

The radical right movements and the constraints on the civil liberties – the Bulgarian case

I. Overview of the political system and the intervention of the state institutions since 1989.

In the years preceding 2001, the political system in Bulgaria could be described as being bipolar in character. Of the country's leading parties – the Right-wing Union of Democratic Forces (UDF) stood in opposition to the Bulgarian Socialist Party (BSP), the successor of the Bulgarian Communist Party. It could be said that neither party advocated nor implemented the ideologies of the extreme Right or Left. Despite having opposing political objectives, the latter years of the twentieth century saw both parties regarding EU and NATO membership as political priorities. The third most prominent political party during the 'transition period' was the Movement for Rights and Freedom (MRF), whose voters and leaders tended to be of Turkish ethnic origin. With the exception of the UDF and BSP, the MRF was the only political party to have been present in each parliamentary Assembly since 1990. The MRF often helped provide the crucial majority required for passing (or rejecting) a bill, as well as playing a key role in the decisions to, for example, apply for NATO membership.



This bipolar nature of Bulgarian politics was broken in 2001, when the National Movement Simeon II party (NMSS) won an unpredicted majority in the parliamentary elections. The NMSS, led by the ex-Tsar Simeon Saxe-Coburg-Gotta, declared itself a party of the centre-Right and did not in fact change the direction of the preceding government.

The party won the elections using rhetorical slogans that were both populist and unprecedented in Bulgarian politics¹.

¹ The motto of the ex-Tsar during the electoral campaign was "Trust *in me*".

During NMSS's government, a crisis unfolded in the UNF which split the party into several smaller political factions. The 2005 Parliamentary election marked the end of NMSS as an influential force on the political stage.



This time, the Attack party, Bulgaria's most infamous extreme-right organisation, further demonstrated the unpredictability of Bulgarian politics, by emerging as the country's third-largest party. Attack's ideology adds ultra-nationalistic and anti-ethnic messages to its populist slogans. The party had only made itself known publicly one month before the launch of the parliamentary election

campaign.



Attack is the first extreme-Right organisation to have considerable representation in Bulgaria's mainstream political arena. In 2006, its leader Volen Siderov participated in the Presidential election.

In the past two years, even more radical messages were addressed by the Bulgarian Nationalistic Alliance (BNA). In addition to its nationalistic slogans, the BNA purports a racist stance towards ethnic minority groups, who, in the words of BNA, "are not pure Bulgarians". The organization blames the democratic system as having led the country into decline.



http://www.youtube.com/watch?v=ArD8ez_Ef7Y

Since 1989, no extreme-Left organization has had any considerable presence within the Bulgarian political system. The Bulgarian communist party still exists, as does The Fatherland Front, though neither has ever singularly won a significant amount of votes in political elections.

Following 1989, a number of incidents, though limited, have seen State institutions restrict the Rights of Assembly in Bulgaria. Furthermore, some so-called "untraditional religions"² have been similarly constrained on a number of occasions.

On two occasions, requests were submitted to ban certain political parties. Both cases related to parties whose members were by-and-large of non-Bulgarian ethnic origin. In 1990, a group of MP's (Members of Parliament) lobbied the Constitutional Court to consider whether the Movement of Rights and Freedoms was a party constructed on grounds of ethnicity, and thus unconstitutional and illegal. The Court decided in favour of the Movement. In 2000 the Constitutional Court, having been approached by a number of MP's, ruled that the United Macedonian Organisation Ilinden - PIRIN (acronym from the Bulgarian Party for Economical Development and Integration of the Population) was in fact 'unconstitutional'.

Extreme-Right movements have not, however, been prohibited. Not one member of the State's institutions has thus far requested that any radical-Right movements be banned.

