



UNIVERSITY OF KONSTANZ
Research Group Sociology of Knowledge

Crime

& Culture

Crime as a Cultural Problem

The Relevance of Perceptions of Corruption to Crime Prevention. A Comparative Cultural Study in the EU-Accession States Bulgaria and Romania, the EU-Candidate States Turkey and Croatia and the EU-States Germany, Greece and United Kingdom

Daniel Smilov, Rashko Dorosiev

Anti-Corruption: Uses and Abuses

Findings from the Content Analysis of Interviews with Politicians, Representatives of Judiciary, Police, Media, Civil Society and Businessman in Bulgaria



Sixth Framework Programme of the European Commission
Specific Targeted Research Project



Email: crimeandculture@uni-konstanz.de | Project Website: www.uni-konstanz.de/crimeandculture/index.htm



SIXTH FRAMEWORK PROGRAMME OF THE EUROPEAN COMMISSION



RESEARCH PROJECT: CRIME AND CULTURE

Crime as a Cultural Problem. The Relevance of Perceptions of Corruption to Crime Prevention. A Comparative Cultural Study in the EU-Accession States Bulgaria and Romania, the EU-Candidate States Turkey and Croatia and the EU-States Germany, Greece and United Kingdom

Daniel Smilov
Rashko Dorosiev

**Anti-Corruption: Uses and Abuses
Findings from the Content Analysis of Interviews with
Politicians, Representatives of Judiciary, Police, Media,
Civil Society and Businessman in Bulgaria**

Discussion Paper Series

No 22

2008

**Dr. Daniel Smilov**

Programme Director, Political and Legal Research

Daniel Smilov is a comparative constitutional lawyer and political scientist. He is Programme Director at the Centre for Liberal Strategies, Sofia, Recurrent Visiting Professor of Comparative Constitutional Law at the Central European University, Budapest, and Assistant Professor of Political Theory at the Political Science Department, University of Sofia. He holds doctorates from the University of Oxford (DPhil, 2003) and the Central European University, Budapest (SJD, 1999, summa cum laude). In 2002-2003 he was Research Fellow at the Centre for Policy Studies, at the Central European University. In 2003-2004 he was a Jean Monnet Fellow at the European University Institute, Florence. He has also been a Visiting Scholar at the Boalt Hall School of Law, University of California, Berkeley in 1995. Dr. Smilov is co-author (with Martin Tisne) of *From the Ground Up: Assessing the Record of Anticorruption Assistance in Southeast Europe*, Central European University Press, 2004, and co-editor (with Denis Galligan) of *Administrative Law in Central and Eastern Europe*, CEU Press, 1999. He has published articles in *ICON* (International Journal of Constitutional Law, Oxford University Press), *Public Law*, and the *Austrian Journal of Political Science* (ÖZP), as well as a number of chapters in edited volumes. Forthcoming from Ashgate is the edited by him (together with Jurij Toplak), *Political Finance and Corruption in Eastern Europe*.

Rashko Dorosiev (M.A.)

Project Director, Political and Legal Research

Rashko Dorosiev holds master degrees in political science and in history and archaeology from Sofia University. He works as a researcher and project director in Centre for Liberal Strategies in Sofia since 2000. His research interests include anti-corruption policy, political sociology, and political risk assessment. Rashko Dorosiev participated in a number of research project including: *Institutional Reactions to Cases of Corruption in Bulgaria*, CLS 2002-2003, Sofia, *Lessons Learned in Anti-corruption Policy*, CEU Budapest, 2003-2004, *Task Force on Organized Crime in Bulgaria*, CLS, 2004, and *Global Integrity Project*, 2006. Since 2002 he has been working as a consultant writing reports on political risk in Bulgaria. He is currently involved in a research project studying corruption from cultural perspective, and in another project investigating the impact of European Court for Human Rights activity. His publications include: Co-author "Country report: Bulgaria" in: *Nations in Transit 2003 – Democratisation in East Central Europe and Eurasia*, Freedom House, 2003-2007; "Four Corruption Scandals Seen by Media and Judiciary Points of View", in *Institutional Reactions to Cases of Corruption in Bulgaria*, CLS (under print).

Centre for Liberal Strategies, Sofia

www.cls-sofia.org



Introduction

The issue of corruption was publicly articulated as a grave social problem in Bulgaria towards the end of the 1990s. Similarly to Western democracies, the topic of corruption in Bulgaria was first studied and brought to the social agenda by non-governmental actors. Broad corruption awareness campaigns, studies on corruption, and many other initiatives got underway at that time, with the support of the international donor community. Gradually, the anti-corruption agenda pervaded the programs of political parties and governments, while some of its main principles were converted into legislation. In spite of all these achievements, corruption and organised crime were identified by the European Commission as two of the most serious problems in Bulgaria throughout its monitoring during the accession process: the emphasis on corruption became even stronger in the last pre-accession reports of the Commission. System reforms, as well as practical results in the fight against corruption and organised crime, were specifically mentioned as conditions for the integration of Bulgaria into the European Union. Though one might expect that the issue of corruption (the governing parties included) would diminish in importance after Bulgaria joined the European Union in 2007, it actually has increased since accession. The government came under strong criticism of the European Commission in 2008 for failing to counteract effectively the high-profile organized crime and corruption that eventually led to suspension and forfeit of financial assistance under some of the pre-accession funds for Bulgaria.

