CONSTITUTIONAL MOMENT OR FAILURE: CONSTITUTIONAL POLITICS IN BULGARIA 2020

Atanas Slavov[1], PhD, Sofia University, Bulgaria

Abstract

Constitutional politics in Bulgaria is rather transient and unpredictable process. Constitutional changes very often follow not established principles and standards, but the logic of political expediency of the moment. Upholding the independence of the judiciary in the context of declining rule of law and democratic standards is a challenging matter. After 30 years of democratic experience, Bulgaria has not completed key institutional reforms in the judicial branch. Constitutional amendments are again on the political agenda concerning the structural division of the Supreme Judicial Council that will ensure independence of the judiciary, and the need of accountability and effective procedure of dismissal of the over-powerful Prosecutor General. How to mobilize political and public support for the amendments implementing established European standards remains a crucial task for the Bulgarian political elite and the civil society to work out.

Key words: *constitutional politics, the rule of law, judicial reforms, accountability of the prosecution, European standards, civic engagement and mobilization*.

INTRODUCTION

Bulgaria 2020 would be remembered by country's civic awakening after years of growing authoritarian tendencies and lethargy on the side of civil society. Mass civic-political mobilization that sparked in July and lasted four months demanded not only resignation of the Prime-minister, the Parliament and the Prosecutor General, but, more profoundly, change in the principles and rules of the way governmental power is exercised and in the way institutions relate to the citizens. This, shortly put, requires change in the fundamental law and the social contract – the Constitution.

In constitutional theory, such historical moments of public mobilization, raising expectations and demands for fundamental political and institutional change, are known as "constitutional moments".[2] These moments, in turn, are exemplary of exercising constitutional politics, not ordinary politics.[3] In Ackerman's theory constitutional moments are defined with several characteristics: significant civic and political mobilization in support of constitutional change; period for mobilized public deliberation of more specific constitutional proposals; supporters of the change gain substantive popular support in the political arena, which is transformed in concrete constitutional amendments, legislative policies and constitutional case-law doctrines.[4]

[1] Atanas Slavov, PhD (University of Glasgow), PhD Constitutional Law (Sofia University) is an associate professor of Public Law and Constitutional Government at Sofia University St. Kliment Ohridsky (Bulgaria). His research interests cover constitutional law and theory, civic participation and direct democracy, law and religion, Europeanization of SEE societies. Practicing attorney-at-law and legal advisor in the NGO sector. Former adviser on constitutional matters to the Deputy Prime-minister and Minister of Justice (2014-2015) and the Deputy Prime-minister and Minister of the Interior (2016), constitutional expert at the Council of Legislation Directorate at the Ministry of Justice.

[2] Bruce Ackerman, *We the People: Foundations* (Cambridge, MA: Belknap Press, 1991)

[3] Bruce Ackerman, "Constitutional Politics/ Constitutional Law", *The Yale Law Journal*, Vol. 99, Number 3, December 1989, 453-546

[4] Ackerman, *We the People*, 48-49, 266-68, 272-90.

This study will examine whether constitutional debates which formally started in December 2019 after critically assessed election and appointment of the new Prosecutor General, and continued during intensified civic mobilization in 2020, and fueled by the attempt on behalf of the government majority to propose a new constitution, constitute a genuine constitutional moment or should be conceived as only stages of short-term political maneuvering. These debates and initiatives are nonetheless form of constitutional politics.[5]

INSTITUTIONAL CONTEXT

More than a decade after the EU accession, constitutional democracy in Bulgaria remains defective[6] and semi-consolidated[7]. Almost three decades after the fall of the Berlin Wall, Bulgarian democracy is weakened by rather heavy post-communist legacy (preserved parallel power networks of former communist secret services and their oligarchic off-shoots), but also due to persistent and systematic actions to impede, curb or dismantle the functioning of democratic or independent institutions that keep government and politicians accountable.[8] This state of public affairs is most visible as regards the lack of proper independence of the judiciary, as well as reported inefficiency in combating high-level corruption.[9]

According to the 2020 Rule of Law Index with its overall score (0.55) Bulgaria is at the bottom among the EU member states (together with Hungary), and ranks globally 53rd (among 128 studied countries). It is noteworthy that in a regional perspective this result is closer to Hungary (60th), North Macedonia (57th), Kosovo (54th), or even to non-European countries like Tunisia and Mongolia (56th and 57th respectively).[10]

