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Electoral System Change in Europe since 1945

Electoral System Change in Europe since 1945: Bulgaria

Authored by: Helen Hardman

Compiled with the assistance of:

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Section 1: Overview of Bulgarian Electoral System Changes since 1990

In April 1990, the law on elections to the Bulgarian Grand National Assembly was endorsed. This was intended as an interim measure to elect an enlarged parliament of 400 members in the summer elections of 1990; this enlarged parliament would then determine a Constitution (Birch et al., 2002: 113-21; Crampton, 1995: 236). The system adopted for this 1990 election was mixed, comprising 200 seats contested in singled member districts (SMDs) and 200 contested in multi-member districts (MMDs) using closed party lists and with seats allocated to parties according the d'Hondt method (Birch et al., 2002: 121). "The possibility of introducing preferential voting was discussed, but closed lists were preferred by the larger parties" (Birch *et al.* 2002: 121). In 1991, the size of the parliament was significantly reduced, to 240, and a new law was introduced, which altered the method of allocating mandates, to be contested in 31 multi-member districts, from party lists. The system remained in essence the same (closed list PR) until 2009 when a mixed system was re-introduced, shortly before the 2009 elections. For the 2009 elections, 31 seats were contested in SMDs and the remainder through party lists allocated according to the Hare-Niemeyer method (Spirova, 2010: 276). In 2011, yet another new electoral law was introduced changing the system back to PR with mandates to be allocated according to the Hare-Niemeyer method, and for the first time, the law provided for semi-open party lists, to be achieved via preference voting. As the following review indicates, provision in the law for independent candidates has varied, and has apparently shifted from favourable to more restrictive requirements over time; although in 2009 concessions for independent candidates were once again introduced. Also, since 2001, the Constitutional Court has acted to strike down, on a number of occasions, various provisions in Bulgaria's electoral laws and amendments to those laws.

Section 2: Relevant Electoral System changes in Bulgaria since 1945

Table 1. Summary of Bulgarian Electoral Laws, Amendments and relevant Constitutional Court decisions since 1990

Law	Amendment	Date of enactment	Location	Relevant
Law on elections to the Grand National Assembly[1]		3.04.1990[2]	The State Journal[3] No. 28, 6.04.1990	Yes
Central Electoral Commission. Method for calculating the voting results from the proportional electoral system[4]			The State Journal No. 46, 8.06.1990	Yes
Supplementary text to the law included in the Method of counting the votes from the proportional electoral system as adopted by the Central Electoral Commission.[5]			The State Journal, no. 28, 6.04.1990; amended in no. 29, 10.04.1990. ; amended also in DV 46, 08.06.1990.	Yes
Central Electoral Commission. Method for counting the results of the voting for the proportional electoral system.[6]			The State Journal No. 46, 8.06.1990	Yes
Law on election of national representatives, municipal councillors and mayors [7]		20.08.1991	The State Journal No. 69, 22.08.1991	Yes

[1] Закон за избиране на Велико Народно Събрание
[2] According to the final paragraph (Article 87, §2) of the law the date when the parliament endorsed the law was 3 March 1990. An erratum ('Поправка') in the following issue, no. 29 of 10.04.1990, states this date should read as 3 April 1990.
[3] Държавен Вестник

[4] Централна Избирателна Комисия. Методика за изчисляване на резултатите от гласуването по пропорционалната избирателна система
[5] След текста на закона е включена Методика за изчисляване на резултатите от гласуването по пропорционалната избирателна система, приета от ЦИК.

[6] Централна избирателна комисия Методика за изчисляване на резултатите от гласуването по пропорционалната избирателна система

[7] Закон за избиране на народни представители, общински съветници и кметове

	Amendments and supplements to the law on election of national representatives, municipal councillors and mayors[8]	22.08.1991	The State Journal No. 70, 27.08.1991	Yes
	Amendments and supplements to the law on election of national representatives, municipal councillors and mayors[9]	12.09.1991	The State Journal No. 76, 13.09.1991	No
	Amendments and supplements to the law on election of national representatives, municipal councillors and mayors[10]	21.11.1991	The State Journal No. 98, 28.11.1991	
Law on local elections.[11]		13.07.1995	The State Journal No. 66, 25.07.1995	
	[Amendments and supplements to the law on the elections of national representatives, municipal councillors and mayors][12]	Not known: issued following constitutional court judgment no.4, 11.02.1997	The State Journal No. 22, 14.03.1997	

[8] Закон за изменение и допълнение на Закона за избиране на народни представители, общински съветници и кметове

[9] Закон за изменение и допълнение на Закона за избиране на народни представители, общински съветници и кметове

[10] Закон за изменение на Закона за избиране на народни представители, общински съветници и кметове

[11] Закон за местните избори

[12] [Закон за изменение и допълнение на Закона за избиране на народни представители, общински съветници и кметове]

