional legislation can be divided into two groups – preemptive and consequent (controlling).

The group of the preemptive mechanisms includes the formal prerequisites to the legislation process such as public discussions, impact assessments, publicity, participation of citizens and civil organisations; discussions both in the parliamentary commissions and the plenary and the voting of a given Law or amendments to a Law at separate sessions (art. 88 of the Constitution); the right of the President to send back to the Parliament for a new discussion and approval a given Law or amendments to a Law (art. 101, (1) of the Supreme Law.

The request as to art. 150, (1) of the Constitution, which empowers some state institutions to refer to the Constitutional Court with a request for guidelines as to how a specific regulation of a given Law must be understood also is part of the preemptive mechanisms;

To the consequent (controlling) mechanisms belongs the request to the Constitutional Court by certain state bodies to review regulations of or an entire Law as to its compliance with the Supreme Law and in case of a contradiction, to declare it unconstitutional.

As we have seen so far, some of the guarantee mechanisms for constitutional legislation turn out to be less efficient in certain situations – for example:

- The Law on normative acts and the Rules on organization and activity of the National Assembly require mandatory public discussion and impact assessment of a given law project yet these are often ignored or prepared “pro forma” especially in the cases,

when such projects are prepared and introduced by MPs[18]; furthermore, very often these are simply missing as being a requirement by Law (and not part of the Constitution) and thus the formal prerequisite for violation of a constitutional regulation in order to declare them unconstitutional, is missing.

- The votes in the parliamentary commissions and even in plenary very often consist of a majority of only 61-62 MPs to approve a given act when there has been registered a low quorum of just a little above 120 MPs, while the others simply have not registered or do not vote, despite being present.

- The 2 votes – first and second "reading" sometimes are carried out within one day and so the Law is adopted by the end of the day and there is no time for the procedure of real discussion and motivated proposals for changes before the second vote; such changes are made as "technical" and without sufficient debate and expert analysis[19] and also without the prior debate in the respective parliamentary commission with the participation of representatives of public organization, citizens etc.

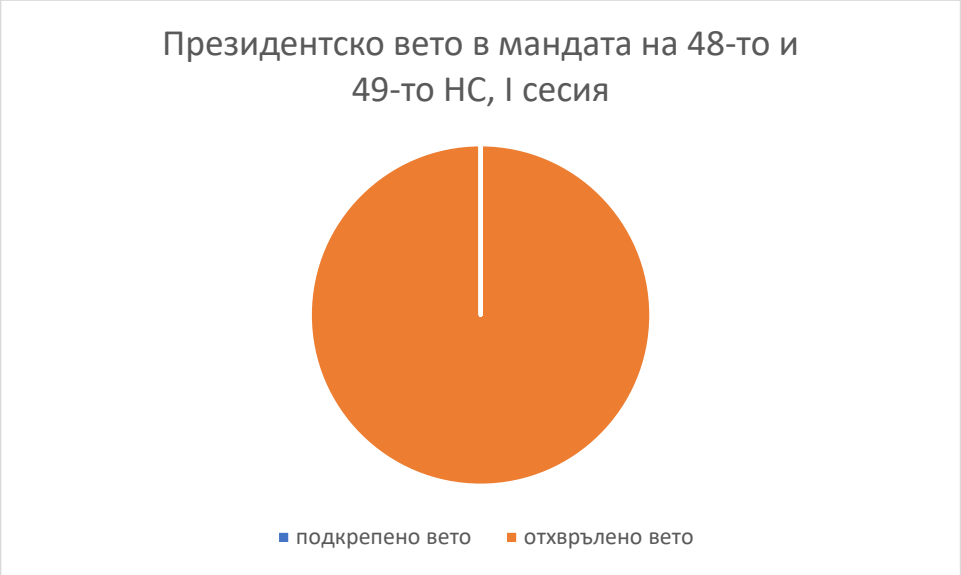
- "Veto" by the President on a newly adopted Law is voted against immediately and without a serious and thorough debate as to the motives for the veto, as usually the political majority in the National Assembly disposes of the required 121 MPs and thus can formally and easily override the veto[20].

Please, see the chart below with only 1 supported President's veto for the term of 48 NA and the first session of the 49th NA:

[18] E.g. the "impact assessment" consisting of only one page as part to the so-called "cartel Law on fuels" – Law on administrative regulation of the economic activities connected with petrol and petrol products, SG 62/2018r, introduced by several MPs, despite the fact that being a Law on an entire sector of the economy it requires the preliminary statement of all ministries and a thorough impact assessment!

[19] E.g. Law for amendment of the Law against domestic violence No. 49-354-01-87 of 01/08/2023 voted on 1 and second reading on 7 august 2023 and the legislation absurd which was created with the legal definition of "intimate relationship".

[20] For example the rapid vote in the session of 7.08.2023 against the 'veto' of the President upon the changes in the Law on the Judiciary, adopted on 21 July 2023 r.,returned to the Parliament for a new discussion with Decree № 147 of 1 August 2023 r. of the President of the Republic of Bulgaria.

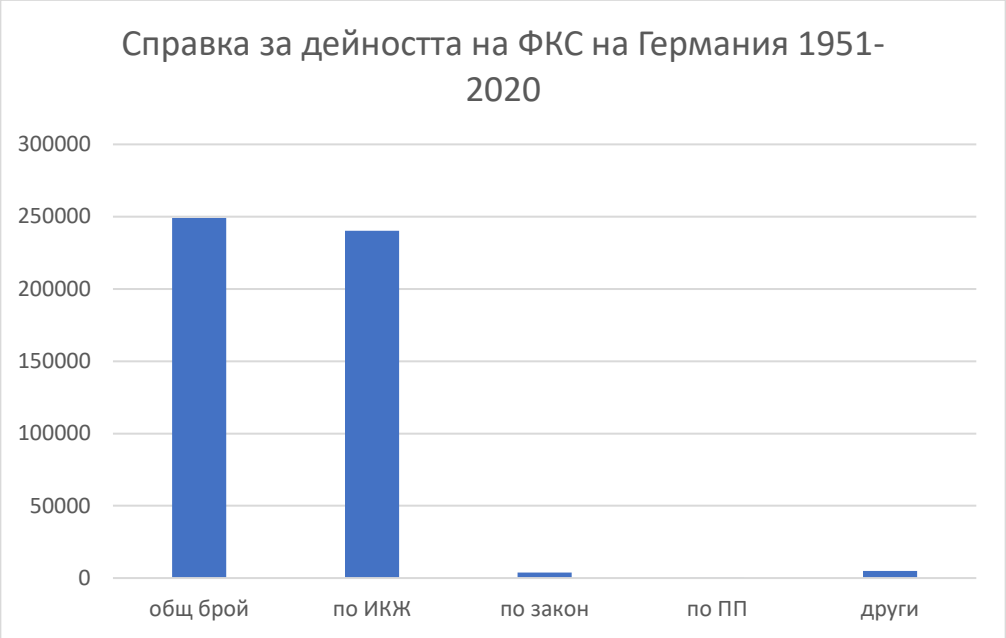


- Lack of political will to refer to the Constitutional Court regulations, which are notoriously contradictory to the Supreme Law, yet the institutions which can refer them to the Court don't do it[21]; yet, as it is widely known, the Constitutional Court cannot act on its own initiative;

- Limited access to constitutional justice for the citizens and the legal entities – individually they are not entitled to refer to the Constitutional Court, while the state bodies through which they could file a constitutional claim – the Ombudsman and the Supreme Bar Council are with limited powers as to art. 150, (4) and (5) of the Constitution stretching only to protection of basic rights and freedoms of the citizens and their infringement with a Law.

  However, the introduction of the Individual constitutional claim should be made carefully, as the chart below reveals – only 3% of the claims in front of the Federal Constitutional Court of Germany are on legislation infringements and the whole 97% being ICC for the period 1951-2020:

[21] Please check Slavov, P. „Do the regulations of the Election Code, envisaging the count of ballots without any given preference in them for the list leader of the political formation contradict the Constitution", Legal magazine of NBU, issue 2/2022:



- Lack of a mechanism to enforce the rulings of the Constitutional Court,as well of sanctions for all state institutions/officials who refuse to comply with such a ruling[22]. Alarming as it sounds, this is a fact and in contrast to the Administrative-procedural Code where chapter 17 defines in detail on the execution of Court rulings on administrative cases and in chapter eighteen we have severe sanctions for non-compliance with a Court ruling – including a fine to be imposed personally on the official, there are no such regulations in regard of the enforcement of Constitutional Court rulings..

  It would be appropriate to provide such regulations in the Law on Constitutional Court (SG 67/1991г., last amended. no. 19/2014г.) as well as sanctions for the state institutions and officials who refuse to comply or ignore the rulings of the Constitutional Court.

In the following part several propositions will be made as to improving the existing guarantee mechanisms for compliance with the Constitution of the legislation and the other acts of the National Assembly and the President. Several proposals for new mechanisms for improved legislation will be introduced and to its compliance with the Supreme Law.

[22] E.g. ruling No. 5 const. case 5/2023 by which the Decision of the National Assembly of 20.01.2023 was declared 'void'.

POSSIBLE AMENDMENTS TO THE CONSTITUTION, which would improve the effectiveness of the guarantee mechanisms for constitutional legislation process

1. Quorum for voting the acts of the National Assembly incl. the parliamentary commissions

Art. 81 of the Constitution envisages the National Assembly to be able to open its sessions and adopt its acts whenever there are present more than the half of the MPs. In addition, the National Assembly adopts the laws and its other acts with a majority of more than the half of the present MPs, unless the Constitution states otherwise.[23].

Although it is crystal clear what the constitutional legislator meant by these provisions in the Supreme Law, there is a possibility for misuse of this regulations and there is abundant practice of each and every legislature to adopt acts by a majority of only 61-62 MPs, while the others MPs in the plenary simply don't vote, although they are present there.

This bad practice is widely known as "falling quorum" and is based on the one time count of the quorum at the beginning of the plenary sessions and the possibility for the Chairperson to declare it (and thus stop further registration) the moment the system has counted 121 registered MPs in the plenary hall, (although there might be much more than 121 MPs present there). This allows the adoption of strongly disputed or lobbyist

[23] Art. 81 of the Constitution:
(1) The National Assembly opens its sessions and adopt its acts whenever there are present more than the half of the MPs.
(2) The National Assembly adopts the laws and its other acts with a majority of more than the half of the present MPs, unless the Constitution requires a different majority.
(3) The vote is personal and open unless the Constitution envisages otherwise or the National Assembly deceides the vote to be a secret one.

regulations directed against the interest of the public, which no parliamentary party does not want to be responsible for when they are being voted for[24].

This problem could be resolved by making some amendments in the Rules for organization and activity of the 49th NA – e.g. art. 47, (2) could be amended so, that a quorum-check is automatically made by the electronic system after every vote. Thus absurd such as the one, when the voting monitor shows a quorum of 122 MPs and there are e.g. 192 who just have voted.

Of course, the best guarantee that the majority of a ensuing National Assembly will not revert to the old bad practices will be to include this regulation on constitutional level – by amending, for example, art. 81, (1) the following way:

„The National Assembly opens its sessions and adopts its acts whenever there are present and in every vote participate more than half of all MPs. Voting is mandatory and the necessary majority for approval of a given act is calculated on the basis of MPs who participated in the last vote or upon a specific request to count the present MPs before a pending vote."

In regard of the parliamentary committees a step in the right direction was made by the 46th National Assembly with the amendments to the Rules of organization and the activity of the NA in art. 32, which required the presence of more than half of the committee members not only for opening the session, but also for approval of its acts[25].

A common practice in the work of the parliamentary committees up to this moment was to require quorum only for opening the sessions while thereafter on MP of a given

[24] For example the vote on 7.06.2023r. of the notorious media-mogul and MP – D. Peevski for member of the Constitutional commission in the 49th NA which was approved by 109 MPs - 64 of party GERB, 34 of party DPS and 11 of party ITN, while 67 MPs voted against with 8 abstained from voting. In this vote, although the MPs of another parliamentary party "Vazrazhdane" were present in the plenary hall, they did not vote at all (although publicly they have been criticizing D. Peevski and his party DPS all day long)_, so with the 37 votes of their MPs missing to the votes "NAY" the vote was successful!

[25] Art 32, (2) of the Rules of organization and activity of the 46th NA:
(2) The standing committees open their sessions and approve their acts whenever present more than the half of their members.

group was allowed to represent and vote for all his other colleagues, members of the committee, who left the session on various grounds – e.g. participation in other standing committee, commitments to the electors in his/her constituency etc..

2. *Refining the regulation of art. 88, (1) in its part regarding the requirement for two separate votes for approval of a law*

The regulation of art. 88, (1) of the Constitution very often is misused by some legislators who take advantage of the option in the Rules of organization and activity of the National Assembly to make amendment proposals to the projects after it has been voted on 1 "reading" and before the 2nd "reading". Thus proposals are introduced which do not correspond with any of the texts in the project practically being a separate legislation initiative.

Furthermore – the 44to National Assembly become widely and sadly known with its practice via the Transitional and Final regulations of a Law (very often proposed between the 1st and 2nd vote) to amend other Laws, which do not have anything in common with the project itself[26].

Thus very often a way to "overcome" the standard for a legislation procedure prerequisite of public discussion and impact assessment is sought.

Sometimes even "secrecy" of a particularly unpopular proposal is aimed at, especially when it is not in the public interest and it serves certain lobbyist[27].

The problem is additionally aggravated by the possibility provided by art. 81, (2) of the Rules of organization and activity of the NA (which can be found also in the Rules of previous parliaments), and which allows the decision to the majority of the MPs as to whether a certain proposal violates or contradicts the principles and the range of the initial Law amendment project, to which it is being proposed between the two "readings". But isn't this the same majority, whose MPs are proposing these amendments – i.e it is quite obvious, what the majority will decide on the matter.

[26] The former Chaiman of the parliamentary Legal committee become notoriously known for the saying that "their files are upside down" and thus the conclusion, that legislation is being made backwards to forward! https://www.24chasa.bg/bulgaria/article/8276017, available on 22.12.2023 r. 10:00.

[27] E.g. the Law amendment proposals to the Fishing and aquacultures Law, No. 002-01-70 of 07/12/2020, made by V. Rashidov and some other MPs with a No. 002-01-70 of 07/12/2020, where with a sole paragraph amendments to the Law on Sea routes and areas was made, regarding the notorious at the time case of an illegal Marina Port built in the so called "Dogansaray" ah the Bulgarian Black sea coast.

In this sense, the regulation of art. 88, (1) of the Constitution must be refined by adding to it a new sentence with the following content:

Between the two votes only proposal by MPs are admissible, which refer to the initial texts of the Law amendment proposal only or when the consistency with the other part of the Law requires it – and to other regulations.

3. Introduction of a minimum term before the National Assembly can vote again a Law with a "veto" by the President as to art. 101, (1) of the Constitution

It is a common practice for every legislature whenever there has been a "veto" by the President on a newly adopted law to have it voted again immediately or with a minimal delay and without much debate, as usually the political majority that adopted the controversial law has at its disposal more than 120 MPs.

The above makes to a large extent useless this guarantee mechanism for constitutional legislation as the political majority can easily and without much delay have its will imposed and the controversial law – voted again, even without detailed discussion as to the motives of the President to use his right of a "veto" whereas very often one can find in them reasoning of a possible breach of the Constitution.

The years of practices show that especially legislation passed under the terms of "urgency" (which usually excludes e profound public debate and a preliminary impact assessment) reveals as unconstitutional – e.g. the scandalous amendments to the Election Code made in the eve of the elections for 49th National Assembly on midnight sessions and which where "vetoed" on the 14. December 2022 and this was overcome with a vote on the Christmas' Eve on 23.12.2023 – just a week later.

And despite the arguments of the President for serious violations of main principle of the election process, the sabotage of the huge investment in Voting machines (which where turned to simple printers as the ballots count no longer was to be carried out mechanically, but manually.)[28], the possible breach of the Constitution of many of the adopted regulations without previous public discussion and impact assessment, especially on the newly introduced criteria and requirement which had to be met by the Central Election Committee in the short period before the elections at the beginning of April[29].

[28] Having been paid for by the Bulgarian taxpayer with more than 40 mln. BGN!
[29] Please check part 3.1.2. of the Dissertation regarding these changes in the Election Code incl. the issues raised by the CEC and the Bulgarian National Bank (which has to provide the special paper for the ballots), that in these short

As a result, 71 MPs addressed the Constitutional Court with a request to declare unconstitutional these regulations in the Election Code under constitutional case 4/2023.

On the very election day on the 2 April 2023 many media reported about problems with more than 100 of the Voting machines (whereas in past elections there were just a few cases of problems with the machines), this time mostly because of trouble with the new "special paper" to be used prescribed by the latest changes in the Election Code and introduced to the election process without sufficient prior testing and impact assessment as to the compatibility of the machines and this new paper[30].

In addition, according to information form the CEC, the number of the invalid ballots soared again – with about 50000 invalid ballots or approximately 2%, whereas at the previous elections with only machine voting and counting of the ballots (apart form the small electoral sections under 300 voters and the others as to art. 212, (5) of the EC) the invalid ballots were just above 9000, or less than) 0,5%.

Prevention of such "emergency" legislation practices can be achieved by changing art. 101, (2) which could be amended in the following way:

(2) The National Assembly can begin with the new procedure to deliberate and vote the law no earlier than 2 months after the Decree as to the previous article has been issued and adopts it with a majority of more than the half of all MPs."

Just in case, there can be arranged for a specific procedure for really urgent and highly important cases, where there is a vast political consensus on the law and the President's veto must be overcome in shorter terms – i.e. by a vote "YEY" of 2/3 or more of the MPs.

terms they will hardly be capable of carrying out the new requirements to the election process for "special paper", on which the Voting machines now have to print ballots with the vote of the citizens!

[30] https://www.mediapool.bg/problemi-s-hartiyata-blokiraha-mashini-za-glasuvane-obnovena-news346423.html, available on 22.12.2023 10:00

Still, even in this case it is recommendable to have prescribed a short time-frame, so that a public discussion is organized and an impact assessment is made, so than such absurds as the one described above are avoided.

4. Introduction of a ban whenever the National Assembly elects representatives in other state bodies or regulatory institutions a single party or coalition to have majority in them

Probably the most serious problem with the constitution of regulation bodies being elected by the Parliament is the strain of every majority to gain control over them by appointing in their management a vast majority of people, connected one way or another with the ruling party/coalition.

Although the law usually prescribes a legitimate procedure for electing the board members as well as such are defined in the Rules of organization and activity of the National Assembly as to nomination, public hearing, questioning of the candidates (incl. non-government organization and the academic community), usually in the end the election is made between the favorites of the political majority in the Parliament.

Furthermore – as far as institutions without a constitutional mandate are concerned, the political majority often is tempted with cosmetic changes to the relevant law to initiate a preliminary cancellation of their term and elect new board[31].

A slight attempt to change this was made with the new art. 91b after the "sixt amendment" in the Constitution, which prescribes candidates for such positions to be proposed early enough before the election, so that their applications can be reviewed by the public and the academic community the whole process is observed closely by the civil society.

However, it is obvious, that this alone is not enough and it is recommendable to have another regulation added here, so that the independence of the staff and the work of these institutions is guaranteed:

"Candidates nominated by one parliamentary group of the ruling party/coalition or their MPs cannot form majority"

[31] Please check Decision of the NA of 20.01.2023г., declared unconstitutional with Decision №5 of 22.06.2023 on const.case №5/2023 г., which declares invalid the Decision of the National Assembly to end the ongoing mandate of the President of the National Audit Office.

5. Amendments to the Election Code to enter into force no earlier than the next election or than 6 months after they have been published in the State Gazette

One of the worst practices of each Parliament over the past 15-20 years have been the changes to the election rules in the eve of upcoming elections.

The Political contradictions, the conflicts between the governing party/coalition and the opposition along with the often strictly political interest every majority chases have brought about real legislation "gems", mostly not compliant with the Constitution. The newest example being the changes in the Election Code made literally in 11:59 p.m. by the the 48-th National Assembly and which have been vastly elaborated above and being under review by the Constitutional Court under const.case 4/2023.

