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Legacies, Particularism, and the Irrelevance of EU Policy for Addressing Corruption: A Case Study of Bulgaria and the CVM

Abstract. This article looks into the origins of endemic corruption in Bulgaria and analyzes the European Union's attempt to address it in the context of EU expansion. It examines the case of Bulgaria with regard to EU anticorruption norm transposition through the Coordination and Verification Mechanism (CVM). A look at Bulgaria's evolution towards political and economic modernity demonstrates the historical relationship between this evolution and the origins of endemic corruption. Legacies from the periods of state building, the interwar years, communism and the post-communist transition constitute a continuum that has resulted in cultures of political apathy, a lack of collective action and particularism. A look at the evolution of EU policy and CVM (as the most comprehensive anticorruption instrument to date) demonstrates the EU's timid institutional evolution and its inability to adequately address the causes of endemic corruption. The article concludes with the finding that, even in a system of close interaction between countries and economies, solutions to endemic corruption cannot simply be imported, for real solutions are highly dependent on domestic factors. And these appear to be more closely related to normative constraints in the form of collective action than to legal or technocratic factors.

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Introduction

The transposition of the European Union's anti-corruption norms constituted one of the "blind spots" of the enlargements that took place in 2004 and 2007. This became particularly visible after the EU's conditionality-derived leverage was lifted and a regression of the effectiveness of Central and East European anti-corruption policies was observed. This paper will look at the reasons for this predicament, through analyzing some of the factors that form political culture as well as diachronic progress towards political and economic modernization, and taking into consideration the evolution of EU anti-corruption policy. The case of Bulgaria will be analyzed in an effort to identify particularities of cases

where endemic corruption is to be found and thereafter assess the effectiveness of EU policy making at addressing them.

The main argument I will put forward is that the European Union's policy for promoting compliance in the field of anti-corruption is rather irrelevant in cases where the origins of corruption lie in historical foundations and legacies of recipient countries. In that context, while EU norm transposition can positively impact and fine-tune existing good governance practices in countries with solid liberal democracy backgrounds through managerial or legal solutions, it is unable to affect deep-seated cultures, which results in endemic corruption.

Moreover, I will argue that in order for endemic corruption to be addressed, it is essential for it to be instituted as a negative sum game for rule-making elites. This can only be achieved through a level of political or social pressure that the EU cannot impose or induce due to its lack of both instruments and will. Therefore, any potential solution can only be political and national, thus rendering the EU's efforts to externally impose top-down anti-corruption norms through normative and technocratic exhortations highly unlikely to bear fruits in the medium- and long-term.

The case of Bulgaria has been chosen for a number of reasons: first, because it has been the recipient of the most comprehensive, to date, EU anti-corruption policy through the Coordination and Verification Mechanism and its activation in 2008. Second, because it is the laggard EU country with regard to its effectiveness in addressing corruption.[1] Third, because as a result of EU pressure Bulgaria has introduced one of the most comprehensive anti-corruption legal frameworks in the world[2] and is thus providing an opportunity to examine limitations of legal constraints as an independent variable for fighting corruption. And fourth, because it clearly imprints a political and social culture that derives from distinct pre-communist historical origins more than the other recent EU Member States (save Romania).

The main body of the paper will be divided into three chapters. In the first chapter, the main theoretical approaches to corruption and the respective insights for addressing it will be examined and the merits of Alina Mungiu-Pippidi's social equilibrium theory will be analyzed.[3] In the second chapter,

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[1] World Bank, Worldwide Governance Indicators: Control of Corruption, available at <http://info.worldbank.org/governance/wgi/index.asp>; cf. Worldwide Governance Indicators: Control of Corruption, 1996-2010, *CESifo DICE Report* 9 (2011),no. 4, 67f., available at <http://www.cesifo-group.de/DocDL/dicereport411-db4.pdf>. All cited internet sources were last accessed on 14 February 2013.

[2] Global Integrity Report: 2010 – Key Findings, 7, available at <http://www.globalintegrity.org/documents/GIR2010-Key-Findings.pdf>.

[3] Alina Mungiu-Pippidi et al., Contextual Choices in Fighting Corruption. Lessons Learnt. Oslo 2011 (ERCAS Working Paper No. 30), available at <http://www.againstcorruption.eu/wp-content/uploads/2012/09/WP-30-Contextual-Choices-new_merged2.pdf>.

I will look into particular origins of endemic corruption in Bulgaria and will analyze cultural and historical turning points (or the lack of them) as reasons for contemporary shortcomings of the country in addressing corruption. In the third chapter, EU instruments and leverage tools for imposing compliance in the context of enlargement will be assessed in the light of the findings of the second chapter. In the final part, the conclusions of the present paper will be presented.

Theoretical Overview

Starting from the mid-1990s, academic work focusing on corruption has proliferated. There are four ongoing intertwined debates regarding the phenomenon: first, on the conceptualization / definition of corruption; second, on its causes; third, on the ways it can be addressed; and fourth, on the ways it can be measured. The main theoretical aim of the present chapter will not be to elaborate on each discourse separately but to analyze the vertical differentiation between assessing corruption as a "principal-agent"[4] problem or as a socially generated issue that cuts across all four debates.

Contemporary scholarly research has focused on different aspects, causes and solutions to corruption. Those range from economic (the impact of economic growth on levels of corruption,[5] the correlation between economic openness / the degree of economic modernization[6] and levels of corruption) to managerial (the size of the public sector,[7] the size of voting districts,[8] open / close electoral lists,[9] the level of government centralization[10]) and from institutional (presi-

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[4] The "principal-agent" concept was introduced by Gary Becker, Crime and Punishment: an Economic Approach, *Journal of Political Economy* 76 (1968), no. 2, 169-217.

[5] Among others Torsten Persson / Guildo Tabellini / Fransesco Trebbi, Electoral Rules and Corruption, *Journal of the European Economic Association* 1 (2003), no. 4, 958-989; Caroline van Rijckeghem / Beatrice Weder, Corruption and the Rate of Temptation: Do Low Wages in the Civil Service Cause Corruption?, Washington/DC 1997 (IMF Working Paper 97/73).

[6] Among others Samuel Huntington, Political Order in Changing Societies. New Haven, London 1968; Susan Rose-Ackerman (ed.), International Handbook on Economics of Corruption. Cheltenham 2006; Erick Gundlack / Martin Paldam, The Transition of Corruption: From Poverty to Honesty, *Economics Letters* 103 (2009), no. 3, 146-148.

[7] Rajeev Goel / Michael Nelson, Corruption and Government Size: A Disaggregated Analysis, *Public Choice* 97 (1998), no. 1/2, 107-120; Peter Rauch / James Evans, Bureaucracy and Growth: A Cross-National Analysis of the Effects of "Weberian" State Structures on Economic Growth, *American Sociological Review* 64 (1999), no. 5, 748-765.

[8] Jana Kunicova / Susan Rose-Ackerman, Electoral Rules as Constraints on Corruption, *British Journal of Political Science* 35 (2004), no. 4, 573-606; Daniel Treisman, The Causes of Corruption: A Cross-National Study, *Journal of Public Economics* 76 (2000), no. 2, 399-457.

[9] Kunicova / Rose-Ackerman, Electoral Rules (above fn. 8).

[10] Ibid.; Goel / Nelson, Corruption and Government Size (above fn. 7).

dential vs. parliamentary democracy,[11] freedom of the media,[12] the division of powers and effective political opposition[13]), to demographic (the level of female participation in politics, the percentage of females in high positions,[14] the population[15]) and international (the role and capacity of donors to introduce good practices[16]).

Another scholarly group has focused on cultural reasons such as religion,[17] prevalence of family values,[18] the impact of colonization experience[19] and geographic explanations for corruption levels (e.g. the proximity to regions with conflict or high levels of organized criminality, the geographic extent of a country etc.).[20] However, these conceptions of the origins of corruption,[21] based on quantitative data and analysis, appear to offer a rather poor insight into the actual containment of the phenomenon in the sense that even if they hold true, there is very limited action to be taken. Thus, while taking them into account for the theoretical conceptualization of the phenomenon, these approaches will not be analytically discussed.