The exceptional significance of corruption has resulted in the establishment of a number of anticorruption policies, instruments and bodies that have produced mixed results so far. In this paper we are interested in studying the anticorruption wave of the last decade in Eastern Europe and Bulgaria in particular. Our conclusions here are based on the findings from Crime and Culture research project (FP6 of European Commission) in which we carried out research in Bulgaria.

Development of the anticorruption policies and bodies in South East Europe

An important part of the implementation of universal anticorruption institutional reforms in Eastern Europe was the setting up of new bodies designed to create and carry out anticorruption policies and strategies. First, the so-called anticorruption commissions gained popularity. They were generally not empowered with investigative powers but were involved in building partnerships with civil society groups, and prepared comprehensive anti-



corruption strategies, action plans, etc. The commissions were an essential element of a specific approach to the fight against corruption dubbed by the European Bank for Reconstruction and Development (EBRD) “omnibus programmes”.¹

Initially, these bodies had a positive overall effect in raising public awareness concerning the issue of corruption. Gradually, however, publics seemed to grow tired of this type of activity. Probably, there is a point of saturation at which public awareness of the spread of corruption turns into cynicism regarding anticorruption activities as a whole. If this point is reached, which might well be the case in some countries of the region², an important unintended consequence appears. This is the falling confidence in the political establishment, the rise of populist leaders and parties, and the growing general discontent with the constitutional order and liberal democracy.³

The increasing public and external pressure for more tangible results in the fight against corruption has led to a second phase of the anti-corruption institutionalization in Eastern Europe. Currently, several states in the South East corner of the region are creating specific investigative and prosecutorial agencies to tackle the problem of corruption. Romania has set up an Anticorruption Prosecutorial Office, and Bulgaria (rather more cautiously) has created recently a special investigative body which tasks include investigation into high profile corruption and organized crime.

In what follows our task is twofold. On the one hand, we look more closely into the institutional innovations which have been carried out with a specific intention to fight corruption in South East Europe. The focus is primarily on the experiences of Bulgaria, although illustrations from other Balkan countries, such as Macedonia, Albania, and Romania will be given. Secondly, and more challengingly, we address the question of the motivations behind the anticorruption institutional leap of faith in South East Europe. More specifically, we suggest a tentative explanation as to why exactly these specific institutional forms of anticorruption activities have been chosen.

¹ Franklin Steves and Alan Rousso, *Anticorruption Programmes in Post-communist Countries and Changes in the Business Environment*, 1999-2002, EBRD, Working paper No. 85.

² Martin Tisne and Daniel Smilov, *From the Ground Up: Assessing the Record of Anticorruption Assistance in South Eastern Europe*, CEU Press, CPS series, 2004, p. 64-66.

³ For the recent rise of populist politics in Eastern Europe see the discussion *Is East-Central Europe Backsliding* in the *Journal of Democracy*, October 2000, Volume 18, No. 4, featuring Jacques Rupnik, Martin Butora, Bela Greskovits, Ivan Krastev and others.



At the outset, it has to be said that the second question is not easy to answer. The Western experience did not offer a comprehensive model in the field of anticorruption, and that requires that other justifications and motivations for the anti-corruption institutional leap should be explored. One possible motivation is performance. If so, one should look for performance indicators for anti-corruption institutions. One of the ground-breaking discoveries of the 1990s – the discovery that corruption can be measured – gives hopes in this regard. This hope is rather premature as there has been thus far no reliable performance measurement device tracking the success or failure of anticorruption institutions in South East Europe. In the absence of standardised and reliable indicators for the performance there is a flourishing market for “quasi-indicators”, “benchmarks”, and “best practices”, a typical feature of which is the presentation of local, context-dependent arguments in support of universal conclusions.

Eastern Europeans have been long trained in the Hegelian doctrine of identity of reason and reality, according to which there should be a sound rational justification for everything that is real, anti-corruption institutions included. In this vein, in this paper we will argue that local politicians and policy-makers needed these institutions as tools of leverage over the anticorruption discourse, which has become one of the most important instruments of political mobilisation. Admittedly, it is a complex argument which could hardly be substantiated in a single paper. Therefore, the ensuing discussion is sketchy and programmatic. It starts with the idea of the depleting resources of political mobilisation, and then proceeds to the presentation of anticorruption agencies as a tool for governmental leverage over the anti-corruption discourse.

Presenting the anticorruption commissions and agencies as discourse-controlling instruments is not meant to be an argument against their introduction. There is no doubt that in certain circumstances they could produce positive results, which go beyond discourse *per se*. Looking at them as discourse tools, however, gives an answer to the troubling question why governing parties are at all interested in the introduction of such bodies. The answer suggested here is that these bodies help governments use anticorruption discourse in electoral context in their own favour. Anticorruption, which typically is a topic on which the political opposition thrives, becomes useful for the incumbent who could offer strategies and plans, organise public awareness campaigns, establish links with NGOs, and even initiate corruption proceedings against high profile figures. These possibilities level the playing field between government and opposition in electoral contexts.



