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 **Milova M.I.**

Doctor of Political Science, Professor

Department of Political science

Odessa National Mechnikov University

**The Republic of Bulgaria: From Tyrnovo Constitution to European Union**

**Summary.** The article analyses the content and peculiarities of the constitutional process in the Republic Bulgaria, where a complicated transformation way with European constitutionalism as a starting point through  socialism to a contemporary European experience.

**Key words**: constitution, constitutional process, transformation, Bulgaria, the Tarnovo Constitution, outer factor.

Complication, contradiction and various evolutions of modern political processes in Ukraine require the constant scientific analysis. Undoubtedly, the prospects of state and society development depend from degree of studying and comprehension of content of these processes and accordingly drawing up of strategic course of state policy depends from it. It can be heard very often theses about imperfection of Constitution in the explanation of course of transformational processes from politicians, political scientists, lawyers as well as average citizens. The view on Constitution as a miracle cure for all unsolved problems of Ukrainian society indicates one-way comprehension of what is going on. Form this point of view, the experience analysis of democratic development of other countries and particularly the constitutional process has utmost importance as for law and as for political science in Ukraine.

The aim of this article is to study political and constitutional process in Republic of Bulgaria (RB), particularly the analysis of constitutional regulations and explanations of transformational processes, which experienced the society of Bulgaria and its political and law opinion in search of the best development or effective constitutional and political administration.

Unfortunately, the Bulgarian experience was not sufficiently explored by Ukrainian researches and it is not enough familiar to Ukrainian reader. Therefore the author analyses texts of Bulgaria constitutions (1879, 1947, 1971)[3,4,5], as well as the studies of Bulgarian scientists (specialists in constitutional law). The greatest interest is of researches of 1990s in which the processes of post-social transformation were studied and the considerable part of researches was presented not only by specialists (constitutionalists) and also by interdisciplinary studies of political scientists, sociologists and lawyers, particularly by works of Balamezov B., Bliznashki G., Karasimeonovs G., Nenovski N., Spasov B., Stoilova Ya. And others [1,9,10].

The selection of the theme of research is explained by reasons of theoretical and practical character:

* By the absence of special scientific publications;
* By the wish and necessity to familiarize Ukrainian reader with main points and customs of democratic constitutionalism, particularly with Tyrnovo Constitution (TC);
* By the identity of political processes behavior in our countries and more successful experience of RB in European integration process;
* By the necessity of analysis of external factor role, procurement of revision of constitutional regulations and explanations of political processes that were going on.

In contrast to other countries of Eastern Europe, as far back as XIX century Bulagaria had Constitution, owing to which democratic social relations began to be established. Adopted in spring of 1879, in Tyrnovo, it confirmed new modern economical and social relations and laid the foundation for parliament democratic system of state structure. The undisputable success had the fact that constitution provided citizens with broad civil and political rights. In such way, the first legislators contributed to the transformation of Bulgaria into modern constitutional state.

Sharing the opinion of Bulgarian researchers and lawyers, it can be considered that Constitution of 1879 was the “program document of detailed transformation of the society” of that time {1, p.6-7] It was written on the grounds of advanced achievements of European political idea that turned to universal principles and nowadays didn’t lose its importance. The quality of this document and its progressiveness is that the creation of high-society national state was actually declared on basis of principles on which the most developed states of that time were created. [1, p.237] In this way the Bulgarian president of that times Pyrvanov G. defined the meaning of Tyrnovo Constitution in his speech in April of 2004 on special meeting of People’s Assembly of Bulgaria concerning its 125 years. [7]

The unquestionable merit is the provisions that determine civil freedom and social relations. Here it is put the most significant achievement of European political idea, transformed into universal principles which nowadays define the condition of democracy in the state. The whole Chapters of Constitution are inspired with this thought (ch. XII, p.p.VII, IX, X and others). The most important is the provision that the Bulgarian state acts exactly “in accordance with the laws” (art.43). [2]