Comparative study on the justice systems in the EU indicates that Bulgarian judiciary suffers from very low levels of public trust, problems with independence and weak accountability mechanisms.[11] The state of play of judicial reforms remains rather incomplete with many deficiencies compared to accepted European standards. The situation is not improved significantly, notwithstanding specific monitoring mechanism in the fields of judicial reform, corruption and organized developed by the European Commission (the CVM) and the new Rule of Law Report.[12]

There are two key remaining issues: how to balance judges' professionalism and impartiality with the need of public accountability in governing the judicial system; and how to implement a trustworthy accountability mechanism regarding the Prosecutor General (PG) in cases he/she violates the law.[13] These two issues are at the core of the unfinished constitutional reform of the judiciary and the public prosecution system that have to be completed in line with the existing European standards. In more specific terms, they relate to the composition of the judicial chamber of the Supreme Judicial Council (SJC) that should be composed of *majority of judges elected by their peers*, and the need to introduce real accountability mechanism for the Prosecutor General, who sits at the top of the overcentralized Public Prosecution Office. In 2017, the Venice

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[5] Anna Fruhstorfer, Michael Hein (Eds.), *Constitutional Politics in Central and Eastern Europe. From Post-Socialist Transition to the Reform of Political Systems* (Springer, 2016), 145-171.

[6] Wolfgang Merkel, "Embedded and Defective Democracies" (2004) 11 *Democratization* 5, 33–58

[7] Nations in Transit 2020. Dropping the Democratic Façade: https://freedomhouse.org/sites/default/files/2020-04/05062020_FH_NIT2020_vfinal.pdf (visited 1.12.2020)

[8] Venelin I. Ganev, *Preying on the State: The Transformation of Bulgaria after 1989* (Ithaca, NY: Cornell University Press, 2007), 123-150.

[9] Report from the Commission to the European Parliament and the Council on Progress in Bulgaria under the Cooperation and Verification Mechanism, COM(2019) 498 final: https://ec.europa.eu/info/sites/info/files/progress-report-bulgaria-2019-com-2019-498_en.pdf (visited 1.12.2020)

[10] WJP Rule of Law Index 2020: https://www.worldjusticeproject.org/rule-of-law-index/country/Bulgaria (visited 1.12.2020)

[11] The 2020 EU Justice Scoreboard: https://ec.europa.eu/info/sites/info/files/justice_scoreboard_2020_en.pdf

[12] 2020 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, SWD(2020) 301 final: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0301&from=EN

[13] ECtHR case: Kolevi v. Bulgaria, no. 1108/02, §§ 195-215

Commission noted that "it is unclear who may hold the PG accountable" as well as that "this paradox" was previously indicated by the Parliamentary Assembly of the Council of Europe.[14]
Since 2016 no significant reforms were undertaken in the Public Prosecution Office, most specifically with respect to the role, functions and accountability of the Prosecutor General, as recommended by the EU Structural Reform Support Service (SRSS), published in December 2016. The SRSS report, pointed out the inefficient mechanisms for the Prosecutor General institutional and personal accountability, ongoing problems with some types of investigations (money laundering, high-level corruption, organized crimes), and systematic non-compliance with the standards developed in the case-law of the European Court of Human Rights (ECtHR).[15]
In the Parliamentary Assembly Resolution 2188 (2017), specific concerns are highlighted concerning the rule of law and "tendencies to limit the independence of the judiciary though attempts to politicise the judicial councils and the courts" as well as emphasized that "corruption, which is a major challenge to the rule of law, remains a widespread phenomenon" in the country.[16]
The Assembly also calls Bulgarian authorities to "continue the reform of the Supreme Judicial Council, the judiciary and the prosecution service in line with Council of Europe recommendations", thus, pointing out that the expected reforms are not completed and the current state of the Bulgarian judiciary is yet to achieve full compliance with the European standards (including the latest opinions of the Venice Commission).[17]