II. The legislative framework

Firstly, it must be pointed out that Bulgarian legislation does not impose strong restrictions on Freedom of Association and Peaceful Assembly. Freedom of Association is guaranteed by Bulgaria's Constitution (Article 44:1). The restriction

² See the Annual reports on the human rights situation in Bulgaria by the Bulgarian Helsinki Committee 1993 – 2007. http://www.bghelsinki.org/index.php?module=resources&lg=en&cat_id=24 A review of the reports shows that almost every year up to four public events of religious organizations, such as Jehovah's Witnesses, have been restricted.

over the Right of Assembly (Act?) allows the Constitution to prevent political movements from establishing themselves on ethnic, racial or religious grounds (Article 11:4). The same paragraph prohibits associations that seek to seize control of State power by force³. The Constitution also defends the existence of the State and the political peace, by guaranteeing the defence of State sovereignty, the territorial integrity and unity of the nation, and the prohibition of any organisation made up of clandestine and paramilitary structures (Article 44:2). The same article defends each citizen of Bulgaria, including the country's ethnic minority groups, by prohibiting the existence of any organisation whose activities incite ethnic or religious enmity or endanger the rights and freedoms of citizens.

Only the Constitutional Court has the right to decide if the actions of political parties or civil associations are against constitutional regulations. Access to the Constitutional Court is not simple: the Court may only be approached by the President, the Council of Ministers, the Supreme Court of Cassation, the Supreme Administrative Court, the Prosecutor General or no fewer than one-fifth of all Members of the National Assembly⁴. Since 1989, State institutions have twice requested the dissolution of a political party. As part of the Constitution, it is the responsibility of the Ombudsman to monitor whether legislation is an infringement on human rights.

Two laws determine the conditions in which the right to Freedom of Association can be restricted – the law on political parties and the law on non-profit legal entities (LNPLE)⁵. Both of these laws can provide court intervention in dissolving such associations only in very few cases, such as is listed in the regulations.

According to the Bulgarian law on non-profit legal entities, if such an organisation has been established in compliance with the legal procedure and has not been declared bankrupt, it can only be dissolved if it pursues activities that are contrary to the Constitution, the law and morality (LNPLE, Article 13:1). The

³ Constitution of the Republic of Bulgaria, art. 11 (4), <http://www.parliament.bg/?page=const&lng=en>.

⁴ The President, the Council of Ministers, the Supreme Court of Cassation, the Supreme Administrative Court, the Prosecutor General or not fewer of one-fifth of all Members of the National Assembly. (art. 150 (1)

<http://www.parliament.bg/?page=const&lng=en>.

⁵ http://www.bcnl.org/doc_en.php?DID=325.

LNPLE mainly regulates the transparency of organisations' funding. However, the LNPLE gives special attention to those organisations that are deemed to be of public benefit. Official registration can be refused to public benefit organisations in cases where their statutes or deeds of establishment are not in compliance with the provisions of the law (LNPLE, Article 37:2). In this case, the registration refusal does not automatically lead to the dissolution of the public benefit organizations. According to Bulgarian law, NGO's may continue to pursue activities for the personal benefit of their members or "certain persons"⁶ (Article 37:3), so the registration refusal cannot be interpreted as a restriction on Freedom of Association.

The LNPLE prevents the non-profit sector from future communist influence by prohibiting the existence of non-profit associations which state that their objective or task is to assist the Bulgarian Communist Party, the Fatherland Front, the Dimitrov Communist Union of the Youth and their successors (LNPLE, Transitional and concluding provisions 5).

According to the law on Political Parties⁷ (LPP), each Bulgarian citizen cannot be a member of more than one political party. The law also formally prevents State institutions and the army from political influence; as part of this, every State and military official must declare that he or she is not a member of any political party (LPP, Article 8:1 & Article 9 :1). Furthermore, the LPP prohibits the membership of persons under eighteen years of age in political parties (Article 20:4). The political parties also cannot create religious or paramilitary structures (Article 20:4). The emergence of new political parties is restricted by being required to have a minimum number of founders and members for its registration.

According to LPP, political parties will be dissolved if they are ruled unconstitutional by the Constitutional Court (the Court's decision cannot be appealed against), or with the decision of the **Sofia** City Court⁸ (SCC), if the political party is deemed to systematically violate the provisions of the LPP. A political party will also be dissolved if its activities are contrary to the Constitution or if the party has ceased to be active on the political scene and has

⁶ The LNPLE does not contain a definition of the concept "certain persons".

⁷ There is no official translation of the LPP, so it will not be quoted literally.

⁸ All political parties are registered in the Sofia City Court.

not participated in any elections for five years. In a case of rejected registration, the LPP provides procedures to appeal before a higher authority, as well as stipulating a deadline for the Court to reach its decision. The Sofia City Court's decision can be appealed before the Supreme Court of Cassation and its decision is final (LPP, Article. 40 & Article 41). In both cases the courts have one month to come to a decision.