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[11] Johan Graf Lambsdorff, Consequences and Causes of Corruption: What Do We Know From a Cross-Section of Countries?, in: Rose-Ackerman (ed.), International Handbook (above fn. 6), 3-52; Treisman, The Causes of Corruption (above fn. 8).

[12] For instance, Sebastian Freille / Emranul Haque / Richard Kneller, A Contribution to the Empirics of Press Freedom and Corruption, *European Journal of Political Economy* 23 (2007), 838-862, available at <http://personalpages.manchester.ac.uk/staff/emranul.haque/ejpe_%20press%20freed%20and%20corruption_dec2007.pdf>.

[13] Among others Tugrul Gurgur / Shah Anwar, Localization and Corruption: Panacea or Pandora's Box? Washington/DC 2005 (World Bank Policy Research Working Paper 3486), available at <http://siteresources.worldbank.org/INTWBIGOVANTCOR/Resources/Localizationandcorruption.pdf>; Anna Grzymala-Busse, The Discreet Charm of Formal Institutions: Postcommunist Party Competition and State Oversight, *Comparative Political Studies* 39 (2006), no. 3, 271-300; Mungiu-Pippidi et al., Contextual Choices in Fighting Corruption (above fn. 3).

[14] Among others Geert Hofstede, Culture's Consequences: International Differences in Work-Related Values. Beverly Hills/CA 1984; Bo Rothstein, How Can the European Union Address Corruption in its External Relations? Brussels 2011 (Transparency International Conference on "Tackling Corruption Across the European Union. Principles into Praxis", 07.12.2011), video available at <http://www.cvent.com/events/tackling-corruption-across-the-eu-principles-into-practice/custom-20-d573b419026e4a1ead8dec3b463072f6.aspx>.

[15] Goel / Nelson, Corruption and Government Size (above fn. 7).

[16] Among others Joseph Wright, Aid Effectiveness and the Politics of Personalism, *Comparative Political Studies* 43 (2010), no. 6, 735-762; Kathleen Getz, The Effectiveness of Global Prohibition Regimes: Corruption and the Anti-Bribery Convention, *Business and Society* 45 (2006), no. 3, 254-281; Mungiu-Pippidi et al., Contextual Choices in Fighting Corruption (above fn. 3).

[17] Treisman, The Causes of Corruption (above fn. 8).

[18] Lambsdorff, Consequences and Causes of Corruption (above fn. 11).

[19] Treisman, The Causes of Corruption (above fn. 8); Anand Swamy et al., Gender and Corruption, *Journal of Development Economics* 64 (2001), no. 1, 25-55.

[20] Goel / Nelson, Corruption and Government Size (above fn. 7).

[21] This list of academic approaches is not exhaustive. Its point is to describe the main contemporary ideas on causes of corruption in the wider context that was put forward in the first paragraph of the present chapter.

Going back to the first group of academic research, the bulk of these analyzes apprehend corruption as a "principal-agent" problem either with a short-term (current government policies) or long-term perspective (socioeconomic and political patterns resulting in respective levels of corruption).[22] The possibility of an "agent" (public official managing the relationship between the "principal" and the public) acting in a corrupt manner is directly related to the possibility of being prosecuted by the "principal" (e.g. government, constitutional court).[23] Therefore, the effectiveness of an anti-corruption policy depends on the non-profitability of corruption (e.g. through higher salaries, stronger sanctions) or the level of effectiveness of the "principal" for tracking down and disclosing corrupt "agents".

Despite their diverse levels of universality, for the most part, this group of the rich literature on corruption examines important aspects regarding the way corruption can be addressed. The bulk of them start off from well-known definitions of corruption such as: "the abuse of public office for private gain"[24] or more contemporary and inclusive ones such as "the misuse of entrusted power for private gain"[25] in an attempt to address similar questions: "when will a person with entrusted power be less likely to act corruptly?" or "how can corrupt officials best be controlled and prosecuted?". Both these questions, in turn, build on the assumption that, on the opposite side of corrupt "agents", there are "clean" principals whose level of effectiveness will largely define the prevalence of corruption and whose level of approbation will depend on their efficiency at curtailing it.

However, all these approaches fail to put forward another set of questions that seem to be more relevant, at least in cases of endemic corruption: "What if corrupt behavior is the only game in town? – What if anti-corruption is a

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[22] Bo Rothstein / Daniel Eek, Political Corruption and Social Trust. An Experimental Approach, *Rationality and Society* 21 (2009), no. 1, 81-111; Mungiu-Pippidi et al., Contextual Choices in Fighting Corruption (above fn. 3).

[23] This equilibrium has been imprinted nicely in the well-known equation: Corruption = Monopoly + Discretion – Accountability. See Robert E. Klitgaard / Ronald MacLean-Abaroa, H. Lindsey Parris, Practical Approach to Dealing with Municipal Malfeasance. Nairobi 1996 (UMP Working Paper No. 7), viii, available at <http://wiki.bezkorupce.cz/_media/wiki/klitgaard-parris-strategie-pro-mesta.pdf>.

[24] The particular phrasing is derived by World Bank, Poverty Reduction and Economic Management, Helping Countries Combat Corruption: The Role of the World Bank, 12, available at <http://www1.worldbank.org/publicsector/anticorrupt/corruptn/cor02.htm>. However, the original definition was given by Joseph S. Nye, Corruption and Political Development: A Cost-Benefit Analysis, *American Political Science Review* 61 (1967), no. 2, 417-427, 419: "Corruption is a behavior which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence."

[25] Transparency International, F.A.Q.s on Corruption, available at <http://www.transparency.org/whoweare/organisation/faqs_on_corruption/2/#defineCorruption>.

negative sum game for principals whose advancement occurred in a system of endemic corruption?" Therefore, along with the previously apposed questions for addressing corruption and its implications, it is important to ask: "What rendered corruption a positive sum game in the first place? – How can anti-corruption be rendered a positive sum game?" And, "under which sociopolitical circumstances can this change occur?"

These questions have been addressed by another, much smaller, group of scholars, one of whose most prominent representatives is Alina Mungiu-Pippidi. She claims that the effort to holistically define corruption and propose universal solutions is absurd since the occurrence of the phenomenon depends on contextual factors.[26] Mungiu-Pippidi maintains that (externally imposed) anti-corruption efforts usually build on the assumption that both the public and political elites deem corrupt activities to be a deviation from otherwise established principles of ethical universalism. However,

> "what is presented in most anticorruption literature as a principal-agent problem is in fact a collective action problem, since societies reach a sub-optimal equilibrium of poor governance with an insufficient domestic agency pushing for change."[27]

Mungiu-Pippidi apprehends corruption as a question of social equilibrium that derives from strictly domestic and mainly political contextual realities. In fact, she distinguishes two parameters whose interaction defines corruption levels: *resources and constraints*. Under resources she includes, first, the level of "principal" discretion (e.g. regulation, red tape, privatization laws) and second, the level of available resources (divided into four categories: public jobs, public spending, preferential concessions and market advantages in the form of preferential regulation). Regarding constraints, she distinguishes between legal and normative. She sums up the above in the following equation: Corruption/Control of Corruption = Resources (power discretion + material resources) - Constraints (legal + normative).

Mungiu-Pippidi builds on the categorization provided by North, Weingast and Wallis[28] and divides regime types between open and closed access. The latter are defined by varying levels of particularistic culture, based on which she subcategorizes them as patrimonial, competitive-particularistic and borderline. The former, open access regimes, are the outcome of the culture of ethical universalism, which is a regime defined by "public integrity […] understood

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[26] Rothstein, How Can the European Union Address Corruption (above fn. 14); Rothstein / Eek, Political Corruption and Social Trust (above fn. 22); Mungiu-Pippidi et al., Contextual Choices in Fighting Corruption (above fn. 3).

[27] Ibid., xiv.

[28] Douglass C. North / John Joseph Wallis / Barry Weingast, A Conceptual Framework for Interpreting Recorded Human History. Cambridge 2006 (National Bureau of Economic Research (NBER) Working Paper No. 12795).

as equal and fair treatment of citizens, which may occasionally be influenced by favouritism or corruption"[29] (Table 1)[30].

