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Abstract

Why do some transitional democracies manage to punish corrupt politicians, while others falter? To offer an explanation, this study compares the post-EU accession anti-corruption paths of two "most similar" cases - Romania and Bulgaria, which underwent similar paths towards Europeanization and were pressured to create anti-graft systems by Brussels, but only one – Romania – temporarily succeeded. Through the use of process-tracing and elite interviews, this thesis revisits existing academic hypotheses of why Romania pulled ahead and reevaluates them with the benefit of hindsight and expert knowledge. The dominant perspective – that EU pressure allowed for the creation of a stronger institution setup and civic engagement with anti-corruption in Romania – is challenged with a new one that explains the deviation with the greater cohesiveness of Bulgarian elites who resist reform that might place them under scrutiny as compared to Romanian elites' disunity at the crucial EU accession phase that left space for the establishment of a stronger anti-corruption system – for a time.

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Chapter I: Introduction

When Bulgaria and Romania joined the European Union (EU) on 1 January 2007, the two post-Communist states knew they were getting a pass not *because* of their successful transition to fully democratic market economies, but *despite* their continuing problems, especially in the fields of justice reform, anti-corruption and organized crime. Notably, the areas that were placed under post-accession monitoring through a specially designed instrument – the Cooperation and Verification Mechanism (CVM) – were those of anti-corruption and judicial reform (Dimitrov and Plachkova, 2020; Buzogany, 2021).

In the coming years, the two countries took distinctively different paths towards combating high-level graft, which, as a result, produced very different results. On the one hand, Romania launched a process of "proactive assimilation" of anti-corruption norms (Bratu, Sotiropoulos and Stoyanova, 2017, 140), empowering its National Anticorruption Directorate (DNA), which for a time turned into one the most effective and popular anti-corruption bodies in Europe (Chrun, 2023). The agency launched an all-out war against graft in what was perceived to be the most corrupt European country, resulting in an impressive track record of several Prime Ministers, dozens of cabinet ministers and many other senior officials being receiving effective sentences (Mendelski, 2021, 28). While the work of the DNA often caused controversy and was blamed for overriding basic legal procedures (Mendelski, 2017), for a time the agency and its best-know head, Laura Kovesi, built an image as a successful anti-corruption body.

On the other hand, the anti-corruption efforts in Bulgaria were distinctively less successful. The country did not manage to establish a working mechanism to combat the phenomenon. Throughout the past two decades, the national authorities launched various strategies that were never implemented and established a series of anti-graft bodies, transforming and merging them - to no avail (Bratu, Sotiropoulos and Stoyanova, 2017, 141). Many of these never begun operating, some were shut down over their failure to produce results, others – because of

allegations of abuse. The result so far is zero high-ranking politicians having been sent to jail, plus growing public distrust in the work of the judiciary as a whole (ACF, 2023).

The purpose of this work is to explore the alternative paths taken by the two countries and deduce why they diverged so strikingly. First, it looks at the leading mainstream academic theories of the study of graft, which generally see corruption as a management failure (Klitgaard, 1988; Rose-Ackerman, 1999) and argues that they hardly account for the widespread ubiquity of corruption in the post-totalitarian Central and East European (CEE) region. Then, the thesis borrows from the democratization and transitology literatures in order to explain the nature of the problems with graft the two countries faced during and after their EU accession process and establishes four key factors that existing research has outlined as instrumental in earlier comparisons of the two countries. These are the influence of the EU, especially via the CVM mechanism; the role of civil society in promoting and maintaining anti-corruption reform; the role of institution-building and the role of political elites in designing anti-corruption policy.

Secondly, the thesis justifies the selection of Bulgaria and Romania as appropriate cases for comparison. It is argued that their very similar backgrounds and starting points during the EU pre-accession process (2000-2007), including them being put under a common reform monitoring mechanism by the EU, combined with vastly different results at the end of the observed period (2022) make them a rare case of most similar systems design that allows for thorough comparison of several key factors that have arguably influenced their paths.

Thirdly, it establishes a methodology for the study. The chosen approach is interpretative comparison of two most similar cases that primarily seeks to elucidate the anti-corruption paths taken by both countries by relying on primary and secondary sources, including policy documents and elite interviews with stakeholders from the policymaking, think-tank, watchdog and civil circles in the two countries. By relying on first-hand accounts of anti-corruption

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policymaking in the two countries, the thesis both reevaluates existing academic interpretations of these processes and offers alternative explanations for the developments at hand that have largely been sidelined by academia so far.

Then, through the review of existing literature and policy documents, combined with expert interviews of key former policymakers, anti-corruption experts and civil society actors from both countries, the thesis evaluates existing understanding of the role of each of these factors and argues that, while all four factors played a role in the anti-corruption paths taken by the two countries, the role of elites in forming coalitions – to allow reform (for a time) in the Romanian case and to undermine it in the Bulgarian case – has been the leading cause of the divergence in their paths. This is an alternative reading to the dominant view that argues that the creation of institutions, which was incentivized by the CVM mechanism and protected by an empowered civil society, has been the leading cause of Romania's success (Lacatus and Sedelmeier, 2016, 2020).

Chapter II: Theory and main concepts

The study of corruption is as old as the study of the human condition itself. Despite (or maybe precisely because) of the vastness of the academic enquiry that exists on corruption that transcends one single academic discipline, scholars and practitioners alike have found it impossible to come to an agreement about a uniform definition of the phenomenon (Dobson, David-Barrett and Barrington, 2021, 4).

❖ Corruption as a deviation

All mainstream modern studies of corruption, however, have one thing in common – they see the phenomenon as some form of deviant behavior, a type of poisoning of the otherwise healthy body politic by an immoral few. This view is shared by some of the early modern students of graft, such as Samuel Huntington (1965, 59) and Joseph Nye (1968, 419) who viewed the phenomenon primarily as abuse of public office and deviation to the norms by self-interested actors. This informed the understandings of generations of social scientists and practitioners to come (Rose-Ackerman, 2018; Jancsics, 2019; Zaloznaya, 2014). The most popular rendition of these rational choice views is manifested in Robert Klitgaard's corruption formula: "corruption equals monopoly power plus discretion minus accountability" (1988). This view echoes to this day not only in academic, but also in practitioners' description of corruption, who see it as primarily as a private rent-seeking behavior by representatives of the public service (Andvig and Fjelstad, 2000,11; Heidenheimer et al, 1989, 6).

This predominantly legalistic view of corruption emphasizes the role of the individual in promulgating corrupt practices, the principle-agent relationship between the office-holder and the citizen that creates the potential for corruption due to information asymmetry. Hence, what anti-corruption students and practitioners have offered as a general answer to a state's corruption woes has been to realign the rules of the political game in a way that would

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incentivize the "right" behavior while punishing deviance (Rose-Ackerman, 1999, 370-373;

Klitgaard, 1988).

This model of understanding corruption and the fight against it came to be contested by the

emergence of case studies that showed mixed results and, often – failure – of principal-agent-

style reforms (Persson, Rothstein, and Teorell, 2013; Marquette and Peiffer, 2015). The

alternative explanation that emerged is that, in cases where corruption is deeply embedded and

ubiquitous (such as developing countries or unconsolidated democracies), the phenomenon

might be better viewed as a Collective action problem (Persson, Rothstein, and Teorell, 2013;

Mungiu-Pippidi, 2016; Bauhr and Nasiritousi, 2011). The Collective action approach sees all

systemic actors (both the "agents" in the form of politicians and the bureaucrats and the

"principals" in the shape of the general population) as utility-maximizers who would act the way

the majority acts. Because they wouldn't want to lose out from the benefits of acceptable

corrupt behavior, they would be willing to engage in corruption if it is the norm. But if the rules

change and everyone fears equally the potential punishment, they would not risk it.

❖ Corruption as the norm

Both of these theoretical approaches suffer from similar issues – they put the emphasis on the

actions of the individual, perceive them as an "economic actor", i.e. self-interested, utility

maximizer etc., and – ultimately – focus on incentive-based models of intervention; they assume

a clear distinction between private and public spheres, which ignores complexities brought by

history and particular paths of social development (Ledeneva, 2013, 299); they ignore the fact

that corruption is not necessarily material, but can be opportunistic – like politicians engaging in

improper behavior to gain an unfair advantage over their competitors (Holmes, 2013,1165); and

by problematizing corruption as something that is abnormal and a deviation – and not as a

system itself (Marquette and Peiffer, 2015, 14). This changed with the introduction of a new,

Third Way of studying corruption – as an institutionalized phenomenon (Vannucci, 2015;

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Hellmann 2017). This understanding formed the basis of the so-called Neo-institutional paradigm.

Scholars following this line of thinking argue that engaging in corrupt behavior "depends on whether interaction between individuals has led to an institutionalization of corruption, with corrupt transactions regulated by informal rules and practices" (Hellmann, 2017, 3). They argue that high levels of corruption are primarily explained by informal factors, and as a result, are skeptical of any positive influences that formal institutions may have (Hein, 2015). Instead, some academics focus on the influence of local political elites, cultural patterns and family loyalty that form particularistic patrimonial networks (Grodeland, 2007) or look at historical developments that might have influenced patterns of governance (Miller et al. 2001, 17).

The main strength of this third way is that it takes corrupt behavior as it is, allowing a more rigorous study of the qualitative aspects of corruption, as observed in different settings, instead of framing it as a problem to be solved. This makes it a perfect approach to analyze case studies – and, as the next section would show – it resonates well with the study of the phenomenon in Central and Eastern Europe (CEE) during the period of transition towards democracy and economic and social liberalization in the post-1989 era.

❖ Corruption in transition to democracy

Following the neo-institutionalist approach to studying corruption, we now try to understand the nature of corruption in the two countries of interest (Bulgaria and Romania) as rooted in their particular post-communist transition, as the two processes appear to be deeply interwoven. The view that dominated democratization literature at the time of the fall of the USSR and its proxy regimes was that democracy is a straightforward concept that was to be understood in minimalist procedural terms (i.e. carrying out free and fair elections that are recognized by all parties etc.) that envelop following a specific path, as was the case of the recent regime changes in Latin America and Southern Europe (Grugel, 2002, 10 92; Kopecky and Mudde,

2000, 524). It was largely accepted that, once the ruling elites (in the case of CEE – the remnants and wings of the outgoing Communist parties that ruled the countries under Moscow's dictate) come to terms on the institutional setup after the first elections, the path to democratic consolidation would be open (Dimitrova, 2018; Innes, 2013).

Similarly, institutionalist scholars of corruption expected that the consolidation of democracy and democratic institutions in the region, instances of graft would decrease (Kolstad and Wiig, 2016, 1211). In the end, who would like to be governed by corrupt politicians? They would just be voted out. While most studies found that corruption gets worse at the start of a democratic transition, they claimed that the situation gets better with time and politico-economic developments (Rock, 2009, 17; McMann et al, 2017, 2020). However, all of these expectations fell flat in the case of the CEE region, where democracies turned out to be less stable than initially thought and corruption appeared to increase, despite of the apparent deepening of the democratic consolidation and increase of wealth. Even more worryingly, the situation with either democracy, corruption, or sometimes - both seemed to worsen for many of the countries even after they joined the EU, a process that was supposed to be the hallmark of their successful transition. Why did this happen?

According to transitologists from the region, the main reason was that both academics and policymakers misunderstood the nature of democratic transition in these countries, as well as the specific type of corruption it bred. Contrary to the dominant narratives of the time, the post-communist regimes' transition away from totalitarianism was not only transition towards democracy, but also from a closed off, mistrustful society towards an open one and from central planning to free market economics (Kopecky and Mudde, 2000, 517). This triple crisis was exacerbated by the fact that the communist-era politico-economic elites with overlapping governance and business roles transformed into the new management and politics leadership during a time of unhinged privatization, which opened abundant opportunities for bureaucratic

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discretion and potential extortion (Zagainova, 2007, 140). The end result was a complicated web of overlapping oligarchic clientelist networks that split along ideological or party lines only at the most superficial level (Sajo, 2002, 6; Sandholtz and Taagepera, 2005, 114; Innes, 2013). In short, underneath the guise of formal institutions and governance mechanisms, a completely alternative reality that controlled power and decision-making through its own logic appeared. A core element of this subversive regime is what Bauhr and Charron call "collusion among the highest levels of government" and it involves behind-the-scenes distribution of public goods, including state contracts and other valuable resources among interconnected representatives of the dominating parties and business interests (2017, 432).