Decision no.4 of 11 February 1997 on Constitutional issue no. 29 of 1996, Judge rapporteur Dimitur Gochev [13]			The State Journal No. 22, 14.03.1997 http://www.constcourt.bg/Pages/Document/default.aspx?ID=385	
	Amendments and supplements to the law on access to documents regarding former state security services[14]	28.02.2001	The State Journal No. 24, 13.03.2001 http://www.constcourt.bg/Pages/LegalBasis/default.aspx?VerID=61	
Law on the election of national representatives[15]		12.04.2001	The State Journal No. 37, 13.04.2001	Yes
Constitutional Court. Decision no. 8 of 3 May 2001 on Constitutional Issue no. 10 of 2001, Judge rapporteur Rumen Iankov[16]			The State Journal No. 44, 8.05.2001 http://www.constcourt.bg/Pages/Document/default.aspx?ID=607	No
Law on the protection of classified information.[17]			The State Journal No. 45, 30.04.2002	
Law on political parties.[18]			The State Journal No. 28, 1.04.2005	
	Amendments and supplements to the law on election of national representatives.[19]	11.04.2005	The State Journal No. 32, 12.04.2005	No

[13] Решение № 4 от 11 февруари 1997 г. по конституционно дело № 29 от 1996 г., докладчик съдията Димитър Гочев
[14] Закон за изменение и допълнение на Закона за достъп до документите на бившата Държавна сигурност

[15] Закон за избиране на народни представители
[16] Конституционен съд. Решение но. 8 от 3 май 2001, по конституционно дело Но.10 от 2001 г. съдия докладчик Румен Янков.
[17] Закон за защита на класифицираната информация

[18] Закон за политическите партии
[19] Закон за изменение и допълнение на Закона за избиране на народни представители

	Amendments to the law on election of national representatives.[20]	26.04.2005	The State Journal No. 38, 3.05.2005	
	Amendments and supplements to the law on administration.[21]		The State Journal No. 24, 21.03.2006	
	Amendments and supplements to the law on election of the President and Vice-president of the Republic.[22]	25.07.2006	The State Journal No. 63, 4.08.2006	
Administrative-procedural Code.[23]			The State Journal No. 30, 11.04.2006	
Law on income tax for individuals.[24]			The State Journal No. 95, 24.11.2006	
Law on the National archives.[25]			The State Journal No. 57, 13.07.2007	
	Amendments and supplements to the law on election of national representatives.[26]	22.04.2009	The State Journal No. 31, 24.04.2009	Yes
	Central Electoral Commission. Decision No. NS-9 of 6 May 2009 on the adoption of a method for determining the results from the votes cast in elections for national representatives [to be held] on the 5 July, 2009.[27]	6.05.2009	The State Journal No. 34, 8.05.2009	Yes

[20] Закон за изменение на закона за избиране на народни представители
[21] Закон за изменение и допълнение на Закона за администрацията.
[22] Закон за изменение и допълнение на закона за избиране на президент и вицепрезидент на републиката
[23] Административнопроцесуален кодекс

[24] Закон за данъците Върху доходите на физическите лица
[25] Закон за Националния архивен фонд

[26] Закон за изменение и допълнение на Закона за избиране на народни представители
[27] Централна Избирателна комисия. Решение НС 9 от 6 май 2009 г. за приемане на методика за определяне на резултатите от гласуването в изборите за народни представители на 5 юли 2009 г.

	Act no. 104 of 7 May 2009 on on tariffs for parties, coalitions and initiating committees to pay for debates, advertisements and electoral campaign coverage broadcast on Bulgarian national television, Bulgarian national radio and technical regional centres.[28]	6.05.2009	The State Journal No. 36, 15.05.2009 http://izbori2009.bta.bg/	
Constitutional Court. Decision no.1, Sofiia, 12 May 2009 on Constitutional issue No.5 of 2009, Judge rapporteur Vasil Gotsev [29]		12.05.2009	The State Journal No. 36, 15.05.2009 http://www.constcourt.bg/Pages/Document/default.aspx?ID=1268	Yes
	Amendments and supplements to the law on Bulgarian identity documents.[30]		The State Journal No. 82, 16.10.2009	
Electoral Code.[31]			The State Journal No. 9, 28.01.2011 Also in English (this is the January version before CC's decision in May): http://www.venice.coe.int/docs/2011/CDL-REF(2011)008-e.pdf	Yes
Constitutional Court. Decision No. 4, Sofiia, 4 May 2011 on the Constitutional issue No.4 of 2011, Judge rapporteur Emiliia Drumeva[32]		4.05.2011	The State Journal No. 36, 10.05.2011 http://www.constcourt.bg/Pages/Document/default.aspx?ID=1532 http://www.constcourt.bg/Pages/LegalBasis/Default.aspx?VerID=259	No

[28] Постановление но. 104 от 7 май 2009 г. за приемане на тарифа, по която партиите, коалициите на политическите партии и инициативните комитети заплащат диспутите, клиповете и предизборните хроники, излъчени по Българската национална телевизия, Българското национално радио и техните регионални центрове

[29] Решение № 1 София, 12 май 2009 г. по конституционно дело № 5 от 2009 г., съдия докладчик Васил Гоцев

[30] Закон за изменение и допълнение на Закона за българските документи за самоличност

[31] Изборен кодекс

[32] Решение № 4, София, 4 май 2011 г. по конституционно дело № 4 от 2011, съдия докладчик Емилия Друмева

Section 3: Details of previous electoral systems and electoral system changes.

