New understanding of EU legitimacy and anti-corruption

The role of the representative democracies

Emilija Tudzarovska Gjorgjievska

PLATO Report 5
ARENA Report 3/22

New understanding of EU legitimacy and anti-corruption

The role of the representative democracies

Emilija Tudzarovska Gjorgjievska

Preface

The Post-Crisis Legitimacy of the European Union (PLATO) (2017-2020) was an Innovative Training Network (ITN) funded by the EU's Horizon 2020 programme under the Marie Skłodowska-Curie Actions. 15 PhD researchers have studied the legitimacy of the EU's crisis responses in a number of different areas together with senior researchers in a consortium of nine university partners and eleven training partners, coordinated by ARENA Centre for European Studies at the University of Oslo.

By investigating the legitimacy of the EU's responses to the financial crisis, PLATO has generated new understanding of where crises can also be legitimacy crises for the EU. It has used the example of the financial crisis to build and test theory of what would amount to a legitimacy crisis in the case of a multi-state, non-state political system such as the EU.

This report is part of a project series which publishes the doctoral theses written by PLATO's 15 Early Stage Researchers. This monograph investigates the causal linkages between the EU democratic legitimacy and the crises of representative democracies in the field of anti-corruption. It argues that national parliaments, political parties and elected members of parliaments can play essential roles in pursuing effective anti-corruption strategies.

Chris Lord

PLATO Scientific Coordinator

Acknowledgments

scholars in their fields for providing me with diverse input, which has further shaped my academic perspectives.

My personal gratitude goes to my wonderful son Andrej and other close family members and friends, especially to my colleague Olga Angelovska, for her ongoing support in every capacity.

Part of this work has been published:

Tudzarovska, Emilija. 'Legitimation strategies and national parliaments: the case of anti-corruption', in *The Politics of Legitimation in the European Union: Legitimacy Recovered?*, edited by Christopher Lord, Peter Bursens, Dirk De Bièvre, Jarle Trondal and Ramses A. Wessel, Routledge, 2022.

Tudjarovska, Emilija. 'The 'Silent Guardians' in the Fight against Corruption: The Case of North Macedonia', *Central European Public Administration Review,* 18(1), 165-184. DOI: https://doi.org/10.17573/cepar.2020.1.08

Abstract

This research aims to investigate the causal linkages between the EU democratic legitimacy and the crises of representative democracies in the field of anti-corruption. The threats of corruption to the EU democratic legitimacy and the approach in handling this negative phenomenon are seen as symptoms of a more profound crisis of the EU integration project. The mutual interdependence between the EU and its member states in delivering the standards of democracy, its values, and principles are seen through legitimation as an act of actual justification. This actual exercise of the EU's indirect legitimacy in normative terms is translated into action through the key actors of representative democracies on a national level, the national parliaments, and the political parties. However, the role of the parliaments and the party democracy in the broader EU context, especially evident in Central-East Europe (CEE), has been challenged and is weak, suggesting a hollowness of democracy. This status has also been challenged by the misuse of political power for private gains, as a general understanding of corruption, adopted by the EU. However, the mutual reinforcement of corruption and the hollowness of democracy have remained under-acknowledged in the broader neoliberal context. The reasons behind this are a few, starting with the thick conceptualisation of corruption, the EU approach towards corruption, the specifics of the CEE countries concerning party democracy, party cleavages, and the transformations from communist to neoliberal democratic regimes.

This research, therefore, takes a different approach and sets the premises that corruption as a negative phenomenon is an old concept, introduced on a greater scale by the liberalisation and deregulation of the financial markets in the 1990s, and takes roots in the increased hollowness of representative democracies. The historical preconditions of communist regimes, the historical context (EU enlargements; the post-1989 Cold war period; EU crises), and especially, the specifics of the process of Europeanisation are important features in the understanding of a) *the conditions under which corruptive practices are taking place, b) the EU approach in addressing corruption and c) the outcomes in the form of democratic backsliding.*

Corruption is not an isolated phenomenon, nor should it be treated as such, if we aim to understand the logic of the contemporary challenges of liberal democracies in the European Union, especially the deterioration of the rule of law. As an abstract concept, it also deeply incorporates the

principles of legality and impartiality. This research, therefore, does not claim that it will produce a new definition of corruption, as this might be an impossible task. However, it does suggest a new logic of understanding this negative phenomenon through the lenses of state transformation under the process of Europeanisation and the gradual hollowness of democracies bound to an unaccountable use of power. In order to do so, in this research, we will use two concepts of corruption: *legislative corruption* (Kaufmann, 2005; Kurer, 2005) and corruption as a social trap or *lack of social trust* (Rothstein, 2011). Both concepts are essential for understanding the misuse of power when doing politics on behalf of the 'people' or the citizens seen as the ultimate source of legitimacy in the actions of the political actors. By looking into the processes of legitimation through the national parliaments on a nation-state level, this research will give answers to the conditions under which EU democratic legitimacy is expected to satisfy democratic standards and principles by 'borrowing' legitimacy from representative democracies of its Member States, i.e., through *indirect legitimation* and contribution to the democratic embeddedness.

Within this scope, this research will argue that national parliaments, political parties, and elected members of parliaments can play essential roles in pursuing effective anti-corruption strategies and, as such, can provide for indirect democratic legitimation, both on a national and an EU level.

Therefore, this research took the position of examining the necessary conditions under which parliaments and political parties could provide for democratic legitimation and act as institutional guardians of representative democracies in the service of citizens. In order so to do, it has empirically examined the role of the states and their capacities to exercise the functions of legitimation and provide for the internal (national) and external (EU) embeddedness of democracies. Using three paradigmatic cases in Croatia, Slovenia (EU Member States), and North Macedonia (EU applicant state), based on document analysis and expert semi-structured interviews, the research has unpacked the causality between the observed theoretical fingerprints and the actual empirical findings.

The research has found that the difficulties in consolidating democracies, especially evident in the CEE, are linked to the process of state transformation under EU integration, bound to the general weakening of the national parliament/legislatures vis-à-vis the role of the executive; the

centralised party politics, particularly the lack of internal party democracy, and the questionable law-making processes. These conditions have contributed to opportunities in which citizens lack proper democratic representation, resulting in weak law enforcement (social traps) and further disenchantment between the citizens and their societies. These conditions do not allow for rooting out corruption from the political systems. Furthermore, the weak role of the national parliaments, particularly in its oversight capacities, and the weak internal party democracy, constrains the possibility of creating a political culture of accountability or restoring the social trust of the citizens. The lack of social and institutional trust inhibits democratic embeddedness and reduces the quality of representative democracies, both on the nation-state and EU level.

The *facades of legitimation* exercised in the national parliaments indirectly affect the EU's democratic legitimacy. Moreover, improvisation in the exercise of democratic accountability constrains the identification of potential or actual abuses of power, particularly legislative corruption. Nevertheless, the EU approach towards anti-corruption has remained mainly limited and associated with the EU enlargement processes and the post-communist states. This research has also found that the current EU approach in tackling corruption under the European Semester is insufficient and requires a new comprehensive approach that can also tackle the hollowness of citizens' representation and the ineffective *rule of law'* present in many contemporary democracies.

These views also suggest that the exercise of horizontal and vertical accountability - democratic accountability – through the capacities of the national parliaments are necessary conditions for internal and external embeddedness of democracies and taking control over legal abuses of power, particularly legislative corruption. Moreover, when an actual legitimation takes place through national parliaments, societies may re-gain the chance to revitalise broken trust, break the patterns of social traps, and provide for the quality of democracy. However, this sentiment requires an acknowledgement of the involvement of the EU and the states in the safeguarding of the EU integration project, built on democratic values and principles.

Table of Contents

Chapter 1

Introduction

Much of the literature on *the quality of democracy* and democratisation treats corruption as a phenomenon bound to the post-communist states and the gap between formal and informal institutions. The EU approach in tackling corruption also treats corruption as the main factor behind the democratic backsliding in CEE countries, failing to recognise the complexity of this negative phenomenon and the effects on the EU project and its democratic legitimacy. The reason behind the EU approach towards this risk to the democratic legitimacy is bound to the specifics of the EU project itself as a union of Member States, shaped within a neoliberal context. The EU as a project is bound both to the values of liberalism and the protection of democratic values and principles. However, the two logics aim to produce different results: neoliberalism stands for the liberalisation of the market, capital, and goods, while democracy aims to protect citizens' individual choices, human rights, and equal access to justice. Due to its unique ways of legitimising itself, the EU is finding itself in a position to produce tensions between these two logics, or tension between the protection of the liberal values as opposed to democratic ones, occasionally trading the latter for the former, when it is a must, or when 'there is no other alternative', i.e., TINA method. The reasons behind this are a few, starting with the purpose of establishing the EU, then the historical periods under which the EU was transforming under the regulation of the EU Treaties, the transformation of authorities and actorness, and the adaptation of the EU to the global political and economic challenges. These different historical periods of transformations

of the nation-states into Member States within the EU have produced 'hollowness' in the representation of the citizen's interests, notably at a nation-state level. In the case of CEE countries, the specifics of the EU and its transformative powers then clashed with the inherited specifics of the post-communist regimes and the shifts to neoliberal regimes, producing a set of conditions under which states were expected to deal with the rising challenges, institutionally, singularly, and collectively. The boost of corruptive practices in the 1990s, as a result of the neoliberal shifts, was and still is one of these challenges.

The relationship between the exercise of power and *the abuse of power for private gains*, i.e., corruption, is, however, as complex and old as much of the history of the civilisation is. It was familiar in the old civilisations of Rome and Greece; it was exercised through history in different capacities and nowadays takes a very persistent and systemic role in this modern world. Historically, the classical Greek philosophers Socrates, Plato, Aristotle 'agonised about the corruption of politics and the corruptibility of politicians' (Mulgan, 2001). In the modern context, the best existing regimes, i.e., countries ranked at the top of the Transparency International (TI) table, are considered corruption-free countries. For Aristotle, however, as for Plato, 'all regimes fall on the corrupt or deviant side of the corrupt/non-corrupt line, and as there is no ideal type of state, there are only varying degrees of deviance in everyday politics.' (Mulgan, 2001).

The debate on the phenomenon of corruption has been advanced in contemporary times as well, contributed to by many distinguished scholars in the field (Heywood, 1997; Della Porta, 1999; Rose-Ackerman 1998; Rothstein 2003; Mungui-Pippidi 2003, 2006, 2020; Ledeneva, 2009, 2012, 2020; Kurer, 2001). However, as a concept, it falls short by not grasping all the many forms, types/variances, or negative outcomes it produces. Some of the factors are elaborated on in the following section.

First, it's a phenomenon that can take different forms in different settings, such as clientelism, nepotism, trade of influence, extortion, state capture[1], or advanced forms of legislative corruption. From a normative perspective, corruption provides for the high or low moral costs of society, as 'illegality of an action *is the moral cost* that increases with the

---

[1] As recognised lately in the Western Balkan region, some of the CEE countries (i.e., Hungary)

development of a value system, that supports and respects the laws', argued Della Porta and Vannucci (Della Porta; Vannucci, 2005: p.2). Moreover, since accountability acts as a mechanism of institutional constraint over the moral cost of corruption (Della Porta, Vannucci, 2005: p.2), it can also influence the individual choices to violate laws, bias procedures, or engage in political and legal corruptive practices. In a similar vein, Mungiu-Pippidi argued that normative constraints are essential for enforcing ethical universalism as a governance norm. (Mungiu-Pippidi, 2013: p.108). That said, the theoretical observations presented in this research also aim to test whether an effective system of checks, as an institutional norm, is a necessary and sufficient condition for political systems to build an immune system against internal risks and external influence (Persson, Ronald, and Tabellini, 1997: p.6).

This study has identified that a necessary condition for putting such wishful thinking into practice and enforcing laws is *social or mutual trust* (Rothstein, 2008, 2011) among the citizens, drawn from their active engagement with their societies. Hence, citizens must trust the actors, both individual and collective, to solve problems or respect the rules of the games. The contrast to this amounts to a situation where citizens do not trust each other, detach themselves from the societal aim of safeguarding collective goods, and build different forms of resistance, even when this will benefit society in general. As a result, they find alternative routes, whether over the trade of influence, asking for a favour to proceed in administrative procedures, asking for employment in the public or the private sector (nepotism, trade by influence), or promising their electoral vote for the preferable candidate that will give them access to the needed resources (i.e., clientelism).

Second, it is a phenomenon that can be approached from various disciplines - political, sociological, philosophical, and economic, and others - as it affects every pore of societies. What is more, it also affects the democratic legitimacy of the states. As Rose-Ackerman has put it, 'corruption significantly affects the efficiency, fairness, and legitimacy of the state activities' (Rose-Ackerman, 2010: p.125). As it is an abuse of power for more control of power in its core, it also affects the moral values of societies (Della Porta, Vanucci, 1998), the functioning of institutions (Ledeneva, North), and citizens' mutual trust among each other and in the system as a whole (Rotshtein, 2007, 2011). The actors, i.e., executives empowered, are willing to find additional routes in order to keep such

power over information and resources under control, particularly over access to public power and electoral votes, as an instrument in the hands of the 'few' for controlling that power. Hence, such unlimited exercise of power, or power that is not constrained by any democratic and institutional means, tends to blur the interpretation between the improvised and real justification of the use and abuse of the power. This is in contrast to what David Beetham described as *the rightful exercise of power*. (1991, 2013).

That said, in order to enforce actual checks and balances in practice and for societies to take control over the exercise of power that benefits *the few*, rather than *the many* (Kurer, Rothstein, 2012), the respect of democratic procedures, particularly the account-giving, can help societies to start restoring and building trust among the citizens and engage them, rather than push them away from the actual law enforcement. That said, the unlimited abuse of power can lead the actors to unfamiliar territories and uncharted waters, where they lose their place in the game or are encouraged to take further steps, whether by manipulation of financial means or allocation of human resources (patronage). This leads to buying electoral votes[2] and capturing media space for manipulation of information (i.e., disinformation), allocating trusted actors among state institutions, trading with influence with external parties (business and interest groups, lobbying groups). In other words, this is a situation where society is captured by the actors' desire to have full control over the blurred interpretation of the societal or the citizens' needs for private gains. It is also a situation of a *social trap* when the collective actors have lost control over the transformations or progress of society, and it has been left to individual actors to make choices on behalf of the citizens for personal gain.

However, these types of occurrences are also not just given. They develop and construct themselves based on the mechanisms available to the citizens' and the politicians' strategies for political action, manifested in the diverse relations of accountability and responsiveness, as few scholars have argued. The citizens' belief in normative legitimacy can indeed bolster the problem-solving capacity of governments. In the view of Frtiz

---

[2] Scholars have indeed argued that different types of patronage-based and party-voter linkages are occurring with the electoral rules and the party systems format in a democratic polity. See discussion in Herbert Kitschelt and Steven I. Wilkinson 2010: 2.

