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Containing Europeanization Post-Accession (Anti-)Corruption Record in Romania and Bulgaria

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By 2007, lack of progress in pursuing judicial reforms and addressing endemic corruption¹ threatened to derail Romania and Bulgaria's bid for EU membership. Fearing that the absence of membership as an ultimate reward will limit national political elites' enthusiasm for reforms. The EU sought to continue scrutinizing reforms through in-built safeguards and monitoring tools (such as the Cooperation and Verification Mechanism/CVM) aimed at assessing progress towards meeting specific benchmarks, among one is the fight against corruption prominently featured. While anticorruption has been a powerful electoral campaign slogan in both Romania and Bulgaria, pre and post accession, this has had little impact upon actual policy, the public perception, and/or external image. Both countries continued to make constant headlines in Western and national media as corruption and organized crime havens, controlled by economic interest groups, corrupt politicians, abating policemen, a powerless judiciary system, and dysfunctional public institutions. These fuel public perceptions of relatively constant (the Romanian Transparency International (TI) corruption index hovered

1. This paper operates with the PMG definition of corruption as "any conduct or behaviour in relation to persons entrusted with responsibilities in public office which violates their duties as public officials and which is aimed at obtaining undue gratification of any kind for themselves or for others". As such, corrupt activities include "bribery, embezzlement, fraud, extortion or simply traffic of influence and patronage to do or return favours" as defined by Svetlozar Andreev, in *Conceptual definitions and measurement indicators of democracy*, Robert Schuman Centre, 2005: 8.

around 3.6 since accession) if not worsening situation in terms of corruption (the TI's corruption index for Bulgaria plummeted to 3.3 in 2011, the lowest score in the last 10 years).

This article examines the post-accession record of anticorruption political and judicial reforms in Romania and Bulgaria. It argues that the impact of Europeanization is contained by systemic corruption, capable to distort legal adoption and prevent implementation, rendering the institutional and legal progress to form without substance. The article focuses upon the anticorruption record (mechanisms, institutions, trials and outcomes of trials), and argues that national political elites, released from the pressure of conditionality and accession, are guided by a relaxed understanding of contractual obligations a country has as a EU member state, and rather cavalier attitudes towards EU rules and regulations. Despite the rise in anticorruption discursive narratives (to significant electoral success) and occasionally securing convictions, this has not been translated into the effective or impartial implementation of anticorruption practices. The article focuses on the period from 2007 to 2011.

Given their national clientelistic environments, where social norms outmanoeuvred legal constraints, for average Bulgarians and Romanians, EU accession carried hopes of good governance as well as economic prosperity. Despite the growing number of anticorruption investigations and trials involving high-level officials, both high and low level corruption remain rampant. National political elites show a remarkable consensus across party-lines in resisting pressure from Brussels to reform those areas where personal costs trump national benefits, i.e. judicial reforms and anticorruption measures. As successive governments promised change, which was achieved little and by the end of their mandate had more to show in terms of corruption scandals than disassembling corrupt networks, there is little trust in the ability of national politicians to deliver. Consequently, corruption remains a constant area of concern in the European Commission (EC) post-accession reports, EU officials' declarations and it influences Western governments' positions (i.e. delaying Schengen accession). The latest country reports provided familiar readings over corruption: lack of progress and lack of political will spread across branches of power.

Post-Accession Europeanization: Backtracking and the Impact of Corruption

In Central and Eastern Europe (CEE), Enlargement-centred Europeanization² was a result of the policy of conditionality.³ Through active (conditionality) and passive (membership) leverage,⁴ the EU influenced domestic changes given the speed and breath of measures required, the willingness of candidate countries to comply,⁵ and the strategy of mediating pressure through financial assistance and the prospect of membership.⁶ Compliance was, therefore, ensured even when the transposition of the EU *acquis* contradicted their own interests.⁷ However, the EU impact was neither continuous nor definitive as the CEECs were not passive recipients of Brussels rules and regulations.⁸ Cross-country and cross-policy studies found that pre-accession Europeanization, which led to “*governance by enlargement*,”⁹ depended upon similar variables like in old member states, plus variables specific to post-communist politics (i.e. weak institutions, political fragmentation and instability, central planning). Meanwhile, adoption costs and veto players only explained variation in the timing of rule adoption.¹⁰ Post-accession, Europeanization was expected to progressively replace conditionality as the EU-driven mechanism for domestic policy change.¹¹ Giv-

2. Europeanization is understood here as the process by which member states’ domestic politics, politics and policies are influenced by EU policy outcomes and structures of governance. For overviews see for example Featherstone, Kevin, Claudio Radaelli. eds. *The Politics of Europeanization*. (Oxford: Oxford University Press, 2003), 3-26; Tanja Börzel, Thomas Riise. “Conceptualizing the Domestic Impact of Europe.” In: Featherstone K. and Radaelli C. eds. *The Politics of Europeanization*. (Oxford: Oxford University Press, 2003), 55-78.

3. See Jeffrey Checkel, “Compliance and Conditionality” *ARENA Working Paper 00/18*. Oslo. 2003. Accessed June 2009, <http://www.arena.uio.no/publications/wp00_18.htm> Heather Grabbe “How does Europeanization affect CEE governance? Conditionality, diffusion and diversity.” *Journal of European Public Policy* 8 (6) 2001: 1013-31.

4. Milada Anna Vachudova, *Europe undivided: democracy, leverage and integration after communism*. (Oxford: Oxford University Press, 2005).

5. Heather Grabbe “How does Europeanization affect CEE governance?”; Antoaneta Dimitrov, “Enlargement, institution-building, and the EU’s administrative capacity requirement” *West European Politics* 25 (4) (2002): 171-90.; Dimitris Papadimitriou, David Phinnemore “Europeanization, conditionality, and domestic change: the twinning exercise and administrative reform in Romania” *Journal of Common Market Studies* 42 (3) (2004): 619-39.

6. Aneta. B Spendzharova, “Bringing Europe in? The impact of EU conditionality on Bulgarian and Romanian politics.” *Southeast European Politics* 4 (2003): 141-56.

7. Heather Grabbe, “The Sharp Edges of Europe: Extending Schengen Eastwards” *International Affairs* 76 (3) (2000): 519-36.

8. James Hughes, Gwendolyn Sasse, Claire Gordon. *Europeanization and regionalization in the EU’s enlargement to Central and Eastern Europe. The myth of conditionality*. (Basingstoke and New York: Palgrave Macmillan, 2004); Wade Jacoby, *The Enlargement of the European Union and NATO. Ordering from the Menu in Central Europe*. (Cambridge: Cambridge University Press, 2004).

9. Antoaneta Dimitrova “Enlargement”.

10. Frank Schimmelfenning, Ulrich Sedelmeier, eds. *The Europeanization of Central and Eastern Europe*. (Ithaca, NY: Cornell University Press, 2005).

11. Vachudova *Europe undivided*, 236.

en the disparity between the CEECs' transposition and implementation record, the example of previous enlargements and the specific features of post-communist politics, several predictions were made in terms of Europeanization post-accession.

