



Party Law in Modern Europe

The Legal Regulation of Political Parties in Post-War Europe

Party Regulation in Post-communist Bulgaria

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The Legal Regulation of Political Parties

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Abstract

Since the fall of communism and the transition to democracy all East European states have transitioned to multiparty democracies. However, the legal frameworks within which parties function differ substantially among countries. Some countries, embrace diversity without posing obstacles to mobilization on ethnic grounds, for example, while others prohibit the establishment and existence of parties of ethnic ideology. Here, we study how Bulgarian parties are regulated through the Party Law, the Electoral Law and the Constitution. In particular we look at the requirements for setting up of political parties and the type, quantity, and allocation mechanisms of public funding and trace the effect that these and other factors have had on the development of the current party system. Empirically, we examine the fate of small political parties. Our main conclusion is that the introduction of institutions such as an electoral deposit, considerably decrease the number of minor political parties.

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Achieving stable party competition is of fundamental importance for ensuring the smooth functioning of the legislative process, but even more so for the fulfillment of the broader goal of a democratic political system. As the main instruments of the democratic process, political parties have justly been at the center of attention for decades of political science inquiry. Theorists such as Schattscheinder (1942) and Duverger (1954) have defined the purpose of political parties as “an organized attempt to get control of government” (Schattschneider 1942, 35) and have laid down the conditions, now known as Duverger hypothesis and law, determining how many parties different electoral systems may produce (Duverger 1954). Similar ideas about political parties as organized attempts to control government, to structure and express interests, are found also in the works of LaPalombara and Weiner (1966) and Sartori (1976).

Not surprisingly, a result of these early works is that a large portion of the subsequent literature studying electoral competition is concerned with explaining the variation in the number of political parties that is found among states. Two commonly considered features have been the electoral system (Duverger 1954, Cox 1997) and the number of socio-cultural divides (Lijphart 1984; Taagepera and Grofman 1985). It has been shown that while proportional representation systems produce multiparty democracy, the effect is more pronounced in ethnically heterogeneous societies (Ordeshook and Shvetsova 1994). Other than the district magnitude, the effect of factors such as the electoral threshold, the number of chambers, or government type, on the number of political parties has also been studied. Yet, the growing scholarship on the new democracies of Eastern Europe (Birch 2003; Moser 1999) shows that traditional explanations for the development of party systems come short in providing a valid justification for what goes on in these states. Rather, it has been argued that in addition to the effect of electoral and social characteristics on party system development, democratic maturity (Rashkova 2010b; Tavits 2005; Vander Weyden and Meuleman 2008) and territory (Boschler 2010) must be accounted for in order to understand East-European party systems. The first group of authors argue that due to the communist past political actors in new democracies need time to learn the effect of democratic institutions on their electoral strategies; the second argument states that the effect of electoral rules can only be fully understood after accounting for party nationalization or the ‘territorial homogeneity for party support’ (Boschler 2010, 37).

During the transition period, and still today, we are witnessing high electoral volatility in new democracies, which is illustrated by the vast change in support for parties. This means that not only the parties change but also their electoral support is hardly stable. Some scholars (Mair 2008; Mair and van Biezen 2001) attribute a large part of party system instability to the

universal decline of party membership. However, political parties' failure to engage citizens is only the demand side of the story.

To fully uncover the changing relationship between parties and voters, we must also consider the number and type of political parties that party systems offer, i.e. the supply side of the story. Scholars have maintained that the party as such is changing from being a private enterprise to becoming almost a public utility (van Biezen 2004), an entity increasingly governed by and dependent on the state (Katz and Mair 1995). That political parties' activities are to a larger extent subject to regulations and state laws is also the focus of Biezen and Kopecký's (2007) study of the dimensions of the party-state linkage. Various aspects of the empirical relationship between party competition and legal constraints have also been studied in the context of East and West European party systems (Bischoff 2006; Rashkova 2010b; Spirova 2007; Tavits 2007). Most of these works however include one or more variables that account for a specific regulation such as ballot access rules or the availability of public funding, without explaining regulation any further. Casas-Zamora's (2005) extensive study on party financing and an upcoming volume on the relationship between political parties and the public law (van Biezen and ten Napel, forthcoming) are an exception.

Although still just the beginning, the latter volume is an attempt to shift party scholars' perspective on party system development by emphasizing the growing role of legal regulations on political elite strategies. Consequently, one avenue which needs to be explored is how party systems develop within the legal framework that they exist in. With the current paper we attempt to contribute to this debate, by examining the case of Bulgaria. While it may be considered of lesser importance than larger states whose legal frameworks may be used as templates in setting up new democracies, Bulgaria provides an interesting and illustrative case for the effect of specific constraints as it is one of the two countries in the world which have a constitutional ban on ethnic parties, yet a party whose electorate is largely comprised of the

Turkish minority, exists. Furthermore, the country has suffered from a significant party system fractionalization during the first years of democracy, which has been fought, among other ways, with additional institutional constraints. We focus on tracing the development of the competitive environment within which parties must emerge and survive, examining the legal regulations of political parties within the Constitution, the Party Law and the Electoral Law. In doing that, we are particularly interested on the effect that legal rules have had on the smaller, non-parliamentary, parties.

