

REVIEW

By Associate Professor Deyana Dimitrova Marcheva, PhD, New Bulgarian University
internal member of the scientific jury, appointed by the Rector of New Bulgarian University with
Order No. 3-PK-209/13.05.2024 for the procedure of defense of dissertation on the topic:
“Guarantees for a constitutionally compliant legislative process”
for awarding the educational and scientific doctoral degree in the scientific field of “Constitutional
law”, professional field 3.6. Law, to the candidate **Petar Vladislavov Slavov**

I. Overview of the procedure. Brief biographical data.

Vladislav Slavov has submitted for evaluation a dissertation *“Guarantees for a constitutionally compliant legislative process”* within the procedure for obtaining the scientific and educational degree “Doctor”. He is enrolled as an independent doctoral student at the Department of Law of New Bulgarian University with Order No. 3-PK-194/29.03.2022 of the Rector of New Bulgarian University, with a supervisor Prof. Ekaterina Mihaylova, PhD. The dissertation is directed for public defense before a scientific jury by Order No. 3-PK-241/15.06.2023 г. of the Rector of New Bulgarian University.

The scientific jury was provided with a set of documents and materials necessary for conducting a public defense in accordance with the Act on Development of the Academic Staff in the Republic of Bulgaria, the Regulation for Implementation of this Act, the Regulation on the Development of the Academic Staff of New Bulgarian University and all other relevant rules. New Bulgarian University has an accredited doctoral program in Constitutional Law. In accordance with the regulations of the NBU, an internal defense was conducted before the Assembly of the Department of Law and the doctoral student was dismissed with the right to defend. In accordance with the minimum national requirements for the acquisition of the scientific and educational degree “Doctor”, the candidate Petar Slavov has submitted a dissertation compliant with the requirements of Article 27 of the Regulation for Implementation of the Act on Development of the Academic Staff in the Republic of Bulgaria, including a declaration of originality.

He has also fulfilled the scientific-metric requirements for indicator group “T” by submitting 4 articles published in non-refereed peer-reviewed journals or in edited collective volumes, thus scoring 40 points (against the requirement of 30 points):

1. Are the provisions of the Electoral Code unconstitutional, when providing for the counting of the ballots without the indicated preference in them “by right” for the leaders of the lists of the respective formation? - Law Journal of NBU, 2022, № 2, 76-81 (in Bulgarian);
2. Is the provision of Article 161, para. 1, sentence 3 of the Tax Code, providing for the award of attorney’s fees for the representation by legal counsel in cases against acts of the tax administration? - Society and Law, 2022, № 5, 51-65 (in Bulgarian);
3. The changes in the electoral legislation by the 48th National Assembly and their (non)compliance with the Constitution. Law Department Yearbook 2022. Sofia: NBU, 2023, 302-315 (in Bulgarian);

4. What is the constitutionally compliant time frame within which the President should give an exploratory mandate to a Prime Minister-designate to form a government - NBU Law Journal, 2023, No.1, 70-76 (in Bulgarian).

Petar Vladislavov Slavov holds a Master's degree in Law from Sofia University "St. Kliment Ohridski" since 2004. The documentation in the procedure shows that Petar Slavov was a Member of the 43rd National Assembly (2014-2017), being a member of the Parliamentary Committees on Legal Affairs and on Defence. He works as a lawyer and since 2021 has been an advisory member of the Supreme Bar Council.

II. General characteristics and structure of the dissertation

The topic of the dissertation is "Guarantees for a constitutionally compliant legislative process". The total length of the work is 251 pages. The structure includes: introduction, five parts, conclusion, bibliography and used sources. Each of the five parts is internally structured into subtopics, and some of them have an additional internal division with the respective emphases of the work.

Structurally, the second part, entitled "Main Theories that have Influenced Modern Parliamentarism and the Legislative Process. Adoption of the laws and other acts of the National Assembly", is not developed in accordance with the standards of subtopics in scientific works. This part covers a total of 52 pages, with no subdivisions and subheadings in the first 15 of them (from p. 38 to p. 53), which apparently refer to the so-called "main theories that have influenced modern parliamentarism and the legislative process".

The text contains 340 footnotes, most of which refer to statutory provisions and case law; about 90 of the footnotes refer to scholarly sources. It is noticeable that the technical execution of the footnotes is not precise enough – for example, in many citations the exact page of the relevant quote is missing (b. 13, 36, 72, 73, 80, 82, 85, 86, 87, etc.), and in some footnotes one can find irrelevant exclamation marks (b. 132, 155, 158, 192, 202, 206, etc.). It is also unclear why references to enactments often refer not only to the details of their promulgation (date and number of the State Gazette) but also to the entire series of promulgated amendments and supplements, even though this is not contextually necessary.

The Bibliography lists a total of 115 sources, of which 78 are in Bulgarian and the remaining 37 – in other languages. However, a number of bibliographical items in Bulgarian are missing in the footnote references, i.e. it is not clear exactly how they were used in the dissertation. This applies, for example, to the first two works by Stefan Balamezov mentioned in the Bibliography section, three works by Lyubomir Vladikin, seven by Boris Spasov, three by Evgeni Tanchev and a number of others.

The Abstract reliably reflects the structure and content of the dissertation.

III. Relevance and significance of the research problem

The topic of the dissertation is undoubtedly up to date and significant, given the growing concern among lawyers about the declining quality of laws over the last two decades in Bulgaria. So far, the Bulgarian legal literature has analyzed the legislative functions and competence of the

Parliament and the legislative activity in comparative law perspective¹ and of the National Assembly in Bulgaria . There are only individual articles on particular aspects of the subject of the legislative process, as well as carried out by the National Assembly in Bulgaria². There are only individual articles on particular aspects of the topic of the legislative process³. The legislative process is also the subject of political science research⁴, which is also relevant given the specifics of constitutional law.

The candidate does not refer in his research to the academic literature on the topic cited here in the footnotes. This may be a deliberate choice not to comment on certain scholarly writings, either because they are not relevant to the current constitution (e.g., fn. 1 and 2 here) or because of the author's reluctance to present and dialogue with previous writings on the subject (e.g., fn. 3 here). Such a position, however, should be explicitly explained and reasoned in the dissertation, even if just to demonstrate knowledge of how prior academic discourse addresses and analyzes the topic of the legislative process. In this regard, it should also be noted that the dissertation uses both the terms 'legislative activity' and 'legislative process' without making the methodological distinction that is generally expected of a scholarly study focusing on one of the concepts.

A key element in the research is the dissertation's focus on the guarantees for a constitutionally compliant legislative process, which is particularly important from an applied science perspective. The author does not theorize the concept of 'guarantees' in the context of the legislative process. It is clear from the content of the work that a theoretical model for defining and classifying the guarantees (in various areas and directions) is not sought, and the concept is used interchangeably with the term 'mechanisms' (the use of which is as common in the text as the term in the title). It is likely that the term 'guarantees' is chosen for the title because it is a broader term that includes also the so-called 'bodies'- guarantors that are analyzed in Part Three of the dissertation.

The lack of theoretical clarification of the basic concepts used in the text leads to ambiguity as to the exact scope of the research and the boundaries set by the author in advance. This entails switching between different analytical paradigms, including legal-scientific, legal application, sociological, publicistic, etc., which is also visible in the listed scientific and non-scientific sources of the research, the incorporated diagrams, etc. To be scientifically sound, such a switch would have to be methodologically framed and justified beforehand, and this is not done in the dissertation.

Nevertheless, Peter Slavov makes a critical pragmatic analysis of problematic points in the current framework and practice of the legislative process in Bulgaria from the point of view of constitutional principles and requirements, which is new in terms of scale and systematics in Bulgaria. In this sense, its significance and usefulness in a scientific and the perspective of applied science should also be acknowledged, because it puts on the agenda of the academic debate important issues and proposals *de lege ferenda*.

¹ Drumeva, E. *Legislative Activity of the British Parliament*. Sofia, 1976 (in Bulgarian).

² Spasov, B. *Legislative Activity of the National Assembly*. Sofia: Nauka i Izkustvo, 1971 (in Bulgarian); Spasov, B. *National Assembly: organization and legislative activity*. Sofia: Nauka i Izkustvo, 1980 (in Bulgarian).

³ Naumova, St. *Basic Issues of the Theory and Sociology of the Legislative Process*. - *Alternatives*, 2001, 7-8 (41-42), 83-86 (in Bulgarian); Sredkova, Kr. *In the 40th National Assembly. (Conclusions from the activity of the Advisory Council on Legislation under the President of the 40th National Assembly)*. - *Legal World*, 2009, №2, 11-137 (in Bulgarian); Iliev, P. *Phases of the Pre-Parliamentary Legislative Process*. - *Contemporary Law*, 2013, no. 3, 7-25 (in Bulgarian); Iliev, P. *Suggestions for Modernization of the Bulgarian Legislative Process*. - *Contemporary Law*, 2014, no. 4, 3-19 (in Bulgarian).

⁴ Dainov, E., St. Malinov et al. *Corruption in Parliamentary Practice and the Legislative Process*. Sofia: Center for the Study of Democracy, 1999.

IV. Aims, objectives and methodology of the research

In the Introduction, the candidate formulates as the main question of his research, “Are the guarantees of our Basic Law for a constitutionally compliant legislative process sufficient and effective, respectively - what could be improved if they are not functioning well enough?”. The subject, the aim, the main objectives and the methodology of the dissertation are explicitly formulated and revealed in the dissertation.

The author suggests that “part of the genesis” of the problems can be found in the preceding constitutions of 1947 and 1971, and thus he has decided to analyze historically and comparatively the emergence and development of the guarantees. However, there is insufficient focus on the subject of the legislative process in the analysis of the first three constitutions of Bulgaria, and it is not clear exactly how the author views the genesis of the problematics in the legislative process. One of the reasons for this seems to lie in the lack of clearly formulated specific questions as regards the historical analysis in the context of the topic. Nor is there any comment at all on the question of how and to what extent the flexible constitutions of 1947 and 1971 deal with the concept of constitutionality at all, and if they do, whether constitutionality is included in a substantive sense (e.g., to protect the fundamental rights of citizens); whether they are intended to provide guarantees at all, since they lack constitutional review, etc. This is one of the key theoretical issues in comparing the current constitution with the previous two in the context of the dissertation topic, but it has not been explored, and hence it is unclear where exactly the problems of the legislative process are rooted.

Among the claims for the research methodology are the comparative legal method, limited to the comparison between the Bulgarian constitutions, as well as the “normative, systematic and functional method”, limited to the analysis of legislative initiatives, selected by the author, and their path within the ongoing legislative process in the Parliament. This enables the dissertator to identify, on the basis of his critical insight, shortcomings in the current guarantee mechanisms and to make suggestions for improving the legislation.

It is not clear how the dissertation’s methodology is influenced by what the candidate calls “Main theories that have influenced modern parliamentarism and the legislative process.” – the first sentence of the title of Part Two. There is no explanation or justification as to why such a general approach was chosen, rather than exploring, selecting and presenting specific theories of the legislative process relevant to the aim and the main objectives of the study. This part of the study is insufficiently focused and seems as if it could be “stitched” to analyses on a variety of topics related to parliamentarism.

The aspiration of the candidate to analyze “the effectiveness of the current guarantee mechanisms for constitutional legislative process” and to identify “the existing weaknesses and, respectively, to make recommendations for their overcoming and elimination”, including to formulate “legislative proposals for the introduction of some additional guarantees for constitutionality” is ambitious. However, the study lacks a well-founded and developed theoretical model, based on a clearly formulated concept of constitutionality, so that the corresponding guarantees for a constitutionally compliant legislative process could be formulated and classified. Had such a model

been developed, the conclusions of the dissertation would have been methodologically uncontroversial and the proposals *de lege ferenda* – more convincing.

However, given how complex the chosen topic is, how scarce the legal literature on it is, how superficially this issue has been addressed so far, the dissertator's efforts to critically analyze and systematize the bodies and mechanisms, that guarantee a constitutionally compliant legislative process deserve to be respected, because this has not been done before in our country on such a scale and with such courage.

V. Main contributions and results

The dissertation demonstrates the ability for independent research of scientifically applied constitutional issues, and the main contribution is related to the proposed systematization of the bodies and mechanisms around which the guarantees for a constitutionally compliant legislative process in Bulgaria are structured.

Another noteworthy contribution of the work is the exploration of the issues surrounding the process of constitutional amendment, as well as the adoption of a new constitution, alongside the classic *ex ante* and *ex post* mechanisms for ensuring a constitutionally compliant legislative process. In this context, it becomes clear that the law-making process cannot be viewed and analyzed only formalistically, but in accordance with constitutional principles and the protection of fundamental rights and freedoms. This is a step forward in the evolution of the theory of the legislative process and legislative activity that was established in the 1970s and 1980s within the framework of state law.

Unquestionable contributions are also the proposals *de lege*, 15 in number, outlined in separate sub-points in the last part of the dissertation, which the author believes “would improve the effectiveness of mechanisms for ensuring a constitutionally compliant legislative process”. Each of the suggestions made for constitutional amendment is sufficiently specific and relevant to an existing or future constitutional norm, and in this sense valuable from the perspective of applied science, and worthy of further deliberation within policy debates.

V. Evaluation of publications and authorship

Petar Slavov presents in his Abstract 6 publications, 4 of which are in peer-reviewed scientific journals. In one of the articles, he discusses what is the constitutionally appropriate timeframe within which the President should give an exploratory mandate to a candidate for Prime Minister to form a government.

Three of the articles demonstrate the author's engagement with the problematics of the constitutionality of specific provisions of the Electoral Code (and particularly changes to electoral legislation) and the Tax and Social Security Procedure Code, including focusing on the way in which the legislative process was conducted, and in this sense can be considered to be relevant to the topic of the dissertation.

VI. Notes and recommendations

Given the importance of the topic and the author's engagement with the issues in it, I believe that the research would be enriched by deepening the theoretical and comparative law perspective of the study.

In this regard, it would be useful to clarify and theoretically further develop the concept of constitutionality of the legislative process in a democratic state with rule of law. The dynamic between law and politics inevitably leaves its mark on the guarantees of a constitutionally compliant legislative process. Therefore, the study of institutional theory and pluralist theory would contribute to the clarification and classification of the guarantees subject to this study, which cannot be of the same order, and go beyond the formulations of specific legal norms. Such a theoretical framework and scholarly assessment should precede the reform of the system of guarantees for a constitutionally compliant legislative process.

The study of foreign comparative legal models for ensuring constitutional compliance of the legislative process would also enrich the knowledge and scientific-applied results of the study.

VII. Conclusion

On the basis of the above, I give a positive evaluation and propose the scientific jury to vote for awarding the educational and scientific doctoral degree to the candidate Petar Vladislavov Slavov.

9.07.2024 г.

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