Scharpf, the 'institutional norms and incentive mechanisms must serve the potentially conflicting purposes, hinder the abuse of public power and facilitate effective problem-solving according to plausible norms of distributive justice' (Scharpf, 1999: p.13). Moreover, institutional norms and incentive mechanisms are crucial for preventing the abuse of power or corruptive behaviour, since, in any society, there will be some people who will not comply with the normative rules and procedures and even engage in deviation from the norms themselves, but as David Beetham has argued, what matters is how widespread these deviations are, and how substantially they can determine the legitimacy of power in a given context. (Beetham, 2010: p.20).

Third, when such an abuse of power remains unconstrained by normative and democratic means, it also erodes the progress of societies, their economic progress, the citizens' access to equal competitiveness, undermining the pillars of the welfare systems and leaving citizens with limited or no options for equal access to resources or quality of living. In the case of the CEE particularly, corruption seriously undermines the functioning of the democratic regimes (Mansfeldova, Guasti, 2019) and undermines the quality of democratisation. As evident in different studies and surveys, including *The Bertelsmann Transformation Index (BTI),* which analyses transformation processes toward democracy and a market economy, the *EU Barometer* measuring citizens' trusts and attitudes, or *Transparency International* (TI), the number of countries which are struggling to provide a quality of democracy is on the rise, with strong indicators of the rise of corruption in many contemporary democracies. These are clear indicators of states' 'difficulties to progress towards internal and external *democratic embeddedness*' - a concept developed by Wolfgang Merkel (Merkel, 2009, 2018, 2020). As the EU is one of the most complex and important external settings that should provide for democratic embeddedness of societies willing to deliver on democratic values, standards, and principles, the effects of corruption are an important feature for examining the democratic legitimacy of the European Union.

This study, however, does not attempt to address all these perspectives at once. Instead, however, it aims to explore the internal and external factors (historical, political, social) that have contributed to the detachment between the citizens and societies where corruption takes root, as an important feature of analysis from the aspect of democratisation and

Europeanisation, both on a nation-state and EU level. That said, this study does not focus only on the anti-corruption policy alone. However, it instead examines the historical preconditions under which opportunities and constraints of corruption have been pursued through the key democratic institutions in different political systems, as shaped by the process of Europeanisation and state transformations (Mungui-Pippidi, 2014; Ledeneva, 2009; Grabbe 2013, Raik 2004). The process of state transformation introduced several constraints on the exercise of the principle of sovereignty in the unique context of post-communist regimes (CEE). These tensions of sovereignties between the EU and the nation-states have introduced new challenges to the ability of the states to cope, both with the rising demands by the neo-liberal drive for competitiveness on the one hand and the protection of the rule of law on the other. What is more, in the context of the CEE, the understanding of the rule of law, or its absence, also produced suitable grounds for interpretations as seen by the political leaders rather than by the citizens. The arguments behind these perspectives will be elaborated in the third chapter, followed by the empirical discussions in the fourth and the last, the fifth, chapter.

This study, therefore, tends to explore the factors behind the weak law enforcement taking place on a nation-state level and the lack of a political culture of accountability, focusing on the selected case studies, as two identified important features behind the deterioration of democracies, which attempt to bridge the citizens with their societies. On this level of analysis, this study explores the factors that have contributed to a change of regimes under the process of Europeanisation and tends to offer a new angle on the possible reasons behind the weak law enforcement in the CEE countries. The study does this by zooming in on the role of *the national parliaments* as key democratic institutions which hold a normative power to exercise different types of accountability as collective actors, but also as actors responsible for providing the quality of legislation that should serve as glue between societies and its citizens, as well as guardians against deviations of norms. An important aspect of this analysis is also the role of party democracy, seen through the historical lenses based on the Rokkan and Lipset theory on social cleavages, Peter Mair's views on the characteristics of post-communist regimes, as well as the role of MPs as individual actors and representatives of the citizens' interest within different political systems.

That said, this study identifies that the role of the parliaments, their oversight capacities to scrutinise, the role of the political parties as collective actors, and the role of the MPs in providing for the quality of democracy by taking control over corruptive practices remains understudied, and it attempts to bridge the existing gaps in the scholarly debate. By examining the actual process of *legitimation* exercised throughout the collective and individual actors on a nation-state level, particularly through the national parliaments, this study aims to offer new lenses for analysing the process of account-giving or the lack of it, in order to test the views on the *indirect legitimation* between the EU and the states, but also the conditions under which corruption takes place.

This study explores the legitimation strategies explicitly through the national parliaments on a nation-state level due to the following reason: the national parliament is the key actor where the public work of other actors - *regulatory and oversight bodies*, such as Public Auditors, Public Prosecutors; Judicial Councils, Ombudsman. - are legitimised in a public forum. The account-giving process is vital for citizens to access the public use of power by their representatives for voting in between electoral cycles. Even when they are not open to public debate, the account-giving procedures are an essential democratic instrument for building citizens' trust in their institutions, political parties, and candidates who have legally authorised elections to represent their interests and values. Therefore, the process of actual justification is an essential tool for increasing the awareness of the critical shortcomings in delivering policies for the public interest, whether on a local, national or supra-national level or for mapping deviations of norms or other wrongdoings. When or if citizens have access to information not only on processes but also on results, power authorisation can be considered legitimised (Lipset, 1959). What's more, citizens can then ask and hold actors accountable for processes and results and engage in finding mutual solutions in the imperfect settings of society.[3]

The reasons behind this approach are twofold. First, this study aims to contribute to the debate on the EU legitimacy crisis as part of the PLATO project that explores the post-legitimacy crisis of the EU after the financial

---

[3] This study considers society as an ongoing process of transformation. It assumes that taking control of that transformation can occur only by collective actions, by joint (institutional) strategies over the use of collective goods, and for the aim of collective purposes (i.e., public interest).

crisis, and this embedded project aims to explore both the normative and empirical conditions from the aspect of representative democracies. As Chris Lord put it, this depends on the actors' 'views, experiences and judgments with the EU, framed by different legitimacy assumptions, legitimacy discourses, and legitimacy strategies' (2019, 2020). Second, to understand better what we can consider a crisis, we refer to the Jurgen Habermas view (*Legitimation Crisis*, 1973: 1-2) on 'crisis', which originated as a medical term for that 'phase of an illness in which it is decided whether or not an organism's self-healing power is sufficient for recovery ', or, as Christopher Lord puts it (2020), whether a political system is 'meeting specific standards and conditions for the justification of powers specific to that political order'. Hence, when testing the legitimacy theory of the EU, we tend to explore whether the Union might also fail to meet all the necessary conditions for its legitimacy simultaneously.

As discussed by Martin Lipset (1959), one important way to explore this is to learn from experience and look into the learning transformations, so a given democratic system can both stabilise and modernise, i.e., adapt to the new internal and external circumstances. However, for a system to be considered democratic and effective or how the political system actually performs, 'it needs to be legitimate, to the extent to which it satisfies the basic functions of government as defined by the expectations of most members of a society.' (Lipset, 1959: 85). Hence, a democratic, legitimate political system must be able to solve political problems or problems of the members of the society, marked by an efficient bureaucracy[4] and decision-making system, i.e., by the standards, values, and principles of the democratic regime.

A critical facet of this view that falls short in the analysis is the relation between citizens and society, and the role of democratic actors in the process of the actual legitimation throughout the transformed political systems, under the process of Europeanisation. The theoretical implications of these views will be elaborated on in the first chapter. In this regard, the case of the CEE region and the process of EU integration

---

[4]As Martin Lipset puts it, 'an efficient bureaucracy is at the core of the quality of democratic governance and puts into motion the effectiveness of the political institutions that makes political systems capable of delivering on their promises. The capacities of the political institutions to solve problems and make decisions based on normative rules and procedures should be attached to citizens' social norms and values to define the efficiency of the total system.'

is seen as an important feature for analysis, aiming to understand the constraints to the democratic legitimacy of the European Union, bound to its historical transformation, as a Union of Member States, and drawing views from the new intergovernmentalism[5], as most suitable for complementing the theoretical views on democratisation and the crisis of representative democracies. This approach, to be elaborated in the second chapter, will design the conceptualisation framework, under which we will be able to look closely into the cases of the states and their ability to manage deviations of norms and abuses of power, from the aspect of actorness (institutions) and functionality (actual legitimation), located in the void, and the gaps born as a product of the transformative relations between citizens and societies, under the complex process of EU integration.

Therefore, this study makes the assumption that a few steps in historical periods (*periodisations*) have triggered societies into a state of the vicious cycle of corruption or abuses of power and aims to demonstrate that the process of the '*rightful exercise of power*' is arduous if it remains under-acknowledged both by the states and the EU. Moreover, it aims to explain that the gradual erosion of social trust evolves over a period of time in the absence of account-giving or the flow of information (transparency). Social trust is an important link between citizens and societies, as it creates the scope for law empowerment in practice as an essential factor in the control of corruption.

In this regard, the CEE societies are unique for analysis. When CEE countries took the road to regime change into liberal democracies at the beginning of the 1990s, they did not have the same preconditions as Western democracies, nor draw their legitimacy in the same way. This period of transition into new types of Western regimes and free-market economies was dominated by privatisation and welfare regime-change, and transformation of the post-communist societies, mainly upon the EU-Atlantic vision of liberal democratisation. This is also a unique historical period of state transformations, state reorganisation (after the inter-ethnic wars, tension, and the fall of Yugoslavia), and re-conceptualisation of the principle of sovereignty under the context of 'normalisation' of the post-

---

[5] See further discussion in Bickerton, Christopher; D. Hodson, and U. Puetter, eds. (2015). *The New Intergovernmentalism: States, Supranational Actors and European Politics in the Post-Maastricht Era*. Oxford: Oxford University Press.

Cold-War period. Indeed the CEE societies have inherited political systems with low levels of social trust and institutions with a different logic of 'account-giving to the centralised party leadership rather than to their citizens.' These specifics remained under-recognized under the EU integration process on several occasions. Therefore, this study will also explore what kind of entity the EU is and what can or cannot be expected to provide for internal and external legitimation. Analysing the EU's approach towards the rule of law and the anti-corruption approach can allow us to understand the weak points of the EU democratic legitimacy.

In terms of a region, although different appellations have been invented in the course of time, as in the "Big Bang" enlargement[6] or the latest 'Western Balkans' prospective enlargement[7], this study investigates the representation of two types of states, EU memberand applicant states during a period of time from the first wave of enlargement in 2004 (Slovenia), the second wave in 2013 (Croatia) and the current state of the applicant state (North Macedonia).[8] The justification for this approach arrives from the following reasons: *first*, with this comparative approach, this study examines the dynamics of the EU integration strategies through the process of Europeanisation and its effects on the political regimes in the CEE region. Second, it explores the EU anti-corruption strategies in supporting the EU Members and the applicant states in tackling the *rule of law* challenges and taking control over corruption as a vital feature of democratisation and the consolidation of democracies. Third, it tends to examine the mutual interdependence between the Union and the states

---

[6] Poland, Hungary, the Czech Republic, Slovakia, Slovenia, Lithuania, Latvia, Estonia, Malta, and Cyprus joined the EU fifteen years ago, in what was described as the boldest moment of European post World War II history. This wave of enlargement, known as "the Big Bang", was followed by the lower-key accession of Bulgaria and Romania in 2007 and Croatia in 2013.

[7] EU applicant states from the Western Balkans include North Macedonia, Bosnia, Serbia, Montenegro, Albania, and Kosovo, with special status.

[8] In the current context, Slovenia and Croatia already have the status of EU member states, and as such, the progress in the fight against corruption has continued to be scrutinised under the watch of the European Semester. Macedonia, on the other hand, is still evaluated under the EU conditionality framework. All three countries, not only those with a similar post-communist past but also former members of the ex-Yugoslavian federation, refer to similar political systems. All three countries have gone through the process of democratisation and had to implement anti-corruption reforms within the EU conditionality.

and the indirect legitimation as vital to the maintenance of the EU democratic legitimacy, but also a threat to the standards and principles of representative democracies in case of absence.

The consequence of this approach was threefold. First, the position of the legislative power vis-a-vis the executive deteriorated rather than improved. Second, the continuing lack of actual legitimation or exercise of democratic accountability has meant that legislatures had systematically adopted a role of, i.e., *'voting machines'* in the service of the executive, as several interviewees in all three countries have pointed out. Third, from an institutional point of view, this had weakened the normative potential of national parliaments to contribute to overcoming social traps or to starting to build a culture of account-giving. From the point of view of democratic theory, this democratic deficit affected the legitimacy of the political systems.

The post-communist states particularly, and current candidate states, have been and still are exposed to a different set of internal and external transformations, including state consolidation, regime change from post-communist to liberal democracies, liberal market deregulations and privatisations, institutional and political regime changes - all under the process of EU integration - as a critical instrument for internal and external embeddedness of democracies. That said, this study also acknowledges the position that the external embedding of the EU in the foreign or global setting was also a contributing factor that has shaped the EU's own transformative process, both in terms of EU institutions and a decision-making approach. Hence, it also acknowledges the aspect that external factors created a scope under which the EU has developed an approach towards the rule of law and anti-corruption as, i.e., borrowing anti-corruption instruments from international organisations, the IMF, the World Bank, the UN - rather than developing its own EU comprehensive strategy towards these challenges. These factors have also been shaped by the EU enlargement process (Copenhagen criteria) and the leverage that the EU gained, but did not use, for tackling the risks to various abuses of power in all EU Member States, especially evident in periods of crisis (COVID-19, EU financial crisis, migration crisis.). The EU financial crisis, for example, also revealed the internal transformative processes of the EU, the EU strategies towards crisis management and social solidarity, as well as the ongoing risks that still have not been identified with a befitting name: *the control of corruption in representative democracies*. The

methodological approach that this study takes to examine these assumptions is elaborated in the following section.

1.1. Methodology

This study aims to provide a new facet of the conditions under which national parliaments in the CEE countries pursue legitimation strategies in the area of anti-corruption and provide for the consolidation of democracies.

This study takes the approach of employing a qualitative comparative case-study research design approach. It starts with theoretical observations (secondary literature) and indicators detected in secondary literature: articles, survey data (BTI Index[9], 2006-2020), EU official documents (EU progress reports), and media information in the period from 1998 to 2020, with a specific focus on the years in periods of pre-accessions and critical junctures (1989-post period, period of EU enlargement). It also offers mapping of the institutional framework as regulated by Constitutions, rules of procedures, laws, examining the variance or similarities of the institutional conditions for exercising accountability practices. Where applicable, additional reports, documents, and evaluations are included in the study. In order to test the observations, this research has taken a qualitative method approach by conducting open semi-structured interviews with identified experts in the selected countries. The multi-method framework combines qualitative interviews with the analysis of official documents and secondary data.