The primary argument of the paper is that the introduction of an electoral deposit has sharply decreased the number of competing parties, but while in theory this works towards improving the quality of democracy, in Bulgaria the decreasing number of competing parties has happened concurrently with an increase in the number of parliamentary parties. And while the study of legislative effectiveness remains outside of the scope of this particular paper, we conclude that outside of the parliamentary gate, the institutional changes have served the purpose with which they have been introduced. To develop this argument the article is divided in four sections. We begin by offering several theoretical arguments about how and why the nature of party regulation will influence the formation and survival of small parties. We then review the legal constraints within which parties exist and provide a detailed overview of the regulation of political parties within the three main legal texts. The next section offers a brief discussion on the process of party competition in Bulgaria in the period 1991-2009, focusing on providing a general picture of the electoral competition environment. The last part of our study examines the fate of small political parties and studies their development over time. Finally, the paper concludes with several suggestions on directions of future research interested in the nexus between political competition and party regulation.

The Party Regulatory Environment and the Fortunes of Small Parties

A major role in the establishment and the existence of political parties is played by the public law. Parties have become increasingly subject to regulations and as argued in Casal Bertoa et al. (forthcoming), the liberal principle of non-intervention in parties' internal affairs which existed since the very emergence of political parties as organizations in Europe (and elsewhere), is no longer dominant. Moreover, albeit non-binding, the European Commission's directives on state actors adopted by the Venice Commission claim the evermore greater involvement of the state in political party matters. A comparative overview of the regulation on political parties within the European continent reveals that not only regulation has noticeably increased in the last two decades, but that there is a significant variation in what and how is being regulated in different states. With the democratization of the post-communist region, these differences have become even deeper. Thus, examining the party development of any state requires a thorough consideration of the regulatory framework within which parties form, exist, and compete.

From the party perspective, the nature of regulation of parties and party activities will influence their formation and survival along the following lines. First of all, there could be certain elements of party regulation that make it difficult or impossible for some parties to form. Bans of ethnic or religious parties, or parties with certain ideologies, will prevent their formation. This process is difficult to study empirically because of the natural selection bias that the non-formation of parties presents. Assuming that parties do form in order to realize the political ambition of their leaders, we can see their electoral participation as key to their existence. The higher the costs associated with forming and running in elections and the lower the benefits, the less likely will be for small parties to form and persist. For them then, the regulatory framework will influence the cost-benefit calculations by lowering or raising both benefits and costs.

The costs of participation will be increased by certain feature of the party regulatory framework such as an increase in the constituent meeting requirements; the number of supporting signatures for both party formation and registering in elections; or the size of the electoral deposit necessary for a party to run in elections. Costs will, in contrast, decrease with a decrease in the necessary levels of these regulatory features.

The benefits of participation will increase with the provision of, for example, state funding for political parties and/ or loans for participating in elections; free access to media outlets, or state-provided for or subsidized office space. A decrease in the extent of provision of these will lead to a decrease in the benefits associated with running in elections.

While the regulatory framework treats all parties in the political system the same, the relative impact of its features will be different for parties with varying degrees of electoral support. Electorally popular parties will rarely be hindered by the electoral deposit or signature requirements, but small parties, which we take to be parties expecting to receive less than 10% of the vote, will certainly have to take a greater risk and make a bigger effort to fulfill these requirements.¹ The nature of the regulation framework will thus act as a bigger constraint on their behavior than on the decision making of bigger or electorally more popular parties. The specific expectations will differ even more finely depending on the precise nature of party regulations and party characteristics. Since we are interested in these dynamics in the Bulgarian context, we now turn to a detailed discussion of the features of the party regulatory framework in the country. This allows us to formulate country-specific expectations for the impact of party regulation on small parties which are presented at the end of the section.

The Regulatory Environment in Bulgaria

¹ Naturally, the smaller the electoral share the party expects to get, the stronger this trend will apply to the party. In the following discussion we divide the group of small parties into further subgroups.

According to the database of party laws collected under the *Re-conceptualizing Party Democracy* project,² currently Bulgaria is one of the states where the Party Law regulates most densely. Based on the coding of that project, only Germany ranks higher in regulating political parties, and Bulgaria is the most heavily regulating country among its East European counterparts. It is important to note however, that many regulations, such as Art. 5.1 of Bulgaria's Political Parties Act (last amended by State Gazette No. 6, 2009) stating that "political parties are not allowed to use in their symbols the coat of arms or the flag of the Republic of Bulgaria or of any foreign state, nor any religious signs or images," are very general and thus do not affect the livelihood of political parties in different ways. Conversely, regulations that provide a specific constraint which parties must meet in order to operate, as Art. 12.2 which states that "the constituent meeting of a political party shall be legitimate if attended by at least 500 citizens with voting rights in accordance with the Bulgarian legislation..." have an effect on the formation and existence of parties. It is these regulations that we cover here.

