

The Tarnovo Constitution – an expression of National Tradition and European experience

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Abstract. On the eve of the 145 anniversary of the Tarnovo Constitution, the research focus of this paper is presenting and arguing to what extent the First Bulgarian Constitution- determines the manner of governance of the newly liberated state. The main themes addressed in this article are the streams and attitudes of the population of Bulgaria at that time and referring before the liberation, to what extent the historical attitudes enabled the creation of the Political elite. For the needs of the research process are outlined historical documents and books on this topic, which helped for the analysis on the existence of a balance in the First Bulgarian Constitution. The research findings outline to what extent the moving social groups in the society were prepared to be ruled under so Liberal Constitution; they also find how the balance of power was achieved through the elaboration of the Constitution and its numerous changes. The review of the elaboration process of the Constitution before and after the liberation of Bulgaria and its research findings are bringing us to realities which can as well be projected towards the modern times legal process. Thus, the establishment of the Tarnovo Constitution confirms its complex creation process which requires overall efforts in reviewing national tradition and the impact of the Great powers. The latter inevitable was/is a discussible question which stretches in the historical period of Bulgarian history and gives practical implications for scholars in humanities.

Key words: Bulgarian First Constitution, Tarnovo Constitution, European experience, Balance of power.

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1. Introduction

The First Bulgarian Constitution – the Tarnovo Constitution of 1879, is a crucial document to Bulgarian History, because it determines the way the newly liberated state would be governed. In the following work will be presented the streams and attitudes of the population of Bulgaria at that time and the creation of Political elite in the period before the liberation and afterwards. The impactful role of Russia in this process was important but there were native foundations, which had gained ground on these lands long before the liberation Russo-Turkish War of 1877-1878. The Tarnovo Constitution laid the foundations of the democratic society in Bulgaria immediately after the Liberation, conveying the spirit of liberalism through the Belgian Constitution of 1831 and the influence of the Serbian and Romanian constitutions. The Constitution, having taken into consideration the middle-bourgeoisie type of society, tried to establish the fundamentals of people's rule and the division of power. We should not forget that through people's rule, the Interim Authorities introduced administrative division of Bulgaria into districts – regions and counties and vested the people with the power to govern.

2. The First Constituent National Assembly in 1879 – composition and organisational process

Both the San Stephano and the Berlin Treaty ruled in 1878 that the Constitution – the Organic Statute should be drawn up by an assembly of Bulgarian notables". "Notables" means prominent citizens, i.e. citizens distinguished from the people's mass by the fact that they occupy high public office, have substantial wealth and

education and are highly respected. The official Russian documents call them "renowned people". Since at this point in Bulgaria there was no aristocracy, the notables could be determined from among the overall population through individual indications (elections).

The Constituent Assembly was convened in Tarnovo on 10 November 1879 by the Emperor's commissioner Knyaz Dondukov. It set the beginnings of parliamentary life in liberated Bulgaria. Knyaz Dondukov asked S.I. Lukyanov, Head of the New Department of Justice, to prepare a draft for the forthcoming Assembly and the Draft was sent to St. Petersburg for approval. The Draft vested great power in the Prince and made the Assembly an advisory body rather than a Parliament in the Western European sense of the word. In St. Petersburg it was decided that the Draft Statute must be made more liberal and that great power must be given to the National Assembly. The amendments made in St. Petersburg were all in the liberal spirit. Thus, the Prince did not have so much power as it had been provided in Dondukov's initial draft, but the Russians preferred to rely on the people, since they could see their support, rather than assign any hopes on the future Prince, who, most likely, would have been a German Prince. Marko Balabanov, a prominent Russian official, expressed the opinion that the liberal amendments made by St. Petersburg were probably due to the Liberalism that had been spreading across Russia at the time, which would eventually help building a more democratic society.

