

The Europeanization of Bulgarian counter trafficking policies: between rational incentives, social learning, and drawing lessons

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Abstract

Using the theoretical framework of Europeanization, this paper examines the mechanisms leading to compliance of Bulgarian counter trafficking policies to EU standards. Qualitative document analysis is complemented by interviews with Bulgarian state officials who have participated in the formulation or have at least observed the evolution of these policies, in order to assess the impact of rational and sociological instruments, as well as domestic factors on the rule adoption in the legislation, the policy-making process and the institutional setup. The paper finds that rational instruments produced results first, but have also indirectly contributed to socialization, which in turn has complemented and reinforced the effect of those rational instruments. Another finding is that domestic veto points have mediated the rule adoption both in the formulation of legislation and in its implementation.

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List of abbreviations

AC – Accession Country

BCP – Bulgarian Socialist Party

CEECs – Central and Eastern European Countries

ICMPD – International Center for Migration Policy Development

IO – International Organization

IOM – International Organization for Migration

JHA – Justice and Home Affairs

MFA – Ministry of Foreign Affairs

MJ – Ministry of Justice

MLSP – Ministry of Labor and Social Policy

MS – Member State

MVR – Ministry of the Interior

NMSS – National Movement Simeon the Second

NPA – National Plan for Action

NSBOP – National Service for Combating Organized Crime

SACP – State Agency for Child Protection

SEE – Southeast Europe

THB – Trafficking in Human Beings

UDF – United Democratic Forces

UNDP – United Nations Development Program

UNHCR – UN High Commissioner for Refugees

US DOJ – United States Department of Justice

US DOS – United States Department of State

Introduction

Bulgaria is one of the Central and Eastern European Countries (hereinafter, CEECs), that were until recently aspiring to enter the EU and had to undergo significant changes in their legislations, policy making processes and institutions in order to meet EU requirements before they are accepted in the club. They have been subject to immense adaptational pressure that is qualitatively different to what older Member States (hereinafter, MSs) have ever experienced. The key difference comes from their inferior bargaining position (Schimmelfennig and Sedelmeier 2005), where their eagerness to enter is not necessarily reciprocated in equal amounts. The EU is in a position to place conditions on the reward they are after (EU membership), and employs sticks-and-carrots tactics (rational instruments) to get them to implement changes to their legislations, policy-making processes etc. On the other hand, like any other international organization (hereinafter, IO) whose aim is to “induct” those CEECs to the standards of liberal democracy, the EU uses “high interaction density” as a tool through which accession countries’ (ACs’) institutions are socialized (Schimmelfennig et al. 2006). As a result, norms, attitudes and standards within those institutions are also subject to change with time, and that enhances the domestic EU effect, otherwise known as ‘Europeanization’. Together, rational and sociological instruments account for what Risse et al. (2001) describe as the “downward causation” of rule adoption domestically, and bring them closer to EU standards. Rule adoption is further mediated by domestic factors accounting for the different degrees of compliance in different ACs (Grabbe 2006, Caporaso 2004, Borzel and Risse 2000).

While a large part of the ‘Europeanization’ literature deals with the EU effect in already-MSs, only a small part of it has been dedicated to analyzing the processes

in ACs, among which Bulgaria along with Romania have been the most neglected. An even smaller part looks at the different factors and mechanisms at work that eventually bring the results in ACs that amount to compliance. That is, while the question ‘how much’ is easily answered (one only needs to take a look at the annual progress and monitoring reports), ‘how’ has been somewhat ignored. Recognizing that examining the mechanisms can be the key to understanding how compliance works, and hence how it could be better achieved, this paper aims at contributing to the study of the EU effect in ACs by using the Europeanization theory framework and turning the attention to analyzing the instruments and factors in one particular policy field in Bulgaria: that of counter trafficking. Why counter trafficking?

Trafficking in human beings (hereinafter, THB) has emerged as one of the most worrying phenomena across borders, as well as internally, that has vast implications with regard to human rights, social and economic set up, and national security. It is a very complex issue relating to development in general (where poverty and inequality are the roots of the problem) that has only recently appeared on the international political agenda in relation to globalization trends. Yet, it has already triggered various responses on national as well as international level, and a consensus on the need for international cooperation among all relevant institutions (UN 2003).

Before we go on to explain the reasons for choosing the Bulgarian case, it needs to be stated that the definition we will work with is the official UN definition of THB, as formulated in the Palermo Protocol¹:

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or

¹ The UN protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which supplements the UN Convention on Transnational Organized Crime adopted by the UN Assembly in 2000, article 3

benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

As a relatively new(ly recognized) issue, THB presents not only national governments, but the EU and other IOs as well with challenges when formulating policies. In fact, if one takes a look at the evolution of EU Decisions, Declarations and Communications on THB, one would realize that the Union has taken time to reach the ‘final version’ of its stance on the problem – simply because the problem itself has been evolving. Thus, it is interesting to look at the development of Bulgarian counter trafficking policies, considering the position of the country (until recently) as a candidate for EU membership supposed to comply with EU requirements.

Bulgaria has been continuously cited in EU monitoring reports, US Department of State evaluations and other international assessments as a country of source, transit, and, to a lesser degree, destination for THB that needs to work seriously on its counter trafficking policies. It has been under immense pressure to improve its counter trafficking response, and seems to have managed to do so, at least to some extent – i.e., some degree of compliance has been reached. Yet, criticisms remain, as results are not completely satisfactory. Looking at the mechanisms that have been at work in achieving compliance could help us understand why.