Depleting resources for political mobilisation

Political parties in most of the liberal democracies in Eastern Europe are in a precarious situation: their resources for political mobilisation are running out. This can be well illustrated this by a short case-study on Bulgarian political life, in the framework of which there are parallels with other countries. Throughout the 1990s Bulgarian parties relied on three types of resources: ideology, patronage, and state aid (financial and in-kind). Only the third type of resource – state aid – was increasing and became more substantial at the end of the decade. As it is well known, however, reliance on state aid does not always translate into greater potential for political mobilisation of voters and sympathisers: on the contrary, it might result in their alienation and the *etatistation*” of the parties.

The other two resources – ideology and patronage - which have admittedly a greater mobilisation potential, were gradually depleting due to a plurality of factors. On the ideological front, by 2000 all major parties in the country had reached a solid consensus on the most important political issues, such as membership in EU and NATO, the desirability of privatisation and restitution of property, strict fiscal discipline, and commitment to lower taxes. This consensus practically diluted the left-right cleavage in Bulgarian politics. It was no surprise that this was when a new player arrived on the scene – the National Movement Simeon II (NMSII), the party of the former Bulgarian tsar, a charismatic figure epitomising all of the elements of the emerging cross-party consensus. From then on the other major parties shed most of their remaining ideological baggage, and the ultimate result was a grand coalition between the nominally centre-left Socialist party and the nominally centre-right NMSII, formed after the parliamentary elections in 2005.

The Bulgarian example suggests that the consolidation of democracy in Eastern Europe has paradoxically diminished any clash of substantive political ideas, and encouraged the creation of eclectic, heterogeneous party programmes and platforms. In this sea of eclecticism and lack of coherence, it is no surprise that the ideologies and programmes of mainstream parties lost their mobilisational potential.

Patronage was the second most important resource of the Bulgarian parties in the 1990s. Here the term “patronage” is used broadly to include all practices through which party members and sympathisers gained access to public positions, services or some other form of privilege. In a giant process of transformation from state ownership to private property in the economy, partisan appointments to senior management positions, governing boards, etc, were inevitable.



In the Bulgarian case (and in South East Europe in general) opportunities for patronage were even more abundant, because privatisation was delayed, and most of the economy remained in state hands until the end of the 1990s. Apart from the economy, political parties tried throughout the 1990s to gain control over areas such as the judiciary and the public electronic media, which are supposed to be free from partisan influence.

Patronage practices took a more explicit form in South East Europe, but they were typical for most of the transition countries. Privatization of state assets by partisan cronies became the reason for major scandals in Hungary, and the Czech Republic: the fall of Klaus as a Prime Minister is a case in point. But more importantly, as Andras Sajo⁴ has argued, the transition was characterised by the existence of specific clientelistic practices around political parties.

With the end of the massive privatisation processes in the beginning of the new century, the possibilities for mobilisation of voters by patronage started to decrease. It is of course impossible to announce the death of political patronage, but there are certain symptoms which suggest that its role is diminishing. The recent local elections in Bulgaria (Autumn 2007) illustrate the point. First, they were characterised by a scandalous amount of allegations of vote buying. Secondly, there was a massive emergence of so-called “business” parties, running directly for political positions and bypassing the representation offered by established parties. Both of these developments suggest that the established parties are losing their clientele both in local businesses and among deprived minorities of voters: the former do not want to invest any more in party representation, while the latter want direct financial compensation for their votes.

In such circumstances of depleting traditional resources of mobilisation, political actors turn to issues such as nationalism, identity politics, and what is most important for our discussion – anticorruption. Anticorruption becomes an election-winning discourse. In the Bulgarian case, all of the parties that won elections since 2001 were seen as anticorruption fighters. In Romania, corruption also became a central issue of politics: the culmination of this trend took place immediately before and after the accession of the country to the EU in the attempts to prosecute a former PM, and to impeach the President, in both cases on corruption grounds.

⁴ Sajo, András, „Clientelism and Extortion: Corruption in Transition”, In: *Political Corruption in Transition: A Skeptic's Handbook*, Stephen Kotkin, Andras Sajo (Editors), CEU Press, 2002, 2.



The structure of anticorruption discourse

Thus far we have established that anticorruption discourse has become very important for political parties in Eastern Europe. Now the structure of this discourse – which is by no means a monolithic phenomenon - will be explored. The goal will be to show that different actors have different perceptions of the character of the phenomenon, its causes and effects, and, ultimately, the measures that need to be taken against it. It will be argued that incumbent politicians have an interest to speak in a particular way about corruption. In the following sections it will be shown that the anticorruption commissions and agencies set up in South East Europe serve the purpose of instrumentalising the anticorruption discourse in favour of the governing parties. As mentioned above, the analysis in this section uses the findings of the research projects done by the Centre for Liberal Strategies in the framework of Crime and Culture research project about the understandings of corruption of key target groups, such as politicians, journalists, businesses, NGOs, and the judiciary were studied.