The Grand National Assembly opened in Tarnovo under the chairmanship of the former Exarch Antim. It was composed of 231 members, who may be divided into 3 categories:

1. 89 representatives of the People, elected on the basis of one deputy for each 10,000 of the population.
2. Notables- the so-called members by right – 118 in all, the Bulgarian Exarch and his Bishops, the Greek Metropolitan of Varna, the Turkish Mufti, The Jewish Rabbi: about 13 clerics, 2 members of the court of cassation – representatives of the Courts and of the Regional and City Councils.
3. 21 People, nominated by Knyaz Dondukov as "Tsar's Commissioners": 11 Representatives of the Turkish Minority, one representative of the Rila Mountain and the Bulgarian organisations in Odessa and Vienna as well Petko Slaveikov and Dr. Mollov- eminent Bulgarians (8 of them).

It is worth noting, that to have Members of Parliament elected by the people - universal suffrage, was an idea and decision of Knyaz Dondukov, although that was not particularly welcomed by the diplomatic circles. An interesting explanation for that decision is that through this manoeuvre he wanted to gain people's appreciation and ensure for himself the opportunity to be elected Prince or, else, through the protests that could arise over the debates in the Parliament against the Berlin Treaty to create difficulties to the Great Powers.

According to the preliminary experience of the deputies, they fall into two groups. The first comprises those who had played a major role in the national affairs or in the liberation struggle. Some of them had acquired education in Russia, Western Europe or Constantinople. It could be argued that they lacked political experience, yet they had accumulated experience from the affairs they had been in charge of. Another group from the Constituent National Assembly had spent their lives abroad like Prof. Marin Drinov; they had obtained scientific degrees in Western Europe and they had never played any roles before the Liberation, yet they occupied important positions due to their education. Although some of the members were elected and others were appointed ex officio, it had become clear that this was a homogenous body and each member of it considered the interests of the country.

When voting the Regulations of the Organic Statute and the election of board – chairmen there were heated debates and the freedom of speech was really something exceptional, which was ardently used after the long time of Turkish Yoke. And, nevertheless, the Russian authorities wanted to have only discussions over the Draft Organic Statute, there were disputes held on various issues – freedom of press and meetings, the merits of a Senate. The Members of Parliament had inviolable rights and the freedom of speech was guaranteed. Generally, there were open sessions, still they could be closed by decision of the deputies. There was also a requirement for a quorum – majority of the Members of Parliament. Voting took place through rising in consent for accepting one proposition or another, though ballot-paper and roll-call voting were also provided. The Regulations had also a requirement for regular attendance at all the sessions. During the sessions there were foreigners as well – representatives of Austria-Hungary, Great Britain, France and Italy. Initially, the German representative – Brunning wanted to establish a commission within the Members of Parliament, who should react in case of direct Russian influence, but the others did not agree stating that they should all act in an "absolutely neutral" way. Their main goal, however, was to see how the Assembly tackled its task. One of the first and perhaps most important issues, which the deputies started discussing, was the question of the "integrated unity of Bulgaria". This issue was raised at the Parliament's podium by M. Balabanov, and the debate was quick to ensue irrespectively whether the speakers were 'chorbadzhii' or common people, former or current

revolutionaries. Still, before the very opening of the Parliament, the issue of unified Bulgaria had been discussed in Plovdiv.

It could be noted that the differences on the All-National Question were not grounded on political principles. The historical analysis has established that after those debates and protests against the provisions of the Berlin Treaty, some diplomats started to work for the dissolution of the Constituent Assembly and the formation of a new one comprised only by representatives - "notables".

3. The establishment of the first Political Parties

Right from the beginning, the Division of Bulgarian opinion between the "Old" and the "Young" was demonstrated. The "Old Party" represented the big bourgeoisie- 'the chorbadzhi', usurers and merchants and they had the support of the clergy. The "Young Party", which later became "the Liberal or Radical" was a homogeneous group. "Even before the liberation it had contained various tendencies, though the left wing democrats had kept the upper hand". After the April uprising in which most of the Revolutionaries-Democrats had died, the Leadership of the Party passed to those middle bourgeois, who believed that the liberation would come about through Russian intervention and not through revolution" (Black, 1996, p. 314). The Bulgarian population did not have very rich representatives in this early period before and after the Liberation and society was comprised by middle class representatives. The distinctions between the moderate and radical parties or "Old" and "Young" were evident in the National Assembly in choosing the procedure for the discussions on the Draft Statute. The moderates wanted to delegate the power to the patriotic and educated elite, to those who have experience. A commission of 15 members was thus created, which had to elaborate a report on the Draft Statute and the principles, which would be most appropriate as a basis for the Bulgarian constitution.