The study relies on evidence gathered during semi-structured, face-to-face interviews (n = 30) carried out in the period from March 2019 to January 2020, out of which fourteen were carried out with Macedonian representatives, two with Brussels and Berlin-based experts, nine with Croatians, and five e-interviews (via Skype) with Slovenian experts. In the case of Slovenia, a few more were planned, but the COVID-19 crisis interrupted data gathering. The respondents included the following types of actors: scientific and non-academic experts, current and former practitioners (Ombudsman Office; Commission for Access to

---

9 The Bertelsmann Transformation Index (BTI) analyses transformation processes toward democracy and a market economy in international comparison and identifies successful strategies for peaceful change. Available at: https://www.bti-project.org/en/home.html?&cb=00000

Information), current and former members of the parliaments (MPs), including members of the anti-corruption bodies, CSO representatives, and media investigative journalists. For each country, a list of potential respondents was compiled based on an analysis of secondary documents. Experts and respondents were consulted, and the list was continually updated. During the interviews, the list of potential respondents was further updated using the snowball sampling method – asking the respondents to identify other key actors involved in the process. When necessary, the interviews were held and transcribed in English and translated from the language of origin (Macedonian, Croatian, and Slovenian) into English. The analysis approach follows the tradition of 'explanation through interpretation' in the Weberian sense, aiming to elaborate on the causalities between observed theoretical fingerprints and the actual empirical findings. The interviews aimed to understand

1. *the problems of pursuing legitimation strategies through the national parliaments in the field of anti-corruption,*

2. *the actual process of legitimation as a form of accountability that provides for embedding democracies,*

3. *the role of political parties and individuals (MPs) in the process of 'account giving'.*

This study took the methodological approach of comparing three case studies based on the following arguments. First, there is evidence of a decline in the quality of democracy in CEE countries, both in EU Member and applicant states. North Macedonia has been an EU applicant state since 1999, while Croatia (2013) and Slovenia (2004) are member states from different EU enlargement waves/historical periods. All have inherited post-communist political systems with a centralised role for the political party leaders. Furthermore, Slovenia was part of the "Big Bang enlargement" wave that occurred in 2004, in the period of the post-Cold War, and the fall of communism as ideology in 1989. The historical circumstances under which Slovenia became an EU member state differed from those for Croatia or Macedonia, which later became associated with the new regional conceptualisation of 'Western Balkan' countries. However, what is common is that all three countries started the EU path of democratic consolidation and Europeanisation in almost the same period, i.e., after the fall of Yugoslavia in the 1990s and the shift to the neoliberal type of political regimes.

The fall of the communist regime marked a historic victory of liberal democracy and its values over authoritarian socialism (communism) which failed to achieve political and individual freedom, resulting from within society. The process of post-communist regime change after the 1990s was characterised by the pronounced influence of exogenous factors, notably the European Union, on the process of democratisation. Democratisation and joining the EU took place in parallel and complementary intertwined processes that accounted for the building of institutions and mechanisms for consolidating democracies. Yet, the three selected cases also faced variances on their path of democratisation: the stage of privatisation, the time of closing the open negotiations with the EU after the fall of Yugoslavia, the stage of state-building and consolidation with the EU liberal market, the role of the trade union in the states, the ethical background, and the post-war reconsolidation.. In all three cases, however, the legislatures were exposed to similar challenges under the process of Europeanisation and, the parliaments were marginalised during the process of internationalisation with the EU. Ending the period of wars and the period of post-communist regimes that took place before 1989 was another common trigger for these countries to pursue institutional and democratic transformations and adapt to the deregulation of free markets and capital.[10] For the new applicant states, conditions were/are regulated under the Copenhagen criteria. Under these criteria, states must demonstrate the exercise of democratic standards of full functional democracies, through democratic institutions, effective rule-of-law, and protection of the liberal values and norms, for and on behalf of the citizens. If they could do so, then jointly and in cooperation with the other EU Member States, they would perform and protect the EU's core democratic values and principles.

Based on these criteria, the following states have been selected:

- *Slovenia* (the first wave of the fifth EU enlargement, member since 1 May 2004) and part of a large group of candidate states during a

---

[10] Mapping the critical junctures was a complementary approach in examining "common" historical events, which clashed with the specifics of the domestic political systems and triggered specific historical trajectories (Locke & Thelen 1995, Collier 1993; Thelen, 1999: 389). These were crucial to understanding the events or processes with the capacity to undermine the legacy in different countries (Thelen, 199: 392).

very favourable, domestic, and international climate regarding the enlargement.

- *Croatia* (second wave of EU enlargement, member since 1 July 2013), on the other hand, set itself on the EU accession path no earlier than 2000, due to the preceding independence war (1991–95).

- *North Macedonia* (candidate member since 2005, but has not yet opened negotiations with the EU).

According to the BTI Index that measures states' democratisation and consolidation, Croatia and Slovenia are categorised as democracies *in consolidation*, while Macedonia *is a defective democracy* (BTI Index, 2006-2020). Moreover, the BTI reports have shown a continuous decline or just a slight improvement in consolidating democracy in all three countries. As evident in the BTI Country reports, from 2006 to 2020, Macedonia's democracy status score declined by 1.10 points, Croatia's democracy status score declined by 0.75, while Slovenia's democratic status also declined by 0.30 points in the same period (BTI Index, 2006-2020). All three countries have shown a decline in the rule of law, stability of democratic institutions, and political participation. Apart from the status of democratisation (*consolidated versus defected democracy*) and EU membership, both countries are still struggling to root out corruption, most evident in the weak law enforcement and the unequal access to justice (impartiality).

These indicators, common for case studies, had already been linked to situations of social traps from previous studies, which allowed interpretations of the empirical investigations (Rothstein, 2005, 111-122). These types of deviations of norms, malpractices, or abuses of power (financial, administrative.) are also reported by the state independent regulatory bodies, including the State Audit Office, the State Ombudsman,and are reported to the national parliaments. Therefore, data drawn from the interviews and these institutions are also considered when concluding patterns between the observed theoretical findings and the empirical data. In order to address the research question and the sub-research questions, this research examined the assumptions at three levels of analysis: macro, meso, and micro level.

On *a macro level*, it investigated the EU approach in curbing corruption and the ongoing failure to recognise the complexity of the problem and its effects on the European Union, thus creating new risks to the EU

democratic deficits. The re-connection with the citizens, through the means of indirect, democratic legitimation is recognised as a key instrument of representative democracy.

Therefore, the comparative perspective provided opportunities for testing the observed theoretical observations and drawing a general conclusion on the conditions behind the democratic deterioration in the CEE countries. The share of similar outcomes - decline in the process of democratic consolidation – is the dependent variable. In contrast, the variables which are different: EU membership status, statehood status, ethnic-cultural background, and economic transition/stage of privatisation, are taken as independent variables suggesting *the least similar case research* (Blatter, Haverland, 2014; Bennet; 2005, p. 217-232).

To complement the analysis, a limited process-tracing approach was applied in the case of North Macedonia. To unpack the conditions of account-giving, a comprehensive overview of the Ombudsman's annual reports for the period of 2001-2016 was applied by using a systematic approach, focusing on the deviations in employment, based on political grounds as reported by citizens in the annual reports. A sample of 14 annual reports was studied. Then, two types of empirical evidence were listed: *pattern evidence* based on the most common data as reported by the Ombudsman in the period from 2001 to 2016 and *sequence evidence*: showing the temporal evidence on two key events that were identified as critical junctures, both for the Ombudsman and the national parliament, i.e., the Assembly. The first critical juncture was identified in 2003 when the Constitutional amendments were introduced, and the Ombudsman as an institution expanded its competences to address cases of discrimination and biases in the principle of impartiality, fairness, or regality. The second critical juncture was identified in 2015 when the European Commission tasked a group of independent senior rule of law experts to prepare a report and concrete recommendations, which fed into the Commission's "Urgent Reform Priorities", in light of the revelations in the wiretaps scandal, in summer 2015[11]. The same senior rule of law experts prepared

---

[11] During the period under review, January 2015 to January 2017, Macedonia was engulfed in a political crisis that began when the leader of the opposition released wiretapped material revealing widespread corruption and egregious abuse of power within the government. The report outlined a set of urgent reform priorities comprising the main points in the EU agenda for Macedonia. (BTI, Macedonia country report, 2018).

a second report in 2017, assessing the implementation of their previous recommendations and providing guidance to the new government. This was the time when the European Commission took different steps in the case of an EU applicant state, and the role of the regulatory and independent bodies, including the one of the Ombudsman, was acknowledged as a key actor in meeting the shortcomings in the rule of law and the fight against corruption.

As scholars have identified during critical junctures, political decision-making, initiatives for political mobilisation and coalition formation, and strategic interactions between key actors are likely to be directly influenced by multiple and contradictory political pressures of varying strength, which, given the generalised uncertainty, are likely to be ambiguous and to change rapidly. (Capoccia, 2015. pp 147-179). Political actors, therefore, have substantial leeway to choose which pressures to yield to and which instead to resist in deciding their best course of action (Ibid.) The critical junctures are also important features for analysing the actors' actions that (might) have been taken and contributed to a different institutional path development towards a change of political regimes.

To complement the qualitative analysis, a comprehensive overview of the annual reports of the National Assembly for the period from 2001 to 2016 was also applied, as well as an analytical method approach of the available minutes of meetings or stenographic notes for the period. The access to data of the minutes of meetings of the relevant working bodies or relevant Inquiry Committees concerning the process of legitimation or actual justification is inconsistent. The public discussions that have taken place in regular plenary sessions are analysed, with some inconsistency in the dates/years of analysis. A sample of 26 documents was studied, and a comparative method of analysis was applied. The analysis was focused on the discussions on discrimination on political grounds, as identified in the Ombudsman reports. Most of the documents were available in English, while some official documents were available only in Macedonian, and therefore the findings have been translated into English. To complement the scope of analysis, additional empirical evidence on corrupt administration practices related to discrimination in public employment based on a political ground was drawn from the EU Progress reports and other findings of international and national institutions related to corrupt administrative practices, before and after the period of the critical junctures.

There is also a limitation of the process-tracing method, as it does not allow for drawing arguments on developing a causal mechanism applicable in all three cases under the same conditions due to the independent variables. For the purpose of this study, a limited process-tracing method is applied to draw a causality between the theoretical and empirical fingerprints by applying a traditional 'explanation through interpretation' in the Weberian sense.[12] In the discussion section, the theoretical fingerprints drawn from the theoretical approach are analysed from the perspective of the empirical findings.

The limited process-tracing method allows for unpacking: patterns, sequences, or account evidence. This allows for identifying the most similar conditions and testing the similarity of the outcome: deterioration in the consolidation of democracies.Hence, the presented causality, as in figure 1, is a road map for testing the necessary and sufficient conditions as suggested in the research assumptions. See Figure 1.
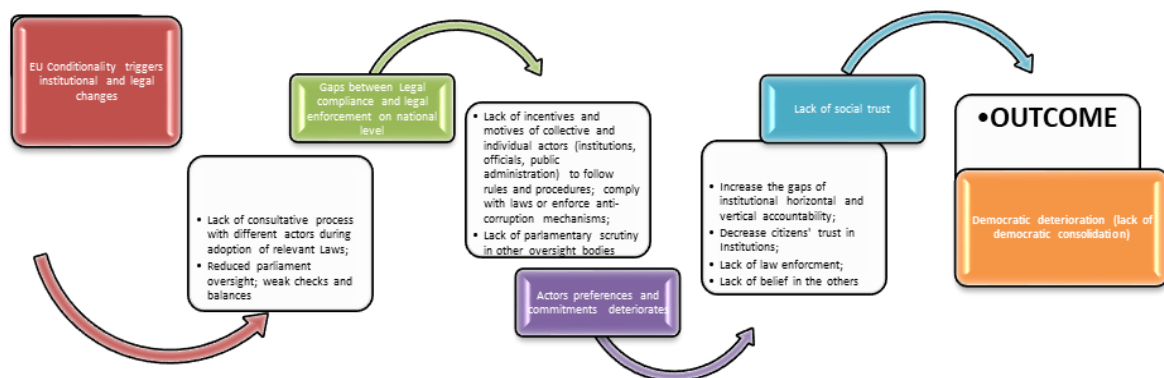
Figure 1: Causal Mechanisms

Causal mechanism: If countries aim to reach democratic consolidation, then the gaps in exercising democratic accountability/horizontal and vertical accountability - through national parliaments - need to be closed and the social trust between actors, parliamentary parties included, restored. The EU integration process triggers legal, political, and institutional changes in all three cases.

---

[12] Social science, in this view, 'is a science concerning itself with the interpretative understanding of social action and thereby with a causal explanation of its course and consequences' (Weber, 1978, p. 4).

This approach allows the examination of the following research question: *How has the process of Europeanisation affected the democratic conditions under which states pursue legitimation strategies (through national parliaments) in tackling corruptive practices?*

Followed by these assumptions:

> **(H):** *The 'hollowness' of representative democracies does not allow for taking control of corruption/legislative corruption;*
>
> **(H1):** A *set of internal and external factors – historical trajectories, internal party democracy, and the EU technocratic approach in solving the crisis – affects the actors' capacities (collective and individual) to pursue hollowed legitimation through national parliaments and created opportunities, rather than constraints for (legislative) corruption;*
>
> **(H2):** *The formal approach in exercising democratic accountability (oversight) over the work of the regulatory bodies by the national legislature does not allow for closing the social gaps and opportunities for corruption;*
>
> **(H3):** *The hollowness of democratic representation does not allow for breaking the patterns of social traps and pursuing the successful implementation of anti-corruption strategies.*

1.2. Practical Risks and Limitations

To understand the objectivity of the social actions carried out by the collective actors (parliaments), we need to understand the subjective meaning or interpretations by individual actors as evident in the data carried out in the interviews. By looking into the evidence from both perspectives, we can provide interpretations of the causes and effects. The chapter begins by observing the theoretical fingerprints - focusing on the observable application of a theory for dependent and independent variables, not intervening variables, as per King, Keohane, and Verba, designing a social inquiry (SDI) method of theory testing. The empirical fingerprints can be grouped into the following categories:

a) *Pattern evidence*: EU and official national documents; legislations; statistical evidence, demographics, public opinion polls;

b) *Sequence evidence*: showing the temporal and spatial chronology of occurrences/events/activities in three case studies;

c) *Account evidence:* interviews (the 'eye-witness', narrative-written or spoken about occurrence/event/activity).

The outcome can be verified by explaining the pattern condition(s) that provide for the common outcome of the dependent variable (the causal mechanism → itself is the conclusion). Hence, the validity and reliability limits will be the scope of the research applied to a specific context. By arguing that the scope applies to other countries as well, we can test the same outcome. The small N case-study design limits the generalisability, and it can be limited to the specific conditions of the environment (specifics of the political system). However, while the small N case-study design restricts the generalisability of the results, it can serve as a pathway to test or produce new theories. The conclusion, therefore, discusses the broader implications of the findings by suggesting avenues for further research.