According to Sajo, within a clientelistic society corruption is turned into a routine and regularized transaction - a functional side effect of the given social organization. Clientelism allows the transfer of money or other advantages to government officials or party coffers without any specific quid pro quo. What is more, anti-corruption measures often only serve propaganda purposes to "keep up appearances" in order to gain Western acceptance or as a tool of inter-elite in-fighting, unless "efficient and influential social forces emerge that have a real and lasting interest in government transparency and terminating sleaze exposed through it." (2002, 14-15).

Another way that transitologists misunderstood democratization in the CEE region was that they looked at it as a one-way street. Unfortunately, as it turned out, the dominant clientelistic networks not only worsened the corruption situation, but in fact grew to challenge the foundations of democracy itself. As Dimitrova writes, "state capture subverts the very fabric of young democracies, undermining both input legitimacy (political representation) and output legitimacy (effective public policies/universal provision of public goods)" (2018, 257). Democratic institutions, including elections, parliaments and sometimes even constitutional courts became "Potemkin villages," facades that hide the real nature of power behind the scenes (Agh, 2016, 280). To make matters worse, foreign institutions such as the EU, OECD and the World Bank

were left in the absurd situation to rely on the elites with embedded interests to carry out the anti-corruption reforms that were supposed to dismantle the very systems they created and perpetuated (Mungiu, 2006, 87).

In short, by the early 2000s it became clear that the road to democratic consolidation is not straight, nor unidirectional, but had many lanes, some of which could even swerve back in the direction of authoritarianism (Carothers, 2002). The case of Hungary's illiberal turn under Victor Orban, who turned the country in what Balint Magyar called a "criminal state" or "mafia state" - a system of corruption that combined top–down command and control by a single party (Fidesz) holding unconstrained political power, which it exerted through informal means and patron–client relations (Magyar and Madlovics, 2019, 107) – attracted the most public attention because of its outright ideological opposition to the EU and its values.

This thesis argues that the same process of "careening" between democratic and autocratic tendencies, as described by Cianetti and Hanely (2021, 73), had applied in the development and reversal of anti-corruption norms. This opens the question of why some democratizing countries managed to establish a working anti-corruption regime where others fail, and under what conditions can they maintain these institutions? This is where we turn to our selection of very similar cases, which provide a great foundation for comparison of several key variables that have been at play during the process of democratization and EU integration.

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Chapter III: Case study justification: Why Bulgaria and Romania?

The focus of this thesis on high-level corruption and compliance with EU norms post-accession makes Bulgaria and Romania uniquely placed research cases for a number of reasons. First of all, the two countries have been consistently "packaged" together in the last two decades by the EU and researchers alike (Buzogany, 2021; Dimitrova, 2018 and 2015; Katsikas, 2014; Levitz and Pop-Eleches, 2010). Dimitrov and Plachikova go as far as to call them "socio-political twins" which form "a separate, distinctively different common sub-cluster" within the EU (2020, 2).

They were both not allowed to join in the first wave of Eastern European enlargement in 2004 because they were not deemed ready; they both joined together in 2007 despite not having fulfilled all pre-accession criteria of the EU, including in the relevant areas of judicial reform and fight against corruption; they were both subjected to post-accession monitoring via the CVM mechanism, under which they both received annual evaluation progress reports until 2019 (from then until 2023 only Romania remained under official monitoring, while Bulgaria became subject to the universal Rule of Law report of the European Commission).

Secondly, in order to comply with the CVM recommendations, both countries established or strengthened already existing anti-corruption organizations, including the abovementioned DNA in Romania and the Commission for Illegal Assets Forfeiture (CIAF), the Specialized Prosecution and Specialized Court in Bulgaria. This gives a unique opportunity for comparing and contrasting the track records of these institutions, which were established within a similar period, had similar missions and were the object of external evaluation by the EU (via the CVM mechanism).

Thirdly, while the problem of corruption is neither confined to the newcomers in the EU, nor are the Bulgarian and Romanian publics the only ones that recognize it as a substantive issue within their states, the topic gained significant popularity in both countries in the post-accession period and has been, at times, the central topic of political discourse. Furthermore, the two

countries experienced similar explosion of civic activism, some of which was directly targeted at high-level state corruption, within the same period. This included mass demonstrations against perceived high-level corruption in Bulgaria (2013, 2020) and Romania (2015, 2016-2018), the establishment of recognizable pressure groups and civic movements focused on anti-corruption and the general mainstreaming of the topic of anti-corruption across the board in both countries.

At the same time, despite these shared circumstances, the two countries have a vastly differing track record of effectiveness when it comes to high-level corruption. According to Mendelski (2021), in the period between 2002 and 2016 alone the Romanian DNA the number of defendants sent to trial at the ministerial level increased from 388 to 1652 per year; the number of final convictions jumped from 22 to 879, while convictions for crimes such as bribe giving/receiving and influence peddling increased, too. Between 2005 and 2016, a total of 8347 people were sent to trial and 5726 final sentences were passed, including at least two former Prime Minister, 21 members of parliament, five ministers, 400 mayors, 160 magistrates and many more bureaucrats, generals, businessmen, administrators, lawyers, doctors and professors (Mendelski, 2021, 254). While these high-level corruption investigations were sometimes marred in controversy and dubbed as political "witch hunt" by the suffering party and as an excess by academics, they demonstrated a willingness on behalf of the state to create and empower an independent anti-corruption organization that gained significant popular support.

This cannot be said for Bulgaria, which also installed a number of anti-corruption agencies and specialized judicial bodies to fight graft. The 2022 report of the Anti-Corruption Fund (ACF) watchdog about high-level corruption sentences in Bulgaria estimates that, since 2018 there has been a single conviction for corruption-related crime that concluded with an effective prison sentence. However, it was against a person in a relatively low public office - a district mayor of a Sofia district. "This conviction was inappropriately overexposed by the leadership of the

prosecutor's office, as if the convicted person was the personification of political corruption in the country, which is far from reality," ACF's Andrey Yankulov wrote in the report (ACF, 2023). For the same period, there were only 19 cases that can be considered high-level corruption cases that reached court and 15 of these ended in acquittal, versus 4 final effective sentences.

While Bulgaria has a smaller population and the observed period is shorter, the overall trend is indisputable – compared to Romania, Bulgaria has failed in establishing effective independent anti-corruption institutions that have achieved meaningful results. While corruption literature acknowledges that criminal prosecution is just one of the three pillars of anti-corruption in some of the most successful cases - enforcement, prevention and community education (Klitgaard, 1988), as public integrity scholar Christopher Stone argues, no long-term success could take place if nobody in charge is seen taking the responsibility for previous corrupt misdemeanors (Dimitrov, 2024). This is why this thesis sticks to the criminal prosecution of high-level corruption as a benchmark.

Despite of these divergent tracks on their anti-corruption paths, academic and even media enquiries on why this discrepancy had been taking place are few and far in between, or rather outdated, like Dimitrov, Haralampiev and Stoychev's 2016 quantitative comparison of the CVM scorecards of both countries in the 2007-2012 period, which found negligible differences in the evaluations of the two countries by the EU Commission, or Tanasoiu and Racovita's work (2012), which explained the move towards anti-corruption reform with national political elites' compliance with pre-accession demands of the EU. This study, however, only covered the first part of the most active Romanian anti-corruption drive. Bulgarian journalist and Bucharest correspondent of the Bulgarian Telegraphic Agency Vladimir Mitev has also recently made a rare attempt to compare the two countries' anti-corruption paths, pointing at two distinct Romanian features - their greater civic engagement and readiness to take a stand against corrupt acts, as well as the role of the Secret Services of the country in meddling (in both

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positive and negative terms) with the institutionalized fight against corruption that distinguish it from its Southern neighbor (Mitev, 2024). Lastly, the leading (and, in fact – only) academic comparison of the two countries' anti-corruption policies comes from two studies by Lacatus and Sedelmeier from 2016 and 2020, respectively. In both their articles, they argue that it is Romania's more successful institution-building efforts, which allowed the creation of a strong and relatively independent DNA that distinguished the anti-corruption fight from Bulgaria's. According to them, this was only possible because of the EU pressure through the CVM mechanisms, which empowered the country's civil society and served mostly to "constrain attempts to curtail the fight against corruption" (Lacatus and Sedelmeier, 2016, 2020).

Chapter IV: What explains the deviation? Four factors

Tempting as it sounds, Lacatus and Sedelmeier's explanation fails to explain the other part of the story – why did Bulgaria, which was at a similar spot both at the start and during the process of EU integration, had similar monitoring placed by the European Commission and a civil society that was at least as supportive of anti-corruption reform, ultimately fail in producing similar results? To answer this, the thesis reevaluates the role of institution-building and contrast it to three other variables, outlined by students of democratic transition and anti-corruption in the CEE region. These are the role of EU pressure, the role of civil society pressure and the role of elites. Each of these factors, or a specific combination of some or all of them, has been advocated by different scholars.

The hypothesis that institution-building has been the essential element of Romanian relative anti-corruption success has been supported, Lacatus and Sedelmeier notwithstanding, by Churn (2023), who argues that, while they benefited from a European boost, the Romanian anti-graft bodies proved (for a time) to be capable of maintaining independence from politics and effectiveness in pursuing their goal.

The hypothesis that civil society is at the heart of the anti-corruption success of Romania comes from Spendzharova and Vachudova (2012), who took a Tillyan, bottom-up perspective on democratization as a product of social pressures from below (Tilly, 1995, 197), arguing that the main substantive and lasting impact of the CVM has been to empower the local public to resist attempts to dismantle the anti-corruption systems put in place. This view is shared by Mungiu-Pippidi, who writes that while institutional developments per se are important, the key long-term change comes from "bringing societies to the point where they are capable of controlling corruption and achieving good governance" (2016, 95).

There are several key proponents of the view that the main driving factor of anti-corruption reform in the two countries was the EU. These are Holmes (2010, 40), who claims that the main

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reason that an anti-corruption debate even started in the two countries was EU conditionality.

Mendelski shares a similar view, albeit also giving some credit to the role of "several Romanian civil society actors and the mass media" (Mendelski, 2011). However, the emphasis on the role of the EU (which is also the most studied factor), has its fair share of opponents, too, all of whom argue that the effects of the reforms kicked off by the process of Europeanization and the imposition of conditionality mechanisms have bot had lasting impacts after countries joined the EU (Elbasani and Sabic 2018). A study by Popova and Post found evidence there was no significant effect between CVM demands and the number of corruption indictments in the two countries (Popova and Post, 2018), while Batory (2012) argued that EU-inspired anti-graft policies in CEE countries were "perfunctory and short-lived." The main reason for that, Tanasoiu argued, has been the reluctance of the EU to follow up threats with actions when countries failed to comply (2012, 190). According to her, the pace and record of Europeanization has largely depended upon developments in domestic politics (2012, 179).

This brings us to the last factor – the role of domestic political elites. The role of elites as drivers of change has been summarized well by classical elite theorists like Mosca (1939), Pareto (1966) and Michels (1968), who have recognized the existence in every society of a narrow ruling minority that monopolizes power and fulfils most of the political functions. One of the most popular approaches to understanding both the transition of the autocratic communist CEE regimes towards democracy, and the following process of joining the EU has been the elitist approach, and for a good reason – both processes were largely driven by a small group of elected individuals and bureaucrats who engineered over a short period of time, a set of formal democratic institutions (Bunce, 2003; Di Palma; 1990; O'Donnell, Schmitter, and Whitehead, 1986). They were operating in a highly hierarchical state and political structure with little involvement by an underdeveloped civil society (Schimmelfenning and Sedelmeier 2005, 31). However, students of Europeanization largely disregarded the role of elites after their respective

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countries had joined the EU – for some reason it was believed that just because the elites have initiated to the EU integration process and formally acquiesced to EU rules, they would take a back seat and continue following these rules after accession (Best, Lengyel and Verzichelli, 2012, 116). This turned out not to be the case.

