

THE 2016 REFERENDUM IN BULGARIA

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Outline

- The 2016 referendum was the first successful bottom-up initiative for a national referendum in Bulgaria since 1989.
- It was initiated by Slavi Trifonov, a popular TV showman, broadcasting in the primetime of one of the three national TV stations, bTV.
- Six questions were proposed, but the National Assembly reduced them to only three.
- The turnout did not meet the normatively required threshold for binding force of the result, but the referendum produced politically legitimate result and the legislature was obliged to consider the issue.
- A bill implementing the decisions of the referendum was introduced, but failed.

Background

Stanislav (Slavi) Trifonov started his career in television back in 1992. He quickly gained popularity and in 1996 was already a co-producer of the first and, by that time, only comedian show called “Canaletto”, which reflected upon sensitive societal and political issues in the transforming country. In 1997, Trifonov actively used the show to participate in the mass protests against the government of the Bulgarian Socialist Party (BSP), led by Zhan Videnov. In 1998, a scandal between the co-producers of Canaletto led to the breakdown of the team and Trifonov started a show on his own, called “Hashove”. It was abolished by the Bulgarian National Television (BNT) immediately after its first broadcast because of political satire on the Ivan Kostov government (bitelevision.com 2017; dnevnik.bg 1998) and continued weekly on “7 dni” a small cable television, but was broadcasted by other cable televisions as well.

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In 2000 Lyuben Dilov-Son, one of the partners in Hashove left the show and founded the political party “Dvizhenie Gergiovdén” [Movement St. George’s Day] (gergiovdén.eu 2012), which competed in the 2001 parliamentary elections in coalition with the Internal Macedonian Revolutionary Organization (IMRO), but did not make it to the parliament for a slight margin of 0.04% below the electoral threshold. The exit of Dilov-Son put an end of Hashove and it was discontinued (capital.bg 2000). In the same 2000 Slavi Trifonov started a new show in the newly created second national, but private television network bTV. “Shouto na Slavi” (The Slavi Show) was a major success and from its very beginning became the most popular and respected TV broadcast in the country (btv.bg 2017). Although nowadays the show is less popular than in its first years when it gathered an audience of between 2 and 3 million daily (between 28% and 42% of the total 7.2 million population), it is still influential and active on political issues. In recent years, the focus of the show gradually took political form. The culmination came on July 29th, 2015 when, in his show, Trifonov announced his plan to initiate a referendum.

According to Art. 3 of the Law on the Direct Participation of Citizens in the State Government and the Local Self-government, a national referendum could be initiated in favor of a decision that would otherwise fall under the competence of the National Assembly, except for constitutional arrangements, which are prerogative of the Grand National Assembly, and taxation and budgetary issues. To take place, the referendum must be initiated by at least 400,000 eligible citizens and the National Assembly is empowered to rephrase the proposed questions without changing their substantive meaning or their order. Parties, coalitions and initiative committees could register to campaign in favor or against the questions of the referendum. A legislative amendment from 2015 grants those parties and coalitions, which do not receive party subsidies from the state budget, media packages worth about 20,000 EUR (Central Electoral Commission 2015). They get the money from the state budget and spend it for coverage in media they choose.

A national referendum could result in a mandatory decision if the turnout is at least as high as the turnout in the last parliamentary elections and if more than a half of those who voted support the proposed question. If the turnout criterion is not met, but at least 20% of the eligible citizens go to the polling station and more than a half of them vote in favor of the question, the National Assembly is required to take the question into concern and to discuss it (Art. 23 of the Law on direct participation of citizens in the state government and local self-government). If the proposed decision is rejected by the voters, a referendum on the same issue could be held in no less than 2 years.