This paper will examine the instruments used by the EU to effect rule adoption in counter trafficking legislation, policy-making and institutional setup in Bulgaria, as well as some domestic factors mediating this rule adoption. The author of this paper expects to find that, while both rational and sociological instruments have been at play,

○ The rational ones tended to produce results first, and actually contributed to socialization.

○ Once socialization had started working, the two types of instruments complemented and reinforced each other

Another expectation is that domestic factors in the form of veto points have mediated both the adoption of legislation and its implementation.

In order to assess the degree of compliance achieved and trace the timing of the Bulgarian response to the different instruments used, official evaluations of Bulgarian progress in this policy field by the EU and other sources, such as the US Department of State (hereinafter US DOS) , the International Organization for Migration (hereinafter, IOM) etc. will be used. For the purpose of getting an insight into how norms, standards and values have changed in institutions, interviews with government officials who have participated in or have at least observed THB-related policy making in Bulgaria will be taken.

Before presenting an overview of Bulgarian counter trafficking policies, this paper will provide the conceptual framework by reviewing relevant parts of the Europeanization literature in order to explain the conditions for rule adoption, the different modes of Europeanization along with the respective instruments used, and then present the hypotheses the following chapters will aim to prove. Then the paper will review Bulgarian THB-related legislation, reforms in the institutional setup, as well as other measures that have to do with counter trafficking. The last chapter will analyze how the empirical part matches the theory. The paper finishes with conclusions on the role of the different instruments and domestic factors, and the implications for Bulgaria and the EU.

Conceptualizing Europeanization

In order to set the theoretical framework which this paper will work with and from which we will derive our hypotheses that will be tested in the empirical part, this chapter will explain what is Europeanization, why it happens, how it works, and what we can expect from it as far as Bulgarian counter trafficking policies are concerned. Before that, however, it is necessary to make a couple of remarks with regard to what is going to be analyzed in this paper and why. While the main subject of this research is the evolution of Bulgarian counter trafficking policies ever closer to EU standards, we should note that the latter are themselves the product of some sort of ‘-ization’, i.e. they have not been produced in a vacuum, but have been influenced by the larger context of things. As Risse et al. (2001) point out, Europeanization often emphasizes trends that are already in circulation in the global community. As Schimmelfennig et al. (2006) remind us, the EU as a political entity shares common values with a larger international community, which seeks to promote those values and ‘induct’ countries to their standards through socializing their governments. Jacoby (2004) notes that CEECs’ interaction with other international organizations, such as NATO, often triggers political changes that ultimately lead to their national policies coming closer to what the EU expects anyway.

As mentioned in the introduction, in the case of THB there is a strong international consensus on the need for coordinated action in order to counter this global problem. And while the EU has been working – certainly not in isolation from global developments – on its own strategy to get MS and AC governments to cooperate and “Europeanize” their national counter trafficking policies, other international actors have also been interacting with Bulgarian policy-makers and influencing the THB-related policy-making process in the country. The latter

interactions can be very well explained through Europeanization literature, as the mechanisms are very similar. That is why, while focusing on the effect of the EU on Bulgarian counter trafficking policies, this paper shall also pay attention to those other international actors' impact in this respect, under the same rubric of 'Europeanization'.

What is Europeanization?

As any linguist would be able to confirm, the suffix '-ization' is indicative of a change in the state of things (from state A to state B), with the stem preceding the suffix being state B. In the case of 'Europeanization', then, 'Europe' is state B – i.e., the result arrived at after the change.

Along more political science lines, Sedelmeier (2006) and Vink (2007) agree that Europeanization happens when parts of the national political system in a country are affected by something European. While the literature tends to use the term as abbreviation for 'the influence of the EU' or 'the domestic impact of the EU', Sedelmeier (2006) seems to find this "conflation of 'Europe' with the EU" problematic, as it supposes a blurring of boundaries between identities. Perhaps 'EU-ization' might be a more exact term to describe the domestic effect of the EU, although Vink (2007, p. 6) argues that "'Europeanization' is more than just EU-ization". In any case, the better sounding 'Europeanization' has become the legitimate label for anything that involves the effect of the EU policies or institutional setup on domestic politics, policy and polity (Borzel and Risse 2000, Schimmelfennig and Sedelmeier 2005).

Why does it happen?

The precondition for Europeanization to take place is the existence of a gap – an inconvenience or a misfit between the actual state of national processes, policies and institutions and the EU expectations of what those processes, policies and institutions should be like (Borzel and Risse 2000). As the same authors argue (in 2003, p. 61), citing Risse et al. (2001), the ‘goodness of fit’ between the European (or shall we say, the EU) level and the domestic level determines the degree of adaptational pressure created by the process on the member states. That is, the worse the fit, the higher the adaptational pressure. As this statement is related to the case of accession countries, it would be logical to conclude that – since those countries have not yet gone through the integration processes that older member states have already completed, and have spent less time getting used to the rules in the EU – the adaptational pressure would be even higher for them. Yet, higher adaptational pressure does not guarantee convergence in any case. At least, the question of whether the process of Europeanization and the accompanying adaptational pressure does always lead to convergence – or decreasing the misfit – is open to discussion (Featherstone 2003). Haverland (2000) presents the opposite argument; namely, that the smaller the misfit – and respectively, the adaptational pressure – the higher the convergence, as the national arrangements are already in line with EU requirements. In any case, in order to understand why results differ, we need to look at the mechanisms and factors involved in the process.

How does it work?

A large part of the Europeanization literature explains the process by applying the concepts of rational vs. sociological institutionalism. As March and Olson (1998), cited in Vink (2007, p.7), define the first concept, it is where “people act strategically to realize their preferences”. That is, they make rational choices, weighing costs and benefits, to maximize the outcome. According to Sedelmeier (2006), national governments base their decisions on their expectations of reward (or punishment) if they (do not) comply. This is also called the logic of consequences (Schimmelfennig and Sedelmeier 2005).