And while the most obvious deviants became Fidesz' Hungary and PiS' Poland, Bulgarian and Romanian elites also did not simply follow EU, especially when it came to anti-corruption rules that targeted the deeply nested patrimonial clientelistic networks in their countries. This is why this thesis argues that it is the nature of the elites, their cohesion (in the case of Bulgaria) or competition (in the case of Romania) on crucial topics that could harm their interests, like anti-corruption, largely predetermined the temporal divergence between the two countries' anti-corruption systems. According to Best and Higley, "neither a deeply disunited nor a tightly united political elite is compatible with representative democracy" (2010, 7). If we translate this claim to the Bulgarian and Romanian cases, it could be argued that the "tight unity" of the Bulgarian elite around an understanding that no meaningful anti-corruption reform should take place, because it would challenge the dominant informal structures of governance in the country, while the "moderately disunited" Romanian elite in the 2004-2017 period allowed the creation of an independent and (unexpectedly) successful anti-corruption system. This view is largely shared by interviewees and would be described in more detail in the evidence section of this thesis.

Chapter V: Methodology and Research design

This thesis employs the comparative case studies research design. While case studies are often dismissed as "merely descriptive, anecdotal, historical, or journalistic, and therefore atheoretical." (Coppadge, 2012, 62), as they are rarely generalizable, one aspect that they are indisputably good at is generating new knowledge, which is the primary goal of this research. The choice of comparing Bulgaria and Romania's approaches to anti-corruption follow the logic of Mill's method of difference, an ideal case of which requires two cases that are similar in all but one independent variable and differ in the outcome (Mill, 1843, 455). When this requirement is met, the comparison can be seen as "controlled" and, in a sense, act as an experiment (inasmuch an experiment is possible in the realm of social sciences). With their very similar starting points when it comes to anti-corruption policy as described in the introduction, Bulgaria and Romania offer a rare, almost "natural" comparative experiment that fits neatly Arendt Ljiphart's description of "comparable" cases (Lijphart, 1971, 687).

Following Lijphart, this project only focuses on several key independent variables that are likely to influence policy outcomes (1971, 688). When it comes to describing the causal inference of each of the selected factors, this work follows the mode of operation proposed by Carl Popper (1968), which does not try to attribute causation of an outcome to some stimulus or stimuli, which is hard, or even impossible, because of the various factors at play in the "real world" of politics. Instead, it does the next best thing – try to disprove the alternative potential causal relationships and establish an indirect proof for the prevalence of one factor by using the triangulated data provided by the interviewees and the historical analysis of each case.

In Lijphart taxonomy of case studies, the thesis falls mostly in the interpretative case study category, as the two selected cases are selected because of the interest of the author in the particular cases themselves rather than in the formulation (or testing) of any general theory of anti-corruption (Ljiphart, 1971, 692). At the same time, the thesis partially falls into the

hypothesis-generating case study type of Ljphart, but instead of producing clear-cut theories per se, the thesis has a much more modest contribution of defining models which have "a character of a theory with a more or less limited scope of application" (Hempel, 1965, 446).

The chosen research approach for this thesis is process tracing, as it best fits the goal of the thesis, which is to fill the gaps in empirical knowledge of the sequence of developments that led to the divergent outcomes in both countries (George and Bennett, 2005, 89-96).

In addition to the examination of existing literature on the topic, the thesis employs another technique – elite interviews. According to Tansey, elite interviews are an "appropriate, and at times critical, form of data collection" when the project employs a process tracing method of analysis (2007, 765). The main strengths of this approach according to him are that the researcher has the ability to go beyond written sources and interact directly with people who have had direct involvement with decision-making linked to the topic of interest or who have followed it close. This is crucial in a study that seeks out to outline the political processes that led to the two divergent outcomes in the countries of interest.

What is more, under the protective veil of anonymity, these well-informed observers are able to explain informed opinions about the informal processes that have led to the developments in question, which contributes to the knowledge acquired by official and academic sources helps triangulating a clearer and more nuanced picture of the reality on the ground (Davies, 2001). Apart from depth, interviews can also contribute to expanding the scope of the research by letting the discussants propose alternative explanations to the phenomenon that have been overlooked or unduly disregarded by previous scholarships on the topic (George and Bennett, 2005, 18-19).

The selection of interviewees in the two countries of interest has been done through purposeful, non-random sampling of people who have been directly involved in the study or practice of anti-

corruption during the period that the study covers. These include the following: In Bulgaria – a former magistrate who has been directly involved with the application of anti-corruption measures at the highest level (BG1); two analysts from influential public policy think-tanks with anti-corruption programs (BG2 and BG3); the head of an anti-corruption watchdog (named BG4) and three activists from a civic organization that have been involved in organizing anti-corruption actions, including protests, discussions and proposals for legislative changes (BG5, BG6 and BG7). In Romania – the head of an anti-corruption think-tank (RO1); a former anti-corruption politician who has been instrumental in the establishment of the anti-graft policies of the country (RO2); an independent anti-corruption specialist who has previously launched an anti-corruption NGO (RO3); the head of a civil society organization engaged in anti-corruption reform (RO4) and two civil activists who have participated in the organization of large anti-corruption protests (RO5 and RO6).

The selection of the participants has been subjective – based on the researcher's own analysis of the most relevant actors that can explain the phenomena of interest the best. As Kidder et al write, by using their good judgement and an adequate strategy, students can decide best which cases to use and how to sample participants in a way that caters to the needs of these cases (Kidder, Judd and Smith, 1991, 132). In the case of the specific topic, the limited number of actors and experts that have been involved in the process of interest make the choice of interviewees relatively straightforward.

It must be acknowledged that, while elite interviews contribute to the deeper understanding of the issue at hand, they come with their own limitations (Seldon and Pappworth, 1983). Firstly, they express the interviewees' own subjective opinions, which are biased by default. Additionally, the researcher's own interpretation of their words and choice of which parts of their statements to include and how to order them might misrepresent their intended views. Also, one-hour conversations on a broad topic such as anti-corruption policy over the span of 20

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years necessarily come with the oversimplification of sometimes complicated technical questions. In order to circumvent these limitations, the thesis has used triangulation between factual sources and the claims made by the interviewees in order to confirm, dispute or elaborate on their claims.

Chapter VI: (Re)evaluating the role of the EU

Overall, the influence of the EU on improving governance has been seen as an implicit, but essential element of both the pre- and post-accession integration processes in the CEE region. Furthermore, fight against corruption has been an important part of the good governance agenda of the EU (Börzel, Pamuk and Stahn, 2008, 19-23). The way this was done, however, has largely been seen as a process that mostly relied on "soft power" - technical and administrative transferring of rules, which in the case of Bulgaria and Romania was realized through the CVM mechanism (Schimmelfennig and Sedelmeier 2004; Goetz, 2005; Louwerse and Kassoti, 2019:235) and on the countries' elites' sincere commitment to become members of the European family "in good standing" by fighting corruption and instituting rule of law by their own will (Börzel, 2016, 79).

There is an abundance of literature on the topic of CVM's effectiveness up until the mid-2010s (Dimitrov, 2014; Dimitrova, 2015; Spendzharova and Vachudova, 2012; Mungiu-Pippidi, 2011), but very few evaluate the instrument after the end of its effective use in 2020. The overall conclusion up to this point is that the mechanism has had a mixed success, at best, and this is due to some inherent contradictions. As Gateva writes, "the limited penalizing power of the remedial and preventive sanctions established in the framework of the CVM produces very weak negative incentive structure which diminishes the effectiveness of post-accession conditionality" (2010, 21). This view is generally shared by the interviewees in Bulgaria and Romania alike, although Bulgarian respondents were universally negative about the role of the CVM on the fight against corruption in the country, while the Romanians had much more positive views.

All Bulgarian experts shared a negative view of the effects of monitoring and the EU as a whole on the country's anti-graft fight, describing it as "unconvincing" (BG1), "overestimated" (BG5) and even "a bit corrupting" (BG4). According to the former magistrate (BG1), the approach of

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the EU towards the CVM was technical and ineffective: "People came who did not have the necessary professional experience. They did not know Bulgaria at all. They did not know the language, they had not read a single line of Bulgarian law, they conducted several face-to-face interviews and on the basis of these interviews they made some generalizations."

The civic activists (BG5-7) go even further, claiming that the reports have been ostensibly biased politically and did not reflect realities on the ground:

"The infamous final report on the 2019 mechanism, which literally was supposed to take Bulgaria out [of the CVM], was full of internal contradiction. It claimed there were successes [in the fight against corruption] and because of that Bulgaria needs to get out of the CVM. But on the other hand, it was acknowledged that the anti-corruption body CIAF had achieved nothing and that it was in fact involved in through its chairman in corruption scandals."

This claim is factually correct according to the content of the 2019 CVM report for Bulgaria (European Commission, 2019) and the double standard of the EU had not gone unnoticed in Romania, too. As one of the Romanian anti-corruption experts RO4 says:

"I wouldn't want to judge Bulgaria, but I always wondered about the writing of these reports and how positive they were on Bulgaria… I mean, it's nice that people have good intentions, but, you know, you can't praise a country for good intentions for ten years, right?... And colleagues from Bulgaria working in the civil society… were equally puzzled by the fact that Bulgaria gets praised without actual results on the table."

Some of the Bulgarian respondents went even further, arguing that the influx of fresh EU funds, combined with unconvincing control over their absorption in fact strengthened the corrupting forces in their country. One of the expert respondents (BG3) says that, once the conditionality reform window was closed, "we literally went into the phenomenon of the EU funds increasing the power of the mafia in Bulgaria" – an opinion shared by the civic activists (BG5):

"Unfortunately, the role of the EU was such that it, in good faith and unwittingly, fed corruption in Bulgaria with EU money… creating an uncontrolled plutocratic class" citing several cases of EU funds fraud from the 2008-2020 period. As expert BG4 says: "A large amount of uncontrolled funds - that is what we have as a legacy from the European Union." These claims resonate with the research by Fazekas and King (2019, 14-17), which found out that EU funding contributed to the institutionalization of grand corruption in Hungary.

Lastly, according to the Bulgarian activist BG6, just like Hungary, the ruling Bulgarian elite in the 2009-2021 period simply bargained its way out of sanctions (albeit in a much less conflictual manner): "We have come to the point of having our monitoring tacitly frozen under Jean-Claude Juncker's Commission… And in doing so, it somehow gave the signal that the theft can continue with impunity." These two claims – that Bulgaria was favored by the Juncker Commission and had much more positive CVM reports compared to Romania, which was objectively showing better results in the same period; and that this was intentionally political decision and not a failure of understanding the realities on the ground in the two countries, runs contrary to the prevailing academic view that the EU simply did not understand the particularist regime of governance that ruled under the surface in the two countries and was intrinsically opposed to anti-corruption reform (Mungiu-Pippidi, 2011, 150-153).

So why did the EU allow this behavior go unpunished? One of the more common academic explanations is that some of the newcomer governments like Bulgaria and Hungary were quick to learn how to pretend they follow Brussel's decrees in a process that has been called "normative mimicry" by Börzel (2016, 98) and "creative compliance" by Batory (2016). Mimicry, Börzel claims, is based on the same logic as emulation, but instead of establishing working institutions that have clear missions (in this case - fighting corruption), they are but hollow shells of themselves that fail to pursue their initial goals (2016, 99). Creative compliance, on the other hand, describes the process designed to create the appearance of norm-conforming behavior

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that circumvents the actual demands of the EU institutions. As Dimitrov writes, one of the key reasons for the failure of the CVM has been because it "legitimizes the imitation of reforms in anticorruption policies" through adoption of successive measures, varying in time but leading to no result in general. This line of thought is shared by one of the Bulgarian experts (BG3):

"We play this game all the time. The EU is constantly adopting some directives… which have to be implemented here, to be incorporated into our law… Then the administration catches what is essential to report [back to the EU] and… as we know, the devil is in the detail. The details are made according to our own model in order not to work here."

According to the same respondent, this is due to the fact that, despite of its claims to be a normative power (Manners, 2002), the EU is in fact following a Realist paradigm that, before everything else, predominately seeks stability in the fringes of the Union: "Do you know what the religion of Brussels is? Peace and stability - that's their mantra." Moroff and Schmidt-Pfister pointed a similar thing out vis-à-vis the EU's otherwise troubled relations with Hungary – that despite of the blatant dismantling of the rule of law in the country, for a long while the EU chose to be concerned first and foremost with the continuity of working relations with the Fidesz government, and just then with its bad governance record (Moroff and Schmidt-Pfister 2010, 96).

