

**CONTROLLING CORRUPTION OR
CONTROLLING STATES?
EU AND ANTI-CORRUPTION POLICIES:
THE CASE OF BULGARIA AND ROMANIA
2000-2008**

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ABSTRACT

This thesis challenges the idea that the EU anti-corruption policies' main rationale is to root out corruption. The research hypothesis is that EU anti-corruption policies are used not so much to control corruption as to control and diminish the powers of nation states and to redesign the classic power balance in these democratic states. The actors who end up being empowered are supranational, international and non-governmental entities: the EU/ the European Commission, International Organizations and domestic civil society with a pro-EU agenda. The domestic decision-makers are structurally disempowered by the anti-corruption policies.

The lessons derived from the specific experience of Romania and Bulgaria have a general value because their model inspired the recent decision of the European Commission to introduce the same anti-corruption policies across the EU.

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LIST OF ABBREVIATIONS

APADOR-CH	Association for Protection of Human Rights in Romania – Helsinki Committee
CCP	Coalition for a Clean Parliament
CSD	Centre for Study of Democracy
EC	European Commission
EP	European Parliament
EU	European Union
FH	Freedom House
IMF	International Monetary Fund
LDP	Liberal Democratic Party
NLP	National Liberal Party
NMS II	National Movement Simeon II
OSCE	Organisation for Security and Cooperation in Europe
OJ	Official Journal
OSI	Open Society Institute
SAR	Romanian Academic Society
SDP	Social Democratic Party
TIR	Transparency International Romania

TJA	Truth and Justice Alliance
UN	United Nations
UNDP	United Nations Development Program
USAID	United States Agency for International Development
WB	World Bank

CHAPTER ONE

Introduction

Ever since 1996, when James Wolfensohn, President of the World Bank, declared corruption as “public enemy number one” of economic development, the phenomenon became a matter of global concern and global governance. At Stockholm in 2009, the EU declared that corruption was “a transnational threat that challenges the EU internal security”. The EU decided it needed to take charge, “since the problems associated with corruption cannot be adequately solved by Member States alone”. In doing so, the Commission built up its Anti-Corruption strategy, based on mechanisms and policies developed in Bulgaria and Romania: “The only EU monitoring tool that also covers the anti-corruption issue is the Cooperation and Verification Mechanism for Romania and Bulgaria, which has managed over time to maintain or revive a certain momentum for reforms” (Commission 2011:9). Also in 2014, the Commission would release its first Anti-Corruption Report for all EU countries, explicitly following the model of the CVM for Bulgaria and Romania: “The EU Anti-Corruption Report also builds on the Cooperation and Verification Mechanism (CVM), a post-accession follow-up mechanism for Romania and Bulgaria that is managed by the European Commission” (Commission 2014:38).

Significantly, the perception of corruption changed from being a parochial problem, affecting a few former communist countries (e.g. Bulgaria and Romania), to a problem of concern to all twenty-seven EU countries, with no experience of communism or such high levels of corruption.

Against this background, the thesis signals an anomaly in the EU's recent discourse against corruption. The EC decided to extend across all EU countries those anti-corruption mechanisms and policies which were applied to Bulgaria and Romania. Such mechanisms, however, did not prove efficient in fighting corruption, even after eighteen years. Moreover, they had a negative impact on the functioning of the democratic institutions of these countries, exacerbating existing problems, as will be detailed later. The question then arises as to why the EU would want to promote a seemingly inefficient regime across all its member states, when it also had an undermining impact on the democratic process. This conundrum directs attention to the problem of why these policies proved inefficient and to the EU's strategies in addressing corruption.

The EU's response to such poor results has been to blame it on the inability or unwillingness of these countries to comply with the anti-corruption policies properly (Euractiv 2012; European Commission 2013). Most studies discussing EU anti-corruption policies (the Cooperation and Verification Mechanism) in Bulgaria and Romania endorse this idea: the responsibility for the inefficiency of the EU policies is explained by resistance from parts of the domestic political class to the introduction of stricter controls on corruption. (Vachudova 2009; Spendzarova 2010; Spendzarova and

Vachudova 2012; Alegre, Susie et.al 2009; Carp 2014; Phinnemore 2010; Pridham 2007; Gallagher 2009). The view taken here is that these arguments are unsatisfactory explanations either for the failure of these policies, or for their negative impact on the democratic systems. The EU's bid to promote them as a panacea would also, therefore, seem to be viewed with caution.

The main conceptual problem is that the recipients of the anti-corruption policies in the targeted countries have been blamed, without first proving that the policies were adequate to deal with corruption. Nor has there been any examination of the role of the main managers of the process – the European Commission, together with the IOs and NGOS involved in the process – and consideration of their responsibility in the negative outcomes of the anti-corruption policies. The domestic political class has been scrutinised regarding its failures in the fight against corruption but the consistency between the EU's official discourse of rooting out corruption and the way it has implemented its policies has not been critically analysed.

Finally, neither the EU nor the existing literature have tried to explain why the EU would go against its own discourse of efficiency in solving systemic problems (such as corruption) by promoting solutions which have proved inefficient and which, moreover, have proved detrimental to the existing democratic systems in these countries.

There is, however, a body of literature, outside the EU framework, which discusses corruption as a matter of global governance, when it has been carried out by IOs. Such studies have published evidences which provide a different take on this aspect. It has been noticed that it is common for international actors who promote development policies (e.g. IMF and WB) to construct or invent a set of problems – ideally a state of crisis – in order to justify their intervention in the internal affairs of a targeted country (Berstein 1990; Ferguson 1990; Gupta 1995; Escobar 1995; Evans 1997; Polzer 2001; Moultrie 1998; Munro et. al 1999; Mazrui 1999; Camerer 1999; Hopkin 2002; Bratsis 2003; Bukovansky 2006; Chang 2002; 2009; 2012).

The implication of these findings is that the anti-corruption crusade is not an apolitical process that carries a genuine moral and economic justification. It is rather a credible pretext devised to advance neo-liberal interests. This approach considers that corruption, its definition and its solutions are largely a construct, designed to carry a neo-liberal agenda of diminishing the public sector and undermining the credibility of the state as a manager of the economy, meanwhile legitimizing the intervention of international actors (IOs), of Non-Governmental Organizations that are not democratically accountable (e.g. ‘watchdogs of corruption’) and global business corporations (Bukovansky 2006; Browne and Cloke 2004; Roden 2010 Bratsis 2003; 2014 Bediharnoglu 2016).

Up until now, the EU’s anti-corruption policies have not been analysed from the perspective of a construct, which carries out the interests of those who devised them. Nor has the EU’s rationale regarding its desire to solve an objective problem been contested.

Although, it has not addressed the issue of corruption until now, Critical Political Economy contains a theoretical strand which contests the EU official discourse and rationale. CPE has a neo-Marxist, neo-Gramscian theoretical basis, which regards the EU's main purpose as the promotion of a neo-liberal agenda, by whatever means this is enabled, such as: minimizing state regulatory powers over the economy, opening the decisional structures to international actors and non-governmental organizations (the so-called "historical bloc") sharing the same neo-liberal commitment, advancing the interests of transnational corporations, etc. This approach rejects the mainstream, pluralist view that the EU/ EC is efficiency driven and that it has a technocratic, depoliticized mode of governance. The European Commission's claim that its main purpose is to come up with efficient, technical solutions to various issues is only a smoke screen for advancing the interests and influence of neo-liberal forces. Following this logic, the EU discourse on corruption can be seen as a construct, designed to undermine the national state and to advance the influence of the "historical bloc", rather than solve an objective problem.

Main research question

Before looking at whether the EC's rationale in rooting out corruption is disingenuous, it will be necessary to discover plausible evidence for this. There are two main difficulties with this: there is no study in the EU framework to support the proposition with empirical evidences, including CPE studies. Secondly, all the mainstream literature on the topic accepts the EU rationale and discourse on corruption at face value.

A critical appraisal of the EU's discourse on corruption, with analysis of whether its discourse is found to be consistent with its actions and interventions is lacking.

Main research question

Accordingly, the main research question guiding this study is whether EU anti-corruption policies have been devised not so much to reduce corruption as to create new mechanisms of control over the domestic political class of its member states, in such a way that these can be operated from Brussels. This schema might offer a comprehensive answer to the inefficiency displayed by these policies, as well as the EU's intention to promote them across all twenty-seven of its member states as a standardised prescription for fighting corruption.

Checking the consistency between the EU discourse on corruption and the implementation of its anti-corruption policies will test the congruence of its strategy and the veracity of its commitment. The core of this process will rest on examining evaluative texts issued by the European Commission in the form of Progress Reports for Bulgaria and Romania, produced between 2000 and 2004, during the accession negotiations, followed by the post-accession CVM reports.

The Progress Reports mark the genesis of the EU anti-corruption discourse and track its gradual development by the EC. A type of linguistic analysis, known as Content Analysis, is applied to the Commission's Progress Reports for Bulgaria and Romania, as a toolkit for checking the consistency of the EC discourse on corruption. Content Analysis

is a methodology that has been little used within EU studies and has never before been applied to the European Commission's texts. Where a discourse needs to be analysed, it is appropriate to choose a linguistic methodology and Content Analysis fits this study, as it produces quantifiable data for measuring loaded comments. The reason for the study is that this thesis departs from the assumption shared by the mainstream literature that the interplay of power and interests in this process lies only with the domestic political class. A more balanced enquiry would extend its scrutiny to the managers of the process itself: the European Union and a cluster of IOs and NGOs. If corruption is to be rooted out, the commitment of all actors to this end needs to be critically tested.

1.1 Relevance of the Bulgarian/Romanian case study for present EU anti-corruption policies

In 2014, the European Commission came up with its first Anti-corruption report for all EU member states, which proposed using the same anti-corruption policies and mechanisms as were applied to Bulgaria and Romania (European Commission 2014). In 2015, the European Commission announced an Action Plan with mechanisms for criminalising corruption, and in particular high level political corruption, in all EU member states.

However, there are evidences which show that these policies were largely inefficient in their purpose. Their results in the Bulgarian/Romanian case can be considered at best unsatisfactory. After eighteen years of EU monitoring (since 1998) and the gradual introduction of such policies, and after nine years of the Cooperation and Verification Mechanism, Bulgaria and Romania can be hardly regarded as a successful model, even according to the European Commission's own criteria.

Bulgaria is still suffering the most dangerous and rampant organized crime, modelled on the Russian mafia and considered unique in the EU (Euractiv 2013). In eighteen years of EU's anti-corruption campaign only two mafia mobs have been convicted (Commission 2013a). In 2013 the European Parliament called Bulgaria "the weak link in democratic standards and a threat to European values across the continent, due to its inability to tackle corruption" (Euractiv 2013). Also, after seven years of CVM, Bulgaria has not improved at all in the Indexes of Transparency International where, in 2015, its ranking was the lowest in the whole EU (69th place out of 178 countries in 2013), far behind the average of the 27 EU countries and even lower than one of the candidate states, Montenegro.

Romania boasts some five hundred politicians sent to jail in the last six years, according to the Commission (Commission 2014). But, if we are to listen to the European Commission itself, this is not satisfactory because the Commission expresses "serious concern over the political situation and the ability to comply with fundamental principles of the Union" (Commission 2012b:2). Tougher monitoring was also envisaged for Romania with the next monitoring report due by the end of 2013. Until 2014, Romania did not improve in the Indexes of Corruption, ranking the second worst after Bulgaria (Transparency International 2014). Only in the last two years it has improved in the indexes of corruption, which now (2016) places Romania higher than Bulgaria and Italy, at the same level with Greece (Euroactiv 2016).

Rankings, however, are not the ultimate measure of success, as their criteria could distort the reality. There are other, perhaps more relevant indicators that the fight against corruption in these countries did not come up with the expected results.

One of the reasons mentioned insistently by the EU with regard to anti-corruption effort is that corruption decreases popular trust in the democratic institutions: the Government and the Parliament. This is one aspect where the seven years of CVM failed drastically. Not only that levels of trust in the democratically elected politicians did not increase but in fact they deteriorated if compared with the time span when the EU anti-corruption policies were not in place. In 2007, Romanians' trust in their political parties, MPs and government was the lowest among all EU members, old and new together (Eurobarometer 2007). In 2008, it was the turn of Bulgaria to record the lowest trust in its elected officials (Eurobarometer 2008)¹. To date (2014-2015), the situation has not changed. Bulgaria's Democracy Index keeps going down, being ranked 52nd in the latest Economist Intelligence Unit study (EIU, 2011). Up to date, Bulgaria maintains the same low levels of trust (Eurobarometer 2013). The poll from 2015 in Romania shows that Romanians have most distrust in their Political Parties: 12.5% trust them. They are followed by Parliament, with 16.5%, and the Government with 28.6%. These figures are no better than those of 2004, when the ranking of distrust followed the same pattern². Up to date, Romania has the second lowest levels of trust in its democratically elected institutions from EU, after Bulgaria (IRSOP 2015).

Finally, the most important indicator is the level of poverty. The EU, together with other international actors and donors, maintains that there is a direct relationship between levels of corruption and poverty (World Bank 1997, 2000; European Commission 2014). The

¹ Political parties were recorded as having perhaps the lowest trust ever in the history of Eurobarometer 9%; the Parliament scored 12%; the Government had 17%.

² Political parties the lowest (16.8%) – slightly better than nowadays though. Parliament and the Government were also given low scores: 18.9% for the former and 20.5%, the latter. <http://www.ziare.com/social/romani/increderea-romanilor-in-institutii-in-scadere-cine-se-bucura-totusi-de-simpatie-sondaj-inscop-1289569>

poorest countries are also the most corrupted and vice versa. If we are to apply this criterion, then again, the EC methods showed no efficiency. Bulgaria and Romania remained the poorest countries of the EU, Bulgaria being the last of the 27, followed by Romania³ with the lowest standard of living in the EU. Moreover, Romania is a living example that contradicts the theory that minimizing corruption is a recipe for decreasing poverty. According with Transparency International, Romania made a significant leap in ranking in the last five years (if compared with itself): from a ranking of 75 in 2011, Romania jumped to a 58 in 2015⁴. The poverty levels for the same time span (2011-2015) recorded a significant leap, too: in 2011, the poverty rate was 22.5%, while in 2015 it increased to a 25.4% (Eurostat 2016). In plain figures, it means that 1 in four people is poor in Romania. It also contradicts the European Commission's view that the more corrupted politicians are thrown into jail, the more successful the process is: the EC was praising Romania for sending to jail a staggering five hundred decision makers in seven years (European Commission 2014).

Rampant organized crime in Bulgaria with no signs of relapse since 1990, low TI rankings in both cases (Bulgaria/Romania), increasing popular distrust in the democratic institutions and, finally, increasing poverty in both countries are rather pessimistic indicators for the efficiency of anti-corruption mechanisms devised by Brussels.

³ In 2014 Bulgaria had the highest percentage of population living in poverty or at the limit of it approx 40%, followed very closely by Romania approx. 39%. Source: http://ec.europa.eu/eurostat/statistics-explained/index.php/File:At-risk-of_poverty_or_social_exclusion_rate,_2013_and_2014.png

⁴ The lower the figure the higher the ranking. Being ranked 75 means that Romania was on the 75th place among 168 countries. E.g. Denmark the least corrupted in the world, according with TI, is ranked nr.1. Source: <http://www.tradingeconomics.com/romania/corruption-rank>

While the efficiency of these policies is not obvious, the democratic system (albeit flawed) in these countries was negatively impacted by the EU anti-corruption campaign.

Perhaps the most spectacular result of these policies was their repressive and coercive character when directed against high level politicians (MPS and members of the Executive) (Commission 1998a; 2006; 2014). The result was particularly catastrophic for the political class of Romania, and especially for members of the left-wing Social Democratic Party (SDP), until recently the country's largest and most important political party. After Romania's accession in 2007, the Commission recorded that five hundred politicians had been sent to jail, of which almost half had held ministerial positions or had been members of Parliament. More than 60% of these were members of the SDP or, more recently, from the Liberal Democratic Party (LDP), both of them belonging to the opposition since 2004 until (Commission 2014; Directorate National for Anti-corruption 2015). In Bulgaria, high levels of corruption were the main argument for freezing over 200 million euro of PHARE funds (Commission 2008a). In 2013 accusations of corruption were one of the main reasons triggering massive popular protests, which finally led to the resignation of Borisov's government (2009-2013) (Commission 2013a).

The genuinely worrying aspect of this phenomenon is that it has elements that suggest that accusations of corruption have been used as pretexts for purging the opposition. This seems to be particularly the case of Romania, where accusations of corruption hit mostly one side of the political spectrum – the centre-left one (see below). A growing number of critics have expressed the opinion that the anti-corruption policies are becoming a

means of repression. Such voices can be heard from the international media (New York Times 2015), from within the European Parliament (Weber 2013) and from Romania, itself⁵. For example, the EMP, Renate Weber, sent a letter to the Vice-President of the Commission, Viviane Reding, questioning the Commission's silence on important abuses generated by the activity of the anti-corruption agency (the DNA) in Romania. The relevance of this complaint is that the EC regards the DNA as a model to be replicated at the level of the whole EU (Commission 2014:19).

Awareness campaigns have been at the centre of the EU anti-corruption policies in Eastern Europe and it occupies a central place in its new strategy devised for the whole EU (Commission 2014). The scope of such campaigns has been to sharpen the public sensitivity to corruption. It also meant that the media bombarded intensely the same public with cases of corruption at high level. The direct result of this strategy was that public confidence in their democratically elected politicians decreased drastically in Bulgaria and Romania as mentioned above. The main problem with the intense exposure of the public to such awareness campaigns has been that the public distrust for individual politicians was re-focused on the institutions that accommodated such politicians: the political parties, the executive and the legislative. In other words, the most dangerous result of these awareness campaigns has been the growing popular distrust in the very fabric of democracy and the institutions that support it and which are publicly elected and publicly accountable (Toneva –Metodieva 2014; Dimitriev , Halampiev, et.comp 2014; Grigorescu 2006; Krastev 2002; Mungiu –Pippidi 2003)). Grigorescu (2006) came

⁵ See the massive number of instances when such accusations were used selectively against the Social Democratic party when it was in the opposition
<http://www.luju.ro/magistrati/dna/dna-musamalizeaza-marile-jafari-senatorul-serban-nicolae-acuza-politia-politica-actiunile-dna-nu-dau-impresia-unei-reale-lupte-anticoruptie-pare-o-continua-a-luptei-basiste-cu-adversarii-politici-dna-aloca-doi-procurori-si-un-instigator-ca-s-o-incatusez>

up with concrete evidence showing that there is no connection between the real levels of corruption and public perceptions and that such perceptions are mostly shaped by awareness campaigns, such as those supported by the EU.

Summing up, the EU anti-corruption policies tested for Bulgaria and Romania display a significant lack of efficiency in rooting out corruption on one hand, while it generated a veritable crisis of the democratic system of these countries due to the numerous corruption scandals and convictions that targeted members of the Parliament and the Government, a situation that also decreased the public confidence in their democratically elected institutions.

Such questionable policies with little evidence of their efficiency for their avowed scope (rooting out corruption) but with significant impact on the political power balance in Bulgaria and Romania, are promoted as a model of action for tackling corruption in all 27 EU member states. This contradiction between the EU discourse of efficiency and what has been happening in practice is a reason for questioning the intentionality of the whole process, the EU rationale behind its anti-corruption strategy.

1.2 Thesis objective and structure

The central hypothesis of this research is that the EU anti-corruption policies are designed to enhance EU interests and influence on the new and old Member States, by considerably reducing the role and influence of the democratically elected political elite and institutions. Ultimately, rooting out corruption is only a pretext for diminishing the powers of the national state and for redesigning its functions so that it can suit the EC.

The central objective of this research is to explore how the anti-corruption policies devised by the EC manage to reshape and redesign the power balance in Member States.

In order to test/explore this hypothesis, the analysis involves three main steps. Each one needs to answer to three main questions.

Step 1: Was rooting out corruption the genuine purpose of the EU anti-corruption policies in the Romanian/Bulgarian case?

The working hypothesis that needs to be fully tested is the existence of systematic double standards in the way the European Commission managed the anti-corruption conditionality in these two cases. This is an essential step in the logic of this research.

Why does this issue need to be cleared up? The central hypothesis tested here assumes that the EU designed the anti-corruption policies with the scope of promoting its own agenda of power and interests. However, such an analysis cannot be performed without first debunking the official argument that the EU's primary purpose and scope was to help

countries like Bulgaria and Romania to solve their systemic problem of corruption. This is essential for three reasons.

First, as long as the official discourse about rooting out corruption is considered valid, then this automatically roots out assumptions about the interplay of power and interests on the part of the EU. As long as it is widely accepted that the EU's main role is to help these countries to solve a structural problem that affects negatively their general welfare, then all the other aspects or outcomes of the anti-corruption policies are subordinated in importance to this main purpose. For example, in such a case, the logic goes along the following line: if rooting out corruption can be solved by decreasing the powers of the elected officials, then this should not be a matter of concern. In short, as long as the EU discourse is not proved wrong, the analysis of anti-corruption policies in terms of who wins and who loses as a result of their implementation loses its relevance.

Second, the inconsistencies and contradictions already signalled in the case of Bulgaria and Romania indicate the likely possibility that the Commission's approach was systematically marred by double standards. The existing evidences are sufficient to trigger the working hypothesis of the systematic existence of double standards in the Commission's approach of anti-corruption effort but they are not sufficient to fully confirm it, alone. The existence of systematic double standards is always a clear indicator of a hidden agenda behind the official discourse, as already discussed.

Third, the working hypothesis of double standards needs to be irrefutably confirmed because there has been made no attempt to actually question or challenge the EU official

rationale, until now. Therefore, this analysis has no already existing empirical basis on which it can be built in this sense, since no one has even considered the possibility or noticed the inconsistencies in the EU anti-corruption discourse.

Step 2: Who was empowered and who was disempowered as result of the introduction of anti-corruption policies in Romania and Bulgaria?

Once the official claim that the scope of the anti-corruption policies was not to root out corruption is contradicted, the next step is to understand the real reason behind it. The existence of double standards always indicates an attempt to promote a hidden agenda of power and interests. Therefore, the next logical step is to explore how the anti-corruption policies were used to advance interests and whose they were more exactly.

Step 3. From exception to norm. Explaining the significance of the new anti-corruption framework in the light of the specific Bulgarian/Romanian case.

At this stage, the central hypothesis needs to be explored and tested. As mentioned earlier, the Commission has decided to apply the anti-corruption mechanisms and policies developed for the particular case of Bulgaria and Romania across all twenty-seven EU member states. The findings triggered from the analysis of this case study can be used to interpret such a new anti-corruption framework from a power perspective: who is empowered and who is disempowered by the new strategy devised in Brussels?

CHAPTER TWO

Literature Review, Theoretical Framework and Methodology

Literature review

Introduction

This chapter critically explores the existing literature and theories with which the thesis engages. The purpose is to situate this research work within current scholarship that discusses corruption by pinpointing and mapping which empirical findings and theoretical approaches are most relevant, which ones are less useful and what gaps exist, some of which this thesis may contribute to filling in.

Three main strands of studies are discussed here. The streams represent different – even opposing – empirical and theoretical approaches to the way corruption has been framed. The first is the mainstream scholarship that addresses corruption within the framework of

the EU, a literature that accepts the EU discourse on corruption without problematizing it. The second part will engage with a number of studies which, in contrast with the mainstream, critically question the way corruption has been framed by IOs. Such studies usually discuss corruption outside the EU framework. Critical Political Economy is the third strand to be examined. EU anti-corruption policies have not yet been addressed by the CPE. However, it offers a theoretical alternative to the mainstream: CPE introduces a critical/revisionist approach to what the EU is and does, which offers some conceptual back-up for the approach taken by this research. In each case, both the theoretical assumptions on which each body of literature is based, as well as any empirical findings, will be discussed.

The next section explains what kind of methodology has been used to address the research question and why.

Mainstream literature addressing corruption in the EU framework.

The conventional view of studies addressing the European Union and the way it has tackled corruption share a series of fundamental assumptions about the EU and what it represents. The first, and perhaps the most important assumption is that its policies are designed to work for the welfare of the general public. This assumption is shared across EU mainstream studies, irrespective of their theoretical variations. The European Commission, in particular, is expected to promote a ‘technocratic’ mode of governance – coming up with technical, apolitical solutions to various political problems (Radaelli 1999; Majone 1996, Cini 1999, 2002). This is not to say that the EC’s activity is considered completely de-politicized or devoid of an interests (Page 1996; Radaelli 2002,

Epstein and Sedelmeir 2008, Cini 2002, Egeberg 2004). However, the conventional understanding is that the EC is an efficiency-driven actor who, in simple terms, is less characterized by vested interests and agendas of power than its political counterparts (e.g. the EU Member States).

The second basic assumption of the mainstream EU literature is that the neo-liberal ideology that informs EU policies is the best approach to ensure economic welfare and a well- functioning democratic system, a formula that works in the best interests of the general public. Alongside this view, the process of EU's Enlargement towards the East looked like a winning game for the former communist countries, who benefited from the transfer of (neo) liberal norms and values promoted by the EU (Vachudova 2004; Spendzarova 2008; Papadimitriou and Phinnemore 2008; Phinnemore 2010; Pridham 2007a,b, Grabbe 1998, 2001, 2003, 2006; Sedelmeier 2005, 2008, 2011, 2012; Pridham 2002, 2007a,b; Raik 2004; Lippert et. Al 2001; Noutcheva and Bechev 2008, Hughes Sasse and Gordon 2004; Jacoby 2004; Kochenov 2004). The principal channel of these norms was the conditionality that the EU enforced on the candidate countries, including measures to address corruption. Since 1998, fighting corruption has been a key feature of the political conditionality of the Copenhagen criteria that the Eastern candidate countries have been required fulfil (Commission 1998a). It was associated with the notion of "good governance": minimizing corruption was seen as a condition for the good functioning of democratic institutions and the existence of the rule of law.

As Grabbe aptly put it:

"The assumption that accession and development goals are synonymous has generally gone unquestioned because the overall neo-liberal orientation of the

EU's agenda gained the general consensus among Western governments and advisers" (Grabbe 1998:5).

The research studies discussing EU anti-corruption efforts focus their empirical analysis on the two countries where these policies were created and subsequently fully implemented: Bulgaria and Romania (Vachudova 2009, Vachudova and Spendzarova 2012a, b; Krastev 2002. Grigorescu 2006; Ristei 2010; Mungiu-Pippidi 2002, 2007, Toneva –Metodieva 2007, Stoyan 2013;Dimitrov, Kaloyan et al. 2014). The case of corruption for Bulgaria and Romania is frequently used to illustrate different approaches regarding the impact of the EU's policies, norms and values on Eastern Europe. Thus, conventional studies on corruption in the EU framework start from a series of unquestioned premises regarding the ideological framework of the anti-corruption policies and the role of the actors in managing it.

First, the EU's claim that 'the only purpose of the anti-corruption strategy is to... root out corruption' has been consistently taken at face value (Vachudova 2005, 2009; Pridham 2002; 2007 a,b,c; Phinnemore 2007, 2010; Phinnemore and Papadimitriou 2008; Kornai and Rose Ackerman, 2004; Spendzharova 2008; Gallagher 2005; Pop Eleches, 2008). Another generally accepted view is that fighting corruption is associated with neo-liberal norms, which promoting the values of liberal democracy and the market economy: "fighting corruption is essential for consolidating the liberal democracy", a view borrowed from IOs such as World Bank, who was among the first to set up the framework by which corruption had to be tackled (Spendzarova and Vachudova 2012: 46; World Bank 1997, 2003). The consequence of this approach is that crucial aspects of the EU anti-corruption policies have remained largely unquestioned. Almost all the mechanisms

developed by Brussels exclusively target the elected political class and the public sector, while there is very little recognition that the private sector and international investors, in managing these mechanisms, are also parties with a vested interest and could even be regarded as bribe payers (Commission 1998a, 2003 a, 2007 a,b; Gupta 2005; Galtung, Frederik and Pope: 1999). The same positive expectation of neo-liberal norms also tends to colour the representations of roles played by such actors in the process.

The story of the fight against corruption emerges from various studies discussing Bulgaria and Romania, as a battle maintained on one side by a dubious and corrupt domestic political class, fighting to maintain its privileges, while maintaining a façade of commitment to EU liberal values and norms. (Vachudova 2005, 2009; Pridham 2002; 2007 a,b,c; Phinnemore 2007, 2010; Phinnemore and Papadimitriou 2008; Spendzharova 2008; Gallagher 2005; Pop Eleches, 2008). In the opposite camp sits a technocratic European Commission, whose main role is to discipline a corrupt domestic political class, and occasionally, to play down the exaggerated demands of some of its member states towards the candidates (Gallagher 2009; Phinnemore 2000, 2010; Phinnemore and Papadimitriou 2008; Vachudova 2005, 2009; Pridham 2007a, 2007b) (Vachudova 2009; 2012; Carp 2014; Ristei 2008; Spendzaharova and Vachudova 2012). In short, the EC's technocratic discourse, which claims to put efficiency and objectivity in first place, has also been accepted at face value without testing its consistency in practice. Consequently, the EC's Reports on progress against corruption are regarded by the majority of studies as "a full and accurate picture of where a country stands" (Vachudova 2004:129). The scholarship has regarded these reports as a 'hard source' of information and has used them as guidelines or starting points for analysis on the impact

of EU conditionality on these countries, integrating the views of the EC into their own research (Phinnemore and Papadimitriou 2008; Phinnemore 2007, 2010; Pridham 2002, 2007a,b,c; Vachudova 2004, 2009; Spendzarova and Vachudova 2012; Ristei 2010).

The third cluster of actors that participated in the management of anti-corruption policies and which backed the European Commission's work is represented by the IOs and domestic NGOs acting as watchdogs of corruption, such as World Bank, IMF, USAID, Freedom House and Transparency International. The consistency between their goal of rooting out corruption and the efficacy of their actions also goes unquestioned and untested. They are viewed with the same de-politicized technocratic lens through which the activity of the Commission is regarded: their main scope is to solve a societal problem (Vachudova 2005, 2009; Pridham 2002; 2007 a,b,c; Phinnemore 2007, 2010; Phinnemore and Papadimitriou 2008; Spendzharova 2008; Gallagher 2005; Noucheva and Bechev 2008; Mungiu –Pippidi 2002; Stoyanov 2008; Kainberger 2003; Grabbe 2004).

In conclusion, in terms of actors, the interplay of interests is reduced to the domestic decision makers of the countries targeted by the anti-corruption policies.

The central research theme of such studies is mainly twofold: to understand what can boost EU leverage in the new member states, in order to accomplish the transfer of EU norms and rules; and record the impact of these reforms, mainly in institutional terms. Different studies have investigated themes such as: which are the most important determinants of domestic institutional change in combating corruption and reforming the judiciary systems in Bulgaria and Romania? (Spendzharova, Vachudova 2012a); how

efficient is the reward and sanctions policy of the EU and which domestic factors most hinder or enhance it (Spendzharova, Vachudova 2012 b), with particular reference to the Cooperation and Verification Mechanisms' efficiency? (Toneva-Metodieva, 2014).

Conclusions

The main research questions addressed within the mainstream literature have focused on *how* the policy transfer was conducted and *how* faithfully the candidates fulfilled the EU's requirements, but without asking *why* the conditionality was shaped in the way it was, or applying any critical questions about its enforcement or evaluation. This has tended to reinforce the prevalent assumption that the interplay of power and interests lies only on the side of domestic political actors within countries such as Bulgaria and Romania, while freeing external actors, including the managers of the process, from any suspicion of carrying any ulterior agenda. Thus, any failures in the policies themselves are attributed to the failures of actors within the countries on whom they are imposed, rather than questioning the efficiency of the policies themselves or, indeed, their managers' intentions to promote efficiency. The only explanation offered by the mainstream literature for the policies' poor results in Bulgaria and Romania is the resistance of their domestic political class to the EU's policies. However, this argument cannot explain the negative impact these policies have had on the good functioning of the main democratic institutions, accountable to the Bulgarian and Romanian public, unless the very content of these policies is questioned.

In short, although the mainstream literature on corruption in the EU has produced valuable contributions regarding the impact of these policies on the domestic policy of its target countries, it is not sufficiently conceptually comprehensive to explain the inefficacy

of the EU's anti-corruption efforts implemented broadly. Rather, the mainstream literature has failed to notice that the EU's anti-corruption policies seem to have exacerbated existing problems within the democratic political systems of the affected countries, nor offer any explanation for this.

Studies on corruption outside the EU framework.

Other studies, outside the EU framework, offer a different perspective. One stream of study is informed by a combination of neo-Marxist theory, to which is added a constructivist approach.

An increasing number of studies critically assess the way corruption is framed by International Organizations, when targeting developing countries in South America, Africa and South Asia. These studies come with a very different take on the issue of corruption, of a neo-Marxist inspiration built on Foucault stance on power and discourse (Foucault 1978). They reject the assumption that corruption is an objective phenomenon which needs some technical solutions. Instead it has been assumed that corruption, its definition, its solutions and their implementation are only a construct which cannot be de-linked from the interests of those who framed it and administered it and from the ideological context which generated them, which in this case is represented by neo-liberalism, the mainstream ideology (Polzer 2001; Moultrie 1998; Bernstein 1990; Bukovansky 2006; Bediharnoglu 2016; Brown and Cloke 2004; Hindess 2005; Harrison 2006; Roden 2010; Bratis 2014).

The main findings of this strand can be summed up as it follows. Corruption has been framed in such a way as to promote neo-liberalism in the countries targeted by the anti-corruption international campaigns. Its definition and the solutions devised by influential

IOs such as World Bank resulted in further shrinking the interventionist powers of the state in the internal market as well as the public sector, two of the core objectives on the neo-liberal agenda (Polzer 2001; Bratis 2014; Bediharnoglu 2016). Moreover, the discourse of corruption has morally undermined the credibility of the state institutions, and in particular of the elected political class. Therefore, instead of promoting “good governance” it only exacerbated the already existent problems in the struggling democracies from the developing world (Bukovansky 2006; Harrison 2006).

Few studies have revealed that the sudden surge of interest in corruption recorded in the 90s was only an artificially created issue in order to legitimize the intervention of international actors carrying a neo-liberal agenda of power and interests (Polzer 2001; Bedirhanoglu 2016; Bernstein 1990; Escobar 1995, Ferguson 1990, Ranis 1997) . It has been remarked that in this context that it is very common for development policy texts to construct a set of problems ideally a state of crisis, in order to justify intervention (Bernstein 1990, Polzer 2001; Gillies 1992). Case-studies on African and South American countries revealed that corruption was used as a very credible pretext to promote policies and measures which were opening the decisional structures to the influence of international actors such as the WB or IMF and which were creating favourable market conditions for the transnational capital (Heimann 1997; Marquette 2004; Jones 1996; Bediharnoglu 2007).

Conclusion

The striking aspect about this take on corruption is that it signals exactly the same problem that the present research have noticed it in the EU case: inefficiency of addressing the very scope for which these policies were officially destined to and efficiency in promoting

the neo-liberal agenda of minimizing the state powers, undermining the credibility of the elected political class and promoting the influence of non-domestic, international actors. This literature offers both empirical evidences which legitimize the research bid proposed here. It is true that these studies address the issue of corruption outside the framework of the EU, however, the anti-corruption discourse is very similar because its has been promoted by the same international actors who were also invited to join the European Commission in the implementation of these policies in the Eastern Europe and in particular in Bulgaria and Romania.

Critical Political Economy

A critique of the mainstream literature and its conceptual premises can be reduced to a different set of ontological and epistemological premises. Critical Political Economy is an umbrella term for a relatively new branch of studies, mainly inspired by a neo-Gramscian framework of analysis.

The CPE strand is a newer approach in EU studies, which has arisen to answer the unresolved issued left by the mainstream pluralist approach. It was inspired by Gramsci's idea of hegemony, and was repackaged first by Robert Cox (1998), and later on by Cafruny and Ryner (2002) and it was then applied to EU studies.

Unlike the mainstream literature, the CPE strand is critically aware of the neo-liberal bias which permeates the EU policies. Following a Marxist logic of class struggle, the core neo-Gramscian ideas are that: the dominant contemporary elite is the transnational

capitalist class, and that its interests are promoted by neo-liberalism, with the support of the European Commission, as well as national and transitional epistemic communities. The European Union is the main instrument within Europe which promotes these interests and ideology (Apeldoorn et al. 2008; Apeldoorn 2002; Bailey 2006, 2010, 2011; Bieler and Morton 2001, 2004; Bieler 2002, 2005; Bohle 2006, 2005, 2008; Horn 2008; Ivanova 2007; Holman 2001; Holman and Pijl 2003). This vein of literature has produced evidence that the main rationale behind the EU Enlargements has generally promoted the hegemony of the transnational capitalist class, by restructuring the economies of those countries joining the EU, according to a neo-liberal regime. As a consequence, the labour force, its main opponent, has been disempowered. (Bieler and Morton 2001, 2004; Bieler 2000, 2005).

Research conducted specifically on Eastern Enlargement has come up with the view that the Eastern Enlargement has provided a market place in which to sell a radical recipe of neo-liberalism to former communist countries. From this viewpoint, the vagueness of the Copenhagen economic conditionality has been used by the European Commission in order to promote an aggressive type of neo-liberalism, under a brand of shock therapy and privatization; a formula of neo-liberalism which the old member states themselves did not accept at home (Ivanova 2007; Horn 2008; Holman 2001, 2003; Bohle 2007, 2008; Shields 2011, 2012, 2007).

Those who supported such hegemonic interests formed a so-called “historical bloc”, which was an alliance between the transnational capitalists, the political class from the older, Western members of the EU, the European Commission and a network of national

and international epistemic communities (Holman 2003; Bohle 2006, 2005, 2008). In this alliance, the European Commission has been the main supporter of transnational capital interests in two respects: it used the powerful leverage of conditionality in its hands, in order to impose a radical version of neo-liberalism on the Eastern candidates during the accession process; and it was the main catalyst for creating a network of domestic “organic intellectuals”, think tanks and NGOs whose main role was to amplify its neo-liberal agenda and to pressurize the domestic elites to accept it (Holman 2001, 2003; Bohle 2005; Horn 2005).

The theory refers to hegemony as a phenomenon that is manifest not only at the economic level, but also runs through the social and political patterns of a society (Cox 1993; Gramsci 1971; Gill 2003). Studies on Enlargement and the EU mainly cover economic aspects or economic-related aspects, such as the issue of the struggle of the labour force with transnational capitalism. Bailey, who noticed this empirical gap, argued that this is a result of drawing predominantly upon Marxist approaches (Bailey 2010). In so doing, the critical accounts of the EU and Enlargement are largely based on economic determinism.

This is a major empirical gap, as conditionality has not only an economic dimension, but also a political/social one, which has been equally important. The case study of the 2007 Enlargement shows that the double standards and patterns of inequality existed not only in the economic sector of conditionality but also on the political side. The very fact that the European Commission placed the issue of corruption in the political conditionality forces such an approach.

Explaining use of the inductive approach

Whether anti-corruption policies are used to root out corruption, or to contribute to the establishment of a new European order and undermine the nation states, in favour of supranational actors, is a topic of discussion of major salience. Here, the research starts with an empirical discussion about the contradictions displayed by the EC in the particular case of Bulgaria and Romania. It continues with a very detailed analysis of the EC discourse on corruption and confirms the working hypothesis that, at least in the specific case of these two actors, rooting out corruption was not the real concern of the EC. Instead, it reveals that such policies were used primarily to promote the interests of the EU and its supporters within domestic civil society, at the expense of the elected political power.