While different international organizations tend to use different incentives/rewards (Schimmelfennig et al. 2006), in the case with the EU, the reward is granting EU membership or funds – conditional on compliance. That is, the key rational instrument that the EU uses is conditionality. According to the logic of consequences, EU rules are adopted if the benefit exceeds the cost. Motivation for rule adoption is also higher when rewards for compliance are presented promptly and are significant, but also when punishment for non-compliance is applicable, and when veto players are few. (Schimmelfennig and Sedelmeier 2005).

The logic of appropriateness or sociological institutionalism, as Schimmelfennig and Sedelmeier (2005) note, applies to the process by which countries internalize values and norms that they view as legitimate and/or appropriate. This internalization leads to changes in the domestic policy making process, institutional setup etc. Schimmelfennig et al. (2006) remind us that, according to Weberian ‘old’ institutionalism, only individuals can internalize rules. However, by way of assuming institutions, organizations, and states are entities united by the same norms and values, one could liken them to an individual in this respect. As Sedelmeier

(2006) points out, the main driving force in achieving the final goal – compliance – is socialization and social learning.

Sociological instruments employed by the EU include:

- Encouraging partnerships between an AC and an older MS under the PHARE/TWINNING program, where the more experienced government agencies, professional associations and individual practitioners from the MS work with their counterparts in the AC to transfer their know how in the course of their interactions
- Peer reviews conducted on a regular basis, which often serve as a ‘reality check’ for countries on how close or far they are from meeting EU expectations in comparison to their peers, and for ACs – how close or far they are from EU membership
- Open Method of Coordination (OMC) for MSs, which provides some guidance for national policies to get closer to common European standards, without prescribing a specific path
- Encouraging dialogue among the relevant stake holders within the domestic context, as well as providing fora for international dialogue which promotes international cooperation in areas where it is crucial – THB being one of them.

In any case, what sociological instruments stand for is ‘socializing’ and ‘interacting’ – things that by definition require time to happen, whereas the promise of tangible rewards (i.e., the rational instrument) is immediately obvious.

Aside from instruments used by the EU, an important independent variable mediating domestic policy change is the presence of specific domestic factors – they can promote or hinder change, hence determine the degree of compliance (Grabbe 2006, Caporaso 2004, Borzel and Risse 2000).

What could be expected?

As THB has been recognized as a policy field where cooperation among the different relevant institutions – on domestic as well as international level – is crucial for any real progress to take place, and the need to encourage this cooperation – as a priority on the agenda of each of the IOs that has anything to do with counter trafficking, we can expect that the push from those IOs to get national institutions to interact and cooperate will be substantial. Indeed, as Schimmelfennig et al. (2006) note, “high interaction density” (p. 3) is one of the key characteristics of the “international community” that those IOs belong to. That is, a great deal of interaction is the major means of socializing the countries that choose to be a part of this international community (Schimmelfennig et al. 2006). As for what these countries base this choice on, the authors argue that the expectation of a reward leads CEECs in particular to accept the rules that IOs, such as the EU, have – including the “high interaction density” principle. In other words, the rational incentive can lead to arrangements where socialization takes place. Based on this, *the first hypothesis this paper puts forward, H1 is that – with regard to Bulgarian counter trafficking policies – rational instruments have indirectly produced socialization.*

As discussed in the previous section on mechanisms of Europeanization, rational and sociological instruments tend to have a different relationship to the time continuum: while rational instruments are immediately obvious and hence motivating, sociological ones take time to trigger response by virtue of their interaction nature. That is, it could be argued that their power depends on how long and how intensive this interaction has been before domestic policy makers are convinced in the appropriateness and legitimacy of rule adoption – that is, before internalization of

values takes place. Schimmelfennig and Sedelmeier (2005) and Vink (2007) emphasize that socialization-triggered rule adoption is a more complex process than the purely rational case, as persuasion and social learning do not work as directly as sticks & carrots thinking.

As Kets de Vries and Balazs (1997) note, organizational transformation – in our case, the changes occurring in the Bulgarian institutional setup and actual policies adopted with regard to countering THB – requires several steps. First of all, dissatisfaction with the status quo needs to be created – and that takes time with different individuals within the organization, before it counteracts the ingrained personal resistance to change. Second, engendering hope “in the form of a new vision and mission [might be coming from outside the organization], offered through the role of a change agent is essential” (p. 12). At this stage, “repetition of the message of change is also important” (p. 13), and that too takes time – for the message to sink in. Hence, it could be argued that – whether the agent of change comes from the outside bringing foreign ideas or not – the need for change has to be recognized first, before people within the organization are ready to open up to new ideas. Even then, it takes time – to repeat and repeat, until people are fully convinced – before internalization of the new values and norms is possible. Based on this, *the first part of our second hypothesis H2a is that – within the context of Bulgarian counter trafficking policies – initially it was rational instruments, rather than socialization, that produced rule adoption.*

As March and Olson (1998) and Borzel and Risse (2001), cited in Vink (2007), argue, the logic of calculus-based behavior (rational) and the logic of appropriateness (sociological) coexist perfectly well – of course, once socialization starts having an effect. As Altorjai (2007) goes on to suggest, “the likelihood of

compliance is higher in policy fields where rational and sociological instruments mutually strengthen each other” (p. 21). Turning the latter statement backwards, *the second part of the second hypothesis H2b is that* – considering the substantial progress Bulgaria has made in the last few years in counter trafficking, which will be discussed in more detail in the next chapter – *with time rational and sociological instruments have come to compliment and reinforce each other.*