*The absence of conditionality and of external incentives will slow down, stall and even reverse Europeanization.*¹² The combination of EU orthodox deterrence mechanisms (i.e. the infringement procedure and the use of Art. 7 granting the EU power to sanction and even exclude countries violating its fundamental democratic rules) and new mechanisms (i.e. benchmarking, the OMC and annual scoreboards) will be unable to compensate the absence of conditionality since these instruments rely more on shaming and social influence rather than on effective sanctions.¹³ After 2007 in both Romania and Bulgaria, the EU ability to influence domestic reforms post-accession was hampered by the evolutionary and contested nature of EU conditionality, as well as the considerable EU discretion in its implementation.¹⁴ Moreover, the scope of post-accession Europeanization in both countries is affected by the EU's unwillingness to apply the remaining of the 'stick' (i.e. safeguard clauses), the absence of rewards and the domestic actors' use of Europeanization for political gains rather than an end in itself.¹⁵ The unfinished political and socioeconomic transformation of both countries, accompanied by the consolidation of certain 'reserve domains', occupied by the former secret services and semi-mafia structures, restricted both countries ability to assume full responsibility of membership.¹⁶

Domestic structures such as adoption costs, veto players and resonance will resist and even contest rule adoption. Uneven Europeanization across member states and across time has been correlated less with the EU mix of hard and soft law, and more with systemic domestic constraints such as institutional inertia, national

12. Heather Grabbe, *The EU's Transformative Power*. (Hampshire: Palgrave Macmillan, 2006); Ulrich Sedelmeier, "Europeanization in new member and candidate states." *Living Reviews in European Governance* 1(3) (2006), Accessed July 2009, <www.livingreviews.org/reg-2006-3>; Schimmelfenning and Sedelmeier *Europeanization*, 226-7.

13. Adrienne Heritier, "Europeanization Research East and West: A Comparative Assessment." In: Schimmelfenning Frank, Ulrich Sedelmeier. eds. *The Europeanization of Central and Eastern Europe*. (Ithaca and London: Cornell University Press, 2005), 199-209.

14. Dimitris Papadimitriou, Eli Gateva. "Between enlargement-led europeanisation and Balkan exceptionalism: an appraisal of Bulgaria's and Romania's entry into the European Union", *Perspectives on European Politics and Society* 10 (2) (2009): 152-66.

15. Cosmina. Tanasoiu, "Europeanization Post-Accession. Rule Adoption and National Political Elite in Romania and Bulgaria" *Journal of Southeast Europe and Black Sea Studies* Spring, 1 (2012).

16. Svetlozar Andreev, "The Unbearable Lightness of Membership: Bulgaria and Romania after the 2007 EU Accession" *Communist and Post-Communist Studies*, 42 (3) (2009): 375-393.

policy preferences and action capacities,¹⁷ costs of adoption, veto players,¹⁸ adaptation pressures due to the “goodness of fit,”¹⁹ vulnerability of a member state to EU pressure and the predominant domestic discourse. Evidence shows that in Romania and Bulgaria post-accession backtracking was due to state weaknesses correlated with strong actors,²⁰ persistence of informal networks²¹ and electoral calculations.²² Issues of governance,²³ among which is the level of corruption, have also limited the ability of the EU to shape domestic policy change. Given that in CEE rule adoption was a result of external incentives²⁴ rather than social learning or lesson-drawing,²⁵ scholars expected it to be contested post-accession.²⁶ This phenomenon was visible in the attempts to reverse the status of the Bulgarian Kozlodui nuclear plant as early as January 2007 (president Parvanov sponsored a regional diplomatic initiative to reopen the Kozlodui reactors to supply energy for the Western Balkans). On the other hand, in Romania and Bulgaria, the resonance and legitimacy of the EU continue to rate relatively high (Eurobarometers register support among average Romanians and Bulgarian around 60%) and, therefore, do not provide explanations for stalling rule adoption. The Commission’s criticisms are not viewed as being too harsh, but rather as not being harsh enough.

Post-accession, the politisation of Romanian and Bulgarian judiciary, combined with the slow judicial reforms and the range of informal networks into state structures, limited the impact upon corrupt practices triggering criticisms in each post-2007 EC reports. The limited number of players involved in the acces-

17. Tanja Börzel, “Member States Responses to Europeanization”. *Journal of Common Market Studies* 40(2) (2002): 193-214.

18. Markus Haverland, “National Adaptation to European Integration: The Importance of Institutional Veto Points”. *Journal of Public Policy* 20 (2000): 83-103; Adrienne Heritier, “Differential Europe: The European Union Impact on National Policymaking.” Eds. Heritier A et al. Lanham, (MD: Rowman and Littlefield, 2001), 1-21; Tanja Börzel, Thomas Riise. “When Europeanization meets diffusion: exploring new territory” *West European Politics*, 35(1) (2011): 192-207.

19. Tanja Börzel, Thomas Riise, “When Europe hits home: Europeanization and domestic change.” Social Science Research Network. (2000). Accessed 5 July 2009, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=302768>

20. Antoaneta Dimitrova, “The New Member states of the EU in the aftermath of enlargement: do new European rules remain empty shells?” *Journal of European Public Policy*, 17(1) (2010): 137-148.

21. Milada Anna Vachudova, “Corruption and Compliance in the EU’s Post communist member states and candidates” *Journal of Common Market Studies*, 47 (2009): 43-62.

22. Aneta. B Spendzharova, Milada A. Vachudova. “Catching up? Consolidating Liberal Democracy in Bulgaria and Romania” *West European Politics*, 35(1) (2012): 39-58.

23. Kevin Featherstone, Dimitris Papadimitriou. *The Limits of Europeanization: Reform Capacity and Policy Conflict in Greece*. (London: Palgrave Macmillan, 2008).

24. Frank Schimmelfennig, Ulrich Sedelmeier. “Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe.” *Journal of European Public Policy* 11 (4) (2004): 661–79.

25. Borzel and Rise “When Europe hits home”.

26. Schimmelfennig and Sedelmeier *Europeanization*

sion process (mostly EU officials and members of the executive) combined with the features of post-communist politics (i.e. highly hierarchical state structures, political parties with weak grass-roots organizations, industrial relations characterized by state-dominated corporatism, and a civil society with little influence over policy-making) restricted the number of veto players in CEE.²⁷ As these veto players are “most likely to be found at the level of governments [...] rule adoption will depend on the effect of EU rules on the power of the executive.”²⁸ The top-bottom dynamic of Europeanization favours incumbents, and in countries characterized by clientelistic practices and systems of patronage, incumbents have instrumentalised the EU selectively, implementing anticorruption policies to restrict access to power resources for their political opponents.²⁹

Systemic corruption has the ability to create a greenhouse effect for Europeanization, containing its effects at the *status quo*. Through pressure towards changing the *status quo* by increasing transparency and judicial fairness, Europeanization can prompt the introduction of anticorruption measures. Yet, many of these reforms hit the invisible wall formed by political, judicial, police and low-level corruption, as well as organized crime, which distort and derail Europeanization or domestic led systemic reforms.