Campaign

In the rubric “Live Connection”, following a discussion with the audience condemning the censorship of the National Assembly on the referendum on electoral reform proposed by the President, Trifonov and his team of script-writers announced that they would initiate a subscription for a national referendum on six issues that would radically change the political system in the country (segabg.com 2015):

1. Introduction of a majoritarian electoral system in two rounds with an absolute majority;
2. Lowering the number of MPs from 240 to 120;
3. Introduction of compulsory voting in election and referendums;
4. Introduction of internet voting;
5. Lowering the party subsidies from 11BGN to 1BGN per valid vote annually;
6. Direct election of police chiefs in a majoritarian electoral system in two rounds with an absolute majority.

The initiation committee was established on October 26th, 2015. On November 9th, its representatives notified the National Assembly for the start of the subscription campaign (btvnovinite.bg 2015). A special Facebook page was created for the referendum.¹ The subscription campaign lasted until February 2016. Subscription desks were located both in the country and abroad. Large numbers of volunteers were engaged. The campaign was publicly supported by the movement “DNES” (the abbreviation means “today” in Bulgarian). Many public figures including actors, writers, musicians and sportsmen publicly supported the campaign. The committee organized many meetings and discussions with students in Bulgaria and abroad.

On the 8th of February 2016 the committee deposited 673,481 signatures to the National Assembly. After a verification by the Ministry of Regional Development and Public Works almost a hundred thousand signatures were considered invalid (offnews.bg 2016). Still the number of valid signatures (572,650) exceeded the required minimum and hence, on May 12th, 2016 the National Assembly was obliged to announce the referendum.

Nevertheless, on the 27th of May the President Rosen Plevneliev referred to the Constitutional Court questioning the legality of three of the proposed questions. In his motives, the President points out that the number of MPs is fixed in the

¹ The Facebook page is <https://www.facebook.com/referendum.slavishow>

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constitution and therefore is an element of the form of government. Therefore, the change of this number is a prerogative of a Grand National Assembly and cannot be subject to referendum (Administration of the President 2016). Another essentially political argument was that limiting the number of MPs would limit the degree of representation of the National Assembly.

The second contested question was the one on internet voting. The President pointed out that less than a year ago (October 25th, 2015) a national referendum on the same issue was held upon his own initiative, the threshold for binding force of the decision was not met, but the National Assembly discussed the question and adopted legislative amendments allowing for introduction of internet voting in the near future. Therefore, a new referendum on an issue that is already positively resolved is illegitimate.

Lastly, the President indicated that the direct election of police chiefs contradicts the constitutional principle of division of power and checks and balances, because policing is in the competences of the executive. Independence of police establishes a new power authority parallel to the executive and therefore violates basic constitutional norms.

On the 6th of June 2016, a day before the session of the Constitutional Court dedicated to the issue, Slavi Trifonov released a special edition of his show condemning the act of the President. He complained that his request for a meeting with the constitutional judges was rejected and showed their portraits so people could know who was responsible for the rejection of the three questions. The culmination of the show came when Filip Stanev, a member of the Trifonov's team tore the portrait of the President Plevneliev (dnevnik.bg 2016). The act caused a huge public scandal, but Stanev refused to excuse for his actions.

In several subsequent transmissions of his show, Trifonov personally appealed to every single judge not to stand against the public will and to reject the request of the president. Meanwhile, the initiative committee deposited its official position to the Constitutional Court against the President's act. The committee argued that limiting the number of MPs would increase the effectiveness of the parliament and would ease its performance in law-making and the control of the executive. The measure would also diminish the support costs of the institution and save public money. Another argument was that fewer MPs would be more responsible to the people. The position discussed at length the argument that lowering the number of MPs should not be considered a change in the form of government and thus could be a subject of national referendum. Similarly, the

direct election of police chiefs is more democratic and in line with the constitution according to the initiative committee.

