

# **Discussion on Populism in the Economy and Regulation of Human Action**

Institute for Market Economics, Bulgaria

March 27, 2020

This article<sup>1</sup> takes a look at various examples of economic populism and regulations that have a direct effect on economic activity and the social environment in the country. The examples discussed are by no means exhaustive, but they aim to present the situation in many different human activities – from the sharing economy to social activities, where there is a gap between real needs/actions and the current regulatory framework. Although in the cases discussed the actions of the economic operators are often on the edge or even beyond the law, we will show that they are not usually offenses in their nature.

Populism is not clearly defined in economic literature. In this article, we view economic populism as a set of policies that seems to be designed to protect the average person but actually limit his or her choices and opportunities. In this sense, we view populism as an anti-market phenomenon that intertwines, and sometimes is the origin, of severe regulations that limit natural human actions. In this case, we are not looking for a common assessment of the regulatory burden in society, but rather we want to give concrete examples and provoke a debate to open the society to the freedom of choice and the discovery of old and new solutions that make life better.

We take a look at five examples from different fields. The first two are focusing on the sharing economy and the gig workers, as these are clear examples of the collision of the new world with the old rules. Next, we look at examples from the social field, including restrictions on access to medicine and public transportation in small towns, as well as noise regulation in the late hours of the day. The last example is quite contemporary and is related to the "fight against speculation" during the coronavirus crisis and the state of emergency. Interestingly, some of the examples are in fact intensified by the coronavirus crisis and, where necessary, placed in the context of the current situation.

---

<sup>1</sup> The discussion paper is supported by Atlas Network „Illiberalism Grant Program”  
Full version of the paper in Bulgarian is available [here](#).

## I. Fighting the Sharing Economy

In recent years, Bulgaria has been striving to position itself as a country that has enormous potential for the development of digital economy and is attractive for foreign investments into various tech industries. Clear examples of the formation of a positive digital image of the country are the various articles in well-known international publications that present Bulgaria as the tech capital of the Balkans<sup>2</sup>.

What is happening with the sharing economy in Bulgaria is in stark contrast to these processes, including efforts to build a high-tech image of the country. In recent years, there has been a continuous effort by various institutions to limit the entry and growth of sharing economy services in the country. Whether it be a legislative initiative to regulate Airbnb and Booking or a decision by a control authority (Commission for Protection of Competition) against Uber, the results end up limiting sharing services and protecting traditional ones.

The example with Uber clearly shows how a new service can be shut down quickly using the power of regulators. The fact that the company is completely open allowed the CPC to impose a huge fine<sup>3</sup>, which in fact led the company to cease operations in Bulgaria. Nearly five years have passed since the Uber service was stopped, and no legislative steps were taken during this period to allow – even in a modified version – the new service. As of this moment the possibility of offering more cars and flexible pricing at peak times remains beyond the law.

Unlike Uber, authorities in the country found it difficult to directly engage with Airbnb, Booking and other similar short-term housing rental platforms through the Internet. This provoked legislative initiative which, although at first glance may have different arguments – to “lightly” regulate activities, to collect taxes, etc., ultimately aim at imposing burdensome administrative requirements on this type of services and limit their provision.

The series of attempts to "regulate" rental platforms began several years ago, initially with the argument that government intervention is needed to protect consumers and ensure the quality and safety of the platforms, in the same way that they do by categorizing traditional hotels. However, in a sharing economy, the relationship between guest and host is much more immediate. They do not need a mediator because the guarantee of quality and safety is the reputation of the two within the platform, based on all their previous activities. In many ways, this model is much more sensitive and precise than state-provided categorization, and it captures important features that otherwise slip away or have different significance for each customer.

The next attempts to regulate short-term rental platforms were very recent, at the beginning of 2020. Several divergent ideas emerged over the course of a few weeks – the

---

<sup>2</sup> See Financial Times, [Bulgaria strives to become tech capital of the Balkans](#) (2016)

<sup>3</sup> See CPS [Decision 540](#) from July 20, 2016

first was for the owner to seek the approval of at least ½ of the residents in the building before offering his apartment online (practically impossible), the next one was about categorization of those apartments like hotels (also impossible), and the final one was about imposing tourist taxes. In other words, the aim was not to find the most appropriate and balanced approach to coexistence and complementarity between traditional and sharing economy models, but to limit modern services as much as possible, should it prove impossible to be completely banned as was the case with Uber.