The limits to the validity and reliability are the scope of the research, applied to the specific context of the selected CEE countries. By arguing that the scope applies to other countries as well, we can test and prove the same outcome. "A comparison of informal practices entails identifying similar patterns in people's strategies and generating analysis of differences in the functions and implications of practices in their local contexts". (Ledeneva, 2011). Due to the personal interpretations of some of the observations, the measurement errors are possible but can be prevented by testing the patterns as identified in the data.[13] There were risks for gathering data: accessing experts and correspondences for conducting interviews. These risks were successfully addressed based on the research of the secondary documents and snowball (personal) recommendations.

The practical results of my research can be limited in the phase of the policy implementation due to the complex setting of mutual actors' independence.However, from the aspect of scientific research, parliamentary scholars and others (non-academic researchers) it can initiate further research interest. The results will support the work of legislatures, parliamentarians, advisers, and others by allowing them to understand better the possibilities for advancing their position vis-à-vis executives. It will also help the anti-corruption practitioners better

---

[13] Filing the data: Following the PLATO EU Data Management Plan (DPM), the data is stored under SOU Achieve.

understand the (legislative) gaps where the risks to the deviation of norms and abuses of power are encouraged and institutionalised in the political culture.

Chapter 2

Theoretical Approach

The process of democratisation in the CEE countries, under the EU integration process- *Europeanisation* - offers an important lens for analysing the contemporary risks to representative democracies in the EU, the resistance to legitimation through democratic institutions, and the 'hollowness of democracies', especially evident in times of EU crises [14].

Under these conditions, it remains unclear whether the '*abuses of power for private gains*' is the starting point or also the consequence of the ongoing deterioration of democracy in many countries in Europe. In order to address this paradox, it is vital to understand the factors behind its occurrence. In the contemporary debates of the CEE democratic deterioration, corruption is identified as a factor behind the backsliding of democracy, the weak rule of law, the unequal access to justice, the unequal access to competitiveness, the rise of populism, and the rise of autocratic regimes (especially in Hungary and Poland). The debates have also identified that corruption is the key driver or factor that has delivered these adverse outcomes, with a long-term impact on the societal developments, which is certainly the case.

However, the debate does not recognise the reverse logic of this view - whether the hollowing process of democratisation - forged by several internal and external factors, such as the shift to neo-liberal regimes has further rooted out corruption in different political systems. The symptoms of the clear cases of corruption suggest triggering a hollowing of corruption that is also a transformative concept. It takes a different form

---

[14] Including the last one with the COVID-19 crisis

in different societies, has variances in its degree, and is hard to tackle once it takes root in the societies.

Corruption indeed takes place where there is an opportunity to do so, as no state can ever reach the highest standard of a pure-completely free-zone of corruption-case, simply because such an ideal type of state or standard is unreachable, as also viewed by the Greek philosophers, Plato and Aristotle. That said, this study suggests a different logic in approaching the views of contemporary crises by acknowledging corruption as a factor that undermines the quality of democracy, but also as an indicator of the long-term crisis of liberal democracies, born as a result of the detachment between citizens and their societies - *hollowed representative democracies*.

The concept of corruption as an indicator of the long-term crises of liberal democracies is drawn from the scholarly community, which has introduced the concept of legislative corruption, suggesting that in its core, corruption is the misuse of the principle of legality, the principle of impartiality, deviations of norms, deviations of standards, and lack of law predictability. The paradox of legal or legislative corruption is that even when it is regulated on technically legislative grounds, usually through the means of a 'two-third majority', as we will discuss in chapter five, it undeniably undermines the rule of law at its core. This is because laws should belong to the citizens in their societies. In the case of corrupt systems, they belong to the visions and the private interest of the few, usually the political elites. The side effects of this type of corruption, even in different societal contexts, take the form of persistent resilience against law enforcement, as in the case of CEE countries, a diminution of institutional trust, a decline in voters' turnouts during elections, a rise of populism as a form of dissatisfaction with the corrupt elites and others. Sometimes they take the form of a complete withdrawal of citizens from activity and engagement. These practices can also be identified as social traps, based on Rothstein's theory on social traps and the lack of social trust (Rothstein, 2007, 2013).

Through this logic, this study aims to understand the conditions that have triggered a hollowing of representative democracies where legislative corruption takes place, what the role of the process of Europeanisation is, and consequently, the responsibility of the European Union in addressing these shortcomings. The answers to these questions will contribute to the

ongoing debate on the EU democratic legitimacy and the role of the EU within rising global challenges.

In order to do so, we will first elaborate on the key arguments on the EU's unique project as a multi-state polity and its risks to democratic legitimacy. Then, to recognise with whom the EU needs to be legitimate, we will also ask how it draws its legitimacy and why indirect legitimation, exercised through the national parliaments, is equally crucial for the EU and the states, members, or applicants. This theoretical approach will then offer a suitable framework for zooming in on the role of the EU integration project, as a Union of the Member States, following the EU theoretical approach on EU integration. (Bickerton, 2012). This view will be complemented by the views drawn from the democratic theories approach and the role of the collective and individual actors (national parliaments, political parties, MPs) in the process of democratisation, legitimation, and Europeanisation. The arguments behind these theoretical approaches are the following;

In the views of a few prominent scholars, the European Union is a non-state political system (Hix and Hoyland, 2011), a new kind of state (Schmidt, 2015), an empire (Zielonka 2006), a union of constitutional democracies (Fossum, 2011), an unusual kind of international organisation (Magnette, 2005), or an international organisation that is not so different from others after all (Moravcsik, 1993). For Christopher Lord and Paul Magnette, the EU is more like a laboratory for changes that are more or less present elsewhere than as a *sui generis* system (Lord, Magnette; 2004: 199). For the institutional theorist Johan P. Olsen, the EU is also a polity that involves struggles over power, legitimacy, collective and individual identity. It is also a system of government where it is often difficult to disentangle and specify the institutional determinates of performance and effects. (Olsen, 2010: 29).

In the view of Fritz Scharpf (1996; Scharpf, 2012: p. 3), the democratic deficit is related to the EU institutional design. In Scharpf's arguments in input and output legitimacy, some input conditions for democracy, a shared demos, exist only at the member states' level. In contrast, some output conditions for democracy, the ability to solve key collective actions problems, can be met only at the EU level. This view justifies the Copenhagen criteria for EU membership which acknowledges the need for the democratic quality of each member state as a shared concern, as then a state equally should contribute to solving collective problems. This

also justifies the EU approach that a state can join the Union only if it has "stable institutions which can guarantee democracy, the rule of law, human rights and the protection of minorities." (Treaty on European Union, Article 6 [1]). However, this perspective brings into view only the reasons why a state needs to be democratic in order to be legitimate with and within the EU but disregards what responsibilities the EU also needs to deliver to its Member States, as well as applicant states, in order to be considered democratic and legitimate. That said, this research aims to bring new perspectives on why the EU and the states share joint responsibility for solving collective problems such as corruption, both on a national and EU level.

The reasons why we need to know what type of entity the European Union is, and what type of approach it is taking in solving collective problems is because we need to know how the Union can and should be democratically controlled in order to be legitimate with its citizens, while it is mitigating crises. Moreover, in order for democracy to work, it needs to be 'embodied in a mix of institutions and decision-making procedures that suit the society to which they apply', as argued by Bellamy and Castiglione (Bellamy, Castiglione, 2010: p. 83). Therefore, it is also important to understand where the discussion on the democratic deficit is located. As discussed by Christopher Lord, the democratic deficit on a European level, as found in the piece by Joseph Weiler, Ulrich Haltern, and Franz Mayer, is located in the way the powers are transferred to the European level without matching the transfers of democratic control. This is referring to the absence of parliamentary control over the executive branch of national governments, which effectively 'reconstitutes' itself as the legislative branch where the EU's Council of Ministers takes decisions. (Lord, 2015, p.31-44). While governments typically are controlled by parliaments in the domestic arena, the decisions taken by the EU's Council of Ministers are not. This is another argument behind the theoretical approach in this research, to examine the actual role of the national parliaments on a national level, as its most legitimate source from where the EU Member States are borrowing the power which then needs to be legitimised on an EU level. In the same vein, Peter Lindseth also argued that the European governance has continued to depend on forms of legitimation that are still mediated through democratic and constitutional bodies on the national level in critically important respects and, in effect, is '*borrowing the legitimacy of the nation-state* in aid of the supranational

process of integration.' (Lindseth, 2010: 12).[15] Therefore the systems of representation in a system historically constituted by the people itself, represented in the national parliaments, have an obligation to remain the locus of governing power and not to abdicate that power to others. (Lindseth, 2010: 18).

The democratic views on the EU theories have brought some answers to these views. Scholars have identified that the democratic quality of the EU should be assessed not only in terms of efficiency but also in terms of democratic accountability, which is also directly linked to popular legitimacy. Moreover, as Lord and Pollak have argued (Lord, Pollak, 2010: 969), citizens are likely to seek control through representatives and not just the accountability of representatives, which is a tendency to combine representation with accountability in ways that are not always obvious, but from a democratic point of view, are equally necessary. They do indeed depend on the institutional properties of a political system and the varied ways of combining (Lord, Pollak, 2010: 968). The national political systems of the EU member-states are also transformed types of political systems by the power of the EU and the EU integration process. To further explore this assumption on the indirect legitimation of the EU with the national parliaments, this study looks closely at the EU's transformative role over the nation-states and the role of the key actors in these processes, namely the national parliaments and the political parties.

The political and scholarly debate on the transformative role of European integration with effects on national parliaments received attention in the mid-1990s in connection with debates on how to cure the alleged democratic deficit of the European Union (EU). Since then, scholars have identified the oversight role of the national parliaments in controlling their governments in European matters (Auel & Benz 2005b; Raunio, Wiberg, 2010: 74). However, the role of the national parliaments in exercising different types of accountability especially about solving collective problems such as corruption, remains understudied.

---

[15] These national mechanisms include, most importantly, a collective oversight of the supranational policy process by national executives' judicial review by national high courts concerning certain core democratic and constitutional commitments, and increased recourse to national parliamentary scrutiny of supranational action, whether of particular national executives individually or supranational bodies more broadly. See discussion in Lindseth, 2010: 15.

The debate on the role of the national parliaments, remains understudied in the matter of policy fields but also focuses mainly on the Western legislatures and their oversight capacities. However, the parliaments of the post-communist regimes were different not only in their institutional design but also in the historical trajectory of political party systems/party politics. To be discussed further, Peter Mair (2009, 2013) identified these differences in his seminal work on party democracies, cartelisation, and party cleavages, which are important features for analysis and tracing the conditions under which corruptive practices take place.

The historical context under which national parliaments and party democracy were developed in Europe, both in Western and Eastern Europe, with its differentiation, set the trajectory for the types of abuses of power that took place once the opportunities for corruption were created or triggered in the neoliberal context. However, the common feature is the unpredictability of public debate and public expectations and the tendency to avoid conflicts, which can explain the secretive EU policy-making that lacks publicity, which is the crucial aspect of political life on a national level. (Bickerton, 2016, 2020). However, publicity, particularly through the means of transparency and accountability, is a crucial part of legitimation strategies, both for the EU democratic deficit and the risks to representative democracies, where corruption is taking place. This situation can also have a long-term effect on democratic legitimation, since, as Jurgen Habermas has argued in his seminal work on deliberative democracy, the decreases in the quality of democracy ultimately lead to the loss of democratic legitimation (Habermas, 1973) and the linkages with the principles of account giving in public forums, designed to interact with the citizens.

However, the theoretical concept employed on the role of the national parliaments would remain short in the analysis if sufficient attention was failed to be paid to the incentives and constraints of the political parties to deliver on the citizens' values and interests. The political parties that run for the next elections hold the power to represent the citizens' interest in a democratic context and perform various duties within the national parliaments. As Raunio and Wilber have discussed, parties are indeed responsible for setting the parliamentary rules of procedures, the agenda-setting, the coordination of the committees and the plenary session, as well as the rights of individual members and party groups. (Raunio, Wiberg, 2010, p.77). Considering these factors, it is essential to understand

the incentives and constraints of political parties to pursue the exercising of available democratic instruments in national legislatures, including those for public scrutiny or oversight work. Therefore, this research will borrow the theoretical lenses identified in the seminal work of Martin Lipset and Stein Rokkan, aiming to understand the conditions and factors that have contributed to the position of party democracy in a contemporary context, especially in the case of the CEE countries.

As Martin Lipset has argued, for any democratic regime to survive, it must provide sufficient legitimacy as perceived by its citizens. However, the extent to which contemporary democratic political systems are legitimate also depends on the capacities of societies to solve historically divided problems. (Lipset, 1959: 86). In Lipset's view, crises of legitimacy occur during a transition to a new social structure, if (a) all major groups do not secure access to the political system early in the transitional period, or at least as soon as they develop political demands; or, if (b) the status of major conservative institutions is threatened during the period of structural change. (Lipset, 1959: 87).

According to Lipset and Rokkan, the citizen's perception is typically achieved by the state's continuous economic development effectiveness. However, at the same time, states also need to modernise themselves through changing social conditions that foster a democratic culture.[16] (Lipset 1959, 83-84). Lipset has drawn the connections between micro-level modernisation and macro-level democracy, explained through the process of democratisation. 'The degree of legitimacy of a democratic system may affect its capacity to survive the crises of effectiveness, such as depressions or lost wars and second, to indicate how the different resolutions of basic historical cleavages which determine the legitimacy of various systems also strengthen or weaken democracy through their effect on contemporary party struggles' (ibid.)[17].

---

[16]Through stronger investment in human capital, especially education, modernisation increases the receptiveness to the type of norms and values that mitigate conflict, penalise extremist groups, and reward moderate democratic parties. Economic development — like urbanisation, wealth, and education- works as a mediating variable.

[17]Lipset is often attributed with positing a simple correlation between per capita income and democracy, when in fact, he deliberately argued more broadly that "all the various aspects of economic development – industrialisation, urbanisation, wealth, and education – are so closely interrelated as to form one major factor which has the

The *historical cleavages* are essential to understanding the characteristics of party democracy in (Western) Europe as a distinctive political regime rooted in 20th-century mass politics. The purpose of understanding the pressures and challenges faced by party democracy since the 1970s, culminating in the contemporary "populist explosion", is an important perspective for understanding the role of the political parties in the broader context of representative democracies and the role they had and can play, in challenging the status quo of abuses of power for private gains.

This research reflects on Stein Rokkan and Martin Lipset's work, followed by the work of Peter Mair on party democracies. The key arguments of historical cleavages are central to the views on Rokkan's 'obsession' with the historical development of the European nation-state and the process of democratisation. Both aspects are relevant for understanding the historical trajectory under which the contemporary crises have evolved or are currently taking place in modern Europe. Both aspects can also extend our views on how the EU Member States have been transformed (Bickerton, 2012, 2020) and why political parties are still key actors for maintaining the quality of democracy (Merkel, 2009, 2020).