The general lack of critique in the literature on the subject has forced an inductive approach, not commonly used in the scholarship of political sciences. Indeed, this is particularly rare in the sector of EU studies, where deductive methodology is dominant. In practice, of course, there is no such thing as a purely inductive or deductive method.

In embarking on a discussion of the various theoretical stances, it is important to note the limited range of objective literature. There is not even a single work which has a revisionist, critical view of the EU discourse on corruption. All EU scholarship has internalized the EU official rationale, with all its consequences: corruption is understood as an objective structural problem, which its anti-corruption policies are designed to solve. The role of the Commission is to help the targeted countries to solve this problem.

The whole process of evaluation and monitoring is a technocratic one, based on meritocratic and fair criteria. The Commission is a neutral actor, with no vested interests at stake, its Progress Reports are accurate representations of the anti-corruption efforts of the candidates and therefore they can be used as a hard source of information. This view has been so successfully promoted by the EU that suspicions of power interplay have been overlooked and there has been little or no sensitivity to the contradictions displayed in the way anti-corruption policies have been implemented by the EC.

Going back to the main research questions of how efficient the EC's policies are and which domestic factors prevent their implementation, there has actually been no attempt to question the way in which the EU formulated and implemented its conditionality in this sector. Above all, no one has questioned the intentions behind the policies or the power implications. The mainstream literature does not question the EU agenda, so all theories on Enlargement and conditionality stem from the fundamental assumption that they are in the general interest of member states, excluding any suspicions about alternative agendas.

By contrast, Critical Political Economy comes up with a view, strongly inspired by the neo-Gramscian tradition, that: the EU carries out a hegemonic agenda, designed to promote a neo-liberal ideology, to minimize the role of the national state, to undermine the welfare system and the power of the working class and to promote the interests of transnational corporations, at the expense of domestic rooted business. Despite its more promising theoretical toolkit, most of the research generated by it focuses on the way the neo-liberal agenda is carried out at the economic level, the focus being on the way the

interests of transnational capital have been boosted by EU economic policy. Even the research on the role of civil society and experts (“organic intellectuals”) – a subject important to the topic addressed here – is discussed in connection with the power of transnational capital.

The problem with the EU narrative on corruption is not only that it has gone unchallenged. The way it was framed, first and foremost it targeted the structures of political power. It is not random that corruption, as a phenomenon with consequences in the economic realm, was placed among political criteria. Consequently, the empirical contradictions that triggered the hypothesis of this research were discovered in the area of political power and institutions (e.g. reform of the judicial sector, and legislation addressing political corruption and organized crime). It was political power and state institutions that were first and most visibly affected by the introduction of anti-corruption policies. With the exception of public procurement, the regulation of economic activity occupies a significantly smaller place in the anti-corruption strategy. Critical political economy literature has been almost exclusively preoccupied with the economic and class-struggle implications of the EU neo-liberal agenda, being faithful from this perspective to the traditional Marxist approach.

Consequently, on the one hand, there is a massively developed literature, which does not question the EU dominant discourse on corruption, and on the other, the critical camp does not appear to have even noticed this issue. Outside of EU studies, there have been few voices challenging the mainstream framework to any extent. Some observers have noticed the neo-liberal bias in the way corruption was framed (Holmes 2006; Hodgson

and Jiang 2007; Chang 2002), or they have come up with evidence for the artificial way in which the old phenomenon of corruption was inflated by international actors and transformed into a major issue of global governance (Georgescu 2006). There have also been voices that remarked on the fact that anti-corruption measures did not seem to apply to major cases of corruption that involved transnational capital. Nevertheless, the literature has remained narrow in scope, with little depth of analysis, limited empirical case studies and, above all, it has been developed in total isolation from the EU itself.

It has been difficult, therefore, for this research to start by asking the direct question of who won and who lost in terms of power, before demonstrating that this was what deserved to be the central research question. This is because the mainstream literature completely assumes that rooting out corruption has been the genuine purpose of the EU's policies. If so, the question of who won and who lost as a result of this effort is relatively unimportant. If, for example, the national state is depleted of some of its powers as a result of anti-corruption policies, this is not a relevant issue as long as, in doing so, it solved or diminished a problem that affected the welfare of the general public. From this perspective, the question of power and interests is not meaningful. Nor is the neo-Gramsci-inspired critical literature helpful in this area, for reasons already mentioned.

Consequently, the present research had to start by demonstrating in the first instance why there are reasons to believe that the EU's narrative on corruption was not informed by the genuine intention of solving a systemic problem but, rather, was a smoke screen for promoting a new European order which essentially minimizes the powers of the national state. This can only be done by exposing the empirical contradictions and inconsistencies

in the EU's behaviour. The Bulgarian/Romanian case displayed obvious tensions between the official technocratic discourse of the EC and the way it was applied.

Methodology

Explaining the predominantly inductive approach

Whether anti-corruption policies are used to root out corruption, or to contribute to the establishment of a new European order and undermine the nation states in favour of supranational actors, is a topic of discussion of major salience. In other circumstances, this issue should have been the opening hypothesis followed by a testing theoretical framework. Instead, the research has a predominant inductive approach. It starts with an empirical discussion about the contradictions displayed by the EC in the particular case of Bulgaria and Romania, in order to test the working hypothesis that, at least in the specific case of these two actors, rooting out corruption was not the primary concern of the EC.

Indeed, this inductive approach is particularly rare in the sector of EU studies, where the deductive methodology is dominant. In practice, of course, there is no such thing as a purely inductive or deductive method. The main reason for this rather unusual methodology has been triggered by the gap in the literature on corruption in the EU.

There is not one single work which has a revisionist, critical view of the EU discourse on corruption. All EU scholarship has internalized the logic of the evaluation/enforcement process. This also explains why it is necessary to explore which were the general

criteria/standards used by the Commission in the anti-corruption area of conditionality. It is important to note that the present research does not intend to come up with an analysis of the conditionality. The discussion here will focus on the meaning conferred by the EC itself to its standard EU official rationale.

The mainstream literature, as already discussed, does not question the EU agenda, so all theories on Enlargement and conditionality stem from the fundamental assumption that they are in the general interest of member states, excluding any suspicions about alternative agendas. It has been difficult, therefore, for this research to start by asking the direct question of who won and who lost in terms of power, before demonstrating that this was what deserved to be the central research question. This is because the mainstream literature completely assumes that rooting out corruption has been the genuine purpose of the EU's policies.

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This brings us to the second aspect of methodology, which in itself is a novelty in the literature on EU: the Content Analysis performed on Progress Reports for Bulgaria and

Romania between 2000 and 2004, before the negotiations for accession. The scope of this analysis is to confirm the working hypothesis that this process was marred by systematic double standards. The existence of double standards is always an indicator of power asymmetry and most importantly, of the existence of a hidden agenda behind the official rationale. In this case their *systematic* existence would confirm that fighting corruption was not the main purpose of the policies advanced by the EU. It would, therefore, legitimize, a research approach which was not interested in the efficiency of the anti-corruption effort and which does not regard them from a moral point perspective (rooting out corruption is in the public interest), but instead it will look at these policies exclusively from the perspective of who won and who lost in terms of power. Confirming the existence of systematic double standards is therefore essential to the research logic of this paper.

How do we test the existence of systematic double standards?

a) Deciding where to look

In this case, the whole issue of testing the existence of double standards relates to the way the European Commission built up the more approved or less favourable evaluations of the two countries.

The first place to look for double standards is the Progress Reports. They are the main official texts which communicate EC opinion. Their importance is also crucial in the logic of enlargement: if the Commission considered that the candidates had not sufficiently progressed in implementing the agreed conditions, they were not allowed to conclude the negotiations. Also, the contradictions which triggered the main hypothesis of this

research have been based on information provided by these Reports. Consequently, in order to understand how the Commission built up a favourable (or less favourable) image of a candidate, it is important to examine the linguistic content of the Progress Reports.

b) What to look for

Linguistically the Commission's opinion is expressed through a number of positive or negative statements. In general, such statements are of two types. They can refer to various anti-corruption measures that the countries are required to implement (the anti-corruption criteria): e.g. "No progress has been made...concerning MP's immunity" (Progress Report for Bulgaria 2002). Or they are general assessments of corruption: "Surveys indicate that corruption remains a serious problem". Consequently, if Bulgaria scores more positive statements than Romania, then it is important to know what triggered them, how they were created, which were aspects of their anti-corruption activity and which assessments monopolized the negative or positive opinion of the Commission. The main point is to test whether the Commission picked and chose among its various criteria, by focusing on what was positive, while neglecting what was negative, and vice-versa.

This involves two stages of analysis: the first one is to quantify the number of positive/negative statements issued and to correlate them with the criteria on which the countries' progress was judged. The second is to compare and contrast the results between the two countries (Bulgaria and Romania) and determine whether the Commission's judgement respected the technocratic criteria of evaluation: meritocracy, fairness and efficiency. Identifying double standards within a text, in a systematic manner requires a precise methodology. Content Analysis is the method used for text quantitative analysis

Content Analysis of the EC's Progress Reports for Bulgaria and Romania for 2000-2004 (period of accession)

The widely recognized role of CA is to formulate and substantiate a precise empirical hypothesis. According to the programmatic document “On content Analysis” by Leites and Sola Pool, there are three widely accepted main general functions of CA, which apply here. The first is the ability of CA to test/confirm a working hypothesis already presumed as valid. In this case, the CA is used to confirm the working hypothesis that the Commission's evaluation process, as evidenced by its annual Progress Reports, was marred by systematic double standards and contradictions.

Second, the CA is generally used to correct “optical illusions” which might be shared by the majority of specialists. In this case, the “optical illusion” is the general assumption that the Commission's evaluation work was conducted in a technocratic manner, on fair and meritocratic principles, and that the sole purpose of the process was to root out corruption.

The third function is to allow the formulation of a new hypothesis – in this case, establishing that the process was not technocratic – which leads on to the second part of the research. This examines whether a power restructuring agenda was being established and carried out, using the discourse on (or against) anti-corruption as a vehicle.

At its most basic, Content Analysis has been described as a word-frequency count, with the assumption that this generates inferences about matters of importance. CA is a

method that attempts to characterize the meaning in a given body of discourse in a systematic and quantitative fashion. Content analysis is the statistical semantics of political discourse (Franzosi 2007:21). This is the case here.

CA has been around for long time and there is a massive literature accumulated along this line. Although, initially it was applied to political sciences (Laswell, 1942; Kaplan 1941), later on, it was borrowed by a wide range of disciplines, from gender to mental health studies.

The first consideration in choosing a tool kit (or, in this case, a coding system) is that it is both suitable and reliable. Proven reliability means that it has previously been successfully tested in similar instances. This presents some challenges, since there is a vast selection of available texts to which the CA can be applied and an equally vast number of research questions that can be raised and shape the objective of the CA. What increases the difficulty in this particular case is that a CA has not been used before on EU documents in general and in the case of Progress Reports in particular. Fortunately, this type of analysis, involving a correlation between evaluative statements and various text categories in order to extract patterns of biases and double standards, has been used quite extensively in other areas, from gender studies to education (Holsti 1969; Lands and Koch 1977, Mosteller and Wallace 1964, Roberts 1997; Shapiro and Markoff 1977; Stemler and Bebell 1998; Weber 1990).

The analysis of language rests at the core of the CA, using word quantification and correlations between quantified data. This is generally known as a coding system, which

involves creating a system by which information is put into quantifiable form – for example, using characters, words or groups of words for defining notions that need to be analysed (Holsti 1969; Lands and Koch 1977, Mosteller and Wallace 1964).

Interviews

The study follows a qualitative approach, being the most appropriate for the theoretical and empirical questions raised here, which address the meaning, process and context in which the issue of corruption emerged.

The interviews took place between 2009 and 2011 and they covered most of the actors and institutions involved in the process: The European Commission, relevant NGOs, and relevant officials of the two countries.

The interviews were used both as a source of information, as well as for cross-checking them with the results of the Content Analysis. An overview of the interviewees and their affiliation are discussed in detail in Appendix 1.

CHAPTER THREE

Content Analysis

Introduction

As highlighted in the introductory chapter, the working hypothesis suggests a series of important inconsistencies and contradictions in the way the EC issued its judgment regarding the Bulgarian/Romanian fight against corruption. The purpose of this chapter, therefore, is to test the working hypothesis that the European Commission's management of anti-corruption conditionality in Bulgaria and Romania employs double standards. If this proves to be the case, the implication would be that their true purpose was something other than their declared intentions of rooting out corruption and achieving targets to reduce or eliminate it. This thesis will be tested by performing a content (quantitative) linguistic analysis (CA) on the Commission Progress Reports for Bulgaria and Romania between 2000 and 2004.

This chapter will start by discussing the method used to test the working hypothesis guiding this thesis [Part I], Followed by the coding results of the European commission progress reports for Romania and Bulgaria [Part II].

Part I: Content Analysis

As referred to in the introduction, the general steps that are followed in any CA are the following (Holsti 1969; Lands and Koch 1977, Mosteller and Wallace 1964, Fairclough 1989):

1. Categories and sub-categories. Identifying the type of standards (the categories) and sub-categories that need to be quantified.
2. Coding units. Breaking the text into those components (sentences, clauses, paragraphs) that allow us to identify the evaluative negative or positive statements made in regard to the categories (the standards) used by the Commission.
3. Quantification. Transforming the information into a quantifiable form. The coding per se.
4. Conclusions. Compare and contrast the quantitative results between the two countries (Bulgaria and Romania) and in time from one Progress Report to another.

1 (A) Categories

To put it simply, a category is “a group of words with similar meaning or connotations” (Weber 1990).

The main starting point, before devising the coding system, is to clarify which data are being analysed and how we define them. This is usually known as categorizing the data or, in other words, defining the categories that need to be quantified. The most important problem with defining categories is the level of reliability. In other words, it is crucial to eliminate as far as possible any subjectivity in the way such categories are defined. This is because “categories themselves exercise the most fundamental influence on results” (Laswell, 1942: 19). Here, this problem has been solved because such categories and sub-categories were created by the author of the texts, the European Commission itself. The researcher only needed to map them and present them in a more systematic manner (see previous chapter).

In this case, by ‘categories’ are meant the anti-corruption policies that the EC devised for the candidate countries. The adoption and implementation of these policies generated the standards/criteria used by the Commission to measure progress in the anti-corruption area.

According to the Commission, there are three stages of anti-corruption strategy and each one of them bears a different importance in the general logic of evaluation of a candidate’s progress.

1. Planning. The National Anti-Corruption Plan
2. Adoption. Adoption of legislation and performing institutional change, according to Brussels’ requirements
3. Results/implementation. Results of the above
4. General assessments of corruption

The next step in the CA is to come up with the list of words or group of words that allows the reader to identify the above-mentioned categories in the text. That is because, most of the time, each category can be expressed through a variety of synonyms or groups of words. In this case, our categories refer to general stages of implementing various anti-corruption policies. Therefore, it is important to identify which actions/policies belong to which category. This is made possible by cross-checking the Commission's main documents from 1997 and 2003, where it lays down the general strategy on corruption with the progress reports for Bulgaria and Romania and with the benchmarks of the Cooperation and Verification Mechanism. The latter indicates which aspects of the anti-corruption policies were most important for the Commission.

1) Planning

In the first paragraph of its "Ten principles for improving the fight against corruption in acceding candidate and other third countries", the Commission stated: "... National anti-corruption strategies or programmes, covering both preventive and repressive measures should be drawn up and implemented. These strategies should be subject to broad consultation at all levels" (Commission 2003 a:25). Concretely, the Commission starts many of its Progress Reports for all ten Eastern candidates with evaluative statements regarding their National Anti-Corruption Plan (Commission 2002 Czech:26). At the beginning of each year (in Spring), the Government of each country has to forward to the EC a report as to what has been realized and what needs to be realized according to the above Plan (Commission 2001 Czech:25; 2002:24).

In the Progress Reports, texts and references to the Planning stage can be identified with the following groups of words, which are synonyms for this category. Figure (3.1) shows a list of groups of words which can be identified as references to the Planning stage.

Figure 3.1: Linguistic references to planning stage

Linguistic reference to Planning stage/category
<ul style="list-style-type: none">- National Strategy against corruption- Action Plan- Strategy- Strategy for the fight against corruption- National Anti-Corruption Plan- National Strategy for Combating corruption- National Plan for the Prevention of Corruption- Programme for the Prevention of Corruption- Agenda

These have been compiled from the Progress Reports for Bulgaria and Romania covering the accession for negotiations during the period 2000-2004.

2) Adoption of legislation and institutional change

This is a considerably more complex category, which is represented by the next stage of the anti-corruption policy. Again, in the “Ten principles for improving the fight against corruption”, paragraph 2, the EC mentions that “Future EU members shall fully align with the EU acquis and ratify and implement all main international anti-corruption instruments they are party to...” (Commission 2003:25). This is also a natural step in the logic of anti-corruption policy: inserting the anti-corruption measures in the national legislation.

In its 1997 and 2003 documents, the Commission detailed what the anti-corruption legislation and institutional change meant more exactly. The Commission makes clear

from the very beginning that the anti-corruption strategy has two legs: prevention and criminalization. In 1997, the Commission stated that:

“A distinction should be made between corruption in the narrower criminal law sense and corruption in a broader socio-economic sense. This distinction is necessary because, in accordance with the rule of law principles, criminal law provisions require unambiguous, precise language, while the concept of corruption can be more general, while responding to the purpose of crime prevention. In this context, the definition of corruption could embrace concepts such as integrity, transparency, accountability and good governance”
(Commission 2003:14).

In the same document, the Commission fleshed out more exactly what is comprised in the two dimensions. Prevention includes: transparency – laws on transparency and access to data; integrity – laws regarding conflict of interests; assets declaration; political accountability – which concerns the immunity of decision makers: MPs and members of the government – ministries; party financing (Commission 2003:20, 25-26).

The Annexes of the same document further include in the same category regulations to be taken in the public administration: Code of Ethics, Civil Service laws (employability, training, staffing, recruitment, salaries and social rights) (Commission 2003: 25). The administrative reform requires: “the establishment of a single anti-corruption unit or a single coordinating body” which would help in “improving the co-ordination between different state institutions” responsible for fighting corruption (Commission 2003: 20). Another criterion (No. 8 of the ‘Ten commandments’) states that, as part of the

prevention, an awareness-raising campaign should be established to help decrease people's tolerance to corruption. Civil societies (NGOs) and international watchdogs (e.g. Transparency International) "have an important role to play in preventing and fighting the problem" (Commission 2003:26).

In the same category of adopting anti-corruption legislation, measures are also entered to target economics and, in particular, law on public procurement, which ensures that the privatization of public assets honours the rule of free competition, thus avoiding favouritism towards businesses which have an illicit connection with political decision makers.

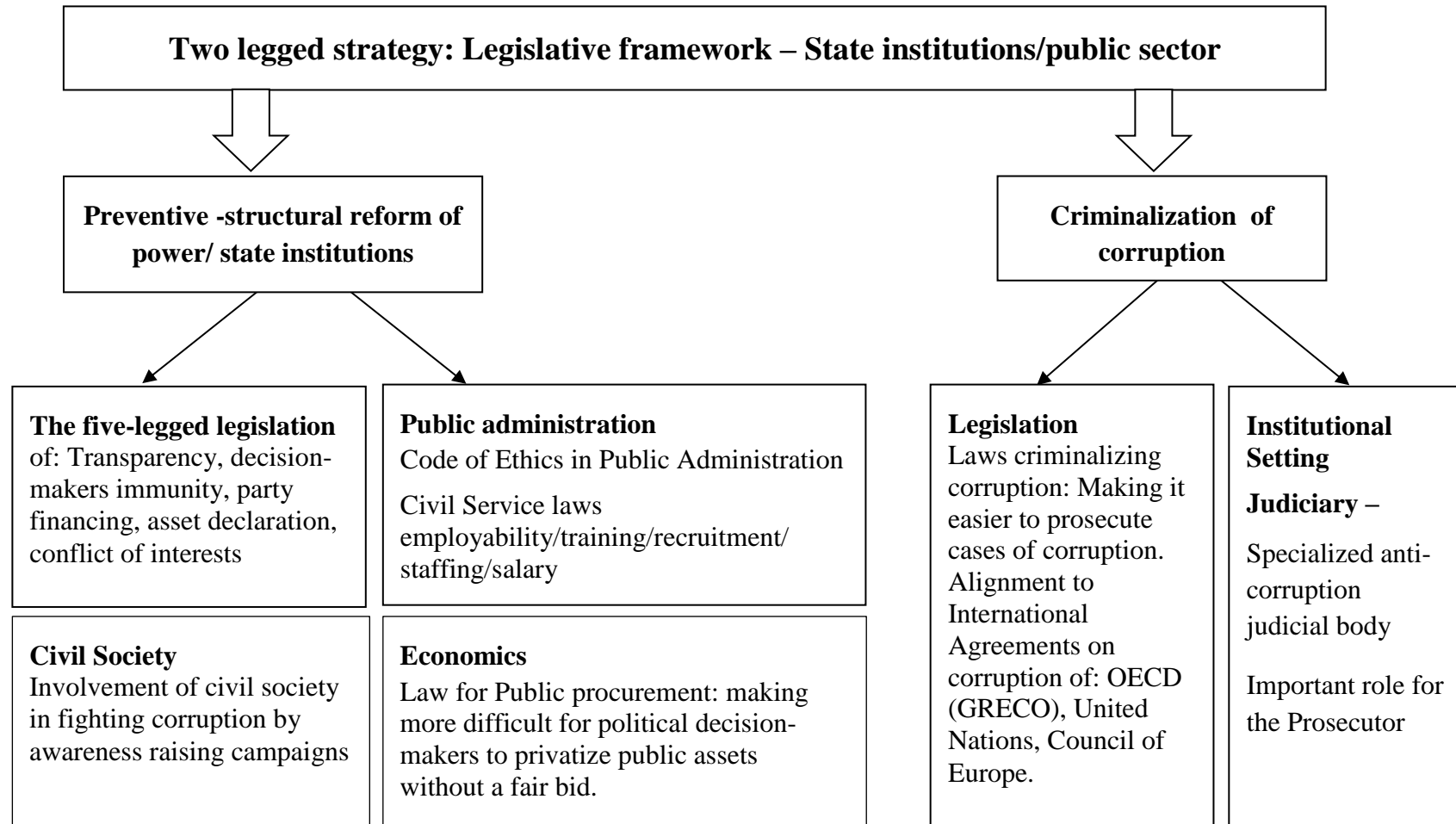
The second leg is the criminalization of corruption and it consists of two types of actions that need to be taken by the candidate. The first is to change the legislation, more exactly the Penal Code, so that corruption can become a criminal offence. This makes prosecution and sentencing easier. Also belonging to this category is the international legislation on corruption, to which the candidate countries must align their national legislation by ratifying and implementing such international agreements (Commission 2003:25).

The creation of judicial bodies specialized in prosecuting corruption cases and, in particular corruption at the highest level of policy-making (elected politicians) represents the second dimension of criminalizing corruption, according to the EU view:

"anti-corruption laws are important but more important is their implementation by competent and visible anti-corruption bodies – well trained and specialized services such as anti-corruption prosecutors" (Commission 2003: 25).

The role of the prosecutor is accordingly strengthened in the system. The Commission is particularly insistent on reforming this sector of justice, by granting the prosecutor a special position inside it, enhanced independence from political interference (including the Ministry of Justice), increased powers to start investigations into high-level cases of corruption and better payment. Figure 3.2 summarises the key aspects found in adoption stage.

Figure 3.2: Adoption stage summary



Based on the Commission's general guidelines from its documents (Commission 1997; 2003) correlated with the text of the Progress Reports for Bulgaria and Romania between 2000-2004, the following list of groups of words was compiled, with which the second category of CA can be identified: Adoption of anti-corruption legislation and institutional change.

Such groups of words define the above-mentioned policies that a candidate needs to adopt, according to the EC's requirements. These policies are a part of the second stage. Figure 3.3, summarises the group of words used in identifying the second category.

Figure 3.3: Words used to identify second category

<p>Groups of words for identifying the second category: the Adoption of the anti-corruption legislative/institutional framework</p>
<ul style="list-style-type: none"> - <i>Law</i> - <i>Legislation</i> - <i>Legal framework</i> - <i>Prevention of corruption</i> - <i>Public register law</i> - <i>Penal code</i> - <i>The civil service law</i> - <i>Code of Ethics for Public servants</i> - <i>Code of ethical behaviour</i> - <i>Licensing and registration regimes</i> - <i>Tax procedure code</i> - <i>Public procurement law</i> - <i>Privatization law</i> - <i>NGOs (civil society)</i> - <i>Public acceptance</i> - <i>Public awareness</i> - <i>Ratification of Council of Europe Civil Law Convention, GRECO of Council of Europe, OECD convention</i> - <i>Aligning with the acquis</i> - <i>Law enforcement bodies</i> - <i>Financing the political parties</i> - <i>Making more transparent the financing of political parties</i> - <i>Immunity</i> - <i>Asset declaration</i> - <i>Property disclosure</i> - <i>Conflict of interest law</i> - <i>Law on access to Public Information</i> - <i>Administration, Administrative</i> - <i>Administrative bodies</i> - <i>Local administration</i> - <i>Institutional structure</i> - <i>General prosecutor office</i> - <i>Penal code</i> - <i>National Anti-corruption Office</i> - <i>Ministry of Interior</i> - <i>Police</i> - <i>Judiciary, the judiciary system</i> - <i>The justice</i> - <i>The prosecutor</i> - <i>Anti-corruption Units inside government, ministries, police, justice...</i> - <i>Organized crime</i> - <i>National service for combating organized crime</i>

3) Implementation

The results are, after all, what makes the above-mentioned policies and measures efficient. Without concrete results, the whole process can be considered useless and it would not then fit into a technocratic logic of “solving the problem”. Consequently, in its “10 principles for improving the fight against corruption”, the Commission makes clear that this is the most important stage: “Anti-Corruption laws are important, but more important is their implementation by competent and visible anti-corruption bodies (i.e. well trained and specialized services such as anti-corruption prosecutors) (Commission 2003:25) or “....the true problem of the fight against corruption seems to lie rather in the field of implementing these laws” (Commission 2003: 11).

Concretely, in its Progress Reports for all candidate countries, the Commission expresses the same idea, that the implementation of anti-corruption policies is the most important stage in the anti-corruption process and, therefore, more important than the previous two stages: planning and adoption. Indeed, it is the most important one in the logical evaluation of candidate countries’ progress: e.g. “Despite a legal framework that is reasonably comprehensive...law *enforcement* remains weak.” (Commission Progress Report for Romania 2002) or “GRECO has noted that Bulgaria has made more progress in the adoption of legislation than in its implementation and enforcement” (Commission PR for Bulgaria 2003); or “The legal framework for fighting corruption is relatively well-developed. Therefore, the Romanian government should focus attention on enforcing existing legislation” (Commission PR Romania 2003).

By “implementation” or “enforcement” the Commission understands bringing to justice and convicting corrupt decision makers: "The true problem of the fight against corruption seems to lie rather in the field of implementation of these laws: ...preventing, investigating, prosecuting and adjudicating corruption cases" (Commission 2003: 11). The EC explicitly links the perceived levels of corruption (a Transparency International ranking) with the number of prosecutions: “There has been a reduction in perceived levels of corruption and the number of successful prosecutions remains low, particularly for high-level corruption” (Romania Report 2004) or:

“The priority for the Romanian government must be to ensure the enforcement of existing legislation. Despite the suspensions from party studies of a number of high-profile regional and local politicians, none of these cases has yet led to criminal sanctions during the reporting period” (Romania Report 2004);

“The GRECO report noted that Bulgaria has made more progress in the adoption of the legislation, rather than in its implementation and enforcement... It noted that criminal procedure was slow and that relatively few cases of corruption have resulted in judicial sanctions in comparison with the estimated level of corruption” (Bulgaria Report 2002).

Besides, in the fifty Progress Reports for the ten candidates during 2000-2004, the number of entries for the words "judiciary" and "prosecution" is the highest if compared with all the other institutions and measures that need to be taken, as shown in Table 3.1.

Table 3.1: number of words for Judiciary and Prosecution

Judiciary (related terms: prosecution, convictions, cases brought to justice)	Public procurement	Police/ Customs	Health	Education	Justice	Taxation
218	112	103	72	48	45	43

**Source: European Commission Progress Reports, Anti-corruption section, 1998-2004 for all Eastern candidate countries – Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia.*

Whenever the Commission discussed the results of implementing the legislation, these were measured by the number of prosecutions and convictions brought to justice. This was the case for the Czech Republic (e.g. Commission 2001, 2002, 03), as well as for Hungary (Commission 01; 03), Poland (Commission 2001; 2002, 2003), Slovakia (2001, 2002), Lithuania (2001,2002) and Latvia (2001,2002,2003). From the first wave of Enlargement, the only exceptions made were Estonia and Slovenia, who were considered as having a lesser problem with corruption.

In the Bulgarian and Romanian case, the number of successful prosecutions – particularly for high-level corruption (elected politicians) and mafia mobs – became a matter of top priority, that necessitated the extension of the EU’s surveillance mechanisms (the Cooperation and Verification Mechanism – CVM) after these countries became members of the EU: a first in the history of EU Enlargements. The request for prosecuting high-level corrupt politicians became Benchmark 4 of CVM for Bulgaria: “Conduct and report on professional, non-partisan investigations into allegations of high-level corruption. Report on internal inspections of public institutions and on the publication of assets of high-level officials” (Commission 2006a). Also, for Benchmark 3, it is stated that

Romania: "...building on progress already made, continues to conduct professional, non-partisan investigations into allegations of high-level corruption" (Commission 2006 b).

After 2005, organized crime became a matter of sudden concern and therefore a part of the Cooperation and Verification Mechanism. Bringing to justice mafia mobs is Benchmark 6 in the CVM, aiming to:

"Implement a strategy to fight organized crime, focusing on serious crime, as well as on the systematic confiscation of assets of criminals. Report on new and ongoing investigations, indictments and convictions in these areas" (Commission 2006 a:25).

Moreover, Bulgaria's lack of achievements in the area of prosecuting and convicting mafia mobs and high-flying politicians was one of the two reasons invoked by the EC to freeze around 200 million PHARE funding in 2008 (another first in the history of EU Enlargements). Consequently, based on the Commission's documented general guidelines (Commission 1997; 2003), correlated with the text of the Progress Reports for Bulgaria and Romania between 2000-2004, as shown in Figure 3.4, the following list of groups of words has been compiled, with which the third category of CA can be identified: Implementation of anti-corruption policies.

The use of these groups of words indicates the existence of aspects that, in the EC's view, show practical results of the anti-corruption policies: prosecution and conviction of cases of corruption.

Figure 3.4: Group of words used in identifying the third stage:

<i>Groups of words with which the third category of the CA can be identified: implementation of anti-corruption policies</i>
<ul style="list-style-type: none"> - Law enforcement - Implementation - Criminal sanctions - National Anti-Corruption Office activity - Investigations - Convictions - Prosecutions - Prison sentences - Investigation of cases of corruption - Cases brought to court - Prosecutors - Pre-trial procedures

4) General assessments

The language of the Progress Reports is not always standardized. Although most of its evaluative statements refer specifically to anti-corruption policies, there are others which cannot be placed in the above categories (planning, adoption, implementation). Broader statements can, however, be taken as comments on how serious the phenomenon of corruption is considered for society in general: “Corruption continues to be a very serious problem in Bulgaria” (Bulgaria 2001); “Corruption continues to be considered as one of the main problems facing Bulgarian society” (Bulgaria 2001); “Last year regular reports noted that corruption was a widespread and systemic problem” (Romania 2000); “Corruption affects the society and has detrimental effects on the economy and has led to

a loss of confidence in the public authorities” (Romania 2000). They can also quote the international and domestic NGOs’ surveys on levels of corruption, international rankings, public perception index (e.g. Transparency International): “Surveys and assessments conducted by both national and international organizations confirm that corruption continues to be perceived as a serious problem” (Bulgaria 2004), “There has been no reduction in the perceived levels of corruption” (Romania 2004) or “International reports and surveys indicate that corruption in Romania continues to be widespread and affects all of society.” (Romania 2004); “Bulgaria’s ranking in indexes of international perceptions has improved” (Bulgaria 2002); “Independent observers have concluded that there has been no noticeable reduction in the levels of corruption” (Romania 2002). There are also statements which have the value of a conclusion, as they have remarked on whether the country made satisfactory progress from one year to the other: “Measures to tackle corruption have been limited” (Romania 2001) and “There has been no substantial progress in the fight against corruption since the last Progress Report”; “Significant efforts were made during the reporting period to intensify the fight against corruption” (Romania 2004).

Sometimes the Commission becomes slightly more specific when discussing the phenomenon of corruption by making reference to levels of corruption in decision making, public administration or economy: “Corruption remains important in the business sector” (Bulgaria 2004), “Some reports mention first signs of decline of petty corruption in the custom authorities, in the police and in the judicial system.” (Bulgaria 2004), “Customs authorities linked to the judicial system, police and health sector are considered to be among the most corrupt groups”. Again, such statements do not refer to

any specific policy and stage of the anti-corruption strategy. Mostly, their role is to indicate which areas of society are particularly affected by corruption. So their role is more of a passive description of levels of corruption. In short, they do not give us information as to how conditionality is applied.

It is important to pinpoint the difference between the previous three categories and the last one, that of “general assessments”.

Based on the above information, the following list of groups of words has been compiled, which have now become full clauses, as shown in Figure 3.5. They enable the identification of “the general assessments category”.

Figure 3.5: Groups of words used to identify the third category

Groups of words with which the third category of the CA can be identified: Implementation of anti-corruption policies
<ul style="list-style-type: none">- Corruption is a wide and systemic problem- Corruption is a very serious problem facing ...society- Corruption affects the society- Has detrimental effects on the economy- Has led to a loss of confidence in the public authorities- No substantial progress in the fight against corruption- Significant efforts were made to intensify the fight against corruption- Measures have been taken to address corruption- National and international surveys have been conducted- Ranking in international surveys

Conclusion

Four categories have been identified. Three of them represent the stages of introducing anti-corruption, as well as specific policies and areas that need to be addressed. The fourth is derived from the non-standardized character of the texts and is requested by the Content Analysis linguistic logic. The fourth category is particularly important because, when present, it epitomizes the general opinion of the Commission on how corruption is to be addressed by the candidate.

The way in which these categories are interpreted in the evaluation is essential for tracing the existence of systematic double standards.

The Commission makes clear from the beginning a basic principle of a technocratic evaluation: results are the most important part of the whole anti-corruption strategy (Commission 1997; 2003). This means that the stage of implementation of anti-corruption is the most important, while the first stage, the planning of the strategy, comes last in importance:

Planning < Adoption < Implementation

A meritocratic evaluation of a country that has no significant results in the implementation stage cannot therefore gain a more favourable assessment than another one in the same situation. Thus, the country's image cannot be made any more or less favourable, except by selectively focusing on what is positive, while minimizing or ignoring the negative aspects. This applies particularly to the most difficult and most important stage of conditionality – implementation.

The last category of “general assessments” plays an important role in assessing the existence of double standards. It does not give information as to how the conditionality is applied by the candidate. However, the role of the assessments is to carry the general opinion of the evaluators, the Commission and the watchdogs of corruption that the Commission quotes. Therefore, if both countries display the same under-achievement at the implementation stage but, for one of them, the general assessments are more favourable or less critical than for its neighbour, then this is a good marker of double standards.

2. Sub-categories

A relevant content analysis is a detailed one, which manages to ‘squeeze’ all the meaning from the text. In order to do this, most CAs refine their tool by identifying further divisions within the text, according to the research needs (Holsti 1969; Lands and Koch 1977, Mosteller and Wallace 1964). These are the so-called sub-categories. In this case, the sub-categories are derived by the way the Commission itself has divided the anti-corruption policies. The types of decision-making (high-level, low-level or non-governmental) and the area (political or economic) appear to be the main sub-divisions with which the Commission is concerned.

a) Decision-making: High-level corruption – elected politicians

The Commission makes a distinction between two levels of power. One is the high-level decision making which concerns “corruption cases of high-level authorities (Members of Parliament, Ministers, elected local government” (Commission 2002:26 - Progress Report for Hungary).

The second is at a lower level of power, that is non-elected decision makers from the public administration, in particular, as they are defined by the EC in its ten principles for fighting corruption:

“Integrity, accountability and transparency in public administration (judiciary, police, tax administration, health sector, public procurement) should be raised

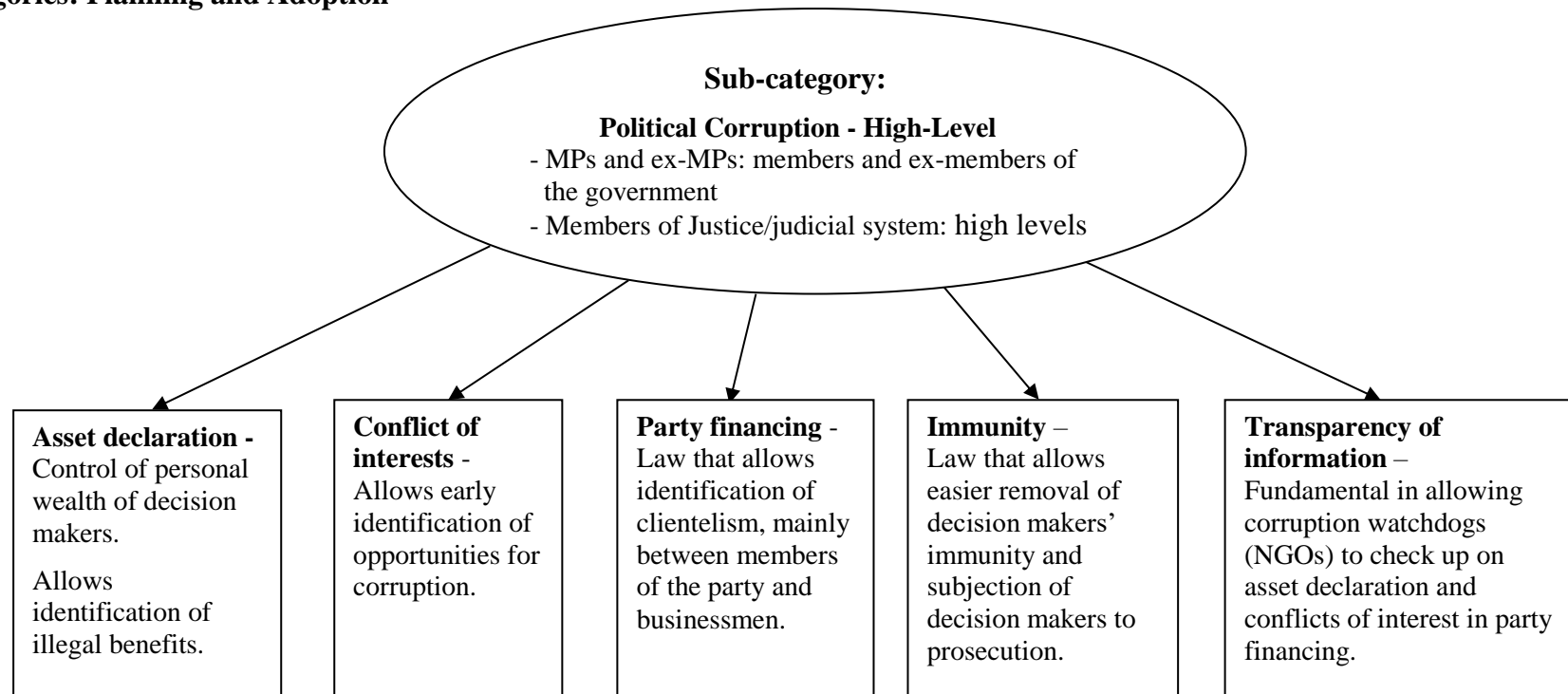
through employing quality management tools and auditing and monitoring standards....” (Commission 2003:25).