The commission was appointed with the task to explore the Russian draft project and report on that. The report represented political wisdom, but on the other hand, there was an air of conservatism about it – "this committee revised the draft, making it less democratic than before." (Fox, 2008, p. 226) So, the idea of a Senate came up, which was to replace the State Council due the shortage of "worthy people" who could join it. The senators were to be appointed by the Prince. Property qualification and universal suffrage were also introduced for those citizens, who paid an annual tax of 100 pieces.

The commission's report was read in the Parliament on 21 March, 1879 recommending the Russian document, nevertheless, with some differences. The first part of the report provided grounds for the basic constitutional principles, while the second – specific propositions for supplements to the draft Statute. The principles of the constitution defined by the commission were: freedom, equality before the law, self-determination and security of property and in their view those were comprised in the Draft Organic Statute. It is worth noting that the commission stated that the national representatives should be fully elected. After the report had been presented it was subjected to the criticism of the "Young"- the Radicals, who had the majority in the Parliament. Hence, no-confidence to the commission was voted. However, I would like to make a note here for a particular matter I have found in historical references. Quite often, when defining the liberals it is said that they are a group of common people – representatives of the "revolutionary proletariat" (Black, 1996, p. 86), yet this is quite away from the truth. The radicals were trained professionals with such a person among them as Petko Karavelov, who studied in Greek schools, and later on he continued his education in Moscow. After the commission's report had been rejected by the Constituent Assembly, each of its articles was reviewed and discussed separately by all the MPs.

The formation of the Constitutional Assembly by the Russian authorities and the election of its deputies are just another step in establishing a distinctive face for the government of New Bulgaria. The profoundness of the discussions and their grounds, sometimes deviating from the main objective, namely, the elaboration and adoption of Organic Statute, is indicative for the freedom of speech enjoyed by MPs. Though trying to form allies on a wide scale, the Russian influence was soon reduced due to the strong resistance by one of the two parties that had started to distinguish itself – the party of the "Young"- the Radicals. With the complete rejection of the commission's report the national representatives had shown that the Assembly had the potential for discussions and they took the Russian proposal for an Organic Statute as a "draft programme", just as Knyaz Dondukov had defined it at the Assembly's opening. The patriotism and the concern for the lost lands and compatriots by the Berlin Treaty' decision could be seen in the very first discussions of the national representatives. Russia's tentative manoeuvres for gaining influence were evident in the struggle between the two parties – the "Young" and the "Old". That was a struggle that would be much more evident in the course of creating the future constitution of the Principality of Bulgaria.

4. The Tarnovo Constitution – The Democratic and Liberal Choice of the New State

Generally, the word constitution (from the Latin 'constitutio' – establishment) means fundamental law. It defines the principles of the government organisation, the main government bodies and their authority, the basic rights and obligations of the citizens. All the other legislation is formed upon its fundament. The constitution has a key role for the overall social and political development of a nation. As it has been already mentioned above concerning drawing up the Organic Statute according to article 4 of the Berlin Treaty, a Constituent Assembly was convened in February, 1879. I think it would be appropriate to mention in the very beginning why the word constitution is being used and not organic statute. As we know the Organic Statute – "Organic octroi" has a lower rank compared to "Constitution" in respect to government organisation. There were organic statutes at that time in countries without full sovereignty due to their vassal position in respect to another country. Both under the San Stephano and the Berlin Treaty, the Principality of Bulgaria was to become vassal to the Sublime Porte. Yet, the established position of Bulgaria in international legal aspect was inadmissible for the Tarnovo founding members and therefore it was proposed and unanimously adopted that the title "Organic Statute for government organisation of the Bulgarian Principality" should be replaced by "Constitution of the Bulgarian Principality".

Having been led by the same considerations, the deputies voted for the dismissal of the article 3 fragment from the draft – "in vassal relations to the Sublime Porte". Those textual modifications however did not denounce the international agreements concerning the country's statute.