3.1 Districts and district magnitude

In 1990, there were 28 MMDs in accordance with the number of oblasts. Since 1991 this was raised to 31, to provide the largest regions, Sofiia and Plovdiv with three extra districts. These remain, in 2011, 31 MMDs, whereby Sofiia is to comprise 3 districts, and Plovdiv, 2 districts and all others are to coincide with the oblast boundaries.[33] The method for allocating mandates to the respective MMDs, has been done in accordance with the largest remainder principle, on the basis of population size. So, the divisor to be applied is calculated from the entire population divided by the total number of mandates to be contested.[34] In 2009, a provision was introduced, whereby a minimum number of 3 mandates were to be allocated to each district;[35] and in the 2011 Electoral Code this was changed to a minimum of 4 mandates.[36]

In summary, district structures have been as follows:

- 1990:
  - 200 SMDs; 28 MMDs (for 200 mandates)
  - Overall average district magnitude: 1.8
  - Average magnitude of MMDs: 7.1
- 1991-2005; 2011
  - 31 MMDs; Average district magnitude: 7.7
- 2009:
  - 31 SMDs; 31 MMDs (for 209 mandates)
  - Overall average district magnitude: 3.9
  - Average magnitude of MMDs: 6.7

[33] Electoral Code, 2011, Article 67 (1)
[34] 1991 Law, Article 21(3); Metodika 2001, Articles 1-2; Electoral Code, Article 26(2)1
[35] 2009 amendments to 2001 law, Article 23(4)b adding a new clause to paragraph 4 of Article 39 of the law.
[36] Electoral Code, 2011, Article 67 (3)

These have been distributed across the country since 1991 as follows:

Table 2. Districts and district magnitude 1991-2009

Region and constituent oblasts	Districts
Northwestern region (oblasts): 5. Vidin 6. Vratsa 12. Montana 11. Lovech 15. Pleven	Total of 5 electoral districts (1 for each respective oblast)
North-central region (oblasts): 4. Veliko Tŭrnovo 7. Gabrovo 19. Ruse 18. Razgrad 20. Silistra	Total of 5 electoral districts (1 for each respective oblast)
North-east region (oblasts): 8. Dobrich 30. Shumen 3. Varna 28. Tŭrgovishte	Total of 4 electoral districts (1 for each respective oblast)
South-east region (oblasts): 2. Burgas 31. Iambol 21. Sliven 27. Stara Zagora	Total of 4 electoral districts (1 for each respective oblast)
South-central region (oblasts): 13. Pazardzhik 16 & 17. Plovdiv 22. Smolian 9. Kŭrdzhali 29. Khaskovo	Total of 6 electoral districts (2 for Plovdiv; 1 each for other oblasts)
South-west region (oblasts): 22-24. Sofiia-city 25. Sofiia (oblast) 1. Blagoevgrad 10. Kiustendil 14. Pernik	Total of 7 electoral districts (3 for Sofiia city; 1 for each other oblasts)

The number of mandates allocated to each multi-member district at each election from 1990 to 2009 has been as follows:

MMD distribution 1990-2009

District	District name	1990[37]	District[38]	1991[39]	1994[40]	1997[41]	2001[42]	2005[43]	2009[44]
1	Blagoevgrad	8	1	10	10	10	10	10	10
2	Burgas	10	2	12	12	13	13	13	14
3	Varna	11	3	13	13	13	14	14	15
4	Veliko Tŭrnovo	8	4	9	9	9	9	9	8
5	Vidin	4	5	4	4	4	4	4	2
6	Vrachanski	7	6	8	8	7	7	7	3
7	Gabrovo	4	7	4	5	4	4	4	3
8	Kŭrdzhali	6	8	7	7	7	7	7	5
9	Kiustendil	4	9	8	6	6	5	5	5
10	Loveshki	5	10	5	5	5	5	5	3
11	Mikhailovgrad	5	11	5	5	5	5	5	3
12	Pazardzhik	7	12	6	6	6	6	6	3
13	Pernik	4	13	9	9	9	9	9	10
14	Pleven	8	14	5	5	5	5	5	3
15	Plovdiv	17	15	9	10	9	10	10	9
16	Razgrad	4	16	10	10	10	10	10	11

[37] *Депутатите в седмото Велико Народно Събрание 10-17 юни 1990 г.* (София: Информационо Обслужване, 1991, pp. 135-245) Figures were deduced from the lists of deputies.
[38] These are the 31 districts as listed in the table above
[39] *Бюлетин за резултатите от изборите за народни представители, проводени на 13 октомври 1991 г.* (София: Централна Избирателна Комисия, 1991), p. 15
[40] *Бюлетин за резултатите от изборите за народни представители, проводени на 18 декември 1994 г.: избори за 37то Народно Събрание* (София: Централна Избирателна Комисия за избор на народни представители, 1994), p. 16.
[41] Резултати за 1997 г. Резултати по области http://www.mediapool.bg/showstatic/?c=1997.html&d=rubr21.html
[42] ЦИК определи броя на мандатите по избирателни райони
http://news.ibox.bg/news/id_136566669 Details for Silistra are missing, so have been deduced as 5.

