

TO THE ATTENTION OF

ROSEN ZHELYAZKOV

Chairperson of the National Assembly

DEISLAVA ATANASOVA

Chairwoman, parliamentary group of GERB-
UDF

ATANAS ATANASOV

KIRIL PETKOV

Co-chairs, parliamentary group
PP-DB

KOSTADIN KOSTADINOV

Chairman, parliamentary group
„Revival“

DELYAN PEEVSKI

Chairman, parliamentary group
MRF

KORNELIYA NINOVA

Chairwoman, parliamentary group
„BSP for Bulgaria“

TOSHKO HADZHITODOROV

Chairman, parliamentary group
ITN

MEDIA

ADDRESS

Esteemed members of the parliament,

We, as representatives of Bulgarian civic organizations,

Having taken in mind:

- The political crisis in the country that has led to five preterm parliamentary elections in the period of 2021 – 2023 and a very short life of a series of National Assemblies;
- The efforts of civic groups for an effective application of the rule of law principles and the separation of powers;
- The expiration of the mandates of numerous sole and collective authorities which leadership is elected by the parliament;
- The continuous and long-lasting demands of active civic organizations for transparent parliamentary appointments¹;
- The critically low public trust in the public institutions;
- The political requisitions of representatives of the ruling majority for integrity, transparency and responsibility when the National assembly appoints people for leading positions in the regulatory bodies;
- The decisions of the Constitutional Court related to the institutions which are fully or partially elected by the National Assembly, where, it is said that in cases of „*continuous performance of the functions after the expiration of the term („prolonging“ the mandate)*“ is **an exception from the general rule** for commitment of the rights to the constitutionally prescribed term of empowerment²; „**the execution of these rights beyond a reasonable**

¹ E.g. Position for transparent parliamentary appointments from 23.09.2015
<https://appointmentsboard.bg/project/%d1%81%d1%82%d0%b0%d0%bd%d0%be%d0%b2%d0%b8%d1%89%d0%b5/>

² Interpretative Decision № 13 from December 15, 2010 on Constitutional case № 12/2010

*period after the end of the mandate contradicts the Constitution, especially when the National Assembly has not foreseen a normative reason for this. (...) The reversed understanding, practically, leads to an obliteration of the mandate as a democratic governance principle.”³; „every state institution, **including the National Assembly, has to adhere with its acts to the legal principles and rules** thus, creating expectations based on which the addressees of the normative regulation could take decisions about their behaviour“⁴; „**The National Assembly shall take decisions, but they could not be random and shall be adopted in adherence to a lawful procedure and legally determined criteria in accordance with the constitutional principles.**“⁵*

- The findings of the European Commission in the annual Rule of Law Report for Bulgaria about **the renewal of the mandates of the independent regulators** and its delay as a result of the political situation⁶;
- The changes to the Constitution adopted in December 2023 which embed on a constitutional level the standards for election of independent regulatory bodies by the National Assembly⁷,

Insist that the National Assembly:

- Initiates immediately procedures for election of all institutions with an expired mandate in order to overcome the institutional crisis;
- Adopts a timeline and begins the procedures by starting with the bodies and their members which are operating outside their mandate the longest, except a law prescribes otherwise;
- Publishes an up-to-date list of the mandates of members of sole and collective bodies;

³ Decision № 12 from 27.09.2022 of the CC on case № 7/2022

⁴ Decision № 8 from 21.07.2022 of the CC on case № 4/2022

⁵ Decision № 5 from 22.06.2023 of the CC on case № 5/2023

⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Rule of Law Report Brussels, 5.7.2023 SWD(2023) 802 final

⁷ New Art. 91b. (1) The National Assembly adheres to the principles of openness, transparency, publicity and justification when electing members of bodies that are entirely or partially elected thereof, in order to guarantee their independence. Constitution of the Republic of Bulgaria (last changes and amendments published in State Gazette № 106/22.12.2023)

- Adheres strictly to the principles of publicity, transparency, objectivity, equality, predictability of the appointment procedure, accountability of the appointing body, professionalism and competitiveness thus, implementing in practice the changes to the Constitution from December, 2023;
- Organizes the appointment procedures within a reasonable timeframe (at least 3 months from nomination to election), so that enough time is given for professionals, media and civil society to get acquainted with the suggested nominees and their concept papers;
- Prepares an analysis of the sector for which the respective bodies exercises rights on regulation, management, sanctioning, licensing, oversight and others;
- Prepares an analysis of the annual reports of the body;
- Introduces a mandatory requirement for the nominees to present a written and public concept paper about their vision on how to manage the respective body;
- Performs an in-depth check about the professional and ethical qualities of the candidates including by requiring information from other institutions and organizations;
- Be proactive in order to assure an authentic competition by calling on the professional organizations to directly nominate candidates;
- Establishes a permanent parliamentary Committee on appointment of bodies, which should carry out the election procedures and will sit together with the relevant sectoral committee/s when hearing the candidates. There should be a Civic Board created as a consultative organ to the Committee that can provide a statement on the ethical qualities of the nominees;
- Foresees a possibility for media, civic organizations and representatives of the academia to ask written and oral questions to the candidates during the hearing.

We expect from the members of the 49th National Assembly to be at the level of the public requirements for an effective institutional infrastructure. The requisitions of the ruling majority to follow the high standards when electing independent bodies should not crash in repeating ill practices of backroom bargaining and distribution of positions in the regulatory bodies on the principle of political parties' quotas. The current composition of the parliament

could continue its reform politics by re-founding the way in which it constitutes bodies. This could be a strong sign of moral behavior that can rehabilitate citizens' trust in public institutions. The reverse could be used as a reason for social tensions.

Respectfully,

Bulgarian Institute for Legal Initiatives

Access to Information Program

Anticorruption Fund

Association of European Journalists-Bulgaria

Bulgarian Center for Not-for-profit Law

Bulgarian Helsinki Committee

Bulgarian Lawyers for Human rights

Center for Liberal Strategies

Center for Regulatory Impact Assessment

Institute for Market Economy

Institute for Public Environment Development