

REVIEW STATEMENT

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Law with candidate Petar Vladislavov Slavov

Dissertation topic: "Guarantees for constitutionally compliant legislative process"

I. MAIN CHARACTERISTICS OF THE DISSERTATION WORK

The main problem studied in the dissertation is the insufficient efficiency of the existing mechanisms for guaranteeing constitutionally compliant legislative process in Bulgaria. Its significance, acuteness and relevance are indisputable. It has both a structural and systemic nature, manifests its effects over a long period of time and has been leaving its lasting and negative marks on the legal regulation, the positive law and the legal science from almost the beginning of the democratic changes in our country until today. From the point of view of actuality, most of the facts from our reality, such as the acute political opposition, the lack of normal parliamentary dialogue and the extreme social polarization, presented in the dissertation as determining the emergence of most of the indicated deficits in our legislative process, do not just continue to exist, but also deepen. And here comes the role of such a work, which, through a thorough examination of the problem in a scientific and scientific-applied sense, is called not only to alert the scientific community and the general public about it, but also to outline the ways to overcome it.

At the very beginning, the author has formulated the main question to which an answer is being sought throughout the work. Viewing the concept for legislative process in its broadest sense, as bordering or partially overlapping with the rule-making process, the dissertation seeks to understand why for more than three decades after the adoption of our Constitution, we continue to face hasty, thoughtless and literally bad legislative decisions.

In many cases, we also have adopted laws that are unconstitutional, as this is not a scientific statement, but is pronounced by a decision of the body that is called to play the role of the main guardian of the Bulgarian Constitution in the face of the Constitutional Court. That is why, the second part of the question that the author asks is, if the guarantees for the constitutionality of our legislative process are indeed not effective enough, what should be done to make them so.

The objectives and the tasks of the dissertation are clearly stated based on indisputable data and evidence. The author's historical review and comparative analysis of the Bulgarian supreme laws have served as their basis. Through them, he has analyzed the emergence and development of the guarantees for a constitutional legislative process in the constitutions of Bulgaria after the Liberation, he has pointed out the key shortcomings in the operation of the introduced mechanisms and has made specific proposals for their optimization, which would lead to the much-dreamed-of quality legislation, fully compliant with our Constitution.

The high **degree of knowledge** of the state of play of the studied problem is best demonstrated by the author, by considering the two main groups of protective mechanisms guaranteeing a constitutional legislative process: preventive and subsequent, which are placed in the center of the subject of the study. The main normative and practical deficiencies in their functioning are also described in detail, and relevant recommendations are made to overcome them. There is a complete correspondence between the researched matter and the **literature used, combined with correctness in the citation** of a sufficiently representative number of authors.

A particularly strong point of the presented dissertation work is the **theoretical model of the research** developed and applied by the author, which relies on the optimal evidentiary basis. In it, every main finding, conclusion or recommendation is supported by facts, data and evidence, including scientific, taken from the doctrine, from the parliamentary or judicial practice, from the decisions of the Constitutional Court and, something very valuable, from the personal experience of the author as a Member of the 43rd National Assembly in the period 2014 - 2017 who proposed over 100 draft-laws.

The research **methodology and methods** used by the author are completely appropriate and correspond to the objectives and tasks set for the dissertation work. In order to assess

whether today's existing mechanisms for guaranteeing a constitutionally compliant legislative process in our country operate successfully or not, and if not, what is the reason for this, he has studied their origin, emergence and development through a retrospective analysis using the historical and comparative methods. Then, the systemic and functional method have helped him to establish the current state of effectiveness of these mechanisms. The life cycle, consequences and impacts of significant volume of legislative initiatives that have been in conflict with the Constitution or pronounced unconstitutional are analyzed, and the reactions of the state bodies that have functions to protect the Constitution from such legislation are also tracked. Finally, all of these have allowed the author to make some rather serious and sharp, being solidly justified, criticisms on the functioning of the established mechanisms for constitutional compliance and quality of legislation in our country.

The author's own contribution to the collection and analysis of the empirical data necessary for the preparation of the dissertation is remarkable. The study of stenographic minutes from sessions of the VII Grand National Assembly and the 43rd, 44th, 45th, 46th, 47th, 48th and 49th Ordinary National Assembly and the current regulatory framework of the legislative process, as well as of stenographic minutes from sessions of the Supreme Bar Council (mandate 2021-2025) is an effort that deserves admirations. The same has contributed to the presentation of information and historical facts that are little or almost unknown until now to a large part of the scientific community and even less to the general public.