In both examples there is a clash of between a new type of service, which is completely logical in the digital world, and traditional models of work – whether in the taxi or hotel business. Rather, these examples show archaic regulation that is completely inapplicable to modern life. A possible solution is not only to establish the legislative framework for new services, but also to find the right balance between old and new services.

Creating new simple regulation just for the sharing rides is an easy solution, but that would also mean the regular taxis will still face a huge burden. Therefore, we should look for applying minor regulation to the entire industry and proportionate approach between the new and the old. The development of digital solutions actually enables the transition of traditional services to a new model that does not need heavy regulations.

## II. The Unlawful Gig Workers

The gig economy can be defined as the economy of short-term commitments, in which the worker enters into flexible and temporary relation directly with his clients, often through online platforms and applications. The gig worker<sup>4</sup> is not employed, meaning he has no employer according to the labour law, but is more like self-employed people. However, the short duration of his commitments – sometimes within a daily or weekly horizon – distinguishes him from sole traders and self-employed persons.

The gig economy surely include those people whose work is entirely application-based and are not directly employed – for example, “taxi” drivers who use their own car and are not hired by a taxi company and don’t have an employment contract. So are those who do not have a contract of employment and do not work at a particular restaurant, but deliver food through an application. The trend in the world of applications is clearly going in this direction – finding flexible solutions in traditional sectors and opening applications to independent individual gig workers.

Other traditional activities – like those of babysitters and plumbers, are also transforming through digital technology. Even craftsmen and temporary street traders – like those who

---

<sup>4</sup> See PwC Legal, [Gig economy report: Employment status](#) (2019)

See also European Parliament, [The situation of workers in the collaborative economy](#) (2016)

sell homemade martenitsi<sup>5</sup> or engage in Christmas markets, may use the digital technologies and potentially be included in a light regulatory framework, which may be appropriate for the gig workers.

The key question here is how to legalize and include in the social security system the labour of a person who has a short-term commitment and income but essentially has no employer and thus no labour contract. There are many options of employment contracts in the Labour Code, but they are not applicable to independent workers who have a direct relationship with clients and have no employer. Take an individual trader who sells martenitsi on the sidewalk, for example. This person probably pays for the right to sell on the street, that is, he legalizes his small movable property to the municipal administration, but his income remains informal – there is no tax and no social security. This potential gig worker works in an insecure environment, as he does not fit into the regulatory framework.

The regulatory framework is such that this type of short-term commercial activity will almost in any case be in the informal sector, thus the gig worker may be harassed by government officials. Digitalization of gig workers, however, allows their activities to be extremely transparent. The taxi driver who works with an application is completely traceable - you know when he worked, how many clients he took, who he drove and what kind of revenue he had for the day. Exactly the same would apply to a babysitter, a plumber, and even an individual trader who sells martenitsi for two weeks.

Gig workers can be legalized as a form of self-employment, but taking into account the short-term horizon and volatility of their activities – as a form of business certificates for a certain period. These types of workers should pay a flat daily or weekly tax that allows for their activities, prevents them from being harassed by government bodies, gives them some social rights, and allows them to accumulate a history of income, which they may need in dealing with other economic agents.

### **III. The Forgotten Rural Areas – Lack of Medicine in the 21st century**

Social activities rarely enter into the traditional conversation about regulation and its effect on the economic environment. However, such restrictions also have a serious impact on the social sphere, being in a direct relation with the quality of life of the most vulnerable groups in society. Too bureaucratic and regulated activities at the local level can severely limit the opportunities of various vulnerable groups and increase inequalities in society.

Lack of adequate transportation and connectivity to the big cities is one of the main problems of small villages and depopulated areas. Leaving such places without public

---

<sup>5</sup> A martenitsa is a small ornament (usually a bracelet or a brooch), most often made of wool or cotton yarn in two basic colours – white and red, which Bulgarians tie around their wrists or clip on their clothes each year on March 1st for health and good luck.

transport also means limiting access to many services, including access to medicine. To illustrate this, we can quote the words of the mayor of the village of Chichil, Kula municipality: *“If someone gets sick, I drive him to Kula or Vidin with my car. I buy medicines for everyone in the village. There is no bus, whoever is able walks about 3 km to get to the Kula-Vidin road and there waits for the bus...”*.