How is the perception of the CVM, and the EU's role in general, different in Romania? Most local respondents share their Bulgarian peer's views that, by the late 2010s the mechanism has lost its clout, but where they differ is that they see its impact at the start of the anti-corruption process in the country (2004-2006) and in contributing to the prevention of the complete dismantling of the anti-graft institutions during key moments of elite backlash against them in 2012 and 2017-2018, when the governments of Victor Ponta and several ministers from the socialist PSD party attempted to dismantle parts of the anti-graft legislation in the country in an attempt to weaken the anti-corruption bodies (Epstein and Jacoby, 2014, 3). As expert RO1

says, referring to the first period "back then, what helped a lot was the influence of the European Commission and of [former President of the European Commission Jose Manuel] Barroso, who intervened quite strongly, which made the Prime Minister back then, Mr. Victor Ponta, reconsider his attack against these institutions."

At the same time, most Romanian respondents are certain that the CVM and EU engagement – had a positive impact on the anti-corruption agenda in the country. What is more, the former policymaker (RO2) says its role was indispensable in kick-starting the process in the first place:

"Considering the large popular support for EU accession, politicians had to do something to answer people's demands. And their response was also important to the European Commission, which gave a to-do list [of reforms]. Without it, and the political will which came before the accession, you couldn't really fight political corruption. Otherwise it's difficult to make politicians adopt anti-corruption laws if when they know that they can turn against them."

This is corroborated by expert RO4, who adds that, albeit imperfect, the CVM mechanism kept politicians in check in their attempts to roll-back reforms, which became apparent when the mechanism was dismantled in the 2020s. Another expert (RO1) comments that the effectiveness of the CVM begun to fade away before it was shut down "mostly because the political elites didn't use it as much as they did" before, which implies that, at least some part of the political establishment within the country was relying on it as a tool to push for anti-corruption reforms.

In conclusion, what did the expert interviews added to the existing knowledge on the effects of the CVM and the EU in Bulgaria and Romania? They confirmed the existing understanding that the CVM has been imperfect because of the lack of sanctions and focus on technicalities, which largely ignored reform mimicry, especially in the case of Bulgaria. But they also highlighted a detail that has often been missed when the two countries have been packaged together – that

Bulgaria's CVM monitoring was consistently more positive (or at least – less negative) than the Romanian one, despite of the striking differences in actual proofs of effectiveness of the anti-corruption reforms in Bucharest compared to Sofia. The main proof for that is that the Bulgarian CVM reporting was practically frozen in 2019, with no more reports coming out after that, while Romania's went on until 2022 (European Commission, 2024). This hints at a possible double standards employed by the Commission, potentially due to political reasons – a topic that deserves further investigation.

Chapter VII: The role of civil society

Next, we consider the role civil society, civic engagement and social mobilization had played in shaping the anti-corruption policies in Bulgaria and Romania. For the purpose of this chapter, civic activism is viewed in a broad sense to include both the technical and campaign input of NGOs and think-tanks that specialize in anti-corruption policy development, implementation and monitoring as well as the role of spontaneous mobilization in relation to high-profile cases linked to graft, or attempts to dismantle elements of the anti-corruption system.

There seem to be several key differences between existing literature, which simultaneously (and somehow contradictory) sees civil society in the two countries as historically weak and puts significant emphasis on its essential role in fighting graft, and the perceptions from the experts and activists interviewed, who see the role of civil society mainly as reactive rather than as a proactive force for change. Furthermore, we find visible difference in perceptions among Bulgarian and Romanian interviewees, with Romanians being more positive and optimistic about the role of civil society, while Bulgarians unanimously seeing the role of their country's civic activism as largely ineffective and inconsequential, especially in comparison to their Northern neighbor. The main reasons for the differences in perception appear to be in the scale and consistency of Romanian anti-corruption protests compared to Bulgaria's and in the divergent response of the authorities in each country (for a time), with Romanian politicians often yielding to popular demands, while their Bulgarian counterparts taking a low profile and ignoring the public.

The two countries' civil societies have a relatively similar starting points rooted in their authoritarian past that did not allow genuine social mobilization outside of the remits of their respective Communist parties. This is why academics have generally doubted the ability and capacity of Bulgaria and Romania's early post-communist societies to be engines for structural transformation (Gallagher, 2013; Kornai, 2000; Lovenduski and Woodall, 1987; Olson, 1995). At

the same time, scholars understood that any meaningful fight against corruption and particularism "is necessarily domestic and civil" (Innes, 2013, 91) and institutions matter only when they "bring societies to the point where they are capable of controlling corruption and achieving good governance" (Mungiu-Pippidi, 2016, 95). Put simply, in order for anti-corruption policies to gain traction in the two countries, they required more than EU pressure and conditionality. They needed to be embraced by the public.

The role of the EU and its CVM mechanism in particular is a case in point – according to students of the two countries, it is exactly the social mobilization effect that was the most meaningful part of the otherwise imperfect mechanism (Sedelmeier, 2014, 119; Dimitrova, 2015; Lacatus and Sedelmeier, 2016, 1236), as it proved to create a "social constraint on efforts to obstruct reform by the local elites" in the form of justification for civic action (Spendzharova and Vachudova, 2012, 13). In effect, the CVM gave civil activists in both countries a benchmark to judge their politician's commitment and anti-corruption actions and challenge the exclusivity of policy-making of national politicians (Moroff and Schmidt-Pfister, 2010; Dimitrova and Buzogány, 2014; Buzogany, 2021; Soare and Tufis, 2020).

By the mid-2010s, civil societies begun challenging perceived abuses of power that were seen as corrupt in a sequence of large-scale protests, including the marches against the appointment of businessman and media mogul Delyan Peevski as head of Bulgaria's secret services in 2013, the protests against the permission to mine the Rosia Montana national reservation in Romania in the same year, the mass protests against the attempted weakening of the anti-corruption laws in Romania in 2016-2018 and the Bulgarian anti-corruption protests of 2020 (Dimitrova, 2020; Brett, 2015, 2017).

And yet, there is an ostensible – and unanimous - sentiment felt by experts that the Romanian civic engagement with topics of anti-corruption was more impactful than the Bulgarian one. All Romanian interviewees agreed that the civic engagement with anti-corruption has had an

essential role, if not in promoting particular anti-corruption actions or policies, at least in protecting the ones established in the early 2000s from the attempts politicians made to dismantle them, which is consistent with the claims made by academics (Spendzharova and Vachudova, 2012; Lacatus and Sedelmeier, 2016).

According to one of the Romanian experts (RO1), the civic engagement with anti-corruption was essential for the country's institutions success: "I think without the support of civil society we would have never made it. Support for legislation, support for, politicians that had an anti-corruption agenda, support for institutions, presence in the street when it was needed, advocacy at international level and so on," they say. According to another expert (RO3), the resignations or reversals of the controversial legal changes that followed protests in the 2010s made Romanians believe that civic action can indeed have an effect and their voices can be heard by the elites. They also spurred the creation of political parties that had anti-corruption at the heart of their agenda, such as the Union Save Romania (Dragoman, 2020).

Just like the Romanians, the Bulgarian respondents also generally agree that civil society activism is an important precursor for anti-corruption transformation. However, they have much more negative views on either the genuine commitment of the Bulgarian public to anti-corruption causes or to its ability to effectively mobilize. As the former magistrate BG1 says:

"It seems to me that [politicians] can't be forced [to take up meaningful anti-corruption actions] by the EU or the USA. They can only be strong from the Bulgarian citizens. Do Bulgarian citizens have such a high degree of intolerance of corruption that they demand that their representatives create instruments to counter it? I strongly doubt it. I have the feeling that corruption has become tolerable for Bulgarian citizens."

Their opinion is shared by both the civic activists (BG5-BG7) and one of the experts (BG2). One of the activists (BG5) cites the reelection of Boyko Borissov's GERB party in the 2021 elections,

after a summer of protest against what was perceived as its corrupt dealings just half a year

earlier (DW, 2021). This is markedly different perception compared to the one shared by their

Romanian counterparts, one of whom says: "When bad things happened, there was reaction

from the people" (RO2).

Another Bulgarian expert (BG3) shares a slightly more nuanced view. Instead of blaming the

lack of interests or persistence of the public on its own absent drive for change, they claim that

the main reason for the failure of the anti-corruption actions in the country is the disconnect

between civil society and politicians. As they put it, "civil society was killed by disillusionment",

meaning that Bulgarians have largely given up on the idea that positive change has been made

because of the failure of politicians, magistrates and institutions to prove that justice can be

served over any of the biggest corruption-related scandals. The expert cites the forced

bankruptcy of the fourth largest bank, Corporate Commercial Bank, whose case has still not

entered court 10 years after the bank collapsed (Stoyanov, 2024). According to the activists

BG6 and BG7, leaving this vicious cycle is has practically proven impossible to break out from.

"When the two-way relationship between the elected politician and the citizen is severed, the

means of control over that politician are also no longer there," BG6 concludes.

This process is not unique to Bulgaria. Both civil activists (RO5 and RO6) and experts (RO1 and

RO4) say that, after the topic of anti-corruption had been on top of the social and political

agenda for such a long time in the 2010s that now interest has either declined "somehow

naturally," as expert RO1 says, or shifter from high-level political corruption to smaller scale

cases of corruption and even the absence of good governance in key sectors such as

healthcare and public administration. But others see the decline is less benevolent terms and as

a byproduct of a shrinking civic space because of political pressure or lack of financing (RO4).

According to the activists, instead of trying to dismantle anti-corruption legislation straight away

like in 2016-2017, which ultimately caused mass protests, the ruling elites have found a new

way to weaken the anti-corruption regime that does not attract as much attention – install loyal people in the judiciary that would not allow the anti-corruption measures to take effect as they used to (RO5).

In conclusion, experts generally share the predominant academic view that civil society has been an essential lever for maintaining a strong anti-corruption system in place after the EU accession, but their opinions give some important nuances. It appears that the interviewees think that civic engagement has not been that essential in the initial phase of constructing an anti-corruption mechanism, but in maintaining its effectiveness when politicians tried to dismantle it. This is the best explanation as to why there is such a divergence of perceptions about the effectiveness of civic protests in Romania as compared to Bulgaria – in Romania, civil society went to the streets to preserve the existing anti-corruption status quo, which was established in the early 2000s, while in Bulgaria – where no such anti-corruption policy was ever effectively established – protests could not achieve the same effect.

This might also explain the feeling of futility to Bulgarian protests in the 2013-2020 period compared to the feeling of (relative) success in Romania, where there seemed to be concrete "victories" for the civil society – a Prime Minister resigning and going to jail (Victor Ponta), watering down of corruption-related punishments withdrawn (2017) etc. This hints that in the case of Romania there was a much stronger feedback loop between civic engagement and protest and the political elite which produced (for a time) a feeling that civic voices mattered. Whereas in Bulgaria, the absence of repercussions for members of the elite and the lack of concrete "victories" after the street protests have weakened popular belief in the strength of civil society. In any case, arguably the Romanians were more successful not because they had an intrinsically stronger civil society than Bulgarians did, but because their civil society could direct its power to maintaining an anti-corruption status quo build by a previously influential part of the

political elite rather than ask an unwilling political elite to force upon itself an anti-corruption

regime, as in the Bulgarian case.

Chapter VIII: The role of domestic institution-building

The next factor that this thesis examines is domestic institution-building. As discussed in the case selection chapter, recent research has explained the variation between Bulgarian's failure in high-level anti-corruption control and Romania's success with one key factor that differs across the two countries - better domestic institution-building in Romania, which in turn is explained with greater compliance with the CVM mechanism that has given rise to civil support to maintain the anti-corruption regime (Lacatus and Sedelmeier, 2016, 2020).