Last but not least, the impact of domestic peculiarities on the process of rule adoption also needs to be considered. As mentioned above, domestic factors can promote or hinder change, hence affecting the degree of compliance (Grabbe 2006, Caporaso 2004, Borzel and Risse 2000). As Haverland (2000, p. 4) argues, “variations in the national institutional opportunity structure tend to determine the pace and quality of implementation [of the EU rules] regardless of differential gaps in the goodness of fit”. He continues by quoting other authors on the importance of veto points: that the latter are relevant “to all stages in the decision making process on which agreement is required for a policy change”. Based on this, *the last hypothesis H3 this paper puts forward is that veto points have impacted both the adoption and implementation of counter trafficking policies in Bulgaria.*

In order to be able to test the above hypotheses, the next chapter will present the counter trafficking measures that the Bulgarian government has taken throughout the years. Before we get to the actual policies, a quick overview of the trafficking situation in the country will be presented, along with pre-UN Protocol (i.e., before THB was internationally recognized as an issue for governments and intergovernmental organizations to deal with) Bulgarian legislation and initiatives taken to improve what will later serve as the basis for the country’s capacity to fight THB.

Bulgaria and trafficking: measures taken

While early estimates put the number of persons trafficked across international borders at 700,000 annually (US Department of State 2001, as cited in Long 2002), current data mention much bigger numbers, although sources disagree. According to IOM, anywhere up to 2 million people end up being trafficked every year, while ILO insists on roughly 12 million, and in others' view (mostly human rights NGOs) the real numbers could be as high as 27 million (IOM MRF Budapest presentation 2006). But what are the factors contributing to the rise of trafficking?

As Long (2004) points out, in essence, THB is not a late-20th century phenomenon arising in the context of globalization, but can be traced back to earlier societies and explained with the existence of traditional cultural attitudes. Still, the globalization of markets and the simultaneous emergence of sharp inequalities in different parts of the world have exacerbated this disturbing trend to a great extent. Perhaps this is most easily observed within the small continent of Europe, where the promise of a better life in a richer country, combined with the strict immigration and border control regime imposed by the EU makes it easier for people of a vulnerable position to fall prey to entrepreneurial traffickers who are able to get them where they want to go – at a price.

What is of particular concern is the attractiveness of the business for organized transborder criminals in terms of their cost (risk) to benefit (profit) relation: not only does THB entail much less risk for the traffickers compared to procuring other illegal goods (for one thing, the good moves on his/her own), but it cashes in quite handsomely. US Department of State officials (cited by Dimitrova, interview) claimed that for 2006 the profits from THB worldwide have outdone the profits from drug trafficking worldwide. Obviously, traffickers have all the reasons to want to continue

their activities and expand their networks, thus creating an even bigger challenge for national authorities, international organizations such as the EU, and the global community as a whole.

It is in this context that the EU expects Bulgaria – as one of the countries most cited as a source of THB (Emanuilidu) on one hand, and (until recently) a candidate for EU membership on the other – to adapt its counter trafficking policies in order to be able to contribute to the effort the Union has been making in combating this problem. In this chapter, we will explore the various counter trafficking measures adopted and implemented in the country in response to EU conditionality and/or as a result of socialization with EU, EU MSs' and other international institutions. Before that, however, we will have a quick summary of the changes in legislation and structural reforms that took place in the period after Bulgaria officially became a candidate for EU membership, but before the Palermo Protocol – i.e., in the period when THB was still not on the agenda. Yet, this initial rule adoption has to do with taking the first steps in building the capacity of the country to handle the problem that was going to be recognized later, thus it is worth discussing briefly.

Background

With its official application for EU membership, Bulgaria became subject to an obligation to adapt its legislation, institutions and policies to EU requirements, before it could hope to enter the club. After a period of 14 months – from late Dec 1995 to March 1997, the EU was ready with an evaluation of what the country needed to start working on (ECRBG). The European Commission prepared in July 1997 an opinion on Bulgaria's application, and assessed that the country was not sufficiently

prepared to start negotiations (ECRBG). Among the many policy fields that required attention were immigration, border control, the police, and judicial cooperation, along with corruption and the functioning of the judicial system (EC 1997).

In the same year, the United Democratic Forces (hereinafter, UDF) took power and declared a firm commitment “to follow the path of integration with the EU and realization of common European values” (then-president Petar Stoyanov, quoted in EC 1997, p. 8). 1998 saw the adoption of a couple of laws crucial to bringing Bulgaria closer to fulfilling the EU requirements in the Justice and Home Affairs (hereinafter, JHA) area of the *acquis*; namely, the Law on the Bulgarian Identification Documents and the Law on the Foreign Citizens in Bulgaria. Along with that, a National Strategy to Combat Crime was adopted, and that was recognized by the EU as a positive first step (EC 1998).