- **National Traditions and the Role of the foreign Experience Constitutional Law**

The Constitution of Bulgaria was adopted on 16 April 1879. It had a content of 22 chapters and 169 articles. The master prototype serving as a model in drawing up the Tarnovo Constitution was the constitution of the Kingdom of Belgium of 7 November 1831. Along with the Russian legal texts the Russian authors of the Organic Statute had also used the Serbian and Romanian Constitutions. Many of its regulations related to the fundamental rights of the citizens as well as to the form of government organisation were directly or indirectly borrowed from other constitutional texts – Romanian, Serbian, Greek. We can find the principle of sovereignty of the people set in the basis of the Belgian constitution, perhaps under the influence of Jean Jacques Rousseau's theory of the "Social Contract", which was applied also in the Tarnovo Constitution. Under this principle, power in the democratic state issues from the people for the people - "Pour le Peuple et par le Peuple". So, art. 57 states – "All Bulgarian subjects are equal before the law. There may not be any class division", and it conveys the idea of people's power and equal political rights. The first Bulgarian constitution unconditionally recognized the merits and dignity of the individual and his or her right of freedom.

- **The legislative separation of the Power**

Yet, one of the main principles on which the Tarnovo Constitution was based on the division of the powers as a basic democratic constitutional principle. One of the most important principles set in the Tarnovo Constitution was that of the separation of power among three branches – executive, legislative, and judiciary. It relates to citizens' natural freedom and rights.

The Constitution had a strong impact with its provisions about the citizens of the Bulgarian Kingdom, respectively about their rights, liberties and obligations. For the first time in Bulgarian history the universal individual liberties were proclaimed in legislation, as it was used also in Preamble of the Constitution the foremost principle of the Constitution is the principle of freedom – equality, rejection of the class division of the society, non-admission of any titles of nobility or other distinctions that would create alienation within the citizens in the society; The Constitution clearly distinguished the rights of the Bulgarian citizens and the foreigners. At that time, Bulgarians were the majority of the population but they didn't enjoy special Constitutional status and were equal to other minorities under the Rule of Law within the unitary nation state of Bulgaria. The political rights established in it could be enjoyed only by the citizens of the Bulgarian kingdom, and the civil rights therein were valid for everyone living in the country. Among the civil rights were the individual rights and liberties – there was a ban over purchase and sale of human beings; freedom for each and every slave, who stepped on Bulgarian territory; punishments had to be based only on effected sentences by regular courts.

The liberal ideas in the economic field found their expression in article 67 – whereby "property rights are inviolable". It would provide the constitutional basis for the establishment of Bulgarian law.

- **The King's power according to the Constitution**

According to the Constitution the King had a real and important position within the state. He was the head of the state and its supreme representative, Commander-in-chief of the Army and the Navy and he was also vested with the supreme executive power. Besides, he also had legislative power – the bills and the government propositions were presented by the respective Minister by order of the Tsar. The acts that were passed were promulgated by him. If they were not ratified, they could not come into force and the Constitution did not provide a mechanism to solve the contradictions between the King and the National Assembly. The King also had influence on the judiciary – he appointed the staff in the judiciary and had pardoning power. Besides, he also had the right of amnesty just as the National Assembly.

Furthermore, as the Head of State, the Tsar is representative in international relations. What is interesting here is that he had no political or criminal liability. "The person of the King is sacred and immune" (chapter 8). In respect to the National Assembly, the Tsar had the obligation to convene the Parliament, either by himself or through an authorised person. The national representatives took an oath, where along with the other text, it was said that they should have "before their eyes solely the common good of the people and the King". The Tsar delivered a speech from the throne when displaying his projects and propositions, which were to be presented in the national Assembly for discussion. He could prolong the Parliament but not longer than 2 months, and could dissolve Parliament and set the date for new Parliamentary elections. The Parliament could not meet for its sessions unless it was convened by the King, including upon postponing or closing of a session or dissolution of the National Assembly. As a presenter of the Executive Power, the king appointed and dismissed Ministers. As we can see from the presented competences of the Knyaz/Tsar, they turned him a figure of primary importance in the kingdom, they had also created some mechanisms for restrictions, which the first Bulgarian Prince - Alexander Batenberg would try to change later through his diplomatic relations via Russia.