The impact of corruption varies across the three dimensional aspects of Europeanization: formal adoption (i.e. the transposition of EU rules into national law and/or the creation of formal institutions in line with EU rules), behavioural adoption (i.e. the degree to which behaviour is rule conforming), and discursive adoption (i.e. incorporating a rule with positive connotations into discourse among domestic actors).³⁰ The acceleration of anticorruption measures are often seen as directed at weakening the opposition and securing loyalty among allies, rather than a sign of systemic and structural change.

National Characteristics and Brussels Response

After 1989, in Romania and Bulgaria, opaque privatization, rampant petty corruption, excessive hurdles to entrepreneurship, and the ability of previous networks of influence (be it a party, or secret police, but also informal practices of traffic of influence diffused throughout social structures) to recycle and adapt to the new political and economic environments have led to the politicization of

27. Dimitrova “Enlargement” 171-90; Frank Schimmelfenning, Stefan Engert, Heiko Knobel, “Costs, commitment, and compliance: the impact of EU democratic conditionality on Latvia, Slovakia, and Turkey” *Journal of Common Market Studies*, 41 (3) (2003): 495-517.

28. Schimmelfenning and Sedelmeier *Europeanization*, 31.

29. Tanja Börzel, Yasemin Pamuk. “Pathologies of Europeanization. Fighting Corruption in the Southern Caucasus.” *West European Politics*, 35 (1) 2012): 79-97.

30. Schimmelfenning and Sedelmeier *Europeanization*, 1-29.

public institutions, privatization of public interests and functions, and subordination of the judiciary to leading political and economic interests. Endemic corruption has facilitated the state capture by private interest groups, and it is visible at the micro/societal corruption (from small bureaucrats to doctors, policemen, academics). Attempts at good governance, through enhancing institutional efficiency and transparency, often diluted in a cloud of corruption scandals surrounded by shady privatization deals, the misuse of public funds and dubious connections between business circles and public officials.

Prior to accession, EU political conditionality determined formal and institutional changes in the fight against corruption, though approaches between Romania and Bulgaria differed (i.e. Romania created bodies, agencies, institutions,³¹ while Bulgaria put in place strategies and mechanisms.)³² Successive government tactics of window dressing and backtracking delayed and even neutralized the impact of Enlargement-led Europeanization upon the quality of democracy in these countries.³³ Though public perception of corruption levels changed little between 1993 and 2007,³⁴ due to EU pressure (and the work of certain civic organizations, such as the Romanian Academic Society Campaign for a 'Clean Parliament') some progress was achieved: the institutionalization of public declarations of assets by public officials, investigations of these fortunes when discrepancies are present, and even occasional resignations of ministers accused of mismanagement of public funds and illegal allocation of public procurement contracts (e.g. the case of the Romanian Minister of Sports, Monica Iacob Ridzi in 2009), EU funds, bribery or traffic of influence. Yet, the post-2007 Commission country reports consistently pointed out not only shortcomings in meeting the benchmarks and feet-dragging in addressing systemic corruption, but also the lack of administrative capacities and non-transparency in dealing with EU funds, particularly agricultural subsidies. If accession introduced a number of treaty obligations to fight corruption, it can also multiplied the opportunities for corruption,³⁵ through the liberalization of visas (which permitted the expansion of Bulgarian organized crime rings in the rest of EU, such as trafficking, drugs

31. e.g. the National Council for Action Against Corruption and Organized Crime (1997), the Anticorruption Criminal Investigation and Criminology Section (1998), the Special Anticorruption and Organized Crime Unit within the General Prosecutor's office (2000), National Anticorruption Prosecutor's Office (2002), the National Anticorruption Directorate (DNA, 2002), the Directorate General for Anticorruption answering to the Minister of Interior (2005). Their number served to account for progress in annual EC reports, but failed to deliver, due to constant overlapping in functions, the absence of a clear distribution of responsibilities and the continuous reshuffling they underwent following government changes.

32. e.g. the "Action Plan for Implementation of the Strategy of Anticorruption" in 2002 and 2004 respectively.

33. Mihaela Racovita, "Europeanization and Effective Democracy in Romania and Bulgaria." *Romanian Journal of Political Science*, Spring, 11 (1) (2011): 28-50.

34. See TI index.

35. CSD Report

and prostitution), privatization of national enterprises (in Romania) and an increase in EU funds awarded to the two countries (which resulted in scandals over misappropriation of EU funds and preferential awarding of public procurement contracts).

Post-accession, the EU's pressure upon these two new member states manifested itself through a host of formal (the Cooperation and Verification Mechanism/CVM, the safeguard clauses and cutting of funds) and discursive mechanisms (negative-positive assessment model). The CVM and its biannual progress reports were the most visible tools in monitoring and pursuing achievements. While their direct impact is hard to estimate, the CVM reports have been called into question over their methodology for tracking progress, data collection strategies and sampling methods when deciding which high corruption cases are monitored and included in the final report. Although envisioned as precursors to the activation of safeguard clauses, the progress in the two states proved to be less than expected, the CVM reports have so far contributed to the political narrative, signalling the mood in Brussels and delivering warnings or praise, rather than announcing measures to come.

Common to all country reports is the Commission's negative-positive assessment model (i.e. "*genuine efforts and some progress made but more needed*," "*fundamentals are in place but the bases are still fragile*"). The reports on Bulgaria criticized shortcomings in the fight against corruption and organized crime, but also praised progress (initiation of several corruption trials and reducing bureaucracy in instrumentalising a case). While the 2010 and 2011 reports praised renewed political will in Bulgaria, this evaporated by July 2011 following the number of high profile corruption trials being dropped and further delays in implementing legislative and institutional reforms. The July 2011 report on Bulgaria identified the fight against corruption as the sole area where no convincing results were registered pointing to "*serious weaknesses in judicial and investigative practice*,"³⁶ and requiring "*urgent need for considerable improvements*."³⁷ Tackling corruption is "*a matter of national priority*," which "*should be urgently pursued*."³⁸

Following the Romanian parliament's measures "*sheltering high level officials from prosecution on corruption charges*," the 2008 report noted the "*uneven commitment*" between state institutions and placed responsibility with the parliament for stalling reforms and interfering with the judicial process. Acknowledging "*good will and determination*"; "*genuine efforts and progress*"; "*sufficient progress to show benchmarks will be met*," which was "*encouraging*," it also stressed that "*fur-*

36. EC report 2011, 6.

37. EC report 2011, 7.

38. EC report 2011, 8.

ther work was necessary,” “insufficient progress,” “to maintain momentum.” Searching for a balanced assessment, the Commission looked for positives even when they weren’t really there. The 2009 report on Romania continued to criticize the parliament and praised the work of the Ministry of Justice, the Prosecutor General and the DNA despite the chronic absence of definitive verdicts in courts. In July 2010, the tone of the Commission toughened, pointing to “important shortcomings” triggered largely by the “unwillingness of the leadership or the judiciary to cooperate.”³⁹ Even though the 2011 reports for Romania were relatively more positive than those on Bulgaria (noting an improved relationship with the political leadership) the national parliaments shielding of MPs charged in corruption trials, the remaining procedural impediments and judicial process delays remained continuous drawbacks to the institutional reforms put in place. Too long and confusing