There is, however, little evidence that Romania is generally better at institution-building or strengthening institutional capacity than Bulgaria – something that Lacatus and Sedelmeier themselves acknowledge (2020). This is corroborated by quantitative data - according to the European Quality of Governance Index of the European Commission (Charron, Lapuente and Bauhr, 2024), the two countries maintain very similar scores throughout the 2010s. The World Bank Governance Indicators (World Bank, 2024) also shows that both countries have remained in the same tier (40-60 percentile) throughout the entire post-EU accession period. This has been noted by academic studies such as that of Bartlett, Cuckovic and Jurlin (2016) and Dimitrov (2016), which note that – despite the slight deviations between Romania and Bulgaria, they remain in a category of their own compared to other new EU entrants like Croatia, for example. In any case, it seems that while Romania has indisputably been better at constituting a system for corruption control than Bulgaria, there is no evidence it has been better at institution-building as a whole.

This view is somewhat shared by our interviewees. The former high-ranking magistrate (BG1) outlines a long list of key legislative, institutional design and technical loopholes left by legislators that have – purposefully or not – prevented high-level anti-corruption from taking place effectively: "I wonder how to detect corruption except by accident," they conclude. The experts interviewed give a relatively similar assessment and add some nuances. BG2, for

example, says that Bulgaria has never had a consistent anti-corruption policy: "The anti-corruption strategy starts from scratch with every new government, or new policies are made, institutions are split up or merged." What remains the same is that individuals who are alleged to have partaken in high-level corruption – including by the US State Department through the so-called Magnitsky Act – are not being investigated (BNR, 2022). Another interviewee (BG5) adds that there is a patchwork of institutions tasked with anti-corruption activities, which has served to dilute responsibility over effective implementation of anti-corruption policy. They conclude that it's not the capacity of institutions or the laws that matter, but people who are hired to (not) get the job done.

How does this differ to the Romanian experience? There is indeed a shared understanding among all Romanian interviewees that the initial strengthening of core anti-corruption bodies has been essential to the successes of the anti-graft system in the mid-2010s. Some of the particular institutional and legal instruments that boosted fight against corruption in the early post-EU accession stages in Romania listed by the interviewees include the changes to the laws on the judiciary from 2003 to 2007, which strengthened the provisions guaranteeing the independence of magistrates; the introduction of a new criminal code in 2014, which is described by RO3 as giving a serious advantage to DNA's then young and recently trained prosecutors against defendants' lawyers; the introduction of more comprehensive public declarations of assets and interest for many public servants and politicians, as well as the National Integrity Agency (ANI) mentioned by RO4 and RO5; and the introduction of new management and recruitment techniques in key enforcement bodies, mentioned by RO2 and RO3.

What is notable from the interviews both in Bulgaria and in Romania, however, is that almost all respondents link institutional changes not to some internally driven managerial improvements, but to either external pressure (from the EU), political decision-making by the country's elites, or

a combination of both. "I would say that it's a combination of understanding or agreement across political elites that we must at least meet the minimum requirements in the CVM and to become full members of the EU," says RO1, naming former president Traian Basescu and former DNA head Laura Kovesi as "the very visible culprits" for the initial strengthening of the anti-corruption institutions. Also, what Romanians say is that this institution-building process has not been a one-way street. "No reform is irreversible. Ever. Everything can be reversed," expert RO4 warns. "We've seen some institutional strengthening, but in the end the end the legislature is stronger," civil activist RO5 says, adding that what they call "the corrupt majority of liberals (PNL) and the Social Democrats (PSD) have the same interests."

The Bulgarian respondents come to a similar conclusion, but with a reversed sign, attributing the problems of the anti-corruption bodies and legislation to the lack of desire (or ability) of those in power to implement them. As expert BG4 summarizes:

"The big problem, I think, is that whatever tool you have, whatever tool you create, you have to get to using it. And there's nobody willing to use it. And I am talking here not so much about a lack of desire, a lack of will, but about a lack of subject – there is no subject to drive this process on state level. The institutions we are talking about have their own fragmented fields of action. Someone has to be, let's say, the political motor of this fight."

This brings us to the last element this thesis explores: the role of elites in shaping the institutions that have carried out anti-corruption policy in Bulgaria and Romania. Until recently, this role has largely been underestimated compared to the effects of EU conditionality and normative power (Dimitrova, 2020). The following chapter focuses on the continuous importance of local elites in shaping policymaking and policy transfer from the EU in ways that are sometimes complimentary, but often – contrary to the demands made by the EU.

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Chapter IX: Role of elites

Lastly, we turn to the role of elites in shaping anti-corruption policy in Bulgaria and Romania – and, respectively, in affecting the divergent outcomes. Have the elites in the two countries behaved in a significantly different manner when it comes to punishing graft? According to respondents' comments, there is a reason to believe this has been the case – at least for a time.

As mentioned in the theoretical and case selection chapters, academics have largely neglected the role of the CEE elites in the post-accession Europeanization of the countries of the region. It was expected that the EU accession process would have sifted out those elites and bureaucracies were really willing and capable to reform their countries in accordance to European standards (Börzel 2002; Börzel and Risse 2003). Since the successful candidate countries' elites were largely unanimous about their countries joining the EU, it was expected that they would remain compliant to EU norms after accession, too (Best, Lengyel and Verzichelli, 2012, 116).

Yet, some scholars have pointed out the role of elite behavior in shaping post-accession policy (Spendzharova and Vachudova, 2012, 55). They claimed that, despite (or – to be precise, alongside) the elite consensus in the CEE countries about becoming part of the European family, there was a parallel process of consolidated elite resistance against reforms advocated by Brussels in areas where personal costs for politicians could trump the benefits of membership – like the anti-corruption ones. This all happened under the pretense of different visions of reform (Tanasoiu, 2012, 175). As some had predicted before the end of the accession process for Bulgaria and Romania, once the formal acceptance of the two countries in the EU would have taken place, monitoring without sanctions would lose its effect because politicians would immediately "return to business as usual" (Heilbrunn 2004; Ganev 2013; Dimitrov et al. 2014; Toneva-Metodieva, 2014). The question that remains open is why did it happen so much

faster in Bulgaria compared to Romania, where the pinnacle of anti-corruption action took place in the period after the accession into the EU up until 2016-2018?

This thesis argues that the main factor behind this temporary divergence is rooted in the different levels of cohesion of the respective elites during the threshold window of opportunity for policy change during the pre-accession and early post-accession period. The dominant view in the studies dedicated to elite behavior, especially in times of transition to democracy, has been that a disunited political elite is prone to producing unstable regimes that "tend to oscillate between authoritarian and democratic forms," while a consensual elite is better suited to produce a stable, democratic government (Putnam, 1976, 115; Higley and Burton, 1989, 17). In simple terms – a consolidated elite is viewed as good at times of transition, because everyone who is part of it seems to be agreeing to the same rules, while an internally divided elite is more prone to instability because nobody is committed to follow the same rules.

This argument can be taken a step further, however – if in the same transitional period the elite unites around common rules that are in its favor (and not in the public interest), its unitedness might turn out to be more of a liability (for the common good) than an asset. Like Andras Sajo wrote, rule of law, which is viewed as a fundamental pillar of stability in any modern state, can be considered as a barrier to reform in the post-communist states, where real authority lays in informal networks, which have accumulated wealth and power in a questionable way during the transition period (2002,15). In other words, if the elites agree to unjust rules, this can produce a worse social outcome than if parts of the elite contest them. As Martin-Russu (2020, 55) writes:

"A strongly united political elite may be hostile and intolerant towards preferences or positions diverging from their pursued ideology or goals; a very high level of cohesion and integration of the political elite is very likely to reduce its accountability, limiting its flexibility and sensitivity towards opposing viewpoints and interests. Conversely, a profoundly disunited political elite may be unable to reach a consensus either on issue-specific questions or on the rules of the

political game in general. A very low integration of the elite may be equally harmful for a
functioning democracy; a highly fragmented political elite only allows for a limited flow of
information and impedes the creation of mutual trust among its members, which delays political
reforms and eventually leads to stagnation."

In short, what the rest of this chapter argues, is that because of a more divided elite (which allowed genuinely reform-minded leaders to temporarily get into position of authority and implement their anti-corruption vision,) Romania got a temporary boost in the field of anti-corruption, whereas the more coherent Bulgarian elite (which never really competed for power – rather, every new ruling party or coalition "inherited" power from the previous one) never really intending to hold their predecessor accountable over alleged corruption-related transgressions.

This is a view that contrasts the dominant perception of Bulgarian and Romanian elites being very similar to each other. Dimitrova (2015), who built upon insights by Vachudova (2015), Innes (2014) and Magyar (2016) argued that Bulgarian and Romanian elites (which she calls "dominant rent seeking coalitions") fall in the same category of "network-type dominant coalitions", which she claims are ideological and only rooted in the politico-business ties of members of the elites from various parties, as contrasted to Poland and Hungary's ideological networks. This thesis argues that, on the contrary – the Bulgarian elite throughout its most recent history, has been ideologically much closer to the Orbanist ideologically driven network-type, with the difference being that the ideology is not the overt anti-liberalism of Fidesz, but a sly, contumacious opposition to meaningful reform in key sectors to elite interest, while paying lip-service to EU demands on formal level. In Romania, on the other hand, the elite – or at least its ruling majority – did not become so consolidated in its opposition to reforms of sensitive sectors like anti-corruption until much later (post-2018). This gave space for anti-corruption reform to blossom for a time, aided by resistance against rollbacks by civil society and the EU, which backed what was seen as a successful anti-graft body, the DNA.

What do the experts think about this theory? Most Bulgarian respondents see merits in it. For example, anti-corruption watchdog representative BG4 summarizes the ruling elites in Bulgaria as a "coalition of business interests" among which the "antagonism is just a façade" hiding "intersecting business interests on the second level… which [the public] does not see." According to them, the real infighting between members of the elite happens only on the second, business level, whereas the first, political one, has kept to the same rules for most of the time after Bulgaria's EU entry – and they always excluded effective anti-corruption measures.

In Bulgaria, individuals in key positions linked to anti-corruption – from the Prosecutor General to members of the Supreme Judicial Council and CIAF are often appointed either directly by a large and murky coalition of parties in parliament or via their politically-appointed high-ranking magistrate proxies. This has effectively rendered them feeble when it comes to anti-graft action and simultaneously has diluted political responsibility for their (lack of) actions in the long run (Gotev and Nikolov, 2018; Popova, 2019; Gyaurova-Wegertseder et al., 2022; Bagashka and Tiede, 2021). As mentioned by one interviewee (BG3) in the previous section, many of these organs lack even formal legitimacy because of expired mandates.

And if a "honest actor" (as described in classical anti-corruption literature) emerges, there are ways the status quo keeps them in line. According to expert respondent BG3, with kompromats (compromising information that is used to blackmail or discredit a person or group) which are meticulously gathered and accumulated by various formal and informal means, including by legal and illegal wiretappings by the various intelligence agencies of the country. According to watchdog representative BG4, an honest politician who wants to see a working anti-corruption system is seen as a threat by the rest of the elite. "Assuming you have the honest politician who made the administration work, he will be perceived as an obstacle," they say.

What was different in Romania before things started to break down in the early 2020s? According to our respondents, several key elements. First of all, there was at least basic understanding among large parts of the elite during the accession period that "notwithstanding their differences, notwithstanding, their own interests, [they] wanted to be a full member of the EU" and anti-corruption institutions were part and parcel of the whole project, expert RO1 says. Their colleague RO4 adds that the country "prioritized fight against high-level corruption, understanding that the fish stinks from the head, and that you talk in a convincing and trustworthy manner about fighting corruption if you don't start with the most significant part of it." Secondly, there was the element of leadership – first, it was a clearly political commitment to anti-corruption reform by President Traian Basescu (RO2), then a more technocratic (yet equally politically committed) approach by Justice Minister Monica Macovei, who – rumor has it – told prosecutors that they "no longer have to pick up the phone" when politicians call them to ask for favors (RO3). As the ex-politician RO2 says, "Individuals always matter." Thirdly, according to RO2 again, under the leadership of Laura Kovesi, the DNA begun effectively sentencing people and "results matter – always." Results, in turn, led to more popular support and pressure from the EU, which kicked off the "virtuous cycle" as described by Mungiu-Pippidi (2016), which served as a warning to many politicians and bureaucrats that engaging in corruption might have serious consequences.