HIGHLIGHTS ON STRUCTURAL DEFICIENCIES IN THE SJC

After the 2015 constitutional changes, the SJC was divided into two professional chambers – judicial and prosecutorial. The chambers are composed of parliamentary and professional quotas, plus the *ex officio* members. The Judicial Chamber is comprised of 14 members: the President of the Supreme Court of Cassation and the President of the Supreme Administrative Court, six members elected by the judges in direct voting procedure, and six members elected by the National Assembly. The Prosecutorial Chamber is comprised of 11 members: the PG is *ex officio* member, four members elected by the prosecutors, one representative for the investigators, and five members elected by the parliament. Both chambers compose a plenum of the SJC of 25 members, which is responsible for the election of the presidents of the supreme courts and the PG. In contradiction to the established standards, the politically elected quota of members dominates the professional one - judges elected by judges are in a minority in the SJC plenary (6 out of 25 members) and in the Judicial Chamber as well (6 out of 14 members). During the 2015 constitutional amendment process this ratio of professional versus parliamentary quota was one of the most debated issues. With judges remaining a minority in both the plenum and the chamber, independence of the judiciary could hardly be fully protected and key appointments will continue to raise doubts of politicization.
As it was pointed out, this structure of the SJC fails to meet established European standards on the administration of judicial councils.[18] In the administration of the judicial system the independency and neutrality of judges would be safeguarded only if members of the Council (or judicial chamber)

[14] Venice Commission, *Opinion No 855 /2017 on the Judicial System Act*, CDL-AD(2017)018,6 and 7 October 2017
[15] Executive Summary of the Final Report, European Structural Reform Support Service, December 2016, http://www.mjs.bg/Files/Executive%20Summary%20Final%20Report%20BG%2015122016.pdf
[16] Resolution 2188 (2017)1 of the Parliamentary Assembly of the Council of Europe, Committee on Legal Affairs and Human Rights, "New threats to the rule of law in Council of Europe member States: selected examples," October 11, 2017:
http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24214&lang=en
[17] *Opinion No 855 /2017 on the Judicial System Act*, adopted by the Venice Commission during its 112th plenary session, 6 and 7 October 2017, CDL-AD(2017)018
Opinion N° 816 / 2015 on the Draft Act to amend and supplement the Constitution (in the field of the judiciary) of the Republic of Bulgaria, adopted by the Venice Commission at its 104th Plenary Session (Venice, 23-24 October 2015), CDL-AD(2015)022
[18] Venice Commission, *Opinion No. 403 / 2006 on Judicial Appointments*, CDL-AD(2007)028

are in majority *judges directly elected by their peers*, while the parliamentarian quota remains a minority. One of the required steps to reform the Council (the judicial chamber) is indeed increasing the proportion of judges elected by their colleagues, in order to become a majority of its members. Another advised step is to provide for election of the two presidents of the supreme courts by the judicial chamber, not by the plenum.[19]

SIGNS OF POLITICIZATION IN THE SJC

On October 24, 2019, the SJC elected the new PG, after formally public, though not entirely transparent, procedure. The election procedure triggered public discontent and demonstrations, due to raising doubts regarding the professional qualities and integrity of the nominee (the Deputy Prosecutor General at the time – Ivan Geshev). Key civic demands, voiced during demonstrations, were focused on the needed reform of the judiciary and especially on ensuring real accountability of the PG. He was nominated unanimously by the Prosecutorial Chamber of the SJC, chaired by the incumbent PG (Sotir Tsatsarov), and supported by the majority of the Council's members (20 votes out of 25). Public information on the alleged close connections between the nominee and the ruling elite (including the prime-minister, but also well-known oligarchs) circulated.

Responding to the public expectations and public demonstrations demanding a presidential veto on the procedure, the President Radev refused to sign the decree for his appointment. The President emphasized that such key election process should be trusted by the wider public, not raising doubts and tensions in the civil society or in the professional legal communities (of judges, lawyers, academia). On November 14th, 2019, the SJC plenary voted again to elect the nominee, thus disregarding the presidential veto. In accordance with the constitutional requirements, the President had to issue a decree for the appointment (Art. 129, para. 2 of the Constitution).

A similar process revealing signs of politicization, unfolded with the selection of the President of the Supreme Administrative Court in 2017. It was the first time the President vetoed the SJC decision, but nonetheless, had to appoint the elected candidate after second voting in the newly convened SJC plenary.

Similarities in both election procedures are related to the close ties with the governing elites, oligarchic networks, and questions concerning the professional qualities and personal integrity of the candidates. These procedures fueled again the on-going debate on how to respond to public expectations of professionalism and integrity of the nominees with selection procedures that involve some degrees of politicization. This proper balance is yet to be achieved.