The universal principles of scarcity of resources and of humans' need to share their assets with their closest kin render humans prone to corruption. Thus, closed access regimes, following their own particularistic considerations, foster favoritism and perpetuate social divisiveness that categorizes constituencies as winners or losers based on their relation to the rule making elites. Not having a keen interest in changing existing realities as they do not feel it is their job to do so,[31] peoples' effort is concentrated on the short-term goal of being included in the winning side rather than on the long-term prospect of rebuilding the entire governance edifice. On the other hand, for political elites that have advanced in the particular context, anti-corruption would mean breaking ties with groups of interest that have assisted them in getting into power, thus rendering it a negative sum game. At the same time, political elites are in position to benefit the most from corrupt behavior (immunity and high rents), thus making any committed anti-corruption effort highly unlikely.

Mungiu-Pippidi, rather than looking for causal links that explain the prevalence of corruption, moves in the opposite direction by identifying and measuring "antibodies" to particularism (e.g. civil society activity, freedom of media). This makes good sense in terms of physics or medicine where the impact of a phenomenon is usually measured by the reaction it generates (e.g. an illness is diagnosed through the kind and level of antibodies it motivates). These "societal / cultural antibodies" are much easier to assess as they lack the secretive nature of corruption.

Furthermore, the social equilibrium theory provides a solid explanation for the continuity of the phenomenon as well as its resistance to change. This is not the case with many "principal-agent" theories which, measuring the phenomenon in a dynamic context, are usually overtaken by newer evidence (this was the case with the impact of democracy, centralization or economic growth on levels of corruption). On the other hand, being heavily dependent on controversial

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[29] Mungiu-Pippidi et al., Contextual Choices in Fighting Corruption (above fn. 3), 3.

[30] Ibid., 30.

[31] Rothstein and Eek, whose theory is largely compatible with and complementary to Mungiu-Pippidi's, claim that citizens' inaction stems from being caught in a prisoner's dilemma as their reporting of corruption will entail that they suffer disproportionately as other people are unlikely to do the same. Moreover, in cases of endemic corruption, people believe it is not their money that is being abused (due to low income taxes and high informality), therefore, they do not have an incentive for changing things. Rothstein and Eek see favoritism and not bribery as the main challenge as the former aggravates the existing underlying challenge of social trust. See Rothstein / Eek, Political Corruption and Social Trust (above fn. 22).

Table 1: Governance Regimes and Their Features.

	Limited Access Order			*Open Access Order*
Governance regime	(Neo)Patrimonialism	Competitive Particularism	Borderline-Transitional	Open Access Order
Power Distribution	Hierarchical with monopoly of central power	Stratified with power disputed competitively	Competitive with less stratification	Citizenship Equality
State Autonomy	State captured by Ruler	State captured in turn by winners of elections	Archipelago of autonomy and captured "islands"	State autonomous from private interest (legal lobby, etc.)
Public Allocation (Services, Goods)	Particular and Predicable	Particular but Unpredictable	Particular and universal	Ethical universalism
Separation private-public	No	No	Poor	Sharp
Relation formal/ informal institutions	Informal institutions substitutive of formal ones	Informal institutions substitutive of formal ones	Competitive and substitutive	Complementary
Mentality	Collectivistic	Collectivistic	Mixed	Individualistic
Government Accountability	No	Only when no longer in power	Occasional	Permanent
Rule of Law	No; sometimes "thin"	No	Elites only	General; "thick"

Source: fn. 30.

apprehensions that evaluate "agent" corruption as a challenge in itself, their conclusions are often unworkable.[32]

In consequence of its basically anthropological starting point, the "social equilibrium" theory moves the discussion on corruption away from quantification of conglomerates and raises profound societal questions and questions related to the prevalence of particularism, thus providing room for more theoretically and historically informed analyses. In that way, it enables both qualitative and quantitative research and improves triangulation. For these reasons, the social equilibrium theory will constitute the conceptual starting point of the remaining chapters.

[32] For instance, economic growth is an end in itself and not a countermeasure for addressing corruption. Similarly, systems of governance usually constitute the outcomes of particular historical processes and while the choice of a parliamentary over a presidential system (or vice versa), might have an impact on corruption, such an institutional change would entail contextual specificities that forbid such action.

A Qualitative Approach to the Origins of Endemic Particularism: A Case Study of Bulgaria

Modern Bulgarian political history (in times of peace) can be largely divided into five periods with distinct characteristics and impact on the country's political culture: the period of autonomy (1878-1908), the interwar period (1919-1933), the period of communism (1945-1989), the period of transition (1989-2007) and the period of EU membership (2007-present). While all these periods carry increased importance in shaping Bulgarian political culture, academic research emphasis has been disproportionally put on the latter three periods. This paper claims that current corruption-related predicaments have been strongly influenced by the first two periods and that there is continuity in Bulgarian modern history leading to contemporary particularistic culture.

Periods of transition have diachronically constituted turning points for the establishment of good governance regimes and progress towards ethical universalism. In fact, Mungiu-Pippidi sees the World Wars as universal turning points and categorizes countries as "historical achievers", "early achievers" and "contemporary achievers" based on which war the establishment of ethical universalism followed (WWI, WWII or the Cold War).[33] In that context, it can be argued that Bulgaria, throughout its modern history, has experienced more than a few watersheds of this sort. What made the particular national context resistant to change? To answer this question, I will diachronically look at two factors: first, the country's course towards political and economic modernity and second, its cultural-social characteristics with regards to levels of social trust and trust in institutions.

From State-building to WWI

The historical apprehension of the state-building process in Bulgaria until WWI has been dominated by the discourse on the level of political and socioeconomic modernization of the country and the receptiveness of Western European norms. The claim that Balkan countries were slow to adopt "modern" Western values due to the incompatibility of their oriental culture to contemporary trends or due to existing socioeconomic realities (lack of a strong middle class, high illiteracy etc.) has constituted something of an academic cliché. However, starting from the 1970s, another group of academics has convincingly argued that, contrary to popular belief and academic assertions, modernization in

[33] Mungiu-Pippidi et al., Contextual Choices in Fighting Corruption (above fn. 3).

Balkan countries was comparatively faster than in certain central and Western European countries, both in terms of political and socioeconomic development.[34]

In this subchapter, I will claim that the above-mentioned views are not mutually exclusive. While Balkan countries might have been faster to adapt to modern socioeconomic and political values, the process was enhanced by contextual factors such as the "acceleration of global history", which occurred in the second half of the 19th century[35] and the adoption of pre-existing norms and methods (both social and technological) that facilitated the process of modernization. On the other hand, strong interaction and internationalization of politics did not come without cost for Balkan countries. The quality and foundations of both political and socioeconomic modernization based on Western standards proved to be unsound and, to one extent or the other, indeed incompatible to the existing social structures and economic assets of Bulgarian society, thus disturbing the country's historical course towards modernity and sustainable development.

Bulgaria was recognized as an autonomous nation state in 1878 and was one of the last ethnic groups to secede from the Ottoman Empire and establish their own nation state. This comparatively late starting point for the creation of state structures had serious implications on the process of its political and socioeconomic modernization. On the one hand, while enjoying relative political discretion, Bulgaria was institutionally associated and therefore entrapped in the Ottoman governance regime and thus followed the full trajectory leading to the decadence of the Empire.[36] At the same time, the contraction of the country's borders following the Treaty of Berlin (in comparison to the San Stefano Treaty signed earlier in 1878) as well as their inconsistency with the actual proportions of the Bulgarian population, increased irredentism and nationalism and radicalized the political discourse.

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[34] Based on a number of parameters related to political, social and economic modernity such as time and level of political participation and number of socioeconomic development projects (infrastructure, hospitals, schools), Nicos Mouzelis, Politics in the Semi-Periphery. London, New York 1986 finds that modernization in the Balkans took less time than in most Central and Western European countries. Based on Mouzelis' rationale and statistics, Diana Mishkova, Modernization and Political Elites in the Balkans before the First World War, *Eastern European Politics and Societies* 9 (1995), no. 1, 63-89 goes one step further to argue in favor of Balkan nationalism in the process of modernization and to maintain that not only modernization was faster in the Balkans than in France or Germany, but also that in the late 19th century, in certain aspects, Balkan countries were more advanced than the latter.