This distinction between the two levels of power is embedded in the way the anti-corruption policies were devised by Brussels. Some of these policies exclusively target elected politicians. This is the case for the five-legged legislation that all candidates are required to adopt: laws covering restriction of immunity for MPs and members of government; transparency of party financing; conflict of interest; asset declaration and transparency of information, Figure 3.6 portrays the detailed scheme.

Figure 3.6:

Anti-corruption legislation targeting political corruption (elected decision-makers)

Categories: Planning and Adoption



*Source: Commission's Progress Reports for all candidate countries⁶

⁶ Hungary – 2000, 2001, 2002, 2003; Poland – 1999, 2000, 2001, 2002; Czech Republic – 2001, 2002; Slovakia – 2001, 2002; Slovenia – 2001, 2002; Latvia – 2000, 2001; Lithuania – 2001, 2002; Estonia – 1999, 2002, 2003; Bulgaria – 1999, 2000, 2001, 2003, 2004; Romania – 1999, 2001, 2002, 2003, 2004.

The five-legged legislation is necessary not only for prevention but also for facilitating the detection and prosecution of political corruption. Criminalization of high-level corruption is presented in the Progress Reports [PR] through the following main requests made by the Commission: the setting up of a judicial body specialized in prosecution of high-level cases of corruption; and legislative and administrative measures to ensure that such a body is independent of political interference (e.g. immune from interference by Parliament or the Ministry of Justice). Such special institutions or special procedures for tackling high-level corruption are mentioned in the case of most candidate countries. For Romania, their special judicial body is “the National Anti-Corruption Office (NAPO), which is responsible for conducting investigation into high-level corruption or corruption involving state officials (Commission 2004b:21). In the Bulgarian case, this is mentioned later on in the Cooperation and Verification Mechanism, Benchmark 4.

All these measures for prevention and criminalization of high-level corruption are part of the first two stages of anti-corruption policies: they have to be present in the National Anti-Corruption Plan requested by the Commission from each candidate; they have to be adopted in the national legislation and institutional setting of the country, and therefore, they are also part of the second stage and second category of the Content Analysis, as well as the Adoption of anti-corruption legislation and an appropriate institutional setting.

The last and most important stage of implementation regards bringing to justice and conviction of corrupt individuals, as already discussed. High-level cases of corruption have a separate place within the Implementation stage. The Commission makes a qualitative distinction between bringing to justice high-level politicians and the lower

ranks of “decision making by complaining”, which the judicial bodies, specialized in corruption at high-level, are not involved with: “Romania should ensure that the national anti-corruption office remains focused on ...investigating high-level corruption instead of processing a large number of petty corruption cases” (Commission 2004 b: 21) and “Overall the approach taken... in the fight against corruption has left aside the need to take specific measures in the fight against high-level corruption in the political and business circles” (Commission 2004a:24)”. Between 2000 and 2004, this aspect was so important in the evaluation for Romania that the statement that “There has been no reduction in perceived levels of corruption” was automatically connected with the fact that “There have been very few prosecutions of high-level corruption, despite this having been identified as a priority” (Commission 2003b:21). In short, the general negative evaluation was presented as having one main source: lack of a sufficient number of convicted and prosecuted politicians on charges of corruption. Also, the high importance of convicting high-flying politicians was established after the accession, when this issue became Benchmark 4 and respectively Benchmark 3 in the Cooperation and Verification Mechanism (CVM) for Bulgaria and Romania⁷. Moreover, in 2008 Bulgaria would be penalized by approximately 200 million of PHARE funds for failing to show any progress in bringing to justice corrupted politicians or mafia mobs (Commission 2008).

Based on the above-mentioned information, a further two lists of word groups have been compiled within each main category (Planning, Adoption and Implementation), which refer to aspects belonging to the sub-category of high-level corruption. They are two and

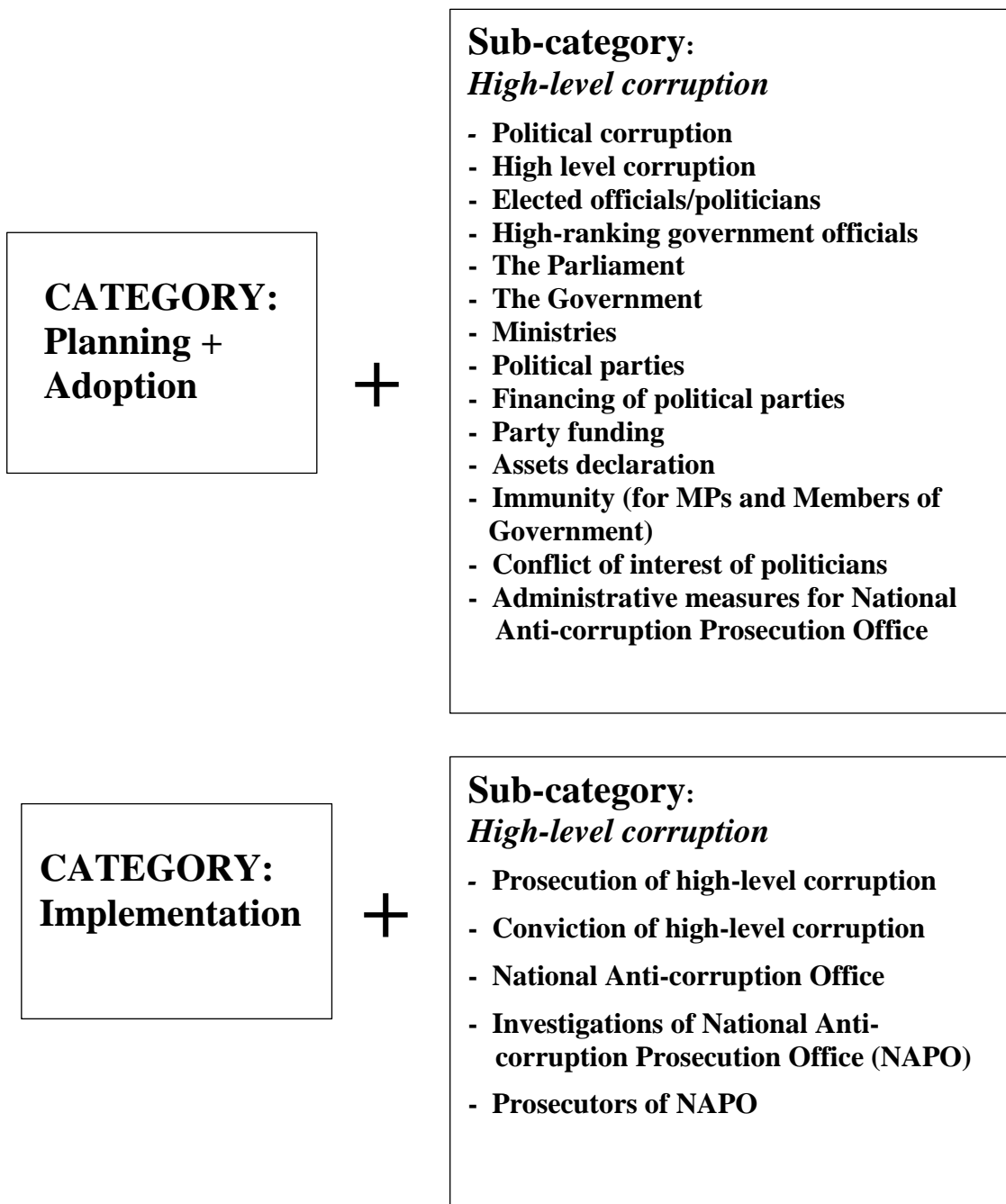
⁷ CVM for Bulgaria Benchmark 4: Conduct and report on professional, non-partisan investigations into allegations of high-level corruption. Report on internal inspections of public institutions and on the publication of assets of high-level officials.”; For Romania Benchmark 3: “3. Building on progress already made, continue to conduct professional, non-partisan investigations into allegations of high-level corruption”.

not three, because Planning and Adoption come under the same policies for adoption: legislative and institutional measures for fighting political corruption. However, the implementation stage refers to the results of these legislative and institutional changes, which are interpreted by the Commission in only one way: bringing to justice as many politicians as possible. Therefore, the group of words that refers to high-level corruption in the implementation stage is different from the other two stages/categories, as shown in Figure 3.7. The compiled list was based on the Progress Reports for Bulgaria and Romania for 2000-2004.

Figure 3.7:

Groups of words referring to high level corruption in the implementation stage

List of groups of words



The following examples show how the categories and sub-category can be identified using the lists of groups of words mentioned for each of them.

1. The national strategy aims to... creating more transparency in financing political parties

↓
Category: Planning

↓
Subcategory: high-level corr.

2. Adopted legislation for making more transparent the funding of political parties

↓
Category: Adoption of legislation

↓
*Sub-category: high-level corr.

3. The number of convictions from National Anti-corruption Office remains modest.

↓
Category: Implementation

↓
Sub-category: high-level corruption

*Corruption.

b) Decision making: Lower levels of decision making – non-elected officials

Lower-ranking officials from public administration, in particular, represent the second level of power targeted by the anti-corruption policies, according to the Commission's "Ten principles of corruption". Under this heading, the Commission includes: "judiciary, police, tax administration, health sector, education, public procurement" (Commission 2003:25). Measures addressing law enforcement bodies and public administration are elements that are not missing from any report of all candidate

countries⁸. The Commission makes clear why: “The capacity of public administration structures and the judiciary ... is an overarching concern of the Commission.” (Commission 2003: 20): The Commission also explains why this is necessary: because these bodies implement the anti-corruption legislation which otherwise would be rendered ineffective (Commission 2003:20).

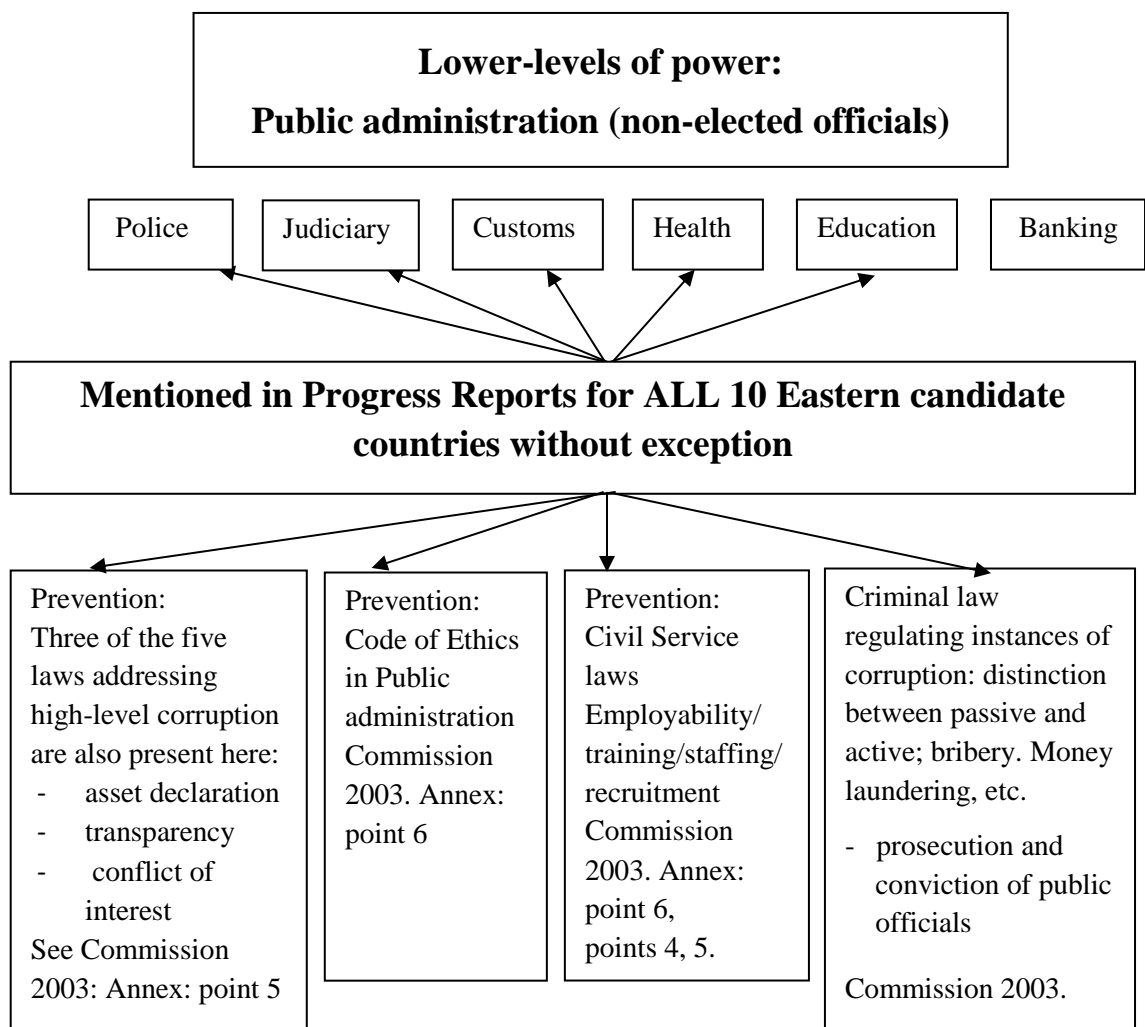
As in the case of high-level decision making, the strategy has two pillars. Under the prevention umbrella, the same principles are present: transparency of information, asset disclosure and conflict of interest which are requested for decision makers. The only logical exceptions are immunity and party financing (Commission 1997; 2003). In its “Ten Principles for improving the fight against corruption in acceding, candidate and other third countries”, the Commission comes up with details about the content of the above-mentioned principles applied to the public sector: Employment rules should be subjected to the principle of meritocracy and transparency; salaries and social rights must be appropriate; assets must be disclosed and there should be codes of conduct in the public sector (Commission 2003:25-26).

Criminalization of corruption is, according to the Commission, the final stage of the anti-corruption policy and it has two components: creating a legislation that criminalizes corruption (e.g. making a distinction between active and passive bribery) and creating specialized bodies to ensure that accusations of corruption will be appropriately applied (Commission 1997; 2003).

⁸ Without exception, all 10 Progress Reports mention the same measures that need to be taken in order to address corruption among lower ranks of public officials: Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia.

Bringing a public official to justice is, as in the case of high-level corruption, the most important proof that the legislative and institutional structures that have been set up function well (Commission 2003). As in the case of high-level corruption, the Commission insists on a judicial aspect and on the role of prosecution. The difference is that no specialized judicial bodies are required to tackle such cases. Figure 3.8 depicts anticorruption policies for public administration:

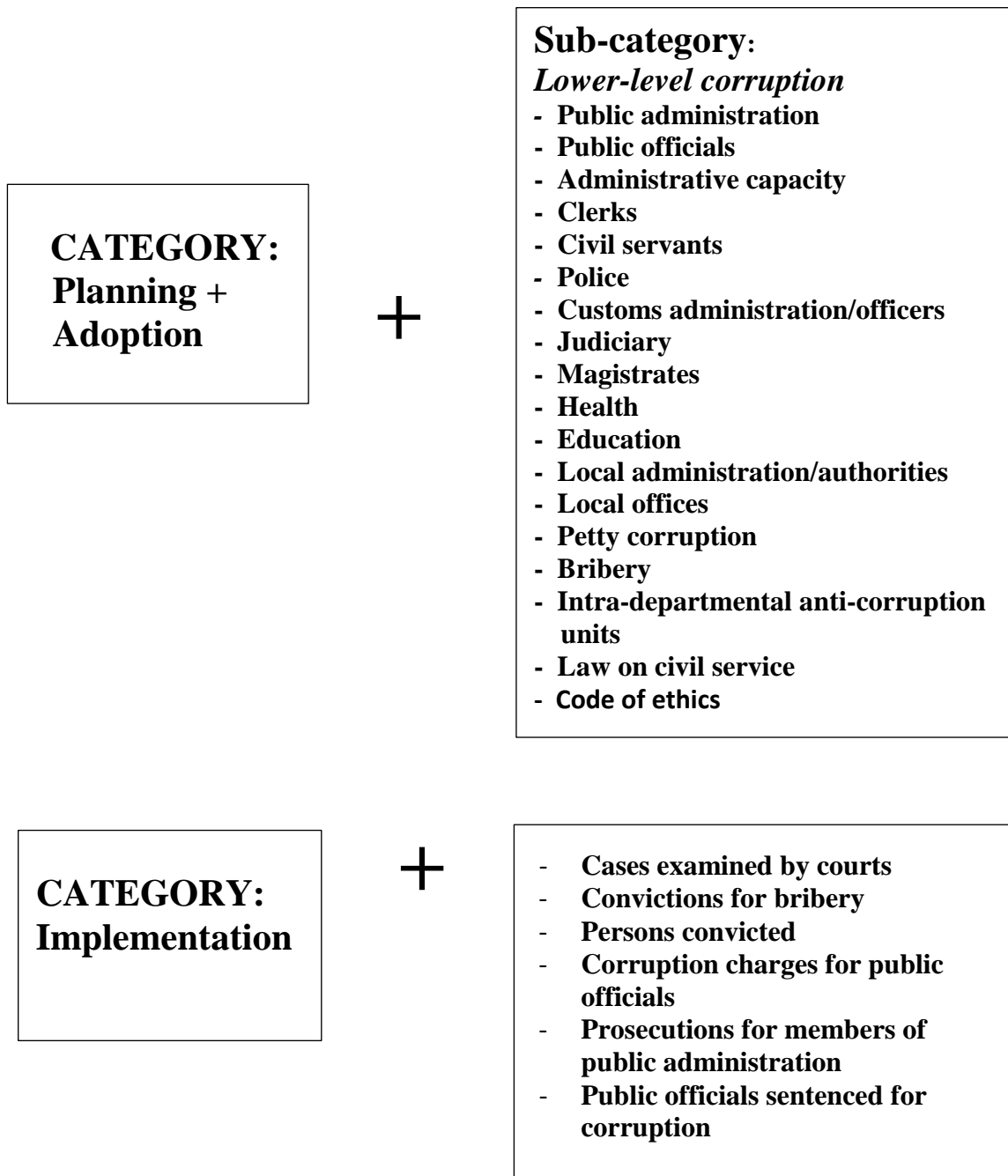
Figure 3.8: Anticorruption policies for public administration



Based on the above information, two further lists of word groups have been compiled within each main category (Planning, Adoption and Implementation), which refer to aspects belonging to the sub-category of corruption at lower ranks of public officials, non-elected. They are two and not three, because the Planning and the Adoption refer to the same policies that need to be adopted: legislative and institutional measures for fighting political corruption. However, the implementation stage refers to the results of these legislative and institutional changes, results which, according to the Commission's interpretation mean one thing: the prosecution and conviction of corrupted public officials. The group of words that refers to low-level corruption in the implementation stage is therefore different from the other two stages/categories. These are presented in Figure 3.9. The list was compiled based on the Progress Reports for Bulgaria and Romania for 2000-2004.

Figure 3.9

List of words used to identify
low-level corruption in the implementation stage



The following examples show how the categories and the sub-categories can be identified using the lists of word groups mentioned for each of them.

1. The overall strategy aims at....improving the functioning of authorities at the local level
↓
Category: Planning
↓
Sub-category: Lower-level corr.
2. The Ministry of the Interior has prepared a draft code of ethical behaviour for the police
↓
Category: Adoption
↓
Sub-category: Lower-level
3. In 1999, a total of 381 public officials were sentenced for corruption....
↓
Sub-category: lower level of corr.
↓
Category: Implementation

c) Policy making: NGO's and IO's: Domestic and international non-governmental watchdogs

A third sub-category regards actions that do not directly concern the classic echelon of power (elected politicians and public administration). Such actions had to be carried out by a new type of actor, whose importance is exalted in the EU's strategy: non-governmental organizations (civil societies). In its 10 principles on corruption, the Commission states (point no.8) that: "civil society has an important role to play in preventing and fighting the problem" (Commission 2003:25).

The role of the non-governmental watchdogs of corruption is multifold, as acknowledged by the Commission itself, and it covers the following areas: planning – policy-making

(consultancy); implementation – surveillance and reporting on the way the five-legged legislation on corruption has been implemented; general assessments – acting as a source of information and evaluator for the general state of corruption in the country; prevention – activism, raising public awareness, acting as mouthpiece for EU’s anti-corruption strategy) (Commission 2000; 2003; Freedom House: 2005; World Bank 2005).

In the planning stage: Policy making – consultancy. Civil Society should be involved in devising the National Anti-Corruption Plan in collaboration with the government. This is the first of the 10 principles on corruption: the government “has to initiate a wide consultation process with a range of relevant NGOs and international donors.” (Commission 2003: 25). In practice this became an important request formulated by the EC for almost all candidate countries from Eastern Europe, particularly highlighted for Slovakia (Commission 2001 i:18), Estonia (Commission 2003 c:22) Hungary (2002:23) and Poland (Commission 2001:19). In Bulgaria, the first draft was entrusted to a coalition of domestic NGOs and international donors who worked together with the government (Commission 2002e; 2001a; World Bank 2000). Romania is an extreme example in this sense. Conducting an audit performed by an international organization (Freedom House) was one of the conditions inserted into Annex IX of the Accession Treaty that Romania had to fulfil in order to be accepted in the EU without activating the postponement clause⁹. Also, the Romanian Anti-Corruption Plan issued in 2001 was built on a diagnostic of the

⁹ According to the Agreement, Romania had to: “conduct an independent audit of the results and the impact the current National Anti-Corruption Strategy has generated; to reflect the conclusions and recommendations of this audit in the new multi-annual anti-corruption strategy which must be one comprehensive document...” Moreover, the choice for Freedom House was actually made at the direct suggestion of members of the EC, according to interviewees from the EC delegation in Bucharest.

World Bank (World Bank 2000), which was again commissioned by the government, at the suggestion of the Commission.

NGOs/IOs in the Second stage: Adoption and institutional change

According to the EC's ten commandments on corruption, raising awareness about corruption among the population plays an important part in the area of prevention and it is also one of the most important tasks of non-governmental watchdogs:

“Public intolerance of corruption should be increased, through awareness-raising campaigns in the media and training. The central message must be that corruption is not a tolerable phenomenon but a criminal offence. Civil society has an important role to play in preventing it...” (Commission 2003:26).

NGOs' role, envisaged by the EC, is to increase public awareness of corruption through such campaigns. Raising awareness belongs to the second stage of the anti-corruption policies because the Commission considers it an important part of the prevention pillar. Prevention belongs to the second stage/ category, as described above.

A special category here is represented by IOs which developed legislative mechanisms against corruption. In its 10 principles on corruption, the Commission states at point 2 that it expects that: “Current and future EU members shall fully align with the EU acquis and ratify and implement all main international anti-corruption instruments they are party to (UN, Council of Europe and OECD Conventions)” (Commission 2003: 25). This represents an important part of the legislation stage in adopting anti-corruption principles.

Implementation

This stage is not directly concerned with NGO activity. This is because the implementation stage in the Commission's view refers almost exclusively to bringing to justice and convicting public officials and mafia mobs (see above). On the other hand, the NGO's role is almost entirely focused on the prevention sector of the anti-corruption strategy (see above). However, the role of civil society in preventing corruption was meant to have a practical impact on levels of corruption, either by preventing potential corrupt behavior from taking place or by preventing potentially corrupt individuals from having access to decision making. Also, due to their access to sensitive information regarding party financing and individuals' assets they could, potentially, inform the judicial system to start procedures against those public officials found at fault. Nevertheless, due to the co-lateral impact of their activity at this stage, as well as for the uneven results, the NGOs' role at this stage goes unrecorded in the Progress Reports. Consequently, there is no need to count the NGOs' activity as one of the sub-criteria belonging to the main category, the Implementation.

General assessments

As mentioned above, "general statements" refer to those evaluative comments made by the Commission, which do not refer to any of the anti-corruption measures that the country had to apply. Such comments are only general assessments of the state of corruption in the country, international rankings and criticism regarding certain sectors of activity or decision making but without making any specific reference to how concrete measures are to be adopted and applied. In short, the purpose of the general statements is

to capture the bigger picture, either of the general anti-corruption effort or of the phenomenon of corruption.

The NGOs'/IOs' activity has an important role in generating such statements. Producing ranking of corruption based on public perceptions and generating surveys was the particular product of their activity, especially from the well-known international watchdogs of corruption such as Transparency International¹⁰. The Commission shows the importance it places on this aspect of NGO activity by opening its Report with quotes from surveys of IOs or opinions of "independent observers", which in this case is another name for non-governmental actors: "Surveys indicate that corruption remains a widespread and systemic problem..."¹¹ or "Independent observers notice that corruption is a general spread phenomenon ...". The Commission uses these reports with the aim of giving a general impression as to the state of corruption and, sometimes, of the general effort made to fight it.

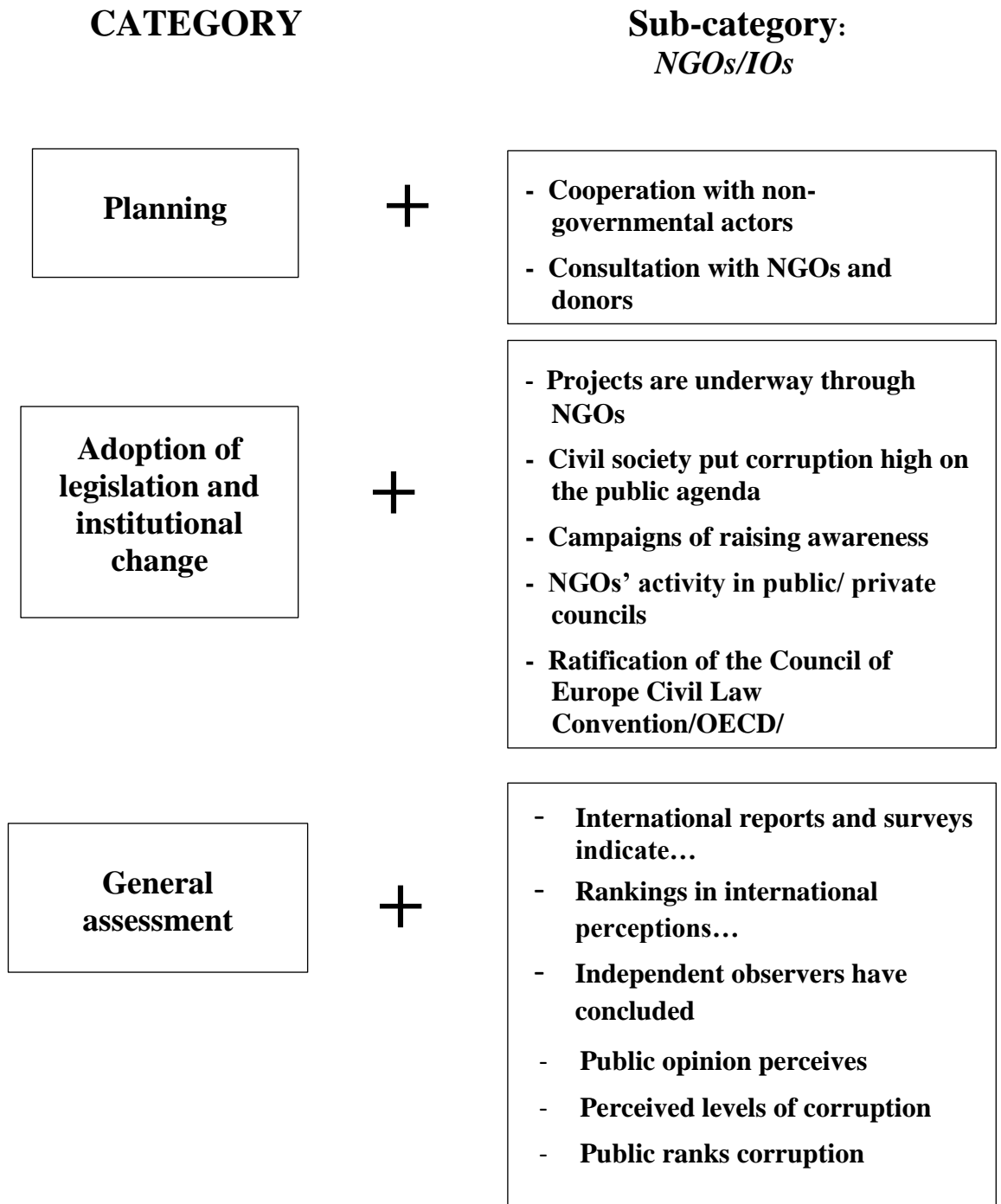
Based on this information, two lists of word groups have been compiled, which identify the sub-category regarding NGOs/IOs activity, as shown in Figure 3.10.

¹⁰ According to interviewers from DG Enlargement, the rankings and studies produced by the local chapters of Transparency International were constantly used in the reports for giving a general picture of the state of corruption. Their name was not mentioned in the reports because the Commission wanted to emphasise that it retained sole responsibility for the content.

¹¹ The opening sentence from the Anti-corruption sector from 2003 Progress Report for Romania.

Figure 3.10:

List of words used to identify the sub-category regarding NGOs/IOs activity



The following examples show how the categories and the sub-category can be identified using the lists of word groups mentioned for each of them.

1. Whilst the Government and civil society have succeeded in putting the need to...



Sub-category: NGOs

tackle corruption high on the public agenda...



Category: Planning

2.a. Public- private Councils have been set up with local municipalities and NGOs.



Category: Adoption leg/instit. change
NGOs



Sub-category:

... in a number of cities to develop local anti-corruption activities.

2.b. Bulgaria is a party to the Council of European Convention for Laundering



Category: Adoption and Sub-category: IOs.

(Note: in this case, the ratification of International Agreements is exclusively a part of the second stage of anti-corruption)

3. Surveys indicate that corruption remains a widespread and systemic problem.



Sub-category: NGOs



Category: General assess.

d) *Organized crime* occupies a prominent place in the issue of implementation. The Commission allotted it a special section in the chapter on Justice and Home Affairs, but it is also mentioned in the anti-corruption section of the Progress Reports, whenever the

Commission thought this was applicable (Commission 2000a,b; 2001a,b; 2002a,b; 2003a,b; 2004a,b). The existence of a significant amount of organized crime indicates more than any other aspect that corruption is systematically embedded at the highest levels of decision making: crime cannot be organized if there is no symbiotic relationship between political power and mafia (Europol 2012). In short, its very existence is a sure signal that the phenomenon of corruption enters into the most severe category of corruption: state capture. Apart from this, organized crime plays an important role in this particular instance. Tackling organized crime became benchmark 6 in the Cooperation and Verification Mechanism for Bulgaria (Commission 2006a). Also, the lack of consistency with which the Commission treated this issue was one of the empirical arguments that triggered the present working hypothesis. Therefore, mapping the way the EC evaluated this problem becomes very important in determining the existence of double standards in the Progress Reports.

Linguistically, identifying a statement that refers to organized crime is more straightforward than for other sub-categories. The group of words for identifying this sub-category remains the same for each category. Consequently, organized crime would be included as a distinct sub-category belonging to the four main stages or categories of the anti-corruption strategy: planning, adoption of legislation and institutional change, implementation plus the fourth linguistic category identified here as ‘general statements’.

Even if organized crime might be completely missing from some categories, such absence is as relevant as its presence. Therefore, a section on organized crime would need to be inserted for all the categories.

Based on this information, a list of word groups has been compiled, which identifies measures against organized crime;

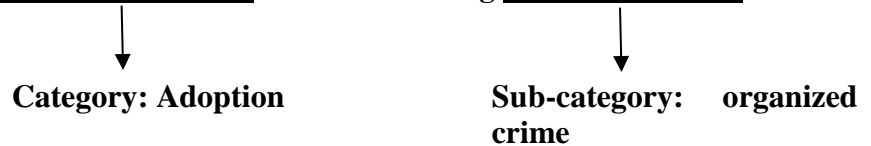
- Organized crime
- Mafia mobs
- Money laundering

Examples:

1. this is an element of the National Strategy on Combating Organized Crime



2. The specialised anti-corruption unit ...for Combating Organized Crime has...



...been reinforced with a doubling of its staff



e) Economics. At first sight, it might look quite perplexing that anti-corruption is placed among political criteria, as a part of good governance, rather than among the economic requirements. That is because the consequences of corruption are mostly visible in the economic area and the Commission itself admits this: “corruption... undermines the economy” and “economic development” (Commission 2000; 2003 Romania), “corruption is a serious obstacle to the business environment” (Commission 2001,

Bulgaria), in that “it affects the capacity of the state to guarantee a predictable and lawful environment for its ...economic ...actors” (Commission 2000, Bulgaria).

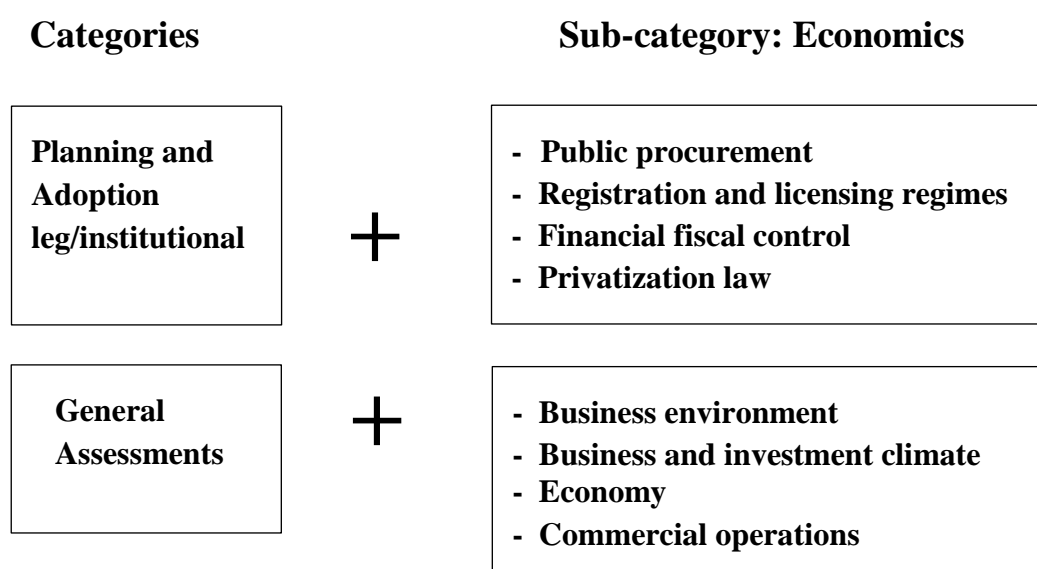
On the other hand, it is true that legislative and institutional mechanisms were developed to target corrupt behaviour, which was to a great extent related to activities in the economic sector and, in particular, with public procurement and privatization. In fact, the legislation regulating public procurement and public bids seems to score high in importance in the Progress Reports: “In conclusion, with the important exception of public procurement, there has been no substantial progress in the fight against corruption” (Romania 2000) or “a positive development in the fight against corruption was the adoption of an ordinance introducing public procurement procedures” (Romania 2000). So, although public procurement legislation is only one aspect among many of the anti-corruption strategy, its adoption is considered essential for the progress of the anti-corruption fight *in general*. In former Socialist countries, most of the economic sector belonged to the state. Consequently, the state was still the biggest owner in the economy. Under EU pressure for a market economy, the former Socialist countries had to relinquish state control over a considerable amount of such property under the form of privatization. Also much of the public work had to be entrusted to private companies, following the same market logic. Therefore, public procurement and privatization legislation was essential to ensure that such a procedure was not undermined by corrupt practices or lacking in transparency.

The economic criterion is present only in the first and second stage of anti-corruption strategy: planning and adoption of legislation. The third stage, implementation, refers to

the judicial /coercive side of the process, where those who encroached the law (such as a public procurement law, or any other) had to be put on trial. However, the economic aspect is largely present in the category identified as “general assessments”. The Commission makes numerous general evaluative statements regarding the relationship between corruption and the economic sector. Such statements do not involve any particular aspects of the anti-corruption strategy, as would usually be the case for such statements. Some of them have been exemplified above already.

Based on the information provided by the Commission’s Progress Reports, the following two lists of word groups have been compiled as necessary for identifying the sub-category of economics, as shown in Figure 3.11:

Figure 3.11: List of words used to identify subcategory of economics



f) General assessments of each stage of corruption

In the section that identifies the categories for the content analysis, there is a special place for statements which are labelled as “general assessments”. This is because it is difficult

to place them in one of the categories that refer to the anti-corruption policies and their stages (planning, adoption and implementation).

A similar situation occurs in the case of sub-categories for content analysis. In each report the Commission comes up with a general evaluation of the candidate's progress in the three stages of the anti-corruption policy: planning, adoption of legislation and institutional change (anti-corruption framework) and implementation. However, such statements do not refer to specific measures or policies that could be integrated into one of the sub-categories already identified (high-level and low-level decision making, economics, organized crime, civil society). Similarly, with the case of the "general assessments" category, the Commission comes up with a general opinion as to where the candidate country stays in terms of progress, or lack of it, in one or other of the stages of anti-corruption conditionality. In each report, the Commission inserts sentences such as:

1. Further *good progress* has been made with the adoption of an Action Plan

↓
Evaluative statement

↓
Category: Planning

Source: Progress Report for Bulgaria 2002

2. Whilst *progress* has been made in setting the legislative framework for tackling corruption...

↓
Evaluative statement

↓
Category: Adoption leg./instit.
↓

Source: Progress Report for Bulgaria 2002

3. "There has been *no substantial progress* in implementing the anti-corruption law"

↓
Evaluative statement

↓
Category: Implementation

Source: Progress Report for Romania 2000

The above examples show how the general statements are constructed. The sentence contains a linguistic reference to one category or another and, importantly, it is always accompanied by an evaluative statement that the Commission makes in relation to the candidate's progress in that area (e.g. "progress has been made"). However, overall there is no reference to specific aspects or measures that belong to these stages.

For example:

1. Last year's Regular Report noted that corruption was a widespread and systemic problem

Category: General assessment + evaluative statement.

Source: Progress report for Romania 2000

2. Measures to tackle corruption have been limited


 Category: General assessment Evaluative statement

Source: Progress Report for Romania 2000

3. There has been no substantial progress in the fight against corruption since the last Progress Report.


 Evaluative statement Category: General assessment

Source: Progress report for Romania 2000

The above statements do not refer to any of the stages of corruption, nor to the existence of corruption within political decision-making and economics. However, they can have a very powerful evaluative value, exactly because they are general. In the first example, the Commission states that corruption remains a major and massive problem for the

candidate. This is very important because it legitimizes the Commission's requests and evaluation contained by the Progress Reports: since corruption remains such a massive problem, then the Commission is entitled to continue both its work of monitoring and of further enforcing its policies.

Example no. 3 shows what the Commission believes about the candidate's general progress. It represents the final grade that the Commission grants to the candidate for that year. So, its importance exceeds all the other statements made in the text – with one exception: the sub-category of those general evaluations generated by the NGOs and IO, as exemplified above¹². They retain the same value – that of conclusion – and, therefore, they are very important to the logic of the evaluation. What differs is the source: they belong either to the Commission or they are generated by the NGOs/IOs.

The following list of word groups was compiled to identify the sub-category of general statements, as shown in Figure 3.12.

Figure 3.12: Words used to identify subcategory of general statements.