Of course, it must once again be restated that there is extensive evidence that excesses of power took place, which resulted in an increased number of EU court rulings against Romania and a higher rate of indictments failing in court (interviewee RO3; Mendelski, 2021). But there was indisputably a disciplining effect, too. Last, but not least, most respondents (RO1, RO2, RO4) underlined the importance of political competition among the ruling elites that never (until recently) led to a dominant coalition that could unilaterally change anti-corruption rules without causing popular uprising or EU reaction. "You never had a political party or a political movement

that completely, captured the entire, public space and institutional framework, like it's the case in Hungary or was the case in Poland," RO1 says.

Yet, it seems the plight of Bulgaria and Hungary's state capture has not spared Romania in recent years – although this could have happened much earlier. As Mungiu-Pippidi has written, years after Romania's accession into the EU, a broad, cross-party "coalition of the unwilling" had continued to fight "by all available means" to avoid getting prosecuted and charged with graft (2009,18). According to all of our Romanian respondents, this coalition had not only not disappeared since then – it had grown stronger and more cunning, especially after the slow dying out of civic activism after the 2016-2018 anti-corruption protests and the removal of Laura Kovesi from her DNA office (RO5). This has resulted in fewer indictments and sentences against high-level politicians, creeping dismantling of the anti-corruption laws and a process state capture by the current ruling elite of PNL and PSD that is not that different from that in Bulgaria and Hungary. As expert RO4 says:

"After the protests of 2017 we see a decrease in the in the performance of investigations and in terms of the level of people that are being investigated. I think it has to do with the fact that politicians have managed to show that they hold the power… and that if they all agree they will be able to change the legislative framework upon which the justice system is relying. It's almost like a proof of power, of the strength that the political class does have when it comes to setting the rules of the game."

To conclude, according to the prevailing views of our respondents on both sides of the Danube, anti-corruption was tightly linked to the processes of elite consolidation in each of the countries. Of course, these processes were influenced to a certain degree by all other factors mentioned in the previous chapters, and by some additional ones, which would briefly be discussed in the last section of this thesis. But neither EU post-accession pressure, nor civic activism or institution-building would have led to the hundreds of high-level political convictions in Romania if it were

not for the meaningful cracks in the Romanian post-socialist elite. And the main proof of that is that, under very similar circumstances, the Bulgarian elite – whose different and newly emergent branches, in the shape of (then) new parties like GERB (which rose to power on an anti-corruption ticket, only to become synonymous with graft less than a decade later) – did not allow for the creation of a meaningful anti-corruption system, likely precisely because of its ability to absorb contestant groups of elites with anti-corruption aspirations. Why is that is a difficult question and a partial answer would be proposed in the conclusion. But one thing is clear – despite attempts by researchers and policymakers from the EU to pack Bulgaria and Romania together, there is enough proof to believe that there is at least one significant difference between the two – the cohesion of their elites.

Chapter X: Discussion and conclusions

At the end of this thesis, we introduce some of the alternative explanations put out by the expert interviewees. Unfortunately, due to the lack of space, they are only signposted to become the foundation of future research.

Maybe unsurprisingly, the most common theme that has recurred in our conversation has been the topic of the distinct cultures (or "mentality"), which was exclusively brought up by Bulgarian interviewees (BG1, BG2, BG5) as a potential culprit for their country's perceived failure to oppose state capture and make a stand against corruption. While previous research had found no significant cultural differences between Bulgaria and Romania (Sandholtz and Taagepera, 2005) it should not be excluded that there are aspects of Bulgarian character that are more tolerant towards graft. But this is something that students of social anthropology are better suited at examining.

The second alternative hypothesis that emerged from the respondents of experts (RO5, BG2 and BG3) is Bulgaria's potential higher susceptibility to corrupt influences by nearby states that are governed by regimes with authoritarian tendencies, such as Russia and Turkey, which have long-running and deeply embedded cultural, historical, political and economic ties to parts of the Bulgarian elites, much more so than to Romania's. There are some studies that hint at the political impact of Russia's economic footprint in Southeastern Europe (CSD, 2020) and the divergence of the policy responses to financial crisis by countries that keep close ties with Russia (Hungary) compared to those who keep Moscow at arm's length (Gyorffy, 2018), but there is little systematic study of Russian influence in weaponizing resistance to anti-corruption reform in countries of interest, so this hypothesis is worth a rigorous inquiry.

Next comes the hypothesis that the relationship between each of the countries' intelligence services and the elite has been at the heart of the divergence in anti-corruption measures. Most Bulgarian respondents were of the opinion that their country's secret services were subservient

to the dominant political elite and mostly cooperated with it in keeping the status quo instead of taking a proactive approach in investigating corrupt acts – something that their Romanian counterparts have actively done since the rise of the DNA, to a significant level of controversy, but also – success, as described by both literature and all of our Romanian respondents (Mitev, 2024; Mendelski, 2021; RO2, RO3 and RO4). Bearing in mind the deeply rooted influence of the secret services in the governing of the CEE communist regimes and societies, the lack of information linked to their reform after the 1989 changes and their unique role between informal elite circles, official policymaking and the judiciary, their role in anti-corruption ought to be studied in greater detail.

Last, but not least, comes the element of chance. Despite the shared opinion that Romania was more successful than Bulgaria, none of the Romanian respondents claimed this was due to some feature that was specifically Romanian – most attributed it to a "historical accident," a window of opportunity around the EU accession that was well-used by individual policymakers backed by part of the elite (RO1, RO2 and RO4) or to the effects of the "law of unintended consequences" – a series of political and institutional decisions that set the anti-corruption train in motion (RO3). Or, to put it in even simpler terms – Romania succeeded because of luck. While that might sound anti-scientific, the question of fortune has been part of the Western intellectual tradition for a long time. And it ought not to be used as an excuse for bad governance, as Machiavelli wrote in Chapter 24 of "The Prince" (2009).

This brings us to the last part – the main contributions of the thesis. The first one is empirical – through the interviews with the 13 experts, former policymakers and civil activists, it produced an updated nuanced picture of the different factors that influenced anti-corruption policymaking in Bulgaria and Romania during their EU integration process. With the benefit of hindsight, the interviewees could reevaluate the importance of EU's transformative influence in creating more effective corruption control systems, highlighting the fact that, despite claims that the CVM was

a purely a technical benchmarking tool, it was heavily politicized (in favor of Bulgaria and to the detriment of Romania), which might have been another reason for its failure. This goes beyond the prevailing opinion that the CVM did not achieve its goals primarily because it lacked tools to enforce compliance.

Secondly, the responses of the interviewees, which all underlined the importance of political will (or lack thereof) by the respective country's elites, can serve as a theoretical contribution to the study of anti-corruption action in democratizing countries, where classical theories focusing on collective action and principal-agent solutions to graft fail to account for the specific forms of networked particularism that are at play. Further research can investigate the role of elite cohesion in resisting anti-corruption reform in transitional democracies around the globe, but especially in the neighboring Balkan and post-Soviet region, which experiences very similar democratization issues like Bulgaria and Romania, including ubiquitous corruption and state capture, as well as similar European integration prospects.

Last, but not least, the responses of part of the interviewees hinted at the potential link to the failure of anti-corruption reforms in Bulgaria to its closer ties to Russia, as described above. A future study could qualify and, potentially, quantify the weight of Russian influence in different transition countries and compare it to their anti-corruption track record.

This thesis was inspired by a simple observation – despite of the relatively common starting points and corruption challenges faced by Bulgaria and Romania at the time of their EU accession in 2007, Romania managed to establish a more effective anti-corruption policy, at least in the domain of criminal prosecution of higher level politicians, magistrates and bureaucrats. The goal of this research was to explore why was that the case by examining existing literature on anti-corruption, transitology and EU integration of the two countries, establish which are the key factors that have largely been considered important in producing policy change in the two countries on their road to EU membership and reevaluate these

through the prism of expertise of local elites – former policymakers, anti-corruption experts and civil society members, who have observed (or directly participated in) the said processes during the last two decades.

It was discovered that the role of the EU in ushering policy change has been much more ambivalent than previously thought and that institutional change and civic engagement were rather a product of the changed circumstances due to policy change rather than precursors for them. Instead, what has largely been found to have determined the (lack of) anti-corruption policymaking in each of the countries have been whether the elite united itself around the idea that it would not allow anti-corruption changes that might harm it (as in the Bulgarian case) or whether it remained divided over reform, leaving breathing space for institution-building and civil engagement that ultimately empowered the prosecutors going after high-level politicians. At least for a time.

Appendix: Thesis Report

Fighting High-Level Corruption in Bulgaria and Romania in The Post-Accession Period:

Different Paths and the Role of the EU

Thesis Report

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1. Introduction:

When Bulgaria and Romania joined the EU on 1 January 2007, there was an overwhelming understanding – both in Sofia and Bucharest, as well as in Brussels – that the two post-Communist states were getting a pass not because of their successful transition to democratic market economies, but despite of their continuing problems, especially in the fields of justice reform, anti-corruption and organized crime.

The two countries were allowed in the EU without having fulfilled all of the so-called Copenhagen criteria for eligibility - the set of broad rules ranging from democracy, rule of law, and human rights to the market economy and countries' ability to effectively implement the EU acquis. Notably, the areas that were placed under post-accession monitoring through a specially designed instrument – the Cooperation and Verification Mechanism (CVM) – were those of anti-corruption measures and judicial reform.

In the coming years, the two countries took distinctively different paths towards combating high-level graft, which, as a result, produced very different results.

On the one hand, Romania created one of the strongest and, for a time, popular anti-corruption bodies not only in the EU, but beyond - the National Anticorruption Directorate (DNA). The

agency launched an all-out war against graft in what, at the time, was perceived to be the most

corrupt European country, resulting in an impressive track record of several Prime Ministers,

dozens of cabinet ministers and many other senior officials being receiving effective sentences,

including jail terms, over corruption allegations in the coming years. While the work of the DNA

was often controversial and blamed for being politicized, for a time the agency built an image as

a successful anti-corruption body took hold, which even contributed to the creation of a similar

anti-corruption institution on the EU level – the European Public Prosecutor's Office (EPPO) that

is headed by DNA's most prominent ex-chief, Laura Kovesi.

On the other hand, the anti-corruption efforts in Bulgaria were distinctively less successful. The

country, which has been having similar problems when it comes to high-level corruption and

overall corruption perceptions as its Northern neighbor, did not manage to establish a working

mechanism to combat the phenomenon. Throughout the past two decades, the national

authorities established a series of anti-graft bodies, transformed and merged them, but to no

avail - many of these never begun operating, some were shut down over their failure to produce

results, others – because of allegations of abuse. The result so far is zero high-ranking

politicians (apart from a single Sofia district mayor) having been sent to jail, plus growing public

distrust in the work of the judiciary as a whole.

The purpose of this thesis report – and, consecutively, of the final thesis – will be to compare

the development of the post-EU accession judicial reform and efforts to fight high-level graft in

the two countries, while attempting to evaluate the role of EU's post-accession conditionality in

(not) bringing about effective results in this sphere. It will provide an overview of the fight against

high-level corruption since Sofia and Bucharest joined the EU in 2007 and explore how the EU

perceived these actions in the annual CVM reports, published in the 2007-2019 period. By

exploring data on completed high-level anti-corruption cases, public perceptions of high-level

corruption and expert opinions, the final thesis ought to give a glimpse of why the anti-corruption

experiment in the two countries took such different paths – and led to vastly divergent results, despite of Bulgaria and Romania being consistently placed in the same basket by the EU to this day.

2. Research question:

Why has Romania been more successful in prosecuting high-level political corruption than Bulgaria in the post-EU accession period and did EU conditionality play a part?

3. Concepts

The main concepts that the thesis report and the final thesis project would focus on are as follows:

High-level corruption – the phenomenon of high-level corruption as distinct from other types of corruption is of particular interest to this thesis for several reasons. First of all, it has generally been considered by academia and the EU alike as a leading problem for the two countries of interest in the decades after their transition to democracy and market economy. Secondly, it can be considered more impactful, as it directly endangers public resources and even trust in public institutions. Lastly, it has become the particular focus on anti-corruption policy through the establishment of state agencies and specialized institutions to fight it.

Anti-corruption – the concept of anti-corruption is tightly linked to the idea of corruption, as it prescribes measures to combat it or even prevent its occurrence. Depending on the different understandings of what are the leading causes of corruption (socio-anthropological, political or economic), the varying anti-corruption methods can also be divided into similar categories. This thesis will focus on the political measures to fight corruption and more precisely the setting-up of anti-corruption institutions to fight high-level graft and their perceived effectiveness.