[35] Selim Deringil, The Invention of Tradition as Public Image in the Late Ottoman Empire, 1808 to 1908, *Comparative Studies in Society and History* 35 (1993), no. 1, 3-29.

[36] Alina Mungiu-Pippidi, Democratization without Decommunization in the Balkans, *Orbis* 50 (2006), no. 4, 641-655; cf. eadem, Democratization without Decommunization. The Balkans Unfinished Revolutions, *Romanian Journal of Political Science* 5 (2005), no. 1, 7-28.

Moreover, Bulgaria's economic preferences during the autonomy period were defined more by the neo-imperialist foreign policy of the Great Powers[37] (more on this below), the humiliating terms of the Berlin Treaty[38] and the concessions made regarding the country's economic dependence[39] rather than on the actual assets and prospects of the Bulgarian economy. Thus, foreign economic penetration overburdened the country's budget through excessive borrowing and, therefore increased taxes, without visible positive impact on smallholders who lacked the resources, the know-how and the proximity for using new technologies to their benefit. This foreign interference and the eventual slowdown of Bulgaria's production output discouraged further efforts for the implementation of development projects (e.g. schools, local roads), which were essential for the creation of a modern and inclusive state.[40]

The distorted model of economic development that was adopted, aiming at concessions of foreign powers, was highly incompatible with the country's social structure. Bulgaria was traditionally an agrarian economy based on subsistence farming. This meant that the level of interaction between farmers and the respective tax-collecting authority during the Ottoman period was not strictly institutionalized. The period of autonomy saw an effort to transform the country according to Western bureaucratic standards. While the peasantry welcomed the abolition of local rulers' dominance, they also looked upon the new bureaucracy with suspicion and fear.[41]

Contrary to other Central and Western European countries, the formation of the Bulgarian bureaucracy was not the outcome of either popular assertion or of escalating pressure by the middle class. Thus, the progress towards modernity preceded the acquisition of the essential tools needed for it to sustainably work. The traditional patrimonial system of governance and the massive concentration of population in rural areas coupled with the formation of a bureaucracy free of societal purpose and points of reference resulted in an uneven construct of gov-

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[37] Leften Stavros Stavrianos, The Balkans Since 1453. New York 1965, 413-420.

[38] Including the obligation to create a number of infrastructure projects (railroads, ports, roads etc.) that would facilitate Great Powers trade.

[39] For instance, the Berlin Treaty forbade import tariffs over 8 % ad valorem. A high tariff regime would provide Bulgaria with the opportunity to improve its current account balance and be more competitive in the increasingly free international market.

[40] John D. Bell, Peasants in Power. Alexander Stamboliski and the Bulgarian Agrarian Union, 1899-1923. Princeton/NJ 1977.

[41] As Stavrianos, The Balkans since 1453 (above fn. 37), 420 has noted: "The state rapidly created a large bureaucracy and army, which in turn involved heavy expenditures and a rising public debt. For the peasant this meant heavy taxes, burdensome service in the army, and periodic forced labor on roads and fortifications. In return for these burdens the peasant received very little from the state. Little wonder that he regarded this new impersonal master as something foreign and fearful. The hatred that he formerly held for the feudal lord he now turned against the bureaucrat, the tax collector and the gendarmerie."

ernance. The Bulgarian state at the time of autonomy constituted an externally imposed artifact to which the bulk of the Bulgarian population could hardly relate. Moreover, people's interest in politics or their self-perception as political creatures was obstructed by massive illiteracy and limited communication to and trust in state structures.

This is not to say that the structure of Bulgarian society was so unique or dissimilar to developed Western European liberal democratic states at the time of their establishment. However, it is certain that the functions of Bulgarian bureaucracy in the late 19th century, that is the era of booming capitalism and globalization, were far greater and more demanding (for instance, internationalized trade necessitated the knowledge of foreign languages, international trading rules etc.) than a few decades earlier. On the other hand, the role that state bureaucracy came to play in Bulgarian society at that particular time was much more extensive and its implication much less gradual than the respective bureaucracies in Central and Western Europe.

Thus, it can be argued that the transformation of the country towards a modern Western-style nation state imprinted the highly intrusive period of (neo)-imperialism and constituted an indication of the Great Powers' aspiration for dominance through economic manipulation of the backward Balkan countries. As Kosseva et al. have noted:

> "The Bulgarian economy – underdeveloped and peripheral as it was – entered the 20th century almost completely opened to the outside world and as such was extremely vulnerable."[42]

Although the influence of the Great Powers has been somewhat diminished due in part to the ability of Balkan politicians to utilize the competitiveness of the Great Powers in order to improve their own position,[43] their implication stalled the process of political and economic modernization of the countries.

Overall, these features of the state-building period, while leading to temporal economic growth, eventually resulted in an unsound model of political and economic modernization. This fact, together with the devastating effect of being on the losing side of two consequent, catastrophic wars, left Bulgaria behind in very unfavorable terms with regards to building a sustainable open access regime. These included frustrated and apathetic peoples, destroyed production

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[42] Maya Kosseva / Antonina Zhelyazkova / Marko Hajdinjak, Catching up with the Uncatchable: European Dilemmas and Identity Construction on the Bulgarian Path to Modernity (Bulgarian Case Report). [Sofia] 2009 (International Center for Minority Studies and Intercultural Relations (IMIR), 20, available at <http://www.imir-bg.org/imir/reports/Catching_up_with_the_uncatchable.pdf>.

[43] See for example Barbara Jelavich, History of the Balkans. Vol. 2: Twentieth Century. Cambridge 1983, 22f.

assets and exhaustive external debt, as well as the survival and prevalence of the old nationalistic-patrimonial political order.

The Interwar Period

The early interwar period provides an excellent example of the strong resistance of Bulgaria's patrimonial political order to change while constituting an era of increased importance for its enhancement. The end of WWI brought along a positive momentum for the reform of the Bulgarian state away from the bad governance patterns that prevailed in the autonomy period. The war experience had provided a large segment of the population with the opportunity to travel and be acquainted with contemporary achievements, both technological and social. During the same period, Bulgaria, along with other Balkan countries, saw the rise of new powers in the political arena which targeted lower social classes. Namely, these were the Communist Party and, more importantly, the Agrarian Union under Alexander Stamboliski.

Both these facts could potentially induce public participation for a larger part of the population that would, in turn, set the framework for political and economic development. Nevertheless, the Bulgarian political culture of the 1920s did not constitute fertile ground for these developments. The models of political and economic development supported by Stamboliski while being compatible with the socioeconomic features of Bulgaria (e.g. a massively agrarian economy / population, a traditional social structure, the economic inability to sustain a large bureaucracy and army etc.) clashed with the embedded interests of the former urban ruling classes and the old patrimonial order.[44] This led to a coup d'état and the assassination of the Agrarian Union leader in 1923.

Stamboliski, following his narrow electoral victories in 1919 and 1920, had achieved a massive victory in the 1923 election and enjoyed a wide parliamentary and popular support. His achievements consisted in the modernization of production, land redistribution,[45] accessibility and the cost of justice; this had made him very popular among the rural population that constituted around 80 % of the country's overall population. Nevertheless, his overthrow was met with hardly any resistance. This non-mobilization indicated the endemic political apathy and lack of trust at all levels (self, society, institutions) result-

[44] Todor Tanev (Professor of Public Administration, University of Sofia), Personal Interview, 27.12.2012.

[45] According to data from 1926 presented by Stavrianos, The Balkans since 1453 (above fn. 37), 647, 80.6 % of farmers tilled their own land, 16.8 % owned their plot but found it necessary to rent additional land and 2.6 % rented all the land they tilled.

ing from the strong patrimonial order of the state-building period and the lost wars that followed.[46]

The violent overthrow of the Agrarian Union led to the perpetuation of an unsound model of political and economic governance that aimed at forced modernization of the massively agrarian Bulgarian economy based on Western standards. This aggravated existing grievances and social divisiveness and diminished the appeal and prospect for political participation. At the same time, it restored the pre-WWI patterns of political discourse of nationalism that contributed to the preservation of populism as the main mobilization tool and a main obstacle to the country's political modernization. Finally, it can be (here only intuitively) argued that the violent end of the Agrarian Union was not irrelevant to the wrong choice of sides Bulgaria made in WWII.

