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THE 2015 REFERENDUM IN BULGARIA

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Outline

- The 2015 referendum was the first of its kind in history to be initiated by the presidential institution.
- The President proposed three questions for the referendum: a) introduction of a mixed electoral system; b) adoption of compulsory voting; and c) introduction of internet voting.
- The National Assembly reduced the questions to internet voting only.
- The turnout did not meet the normatively required threshold for binding force of the result, but the legislature was obliged to consider the issue.
- As a result, the National Assembly adopted amendments to the Electoral Code introducing experimental internet voting starting from the 2018 parliamentary elections.

Background

The political turmoil in 2013 marked by mass demonstrations against the Borisov government in February and even greater protests opposing the succeeding Oresharski cabinet in June raised substantial concerns regarding the operating principles of the Bulgarian political system. The latter were inspired by the scandalous appointment of the controversial figure of Delyan Peevsky to the national security agency, interpreted as a demonstration of complete takeover of the state by organized crime. Both protest waves led to the resignation of the respective cabinets. Borisov resigned several months before the completion of his term, while Oresharski had to withdraw just a year after his appointment.

In January 2014 President Plevneliev made an Address to the Nation and appealed for the National Assembly to hold a referendum on a new electoral system (Stoyanov 2015) as an attempt to regain trust in public institutions and

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democratic procedures. The President proposed that the referendum should be held together with the elections for members of the European Parliament in May 2014. His proposition contained three issues to be decided by the citizens: a) a proportion of the MPs to be elected by plurality; b) the introduction of compulsory voting; and c) the introduction of e-voting over the internet in elections and referendums (President of the Republic of Bulgaria 2014).

In his address, the President pleaded for substitution of the acting PR electoral system with a mixed one that would provide the benefits of both the PR and majoritarian electoral systems while diminishing their drawbacks. He saw in the mixed system a remedy for the disunity in society, a preservation of the multipartism and a new deal for voters to opt for political personalities. Plevneliev also claimed that compulsory voting would address political alienation and boost the legitimacy of the democratic regime, therefore stabilizing public institutions (President of the Republic of Bulgaria 2014). Not least, electronic voting would provide more than 1.5 million voters living abroad the opportunity to participate in elections and would further improve turnout and legitimacy. As there are no options for distance voting, Bulgarians living abroad can cast their preferences only in the polling stations opened by the government in the premises of the diplomatic missions or elsewhere, which in some cases makes it impossible for people living far away to exercise their democratic right.

The governing majority of the Bulgarian Socialist Party (BSP) and the Movement for Rights and Freedoms (MRF), together with Ataka (which in Bulgarian means Attack) publicly opposed the initiative claiming it served the narrow political interests of the Citizens for European Development of Bulgaria (CEDB) and unofficially decided to postpone the decision through procedural actions. Nevertheless, the Parliament discussed and rejected the proposition in June 2014.

In February 2014, a committee in support of the President's initiative was established. It was comprised primarily of professors from Sofia University who were engaged in the protests against the Oresharski government. The committee initiated a campaign for the collection of at least half a million signatures in order to oblige the Parliament to take into account the initiative and hold a referendum. The committee was supported by the opposition parties and personally by the former (by that time) Prime Minister Borisov.

In March, the same year, the committee led by Georgi Bliznashki, a professor in law at Sofia University, managed to submit approximately 500,000 signatures in

support of the referendum to the National Assembly. According to the acting legislation, the National Assembly was obliged to hold a referendum within three months after the submission of the petition if all of these signatures were valid (Law on the Direct Participation of Citizens in the State Government and the Local Self-government 2014, Art. 10).

The validity check announced in May, however, showed more than 100,000 invalid signatures. The acting legislation empowered the Chairperson of the National Assembly to allow the committee to provide additional valid signatures within a month. Nonetheless, the Chair refused to do so and left the initiative with no consequences, despite the protests of the initiative committee.