[43] http://www.2005izbori.org/results/index.html
[44] http://rezultati.cik2009.bg/results/mandates/hnm.html#step2

17	Ruse	7	17	11	11	11	12	11	9
18	Silistra	4	18	5	5	5	5	5	4
19	Sliven	5	19	8	8	8	8	8	6
20	Smolian	4	20	5	4	5	5	4	4
21	Sofiia – city	26	21	6	7	6	7	7	5
22	Sofiia – region	7	22	4	4	4	4	4	3
23	Stara Zagora	9	23	12	12	12	12	13	11
24	Tolbukhinski	5	24	11	11	11	11	11	11
25	Tŭrgovishte	4	25	10	11	12	12	12	11
26	Khaskovo	7	26	8	8	8	7	8	8
27	Shumen	6	27	11	11	11	11	11	10
28	Iambol	4	28	4	4	4	4	4	4
			29	9	9	9	8	8	7
			30	7	6	7	6	6	6
			31	5	5	5	5	5	3
Total MMD mandates		200		240	240	240	240	240	209
Average		7.1		7.7	7.7	7.7	7.7	7.7	6.7
Range		4-26[45]		4-13	4-13	4-13	4-14	4-14	2-15

3.2 The 1990 law on elections to the Grand National Assembly

The law of 1990 provided a mixed system of election to the Grand National Assembly[46]: 200 representatives were to be elected from (200) single member districts, in accordance with the

[45] Емилия *Друмева*, *Изборни системи България 1990-1991* (София: Българско *сдружение за честни избори и граждански права, 1993)*, p. 32.
[46] 1990 Law, Article 4 (1)

majoritarian principle.[47] These SMDs were to be demarcated equally, according to population size.[48] Another two hundred mandates were to be elected from 28 multi-member districts[49] from party lists according to proportional representation.[50] For this purpose, each voter had 2 votes, one for the SMD elections and one for the party list elections.[51]

The cost of organising the elections was to be borne entirely by the state authorities,[52] and candidates were forbidden from accepting campaign funds from foreign states or bodies;[53] limits were placed on how much candidates could spend on their respective campaigns.[54]

The law provided Bulgarian citizens with permanent residence abroad the right to vote.[55]

No limit was placed on the number of candidates that could be proposed in the SMDs,[56] and no restriction was placed on candidates to stand for election in their own place of residence,[57] but individuals could only run for election in one SMD and in one party list.[58] Parties were to determine the ranking in which candidates were to appear on their respective party lists.[59]

Ballot papers

Two different ballot papers were to be presented to voters, in accordance with the regulations provided by the Central Electoral Commission.[60] The first ballot paper was to comprise names of candidates for the SMDs.[61] The second ballot paper was to comprise the names of

[47] 1990 Law, Article 4 (2)
[48] 1990 Law, Article 17 (1)
[49] 1990 Law, Article 17 (2)
[50] 1990 Law, Article 4 (3)
[51] 1990 Law, Article 5
[52] 1990 Law, Article 8 (1)
[53] 1990 Law, Article 52 (2)
[54] 1990 Law, Article 53
[55] 1990 Law, Article 11 (1)
[56] 1990 Law, Article 36 (1)
[57] 1990 Law, Article 36 (2)
[58] 1990 Law, Article 39 (3)
[59] 1990 Law, Article 39 (2)
[60] 1990 Law, Article 58 (1)
[61] 1990 Law, Article 58 (2)

candidates proposed for the multi-member district regions in party lists.[62] Each party or coalition competing in the elections was to do so using the same colour on both ballots. Independent candidates for the single member districts proposed by a group of voters were to be distinguished by using white ballot papers.[63]

Allocation of mandates in SMDs

In the event that less than 50% of the electorate participated in the elections, or no one candidate received more than 50% of the votes cast, the law provided that a re-election was to be held within one month.[64] In the event that in a re-run comprising more than two candidates no one candidate received a majority of votes cast, then the candidate with the largest proportion of votes during the first round of elections was declared elected.[65] In the event that only one candidate was proposed in an SMD, and that candidate was not successfully elected (according to the above criteria) during the first round, then new candidates could be proposed for the second round of elections.[66] During the consequent re-run, the candidate with the most votes was to be allocated mandates.[67]

Allocation of mandates from party lists

Only those parties and coalitions that received at least 4 per cent of the total votes cast in all electoral districts (nationwide[68]) were to participate in the allocation of party-list mandates.[69] The law provides that the Central Electoral Commission (CEC) was to determine the way in which seats were to be allocated for the MMDs.[70] The method adopted by the CEC was the largest remainder method of d'Hondt (that is successively dividing the entire number of votes cast for each party/coalition by 1, 2, 3 etc.).[71] This provision *de jure* granted the CEC significant powers in determining the way in which elections were to be conducted.