The politicians

No unified definition of corruption exists amongst politicians despite the manifest consensus that corruption is a negative phenomenon that has to be combated. Normally opposition politicians stick to broad public-interest based, inclusive, and inflated conceptions of corruption, which go beyond the strict legalistic meaning of the concept. Such conceptions often allege various forms of favouritism in privatisation, clandestine state control or tacit state approval of smuggling channels, turning the party into a corrupt hierarchical structure, etc. Few of these allegations could be translated directly into penal code crimes. Yet all suggest abuse of public trust and some damage done to the public good.

Governing politicians, in contrast, usually resort to two strategies in their discourse on corruption. First, they stick to legalistic notions of corruption and require proof beyond reasonable doubt for the substantiation of corruption allegations. Secondly, and much less often, governing politicians try to normalize certain practices, which the opposition calls corrupt.⁵ Further, corruption discourse is engaged in the separation of powers battles between governments and the opposition in the following way. The opposition has an interest in the

⁵ An extremely interesting case of this kind happened in Bulgaria in 2006, when one of the mainstream parties – the Movement for Rights and Freedoms - attempted to sell to the public the so-called model of “circles of firms”, according to which political parties have the right to build circles of friendly firms, which in turn help funding of the patron party. Curiously, this model was advocated as a cure against “oligarchy”.



adoption of anticorruption measures which limit the discretion of the government in policy-making (transparency requirements, deregulation, limiting licenses, etc.) On the contrary, governments do have an incentive to preserve a broader range of discretionary powers.⁶ Finally, governments and the opposition differ in what they see as a proper response to the problem of corruption. The former look for answers in the long-term institutional and legislative amendments. The latter are looking mostly for a political change, which will bring them to power which could happen if a scandal leads to a governmental crisis, and mass protests. Personnel changes in the government, indictment of key politicians, etc are also appealing anticorruption measures for the political opposition.

The judiciary

Not surprisingly, the judiciary normally resorts to legalistic conceptions of corruption, and sticks to concepts and definitions in the law books. The paradox is the virtual disappearance of corruption from the discourse of magistrates. In this discourse the issue of corruption is often renamed and translated into other problems. Thus, in two of the best known corruption scandals in Bulgaria in the period between 2001-2004 the involvement of the courts was marginal: in one of the cases, an allegation of party finance violation was transformed into a libel suit; in the other, an allegation of corrupt privatisation was transformed into a problem of pure procedural violation of the privatisation law.

In both cases, what stood out was the inconclusive character of the judicial proceedings as regarding the major questions at stake in the two scandals. In the party funding case, for instance, judicial proceedings could not prove or disprove the two competing interpretations of the events: the acceptance of illegal donation versus an attempt by a controversial businessman to set up one of the major parties in the country. The unfortunate lack of

⁶ According to the Bulgarian case studies, it appears that in the framework of privatisation, corruption could be understood in different ways depending on the current positions of the politicians and their political parties. When in power, politicians tend to praise political privatisation where the decisions are made on the basis of political arguments, by elected bodies having extensive powers to decide not only on the economic and formal parameters of the privatisation offers but also on a number of other issues, such as possible consequences for the society as whole. On the other hand, politicians while in opposition claim that political privatisation is corrupt and favour the practice of technical/expert privatization, based on technical and formal considerations, where appointed bodies of independent experts take the most important decisions following a strict legal procedure. This dichotomy is the main result of the so-called public interest trap. The public insist on fair but also on effective privatization. Governments of transition countries have rapidly come to the conclusion that fair and transparent privatisation process does not automatically produce the best outcome in terms of the public interest. This is the reason why politicians while in power tend to shift the focus in defining corruption from the fairness of the process to the quality of the results produced in terms of the broadly defined 'public' or 'national' interest.



conclusive judicial findings creates a fertile atmosphere for the production of myths. For our purposes, however, the important point is that when cases reach the courts, corruption curiously shrinks.

The police and prosecutors

In contrast to the judges, prosecutors and the police are characterized by a very wide-spread use (including in official documents) of inflated public interest-based conceptions of corruption, such as "circles of friends", "favouritism", "party machines", "political umbrellas against investigation", "theft through privatization", etc. Naming ministers as a part of mafia-like structures, calculations of the negative financial impact of corrupt privatisation, feature regularly in the parlance and the documents produced by this group. Regrettably, as it became clear from the previous section, formal indictments are quite rarely upheld by courts, which creates a significant gap between the discourse and the output of the police and the prosecutors. In terms of conception and perception of corruption this group is closer to the opposition politicians than to the judges.

The media

For the media corruption is generally an all-embracing metaphor for criminal and bad government. Here, public interest-based conceptions of corruption are encountered in their most inflated versions. The main theme is that greedy and incompetent elites are stealing from the people on a massive scale. Concrete cases are usually blown out of proportion in order to paint pictures of epic theft. As a result, the borderline between investigative journalism, analysis and story-telling is often blurred and sometimes non-existent. The solutions that the media see to the problem of corruption are, as a rule, repressive in their character: more convictions. Curiously, however, sometimes the media elaborate rather daring responses to corruption, by, for instance, advancing what could be called "participatory ideals of corruption" according to which people should share in the spoils of corruption.