Europeanization and European integration – these concepts are integral to the understanding of the phenomenon of corruption and the specific efforts undertaken by Bulgaria and Romania (among all other recently joined member states or candidate countries) to combat corruption. They note the process of adoption of specific political and legal norms by newcomers that have been agreed by the EU during the process of its own development as a political subject. Both concepts are, of course, highly contested and have to be defined precisely and discussed critically in the final thesis.

Conditionality – this concept will be observed in its specific meaning of a regime set up by the EU to allow it to take concrete measures, like suspension of funds, in order to ensure a specific pre-agreed political outcome in a candidate member or, as in the case with Bulgaria and Romania – in an already admitted new member. The CVM mechanism is the concrete expression of this type of policy that will be examined and evaluated in this thesis.

4. Hypothesis:

Romania has been more successful in pursuing high-level anti-corruption as a result of institutional development, including the establishment of strong domestic institutions. This has effectively resulted in a fragile, but also powerful base for the fight against corruption. Meanwhile, Bulgaria has failed to create or maintain such institutional basis, as all efforts to create such were sabotaged in their very inception through state capture by powerful semi-formal networks of influence that cut across party boundaries.

The CVM's main impact on the anti-corruption actions (and the attempts for their obstruction) has been as a tool for social constraint, as well as a focal point for societal mobilization. At the same time, compliance with the CVM has not automatically translated into less corruption in practice in any of the two countries. It will be argued that compliance with the CVM can create more favorable conditions for improving corruption control, such improvements in practice necessitate the involvement of domestic civil society actors.

5. Case studies selection rationale

The focus of this thesis on high-level corruption and compliance with EU norms post-accession makes Bulgaria and Romania uniquely placed research cases for a number of reasons.

First of all, the two countries have been consistently "packaged" together in the last two decades by the EU. They were both not allowed to join in the first wave of Eastern European enlargement in 2004 because they were not deemed ready; they both joined together in 2007 despite not having fulfilled all pre-accession criteria of the EU, including in the relevant areas of judicial reform and fight against corruption; they were both subjected to post-accession monitoring via the CVM mechanism, under which they both received annual evaluation progress reports until 2019 (since then only Romania remained under official monitoring, while Bulgaria became subject to the universal Rule of Law report of the European Commission).

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Secondly, in order to comply with the CVM recommendations, both countries established or strengthened already existing anti-corruption organizations, including DNA in Romania and the Commission for Illegal Assets Forfeiture (CIAF), the Specialized Prosecution and Specialized Court in Bulgaria. This gives a unique opportunity for comparing and contrasting the track records of these institutions, which were established within a similar period, had similar missions and were the object of external evaluation by the EU (via the CVM mechanism).

Thirdly, while the problem of corruption is neither confined to the newcomers in the EU, nor are the Bulgarian and Romanian publics the only ones that recognize it as a substantive issue within their states, the topic gained significant popularity in both countries in the post-accession period and has been, at times, the central topic of political discourse. Furthermore, the two countries experienced similar explosion of civic activism, some of which was directly targeted at high-level state corruption, within the same period. This included mass demonstrations against perceived high-level corruption in Bulgaria (2013, 2020) and Romania (2015, 2017), the establishment of recognizable pressure groups and civic movements focused on anti-corruption and the general mainstreaming of the topic of anti-corruption across the board in both countries.

At the same time, despite these shared circumstances, the two countries have a vastly differing track record of effectiveness when it comes to high-level corruption. According to Mendelski (2021), in the period between 2002 and 2016 alone the Romanian DNA the number of defendants sent to trial at the ministerial level increased from 388 to 1652 per year; the number of final convictions jumped from 22 to 879, while convictions for crimes such as bribe giving/receiving and influence peddling increased, too. Between 2005 and 2016, a total of 8347 people were sent to trial and 5726 final sentences were passed, including at least two former Prime Minister, 21 members of parliament, five ministers, 400 mayors, 160 magistrates and many more bureaucrats, generals, businessmen, administrators, lawyers, doctors and professors (Mendelski, 2021: 254). While these high-level corruption investigations were often

marred in controversy and dubbed as political "witch hunt" by the suffering party and as an excess by academics – something that will be discussed in greater detail in the final thesis and in the interviews with experts – they demonstrated a willingness on behalf of the state to create and empower an independent anti-corruption organization that gained significant popular support and concrete results in a short time span.

This cannot be said for Bulgaria, which also installed a number of anti-corruption agencies and specialized judicial bodies to fight graft. The 2022 report of the Anti-Corruption Fund (ACF) watchdog about high-level corruption sentences in Bulgaria estimates that, since 2018 there has been a single conviction for corruption-related crime that concluded with an effective prison sentence. However, it was against a person in a relatively low public office - a district mayor of a Sofia district. "This conviction was inappropriately overexposed by the leadership of the prosecutor's office, as if the convicted person was the personification of political corruption in the country, which is far from reality," lawyer and ACF consultant Andrey Yankulov wrote in the report (ACF, 2023). For the same period, there were only 19 cases that can be considered high-level corruption cases that reached court and 15 of these ended in acquittal, versus 4 final effective sentences. While Bulgaria has a smaller population and the observed period is shorter, the overall trend is indisputable – compared to Romania, Bulgaria has failed in establishing effective independent anti-corruption institutions that have achieved meaningful results.

This opens up several interesting questions that are part of the main Research Question of the thesis. First of all, why did Romania manage to establish more effective bodies to investigate and successfully prosecute high level corruption? Secondly, why did the European Commission terminated the annual CVM reports for Bulgaria in 2019, while it went on to publish the status reports for Romania at least until 2022 (as of the writing of this thesis report) when there was an obvious discrepancy in the results of combating high-level corruption that was definitely not in favor of Bulgaria? And last, but not least – what conclusions can one make about the

effectiveness of EU's post-accession compliance mechanisms in the sphere of anti-corruption (and beyond) based on these findings? The answer to this last question might be a useful contribution to policy debates about the future of EU conditionality with regards to upcoming potential enlargement in the Western Balkans and the former Eastern Partnership countries.

6. Research Design and Methodology

Under the Hesse-Biber and Nagy classification (Hesse-Biber and Nagy, 2017: 5) and Thomas' typology (Thomas, 2011: 514), this research would fall in the positivist causal case study analysis that focuses on two EU member states (Bulgaria and Romania) and, in particular, on the measures they have implemented in the post-EU accession period when it comes to combating high-level corruption. The focus on the two countries will place the study at a midway point on the generalizability – specificity axis (Yin, 2011: 103), allowing for both detailed observations of the causal mechanisms in establishing high-level anti-corruption measures under EU scrutiny and for broader generalizations about whether – and how - EU conditionality can influence effective fight against graft in a pre- and post-accession environment.

The methods that will be used in the thesis are mixed and include:

- Literature review of academic sources that have focused on the effectiveness of the CVM mechanism and critically appraised the track record of the two countries of interest in fighting high-level corruption;

- Discourse analysis of the CVM reports for Bulgaria and Romania for the 2007-2019 period;

- High-level interviews with experts and former decision-makers linked to the anti-corruption measures in the two countries and their monitoring by the EU (see more in the "Potential interviewees" section below);

- The three methods complement each other and enhance the explanatory potential of the research, allowing for triangulation that would increase the validity and trustworthiness of the findings (Yin, 2011: 87);

- Additionally, potential sources of data that could be used to illustrate trends in corruption perceptions among the general public of the two countries include the Corruption Perceptions Index, the Global Corruption Barometer, the Eurobarometer surveys, the Index of Public Integrity and the Index of Corruption Risk. Concrete data on high-level anti-corruption actions by the respective authorities in the two countries can be collected via their annual reports or the analysis of their work by relevant NGOs.

7. Potential interviewees and data collection plan

In addition to the literature review of media, academic and NGO-issued publications, as well as analysis of the European Commission CVM reports, this thesis will rely on primary data in the form of expert interviews from key stakeholders and experts from the two selected states, as well as the European Commission, who would be approached in order to share their observations and opinions regarding the research question. A preliminary list of potential organizations that could be interviewed is presented below. They have been selected on the basis of purposeful expert sampling of organizations and individuals that have published relevant and meaningful contributions on the topics of combating high-level graft in Bulgaria and Romania, or have actively participated in the anti-corruption efforts in the two countries in the relevant period.

For Bulgaria, the selected organizations and persons are as follows:

- Bulgarian Association of Judges
- Bulgarian Institute for Legal Initiatives
- Centre for the Study of Democracy

- Anti-corruption Fund (ACF)

- Transparency International – Bulgaria

- Justice for Everyone Initiative

For Romania, the selected organizations and persons are as follows:

- Monica Macovei

- Corina Rebegea – NDI-Romania

- Funky Citizens

- REPER

- Center for Legal Resources

- Transparency International – Romania

Other (non-local) organizations and individuals:

- Regional Anti-corruption initiative

- European Commission representative(s) that have contributed to the CVM reports

8. Literature review:

The research question requires a literature review that covers a wide variety of readings from several areas of the public policy discipline, including discussions on corruption and anti-corruption and EU integration and conditionality. On top of that, it would require case-specific literature on the two countries in question, Bulgaria and Romania. However, due to the limited space and time, the literature review for this thesis report would not cover the case-specific literature, although some work by local authors who have worked on both corruption/anti-corruption/the CVM mechanism, and on Bulgaria and/or Romania, would be cited. A further list of readings has been attached as an appendix to this report.

Corruption and anti-corruption

Academic literature and international documents define corruption in various ways. For example, the United Nations Convention against Corruption (UNCAC), which is the only legally binding universal anti-corruption instrument, defines corruption as "the promise, offering or giving to a public official, and the solicitation or acceptance, of an undue advantage, for himself or another person or entity, in order that he act or refrain from acting in the exercise of his official duties." (UNCAC: Art. 16). A simpler and more straightforward definition comes from Andvig and Fjelstad, who write that corruption is "private wealth seeking behavior of someone who represents the state and public authority," practically limiting corrupt behavior to the public sector and its interaction with private individuals and firms (Andvig and Fjelstad, 2000:11). Heidenheimer et al take a similar view, calling corruption any "transaction between the private and public sectors [where] collective goods are illegitimately converted into private-regarding payoffs." (Heidenheimer et al, 1989:6).

This goes against some more general understandings of the phenomenon, which see the potential for corrupt behavior beyond the public sector. For example, the Swedish International Development Agency, SIDA, describes corruption as any act on behalf of organizations or individuals whereby they "profit improperly through their position in an activity, and thereby cause damage or loss." The European Commission itself takes a wider outlook of the phenomenon, describing corruption as "the abuse of entrusted power for private gain," while elaborating that it is a multi-sector phenomenon, present both in the public and private sector, and in the political arena (EC, 2023). It highlights that, corruption can take the form of both "petty crime or complex high-level corruption… it can also hide behind favoritism and nepotism, conflicts of interest and revolving doors – where business meets politics." (EC, 2023).

While such wide-ranging definitions are useful for expanding the understanding of corruption beyond the area of the public sector and its interactions with the private sphere, they would dilute the focus of this work and would fall outside of its scope. Besides, when the European

Commission established the CVM mechanisms for the two countries that will fall in the focus of this thesis, it highlighted the need for progress in, among other areas, fight against high-level corruption.

As the 2006 Commission decisions regarding the imminent entry of Bulgaria and Romania into the EU point out, both countries have to continue improving their fight against corruption, in particular – high-level graft. The decisions for both countries, which practically set up the CVM mechanism, highlight this as one of the five criteria for which Bulgaria and Romania would be evaluated in the coming years. For Romania, this criteria is described as the need to "[build] on progress already made, continue to conduct professional, non-partisan investigations into allegations of high-level corruption" (EC, 2023: 57) and for Bulgaria the evaluation asked for "[conducting and reporting] on professional, non-partisan investigations into allegations of high-level corruption" as well as for the "[reporting] on internal inspections of public institutions and on the publication of assets of high-level officials." (EC, 2023:59).