There has only been one case where a political party has been banned – though the party in question was not, in any sense, a radical movement. Two institutional mechanisms were used to issue the ban. Firstly, an appeal was made to the Constitutional Court and, five years later, registration was refused by the Sofia Court and then confirmed by the Supreme Court of Cassation. This report will discuss this case.

III. UMO “Ilinden” case

The United Macedonian Organization – Party for Economical Development and Integration of the Population (UMO – Ilinden – PEDIP) was registered as a political party in February 1999. The following month, a group of sixty-one MP's (from a cross-section of parliamentary groups) approached the Constitutional Court with a petition calling for the party to be ruled unconstitutional. The MP's stated that UMO was in violation of Articles 11(4) and 44(2) of the Constitution⁹. The Court ruled that the objectives of the party were not in violation of Article 11(4) as no Macedonian ethnic identity existed in Bulgaria. However, the Court did insist that the activities of UMO were considered a threat to national security and the party was thus ruled unconstitutional.

At this juncture, it must be stated that the Court was approached by the aforementioned group of (sixty-one) MP's only twenty days after UMO-Ilinden's official registration, which suggests that the development of the new party was

⁹ Constitution of the Republic of Bulgaria, **Art. 11.** (4) There shall be no political parties on ethnic, racial or religious lines, nor parties which seek the violent seizure of state power.; **Art. 44.** (2) The organization/s activity shall not be contrary to the country's sovereignty and national integrity, or the unity of the nation, nor shall it incite racial, national, ethnic or religious enmity or an encroachment on the rights and freedoms of citizens; no organization shall establish clandestine or paramilitary structures or shall seek to attain its aims through violence. <http://www.parliament.bg/?page=const&lng=en>

being closely scrutinised by these individuals and their respective political parties.

Some of the country's most renowned organisations for human rights protection, such as the Bulgarian Helsinki Committee (BHC) and Bulgarian Center for Human Rights (BCHR) came out in opposition to the MP's petition. In their joint statement, BHC and BCHR gave a careful and in-depth analysis of the Constitutional Bill, with regard to the arguments raised in the MP's petition. The statement concluded that there were no grounds for ruling UMO unconstitutional. BHC and BCHR proved that the party was neither a threat to the territorial integrity or the sovereignty of the country. Despite the strong protestation of the human rights organisations, the Constitutional Court ruled UMO – Ilinden as unconstitutional, without considering or exploring the argument put forward by both BHC and BCHR.

In 2006, the refusal by Blagoevgrad City Court to register UMO – Ilinden was later confirmed as lawful by the Sofia City Court and the Supreme Court of Cassation, respectively. On the basis of the Constitutional Court's decision, the Sofia City Court issued an order on 13th July 2006 to delete the party from the register of political parties, thus effectively banning it. The Court ordered that the article within UMO's statute which states "members are Macedonian" was in violation of Article 6 of the Constitution (which bans discrimination on ethnic origin or race or gender). The Court did not consider that the same article of the same statute also permits "citizens of other nationality" to become members. The Court claimed that UMO Ilinden's activities were religion-based, by pointing to the party's objectives - namely the independence of the Orthodox Church in the Pirin mountain region. The Court concluded that UMO should follow another registration procedure – whereby a decision would be passed by the Council of Ministries under Article 133A of the Associations and Families Act.

Throughout the four years following 1999, the rights of UMO – Ilinden's member to peaceful assembly were restricted by the Blagoevgrad City Court, the State Prosecutor's office, as well as the local governments of Blagoevgrad, Petrich and Sandansky (municipalities in the region of Pirin Mountain). The party was prohibited from celebrating several anniversaries considered important to UMO

members and supporters. In 2000, on the anniversary of the death of Yane Sandanski, the mayor of Sandanski prohibited celebrations by Macedonian activists near the Rozhen Monastery. Policy changes have occurred at local level since 2003, with UMO being granted permission to celebrate its occasions. However, the permits alternated with yet further prohibitions. In 2003, the Blagoevgrad district Prosecutor banned UMO – Ilinden from celebrating the anniversary of the 1924 massacre of Macedonians, on grounds that the event would cause "confusion among the citizenry". In 2007, freedom of assembly for UMO-Ilinden's members has strongly correlated with the party's stance on the integration of Macedonian ethnic groups.