This single dimension of Europeanisation can be seen by the close parallel to the territorial dimension *Seymour Lipset and Stein Rokkan* (1967: 6–26) in their now-classic analysis of the development of national cleavage structures. At one end of the territorial dimension can be found those conflicts that involve local opposition 'to encroachments of the aspiring or the dominant national elites and their bureaucracies' (1967: 10); these and similar arguments tap into what is now seen as sharpening the dilemma in contemporary political systems: the trade-off between efficiency and popularity (Dahl, 1994). What governments appear to need by way of policies is not necessarily what voters will accept – particularly in the short term. What makes for a successful strategy in the electoral arena may not be the best set of options for government policy. For example, in the past (see Schumpeter, 1947: 288; Brittan, 1975: 136), this familiar problem was manageable thanks to the deference shown to governmental authority and the trust placed in political leaders. Voters may not have liked some of the solutions handed down, but they were more willing to accept them.

---

political correlate of democracy" (Lipset 1960, 41). According to Lipset (Ibid.), this list of factors constitutes the conditions, not necessarily causes, for democracy.

Today, however, with a much more fragmented civil society, with more individualised and particularised preferences, and, above all, with the government under the control of parties and political leaders that no longer seem to serve as influential representatives and sometimes inspire little trust, other decision-making solutions need to be found. *As Fritz Scharpf* (1999, 188) has argued, 'even in constitutional democracies at the national level, input-oriented arguments could never carry the full burden of legitimising the exercise of governing power.' Hence the raft of new non-majoritarian institutions and the growing powers and competencies of those institutions can operate beyond the democratic state – and the European Union in particular (Mair, 2013: 133).

In his approach, Stein Rokkan has reflected on the fundamental nature of the type of political system that had first developed in Europe for centuries and the system of nation-state forming over time in this world.[18] Rokkan distinguished various types of cleavages, linking them with specific events or developmental processes in European history. They vary from country to country, and he calls them cleavage structures linked to functional and territorial dimensions. This structuring and un-structuring, as Rokkan has argued, is always a temporal, period-or phase-specific phenomenon. The best-known example is his thesis that European party systems froze with the introduction of universal suffrage and *the transition from majoritarian to proportional representation* after the First World War and unfroze again in the 1960s. (Rokkan, 1999, p.7).[19] Rokkan's key contribution is his analysis of *democratisation as a process of institutionalisation*. He interprets "*the process of democratisation*" as a dismantling of internal boundaries, and removal of barriers or thresholds prohibiting entry into the political system, as opposed to exiting in the

---

[18] In Rokkan's view, the nation-state, with its claim to popular sovereignty, supreme loyalty, and conformity of culture and territory, is a modern phenomenon, a product of the French Revolution. The often bitter conflicts connected with the nation state's idea and reality built on cleavages that had already emerged in the earlier processes of state formation and nation-building (Rokkan, 1999, p.37).

[19] Rokkan's prime concern was describing and explaining the differences in the structure and structuring of political systems in the Europe-emerging concept of boundary building and structuring. He concentrated on the comparison between specific organisations and institutions - party systems and electoral systems. In his view, the latent differences break out at critical junctures and take on 'manifest' organisational and institutional forms in the process of political system building (Rokkan, 1999, p.7).

sense of exclusion, emigration, or secession" (Rokkan, 1999, p.9). Alongside political systems such as city-states, nation-states, and empires, he invariably considers cultural systems such as religions and languages and economic systems such as trade networks, tariff unions, and 'national' and 'global' economies.

He frequently refers to structures as opportunity structures, which, while restricting and sanctioning alternatives for action, at the same time also open up options and choices. In his view, development is shaped by fundamental decisions taken in critical periods in conflicts among elites and larger population groups (Rokkan, 1999, p.16). The analysis of the institutional variations and changes in the structuring of pluralistic mass democracies rests on the distinction of four thresholds in the democratisation process: a) the legitimation of opposition, b) the incorporation of broader sectors of the population via an extension of suffrage c) access to representation in parliament and d) access to executive power. For Rokkan, '*the democratisation of a polity is a process in which collective action and institutional change interact*. Normative rules and effective procedures set limits or provide opportunities for action and, in turn, come under pressure for change from collective movements.' (Rokkan, 1999, p.23)

This perspective sets the importance of the interaction between collective action and institutional change in the process of democratisation. That said, the four thresholds as well as the opportunities shaped by fundamental decisions taken in critical periods in conflicts among elites, rather than avoiding conflicts, are important characteristics of the period of mass politics, which upon cartelisation of party politics in Europe in the 1970s, party democracy turned into 'audience democracy' as Peter Mair has elaborated (Mair, 2013). In Mair's views, the European Union 'was *deliberately created without the ingredients of popular democracy, that is, accountability to the public through competitive elections*, and now *competitive politics no longer work*, as they no longer allow governments to make effective decisions.'

The absence of effective party politics, however, creates deficiencies in public debate, and this theoretical approach is also relevant in identifying the factors that have encouraged the stabilisation and institutionalisation of established party systems and the lack of public discourse, which should have served as an intermediator between citizens and societies. In this study, we assume that it is precisely how the void has been created

and how the quality of democracy has deteriorated, triggering a loop of opportunities for corruptive practices.[20]

In the case of the CEE countries, the creation of this loop takes place under specific conditions. In Mair's view, for parties and party politics to survive, the key tool is the adaptation to change and making choices to reach party stability. However, in his seminal book, "*Party System Change Approaches and Interpretations*", he also recognised that relationship 'the transformation of the political party systems in Eastern Europe faced several challenges, different from the Western party politics based on three key differences.' In the words of Mair, the *first difference* was that the new party systems emerged in the wake of the democratisation process without an effective bond to real civil society. The Communist Parties had some firm roots in some elements within society but were different in scope or organisation. The *second difference* was related to them, i.e., the freezing of the party system (based on Rokkan's theory) that in Eastern Europe took place in reverse order of the four stages of transformation*: a) a formal incorporation of strata, b) mobilisation, c) activation, and d) the process of politicisation, compared to the established democracies in Western Europe (Mair, 1997).*

That said, in the case of Eastern Europe, the new party systems did not develop in a long-term process of democratisation and politicisation, which would have incorporated the citizens into the organisational and institutional structures. The third significant difference, according to Mair, was *the context of competition and the cleavage structures*, which "in the lack of any real organisational sanction on potential dissidents within their ranks, or discouragement of fractious elites from setting up on their own, did not provide for the stabilisation of the electorates". Thus, in conditions or constraints to the party politics in Eastern Europe, the constitution-makers in these new democracies 'find themselves obliged to restructure the political system and establish competitive procedures in a context in which mass politics is already established' (Mair, 1997, p.181).

---

[20]Jungen Habermans has argued that democracy requires communication oriented toward mutual understanding if it is to identify what common problems might require shared laws. It also requires public justification of those laws that are made. Yet, not only on a nation-state level, as this research will demonstrate, but even on a Union level, laws are seemingly passed without much "trial by public debate", and if democracy is "government by discussion" (Manin, 1995, 6).

The conditions under which party politics in Eastern Europe have been developing in the past decades, as much as in Western Europe, are important for understanding the diverse types of patronage-based and party-voter linkages that have and can occur, as argued in the seminal work of Herbert Kitschelt and Steven I. Wilkinson (Kitschelt, Wilkinson; 2010: 2). In their view, in many political systems, citizen-politician linkages were based on direct material inducements targeted at individuals and small groups of citizens. These citizens would then be highly responsive to such side payments and willing to surrender their vote for the right price. (ibid.)[21] When such a context is created, the actors pursue political mobilisation and perceptions of their interests and beliefs about the institutions' normative justifications (Rothstein 1998).[22] The types of political mobilisation developed through democratisation and institutionalisation are also seen as important indicators for understanding the crisis of representative democracies and the deviances of norms, i.e., corruptive practices. What is more, Kitschelt and Wilkinson also argued that these types of occurrences are not given. However, instead, they develop and are put into context based on the mechanisms available to the citizens and the politicians' strategies for political actions. This view also aligns with our assumption that corruption is an indicator of the 'hollowness' of representation, with different degrees in different political contexts. What is typical for all these variances is that they clash with specific historical periods, with the supra-national strategies for mitigating a political crisis, driven by the impulses of international politics and the market-driven demands, which is most evident during the process of Europeanisation.

---

[21] When or where such patron-client type of corruption took place, clientelistic accountability was developed as a type of transaction or a direct exchange of a citizen's vote in return for direct payments or continuing access to employment, goods, and services. For further arguments on clientelistic networks, see discussion in Kitschelt and Wilkinson, 2010.

[22] Enlargement in the CEE countries has been the basis for a new European Union, but it is a union of citizens' disillusionment with their political leaders and skepticism about the ability of their political systems to deliver on their promises. What stands out about the crisis of democracy in Eastern Europe is how similar it is to the crisis of representation in Western Europe, disenchantment with a political establishment, a widespread loss of trust in politics, and growing anti-establishment populist movements (Bickerton, 2016: 182).

Under these conditions, *Europeanisation*, which in the case of CEE countries took place *in the 1990s,* triggered specific types of institutional and political system transformations under the process of EU integration (Grabbe, 2006, Raik, 2004, Vauchova, 2009, Schimmelfennig (2009, 2016); Bickerton, 2012). The approach that the EU takes in addressing corruption reflected the EU's own institutional design and constraints in terms of actorness[23], and at the same time, the EU process of transformation engaged with the same elites and party leaders/executives while marginalising the national parliaments, the key institutions of popular self-government, as subordinated in democratic transformation processes (Raunio and Hix; 2000: p.143; Rittberger, 2005: 119, 199). Raunio and Hix (2000), Rittberger (2005), and other scholars have argued that the EU integration "has been a key causal factor in the declining role of national parliaments over the last half-century" (Raunio and Hix; Rittberger, 2005: 119). As argued by Rittberger, scholars have even discussed "the deparliamentarisation of national politics and the short-circuiting of democratic procedures of interest representation and procedures to ensure accountability" (Rittberger 2005: 199). It has also been suggested that although the EU integration has sped up reforms, it has also harmed the quality of democracy by EU pressure over political systems to do 'too much and too quickly' (Raik, 2004: p. 592; Grabbe, 2014: p.6). At the same time, the EU's accession process was also transforming the legal system through the process of law-harmonisation and further distancing the political parties from societies, leaving the political elites far removed from their own populations (Cited in Bickerton, 2009: 742)[24].

Moreover, in highly centralised political systems where legitimacy was drawn from the centralised party leaderships, it was left up to the same party leaders to internally democratise its parties, which created another paradox for the process of democratisation. This aspect also provides for drawing arguments that complement the theoretical observations on democratisation with the process of Europeanisation. This study, therefore, borrows the theoretical lenses from the EU integration theory on the transformations of the political systems and their accountability designs, i.e., normative frameworks of account giving, as an important feature for analysing the conditions of 'hollowed' democracy. It also

---

[23] See discussion in Mungui-Pippidi, (2016). The good, the bad and the ugly: controlling corruption in the EU

[24] See also discussion in Pridham 2006: 381; Grabbe, 2006: 54.

brings the arguments forward on the joint responsibilities between the EU and the nation-states in reducing the gaps and opportunities for corruption.

In order to access these theoretical observations from an empirical perspective, this study takes the theoretical position of Wolfang Merkel (2011, 2018) on *embedding democracies* that allow us to explore the stages or conditions for state embeddedness both internally within the political systems of the states, and externally within the European Union. Hence, the democratic theory approach allows us to spawn arguments on the democratic regimes of embedded democracies and the exercise of the process of legitimation in the form of democratic accountability. The usual understanding of democratic accountability has been seen from the aspect of the principal-agent model and the linear chain of account giving between the principal (subordinated) and agent (ordinated). However, this study argues that the principal-agent model as discussed by scholars (Bovens, 2007: 464; Muller, Bergman and Strom, 2003: 3) does not provide for sufficient knowledge of the problems under which the actors of the representative democracies in the CEE pursue their legitimation strategies, as it disregards the key aspect of *the social contract* between citizens and their societies. The social contract as a mediated form of communication between the citizens and their communities via different social actors (political parties, trade unions, churches) was particular in the context of the communist and socialist regimes and related to the exercise of the principle of sovereignty. Upon this social contract, a set of legal and political constraints have contributed to the increased disenchantment in the mediated relationship between the people and the state (Rousseau, 1762) and failure to establish authority - the people - that collectively can call their rulers to account.

Therefore, the technical form of understanding of democratic accountability under the linear chain of technical exercise of account giving is somewhat challenging in the context of the CEE countries, with inherited weak checks and balances and legislatures. These parliaments in the initial design were not built to perform oversight on a base equal to that in the Western democracies. The principal-agent model does allow for initial mapping of the institutional oversight instruments. However, it does not allow for a better understanding of the dynamic of interaction between the collective approach, the institutional transformations, and the

individual's decisions that trigger group dynamics, including the mutual trust based on the other's behaviour.

This theoretical perspective was advanced by Bo Rothstein (2007, 2012), who developed the views on corruptive behaviour based on people's trust in institutions and one another. In Rothstein's view, 'when people decide to act in one way or another, they often try in their decision-process to predict the various possible reactions of their counterparts within the concept of *a social trap.'* This metaphor expresses that actors in a strategic situation where they can make choices on cooperation or non-cooperation may end up in a most disadvantageous situation. That said, this study takes the theoretical approach on *social traps* as discussed by Bo Rothstein that goes in line with the discussion on the moral costs of corruption as discussed by a few other scholars (Della Porta, Vanucci, 1999; Ledeneva, 2007). "Not being able to predict government action when it reaches decisions, and the lack of accurate information about what government bureaucrats can and cannot do, is the central ingredient in this problem", argued Bo Rothstein (cf. Evans 2005; Lange, 2005; Rothstein, 2011: 6). Hence, such occurrences increased the risks to the impartiality of the political institutions and the power equilibrium. This was another problem linked to the quality of governance in the CEE countries. In line with Rothstein's arguments, the exercise of public authorities in an impartial manner should be the basis for what counts as the quality of governance (QoC) (i.e., effective political institutions) (Rothstein, 2011: 13). As such, impartiality is seen as the *parallel legitimising and defining principle for output legitimacy* and can in a similar way encompass various administrative practices (Ibid.) Drawn from the theoretical perspectives *about the quality of governance* (sociological institutionalism), Rothstein has argued that impartial behaviour on behalf of public policies is the key virtue for reaching legitimacy in the exercise of public power (Rothstein, 2011: 29). In this regard, the principle of impartiality is seen as the norm that is violated in the case of corruption, and impartiality implies the absence of corruption (Rothstein, 2011: 13)[25]. From a normative perspective, QoG requires both democracy in the access to power and impartiality in exercising this power (Rothstein, Teorell, 2008: 179-180).