Again in the same year, the reform of the Ministry of Interior (hereinafter, MVR) was initiated. Under the PHARE twinning initiative launched by the EU, the Bulgarian MVR chose the German Federal Police Service as a partner and started cooperating on building institutional capacity and modernizing in general. The German experts were quick to pinpoint the areas of concern and suggest ways to improve the situation. As Snejina Marinova commented in an interview, their presence in person on the spot was crucial in identifying exactly what and why was not working, and to offer customized solutions. What is more, developing a personal rapport helped gradually build trust and understanding, thus improving the cohesion and cooperation between the German and the Bulgarian side. Later, this kind of on-the-spot cooperation became an integral part of the relations with institutions (and liaison officers, individually) of other countries in joint activities such as tracking down criminal networks operating in both countries, identifying THB victims etc.,

thus greatly enhancing the effectiveness of counter trafficking efforts on both sides.
(Marinova, interview)

Another reform that took place within the MVR that same year included the start of renewing bilateral agreements for police cooperation with other countries or with separate administrative entities such as the German Länder in order to get the best know how from each (Marinova, interview). Yet another reform was the start of restructuring of the Border Control service, including at the sea borders – which, at the time, was still militarized, and “while having the capacity to sink Titanic, could not catch a single transborder criminal” (Dimitrova, interview). The Border Police was formed as a separate unit within MVR, along with the National Service for Combating Organized Crime (in Bulgarian abbreviated to NSBOP).

In its 1999 regular report on the progress of Bulgaria towards EU membership, the European Commission notes that there have been improvements with regard to the modernization of technical means of communication and investigation, the continuing demilitarization of the border services, and that in the field of cooperation in criminal matters a new regulation on extradition is a welcome step. Still, significant efforts with regard to the functioning of justice are needed, although progress has also been considerable. (EC 1999b). In December the same year, the EU opened negotiations with Bulgaria (ECRBG).

As the UN Convention on organized crime and the Palermo Protocol were adopted in the following year, THB officially became an issue on the policy agenda of the EU and all countries signatories to the above international statutes, including Bulgaria. This brought a shift in the focus of EU policy formulation, and hence in the expectations from accession countries. Although the need to “further intensify international cooperation in the field of combating transborder crime and ...

continuing the fight against trafficking in women and children” was already mentioned in the midterm JHA objectives for Bulgaria in the 1999 Accession Partnership (EC 1999a), it was not until 2000 when these issues became regular fare in the EC evaluation reports for Bulgaria. As counter trafficking became a new theme in EU-Bulgaria relations, we shall look at it in a separate section. After first reviewing the legislation, we will consider the changes that three of the relevant government institutions have undergone:

- The most important: the National Commission for Combating THB
- The most reformed: MVR
- The most troubled: the Judiciary

Bulgarian counter trafficking measures

As the 2000 EC regular report observed, Bulgaria had made further progress in the JHA cooperation by adopting a new Ministry of Interior Act which gives a new definition of border control. Positive developments in police cooperation included the ratification of an agreement in the fight against organized crime signed by Bulgaria in Bucharest in May 1999, the creation of a new specialized unit for combating illegal trafficking in women for the purpose of sexual exploitation within the Border Police service, and the adopted amendments to the Penal Code which provide for a greater role of the Police in investigation (EC 2000). The report notes that the country had already achieved high degree of alignment with EU standards on criminal matters in judicial cooperation.

In the midst of these successes in bringing Bulgaria closer to EU membership (which the UDF government was proud to present to the Bulgarian public), the EU

Council of Ministers on JHA decided to exclude Bulgaria from the Schengen visa list – in December 2000 (ECRBG). This might have had a relieving effect on the regular Bulgarian citizens tired of queuing for European visas, but certainly did not make things easier for the government to deal with the new challenge – handling the increased mobility not only of those regular citizens, but also of organized criminal networks now finding even less obstacles to trafficking.

As the 2001 Accession Partnership emphasized with respect to assuming the obligations of membership, Bulgaria still needed to improve the internal cooperation within the police and other law enforcement agencies (with the judiciary in particular) in order to strengthen capacities to fight organized crime. Another priority was to update and implement an integrated strategy with the same aim, from prevention to prosecution, in collaboration between the Ministry of Justice, MVR and any other concerned agency (EC 2001a). Despite noting that the 1999 twinning program for institutional strengthening of the Border Police² had been a success in significantly strengthening the police's capacity to monitor and guard Bulgarian borders, the 2001 regular report reiterates that little progress had been made in combating organized crime.

THB and related legislation

It was in the same year, 2001, when the Bulgarian Parliament ratified the Palermo Protocol, and thus cleared the way for adoption of indigenous THB

² In the next 4 years, until 2003, another 3 twinning projects significantly improved the performance of the Border Police. Within PHARE twinning project BG 02/IB-JH-06 (BG 0203.11), a regulation for the implementation of the tasks of the Border Police in guarding the Bulgarian internal waterways as part of guarding the EU external borders was drafted, and a large amount of night vision equipment was supplied. Within the PHARE twinning project BG 0012.02 (Improving control over the Bulgarian Black Sea border), several vehicles were supplied, and training of Border Police staff carried out. Along the PHARE twinning 0106.02, computer and communications equipment, specialized border control equipment, laboratory equipment and vehicles were supplied. Source: NSGP.

legislation. It is important to note that the new government formed by the National Movement Simeon the Second (hereinafter, NMSS) had inherited from the UDF an electorate that was very enthusiastic about the EU (after the UDF had achieved great progress in bringing the country tangibly closer to EU membership), and thus had to appear to be doing its best to achieve the final goal, if it wanted to be popular. Within this context, being diligent about anything that the EU required earned points with the public. Thus, setting counter trafficking among the highest priorities for the country made perfect sense, considering it was among the highest priorities for the EU.

A working group was made up of practitioners from the law enforcement agencies (National Investigative Service, Border Police, judiciary etc.), NGOs, with the participation of IOM, and under the aegis of the US Department of Justice (hereinafter, US DOJ). The then Legal Advisor with the US embassy, Karen Kramer, supervised the gatherings and greatly contributed to improving the cohesion among those specialists, as well as with legal advice. As Tanev commented in an interview, interacting with a representative of the US government and the US legal system, brought useful insights that helped shape some of the legal formulations. Another valuable contribution in the process of drafting THB-related legislation (and in further combined counter trafficking efforts in general) was that of the NGOs and of IOM, as they brought their practical experience to the table and that enhanced the understanding of the other participants (Tanev). As a result, by fall 2001, THB-related legislation had been drafted according to best practices and in line with the Palermo Protocol and awaited adoption.