In 2005 UMO – Ilinden PIRIN won two cases against Bulgaria before the European Court of Human Rights. In both cases the court found violations of Article 11 of the European Convention on Human Rights – due to the refusal by Bulgaria's local governments to allow peaceful public gatherings, as well as the ruling which deemed the party 'unconstitutional'.

In 2006, the Sofia City Court declined the registration request of the UMO Ilinden – Pirin party, which had just been formed in June that year. The grounds of the decision were 'non-compliance' with regard to the documents required for Court registration. The Supreme Court of Cassation confirmed the decision in 2007, after UMO had appealed against it. Thus the party is not yet officially registered and cannot participate in elections. In the autumn of 2007, during the local elections for mayor and councillors, the organisation used its website to urge supporters to back candidates chosen by UMO. They pointed out in their appeal that Mr. Bruchkov had received 528 votes, or 1.52 per cent of the total votes cast¹⁰.

Thus, seven years after the party had been ruled unconstitutional, the 2007 local elections results ratify once again the thesis put forward by BHC and BCHR; namely that organisations with such few members cannot be considered a threat to national integrity or sovereignty. Regardless, UMO – Ilinden still has not been granted the statute of 'political party' under Bulgarian legislation.

¹⁰ Results from the municipal elections 2007 in the Blagoevgrad municipality, first tour: <http://www.mi2007.org/results1/01/0103.html>.

The UMO – Ilinden PIRIN case can be assessed as a restriction on the Right of Assembly by the country’s most powerful institution – the Constitutional Court.

IV. The radical right movements



The **Bulgarian National Alliance** is a non-governmental organization, registered in 2001. Their leader is Boyan Rassate. The BNA participated in the parliamentary elections in 2005 by including its representatives in the umbrella coalition - National Alliance Attack. Hence BNA evaded the ban on NGO’s

from taking part in any political elections. Shortly after the coalition split, BNA registered its own political wing – Guards.

As an NGO, registered under the law on non-profit legal entities, BNA are required to adhere to the following provision - “Organisations pursuing political, trade union and religious activities are governed by a separate Act.” Nevertheless, the explicit objectives and activities of the organisation, as well as its slogans, are undoubtedly politically targeted. The most disturbing of these are a) BNA’s attitude towards democracy as a political system (“The pseudo democracy leads to depravity and decline.”, “We deny this system where a weighty and gifted man is a simple executor of the will and the opinion of the majority.” b) BNA’s attitude towards ethnic minority groups, especially Roma (“We are not interested in gypsies. They cannot be Bulgarians, because in God’s will they are born gypsies, not Bulgarians. If gypsies were Bulgarian, why would they be called gypsies?”).



The existence of BNA highlights the double-standards employed by the State with regard to their stance on UMO-Ilinden.

BNA's ideology could and should be considered a violation of Article 44 (2) of the Bulgarian Constitution. This Article had been the legal ground upon which the Constitutional Court decided to ban UMO-Ilinden.



There has only been one case where any State institutions have interfered in the activities of BNA – in August 2007, when the organisation announced a plan to create a National Guard, made up of teams of civilian volunteers, in order to “assist the police with mass riots and natural disasters.”

The leader of BNA, Boyan Rassate, claimed that “The Guard is needed because of the outrages and the seventeen-year terror campaign committed by one ethnic minority group.”

BNA have claimed publicly that the National Guard is intended to fight “the gypsy criminality” with its voluntary civilian teams. BNA launched a broad media campaign aimed at attracting volunteers.



http://www.youtube.com/watch?v=wAhnCic_-Fw



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The Minister of Interior publicly criticised the idea. Nevertheless, on 28th August 2007, the Ministry issued a regulation that would allow NGO's (such as BNA) and civilians to be recruited to assist the police in the implementation and accomplishment of its duties. After the regulation was published, Boyan Rassate claimed that the National Guard was legitimate.