On the 28th of July, the Constitutional Court judged the three questions unconstitutional (24chasa.bg 2016). In general, the judges accepted the President's arguments. Therefore, on the 8th of August 2016 the President issued a decree for a national referendum to be organized in three months, simultaneously with the regular presidential election, including the remaining three questions. In September, more than 30 initiative committees were registered by the Central Electoral Commission in support of the referendum. On the 29th of October, Salvi Trifonov and his music band organized a concert under the slogan "There is no country like this" which gathered an audience of more than 100,000 people. In the remaining week leading up to the referendum, the TV show of Trifonov was used for wide agitation in favour of the referendum and the proposed questions.

Most observers of the campaign claimed that it lacked substantial debate on the pros and cons of the proposed electoral reform. Political parties were engaged in the presidential election campaign and payed little attention to the referendum. None of the major parties registered to campaign for the referendum at the Central Electoral Commission. Only minor 14 parties and coalitions with less than 1% of electoral support registered, mainly because of the money for media coverage provided by the state (Central Electoral Commission 2016). Therefore, the TV show of Trifonov was the main source of information, although one-sided and rather biased.

Results

The referendum took place on the 6th of November 2016 with a turnout that did not reach the corresponding level of the previous parliamentary elections in absolute terms by a small margin (at least 3,500,585 votes were required for a valid result and just 3,488,558 were actually casted). The share of the valid votes out of all registered voters (6 865 086) was 50.82 percent. The support of the three questions is presented in Table 1. The number of invalid votes (87,668) was lower than those in the 2015 referendum (122,339), but still considerably high. The referendum did not produce a binding result, but the demands of the initiative committee were now politically legitimate, which obliged the Parliament to consider the issue and to take a decision. Several bills for electoral reforms have been introduced since then, but all failed.

Table 1: Summary of the Referendum Results

Date of referendum	6 November 2016			
Number of voters according to the registry	6,865,086			
Votes casted according to the signatures	3,487,970 (50.82%)			
Votes casted according to the found envelopes	3,488,558 (50.82%)			
Total valid votes	3,400,890 (49.54%)			
Distribution of votes	Yes	No	Unclear*	Invalid
Do you support the national representatives to be elected by majoritarian electoral system with absolute majority in two rounds?	2,509,864 (71.95%)	560,024 (16.05%)	330,928 (9.49%)	87,668 (2.51%)
Do you support the introduction of compulsory voting in elections and referendums?	2,158,929 (61.89%)	905,691 (25.96%)	336,180 (9.64%)	87,668 (2.51%)
Do you support the annual subsidy for financing the political parties and coalitions to be 1 BGN for every valid vote at the last parliamentary elections?	2,516,791 (72.16%)	523,759 (15.02%)	359,778 (10.31%)	87,668 (2.51%)

*Number of votes with no clear answer to the specific question, i.e. none/both options are checked, but answers to other questions are still valid.

Source: Central Electoral Commission, 2016.

Conclusions

The 2016 referendum was the most successful popular initiative in the contemporary history of Bulgaria. Although it did not produce a legally binding result, it produced a politically legitimate demand for electoral reform. Slavi Trifonov has on several occasions threatened the government with mass protests if the results are not implemented. The largest parliamentary group of Citizens for European Development of Bulgaria (GERB), the main party in the two-party ruling coalition, introduced a bill to lower party subsidies and the introduction of a purely majoritarian electoral system according to the decisions of the referendum. The bill did not receive support from other parliamentary groups and was rejected. The comment of Slavi Trifonov the same day was that the politicians and the parliament had conducted a coup against the will of the people (dnevnik.bg 2017). This opened speculations that he would enter politics

with a citizens' movement, trying to utilize the inertia of the referendum. However, up to the present moment such a political project is rather unlikely to happen.

The referendum provoked expert and political debate of electoral reform that will enhance democratic representation by providing for more responsibility and a higher quality of political elite. Opinions are split between two options: the fully majoritarian electoral system supported at the referendum and a mixed system following the German model of half by half majoritarian vs proportional mandates. The outcome is still unclear, but it seems that the days of the fully proportional electoral system applied since the breakdown of communism are about to expire.

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