This, of course, is not to say that the vision of the Agrarian Union imprinted standards of good governance as they are perceived today. However, it is also true that the prospect of minimization of state resources (curtailing the public sector through the enhancement of local organizations, enabling access to justice, land redistribution) as well as the investment in existing (traditional) normative values made good sense for reducing particularism and instilling a long-term political perspective. Conversely, the following period saw the rise of numerous governments (usually non-democratic) that invested in the expansion of bureaucracy and development of city centers and created a culture of favoritism, inequality and suspicion between rural and urban populations.

Overall, the case of Bulgaria during the pre-Communist period fostered a culture of extreme discretion with no or minimal constraints, either normative or legal, that led to a culture tolerant of corruption while undermining the modernization of the country.[47] While the lack of legal constraints was largely shared with most European states at the time, it is evident that both the model of economic development and the societal structure of Bulgaria further obstructed the creation of proto-normative constraints in the form of a unitary state structure or a self-aware civil society while rapidly accumulating resources of the state.

The Communist Period

The communist period has almost universally been identified as one of the main origins of the contemporary challenges Bulgaria faces in its struggle with

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[46] As Mutafchiev has successfully noted: "With shattered ideals and humiliated morality, we lost all of our internal support and faith in ourselves, and started to wander without any goal or direction, turning into a promised land for foreign influences, denying all that is ours, even our existence as a nation." See Petăr S. Mutafčiev, Kniga za bălgarite. Sofia 1987, 160f., cited from Kosseva / Zhelyazkova / Hajdinjak, Catching up with the Uncatchable (above fn. 42), 9.

[47] Bell, Peasants in Power (above fn. 40), 5-7.

endemic corruption. Similarly to the previously analyzed periods, the prevalence of particularism during the Socialist period was related to the unsound foundations and the unsustainability of the modernization process as well as its implications on societal trends. Thus, while the Bulgarian economy's dynamic modernization brought about economic growth and generalized nominal income parity,[48] the Communist regime also featured a culture of massive atomization and a break with existing moral values[49] as well as an unsound model of economic development.

For Bulgaria, a country that had already experienced closed access regimes and patrimonial order, the social impact of communism was grave. The existing social structures, based on "communitarianism" that lagged far behind modern modes of governance, but still constituted a viable organizational structure of an agrarian country, were violently terminated. Consequently, low level of trust towards state authorities was transformed into widespread lack of social trust deriving from the non-familiarization of people with this new state structure. This trend was further enhanced by the project of forced industrialization that hindered rural development and disintegrated traditional organizational arrangements.

Another central point regarding the impact of socialism on Bulgarian society is related to the effect of the prominent role of the Party in the process of social / professional advancement. Patrimonial order during the Communist regime, manifested in widespread nepotism and favoritism, led to social disintegration and frustration amongst large parts of the population. On the one hand, this contributed to the lower quality of services and the limited functionality of the public administration. On the other hand, it lowered the moral standards of Bulgarian society, thus, legitimating and socially embedding atomization.

Therefore, it can be argued that through economic modernization, instead of progressing, the Bulgarian society actually regressed as the regime reinstated and legitimized pre-modern kinship as well as clannish structures and mentality. The informal networks started carrying increased significance for the management of the state. The established system of privileges and total social control thus completely disavowed the concept of a modern state of freedom and equality.[50]

One further reason for the violent dissolution of existing social structures was related to the dramatic enforcement of the role of the police and the secret

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[48] Rosen Vassilev, Modernization Theory Revisited: the Case of Bulgaria, *East European Politics and Societies* 13 (1999), no. 3, 566-599.

[49] Tzvetan Todorov, Voices from the Gulag: Life and Death in Communist Bulgaria. University Park/PA 1999, 1-37; Milada Anna Vachudova, Europe Undivided: Democracy, Leverage and Integration after Communism. Oxford 2005, 1f.

[50] Kosseva / Zhelyazkova / Hajdinjak, Catching up with the Uncatchable (above fn. 42), 21.

services. As Todorov has put it, Bulgarian society during communism was divided into three categories: nomenclature, state enemies and everybody else.

> "Totalitarian society, like democratic societies, is the opposite of traditional cultures: it is an intensely competitive world fuelled by personal ambition […] the only limit is that imposed by rival groups and individuals. The widespread practice of denunciation and servility explains the general decay of moral values, as well as the flourishing cynicism in totalitarian societies."[51]

Moreover, under the influence of decreasing levels of social trust among the majority of Bulgarians as well as the growing amorality that was spurred by popular disenchantment with the Communist regime and its ideals, a large segment of the population cooperated with the secret services with the task of pointing out regime enemies. In a context where relations with the state were definitional of the level of professional and economic advancement, this became a menace that gradually dissolved what little social capital was enjoyed by Bulgarian society and consequently, led to an opportunistic race for the bigger slice of the pie.[52] The state being the only employer and benefiting from this situation heavily invested in the self-perpetuating lack of social trust. Finally, the role of the church, an institution which was seen by many as a counterbalance to state arbitrariness, and its widespread covert cooperation with the Party throughout the communist period[53] had a detrimental long-term effect on social trust and trust of institutions.

Furthermore, the scarcity of resources and the chronic shortages that characterized the Communist regimes resulted in the "legitimization" of corruption as a way of bypassing bureaucratic bottlenecks. While this seemed like a viable way of oiling the rigid socialist machine, its generalized nature fostered extremely negative social predicaments. The nominally egalitarian socialist system of governance through its secretive activities provided room for a continuous increase of underground discrepancies. The holders of the higher positions had the opportunity of acquiring larger favors or giving more generous bribes and, thus, increase their relative social advantage. This in turn led the trust in institutions and the system as a whole to collapse.

Contrary to certain central European countries such as Hungary and Czechoslovakia where a level of intellectual and social opposition was tolerated and even supported,[54] in Bulgaria there was no tolerance for dissidence of either

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[51] Todorov, Voices from the Gulag (above fn. 49), 8.

[52] Ibid., 10.

[53] According to the archives opened gradually throughout the transition period, approximately 70 % of the clergy were cooperators of the Party. Alexander Stoyanov (Director of Research, Center for the Study of Democracy), Personal Interview, 27.12.2012; Tanev, Personal Interview (above fn. 44).

[54] H. Gordon Skilling, Opposition in Communist East Europe, in: Robert A. Dahl (ed.), Regimes and Oppositions. New Haven 1973, 89-119, 97.

intellectuals or the civil society.[55] This had to do, first, with the diachronic lack of a middle class that would create and consume intellectual activity and with the lack of a civic culture among the Bulgarian population. Second, Russia's intensive support of the formerly underground Bulgarian Communist Party and the latter's networking in society, led to mass prosecution of intellectuals in the initial period of communism[56] and left the country with literally no dissident movements or activists that could generate collective action.

Finally, the communist period fostered a further social disintegrating effect that had to do with interethnic tensions.[57] These tensions were derived from the poor balance between historical evolution and the borders defined in WWI treaties,[58] on the one hand, and the attempt of the Communist regime to forcefully assimilate the Turkish population on the other. The result was the escalation of ethnic tensions and autonomy assertions by segments of the Turkish population after the fall of communism that partially derived from BCP's strong-handed policy. This constituted a serious blow to the country's democratic transition,[59] therefore, diminishing social cohesiveness and impeding political modernization.

Post-Communism Transition

While both the state-building process and the period of communism strongly influence the quality and pace of Bulgaria's transition towards good governance, the period of post-communist transition itself constituted a starting point for certain pathogeneses of Bulgarian society. First and foremost, these had to do with the transfer of century-old bad governance practices, severely enhanced by the widespread informality / amorality of the communist era, into a globalized market economy. The result was the creation of a mafia-like system of close interaction between state authorities and business people that resulted in an oligarchic structure whose impact is going to be discussed in the present subchapter.