- **The relations between the King and the Parliament**

The King was restricted by his competences vested in him by the Constitution. He took an oath at the enthronement to observe the regulations of the Constitution. The prestige of the King's power was boosted through the annual convening of the Parliament in sessions. In reply to "the speech from the throne" the National Assembly presented an address to the Tsar, whereby stating their opinion on the issues raised by the Tsar, who was also involved in that in his turn. The budget was adopted by the national Assembly, but it was subject to approval by the Tsar. International agreements were concluded by the King, yet in some cases they were approved by the National Assembly. (art.17(2)) When there might be any danger of internal or external threat and it was impossible to call the Parliament, the Tsar could issue an act and order, which would have the effect of law. Those were subject to subsequent approval by the National Assembly. However, those prerogatives did not concern taxes and state receivables, which always required the consent of the King.

The King had no right to give his opinion on the constitutional nature of the laws passed by the National Assembly. That was an exclusive right of the Parliament. As it has been mentioned, the Constituent Assembly determined the statute of the Regents, who could be summoned and approved only by the Bulgarian National Assembly. Quite naturally, it has to be specified that regents were summoned only when the heir to the throne was an infant. Irrespective of the fact that the legislative function was shared between the National Assembly and the Tsar, and laws were subject to sanctioning, legislature had remained the main function of the National Assembly. Only the Parliament could interpret laws and give opinion on their constitutional nature. Along with that, it could amend the bills and propositions. Regarding the judiciary, Chapter 13 states that it is a prerogative of "the judicial places and persons acting on behalf of the Tsar". The formulation itself makes it evident how the judiciary was related to the executive through the King /Prince, where it does not mention anything like completely independent power. It can be further added that the judges were appointed by the King after they had been nominated by the Minister of Justice, who was subordinate to the King. Judiciary staff was made permanent in 1899.

Chapter XX of the Constitution was dedicated to the Grand National Assembly. As we know, there was no Upper House but the Grand National Assembly was invoked in special cases. As a composition, it was as the ordinary National Assembly, and its members were elected in the same way. But the number of members of the Grand National Assembly was twice as big– every electoral Unit of 20000 inhabitants sending two deputies instead of one. As the Constitution says – the Grand National Assembly could decide only those matters, which had necessitated its convocation. The King could call the Assembly to decide questions of exchanging or ceding a portion of the territory of Bulgaria; for issues, which decision requires revision of the Constitution; to elect a

new Prince, when the reigning family becomes extinct, owing to the absence of descendants, who can occupy the throne.

As we mentioned the right to revise the Constitution belonged to the institution of the Grand National Assembly, but the right to provide this, to the deputies and the King. In order that the latter could happen, the decision should have been approved by 2/3 of all the members of the Grand National assembly. Thus, this made it quite difficult for the personality of the First Bulgarian Prince – Alexander I Batenberg, who in the Parliament faced the Radical party of “the Youngs”.

The Tarnovo Constitution proclaimed Orthodox Christianity the official religion, which had to be professed by everyone, except for the first Prince. At the end, the Constituent Assembly came up with a nomination for the Bulgarian throne by proposing the 22 year old German Prince Alexander Batenberg, who had fought with the Russian army in 1877-1879. The Prince was elected after the closing of the Constituent Assembly and during the Grand National Assembly convened by force of articles 85 and 144 and pursuant to article 3 of the Berlin Treaty. The Prince was elected on 17 April 1879. As article 3 of the Berlin Treaty stated, the Prince could not be a member of any of the reigning dynasties. Batenberg proved to be agreeable also for the Great Powers as his most substantial biographer, A.G. Drandar (Drandar, 1884), pointed out. However, history showed that once he found himself on that difficult post, Batenberg became a buffer between Austria-Hungary and Russia and the rivalry continued. Upon assuming the rule over Bulgaria, he started to look for harmonization with the conservatives and he formed the first government from among their circles. This government failed to win the trust of a very liberal National Assembly elected in 1879. Over the following years, Alexander Batenberg was an advocate of a change in the Constitution and the constitutional form of government. Batenberg confronted the constitutional framework – democratic for the Bulgarian people, produced as a result of liberalism in the Constituent Assembly. Therefore, he asked several times the Russian Emperor Alexander II for a change in the Constitution, whereby he could modify it at his own discretion. As it has been mentioned, under article 141, part. 2 a change of the Constitution would require convening a Grand National Assembly.