Such curious ideas suggest that the real role of the media is not exclusively in the fight against corruption, but also in informing the public of latest developments in the story of grand theft. A cynic might even say that the role of the media is in involving the people in these clandestine processes, making them privy to their intricacies, hooking them in the affair as a



whole, albeit by means of vicarious participation. From this point of view, it is not surprising that the media tend to show a disproportionate interest in the outbreak and unfolding of scandals, as compared with their resolution.

Civil society/NGOs

The main elements of this discourse are the following: corruption is measurable; it is increasing or at least is very high; it is bad for the economy. This is by far the most sophisticated discourse about corruption, dictating the fashion in general. Civil society groups stress the importance of institutional change and changes in the incentive structure of important actors in the fight against corruption. Yet, and somewhat paradoxically, although they frame the solutions in terms of substantial structural reforms, often results are expected relatively fast. This urgent feature of civil society discourse dramatically raises public expectations. One of the results of these raised expectations is the dissatisfaction with politicians, delegitimation of governments, and the creation of a fertile ground for the appearance of new populist political actors.

The business sector

Business generally speaks about corruption through silence. It prefers to shift the problem from corruption *per se* to the conditions for the emergence of corruption. These are usually to be found in the domain of legislation and public administration. Extremely popular is the so-called problem of “red tape” – administrative hurdles for entrepreneurial activities, which are to be overcome by corrupt transactions. Generally, business discourses on corruption are depersonalised. They refer to structural conditions, not to agents and perpetrators. Business is also typically portrayed as the victim of corruption, while the public servants (as an anonymous category) are the potential wrong-doers.

Although the conception of corruption as “grease” for the economy has been rejected by important players such as the World Bank Institute, for instance, there is no evidence that the business community has ceased to believe in this conception. In other words, corruption is not by any means excluded by business as a possible means for overcoming unjustified and inefficient government-imposed burdens on the business.



Designing discourse coalitions and their political usage

The preceding analysis shows that governmental parties risk losing the public debate if they rely only on the legalistic discourse on the phenomenon of corruption. For example, in 2000-2001 the government of the Bulgarian Prime Minister Ivan Kostov was in vehement denial of the existence of corruption unless proven in court. This government was swept aside by King Simeon II's movement, which came into office on an anticorruption ticket. Governments, sticking only to the legalistic conception of corruption, could rely only on support from the judiciary – hardly a vocal player in political life. The government will see virtually everybody talking against them– the media, the NGOs, the businesses, eventually the prosecutors and the police, if they enjoy a degree of autonomy. Governments, therefore, need to re-examine their discourse coalitions very carefully, if they do not want to be left in isolation. In order to break up their discourse isolation, however, governments must take at least some of the following steps:

First they must publicly admit and recognize the problem of corruption. In this way they throw a discourse bridge to potential partners in other groups, who are not directly interested in political changes like the opposition, and build partnerships with them around specific anticorruption measures. With regard to civil society, in exchange for the public recognition of corruption, governments could require cooperation with NGOs in a number of spheres, such as measuring corruption, legislative drafting of programmes, action plans, and other normative acts, consultation with experts, etc. The governments will be successful in breaking up their discourse isolation if most of the influential NGOs in the country adopt a “non confrontational” stance towards them. This would mean that corruption is depoliticized and that change of government is no longer seen as the key measure to be taken.

In the case of the media, the situation is more complex. In contrast to NGOs, the media are not that interested in long-term institutional and legislative measures. They frame public discourse mostly through scandal and personalisation of politics. Therefore, personnel changes are indispensable in order to bridge the gap between media and governmental discourse on corruption. For this purpose, governments must involve elements of the prosecutors and the police, with the goal of starting investigations of public persons, possibly including members of the governing parties as well (only in exceptional cases, of course). It is important to stress that for the purposes of collaboration with the media, governments need to focus only on the start of investigations, since media interest is highest at this point, and goes



down dramatically at the more complex judicial stages, whose intricate procedures are often impenetrable for the public in general.

Even the opposition could be co-opted in terms of anticorruption discourse by a skilful government. The key element here is the depoliticisation of the issue through the elaboration of a comprehensive anticorruption plan, which requires profound long-term institutional changes in all areas of governance. Ultimately, governing parties will be successful if they obtain the consent of the opposition for these programmes and plans. It is normally not impossible, since these contain predominantly common-sense measures aiming at the general improvement of governance. And they reduce the chance of anti-corruption measures being selectively applied to leaders of the opposition. In certain cases, members of the opposition could become also members of watchdog bodies, supervising the implementation of legislative and institutional reforms.

Finally, the government must tread very carefully in the silent discourse of the business sector on the issue of corruption. The best strategy to ensure that this silence means support is to lead a policy of downsizing of the state and lowering the taxes. These are the key anticorruption measures which the business community looks for. Normally, a political crisis and instability are not in the interest of the economic players.