[62] 1990 Law, Article 58 (3)
[63] 1990 Law, Article 58(4)
[64] 1990 Law, Article 73 (1)
[65] 1990 Law, Article 73 (2)
[66] 1990 Law, Article 73 (3)
[67] 1990 Law, Article 73 (4)
[68] Metodika 1990, Article 9
[69] 1990 Law, Article 76
[70] 1990 Law, Article 77
[71] Metodika 1990, Article 12

Vacant mandates

In the event that a mandate falls vacant, then there is to be a by-election within two months.[72] In the event that an election is due within 6 months, however, no such by-election is to take place beforehand.[73]

3.3 The 1991 law on election of national representatives, municipal councillors and mayors

In 1991 a new law was promulgated. SMDs were scrapped and the system of election was changed entirely to PR. There were to be 31 electoral districts, one for each oblast (coinciding with the oblast boundaries) with the exception of Sofiia, which was to comprise 3 districts, and Plovdiv oblast, which was to comprise 2 districts.[74] Voters only had one vote.[75] Mandates remained allocated according to d'Hondt for the party lists.[76] Whereas the 1990 law and its amendments had specified that the method of allocating seats was to be determined by the Central Electoral Commission, these provisions were instead specified in the electoral law itself.[77] Similarly, the threshold that only those parties and coalitions that received 4 per cent of the total votes cast nationwide was provided in the law itself,[78] rather than by the CEC and a new provision was introduced, whereby independent candidates were to be exempted from this requirement.[79] Instead, these candidates were to be allocated seats in the event that they reached the quota in the district where they were contesting a mandate.[80] This quota was to be calculated as the total number of votes cast in the region for all parties and coalitions, divided by the total number of mandates to be allocated to the region (i.e., the Hare or simple quota).[81]

Candidates could register with only one party or coalition, and could compete in only one regional district and also one party list.[82]

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[72] 1990 Law, Article 80(1)
[73] 1990 Law, Article 80(2)
[74] 22.08.1991 Law, Article 21 (1)
[75] 22.08.1991 Law, Article 4(1)
[76] 22.08.1991 Law, Article 86 (4)
[77] 22.08.1991 Law, Article 86 (1)
[78] 22.08.1991 Law, Article 86 (2)
[79] 22.08.1991 Law, Article 86 (3)
[80] 22.08.1991 Law, Article 86a (1)
[81] 22.08.1991 Law, Article 86a (2) ; Instruktsiia Article 5(1)
[82] 22.08.1991 Law, Article 43 (1)

Independent candidates could compete in the event that they secured a minimum of 2000 signatures from voters in the electoral district where they intended to run.[83]

August-September amendments to the 1991 law

Two days after the National Assembly had endorsed this law it approved some amendments, which provided that candidates could compete in as many as 2 regional districts.[84] In the event that a candidate were to be elected from both lists, then the candidate had to decide and inform the CEC within 24 hours which regional mandate s/he would take up.[85]

A few weeks later, further concessions were endorsed for independent candidates, through an amendment which provided that in the event that fewer than 1500 inhabitants were registered to vote in the region in question, then the minimum number of nominating signatures for independent candidates was to be reduced accordingly, so that it was to be one third of this electorate.[86] There was to be no limit to the number of candidates that may be place on party lists.[87]

3.4 The 2001 law

A new law was promulgated in 2001.The method of allocation for these elections remained d'Hondt for party lists.[88]

The new law provided that the Central Electoral Commission was to be selected by the National Council,[89] and that it should publish a breakdown of the electoral results on their website.[90]

While candidates could only run for one party or coalition, the law provided that they could stand for election in up to two regional electoral districts.[91] In the event that candidates were

[83] 22.08.1991 Law, Article 41 (5)
[84] 27.08.1991 amendments to 1991 Law, Article 4, which amended Article 43(1)
[85] 27.08.1991 amendments to 1991 Law, Article 9, which amended Article 92 (1)
[86] 12.09.1991 amendments to 1991 Law, Article 52(1)2
[87] 22.08.1991 amendments to 1991 Law, Article 43 (5)
[88] 2001 Law on the election of national representatives, Article 6(2)
[89] 2001 Law on the election of national representatives, Article 8(3a)1
[90] 2001 Law on the election of national representatives, Article 23(3)
[91] 2001 Law on the election of national representatives, Article 44 (1)

elected in both districts, then they were to inform the Central Electoral Commission as to which mandate they would take up, within 24 hours of having been informed to this effect.[92]

Independent candidates

At the same time, independent candidates could only stand in one electoral district.[93] To be eligible to stand, these candidates were required to secure the signatures of 1100 residents in regions where 4 mandates were to be contested; 1200 signatures where 5 mandates were to be contested; 1300 signatures where 6 mandates were to be contested; 1400 signatures where 7 mandates were to be contested; 1500 signatures where 8 mandates were to be contested; 1600 signatures where 9 mandates were to be contested; 1700 signatures where 10 mandates were to be contested; 1800 signatures where 11 mandates were to be contested; 1900 signatures where 12 mandates were to be contested and 2000 signatures where 13 mandates were to be contested.[94] This appears to favour independent candidates in districts where more mandates are to be contested as otherwise one might expect, on the basis of 1100 signatures for 4 mandates, that 275 signatures would be required per mandate in the district. If so, then the required signatures in districts contesting between 5 and 13 mandates would instead range from 1375-3575 instead of the range, as specified in the law, as 1200-2000 signatures.