The fall of the Iron Curtain in 1989 constituted an existential shock for Bulgaria. In fact, Bulgarian society had hardly made use of the opportunities provided by Perestroika and Glasnost, partly due to the character of its leadership and

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[55] Vachudova, Europe Undivided (above fn. 49), 27f.

[56] Tanev, Personal Interview (above fn. 44).

[57] Luan Troxel, Bulgaria, in: Zoltan Barany / Ivan Volgyes (eds.), The Legacies of Communism in Eastern Europe. Baltimore/MD 1995, 227-244, 239.

[58] Mungiu-Pippidi, Democratization without Decommunization (above fn. 36), 11.

[59] According to Juan Linz / Alfred Stepan, Problems of Democratic Transition and Consolidation: South Europe, South America and Post Communist Europe. Baltimore, London 1996, 5f., "behaviorally, democracy becomes the only game in town when no significant political groups seriously attempt to overthrow the democratic regime or secede from the state".

partly due to the reasons analyzed in the parts about the interwar and the communist periods. The reflexes of society as well as the receptiveness of change were extremely low. Thus, while Chapter 77 in Czechoslovakia or the Solidarity movement in Poland had opened a large space for non-Party politics,[60] this was not the case with Bulgaria.

Opposition elites were weak or absent in 1989 in Bulgaria, leading the transition to take the form of a "pre-emptive strike" by nomenclature factions.[61] Thus, while most central European states immediately freed themselves from the unpopular communist elites and established a liberal form of governance, in Bulgaria the existing communist elites, taking advantage of the lack of normative constraints and their monopolistic control over state resources (e.g. the media), managed to stay in power for almost a decade. The result of that period was the establishment of what Vachudova has referred to as an "illiberal democracy".

This "illiberal democracy" used the same practices as the communist regime regarding governance (clientelism, populism, media and control over the judiciary)[62] together with nationalism exercised against national ethnic minorities. Its impact during the first post-communist decade was dual.

First, it further aggravated the already low levels of social trust and trust in institutions. The ineffectiveness of governments and the political system at introducing reform in a socially just, and sustainable manner (as in the case of Bulgarian Socialist Party administration) or to effectively communicate it to the public (as was the case with the Union of Democratic Forces) as well as its universal inability to cut the ties with corrupt private interests and refrain from particularistic practices led to the widespread denunciation of politics and the political elites.

Second, it spoiled the collective action momentum deriving from the changes in 1989, thus hindering the process of transition towards good governance. The revival (or birth) of Bulgarian civil society was doomed to occur under unfortu-

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[60] Katherine Verdery, What Was Socialism and What Comes Next? Princeton/NJ, Chichester 1996, 105.

[61] This interesting phrasing is attributable to a critique of Vachudova's work by Sean Hanley, available at <http://www.academia.edu/1771187/Review_of_Milada_Anna_Vachudova_Europe_Undivided>. The original idea is cited in Vachudova, Europe Undivided (above fn. 49), 38-40, 50-52. This apprehension of Vachudova has been challenged, as to its connotations rather than content, by other scholars. According to an interesting analysis of Vassilev, Modernization Theory Revisited (above fn. 48), 566-599, during the last decade of the socialist regime, dissident "middle class" movements within the Party grew increasingly strong. Their dynamism, coupled with the events of 1989 led to the weakening of traditional Party elites and, eventually, to the end of communist rule.

[62] Indicatively, in 1994 the BSP introduced a judiciary bill according to which only those who had five years of experience were eligible for high judicial office. This, of course, meant that the only people who could run for these positions were the ones trained under communists. Cited in Richard Crampton, The Balkans Since the Second World War. London 2002, 313f.

nate circumstances such as social erosion, threats from sources of incivility such as poverty, unemployment and widespread criminality.[63] These unfortunate circumstances, reinforced by the widespread cynicism that was cultivated by the communist regime, the survival of the corrupt political system after 1989, and the generalized political and economic instability, prevented the creation of a culture of social mobilization and participation and led the bulk of the, newly established, business sector of Bulgaria to the comfortable embrace of clientelism.

In that context, the transition period created deep dividing lines in Bulgarian society. It allowed the outright pilfering of state assets that rendered individuals wealthy overnight with no risk of prosecution due to the strong control of the Socialist Party over the judiciary. At the same time, it enhanced the existing "mafia" in the form of interconnectedness of the state and illegal fraudulent businessmen.[64] These unfair and uneven conditions created a steep distinction between winners and losers of corruption that has a strong divisive impact until this day while managing an almost incurable blow on popular trust and encompasses the complete mistrust of the political and economic elites of the country.

Nevertheless, the transition period also saw the first steps of the Bulgarian society towards good governance. The struggling of power between the Bulgarian Socialist Party and the Union of Democratic Forces (especially from 1994 onwards), while bitter, tactless and divisive, in fact constituted the first semblances of political plurality conducted under relative freedom and fairness. In that way, it moved the country's system of governance from patrimonialism to competitive particularism. Sequentially, starting from the elections in 2001, the political system was fragmented with no embedded groups of interests and clients being in power ever since. While it cannot be argued that the fall of the traditional parties ended the particularistic order, which is constitutionally protected and still strong,[65] it is certain that they diminished the available resources for governments, therefore increasing the prospects of more effective control of corruption.

Finally, the transition period saw the first agreement between the Bulgarian political elites as to the content of the administrative reform that was in place. After the first three governments, a widespread agreement on the country's Euro-Atlantic end target was reached for the first time in Bulgarian politics. The prospect of Euro-Atlantic accession provided an alternative vision for the Bulgarian society and while the political distrust continued (table 2), the appeal of the

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[63] Emil Giatzidis, An Introduction to Post-Communist Bulgaria: Political, Economic and Social Transformation. Manchester 2002, 117.

[64] Ibid.; Stoyanov, Personal Interview (above fn. 53).

[65] The restitution of a unitary system of governance that undermines the division of power and constitutes a continuation of the long culture of state subordination to the ruling faction has rendered particularistic order in Bulgaria especially strong. Cf. Tanev, Personal Interview (above fn. 44).

EU increased. This led Bulgarians to put their hopes in the EU and turn their backs on domestic politics. However, the question that needs to be answered is: has the European Union the potentials to live up to these expectations?

The European Union's Anti-Corruption Policy in the Context of Enlargement: Reasoning the Ineffectiveness of the CVM on Bulgaria

Bulgaria has been the recipient of the most comprehensive EU anti-corruption action to date. Beyond conditionality-derived leverage in the pre-accession period, its equal status as a member state was also subjected to the newly established Coordination and Verification Mechanism (together with Romania). The CVM rendered Bulgaria's EU funding conditional upon stepping up reform of the judiciary, its anti-corruption, and anti-organized crime efforts. Bulgaria was the only country that has been sanctioned by the CVM in 2008 due to its limited progress at addressing corruption and organized crime, thus indicating an ever higher level of EU commitment and determination for curtailing the phenomenon.

Bulgaria has diachronically been prompt at ratifying anti-corruption measures requested by the Union, even beyond norms agreed upon by existing member states.[66] Both the last regular report of the European Union[67] and the annual reports of the CVM (from June 2007 onwards)[68] recognized this fact and approved Bulgaria's legal reform efforts. However, Bulgarian anti-corruption policy failed to look at corruption as a development-impeding issue with social and political origins and implications; instead, it emphasized on the criminal law aspect of the phenomenon. Thus, while both reports concluded that the legal framework had been satisfactorily put in place, they stressed that implementation constituted a serious challenge for the country.[69]

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[66] Boyko Todorov, Anti-Corruption Measures as Political Criteria for EU Accession: Lessons from the Bulgarian Experience. [Bergen] 2008 (Chr. Michelsen Institute (CMI), U4 Brief No. 5, February 2008), available at <http://www.cmi.no/publications/file/2956-anti-corruption-measures-as-political-criteria-for.pdf>.

[67] Commission of the European Communities, Comprehensive Monitoring Report on the State of Preparedness for EU Membership of Bulgaria and Romania. Brussels 2005, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2005:0534:FIN:EN:PDF>.

[68] European Commission, The Reports on Progress in Bulgaria and Romania, available at <http://ec.europa.eu/cvm/progress_reports_en.htm>.