The first and broadest requirement about party formation and in particular "the establishment and the activity of political parties" is that they shall be public (Art. 7). In order for a political party to get established, an initiative committee "of not less than 50 citizens with voting rights" (Art. 10.1) shall adopt and "publish ... in at least one national daily publication" (Art. 10.4) a "written declaration of association" (Art. 10.2) where "the basic goals and principles of the political party shall be defined" (Art. 10.3). Political parties shall be formed "at a constituent meeting to be held in the territory of the Republic of Bulgaria, within a term of 3 months from the date of adoption of the declaration of association" (Art. 12.1) which, to be legitimate, "should be attended by at least 500 citizens with voting rights" (Art. 12.2) who "shall adopt a charter of the political party with at least 500 founders" (Art.

² *Re-conceptualizing Party Democracy* is a project directed by Prof. Ingrid van Biezen and funded by the European Research Council (ERC). More information to be found at www.partylaw.leidenuniv.nl.

13.1). The charter of a political party must include, among other things, “the seat and address of the leadership” (Art. 14.1.2), “the goals and the methods of their achievement” (Art. 14.1.3), “the procedure of convening, electing and dismissing the bodies of leadership and control of their powers” (Art. 14.1.6), and “the procedure of membership admission and termination” (Art. 14.1.7). These rules suggest that parties’ activities and internal procedures are subject to state control, if found undemocratic or unconstitutional, as are political parties formed on ethnic grounds, which are banned by Art. 11.4 of the Constitution, and in order to exist a party must have an office. While not an unreasonable requirement for small parties the requirement to have an office may pose additional financial constraints. After adopting a charter a political party “shall be registered in the register of political parties with the Sofia City Court” (Art. 15.1), “following a written application by the party’s representative body, which shall be submitted within a term of 3 months from the date of the holding of the constituent meeting” (Art. 15.2). Thus, in order to come to existence a party must officially register within 6 months from setting up its initiative committee. Art. 15.3. provides the details which parties must submit to the Court in order to be registered, the most notable of which is the requirement of “not less than 500 members” (Art. 15.3.4) amended in 2009.³ Within a period of 6 weeks after the filing of the application, the Court “shall rule a decision” (Art. 16). If the decision has been not to register the party, it may be appealed before the Supreme Court of Cassation with 7 days (Art. 18.1). The latter has 14 days to issue a final decision (Art. 18.2), which, if positive, gives the political party 7 days to register with the Sofia City Court (Art. 18.4). The longest time period then, within which a political party may come to existence, is 8.5 months. Finally, the registration of a political party is complete with “a promulgation in the State Gazette within a term of 7 days from the party’s presentation” (Art. 19).

³ At the beginning of the democratic period, parties could be established only with the agreement of 50 citizens with voting rights (Party Law 1990, Art. 7).

Internal party organization is regulated relatively little in the Bulgarian Political Parties Act. The law states that “political parties may create their own local structures on a territorial or thematic principle” (Art. 20.1) and that they “may create their own youth, women’s and other organizations” (Art. 20.2), however none of these are binding or required. The dissolution of political parties happens as a result of the party’s decision “to take over or merge with another party, to split into two or more parties, to dissolve itself, or as a result of a decision of the Constitutional Court whereby the party is declared unconstitutional or by dissolution decision of the Sofia City Court” (Art. 38. 1-5). If a party has been terminated as a result of a Court’s decision, “its property shall inure to the State benefit” (Art. 42.2).

After the registration requirements, the next most important part of the law governing Bulgarian political parties, are the rules about property, financing and spending of funds. Under the Bulgarian legislation parties’ activities shall be financed by their own funds (Art. 21) which should come from “membership dues, own immovable property, donations, interest on cash deposit, publishing activity or fundraising events” (Art. 23.1-2). In addition to funding from membership dues, own property and donations, political parties are also entitled to get public funding. State subsidy is granted annually, in four equal parts to registered political parties which have participated in the previous election and have candidates that have been elected (Art. 25.1) or have received not less than 1% of all valid votes in the last parliamentary election (Art. 26). The subsidy depends on the number of votes a party has received, and is determined annually in the State Budget Act. It is envisioned as receiving 5% of the minimum work wage of the current year for every vote received (Art. 27). As of July 2011, the minimum wage is 123€ a month (Eurostat), which means that political parties receive 6.15 € for every received vote. To put that into perspective, according to the 2009 legislative results the smallest party which received above 1 *percent* of the popular vote, NDSV, received 127,470 votes which amounts to a state subsidy of 783,940.5€, while the

winning party, GERB, with 1,678,641 votes has received 10,323,642.15€. Under the guidance of Finance Minister Simeon Dyankov, the budget for state funding of political parties was cut to 85 *percent* of the initially planned sum due to the financial crisis. As a result, all parliamentary and two non-parliamentary parties, NDSV and Lider, received 42.9 million BGN (around 21.3€ million) for 2010 (Bulgarian Press, 168 Chasa).

Political parties can use the public subsidy “for preparation and participation in elections, for supporting the work of party structures, for organisational expenses on holding events and for other expenses incidental to the activity of the party” (Art. 29.1). The state subsidy is to be accounted and reported to the National Audit Office as part of the party’s income. The latter allows parties to draw loans from banks in the amount of 2/3 of the income they have accounted for in front of the National Audit Office in the preceding year (Art. 23.3).