A unique approach for evidentiary assurance of the work represents the use of materials invoked by the author from the series "Documentary Interviews on the Creation of the Constitution of 1991. Debates on the Judiciary", with an attached link for viewing them in full on the website of the New Bulgarian University, filmed under the supervision of Prof. Dr. E. Mihailova and Assoc. Prof. Dr. D. Marcheva, which add a special interactivity to it.

II. DESCRIPTION OF CONTRIBUTIONS

In addition to the last three previous constitutions of Bulgaria after the Liberation, the paper thoroughly examines the main theories of parliamentarism and the legislative process with an emphasis on the representative (French) and the organ (German) theory. Immediately afterwards, the acting order under our national legislation for the introduction, discussion and

adoption of laws and other acts of the National Assembly is presented in detail, as well as the opportunities for exercising ongoing civil control over the adopted legislation, as a guarantee for prevention against the passing of any unconstitutional texts.

In a separate section, the powers of state bodies and bodies with public functions related to the rule-making process are analyzed in detail, with the main emphasis being placed on the preventive, current and subsequent control for constitutional compliance of the adopted legislation. The work pays special attention to the procedures for adopting changes in the current Supreme Law, respectively for adoption of a new Constitution, which are still very relevant at the moment. They have been examined through the prism of the sufficiency of the regulated guarantees for constitutionality of these procedures, as well as of the mechanisms for the protection of the Constitution from inadmissible or unconstitutional interventions or attempts for replacement.

Finally, the paper presents the author's summarized conclusions regarding the effectiveness of the application of the existing guarantee mechanisms in our Constitution to ensure constitutionally compliant legislative process. Specific recommendations have been made to improve their operation and increase their effectiveness, including proposals for the introduction of some new ones.

The matter on which the **contributions of the dissertation are built** is developed in great detail and there are no grounds for doubting its credibility.

They are based on:

1. Conducted analysis of a significant amount of information, including stenographic minutes of the National Assembly and sociological surveys of the National Center for Parliamentary Studies;
2. Extensive review of the included scientific literature;
3. Rich practice of various legislatures of the National Assembly and the Constitutional Court studied;
4. Personal experience of the author as a former Member of Parliament;
5. Personal knowledge and skills of the author, acquired from his work as a lawyer with many years of practice and as a member of the Supreme Bar Council (mandate 2021 – 2025), who prepared a number of draft requests from the Supreme Bar Council under Art.

150, para. 5 from the Constitution of the Republic of Bulgaria for pronouncing unconstitutionality of laws violating the rights of citizens.

The doctoral student has demonstrated a markable desire to achieve as many and **significant scientific contributions** as possible in the work. The approach he has used for the optimal scientific and evidentiary justification has allowed him to identify in an objective and indisputable way the weaknesses in the effectiveness of the mechanisms guaranteeing constitutional legislative process regulated by our current legislation and to draw the concrete ways to overcome them.

In the case of the preventive protective mechanisms to guarantee a constitutional legislative process, such as the imperative requirements for the legislative process to conduct public consultations, carry out impact assessments, ensure publicity and participation of citizens and public organizations, the main problem is undoubtedly the application of the formalistic approach, the holding of pro-forma public discussions and the preparation of insultingly short, blanket "impact assessments" for bills submitted by individual Members of Parliament.

Regarding the subsequent (control) mechanisms, which include challenging a newly adopted bill, decision or decree before the Constitutional Court, the key problems are related to the lack of political will for appealation before the court, the limited access to constitutional justice for citizens and legal entities, the absence of a mechanism for the forced execution of the decisions of the Constitutional Court and of sanctions in case of non-compliance, etc.

Bearing in mind the nature of the problems addressed by the work, their duration, acuteness and the expectations that they will continue to accompany our lives for an indefinite period of time, the contributions with the highest degree of usefulness proposed by the author are the **specific proposals de lege ferenda** formulated by him to improve the legislative process and enhance the subsequent control for constitutionality exercised by the Constitutional Court.