---

[25] The principle of impartiality stands against discrimination, corruption, and overt arbitrariness in the exercise of government power. (Rothstein, Teorell, 2011).

The application of the neo-institutional theory allows for mapping an institutional framework for examining the normative instruments of the parliaments to exercise the actual process of justification in the form of horizontal or vertical accountability in cooperation with other 'pillar' institutions (independent regulators) and social actors. It also allows for examining the patterns of the actors' attitudes towards account giving and the flow of information (transparency) between electoral periods/critical junctures. That said, rather than taking the rational choice theoretical approach under which it is assumed that all actors are trying to maximise their economic benefits, this study takes sociological research on corruption, that can also generate statements about 'national cultures' and looks instead at how norms and institutions facilitate illegal behaviour or create opportunities for corruptive behaviour. As seen from this theoretical perspective, this study explores *the micro and macro-levels' attitudes*. It aims to examine how parliaments and their representatives contribute to the 'hollowness of democracy' when they engage in acts of *façades of legitimation* (Kneip and Merkel, 2017, p.12-14), rather than actual justification.

These theoretical approaches draw arguments on the necessary conditions for representative democracies to meet citizens' expectations, for political systems to take control of corruption (and the problems of social traps) and for states to provide for indirect legitimation with the EU. This theoretical approach also allows for testing the key hypothesis on the mutual independence between the state and the EU in proving control of corruption as a necessary criterion for providing quality of democracy and for stages of democratic embeddedness. With this theoretical approach, this study tests the theoretical arguments from the democratic theory perspective, "*that democracy might not be a cure to corruption, but democratic structures can provide the conditions needed for anti-corruption policies to succeed*" (Rose-Ackerman, 1997; 2016, 341-373). Thus, this study also provides for an observation of the interaction of 'integrity pillar' institutions with national parliaments to deliver the change of political culture of account-giving, information sharing, and control of the opportunities for deviation.

In order to grasp the change and the conditions under which account giving is taking place, *the historical institutionalism* perspective informs on both formal institutional capacities and informal rules and norms, or who participates in a given decision, and simultaneously, how their strategic

behaviour is shaped (Steinmo, 2012: 124). Ellen Immergut's analysis has also shown that institutions provide obstacles to particular policy choices and ultimately structure the menu of choices available in different regimes (Immergut, 1992; Steinmo, 2012: 124). Institutional structures have profound effects on shaping political strategies, outcomes, and political preferences (Immergut, 1992; Steinmo, 2012: 124).

In this regard, the historical path dependencies of the state transformation and the account-giving logic can be essential sources of the norms for accountable governance and the state institutional capacities to address the problem of corruption. More specifically, the role of the national parliaments in balancing the powers of executives and judiciary is an essential indicator of the resilience capacities of the legislatures as part of the immune systems of the political system to cope with institutional risks and gaps and to address the EU's new forms of legitimation through the executive teams.

The historical settings of the cases of institutional change towards liberalisation (Streek and Thelen, 2005: 2) can constitute the common denominator of many of the changes presently occurring in the current CEE democracies (Ibid.) The type of institutional change associated with liberalisation processes provides a perspective on the logic of doing politics under incrementally transformative processes. In this regard, the transformation of the welfare states (drawn from the Esping-Andersen typology) also provides important information on the informal institutions and the nation-states' specific social norms - *party systems specifics, political parties development*– as previously discussed. That said, the external factors that have contributed to institutional and social transformations are equally crucial as the internal preconditions of the political systems and the effects that the neo-liberal logic of exercising power and regime change certainly has shaped the new social contract that has been erected in societies, especially in CEE countries.

The period of introduction of neo-liberalism has brought major new changes in the functioning of the political regimes willing to show capacities of full functional democracies.[26] The former one is

---

[26] The goal of liberal democracy was not only to create a kind of society that allows the state to run its business and a kind of state that allows society to run its business. Its goals were also to create a kind of society capable of ensuring that the state's business is run properly and a kind of state able to defend society against excesses so that society's business may lead to the liberty of each. This would be a condition of the

the *transformation of the old industrial society*-its economy, its customs, and practices - into an empty shell: factories in ruins, the unemployed forced to adapt to the demands of the new service economy., also known as Margaret Thatcher's neoliberalism (1979-1990). The latter is the *rise of the role of non-majoritarian institutions and the power of international organisations*, such as the IMF, the World Bank, and other western and Keynesian types of management of state economic crisis.

Both types of changes have brought incentives and constraints to the abuses of power for private gains, reflected in the EU approach towards anti-corruption policy, elaborated in the third chapter of this research. What is essential is that the period of the 1990s has introduced the conjunctions of politics and economics in the political regimes of the states. This period is coincident with the fall of communism. The state failures, such as in the case of the former Yugoslavia, and the *New Way* of democratisation and liberalisation of societies, should have empowered the state with new skills and competences to protect individual liberties, freedoms, and human rights. The key instrument that should have made this transition possible was *the Rule of Law*. This was also the key narrative and incentive for the post-communist states to join the EU, as they did in 2004 with the '*Big Bang*' enlargement, followed by Bulgaria and Romania in 2007 and Croatia in 2013.

After the post-communist time, it was believed that the basic attractiveness of the integration process itself would eventually push the European governance into a decisively 'post-national' phase (Habermas, 1992; Lindseth, 2010: 11). However, subsequent institutional and political history has shown this transition to be partial at best. "Even as many aspects of governance have been denationalised, or " Europeanised," (Oslen, 2012), "the same has not occurred in the realm of political culture, at least not to the same extent", argues scholars (Lindseth, 2010: 11). Indeed the political culture in the Central and Eastern European countries has been shown to be an important indicator for reaching successful anti-corruption policy results.

---

freedom of the others. As is explained more fully elsewhere (Beetham, 1991), there were irreducibly three dimensions to the legitimacy of the state in liberal democratic societies: *performance* in meeting the needs and values of citizens; *public control* with political equality; and *a sense of identity* without which the legitimacy of the unit would be contested, however impeccable its procedures.

For these reasons, the study also draws theoretical perspectives from the neoliberal approach. It pays particular attention to the role of the non-majoritarian institutions, as elaborated by Giadomennico Majone (Majone, 2015: p.107), as a way for the EU technocratic approach in doing politics to be justified by "the need to increase the regulatory capacity of Europeans to address complex challenges and to regulate social risks and to make supranational institutions play a significant role in modern governance in Europe ", as Peter Lindseth has also argued (Lindseth, 2010: 11). Having said that, the nation-state has retained its central role in terms of democratic and constitutional identity.[27] In this regard, Moravcsik suggests "the most fundamental source of the EU's legitimacy lies in the *democratic accountability of national governments*. Moreover, the prospect of enlargement and the practice of membership in the EU bolsters domestic democratic institutions in applicant countries" (Moravcsik; Lord; 2005: 95). In this context, Moravcsik argues that there is little evidence that the EU suffers from fundamental democratic deficits as a multi-level system. Thus, he argues in favour of EU democratic legitimacy. With this view, the EU should help member states achieve their own public interest, defined in terms of the preferences and interests that actually exist within national publics (Moravcsik, Sangiovanni, 2003: 138).

Hence, despite the already extensive transfers of regulatory power to the supranational level, "the institutional politics of the past decade suggest that the historically constituted bodies of the nation-state still seem to enjoy considerable advantages in what might be called legitimacy resources", argues Lindseth (Lindseth, 2010: 11). These go beyond integration's undoubted capacity to act as an instrument of peace, legality, or prosperity. "They are rooted, instead, in a widely shared sense of identity or connection to national institutions as embodiments or expressions of self-rule, an attitude perhaps most palpable in Central and Eastern Europe after years of foreign subjugation."[28] (Lindseth, 2010:12).

---

[27]The French Declaration of the Rights of Man, after enunciating the principles of civil equality and the protection of natural rights, declared that '*the nation is essentially the source of all sovereignty*' (1789 version) and 'sovereignty resides in the people's (1793 version) (Ibid). The universality of the idea today has been acknowledged in the United Nations Declaration of Human Rights that "the will of the people shall be the basis of the authority of government' (Article 21) (Beetham, 2010).

[28]Having said that, Lipset has argued that none of the alternative bases of legitimacy on an EU level (such as technocratic legitimacy) can amount to anything close to the

This approach goes in line with Vivien Schmidt's views, that the role of the regulatory bodies on the nation-state level, whose mandates have different purposes than the supranational ones (Schmidt, 2013). However, their role in the political systems in correlation with the crisis of representative democracies remains understudied. Therefore, this study takes a different approach and aims to demonstrate that the regulatory bodies can play a role in closing the gaps and the void between citizens and their societies if their place is acknowledged in the complex structure of account giving, which is usually bound to the parliamentary oversight and the public scrutiny exercised via national parliaments.

2.1. Conclusion

Examining the indirect legitimation between the states and the EU, while examining the notion of anti-corruption policy, can tell us much about the EU itself. As Chris Lord has put it, it can tell us "about the nature of political order, about the quality of democracy within the European states,about democracy beyond the state and about the changing character of democracy itself" (Lord, 2015: 7). It can tell us about the nation-states as well, as democracy requires: a) *public control*, b) *public equality*, and c) *individual rights to receive justifications for policies*.[29] Moreover, "while it is plainly possible for citizens to make their own laws through representatives, it is hard to see how an arrangement that left them with no control over those representatives *could be described as democratic*", argues Lord (Lord, 2015: 8). We take the position that all of these conditions are necessary democratic criteria for achieving successful results in preventing and sanctioning corruption.

The theoretical implications discussed in this chapter are suggesting that the risks to representative democracies are to be located in the ways

---

sort of classic democratic and constitutional legitimacy that executive, legislative, and judicial institutions of the nation-state are still generally believed to enjoy. From this perspective, "national polities have a twofold deficit: On the one hand, they do not control many decision-making processes which affect those polities but take place outside their borders; on the other hand, national polities exclude from participation and representation many interests which are affected by its decisions." (Lindseth 2010).

[29]See discussions in Beetham 1994, Weale 1999, Bohman 2007, Forst 2007 in Christopher Lord (ed.) (2015). *A different kind of democracy?* Debates about democracy and the European Union.

political systems are being transformed due to the process of *Europeanisation,* the historical preconditions of the states, and the lack of intermediation between citizens and societies, in the waves of neo-liberal shifts of political regimes. In legal and political terms, the exercise of democratic accountability through legitimation, seen as actual account-giving,, is essential for the intermediation between citizens and societies, where corruptive practices are taking place. That said, the views drawn from the EU integration theory on state transformation provide the necessary framework for further analysis of these gaps, as the conditions under which different types of corruptive practices are taking place. The state transformation is an important aspect for analysis from the aspect of constitutional transformations, bound to the rule of law and the principles of accountability. Since the contemporary state is no longer a nation-state in its original form *but* a different type of Member State,[30] the source of sovereignty and the principles of accountability, under the globalised shift of international rules (Giddens, 1990) bound to representative democracies, are changing as well.[31]

We will, however, discuss in the second chapter that the common risk of 'abuse of power for private gains' in contemporary societies is legal or legislative corruption or the adoption of laws or amendments for third-party interest under legal and formally justified grounds, usually by the power of the two-third majorities. This type of occurrence, which is not unfamiliar in the historical context, especially during the birth of neoliberalism, with examples found in the UK, Germany, Italy, France, and others as well, was undoubtedly developed through a complex mix of political and economic processes under the process of Europeanisation, with the potential to undermine the democratic legitimacy of the EU. The reason behind these risks is due to the design of the EU to depend on the legitimation through representative democracies of its Member States (Lord, Bellamy, 2015).

Therefore, this study aims to examine the role of the key actors of representative democracies – *national parliaments and political parties/party democracy,* focusing on the CEE countries, based on three case studies, due

---

[30]This aspect also applies to the applicant Member State, as the process of transformation from a nation-state to a Member State under the EU Integration process is also applicable.

[31]On the process of modernisation, as an external factor, see discussion in Anthony Giddens, 1990, '*The consequences of Modernity*'.

to the specific transformations of these actors under the process of Europeanisation. The third characteristic of this transformation is *the legal system of law-making*, seen as a constraining one that has increased the void between citizens and societies. Of course, this approach does not exclude the role of the other actors, such as churches, trade unions, or civil societies, as also acknowledged in Rokkan and Lipset's theoretical discussion(s) and the contemporary debate. However, it instead focuses on Rokkan's definition of '*democratisation* as a process in which collective action and institutional change interact' (Rokkan, 1999). This interaction is also seen as a necessary condition for embedding democracies, both internally and externally (Merkel, 2009, 2018), and within this scope, the study aims to explore the conditions under which the actual process of interaction, or the absence of it, is taking place as an indicator of the contemporary 'hollowed' or 'empty' democracy. In such an empty space of citizens' representation and when laws are not being rooted in their societies, corruption is both an inception and a consequence; citizens are both victims and participants, executives, legislatures, and judiciaries are both players and are being played, creating a never-ending loop for manipulations of the 'rules of the game'. That said, in the final chapter, we will argue that it is not only corruption that threatens democratic principles and values, but also the opposite. The emptiness of democracies corrupts the formal and informal rules where social traps are developed and starts taking different forms of the legal and political systems, such as populism and technocracy, or usually both.

Chapter 3

Concepts and Conceptualisation

3.1. Democratisation, Legitimation, and Democratic Accountability

A shared understanding of the democratic standards under which citizens exercise their rights and duties is their ability to own their laws and be treated as equal citizens of their communities. In order to do so, their rights and duties need to be translated through normative means, actions, and procedures, i.e., through the capacities of democratic institutions. This requires institutions that deliver on citizens' needs and the understanding of their duties. As Magnette and Folesdal have argued, the respect of institutional rules and procedures also makes it easier to determine legality, compliance, and justifiability, or its absence (Magnette 2001; Føllesdal, 2015: 7). It also requires actors that can intermediate between the citizens, their values, beliefs, attitudes, and the society they are living in.

The translation of the citizens' will through institutions also serves to reach higher costs of societal morality or impose a moral duty for compliance with institutional norms and duties (Olsen, 2010). As Johan P. Olsen has argued, governing through institutions is 'The translation of the citizens' will through institutions, also serving to reach the higher costs of societal morality or imposing a moral duty for compliance with institutional norms and duties' (Olsen, 2010). As Johan P. Olsen has argued, governing through institutions is the ability to achieve preferred political and societal arrangements - so, the people can justify the normative rules and procedures and accept imposing the moral duty on

them to comply with the institutional norms and procedures (March and Olsen, 1989; Olsen 2010: 28). Whether the compliance occurs due to justifications of the rules or due to fear of sanctions or lack of alternatives, the compliance still requires that the population believes that the institutions are normatively legitimate, as Beetham and Lord have argued (Beetham and Lord, 1998: 10). The justification through the normative power of institutions, and by the use of democratic instruments, can take the form of deliberative democracy, or direct communication with the citizens, the use of public opinion-formation, institutionalised elections, and legislation through administrative power, as argued by Jurgen Habermas (Habermas, 1996: 297- 299)[32], or through the means of representation and that of representative democracies.