In order to avoid such ad hoc legislation in the last moment – without prior public discussion, without any impact assessment etc., there can be 2 approaches:

1) The so called "Greek model", according to which the changes to the legislation referring to the election process will be applicable for the next election cycle;
2) To write down in the Constitution an imperative minimum term during which any amendments made will not enter into force – i.e. go adopt a new art. 42, (4) in the Supreme Law with the following text:

„Any changes to the Election code or the adoption of a new election law or code will enter into force 6 months after these have been voted and published in SG."

6. Defining in the Constitution a mandate for all constitutional bodies – e.g. Supreme Audit Office, Ombudsman, Bulgarian National Bank etc.

Although the contemporary Constitution does define the activity of the Supreme Audit Office in its art. 91, of the Ombudsman – in its art. 91a, and in art. 84, (1), p. 8 prescribes, that the National Assembly elects and dismisses the board of the Bulgarian National Bank, there is no specific term of these mandates, as it is with the other constitutional institutions: Parliament, municipal councils, the Chairmen of the Supreme Courts and the Prosecutor General, mayors etc.

To define a mandate only on law-basis provides an opportunity, a given political majority to be tempted and on the ground of formal changes to the law to try to replace the board of such institutions. Strictly defining their mandate on constitutional level will limit the possibilities for misuses or even abusive unconstitutional practices[32].

[32] Please, check the case described in 5.3.4. above with the Chairman of the National Audit Office and also the Proposal for law amendment of the Competition protection Law, No. In the 44th-NA 154-01-47 of 22/04/2021: https://parliament.bg/bg/bills/ID/163616, available on 22.12.2023 г. 10:00

7. Introducing a mechanism for limitation of the so called "extended mandates" of constitutional bodies whose board's term of service has expired and precisely defining how they should function until new board will be elected.

A serious problem in the work of the 45th, 46th, 47th, 48th and 49th National Assembly turned out to be the election procedures for board members of supreme state bodies, elected according with art. 84, (1), p. 8. The Political instability and the severe political contradictions brought about the impossibility these boards to be elected and these have to function in the hypothesis of expired mandates.

So if for the 47th NA this was not such a serious problem and extended only to some state institutions regulated on "law" level for which there is no constitutional term of office and the law permits for "mandate extension" after the term has run out[33] - until a new board will be elected, then for the 48th NA there was a different case – with expired mandate turned out to be constitutional bodies – e.g. the Supreme Judicial Council, as the Parliament could not elect the so-called "parliamentary quota" [34].

At the same time the mandate of two of the judges in the Constitutional Court was expired and this important institution had to cope with its work with 10 instead of 12 justices; additionally, the Inspectorate and the Chief Inspector to the SJC also was with expired mandate while the procedure for electing a new one hasn't even started.

[33] For example the Competition protection Commission and the regulation of art. 5, (6) of the CPL; the so called "Commission on the dossiers" and art. 5 of the relevant Law etc.

[34] [2] His mandate run out on the 3.10.2022 and to that moment was elected only the quota of the judiciary, while the procedure for election of the so called "parliamentary quota" wan't even initiated; the latter is an impediment for the newly elected SJC to start functioning as par. 5 of the Transitional regulations of the Law on the Judiciary stipulates that the newly elected SCJ can step into office and constitute only when 2/3 of his member are elected.

All these issues led to a request by the Supreme Administrative Court to the Constitutional Court for defining if in such hypothesis the members of the Inspectorate to the SJC can continue performing their duties and exercise their powers. With 7 to 5 votes the Constitutional Court decided that this was acceptable and compliant with the Constitution. The latter allows for presumptions what the answer of the Constitutional Court will be if addressed with the same issue for the SJC and other institutions with expired constitutional mandate.

„The Constitution does not allow for automatic termination for an indefinite period of time the service of the Inspectorate to the SJC as a result of the expiration of its term of service and the inability of the National Assembly to elect new members of the Inspectorate, so that it can function properly and in accordance with the Constitution. The discretionary powers of the Parliament are limited and to accept the opposite would mean that the democratic order and the rule of law are being undermined, being a fundamental pillar of the Supreme Law".[35]

However, the judges prof. At. Semov and Kalin Vlahov object to this by providing their remarks to the ruling, namely:

"Is it acceptable the temporary state of the political representation and the so connected denial of the state institutions with highest public representation to fulfil its obligation to be a ground for an alternate understanding of the Supreme Law as a guarantee to the constitutional stability? Or said otherwise, we do not agree that a specific political situation and its own constitutional abuses could be grounds to "rewrite" the fundamentals of the Constitution itself.

Because, as prof. Zhivko Stalev has warned us in his work "The normative power of the factual", "if the factual order becomes stable and universally resorted to, then the written constitution will undoubtedly be replaced by the unconstitutional reality..

[35] Please see Ruling of the Constitutinal Court No. 15 on const. case No. 7/2022г.

It is a supreme appearance as the Constitution defines the whole legal system but instead of resorting to the regulations of the Supreme Law, they will be influenced by the factual order as all legislative and law-enforcement institutions abide to this..”[36]

Considering the above it is highly recommendable to have a definition in the Constitution of the so called “extended mandate” which cannot continue over a certain reasonable time-threshold.