They can be classified as follows:

1. *Recommendations for improving parliamentary procedures*, which are aimed at

overcoming long-standing shortcomings, such as:

1.1. The adoption of acts with an insultingly small majority of 61-62 deputies, due to the vicious practice of a one-time initial check of the quorum in the plenary hall;

1.2. Finally and forever closing the two biggest loopholes in our current legislative process, related to the submission of written proposals by Members of Parliament between the first and second vote, which are not present in the initial text of the bill and which have nothing to do with this text, as well as making changes through the transitional and closing provisions of a given law to another law that has no relation with the first one, which achieves the effect of hidden legislative practice that does not go through any quality checks and consultative procedures.

2. *Recommendations for extended constitutional control*, which include proposals for:

2.1. Expansion of the cases in which the Ombudsman and the Supreme Bar Council can appeal to the Constitutional Court with requests to declare a law unconstitutional;

2.2. Empowering each judicial panel to appeal to the Constitutional Court in case of established contradiction of an applicable law in a case with the Constitution and regulation of the individual constitutional complaint.

3. *Other recommendations* for improving the rules for the voting of regulatory and other bodies by the National Assembly, determining the mandate of all constitutionally regulated bodies, introducing an explicit ban on changing of electoral laws at any time, etc.

Some of the proposals made in the work are of particular scientific and applied importance. The first of them is the one for regulation at the constitutional level of the so-called automatic restoration of the effect of a legal norm in its wording that has existed before its amendment, which has been declared unconstitutional. This would restore the old situation, relying on predictability and legal certainty. The second is the introduction at the constitutional level of the obligation for the Council of Ministers to maintain consolidated texts of the current legislation. It comes to fill in a long-standing void related to the lack of an official state source guaranteeing the authenticity and accuracy of the current legislation in the country. From all of this, it is evident that the candidate possesses sufficiently comprehensive and in-depth theoretical knowledge in the scientific field of Constitutional

Law, as well as enviable abilities for conducting independent scientific research.

The demonstrated original approach and way of writing of the doctoral student in the conducted dissertation research are indisputable evidences of his **personal involvement** in its development and the achievement of the results, as well as his personal merit in formulating the scientific contributions.

The presented abstract in terms of content and quality is developed strictly following the requirements of the applicable legislation and the internal regulations and reflects the main results achieved in the dissertation.

III. DISSERTATION IMPACTS ON THE EXTERNAL ENVIRONMENT

The publications with which the doctoral student participates in the procedure (a total of 6), similar to the dissertation work itself, are distinguished by originality, include a non-standard interpretation of some of the main concepts and theories and application of the author's typical heterogeneous toolkit for researching the matter.

IV. PERSONAL QUALITIES OF THE AUTHOR (IF THE REVIEWER KNOWS HIM)

I know the author since the time when the Bulgarian state, after a significant delay, decided to launch the currently effective regulatory reform by introducing the basic principles, standards and instruments guaranteeing the quality of the national rule-making process. He, in his scientific searches, criticisms and proposals, is absolutely sincere and consistent because he was one of the very few Members of Parliament at that time, who took the strong position that it was high time for this to happen. From then until now, the candidate has been part of the constant struggle to establish better regulation in our country as one of the fundamental guarantees for a better life.

V. OPINIONS, RECOMMENDATIONS AND NOTES

The main recommendation that can be made is that the author, applying the same approaches and methods of work, should continue his scientific research and direct his

future publications on the topic in editions referenced and indexed in world-famous databases such as Scopus, Web of Science, etc.

CONCLUSION

The dissertation contains scientific, scientific-applied and applied results, which represent an original contribution in science and meet all the requirements of the Law on the Development of the Academic Staff in the Republic of Bulgaria, its Implementing Regulations and the Ordinance on the Development of the Academic Staff of the New Bulgarian University. The dissertation shows that the doctoral student Petar Vladislavov Slavov possesses in-depth theoretical knowledge and professional skills in the scientific field of Constitutional Law, demonstrating qualities and skills for carrying out independent scientific research. Therefore, I confidently give my **POSITIVE STATEMENT** for the conducted research, presented in the above-reviewed dissertation work, abstract, achieved results and contributions, and I propose to the honorable scientific jury to award the educational and scientific degree "doctor" to Petar Vladislavov Slavov in the area of higher education: 3. Social, economic and legal sciences, professional field 3.6. Law, doctoral programme "Constitutional Law".

Date.....

Signature: