

Bulgaria's Short-Lived 45th National Assembly as a First Step towards Reforms

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Short but Sweet

On 11 May 2021, Bulgaria's President Rumen Radev issued a decree appointing a caretaker government, which means that the dissolution of the 45th National Assembly is imminent. This National Assembly, which was first convened on 15 April 2021, was rather short-lived, but it paved the way to fairer elections and much needed reforms in the justice system which civil society demands. If the next National Assembly, which will be elected in July 2021, takes the meaningful Bills which were proposed in the 45th Parliament on board, the slow process of dismantling the autocracy built by Boyko Borissov will start. Unsurprisingly, the defenders of the *status quo* are trying to resist these necessary changes, going as far as misleading the institutions of the EU and the Council of Europe.

Bulgaria's Lawyers against Corruption Movement

The persistent assaults against the rule of law by Boyko Borissov's GERB party motivated many academic and practicing lawyers to become engaged civil society members and to essentially establish an informal movement against the rampant corruption in Bulgaria. As early as 2015, when it became clear not only that GERB did not want to implement real reforms in the justice system, but also continued undermining the separation of powers, Bulgarian lawyers set up the Justice for Everyone (*Pravosadie za vseki*) initiative. This is the first consolidated effort of lawyers and civil society members to defend the rule of law.

Justice for Everyone started organizing events at which judges could openly discuss the harassment to which they were subjected. They organized mass protests in the summer and fall of 2019 when the notorious prosecutor Ivan Geshev was proposed as the only candidate for General Prosecutor of Bulgaria and subsequently elected as such by the Supreme Judicial Council, which many perceive as a political puppet.

Other lawyers gained courage and started criticizing GERB's questionable law reforms and newly set up institutions, such as the specialized criminal courts and the Commission for Confiscation of Illegally Acquired Assets, in independent media and on social media, too.

The Mass Protests of 2020

It is hardly surprising that when the Prosecutor's Office, under the guidance of Ivan Geshev, raided the Bulgarian Presidency in July 2020 and arrested two of the President's advisors on dubious charges, Bulgarian lawyers were the first to react and call for protests. This was a clear provocation against President Radev who was the only opposition voice with a high position in the Bulgarian state. The raid was carried out in collaboration with a newly set up armed force under the auspices of the Prosecutor's Office, which the President of the Supreme Court of Cassation has compared to a paramilitary structure. It was evident that the purpose was intimidation of the last institution which had not been captured.

The protests which lasted nearly 8 months had very clear demands — immediate resignations of Boyko Borissov's government and General Prosecutor Ivan Geshev. It was clear to many, however, that Borissov and Geshev would do anything possible to remain in power in the hope that the protests would die out. That is why the lawyers present at the protests started considering other options, including political involvement. In this light, it is interesting that three of the parties which made it to the 45th Parliament either emerged from the protests or gained speed because of them — “There Are Such People” (ITN), the Democratic Bulgaria coalition (DB), and the “Stand Up! Mafia Out” coalition (SUMO). Thanks to these parties, many established lawyers became Members of Parliament. Predictably, many of these lawyers started proposing Bills aimed at restoring the rule of law in Bulgaria since the first day of work of the 45th National Assembly.

Bulgaria's Frankenstate

To understand why these Bills are important, one needs to go back in time. Since first coming to power in 2009, Borissov managed to build a sturdy framework permitting the harassment of opponents and the whitewashing of his close circle. Coupled with the appointment of dependent people in key positions, this framework became a true Frankenstein state.

At the center of this machine of terror (see here for details) one finds the omnipotent Prosecutor's Office which has not been reformed since communist times. During communism, the Prosecutor's Office was considered more important than the court because the latter was there just to serve as a rubber stamp. Throughout the years, Borissov not only did not attempt to introduce checks and balances to prevent abuses, including bogus criminal proceedings against innocent people, but also created even more tools for the repressive arsenal of this institution. GERB even managed to turn an EU directive on access to a lawyer into a weapon for secret arrests.

The second pillar of this machine of terror is the Supreme Judicial Council (SJC), which is a political puppet — it appoints and promotes convenient people like Ivan Geshev who citizens have been protesting against for so long. He has been implicated in a series of scandals and he has been turning a blind eye to obvious cases of corruption in Borissov's

government. There are multiple witness statements and investigations, such as “[The Eight Dwarfs](#)” by the Anti-Corruption Fund, providing evidence of criminal activity of the Prosecutor’s Office, including Geshev, which cannot be verified given the current system.

The third pillar in Borissov’s framework are the specialized criminal courts, a parallel court system dominated by the Prosecutor’s Office, which disregard fundamental rights (see [here](#) for details on the Ivancheva case in which Ivan Geshev was involved).

Associated to these specialized courts is the [Commission for Confiscation of Illegally Acquired Assets](#) which has powers incompatible with democratic values. Notably, it starts confiscation proceedings when someone is accused by the Prosecutor’s Office (the start of the pre-trial investigation). The specificity is that these are criminal proceedings disguised as civil where all safeguards typical of criminal proceedings have been removed. They run in parallel to the criminal proceedings. While this Commission uses materials from the criminal investigation, the person subjected to these proceedings is presumed guilty, the burden of proof is on him/her, and there are no guarantees for a fair trial. Conveniently, the current head of this Commission is former General Prosecutor Sotir Tsatsarov who has also been implicated in [a series of scandals](#) and to whom Ivan Geshev owes his career and nomination for General Prosecutor.

In the words of [Atanas Slavov](#), professor of constitutional law who became an MP from the DB, the specialized courts and this Commission are bodies for inquisition of those who express a different political opinion or interfere with the business interests of those in power.

The New Bills

Considering the Frankenstate described above, it is clear that the removal of Ivan Geshev from office will solve just a small part of the challenges of Bulgaria’s rule of law. Moreover, since he will not resign voluntarily, such a removal will only be possible after a reform of the SJC. That is why it is understandable why the new parties put forward diverse Bills whose purpose is to bring some normality to Bulgaria’s justice system.

Most Bills proposing changes in the realm of the justice system have been put forward by DB. [One of them](#), which amends the Law on the Justice System, aims at introducing important changes to the way the SJC votes, establishing an accountability mechanism for prosecutors in the form of regular reporting before the SJC, and closing the specialized criminal courts. Another [Bill](#) by the same coalition restores the presumption of innocence by allowing confiscation proceedings only if there are reasonable grounds to believe that the assets were acquired through crime. A more ambitious [Bill](#) proposing amendments to the Constitution attempts a complete overhaul of the SJC.

Overall, all of these changes are in the right direction, which unsurprisingly caused sheer panic in the GERB party and in the Prosecutor’s Office. Both GERB and Ivan Geshev are now sending [letters of complaint](#) to the EU and to the Council of Europe in an attempt to

present these Bills as assaults against the rule of law, thus creating the absurd situation that those who crushed Bulgaria's democracy portray those who are trying to restore it as culprits.

The Short-Lived Parliament

Even before the last parliamentary elections took place in April, it was obvious that the 45th Parliament would be short-lived because it would not be possible to elect a government. To do so, one needs the support of 121 out of the 240 Members of Parliament. Borissov's GERB earned 75 seats while the new parties which emerged from the protests (ITN, DB, and SUMO) had 92 seats altogether. According to the procedure enshrined in Article 99 of Bulgaria's Constitution, the President gives a mandate to the first political force to form a government. If they do not manage to do so, the mandate goes to the party which came in second. If they do not succeed either, the President gives the mandate to any of the remaining parties in Parliament that he chooses. If the third try does not work, the President appoints a caretaker government and schedules new elections, which is what happened this time.

It was therefore obvious that the 45th National Assembly would not have the time to properly examine the Bills and implement the reforms which civil society expected. From this standpoint, it is not startling that other opposition parties were in a rush to push for amendments to the Election Code which can ensure fairer elections and limit the manipulations which GERB is suspected of. Considering that the next elections will be fairer, there is a greater chance for the opposition to have more seats in the next Parliament. This not only means that it will be able to form a government, but also to implement the much-needed reforms in Bulgaria's justice system and to pave the way to removing Ivan Geshev from office.

Hence, from a legislative standpoint the main achievement of this Parliament will remain the reformed Election Code. The key innovation is mandatory voting with machines, which may appear exotic to a Western observer, but is necessary given the Bulgarian context. The two main ways in which elections are traditionally falsified through paper ballots are informally known as "Take a selfie with your ballot" and "The Bulgarian train". In the first scenario, a person who has been paid to vote a certain way takes a selfie with the paper ballot in the voting booth to prove to the payers how s/he voted. As voting with a machine does not take place behind a curtain, this practice will be stopped. In "The Bulgarian train" scenario, a person enters the voting station with a filled in ballot which s/he keeps hidden, takes an empty ballot and enters the voting booth where he swaps them. After that, the voter gives the ballot, which was filled in in advance, to the election committee and the empty ballot — to his payer. Once again, a Bulgarian train will not be possible with mandatory voting with machines.

In addition, a political achievement of the 45th National Assembly was setting up a special committee investigating Borissov's corruption. While the committee had few sittings, it managed to conduct hearings with several witnesses who disclosed corruption schemes and shocking practices of racketeering of businessmen with the participation of Bulgaria's

Prosecutor's Office — namely, a businessman was raped in custody, so that he succumbed to transferring his assets. In other words, for the first time we have evidence compiled in Parliament regarding why major reforms are necessary.

What's Next?

The last Bulgarian National Assembly managed to accomplish what many thought was impossible — set Bulgaria on a journey towards restoring the rule of law. Bulgarians believing in democracy will surely vote in July to support the opposition. The same citizens hope that EU institutions and the Council of Europe will listen to Bulgaria's civil society and Bulgaria's lawyers who have been fighting against Borissov's corruption for years.

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