One week before the regulation was issued, on 21st August 2007, the State Prosecutor's office in Sofia began a court case to define whether the National Guard, created on Rassate's model, was in violation of national and ethnic equality and governance. No court case has been launched against the National Guard based on the prosecution's investigation, nor has any official announcement been issued that the Prosecutor's investigation is over. According to Rassate, his organisation is not the subject of any judicial procedure. Since the first media campaign was launched by the so-called National Guard, no further public campaigns have been set up to attract volunteers. According to various media stories, supporters of the National Guard campaign are being trained in the local clubs of BNA youths.



BNA leader Rassate claims that his organisation has been a member of the European National Front since 2003.

<http://www.europeannationalfront.com/>

Members of the Front are against what they term "pseudo-democracy" and declare themselves in favour of creating the Fourth Reich – a state based on 'order and legitimacy' that rejects the big capital and the 'collective rights of minority groups'.

The BNA organisation purports views that are explicitly fascist, but this has not resulted in the Court viewing it as a threat to the rights of minority groups or indeed the democratic system.

Political party Ataka (Attack) was established in April 2005 and officially registered in July the same year. The party, headed by the somewhat charismatic Volen Siderov¹¹, quickly gained popularity through its use of nationalistic and populist slogans. Ataka constantly spreads messages of ethnic intolerance, often directed at Bulgaria's Turkish ethnic minority¹². In contrast to the rhetoric which gained Ataka popularity and earned them nearly three hundred thousand votes in the 2005 Parliamentary election¹³, the current messages of the party are intriguingly tempered (for example, "*Securing the health, the social security and the conditions for spiritual and material prosperity of all Bulgarians by all means of the state power*"¹⁴). According to "Party Ataka's twenty bullet-points", national origin is a more valuable characteristic than the ethnicity or the religion of the citizens. The economic reforms proposed by the party can be defined as social ones – revising privatisation deals, redistributing the state budget in society's favour; confiscating all 'illegally acquired' property and establishing a fund for free-of-charge healthcare; introducing minimum wage labour similar to that of Central Europe¹⁵. All these messages may characterise Ataka as an authentic opposition party in the eyes of the average voter. On the face of it, they are offering a political program that differs from that of the governing coalition. In contrast to the last three governments' Right-wing policies, Ataka proposes a societal alternative. However, their social messages are intertwined with ultra-nationalism, such as introducing a law for "national betrayal" which would heavily prosecute the 'national betrayers', as well as strict prohibitions and clear sanctions against ethnic and separatist organisations¹⁶. Another political document on the Ataka website¹⁷ (titled "Program scheme"¹⁸) is a more extended version of "Party Ataka's twenty bullet-points", with some remarkable additions (for example, the re-introduction of the 'death penalty'). An

¹¹ Outline of the popular scene: Siderov with arms outstretched and Richard Wagner's Ride of the Valkyries, serving as background. Wagner himself was notorious for his anti-Semitism.

http://en.wikipedia.org/wiki/Richard_Wagner.

¹² For example: "Say No to the new Turkish slavery!"

¹³ <http://www.2005izbori.org/results/index.html>.

¹⁴ Party Ataka's 20 bullet points list.

http://www.ataka.bg/index.php?option=com_content&task=view&id=13&Itemid=51.

¹⁵ http://www.ataka.bg/index.php?option=com_content&task=view&id=13&Itemid=51.

¹⁶ Such prohibition, of course, imposes the Constitution (Article 44 [2])

<http://www.parliament.bg/?page=const&lng=en>.

¹⁷ <http://www.ataka.bg/index.php>.

¹⁸ http://www.ataka.bg/index.php?option=com_content&task=view&id=14&Itemid=

overhaul of the socio-political system is also defined by Ataka as a “question of national importance”.

The political party Ataka has never been prosecuted, despite its messages of ethnic intolerance.

V. Conclusions

The emergence of radical Right movements has thus far not led to a restriction of civil liberties. The real test for Bulgaria’s State institutions is whether they will be able to preserve the rights of citizens from ethnic minority groups and maintain their right to Freedom of Assembly. If the institutions abstain from preventative measures and continue to support the legitimacy of the BNA’s National Guards, such as they did in August 2007 - by deeming the Right-wing group a legal entity, Bulgaria’s Roma population (together with citizens from other ethnic backgrounds) are sure to be in danger. Indeed, the increasing spread of the National Guard movement will present a challenge to the democratic process itself.

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<http://www.visegradfund.org/>