- Corruption continues to be a widespread/systemic/very serious problem
- Corruption undermines the legal system/economy/
- Corruption generates loss of confidence in the authorities
- Measures taken to tackle corruption have been limited
- No substantial/little/ there was certain /progress in the fight against corruption

¹² As a reminder, such examples are: "surveys and assessments conducted by both national and international organizations continue to perceive corruption as a threat..." (e.g. Commission 2001, 02 a,b,c,d,e; 2003 a,b.; 2004 a,b) or "international reports indicate that corruption"(Commission 2003 b). Also, the rankings of TI chapters in these countries were much quoted by the Commission in its reports: The ranking in the indexes of corruption has improved ...", "There has been no reduction in perceived levels of corruption".

Conclusion

The categories and sub-categories identified represent the main stages of anti-corruption policies and the main areas where these policies had to be applied (the sub-categories) in accordance with the Commission's guiding documents and its Progress Reports. What had to be evaluated has therefore been identified, as well as how it had to be evaluated for the official purpose of rooting out corruption. The importance of each stage can now be understood.

This information is necessary for testing the working hypothesis that: the Commission's monitoring was marred by systematic double standards, as the initial empirical evidences suggest. The existence of double standards contradicts the EU official discourse, which states that the rationale of the anti-corruption conditionality was to solve the big problem of corruption and therefore to help countries to improve their economic and political environment. Solving the problem and introducing policies which are all for the benefit of the general public of these countries are the main features of the technocratic discourse, which has been much used by the Commission in order to legitimize its work in general. A purely technocratic discourse is essentially de-politicized. It excludes the existence of power intention or of vested interests. However, the existence of systematic double standards contradicts this, demonstrating that technocratic principles were not genuinely applied. Consequently, the meaning of the whole process changes. If rooting out corruption and, therefore, solving a problem for the benefit of the larger public does not seem to be the main scope of the process, then the only relevant questions that need to be addressed are: in whose interests are the anti-corruption policies working and who has been empowered or disempowered, and how? In other words, the content analysis scope

here safely allows us to remove a widely accepted assumption: that the main rationale behind the EU anti-corruption policies was to solve the problem of corruption for the general benefit of the people of these countries.

The next stage of this research is therefore now legitimized. This focuses on the anti-corruption narrative as a means to push forward different interests and change the power balance in the country. That being said, the detailed information about the anti-corruption conditionality is also essential in order to understand how the new legislative and institutional structures introduced by the candidate countries also changed the internal power balance.

Stage/category I: Planning

The National Anti-Corruption Plan - The European Commission required national governments to propose a coherent plan to fight against corruption with deadlines benchmarks, guaranteed budgetary and clear institutional responsibilities. The NACP could be amended each year or once per couple of years.

NATIONAL ANTI-CORRUPTION PLAN
Planning the legislation framework, institutional reform
and the implementation stages.

- **General evaluation (gen.)**
- **High levels of power – elected politicians MPs, Government (hl)**
- **Lower levels of power – non-elected officials, public administration (ll)**
- **NGOs and IOs (NGOs/IO)**
- **Organized crime (org.cr)**
- **Economy (ec)**

Note: the NACP was not necessarily adopted or renewed each year.

Stage/category II: Adoption of legislation and institutional reform

This category covers all the anti-corruption legislation and institutional changes requested by the EU:

1. HIGH-LEVEL ELECTED DECISION MAKERS

- **Prevention:** five legged legislation: immunity, assets control, conflict of interest, party financing, transparency of information.
- **Criminalization** – special judicial bodies and prosecutors for high-level cases of corruption.
- **Organized crime** – Note: whenever this is the case

2. NON-ELECTED OFFICIALS, LAW ENFORCEMENT BODIES (police, justice, public procurement, tax, education, health)

- **Prevention** – five legged legislation +Code of Ethics +Civil Service law+ anti-corruption institutional settings
- **Criminalization** – legislation for bringing to justice prosecution/conviction) officials ;
Criminalization - ratification of international agreements on anti-corruption (OSCE- GRECO, Council of Europe).

3. CIVIL SOCIETY – NGOs – Prevention – policy making, surveillance, activism.

4. Organized crime –judicial reform for allowing easier prosecution of judges

Stage/category III: Implementation

In the Commission's plain words, implementation is equivalent to the prosecution and conviction of an increasing number of officials, elected and non-elected, including mafia mobs of organized crime, where appropriate (see Bulgaria).

IMPLEMENTATION - prosecution/conviction

1. General evaluation

2. HIGH LEVEL ELECTED DECISION MAKERS`

3. LOWER LEVELS: NON-ELECTED OFFICIALS FROM LAW ENFORCEMENT BODIES

4. Organized crime (mafia mobs).

Content Analysis, Evaluative statements and coding

A. Intensity of evaluative statements

In the previous section, the categories and sub-categories on which the coding would be applied were identified.

Identifying the categories and sub-categories is essential but not sufficient. They become meaningful only when they are accompanied by an evaluation statement, which reveals the Commission's qualitative opinion. For example, the phrase: "National Anti-corruption plan was adopted" only conveys that the country did adopt the first stage of anti-corruption policies, which, in itself, should be a positive statement. However, the statement does not clarify the quality of the step taken, as in the second example. "An important step forward was the adoption of the National Anti-Corruption Plan". The Commission clearly attaches a great importance to this step. Therefore, although in both cases the sentences transmit the same information – "the national anti-corruption plan was adopted" – the value attached to it is different.

The above example reveals that such evaluative statements come with a degree of intensity. The first statement about the National Anti-corruption plan transmits a weaker positive value than the second one. This is due to the use of so-called "intensifiers". Intensifier is a linguistic term (but not a proper lexical category) for a modifier that makes no contribution to the propositional meaning of a clause but serves to enhance and give additional emotional context to the word it modifies (Katz et al., 1969; Markoff et al., 1975). The most well-known intensifier is "very", but there is a whole range of intensifiers (Katz et al., 1969; Markoff et al., 1975). Here, are such intensifiers are used

by the Commission: very serious, step forward, significant progress, etc. What makes the difference between evaluative statements is the intensity attached to them. Therefore, it is essential to examine the intensity of evaluation in the present coding.

The degree of intensity can be generated in two ways: syntactically and contextually. Syntactically the intensity is created by the usual linguistic modifiers (adjectives, adverbs) or by a more complex combination of nouns/verbs/adverbs/adjectives, as in the following example: “an important step forward” (Katz et al., 1969; Markoff et al., 1975). The EC realizes one type of evaluative statement by using the usual adjectives/adverbs + noun/verb formula: e.g. little progress, few concrete results, no progress, it is worrying, etc. (Fairclough 2003: 172)

Employing evaluative verbs is the other option for creating evaluative statements used by the EC in its Reports: e.g. to be improved, should be upgraded; it fails to address; it undermines (Fairclough 2003: 172). Such verbs have negative or positive meanings in themselves, without being accompanied by any other modifiers (e.g. adverbs/adjectives).

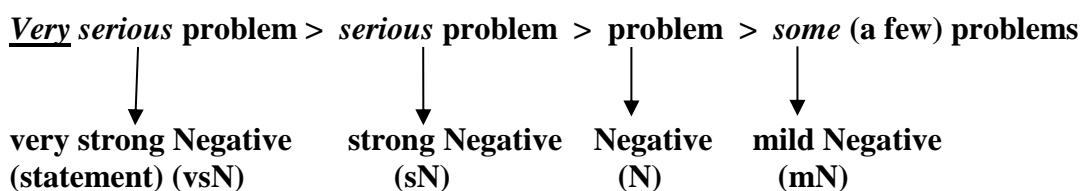
The third option is represented by evaluative nouns, which, like verbs, introduce a negative or positive meaning in the statement without being accompanied by the usual modifiers (adjectives or adverbial intensifiers): progress, achievements, problem, obstacle (Fairclough 2003: 172). When such modifiers are present, they enhance the positive/negative value.

The context refers to the meaning attached by the author to the text and it always has priority over the syntax (Roberts 1997). For example, in one sentence, the Commission states: “There has been no substantial progress in the fight against corruption since the last report”; and “No progress has been made in making the funding of political parties more transparent” (Romania 2002). In both cases, the evaluative statement is the same: no progress. However, in the first case its value is considerably stronger than in the second. The first sentence is the negative, final mark for the anti-corruption effort *as a whole, in general*. The second refers only to one aspect of it. The Progress Report’s final destination is to release the EC general opinion on the progress or lack of it that a candidate makes in applying the conditionality. In such cases, the value given by the context always has priority over the syntax (Shapiro and Markoff 1997; Roberts 1997, Erlandson 1993, Denzin and Lincoln 1994). Such statements are created on three syntactic levels or coding units: at the level of a clause, at the level of sentence and at the level of a paragraph. However, the basic coding unit or building brick of such evaluative statements can be identified as the clause. (Roberts 1997; Krippendorff 1980; Shapiro and Markoff 1997; Stemler and Bebell 1998; Weber 1990).

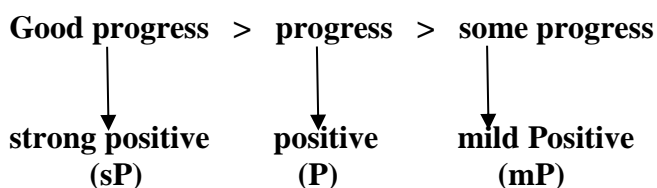
It is possible to map the circumstances in which a (positive or negative) evaluative statement receives a certain value on an arbitrarily chosen scale (Roberts 1997). By examining syntax and context markers, the scale of intensity employed for evaluative statements can be mapped. The following section shows such an analysis of some of the evaluative statements employed by the Commission in its Progress Reports.

Intensity of evaluation generated by syntax

Linguistically, the EC uses a range of evaluative statements which covers the types distinguished in the specialized literature on this subject, which are (arguably) three (Fairclough 2003; White 2001; Katz et al., 1969; Markoff et al., 1975; Franzosi 1989; Abell 1987, Heise 1989, Corsaro and Heise 1990). Here, the usual three degrees of intensity for negative/positive statements have been employed, plus one further degree, as used by the Commission. They follow the usual pattern of a modifier (an adverb or an adjective): good (positive); better (strong positive) the best (superlative). However, the degrees of intensity found in the Commission's Progress Reports are as follows:



Or:



Here, superlative statements are not present, due to the nature of the text analysed. The Progress Reports are official texts and therefore their language is to a certain degree standardized, precise and, therefore, cautious. As one of the interviews stated:

“There was a blueprint of phrasing and wording: the rule forbade strong words.

For example, we were not allowed statements that were referring to the state of

corruption in Romania as being ‘a disaster’ or statements where Bulgaria’s progress was described as ‘wonderful’.”

To these categories, an extra category has been added. This is demanded by the logic of the text: mild statements (negative or positive). In the case of those with negative meaning, their role is that of desirability (Fairclough 2003:173). Their main purpose is not to emphasize the failure, or to criticize but they urge towards further action. In the Progress reports such combinations can be:

- it needs to be improved
- it should be upgraded
- there is room for improvement

The use of the adverb “some”, which can be replaced with “few”, also falls under this category. According to the Oxford Content Analysis Handbook (2008), wherever the word can be used interchangeably with “few”, its meaning is: a limited number or a small quantity. Therefore, in this context, when it accompanies nouns that indicate a negative meaning, such as “problem” or “obstacles”, its value is to reduce their negative value – and vice-versa in the case of mild positive statements.

It is not only the syntax that determines the intensity, however. The importance of the topic of such an evaluative statement also depends on the context. As mentioned before, the context always has priority over syntax and together they give the degree of intensity.

Very strong negative statements

Before everything else, the fundamental logic behind the Progress Reports is enshrined in their very title: they measure the progress of candidate countries from one year to another. Consequently, all the other negative or positive evaluations referring to various specific aspects that are only a part of the anti-corruption puzzle are not as important as a general evaluation of progress in the area. This is achieved by statements such as: "There has been *no substantial progress* in the fight against corruption since the last report". By contrast, there are also statements such as the following: "*No progress* has been made in making the funding of political parties more transparent" (Romania 2002). The statement that carries the biggest weight is, of course, the former. The latter is subsidiary in terms of value because it refers to only one aspect of anti-corruption conditionality. What makes the difference here is the general versus the particular, and the general has priority, due to the logic of these reports: measure progress and then decide whether the country is sufficiently prepared in general terms to conclude a chapter of the conditionality.

Accordingly, general statements about the state of corruption, such as: "surveys indicate that corruption remains a widespread and systemic problem that is largely unresolved" (Romania 2002) also come under the same category. Similarly, so do statements that assess the general state of corruption in the country, such as this: "corruption remains a serious and widespread problem" (Bulgaria 2000). Statements that belong to the category of "General assessments" therefore take the strongest negative.

Figure 3.13, compiles the word combinations that receive the value of very strong negative.

Figure 3.13: list of word combinations with the very strong negative values

<i>Very strong negative statements</i>
<ul style="list-style-type: none"> - Corruption is a widespread and systemic problem - Corruption continues to be widespread and affects all aspects of society - Corrupt practices affect/contribute to tainting the political, economic and social environment - Corrupt practices affect the capacity of the state... - It undermines the effectiveness and legitimacy of state institutions - Corruption is a very serious problem - Corruption is one of the main problems - Corruption is one of the most serious problems - Corruption is largely unresolved - No reductions in the levels of corruption - No reduction in perceived levels of corruption - No reduction of corruption (during the reporting period) - Measures to tackle corruption have been limited - No substantial progress in the fight against corruption (since the last Progress Report) - Such high levels of corruption undermine.... - Levels of corruption remain high - Corruption is all the more worrying

Although there are very few positive statements (two that can be labelled as ‘very strong positive’), they do exist and need to be mentioned, as shown in Figure 3.14.

Figure 3.14: Positive statements

<i>Very strong positive</i>
<ul style="list-style-type: none"> - Further good progress has been made with the adoption of Action Plan - A considerable step forward has been taken through the National Anti-Corruption Plan - Bulgaria’s rankings in indexes of international perceptions has improved

The last statement, regarding Bulgaria’s ranking, does not qualify syntactically in the category of very strong statements. However, this evaluation states something important

and quite rare in this particular case: the improvement in the international indexes. This is equivalent to saying that Bulgaria has actually managed to reduce levels of corruption and, therefore, its progress in fighting corruption was real and noticeable.

Strong negative/positive statements

Negative

Statements carrying the greatest weight in terms of importance are the ones that assess the progress in fighting corruption and the state of corruption (or general levels of corruption). That is because they assess the final results of the anti-corruption effort made by the candidate.

Second in importance come those statements that label progress made in one of the three main stages of tackling corruption: planning, adoption, and implementation. Such statements are more important than those which refer to specific aspects of the anti-corruption strategy. For example: “...there has been no substantial progress in *implementing* anti-corruption policies” (Romania 2001) and “although the principle of access to information is enshrined in the Constitution, there is no effective implementation of the legislation” (Romania 2001). In the first sentence, the Commission labels the whole implementation effort of Romania as being unsatisfactory. In the second, it refers to just one aspect of the implementation stage: enforcing the law on transparency of information.

Under the same category of strong statements come the Commission’s assessments of corruption as a phenomenon that affects certain sectors of society and decision making:

democratic institutions, public administration and the economy. Typical statements in this case include: “corruption undermined the legal system”; “corruption undermined the economy”; “corruption is seen as having a negative effect on business”. Apart from making such general statements, the Commission sometimes deliberately emphasizes the importance of one particular policy, in contrast with the others, such as: There have been very few prosecutions of high level corruption, despite this having been identified *as a priority*.” (Romania 2003). “*On some important aspects of the strategy there is no detail as yet on concrete measures and deadlines, such as...*” (Bulgaria 2002).

The importance of seemingly specific aspects of the anti-corruption policy are elevated when the Commission states that they are a condition for judging the whole anti-corruption effort of the candidate, as in the following examples: “Last year Regular Report noted that filling NAPO’s (National Anti-corruption Office)’s posts would be *a test for the government’s commitment to the fight against corruption*. One year later, NAPO still remains seriously understaffed” (Romania 2003); “*The priority must be to ensure the rigorous enforcement of existing legislation*. Measures contained in the National Corruption Strategy ...had a *limited impact*” (Romania 2003). “*Overall, the approach taken by the Bulgarian authorities in the fight against corruption has left aside the need to take specific measures in the fight against high-level corruption*” (Bulgaria 2004).

Strong Positive statements

The same principles apply to the positive statements. These include statements that address the general progress in one of the three main stages of the anti-corruption

programme, such as: “Bulgaria had made more progress in the adoption of the legislation...” (Bulgaria 2003).

The Commission also makes statements that address general levels of corruption in certain areas of public administration and society such as: “Reports mention first signs of a decline of petty corruption in the custom authorities, in the police and judicial system” (Bulgaria 2004). Syntactically this is not a strong positive statement but, rather, a cautious one (“first signs”). However, it addresses a topic which has been regarded as very important by the Commission itself: it refers to the institutions considered as essential in the fight against corruption – police and the judicial system; secondly, it also concerns levels of corruption, which is equivalent here to concrete results in decreasing the phenomenon, which should be the most important outcome.

As in the previous case, there are several instances when the Commission emphasizes the importance of a certain particular aspect of conditionality, which, under normal conditions, would only count as part of one of the three main stages of anti-corruption policies. “The *major institutional development* over the period was the setting up of the National Anti-Corruption Prosecution Office” (Romania 2002); “The two instruments target dates for the ratification of the international legal instruments related to fighting corruption.... These are *important developments*” (Romania 2002); “In conclusion, with *the important exception* of public procurement....” (Romania 2001).

The following lists of evaluation statements have therefore been compiled to indicate strong negative/positive statements; these are presented in Figure 3.15:

Figure 3.15: List of evaluation statements

<i>Strong negative statements</i>
<ul style="list-style-type: none"> - No progress in implementing... - Less progress in implementation and enforcement (of legislation) - Measures contained in the National Strategy ...have a limited impact. - Undermines the legal system - Undermines the economy - Loss of confidence in the public authorities - Customs, police, university teachers, public sector officials are... among the most corrupt professions - Corruption is a serious obstacle to business environment/investment climate - Corruption is widely reported within public bodies/at political level - On important aspects...no progress - Corruption remains a common aspect of commercial operations - It is widely reported with public bodies/political level - Institutional arrangements a serious problem - National strategy fails to substantially address... - Strategy is weak - A test (<i>failed</i>) for the government commitment to the fight against corruption
<i>Strong positive statements</i>
<ul style="list-style-type: none"> - Further good progress - Further development ...the adoption of the National Anti-Corruption Plan - Important developments (<i>referring to punctual aspects of anti-corruption strategy</i>) - Major institutional development - Important (<i>positive</i>) exception - More progress in the adoption of legislation - Anti-corruption legislation is well-developed - Decline of petty corruption

Negative/Positive statements

Syntactically, the word groups above do not contain the usual intensifiers we met for the ‘very strong’ and ‘strong’ evaluations, such as: *good* progress, *major* development, *serious* obstacle, *very serious* problem, etc. Also, their topic overlaps with the content of the sub-categories determined in the previous section. This includes all policies and measures that belong to the sub-categories identified as: high-level corruption, low-level (public administration), economics, organized crime and NGOs (see lists of words that identify these measures nos. 1, 2, 3).

Sometimes the Commission only notices that certain policies have been adopted, without comment. In such cases, the candidate countries need to receive a positive value, even if this is not accompanied by any other evaluative comments – first, because it acknowledges that the country did comply with requested measures; second, for the sake of consistency. For example, we have statements such as: “No progress has been made on the draft ...concerning MP’s immunity” (Bulgaria 2002). This statement must receive a negative value for the obvious reason that it signals that the country failed to comply. The statement: “The concept of conflict of interests has been introduced into Romanian law” (Romania 2003) does not contain any other assessment (e.g. “progress was made). However, it states that the country has complied with one of the compulsory requests inserted in the anti-corruption strategy (Commission 1997; 2003). Therefore, its value is positive.

Usually, however, the Commission clearly indicates its opinion as favourable or unfavourable on a particular item by using the modifiers already discussed above: “Co-ordination between the various other bodies charged with tackling *organized crime remains a problem*” (Romania 2001); “*No progress* has been made on the draft Act.... concerning *MP’s immunity*” (Bulgaria 2002). Or, for the positive side: “The changes made to the privatization law... have started to *have an effect*” (Bulgaria 2002); “The number of outside interests considered incompatible with being a public official has been significantly expanded.” (Romania 2003).

At other times, the positive meaning of a certain statement is indicated by an adversative coordinative or subordinate conjunction. Adversative conjunctions introduce two contrasting clauses, such as these: *Despite* suspensions from party duties of a number of high-profile... politicians, none of these cases has yet led to criminal sanctions during the reporting period.” (Romania 2002). In such cases, the Commission uses the following such adversative conjunctions: however, nevertheless, yet, but, whilst, despite, although, while.

Table 3.2 below re-lists the combinations of words that identify the anti-corruption measures belonging to the sub-categories of: high-level corruption, low-level (public administration), organized crime, economic corruption, NGOs and IOs.

Table 3.2: Combinations of words used to identify anti-corruption measures for subcategories.

<p><u>Sub-category:</u></p> <p><u>High-level corruption</u> <u>(planning + adoption stage)</u></p> <ul style="list-style-type: none"> - Political corruption - High level corruption - Elected officials/politicians - High-ranking government officials - Parliament - The government - Ministries - Political parties - Financing of political parties - Party funding - Assets declaration - Immunity (for MPs and Members of Government) - Conflict of interest of politicians - Administrative measures for National Anti-Corruption Prosecution Office 	<p><u>Sub-category:</u></p> <p><u>High-level corruption</u> <u>(implementation stage)</u></p> <ul style="list-style-type: none"> - Prosecution for high-level corruption - Conviction for high-level corruption - National Anti-Corruption Office - Convictions by National Anti-Corruption Prosecution Office (NAPO) - Prosecutions by NAPO
<p><u>Sub-category:</u></p> <p><u>Lower-level corruption</u> <u>(planning and adoption stage)</u></p> <ul style="list-style-type: none"> - Public administration - Public officials - Administrative capacity - Clerks - Civil servants - Police - Customs administration/officers - Judiciary - Magistrates - Health - Education - Local administration/authorities - Local offices - Petty corruption - Bribery - Intra-departmental anti-corruption units - Law on civil service - Code of ethics 	<p><u>Sub-category:</u></p> <p><u>lower level corruption</u> <u>(implementation stage)</u></p> <ul style="list-style-type: none"> - Cases examined by courts - Convictions for bribery - Persons convicted - Corruption charges for public officials - Prosecutions for members of public administration - Public officials sentenced for corruption

Mild negative statements

The text of the Progress Reports also contains statements whose value is rather ambiguous. For example: “*There is still room for improvement... to monitor declarations on conflict of interest*” (Romania 2004); “*The legislative sector should be upgraded...*” (Bulgaria 2000); “*The government should further enhance its efforts to create an environment of zero tolerance to corruption*” (Bulgaria 2000); “*Further steps are required to introduce the concept of criminal liability of legal persons*” (Romania 2003).

In CA literature, the meaning of such statements is identified as expressing an urge for further action, rather than to criticize. Nevertheless, its implied meaning remains negative because it signals that whatever effort has been made was insufficient and more needs to be done. This category is available only for the negative statements. There is no such equivalent for the positive evaluations.

Table 3.25: Statements used by the Commission in the Progress Reports:

<i>Mild negative statements</i>
<ul style="list-style-type: none">- There is room for improvement- Should further enhance- Further steps are required- Further efforts- Needs to be upgraded- Needs to continue its efforts- Renewed efforts are needed- Needs to be consolidated- Would benefit from

Conclusion

This section has identified the degrees of intensity the Commission uses in the text of its Progress Reports. This is necessary for creating the coding, and therefore for quantifying the positive/negative statements used in the Reports. They are, therefore, essential in exploring the existence of systematic double standards in these texts.

Four degrees of intensity have been identified for negative statements: very strong, strong, (simple) negative and mild negative.

Three such degrees of intensity have been identified in the case of positive statements: very strong, strong and positive.

Very strong negative/positive



Category: general assessments - on overall progress made in fighting corruption and assessments of levels of corruption

Strong negative/positive



Sub-category: general statements of the three stages of the anti-corruption strategy: planning, adoption, implementation.

+ general assessments of corruption levels in certain sectors of society and policy making

+ specific anti-corruption measures pinned down as very important by the Commission

Negative/Positive statements



All anti-corruption measures that belong to the sub-categories identified above as: high level corruption, low level corruption, organized crime, economic corruption and NGO/IO activity.

Mild negative



Statements that urge further action in various areas of conditionality where steps have been already taken

Coding system at the level of a simple clause

In the coding system, the degrees of intensity receive arbitrary values. The choice of values in itself is not important (they can start from 1 or from 100). What is essential is the consistency with which they are applied (Roberts 1997a,b; Janis 1949; Lebart 1993,1994; Neundorf and Kimberley 2002; Shapiro et al 1997; Weber 1990; Duzin and Lincoln 1994).

Consequently, the following values were chosen:

Statements value

vsN = very strong Negative = -3

sN = strong Negative = -2

N = Negative = -1

mN = mild Negative = -0.5

vsP = very strong Positive = 3

sP = strong Positive = 2

P = Positive = 1

The abbreviations for the main categories, with their sub-categories, are:

1. **Planning (National Anti-Corruption Plan): Pl**
 - a. General evaluation of the National Anti-Corruption Plan stage: Gen.
 - b. High-level (measures addressing high-level corruption): hl
 - c. Low-level (measures for corruption at the level of non-elected decision-makers): ll
 - d. NGOs/IOs – anti-corruption activity carried out by NGOs and IOs
 - e. Economy: Policies addressing corruption in the economy: ec
 - f. Organized crime: org. cr.
2. **Adoption (adoption of legislative and institutional measures): Adopt.**
 - a. General evaluation of the Adoption of legislation and institutional change: Gen.
 - b. High Level: hl
 - c. Low –level: ll
 - d. NGOs/IOs
 - e. Economics
 - f. organized crime: org. cr.
3. **Implementation: Impl.**
 - a. General evaluation of the implementation: gen.
 - b. High Level: hl
 - c. Low –level: ll
4. **General assessments/ranking of corruption: Gen.**
 - a. General assessments of Commission on progress in fighting corruption: Gen
 - b. General rankings/assessments issued by NGOs/IOs: NGOs/IOs
 - c. High-level of power: hl
 - d. Lower levels: ll
 - e. Economics: ec.

Examples of coding on simple clauses:

Further good progress has been made with the adoption of the Action Plan

Indicates the value:
very strong Positive = +3

Indicates: category – Planning: Pl.
sub-category: General evaluation: Gen.

The formula of the coding is mentioned in parenthesis at the end of each simple clause. The formula is: category: subcategory; value

Therefore, the coding goes:

Further good progress has been made with the adoption of the Action Plan (Pl: gen; vsP = +3).

Coding at the level of sentences (or combinations of clauses)

Most information in the text is conveyed, not in simple clauses but, most of the time, through a combination of clauses. The literature on this topic indicates a multitude of relationships that exist between two or more clauses in complex sentences, relationships which change according to the type of linguistic marker or context in which they are introduced. Such relationships are created by the introduction of various (adverbial) conjunctions (Halliday and Hassan 1976; Quirk 1985; Celce-Murcia and Larsen-Freeman 1999; William 1996)¹³. The only relationship of interest here, however, is when the importance or the value of a clause is taken separately, or changes in relationship to other statements.

In the case of Progress Reports, this situation is generated by subordinating adversative (adverbial) conjunctions. The syntactic role of subordinate conjunctions is to introduce a clause which is dependent on the main one, which cannot stand by itself without the main clause (Foley and Valin 1984). Adversative conjunctions introduce a contrast between two clauses. The subordinate adversative conjunction therefore introduces a hierarchical value between the two statements. In other words, the subordinate conjunctions signal the introduction of a statement which is semantically weaker, or less important, than the main one. It is used to signal where the author's emphasis falls (Halliday and Hassan 1976; Foley and Valin 1984; Cristofaro 2003; Kortann 1996; Mathiessen and Thompson 1988).

¹³ From a semantic perspective, coordinative (adverbial) conjunctions introduce different types of relationships between clauses such as: enumerative, summative, appositional, resultative, inferential, contrastive, transitional, etc. (Quirk 1985: 634). Although such categories differ from one author to another, such differences are mostly taxonomic.

For example: “*Despite* a legal framework that is reasonably comprehensive, law enforcement remains *weak*”. Here are two clauses linked by the subordinate adversative conjunction, “despite”. Its semantic importance is that it indicates which one of the statements is more important, from the author’s point of view. The message it sends is: “Yes, the legal framework is comprehensive but this is not as important as the fact that there are no results coming out of it”. The subordinate clause introduced by the adversative “despite” loses some of the positive value it would have held if it had been an independent clause: e.g. “The legal framework is reasonably comprehensive”.

<p><u>Despite</u> a legal framework that</p> <p>↓</p> <p>Decreases statement value by 50%</p>	<p><u>is reasonably comprehensive</u></p> <p>↓</p> <p>sets up initial value = Positive = +1</p>
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Therefore the final value it takes is: +0.5

The main clause retains its initial value.

Consequently, the coding goes as follows:

<p><i>Despite</i></p> <p>↓</p> <p>Decreases Value 50%</p>	<p>a legal framework</p> <p>↓</p> <p>Category: Adopt.(Adoption legisl.) Sub-category: gen.(general evaluation)</p>	<p>that is <u>reasonably comprehensive</u></p> <p>(Adopt:gen; P =+0.5)</p> <p>↓</p> <p>sets up initial value: Positive = +1</p>
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<p>law enforcement</p> <p>↓</p> <p>category:Impl. (Implementation) Sub-category: gen (general evaluation)</p>	<p>remains <u>weak</u> (Impl:gen; sN= -2)</p> <p>↓</p> <p>value:strong negative sN= -2</p>
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The subordinate adversative conjunctions that the Commission uses in the Progress Reports are:

- **Whilst**
- **Despite**
- **Although**
- **While**

However, the conjunction “despite” does not always introduce a contrast, as in this case: “There have been very few prosecutions of high-level corruption *despite* this having been identified as a priority”. In this case, “despite” plays the role of an intensifier: it stresses how important is the lack of achievement in this area and therefore it enhances the negative value of the statement. Also, the dependent clause introduced by “despite” has no value in itself. Its only role is to intensify the negative statement (strong negative) from the main clause and therefore it does not receive any value. In such cases, the coding goes:

There have been very few prosecutions of high-level corruption (Impl:hl; sN= -2) despite this being identified as a priority.

Selecting the relevant sentences in the Progress Reports

The necessity of reducing text to its main components has emerged mainly due to the large amount of text/discourse that needed to be analysed and quantified (e.g. minutes from Parliament). Fortunately, this does not apply here. The Anti-Corruption sections from Progress Reports are short and well defined in terms of length. Therefore, their content needs to be quite precise. Precision in this case means that the texts have to communicate how the Commission values the candidate’s effort or progress in complying with the anti-corruption conditionality. Therefore, statements which have no evaluative role, that are purely descriptive and refer to details which have little relevance in the context of conditionality, are not very frequent. However, they do exist. For example:

“NAPO (Romania’s National Anti-Corruption office) replaces the existing anti-corruption section of the General Prosecutor’s Office. The National Office only investigates corruption cases involving sums over 100,000 Euros and relating to high-ranking officials. NAPO also has regional branches attached to each of the fifteen Courts of Appeal. These branches handle corruption cases that fall outside NAPO’s competence. Countrywide, and when fully staffed, NAPO will have 75 prosecutors, 150 judicial police officers, 35 financial experts, 50 auxiliaries and 10 administrative positions”. (Romania 2002). The whole paragraph is only a description of an institution. The description carries no value because there is no evaluative statement attached to it. Therefore, from a quantitative point of view, this type of text does not count in the coding.

Analysing the data

The role of CA is to understand how a more favourable or less favourable evaluation is built and from which criteria or sub-criteria such views were generated. The next step in this study is to compare the evaluations made for Bulgaria and Romania. This is essential in order to understand whether the evaluations have been marred by double standards, or not.

The analytical steps are:

1. To quantify the negative and positive statements, in order to determine which side is dominant (positive or negative).
2. To quantify which categories and sub-categories generate most negative or positive statements (and by what percentages these can be measured).

3. To compare and contrast the dominant score in both cases. For example, if the dominant score in the Bulgarian case is positive and in the Romanian case it is negative, then these results are compared first. The comparison is made between the categories and sub-categories which generated them.
4. The next step is to pinpoint which aspects (categories/sub-categories) counted little in the dominant score, or were completely missing.
5. Coming to a conclusion on the existence of double standards depends on analysing: whether the Commission focused selectively on positive aspects, while dismissing the negative ones, or vice versa, in both cases; or whether it focused on less important aspects of the anti-corruption stages (e.g. the initial ones), while consistently dismissing the most important aspects, or whether, in comparison, it focuses on the more important stages.

The following section discusses the coding of EC anti-corruption reports for Bulgaria and Romania from 2000-2004:

Part II: Coding of the European Commission Progress Reports

Table 3.3 highlights the coding index used to code the EC reports for Bulgaria and Romania respectively.

Table 3.3: Coding index

<p style="text-align: center;"><i>Coding index:</i></p> <p><i>vsN = very strong Negative = -3</i></p> <p><i>sN = strong Negative = -2</i></p> <p><i>N = Negative = -1</i></p> <p><i>mN = mild Negative = -0.5</i></p> <p><i>vsP = very strong Positive = 3</i></p> <p><i>sP = strong Positive = 2</i></p> <p><i>P = Positive = 1</i></p> <p><i>Main categories - abbreviations:</i></p> <ol style="list-style-type: none"> <i>1. Planning (National Anti-corruption Plan): Pl</i> <i>2. Adoption (Adoption of legislative and institutional measures): Adopt.</i> <i>3. Implementation: Impl</i> <i>4. General assessments/ranking of corruption: Gen.</i> <p><i>Sub-categories:</i></p> <ol style="list-style-type: none"> <i>a. General evaluation of the Planning/Adoption/Implementation: Gen.</i> <i>b. General assessments by the Commission on progress in fighting corruption: Gen</i> <i>c. General rankings/assessments issued by NGOs/IOs: NGOs/IOs</i> <i>d. High-level (measures addressing high-level corruption): hl</i> <i>e. Low-level (measures for corruption at the level of non-elected decision-makers): ll</i> <i>f. NGOs/IOs – anti-corruption activity carried out by NGOs and IOs: NGOs/IOs</i> <i>g. Economy: Policies addressing corruption in the economy: ec</i> <i>h. Organized crime: org. cr.</i>
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For each of the five years covered in this study, I started by coding the evaluation statement used in the Commission's reports, followed by summarising overall scores of the identified categories and subcategories. In the following section, I discuss the summarising tables and their interpretations for Romania and Bulgaria from the years 2000-2004. For a detailed overview on how I coded each EC report, please refer to Appendix 2.

2.1 Summary of European Commission reports for Bulgaria and Romania, year 2000

Table 3.4 summarises the quantification of the number of the positive and negative statements made for each linguistic category and subcategory of the Commission's reports that were used to identify each stage of corruption, as shown in section F of this chapter.

Table 3.4: Bulgaria and Romania, year 2000, scores for categories, subcategories and overall scores

1. PL: Planning				
<i>Sub-criteria</i>	BULGARIA		ROMANIA	
	Positive	Negative	Positive	Negative
General evaluation				
High-level of power (elected politicians)		- 0.5		
<i>Lower level</i>				
<i>Organized crime (where applicable)</i>	+0.5			
<i>NGOs/IOs</i>	+1			
<i>Economics</i>				
2. Adopt: Adoption of legislation and institutional change				
<i>General evaluation</i>			+3	
<i>High level</i>	+1	-2	+1	
<i>Low level</i>	+2	-1	+0.5	-2
<i>Organized crime</i>				
<i>NGOs/IOs</i>	+2			-2
<i>Economics</i>	+3	- 0.5	+1	
3. Impl: Implementation				
<i>General evaluation</i>		- 0.5		
<i>High level</i>				
<i>Low level</i>			+1	-1
<i>Organized crime</i>				
4. Gen:General assessments				
<i>General evaluation of corruption/progress(Gen.)</i>	+1	-10		-9
<i>NGOs/IOs assessments(ranking levels of corruption)</i>				
<i>High level (elected politicians)</i>				
<i>Lower Level (public admin.)</i>		- 6		
<i>Economics</i>				-5
Score: TOTAL	Positive= 10.5 Negative = - 20.5 NEGATIVE 67% POSITIVE 33%		Positive = +6.5 Negative = -19 NEGATIVE 74% POSITIVE 26%	

CATEGORIES	Positive		Negative	
	Bulgaria	Romania	Bulgaria	Romania
1. Planning	+1.5	0	-0.5	0
2. Adoption	+8	+5.5	-3.5	-4
3. Implementation	0	+1	-0.5	-1
4. General Assessment	+1	0	-16	-14
<i>Score Total:</i>	+10.5	+6.5	-20.5	-19
Dominant category Percentage of positive/negative score	Adoption 76%	Adoption 85%	General assess 80%	Gen. Assess. 70%

Sub-categories	Positive		Negative	
	Bulgaria	Romania	Bulgaria	Romania
a. General evaluation of the 3 main stages (Pl; Adopt; Impl.)	0	+3	-0.5	0
b. General evaluation of corruption/ progress (by Commission)	+1	0	-10	-9
c. General assessment by NGOs/IOs	0	0	0	0
d. NGOs/IOs (role in the three stages)	+3	0	0	-2
d. High-Level (elected politicians)	+1	+1	-2.5	0
e. Low- level (public administration)	+2	+1.5	-7	-3
f. organized crime	+0.5	0	0	0
g. economy	+3	+1	-0.5	-5
<i>Score: Total</i>	+10.5	+6.5	-20.5	-19
Dominant sub-category Percentage of positive/negative score	NGOs/IOs≈30 % Economy ≈ 30%	Gen.eval. stages ≈ 50%	Gen.eval. Commission ≈ 50% Low-level ≈ 35%	Gen.eval. Commission ≈ 50% Economy ≈ 26%

*Note: some figures are approximations in order to give a clearer image.

For the year 2000, the scores are fairly balanced. Both countries have received a larger number of negative statements than positive ones. However, Bulgaria scores slightly better.

There is only a small difference between the negative scores for the two countries. The majority of the negative statements are triggered by the Commission's general assessments, which do not highlight how specific policies are implemented. These statements only provide a vague illustration of the corruption phenomenon in general. This result is endorsed at both the category and sub-categories level. This means that they are not generated by comments made on concrete, specific anti-corruption actions.

Looking at the positive scores, the difference between the two countries is more evident. Bulgaria has more overall positive scores (33%) than Romania (26%). At the level of categories, for both countries, it is the adoption of legislation and institutional change (the second stage of the anti-corruption strategy) that gathers the great majority of positive comments. Bulgaria shows more positive scores regarding the planning and the commission's general assessment of corruption categories, while Romania scores nothing.

At the level of sub-categories, the positive scores are generated from different sources. For Bulgaria, it is the activity of the NGOs and, in particular, their collaboration with the Bulgarian government in putting together a plan for fighting corruption that attracts plaudits. The second source is represented by anti-corruption legislation, targeting the

economy. For Romania, most of the positive points are accumulated by general assessments of each stage of their anti-corruption strategy.

Noticeably, some crucial aspects were either not considered or even ignored. For instance, comments focusing on the implementation stage are almost totally missing in the Bulgarian case. Moreover, the organised crime subcategory is almost ignored [with the exception of one mild *positive* comment; although Bulgaria has the highest rate of organized crime, moulded after the Russian model.