Outside the CVM reports’ generally balanced language, the Commission’s discourse toughened sporadically, following organized crime assassinations or egregious fraud. Following the first country reports in June 2007, president Barroso warned that although both countries escaped “looming sanctions,” the Commission was “not letting Bulgaria and Romania off the hook and will continue to follow their progress” urging “diligence.” In April 2008, following two successive assassinations within 24 hours,⁴⁰ an EC spokesperson voiced Brussels’ concern with the perpetuation of such assassinations in Bulgaria, most of which remain unsolved (since 2001, more than 100 high-profile killings are still opened) and urged action. Visiting Sofia in April 2008, president Barroso told the Socialist-led government that high-level corruption and organized crime had no place in the EU. In December 2009, Oli Rehn (commissioner for enlargement 2004-2009) acknowledged that Romania and Bulgaria were not ready to join the EU in 2007. Frustration tended to filter in public declarations rather than in the reports (“we cannot constantly repeat what needs to be done. [...] endless investigations, delayed court cases do not amount to justice” president Barroso warned).⁴¹

Besides forceful language, Brussels is consistently timid in terms of concrete penalties. Threats to penalize stalled corruption investigations (as in 2009) through the activation of the judicial safeguard clause were mediated by pledges of financial assistance (e.g. use of Cohesion Fund). Such promises of assistance were muted in 2009, possibly because of the financial crisis and/or fatigue from lack of progress. In 2009, references to safeguard clauses increased, stressing “lack of political will,” “stalled pace of progress,” “backward movements” and focused more

39. EC interim report July 2010.

40. Borislav Georgiev, director of a large energy company, and Georgi Stoev, a well-known writer who documented the organization of Bulgarian mafia. For details see Tony Barber. “EU takes Sofia to task over gangland killings.” *The Financial Times*. 10 April 2008. <http://www.novinite.com/view_news.php?id=92098>

41. Quoted in Vogel Tony. “Bulgarian interior minister resigns”. *European Voice* 14 April 2008.

upon lack of results than positive signs. Though the 2009 progress reports found again that “*political consensus is needed to push forward the progress on judicial reform and the fight against corruption,*” it mentioned no concrete penalties. Following the proposed amendments to the Romanian penal and civil codes minimizing the scope of corruption trials (i.e. classifying frauds below 9 million Euros as misdemeanour, subject to a maximum five-year sentence prompting a public statement by the 25 ambassadors of EU member states), an EC delegation was dispatched to hold closed doors meetings with the Parliament Committee for Judicial Affairs, showing that discussion and mediation remained the preferred options.

The intensity of criticisms varies across EU institutions and in time. MEPs tend to deliver harsher criticisms, possibly because they have to explain to their electorate the use of their taxes.⁴² In April 2009, the European Parliament requested the Commission to draft special reports on the management of EU funds in Bulgaria and Romania amid worries over judicial standards and organized crime,⁴³ expressing “*serious concern*” over the financial interests of EU taxpayers and requesting “*zero tolerance.*” After 2010 and the disappearance of the looming threat of safeguard clauses, the Schengen accession became a new ‘carrot/stick’. The refusal by the EU core countries (France, Germany, Netherlands, Belgium, Sweden and Finland) to admit Romania and Bulgaria to the Schengen area in June 2011, despite meeting the technical requirements (both the EP and the Commission recommended accession), was publicly linked to their failure to tackle corruption, organized crime and the uneven progress towards judicial reforms.⁴⁴ It constituted the first effective sanction grounded in the CVM mechanism.

Anticorruption Legal Framework

In the transition from pre to post-accession, formal adoption carried on. In compliance with the CVM and accession obligations, both countries enacted and amended laws providing for the creation of new institutions and bodies specifically dedicated to the fight against corruption and organized crime, increase transparency over the use of public funds and declaration of income by public officials (see annex 1). However, the enactment of an anticorruption law guaran-

42. In 2007, the EPP-MEP Joseph Dall warned that since “*we are responsible for the tax-payers money, and as long as we do not have the certainty that their money are getting where they should, there is a real possibility for the safeguard clause*” (in *Ziua* 23 October 2007). In 2009, the MEP Markus Ferber (EPP-ED) delivered a similar warning (in *Ziua* 2 July 2009).

43. Frans Timmermans, the Dutch Minister for European Affairs, referred to “*the lack of political will and lack of initiative in addressing local corruption*” and called for the activation of the safeguard clause for both countries. The Dutch government later backtracked. Meanwhile, the French Senate warned against stigmatizing Romania and Bulgaria (see *euractiv* June 2009).

44. *Euractiv* 9 June 2011.

tees little in terms of future implementation. Over time, the scope and range of certain laws were watered down by subsequent amendments (promoted by both executive and/or legislative) and rulings of the Constitutional Court, showing that veto players transcend the executive. A report issued by a Romanian coalition of nongovernmental organizations (the Initiative for a Clean Justice-IJC), warned that the amendments (by government decree in 2011) to the law 144/2007 (e.g. politicizing its structure by appointing a secretary of state immediately under the director) rendered the National Agency for Integrity (ANI),⁴⁵ effectively 'toothless.' Amendments are a constant feature of both Bulgarian and Romanian⁴⁶ legislative processes: justified as improving democratic control and/or efficiency, they often increase political control. Subsequently, institutions, mechanisms and procedures are subject to continuous change, adjustment and readjustment.

In the process of formal adoption, the highest judicial instances can act as veto players by preventing the consolidation of anticorruption efforts, though the impact of Bulgarian and Romanian Constitutional Courts differs. In July 2007, the Romanian Constitutional Court ruled unconstitutional the prosecution of former high-level government officials as private citizens (severely hampering, at the time, efforts to prosecute corruption trials involving former prime-minister Adrian Nastase, ranked in a 2006 opinion poll as the most corrupt Romanian politician). It also established that former government officials can be investigated for corruption only upon approval by the president and parliament, facilitating the politisation of such processes. In 2010, the Court declared ANI (an institution praised in the Commission's Report) as unconstitutional and revoked its mandate to investigate the wealth of political figures, a decision widely seen as motivated by personal interests (seven of the nine sitting judges in the Constitutional Court were investigated by ANI at the time of the verdict).⁴⁷ By contrast, the Bulgarian Constitutional Court has shown reluctance when asked to consider the constitutionality of laws derived from EU law or required by the EU, occasionally declaring unconstitutional certain paragraphs, but not entire laws.

Formal adoption did not always address existing loopholes in the legislation, which fostered corruption. Neither was it always successful. In summer 2011, a legislative proposal on the forfeiture of assets acquired illegally was defeated after its first reading in the Bulgarian Parliament.⁴⁸ The overused practice of executive decrees favours legislation centred upon securing and protecting group interests

45. Responsible for vetting public official declared fortunes, ANI was created in May 2007 as part of membership pre-accession commitments.

46. In Spring 2009, the Romanian executive amended a law in the short period between parliament approval and its publication in the official journal.