The same provision remained as originally in the 1990 law, whereby ballots for independent candidates were to be printed on white paper.[95] However, the new law provided that parties and coalitions were to be further distinguished from these independent candidates, and were to be printed on blue, red, green, orange or white ballots with up to three coloured stripes (although not the colours of the national flag) and their party emblem embossed on it.[96] This distinction may have made independent candidates more readily identifiable to the electorate.

Vacant mandates

In the event that a mandate falls vacant, then the Central Electoral Commission is to appoint the next candidate from the respective party list.[97] In the event that there are no more

[92] 2001 Law on the election of national representatives, Article 110 (1)
[93] 2001 Law on the election of national representatives, Article 46 (1)
[94] 2001 Law on the election of national representatives, Article 46 (1)

[95] 2001 Law on the election of national representatives, Article 75 (1)
[96] 2001 Law on the election of national representatives, Article 74 (1-3)
[97] 2001 Law on the election of national representatives, Article 115 (1-2)

candidates on that party list, or should the candidate have been elected as an independent candidate, then the mandate is to remain vacant for the duration of the term.[98]

The 2001 Constitutional Court decision

61 members of the National Assembly lodged a complaint with the Constitutional Court concerning Articles 7(2) and 76 of the 2001 regarding the costs to be borne by candidates for pre-electoral preparations, including producing ballot papers. The Court ruled that these provisions were incompatible with Article 6(2) of the Constitution in that they violated candidates' active and passive voting rights, and were consequently struck down by the Court.[99] According to the Bulgarian Constitution, once the Constitutional Court has issued a decision, and found any law or section thereof unconstitutional, then the law or their sections shall lose effect three days after the decision is published in the State Journal.[100]

3.5 The 2005 amendments to the 2001 law

Deposits were introduced and were provided as 20 000 leva for parties, 40,000 leva for coalitions and 5000 leva for independent candidates.[101] These deposits were only to be refunded in the event that the candidate or party concerned received one per cent of the entire votes cast nationwide, or 25 per cent of the district where the party/candidate was competing.[102]

Ballot papers

The designation of ballot papers was significantly altered, so that ballot papers were all to be generically the same and all coloured white.[103]

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[98] 2001 Law on the election of national representatives, Article 115 (3)
[99] Constitutional Court. Decision no. 8 of 3 May 2001 on Constitutional Issue no. 10 of 2001, Judge rapporteur Rumen Iankov
[100] Constitution of the Republic of Bulgaria Prom. SG 56/13 Jul 1991, amend. SG 85/26 Sep 2003, SG 18/25 Feb 2005, SG 27/31 mar 2006, SG 78/26 Sep 2006 - Constitutional Court judgment No.7/2006 , SG 12/6 Feb 2007, Article 151 (2) (3) http://www.parliament.bg/en/const

[101] April 2005 Amendments to the 2001 law, 49(a) para. 2
[102] April 2005 Amendments to the 2001 law, 49(a) para. 3
[103] April 2005 amendments to the 2001 law, Article 25, amending Article 74 of the law

3.6 The 2009 amendments to the 2001 law

The law was amended in 2009 to reintroduce a mixed system,[104] whereby 31 mandates were to be contested in SMDs,[105] and the remaining 209 seats were to be contested through party lists, and allocated according to proportional representation, in the 31 multi-member districts.[106] The 31 SMDs were to correspond with the 31 MMDs.[107] Provision was made for each voter to have 2 votes, one for each tier of the election.[108]

SMD elections

Whereas before, a candidate from a party or coalition could compete in more than one district, the law restricted candidacy to one SMD.[109] The law provided for a system of plurality: the candidate with the most votes was to be allocated the mandate.[110] In the event that two or more candidates receive the most votes in equal share, then a re-run would be held between those particular candidates within seven days of the original election.[111] The winner of this second round of elections would be the one with the most votes. In the event that no candidate secures a majority in this second round, then the president is to schedule a new election to be held in consultation with the CEC.[112] The required number of signatures for independent candidates was raised very significantly to 10,000 residents from the district,[113] and each such resident could only sign for one such candidate.[114]

[104] 2009 amendment to the 2001 law, Article 3(1), amending Article 6(1) of the law
[105] Metodika 2009, Article 9; 2009 amendment to the 2001 law, Article 3(2), amending Article 6(2) of the law
[106] Metodika 2009, Articles 12-13; 2009 amendment to the 2001 law, Article 3(2), amending Article 6(3) of the law
[107] 2009 amendment to the 2001 law, Article 23 adding a new paragraph 2 to Article 39 of the law
[108] 2009 amendment to the 2001 law, Article 2, amending Article 4 of the law.
[109] 2009 amendments to 2001 law, Article 27(1), adding a new paragraph 3 to Article 44 of the law.
[110] Metodika 2009, Article 10
[111] Metodika 2009, Article 11(1)
[112] Metodika 2009, Article 11(2)
[113] 2009 amendments to 2001 law, Article 29(1), amending Article 46(1) of the law.
[114] 2009 amendments to 2001 law, Article 29 (3), amending Article 46 (4) of the law.