This reality in small and depopulated municipalities is in the direct collision with the severe regulations of the retail trade of medicines. These municipalities do not have a pharmacy, there is also a lack of adequate transport, and the elderly, who are most in need of medication, are unable to travel to the nearest town. IME review of the public register of pharmacies has shown that in some municipalities there are no pharmacies at all, and limited access to medicines is most pronounced in small villages, which are disconnected from the big city.

In these municipalities there is a clear gap between reality and the regulatory framework. Regulation does not allow for increasing of accessibility due to the multiple requirements for opening a pharmacy and the lack of opportunity for branches or some forms of mobile pharmacies. The reality is that many small villages have had flexible solutions that are often outside the legislative framework. Such a decision would be for the mayor or the mayor deputy to be responsible for access to medicines, including collecting prescription books for the elderly – a clear violation of rules. There are also examples of illegal trade, which is even more dangerous in every respect.

A review of the regulations in Europe<sup>6</sup> clearly shows the development of more flexible forms of access to medicines. There are pharmacy branches in many countries. In Germany, each pharmacy can have up to three branches in the pharmacy region, and in Denmark there can be up to eight branches. In Finland, each pharmacy can open up to three branches, which can be done at the request of the municipality. Pharmacy branches can also be managed by a pharmacist assistant, work at reduced hours and offer a limited range of medications. The situation is similar in Norway. Pharmacy branches are also allowed in Latvia and Estonia, both focusing on villages and towns with less than 4,000 inhabitants.

At the moment, a draft bill to amend the Medicinal Products in Human Medicine Act is introduced in Bulgarian Parliament, which includes the possibility of opening branches (two and more pharmacy addresses) in places where there is a shortage. Opening of such branches will require less investment and smaller costs, as the administrative opening procedure will be as simple as possible and will not require full time working pharmacists. Such branches are a logical solution for Bulgaria, but the battle in Parliament is yet to come, as there are various populist ideas in relation to the new law.

---

<sup>6</sup> World Health Organization, [The legal and regulatory framework for community pharmacies in the WHO European Region](#) (2019)

## IV. The Noise Act and the Entertainment Economy

In mid-2019, one of the main topics in Bulgaria was the voted amendments to the Protection from Environmental Noise Act, which had a major impact on nightlife and became popular as the Noise Act. The latter was the final touch of at least a two-year populist campaign against noise and nightlife. The new measures introduced ultra-heavy penalties for noise making after 11pm, which affected restaurants and bars to an extreme point where they were forced to cease or hinder their work.

The 2019 Noise Act allowed for two very severe measures against entertainment establishments. The first one is the possibility to confiscate items, part of the equipment of the venue, related to the violation of rules. In other words, it is not just a fine and an order, but a temporarily confiscation of equipment, which automatically puts an end to any ongoing event. According to the second measure in case of non-fulfillment of the orders the activity of the establishment would be stopped for 3 days, and in case of repeated violation – for a period of 14 days. In other words, the sanction is disproportionate to the type and character of the violation, given its administrative nature.

The main weakness in noise regulation in Bulgaria is the lack of any opportunity for zoning. Municipalities do not have a mechanism to differentiate between areas – for example, the rules for night noise in a residential neighbourhood versus the rules for night noise in the centre of a city. The same applies to resort municipalities which are not allowed to have different approaches in certain areas. Practically, we have a regulation for a residential neighbourhood - no noise after 11pm, which automatically becomes a regulation for all nightlife, usually concentrated in the city centres and certain areas in the resorts.

Municipalities are also contributing to the poor noise framework – limiting noise after 10pm on a local level. On most days of July, sunset in Sofia is after 9pm. This means that the official nightlife noise (meaning when it gets dark) in outdoor places can go on for less than 1 hour. Most events, including outdoor stage concerts, or even a summer cinema, would have a normal duration of about 1.30 hours, which means they have to start before sunset to finish on time. Such an approach is not always applicable or appropriate.