47. Ziare 24 April 2010.

48. The project of law on the forfeiture of unexplained wealth is due to be voted beginning 2012 – Novinite, 10 January 2012. <http://www.novinite.com/view_news.php?id=135569>

rather than being reform oriented. Such practices show that the national political elites have learnt to protect themselves from the law through the law. The two countries opted for different strategies though aiming for similar outcomes: protecting the *status quo*, while simulating adoption of EU standards. In Bulgaria, legislative reform advanced in small instalments followed by amendments to improve the scope of reform or its transparency. In Romania, projects of law adopted to meet EU standards were soon amended under pretext of improving efficiency while in fact restraining the scope and power of created bodies to tackle corruption.

Behavioural Adoption: Forms without Substance

Unlike formal adoption (absorption of EU ‘hard measures’ i.e. rules, procedures, policy paradigms), behavioural adoption relates to ‘soft measures’ (i.e. styles, ‘ways of doing things,’ beliefs and norms).⁴⁹ In both our cases, the number of agencies, mechanisms and institutions created with the declared purpose of fighting corruption achieved relatively limited success in terms of indictments, trials and convictions. Evidence suggests that records depend upon the person in office and less upon the statute or range of activities of an anticorruption body. The political turmoil surrounding nominations, appointments and resignations of central figures of the anticorruption battle (from justice ministers to special anticorruption prosecutors,⁵⁰ or even the Prosecutor General) show that the fight against corruption remains defined by politics. While accounting for EU reforms, national political elites also settle scores: the political colours of the officials placed under investigation for corruption, traffic of influence or bribery is indirectly related to the political colour of the government in office.

Behavioural adoption is characterized by ambiguity. While public actors appear to abide by the newly adopted norms (e.g. declaring assets further investigated by specifically created bodies), there is evidence of actions effectively hampering the full application of such norms. By contrast to the 1990s when the judiciary failed to prosecute often blatant corrupt behaviour of some ministers,⁵¹ corruption trials are initiated and prosecuted involving both political

49. Grabbe *EU Transformative Power*.

50. In Summer 2008, debates over the appointment of the Romanian anticorruption chief prosecutor, Daniel Morar, led to political warfare between the president-government camp and the opposition. Though in the end, Morar was reappointed (not least due to pressures from Brussels), the issue was not settled. During the 2009 presidential campaign, the social-democrat candidate hinted at the possibility of replacing the prosecutor general.

51. e.g. attempts to prosecute the Bulgarian Economy *Minister* Aleksandar Boskov, labelled “Mr. Ten percent”, were dismissed twice.

and economic heavyweights,⁵² and occasionally secured convictions.⁵³ These trials exposed deep and intricate links between the political elites and business circles. However, the work of the prosecution, which was praised repeatedly by the European Commission, (possibly regenerated by the recruitment of new) younger personnel less anchored in the informal networks, rarely transfer into indictments.

In those cases where prosecution of high level officials for corruption, bribery, abuse of public office or traffic of influence got under way, they were either rebuffed by parliament who refused to strip them of immunity or stalled in front of judges,⁵⁴ or they were delayed almost indefinitely in court, triggering special prescription procedures, whereby if a decision is not reached in court under a legally given time frame, it is removed from court and returned to the prosecutors.⁵⁵ The 2009 European elections became opportunities for businessmen and politicians to seek protection from corruption charges.⁵⁶

The politisation of the fight against corruption was exposed by the number of domestic scandals it created. As the anticorruption bodies created pre-accession have started to produce results, the range of their powers has been rolled back after 2007 either by limiting their legal status or through personnel changes. The increased vitality of the Romanian National Anticorruption Directorate

52. e.g. former Romanian prime-minister Adrian Nastase; oil magnate and National Liberal Party financier Dinu Patriciu; media magnate and leader of the Conservative Party, Dan Voiculescu; media magnates Sorin Ovidiu Vantu and Dan Diaconescu. In Bulgaria, former prosecutor Tseko Yordano and businessman Alexei Petrov were indicted in connection to organized crime case dubbed "Operation Octopus" (December 2011), former minister of interior Roumen Petkov, former Defence Minister Nikolay Tsonev, former Labour and Welfare Minister Emilia Maslarova.

53. In January 2012, former Romanian prime-minister Adrian Nastase was convicted to two years in prison for fraud in one of the four trials opened against him.

54. Attempts by anticorruption prosecutors to indict former Romanian prime-minister Adrian Nastase (i.e. Afacerea Tamara, Afacerea Zambaccian) were thwarted by parliament by refusing to revoke his parliamentary immunity (strange ideological coalitions form on such occasions). Investigations of ministers for misuse of public money also stalled. The Minister of Tourism, Elena Udrea, was investigated by a parliamentary commission who complained of restricted access to documents, and the minister's refusal to testify. The prosecutors closed the case. She was appointed minister for Development and Tourism (the ministry with the largest budget, including managing the EU funds).

55. In Romania, this was the case with the files of former MPs, ministers, and businessmen such as Savu, George Copos, Mantog and Miron Mitrea (former vice-premier), after 3-5 years spent on trial. <<http://anticoruptie.hotnews.ro/stiri-8741246-debutul-unui-fenomen-periculos-restituirea-marilor-dosare-dna-amenintarea-prescriptiei-lista-marilor-scapati-savu-copos-mantog-mitrea.htm> >

56. e.g. Gigi Becali, owner of the Steaua football club and leader of the New Generation Party (PNG), under investigation for corruption and bribery of public officials, was elected MEP on a shared list with the nationalist Romania Mare Party. Following several appeals, he was granted an injunction allowing him to leave the country. In Bulgaria, Alexander Tomov (indicted for embezzlement and falsifying documents) and Ivaylo Drajev (prosecuted for drunk driving, manslaughter and bankrupting a Burgas plant by siphoning off its funds) were candidates for Tomov's party the "Bulgarian Social Democracy." Attempts to contest their candidatures were overturned by the High Administrative Court. Though not elected, investigations were severely impeded given that during the campaign candidates are immune from prosecution.

(DNA)⁵⁷ placed the institution in the crossfire between government and opposition. In spring 2011, the DNA spectacularly descended upon the custom office in the Constanta harbour, arresting and indicting several high profile officials (including a government party senator), suspected of masterminding an operation of fiscal evasion to divert goods towards private businesses. Despite the scope and high profile individuals, the action was framed by the opposition and some media outlets as a presidential warning to possible dissenters in his own camp meaning to use the anticorruption mechanisms for personal gain.