Bulgarian authors likewise indicate such moment – following the principles of economic liberalism, constitution do not lay out the specifics of sorting of economical relations. Proclaiming the principle of inviolability of private property (art.67), drawing the principle of national sovereignty, the organic law regulates several restrictions as regards of property of foreign citizens (art. 62-63) as well as the priority of national interests over private ones (art. 68).[2]

The Tyrnovo Constitution fixes and regulates national and political structure of the state. In the way of European concepts it is established the principle of power division into legislative, executive and judicial. Monarch form of governance was predetermined by Berlin treaty of 1878. Its estimation by constitutional monarchy corresponded to the European processes of evolution to absolutism through the constitutional monarchy to parliament governance, although it didn’t reflect the urge of Bulgarian apostles of national liberation movement – Levskiy V., Botev Kh., and others. Under the influence this progressive ideas Bulgarian legislators attempted to restrict the rights of monarch and strengthen the right of National assembly. In the direct election of the parliament by the nation they saw the bearer, exponent and guarantor of national sovereignty. But Bulgarian legislators worked on the grounds of preliminarily prepared text by Russian regal government, which by quite understandable reasons drew its ideas about leading role of future Bulgarian monarch. Hence comes one of the disadvantages of T.C. – inability of national representative to pass its intentions consecutively. In practice, monarch was provided with broad functions, and national rights were not effectively defended (art.9, 11, 17, 109, 120, 127-128,135-136, 138, 152). [2] This disadvantage of constitution was objectively supported with saved social structure of the nation and especially regenerated memories about great kings of medieval state in Bulgarian national consciousness. This also contributed to dominance of mechanically-oriented political parties in the Bulgarian society.

One of the merits is the creation of Ministerial Council as a political body of judicial power. The creation of government (cabinet) responsible before elected representatives of the people historically is the latest and highest governmental institute, showing the appearance of parliamentarianism. The Tyrnovo Constitution was being developed at the time, when the principle of collective and political responsibility just composed the texts of the organic laws of certain and the most democratic states of Europe as a result of long evolution. And this is the main reason of insufficiently precise regulation of the principle in the Bulgarian organic law. In this way Bulgarian government became directly dependent of monarch (art 105 cl.7, 106-107, 155-156, 159 and others). [2]

Seeking for transforming national Assembly into real centre of exercising will of people, the legislators of Constituent Assembly gave voting right to each Bulgarian citizen of age 21, and for election of deputies – literate citizens of age 30 without any ownership and other censor restrictions. Constitution gave right for political beliefs and its opportunity for expression in parliament (ch. XIV, p1). At the same time, it was guaranteed deputy immunity (p.2). Parliament exercise legislative power, adopt budget, determine taxes, and permits state loans, the only one who is entitled to amend legislation. The legislators included in Constitution one more functional characteristic, unusual to parliament – to follow the respect of constitutional order in the country. Thereby, National assembly obtained broad authorities, although it was unable to become a real centre of political life due to the unregulated relations with the government and right for monarch to convoke, to revoke and to dismiss National Assembly without any terms (art. 127-129, 135-136, 138). [2]

As any written Constitution, Tyrnovo one determined limits, law and constitutional principles, but didn’t deplete social and political life. Practice, as a rule, includes amendments and installed democratic principles definitely contradicted with objective social and political reality. This was the first urge for the appearance of so called constitutional issue in Bulgaria that was dragged for century. The idea of amendment appears practically immediately in the first year after acceptance. The natural consequence of this conflict was so called “regime of powers” of 1881-1883. The prince achieves the stoppage of its action by non-democratic means and political manipulation in order to revise it. Under the pressure from political powers the regime was abolished and constitution was renewed.

The consequence of this forcible attempt of revision became the transforming it into banner of democratic powers and together with this, the possibility of reasonable amendments was disappeared an accordance with governmental demands and social practice. Internal events, full of political dynamics and connected with the creation and strengthening of Bulgarian dynasty and authorities termination of cabinet of Stambolov S. (1893) as well as proclamation of independence of Bulgarian state in 1908 which was exercised at the suggestion of cabinet of Malinov A. (native of Bessarabia) and implemented by the government of Geshev I., did not permit to make necessary changes.