Drinking establishments also face serious difficulties, even without organizing outdoor concerts. Some nightlife establishments face the problem of people gathering uncontrollably outside, including for smoking, and making noise. In response to this, there are examples of establishments that allow smoking inside, since the sanction for smoking indoors is much more acceptable – a fine, rather than the Noise Act sanction – closing the establishment for three days.

The result of the noise fight is that all forms of summer nightlife (outdoors) are practically banned – whether in urban areas, resorts etc. The nightlife that obviously still exists is

happening illegally. Every beach bar or drinking establishment in a seaside resort is in constant violation of the rules and can be closed if that is ordered by some politician.

Noise regulation is undoubtedly of high public importance and we should look for balance between the entertainment economy and the tranquility of citizens. Such a balance is currently lacking. Of course, there must be control and sanctions, but we need a framework that differentiates neighbourhoods from downtown areas and takes into account the specificities of resorts. Some form of zoning should be provided by law and it should be responsibility of the local authority, which is accountable for the social environment in the respective cities.

## V. Speculation and Control during a State of Emergency

The topic of speculation has always been particularly appealing to politicians. Although it is not clearly regulated, speculation has traditionally been used as an excuse for more control and regulation of trade between private entities. Unfair trade for fast profits – this can be the definition of speculation in the broadest sense. This magic word opens the door not only to price control, but to regulation of all forms of "unfair" trade. The potential regulation that comes from the speculation argument can affect all aspects of one business.

During the coronavirus crisis and the declared state of emergency, the topic of control and speculation has reached a whole new level. The prosecution went to check the pharmacies for speculation, which led to the closure of pharmacies at the time when they were most needed. Pre-trial proceedings for the sale of face protection masks at "high" prices in a state of emergency are already in place.

However, the peak in the fight against speculation was achieved by a vote on the Emergency Measures Act, which was announced on 13 March 2020 in relation to the coronavirus. The National Assembly adopted a text in the form of protection from unjustifiably high prices in times of emergency and disasters: *"All economic operators are obliged to provide the public with the goods and services they offer at prices equal to the average price of the goods and services they had offered in the last three months before ... the state of emergency."*

This was not a cap on some prices – for example, protective masks, but a fixation of all prices in the economy. And the fine for violation of the rules was voted to be 5% of the turnover, meaning the punishment for one mistake can be extremely harsh. The regulation was absolutely inapplicable in practice, as it is hardly possible to calculate the average prices of all goods over the last three months. However, this inapplicability would be entirely for the retail outlets that would have to prove and justify their prices. Bureaucrats could easily use these texts and fine almost all retailers.

The President imposed a veto on these texts which subsequently was accepted by the Parliament. However, it is noteworthy that the state started from "speculation" with

protection masks and has come to the absurdity of almost fixing all prices throughout the economy. This example only shows how tempting the idea of control seems and how “fruitful” for bureaucrats is the topic of "speculation" in the economy. At the moment, there are indications that in the state of emergency new legislative texts may be tabled to combat the speculation, and that the prosecution will be particularly active in the operation of pharmacies. A strong state will "protect" its citizens from speculators. This refrain will be dangerous even in the days after the end of the state of emergency.

## **VI. Freedom of Human Action**

Economic populism and regulations have a serious impact on people's daily lives. In a discussion format, we tried to present five examples of daily life, which in one form or another put ordinary people in a disadvantageous position due to poor regulation. Whether they are people who rent their home on weekends or have some short-term activity, whether they are retirees who want to have access to medicines or young people who want to have fun outside in the summer, they are all in the situation of being offenders, because of a populist and inappropriate legal framework that is difficult to apply to reality.

Examples discussed are an integral part of everyday life. Shared travel or rental apartments exist, and there is nothing in it that threatens the public or that should be considered a violation. Gig workers are also real – they just have a short-term activity and are difficult to fit into the general framework. Mayors are required to collect prescription books and deliver medicines to seniors' homes. Nightlife in the summer also has not disappeared, despite severe noise regulations. The fight against speculation is a traditional topic for politicians, which became especially popular during the state of emergency declared on March 13, 2020. These are all topics that affect many spheres of our lives and where human action seeks a solution but politicians have put up unnecessary barriers