The elections for Members of the European Parliament in May 2014 were indicative of the collapse of electoral support for the Oresharski government. In June, the MRF announced the withdrawal of its support for the cabinet and in July Oresharski resigned, just fourteen months after the formation of his cabinet. The new caretaker government appointed by the President was led by prof. Bliznashki who had the task of organizing the early elections in October. The elections produced a highly fragmented parliament and a wide coalition government, comprising of four parties, led by Boyko Borisov and CEDB was formed in November (Kostadinova and Popova 2015).

In an interview for a major newspaper given in February 2015, the President announced his intention to submit to the Parliament a new request for referendum containing the same three questions. In June the request was approved. The proposition was for the referendum to be held together with the municipal elections in October.

In July the Parliament discussed amendments to the law for direct participation of citizens in state government, which regulates referendums. CEDB initially promoted the idea to lower the threshold for the validity of referendums to 40% of the eligible voters (mediapool.bg 2015a). The requirement by that time was that a referendum should obtain at least the same turnout as its preceding parliamentary elections. Yet, if at minimum 20 percent turnout was achieved, the Parliament would be obliged to discuss the issue in a plenary session (Law on the Direct Participation of Citizens in the State Government and the Local Self-government 2014, Art. 23).

Only MRF declared firm support for the status quo. However, quite unexpectedly CEDB abandoned the idea and left the threshold for validity unchanged by abstaining from voting at the plenary session. A possible

explanation was an exchange of support with MRF for judicial reform, which at that time that required a constitutional majority (Krastev 2015). On the other hand, the majority supported lowering the number of signatures necessary for initiating a referendum from 500,000 to 400,000 and, most importantly for the President's initiative, amended the law to allow for the simultaneous arrangement of referendums and municipal elections.

Meanwhile the Parliament discussed the proposition of the President in a plenary session and decided to hold a referendum only for the adoption of e-voting in elections and referendums. The vote in Parliament led to tensions in the government coalition and mutual accusations. CEDB blamed the Reformist Block for opposing the question on the mixed electoral system. The latter accused CEDB of not supporting their wording of the question (mediapool.bg 2015b). Arguably, the decision was driven primarily by fear in the small parties of a plurality voting system and compulsory voting as they would increase the actual threshold and close their access to parliament.

Campaign

In August, the President set the two ballots for October 25th. The campaign started officially on September 25th together with the campaign for the municipal elections, as the legislation limits the duration of the campaign to 30 days prior the polls. The combination of municipal elections and referendum was expected to confuse the voters. In some polling stations they had to vote simultaneously for mayor, municipal council members, district or local mayor and to participate in the referendum. The referendum was open for participation from abroad, as well. As expected, the ballot was complicated and unprecedentedly expensive.

Thirty parties, one coalition and eight initiative committees were registered in the campaign for the referendum (mediapool.bg 2015c). Most of the registered participants were in favour of e-voting and supported the Yes option. Six parties and five committees supported the No option. Out of the parties represented in Parliament, only Ataka registered for a campaign for the No option. CEDB, the Reformist block and ABV registered in the Yes camp. The rest did not register, thus contributing to a lower turnout and respective failure of the referendum.

Despite the confusing wording of the question (the literal translation is "Are you in favour of being able to vote remotely by electronic means in realizing elections and referendums?"), the dividing line was clear. The rationale of the "Yes" camp was twofold. On the one hand they claimed that internet voting would ease the participation in elections of about two million citizens living abroad, who

contribute to the economy by sending back money to their families and therefore have the right to participate more actively in political life. On the other hand, they insisted that this innovation would limit the effects of controlled voting and vote-buying by increasing the turnout and the participation of young and educated voters, thus limiting the relative weight of the manipulated votes; in addition it would provide the voters with the opportunity to change their vote in case of being forced or bribed to cast it in a specific way (Manov 2015).

The "No" camp advocated just the opposite argument. In their view, internet voting would worsen the problems with controlled voting and vote-buying because it will take place in an uncontrolled environment, where the identity of the voter could not be completely identified and the secrecy of the vote could not be a hundred percent guaranteed. Besides, the security of internet communication could be compromised, allowing for manipulation of the final results. They provided examples of failed internet voting experiences around the world and pleaded that it was still too early for such an innovation, given the very few countries that currently employ it in a real environment (Enchev 2015).