2.2 Summary of European Commission reports for Bulgaria and Romania, year 2001

Table 3.5 summarises the quantification of the number of the positive and negative statements made for each linguistic category and subcategory of the commission's reports that were used to identify each stage of corruption, as shown in section F of this chapter.

Table 3.5: Bulgaria and Romania year 2001 overall scores, categories and subcategories scores.

1. PL: Planning				
<i>Sub-criteria</i>	BULGARIA		ROMANIA	
	Positive	Negative	Positive	Negative
General Evaluation				
High-level of power (elected politicians)				
<i>Lower level</i>	+2			
<i>Organized crime (where applicable)</i>				
<i>NGOs/IOs</i>	+2			
<i>Economics</i>	+1			
2. Adopt: Adoption of legislation and institutional change				
<i>General evaluation</i>	+2	-3		-2
<i>High level</i>	+2			-1
<i>Low level</i>	+3	-1		
<i>Organized crime</i>			+1	-4
<i>NGOs/IOs</i>	+2		+2(IOs)	-2 (IOs)
<i>Economics</i>	+3		+3	
3. Impl: Implementation				
<i>General evaluation</i>		-2		-4
<i>High level</i>				
<i>Low level</i>				
<i>Organized crime</i>			+1	-1
4. Gen: General assessments				
<i>General evaluation of corruption/ progress(Gen.)</i>		-3		-11
<i>NGOs/IOs assessments(ranking levels of corruption)</i>	+2			-3
<i>High level (elected politicians)</i>	+1			-4
<i>Lower Level (public admin.)</i>		-2		
<i>Economics</i>		-2		-2
Score Total:	Positive +20 Negative = -13 POSITIVE 60% NEGATIVE 40%		Positive = +7 Negative = -34 POSITIVE 20% NEGATIVE 80%	

CATEGORIES	Positive		Negative	
	Bulgaria	Romania	Bulgaria	Romania
1.Planning	+5	0	0	0
2. Adoption	+12	+6	-5	-10
3. Implementation	0	+1	-2	-4
4. General Assessment	+3	+1	-7	-20
Score Total:	+20	+8	-13	-34
Dominant category Percentage of positive/negative score	Adoption 60% Planning 25%	Adoption 75%	Gen. Assess. 45% Adoption 40%	Gen. Assess 60% Adoption 30%
SUB-CATEGORIES	Positive		Negative	
	Bulgaria	Romania	Bulgaria	Romania
a. General evaluation of the 3main stages (Pl; Adopt.; Impl.)	+2	0	-5	-6
b. Gen. evaluation of corruption/progress (by Commission)	0	0	-3	-11
c. General assessment by NGOs/IOs	+2	0	0	-3
d. NGOs/IOs (role in the two stages)	+4	+2 (IOs)	0	-2
d. High-Level (elected politicians)	+3	0	0	-5
e. Low- level (public administration)	+5	0	-3	0
f. organized crime	0	+2	0	-5
g. economy	+4	+3	-2	-2
Score: Total	+20	+7	-13	-34
Dominant sub-category Percentage of positive/negative score	NGOs activity ≈30% (sub-cats c+d) Low level ≈25% Economy ≈20%	Economy ≈40% Org. crime ≈30%	Gen eval. stages ≈40% Gen. eval. progress ≈25%	Gen. eval. Progress ≈30% Gen eval. Stages ≈20% High-level 15% Organized crime ≈15%

**Political context:* change of government in Bulgaria. Kostov government – United Democratic Forces Alliance (1997-2001) was replaced with the Simeon II government *New Movement Simeon II Party (2001-2005)

**Romania – Nastase government Social Democratic Party (2000-2004).*

Compared to the scores in 2000, when the situation depicted by the progress reports seemed to be moderately balanced between the two countries, the 2001 scores show a clear gap in the way in which the Commission issued its opinions.

In 2001, Bulgaria received a positive score, compared to Romania. Also, the gap in favour of Bulgaria is significant. Compared with the previous year (2000), there is a radical change in the score for Bulgaria. There is an increase in the overall scores (from 33% in 2000 to 60%). On the other hand, Romania's scores did not change significantly (from a negative 74% in 2000 to a negative 80% in 2001).

So, the question arises: what led to this change in Bulgaria, apart from the change in government? The difference between the previous year's negative score and the positive one for 2001 is not justified by Bulgaria's progress. The positive score is based on its achievements in the first and second stage of anti-corruption strategy, namely the planning and adoption stages. The implementation stage, the most important one, does not contribute at all to the positive score (which is zero).

At the level of sub-categories, it is the activity of NGOs that triggers the majority of the positive statements. The Commission is particularly pleased with the collaboration between the new government, the NGOs and IOs in the National Anti-Corruption Plan. This is matched by the positive assessments of levels of corruption in general performed by the same non-governmental actors.

In the Romanian case, there is a large disproportion between the positive and negative statements. Positive statements are triggered, as with Bulgaria, by its achievements in the Adoption stage. Nevertheless, this is less intense than in the Bulgarian case (which scores double – 12 points, if compared with Romania). What significantly increases the gap is that the Commission does not comment at all on the initial stage of anti-corruption strategy, the Planning, as it does in the Bulgarian case.

WHAT IS MISSING	<i>Categories(stages)</i>	<i>Sub-categories</i>
Bulgaria		Organized crime
Romania	Planning	

The structure of the negative scores shows that, in both cases, the general assessment of the Commission and the watchdogs of corruption generated most such comments. This is followed by the Commission's critics in the area of Adoption of anti-corruption legislation. However, there is a massive disproportion between Bulgaria and Romania, when it comes to the general evaluation of progress issued by the Commission. To reiterate, such general comments do not refer to concrete anti-corruption steps. They transmit the evaluator's general feeling about the progress in the area without backing it up with detailed arguments. These are the comments that strike the difference between the two countries for the negative score and the general score.

The Commission is keen to tackle high-level corruption and organized crime in Romania. As previously mentioned, measures targeting political corruption are among the most sensitive and therefore the most difficult to implement.

Omissions can be as important as what is present. The Commission is completely silent about the organized crime of Bulgaria, as if the phenomenon does not exist. However, at this time, Bulgaria had a rampant problem of organized crime, with the uniquely aggravating feature that it was modelled on and connected to the Russian mafia (Europol, 2012). By contrast, the Commission is sensitive to organized crime in Romania. According to Europol, Romania's organized crime is noticeable. However, it never displayed the aggravating features of the Bulgarian situation. Also, organized crime is not one of the benchmarks of the Cooperation and Verification Mechanism for Romania after Enlargement in 2007.

The Commission makes no comments on the Planning stage in Romania. The National Anti-Corruption Plan is the first step in introducing anti-corruption measures and the easiest to follow. This comes in contrast with Bulgaria, who receives a good positive score on its account.

To sum up, the significant quantitative gap (the score) between the two candidates cannot be explained by their achievements or lack of them in the way they adopted and applied concrete anti-corruption measures. At least, the reports do not give away much in this direction.

The contrast between the two countries works best for Bulgaria. Most of its positive score is based on a selective focus on its achievements in the first and second stages of corruption, planning and adoption. Its obvious lack of achievements in the implementation stage (the most critical phase) does not seem to capture the Commission's

attention. Its low negative score is due to a toning down of the Commission's general critical comments on corruption in general. A potential source of negative comments was the big problem of organized crime. However, the topic is avoided. In contrast, the Commission is sensitive to the issue of organized crime in Romania, where it is not such a big issue.

Where, indeed, Bulgaria seems to make a positive difference, if compared with Romania, is in the collaboration between the government and the NGOs laying down the National Anti-Corruption Plan and allowing these actors to conduct awareness campaigns. The role of NGOs is responsible for the positive assessments of the Commission during the Planning stage. For Romania, the Commission is completely silent on this issue, as there is no mention of NGO activity.

Most of the negative score for Romania comes from the general assessments of the Commission on general progress, without concrete references to anti-corruption policies. With the exception of involving NGOs in the creation of a National Anti-Corruption Plan and the ratification of international agreements on corruption, Bulgaria does not display any significant achievements which could justify the large score gap. Nor is the leap between Bulgaria's score in 2000 and the one in 2001 apparently justified.

All in all, the Commission seems to focus selectively on Bulgaria's achievements in incipient stages of anti-corruption, while avoiding focus on important negative aspects, such as rampant organized crime and lack of progress in the final implementation stage. The general negative evaluations made by the Commission are toned down. By contrast,

that which is ignored or played down in the case of Bulgaria is highlighted in the Romanian case: lack of achievements in the implementation stage, little progress in tackling high-level political corruption and problems with organized crime. Also, responsible for most of Romania's negative score is the Commission's general comments on corruption as "a widespread and systemic phenomenon".

2.3 Summary of European Commission reports for Bulgaria and Romania, year 2002

Table 3.6 summarises the quantification of the number of the positive and negative statements made for each linguistic category and subcategory of the Commission's reports that were used to identify each stage of corruption, as shown in section F of this chapter.

Table 3.6: Bulgaria and Romania 2002: overall scores, categories/subcategories

1. PL: Planning				
<i>Sub-criteria</i>	BULGARIA		ROMANIA	
	Positive	Negative	Positive	Negative
<i>General Evaluation</i>	+9	0	+10	0
<i>High level of power (elected politicians)</i>	+2	-2	0	0
<i>Lower level</i>	+4	-1	0	0
<i>Organized crime (where applicable)</i>	0	0	0	0
<i>NGOs/IOs</i>	+4 (NGOs)	0	+4 (IOs)	0
<i>Economics</i>	+1	0	0	0
Total:	+20	-3	+14	0
2. Adopt: Adoption of legislation and institutional change				
<i>General evaluation</i>	+4	-1	+4	-2
<i>High level</i>	+1	-1	+3	-1
<i>Low level</i>	+3	0	0	-1
<i>Organized crime</i>	+1	0	0	0
<i>NGOs/IOs</i>	+3	0	+1 (IOs)	0
<i>Economics</i>	+3	0	+1	-1
Total:	+15	-2	+9	-5
3. Impl: Implementation				
<i>General evaluation</i>		-6	0	-4
<i>High level</i>			0	-8
<i>Low level</i>	+1		0	-1
<i>Organized crime</i>	0	0	0	0
Total	+1	-6	0	-13
4. Gen: General assessments				
<i>General evaluation of corruption/progress(Gen.)</i>		-2		-3
<i>NGOs/IOs assessments (ranking levels of corruption)</i>	+2	-4		-9
<i>High level (elected politicians)</i>			+2	-5
<i>Lower Level (public admin.)</i>		-7		-2
<i>Economics</i>		-2		-5
Total:	+2	-15	+2	-24
Score Total:	Positive = +38 Negative = -26 POSITIVE = 60% NEGATIVE = 40%		Positive = +25 Negative = -42 NEGATIVE = 60% POSITIVE = 40%	

CATEGORIES			Negative	
	Bulgaria	Romania	Bulgaria	Romania
1. Planning	+20	+14	-3	0
2. Adoption	+15	+9	-2	-5
3. Implementation	+1	0	-6	-13
4. General Assessment	+2	+2	-15	-24
Score Total:	+38	+25	-26	-42
Dominant category Percentage of total score (positive plus negative)	Planning +30% Adoption +25% Total +55% (out of 64)	Planning +20% Adoption +13% Total +33% (out of 67)	Gen. Assess -24% Implement -10%	Gen. assess -35% Implement -20% Total of -55% (of 67)
SUB-CATEGORIES	Positive		Negative	
	Bulgaria	Romania	Bulgaria	Romania
a. General evaluation of the three main stages (Pl; Adopt.; Impl.)	+13 (Planning+ Adoption)	+14	-7	-6
b. General evaluation of corruption/progress (by Commission)	0	0	-2	-3
c. General assessment by NGOs/IOs	+2	0	-4	-9
d. NGOs/IOs (role in the two stages)	+7 (5 NGOs+2 IOs)	+5 (IOs)	0	0
d. High-Level (elected politicians)	+3	+5	-3	-14
e. Low- level(public administration)	+8	0	-8	- 4
f. organized crime	+1	0	0	0
g. economy	+4	+1	-2	-6
Score: Total	+38	+25	-26	-42
Dominant sub-categ. Percentage of total score(64)	Gen. eval. of categories ≈20% NGOs (c+d) cumulated ≈15%	Gen. eval. of categ. ≈20% NGOs role cumulated ≈7%High-	Low level ≈10% Gen. eval. categ. ≈10%	High-level ≈20%

	Low-level corr ≈15%	level corr. ≈7%	NGOs (cumulated c+d) ≈6%	NGOs (cumulated c+d) ≈14%
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Bulgaria's and Romania's scores are mirror images. The positive score of Bulgaria matches that of Romania but in terms of negative comments. Such a stark contrast should communicate that Bulgaria's progress is far more substantial than that of Romania's. However, this is not the case, as shown in Table 3.7.

Table 3.7: Bulgaria and Romania's progress

Categories	Bulgaria	Romania
Planning and Adoption Similar situation (according to the Commission)	Progress: <i>"...Bulgaria has made more progress in the adoption of the legislation"</i>	Progress: <i>"...legal framework that is reasonably comprehensive and which has been extended over the last year"</i>
Score:	+ 55% (of the total score)	+ 33% (of the total score)
Implementation Similar situation (according to the Commission):	Lack of progress <i>"Bulgaria has made more progress in the adoption of the legislation rather than in its implementation and enforcement"</i>	Lack of progress <i>"..enforcement and implementation remains weak"</i>
Score(out of total points)	- 10%	- 20%

Excluding general assessments, both countries display the same strengths – progress in the first two stages of anti-corruption (planning and implementation) – and both display weaknesses in the last stage – implementation. However, the Commission's approach is different from country to country. For Bulgaria, the Commission focuses on the positive side. Planning and Adoption represent more than half of the positive score, while for

Romania they are represent only a third. For Romania, the emphasis falls on its lack of progress at the most difficult stage, the implementation. Although Bulgaria's absence of concrete results is also admitted by its evaluators, Bulgaria's negative score on implementation is half that of Romania's.

This score did not include the general assessments, which do not make direct reference to concrete anti-corruption policies. The general assessments category communicates the overall opinion of the evaluators: that of the Commission, as well as of the international watchdogs of corruption. Such comments are general and quite vague about concrete anti-corruption policies. Such comments have a strong descriptive flavour, as they only convey their likes and dislikes without actual reasons. They are also descriptive because they make general references to corruption as a systemic phenomenon, reiterating its negative impact on society.

However, these statements play a crucial role in building up negative scores or in striking the balance between negative and positive scores. The frequency with which such statements are used is also very important. So, although both countries display the same weaknesses and strengths, the Commission's general discontent is expressed with much more insistence for Romania than for Bulgaria. Bulgaria gets a minus 15 from such comments, while Romania gets a minus 24, which makes 35% of the overall score.

Sub-categories

For both countries, most of the positive score (20%) is derived from the general evaluation of the two stages of corruption: planning and adoption. Here the score is almost equal,

which strengthens the idea that overall there was no significant gap between the achievements of the two countries. What is interesting here is what made the difference. Romania's score mainly appears to be negative due to the Commission's perception of lack of progress in fighting corruption at the highest decisional levels. In contrast, for Bulgaria, this issue is comparatively ignored. Yet, looking at the information provided by the Commission itself, Bulgaria is even more backward than Romania: it did not develop any judicial mechanisms that could allow decision-makers to be brought to justice. The double standards continue with organized crime, with Bulgaria having the biggest problem out of all the candidates who struggle to overcome organized crime. Here, they score a plus 1 and no negative comments are made on the issue.

The NGO's assessments also display a selective style of evaluation, the scores again being a mirror reflection. Romania also receives negative assessments or rankings of NGOs, quoted by the Commission, but such a selective approach is not backed by empirical evidence. Romania is indeed backward. Bulgaria however, displays worse features: no attempt to implement measures against high-level corruption and rampant levels of organized crime, which are not even mentioned.

What is indeed different between Bulgaria and Romania, however, is the fact that the new Bulgarian government, Simeon II, collaborates with civil society in preparing the National Anti-Corruption Plan. This is a fact well-noticed and appreciated by the Commission, as all the positive points accumulated by the sub-category of NGOs activity come from this aspect. The Commission insists on highlighting Bulgaria's achievements.

Table 3.8: Bulgaria and Romania progress by subcategories

SUB-CATEGORIES	Bulgaria	Romania
1. High-level corruption		
Adoption <i>(only those items that are mentioned by the Commission itself in this Progress Report)</i>	No progress: MPs immunity – no law Conflict of interest – no law Party financing transparency - Law existent since 2001 asset declaration – law existent since 2000	No progress: MPs immunity – Law existent since 2000 Conflict of interest – no law Party financing transparency – no law asset declaration – existent ¹⁴
Implementation	No progress, no measures taken: Asset declarations - “No effective monitoring and sanctions”. Non-existent judicial mechanism which could allow the prosecution and conviction of elected decision makers. At the end of the accession for negotiation, the Commission informs that, with few exceptions, such measures had never been taken: “overall the approach taken by the Bulgarian authorities in the fight against corruption has left aside the need to take specific measures in the fight against high-level corruption in political and business circles” (Bulgaria 2004)	Unsatisfactory progress but measures were taken: Existent judicial mechanism and institution specialized on the prosecution and conviction of elected decision-makers (National Anti-corruption Office – NAPO).

¹⁴ Although in the 2000-2002 Reports the Commission does not make any comments on whether this law was adopted or not. In the 2003 Report it is alluded that the law existed when it says that the requirements of such a law “were extended”. So such a law was already in place. Freedom House gives us more information on the matter and it specifies that asset declaration law had been already adopted in 2001.

Conclusions:	Adoption stage: same weaknesses for both Implementation: Bulgaria does not have the judicial framework for tackling corruption, while Romania does. <i>Romania is more advanced than Bulgaria in tackling high-level corruption.</i>	
Score:	-3 points = 4% (of total score)	-14 points = 20%
2. NGOs assessments/activity – despite no concrete differences between the two candidates, the international/domestic watchdogs’ approach is different		
Score:	Negative: Romania -14%; Positive: Bulgaria +14%	
3. Organized crime – Bulgaria has a rampant organized crime, unique in the EU (Europol 2012); it is benchmark 5 of the Cooperation and Verification Mechanism (CVM)		
Score:	Bulgaria: Positive =+1 Negative = 0	

2.4 Summary of European Commission reports for Bulgaria and Romania, year 2003

Table 3.9 summarises the quantification of the number of the positive and negative statements made for each linguistic category and subcategory of the commission’s reports that were used to identify each stage of corruption, as shown in section F of this chapter.

Table 3.9: Bulgaria and Romania 2003: overall scores, categories/subcategories

1. PL: Planning				
<i>Sub-criteria</i>	BULGARIA		ROMANIA	
	Positive	Negative	Positive	Negative
General Evaluation				-0.5
High level of power (elected politicians)				-1
<i>Lower level</i>			+1	
<i>Organized crime (where applicable)</i>				-1
<i>NGOs/IOs</i>				
<i>Economics</i>				
2. Adopt: Adoption of legislation and institutional change				
<i>General evaluation</i>	+4		+5	-4
<i>High level</i>	+1		+3	-4
<i>Low level</i>	+7			
<i>Organized crime</i>				
<i>NGOs/IOs</i>	+6	-2	+2	-1
<i>Economics</i>				
3. Impl: Implementation				
<i>General evaluation</i>		-2		-4
<i>High level</i>				-8 .5
<i>Low level</i>				
<i>Organized crime</i>				
4. Gen: General assessments				
<i>General evaluation of corruption/progress (Gen.)</i>			+1.5	
<i>NGOs/IOs assessments(ranking levels of corruption)</i>		-2		-6
<i>High level (elected politicians)</i>	+2			-3
<i>Lower Level (public admin.)</i>		-2		
<i>Economics</i>				-3
Score Total:	Positive	+20	Positive	+12.5
	Negative	- 8	Negative	-36
	POSITIVE	70%	POSITIVE	25%
	NEGATIVE	30%	NEGATIVE	75%

CATEGORIES	Positive		Negative	
	Bulgaria	Romania	Bulgaria	Romania
1.Planning	0	1	0	-2.5
2. Adoption	18	10	-2	-9
3. Implementation	0	0	-2	-12.5
4. General Assessment	2	1.5	-4	-12
Score Total:	20	12.5	-8	-36
Dominant category Percentage of positive/negative score	Adoption 90% (Out of 20)	Adoption 80% (Out of 12.5)	Gen. assess 50% (Out of -8)	Impl + Gen assess 70% (Out of -36)
SUB-CATEGORIES	Positive		Negative	
	Bulgaria	Romania	Bulgaria	Romania
a. General evaluation of the three main stages (Pl; Adopt.; Impl.)	+4	+5	-2	-8.5
b. General evaluation of corruption/progress (by Commission)	0	+1.5	0	0
c. General assessment by NGOs/IOs	0	0	-2	-6
d. NGOs/IOs (role in the two stages)	+6	+2	-2	-1
d. High-Level (elected politicians)	+3	+3	0	-16.5
e. Low- level(public administration)	+7	+1	-2	0
f. Organized crime	0	0	0	-1
g. Economy	0	0	0	-3
Score: Total	+20	+12.5	-8	-36
Dominant sub-category Percentage of positive/negative score	Lo-level 35% NGO's 30% Total: +65%	General evaluation +40%	Gen.eval,NGOs IGOs,low-level -25%	Hi-level - 45% gen.eval.- 24% Total - 69%

In the case of Bulgaria, a high positive score is reported in the adoption stage. Surprisingly, the implementation stage (the most crucial and important stage) is not

mentioned at all. By contrast, Romania's negative scores are based on its limited focus and efforts regarding the implementation of anti-corruption policies.

In terms of the sub-categories, Bulgaria gathers positive comments, thanks to its management of low-level corruption and the involvement of NGOs and IOs in the process. What is missing is more relevant. There is not even one mention of the most sensitive aspect of corruption: high level elected politicians. On the other hand, in the Romanian case, the Commission focuses on its lack achievements in the sensitive area of high-level corruption. If we are to compare both countries; Romania seems to have set up some institutional framework to tackle high-level corruption. Although it may not be going well, it is nevertheless present, while, in the Bulgarian case, the whole infrastructure for tackling high-level corruption is barely evident. Finally, organized crime is almost totally absent from the record in both cases.

2.5 Summary of European Commission reports for Bulgaria and Romania, year 2004

Table 3.10 summarises the quantification of the number of the positive and negative statements made for each linguistic category and subcategory of the Commission's reports that were used to identify each stage of corruption, as shown in section F of this chapter.

Table 3.10: Bulgaria and Romania 2004 overall scores, categories/subcategories

2. PL: Planning				
<i>Sub-criteria</i>	BULGARIA		ROMANIA	
	Positive	Negative	Positive	Negative
General Evaluation	+2			
High level of power (elected politicians)		-1		
Lower level	+1			
Organized crime (where applicable)				
NGOs/IOs				
Economics				
5. Adopt: Adoption of legislation and institutional change				
General evaluation	+7		+5	
High level		-3	+1	-1
Low level	+ 2.5		+2	
Organized crime				
NGOs/IOs	+ 4.5		+2	
Economics	+1			
6. Impl: Implementation				
General evaluation		-1		-7
High level			+ 0.5	-9
Low level	+ 1.5			
Organized crime				
7. Gen: General assessments				
General evaluation of corruption/progress (Gen.)				
NGOs/IOs assessments(ranking levels of corruption)	+ 0.5	-4	+1	-9
High level (elected politicians)		-2		
Lower Level (public admin.)	+2			
Economics		-3		
Score Total:	Positive	+22	Positive	+11.5
	Negative	-14	Negative	-26
	POSITIVE	60 %	POSITIVE	35 %
	NEGATIVE	40 %	NEGATIVE	65 %

CATEGORIES	Positive		Negative	
	Bulgaria	Romania	Bulgaria	Romania
1.Planning	+3	0	-1	0
2. Adoption	+15	+10	-3	-1
3. Implementation	+1.5	+0.5	-1	-16
4. General Assessment	+2.5	+1	-9	-9
Score Total:	+22	+11.5	-14	-26
Dominant category Percentage of positive/negative score	Adoption 70% (Out of 22)	Adoption 80% (Out of 11.5)	Gen.Assess -64% (Out of -14)	Impl. -61% (Out of -26)
Sub-categories	Positive		Negative	
	Bulgaria	Romania	Bulgaria	Romania
a. General evaluation of the three main stages (Pl; Adopt.; Impl.)	+9	+5	-1	-7
b. General evaluation of corruption/progress (by Commission)	0	0	0	0
c. General assessment by NGOs/IOs	+0.5	+1	-4	-9
d. NGOs/IOs (role in the two stages)	+4.5	+2	0	0
d. High-Level (elected politicians)	0	+1.5	-6	-10
e. Low- level(public administration)	+7	+2	0	0
f. organized crime	0	0	0	0
g. economy	+1	0	-3	0
Score: Total	+22	+11.5	-14	-26
Dominant sub- category Percentage of positive/negative score	Gen eval 40% Lo-level 30% Total: 70% (Out of 22)	Gen eval 43%	NGO/IOs - 28% Hi-level - 43%	Hi-level - 38% Ng0/I0s - 35% Gen eval -27%

In 2004, Bulgaria continued to report positive overall scores compared to Romania. Bulgaria received a larger number of positive statements (60%) compared to Romania. By contrast, Romania received more negative comments than Bulgaria (65%).

In the case of Bulgaria, the EC focused mainly on the adoption and planning stages and nearly ignored the implementation stage. By contrast, in Romania's case, the EC focused more on the third and most difficult stage, which is implementation. This stage is highly politically sensitive and difficult to tackle. This resulted in Romania receiving more negative statements than Bulgaria. For example, 14 out of their 32 evaluation statements emphasised the need to convict and bring to justice high level officials. This clearly shows an imbalance between the ways the EC dealt with the two countries.

In terms of the subcategories, Bulgaria received positive scores in the general evaluation of the three stages, followed by the degree to which NGOs and IOs were involved in the process of rooting out corruption. Almost nothing was said about its efforts to root out corruption at high level. At the same time, Romania scored negatively in terms of its efforts in tackle high level corruption. Both countries portray a significant difference in terms of their approach in tackling high level corruption. Romania on the one hand, has set up some institutional parameters to tackle the high-level corruption of its elected politicians while, in the Bulgarian case, there is practically no evidence of an infrastructure being in place. Finally, in neither country is there is anything to suggest they have made efforts to tackle organised crime.

So far, I have shown that there is a clear difference between the positive aspects that the Commission highlighted when addressing Bulgaria's and Romania's progress. Table 3:11 presents a summary of the overall positive and negative scores per year for both Romania and Bulgaria.

Table: 3:11
Summary of overall scores

Year	Bulgaria		Romania	
	Overall positive scores	Overall negative scores	Overall positive scores	Overall negative scores
2000	33%	67%	26%	74%
2001	60%	40%	20%	80%
2002	60%	40%	40%	60%
2003	70%	30%	25%	75%
2004	60%	40%	35%	65%

Conclusions:

The technocratic discourse of meritocracy and fairness has been consistently contradicted, in this case by the Commission's selective focus on positive aspects when addressing Bulgaria's progress and on the negative ones in the Romanian case. This has happened at the expense of important points, which, according to the Commission's own standards, were essential in the fight against corruption: implementation of anti-corruption legislation and the prosecution and conviction of corrupted politicians and mafia mobs. Such requests were either played down (tackling high-level corruption) or completely ignored (organized crime) in the Bulgarian case. In return, the Commission highlighted positive aspects of Bulgarian's anti-corruption effort, which according to its own hierarchy of standards, were less important: e.g. collaboration between the government and civil society in the planning stage of anti-corruption policy.

In short, the CA confirms the systematic usage of double standards in the case of Bulgaria and Romania. It also confirms that the central question about the EU's anti-corruption

policies is who won and who lost in terms of power, as a result of the fight against corruption under the EU's terms.

Double standards

The quantitative analysis of the Commission's Reports has revealed a series of interesting aspects. The most striking one (although not the most important one from the perspective of this research) confirms the opinion of a minority of scholars in this area that: "Progress Reports offer a distorted image of the accession process (Kochenov 2004: 17) and refutes the more largely shared idea in the literature, that they give "a full and accurate picture of where a candidate stands in the pre-accession process" (Vachudova2004:129).

The existence of double standards always relates to situations involving vested interests, where, through a reinterpretation of the facts, power agendas are promoted in such a way as to override the standard objections. Actions, which would normally cause discontent are reframed and assigned a positive meaning, which appears morally and rationally acceptable, hiding the power games behind the scenes, and reorganising the balance of power, usually to the perpetrators' advantage.

Table 3:12 Dominant Categories

	Bulgaria	Romania
Year	Positive	Negative
2000	adoption	General assessment
2001	Adoption	General assessment
2002	Planning/adoption (nearly equal)	General assessment
2003	adoption	Implementation and General assessment
2004	Adoption	Implementation

**Table 3:13
Dominant Subcategories**

	Bulgaria	Romania
Year	Positive	Negative
2000	NGOs and IOs and economy	General evaluation commission
2001	NGO activity	General evaluation progress
2002	General evaluation categories	High level
2003	Low level	High level
2004	General	High level

CHAPTER FOUR

Governments and the role of NGOs

Introduction

This chapter discusses the relationship between domestic civil society and the governments and how this impacts on the way civil society reports on the progress against corruption. The chapter has two parts, which discuss separately the cases of Bulgaria and Romania. The existing evidence suggests that double standards, used by the Commission in reporting on progress, were mirrored by the watchdogs of corruption. It also suggests that rooting out corruption was not the main, genuine concerns of these actors either. However, this relationship (governmental versus non-governmental actors) needs to be unfolded and analysed, in order to understand how more exactly the non-governmental actors took advantage of the anti-corruption context.

Bulgaria

Non-governmental watchdogs of corruption and the Simeon II government (2001-2005)

The relationship between the government and non-governmental watchdogs of corruption is indicated as key in explaining the Commission's double standards. The results of the Content Analysis show the importance of civil society in country branding. It also shows the importance granted by the Commission to the voices of these actors in the process. The collaboration of the Bulgarian government with civil society was more important than the existence of an organized crime, unique among the Eastern candidate countries,

according to Europol (2012) and famous for its relationships with the Russian mafia (Centre for the Study of Democracy 2012; Kazuharov 2007, 2008; Volkov 2002; Trojanow 2006a, b). It was also more important than bringing to justice elected decision makers and mafia mobs, an issue which was rendered as crucial by the Commission.

The role of non-governmental organizations is described in the 10 principles for fighting corruption: “The civil society has an important role to play in preventing and fighting the problem” (Commission 2003). It appears that the role of these actors and their access to decision-makers was promoted by the EU anti-corruption policies before accession.

Nevertheless, the existence of double standards indicates a different rationale than that of rooting out corruption behind such policies. The consequences of double standards is always the empowerment of one side and the disempowerment of the other or, it may signal an already existent power polarization. The CA and the interviews indicated that the relationship between the government and non-governmental actors played an important role in the Commission’s evaluation and, therefore, in generating the distorted image of corruption.

Most of the interviewees (from the DG Enlargement, Bulgarian and Romanian Unit) stressed that the evaluation of structural phenomena, such as corruption, was mostly based on the promises made by the candidates, that they would implement the necessary measures, because rooting out corruption takes time. The only provision was that such promises had to be credible. The Simeon Government gave signs that it was more committed towards reform than the Social Democratic Party in Romania.

The DA results showed that the main factor that bestowed credibility to Bulgaria's bid was that the National Movement Simeon II Party decided to be flexible and to undertake a serious consultation exercise with NGOs and donors on the preparation of the Strategy and Action Plan (European Commission 2002a:16). Interviews conducted within the European Commission endorsed this result. According to members of the EC Delegation in Bulgaria, both the Kostov and Simeon governments were "very open minded" in accepting the European Commission's suggestions for a collaboration with domestic think tanks. Michael Leigh (former EU chief negotiator for Bulgaria) stated that, involving IOs and NGOs in the reform of justice and in forging the Anti-Corruption Action Plan, was crucial for the positive image of Bulgaria in Brussels. This collaboration was undertaken under the umbrella of the 2000 Coalition. This coalition played a crucial role in planning, monitoring and reporting to Brussels on the anti-corruption progress. It was a coalition between non-governmental organizations validated by the EU, international donors (IMF, WB, USAID, Freedom House, etc.) and members of the government. The initiative for such a coalition came from the EC Delegation in Sofia, according to the interviewees with former members of the delegation and with some members of the Centre for the Study of Democracy, a leading Think-Tank of Bulgaria.

The coalition was the main access gate that allowed civil society and international donors access to policy making and decision in the area of corruption. However, members of the Romanian Unit and the EC Delegation in Bucharest expressed their annoyance about this aspect. According to the task manager of JHA and corruption: "In the beginning, Bulgarian NGOs were issuing quite critical reports on the state of corruption in Bulgaria,

but later on, they became more and more optimistic ... and they started holding back negative aspects”. This situation was acknowledged by members of the EC delegation in Sophia, who admitted that the NGOs decided to use their reports about the state of corruption as ‘window dressing’ for the government.

The most important confirmation came from the interviews with the members of Bulgarian civil society (such as the interviewees from the Centre for the study of Democracy and Transparency International, Bulgarian Chapter) who participated in the process of evaluation. They offered the following explanation: the ex-king Simeon demonstrated flexibility in co-opting the most important civil society organizations into policy making and in accepting their expertise. In return, the civil society decided that it would be more useful for Bulgaria to convince the EU members and the European Commission that, despite some important difficulties, Bulgaria was prepared to join the EU on time. The reason given by the interviewees was that, if Bulgaria’s membership were delayed, the momentum for rooting out corruption would be lost and the authorities might slide back into their usual complacency with the situation, owing to lack of encouragement on the EU side.

Consequently, the main reason for the Simeon II government’s good image in Brussels seems to be located in its good relationship with Bulgarian civil society and its international donors. Discourse Analysis and the interviews in Brussels and inside Bulgarian civil society endorsed this aspect.

The 2000 Coalition granted the domestic watchdogs massive political influence in a very short time, as they practically mingled with the authorities at all levels of decision and policy making. Leading members of think tanks and NGOs, such as Boyko Borisov, Programme Director of the Centre for the Study of Democracy, Diana Kovacheva, the Executive Director of Transparency International, or Ognian Shentov (Centre for the Study of Democracy) functioned as direct advisers, at the highest level of the executive, in relation to the Anti-Corruption Plan.

A second aspect is the financial one. From 2001, the burden of finance started being taken over by the government itself, as the numerous members of NGOs operating at the local and central levels of administration had to be paid for their work. Indeed, during this period, Bulgarian civil society started boasting about its increasing independence from international donors and its reliance on domestic sources of money (which were in fact, provided by the government). The international donors remained important, but the importance of governmental funding increased and was mostly welcomed as a vital diversification for the thinning stream of money coming from some Western donors (Freedom House 2004). Such a vital source of money is represented by the Corruption Monitoring System, in which 500 NGOs were involved, and which was an essential source of funding during this difficult period (Centre for the Study of Democracy 2003)

Reporting on corruption

In these circumstances, Bulgarian civil society decided to shift its role from corruption watchdog to regime enhancer, in order to “support the government’s bid for the EU integration” (see interviews inside TI and the CSD). Transparency International (TI) Chapter for Bulgaria is a case in point. Bulgaria experienced a change in the CPI ranking, which jumped from an index lower than three, in 1998, to above four, in 2004, placing Bulgaria above the majority of the new Eastern EU members, such as Slovakia and Poland. The evaluation of the 2000 Coalition (2004) based on the TI’s CPI, claimed that, “from a country with systemic corruption problems, Bulgaria is turning into a country with a moderate spread of corruption”. This statement was made precisely when contract killings were reaching a peak, under Simeon II government, as was organised crime. Figure 4.1 exactly describes this situation.

The most important and influential reports, however, were those issued by the leading Think-Tank, the Centre for the Study of Democracy, the academic branch of the 2000 Coalition. The high reputation gained by this organization has still been maintained until today. CSD is one of the 20 organizations that participate in the ANTICORP FP7 project, initiated by the European Commission, which investigates the efficiency of EC anti-corruption policies.

From the moment that the 2000 Coalition issued its influential report on Corruption (1998) until the end of the accession negotiations in 2004, there was not even one consistent paragraph dedicated to organized crime. The terms ‘contract killings’ and ‘organized crime’ are never mentioned. In hundreds and hundreds of pages dedicated to the reform of the judiciary and of the Ministry of the Interior, there is not one reference

to these phenomena (CSD: 2000, 2001, 2002, 2003, 2004). The first reference to racketeering was made one year after European Commissioner, Olli Rehn, expressed concern about it, in 2006, and it was mentioned by the Centre for the Study of Democracy (CSD 2006: 22). From 2005 onwards, the 2000 Coalition was dissolved. The CSD was the left to issue the Anti- corruption Report.

In 2005, the same Centre issued a special Report on “Crime Trends”. One would expect that organized crime would finally be discussed. However, the Centre announced from the very beginning that the report would not discuss “organized crime or ... financial crimes” (CSD 2005: 7). The conclusion of the Report was that between 2001 and 2004, the crime rate decreased (CSD 2005: 6). It is very important to note that, in this case, the Centre depicts a rosy version of reality, based on an essential omission: organized crime. The result is that, according to this report, Bulgaria is found to be safer than Poland or Australia (CSD 2005: 6).

Figure 4.1
Killing Contracts in Bulgaria, 1997-2006

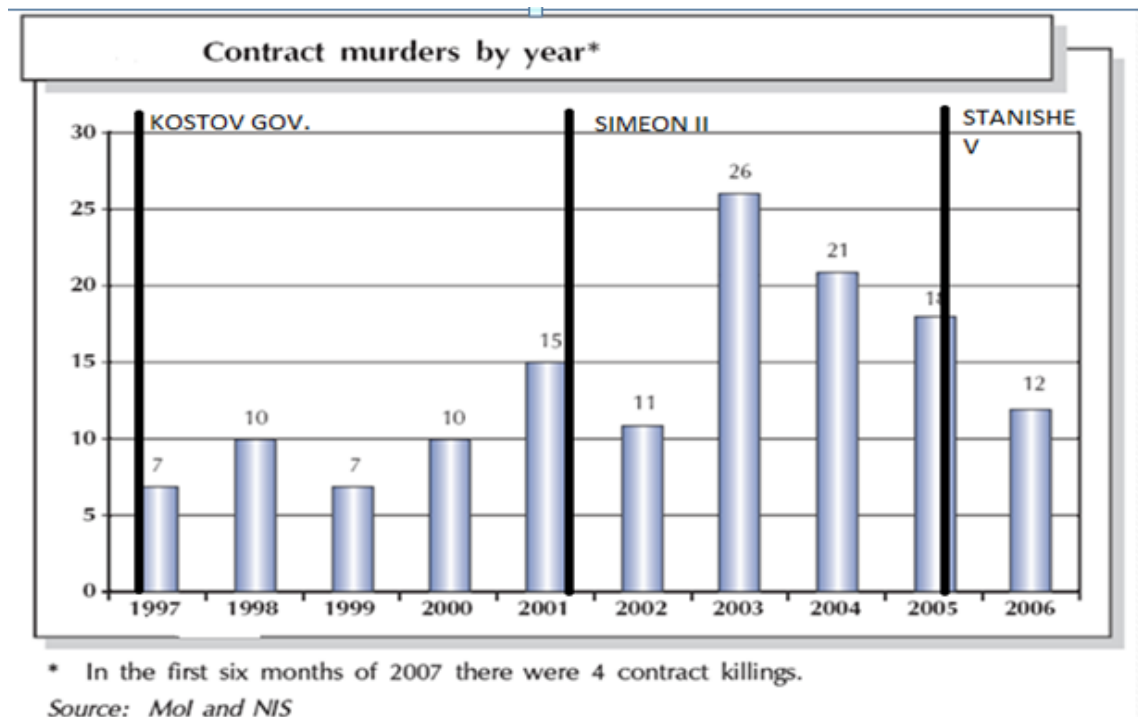


Figure 4.1 shows that, during the government of the National Movement, Simeon II (2001–2005), killing contracts became especially common. Just between 2001 and 2004, the number of such contract killings soared to around 150 (Freedom House 2009), a figure that far surpassed all records, from previous governments or after, including the Socialist Coalition of Stanishev (2005-2009). According to the Bulgarian Prosecution Office, from 1992 to 2005, there were 175 contract killings by non-identified perpetrators. Even now, almost none of these contract killings cases have been solved and brought to justice (Commission 2013).