[69] A quote from the first CVM report in 2007 is in place: "Bulgaria adopted constitutional amendments which ensure the independence of the judiciary and provide for the creation of an independent judicial inspectorate to monitor the integrity of the judiciary and follow-up on complaints." See Commission of the European Communities, Report from the Commission to the European Parliament and the Council on Bulgaria's Progress on Accompanying

This implementation deficit was to an important degree derived from two systemic shortcomings that impaired the effectiveness of its anti-corruption policies: the widespread corruption among judicial bodies that undermined the enactment of existing standards; and corruption among political elites that impaired the quality of law-making. Figures from Transparency International's Global Corruption Barometer clearly imprint the very low trust of Bulgarians in the national institutions which are considered most essential for addressing corruption.[70] At the same time, they underline the highly challenging and time-consuming nature of the problem which necessitates the enhancement of trust among citizens (social trust) before an actual containment of the phenomenon can be realized.

Besides, according to the previously analyzed "principal-agent" typology, these two factors render any effort to address the phenomenon unviable as long as "principals", being corrupt themselves, cannot stimulate good governance through either legal or managerial decisions which will be hindered by their personal, self-seeking unduly considerations. Conversely, the "social equilibrium" theory appears to be more relevant in the particular context. Incentives are of utmost importance for reversing anti-corruption momentum and rendering corruption a negative sum game for the country's "principals". Following the insights provided by Eurobarometer surveys in tables 2[71] and 3[72], Bulgarians' low trust in and expectations of national institutions and their high levels of trust in EU institutions have rendered the European Union the key player in anti-corruption efforts with the underlying mandate of providing these incentives to achieve a radical change of existing practices.

Nevertheless, it appears that neither the leverage of the Union is enough to induce a systemic change nor is its political will and determination enough to change existing equilibria. The freezing of EU-funds in 2008, though a seemingly strong action, made hardly any difference on the country's effectiveness

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Measures Following Accession. Brussels 2007 (COM(2007) 377 final, 27.06.2007), 6, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0377:FIN:EN:PDF>.

[70] The latest Transparency International's corruption perceptions indicates that the judiciary (4.3/5.0) closely followed by political parties (4.1/5.0) and the parliament (3.9/5.0) are considered the most corrupt bodies in the country. See Transparency International, Global Corruption Barometer 2012, available at <http://gcb.transparency.org/gcb201011/results/>; cf. Todorov, Anti-Corruption Measures (above fn. 66).

[71] European Commission, Standard Eurobarometer. Public Opinion in the European Union. Brussels 2007-2012 (Standard Eurobarometer, No. 67, 68, 69, 70, 71, 72, 74, 76, 77), available at <http://ec.europa.eu/public_opinion/archives/eb_arch_en.htm>.

[72] European Commission, Corruption Report. Brussels 2012 (Special Eurobarometer 374), available at <http://ec.europa.eu/public_opinion/archives/ebs/ebs_374_en.pdf>; European Commission, Attitudes of Europeans towards Corruption. Full Report. Brussels 2009 (Special Eurobarometer 325), available at <http://ec.europa.eu/public_opinion/archives/ebs/ebs_325_en.pdf>.

Table 2. Eurobarometer Survey 2007-2012.

Trust (%)	*EUbar 67*	*EUbar 68*	*EUbar 69*	*EUbar 70*	*EUbar 71*	*EUbar 72*	*EUbar 74*	*EUbar 76*	*EUbar 77*
Government	22	16	17	15	17	29	34	38	16
Parliament	14	11	12	8	10	30	20	25	14
Political Parties	10	9	7	7	13	16	-	-	-
EU	54	58	63	58	63	69	65	59	59

Source: fn. 71.

Table 3. Eurobarometer Survey 2009, 2012.

	Bulgaria 2009	*EU average 2009*	*Bulgaria 2012*	*EU average 2012*
EU helps in reducing corruption in your country (%)	64	33	46	22
Government efforts to address corruption are effective (%)	28	25.1	29	22

Sources: fn. 72.

at addressing corruption which has been stagnant with minor fluctuations ever since (see figure 1).[73] One of the main reasons for this result was that sanctions were not coupled with a strong and targeted CVM report that would increase liabilities for corrupt members of political elites. On the contrary, the generic language used in reports, the lack of clear benchmarking (except from Benchmarks I and II related to the constitutional and legal structures) and the restoration of EU-funding in 2009, largely compensated the latter and underlined the EU's unwillingness or inability to take further drastic action for inducing change.

The reason for that can be found first in the EU's own considerations regarding its public image and the need to preserve pro-EU momentum in Bulgaria; second, in the legitimacy issues that would be raised in case of a more dynamic EU involvement; and third, in the political impact the latter would involve. The European Union's involvement and capacity to sanction a country on corruption-related grounds is restricted to cases where the functioning of the common market or the Union's financial interests are impaired.[74] Starting from the Maastricht Treaty and the inauguration of the pillar structure, the competence for law-making regarding corruption was placed under the third intergovernmental pillar.

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[73] World Bank, Worldwide Governance Indicators (above fn. 1).

[74] Treaty Establishing the European Economic Community, Rome, 25.03.1957, Articles 95 and 308, available at <http://www.ab.gov.tr/files/ardb/evt/1_avrupa_birligi/1_3_antlasmalar/1_3_1_kurucu_antlasmalar/1957_treaty_establishing_eec.pdf>.

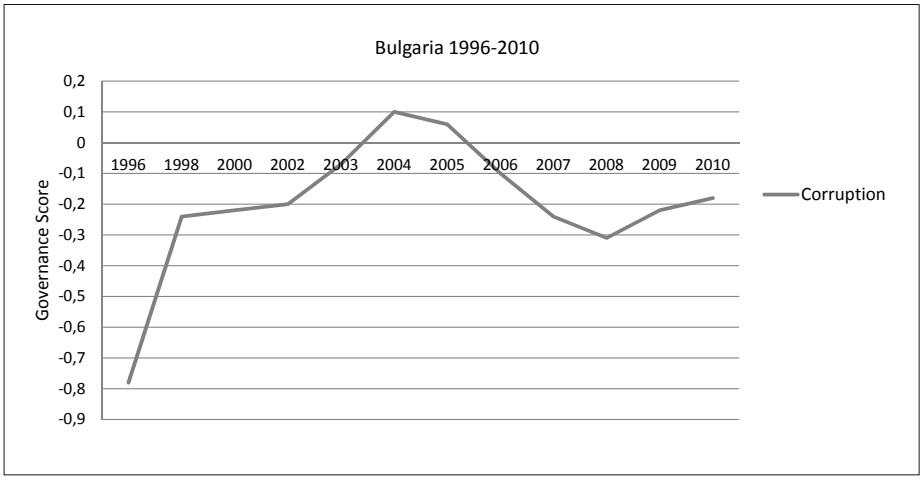

Figure 1. Worldwide Governance Indicators: Corruption. Source: fn. 73.

However, decisions had to be taken by a wide majority or even unanimity[75] thus rendering policy making dysfunctional and placing anti-corruption in the category of hardcore sovereignty issues.

In that context, the evolution of EU's anti-corruption acquis has been slow and fragmented.[76] This, while outside the scope of the paper, primarily resulted from member states' unwillingness to institutionalize standards that could bind them to reform their legal frameworks and would not be easily communicated to voters.[77] At that same time, stronger Union implication would minimize the flexibility of their business environments and it would not imprint the specificities of each country's perception of corrupt practices and organization of public sectors.

This timid institutional evolution of EU anti-corruption strategy resulted in largely legalistic apprehensions of the phenomenon (lower common denominator rationale) and in limiting EU methodological instruments and areas of

[75] At least until the ratification of the Lisbon Treaty that raised a whole new debate on the process of law making and its impact on EU integration. According to leading experts Geyer and Carrera, the provisions of the Lisbon Treaty in the field of Justice and Home Affairs could result in much less policy integration and much more enhanced cooperation. For a detailed overview see Sergio Carrera / Florian Geyer, The Reform Treaty and Justice and Home Affairs. Implications for the Common Area of Freedom, Security and Justice. Brussels 2007 (CEPS Policy Brief No. 141, 17.08.2007), available at <http://aei.pitt.edu/7534/1/141.pdf>.