For the purpose of tracing how Bulgarian THB and related legislation reflects EU expectations (i.e., the degree of compliance), and also the presence of other international actors in the legislative process, we shall make use of a table.

Table 1: for abbreviations, please refer to the list of abbreviations

Time frame	EU expectations	Bulgarian legislation	International partners
2001	Increase capacity and implement strategy to fight organized crime		
2002	The above + amendments to the Penal and Penal Procedure Code to implement the EU Convention on Mutual Assistance in Criminal Matters	<ul style="list-style-type: none"> - Amendments to the Penal Code (ch.2, section9, § 159 a,b,c): criminalizing THB - Act on Combating Organized Crime 	US DOJ
2003	<ul style="list-style-type: none"> - Ensure assistance for victims of THB - adopt and implement a strategy on the fight against crime, especially transborder such as THB, and for the coordination and practical cooperation between law enforcement bodies - Improve measures to prevent re-trafficking - Simplify procedures of the pretrial phase 	Combating THB Act: <ul style="list-style-type: none"> - establishes a special National Commission - drafts a NPA for combating THB every year - establishes mechanisms for victims' protection and support - includes special provisions for children victims of THB - includes a chapter on prevention measures 	US DOJ, IOM, UNHCR
2004	<ul style="list-style-type: none"> - Witness protection for THB victims - Reform judicial system 	<ul style="list-style-type: none"> - Amendments to THB Act: articles on the protection of victims added - Amendments to the Judicial System Act 	US DOJ
		<ul style="list-style-type: none"> - Secondary THB Act legislation: - Internal regulations about how the National Commission will act under the law - Regulations for registering, opening and operating the shelters and the centers for victims' support 	IOM, US DOJ, UNHCR
2005	Improve effectiveness of pretrial procedures, accountability of the court system	<ul style="list-style-type: none"> - Witness Protection Act - New Penal Procedure Code simplifying the investigation structure and procedures 	
2006		<ul style="list-style-type: none"> - Provisions in the Judicial System Act improving pretrial proceedings 	

Sources: EC 2001a, EC 2002, EC 2003a, EC 2003b, EC 2004, EC 2005, EC 2006, UNDP 2005

Overall, while not prescribing the adoption of a separate THB Act, the EU has been emphasizing the need for comprehensive legislative action – from reforming the Judicial System, to strengthening the investigative capacity of the police, to

amendments in the Penal and Penal Procedure Code, to adopting a national strategy to counter (organized) crime. It has also reiterated the need for legal provisions to fight corruption – the thing that prevents THB cases from being solved in the victim's and society's interest, as judges, police officers, border guards etc. law enforcement officials themselves have been found (or at least suspected) to have been involved or related in the organized crime networks carrying out the trafficking (Daneva 2006, US DOS 2006). And while the Bulgarian government did adopt a National Strategy for Combating Corruption as early as Oct 2001 (EC 2001b), corruption among state officials and the resulting uninhibited march of organized crime is still an issue of concern even now after EU membership has been achieved (EC 2007), and continues to undermine the efforts to counter THB.

One example is the very recent Vanko 1 amendment in the Penal Code, adopted just 3 months before the country's accession to the EU. The case was of a Bulgarian rap artist and alleged pimp who was successfully tried and sentenced to 4 ½ years in prison and 4500 BGN (2750 EUR) for trafficking Bulgarian girls into Western European countries, but then set free after the mysterious amendment reducing sentences for prostitution offenses – in contrast to the general EU trend, where legislators are doing the opposite. This irrational legislative move raised doubts of incompetence and corruption among the highest political levels (Brunwasser 2006, Novinite 2007). Despite the reversal that followed (seeking to amend the Penal Code back), fears persist that Bulgarian politicians will be less disciplined in reforming the country's troubled judicial system, now that EU membership is secured and the pressure is off (Brunwasser 2006).

At least, Bulgaria can be proud that it has one of the best laws on trafficking in Europe, if not in the world. It actually surpasses the Palermo Protocol in that it

considers trafficking to be a criminal offense, even if there was no coercion of the victim in the first place. This provision is designed with a view to tracking down organized crime networks that – while not forcing their ‘victims’ – are still likely to develop other illegal activities around this non-coercive THB (Dikov, interview). The only problem with the THB Act for a long time was that the requirements it had set for the position of executive secretary of the National Commission for Combating THB (hereinafter, the Commission) were too high, and – as no one could fill the place – the Commission was not operational for 4 years, during which time it could obviously not fulfill its functions (Vassileva, interview). We will discuss the Commission in more detail in the next section.