Conclusion

As shown in Figure 4.1 the Simeon II received positive assessment of fighting corruption, While Stanishev was highly criticized. However, if looking closely on the graph, it is clear that organized crime proved to more active under Simeon II, who was praised than Stansihev. This suggests the possibility of double standards on part of the EC.

Organized crime, killing contracts and high-level corruption are crucial issues for the fight against corruption. However, civil society has decided to ignore or downplay them. The main reason was the “open attitude” of the Simeon II government, who allowed access to policy-making and resources in an unprecedented way. It appears that, at least during this period (2001-2004), the watchdogs of corruption were not interested in the efficiency of anti-corruption activity. Using their imported position as rapporteurs and surveyors of corruption, granted to them by the EC, private gain seemed to be more important.

Civil Society and the Socialist Coalition of Stanishev (2005-2009)

The former king, Simeon Saxe-Cobourg, who was liberal and well-connected in Brussels, and his party (the National Movement for Stability and Progress) were defeated during the elections and the Socialist Party, led by Sergei Stanishev, came to power. Stanishev does not seem to have pursued a different policy from that of Simeon. He declared his pro-EU stance and received Barroso’s praise for keeping Bulgaria on track with the accession (BBC 2006, 26 September).

The mood in Brussels started to change, but in an unfavorable direction for the new government, from 2005. The European Commission started to become aware that organized crime in Bulgaria potentially represented a big problem. It also decided that

contract killings were a worrying phenomenon, that Bulgaria was not doing enough to create the necessary legislative and administrative framework for tackling high-level corruption, that the judicial system might have serious failings, since they had not managed to bring even one important mafia mob to justice or solve even one contract killing case. All these aspects emerged in their Progress reports from 2005 and 2006, and they would become benchmarks in the Cooperation and Verification Mechanism, as discussed already.

The EC's increased concern was mirrored in the growing number of peer reviews. In one year - August 2005-June 2006 - Bulgaria would receive more peer reviews than it had previously received in four years, according to interviews in DG JHA (Justice and Home Affairs). The last peer review of February 2006, conducted by Susette Schuster and Klaus Jansen, was the most critical (see the Introduction). It was leaked to the Western press and produced an uproar. Now, Romania was regarded as the front runner, while Bulgaria was the target of criticism for something that had been praised only one year before.

The critical stance against Stanishev peaked with the unprecedented freezing of PHARE funding worth 220 million Euro. There were two reasons for this: the lack of convictions of high-profile mafia mobs and corrupt politicians, and embezzlement of EU funding (European Commission 2008a).

The new shift was also mirrored in the assessments of international and domestic corruption watchdogs.

In 2009, the most prestigious Bulgarian think-tank, the Centre for the Study of Democracy, issued its most critical assessment ever. According to this, Bulgaria witnessed a slowdown in its anti-corruption efforts after the accession. Moreover, for the first time since 1998, the Corruption Monitoring System, managed by a cluster of NGOs, registered a trend of rising corruption rates among the Bulgarian population for the 2007-2008 period. The reason mentioned is a lack of political commitment to press forward with anti-corruption reforms (Centre for the Study of Democracy 2009: 5).

Transparency International added itself to this negative choir by downgrading Bulgaria's CPI so that in 2008, it reached its lowest level for four years: Bulgaria's score dropped to 3.6 points on a scale of zero to 10, compared to 4.1 points a year earlier, replacing Romania as the country with the lowest CPI in the EU (Transparency International 2005). Before 2005, TI in Bulgaria was boasting a CPI higher than Slovakia and Poland, while now it had a score even lower than that of some non-EU countries, such as Croatia.

The way in which the European Commission and civil society expressed their opinion indicates that something had deteriorated. Logically, the place to look for this was around Benchmark Four, regarding high-level corruption, organized crime and contract killings (CVM 2008a). However, nothing had changed here: contract killings had soared during the previous government, when organized crime was also rampant, and the lack of high-level convicted politicians or mafia mobs was equally evident during the time of the previous government (see the previous chapter and Figure 3.1, above). The only difference was that these were not previously made obvious, either by the European Commission or by its watchdogs. Moreover, there was actually one positive

development. Figure 3.1 shows that the frequency of contract killings under the Socialists of Stanishev had, in fact, decreased.

The second motive regarding the embezzlement of EU funding also raises some questions. Firstly, the accusations of embezzlement do not refer to structural, post-accession funding but to PHARE, pre-accession funding. PHARE had been in place for ten years. It was after ten years that a detailed audit investigation was initiated in relation to these funds (interviews at Centre for the Study of Democracy and EC delegation in Sophia). This is remarkable, since the financial and administrative management of PHARE projects is managed by the national implementing structure of the candidate countries, but under the supervision of the European Commission and its Delegations. Why, in ten years, had there been no such concern previously for the management of PHARE funds?

In its 2008, specially issued report on this problem, the European Commission identifies high level corruption and organized crime as a general reason for this situation, which enhanced the weakness in administrative and judicial capacity (European Commission 2008c). But such high levels of corruption had been always there; the only difference was that they were deliberately ignored, as has already been demonstrated. The argument that the European Commission's awareness increased because Bulgaria was about to have access to a much larger pot of money, the structural funds, is not an explanation, as it excludes the fact that, in ten years of PHARE, much larger amounts of money could have been embezzled.

Secondly, PHARE management differs from the management of structural funds. In the first instance, the European Commission's Delegation is also responsible for its management. Yet, the role of the EC delegation is not mentioned in the EC Report (European Commission 2008c). The European Commission seemed to ignore the fact that in 2005, the Bulgarian chapter of Transparency International pressed charges against officials from the Delegation of the EC, who were accused, together with the Ministry of Finance, of manipulating the assessment of project proposals under the PHARE Democracy Programme (Centre for the Study of Democracy 2007:63-64). Again, timing is important, for these charges concerned the mismanagement of funds before the Stanishev government took charge.

In conclusion, the arguments brought by the European Commission against Stanishev show inconsistencies, which force the question: what were the genuine reasons that prompted this negative attitude? What had changed now, as compared with the previous government?

A strained relationship with Civil Society

The analysis covering 2000-2004 showed that civil society's access to policy making and public funding, granted under the Simeon II government, was rewarded with a positive assessment (compared to Romania), despite its poor achievements in other more important areas of the fight against corruption. The relationship with the pro-EU civil society elite seems again to be the factor that influenced the balance of the evaluation.

According to interviews with former members of the EC delegation in Sophia, the members of Bulgarian civil society (the Centre For The Study Of Democracy and TI), and the Anti-Corruption Reports issued by the Centre For The Study of Democracy and some other documents issued by the IMF, WB and Freedom House, there were two main lines of discontent regarding Stanishev's actions. One related to his attempt to divert funding from the established NGOs, protected by the EU, to others created by various politicians. The second related to the economic policies adopted by the new government, which were moving away from the neo-liberal doctrine.

In contrast with the former king Simeon, who agreed to collaborate with and, consequently, to finance, the pro-EU NGOs, the new government did something that enraged the mainstream NGOs: "it attempted to establish control over civil society by setting up quasi-NGOs and by co-opting old ones, in order to suppress criticism" (Centre for the Study of Democracy 2009:33). The quasi-NGOs were registered by high-level public officials who, while still in office, used their status to divert resources to the NGOs in question (Centre for the Study of Democracy 2009:41). This was particularly painful for the established NGOs, at a time when international donors started to shift their attention and resources towards the poorer Western Balkans and Kosovo. Consequently, the government came to play a crucial role in NGO funding. Public funds distributed by the government and intended for the NGOs in 2008 constituted almost 40% of the total amount (interviews at TI, CSD; Centre for the Study of Democracy 2009:39). The mechanism for financing the NGOs, established by the European Union in its European Citizen Action Service (European Commission 1993), stipulates that half of their income should be ensured from public funds, distributed by the government. By opening a large

number of NGOs, run by various Bulgarian politicians, much of the funding that was expected to go to the established pro-EU watchdogs started to be diverted.

Secondly, with the disappearance of the 2000 Coalition, the old state/NGO partnership was not revitalized. So, although the old mechanism of the Corruption and Monitoring System was still in place, together with all of its local networks of surveillance, the access to policy making was restrained.

Members of CSD, and in particular of Transparency International (TI), complained about the unwillingness of the Socialist government to accept their projects and expertise; their access to executive and parliamentary meetings and debates was restricted, as well as their access to the activity of the Ministry of the Interior and Ministry of Justice (Interviews at CSD and TI). The established NGOs also pointed out the reason for this: "organizations with little or no previous institutional experience, yet with high level public officials as members of their management boards, not only receive grants but take part in the elaboration of state policies under the guise of being independent associations" (Centre for the Study of Democracy 2009: 42).

In short, Stanishev made the mistake of trying to phase out that "civil society" which had been responsible to a certain degree for the good (if not well-deserved) atmosphere that his predecessor, Simeon II, enjoyed in Brussels.

For Brussels, these steps taken by the Socialist government were interpreted as an attempt to restrain the European Commission's ability to keep a close eye on the political elite in

power. It was regarded as a “quiet revolution” on the part of a political class, which had proved cooperative until that moment, according to interviews in DG Enlargement.

In conclusion, the Bulgarian civil society displayed a consistent pattern of behaviour, which confirms the fact that fighting corruption was not the genuine priority. These actors used their position in the anti-corruption strategy to gain access to policy-making and resources. The EC conditionality on corruption empowered pro-EU civil society by creating a window of opportunity both during the accession and after. The main losers in terms of power remained the domestic government which was forced to take into account the interests and agenda of these actors.

Romania

2000-2004: The Social Democratic government and civil society

Alina Mungiu Pippidi, a veteran of Romanian civil society, stated in an interview that, “Smart ambassadors from the new EU members, know that in order for Europeanization to work, they need to identify and provide political support to people who want to change things. Give a sign to *the right* people ...” (Pippidi 2007). Both the Bulgarian and the Romanian cases show how right he was.

The Kostov (1997-2001) and Simeon (2001-2005) governments in Bulgaria were shrewd enough to accept the EC Delegation suggestions and to strike a deal with civil society. In contrast, the Social Democratic Party in power in Romania did not grasp the importance of this aspect. However, the relationship between government and civil society had not been so strained from the very beginning. This occurred largely due to the informal

pressures coming from the EU and international donors. The SDP, under Nastase, took several steps in the direction desired by civil society in the first years of its governance (2000-2002).

In 2001, at the beginning of the accession process, the government passed a law (HG1065/2001), stating that collaboration with civil society and the media was an essential condition for putting together the successful Anti-Corruption Plan requested by the European Commission.

A second step was to pass the law on Transparency of Information in 2001, which allowed public access to information considered in the public interest (Freedom House 2005:147). Law 544 allowed various NGOs to require access to information, which could indicate various sources of corruption and irregularities performed by the government (Freedom House 2005:47; SAR 2004:11-12; interview with Diana Crangasu, APADOR CH). It was therefore considered essential. For example, the Romanian Academic Society, a leading NGO, issued a Warning Report in 2004, which presented evidence about corrupt practices in the way state funding was being distributed to the counties. The result was that the Minister in charge of this was forced to resign. The transparency law made it possible for this NGO to have access to the necessary data.

A third step made by the Social Democrats was that five prominent NGOs¹⁵ were actually invited by the government to have a say in the National Anti-Corruption Plan, requested

¹⁵ Romanian Academic Society (SAR), Helsinki chapter (APADOR-CH), Group for Social Dialogue (GDS), Centre for Independent Journalism (CJI) and Media Monitoring Agency (MMA).

by the European Commission, mirroring on a more modest scale the Bulgarian example with its 2000 Coalition. The Central Group for Analysis (GCA) was the governmental body responsible for editing the National Anti-Corruption Plan and its implementation. The NGOs were invited to be members of the GCA (Freedom House 2005: 157;¹⁶ Interviews inside APADOR-CH and Centre for Independent Journalism). Their main roles were to participate in the making of this Plan, particularly in the legislative area, and to monitor its implementation.

Very soon, it became clear that the government had little intention of allowing these actors to play a role in policy-making on corruption. Though invited to come up with their view on the Plan, they were reduced to the status of observers only, inside the Group for Analysis (GCA). Moreover, the GCA's activity was a shadow of what it had been designed to be. Originally planned to meet once per month, the Group met only four to five times in two years (2001-2003), with no clear benchmarks for monitoring the implementation of the Plan. The presence of the five NGOs in this group was voluntarily terminated in 2003, when the vast majority of their proposals were not included in the final version of the plan (Interview; Freedom House 2005:158). "It was only a semblance of consultation with us, for the sole purpose of satisfying the European requirements for the involvement of civil society"¹⁷. Particularly responsible for this situation was the Minister of Justice, Rodica Stanoiu. According to the interviewees it was she and Prime Minister Nastase who were responsible for preventing civil society from getting involved in the National Anti-Corruption Plan. So, in March 2003, the NGOs decided to withdraw

¹⁶ Interviews inside APADOR-CH and Centre for Independent Journalism in Bucharest, Romania

¹⁷ Interview with a member of the NGO Centre for Independent Journalism in Bucharest

from the monitoring group and, in September of the same year, the Ministry of Justice took over from the ineffective Group for Analysis.

This moment represented the breaking point between the Socialists and civil society. Freedom House, in its Report on Corruption for 2000-2004 deplored the fact that the Government fenced them off from supervising the implementation of the transparency law and monitoring the activity of public servants (FH 2005:51). While Bulgarian NGOs took charge of the corruption awareness campaign, requested by the European Commission, with full government support and funding, the Romanian NGOs had to apply for PHARE funding with no support from their government (FH 2005:145).

On top of everything else, in the same year, 2003, the government passed an emergency ordinance (37/2003) by which access to EU funding for NGOs was controlled by the government (APADOR CH 2003:3). This came at a particularly difficult moment for the Romanian NGOs, when international donors were gradually scaling down their financial support, as a result of the prospective accession, and relocating it towards other poorer countries with fewer chances for membership, such as the Western Balkans (e.g. Kosovo) (FH 2005:148)¹⁸. Bulgaria experienced a similar phenomenon, only, in its case, the international financial drought was compensated for by the governmental decision to collaborate with the NGOs in the framework of the 2000 Coalition, when around 250 NGOs and their branches participated in the Monitoring System, at both central and local levels (Centre for the Study of Democracy 2002).

¹⁸Also according with the Interviewees from the following NGOs: Romanian Academic Society, Transparency International .

The result was that the Socialist government received the most damning reports since 2000, issued in particular by the domestic watchdogs (SAR 2003a, 2003b, 2003c; APADOR–CH 2003). This negative image was reflected in the European Commission Progress Report in the sudden rise in importance of a new issue: the conviction of high-flying politicians.

The 2003 Progress Report on Romania is the first in the history of both the 2004 and 2007 Eastern Enlargements where the issue of high-level corruption cases that needed to be prosecuted was mentioned and, moreover, was mentioned with a sense of emergency: “There have been very few prosecution cases of high level corruption *despite these being identified as a priority*” (European Commission 2003:20). The European Commission does not say here when and how it mentioned this as a priority. In its 2002 Report, the Commission had made only a vague and passing reference to political corruption: “Corruption remains a common aspect of commercial operations but it is also widely reported in dealing with public bodies, *as well as at the political level*” (European Commission 2002:20). The previous reports for Romania, from 1997 to 2002, never mention it (European Commission 1997b, 1998b, 1999b, 2000b, 2001b, 2002b). One year later, in 2004, it comes up in the Progress Report for Bulgaria, but without the sense of urgency that we see in the Romanian case (European Commission 2004a:20).

According to interviews conducted within the European Commission and with members of NGOs, the sudden emphasis on high-level corruption was due to these measures targeting the pro-EU civil society. Freedom House also openly admitted that there was a

direct connection between access to public funding of NGOs and the critical tone of its report (FH 2005: 148).

During 2003 and 2004, the pressure from the European Commission, supported by other corruption watchdogs, both domestic and international, reached its climax and was coming from all sides: the European Commission, the European Parliament and various Member States, plus the western media (EC 2002; 2003; EP 2004a, 2004b, 2004c; Reuters 28 October 2004). As one member of the EC delegation admitted,

“In 2003-2004, everything had to be connected with corruption. The term was used and abused. Whenever you wanted to destroy the image of someone or something, you could label it as corrupted. Corruption became overnight the public enemy”¹⁹.

Yet, much legislative and judicial reform happened under the Socialist government. During 2000-2004, under the Nastase government, a series of reforms of justice took place. In 2002, the National Anti-Corruption Office (European Commission 2002b) was set up and five laws were adopted to enable the detection and prevention of high-level corruption: the immunity of policy-makers, access to information, asset declaration, conflicts of interest and party financing. This was a major step in judicial reform. In 2004, the same government also re-organized the judicial system, along the lines wanted by the European Commission. This took place under the new Minister of Justice, Cristian Diaconescu, who replaced the much criticized Rodica Stanoiu (Gallagher 2009:124; Phinnemore and Papadimitriou 2009:55). By several accounts from inside the European

¹⁹ Interview with a member of the EC Delegation in Bucharest

Commission, this reform was considered the first great breakthrough, without which, Romania would not have been allowed to close the chapter on JHA.²⁰

It did not satisfy the watchdogs of corruption, however. Reports issued by influential think-tanks, such as SAR, Open Society, Transparency International and Chapter Romania, were highly critical to the Socialist Democratic Party, accusing it of being the most powerful and corrupt of all the parties; its reforms were considered insufficient and inconclusive, although the 2004 judicial reforms had followed the requests of the European Commission (SAR 2004, Open Society 2005, Transparency International 2005).

Finally, the Romanian Academic Society created the Coalition for a Clean Parliament in view of the 2004 elections, which opposed the Socialist Party, and a new Liberal Coalition was led by Basescu. The Coalition for a Clean Parliament started an aggressive campaign, based on accusations of corruption, which almost exclusively targeted members of the old Socialist government. The CCP established the criteria that would make a candidate unfit for a clean parliament. The result was that the almost a hundred members of the SDP running for elections were declared unfit and the SDP was forced to retract half of them from the election lists (Romanian Coalition for a Clean Parliament 2005).

In December 2004, the Social Democratic Party lost the election, in favor of a political entity called the Truth and Justice Alliance (TJA), which was an alliance between the Liberal Democratic Party (LDP), headed by Traian Basescu, who would afterwards

²⁰ Please refer to appendix 1 for the Interviews in the DG Enlargement.

become the President of Romania, and the National Liberal Party (NLP), headed by Prime Minister Tariceanu. It is widely thought that TJA won the elections exclusively due to the campaign organized by the Coalition for a Clean Parliament and the accusations of corruption, targeting the Socialists of Nastase.

Ultimately, between 2000 and 2004, the Socialist government tried to block the leading domestic NGOs from having any access to policymaking or resources. The failed collaboration affected the way these actors reported on government achievements regarding the fight against corruption. The result was that the government lost face in Brussels and in front of its own public. The crux of this strained relationship was the support that these actors granted to the liberal opposition. This was an important blow for the Socialists, who finally lost the elections, despite the fact that initially they had been considered the favourites to win (Freedom House 2004; Open Society 2004).

NGOs and the Liberal Democratic Party (2004-2008)

The 2004 elections and civil society: Corruption used to purge political opposition

There is a general agreement that the Liberal Coalition, led by President Basescu, would not have won the elections, if not for the aggressive campaign mounted by the NGO Coalition for a Clean Parliament. The CCP determined six criteria which could render a politician unfit to run for the elections:

1. Having repeatedly shifted from one party to another, in search of personal profit
2. Having been accused of corruption in the past, based on verifiable evidence
3. Having been exposed as a member of Securitate (the Communist secret service under Ceausescu)

4. Being the owner of a private firm with important tax arrears to the state budget
5. Being unable to account for discrepancies between asset declaration and real income
6. Conflict of interests – turning a profit from one's previous public position

According to the Coalition, the main parties targeted for the elections were the Social Democratic Party, in power since 1992, and the newly formed Liberal Coalition, led by T. Basescu. There were 300 politicians that were checked against the aforementioned criteria. Only politicians from the Social Democratic Party that were actually checked and 100 were found unfit to run on election list. However, there were other politicians from the opposing party (Coalition for Truth and Justice) to whom this criterion could have been applied and they could have been banned from the election list. This shows partisan use of accusations of corruption through which the interest of one party is promoted against another. There is a democratic purge of oppositions using corruption as a pretext.

The Coalition alleged that the Socialist Party was the most corrupt, while the Liberal Party was considered the least corrupt.

Controlling corruption or purging the opposition?

Three aspects distinguished the new power from its predecessors. It was the first such political entity that received strong support from a coalition of NGOs, entitled the Coalition for a Clean Parliament. The coalition based its propaganda on accusations of corruption, targeting the Social Democratic Party, headed by Prime Minister Nastase. Secondly, it was the first party to place a senior member of civil society in a key position,

that is: Monica Macovei, as Minister of Justice. Thirdly, it was the first political party to receive positive assessments from the EU, within only a few months after taking power, for its achievements in the areas of justice and the prosecution of high-level corruption cases. This immediate positive reaction by the European Commission to the “progress in the reform of justice” was unusual, because the new government could not have had time to deliver such results. The real recipient of this praise was, in fact, Monica Macovei, the first member of civil society to be put in a key position. (Papadimitriou and Phinnemore 2009:60, 88; Gallagher 2009; Ciobanu and Schafir 2005; Pippidi 2007; Stan 2005; Pridham 2007). Her appointment was applauded in Brussels by the new European Commissioner of Enlargement, Olli Rehn, in the most emphatic way ever for Romania, or even Bulgaria:

“Romania has made progress in the fight against corruption. Sound and solid structures have been set up for this purpose, and investigations into high-level corruption cases have been launched. This is immensely important. It gives a signal to society that for the first time in the history of the country, nobody is above the law” (Rehn 2005).

Rehn’s statement seemed to convey the message that great things had already happened. However, this official speech was delivered on 3 April 2005, while the new government had entered into power only three months earlier. At the time of Rehn’s speech, the National Anti-Corruption Plan had not been released: this would happen some weeks afterwards. The Plan announced future measures that the government was prepared to take (Romanian Government 2005a). So, “the sound and solid structures that have been set up”, had not been set up at all at that time: the reform would happen around six to seven months after this speech (Romanian Government 2005b) and the three-package law

for reforming justice would only be adopted four months later (Romanian Government 2005c). As for the “high level corruption cases launched”, during the whole of 2005 there was only one case that could be called high profile (see Footnote 12).

In conclusion, the government did not have the physical time to prove itself – not, at least, in the way the European Commission wanted during the time of the previous Socialist government – to come up with high profile corruption cases. Moreover, the person who made such unusual laudatory statements was the same one who, only a few months earlier, came up with the idea of creating the postponement clause, already inserted into the Accession Treaty; a credible threat, particularly for Romania (Interview with Dashwood, Ch, Hedberg, Per Ibold, van de Kastele; Phinnemore and Papadimitriou 2009: 57). Olli Rehn, as European Commissioner for Enterprise, in 2004 was a distinct voice inside the European Commission opposed to closing the chapter on Competition.

As a result, two reforms of justice took place: one in 2004 under the Social Democrat Party, and the second, under the new government of the Justice and Truth Alliance in 2005/6. Both reforms were undertaken at the request of the European Commission, respecting the guidelines coming from Brussels. In the case of Monica Macovei, these guidelines were taken directly from desk officers in charge of the Justice and Home Affairs chapters, for the minister was in daily telephone contact with them (Zwaenopol, Ruiter, Summa, Pasquarelli).

Bringing high-level decision makers to justice or witch-hunting? Activity of the National Anti-Corruption Office (2005-2008)

According to the European Commission, the ultimate ‘litmus test’ for Romania was to come up with as many cases as possible of important decision makers being prosecuted and eventually jailed for corruption. Consequently, this should be also the final test for the Justice and Truth Alliance’s (JTA) commitment to rooting out corruption, and in particular for its celebrated reformist, the Minister of Justice, Monica Macovei. Macovei was particularly praised for the fact that she made NAPO efficient. Efficiency meant, in this case, that NAPO started opening prosecution cases against the ‘big fish’, as requested by the European Commission.

One problem with hunting down politicians under accusations of corruption is the risk of transforming the process into a ‘witch hunt’, where the party in power merely uses accusations of corruption to wipe out its opponents. This annihilates the benign role of the anti-corruption effort. In such cases, accusations of corruption undermine state democracy and the good functioning of its institutions, particularly the judiciary. Under Communism, for example, accusations of “treason against the state” were used to purge the opponents of the Party and of its leaders. Therefore, when looking at the cases of high-flying decision makers who were prosecuted by NAPO during 2005-2008, it is imperative to map their political loyalty. If most or all such cases were located in the opposition parties, and none or very few were attached to the party in power, then this was a politicized process, a witch hunt.

Before mapping cases of corruption, it will be necessary to take a closer look at the context of the Romanian political landscape between 2005 and 2008, and the relationships between the most important actors.

The Justice and Truth Alliance had two main parties and two main leaders. One was the National Liberal Party (NLP), headed by Calin Popescu Tariceanu, and the other was the Liberal Democratic Party (DLP), headed by Traian Basescu. After they won the election in December 2004, Traian Basescu became the President of Romania and Tariceanu was appointed Prime Minister, in accordance with a pre-election agreement. In less than a year, however, it became evident that the President and Prime Minister had different agendas.

The Coalition won the election by a very small margin from its main opponent, the Social Democratic Party, headed by Adrian Nastase. This did not give a comfortable majority with which the new government could pass its decisions. Traian Basescu urged Prime Minister Tariceanu to resign, in order to trigger an early election that would have brought a more consistent majority in the Parliament. Tariceanu initially promised to do this, but shortly after, changed his mind and refused. This was the breaking point between the two leaders. From that point on, the conflict between them would reveal their different agendas.

Traian Basescu was “the darling” of civil society, which supported his campaign and decided in its favour. Basescu was the person who placed Monica Macovei in the position of Minister of Justice. What also singled him out from the previous politicians was his

harsh discourse against the so-called local “moguls”. They were very wealthy businessmen with interests that, in some cases, covered strategic sectors: oil refineries, media or banks. Traian Basescu proved to be the main supporter of Monica Macovei in her fight against them. One such relevant example involved Prime Minister Tariceanu himself, who was trying to save his main financial Party supporter from NAPO, which opened a case against him. This was Dinu Patriciu, the richest businessman in Romania. Patriciu was particularly disliked, not only by Basescu but particularly within DG Enterprise, because he managed to acquire, through a dubious process of privatization, the second largest oil refinery in Romania and also the second largest in Eastern Europe: Rompetrol (Hotnews 17 December 2007). Rompetrol was targeted by the Austrian giant, OMV, which had already acquired the first, largest oil refinery in Romania and in Eastern Europe, Petrom (interview with Gouboux, van de Kastele). These details are necessary to explain who was playing against whom in the balance of power in Romania, and what role accusations of corruption played in this balance. The references to local businessmen are also relevant to an imminent discussion of the economic dimension of corruption.

Tariceanu did not manage to keep his main sponsor away from NAPO’s grasp, because President Basescu granted his full support to Macovei (for more detail see Gallagher 2009:210, 233). From that moment onward, a rift opened between Basescu and Prime Minister Tariceanu: a rift that was followed by many personal and inter-party skirmishes. The conflict escalated when the Prime Minister’s Party, NLP, exited from the Justice and Truth Alliance in 2007: in the same year, Parliament initiated an impeachment procedure against President Basescu.

When mapping prosecution cases against decision makers, it is essential to make the distinction between the opposing powers. On the one hand, we have a coalition, involving President Basescu and his Liberal Democratic Party (LDP), supported by a cluster of NGOs. These are the same organisations that helped him during the election campaign, the Minister of Justice, Monica Macovei, and NAPO (or rather the Chief Prosecutor, who was appointed by Monica Macovei). This coalition received support from the European Commission.

On the other hand, we have an opposition which felt increasingly threatened by Macovei and NAPO's actions. At the forefront is the oldest and biggest party in opposition, the Social Democratic Party, led by Adrian Nastase. This is the main target for the anti-corruption coalition. Secondly, follows the former ally, the National Liberal Party, led by Prime Minister Tariceanu.

In Table 12, the high-level cases brought to justice by NAPO between 2005-2008 are mapped. The source is NAPO's website, which gives an account of its activity for each year. The cases listed below are not all the cases that NAPO tackled. They are the ones that mattered for Brussels, because they involved politicians from the upper echelon of decision making: members or former members of the executives, MPs or former MPs, high magistrates or the wealthiest and the most influential businessmen in the country. Members of the opposition are marked with red (Social Democratic Party and National Liberal Party); members of the Macovei-Basescu coalition in green.

Table 4.1: Mapping high-level cases brought to justice by NAPO, 2005-2008

Year	Name	Party	Position	Final decision ²¹
2005	Vasile Duta	SDP	Senator (MP) 2000-2004	5 years in jail
2006	Adrian Nastase	SDP	Prime Minister 2000-2004	2 years in jail
	Daniela Nastase	SDP	Prime Minister Nastase's wife	4 years in jail
	Dinu Patriciu	NLP	Senator 2000-2003 NLP's main financier	7 years in jail
2007	Serban Bradisteanu	SDP	Senator 2000-2004	5 years in jail (not yet applied, as the case is on recourse)
	Dan Ioan Popescu	SDP	Minister 2001-2003	All assets confiscated
2008	Ioan Avram Muresan	Democratic Convention	Minister 1996-2000	7 years in jail
	Traian Remes	NLP	MP 1996-2000 Minister 1998-2000 Minister 2007	3 years in jail
	Paul Pacuraru	NLP	Minister 2007-2008	Acquitted
	Adrian Nastase	SDP	Prime Minister 2000- 2004	New case opened - pending
	Miron Mitrea	SDP	Minister 2000-2004	Pending
	Serban Bradisteanu	NLP	Minister 2000-2004	5 years in jail

*Source: www.pna.ro (National Anti-Corruption Prosecution Office changed its name in 2005 to Anti-Corruption National Agency).

** The names highlighted in red are from the opposition, showing the party's selective use of accusations of corruption.

²¹ The decisions for these cases were taken years after the case was opened and sometimes it was not listed on the NAPO's website for various bureaucratic reasons. Therefore the information about the status of the case, in particular the final decisions, have been taken partially from media also available online: www.hotnews.ro/; www.ziare.com/; www.nineoclock.ro/; www.mediafax.ro/; www.jurnalul.ro/

This selection does not include local leaders: mayors, city councillors, state secretaries and advisers or lower ranked magistrates. The reason is that the European Commission considered these cases of medium relevance for NAPO activity. Under SDP, NAPO brought tens of such cases to justice, however this was not considered satisfactory for the European Commission, which was after the ‘big fish’.

The above table displays the bias against the opposition. Between 2005 and 2008, not even one case of a high-level politician brought to justice belonged to the Liberal Democrat Party, which was President Basescu’s main supporter and, also, supporter of the new anti-corruption wing of the judiciary, represented by Monica Macovei and the General Prosecutor of NAPO. The majority belonged to the SDP, the main opponent and the largest and most cohesive Romanian party after 1989. The rest were from Prime Minister Tariceanu’s Party, the NLP, which, from being Basescu’s ally at the time of the elections became his open one year later.

Results

From 2008 until today, cases against high-level decision makers belonging to the opposition have started to pile up. There was a certain breakthrough in recent years, with a few high-profile cases coming also from the LDP. However, this needs further analysis, since, according to some sources of information, this appears to represent intra-party retaliation against some of its less obedient members or a way to ensure (by blackmail) party members’ loyalty towards their leader, President Basescu.

In conclusion, under the new party in power and its Justice Minister, Monica Macovei, the anti-corruption judicial mechanism started to be used to suppress political opponents and, in particular, the most powerful opposition party, the SDP.

Conclusion

Romanian Civil society displayed much the same pattern of behaviour as Bulgaria. The ‘fight against corruption’ enabled the creation of mechanisms which were then used by civil actors to blackmail the political class into granting them access to power and resources.

In this case, the Socialists, who refused to open their power structures to non-governmental actors, became the main target of accusations of corruption instrumented by these actors. SAR and the Coalition for a Clean Parliament selectively used accusations of corruption in order to destroy the credibility of one party and to enhance the position of their opponents, the Liberal Coalition, which was friendlier towards NGOs.

Overall Conclusions

The behaviour of domestic NGOs in Bulgaria and Romania confirms the fact that the fight against corruption was not their real concern. It shows how the anti-corruption strategy created the means and the opportunity for these actors to exert pressure on the elected political class, for advancing their own influence.

Romania is perhaps an extreme example in this sense. The new judicial mechanisms, put in place by Monica Macovei for the prosecution of elected officials, became an instrument for purging the Socialist opposition. Therefore, the anti-corruption policies had an overall effect of undermining the democratic system in Romania. All these worrying developments did not prevent the Commission from maintaining its support for these watchdogs of corruption. The exact role of the EC in these cases will be assessed in the next chapter.

CHAPTER FIVE

The Relationship between NGOs and the European Commission

Introduction

The objective of this chapter is to explore whether the biased behaviour of the NGOs was accidental and derived from the specific backgrounds in Bulgaria and Romania, or whether it was generated by the way in which anti-corruption policies were managed by the European Commission. Did civil society behaviour develop independently from the European Commission, was it coordinated with or subordinated to the EC's preferences? Although the existing evidence suggests a positive answer to this question, nevertheless the relationship needs to be explored and unfolded.

There are two alternative views on this matter. One can interpret the NGOs' behaviour as "an accident", stemming from the specific Communist legacy of these two countries, where the civil society genesis and development was different, compared to those of old EU members (Trauner 2007; Ristea 2010). The literature on civil society in Eastern Europe has been labelled as "independent" and "acting in the public interest" by those NGOs which have a pro-EU and pro-neo-liberal agenda, who have been funded by the EU and other international donors promoting the same type of agenda -e.g. World Bank, IMF, USAID, Freedom House (Ristei 2010, Vachudova 2009; Spendzarova and Vahudova 2012; Pridham 2007c; Buniewicz 2009; Epstein 2008, Noutcheva and Dimitar,

2008; Sedelmeir, 2008; 2011). The activity of established watchdogs of corruption in Bulgaria and Romania come under the same line of analysis: (Centre for the Study of Democracy or SAR, Romanian Academic Society). On the other hand, it is only the activity of those NGOs dedicated to domestic political interests that are considered to cause problems (Ristei 2010, Noutcheva and Dimitra 2008, Trauner 2007, 2009). It is important to note that the literature on the EU has not recognised the undue influence that international donors (including the EU itself) had on the genesis and development of civil society in Eastern Europe and the difficulties that this caused. The main conceptual problem with this approach is that it then labels this type of civil society as “independent” and “genuine”, without discussing the ideological and financial dependency of these actors, nor all the consequences derived from this situation. The question thus arises: given this context, how independent from the EC were the domestic NGOs in Bulgaria and Romania when they reported on corruption? As the analysis of the previous chapter shows, it is important to make no assumptions without testing their veracity.

The idea exists that NGOs sponsored by international donors are “independent” and serving a just cause. To assume, without verification, that certain NGOs are somehow more benign than others because they are supported by one type of funding body, with its own particular agenda, rather than another, lacks analytical depth and borders on double standards.

The other view tested here is that the NGOs’ behaviour was not accidental, a random action stemming from the specific circumstances of Bulgaria’s or Romania’s political

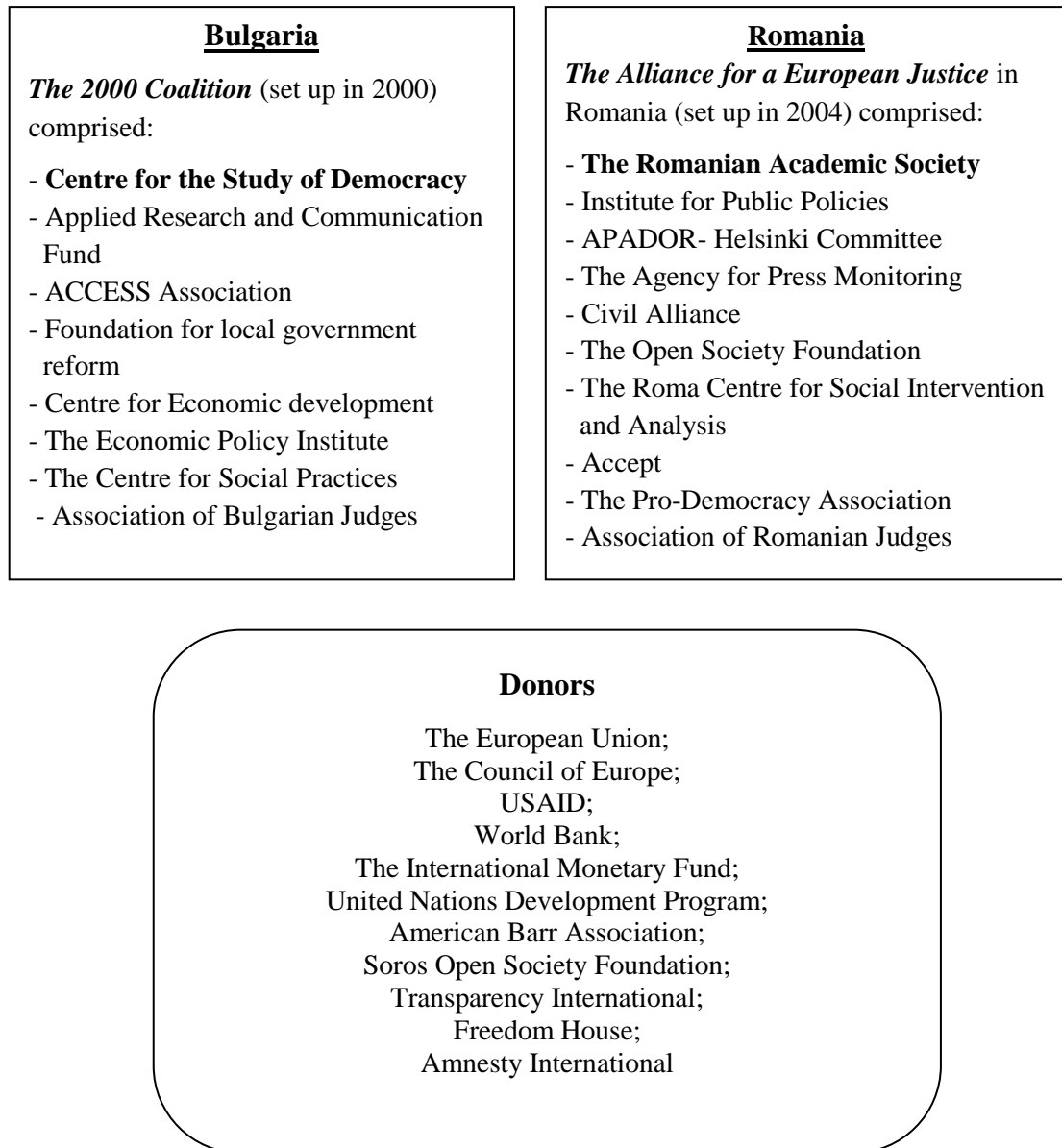
environment. They suggest that the empowerment of non-governmental actors ('watchdogs of corruption') was a result of the way in which anti-corruption policies have been framed and applied by the EC.