The law (Art. 29.2) obliges parties to keep a public register in which all registration information about the party is recorded, as well as annual financial statements and statements of the electoral campaign. A list of donors and declarations of the origin of funds from donors who have exceeded the undeclared maximum of 5000 BGN (around 2,500€) should also be included and “the publicity of the register should be provided through the website of the political party” (Art. 29.4). In addition to keeping a public record of its finances, political parties are obliged to provide information on the properties, incomes and expenses within the country and abroad of all individuals who are members of the body of leadership of the political party or represent the party according to its charter (Art. 30.3). These procedures of transparency do not apply to political parties which do not receive state subsidy (Art. 30.4). In addition to monetary help, parliamentary political parties or parties which have received more than 1 *percent* of the popular vote in the last legislative election may rent state and municipal premises for the purpose of their activities (Art. 31.1-2).

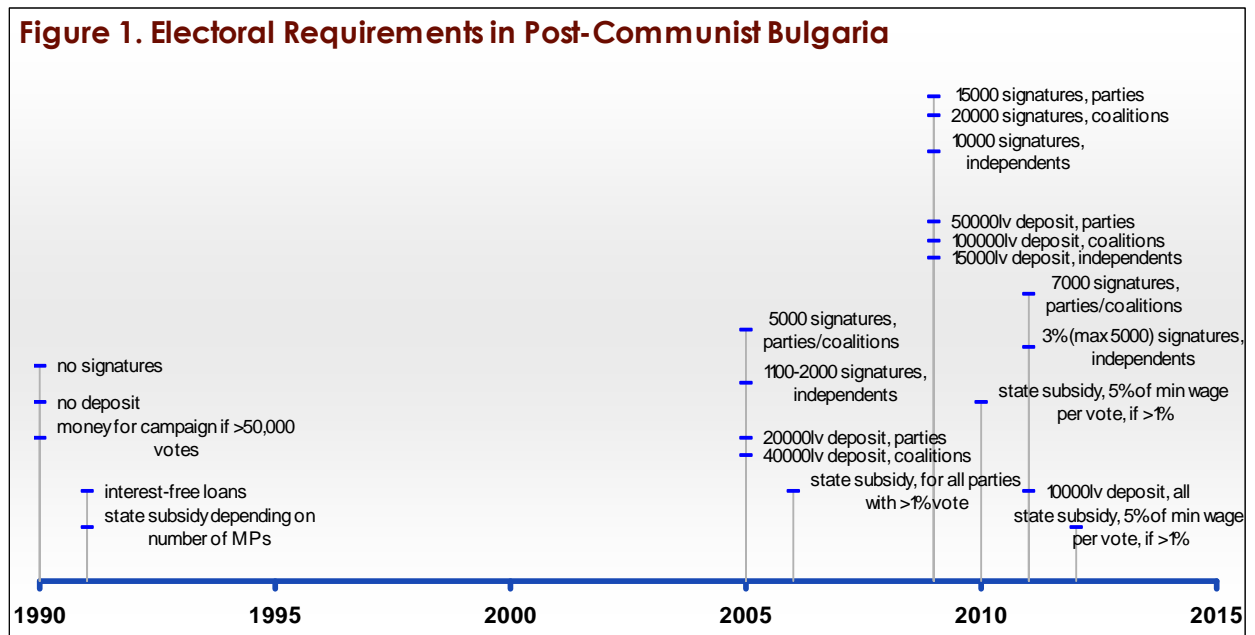
Control over how the state, or other funds are spent, is performed by the National Audit Office. Political parties are required to submit a report of all their financial activities not later than March 31 of each year (Art. 34.4). If a political party has received or spent more than 50,000 BGN (around 25,000€), it is obliged to an “independent financial audit and certification” (Art. 34.2) which need to be submitted to the National Audit Office together with the party’s financial report. The National Audit Office has 6 months to “conduct an audit to ascertain the conformity with the conditions of the Political parties Act and the Accountancy Act” (Art. 35.1). The largest sanction which political parties face in the event of failure to submit, or a late submission of a financial report, is that they lose their rights to state subsidy until the following legislative elections (Art. 36.1). Political parties can also incur a fine of 5,000 to 10,000 BGN (2,500€ to 5,000€) if they do not perform their obligation of creating and keeping a public register (Art. 43.1). The law is silent, however, on matters in which political parties financial documents may not be found to be in order.