National Commission for Combating THB

The Commission is set at the highest level of government – as part of the Council of Ministers, on par with ministries – which underlines the importance that the government has placed on combating THB. It is supposed to organize and coordinate cooperation among the relevant agencies and organizations for implementation of the THB Act. Those are: Ministry of Foreign Affairs (MFA), MVR, Ministry of Labor and Social Policy (MLSP), the Ministry of Justice, the Ministry of Health, the Ministry of Education, the State Agency for Child Protection (SACP), and the Central Enforcement Commission for Anti-Social Behavior of Juveniles and Minors. The Commission’s other functions include:

- Determining and administering the implementation of the national policy and strategy in the area of combating THB

- Developing an annual program for prevention and protection of victims, which shall be presented to the Council of Ministers for approval
- Promoting the research, analysis and statistical reporting of THB data
- Contributing to the international cooperation for preventing and countering THB
- Carrying out information, awareness and educational campaigns aimed at potential victims
- Developing training programs for officials working in the area of prevention and countering THB
- Managing and supervising the activities of the Local Commissions and the centers for protection and support of victims
- Register individuals and non-profit legal entities who provide shelter to victims of THB

As Dikov (interview) commented, this high level could be seen as an obstacle to the Commission's operational capacity – i.e., it is too far away from the practical level. Yet, its positioning as a separate body coordinating all other government agencies involved is undeniably a strategic choice – not only to show commitment and earn points, but a part of a long-term problem solving design.

As mentioned earlier, the Commission was non-operational for a while due to the lack of a competent executive secretary, so even though it officially opened with the coming into force of the THB Act, the first National Program for combating THB was accepted in 2005. This, and the one accepted in 2006, did not see implementation, again due to staffing reasons (Vassileva, interview). However, the Commission's current agenda is rather ambitious: the 2007 National Program sets to achieve or at least put in motion all the initiatives whose implementation has been postponed for

years. Among the current priorities is the development of local commissions with the help of municipalities, continuing raising awareness as a means of prevention, training and qualification of staff, improving support for victims, and widening the international cooperation and exchange of best practices (NCCTHB 2007). Along the lines of this last policy track, the Commission takes active part in the meetings organized by the International Center for Migration Policy Development (hereinafter, ICMPD), whose two newest projects are the development of a Data Collection and Information Management system and the development of Transnational Referral Mechanisms in Southeast Europe (TRM) (Vassileva, interview). The role of ICMPD in socializing Bulgarian institutions, particularly the law enforcement agencies, will be discussed in the next two sections. Before that, however, we will briefly look at another Bulgarian government agency most involved in combating THB: the Ministry of Interior (MVR).

Ministry of Interior

As outlined in the background section of this chapter, MVR has undergone significant changes in order to come closer to meeting EU requirements. Restructuring was paired with capacity building through PHARE twinning projects, among which the partnership with Germany has been particularly fruitful, as Bulgarian officers have benefited greatly from the German know-how, and the organization as a whole has adopted the German model of police organizational structure (Marinova, interview). The international cooperation with EU and EU MSs and their liaison officers has proved to be a source of valuable learning and drawing lessons (Tanev, interview). In fact, this learning continues even now that the country is already an EU member: in April 2007, a French advisor began work at the Ministry of the Interior on

strengthening the capacity of the General Police Directorate and improving the activities in the area of combating organised crime (EC 2007).

Having already experienced the benefits of twinning, the Bulgarian MVR has actively taken part in joint initiatives organized by the ICMPD, and has in fact outdone its counterparts in other SEE countries (which are the main target group for the Center) by participating in projects other than the ones designed specifically for SEE (ICMPD website). Probably the biggest contribution to enhancing MVR's capacity in combating organized crime, and THB in particular, has had the ICMPD³ with its training modules and the frameworks for cooperation within the Comprehensive Programme for Training and Capacity Building to Address Trafficking in Human Beings in South-Eastern Europe launched in 2002, and the Program for the Enhancement of Anti-trafficking responses in SEE in 2004-2005 (those can be viewed at the ICMPD website). It could be argued that the greatest lesson for MVR, and the Border Police in particular, has been to continue learning and drawing lessons (Tanev, interview). Also, having seen the improvements in performance that the reforms have brought about, including the physical capacity building made possible through joint funding along twinning initiatives, the stimulus to attract funding remains high. Improving performance, in turn, is seen (at least among some MVR officials) as an obligation to the EU that Bulgaria has to honour – a responsibility of Bulgaria as one of the club. (Tanev, interview). This is quite different for the judiciary, which we will briefly discuss in the next section.

³ ICMPD came into being with the creation of the Secretariat to the Budapest Process – an initiative launched by EU MSs in the early 1990s to get CEECs governments to cooperate in migration and border control management. Even though the Center does not directly represent the EU, it has helped CEECs get their institutions in line with EU expectations through constant dialogue, training, and facilitating the exchange of best practices

The Judiciary

Despite the fact that Bulgarian judges and prosecutors have also benefited from the THB training programs at ICMPD (starting as early as 2002, i.e. shortly after the Palermo Protocol), the judiciary in Bulgaria appear to be having problems satisfying EU's – or anybody else's – expectations. Delays in the reform of the Judicial System, starting with the troubled Judicial System Act, along with suspicions and proven cases of corruption of magistrates (US DOS 2005, 2006b) seem to put the judiciary in the unenviable position to be blamed for the country's less-than-stellar performance in counter trafficking. And while representatives of the forerunners among the THB-related institutions – the National Commission and the Border Police – might be determined to drive the country from Tier 2 to Tier 1 for the 2008 US DOS evaluation, their ambitions might be hindered, if allegations of corruption and involvement with organized crime among judges in particular continue.

At least some progress is hopefully going to be achieved with the post-accession twinning project according to which a former Dutch Prosecutor-General is working as an advisor in the office of the Bulgarian Prosecutor General (EC 2007).

Having reviewed the measures taken in Bulgaria to counter THB, we will now move on to relating the empirical part with the theoretical framework on Europeanization, and see how our hypotheses test.

Testing hypotheses

As we made certain predictions in our first chapter, we will now look at how well these are proved as related to Bulgarian counter trafficking policies. We will divide this chapter into sections respective of each of the hypotheses. Thus the first section will be on the relationship between rational incentives and socialization, the second on the time sequence of the impact of rational and sociological instruments respectively, and the third on the influence of domestic veto points.