THE OVER-POWERFUL STATUS OF THE PG AND ABSENCE OF ACCOUNTABILITY

Constitutional status of the PG and his authority to exercise supervision of legality and methodological guidance over the activity of all prosecutors (Art. 126, para. 2 of the Constitution) is one of the key issues needing in-depth reform. In fact, the PG is placed on top of the pyramid of power over the entire Prosecution Office - the system is over-centralized and hierarchical in structure. These features eliminate the possibility of effective accountability and investigation in cases of abuse of power. In the meanwhile, at the end of 2019, the Council of Ministers filed a request with the Constitutional Court for interpretation of this constitutional provision in order to clear the path for legislative reform regarding the accountability and investigation of the PG. In July 2020 the Court ruled that the PG shall not exercise supervision of legality and methodological guidance in cases which involve probes, investigations and other procedural activity directly related to the his status or actions.[20]

Part of the problem is the historical and political legacy of the Prosecution Office used during the totalitarian regime as a politicized and repressive authority, implementing the ruling party decisions, while regularly bypassing the courts. Currently, it is the only constitutional office that lacks

[19] Venice Commission, Opinion No 816/2015 *and* Opinion No 855/2017

[20] Judgement No. 11/ 2020 in case No. 15/2019 of the Constitutional Court

adequate checks and balances corresponding to the levels of its centralization. Another dimension of the problem is the ongoing fusion of both formal and informal powers in the hands of the PG, with no working mechanisms of exercising public scrutiny and accountability.

In its 2019 opinion for Bulgaria related to proposed amendments of the Judicial System Act and Criminal Procedure Act, presented by the government in insufficient attempt to address recommendations, the Venice Commission again emphasized the *influence of the PG in the SJC* (his function as *ex officio* chair of the Prosecutorial Chamber), having a decisive role on the career and disciplinary proceedings of individual prosecutors and its strong position within the Prosecution Office.[21] For regular prosecutors, PG is almost the ultimate decision-making authority in many cases which are not referred to the courts - he can repeal every individual act, can instruct and give mandatory orders to every single prosecutor. This institutional position makes it virtually impossible to provide real accountability, and more specifically, in cases of serious breach of public ethics and the law – to trigger effective investigation and dismissal procedure. For that reason, changes in the composition mechanism of the SJC – increasing the public (parliamentary) quota in the Prosecutorial Chamber, reducing the term of office of the PG (to 5 years instead of 7), as well as providing independent mechanism for investigation and dismissal from the SJC are the first possible steps to be taken. More ambitious constitutional reform may lead to creating a completely separate Prosecutorial Council, not headed by the PG, electing the PG by the parliament on proposal by the Minister of Justice or a group of MPs, and introducing a form of impeachment procedure through the parliament.

THE CONSTITUTIONAL INITIATIVE OF THE PRESIDENT AND TENSIONS WITH THE PG

Shortly after the appointment of the new PG the President announced the beginning of public consultations regarding possible constitutional amendments.[22] As head of state with direct democratic legitimacy, he responded to popular expectations to initiate a debate on necessary constitutional reforms. Among the subjects discussed during consultations with representatives of the legal academia, professional and civic organizations were the structural model of the SJC, the constitutional model of the prosecution, introduction of a mechanism to hold PG accountable, including effective investigation and dismissal from office, and the possible introduction of individual constitutional complaint.

This constitutional discourse initiated by the President, and focused on the status and accountability of the PG, faced strong reaction on behalf of the newly appointed PG. In February 2020, the Prosecution Office published wiretapped conversations of the President, in order to imply that he was involved in criminal activity. This action, obviously sanctioned by the PG, violated the Constitution (as regards presidential immunity) and several special legislation provisions.[23] In the public debate that followed, the actions of the prosecution were sharply criticized. Implying wrongdoing by the President that may justify criminal investigation, the PG requested *in abstracto* interpretation of the Art. 103 of the Constitution, which provides for special presidential immunity against criminal investigation and regulate on possible grounds and stages of impeachment procedure. The Constitutional Court following the established doctrine ruled that the opportunity to initiate criminal investigation of the President while in office is very limited and such investigations should not interfere with the personal rights and freedoms and personal integrity.[24]

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[21] Venice Commission, Opinion No 968/2019 on draft amendments *to the Criminal Procedure Act and the Judicial System Act concerning criminal investigations against top magistrates,* CDL-AD(2019)031

[22] Constitutional consultations initiated by the President, 17 December 2020: https://www.president.bg/news5299/rumen-radev-debatat-za-neobhodimostta-ot-konstitutsionni-promeni-otgovarya-na-stremezha-za-varhovenstvo-na-zakona-realno-razdelenie-na-vlastite-i-dostoyno-badeshte-na-grazhdanite.html (viewed 2.12.2020)

[23] Art. 32 and Art. 33 of the Special Intelligence Means Act.