There are several residual problems with these strategies of breaking up discourse isolation by a government. First, the adoption of legislative and institutional measures – which is the core of what a government can offer to the public and other influential players in terms of anticorruption – is potentially threatening to governmental discretion in important areas. This alienates traditional clientelistic partners - the role of patronage decreases - but also leads to a convergence of the acceptable party platforms in the longer run. Cooperation with civil society – understood as a monolithic, non-partisan entity – also leads to a certain depoliticisation of politics, which dilutes the dividing lines between the major parties.

Thus, by creating successful discourse coalitions with other influential players, governments resolve their short-term political problems of electoral mobilisation. They break up their discourse isolation, and their messages start to find support in what the other actors are saying as well. However, the long-term cost of this strategy seems to be a level of depoliticisation and of further undermining of the tools for political mobilization for the established political parties as a whole. It is no surprise, from this perspective, that despite the commitment of governments in Southeast Europe to the fight against corruption for more than seven years



now, there is no visible revival of public trust in the established political parties. In most of the countries, trust in governments and the representative structures of society as a whole is very low. Parties and parliaments are usually most at risk. The troubles of the established parties have recently taken two major forms.

In the Romanian case, the two major political parties (the ex-communist Social Democrats, controlling Parliament and the block of the President Basescu) went on a desperate all-out anticorruption war against each other to win back public trust. Before Romania's accession to the EU, the anticorruption effort was led by the charismatic Minister of Justice Monica Macovei, who was closer to the presidential camp. The Social Democrats, who saw themselves as victims of the anticorruption campaign, retaliated by sacking Macovei immediately after the accession of Romania to the EU, and by starting impeachment proceedings against Basescu himself. The impeachment failed, because the Romanian people confirmed Basescu in office in a referendum. So far, high profile investigations against important party leaders on both sides have not led to convictions. Some of them never reach the judicial phase, while the others usually take a lot of time for final resolution. To an external observer, it would be a real miracle if these developments restore public trust in the political process and the representative structures of democracy in Romania.

In Bulgaria, the mainstream parties have adopted another strategy. They have avoided thus far an all-out anticorruption war against each other, with one significant exception in the first part of 2007, when a vice-PM of the Socialist Party was forced to resign, together with the Chief Investigator (who was seen as an appointee of another coalition partner – the Movement for Rights and Freedoms). These two started accusing each other of corrupt behavior, accusations which remained unproven in court, but had a dramatic public effect. This was just an exception to the general rule of avoidance of anticorruption warfare among the major parties, however. The result of this avoidance is the public perception of all of the major parties as corrupt, which opens the political stage for ever-new anticorruption populist actors. Accordingly, all new elections bring a new popular anticorruption hero in Bulgarian politics. In 2001 this was Simeon II and his movement; in 2005 the nationalist Ataka; and in 2007 the charismatic Boyko Borisov – the former bodyguard of the ex-tsar - who made a career in the Ministry of Interior in the period 2001-2005.

Somewhat paradoxically, whether avoiding an all-out confrontation on the issue of corruption or not, major parties suffer from a long-term tendency of loss of public support in South East Europe. The long-term trend in terms of winning the public support through anticorruption



discourse strategies is hardly encouraging for the major parties, however. The door for new populist players seems wide open.

Commissions and agencies as discourse-controlling instruments: the experience of Southeast Europe

In the previous section the importance of the formation of discourse coalitions for governing actors was examined, together with some of its short- and long-term consequences. In this section the structure of the anticorruption commissions and agencies created in some of the South East European countries will be examined, from the point of view of their involvement in the battle to control the anticorruption discourse. Although governments must admit the existence of corruption (even if not judicially proven), in order to become players in the discourse battles, they have to do this cautiously. It is impossible for key government politicians to speak regularly about widespread corruption, to measure it, and to organise public awareness campaigns, as this will associate the politicians with corruption in the eyes of the public. Therefore, there is a political need for a semi-autonomous, semi-independent public body to take upon itself the anticorruption discourse on behalf of the ruling parties. Based on the previous discussion, one could conclude that it will be rational for such a body to have the following structure and powers:

First, its composition should build bridges with civil society and the opposition. Members of civil society could either participate in the nominations of commissioners, or even sit on the commission. At a minimum, most of the meetings of this body should be open to the public and encourage media coverage and participation of NGOs. As to the opposition, a delicate balance should be sought between its participation and its support for long-term programmatic documents in the fight against corruption.

The powers of these bodies need to be concentrated mainly in the area of institutional reform, legislative drafting, and coordination among other government agencies. Investigative powers are not needed, and indeed, they could antagonise important groups as the police and the prosecutors. It could be the case, however, that the commissions are entitled to initiate proceedings, which then are transferred to the prosecutors and the police for continuation.

In relation to the media, the commission should be able to supply them with media-friendly material. The best is the news of started proceedings and possible indictments. In the absence



of such data, the second-best option is statistical data on the spread of corruption in society. Finally, in relation to business, one could expect that the commission remains discrete and upholds the two major prongs of the business' silent discourse on corruption: downsizing of the state and lowering of the taxes.