Furthermore, high-level corruption will be defined along the lines of Bauhr and Charron, who call it "collusion among the highest levels of government" that often involves behind-the-scenes distribution of public procurements and other large-scale financial benefits among high-level public and private elites (Bauhr and Charron, 2017: 432). This corresponds to the views of one of the leading Bulgarian scholars of high-level corruption, Antoaneta Dimitrova, who writes that "it is clear that state capture or high level corruption aims to distribute public services on a personal basis and control access to public goods. The networks that played a key role in post-communist privatization and market transformation processes" (Dimitrova, 2015:3).

Hence, this thesis will understand corruption in the more limited sense – as an abuse of high-level bureaucratic and political power for private gain, as this is the closes to what the European Commission meant when it began monitoring Bulgaria and Romania in 2007.

When it comes to anti-corruption, the thesis will follow the argument set out by Klitgaard in his seminal work "Controlling corruption" that, practically, employs a game theory logic to the fight against corruption. In brief, this translates to the understanding that corruption comes from the monopoly of power and discretion over key decisions by policymakers and bureaucrats, who do not face accountability for their actions, which increases their "utility" from accepting bribes or acquiescing to other illegitimate behavior (Klitgaard, 1991:79). Hence, according to Klitgaard, the response to this principal-agent problem is to set up the incentive structure in such a way so as to "increase" the cost of engaging in corrupt behavior, with one such method being the establishment of anti-corruption agencies (Klitgaard, 1991:81). This perspective is useful when it comes to the two countries in question, as both of them have attempted, at one point or another, to establish such institutions in an attempt to curtail graft. It also ties in with the fact that the EU has promoted and welcomed the establishment of such institutions and laws that change the incentive structures regarding graft.

There are, of course, notable critics of this perspective. One of these comes from Michael Hein, who takes a constructivist approach and an eagles' eye view of anti-corruption efforts in Romania. According to him, it is wrong to look at progress in combating government corruption as "largely confined to legal aspects of the problem such as prosecution and conviction" (Hein, 2016:771). According to his research, the configuration of formal rules and the dynamics of formal institutions have a significant impact on the outcomes of anti-corruption efforts, but not significantly on the extent of corruption. Informal factors such as political culture, persistent patrimonial networks, historical legacies, poor economic capacities, and high economic inequality can primarily explain the latter. As a result, even if prosecution is successful on a regular basis, the phenomenon of government corruption will not diminish or disappear in the near future, because policy decisions and formal institutions can only transform social structures and cultural dispositions over time (Hein, 2016:778).

The rise and fall of the CVM as a quasi-conditionality instrument

The second aspect of the thesis report and the thesis would cover the success (or lack thereof) of the CVM mechanism in actually "correcting" the unfulfilled promises for anti-corruption reform in the two newest (at the time) member countries of the EU. There is an abundance of literature on the topic of CVM's effectiveness up until the mid-2010s, but very few studies brave to cast a final judgement on the instrument after the end of its effective use in 2020. The overall conclusion up to this point is that the mechanism has had a mixed success, at best, and this is due to some inherent contradictions and problems that it had since its inception in 2006.

Generally, the biggest problem of the CVM has been described as its lack of enforceable measures that could penalize the two countries if and when they failed to effectively adopt the recommendations of the EU commission. In other words, "the limited penalizing power of the remedial and preventive sanctions established in the framework of the CVM produces very weak negative incentive structure which diminishes the effectiveness of post-accession conditionality" (Gateva 2010: 21).

One of the leading scholar on the topic of EU conditionality and its success in promoting rule of law and the fight against corruption is Alina Mungiu-Pippidi, who has compiled and edited a number of interdisciplinary research projects on the topic with cross-border experts. In one of these - "Contextual Choices in Fighting Corruption: Lessons Learned" – she concludes that "the failure of the anti-corruption conditionality is partly grounded in the lack of understanding of particularism as a regime of governance and in consequently selecting various implausible principals as main actors to change the regime" (Mungiu-Pippidi 2011:150). According to her, one of the most significant mistakes of the EU has been to ignore the fact that reforms in Romania and Bulgaria had to be pushed through against the will of the very people who were supposed to implement them (Mungiu-Pippidi 2011:153).

According to Spendzharova and Vachudova, the potential sanctions that may be employed in the event of failure to make progress in the CVM process are relatively inconsequential, leaving the CVM with only limited leverage (2012:13). The two, however, see alternative – and much more indirect - ways in which the EU had been trying to incentivize Bulgaria and Romania to change their ways with regards to the anti-corruption and rule of law goals set by the CVM, like the blockage of Bulgaria and Romania's entry into the Schengen free travel zone by several EU members. While this is not directly an EU measure (on the contrary – the Commission has long been pushing for the two countries' entry into Schengen) but a member state's one, it could be argued that it has become part of EU post-accession conditionality instrumentarium that has filled the enforcement gap left out during the initial design of the CVM.

According to the two authors, there is another, soft-power-way that the CVM has pushed the anti-corruption agenda to the forefront in Bulgaria and Romania. "While the CVM has certainly not solved the problems related to corruption and the judiciary," they argue, "it has had a positive impact by giving domestic elites in these countries stronger incentives to pursue reform." This line of thinking has also been advanced by other authors. For example, Lacatus and Sedelmeier argue that the main impact of the CVM has been as an international social constraint on efforts to obstruct reform by the local elites that has practically acted as a break to reactionism in Bulgaria and Romania by turning anti-corruption in a tool for societal mobilization (Lacatus and Sedelmeier, 2016:1236). Authors focusing on Bulgaria (Dimitrova, 2015) and Romania (Brett, 2015, 2017) discuss in more detail precisely these mobilization effects in the two countries.

At the same time, most authors agree that adherence to the CVM does not directly translate into reduced corruption in practice. Lacatus and Sedelmeier claim that, while compliance with the CVM can create more favorable conditions for the improvement of corruption control, "such improvements in practice require a central role of domestic civil society actors."(Lacatus and

Sedelmeier, 2016:1239). Other authors, like Louwerse and Kassoti, in fact argue that the importance of societal transformation needed for the rule of law to take root has largely been ignored by the EU in the pre-accession period and has to be incorporated in "the Commission's understanding of and approach towards the rule of law" as a soft power tool (Louwerse and Kassoti, 2019:235).

There are several main authors that have written considerably on the topic of anti-corruption efforts in Bulgaria and Romania and the impact of EU conditionality on these processes.

On the Bulgarian side, the leading author is Georgi Dimitrov, who has published a series of papers and chapters in books, mainly on Bulgaria's post-EU accession experience and its impact on corruption perceptions and anti-corruption actions, but also sometimes comparing the Bulgarian case with Romania.

In a 2014 paper, Dimitrov concludes that the usage of the CVM until then has shown a "mixed picture." "Undoubtedly there is a good will, devotedness and efforts invested by the Commission, not to forget the direct money investments in reforms, as well. Yet, what has been achieved is quite afar from the initially set goals. The mechanism is only partially successful – to the extent that it has not failed entirely." According to Dimitrov, the CVM has failed to attain the expected results for two main reasons – firstly, because it "simply registers the transformations in the resistance against the reforms" which happen in technical terms only and, secondly, because it "legitimizes the imitation of reforms in anticorruption policies" through adoption of successive measures, varying in time but leading to no result in general. This view is shared by Antoaneta Dimitrova (unrelated to Dimitrov), who argues that "the EU's approach and its effects appear to have a puzzling and uneven effect largely dependent on domestic mechanisms to work." (Dimitrova, 2017:6).

But why would Bulgaria and Romania even attempt to establish such mechanisms, as they had already joined the EU and were benefiting (almost) fully from their membership? According to Tanja Borzel, it was due to a process she dubbed "normative emulation." According to it, countries in transition would want to be members of the European family "in good standing", and thus fight corruption, improve human rights standards or institute rule of law (Borzel, 2016: 79). Hence, such countries establish institutions that are similar to already existing institutions in the EU that – ideally – have the same mission and goals. According to Borzel, however, there is an alternative scenario that has become especially prevalent in Bulgaria and Romania, which she names "normative mimicry (Borzel, 2016: 98). Mimicry, she claims, is based on the same logic as emulation, but instead of establishing working institutions that have clear missions (in our case - fighting corruption), they are but hollow shells of themselves that fail to pursue their basic goals (Borzel, 2016:99). Borzel compares them to "downloading institutional software" irrespective of functional need, simply because this is what everybody does in a certain community. This thesis will argue that – willingly or not, Romania to a large extent engaged in normative emulation, actually empowering its anti-corruption body, DNA, while Bulgarian elites, on the other hand, negotiated an institutional mimicry that resulted in the creation of various anti-corruption bodies that were, in practice, hollow shells of themselves.

This thesis is supported by other research by Corina Lacatus and Ulrich Sedelmeier, who investigate whether the CVM model of monitoring the implementation of anti-corruption policies without effective tools for enforcement action actually makes a difference. According to the duo, Romania's better compliance record coincides with the country's successful domestic institution-building. "In contrast to Bulgaria, Romania created strong anti-corruption institutions that served as a powerful institutional base for the fight against corruption (Lacatus and Sedelmeier, 2020: 1238). Apart from them, other authors who have worked extensively on the anti-corruption policies in Romania and whose work would be explored further in the final thesis include Martin

Mendelski, a vocal critic of the excesses of the Romanian anti-corruption model (2021) and Oana Popescu-Zamfir (2022).

Gaps in existing literature and further study:

This preliminary literature review discovered two general gaps in the literature. First of all, it appears that, while there have been a plethora of studies covering the anti-corruption fight in Bulgaria and Romania and the effectiveness of the CVM, there have actually been very little focus on researching the distinctive paths that the two countries take and, respectively, the completely different results in terms of the perceived success (or lack thereof) of the anti-corruption campaigns in the two countries.

There might be several potential scenarios at play here: firstly, academia – just like EU policymaking and media – might be quick to put Bulgaria and Romania in the same basket, which fails to account for the differences that have occurred in the two countries since they joined the EU. Secondly, most of the comparative research between Bulgaria and Romania that I could discover ends up in the mid-2010s – around 2015-2017, which is way before the actual effects of the anti-corruption reforms and institution-building processes have taken place in Romania (but not in Bulgaria).

This thesis will aim to cover the longer period since the two countries' EU accession until their last CVM reports. Lastly, most research fails to account for the different tones that the CVM reports (and its presentation by senior EU politicians at the time of their publishing) for each of the two countries has had – and if this tone corresponded to the actual, on-the-ground anti-corruption results. I hope that, through the evaluation of the CVM reports and the interviews with experts, this discrepancy could be analyzed and presented in more depth.

8. Timetable of research (milestones and deliverables):

Chapters:

Chapter 1. Theoretical framework and methodology: Corruption, high-level corruption and Europeanization – definitions, academic debates and policy aspects – first draft to be completed by end of November 2023;

Chapter 2. Background: Romania and Bulgaria's entry into the EU and the establishment of the CVM mechanism - first draft to be completed by the end of December 2023;

Chapter 3. Origins and causes of state capture and high-level corruption

- *The case of Romania* – first draft to be completed by the end of January 2024;

- *The case of Bulgaria* – first draft to be completed by the end of February 2024;

Chapter 4. Responses to the problem of high-level corruption:

- *The road taken by Romania* – first draft to be completed by the end of March 2024;

- *The road taken by Bulgaria* – first draft to be completed by the end of April 2024;

Chapter 5. Measuring success: results in the fight against high-level corruption by 2020 – first draft to be completed alongside Chapter 4 by the end of April 2024. Final list of potential interviewees to be completed by the same time and to be approved by thesis supervisors and ethics committee(s) at University of York and CEU;

Chapter 6. EU's perspective: reflection on the CVM reports for the two countries in the observed period – first draft to be completed by May 2024;

Chapter 7. Views from inside: Experts and participants' view of the fight against high-level corruption in the two countries and on the role of the EU in the process – interviews to be arranged for May-June 2024 and carried out online or in person (depending on availability and scheduling) in Bucharest, Sofia and Brussels;

Chapter 8. Discussion of findings – to be completed as the interviews are complete and first drafts are evaluated;

All comments and recommendations made on the first drafts of the chapters by the thesis supervisors will be incorporated into the second draft of the thesis on a rolling basis, but final draft ought to be ready by the end of June 2023. The last month before the submission of the final thesis will be dedicated to small amendments and stylistic changes alone.

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