Social, economical and political crisis that overtook Bulgarian society after First World War put on agenda anew a constitutional issue. The main consequence of the crisis is the search of new modes and forms of power execution. Likewise this the result of discredit of parties, defending the development of the country within Tyrnovo Constitution. On the wave of command and radicalization among great masses of population, new political alternatives come to the first place. Their characteristic is intensification of government role in economic and social relations through the restriction of giant capital in the interest of great masses. Seeking to strengthen and consolidate the power of people, the ruling party BANU (Bulgarian Agricultural National Union) works under new project of Constitution, whose original was prepared and edited by leader of the party Stamboliyskiy A. in the end of the life, but it was lost.

These crisis processes contributed to the appearance of left political alternative – Bulgarian socialists, accepted the ideas of bolshevism and disputed against bourgeois-democratic system and therefore against Tyrnovo Constitution. As a reaction on such political development in Bulgaria third alternative arises regarding solving the constitutional issue – the right one. Its exponent was democratic collusion, which took advantage of general bourgeois parties’ dissatisfaction of government policy of BANU and on 9 June, 1923 it came to power. This situation is characterized by Bulgarian historians as “national catastrophe” [5, p.316]. In the Law about state protection, adopted in 1924, which contracted not only the written part but also the sense of TC, civil and political freedoms were restricted. Under this Law, it was enacted the beginning of repressive legislation in the social life of Bulgaria. It is significant that this law survived until 9 September, 1944 with amendments and supplements and wasn’t abolished.

The attempt of rehabilitation of Constitution and return to regulations of democratic parliament practice was undertaken in 1931 by coalition government of National block, however political parties showed its old weak sides in desire to get into power. Thereby the bourgeois-democratic system of Bulgarian model was discredited. In Europe at this time it was installed authoritarian and fascist regimes. After the revolution of 19 May, 1934 with the help of army and pro-fascist group “Zveno”, the Cabinet of Georgievich K. actually ceased the action of Tyrnovo Constitution, dismissed National Assembly and governed the country by means of extraordinary laws (orders). It was prepared the project of new constitution, written under the influence of the ideas of Italian fascism. However the forthcoming removal of the government from power did not permit to carry these plans into effect. One amore and the last attempt to revise constitution of fascist kind was taken by official government of Toshev A, which in 1935 prepared the constitutional project in two variants – the one and for the bicameral parliament, inspired by the fascist doctrines. Here it was based corporate principle, abrupt accretion of power, restriction of elective elements to the representative governmental bodies, local government and actual elimination of civil and individual rights. It wasn’t coincidence that new texts were borrowed from the practice of the countries with totalitarian regime.

As the democratic alternative variant of government likewise it was prepared and published the project of new constitution of Professor Stefan Balamezov, well-known constitutionalist in Bulgaria. He endeavored to remove some imperfections of Tyrnovo Constitution. The main point was the total denial of fascist foundations. Taking into consideration its popularity, King Boris III did not dare to criticize it officially and these projects were forgotten.

With the holding of parliament elections in 1938, 1939 and in 1940, Bulgarian political life assumed purely constitutional aspect. Voted laws practically repealed the considerable part of TC. After 1940, the peculiar autocratic control mechanism rudely manipulated people’s freedom and parliament virtually stopped exercising its functions, determined by the constitution.

It happened gradually the unification of the parties, prohibited by the law, against the regime in order to return to regulations, declared by the Tyrnovo Constitution. According to general demands of its restoration, two branches were determined. The first one consisted of the supporters of the leading political forces, i.e. bourgeois parties, striving for country return to the reigning that was before the revolution of 1934. The second one, which was diverse due to the composition and goals, was unified into Patriotic Front during the Second World War by the initiative of communists and it represented Bulgarian left-wingers (BRP (k), BANU “Pladne”, “Zveno” and left ones from BRSDP). The common thing was the urge to revise the Constitution after its restoration from the point of view of left radicalism.