Our argument is that the adopted anticorruption commissions in at least four South East European countries follow closely the ideal type set above. These are Bulgaria, Albania, Macedonia and Bosnia and Herzegovina.⁷ In all of these countries, partly because of domestic political dynamics, partly due to the pressure exercised by donors (like the Council of Europe, EU, and others), a specific model of anticorruption institutional reforms was adopted, which was aptly named by the EBRD "omnibus programmes": a coordinated assemblage of governmental structures and policies specifically geared towards fighting corruption. The main elements of the omnibus programmes were the following:

- an anti corruption law;
- a national anticorruption strategy or program;
- a ministerial commission, specialised unit or dedicated agency supervising implementation;
- an action plan to implement the program; and
- a monitoring mechanism.

Here we will focus more closely on one specific case study, the Albanian one. Most of the conclusions, however, will be valid for the other three countries as well, to the practice of which occasional references will be made. In Albania, by 2004 the Council of Europe's PACO I project was underway, whose main purpose was to strengthen the newly established anticorruption body: the so-called anticorruption monitoring group. In the same period, the Macedonian State Commission against Corruption was set up (also with help of foreign donors). Similar commissions were created in Bulgaria, in Bosnia and other countries as well. In Albania, the national anticorruption strategy and action plan were the product of two years of dialogue between the donor community and the Albanian government, resulting in a strategic document spanning five reform areas: public administration reform, improved legislation, improvement of public finances management, better transparency in business transactions, to public information and civil society participation. The structure or agency

⁷ This part of the paper is based on Martin Tisne and Daniel Smilov, *From the Ground Up: Assessing the Record of Anticorruption Assistance in Southeast Europe*, CEU Press, Budapest, 2004. The research for this paper was done in the period 2003-2004. For a more detailed analysis of the Albanian and Macedonian anticorruption omnibus programmes please refer to *From the Ground Up*.



overseeing the progress of the strategy included an anticorruption monitoring group (ACMG) - composed of the legal directors of relevant ministries as well as the Minister of State – to monitor the implementation of the plan, give advice and issue recommendations, and suggest improvement and prioritization of the plan. There was also a permanent secretariat to the ACMG.

The Council of Europe's approach in Albania was entirely focused on the implementation of the action plan. The institutional structures that had been created had no responsibility or powers beyond ensuring the implementation of the plan. More specifically, they lacked powers of investigation, indictment, etc.

In Macedonia, roughly at the same time, a State Commission for the Fight against Corruption in Macedonia was set up with slightly more expanded powers. Apart from the adopting and monitoring of a national program for corruption prevention and repression, it also had the power to summon – in secret if necessary - persons suspected of corruption before the state commission to clarify their position before possibly starting an initiative before the relevant bodies to discharge, replace or criminally prosecute those suspected elected officials or public servants suspected of corruption.

By 2004, the ACMG's achievements in Albania had been limited to passing laws. The Council of Ministers passed a law on a code of ethics in public administration as well as a law on the declaration of assets of public and elected officials. Other laws "on notary" and "on advocacy" were passed in the judicial sector and a law "on the internal audit in the public service" was passed under the public finance management heading. The EC had been openly critical of the action plan's focus on the implementation of legislation, citing the lack of precision of the indicators used by the ACMG, lack of firm deadlines, institutional cooperation, as well as poor quality of the requested measures in the draft action plan's recommendations on legal consolidation. Despite these problems, however, cooperation with civil society had been quite encouraging, given the relatively weak state of Albanian civil society. The USAID sponsored Albanian Coalition against Corruption was given a seat on the board of the anticorruption monitoring group, and civil society groups contributed as experts in a small number of projects and surveys run by the permanent unit, not least in pushing for the adoption of the declaration of assets law. Involvement and support from the business community was practically non-existent, however. Even at that time there were fears that the adopted anticorruption strategy had a limited effect as far as the reduction of corruption per se



was concerned.⁸ If we adopt the view of the anticorruption commissions as discourse-controlling mechanisms on behalf of the governing parties, the structure and the powers, and the operation of the Albanian body will become much more understandable. Its main purpose was to build what I have called “discourse coalitions” with civil society, the media, and other influential actors. From this perspective, the body was quite functional:

First, it managed to gain support of an umbrella civil society anticorruption organisation, which comprised NGOs from all possible corners of civil society. Thus, the issue of the fight against corruption was practically depoliticised⁹.

The fight against corruption was successfully shifted from the issue of political and personnel changes to institutional and legislative reforms. This was a strategy breeding long-term discontent because the ever-increasing public expectations could not be satisfied only with legislative amendments. But again, from a discourse perspective no one could seriously challenge the government that it was not “taking measures” against corruption, or not “recognising” the seriousness of the problem. All in all, the government had become a player in the corruption discourse, competing with the opposition and others over anticorruption as a precious resource of political mobilisation.

The Albanian commission enjoyed good relations with the media as well. Parts of the activities initiated or sponsored by this body and its supportive civil society organisations were actually televised, and were quite popular. Hot line telephone lines were set up, TV shows were raising public awareness, etc. In all of these, paradoxically, the government was not always at the receiving end of public criticism, but also received an opportunity to publicise its own efforts in the implementation of the action plans, etc.