[24] Judgement No. 12/2020 in case No. 1/2020 of the Constitutional Court.

Further tensions between the President and the PG sparked again in July 2020 when armed personnel of the security service of the PG entered the official seat of the President and its administration in order to execute arrest warrants against two of his senior advisors.[25] In the wider public context, this action followed public statement by the President calling for in-depth investigation of misconduct of the officers, serving in the National Service for Protection, who acted as private guards to Ahmed Dogan, honorary chairman of the Movement of Rights and Freedoms (DPS), who is conceived one of the most powerful politicians in Bulgaria linked to the oligarchic networks. The whole new political dynamics started after the attempt by Hristo Ivanov, political opposition leader (Da Bulgaria party) and former Minister of Justice, to step on a shoreline that has to be in public ownership and with public access, but was used as a private beach, shielded from the public in the Dogan's private estate in Rossenets. [26]

GENUINE CONSTITUTIONAL MOMENT?

The last two events immediately provoked mass demonstrations of tens of thousands, unseen since 2013, calling for the government to resign, snap parliamentary elections, resignation of the incumbent PG, and major constitutional changes with regard to strengthening the independence of the judiciary and introducing accountability procedures and impeachment of the PG.[27] Demonstrations enjoyed high levels of public support – above 60 %, while government and the parliament faced sharp decline – in the range 10-15 %.[28]

In the beginning of the protest wave, on July 13th, the first more systematic ideas of constitutional change were introduced by Democratic Bulgaria political coalition (founded by Da Bulgaria, DSB, and Green Movement political parties, forming key extra-parliamentarian opposition force).[29] More specifically, the proposals addressed the need of constitutional reform of the SJC and the accountability of the PG and were drafted in line with European standards (following closely the recommendations of the Venice Commission and the European Commission). Among the most significant changes publicly announced was the complete separation of the SJC in two councils – judicial and prosecutorial. The Judicial Council (15 members) consists of a majority of *judges elected by their peers* (8 members), parliamentary quota (5 members) elected among publicly known lawyers of high professional and moral integrity (among attorneys, professional organizations, academia, legal NGOs), and the presidents of the supreme courts as *ex officio* members (being themselves chosen among the sitting judges in the two courts). As regards the Prosecutorial Council (11 members) it was proposed that 4 members should be elected by the prosecutors, 5 - elected by the parliament (but belonging to different legal professions outside the prosecution service), and the PG and the Minister of Justice shall be members *ex officio*. In order to ensure real accountability of the PG it was proposed that he will be elected and impeached by three fifths majority in the parliament, while in the case of impeachment the final judgement will belong to the Constitutional Court. Complementary to these changes, is the proposal to reduce the PGs

[25] "Four Arrested in Two Investigations, Offices of President's Administration Searched", BTA, 9 July 2020: http://www.bta.bg/en/c/DF/id/2243259 (viewed 1.12.2020).

[26] „Bulgarian president's advisors arrested after raid on presidency", *IntelliNews*, 9 July 2020: https://www.intellinews.com/bulgarian-president-s-advisors-arrested-after-raid-on-presidency-187176/ (viewed 1.12.2020).

[27] Svetoslav Todorov, "Fresh Protest Wave Gains Momentum in Bulgaria", 10 July 2020: https://balkaninsight.com/2020/07/10/fresh-protest-wave-gains-momentum-in-bulgaria/ (viewed 1.12.2020).
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[28] Alpha Research, "Continuing Support for Protests: July – September 2020": https://alpharesearch.bg/post/971-produljavashta-podkrepa-za-protestite-i-neiasen-izhod-ot-politicheskata-kriza.html (viewed 2.12.2020).

[29] National Citizens' Initiative for Democratic Bulgaria: https://demokrati.bg/natsionalna-grazhdanska-initsiativa-za-demokratichna-balgariya/ (viewed 2.12.2020).

constitutional term of office to 5 years, to limit the functions of the prosecution exclusively to the criminal investigation and procedure (no more supervision of legality) and to ensure judicial review of all acts of the prosecution related to the significant phases of the criminal investigation. Other proposed changes included introduction of individual constitutional complaint safeguarding the rights of the citizens, as well as the opportunity of the low instance courts to refer the case of constitutionality of applicable law directly to the Constitutional Court; introduction of legislative citizens' initiative on the proposal of 10 000 citizens; provisions on lustration of persons for belonging to the former communist secret service (only for the top offices in the systems of public order, national security, defense, the judiciary, independent regulators).