The supporters of e-voting advocated the introduction of electronic voting over the internet and thus, in an uncontrolled environment, while the opponents were against such an option. Although mainstream political parties clearly stated their positions, the campaign was sluggish and apathetic (Bedrov 2015). Only the initiative committees conducted some sort of campaign, which given the poor interest of the media, took place mainly on the Internet and in a low number of public meetings.

Results

The referendum took place on October 25th 2015, but not without problems. At the beginning of the day, most of the 12,175 polling station committees did not instantly provide the ballot paper for the referendum, but asked the voters if they want to participate in it in addition to the municipal elections (dariknews.bg 2015; btvnovinite.bg 2015; segabg.com 2015). Following the complaints from some initiative committees, the Central Electoral Commission issued an instruction to the polling station committees to instantly provide the referendum ballot papers, but its broadcast was hindered by a hackers' attack on its institutional webpage.

Similar attacks blocked the webpages of the Ministry of Interior and the Civil Registry Service (GRAO), which was interpreted by the "Yes" camp as a sabotage of the referendum and an illicit campaign against it, because it demonstrated the vulnerability of internet security.

Nevertheless, the result was classified as a success for the supporters of internet voting. Expectedly, the turnout did not reach the corresponding level of the previous parliamentary elections in absolute terms (3,500,585 votes), but the share of the valid votes out of all registered voters (6,766,619) was 38.24 percent. Out of the 2,587,593 valid votes, 1,883,411 (72.79%) were in favour and 704,182 (27.21%) were against the adoption of internet voting (Central Electoral Commission 2015). The 122,339 invalid votes were numerous given the simplicity of the ballot paper. Yet, the level of turnout obliged the Parliament to consider the issue and to take a decision.

Table 1: Summary of the Referendum Results

Date of referendum	25 October 2015
Number of voters according to the registry	6,766,619
Votes casted according to the signatures	2,708,716 (40%)
Votes casted according to the found envelopes	2,709,210 (40%)
Total valid votes	2,587,593 (38.24%)
Valid votes in favour	1,883,411 (72.79%)
Valid votes against	704,182 (27.21%)
Invalid votes	122,339

Source: Central Electoral Commission, 2015.

Conclusions

In summary, the second national-wide referendum in contemporary history was a step forward in expanding the application of direct democracy tools. The turnout in absolute terms was nearly double the turnout of the previous referendum on nuclear energy, which got about 1.4 million votes. In a briefing to the national media, the President himself classified the referendum as an "undisputed success for the democratic development of the state." (Plevneliev 2015). The turnout of almost 40% and 2.7 million votes in absolute terms is an impressive result given the growing disappointment of citizens in public institutions and the high levels of distrust. Notably, in the spring of 2016 two other referendums were initiated and in May the Parliament decided to hold the first one together with the presidential elections in the autumn, while the second is still to be discussed in a plenary meeting.

At the same time, the Parliament started the discussion required by the referendum results. Six alternative proposals for implementation of internet voting were discussed (Dimitrov 2016). At the end of April 2016, the National Assembly finalised the amendments in the Electoral Code. The final decision,

which gained widespread support and only 6 MPs from BSP who attended the meeting voted against, was to introduce experimental internet voting for three consecutive elections starting from 2018. If the system proves to work well, it will be implemented in real elections with binding results at the national level. Until 2018 the Central Electoral Commission will conduct three simulations of internet voting to prepare for the experimental part.

The process triggered other amendments in the Electoral Code as well. The MPs decided that the participation in elections shall be mandatory, which corresponds to the second question raised by the President. However, the application of this measure is questionable given that there are no real sanctions for non-compliance. Another decision was to add an option "I support no one" in the integral ballot paper that will give expression to protest votes. These votes will be treated as valid, but will not be included in the calculation of the electoral threshold, which would have limited the access of small parties. Finally, the Parliament decided that the presidential institution would determine the timing of referendums from now on, provided that there is a decision of the National Assembly to hold one.

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