Even in the frame of this additional period the relevant institution which is empowered by the Constitution to elect its representatives in order to constitute another state body defined by the Supreme Law and it fails to do so, then for the rest of the mandate this state body could function with reduced board members or with limited powers - i.e. not to be able to elect their own representatives in other state institutions.

[36] Same source

8. To extend the powers of the Ombudsman as to art. 150 (4) of the Constitution

The current constitutional framework allows the Ombudsman to refer to the Constitutional Court as unconstitutional laws which infringe the basic rights and freedoms of the citizens.

However, these could be violated not only by law but also by other acts of the National Assembly – i.e. Decisions[37].

Additionally, the Ombudsman as civil protector is expected to watch over the rights of the citizens also in connection with international acts, to which Bulgaria is a contracting party.

The actual text of art. 150 (4) is highly restrictive and does not allow the Ombudsman to refer to the Constitutional Court other acts apart from laws which infringe on the basic rights and freedoms of the citizens, incl. international treaties to which Bulgaria is a party.

For this reason it is to be recommended to amend the content of art 150 (4) the following way:

Art. 150 (4): "The Ombudsman may address the Constitutional Court with a request to declare unconstitutional a law or another act, which violates rights and freedoms of the citizens as well as for international treaties, before these have been ratified by the Republic of Bulgaria.

[37] E.g. the ruling on conctitutional case № 8/2021, which was initiated by 60 MPs in order to declare unconstitutional the Decision of the National Assembly of 22. April 2021 for a moratorium upon certain activities of the state institutions and for mandatory definition of art. 86, 85 in connection with art. 111 (3) and art. 4 and 8 of the Supreme Law and the question: "Is is admissible by a Decision of the Parliament to temporarily prevent the Council of Ministers, the President, the Judiciary and some state institutions to act as to their constitutional responsibilities, also in the hypothesis of art. 111 (3) of the Constitution"?

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9. To extend the powers of the Supreme Bar Council ad to art. 150 (5) of the Constitution

Similar to the Ombudsman above, the Supreme Bar Council is limited to address the Constitutional Court with request to declare unconstitutional laws which violate basic rights and freedoms of the citizens.

At the same time, the regulation of art. 134 (1) not only includes the legal entities in scope of protection offered by the Bulgarian attorneys but even requires them to support the citizens and the legal entities when their rights and legitimate interests have been violated.

There are quite a few examples of the practice of the Constitutional Court of cases when the Court precisely on the ground that the regulations referred to by the Supreme Bar Council as unconstitutional do not infringe on basic rights and freedoms of the citizens are denied as inadmissible.[38].

But doesn't the Bulgarian Bar association consist precisely of citizens – Bulgarian attorneys and by restricting their rights to be independent as a community, the rights of each and every attorney are being violated?

Additionally, doesn't the lack of independence in the work of an attorney and imposing upon him by law to collect and report to the competent authorities (secret services as in the Law against money laundering) information about his/her clients contradict to the main principle in art. 30 (5) of the Constitution for confidentiality of thee communication attorney-client?

Here is the opinion of the judge prof. Atanas Semov provided as special opinion to constitutional case No. 2/2021:

[38] Please, check const.case. No. 2/2021 г., where the request of the Supreme Bar Council for establishing contradiction to the Constitution of art. 4, 101, 103 etc. of the Law against money laundering (SG 27/2018, last amended 21/2021) has been declared inadmissible.

„The question of the admissibility of the requests of the Supreme Bar Council or the Ombudsman is quite important. The practice of the Constitutional Court upon this matter is not unified. In some cases the Court has allowed requests, without thorough analysis of the expectancies for admissability. In other cases, however, has gone into details as to the requirements which have to be fulfilled in order such a request to be admitted by the Court. The only thing which can be deemed certain is the fact, that each and every request of the Supreme Bar Council or the Ombudsman has to justify violation of basic rights and freedoms of the citizen."

This inconsistency in the legal framework of art. 150 (5) can be resolved by amending it in the way described above, so that additional guarantees are provided for the Constitutional compatibility of the acts of the National Assembly and the President not only in regard of the citizens but also in regard of the legal entities.

Art. 150 (5): „ The Supreme Bar Council can address the Constitutional Court with request to declare unconstitutional a law or other act, which violate rights and freedoms of the citizen or restrict rights and legitimate interests of the legal entities."

10. Empowering each and every Court of law to address the Constitutional Court whenever there is possible a violation of the Constitution by a law, applicable to a pending case

A widely discussed option for extending the access to constitutional justice for citizens and legal entities as compared to the limited access now via the Ombudsman and the Supreme Bar Council (please 8 and 9 above) would be the amendment to art. 150 of the Supreme Act and allowing not only the Supreme Court of Cassation and the Supreme Administrative Court, but also every other court, to refer possibly unconstitutional laws, applicable to a pending case, to the Constitutional Court.

For this reason the option for each and every Court can be introduced, to address and Constitutional Court whenever there is a pending case with a possible applicable unconstitutional law, similar to the powers of the two Supreme Courts. This way the Courts of law will perform a certain prior assessment of compliance with the Constitution, before referring a case to the Constitutional Court – i.e. there will be a certain filter for inadmissible or unfounded statements of possible incompliance with the Constitution, made by the interested parties.