Besides being registered entities, a main goal of most political parties is to compete in election. For that reason, some of the rules constraining the legislative race are pertinent to the establishment and life of political parties. According to the Bulgarian Electoral Law, Bulgaria has a proportional electoral system (a majoritarian aspect was introduced in 2009 to include 31 single-member seats) with 4 *percent* electoral threshold (Art. 5). For the elections for national parliament, President, and members of the European Parliament, parties are obliged to pay an interest-free deposit (Art. 78) in the amount of 10,000 BGN (around 5,000€). The electoral deposit was first introduced in 2001, but the amount of 10,000 BGN was established in the recently revised Electoral Law (2011). Previously, in 2005 political parties had to pay 20,000 BGN (approximately 10,000€), coalitions 40,000BGN, both of which were more than doubled in 2009 (see figure 1 for more detail). The deposit is reimbursed within 7 days of the election to political parties and coalitions which have received at least 1 *percent* of the

popular vote (Art. 79.2.1a-b). For initiative committees, who have fielded independent candidates, the reimbursement thresholds are 1/4 from the electoral district quota for the election of an MP and 1 *percent* of the total amount of votes received at a Presidential or an EP election (Art. 79.2.2). In addition to the deposit requirement, the Electoral Law has a signature requirement, which parties wishing to compete must satisfy prior to registering for elections. Art. 82.1 stipulates that 60 days before the election, political parties must submit their registration documents to the Central Electoral Committee. Among the required documents, parties must provide a list of 7,000 supporting signatures (Art. 82.3). Similar to the deposit, the signature requirement was introduced in 2005, when in order to compete parties and coalitions had to provide 5,000 supporting signature, while in 2009 the requirement was increased to 15,000 for parties, 20,000 for coalitions and 10,000 for independent candidates. For the nomination of an independent candidate, an initiative committee of 3 to 7 people residing in the nominating district must be formed (Art. 97.1) and the requirement for supporting signatures is lowered to 3 *percent* and no more than 5000 signatures of citizens residing in the territory of the electoral district where the nomination occurs (Art. 109). For the nomination of an independent Presidential candidate, an initiative committee of 21 supporters (Art. 97.2) is needed. Regarding the financing of electoral campaigns the law allows parties to use their own funds or funds from donations (Art. 150) where no donation can exceed 10,000 BGN (Art. 151) and the origin of every donation exceeding 1,000 BGN must be declared (Art. 154). The law also sets limits to the maximum amount of funds that can be spent on a given electoral campaign, and these are 4 million BGN for parties and coalitions and 200,000 BGN for initiative committees for the election of members of parliament (Art. 155.1). For the election of President the amounts are twice as low (Art. 155.2). As with the Political Parties Act, the parties expected to be most affected by the Electoral Law requirements are especially the small political parties.

Overall, we can sum up the features of party regulation in Bulgaria in the following timeline

(Figure 1):



Given the 4% electoral threshold for national parliamentary elections in Bulgaria, and the overall distinctions made in the regulatory framework, we see three relevant groups of small parties in terms of the expected impact of the party regulations upon them. The first group consists of parties which are not sure of passing the 1% mark; the second are parties with an expected vote-share between 1% and 3.99%, and the last are parties with vote-share that surpasses the electoral threshold but is under 10% of the vote, our upper limit for small parties.

Based on the changes in party regulation over time, we expect the following in the relevant time periods. Between 1990 and 2001, we expect numerous parties in all three groups. Parties in this period have hardly any costs, due to the low establishment and competition requirements, while they have comparatively a lot to gain. Entering Parliament is the most important goal which allows for rewards, such as the possibility to influence policy, or a chance to be part of a governing coalition, to be reaped.

With the changes in the Electoral Law and the introduction of a signature and deposit requirement which commenced in 2005, the fate of political parties, or potential political parties, is quite different. In the 2005 electoral period we thus expect the number of parties which are in the 0-1% margin to decrease, as they are the likely losers of the electoral changes since they are not likely to qualify for state funding and in addition they are likely to incur irrefundable costs. We expect the middle-range parties, those which receive between 1-3.99% of the vote to remain the same or increase, as even if they don't make the 4% threshold and thus don't make it to parliament, they still receive state funding and a reimbursement of their electoral deposit. These parties can be said to have a net benefit from establishing or staying in the game. The last group, the parties which receive between 4-10% of the electoral vote are expected to stay the same or increase since they are the highest beneficiaries of the changed law - the costs they incur are fully reimbursed, they get a sizeable portion of state aid (depending on the number of votes they receive), and their competition is kept at bay.

The increase in the pre-electoral requirements adopted with the 2009 amendment of the law is further likely to suppress the smallest parties and deter those not likely to make the 1% cut, while the number of parties receiving above 4% will either stay the same or increase, since they are immune to the increased deposit as they will get it back, and in comparison with 2005, they receive more money (at the very least the regular increase of minimum wage increases their share of 5% of the minimum wage per vote). The middle-range parties are the most complicated case, as they can be divided in two groups. Those close to the 1% mark will have the expected behavior of the first group, thus decrease, those who are clear of the 1% mark are expected to behave as the last group, thus remain the same or multiply. Although we do not have empirical data to test the latest changes of the electoral law, given the significant lowering of the entry requirements, it is possible to see a change in the behavior of the first

group of parties, i.e. those with expected return below 1%. Some new parties may emerge in this group due to the much lower costs in comparison with the last two electoral periods.

The rest of this paper discusses the development of Bulgarian party politics in the last two decades and looks for observable indicators that the regulatory changes have had an effect on party development. While changes in the regularity framework could happen at time, it does seem to coincide with the electoral cycles. Still, some changes (particularly post 2011 are not yet empirically testable. We thus look at the 1991-2009 but, given the timing and nature of the changes, our discussion focuses mostly on the post-2001 period since it is then that we expect to see the biggest consequences of the regulatory regime on the fate of small parties.