MMD elections

MMDs were to be allocated a minimum of 3 mandates.[115] Only parties and coalitions were to compete in the multi-mandate district elections. The threshold for parties and coalitions to compete in the MMDs was 4 per cent and 8 per cent nationwide respectively.[116] The provision, which raised the threshold for coalitions, was struck down by the Constitutional Court before the 2009 elections took place (Spirova, 2010: 276). The d'Hondt system was replaced with Hare-Niemeyer (LR–Hare) for the proportional representation elections.[117] The quotient was to be calculated from the sum of the number of votes cast for all parties and coalitions divided by the number of mandates (209). Then the number of votes cast for each party/coalition is to be divided by this quotient. In the first stage, mandates are to be allocated to those parties or coalitions according to the number of full quotas obtained.[118] Any remaining mandates are to be allocated in accordance with the largest remainder principle.[119] In the event that there are equal remainders among parties/coalitions and insufficient mandates to allocate to all, then the mandate(s) is/are to be allocated by drawing lots, and all interested parties are to be invited to the lottery.[120] In the event that there are insufficient candidates on the list of a successful party or coalition, then the surplus mandate(s) are to be distributed among the other parties that have secured the sufficient threshold.[121] In this instance, the quotient for allocating mandate(s) is the number of votes secured divided by the number of unallocated mandate(s).[122]

Deposits

While deposits were raised to 50,000 leva for parties, 100,000 leva for coalitions, and 15,000 leva for independent candidates,[123] the requirements for a refund were relaxed considerably, so that candidates needed to secure just 1 per cent of the entire votes cast, or for independent candidates 1 per cent of the votes cast in the district where they were competing (instead of

[115] 2009 amendments to 2001 law, Article 23(4)b adding a new clause to paragraph 4 of Article 39 of the law.
[116] Metodika 2009, Article 15
[117] Metodika 2009, Article 17 (1); 2009 amendments to 2001 law, Article 75 amending Article 107(1), para. 2 of the law.
[118] Metodika 2009, Article 18 (1-3)
[119] Metodika 2009, Article 18 (4-5)
[120] Metodika 2009, Article 18 (6)
[121] Metodika 2009, Article 17 (2)
[122] Metodika 2009, Article 18 (7)
[123] 2009 amendments to 2001 law, Article 32, amending Article 49(a) para. 2 of the law.

25 per cent of the votes cast in the district).[124] This, once again, improved conditions for independent candidates.

The Constitutional Court decision 2009

The Constitutional Court decided that the 2009 amendments to the 2001 law, in Article 6(6), which provided an 8 per cent threshold for coalitions created an unfair barrier for coalitions in competing for mandates and that Article 6 (6) of the law was therefore incompatible with Article 10 of the Constitution, in providing equal opportunities in elections.[125]

3.7 The 2011 Electoral Code

In January 2011, a new law was promulgated, which joined together the laws on elections to the European Parliament, local council elections, presidential elections and the law on national representatives.

Once again, SMDs were scrapped and the new law provided that all mandates be contested in Multi-mandate districts,[126] this time from semi-open lists. The threshold for parties and independent candidates remained the same (4 per cent of the total vote cast nationwide, and one district quota of votes, respectively). The CEC is to determine the number of mandates to be allocated to each district on the basis of population size as gathered from the database of the Institute for National Statistics,[127] and the new law provides that no fewer than 4 mandates are to be allocated to each of the regions.[128]

The Central Election Commission

Provisions concerning the appointment of CEC were specified more clearly in the law, and apparently granted the President greater influence in this, at the expense of the National

[124] 2009 amendments to 2001 law, Article 32(2) amending Article 49(a) para. 3 of the law.
[125] Constitutional Court. Decision no.1, Sofiia, 12 May 2009 on Constitutional issue No.5 of 2009, Judge rapporteur Vasil Gotsev
[126] Electoral Code, 2011, Article 5 (1)
[127] Electoral Code, 2011, Article 26 (2) 1
[128] Electoral Code, 2011, Article 67 (3)

Assembly. The CEC is to be appointed for a 5 year term by the President after consultation with parties and coalitions represented in the European Parliament, but not with National Assembly representatives.[129] The Chairman of the CEC is to be nominated by the party or coalition with the greatest majority in parliament. Each party with representatives in parliament is to have one deputy chairman appointed to the CEC.[130] The number of members of the CEC proposed by parliamentary parties is to be 19.[131]

The law restricts the maximum number of candidates on a party list to twice the number of mandates to be contested in the relevant district.[132] While a candidate is only allowed to run for one party or coalition, the law provides them to run in up to two districts.[133]

Independent candidates

Independent candidates, however, are only to run in one district.[134] To compete, independent candidates are required to collect signatures from at least 3 per cent of the district, but no more than 5000 signatures.[135]

Deposits

Deposits were reduced to 10,000 leva for all parties and candidates concerned.[136] The terms under which deposits are to be returned, however, are more stringent so that parties and coalitions are required to secure a minimum of 2 per cent of the vote nationwide and independent candidates are required to secure one quarter of a quota of the region where they are contesting a mandate.