The central point that needs to be explored here is the degree of autonomy or dependence on the EC/EU of the domestic civil society. The following factors will therefore be discussed: the genesis of the main NGOs that counted in the evaluation process; their resources; their agenda and the way they framed anti-corruption policies compared to the EC.

List of NGOs in Bulgaria and Romania and their donors

As shown in Figure 5.1, a list of the most important NGOs and their donors between 2000 and 2008 is presented. The most influential are in highlighted in bold.

Figure 5.1: The most influential NGOs and Donors from 2000-2008



*Source: Centre for the Study of Democracy; Romanian Academic Society; The European Commission

Genesis

Most of the literature that discusses the genesis of civil society in the former Communist countries acknowledges that this was mostly a ‘top-down’ process. That is to say that the most important organisations were born, not on the initiative of citizens, but from external

pressure, coming from the main international donors mentioned above (Krastaev, Epstein 2008; Ristei 2010). A look at the NGOs discussed below also confirms this view.

Bulgaria

The 2000 Coalition and its research branch, the Centre for the Study of Democracy, were formed as a result of suggestions made by the EC's delegation to Sofia in 1997, according to interviewees from the EC delegation²². In fact, the idea, the structure of the Coalition and the effort of putting it together was almost entirely the product of work by the EC Delegation, together with a few international donors, who were very active in Bulgaria at that time: the Open Society Foundation (Soros foundation), Transparency International Bulgaria Chapter, USAID and the World Bank (Centre for the Study of Democracy 1998)²³.

The Coalition played an important role in designing the Anti-Corruption Plan, which was much appreciated by the European Commission in its Reports, as we have already seen. However, when the Socialist Coalition, led by Prime-Minister Stanishev, took power in 2005, the Coalition was dissolved because it was considered that its mission was finished. Bulgaria was at the end of its negotiations for accessions.

What was left after the dissolution of the Coalition was its research branch: the Centre for the Study of Democracy. Since 1998, the Centre has delivered one of the most influential Reports on anti-corruption yearly to date, which has been quoted by various EU research papers on corruption. Until 2004, the Corruption Assessment Reports were issued under

²² Interviews with members of the EC Delegation in Sofia, 1997-2004.

²³ Interviews with members of the Center for the Study of Democracy (CSD)

the umbrella of the 2000 Coalition and most of the funding for these assessments came from the government (Kostov 1997-2001 and Simeon II 2001-2005).²⁴

After the elections in 2005, when the Simeon II Alliance was replaced by the Socialists of Stanishev (2005-2008), the governmental funding was stopped and was replaced by the American USAID.

In conclusion, the most influential NGO in Bulgaria, the CSD, was created as a result of pressure from the EC, in the context of Bulgaria's accession to the EU. Its genesis was triggered by the necessity of complying with the EU anti-corruption conditionality.

Romania

The situation in Romania was slightly different. Unlike Bulgaria, there was no coalition of NGOs between 2000 and 2004. The Alliance for European Justice emerged in 2004, arising from the necessity of supporting a new party, the Liberal Alliance for Justice and Truth, already commented upon in the previous chapter. Nevertheless, it was acknowledged by the EC Delegation in Bucharest that the Romanian Academic Society (SAR) was the leading domestic NGO with which the Commission collaborated regarding its anti-corruption conditionality.

SAR was set up in 1998 and had a double function: to act as a think-tank, delivering assessments and studies on the state of government in Romania (the so-called Policy

²⁴ Interviews with members of the CSD

Warning Reports); and by being actively involved as ‘watchdogs of corruption’, as we have already seen, in 2004.

Although SAR was a private initiative of some Romanian academics and members of civil society, all its projects were funded by international donors or in collaboration with IOs with branches in Romania: USAID, Freedom House, World Bank and Open Society (SAR 2001; SAR 2004)²⁵. Unlike CSD, SAR’s Reports were not exclusively specialized on corruption. However, they were the most active NGO in the area of the prevention of political corruption. A case in point was their campaign against the Socialist Party during the 2004 elections, as previously discussed.

The Alliance for a Clean Parliament was set up during the elections of 2004. The ACP’s activity and partial role in the results of the elections have been discussed in the previous chapter. Suffice it to mention that it helped the Liberal coalition to win, while using accusations of corruption against the Social Democratic Party, led by Prime Minister Nastase. The Coalition accused the SDP of corruption, however, as it overlooked that many important candidates on the lists of the Liberal Alliance, led by the future President Basescu, were also involved in corrupt practices, which had been known to the press for some time (see previous chapter).

Although SAR was the leading NGO and the most active in organizing this coalition, the idea of such an action was a joint product of SAR, the Romanian Soros Foundation (or Open Foundation Society) and Freedom House, while the funding came exclusively from

²⁵ Interviews with members of the EC delegation in Bucharest; an interview with one member of SAR; SAR’s website

Soros Foundation, Freedom House and the Balkan Trust (Coalition for a Clean Parliament 2005: 2-3).

In conclusion, the formation of the most important NGOs and think-tanks in Bulgaria and Romania confirms the general view that this was a process that was directed from above, for reasons that had less to do with the actual needs of the population than with the external agenda of integration into EU structures.

Funding

An essential aspect for NGOs is their access to funding. Most EU literature on civil society in Eastern Europe has taken it for granted that the majority of leading NGOs in the former Communist countries are funded by the same string of international donors, without regarding this as a problem. Looking to Figure 5.1, it can be seen that this is the case for Bulgaria's and Romania's civil society. Through the European Citizen Action Service (ECAS), the NGOs, which are validated by the EU, are entitled to public funding, which is an important source of their income.²⁶

a) Bulgaria

Until 2001, international donors provided 90% of funding for those NGOs that were recognized by the EU (see the Figure 5.1). After that, around 60% was provided by the Simeon II government (CSD 2003:87). As discussed in the previous chapter, public funding decreased under the Socialists of Stanishev, to something under 40%. This occurred at a time when things were already becoming difficult for civil society, when

²⁶ <http://ec.europa.eu/social/main.jsp?catId=330>

international donors started to relocate to the Western Balkans. Until this point, international funding remained one of the most important sources of money for CSD projects (CSD 2010; CSD: 2013).

b) Romania

Romania is like a mirror story to the situation in Bulgaria. From 1996 (when SAR was set up) until 2004, 90% of its funding came from international donors (FDSC 2007; World Bank 1998). When the Socialists, under Prime Minister Nastase, were replaced with the Liberal Coalition in 2004, the situation changed. SAR and the Coalition for a Clean Parliament start receiving more money from the public budget. Between 2005 and 2007, more than fifty per cent of their income came from public funds (FDSC 2007).

In conclusion, the civil society organizations with a focus on corruption in both countries have displayed a high dependency on international funding. However, the two liberal coalitions in Romania and Bulgaria who received favorable assessments from these NGOs, diversified their funding to a certain extent – particularly in the Bulgarian case. Overall, these organizations remained heavily dependent on international funding.

Promoting the EU agenda

The reputation of an organization depends on the type of agenda it carries out. In this case, the NGOs' main aim is to gain a passport towards European acknowledgement and funding. The European Commission explains which NGOs are acknowledged by the EU, which can be accepted for the EU's programmes (thereby accessing EU funding), which can be used as information relays or whose expertise is required. The main conditions

are that such civil society organizations have to promote a “true European political entity”, to “contribute to promoting European Integration in a practical way and often at grass-roots level”. They also have to “contribute to the implementation of EC policies”, and to implement Community programmes and projects...” (European Commission 2000). In short, access to EU recognition and funding means to serve the EU’s interests and agenda.

Framing corruption

Bulgaria

The Centre for the Study of Democracy was the idea of the EC delegation to Sofia, as previously mentioned. The Centre explains that its reports on corruption follow the framework of the Action Plan decided by the 2000 Coalition. The Action Plan is the document which lays down when and how the country is going to adopt and implement the anti-corruption policies requested by the Commission. The Corruption Assessment Report follows the structure and approach of the Action Plan adopted by the Policy Forum of Coalition 2000 in November 1998. The Report contains a general evaluation of the state and dynamics of corruption in Bulgarian society and of anti-corruption efforts in the year (CSD: 2000; 2001; 2002; 2003; 2004). The main role of the CSD’s Reports, therefore, is to add substance to an existing structure, which follows the anti-corruption framework put in place by the EU. This means that the CSD has little autonomy in changing the structure of anti-corruption policies or the priorities it agrees.

Table 5.2 exemplifies how the structure of the CSD Reports follows the anti-corruption framework put in place by the EC. On the left side, we have the summary content of the

CSD Reports, 2000-2004, and on the right side, is the content of the Commission's Progress Reports during the same period.

Table 5.2: Structure of CSD reports / EU commission reports on corruption

Structure of CSD Report on Anti-corruption reforms in Bulgaria between 2000-2004	European Commission Progress Reports structure for Bulgaria between 2000-2004
1. Institutional and legal environment for curbing corruption: Public Administration Reform and the role of the State – Legislative Framework	1. Reform of Public administration √ Present in all Progress Reports from 2000-2004.
2. Reform of the judiciary: Criminal Law and Procedure; Civil and Administrative Law and Procedure; Reforming the Organization of the Judiciary, Training of Magistrates.	2. Reform of the judiciary √ Present in all Progress Reports from 2000-2004.
3. The fight against corruption in the economy: Corruption and Privatization	3. Public procurement and public tenders Present in the Progress Reports from 2001, 2002, 2004
4. Dynamics of corrupt behaviour and the change in public attitudes towards corruption (public awareness).	4. √ Public awareness reported in the Progress Reports for 2000, 2001, 2003, 2004
5. The role of civil society: NGOs and the media	5. √ NGOs activity comprising: surveys/assessments, participation in the Anti-corruption Plan Progress Reports for 2001, 2002, 2003
6. International Cooperation against corruption: Legislative dimensions Institutional Aspects	6. √ Signing International agreements concerning the fight against corruption: All Reports.

The Reports of the CSD do not change the structure of the Anti-corruption strategy, nor do they come up with any new issues outside the already existing framework. It was not

the CSD but the EU that decided what needed to be assessed and reported on. Therefore, the NGO had no freedom to change, amend or adapt the evaluation framework imposed by the EU.

Hiding or highlighting problems and achievements of the Bulgarian anti-corruption effort: The EC and CSD's reports

The CSD Anti-corruption Reports for each year are always released after the Commission's Progress Reports. For example, the Commission Progress Report on Bulgaria's achievements for year 2003 was released in November. The CSD Report for the same year (2003) was released in spring 2004 (CSD 2000, 2001, 2002, 2003, 2004, 2005). The CSD report often quotes from the Progress Reports of the Commission. The most problematic areas for Bulgaria have been: organized crime and high-level corruption. These became the most important issues after 2006/7 and they represent the central part of the CVM to date. The table below contrasts the reporting of the EC and CSD on similar issues. This covers the period of negotiations for accession (2000-2004), shows the intermediary reports from 2005-2006, and continues with the Cooperation and Verification Mechanism until 2008.

NB: the CSD content reports on the situation of corruption related to the previous year

Table 5.3
Comparison of the way in which EC and CSD (Bulgarian NGO)
reported on organized crime

ORGANIZED CRIME	COMMISSION PROGRESS REPORTS	CSD ANTI-CORRUPTION REPORTS
2000	Not mentioned as a problem	Not mentioned
2001	Not mentioned as a problem	Not mentioned
2002	Not mentioned as a problem	Not mentioned
2003	Not mentioned as a problem	Not mentioned
2004	Not mentioned as a problem	Not mentioned
2005	Mentioned as a problem	Not mentioned
2006	Becomes Benchmark 6 in the CVM	One chapter dedicated to it
2007	Benchmark 6 in the CVM – major problem	One report dedicated to it
2008	Bulgaria gets fined Organized crime is one of the reasons	A chapter dedicated to it

Table 5.4
Comparison of the way in which EC and CSD (Bulgarian NGO)
reported on killing contracts, as a worrying phenomenon within organized crime

Killing contracts	COMMISSION PROGRESS REPORTS	CSD ANTI-CORRUPTION REPORTS
2000	Not mentioned	Not mentioned
2001	Not mentioned	Not mentioned
2002	Not mentioned	Not mentioned
2003	Not mentioned	Not mentioned
2004	Not mentioned	Not mentioned
2005	Not mentioned	Not mentioned
2006	Part of the Benchmark 6 in the CVM	Mentioned as an important issue
2007	Part of the Benchmark 6 in the CVM – major problem	Mentioned as an important issue in the report on Organized crime
2008	Bulgaria gets fined Killing contracts aggravating reasons	Mentioned as an important problem

Table 5.5
Comparison of the way in which EC and CSD (Bulgarian NGO)
reported on Corruption

HIGH LEVEL CORRUPTION Implementation: Prosecution/ conviction/ Judicial reform	COMMISSION REPORTS	PROGRESS	CSD ANTI-CORRUPTION REPORTS
2000	Not mentioned as a problem		Not mentioned
2001	Not mentioned as a problem		Not mentioned
2002	Not mentioned as a problem		Not mentioned
2003	Not mentioned as a problem		Not mentioned
2004	Not mentioned as a problem		Not mentioned
2005	Not mentioned as a problem		Not mentioned
2006	Benchmark 4 in the CVM (major problem)		Mentioned as a problem
2007	Benchmark 4 in the CVM – major problem		Mentioned as a problem
2008	Bulgaria gets fined High level corruption is one of the reasons		Mentioned as a problem

All three tables show the way the European Commission and the CSD highlighted or ignored an issue. Organized crime, with killing contracts and high-level corruption, have been among the most important topics, since Bulgaria has become a member of the EU. The tables disclose that the European Commission has the power to decide when an aspect should be ignored or when it should be highlighted. The CSD reports always follow suit. They never take the lead to highlight or ignore something that the Commission does not. For example, the CSD report on 2006 was actually issued in 2007, six months after the European Commission issued its CVM Report. Suddenly, high-level corruption became an issue of major concern, although for five years it had been virtually ignored.

Conclusion

The main Bulgarian think tank has little autonomy in reporting on corruption. It is the European Commission that decides the structure of the reports and chooses the topics that need to be addressed. The CSD merely adds more information on the areas already identified by the EC.

The most important finding is that biased reports on corruption for Bulgaria were not initiated by the CSD. It was the Commission that decided which issues need to be highlighted or ignored and when. The timing of the two reports shows that the CSD had no initiative in raising concerns on any specific aspect. The Commission was therefore generating double standards, while the CSD's main role was to amplify them and add more substance to an already existent structure.

Romania

The Romanian Academic Society has been the leading think-tank and the most active NGO to play a crucial role in promoting the Liberal Alliance into power, while undermining the position of the well-established Socialist Party. It is also constructive, therefore to compare and contrast the way in which SAR has portrayed and highlighted the anti-corruption fight in its reports. Unlike CSD in Bulgaria, SAR did not report on corruption with the same regularity. Nevertheless, its reports were acknowledged in the European Union.

Table 5.6
Comparison of the way in which EC and SAR (Romanian NGO)
reported on Corruption

Structure of SAR Reports on Anti-corruption reforms	EC Progress Reports structure for Bulgaria, 2000-2004
1. Institutional and legal environment for curbing corruption: Public Administration Reform and the role of the State – Legislative Framework	1. Reform of Public administration √ Present in all Progress Reports from 2000-2004.
2. Reform of the judiciary: Criminal Law and Procedure; Civil and Administrative Law and Procedure; Reforming the Organization of the Judiciary. Training of Magistrates.	2. Reform of the judiciary √ Present in all Progress Reports from 2000-2004.
3. The fight against corruption in the economy: Corruption and Privatization	3. √ Public procurement and public tenders Present in the Progress Reports from 2001, 2002, 2004
4. Dynamics of corrupt behaviour and the change in public attitudes towards corruption (public awareness).	4. √ Public awareness reported in the Progress Reports for 2003, 2004
5. Role of Civil Society	5. √ NGOs activity comprising: surveys/assessments, participation in the Anti-corruption Plan Not mentioned for Romania
6. International Cooperation against corruption: Legislative dimensions Institutional Aspects	6. √ Signing International agreements concerning the fight against corruption: All Reports.

As in the Bulgarian case, the SAR reports on corruption in the framework already set up by the EC.

In table 5.7 is shown how SAR started highlighting aspects of anti-corruption policies only *after* they were pinpointed by the European Commission. The most important priority was that of bringing to justice high-level decision makers, who, in this case, were all from the opposition party, the Socialists.

Table 5.7

**High-level corruption:
Developing judicial mechanisms for the repression of political class**

Year	COMMISSION PROGRESS REPORTS	SAR Reports
2000	Not mentioned	Not mentioned
2001	Not mentioned	Not mentioned
2002	Mentioned as a problem	N/A
2003	Mentioned as a major problem	Mentioned as a major problem
2004	Becomes the leading problem	N/A
2005	Major problem	Major problem
2006	Becomes Benchmark 6 in the CVM	N/A
2007	Benchmark 6 in the CVM – major problem	One report dedicated to it
2008	Insistence on bringing to justice as many elected officials as possible	Insistence on the same topic

The EC, civil society and judicial reform in Romania

The reports of judicial reform, under two governments, the Socialists and the Liberals, illustrate that the Commission initiated biased approaches on anti-corruption policies and that the domestic NGOs were only fleshing out a programme put in place by Brussels. Since 2002, judicial reform has been increasingly at the centre of the Commission's attention. The main target of the reform was the prosecution and conviction of elected officials: in short, political corruption. At the centre, was the National Anti-corruption Office, designed to investigate and prosecute cases of corruption among high-level

politicians. The Commission wanted NAPO to be placed outside any political interference or check. In accordance with this request, NAPO had to be completely detached from the Ministry of Justice. This was the main point of the reform.

In addition, NAPO was supposed to have a special place, compared to the ordinary judiciary bodies. Also, the Commission granted extraordinary powers to the General Prosecutors, who had the right to start investigations at the highest level.

Table 5.8 (below) epitomizes the evolution of justice reform (in its anti-corruption dimension) and NAPO re-organization. It shows the three main transformations, under three Ministers of Justice: Rodica Stanoiu and Cristian Diaconescu, during the Socialist government (2000-2004), and Monica Macovei from the Truth and Justice Alliance (2004-2007). The paragraphs in red indicate those measures with which the European Commission did not agree, while the green paragraphs indicate those measures which were taken according to the European Commission's wishes. The last paragraph shows the European Commission's evaluation of the measures taken under each Minister of Justice: the red ones show discontent, the green ones show agreement. The rationale of this scheme is to highlight the EC's lack of consistency according to its own criteria.

Table 5.8

The avatars of the institutional body responsible for the prosecution of high-level decision makers

<p>SDP (2000-2004)</p> <p>↓</p> <p>Rodica Stanoiu Cristian Diaconescu</p>		<p>DA Alliance (2004-2008)</p> <p>↓</p> <p>Monica Macovei</p>
<p>Appointing the Head of NAPO and its members</p> <p>Formally appointed by the Romanian President but shortlisted by the Ministry of Justice, who appointed and dismissed the other prosecutors (Commission 2002:21). The Ministry of Justice had the power to appoint or dismiss prosecutor members of NAPO (Commission 2002: 21).</p> <p>Investigating high-level corruption</p> <p>Only the Ministry of Justice and the General Prosecutor could order an investigation into the wealth of high-level officials (Commission 2003:21).</p> <p>Commission's opinion: <i>"The independence of NAPO is jeopardized by the Ministry of Justice" and by "the coordination role that the General Prosecutor has been given over PNA activities"</i> (Commission 2003:21). The Commission and the other international watchdogs requested the autonomy of PNA. The Superior Council of Magistracy was considered "responsible for safeguarding the independence of the Judiciary" (Commission 2003:20).</p>	<p>Appointing the Head of NAPO and its members</p> <p>The Superior Council of Magistracy (CSM) requested their appointment and dismissal. Based on CSM's request the President officially nominated or dismissed them. The Ministry of Justice made recommendations to the CSM (TI 2005: 3; Freedom House 2005: 80). The Ministry of Justice no longer appointed or dismissed prosecutors. It was the Head of NAPO (The general Prosecutor) who did this with the approval of the CSM (Commission 2004:21; Freedom House 2005: 80-81).</p> <p>Investigating high-level corruption</p> <p>The General Prosecutor had the right to start an investigation at the highest level. NAPO became an autonomous body, separated financially and hierarchically from the Ministry of Justice.</p> <p>Commission's opinion: <i>"This three-law package which is not yet effectively implemented, is intended to improve significantly the independence of justice"</i> (Commission 2004:18). Yet, <i>"there has been no reduction in the perceived levels of corruption and the number of successful prosecutions remains low, particularly for high-level corruption"</i> (Commission 2004: 20)</p>	<p>Appointing the General Prosecutor of NAPO, January 2005 to November 2006</p> <p>The Romanian President formally shortlisted them but the Ministry of Justice made the proposal with consultation from the Superior Council of Magistracy (OUG 134/2005; TI2007:18).</p> <p>The head of NAPO was directly responsible to the Ministry of Justice who can dismiss the General Prosecutors and all the other Prosecutors from NAPO, "should their performance become unsatisfactory"(Commission 2005:10) From September 2005 NAPO changed its name and became the National Anti-corruption Department (DNA).</p> <p>Investigating high-level corruption</p> <p>The General Prosecutor had the right to start an investigation at the highest level. DNA was attached to the High Court of Cassation and Justice but with a "clearly distinguished budget".</p> <p>Commission's opinion: "represents a significant step forward ... to create an independent, professional and effective justice system" (Commission 2005:10) and "there have been an increase in the political will to tackle corruption" (Commission 2005:13).</p>

Table 5.8 displays striking inconsistencies in the European Commission's approach. In 2003, the EC was criticizing the subordination of NAPO to the Minister of Justice. In 2004, the government changed both the Ministry of Justice and the law, removing NAPO from the Ministry of Justice's influence. However, the Commission complained that NAPO did not deliver on cases of corruption. In 2005, Monica Macovei yet again subordinated NAPO to the Ministry of Justice: the European Commission praised the reform and the political commitment to rooting out corruption.

The table shows changes relating to NAPO. However, the same contradictions can be encountered in the way the relationship between the Supreme Council of Magistracy and the Ministry of Justice evolved under the two governments. This relationship was at the core of the much wanted reform of justice.

The European Commission complained, in 2003, that the Minister of Justice at that time, Rodica Stanoiu, had discretionary powers to replace and remove magistrates from the Supreme Council of Magistracy (SCM) and prosecutors (European Commission 2003b:18). The SCM was considered important by the EC, in guaranteeing the independence of NAPO. The table above highlights how in 2004, NAPO was only accountable to this organism. In 2005, Monica Macovei went back to the old state of affairs, and the Ministry of Justice had the right to appoint and dismiss its members. At the time, one voice criticized Monica Macovei's reform. Paradoxically, it was the adviser employed by the European Commission itself to improve the quality of justice in Romania, the German judge, Dieter Schlafen. Schlafen noticed exactly the same inconsistency discussed here: Macovei's reform in the area of justice defied the requests

of the European Commission. The changes that she brought to the laws regarding the functioning of the Superior Council of Magistracy were considered as reverting the reform of 2004, which set up the independence of the SCM from the influence of the Ministry of Justice. In short, the advising magistrate declared himself “appalled by the extraordinary pressure that the Ministry of Justice would place on the SCM, which was supposed to be the guaranteed of an independent justice and NAPO” (Hotnews 2005²⁷; Gallagher 2009:185). The response of the European Commission was that these were his personal opinions and did not represent those of the EC (Hotnews 2005).

The EC’s answer is not very surprising. According to interviewees in the DG Enlargement and DG JHA, and according to Monica Macovei herself, the 2004 reform was not her creation but emanated directly from Brussels. From the moment of its appointment, January until May 2005, the newly appointed Minister of Justice was in constant contact with members of the Commission from JHA. According to these interviewees, the Minister requested detailed guidance concerning the reform of the judiciary in Romania: “ we were in telephonic contact on a daily basis with the Minister of Justice from Romania. She was asking for guidance in conducting the judicial reform. Ms Macovei wanted to prove that Romania was determined to follow the EC’s requests. Otherwise, postponement clause could have been activated”. This explains why the Commission praised a reform which was going so blatantly against its wishes, clearly expressed only a year before (2004). In fact, “the daily consultation” was confirmed in a public speech by the then Prime Minister of Romania, Tariceanu, who mentioned that: “ All the reform

²⁷ Hotnews 2005, “Consilierul Satelit Dieter Schlafen a fost pus la colt de UE” (transl. The satellite adviser Dieter Schlafen was shamed by the EU”, 13 May 2005, on <http://www.hotnews.ro/stiri-arhiva-1228267-consilierul-satelit-dieter-schlafen-fost-pus-colt.htm> [12 March 2012]

measures were introduced after a close consultation with the EU officials”. He openly called the reform “a European reform”.²⁸ Tariceanu also admitted the unprecedented pressure of the EC regarding the most sensitive aspect of the anti-corruption fight: sending politicians to prison. The Romanian Prime Minister disclosed that the EC had sent a warning letter addressed to the Romanian Government, which deplored the fact that, until 2005, no high-profile politician had been prosecuted and convicted.

This story of judicial reform in Romania shows two things. The contradiction was not just an accident, tolerated by the EC, but was generated by it. This confirms the already obvious pattern of double standards and inconsistencies, initiated and generated by Brussels. This incident reveals also that the EC was not so much interested in creating a judicial system, free of political interference. What mattered to the EC was *who* was in power and *who* was controlling it, rather than any principle of a free judiciary. In this case, it was the Liberal Coalition, supported by the civil society and its Minister of Justice, an ex-member of a reputed NGO that had received the trust and support of Brussels, even before proving themselves, pushing its own agenda of power, replacing one authority with another.

Once again, the EC showed that the issue of solving corruption came second to the issue of who was empowered because of fighting corruption. It also illustrated that Brussels had the leading role in determining the path that the anti-corruption policies had to follow. Neither the newly appointed government, favoured by the EC, and its civil society

²⁸ The official site of Chamber of Deputies: <http://www.cdep.ro/pls/steno/steno.sumar?ids=5884&idl=1> or on <http://www.amosnews.ro/arhiva/discursul-lui-calin-popescu-tariceanu-privind-asumarea-raspunderii-guvernului-aspra-legilor-14-06>.

supporters displayed much autonomy in this case, either. It was the EC who decided the structure of the judicial reform before 2005 and again decided to contradict itself a couple of months later, by coming up with a counter-reform. The domestic actors, the new government and the civil society simply put into practice the EC's requirements.

Non-partisan investigations versus 'witch –hunting'

Chapter 4 showed how the fight against corruption was used to purge the political opposition. This was performed in both cases by a coalition between civil society and political actors. Both Liberal Coalitions of Bulgaria and Romania were willing to take on board the anti-corruption policy, to the letter, and to open the decision-making, among other aspects, to non-governmental actors. In return, the watchdogs of corruption became regime enhancers. They helped the Liberal coalitions to improve their image in Brussels, win elections and, essentially, purge their opposition. All this was achieved at the expense of rooting out corruption.

In the Romanian case, the main question raised here again, is whether the EC had a role in the witch-hunting that targeted one party: the Social Democratic Party. Was the Commission aware that the Coalition for a Clean Parliament was selectively using accusations of corruption? Had the EC noticed that the allegations of corruption from 2005 onwards were partisan and that, until 2008, all politicians prosecuted and convicted were from the opposition?

The interviewees from DG Enlargement and the EC Delegation in Bucharest clearly stated that the Socialists of Prime-Minister Nastase had a bad reputation in Brussels.

According to them, what made the difference between Romania and Bulgaria was that the Socialists and their Prime-Minister regarded civil society with suspicion and condescension.²⁹ Unlike the Bulgarian government, who understood their importance in the logic of accession and who treated them as partners, Nastase, and in particular his Minister of Justice, Rodica Stanoiu, regarded such actors as intruders, spies paid from outside that needed to be ‘put out to grass’.³⁰

The answers from the interviews show that the European Commission shared with the watchdogs of corruption the same negative opinion about Nastase’s Government between 2000 and 2004. Moreover, the study of the leading Romanian NGO, the Romanian Academic Society (SAR), showed that the Commission was not just a passive witness to how this particular Party had become the favourite target of accusations of corruption. It was the EC that required more and more high-level politicians to be sent to jail, on accusation of corruption. It was the EC that took the initiative in establishing an anti-corruption institution, dedicated exclusively to the prosecution of high-level corruption.

The case of the 2004 elections has been already discussed here. However, it has been explored from the perspective of the civil society only, for the sake of clarity. According to the interviewees from the EC Delegation in Bucharest and from Freedom House, the idea of using accusations of corruption in their campaign was a result jointly stemming from international donors (such as Freedom House and Soros Foundation), the EC Delegation and leading Romanian NGOs, in particular SAR.³¹ As a result, the campaign

²⁹ Interviewees in the EC Delegation in Bucharest, Romania.

³⁰ Interviewees in the EC Delegation in Bucharest, Romania and interviewees in the DG Enlargement, European Commission, Brussels.

³¹ Interviews in the EC Delegation in Bucharest, interview inside Freedom House.

was funded by the same international donors: Balkan Trust, Soros Foundation and Freedom House (Coalition for a Clean Parliament 2005:2). The Coalition actions received an unusually large coverage in the international media: from the BBC, Reuters, Financial Times, Le Monde, Zeitung and Die Presse (Coalition for a Clean Parliament 2005: 2). It was the European Commission, together with other international donors (Freedom House and Soros Foundation), who generated the idea of the project and granted it financial and logistical support, as well as international media coverage.

It has been difficult to establish to what extent the EC was aware of the selective way in which the accusations of corruption had been used in this particular case. However, the interviewees from the EC Delegation in Bucharest agreed with the campaign's results, which made the situation much more 'black and white': "The results showed that far more unfit candidates belonged to the ruling SDP (Social Democratic Party)", while the Alliance of Truth and Justice was found much "cleaner". However, the issue of politicians being convicted, who came exclusively from one party, was well known within the Commission.

The previous chapter has explained that, between 2005 and 2008, all the convicted politicians came from one party, the PSD, which was now in opposition. As we have seen, from as early as 2004, the argument that the SDP was the main source of corruption was not valid. As already discussed, upper ranking politicians from the Liberal Coalition – the party that won the elections in 2004 – were involved in practices which could and should have triggered either their exclusion from election lists or investigation by the anti-corruption agency NAPO (later known as DNA). Also, the very fact that all the politicians

who were prosecuted and convicted between 2004 and 2008 came from opposition parties should have sent a clear signal that the anti-corruption judicial mechanisms had become an undemocratic instrument for purging political opposition.

The Commission was well aware and very well informed about each case involving high-level politicians, as the Commission itself informs us in its Cooperation and Verification Mechanisms from 2007 and 2008: : “No real progress has been made in ten key cases involving former ministers. This is partly due to Parliament having blocked the investigation and partly to dismissal of the cases by the High Court of Cassation and Justice, which overturned previous decisions.” The ten politicians mentioned by the Commission were all members of the opposition parties, as table 4.1 (from chapter 4) shows. The Commission never questioned the fairness of a process where only the opposition was accused of corruption. Importantly, it was the Commission that urged the Liberal Coalition to intensify the process of bringing to justice members of the opposition party: “Failure to move on these cases undermines the positive efforts undertaken at pre-trial level.”(Commission 2008b:4). It went on to say: “Although the National Anticorruption Directorate (DNA) continues to show a consistently positive track record for prosecution of high level corruption cases, court sentences remain lenient and inconsistent.” (Commission 2008b:4). The main culprit was found to be Parliament because: “efforts by DNA to continue investigations in some important cases have stalled, as Parliament has not recommended that judicial procedures be launched. The reluctance of the judiciary and Parliament to allow investigation of these high profile cases results in a loss of public confidence. Parliamentary debate on the amendments to the Criminal

Procedure Code, aiming at restricting the collection of certain evidence, creates legal uncertainty and negatively influences ongoing investigations” (Commission 2008:4-5).

Finally, the Commission urged that: “Independent investigation of *former* ministers and members of Parliament by the judicial authorities *must* be allowed to proceed” (Commission 2008b: 4). The “Former ministers” were members of the political party that was previously in power, the Social Democrats.

In conclusion, the Commission was not only aware that accusations of corruption had only one target, the opposition, but it was the Commission itself that urged the Liberal Coalition in power to intensify and speed up the process of bringing to justice members of the opposite party. In fact, this approach continues until today. In its 2014 Anti-Corruption Report, addressed to all EU members, the EC mentions the Romanian anti-corruption agency (DNA) as a model to be followed, due to its high record of conviction of high-level politicians:

“DNA...has built a notable track record of **non-partisan investigations** and prosecutions into allegations of corruption at the highest levels of politics...In the past seven years, the DNA has indicted over 4,700 defendants...Nearly 500 defendants were convicted through final court decisions, **almost half of them holding very high level positions**”(Commission 2014:14).

The European Commission describes these investigations and prosecutions as “non-partisan”. However, this is certainly not evident from any examination of the names and Party membership of those politicians who were sentenced to prison, or from the way

these convictions were recorded by the DNA itself. On the contrary, the phenomenon of ‘witch-hunts’, first uncovered during the 2004-2008 time period, is still continuing. The 2014 Anti-Corruption Report cites the Romanian DNA as having jailed around 250 politicians in the last seven years (since 2008). According to the same source, 80% of convicted politicians who held a position in the Government were MPs from the main opposition parties. The Social Democratic Party had a record number of its members convicted and sent to jail (approximately 70%), followed by the National Liberal Party (with 20%)³².

³²The information is available in the archives of DNA available on:
http://www.pna.ro/comunicate_condamnari.xhtml

CHAPTER SIX

Using Corruption as a Means to Increase Control on Member States

Introduction

This chapter represents the third part of this research. The first part demonstrated that eliminating corruption did not appear to be the real purpose of the EC's anti-corruption policies in Bulgaria and Romania. The systematic double standards and the contradictions displayed in practice by the Commission demonstrated that progress in the fight against corruption was not what mattered most to Brussels.

The second part explores who and how was empowered/disempowered as a result of the implementation of the EU anti-corruption policies in these countries before and after the enlargement. It reveals that Instead, accusations of corruption were used as a 'blackmailing tactic' against the domestic political elite to ensure that non-governmental and international organizations, self-styled as 'watchdogs of corruption' secured access to funding resources and promoted their powers of decision making. Also accusations of corruptions were used by centre right parties with a neo-liberal agenda in Bulgaria but particularly in Romania to purge their opposition.

The main conclusion until now has been that the crucial aspect about these illiberal developments is that they could not have been possible without the intervention of the EC/EU. By "intervention" here is meant two things: a structural intervention which regards the way Brussels devised the anti-corruption policies and a concrete intervention

which concerns the way the EC pressed these countries to apply these measures in practice.

The institutional, legislative and judicial anti-corruption framework made possible the partisan trials that took place against a certain part of the political elite, as it has been discussed.

More importantly the partisan trials, the urge for the purge of one side of the political realm (the leftist one) came as a result of the EC pressure along this line, as explained in chapters four and five.

The analysis from the first and second part of this research has come up with two important fundamental conclusions: anti-corruption policies seem to be rather a pretext for enforcing EU influence in Bulgaria and Romania, for re-structuring the power balance in the country, where the main winners are a cluster of actors who share the same characteristics.

The third and last part of this research takes the particular case of Bulgaria and Romania to a higher, more general level of analysis. In the first, part it explores to which extent is their case relevant for the new anti-corruption framework that the European Commission tries to apply at the level of whole EU. In the second part and the most extensive one it will be discussed how at the EU level, the EC is building a new anti-corruption framework for all its members, apparently inspired by the particular cases of Bulgaria and Romania. The largest part of this chapter goes on to analyse how the EU has structurally designed the new anti-corruption policies and the way they promote new structures of power in all EU member states. In short, the chapter would explore the idea that this particular case-study is important for understanding the role of anti-corruption policies in the promotion

of a new European order, at the expense of the old order (or whatever is left of it), based on the powers of nation states. This chapter will also discuss how and why this has been allowed to happen.

In short, the Bulgarian/Romanian case confirms the worst expectations of the main critics of the EU: corruption seemed to be used as a pretext for promoting the interests and influence of the EU primarily. The chief loser, in terms of power and – very significantly – of legitimacy and credibility, is the political class of these countries, or rather a certain part of it, in this case the centre –left parties.

It would seem legitimate, however, to question to what extent their case is sufficiently relevant to challenge the mainstream view on corruption. Would it be correct to assume that the contradictions and the double standards displayed by the Commission in this particular case are sufficient proof to establish the view that the genuine intention of the EU was not to solve the problem of corruption but use it as a pretext for promoting its own power agenda, in general?

After all, it is well known that Bulgaria and Romania do have a real problem with corruption, worse than any of the other new EU members, and far worse than the case of old member states with two exceptions (Italy and Greece).

6.1 From the particular to the general: the relevance of the Bulgarian/Romanian case for the new EU anti-corruption framework

For Bulgaria and Romania, at least, in the context of the EU, this mission has proved disingenuous. Exercising detachment from the official discourse and rationale provides the advantage of being able to focus without obstruction on the consequences of these policies for individual countries. The EC has managed to introduce the simplistic prejudice that corruption is a polarised war between two sides – the camp of the ‘knights of anti-corruption’, which is the ‘good’ camp and their opponents – mainly domestic politicians. This Manichaeistic view has blurred our perspective on what is really happening in terms of power and control, following the introduction of these policies.

6.1.1 The Bulgarian/Romanian case: from exception to EU norm

What can actually guarantee that the behaviour displayed by the Commission in the case of these two countries is relevant for other EU members, especially for those who are considered as having a lesser problem with corruption? After all, the loss of power and legitimacy experienced by the domestic political class of these countries could have been generated by their own internal weaknesses, which may have exposed them to this type of outcome anyway. In short, this particular case might not be considered sufficient to demonstrate that these policies have been purposefully and *structurally* designed to shift

the power from nation states to supra-national structures and actors that are not accountable to the general public nor validated through a democratic process.

6.1.2 The case of the first EU anti-corruption Report (2014). Questioning its rationale based on the Bulgarian/Romanian experience.

If Eastern Europe was presented as a special case for introducing anti-corruption policies for the first time, then the more extreme cases of Bulgaria and Romania were considered a good reason for the EU to push its anti-corruption policies upon all 27 EU Member States . Thus the Bulgarian/Romanian case did not remain just a parochial, isolated event with limited significance for anti-corruption policies, however

In 2009, the Stockholm Programme adopted by the European Council, declares corruption a “transnational threat that challenges the EU internal security”. It follows immediately that the EU needs to take charge “since the problems associated with corruption cannot be adequately solved by Member States alone” (European Council 2009). The European Commission is established as the main manager of the process, in charge with developing the anti-corruption mechanisms.

In 2011, the Commission lays down the decision to establish an EU Anti-corruption reporting mechanism for periodic assessment of all EU members: EU Anti-corruption Report which will assess periodically the anti-corruption efforts in the EU 27 (European Commission 2011: 8). In 2014 the Commission would release its first EU-Anti-Corruption Report (Commission 2014).