However, the process of democratisation is quite complex and relies on many factors in the process of interaction between the institutions and collective actions, as Stein Rokkan has argued, discussed in chapter two. Moreover, the historical, cultural, political, and sociological context under which these interactions are taking place also affects both *the internal and external* embeddedness of democracy.

The concept of embedded democracy, as developed by Wolfgang Merkel, follows the idea that stable constitutional democracies are embedded in two ways: *internally*, in which the specific interdependence/independence of different partial regimes of a democracy secures its normative and functional existence, and *externally*, in which these partial regimes are embedded in spheres of enabling conditions for democracy that protect it from outer and inner shocks and destabilising tendencies (Merkel, 2011, p.36). In other words, embedded

---

[32]Habermas also argued that agendas are usually negotiated and resolutions passed within the assemblies and the public (public hearings) of parliamentary bodies, structured predominantly as a context of justification (Habermas, 1996: 307). These bodies rely not only on the administration's preparatory work and further processing but also on the context of discovery provided by a procedurally unregulated public sphere that is borne by the general public of citizens, argues Habermas (Ibid). In this regard, public policies, including anti-corruption policies, must be embedded within an effective institutional and legal framework in order to be successfully implemented, empowered by state actors willing to comply with institutional norms, procedures, and standards, and to engage non-state actors to act as watchdogs over processes and results. However, normally it requires engaged and informed citizens, who can bring public pressure to public officials, governments, and institutions over actions, processes, and results.

democracies satisfy both the demands of democracy and the demands of liberal markets. For this purpose, the applicant states willing to join the EU need to comply with political and economic criteria for memberships, regulated by the Copenhagen criteria. A state willing to be part of the standardised rules of the game must demonstrate that it can comply and deliver on these rules, both to the demands of democratic principles and values and the demands of the EU and global markets. However, this also is evident where tensions are taking place.

The logic of embedded liberal democracy consists of five partial regimes: a democratic *electoral regime, the political rights of participation, civil rights, horizontal accountability, and the effective power to govern* – which guarantee that the effective power to govern lies in the hands of democratically elected representatives (Merkel, 2004: 36-41).[33] All five partial regimes are necessary for meeting the demands of functional democracies. However, liberal democracies operate on two levels, as Colin Crouch has put it. First, is the formal elections process, where rules to ensure strict equality among all citizens are usually accepted as paramount. Second, it's what civil society represents, the informal debate, the lobbying and pressure, and everything that goes on to link the world of government to the rest of society between elections. (Crouch, 2020: 21). 'It is that space when social movements are active, and where the popular challenges that sustain democracy's vibrancy are located and is also the space within which the political power of unequal wealth is wielded. As a result, in informal politics, there are no guarantees of equality' (Cited in Crouch, 2020: 21)

Under the framework of liberal democracies, operating on these two levels, the formal process or elections, and the informal activities between elections, the types of accountabilities that can and should justify the use of political power have been somewhat marginalised during the process of Europeanisation and democratisation. The discussion on *horizontal accountability,* or civil or political rights protection, has been either brushed aside or been considered as given when discussing or exercising

---

[33] These five partial regimes show that the concept of democracy goes beyond the definitions put forth by Downs, Huntington, Przeworski, and even Robert Dahl's concept of polyarchy, as Wolfgang Merkel elaborates in his work . A sufficient definition of democracy has to go beyond simple democratic electoralism since only the other four partial regimes guarantee that not only the procedural aspects but also the goals behind democratic elections are fulfilled (Merkel, 2011, p.37). For further discussion, see (Merkel 2011, 2020).

democracy. Though it is precisely the *horizontal accountability*, as much as the exercise of *vertical accountability* – a concept to be discussed in the following sections- that makes the intermediation between institutions and collective actions effective in practice, or what gives content to the quality of democracy.

The concept of accountability is an important feature for understanding both the functioning of democratic institutions and the integrity pillars of the political systems-the non-majoritarian or regulatory institutions.[34] These integrity pillars institutions, usually conceptualised as regulatory or independent bodies, perform different functions from the EU non-majoritarian institutions, as Giandomenico Majone has defined them (Majone, 1996a, 1998, 2005). In his seminal work on the regulatory powers of the EU, placed at the core of the discussion on EU democratic deficit, Majone has brought an important perspective to the set of problems that arise whenever important policy-making powers are delegated to politically independent bodies, such as *independent central banks and regulatory authorities* (Majone, Lord, 2015: 119). In the literature and the discourse on European integration, 'democratic deficit' is also used as a label to denote a set of problems. These problems, far from being unique to the EU, are increasingly important at all levels of government as the shift from the interventionist to the regulatory state gains momentum throughout Europe (Majone, 1996, 2015).[35] This aspect is indeed important for understanding the share of competencies over anti-corruption policies, the failures in identifying final authorities when abuses of power are taking place, and the tensions between the liberal conceptualisation of the

---

[34]Merkel "the rule of law is the principle that the state is bound to uphold its laws effectively and to act according to clearly defined prerogatives. The rule of law, therefore, is understood as containment and limitation of the exercise of state power. In Merkel's work, it is seen as a functionally necessary part of a democratic regime. The actual core of the liberal rule of law lies in basic constitutional rights. These rights protect the individual against the state executive and against acts of the elected legislature that infringe on an individual's freedom (Merkel, 2011:39).

[35] Democratic deficit, in this second sense, refers to the legitimacy problem of non-majoritarian institutions-institutions that are independent in the sense that they are allowed to operate outside the line of hierarchical control by the departments of central government and are granted considerable discretion in the use of the powers delegated to them. Majone sees non-majoritarian institutions also as constitutional anomalies that do not fit well into the traditional framework of democratic controls. See discussion in (Majone, Lord, 2015: 120).

regulatory state and democratic conceptualisation of the balance of power. The non-majoritarian institutions, which by design are not directly accountable to the people, are however indirectly accountable through the capacities of the national parliaments, which are also an important aspect for understanding how they draw their legitimacy and why they are playing an essential role for the indirect legitimation between the EU and its member states.[36]

The legitimacy of a non-majoritarian institution depends, in the final analysis, on its ability to generate and maintain the belief of being, of all feasible institutional arrangements, the most appropriate one for solving a specific range of problems. This concept of a distinctive institutional competence includes the idea of accountability by its result. However, it goes beyond this to include a judgment of the quality of the institutional design, the general framework of accountability, and the institution's relation to the other elements of the governance system (Majone, Lord, 2015:121).[37]

In order to understand the institutional design, actors' competencies, and the types of accountability they can perform, we also need to unpack the concept of accountability from different scholarly postures. For example,

---

[36] The legitimacy problem of non-majoritarian institutions is felt to be more serious at the EU than at national level since the regulatory functions are , in relative terms, much more important in the EU than in the member states (Majone, 1996). Out of the three major functions of modern government in the socio-economic area – redistribution, macroeconomic stabilisation, and regulation – only the last falls clearly within the scope of Community competence. Now, the major public actors in regulatory policy-making – regulatory authorities and courts – are non-majoritarian institutions. Hence the legitimacy problems of such institutions loom larger at the European than at the national level (Gormley and de Haan, 1996, in Majone, 2015, p.120).

[37] It is much more difficult to identify the distinctive institutional competence of the European Commission. Most EU policies are regulatory in nature, and in this respect, the Commission may be considered a sort of superagency. However, it has been assigned a variety of other functions: executive, legislative, and quasi-judicial. This multiplicity of functions and objectives expands the scope of the Commission's discretionary choices, and at the same time, greatly complicates the task of evaluating the overall quality of the institution's performance. As a result, both political accountability and accountability by results are reduced to a vanishing point. The disjunction of politics and economics was a necessary condition of market integration, but it prevented the development of majoritarian politics at the European level, *hence the trade-off between integration and democracy*. Cited In Majone, 2015; Lord (ed).

Christopher Pollitt (2003) has defined this concept as an 'obligation to explain and justify conduct', which is not made in a void, but vis-à-vis a significant other, which requires a relationship between an actor, and a forum, the account-holder, or accountee (Pollitt 2003: 89). Mark Bovens, on the other hand, has made an important contribution to the field by conceptualising accountability *as social relation* (Bovens, 2007b: 450; 2010: 951). This aspect on account-giving as a social relation brings an important avenue for analysing the relation between the societies and politics, but also the process as a form of actual *justification,* involving the provision of performance information, 'but also the possibility of debate of questions by the forum, answers by the actors, and the actor's judgment in the public forum. The judgment also implies the imposition of formal or informal sanctions on the actors in case of malperformance or, for that matter, of rewards in case of adequate performance' (ibid.)

Other scholars have conceptualised accountability *as a virtue*, meaning an essentially contested and contestable concept (Gallie 1962: 121), 'based on the views that there is no general consensus about the standards for accountable behavior, and because these standards differ, depending on the role, institutional context, era, and political perspective.' However, the accountability is also bound to the concept of sovereignty since *sovereignty* remains the best institution for establishing clear lines of *political authority and accountability* (Bickerton, Cunliffe, Gourevitch, 2007: 2).[38] The question of sovereignty is profoundly political and also disputes the idea of a final authority in politics, since '*the ultimate authority of law derives from politics'* which is an important feature for analysis, from the aspect of state transformation, the use of the principle of legality and the location of authority in exercising power. Therefore, the concept of sovereignty is utterly important for understanding the linkages between the state transformations that have been taking place under the process of Europeanisation, especially in Eastern Europe, and the failures to locate an authority bound to an unaccountable use of power. What is more, in the case of Eastern Europe, the transformation of sovereignty occurred in a particular historical period at the end of the Cold War in 1989, and the period of absorption of the communist regimes by the liberal democratic

---

[38] It also preserves the idea that people collectively shape their own destiny, and as such, the idea of sovereignty, as self-determination, remains integral to politics both at the domestic and international levels. This is an important aspect of anti-corruption strategies, as a joint problem and collective approach in problem-solving.

logic of doing politics, including the deregulation of the markets, that aimed to unlock the globalised demands for economic growth and competitiveness. In the case of the post-communist regimes, the principle of sovereignty has a particular meaning, since as, "as a legal right has often been asserted in the absence of a social basis for it and appeared as a right that is granted and taken away depending upon the interests of outside powers" (Bickerton, 2009: 734). Once the post-communist countries became EU Member States after the 2004 'Big Bang' enlargement, this transformation from 'limited sovereignty to the EU 'pooled sovereignty had to spawn specific conditions under which political systems were supposed to deliver a quality of democracy, and on many occasions, as we are currently witnessing, failed to do so.

At the core of the discussion of democratic backsliding, evident in CEE states, is the preservation of constitutional legality and the effectiveness of the rule of law. Both are dependent on the effective independence of a high legal authority to which state power is subject and the separation of powers whereby one part of the state is accountable to another for its respect of the law (Beetham, 2013: p. 125). However, as David Beetham has rightfully noted, 'such a condition depends not only upon formal institutional independence for the judiciary but upon the development of an ethos of legal impartiality. However, this takes no account of the status of the individual concerned and capable of withstanding the pressures and blandishments of the powerful, even, on some occasions, at personal risk to the judiciary themselves. It also requires an independent press and other media to ensure that breaches of the law by state personnel, especially its law-enforcement agencies, are brought to public attention' (Ibid.)[39] It is here where the first tension between liberal values and democratic needs occurs, and it exposes the need for public justification intending to reduce this tension.

This type of public justification is also familiar *as an exercise of vertical accountability*, as a specific type of relationship between authority and subordinate, under which the constitutional order needs a firm anchoring within society. Under this type of account, scrutinising 'justifiability in

---

[39] In the views of Beetham, the paradox is that the ability to conceal illegality from the population at large will prevent any damage to a regime's standing since what is not publicly known cannot have public consequences. Yet where violations of legality are widespread, the cumulative experience will have a corrosive effect over the longer term. See discussion in Beetham (2013).

terms of established beliefs and values, through the evidence of expressed consent on the part of those subordinate to it' is exposed (Beetham, 2013: p.126). This type of account giving also scrutinises the relationship between the society and its constitutional order, exposing the vulnerability to sovereignty that makes these broader dimensions so crucial for the contemporary state. As Beetham has argued, legal validity is not only the sufficient condition of legitimacy but also the constitutional rules that must also conform to principles acknowledged as valid within society. (ibid).

Therefore, *vertical accountability* is also an indicator of the legitimacy of the political systems and the contemporary states that have embarrassed the democratic regime. In the contemporary world, political systems attain legitimacy by acknowledging the principle of popular sovereignty in government accountability to a representative assembly, elected based on universal suffrage (Beetham: p.128). Mechanisms of vertical accountability are free and fair elections, accompanied by transparent and competitive political party funding, freedom of information (that are crucial for electorates to make informed choices). Then a free and independent media (with a particular emphasis on investigative journalism as the vital watchdog in scrutinising the work of all three branches of power) and freedom of assembly and speech follow. These mechanisms of vertical or political accountability "ensure that the power of public officials is circumscribed by a series of checks and balances (for example, asset declarations and conflict-of-interest rules) implemented by parties outside the government" (Kaufmann and Dininio, 2009: p.19).

The second crucial aspect of vertical accountability mechanisms is the participation of the civil society through advocacy, awareness raising, monitoring of government activities (during the drafting laws in the legislative pre-ante scrutiny), and the scrutiny over results and law enforcement (in the legislative post-ante scrutiny). Moreover, the civil society organisations (CSOs) can have an essential role in mobilising the resources of the parliamentarians in both phases of pre-ante and post-ante scrutiny by providing valuable access to resources, knowledge, and necessary skills, especially when or where the executives have more privileged knowledge than legislatures. CSOs can also be included in the deliberative processes and complement the work of the parliaments in the scrutiny processes over the national budget or the public money spent. The (legal) authorities or institutions with a mandate to exercise

administrative and financial scrutiny to secure "not only the probity and legality of public spending but also its efficiency and effectiveness", including administrative performances/impartiality, are anti-fraud offices, Ombudsmen, and others. (These administrative forums exercise regular financial and administrative scrutiny, often based on specific statutes and prescribed norms. This type of accountability arrangement can be essential for quangos and other executive public agencies (Pollitt and Summa 1997; Bovens, 2007: 456).

Furthermore, scholars have offered empirical evidence that greater parliamentary oversight capacity translates into less corruption. (Imbeau, Stapenhurst, 2018: 12). These scholars argued that:

- First, *parliamentary control of public finances has a direct effect on corruption levels*. Also, it intensifies the effects of economic development, civil liberties, and political stability while simultaneously emphasising the importance of literacy and bicameralism (Ibid.). Corruption control, therefore, seems to be influenced by economic and institutional development, notably through the reinforcement of parliamentary capacity.