Rational incentives and socialization

That rational incentives in adopting counter trafficking policies (or anything else the EU would choose to require) were very strong is beyond doubt. The enthusiasm to enter the EU was so permeating from the mid 1990s onwards that the government could not afford to appear half-hearted in carrying out reforms. Whether the EU agenda was needed to back up domestic interests, or was necessary to give a direction in a country that was very far behind among the CEECs, as Grabbe (2006) explains, the fact remains: the EU conditionality was a useful tool. As Vassileva put it, “we [Bulgarians] need to be pushed”. Pushed into what is the question.

As it happened, the moment Bulgaria entered the Accession Partnership, and even before that, the EU had already presented the country with the possibility – no, the choice – to interact and learn from more experienced counterparts, so that it could catch up. And catching up faster meant being able to join the club faster. As all the interviewees confirmed, there never existed any hesitation with regard to making the best of interacting with MSs’ institutions, if that was going to bring the country closer

to EU membership. Whether everyone was convinced from the beginning of the practical benefits of this interaction is a different matter. Still, the moment Bulgaria had the chance to enter a twinning program, it did – from the first year they were available, 1998 (the 1998 MVR example among many others). At about roughly the same time, the ICMPD was already organizing regular ministerial meetings, and the UDF government – determined “to follow the path of integration with the EU and realization of common European values” – made the best effort to take the most out of those meetings (as confirmed by the then-MVR International Cooperation Directorate Head, and currently ICMPD-Bulgaria representative Dimitrova). Consequently, as the Center started developing programs aimed at combating THB in particular, Bulgarian institutions (again, MVR) took part in all the mandatory (SEE-tailored) ones, but also in some that were designed for sharing know how among Western European countries.

As discussed in our previous chapter, a high level of socialization exists in the MVR – in terms of practices and institutional setup. As it appears, there is also a high level of internalization of those European values president Stoyanov was talking about in 1997. It could be argued that this institution is the most socialized. Yet, we should not forget that it has been under significant amount of scrutiny and criticisms with regard to its position in meeting the JHA standards of the *acquis*. That is, the pressure to reform – in order to satisfy the requirements, so that the country as a whole can reach the goal of membership – has also been very high. Thus, we can conclude that the MVR case proves our first hypothesis; namely, that the rational instrument of EU conditionality has lead to institutions entering arrangements leading to socialization.

Rational and sociological instruments: which had a faster effect?

Although twinning projects for institutional capacity enhancement were launched at roughly the same time Bulgaria was granted a candidate status (hence, the objective of attaining EU membership was undeniably there and served as a rational instrument), looking at the dynamics of interactions between institutions, it is difficult to determine at what point internalization of values took place in any of the cases.

What most of the interviewees pointed out was the need to build trust with the representatives of the counterpart institutions – something that by definition takes time – something that by definition takes time. Not to mention that the degree of exposure to interaction seems to have been very different in the different government agencies. Hence, it would make sense that, while some institutions might have been socialized faster and sociological instruments started working at roughly the same time, overall socialization and social learning took some time – while the rational objective was always there from the start. In that sense, we can conclude that most probably, the initial rule adoption was triggered by rational rather than sociological instruments.

Yet, as some of the interviewees pointed out, being socialized often puts you in the position to compare yourself with your peers and with the ‘overachievers’ – and that momentarily reminds you of how far you are from the standard. And since reaching the standard is connected in your mind to reaching your goal, socialization actually helps you remember what you are after – what is your rational incentive. This seems to have been the case for MVR, and for the National Commission at least. Thus, although with some reservations regarding the cases of other institutions we have not discussed, we can conclude that socialization has reinforced the effect of the rational

instruments. As for the opposite (rational complementing and reinforcing sociological), the conclusion of our first hypothesis gives us a confirmation to this too.

Veto points

Veto points are by definition factors that can hinder or promote change – in our case, the Europeanization of Bulgarian counter trafficking policies. Perhaps the most easily identifiable veto points are the ones that everyone else points out as causing things to work out extremely well or to obstruct progress significantly. In the Bulgarian context, what has consistently been criticized with regard to the implementation of THB policies as a whole is the weak judiciary (the insufficient administrative capacity) and corruption. In the specific case of the National Commission, the lack of a competent executive secretary was the reason for the Commission to be non-operational, thus blocking the whole policy-making process. Reversely, as far as legislation adoption went, political opposition (or the lack thereof) could serve as a major block (or enhancer).

Thus, we can conclude that – in the case of Bulgarian counter trafficking policies – the lack of administrative capacity and corruption, as well as the personal factor in the Commission, served as veto points hindering change. On the other hand, the political consensus in adopting legislation served as the opposite of a veto point.

Conclusion

Within its tight schedule to adopt legislation and implement policy changes on all levels of administration, Bulgaria has faced quite a bit of challenges with regard to adapting its counter trafficking response to EU standards. While the process might have been painful, it has certainly contributed a great deal to improving Bulgaria's standing within the EU and the wider international community. Prompted by rational incentives and helped by socialization – whether by the EU or other international actors – the country has reached a significant level of compliance.

With regard to the expectations this paper had about the mechanisms and factors at play, we can conclude that rational incentives have indeed contributed indirectly to socialization. While the latter has taken time to have an effect, rational and sociological instruments have come to complement and reinforce each other. As for domestic factors (veto points) mediating policy change, we can conclude that political consensus acted as an enhancing factor in adopting legislation, while the presence of certain irregularities – such as corruption, or the lack of administrative capacity - has had a hindering effect.

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