Besides political motives, the stumping of anticorruption measures was driven by the personal interests of political elites (be it members of government, Parliament, or the judiciary) to avoid prosecution.⁵⁸ Though ministers are repeatedly embroiled in corruption scandals, their careers are rarely compromised as a result, and when sanctions are applied, they are often the result of external pressure rather than internalization of norms.⁵⁹ Following the 2009 Romanian presidential election, the newly appointed government included several political figures previously investigated for corruption and/or misuse of public money, which were conveniently exonerated prior to their appointments. Suspicion or accusations of corruption involving members of the executive are often dismissed as the result of overzealous anticorruption prosecutors in search of fame, or as the result of political games using political tools to restrict or block them.⁶⁰ In 2008, the leaders of the Bulgarian ruling coalition (prime-ministers Stanishev and Ahmed Dogan) resisted calls for the resignation of those ministers responsible for problem areas identified in the country report (i.e. absorption of EU funds), arguing that problems lied with the administrative-bureaucratic structures. In 2011, leaked phone conversations between PM Boyko Borisov and the Director

57. Created in 2002 as the Anticorruption Prosecution Office, DNA is headed by a chief prosecutor and two deputies, nominated by the Minister of Justice and appointed by the President. DNA is subordinated to the General Prosecutor's Office attached to the High Court of Cassation and Justice. Its tasks are to prevent, investigate and prosecute corruption-related offenses (e.g. bribery, graft, patronage and embezzlement) causing a material damage higher than €200,000 or whose value of involved amounts or goods is higher than €10,000.

58. For instance, the impeachment of Romanian Minister of Justice, Monica Macovei, largely credited with jumpstarting judicial reforms, a month after accession was spearheaded by the main opposition party directly affected by the streamlining of the anticorruption measures introduced by Macovei allowing the prosecution of former government officials. Her replacement quickly enacted a governmental decree effectively halting the investigation of several high level officials, himself included.

59. In April 2008, the Bulgarian Minister of Internal Affairs, Roumen Petkov, was forced to resign following the arrest of two top police officials (suspected of links to the mafia) he had previously hired. Given that the government had survived a no-confidence vote on accusations of colluding with organized crime, that prime-minister Stanishev had initially resisted calls to sack his minister, that Petkov was subsequently appointed his party representative in the newly created commission mandated to investigate and propose structural and personnel changes in government structures to prevent access of organized crime to government officials, the opposition MPs' suspicion that the minister's resignation was a result of pressure from the EU and the US is not without merit.

60. E.g. the Romanian Minister of Environment, Lazlo Borbely (2011), and Minister of Tourism, Elena Udrea (2010).

of the Customs Agency, Mr. Tanev, uncovered attempts to obstruct the course of justice (the former was insisting on stopping the investigation of Mihail Mihov, owner of the Ledenika brewery), as well as conflicts of interests (Mr. Mihov's lawyer was also the Chair of the President's Legal Council).⁶¹

High level magistrates often exhibit the same type of ethical minimalism. Both supreme bodies of the magistrates (the Superior Council of Magistrates/CSM in Romania, Supreme Judicial Council/VSS in Bulgaria), responsible for enforcing the magistrate code of conduct, have come under intense scrutiny for shielding their members from public or judicial scrutiny as well as resisting reforms. In 2006, both EU and Freedom House reports pointed to the lack of legal provision to suspend magistrates who are under internal disciplinary investigation.⁶² Following accession, both bodies have enacted new human resources policies in response to criticisms of nontransparent hiring practices. However, the integrity of their leaderships continues to be questioned,⁶³ as well as their commitment to judicial reforms.⁶⁴

Overall, behavioural adoption seems to follow a sinusoidal evolution depending upon the interests of political actors and institutional balance. Difficulties to advance behavioural adoption show, firstly, that veto players are not concentrated at government level but cut across state branches of power. Secondly, a smaller number of veto players does not mean less resistance to Europeanization, but more concentrated resistance. And finally, the persistence of personalization of politics exposes the weakness of state institutions (anticorruption record depends upon the person holding office).

Anticorruption as Public Discourse

National discursive dynamics and EU induced discursive adoption are inextricably linked together to produce a strong anticorruption discourse, which is subsequently adapted and used as a political tool either internally or externally. Both

61. <<http://www.eurochicago.com/2011/03/bulgarian-organized-crime-uncensored/>>

62. EC Report 2006; Ivan Krastev, "Freedom House country report for Bulgaria 2006." Freedom House Inc. (2006) Accessed June 12, 2009, <<http://www.freedomhouse.org/template.cfm?nit=392&page=47&year=2006.>>

63. In October 2008, the Romanian CSM appointed Lidia Barbulescu president of the High Court of Cassation and Justice, despite questions over her commitment towards reforms as well as integrity: as CSM president she opposed the publication of magistrates' income and was suspected of nepotism (facilitating her daughter's bar exam, and securing her a position as a CSM consultant). At the time, the CSM dismissed requests for an investigation in this case. When ANI began investigating high courts' magistrates, the Romanian Constitutional Court decreed the body unconstitutional (coincidentally, 7 out of the 9 judges of the Constitutional Court were investigated on corruption charges. See <<http://www.gandul.info/news/ani-trecuta-in-somaj-tehnic-de-curtea-constitucionala-ce-se-intampla-cu-declaratiile-de-avere-surse-ani-mai-multi-judecatori-ccr-cercetati-de-noi-5906534>>

64. In September 2009, the Bulgarian VSS expressed public criticism over the new government judicial reform agenda prompting the then Bulgarian minister of justice, Margarita Popova, to call for the resignation of those VSS members unwilling to cooperate.

Romanian and Bulgarian political actors have appropriated the discourse of Europeanization in order to criticize opponents, justify their agenda and upgrade their achievements. The political elite's anticorruption narrative is both normative and purposefully vague, aimed at a domestic audience and Brussels. It carries promise, but not direction. The legitimacy of anticorruption bodies is called into question, accused of being merely political tools in the hands of the incumbent, although incumbents can also target these bodies (see below). The judicial actors' narrative, particularly the representatives of special prosecutorial bodies, is procedural and technical. National politics is dominated by politicians posing as anticorruption crusaders. President Traian Basescu in Romania (in office since 2004) and prime-minister Boyko Borisov in Bulgaria (in office since 2009) have forged an image of outsiders taking on corrupt establishments. In the 2009 presidential campaign, Basescu rallied his supporters against the "*media moguls*" and a corrupt parliament (the slogan of his campaign was "*Burn all those corrupt!*")⁶⁵, and he campaigned on promises to jail corrupt officials and mafia leaders.⁶⁶

As progress in the fight against corruption slumped, the EC reports registering the least progress on corruption as the Bulgarian top politicians sought to personalize successes. In 2011, following the arrest of Alexei Petrov, in one of the highest profile organized crime trials, PM Borisov claimed that "*corruption becomes almost impossible in the government*"⁶⁷ due to his leadership. Meanwhile, Romanian politicians explain lack of progress through the enormity of the task. For example, president Basescu points regularly to the extent of corruption.⁶⁸ In 2011, he declared that "*wherever you place the finger, there is corruption in this country,*" signalling out the police for being too lenient towards organized crime groups and the Ministry of Internal Affairs.⁶⁹

While the Commission reports praise the actions of prosecutorial bodies, the opposition criticize their use as an instrument of political pressure by incumbents.