Small Parties in Bulgarian Politics

If we look at the general trends in the post -1989 Bulgarian party politics independent of the changes in regulation, two distinct periods emerge: the first decade (1990-2001) of stable, bi-polar party dynamics, and the post-2001 phase of major newcomers to the party system, clearly visible in Table 1. The legislative results illustrate that the number of parties in parliament changed from an average of 4 parties up to the 2001 election, to a 6.5 parties for the last two elections. Moreover, the weighed power of parliamentary parties significantly decreased with the break-up of the bi-polar party dynamics as the effective number of parties which jumped by two counts from 2001 to 2005 shows. In addition to the fragmentation of the legislature which we witness in the post-2001 period, the big divide of party regulation that came in 2005 clearly affected the small political competitors. In Figure 2 we can clearly see a significant decline in the number of the smallest parties, but at the same time the number of medium-range parties stays the same, while the number of small but clear of the 4 percent

threshold competitors, increases. We now turn to a more detailed discussion of these party system dynamics by electoral period.

1990-2005

During the 1990s the political process in Bulgaria was dominated by the Bulgarian Socialist Party (BSP) on the left, and the Union of Democratic Forces (UDF) on the right side of the political spectrum. As Table 1 illustrates, there were a lot of electoral contestants in the party system – between 38 in 1991 and 54 in 2001, but the effective number of parliamentary parties was relatively low – between 2.89 in 1997 and 4.54 in 2001. The BSP is the successor to the Bulgarian Communist Party and, relatively unreformed until 1995, by 1999 had come to advocate a social-democratic platform and to support a pro-EU and pro-NATO foreign policy (Murer 2002, 392). The UDF was formed by eleven newly founded opposition parties in 1989 and claimed a “center-right” political formation but in reality included parties as diverse as the Bulgarian Social Democratic Party and the Bulgarian Christian-Democratic Party. The UDF suffered numerous defections and organizational challenges and finally transformed itself into a centrist-right political party in 1997 (Karasimeonov 2002).

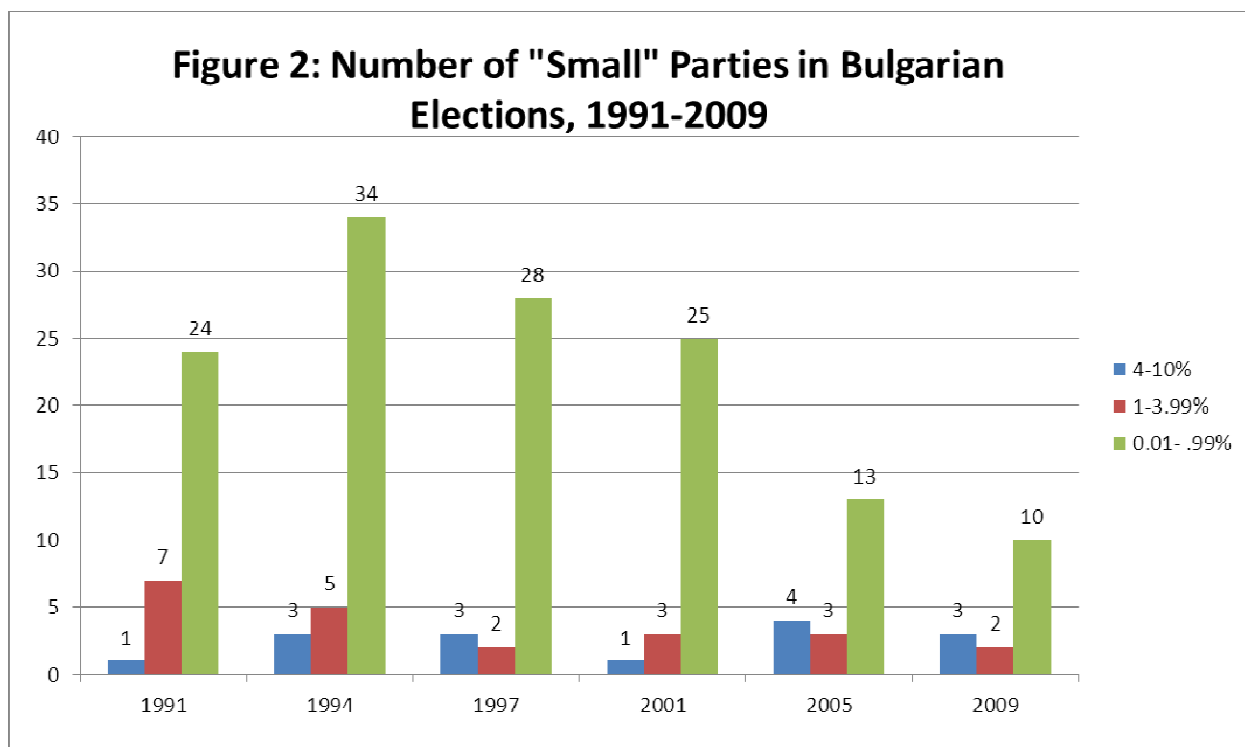
A major blow to the stability of the party system was delivered in 2001 with the entry of a major new contender, the National Movement Simeon the Second (NDSV). This move ended the “bipolarity” of the party system (Karasimeonov 2002, 54). NDSV was built around the personality of the Bulgarian ex-monarch Simeon Sax-Coburg-Gotha, and created a platform focused on economic and financial issues, while its leader repeatedly advocated the abandonment of partisanship and unification around “historical ideas and values” (Harper 2003, 336). The NDSV itself emerged, virtually overnight, as one of the three major

contenders for power, challenging the SDS and BSP for governmental leadership. It also increased the electoral alliance possibilities in the party system and encouraged smaller parties to explore more options.