After 9 September of 1944 (release from fascism) power was in the hands of left forces and constitutional issue got into new phase. The considerable moment is the introduction of political and party approach and estimations of running processes. The governmental program of 17 September of 1944 declares the restoration of Tyrnovo Constitution, but along with this it is brought forward social and economical demands that go beyond the Constitution. It seems that everything is like in the texts, but it looks like something new. Notwithstanding the existing distinctions of political forces, that are the part of PF, there were several general approaches over the issues of political system of the country. Particularly, the creation of governmental economic, transferring into state of the giant industry, direct government participation in the administration (settlement) of social contradictions, i.e. all of them ran counter to the liberal sense of TC.

Bulgaria experienced rather difficult period in political and constitutional meaning after the release of fascism, when the existing political forces of all spheres – from right to left, attempted to show its view of future development and accordingly prepared its projects of organic law. [1 p.12-13]

On the 4 October of 1946 it was published the project of constitution of Patriotic Front (PF), in the basis of which was laid the variant developed by BRP(k). Consistent of ideas of national and democratic governance, it combined borrowed texts of different organic laws. It was saved likewise the provisions about civil rights and freedoms, republican form of reign from Tyrnovo Constitution. The head of state (as a chairman of the republic) should have been elected not directly from people or parliament, but from special Electoral council. The principle of judicature, system of bodies of prosecution and local power was borrowed from French Constitution of 1846. At the same time some principles were laid out of Soviet constitution of 1936 in the project, particularly the acceptance of National assembly as the highest body that broke some principle of power division etc. This project with famous edition was adopted during the first reading by Great National Assembly on 20 June of 1947.

However after serious changes in an international situation and the Warsaw meeting of communist and Labour parties, BRP (c) was forced to take a course on the creation of the Soviet socialist system.After the Warsaw meeting the parliamentary commission under the leadership of V. Kolarov developed essentially new text in socialist spirit which destroyed the last remains of bourgeois parliamentarism and considerably reorganized the system of state authority.

Concerningthe future of the constitutional structure of the country were asked a series of new projects of the Constitution by representatives of different political forces, in particular the "DF opposition," the Democratic Party, and even the former regent known lawyer V. Ganev, who published his text on behalf of the Bulgarian League for the Protection of Human Rights and citizen and he was the chairman of this League.In the published project of DF prepared on the basis of version developed by BRP (c), all parties of DF took part there.Designed in the spirit of the people's democratic government, it was declared by its creators as a project neither bourgeois nor socialist constitution. He was quite eclectic, written on the basis of borrowings from different basic laws.

The final form of the Constitution of the People's Republic of Bulgaria adopted on December 4, 1947. Bulgaria declared asPeople’s Republic with representative government with the proclamation of the principle of recognition of people's source of power.All representative bodies are elected directly by the people. The Constitution does not proclaim the principle of the separation of powers between the executive, legislative and judicial branches, but textually and structurally framed in such a way that they almost separated and each of them is framed in a separate chapter.Thus, in the third chapter devoted to the National Assembly, observed the rule of the legislature, which emphasizes fidelity to the basic Soviet principle of the indivisibility of the authorities.The functions performed by the head of state of the collective Presidency of PA, as part of the legislature. And the main functions of the parliament set out in the same place. [3]

In the fourth chapter regulates the basic institutions of the executive branch. The highest state authority is the Ministerial Council as the "executive authority and distribution" and defined relationship with Parliament. In contrast to the Tarnovo Constitution in the text of 1947 is regulated in detail in the spirit of the Soviet state system the prerogatives of judges and prosecutors, as well as local government officials - People's Councils. [3]

In the spirit of new ideasof the political development, which were defended DF, developed a special chapter (Chapter II) of the national economic sphere.It remains a priority of state property, cooperative support and recognition of private ownership and initiative. At the same time held the principle of state management of economic life, the planned development and set forth the right of the state to establish a monopoly over strategic sectors of the economy. In the spirit of it the work announced major national economic factor and banned private monopoly associations.