65. <<http://www.9am.ro/stiri-revista-presei/2007-05-05/coruptul-anti-coruptie.html>>

66. <http://news.bbc.co.uk/2/hi/europe/country_profiles/1059735.stm>

67. Alexei "The Tractor" Petrov, a former karate champion and intelligence agent, would be the first big name to be imprisoned as an organized crime boss, if convicted. He faces charges of racketeering and threatening to murder a business partner. In Bulgaria, organized crime is linked to racketeering, prostitution, human trafficking and kidnapping. <<http://www.nytimes.com/2011/07/20/world/europe/20bulgaria.html?pagewanted=all>>

68. He emphasized the enormity of the task by joking that even God would give up trying to fight corruption in Romania, although he was quick to stress that while this is a common opinion among his countrymen, he himself does not share it. The joke read (these authors' translation): "Obama, Medvedev and Basescu meet God. Obama asks God when will America get out of the financial crisis? God answered: Not during your term in office. Then Medvedev comes, and asks: When will Russia be once again a global power? And God answers: Not during your term in office. Then Basescu comes, and asks God, when will Romania get rid of corruption? And God replies: 'Not during my term'". <<http://www.evz.ro/detalii/stiri/basescu-face-bancuri-pe-seama-coruptiei--881101.html>>

69. <<http://www.agenda.ro/news/news/39422/basescu-oriunde-unde-pui-degetul-este-coruptie.html>>

For example, as already mentioned, in spring 2011, the Romanian DNA spectacularly descended upon the custom office in the Constanta harbour, arresting and indicting several high profile officials (including a ruling party senator) on corruption charges. The action was framed by the opposition and some media outlets as a presidential warning to possible dissenters in his camp, therefore, using the anticorruption mechanisms for personal gain. In December 2011, president Basescu, previously a DNA champion, argued in an interview, that the institution should be dismantled. Following the successful conviction of former Prime Minister Adrian Nastase in one of the four trials opened against him in January 2012, both Nastase and the leader of his party, Victor Ponta, labelled the verdict ‘political’ and criticised the DNA for political partisanship.

In relation to Brussels, the national political discourse is a mixture of pledging further progress and flexing the political muscle for electoral gain by occasionally rejecting Brussels’ premise for criticisms. Consequently, references to EU norms are either positive (i.e. appropriating EU norms to fight opponents) or negative (i.e. challenging EU monitoring mechanisms, dismissing EU criticisms as double standards, breaching of national sovereignty or reflecting lack of understanding to national reality).⁷⁰ Following the publication of EC reports, national politicians sought to divert attention and accuse the Commission of overfocusing on anticorruption. They challenged the reports’ findings, the relevance of the monitoring system and the Commission’s obsession with personnel rather than procedure. In 2007, Bulgarian ministers and politicians dismissed the EC report as an attempt to please a disgruntled public opinion rather than reflecting realities, failing to account for proposed legislation (i.e. new Law on Judiciary), relying on incomplete data (twelve sentences for money laundering of which six, not five as reported, were enforced) as well as double standards. The findings of the 2008 report pointing at prosecutors and judges for insufficient results in the fight against corruption, were dismissed by the VSS as inaccurate.

In 2009, Bulgarian politicians challenged the Commission’s comments that there is “*no public or political consensus on organized crime*,”⁷¹ while the then Romanian social-democrat minister for parliamentary relations dismissed the report as “*an obsolete bureaucratic instrument serving for political warfare*,” disproportionately focused upon anticorruption and Nastase, with “*little to no relevance to Romanian reality*” where “*the problems are lack of funds and the absence of pay bonuses for magistrates*.” While Bulgarian opposition MPs used the report to pres-

70. The database uses primary documents from *euractiv* and Europa database and highest ranking daily newspapers in Romania (*Adevarul, Cotidianul, Evenimentul Zilei, Gandul, Jurnalul, Romania Libera, Ziua*) and Bulgaria (*Trud, 24h, Dnevnik, Kapital*). Declarations of Bulgarian officials have also been collected from the database available on <www.europe.bg>. Timeframe: 1 January 2007 – 31 December 2011.

71. EC report 2009.

sure the incumbent by stressing that the report effectively sets the agenda, their Romanian counterparts perceived this as “*imposed*,” and as Brussels’ “*dictatorial tactics*.”⁷² Voices on both sides called for the phasing out of the CVM and/or ending it in 2011. The change in government in Bulgaria moderated the tone. Prime Minister Boiko Borissov, seeking to distance his government from the negative declarations in Romania after the 2010 critical reports, declared that Bulgaria will do everything Brussels asks in order to improve the situation.⁷³ The unsuccessful bid to join the Schengen area in 2011 (which both governments argued should be decoupled from the CVM) fuelled extravagant public statements in Romania. President Basescu threatened to oppose the modifications to the Lisbon Treaty, block Croatia’s accession and divert the funds provided by EADS for strengthening the borders towards something else, since joining Schengen would not happen.⁷⁴ Some politicians accused previous justice ministers of “*treason*” for giving Brussels a false image of how corrupt Romania really was, and for “*stigmatising*” the country unjustly. The CVM was an imposed “*humiliating mechanism*,” which perpetuated the “*myth of corruption*” in Romania.⁷⁵ By contrast, the reaction from the Bulgarian political class was relatively muted, admitting the concerns expressed by EU member states as “*fully justified*” and renewing pledges to address outstanding problems.⁷⁶

National discursive dynamics and EU induced discursive adoption are inextricably linked together to produce a strong anticorruption discourse, which is subsequently adapted and used as a political tool either towards opponents, electorate or commitments to Brussels.

Conclusion

The dynamic of pre-accession has functioned with the perception that Europeanization is a one-way process, and that standards once achieved will be long lasting. In practice, clientelistic politics and the override of public policy by private interests means that Europeanization has been incorporated in domes-

72. Former Romanian prime-minister Adrian Nastase argued that the “imposed” nature of the monitoring mechanisms transformed the government into “Brussels’ mouthpiece” and claimed the EC effectively infringed the constitution by critiquing the Parliament. The social democrat MEP, Adrian Severin accused the EC representatives of being “anti-parliamentarian,” “dictatorial,” and “undermining the rule of law.” He lambasted the “poor quality” of the annual report, characterized as “undemocratic and counter-productive in the fight against corruption,” criticizing the Commission “*for not offering some kind of technical consultation or financial support under the CVM framework*.” Ironically, Adrian Severin was among the MEPs who accepted money in exchange for lobbying a cause as part of British newspaper undercover investigation among MEPs. Although suspended from the PES, he has refused to resign accusing the journalists of entrapment.

73. Novinite 22 December 2010

74. *Cotidianul* 6 January 2011

75. <<http://www.romanalibera.ro/opinii/comentarii/corupti-dar-ne-tratam-245616.html>>

76. <<http://www.euinside.eu/en/comments/the-long-way-to-schengen>>

tic politics, mainly as a strategy/mechanism to score points against opponents rather than structural change. In response to Brussels' demands or criticisms, reactions from national establishments to EU criticism were reactive rather than pre-emptive. When reform moved ahead too quickly or too far, one can observe either legislative backtracking or foot-dragging in implementation. While progress is registered in terms of institution-building (special anticorruption prosecutorial bodies), depoliticization of the judiciary (e.g. changing the procedure of appointing prosecutors) and energizing the anticorruption mechanisms, the pressure exercised by the EU is countered and even sidetracked by domestic tactics, from backtracking (in the forms of amendments) to smoke-screening or politicizing anticorruption measures. Corruption triggers a phenomenon of containment of anticorruption efforts led by the EU or domestic actors, effectively stalling or inverting them. This diminishes public trust in national political elite and state institutions as well as explaining the electoral success of politicians posing as outsiders to a corrupt establishment. Given that the opinions polls have linked, in the past, public expectations of good governance with EU accession, the limited impact might in time also erode public support for the EU.