In fact, a myriad of smaller political parties contested elections in various shapes and forms during this period. Individual small parties abound, but electoral alliances are also the norm, since parties need to surpass the 4% barrier in order to receive any rewards (Spirova 2007, pp 106-109; 145-153). The most important of these smaller parties were the Bulgarian Agrarian National Union (BZNS), a historic peasant party which split into numerous factions during the 1990s; the Movement for Rights and Freedoms (DPS) representing the Turkish Minority, which is the one party consistently in the 4%+ category; the Bulgarian Business Block (BBB), which was a populist party of “businessmen” that attracted substantial popular support in the mid 1990s but has since disappeared; and the social democratic Bulgarian Euro Left (BEL). Of these, the only party, which continues to be present in Bulgarian politics today, is the DPS.

Using our categorization, there were numerous examples of parties in all three categories. Figure 2 shows the number of parties in each of the three categories and how they change over time. Particularly illustrative is the high number of parties who receive less than 1% of the vote, and keep contesting elections. The 1994 election is the peak for these smallest parties, where their number reaches 34. They range from negligent parties such as Union of Partyless Garantors who competed in the first two elections earning 9945 (0.18%) and 1357 (0.03%) respectively, to some more serious very small parties such as the Movement for the Protection of Pensioners and the Unemployed, which garnered 18934 (0.36%) votes in 1994, 4740 (0.10%) in 2001 and 12760 (0.35%) in 2005. Amongst the parties with less than 1% of the electoral support is even the Party of Bulgarian Women, a gender-oriented party which collected 16061 (0.38) votes in 1997, but disappeared ever since. Extra-parliamentary parties

with more than 1% of the vote shift more during this period, often appearing in new and temporary alliances at each election. However, we can clearly see that the presence of low costs allows for a very high number of extremely small parties, but the high threshold of rewards (Parliamentary representation) encourages the constant shifting of alliances in order to reach it.



2005-2009

The Bulgarian party system continued its transformation in the 2005 elections, yet, not without the help of the new regulatory environment. The number of electoral contestants overall, just as could be expected by the sharply risen costs for electoral competition, was cut in two (Table 1). This was mostly a result of the sharp decline of the number of parties in our first category, those with less than 1% of the vote. The number of the extremely small parties goes down from 25 in 2001 to 13 in 2005 and this is directly attributable to the change in party legislation (Figure 2).

In contrast, but also as predicted, the number of small parties with more than 1% of the vote almost doubles. While the number of parties in mid-range category (1-3.99%) stays the same, if we look at the identity of the parties, we do see a positive trend. In 2001, two of the parties in that category were “copy” parties that run on names very similar to that of the newly formed and expected to win party of the Bulgarian ex-monarch, making their vote shares to a large extent the result of electoral mistakes. These parties disappear long before the 2005 elections. In 2005, one such party is Novoto Vreme, a splinter party from the National Movement Simeon the Second (NDSV). Novoto Vreme fails to make the 4% electoral threshold, with 107758 (2.95%) votes, but the party receives sizeable state funding which allows it to stay in politics, albeit at the sub-national level (the party currently has 31 municipal councillors). Thus, if we look at the “real” competitors, we see an upward trend – and especially indicative is that 2 of the 3 2005 parties with 1 to 4% of the vote are all new contenders.

Most important, however, is the increase of the parties in our third category. Of the seven parties that are sent to parliament, 4 are under 10 %, a fact that creates the most protracted and difficult coalition formation process in the history of Bulgarian democracy. Besides the DPS, the perennial small parliamentary party in Bulgarian politics, three new small parties join Parliament: a new centrist alliance, the Bulgarian National Union (BNS), was forged, uniting the Bulgarian National Agrarian Union (BZNS), the Internal Macedonian Revolutionary Organisation (VMRO), and the Union of Free Democrats (SSD), all three of which had previously been part of the SDS or ODS. Two other parties were formed specifically for the 2005 election: Democrats for a Strong Bulgaria (DSB), a splinter from the SDS; and Ataka, a radical right party, a brand new contender in 2005. This is a development that we also see clearly attributable to the change of the cost/benefit calculation following the regulatory regime reform since these are all parties which can estimate that they will secure

1% of the vote and thus reimburse their costs, while also receive state funding for their operations. Overall, we can see the 2005-2009 period as most beneficial for small parties with more than 1% of the vote - both theoretically and empirically they seem to be encouraged to exist and maintain themselves in the system.