With the amendments in the Constitution /SG 106/2023/ art. 150 (2) was amended, so that now every court can address the Constitutional Court with a request to declare unconstitutional law which possibly violates the Supreme law and is applicable to a case, pending to the addressing Court.

11. Individual Constitutional Claim /ICC/

Actively discussed during the last amendment procedure of the Constitution in 1995[39], this proposal can be found in the project for amendment of the Constitution of 2023, No. 49-354-01-83 of 28.07.2023г., par. 14, new art. 150 (7). However, it was not adopted in the final draft of the Act.

The main reason was the lacks a profound analysis of the way and the time-frame within which the capacity of the Constitutional Court can be strengthened enough, as well as of the expected increase in the numbers of claims filed per year.

There are practical examples of other countries[40] which show, that a considerable increase in the number of filed claims should be reckoned with and if this is not dealt properly, the work of the Constitutional Court can be seriously slowed down or even jeopardized.

Until such an analysis is prepared along with an impact assessment of such a significant change with the introduction of the ICC, the legislators could resort to the measures described in 5.3.8, 5.3.9 and 5.3.10 in the Dissertation paper. This, on one hand, will extend the access to the Constitutional Court for citizens and legal entities yet on the other hand, will not cause havoc and practical blockade in the work of this so important institution, by turning via ICC the Constitutional Court into a “4-th instance of appeal”

[39] When the Supreme Bar Council was empowered to address the Constitutional Court – new art. 150 (4), SG. 100/18.12.2015.
[40] For example the German experience of the experience of Republic Turkey where there is considerable delay in processing constitutional claims after the introduction of Individual Constitutional Claim.

12. Reduction of the period within which the rulings of the Constitutional Court must be published in State Gazette form 15 days now to 7

The Anachronism, the rulings of the Constitutional Court to be published in State Gazette within 15 days goes back to the days of the last century when SG was published only on paper and must be brought up to date with the modern society.

A reduction of this period to 7 days or less is technically achievable without any difficulty as SG is now published only electronically.

Apart from the digitalization this proposal will have also an important practical impact as a guarantee mechanism for constitutional legislation as the case with const. case 5/2023 regarding the restoration into power of the Chairperson of the Supreme Audit Office reveals.

After the Constitutional Court with a ruling of 22 June 2023 upon this case declared the Decision of the National Assembly for replacing the acting Chairperson for unconstitutional and void and he had to be restored immediately (yet after the ruling enters into force – i.e. 3-days after it has been published in SG), the ruling was published as late as on 7 July, to enter into force on the 11th July – i.e. almost 3 weeks later[41].

Meanwhile, on 7th July the interested political majority in the Parliament approved almost identical Decision as the one declared void by the Constitutional Court and the latter was published immediately in the next issue of SG of the 11. July, SG 59/2023.

The inadmissible delay of 18 days by administrative "techniques" of the publishing and coming into force of the ruling of the Constitutional Court on const. case No. 5/2023 not only was a source of pressure and uncertainty in the work of the institution Supreme Audit Office[42],

[41] Please, see SG No. 58 of 7.07.2023.
[42] Please see also: https://dariknews.bg/novini/bylgariia/ne-dopusnaha-do-sgradata-na-smetnata-palata-cvetan-cvetkov-2352800, available on 22.12.2023 г. 10:00

but in reality prevented the legal results of the ruling of the Constitutional Court for reinstating its Chairperson.

In this sense it is obvious that a change of the time limits as to art. 151 (2) of the Constitution from 15 days to 7 days is needed.

13. Arranging in art. 151 for "automatism" in restoring the previous regulation in the law whenever the current has been declared unconstitutional

For many years the Constitutional Court resorted to the practice, whenever a regulation in the law has been declared unconstitutional, the previous one is deemed automatically reinstated.

However, this approach was abandoned in 2020 with Constitutional Court Decision No. 3/28.04.2020 whereas hence the Court assumes that the institution responsible of the act, which has been declared unconstitutional, will intervene and repair the consequences. Until then, however, there is no regulation in force.

It is evident, that in practice there will be serious problems with this understanding as it usually takes quite a lot of time for the National Assembly to pass a certain law and especially in the context of the pollical crisis 2021-2022 with short lived parliaments which never profoundly resorted to their main function – the legislation, it could be months and even years before an unconstitutional regulation will be remedied.

Yet in practical terms, in order to have this new approach of the Constitutional Court working it is crucial to have a quick and efficient intervention of the National Assembly, which must within days adopt a new regulation in lieu of the unconstitutional one. Furthermore – it is evident, that this will be extremely difficult even with a normally functioning Parliament.

In this sense it is obvious that there is a serious danger the so created "hole" in a given law or even entire laws to be blocked for indefinite periods of time, waiting for the Parliament to intervene.

For this reason an amendment to the Supreme Law is advisable where explicitly will be stated that the previous version of a regulation declared unconstitutional is automatically restored.

The amendment can be made in art. 151 (2) with the following new sentence:

Art. 151 (2): Whenever a law or a regulation of a law are declared unconstitutional automatically are restored their previous versions in force until the adoption of the unconstitutional texts."