[76] It is indicative that the first Anti-corruption Protocol that was set out for signing by the member states in 1997 was finally ratified in 2002 while the second Protocol (PIF II) set out for signing in 2003 has not yet been ratified by all member states.

[77] Patrycja Szarek-Maison, The European Union's Fight Against Corruption: The Evolving Policy Towards Member States and Candidate Countries. Cambridge 2010, 43-87.

competence for addressing the phenomenon. The CVM is highly indicative of these shortcomings. Its application and the compliance of recipient countries (Bulgaria and Romania) can be said to be more related to the perpetuated uncertainty and asymmetry[78] of their relation to the EU post-accession, rather than to its compatibility with EU constitutional order per se, which is highly debatable.

The main conceptual and methodological shortcomings of the CVM can be summed up as follows:

1. Strong reliance on data provided by the Bulgarian state and institutions,[79] which are believed to be prone to corruption and/or undue pressures.
2. Inability to sanction implementation deficits (outside the scope of EU financial interests and the functioning of the common market) due to limited EU competence in this area for existing member states.
3. Top-down approach: limited involvement of intermediary bodies which stand on the opposite side of the state and represent the losing side of corruption as well as of independent civil society organizations.
4. Civil society organizations' funding through local institutions[80] (which are considered highly prone to corruption and have an interest in maintaining the existing state of affairs).
5. Generic / Carefully balanced language which equals low pressure on political elites.
6. Strong emphasis on legal transposition of good practices, which is irrelevant where the essential framework for the implementation of these practices has not been embedded.

In that context, it appears that, as was the case with pre-accession conditionality and the respective instruments (regular reports, accession partnerships) for the 2004 enlargement, the impact of the CVM can only be marginal in the medium- and long-term. The EU would have to emphatically step outside its mandate to provide tangible incentives for both the Bulgarian elites and constituencies and inspire trust. However, this is highly unlikely; first, because the EU lacks the instruments and the legitimacy to provide these incentives through stronger action (more involvement in a country's domestic affairs); and, second, because existing member states would prevent such a precedent that could potentially jeopardize their own policy making discretion.

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[78] Based on the typology in Heather Grabbe, A Partnership for Accession? The Implications of EU Conditionality for the Central and East European Applicants. Florence 1999 (European University Institute (EUI), Robert Schuman Centre Working Paper 12/99), availabe at <http://www.esiweb.org/enlargement/wp-content/uploads/2010/01/grabbe_conditionality_99.pdf>.

[79] Although, opposite to the Regular Reports, some efforts for diversification of data through the inclusion of NGOs and local administration have been undertaken.

[80] Todorov, Anti-Corruption Measures (above fn. 66); Mincho Spassov (Former Chair of the Internal Security and Public Order Committee), Email Interview, 18.12.2012.

Thus, the CVM, while being a rather blunt post-accession conditionality tool with important competencies and potentials, can only be complementary to and dependent on committed domestic efforts that would largely define its effectiveness. The reasons for the lack of political will on behalf of Bulgarian political elites who maintain existing realities and render the CVM largely obsolete will be analyzed in the following concluding chapter.

Conclusions

This paper claimed three things: first, that the underlying challenge of Bulgaria as regards good governance is not corruption but the socially embedded culture of particularism; second, that Bulgaria's contemporary problems with particularism are derived from a historical continuity and cannot be solely attached to the period of communism and transition; and, third, that the European Union's policy both prior and post-accession through the Coordination and Verification Mechanism has little chance of generating a change in political culture in the medium- and long-term.

Transitional periods are of vital importance for the prevalence of good governance standards. Primarily, because they create the essential pressure on the political systems (restrain resources) and generate the necessary mobilization (enhance normative constraints), thus rendering corruption a negative sum game for rule making elites. However, in order for that to occur, there are certain contextual prerequisites that need to be fulfilled in order for the transitional dynamics to unfold. These are related to the existence of social trust and, consequently, of a civil society, with the proper pressure tools and channels for applying political leverage as well as a level of modernity that allows communication and information.

This was never the case with Bulgaria. On the one hand, modernization, both political and economic was never achieved in a sustainable manner. This was partly derived from the unsound socioeconomic and political foundations upon which the efforts of modernization were realized. At the same time, sustainable modernization was undermined by the continuously populist political discourse that imposed a short-term perspective and marginalized, politically unprofitable, long-term strategy devising. In turn, this led to a series of ineffective policies which resulted in accumulated social distrust and political apathy.

On the other hand, political elites, predictably built on the pre-existing culture of particularism and political apathy, in order to survive and reap the benefits provided by transitional periods. In that way, they diachronically controlled all resources while lacking constraints (e.g. a solid legal framework, an independent judiciary, a strong civil society). The unitary system of governance and the concentration of power in the hands of ruling elites was a self-perpetuating

reality that worked in favor of narrow circles of interest. This resulted in the minimization of respect for the Rule of Law while fostering and gradually enhancing social divisiveness.

Causes of particularism such as low social trust or a lack of trust in institutions are embedded in the hardcore of belief systems of a large part of the Bulgarian population. Thus, endemic particularism has gradually become immune to change and has rendered strong incentives indispensable. The European Union, for reasons that clearly lay outside the scope of this paper, pursued for itself the role of the driver catalyst for change in the post-Cold War era. However, the case of Bulgaria indicated that external pressure, even in a system of close interaction between nation-states and international institutions, and of decreasing policy making discretion for national governments, cannot generate systemic changes regarding good governance. It also highlighted the resistance of particularistic political interests to democratization and economic liberalization. Thus, while transition to democracy and a market economy constituted the great success story of EU enlargement, corruption and particularism as intervening aspects of both processes were not affected by the Union's conditionality.

The European Union seems to lack the capacity and incentives for instating good governance principles in Bulgaria for numerous internal reasons. A first reason certainly was the strong resistance on behalf of the governments of "old" member states to broaden the mandate, with which supranational instruments could be wielded when tackling corruption, and which would develop more inclusive perceptions of the phenomenon and uphold integration. Consequently, another reason is the lack of instruments and of leverage / competence of the EU's supranational instruments for applying political pressure and scrutinizing the activities of the ruling elites. A third reason is related to the narrow legalistic conception of corruption and its origins among the governments of member states that led to respective policy making directives. A final reason can be found in the fragmented perception of good governance among old member states that resulted in nebulous anti-corruption conditionality.

In general, it appears that the problem targeted by the Union is different than the actual one in the case of Bulgaria. Even if the proper pressure tools were in place, curtailing particularism would not be possible, at least in the short-term, because it would entail a universal agreement of EU member states on the principles of good governance. However, this agreement currently seems as unrealistic and as subjected to domestic pressures as ever. Moreover, it would necessitate strong action, political will and continuous pressure of supranational institutions. This also seems currently unsustainable. First, due to the lack of leadership and strategic vision of EU institutions (which was emphatically outlined through the essence and application of the CVM) and second, due to the

vulnerable negotiating position of the Union deriving from growing popular disenchantment and continuous economic crisis.

However, on an optimistic note, the impact of communization of Bulgarian citizens to other Europeans where the prevalence of good governance or the tools for asserting it are more widespread, indicate that not all is lost. It can be argued that the systemic prerequisites analyzed earlier are slowly being put in place. Bulgaria's civil society is growing and becoming more assertive in its attitude to the country's leadership (which appears to be much less receptive to the Europeanization of governance practices than its constituencies). The growing number of independent civil society organizations scrutinizing governmental work indicates a positive trend in the Bulgarian society.

As regards the theoretical claims of Mungiu-Pippidi, it appears that normative constraints are of utmost importance for the control of corruption and that they constitute both necessary and sufficient conditions for reducing corruption in democratic contexts. On the contrary, the emphasis put on legal constraints in contemporary literature is hardly justifiable and can be easily misunderstood or manipulated. In a system of globalized market economy and especially in the context of the European Union, strong anti-corruption laws will be, sooner or later, put in place. However, their implementation is a different question and a more vital one and is strongly related to people's readiness to challenge long-lasting particularistic mentalities, enhance social trust, and generate collective action. In that case, it would not take long before political elites follow suit.