2009 –

The 2009 elections saw yet more new and successful contenders and high turnover of parties: two new parties entered Parliament, while two of the previous parliamentary parties left it. Also, for the first time since 2001, a clear winner emerged.⁴

In terms of the fate of small parties – the trend of declining number of parties in the less than 1% category continues. Their number diminishes further from 13 (out of 22) in 2005 to 10 (out of 18) in 2009. While the number of parties in the other two categories decreases overall, we do observe, however, the continued emergence of new parties in both the 4%+ and 1 to 4% categories. While some parties join these categories because of declining electoral fortunes, such as the NDSV, which goes from a “big” party in 2005 to an under 4% party in 2009, new ones also emerge. Order, Law and Justice (RZS) – forms, competes in elections and enters Parliament, while LIDER doesn’t quite make it with 3.17% of the vote. Similarly, benefiting from high electoral support, the DPS is upgraded to a “big” party following our classification.

Conclusion

In this paper, we study the regulation of political parties by public law and its implications for party system development. We look at the Party Law, the Electoral Law and

⁴ Citizens for a European Development of Bulgaria (GERB), founded in December 2006 is built around the personality of Boyko Borisov, currently PM, formerly mayor of Sofia and General Secretary of the Ministry of Interior in the NSDV government of 2001-2005. Having built a huge following as a “tough on crime” minister and mayor, he founded a political party in late 2006 which quickly emerged as the most popular one in the country. GERB declared itself to be a center-right party and to present a “new rightist treaty” to the Bulgarian people based on three “fundamental” values: “economic freedom,” “competition in an environment of clear responsibilities and rules,” and “minimum state participation” (GERB 2008) GERB received about 40% of the PR votes in 2009, won in 84% of the SMD districts and, as a result, fill 48% of the seats in Parliament.

the Constitution, and trace the changes which we deem likely to alter the perspectives of political parties. The laws contain general rules on the establishment and functioning of parties, most of which do not affect the livelihood of parties that much. The most significant rules in relation to party system development that we found are those that affect the costs or the benefits of political contestants. The signature and deposit requirements which were introduced in 2005 show to have had a clear effect on shrinking the party system size, yet, the availability of public funding and especially making all parties with at least 1 percent of the popular vote beneficiaries, has worked in the opposite direction and allowed for further fractionalization of the parliamentary parties.

The story of the pre- and post-2005 Bulgarian politics illustrates the importance of party regulation for the development of small parties but also its limitations. Most clearly, raising the costs of electoral competition leads to a clear and almost mechanical effect, the number of electoral contestants in Bulgarian diminishes sharply since 2005. Further, providing benefits at the 1% cut-off point rather than at the 4% cut off point allows smaller parties to maintain their existence in the system somewhat independently rather than constantly look for electoral alliances that might allow them to reach the 4% threshold. The appearance of new small parties in the 2005-2009 period is a clear indication of these new incentives.

However, the Bulgarian story also shows the limitations of party regulation as explaining party behaviour. Looking beyond the small parties, we see the emergence of big new contenders in 2001 and 2009 which are not in the least challenged by the costs of regulations. More importantly, some “small” parties, like the SDS and the NDSV, become such not because of the regulatory regimes but in reaction to their electoral fortunes. It also seems that, at least in the case of the NDSV, a supporting regulatory environment, as was the case in the 2005-2009 period is not enough to maintain the party in parliament.

Table 1. Parliamentary parties in post-communist Bulgaria, 1991-2009.

Party Name	1991		1994		1997		2001		2005		2009	
	%	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%	Seats*
UDF	34.4	110	24.2	69	52.3	137	18.2	51	8.4	20	-	-
BSP	33.1	106	43.5	125	22.1	58	17.2	48	34	82	17.7	40
DPS	7.6	24	5.4	15	7.6	19	6.8	21	14.1	34	14.5	33
BB	1.3	-	4.7	13	4.91	12	-	-	-	-	-	-
NS	-	-	6.51	18	-	-	-	-	-	-	-	-
Euro-left	-	-	-	-	5.5	14	1.0	-	-	-	-	-
NDSV	-	-	-	-	-	-	42.7	120	21.8	53	3	-
DSB	-	-	-	-	-	-	-	-	7.07	17	-	-
BNS	-	-	-	-	-	-	-	-	5.7	13	-	-
Ataka	-	-	-	-	-	-	-	-	8.9	21	9.4	21
RZS	-	-	-	-	-	-	-	-	-	-	4.1	10
Blue Coalition	-	-	-	-	-	-	-	-	-	-	6.8	15
GERB	-	-	-	-	-	-	-	-	-	-	39.7	90
<i>Contestants</i>	38		48		39		54		22		18	
<i>Parties in Parliament</i>	3		4		5		4		7		6	
<i>ENEP</i>	4.197		3.88		2.89		4.54		6.00		4.4	
<i>ENPp</i>	2.41		2.79		2.52		2.92		4.92		3.78	
Total	-	240	-	240	-	240	-	240	-	240	-	209*

Note: *ENPp* reflects the effective number of parties in parliament. *In 2009, the electoral law was changed from pure proportional representation, to a mixed-system with 209 PR, and 31 SMD seats.

Source: Adapted from Rashkova (2010a) and Spirova (2010)

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