14. Introducing an obligation to the Council of Ministers to maintain consolidated texts of the applicable in Bulgaria legislation

Up to the 90s of the last century and before IT revolution and all the new legal information systems there was a Directorate in the Council of Ministers responsible for the maintenance of up-to-date versions of the applicable legislation. Consequently, this directorate was dissolved and their activities – discontinued, mostly relying on the digital version of State Gazette and possibly the available legal information systems..

Thus, especially taking into account and the frequent changes to the laws and decrees in Bulgaria, nowadays there could be serious problems with identifying the relevant applicable law to a given moment in time along, especially if there are differences between the data in the various legal information systems. Should this be done only on the basis of the texts published in State Gazette, this could be extraordinarily time-consuming as SG does not provide consolidated texts, but only the changes to the relevant regulation.

Therefore and in order to guarantee the stability and unquestionability of the applicable legislation it is advisable to introduce in the Constitution an obligation to the Council of Ministers to maintain a consolidated version of the Bulgarian legislation and the applicable law of EU.

This could be done by a new art. 5 (6) stating: *„The Council of Ministers maintains a publicly accessible up-to-date database with the consolidated texts of the Bulgarian and the applicable EU legislation.“*

15. Introducing sanctions for non-compliance with rulings of the Constitutional Court

The Constitution and the Law on the Constitutional Court do not provide a procedure for sanctioning officials/institutions who do not comply and violate the rulings of the Court.

Although being an independent supreme state institution which is not part of the Judiciary, it is beyond any doubt that the rulings of the Constitutional Court must be respected, followed and possible enforced just the way a Court decision can be enforced.

The explanation for the above is that the constitutional legislator presumed practically impossible anybody/any institution to dare not comply with the rulings of the supreme protector of the Constitution. Yet, as we saw in 5.3.13 above – unfortunately this happens sometimes.

Therefore it is to be recommended to include in the Constitution and thereafter a detailed procedure in the Law on the Constitutional Court for enforcement of the rulings of the Constitutional Court and also for sanctioning the responsible officials/institutions who did not comply with these ruling.

Scientific contribution of the Dissertation

Based on in-depth theoretical and empirical analysis of the efficiency of the existing gruarantee mechanisms for constitution-compliant legislation, some most significant weaknesses have been identified.

The contributions of the dissertation paper could be summarized as follows:

- Based on the main understandings of the doctrine for the essence of the legislation process and considering their appearance in the four Constitutions in force after the Liberation of Bulgaria, some inconsistencies have been identified in the current Constitution – e.g. the possibility for ambivalent understanding of art. 88 of the Constitution and what means "editorial" changes to a Draft law between first and second voting; or the excessively long 15-day-term for promulgation in State Gazette of rulings of the Constitutional court and the additional 3-day-delay after that for coming into force and thus the possibility for misuse etc. The relevant recommendations for applicable solutions have been made;
- Stemming from theoretical and empirical analysis of the efficiency/lack of efficiency of the existing guarantee mechanisms on constitutional and legislation level and rules available also in Rules for organization and activity of the National Assembly some weaknesses have been identified as well as recommendations made for their removal. In this sense recommendations such as writing down in the Constitution of some of the procedures for Impact assessment as to chapter two of the Law on normative acts, or precising the existing in the ROANA limitation to changes proposal made between first and second voting of a Draft Law to be inherent to its initial purpose and objectives (and what this precisely means) have been made made. Thus the possibility for introducing "quick" (but mostly lobbyist) changes to the legislation made in contradiction to the public interest will be limited.
- 15 concrete propositions de lege ferenda have been made for changes in the Constitution, so that some additional guarantees will be introduced - i.e. for widening the competence of the Ombudsman and the Supreme Bar Council as to art. 150 of the Constitution and the access to constitutional justice etc.

- A wide range of facts and evidence has been quoted, which provides additional value to the dissertation paper and strengthens the theoretical and doctrinal understanding, enriching them with some practical aspects;
- The combination of theoretical and doctrinal approach with analysis of the current legislation and applicable court rulings provide for the possibility of making some general and commonly valid recommendations for strengthening the principles of constitution-compliant legislation.

Publications related to the Dissertation paper

1. Slavov, P. *Is there a contradiction with the Constitution of the amendments in the Electoral code envisaging ballots without any preference vote for a specific candidate to be counted in favor of the leader of the political formation?*, Legal journal of New Bulgarian University, 2/2022, p. 76-81;
2. Slavov, P. *Regarding the political rights of the people with disabilities*, DeFacto, issue of 5.06.2023г.;
3. Slavov, P. *Is there a contradiction with the Constitution of art. 161 (1) of the Tax-Social security Procedural Code envisaging for award of remuneration for an Attorney-at-law in court cases where the Tax administration has been represented by an internal legal adviser*, Law and Order, 5/2022г., p. 51-65;
4. Slavov, P. *The amendments in the Electoral code undertaken by the 48th National Assembly and are these (in)compliant witht eh Constitution*, New Bulgarian University, 2023, p. 302-315;
5. Slavov, P. *What is the constitutionally compliant term within which the President must award a mandate for completion of government to the candidate for prime-minister, Legal Journal of New Bulgarian University, 1/2023, p. 70-76;*
6. Slavov, P *Along with the "blue" certificate the deputies abolished the "golden one" as well*, „Trud Newspaper", 7.08.2023г.