[129] Electoral Code, 2011, Article 23 (1)
[130] Electoral Code, 2011, Article 23 (2)
[131] Electoral Code, 2011, Article 23 (7)
[132] Electoral Code, 2011, Article 106 (3)
[133] Electoral Code, 2011, Article 107 (1)
[134] Electoral Code, 2011, Article 107 (4)
[135] Electoral Code, 2011, Article 109 (1)
[136] Electoral Code, 2011, Article 79 (1)

The specifications for ballot papers were further restricted, to designate not only that all would be coloured white, but that they were not to exceed a certain size, and were to be on card,[137] and that the Central Electoral Commission was to provide further information on ballot paper specification.[138]

Allocation of mandates

The method of allocation remained Hare-Niemeyer (LR–Hare).[139]

Preference Voting

The new law introduced preference voting for both the National Assembly and also for the European Parliament.[140] This provision allows voters to mark one name of the candidate on the list, which they prefer.[141] For this purpose, the law provides voters each with the right to one vote.[142] Should two or more names be marked, then this invalidates the preference and is to be counted simply as a vote for the party concerned.[143] For a preference vote to count required a candidate receive no less than 9 per cent of the total votes received for that party list.[144]

All candidates receiving at least 9 per cent of all votes received are placed on a list, list 'A' in the order of the number of preference votes received, and all others are placed on list 'B' in the order they originally appeared in the list.[145] In the event that two or more candidates on list 'A' receive the same number of preference votes, then the seat is to be allocated by the CEC on the basis of drawing lots.[146] In the event that no candidates reach the threshold to be placed on list 'A', then seats are to be allocated according to the ranking in which the party had

[137] Electoral Code, 2011, Article 162 (1-3)
[138] Electoral Code, 2011, Article 165
[139] Electoral Code, 2011, Article 251 (1)
[140] Although the threshold required for voters to impact on the choice of candidate is 6 per cent as opposed to the provisions for the National Assembly which specify 9 per cent. See: Electoral Code, 2011, Article 259 (3)
[141] Electoral Code, 2011, Article 198 (2)
[142] Electoral Code, 2011, Article 2 (2)
[143] Electoral Code, 2011, Article 216 (7)
[144] Electoral Code, 2011, Article 252 (2)
[145] Electoral Code, 2011, Article 252 (3)
[146] Electoral Code, 2011, Article 252 (4)

listed candidates.[147] In the event that there are fewer candidates on list 'A' than mandates to be allocated to the party or coalition concerned, then the rest of the mandates are distributed to those on list 'B' (that is, in the order in which the party or coalition has ranked them).[148] In the event that there are more candidates on list 'A' than mandates to be allocated to the party concerned, then these are allocated according to their ranking [on list 'A'].[149]

In the event that a candidate is elected in two districts, then the candidate may choose which mandate s/he will take up within 24 hours of having been informed,[150] or will be allocated the mandate of the district to which s/he first registered.[151]

Constitutional Court decision 10 May 2011

53 members of parliament lodged a complaint with the Constitutional Court concerning the Electoral Code.[152] With respect to those aspects regarding elections to the National Assembly, the Court decided that a number of provisions do not comply with the Constitution and ECHR. The requirement that candidates secure 2 per cent of the vote to be eligible for a refund on their deposit[153] (previously 1 per cent) was struck down by the Court as penalising those parties, which have in the past secured just 1 per cent of the vote.[154] The Court decided that the opening statement in Article 1(1) that the Electoral Code defines the procedures and organisation of elections to the National Assembly (and president and vice president) to be unconstitutional, in that this was already clearly enshrined in the Constitution (in Article 65(1)).

[147] Electoral Code, 2011, Article 252 (5)
[148] Electoral Code, 2011, Article 252 (6)
[149] Electoral Code, 2011, Article 252 (7)

[150] Electoral Code, 2011, Article 253 (1)
[151] Electoral Code, 2011, Article 253 (2)
[152] Decision No. 4, 4 May 2011 on the Constitutional issue No.4 of 2011, The State Journal, No. 36, 10.05.2011, p. 4
[153] Electoral Code, 2011, Article 79
[154] Decision No. 4, 4 May 2011 on the Constitutional issue No.4 of 2011, The State Journal, No. 36, 10.05.2011, pp. 16-17.

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