As it has been repeatedly pointed out, the Tarnovo Constitution had the task to provide the general direction in defining the public authorities, yet it did not cover exhaustively the whole public and political life. Due to its democratic formulations it was in contradiction with the objective social and political realities. Hence, its amendment took place in 1893 under the regime of the delegated authority. Those amendments were related to the King's statute and his authority in respect to the absolute consolidation of his power. Under the pressure of the political forces, that regime was abolished and the Constitution was restored. The first amendment was made in 1893 by Stephan Stambolov's cabinet, and it was related to the establishment and strengthening of the Bulgarian dynasty. The second one dates back to 1911, when article 17 was revised for the conclusion of the international agreements with all the countries that had been approved by the Tsar as well as for his four-year term of office. As a result of this, in addition the limited government in the form of Constitutional Parliamentary Monarchy, after several Constitutional amendments, strengthening the powers of King took the shape more along the lines of a dualist Constitutional Monarchy.

5. Conclusions

In the introductory section the question has been asked whether the population had been prepared to govern and the conclusions lie in the dichotomy ‘Yes and No’. One of my starting questions was to research to what extent was the people of Bulgaria prepared to receive and to be ruled under so Liberal Constitution and as well to see who are the moving social groups of the society at that time. The lack of traditional political experience, however, could not prevent the people from trying to do that according to their potential. Providing a direct answer to the topical issue, whether there was a balance of power in line with the Constitution, again there can hardly be a positive answer here, since nevertheless it was well balanced, its application proved to be an opportunity for political intrigue. Interest is provoked undisputedly by its liberal nature under the standards at the time – the rejection of the Upper Houses and the introduction of universal suffrage is again opposed to the so-called “political elites” (represented by the conservatives – “the Old”) in favour of the middle-class interests. As J.S Stavrianos says we have: “a people, who were generally suspicious of all foreigners and resolved to govern themselves; popular party, which adopted ultraliberal Constitution and was determined to enforce it; a likable but inexperienced and tactless prince, who knew little of his adopted country; and a great power with supervisory authority but with no clearly defined and generally accepted policy” (Stavrianos, 2000, p. 428). Therefore, the Tarnovo Constitution became an expression of the strive of an egalitarian society that had lived for many years

under foreign rule as well as an instrument for permanent struggle for ruling power and domination on the part of the chief head of government – the Prince.

As well going through the process of elaboration of the Constitution, it was very interesting to note why the Power was separated like this and to what extent the Role of the Great Powers, the Russian Influence and the personality of Alexander Battenberg helped for the numerous conflicts in full implementation of the Constitution. The Constitution was amended twice on 15.5.1893 and 11.7.1911 and it was suspended twice at the time of the Full Powers Regime (1 July 1881- 6 September 1883) and the May 19 Regime 1934. One of the crucial changes was of article 17, which says that the Presenter of the State in all its collaborations with other countries is the King. On behalf of the King – The Government can make negotiations and contracts with other countries, which are approved by him, but the contract should be announced to the National Assembly if they are frightening the interests of the country. This gave the king full power and started the movement of secret diplomacy from 1911. In the original text it is written that they should be signed just between the neighbouring countries.

In addition, no matter the Egalitarianism and nationalism of the Bulgarian society, at the beginning of the liberated country, a Constitution was created, quite democratic. The leaders of the Country between Conservatives and Liberals later and Radicals had not tried to go very well beyond the interests of the Great Powers and Russia and to put away the personal ambition of the King (Prince). Nevertheless, it was a product of its time and was to some extent applied in the middle-class society at the beginning of the nineteenth century.

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