Another set of constitutional ideas was also announced. One of the civic organizations actively involved in organizing protests and known for its consistent demands of constitutional reform Justice for All Citizens Initiative also presented its views on constitutional reform. The most radical among them was the abolishing of the Prosecutor's General Office altogether. Other proposals included reducing the parliamentary quota in the SJC, abolishing the Prosecutorial Chamber, as well as abolishing the specialized criminal courts.[30]

In the midst of intensified protests in early September 2020, the government majority announced that it will propose deep constitutional changes in addressing public demands. In fact, on 2nd September, the parliamentary majority coalition, presented to the public and in the National Assembly a draft for new constitution.[31] The major constitutional reforms were proposed in the field of the judiciary: complete separation of administration of the judiciary and the prosecution by establishing two different councils – judicial and prosecutorial, on the basis of the basis of the existing chambers in the standing SJC; increase of the professional quota in the judicial council with one more member elected directly by judges; two presidents of the supreme courts to be elected and dismissed by the judicial council, while the prosecutorial council will elect and dismiss the PG; reducing the term of office of presidents of the supreme courts, and the Prosecutor General to five years, as well as eliminating the role of the President in their appointment and dismissal process; new reporting procedure for the PG before the parliament on a regular basis – every 6 months; reducing the functions of the Minister of Justice with respect to the career development and disciplinary proceedings of the magistrates. In fact, in the public debate that followed, it became obvious that proposed reforms did not meet the established European standards on the independence of the judiciary and did not introduce working mechanism of accountability and dismissal of the PG. The whole initiative was unmasked as having only political goals serving the ruling coalition to remain in power until the regular parliamentary elections in the spring of 2021. Thus, it was revealed, that even the constitutional issues and popular expectations and demands of deep political reforms, could be sacrificed for mere political expediency to remain in power few more months.

In September, the first Rule of Law Report focused on Bulgaria emphasized the need of reforming the organization of the SJC and introducing accountability to the PG in line with the European Commission (the CVM) and the Venice Commission recommendations and official commitments made by the Bulgarian authorities. The constitutional reform initiative of the ruling coalition is also briefly assessed: "It is important that any such reform should take account of the Council of Europe recommendations." [32]

In a special opinion delivered in late November, the Venice Commission very clearly stated that the proposed constitutional reforms did not meet European standards and requirements and the draft

[30] https://pravosadiezavseki.com/ (viewed 1.12.2020).

[31] https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2020)070-e

[32] 2020 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, SWD(2020) 301 final: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0301&from=EN

constitution is not sufficient basis for such reforms.[33] Moreover, the overall process of drafting and exercising constitutional initiative has not been transparent, inclusive and deliberative, as required by the Council of Europe rule of law standards.[34]

After the critical opinion received, the governing majority voted on the draft constitution on 25th November, but did not receive required majority to decide on convening the Grand National Assembly, a special constitutional convention required to pass new constitution (Art. 158 of the Constitution). This was rather expected result, since no parliamentary opposition party supported the constitutional initiative.

The unsuccessful vote formally closed the constitutional momentum for 2020. It should be noted, however, that formal parliamentary procedures, lacking popular legitimacy and approval of the majority of the population, could not close a genuine constitutional moment. When deep popular expectations for constitutional reforms remain present there is true constitutional moment that has to be addressed by the future parliament, enjoying higher levels of public trust and legitimacy.

CONCLUSION

Constitutional moments remain present, supported by the majority of the population, even when deliberate maneuvering of the Bulgarian institutions attempts at silencing or avoiding much debated constitutional decisions. Failing to implement specific recommendations concerning the structure of the SJC, enhancing independence of the judiciary, and the status of the PG, ensuring his accountability, Bulgarian authorities provoked civic and political discontent and mobilization in favor of even more radical constitutional reforms. It is deeply worrying that thirty years of democracy-building and Europeanization, Bulgarian governing political elites are still united in upholding their political influence in the judiciary and the Prosecution Office, being considered as a leverage for preserving and distributing the real power both in politics and the economy. Despite the tendencies of declining rule of law and democracy standards, Bulgarian society still has a chance to fix these problems combining civic engagement and mobilization, new political representation and effective external support and pressure. This constitutional moment is here to stay.

[33] Venice Commission, *Opinion No. 1002 / 2020: Urgent Interim Opinion on the Draft Constitution of Bulgaria*, CDL-PI(2020)016

[34] Venice Commission, *Rule of Law Checklist*, Study No. 711 / 2013, CDL-AD(2016)007

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