Abstract

The absence of leverage mechanisms (conditionality and membership) raised doubts over the EU's ability to influence domestic change in new member states post-accession. This article examines the record of anticorruption strategies in Romania and Bulgaria, between 2007 and 2011. It argues that systemic corruption contains the impact of Europeanization by distorting legal adoption and preventing implementation rendering institutional and legal progress to forms without substance. In the absence of a unified discourse from Brussels and willingness to sanction delays, national elites have used the fight against corruption as a political slogan rather than internalize it as a norm.

Résumé

L'absence de mécanismes de levier (conditionnalité et appartenance) a fait douter de la possibilité pour l'Union européenne d'influencer les changements internes dans les nouveaux États membres après l'adhésion. Cet article examine le bilan de stratégies anticorruption en Roumanie et en Bulgarie, entre 2007 et 2011. Il considère que la corruption systémique limite l'impact de l'europeanisation en créant des distorsions dans l'adoption de normes juridiques et en empêchant leur mise en œuvre, enlevant ainsi toute substance aux transformations légales et institutionnelles. En l'absence d'un discours unifié de la part de Bruxelles et de sa volonté de sanctionner les retards, les élites nationales ont utilisé la lutte contre la corruption comme slogan politique, plutôt que de l'internaliser dans leurs normes.

Annex

<i>Year / CVM</i>	<i>Legislation on fighting corruption, organized crime and increasing transparency</i>
<i>Romania</i>	<ul style="list-style-type: none"> • New Civil Code entered into force smoothly in October 2011 (the new civil procedure code expected June 2012) • enacted a law to strengthen the disciplinary responsibility of the judiciary • legal amendments and administrative measures strengthening protection against irregularities and conflict of interest over the management of public funds • strengthened the capacity of the National Authority for Regulating and Monitoring Public Procurement (ANRMAP) to carry out ex-ante verification. <p>2011</p> <ul style="list-style-type: none"> • Law 177/210 amending the Law on the Constitutional Court removing the suspension of trials pending the resolution of exceptions of unconstitutionality and provisions in Law 202/2010 (Small Reform Law). • reaffirmed the legal base for the Department for the Fight against Fraud (DLAF), the national counterpart to OLAF, to carry out investigations. • amending Government Emergency Ordinance 34/2006 (July 2010). • new legal framework (August 2010), the National Integrity Agency (ANI), removing an important cause of delay in high level corruption trials.
	<ul style="list-style-type: none"> • revised law on the National Integrity Agency (ANI) • several legal amendments to public procurement legislation increasing transparency <p>Problems:</p> <p>2010</p> <p>On 14 April 2010 the Constitutional Court ruled unconstitutional substantial and significant parts of Law 144/2007 (ANI). On 30 June, the Parliament adopted the new law with only minor improvements. The control of assets, a fundamental element of ANI's original competences, has been lost.</p>
	<ul style="list-style-type: none"> • action plan on preventing corruption within Directorate for Driving Licences and Vehicle Registrations. <p>Problems:</p> <p>2009</p> <p>Parliament attempted to change the nomination and revocation procedures for ANI. Concerns that Law 78/2000 on the preventing, discovering and sanctioning corruption acts would be repealed with parts (but not all) of the Law incorporated into the Criminal Code.</p>
	<ul style="list-style-type: none"> • Law 94/2008, designed to clarify the mandate of ANI inspectors, enabling them to pursue 'unjustified' instead of 'illegal' wealth, decreased the financial threshold triggering an investigation and clarified the status of ANI personnel (issued by Senate, April). <p>Problems:</p> <p>2008</p> <p>Ruling of the Constitutional Court restricting the DNA reach by prohibiting it from investigating cases involving both civilians and military personnel (July). Article 94 of the Fiscal Procedure Code altered forbidding the taxation authority from drafting technical or scientific reports at the request of the criminal investigation authorities (August).</p>
	<ul style="list-style-type: none"> • Law 144/2007, regulating ANI's establishment, organisation and functioning <p>Problems: the decriminalization of bank fraud, parliament's intention to shorten the maximum period for penal investigations; the request for dismissal of a senior DNA official.</p> <p>2007</p>

<i>Year / CVM</i>	<i>Legislation on fighting corruption, organized crime and increasing transparency</i>
Bulgaria	<ul style="list-style-type: none"> • amendments strengthening ex-ante and ex-post control of public procurement provisions • amendments to the Penal Procedure Code (PPC) adopted in May 2010 • Law on Restriction of Cash Payments (over BGN 15.000) aimed at increasing control over large transactions, not included in the primary accounting documents, and limiting the VAT drain (9 February 2011). • Law on Forests aimed to better delineating economic and control activities among owners, forest operators and users of forest territories or products (8 March 2011). • amendments to: Penal Code of 6 April 2010; Penal Procedure Code of 27 April 2010; Law on the Recognition, Execution and Submitting Decisions for Confiscation or Forfeiture and Decisions for Imposing Financial Sanctions of 23 of February 2010. • new Department for Professional Standards and Internal Investigation was set up • amendments to: the Judicial System Act; the Penal Procedure Code concerning the establishment of the Specialised Criminal Court for organized crime and a special prosecutor's office attached (adopted by Parliament in December 2010 and January 2011). The Court was formally established in January 2012. • The Draft of the Illegal Assets Forfeiture Act (coordinated with the Venice Commission)
	<ul style="list-style-type: none"> • strengthened law on prevention and sanctioning conflict of interest. • adopted an Integrated Strategy for Prevention and Counteraction of Corruption and Organised Crime. • Law on Income Tax on Natural Persons amended to facilitate some investigations into unexplained wealth. • The Penal Procedure Code amended to improve the efficiency and transparency of the judicial process. • created five additional standing joint teams to address key organised crime cases.
2009	<ul style="list-style-type: none"> • The National Assembly adopted the Conflict of Interest Prevention and Disclosure Act (October). • The National Assembly passed several amendments to the Public Procurement Act (October 2008, entered into force 1 January 2009).
2008	<ul style="list-style-type: none"> • Action Plan to the Strategy for Transparent Governance and for Prevention and Counteraction of Corruption for 2008 adopted by the Government (April).
2007	<ul style="list-style-type: none"> • new Civil Procedure Code adopted • The 'Law for the Administration' providing the legislative framework for the establishment of Inspectorates within the State Administration • A draft whistle-blowing Act, the 'Law on the Protection of Workers and Employees Reporting Cases of Abuse of Power and Corruption' put forth • The 2006 Law on Publicity of the Property Owned by Persons Occupying High State Positions, amended: high level officials are to submit asset declarations by 30 April each year, with an additional month period allowed for the correction of any errors (January).