BRP (c) on the basis of its strategic objectives introduced some of the ideological principles of the political system of the state.This can be seen from the text of Article 1, which states the rejection of the bourgeois-democratic parliamentarism and possible in perspective commitment to the nationalization of the property and the monopolization of trade.And although there is no formulations of the construction of a socialist society and secured the leading role of BRP (c), the process of restructuring of the state and society on the Soviet pattern of the Stalinist model begansoon.Bulgarian researchers have noted that there was some conflict between the texts of the Constitution and the reality, which was a direct consequence of the introduction of alien development modelto the Bulgarian society.In fact, the established traditions of the Bulgarian people in the field of small labor and property developments in the cooperative movement were discarded.As a result of rigid following someone else's model in Bulgarian society was made the most massive and profound transformation and deformation in the nature and form of ownership, economic relations, and as a result - social structure. [6, p.97-99]

With the development of these processes all the inconsistency of the Constitution in 1947 to maintain the party-state apparatus became clearer. Naturally, that on the VII Congress of the BCP in 1958, where it was emphasized that Bulgaria finally won the socialist relations, the question was raised about its main trunk.And on the next VIII Congress (1962) BCP decided to create a new constitution. Because of some domestic and especially foreign policy reasons for its development temporarily delayed. So back in 1961 (the government A.Yugova), in 1965 and 1969(Government T.Zhivkova) made ​​some changes that partially eliminate the rough inconsistencies between its texts and the actual position. And in March 1968after the conclusions of the 9th Party Congress, the Fifth National Assembly established a commission for developing a new constitution.The project was ready in March 1971. After the referendum, May 16, 1971 the National Assembly announced the adoption of the new Constitution of the People's Republic of Bulgaria,it was May 18.

Its main characteristic is reduced by Bulgarian authors to total indoctrination of all socio-economic and spiritual life based on the "biased presumption of building a developed socialist society" [8, p.31].Slogans and wishes dominated instead of real relationships that fixed basic law.A very long preamble, uncharacteristic for the Bulgarian constitutional practice, gave a clear formulation of ideological assumptions on which the constitution is based. In Article 1, 4, 5, 11, 38-39, 45,125 upheld the main provisions of Soviet ideology.

In a number of articles is limited the declared (Art. 2) popular sovereignty (Article 3, 12-13).Civil liberties declare (v. 35-36, 48-56), but not guaranteed. However, a new element is the expansion of social and economic rights (to work, rest, free education, medical care, inviolability of the home, etc.). The articles on youth and social guarantees specially introduced which in the Constitution in 1991 were not reflected. [5]

The Constitution denies the separation of powers, determining the National Assembly, as the supreme state body, standing over the other authorities in the country.From it as the bearer of the people's sovereignty allelected and subordinate to it and all the other top state institutions - the State Council, the Supreme Court and the chief prosecutoraccountable to it. Parliament is the only legislative body, as first announced, combining legislative and executive power. The enormous powers given to the State Council in session put a new body in a particularly privileged position.

The Constitution of 1971 defines the Council of Ministers as the highest authority of state administration. For the first time a specific number of ministries is not fixed.Functionally, it entrusted the operational management of the country. However, being subordinate to the People's Assembly, CM fell under the authority of the State Council.Thus, at the top of the power in a special situation turned a new institution - the State Council, completely denied the principle of separation of powers. At the head of this body up to November 1989 was T. Zhivkov, First Secretary of the Central Committee of the Bulgarian Communist Party.