⁸ According to the U4 group of donors “This framework [the anti corruption action plan] seems very sensible on paper, but if one accepts that the Prime Minister is unwilling or unable to instigate a real fight against corruption, the whole plan with its different levels of monitoring becomes very hollow.”. The European Commission’s Stabilisation and Association Report on Albania in 2003 noted that:

“Although Albania has developed, in close cooperation with the international community, a number of mechanisms to fight strong systemic corruption, actual progress in this area remains insufficient. Albania has demonstrated its capacity to develop action plans, prepare matrixes, and to set up specific institutions with the objective of fighting corruption. However, declarations of intent and multilateral events are far from being sufficient. Fighting corruption requires full commitment and political will, and full and determined implementation of action plans.”

⁹ The best example of anticorruption programmes backed by similar umbrella civil society organisations comes from Bulgaria, where, again with the help of USAID, the Coalition 2000 was created. This body spearheaded a number of anticorruption reforms and generally helped successive governments in the creation of their anticorruption strategies. It has to be stressed that it also adopted a non-confrontational stance vis-à-vis governments of the day, and aimed to secure their cooperation



Conclusions

The goal of this paper was to demonstrate that one of the major reasons for setting up of anticorruption bodies has become control over the unruly discourse around corruption, and so should be analysed in the concrete political dynamics of each society. Our ambition is not to argue that these bodies serve only or even primarily this discursive function: one could easily imagine cases where anticorruption commissions and agencies contribute significantly to the reduction of corruption. However, even in such cases the agencies would be successful only to the extent they build viable coalitions with politicians, judges, prosecutors, media, and the civil society. No matter how powerful and independent these bodies are, they cannot take on the rest of society on their own.

The experience of South East European countries in the building of viable anticorruption coalitions around agencies and commissions has been decidedly mixed. Such bodies have taken roots in many places in the region, and, as shown above, they are seen as functional and useful by a variety of governmental and non-governmental actors. However, their broader effects on democratic politics seem to be rather marginal or even problematic. In any event, sustained anticorruption efforts by governments have not produced dramatic decreases in the public perception of corruption.¹⁰ Related to this, many of the countries in the region are plagued by very low levels of trust in the representative institutions of democracy: parties and parliaments. We have shown that the anticorruption bodies and strategies adopted by governments have given them a handle on an important resource of electoral mobilisation – the anticorruption discourse. But this short term success should be evaluated against the longer-term trends of falling electoral turnouts, lack of party membership, lack of party loyalty and discipline. Finally, we should take into account the dangers of rising populist parties, which further undermine the party systems, and which campaign not so much against the corruption of a specific government, but against the corruption of the political elite as a whole. These populist parties actually cultivate the perception in the public that liberal, representative democracy as such is corrupt.

The weakest link in the models of governance in the region is the political parties. In this regard, the anticorruption efforts spearheaded by agencies and commissions have had an unfortunate unintended consequence – they either have contributed to or at least failed to prevent the further weakening of mainstream political parties, and the rise of populist players. The future success of anticorruption efforts, therefore, depends on their embeddedness in a

¹⁰ The CPI index shows a rather flat trend for the period 2000-2006.



healthy process of democratic representation. If this is not the case, as it appears to be in South East Europe, anticorruption activities and institutional innovations might become a rather risky leap of faith.



**SIXTH FRAMEWORK PROGRAMME OF THE EUROPEAN COMMISSION
PRIORITY 7, FP6-2004-CITIZENS-5**



SPECIFIC TARGETED RESEARCH PROJECT: CRIME AND CULTURE

**Crime as a Cultural Problem. The Relevance of Perceptions of Corruption to Crime Prevention.
A Comparative Cultural Study in the EU-Accession States Bulgaria and Romania, the EU-
Candidate States Turkey and Croatia and the EU-States Germany, Greece and United Kingdom**

Members of the Project Consortium

University of Konstanz, Germany (Co-ordinator)

University of Tübingen, Germany

Police University, German Federal State of Baden-Württemberg (Affiliated)

Centre for Liberal Strategies, Sofia, Bulgaria

Research Institute for Quality of Life (Romanian Academy), Bucharest, Romania

Galatasaray University, Istanbul, Turkey

University of Zagreb, Croatia

National School of Public Administration and Local Government, Athens, Greece

Panteion University, Athens, Greece

South East European Studies at Oxford (SEESOX), United Kingdom

Center for Research and Policy Making (CRPM), FYR Macedonia (Affiliated)

Contact

- Prof. Dr. Hans-Georg Soeffner, Person in Charge
Hans-Georg.Soeffner@uni-konstanz.de
- Dr. habil. Dirk Tänzler, Scientific Co-ordinator
Dirk.Taenzler@uni-konstanz.de
- Dr. Angelos Giannakopoulos, Head of the Project Office
Angelos.Giannakopoulos@uni-konstanz.de



University of Konstanz
Research Group Sociology of Knowledge
Universitätsstr. 10
Box D 35
D-78457 Konstanz
Germany
Phone: ++49 (0)7531 88 3129
Fax: ++49 7531 88 3194

Project Homepage: www.uni-konstanz.de/crimeandculture/index.htm

Email: crimeandculture@uni-konstanz.de