As early as 2011 , the Commission admitted that the Bulgarian/Romanian case had a “spilling over” effect which inspired the EC decided that the innovation of Cooperation

and Verification Mechanism is replicating to a larger level: “To date there is no mechanism in place at EU level to measure in a coherent manner the enforcement of anti-corruption policies. The only EU monitoring tool that also covers anti-corruption issues is the Cooperation and Verification Mechanism for Romania and Bulgaria which has managed over time to maintain or revive a certain momentum for reforms” (Commission 2011: 9)”.

In its first Report on Corruption for all 27 Members from 2014, the Commission makes clear that:

“The EU anti-corruption report also builds on the Cooperation and Verification Mechanism (CVM), a post-accession follow-up mechanism for Romania and Bulgaria that is managed by the European Commission... While these two mechanisms serve different purposes, the current report draws on the extensive knowledge and lessons acquired in the CVM process and makes references in the two country chapters accordingly.” (Commission 2014:38).

“The extensive knowledge and lessons acquired” in the Bulgarian/Romanian case are indeed mirrored in the way the Commission constructs its anti-corruption policies. The policies that are now to be applied to all member states are almost identical copies of the anti-corruption policies and specific requests made by the Commission to Bulgaria and Romania. The structure of these new Reports follows the structure of the Progress Reports, although in a more organized, clearer manner and extensive manner. In short, the anti-corruption framework envisaged for the most corrupt countries has now become the norm. This is shown in Table 6.1 which compares the content of anti-corruption

policies for Bulgaria and Romania with the content of anti-corruption framework designed for all EU members.

Table 6.1

Anti-corruption measures

Measures envisaged for all EU members in the first EU Anti-Corruption Report 2014	Anti-corruption conditionality for Bulgaria and Romania from 2000 to date (Cooperation and Verification Mechanism)
<i>1. Political corruption (high-level decision makers)</i>	√ Present
a) Prevention (legislation)	√ Present
- financing of political parties	√ Present
- asset disclosure	√ Present
- Conflict of interest	Never existed in the EU legislation until 2011. Requested from Eastern candidate countries since 1998.
- Transparency of information	√ Present
- Immunity of decision makers	The removal of immunity of elected decision makers already existent in EU.
- Anti-corruption agencies – bodies specialized on monitoring the assets, conflict of interest and the finance of political parties. They are entitled to refer cases of political corruption to prosecution and are considered key for the “repression” of corruption at its highest level	The Romanian National Anti-corruption Directorate (DNA), the former NAPO referred to in Progress Reports, receives favorable comments on the number of elected politicians prosecuted and sent to jail (around 300 in eight years).
b) Criminalization	√ Present
Reform of judiciary: - “Independence of judiciary is key”: independence from scrutiny by elected politicians (MPs and Members of the Government)	√ Present

- Faster, easier procedures for prosecution and conviction	√ Present
- more powers to prosecutors – special treatment for those who target political corruption.	√ Present
Main criterion of judging the efficiency of the system: the more cases of political of corruption prosecuted the better; the higher their ranking the better	√ Present
2. Role of NGOs /IOs/public experts	√ Present
Public awareness campaigns	√ Present
Monitoring and expertise – - issuing studies and surveys - collecting data for the EU	√ Present
- Surveillance of political class - (reporting on how the five legged legislation is implemented)	√ Present
3. Economy	√ Present
Public procurement – targets high-level corruption	√ Present
Organized crime – is linked with high level corruption	√ Present

*Source: European Commission (2014), EU Anti-corruption Report

*European Commission Progress Reports for Romania and Bulgaria 2000-2005

*European Commission Cooperation and Verification Mechanism for Bulgaria and Romania (2007-2014)

The Bulgarian/ Romanian case has been a model for the current anti-corruption policies in several ways. Table 6.1 shows that the Commission has replicated the structure of anti-corruption conditionality, which initially targeted only the candidate countries with the highest levels of corruption. It was not only the structure or content that was copied. The

EU Report highlights which aspects are accorded priority. Again, they mirror those emphasized in the Romanian/Bulgarian case, as will now be explained.

Most of the Report is dedicated to political corruption, or corruption among elected politicians (MPs and members of Government): “Political corruption is a top priority: a fundamental challenge regarding anti-corruption policies is... a clear harmonization of criminal liability of elected officials for corruption offences.” (Commission 2014: 9)

With the exception of petty or local level corruption, all other dimensions presented in the EC Report target corruption among elected politicians – that is, high-level corruption. Whereas, in previous anti-corruption policy during the Enlargement, high-level corruption represented only one item among many, it now hugely dominates the anti-corruption strategy: almost all policies target the domestic political class. Section B, “Control mechanisms and prevention”, refers to regulating asset declarations and conflict of interest across the EU. Regulation is necessary because of the “weak and scarce sanctions applicable to elected officials” (Commission 2014:12). Section C, entitled “Repression”, discusses ways of making the prosecution and conviction of cases of corruption “more efficient and speedier” (Commission 2014:13). To this end, the Commission requires the establishment of specialized anti-corruption bodies, with the dual role of investigation and prosecution. It makes clear that these specialized bodies are to target elected officials by choosing five examples of successful strategy, drawn from already existing agencies. Among them is the former Romanian NAPO, famous for the large number of high level officials it managed to bring to prosecution and conviction. Also, the reform of judiciary means two things in the Commission’s view: first, any political check on it has to be removed, in order to ensure its independence; second, it has

to be made efficient in order to ensure the prosecution and conviction of elected politicians.

The Report's Public Procurement section IV also poses a problem for decision makers, stating that: "The individual country assessments of this report point to public corruption as one of the areas most vulnerable to corruption, as illustrated by high-level corruption cases involving one or more countries" (Commission, 2014:21). Organized crime naturally relates to political corruption. Tackling organized crime is equivalent here to prosecuting elected decision-makers (Commission 2014: 19).

Apart from the structure of the Report we see that the Commission gave priority to exactly the same items that were prioritized in the Bulgarian/Romanian case.

High-level political corruption was never such a preoccupying issue in the anti-corruption conditionality of the first Enlargement (2004). However, high-level corruption became a predominant concern with Romania and, after accession, with Bulgaria as we have already seen. In the 2014 political corruption among elected politicians is the central point of anti-corruption framework.

It was in the Bulgarian and mainly Romanian case that the Commission placed a special emphasis on the repressive dimension: the trial and conviction of high-fly decision makers. The insistence on removing almost any political control over the judiciary, the creation of specialized anti-corruption agencies focused on high-level corruption with a special regime and, in general, the creation of an extensive repressive judiciary mechanism directed against political class are all items that were requested by Brussels in the special case of the two former communist countries.

At the centre of the “repressive” mechanism lay the so-called anti-corruption agencies specialized on tackling high-level corruption (Commission 2014: 13). It is important to mention that from all the countries that have such institutions, the Romanian DNA occupies a central place as a model to be followed in the Commission’s Anti-corruption report. Although other such agencies from other countries are mentioned, the Commission expands on the characteristics of this particular one. The aspects that attracts positively the Commission’s attention are the ones regarding the high number of politicians sent to jail, five hundred, from which half of them hold “very high level positions” (Commission 2014: 14). The second aspect considered key is the fact that the Romanian agency has unusual extended powers that encompass other actors with a role in the surveillance and repressive mechanisms: “Key to these results has been DNA’s structure which incorporates, apart from prosecutors who lead and supervise investigations, judicial police and economic, financial and IT experts” (Commission 2014: 14).

The analysis of the Bulgarian/Romanian case has demonstrated that taking for granted both the EU official rationale and the content of the anti-corruption policies designed by Brussels is a flawed approach which provides a twisted and incomplete image on the matter.

Consequently, the 2014 new anti-corruption framework provided by the Commission already raises some questions. Some of such questions are triggered by the analysis of the Bulgarian/ Romanian case, some others however, are generated by inconsistencies in the EU’s argument.

The first aspect regards the rationale provided by the Commission for “spilling over” the anti-corruption policies from the particular case of Bulgaria and Romania to the level of the whole EU. Why a matter of special concern in the case of two countries should become a matter of EU concern for all 27 member states, after all? In other words, what is the rationale for “the spilling over effect”? In other words, replicating the anti-corruption mechanisms as shown in the case of Romania and Bulgaria at the level of the whole EU.

Corruption as a matter of EU concern was introduced for the first time in the case of East European candidates to membership in 1998. The Commission made clear the reason for this innovation: their levels of corruption were much higher than the ones in the old western democracies (Commission 1998). The explanation offered for this situation was their communist legacy and their transition to the market economy. This explanation offered by the EU and IOs such as World Bank became a fixture in the academic literature as it has been already discussed in the Chapter two (Commission 2003a; World Bank 1997; 2001).

However, with the exception of Greece and to a certain extent of Italy, there has never been raised such concerns about the rest of the old EU members who neither had high levels of corruption nor had a communist past and a difficult transition to the market economy. In fact, to this day, with the exception of Greece, the old Member States, well-established western democracies enjoy high ranking in the assessments made by IOs such as Transparency International (Transparency International 2010, 2011, 2013). The Commission itself admits as much in its 2014 Report when it cites the Eurobarometer results which indicate that in five of Member States perceptions of corruption are “significantly below the EU average” while other six countries are “good performers in

the Transparency International indexes”. (Commission 2014: 6). Therefore, the argument that the phenomenon of corruption took a turn in the last decade and it start spreading to other countries that did not have such high levels of corruption, is not an argument. The general and vague rationale offered by the Commission in the opening of its 2014 document – “corruption seriously harms the economy and the society as a whole....The Member States of the EU are not immune to this reality”- is not satisfactory.

What makes the Commission’s rationale even less satisfactory is the replication of anti-corruption policies and mechanisms that were tailor made for extreme cases on countries that are far from having such high levels of corruption or similar type of corruption (For example, it is indeed difficult to explain why the focus on high –level corruption which addressed the phenomenon of state capture in Bulgaria and Romania should remain central in an anti-corruption framework which regards countries such as Finland, Sweden or UK who reputedly do not have such a problem, according with the EC itself (Commission 2014: 6).³³ Or why should the most radical type of anti-corruption agency, the Romanian DNA, be presented as a model worthy to be followed in contexts that regard countries such as Germany, the Netherlands, Belgium or France which are also at the forefront of TI ranking?

The absurdity of this situation is better understood if we imagine an instance where both patients with cancer and with a mild cold receive chemotherapy.

From an ontological perspective, if we are to apply the technocratic logic of efficiency and rationality or if we are to accept the pluralistic view on power that animates the

³³ The Eurobarometer survey on perception of corruption cited by the EC in its 2014 Anti-corruption report says that: “Answers confirm a positive perception and low experience of bribery in the case of Denmark, Finland, Luxembourg and Sweden” , while, UK “shows the best results from all Europe” (Commission 2014: 6)

existing literature on corruption in the EU would be very difficult to come up with a credible answer to the main question raised here: why the European Commission decided to frame its new anti-corruption policy for all 27 EU members by trying it out on extreme models: the member states with the highest levels of corruption?

The decision to come up with one-size fits all (despite of Commission's reassurance that this is not the case) is not the only problem. The Commission decided to apply anti-corruption mechanisms whose efficiency in the Bulgarian/Romanian case raises serious questions if we are to follow what the EU and other IOs report on.

In Bulgaria, after fifteen years of EU anti-corruption policies and seven of Cooperation and verification Mechanism, the most dangerous and rampant organized crime moulded after the Russian one is still in place, according with the EU sources (Euractiv 2013). In fifteen years of EU, surveillance and pressures only one mafia mob was convicted (Commission 2013a). In 2013, the European Parliament calls Bulgaria "the weak link in democratic standards and a threat to European values across the continent, due to its inability to tackle corruption" (Euractiv 2013).³⁴ Also after seven years of CVM, Bulgaria has not improved at all in the Indexes of Transparency International where its ranking is the second lowest from all EU (70th place in 2013 from 178 countries) far behind the average of the 27 EU countries. We do not discuss the reliability of these sources here. It only matters that such ranking are generally accepted and cited by the mainstream.

Romania boasts with some five hundred politicians sent to jail in the last six years. But, if we are to listen to the European Commission itself, this is not satisfactory because the

³⁴ <http://www.euractiv.com/future-eu/parliament-debates-state-democra-news-517633>

Commission expresses “serious concern over the political situation and the ability to comply with fundamental principles of the Union” (Commission 2012 b:2). Tougher monitoring was also envisaged for Romania with the next monitoring report due by the end of 2013. In indexes of corruption, Romania scores only slightly better than Bulgaria, if we are to believe Transparency International and it maintains its position at the bottom of the EU ranking on levels of corruption (e.g. 69th place in 2013).

When CVM was set up, the general idea was that this was a temporary mechanism, which would be removed after the benchmarks are met. The very fact that the CVM is still in place after all this time makes questionable its efficiency in terms of rooting out corruption.

One of the reasons mentioned insistently by the EU in regard to anti-corruption effort is that corruption decreases the popular trust in the democratic institutions: the Government and the Parliament. This is one aspect where the seven years of CVM failed drastically. Not only that levels of trust in the democratically elected politicians did not increase but in fact they deteriorated if compared with the time span when the EU anti-corruption policies were not in place. In 2007, Romanians’ trust in their political parties, MPs and government was the lowest among all EU members, old and new together (Eurobarometer 2007). In 2008, it was the turn of Bulgaria to record the lowest trust in its elected officials (Eurobarometer 2008).³⁹ To date (2014-2015), the situation has not changed.⁴⁰ The poll from 2015 in Romania shows that Romanians have most distrust in their Political Parties: 12.5% trust them. They are followed by Parliament, with 16.5%, and the Government with 28.6%. These figures are no better than those of 2004, when the ranking of distrust followed the same pattern: Political parties the

lowest (16.8%) – slightly better than nowadays though. Parliament and the Government were also given low scores: 18.9% for the former and 20.5%, the latter. Up to date, Romania has the second lowest levels of trust in its democratically elected institutions from EU, after Bulgaria (IRSOP 2015).

On their side, Bulgarians are the most sceptical about their political class from all the EU citizens. Bulgaria's Democracy Index keeps going down, being ranked 52nd in the latest Economist Intelligence Unit study (EIU, 2011). Up to date, Bulgaria maintains the same low levels of trust (Eurobarometer 2013).

These disappointing results are coming from EU official sources, from mainstream rankings such as Transparency International. They are in the open, made available for everybody and they do not necessitate an in depth analysis.

So, even at a very shallow level of analysis the EU anti-corruption framework's efficiency tested in the case of these two countries is highly debatable.

The present in-depth analysis however has depicted a much gloomier reality regarding the efficiency of these policies. Not only that important aspects of corruption have not been corrected or minimized (e.g. organized crime in Bulgaria or political corruption), but the whole democratic process of these countries was in fact weakened by the partisan usage of accusations of corruption against left-wing parties. This is particularly the case for Romania. Where corruption was used as a pre-text for purge of left-wing opposition (Social Democratic party). At the centre of process rests exactly the institution that has been chosen as a model for the rest of countries, by the EC: the Romanian anti-corruption agency (the DNA) which displayed a clear partisan way of dealing with corruption to the point that its activity reminds of a political police directed against the opposition.

However, the puzzle of the not –so –new anti-corruption framework for all 27 EU displays one further contradiction regarding the rationale offered by the Commission.

In an attempt to come up with a more consistent argument as to why such policies need to be adopted by all the EU members and why was chosen this moment, the

Commission offers the argument of the recent economic/financial crisis: “ The financial crisis as put additional pressure on Europeans and their governments...Citizens expect the EU to play an important role in helping Member States to protect the licit economy in times of economic crisis and budgetary austerity”. Moreover, the 2020 EU’s growth strategy “also depends on institutional factors such as good governance, rule of law and control of corruption” (Commission 2014: 3).

However, the economic/financial crisis did not start in the public sector and was not triggered by governmental activity. It is a fact widely acknowledged that the crisis was generated by the private sector and in particular by the banks. At best, it can be said that a certain type of corruption in the private sector could be kept responsible for the economic doldrums. Nevertheless, the EU understands to shift the responsibility and the attention from the private to the public sector by introducing a new factor: political corruption and corruption in the public sector.

In conclusion, the EU anti-corruption effort for all 27 Members States poses some important challenges for scholars on corruption. These challenges cannot be solved by the existent dominant approach in the EU academic literature on this topic. The main theoretical trait of the existent scholarship on corruption in the EU is dominated by a pluralist view on power, despite its apparent theoretical variety. The main problem with this ontological stance is that it takes for granted the official rationale brought forth

by the Commission. Accepting the official rationale in this case means to accept the technocratic discourse of the EU which argues that the sole purpose of its anti-corruption efforts is to solve a systemic problem that affects the public welfare. The result of such technocratic argument is that it removes questions of power and interests. More to the point, it exonerates the promoters of these policies (the EU/EC) of any suspicions of power interplay and hidden hegemonic agenda and it plays down the important question of who won and who lost as a result of these policies. In short, the pluralist framework of power professed by most studies in the EU area creates an inherent bias towards accepting uncritically the official view. Therefore, the pluralist view on power is neither equipped to spot the contradictions and inconsistencies of the official discourse nor is it able to come up with credible explanations when such inconsistencies are signalled. This essential disadvantage of pluralism has been already exposed in the Bulgarian/Romanian case. The case of the new anti-corruption framework for all 27 EU seems to replicate the same dilemmas.

Consequently, the analysis of the specific case of Bulgaria and Romania is key for understanding the meaning new anti-corruption framework of the EU. First, they draw attention upon fundamental inconsistencies and contradictions of the official rationale provided by the EU. Second, they indicate which is the most useful ontological approach for explaining such inconsistencies. Until now the chief and almost sole objective of the mainstream research has been to enquire on the efficiency of the anti-corruption policies in rooting out corruption, as it has been already discussed. All the other effects of such policies in the targeted countries have been subordinated to this dominant question. This means that although occasionally there have been noticed negative effects on the democratic system and on the power balance inside the state

such observations have not been taken further, have been dismissed as not important, or have not even considered problematic (Spendzarova and Vachudova 2012; Vachudova 2009; Noutcheva 2007; Ganey 2007). That is because the benefits of anti-corruption policies have been considered much more important than the sacrifice of some politicians, political parties or than the worrying phenomenon of popular lack of trust in the democratic political system in general, for example.

The analysis of Bulgarian/Romanian case places a different spin on the topic. In fact, it inverses the priority. It is not very relevant to discuss the EU anti-corruption policies in terms of how efficient are they in rooting out corruption. That is because it is not evident that rooting out corruption is the genuine scope of the EU. Instead evidences derived from this case –study show that the importance of such policies rest in their impact on the state powers and institutions, in the way such policies reshape the classic democratic system.

Consequently, the findings in the Bulgarian/Romanian case feed into theories, which reject the pluralist view on power. Such is the case of Critical Political Economy, the umbrella term that labels a cluster of studies inspired by a neo-gramscian view on what European Union is, as already discussed in chapter two. The assumption of power and interests it is also emphasized by the critics of the technocratic mode of governance, who also come up with the argument that the technocratic discourse represents a smoke screen for hiding the real intentions and interests of powerful actors. Both paradigms share a couple of fundamental assumptions: from both perspectives the interpretation of EU anti-corruption policies excludes the official rationale and in both cases the narrative on corruption would be regarded as a construct designed to promote the interests of the EU and international organisations, also in both cases the neo-liberal bias of the anti-

corruption framework would be interpreted as a vehicle that carries on hegemonic power and interests disguised under the benefits of neo-liberal norms and values. However, at the central of the Critical Political Economy and of neo-gramscian inspired research is the issue of the transnational capital. In this paradigm it is considered that the EU and its neo-liberal restructuring have been primarily designed to promote the interests of the big business that goes global as opposed to the interests of working class and of domestically rooted business interests.

In conclusion, the discussion regarding the new anti-corruption framework for all 27 MS, would go along the following lines. The main question is: who is designed to lose and who is designed to win in terms of structural power. The discussion would explore the way the EU constructs the definition of corruption and the role played by the neo-liberal bias in this construct. The anti-corruption mechanisms displayed in the 2014 EU report on Anti-Corruption would be assessed from the perspective of the main research question: whose powers/influence are minimized or maximized by these mechanisms.

6.2. The Anti-corruption framework for 27 EU or re-shaping the state powers and attributions.

The Bulgarian/Romanian case has already indicated that the main losers of this game is the state, the public sector, the classic democratic system no matter how framed this might be. It also revealed that while the powers of the democratically elected institutions have been severely restrained the influence of the EU supported by a cluster of IOs and domestic NGOs have increased.

In the following would be analysed from a power perspective the anti-corruption mechanisms laid down by the EC in its first Anti-corruption report for all 27 Member states in 2014.

6.2.1 The definition of corruption and the neo-liberal bias

What gets modelled and measured depends on how corruption is defined (Jain 2001). The EC admitted that "there is no uniform definition of ...corruption" (Commission 2003:3) and decided to borrow its definition from the United Nations. The reason for this, stated by the EU, is that: "It appears more appropriate to use a broader definition, such as the one of the Global Program against Corruption run by the United Nations – abuse of power for private gain – including thereby both the entire public and private sector." (Commission 2003:6).

Despite the choice of a broader definition, including both public and private actors, when the EC was addressing the Eastern candidate countries, it focused almost exclusively on the first part of the definition: public actors and public institutions. In its communication on a "Comprehensive EU policy against corruption", in the Annex regarding "Ten Principles of improving the fight against Corruption in acceding, candidate countries..." (Commission 2003:25), the Commission focuses, with one exception, on actions in the public sector and state institutions: access to public office (principle no. 4), integrity, accountability and transparency in public administration (principle no. 5), codes of conduct in the public sector (point 6) and rules regarding cover links between politicians and business interests (point 7). Only one point refers exclusively to the private sector,

but in language which endeavours to persuade it to aim for good practice, rather than threatening any reprisals: "incentives should be developed for the private sector to refrain from corrupt practices" (Commission 2003:25).

The same situation is mirrored in the EC's 2014 Report on Corruption for all the EU member states. All sections refer to, or are linked with, political corruption and corruption in the public sector. Section A is titled "Political Dimension" and it is concerned exclusively with political corruption; Section B refers to control mechanisms and, as we will see, all such mechanisms target elected politicians, with the only exception of petty corruption; section C, "Repression", is only about the prosecution and conviction of elected officials; section D, concerning "Risk Areas", is again focused on public officials – whether elected or not elected (in public administration) and in local governments. The only other exception is regarding foreign bribery (Commission 2014: 8-20). Consideration of the economic side of corruption is reduced to the issue of Public Procurement exclusively. Public procurement is also said to relate to "weak governance", which "hinders market competition". Again using public perceptions recorded by Eurobarometer, the main actors responsible for corruption in public procurement remain elected officials and high-ranking officials from public administration in general: 45% of Europeans interviewed believe that bribery and the abuse of positions of power for personal gain are widespread among officials awarding public tenders" (Commission 2014).

Consequently, although *de jure* the Commission comes up with a broad definition of corruption, *de facto* it is all about corruption in the public sector, creating mechanisms of surveillance, monitoring and repression that target public officials – in particular, elected officials. It is only the public sector and public officials that get assessed, monitored and surveyed. Special anti-corruption bodies, designed to prevent and prosecute in cases of corruption, are created for high-level decision makers.

So, the way the EU frames corruption strengthens considerably the neo-liberal scepticism about state and public sector efficiency. The purpose of neo-liberalism is to downsize the public sector and limit the powers of the state, particularly its regulating powers. The neo-liberal's main argument against the state is one of efficiency: "When government... tries to rearrange the economy... the cost comes in inefficiency. Government should be a referee, not an active player" (Friedman 2002:82).

However, the narrative on corruption brings the neo-liberal bias against the state on a different level. Until now the neo-liberal argument against state's regulator powers was that of inefficiency and it was mostly confined to its role in the economy.

Corruption is a phenomenon which, apart from its negative economic outcome, carries a strong moral significance, too. The government is not just "naturally" incompetent in administering the state's affairs and therefore "inefficient". Corrupt behaviour presupposes *deliberate* action against public welfare. Consequently, the state is also seen as *morally unfit* to have extensive powers, since it is spotted as the main locus of corruption. Therefore, framing corruption as a structural problem which is generated almost exclusively by the state and the public sector, has a powerful de-legitimizing effect.

The second novelty is that the state is deemed “unworthy” to exercise its powers not just in the economic realm but also in the political one. Anti-corruption measures as envisaged by the 2014 EC Report refer predominantly to the reform of state political institutions and functions with the exception of public procurement. This brings the de-legitimization of the classic state’s power to an unprecedented level. The neo-liberal dimension of corruption has not gone entirely unnoticed in the literature (Holmes, 2006: 2009; Chang, 2002; Hodgson and Jiang, 2007). The full implications of the anti-corruption framework, however, have not been fully grasped or much explored.

6.2.2 Awareness campaigns or shaping the public perceptions. Legitimizing non-elected/transnational actors and de-legitimizing the elected political class

An item which has never missed from any EU strategy on corruption and which has been placed at the centre of it has been the awareness campaigns and the quantitative appraisal of public perceptions on corruption (Commission 2003a; 2011, 2014). The 2014 Report opens with a Eurobarometer evaluation of public perception of corruption in all member states (Commission 2014: 5). The Commission always mentions the public perceptions on corruption in the opening of all its papers addressing corruption, as we have already seen in the Bulgarian/Romanian case and during the Eastern Enlargement in general (Commission 200a,b; 2001 a,b; 2002 a,b; 2003 a,b,c; 2004 a,b, 2007 a,b). Public perceptions plays an important role in legitimizing the influence and the demands of an entity (the EC) which has neither been democratically elected by the public of MS nor is a part of the domestic political arena.

Grigorescu (2006) came up with concrete evidence, showing that there is no connection between levels of corruption, on the one hand, and public sensitivity on the other. In countries with far higher levels of corruption (e.g. Russia, Burkina Faso, Bangladesh), the anti-corruption rhetoric is much lower or even muted. In short, it is the concerted effort of IOs and the corporate media that shape such public perceptions (Grigorescu 2006). The disconnection between perceptions and actual levels of corruption is indicated by the Commission itself in its 2014 report, where it states, for example, that:

“In the case of the UK, only 5 persons out of 1115 were expected to pay a bribe (less than 1%), showing the best result in all Europe; nevertheless, the perception data show that 64% of UK respondents think corruption is widespread in the country”.

These findings are very important because they expose the true purpose of the awareness campaigns – to shape public perceptions by keeping their attention artificially focussed on an issue (corruption in this case) and on international actors, rather than the public. The choice is defined, framed and continuously advertised by bodies such as the European Commission, parts of civil society and the mass media. More importantly, due to such campaigns, the public has been groomed into perceiving corruption as the main threat to the economic and political system. Secondly, public opinion has also been directed to believe that the sole source of this phenomenon is the public sector, and the main actors responsible for it are the elected public officials.

The awareness campaigns have had several significant impacts. Firstly, they exacerbated public distrust in their democratically elected national institutions, which were at least theoretically publicly accountable. This happened in both Bulgaria and Romania but the

intensity of the awareness campaigns was increased. It has been observed that “the most dangerous effect of *corruption* is not the change of individual politicians. It is rather the growing popular distrust of the democratic changes induced by such high-level scandals (Grigorescu 2006: 519). Since MPs and members of the Government are legitimized by public elections, the lack of public trust towards them means they automatically lose legitimacy *de facto*.

Secondly, if state institutions are increasingly losing legitimacy, the actors who support the anti-corruption campaign are gaining it. High levels of public concern about corruption have been used as the main legitimizing argument for the Commission to make further demands, which interfere with domestic policy-making – in an unprecedented way, in the case of Bulgaria and Romania. Aspects, which years ago would have been exclusively under the control of domestic decision-makers, are now changed at the request of the Commission: immunity of MPs; asset declarations for elected politicians, conflict of interest; judicial reform; the request of sending to jail high-level politicians. Such requests, now normalized under EU conditionality and CVM would have been considered unthinkable two decades ago. They would have been unthinkable because, if we remove the official rationale of rooting out corruption what remains in place is an unelected entity, non-accountable to the Bulgarian/Romanian/EU public and alien from the national background of these countries, claims the right to keep accountable the domestic, democratically-validated political elite and moreover, to demand their punishment.

Consequently, the lack of legitimacy must be an essential issue for the Commission which needed a way to compensate the lack of it. Raising public awareness, and thereby shaping

public perception, has been essential in establishing a legitimacy which resembles with that provided by the classic, original system. Political class is validated through public vote. Consequently, it is the public that can legitimize or de-legitimize any political actor. So, the awareness campaigns have the role to capture, to monopolize and manipulate public opinions in the direction wanted by its manipulators.

The Bulgarian/ Romanian Progress Reports consistently displayed this outcome. The Content Analysis has revealed how the sentence, “the public perceives corruption...” became a fixture. This contentious strategy was copied in the first EU Anti-Corruption Report, where, in out of four sections; one is exclusively dedicated to “surveys on perceptions of corruption and experience of corruption” (Commission 2014: 5)

As we have already noticed in the case of Bulgaria and Romania, the nation state has been outnumbered in this competition. The ability to shape perceptions means that one can control the public agenda by imposing external priorities. Another important outcome is that, since political parties depend on public opinion in order to win elections, they are forced to take into consideration the priorities that have been inserted into the public mentality through the distortion of “awareness campaigns”.

From a power perspective, it can be said that the “awareness campaign”, which always accompanies all anti-corruption strategies, is designed to capture and shape public perception on reality.

Another outcome of awareness campaigns is that they re-fuel public interest and discontent, due to their continuous exposure. New “worrying” aspects are discovered,

highlighted, advertised and discussed. Consequently, public opinion is prepared to accept that it is necessary to take increasing measures against a never-ending phenomenon. In short, the awareness campaigns create legitimacy for continuous intervention into national state affairs and for taking increasingly tough measures against domestic public authorities. The excessive focus on corruption maintains high on the public agenda and in the public attention. The result is that, no matter how far the anti-corruption measures are taken, they never go far enough or are good enough to satisfy the EC.

The invention of CVM in the case Bulgaria and Romania perfectly illustrates this aspect of the EU anti-corruption strategy. It was for the first time in the history of the Enlargement that very tight surveillance and assessment continued afterwards. From a temporary and exceptional measure, the CVM became permanent and the Commission transform in a norm to be applied to everybody, as already discussed. In the special case of Bulgaria and Romania as well as in the case of all 27 MS, the Commission came with the same argument of public opinion's high perceptions of corruption, followed by "the not enough" argument: "EU

Member States have in place most of the necessary legal instruments and institutions to prevent and fight corruption. However, the results they deliver are not satisfactory across the EU. Anti-corruption rules are not always vigorously enforced, systemic problems are not tackled effectively enough, and the relevant institutions do not always have sufficient capacity to enforce the rules". (Commission 2014:2)

6.2.3 Restraining the domestic political power. The preventive mechanisms

Like in the Bulgarian/Romanian case the preventive mechanisms are mostly represented by the five legged measures: reducing the immunity of elected politicians; assets declarations; control of party financing, transparency of information and conflict of interests (see chapter 3 for a more detailed description)

The Commission is particularly interested in two aspects: making easier the removal of immunity for the elected decision-makers and second, the creation of surveillance and control mechanisms which should ensure that the five measures are enforced on the political class. Regarding officials' asset disclosure, the Commission wants "specialized independent anti-corruption/integrity agencies that have the necessary powers and tools to check the origins of assets of concerned public officials against a wide range of databases" (Commission 2014: 11). The Romanian case provides a precedent as to how far is the EC prepared to push the powers of such agencies. In its 2012 Report the Commission complains that ANI, the National Integrity Agency had been denied the powers of to confiscate unjustified assets from politicians without passing the process through the usual justice system designed in this sense. (Commission 2012: 15) The (natural) reason for such a refusal was that this would go against the Constitution which stipulates that such decisions belong to the judicial realm. In fact, the Commission goes even further and demands that this agency should have the power to directly request the removal of elected official's immunity.

In short, the Commission request went against the fundamental principle of check and balances among the democratic institutions by requesting to be granted judicial powers to an administrative body.

In its 2014 Report, the Commission insists on the creation of further such administrative bodies or agencies which should ensure a “an effective monitoring mechanism or clear sanctioning regulations”. The Commission complains that “supervision and sanctioning of illegal party funding are still note regular practices across the EU and more efforts are needed to ensure consistent implementation” (Commission 2014: 10).

Summing up, the five legged legislation designed to restrain some of the rights (e.g. immunity) of political class is accompanied by the insistent demand on the Commission’s side for the creation of a plethora of specialized administrative bodies, independent of any political check which should have extensive powers of monitoring and surveillance over the elected officials and, as the Romanian precedent shows, which might be expected to act as a judiciary body by demanding the raise of immunity or the resignation of an MP or member of government.

6.2.4 Repressive measures and mechanisms. The judiciary/prosecution receives unprecedented powers. The undermining of the check and balance system in a democratic state.

Section C from the EC 2014 Report concerns the most sensitive aspect of anti-corruption policies: the conviction of elected officials or cases of political corruption.

Like in the case of Bulgaria and Romania, the Commission focuses on the judiciary system and on the idea of creating special anti-corruption agencies focused exclusively on the prevention and prosecution of cases of corruption (Commission 2014: 13).

As mentioned before, the extreme example of DNA (the Romanian National Anti-Corruption Directorate) is brought forth as a model. The Commission is particularly insistent on the large number (five hundred) of elected politicians that were sent to prison as a result of the activity of this agency. (Commission 2014: 14).

The Commission insists on decoupling such specialized judicial agencies from any political check that is usually performed either through the Parliament or the Ministry of Justice due to “particular concerns that have been raised in some occasions regarding the exposure of prosecution services to political interferences in cases of corruption” (Commission 2014: 15).

In other words, the Commission demands to remove the classic check and balance system performed by the three institutional pillars in a democracy: the executive, the legislative and the justice in two ways. First, the executive and the legislative lose their powers of controlling and checking upon the activity of one side of the justice system-the judicial/prosecution one. Second, in reverse, the judicial/prosecution side is granted unusual large powers over the political side of the power. Thus, the classic system of check and balance which ensures (at least theoretically) that there will be no abuse of power on either side stops functioning.

The reason invoked by the Commission in support for this radical approach is based on “specific cases” that emerged in “certain occasions”. Changing a fundamental democratic principle Because of some particular cases, is a reason which can

euphemistically be labelled as “flimsy” and no sound democratic system can be subjected to such structural changes based on special cases. However, the Commission seems to follow the old policies: making the particular or the exception, the norm.

6.3 Conclusions

General assessment of the new-anti-corruption framework for all 27 EU Member states

The case of the new EU anti-corruption framework confirms the following initial assumptions made here.

First, it confirms that the special case of Bulgaria and Romania was a springboard for testing anti-corruption mechanisms and policies, which are now, pushed front as a common norm for tackling corruption.

Second, similar with the Bulgarian/Romanian case, the rationale provided by the EC for such measures displays a string of inconsistencies and contradictions which support the idea that rooting out corruption is not the genuine scope of such policies.

Third, the whole structure of the EU anti-corruption framework for all 27 Member States exposes the EU intention of redesigning the democratic system. The view projected by the 2014 Report is that the anti-corruption policies are used as pretext to:

1. Severely restrain the powers of the domestic political class, democratically elected and accountable to the public of the Member State.

2. To re-create a state system where those institutions that play a repressive role have increased powers: the judiciary, the prosecution, the police. This system undermines the old democratic 'check and balance' principle applied in any classic democracy.
3. At the internal level, to replace the power of a political elite that has been democratically elected and accountable to its public, with an elite which is not elected and is not accountable to the public (e.g. prosecutors, members of the anti-corruption agencies).
4. At a general level, to advance the influence of actors who are not accountable to the public and/or are not rooted in the domestic context and who advance a neo-liberal restructuring of the state along lines predicted by neo-Gramscian theories regarding the role of EU in promoting neo-liberal European order. By 'actors' is understood here a veritable coalition (or historical bloc) among EU structures, IOs, domestic civil society with a neo-liberal pro-EU agenda and a certain side of political class which can cooperate in order to promote such policies.

From a theoretical perspective, the findings support to a certain great extent the view promoted by the neo-Gramscian branch of the Critical Political Economy, with few exceptions as is made clear in table 6.2.

Table 6.2
Comparing Neo-Gramscian assumptions with the empirical findings

Neo-Gramscian assumptions and analysis	Findings
There are inherent contradictions between the official discourse and practical results	Confirmed in the Bulgarian/Romanian case
Power asymmetry	Confirmed
The existence of organic intellectuals and of an embedded coalition	Confirmed: the alliance between civil society international donors and the EU
Hegemonic discourse which promotes a neo-liberal agenda:	
Minimizing state powers	Confirmed
Promoting actors who are not rooted in the domestic landscape	Confirmed
Promotion of large capital interests	Not fully confirmed, as this was not the main target of the research. The nature of the topic prioritize the political dimension over the economic one
Class struggle	Not confirmed – was not the object of the research

CHAPTER SEVEN

Conclusions

Perhaps the most important conclusion of this analysis is that despite an ever increasing anti-corruption campaign in the EU, it is not the corruption that seems to be controlled but the nation states. The findings show that the anti-corruption policies have been more efficient in restraining the powers of the domestic political class and in undermining their legitimacy than actually diminishing levels of corruption in the targeted countries. The Bulgarian/Romanian case has revealed that the anti-corruption policies were used to put in place mechanisms of surveillance, coercion and repression, targeting the domestic political powers. Such mechanisms are controlled by the European Commission and by a cluster of international and domestic non-governmental actors, who share the same agenda and view on corruption. The anti-corruption policies, therefore, are structurally designed to politically empower actors who are not rooted in a national context (EU and IOs), who are not publicly accountable, except to their donors (domestic civil society), and who have not been validated through the classic democratic mechanisms. They promote a strong neo-liberal view on the role of the state. Corruption is framed in such a way as to de-legitimize the nation state and public officials by rendering them morally unfit to rule the country.

Most importantly is that the EU's cure for corruption brings with it a re-design of the power structures inside the state. It breaks the classic checks and balances exercised by the three main institutions of the national state: Parliament, the Government and the

Judiciary. It does this by isolating the judicial system from any political check (from Parliament or Government), as would be normal in a classic democratic system. It also destroys the balance of power among the three institutions by conferring more powers to the justice and judicial sector. The strong insistence of the EC on the powers of prosecutors, and their repressive role against the political class, indicates the formation of a new type of state, where repressive and coercive institutions have a disproportionate role, compared with the ones democratically validated.

The real control of these new institutional and judicial mechanisms rests with the supranational actors, the EU and the European Commission. The Cooperation and Verification Mechanism, in the particular case of Bulgaria and Romania, is a case in point. These actors are the real arbiters of the anti-corruption game. This is only a logical consequence of the fact that the narrative on corruption has been framed by the same actors who have been promoting a globalist and neo-liberal agenda, which undermines the powers of the classic nation state and promotes a new global order.

Although much of the empirical findings are coming from the particular case of Bulgaria and Romania, it has been demonstrated that they have a general value. Their model became the springboard on which the European Commission is now building a much larger Anti-corruption strategy, which applies to all EU member states. However, the structure, the purpose and the means of these European policies reproduce at a larger scale the anti-corruption strategy applied at the smaller scale of Bulgaria and Romania.

These findings feed into the Critical Political Economy framework, which supports the view that the EU carries a neo-liberal restructuring agenda of undermining national state powers and of creating new supranational structures. It also feeds into the neo-Gramscian hegemonic approach of EU Eastern Enlargement. However, this analysis has focused almost exclusively on the political dimension of anti-corruption, in contrast with the literature informed by these theories, because the EC has largely framed corruption as a political issue, rather than an economic one. It goes without saying that the economic implications must be explored. However, these are beyond the scope of this thesis. Another opportunity for further research would be to understand why domestic politicians agreed to policies which were so obviously going against their own interests.

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