The researchers point out that the introduction of fundamental changes in the constitutional consolidation of the economic basis of social development is one of the main reasons for the adoption of the Constitution of 1971. (Ch.ІІ).The economic system in Bulgaria is constituted as a Socialist (Art.13. Cl. 1, 2, art. 15, cl. 1, 2) and part of the world socialist property.The state ownership declared a nationwide and the highest form of ownership.Theprivate isn’t allowed, only personal property is allowed (Articles 14, 21, 25), and the personal economic initiative is confined to small means of production (Article 21, item 2) using a personal labor of family members (Article 25).Actually the state monopoly on control of the system of social and economic development assigned, as well as all underground and above-ground wealth, power, industry, banks, means of communication and information (Article 16, item 1). [5]

From this brief analysis, it becomes apparent dysfunctional nature of the Constitution in conjunction with the party nomenclature system that is unable to provide the basic provisions of the law in the democratization of the society, which was demonstrated by the events of 1989.Bulgaria is one of the first post-socialist countries adopted a new democratic constitution in 1991, the analysis of which is beyond the scope of this article.

In conclusion, it should be noted that the Bulgarian political and constitutional practice shows the ratio of internal and external factors in the permanent constitutional changes, but with the dominance of foreign influence throughout the period under review.

Analyzing the achievements of Bulgarian legislators should note their most important contribution to the development of the Tarnovo Constitution, which has a value of a policy document comprehensive transformation of society, a certain way of artificially delayed in the socio-economic and political development.

Constitutions of the people’s democratic and socialist periods bear the imprint of the party and ideological nature. In this case, an attempt was made to reformulate the system, set in the period of Stalin's socialism, according to the new changes in society, the world system of socialism and international relations, greatly expanding the texts on the rights and freedoms of citizens in connection with beginning of the Helsinki process. However, actual practice did not guarantee the realization of the declared rights and freedoms. Many of the provisions of the constitution in 1971 are reflected in the constitution of 1991, which marked the political and legal field of post-communist transformation.

Bulgaria's entry into the EU also required the revision of many of the provisions of the Basic Law, and the problem of the development of the new Constitution remains on the agenda. The European integration process has demanded the harmonization of national legislation with the European standards. This process has not been completed with the accession of Bulgaria to the EU. It is under the constant monitoring of European institutions.

**Sources:**

1. Българските державни институции. 1879 – 1986. Енциклопедичен справочник / Науч. Ред. А. Пантев. – С. : Изд-во «Д-р Пътер Берон», 1987. - С.6-7. – 376 с.
2. Конституция на Българско княжество // Българските конституции и конституционни проекти. - С.: 1999. -119 с.
3. Конституция 1947 Конституция на Народна Република България , приета от 6 Велико народно събрание на 4 декември 1947 г. // [Электронный ресурс] – Режим доступа : www. parliament.bg/bg/18
4. Конституция на Народна Република България, приета от 5-то Народно събрание на 18 май 1971 г. // [Электронный ресурс] – Режим доступа : www. parliament.bg/bg/18
5. История на България през погляда на историците. / И. Божилов, В. Мутафчиева, К. Косев, А. Пантев и др. – София, ИК «Христо Ботев», 1994. – 759 с.
6. Калинова Е. Българските преходи. 1939 – 2002. / Калинова Е., Баева И. – София: Парадигма, 2002. – 511 с.
7. Първанов Г. 125-годишнината от приемането на Търновската конституция / Г. Първанов // Дума. – 2004. – 19 април. - С.1.
8. Начева С. Конституционноправни основи на политическия живот в Болгария./ С. Начева. // Избирателни закони. – София, Изд-во «Сиби», 2001. – С. 4- 49.
9. Неновски Н. За формата на державно управление / Н. Неновски. // Правна мисъл. – 1997. – бр.1. – С.47-52.
10. Стоилов Я. Конституционни промени във връзка с членство на Република България в Европейски съюз. / Я. Стоилов. // Понеделник. – 2001. – бр.12. – С.65-72**.**

**Мілова М.І.** **Республіка Болгарія: від Тирновської конституції до Європейського Союзу. – Стаття.**

**Анотація.** У статті аналізується зміст та особливості конституційного процесу в Республіці Болгарія, який зазнав складну трансформацію від європейського конституціоналізму ХІХ ст.. через соціалістичну практику до сучасного європейського досвіду.

**Ключові слова:** конституція, конституційний процес, трансформація, Болгарія, Тирновська конституція, зовнішній чинник.