- Second, *to assess the relationship between parliamentary control and corruption*, each of the three capacity components is important: *Statuses, Practices, and Resources*. When financial committee resources increase, corruption decreases (Imbeau, Stapenhurst, 2018: p. 12)[40]

Hence, different arenas may take care of the different elements of accountability. For example, an ombudsperson, audit office, or an ad hoc committee may gather information about the conduct of an agency or civil servant. *Its report will then be debated in parliament, where* many consider the

---

[40] The legal scrutiny in most countries is exercised by courts, police, and specialised departments (Bovens, 2007: 456). The legal authority that exercises judicial scrutiny (prevention and sanctions based on most countries' criminal law) is performed by the Public or Special Prosecution Office (PPO). The work of the national investigating bodies with a normative power to press charges and grant legal punishment on (high-level) corruptive cases is crucial for the effective system of checks and balances in curbing corruption (in cooperation with the other authorities for legal scrutiny). Although independent in their work, the legal investigation bodies have the legal duty to submit an annual report to the national Parliaments in most political systems.

agency's performance to be inadequate, whereupon it is left to the minister, the media, or even the electorate to sanction (Bovens, 2007: 456).

Under the obligation "to render" account regularly to specific forums (supervisory agencies, courts, or auditors), the public officials or actors take formal obligations to deliver the agreed contractual (social) agreement with the national parliament. As Bovens argues: "the relationship between the actor and the forum, the actual account giving, usually consists of at least three elements or stages".

- *First,* the actor must be obliged to inform the forum about his conduct by providing various data about the performance of tasks, outcomes, or procedures. Often, particularly in the case of failures or incidents, this also involves providing explanations and justifications. Account giving is more than mere propaganda or the provision of information or instructions to the general public. The conduct to be explained and justified can vary enormously, from budgetary scrutiny in case of financial accountability to administrative fairness in case of legal accountability or political accountability of public officials.

- *Secondly,* there needs to be a possibility for the forum to interrogate the actor and question the adequacy of the information or the legitimacy of the conduct.

- *Thirdly,* the forum may pass judgment on the conduct of the actor. It may approve of an annual account, denounce a policy, or publicly condemn the behaviour of an official or an agency. In passing a negative judgment, the forum frequently imposes sanctions of some kind on the actor (Cited in Bovens, 2010: p.10).

Therefore, it is national parliaments, both as institutions and forums for public scrutiny, and the elected representatives of the citizens, which serve as guardians of the legitimacy of the political systems and actors through which the legitimation of the societal rights and values are pursued. *Vertical accountability* is just one of the types of account giving exercised in representative democracies, depending on the actors, which provides an account, in most cases to the national parliaments, such as public institutions or regulatory bodies (audit office, Ombudsmen .).In this case, the politicians, usually ministers, elected representatives, political parties, voters, or media engaged in account-giving within the national

parliaments, or the public forums (Strom, 2000, 2003, Bovens, 2006), while in the case of legal accountability the courts acted as agents in the principle-agent relation. (Bovens, 2006: p.9). In this type of situation, laws adopted by the elected representatives within national parliaments become effective in practice, leading to the effective use of the rule of law, understood as containment and limitation of the exercise of state power (Merkel, 2011: p.39). Since the core of the liberal rule of law lies in fundamental constitutional rights, it is a functionally necessary part of a democratic regime. These rights protect the individual against the state executive and against acts of the elected legislator that infringe on an individual's freedom (ibid). This type of accountability is conceptualised as *horizontal accountability*.[41] The horizontal accountability mechanisms include anti-corruption legislation, ethics codes, internal reporting and whistle-blowing, audit requirements, investigative bodies, prosecutors, the judiciary, law enforcement, and legislative oversight.[42] (World Bank 1997: 104; Kaufmann and Dininio; 2009: 17).

Horizontal accountability is also the fourth partial regime of democracy under the rule of law framed in constitutional rules for the horizontal separation of powers. They are concerned with governmental structures and regulate the legality and monitoring of government action in the sense of the balanced, mutual interdependence and autonomy of legislature, executive, and judiciary. This type of accountability is significant as governments are being controlled periodically through elections and continuously through mutually constraining constitutional branches of government.

The conceptualisation of 'free and fair elections' as democratic theorists would account for electoral democracy,in which all adult citizens are equally eligible to participate in elections and hold their rulers accountable, is contested in the modern setting of the contemporary state. (Schmitter, 2003). One of the reasons behind this is the rise of the poor representatives intermediating between citizens and rulers, which so

---

[41] In the World Bank definition, horizontal accountability is defined as "the capacity of state institutions to check abuses by other public agencies and branches of government, or the requirement for agencies to report sideways. " (World Bank Institute, 2007).

[42] Evidence from a private-sector survey finds, for example, that reported levels of corruption are higher where judicial predictability is weak.

frequently switch back and forth in their roles as agents and principals that it is virtually impossible to distinguish between the two at any moment in time (Schmitter, 2003: 4). Elections, therefore, are presented as mechanisms for ensuring accountability, but only limited to the electoral cycles, disregarding two important features: the accountability results provided between elections, exercised through the institutional networks (national parliaments and other regulatory bodies) and the quality of the party politics, especially the internal party democracy (hierarchy, individual preferences, party loyalty). These particular features are important for measuring the quality of democracy, bound to an unaccountable abuse of power.

Party politics and the role of the political parties in societies play an essential role in how accountability mechanisms are exercised, which we will elaborate on in the fourth and fifth chapters. All these types of accountability may be covered under the umbrella term of democratic accountability[43] and exercised through the available oversight instruments of representative democracies. Moreover, through the instruments of representative democracies, the EU draws its indirect legitimacy and the content of democracy that the EU Member States provide, as discussed in the first chapter.

The exercise of mechanisms of both the vertical and horizontal accountability exercised through the national parliaments indeed acts as the 'arena' [44]where the exercise of executive power is subject to public

---

[43] That said, not every form of information sharing qualifies as public accountability. As Bovens put it: "by no means are all of the innovations introduced under the guise of NPM able to be regarded as forms of accountability. Drafting citizen charters and protocols or implementing quality control systems and benchmarks do not constitute a form of accountability in themselves, as a relationship with a forum is lacking. Benchmarks and satisfaction surveys offer organisations the opportunity to gather information about their own conduct. However, in most cases, there is no formal or informal obligation to account for the results, let alone a possibility for debate and judgement by specific forums that can scrutinise the organisation. At most, these surveys can be used as input for external forums, such as parliaments, supervisory boards, or the media, who then can hold public organisations to account" (Bovens, 2006: p.12).

[44] The metaphor of an 'arena' is appropriate here, as the executive does not only put forward its justifications but is likely to find its account critically challenged by alternative accounts from parliament. Depending on the justification offered, parliament usually concedes a certain degree of discretion to the executive.

justification and forums where actors legitimise its actions and outcomes. In this regard, Gronau and Schmidtke have argued that: "the legitimation processes comprise both the bottom-up attribution of legitimacy by social constituencies and the top-down cultivation of legitimacy by rulers. If legitimacy is the potentiality of justification on moral grounds, legitimation *is the actual justification*. Legitimacy comes into effect through legitimation processes. If there is not a specific politicisation of an issue, if an authority's legitimacy is not publicly discussed, then legitimacy has little causal significance" (Gronau and Schmidtke 2016: 539). When national parliaments fail to contribute to the democratic legitimacy of the nation-state,their contribution to the EU democratic legitimacy is constrained. . Processes of legitimation and justification constitute important interdependencies between different actors and institutions in a political system. They are also key to the quality of chains of accountability between citizens and their elected representatives. Effective processes of account giving (Olsen 2014: 111) guard against abuses of power and deviations from norms and information and transparency. All that can gradually build citizens' belief in the capacity of the political system to provide and enforce a framework of legality under which they can exercise their rights.

Therefore, the process of account-giving is an essential democratic tool, both for the process of democratic embeddedness and the location of the final authority in the system of checks and balances. That said, it is an essential feature for analysing the principle of sovereignty, the statehood as part of the EU, as well as the outcomes of the absence of democratic accountability, such as the rise of Euroscepticism, populism, and technopopulism, driven by the rise of corruption and abuses of power. For these reasons, the role of the national parliaments, the political parties, and the law-making processes are important postures for understanding the concepts of liberal democracy, the act of legitimation, or opportunities where deviations of the standards or norms are taking place (i.e., abuses of power for private gains). Moreover, the identification of the final authority in account-giving is an important feature for locating the public abuses of power, or the benefits for third party interest, in the form of legal or legislative corruption, which is creating conditions of social traps, concepts to be discussed in the next section.

3.2. Corruption and Social Traps in the Intermediation Between Politics and Society

The relationship between the exercise of power and the abuse of power for private gains, i.e., corruption, is as old as much of the history of civilisation and has played a role in both the downfall and the development of societies. It is a phenomenon, which is very persistent and takes different forms in the modern world, and consequently, defining corruption has always been a contested task. Much of the challenges in conceptualising corruption are related to the fact that corruption is an umbrella term for a wide range of complex phenomena, characterised by the betrayal of trust, secrecy, complicity, mutual obligation, deliberate subordination of common interests to a specific interest, camouflage of the corrupt act.[45]

In a modern context, it has been usually associated with the transformation of what Weber has described 'as patrimonial power structures when the rules are not taken, based on institutional rules, but rather on personal relationships and traditional forms of authority' (Weber, 2000). According to Weber, these kinds of transformations have led to types of the legal system and institutionalised rules, to such an extent that their deviation is corruption. (ibid.) The aspect of the law-making processes is an important feature for analysis, from statehood, EU integration, and the democratisation of societies, to which we will return later in the fourth chapter. It is an important perspective for understanding the concept of corruption, which is also transformative rather than static, and can take different forms based on the conditions that have been, are, or will be created when societies, politics , and the law-making processes are transformed as well.

---

[45] The forms of corruption are also many, including bribery, extortion, influence, peddling, nepotism, fraud, speed money, or embezzlement. There are also various typologies of corruption, where types are categorised according to degree (petty, administrative, state capture); frequency (routine or extraordinary, exercised by many or by a few); motivation (coercive or collusive); level (centralised or decentralised), scale (predictable or arbitrary), (Crouch, 2010). Despite these typologies, corruption has been mainly trivialised as a disease rather than an outcome of a different set of conditions, and this research aims to discuss this gap in the understanding of this phenomenon.

The concept of corruption defined as *'abuse of (public) power for private gains'* – a definition also adopted by the EU, remains limited in understanding both the opportunities and the constraints to corruptive acts. One of the reasons is that the conditions under which abuses of power are taking place are embedded in the historical specifics of the states, state transformations, and their political systems, and at the same time are embedded in the larger context of the EU, the EU institutional design and its historical transformation. Their transformations which have been taking place under the process of globalisation, marketisation, and change of regimes have set new trajectories for the legal and political transformations of the EU member and potential member states to the extent that they have introduced a new logic of doing politics, a new way of sharing competencies and a new way of engagement between citizens and their politicians. At the same time, these transformations have introduced new opportunities for abuses of power, brushed to the side, conveniently limited to perception indexes, and marginalised to 'foreign best practices', usually borrowed from the World Bank, the UN, and other international organisations.

Scholars have, however, argued on the shortcomings of these international corruption measurements. As Alena Ledeneva (2017) has argued:

> "The problem is with multi-faced and context-bound practices of corruption which cannot be captured in a universal definition or formula. The more abstract a definition of corruption we achieve – such as 'abuse of public office for private gain' – the further we can understand the complex, context-bound, and fluid nature of corrupt practices. Contextual complexity has been downplayed to enable research and measurement, often based on the 'you know when you see it principle'. The variations in forms of corruption are often grasped through the perception of experts or participants and through the construction of aggregated indices. Whereas the history of corruption is centuries old, the endeavour to measure corruption is contemporary."

(Ledeneva, 2017: 23).

The definition of corruption is one of the three shortcomings of this 'one-size-fits-all' approach affecting the policy design and implementation. The second is the expectation that the international organisation's indices will

persuade politicians at a national level to implement anti-corruption policies. The third is the expectation that the transformation or the introduction of new institutions will only improve countries' ranking. As Ledeneva has argued, it is precisely this three-stage process (defining-measuring-controlling) that creates shortcomings which are a key problem in studying and containing corruption (Ledeneva, 2017: 24)[46]. Policy intervention is often based on the assumption that corruption can be defined and measured and that research results can then be translated into anti-corruption policy. The complexity of the context and such characteristics as a country's economic development, political history, institutional legacies, ethnic makeup, and socio-cultural traditions are often ignored in policy design favouring a 'can do' (ibid).

These contextual factors are often confused with the contested view that some cultures are more predisposed to corruption, forcing them into dependence on corrupt practices. Failures in democratisation - another area where earlier contextualised approaches gave way in the 1990s to the so-called 'no predisposition' outlook — also highlight the importance of a return to context and complexity to ensure the successful implementation of reforms.

The link of anti-corruption reforms to good governance reforms has become much more apparent during the same period. Leading scholars in the field of corruption argued that successful anti-corruption reforms tend to rely on assessing a country's development stage (Mungiu-Pippidi, 2003, 2013) and that policy implementation should be contextual, meaning that policy should reflect respective local norms. In this context, the engagement of non-governmental actors was emphasised, making them even responsible for the reforms' success. However, this approach did not take into account the sociological perspective of the actors involved in the complex political system, such as the incentives and constraints of the actors involved, including party members or other local intermediators

---

[46] The conceptualisation of corruption is typically based on three constituencies: a) a public official, b) acting for personal gain, violates the norms of a public official and harms the interest of the public; c) in order to benefit a third party, who rewards the public official for access to goods or services that c) would not otherwise have.

between citizens and their societies.[47] When conceptualising corruption, scholars have considered the aspects of public and private domains, thinking in terms of clear distinctions regarding the relationship between the principal/state and its agents/bureaucrats in contemporary democracies. In contrast to this rule, it has been mainly associated with the post-communist societies, where the dehistoricized notion of corruption has been unusable (Ledeneva, 2009: 77). Moreover, there has been a clear dominance of 'patrimonial' relations (Mingui-Pippidi, 1996). The first shortcoming of this approach is the assumption that the clear distinctions of the private and public domain are pure types of relations in the developed Western democracies, opposite to the Eastern post-communist regimes. The globalisation and marketisation of the societies have, in fact, introduced new different forms of 'relations' between politics and economics, in the form of public-private partnerships, lobbying (corporates via the instruments of democratic representation), engagements of experts for doing politics, and yet, the understanding of the abuses of power have remained limited to regions (CEE states) and regimes (post-communist regimes). Different types of corruption with various degrees, frequencies, or occurrences are indeed present. However, it is misguiding for this phenomenon to be limited only to regions or countries. We should aim to understand how this concept has been transforming and how other transformations of the political systems have occurred, especially under the process of EU integration and globalisation.

Another shortcoming is the assumption that political will suffices to launch the rationality of the rule of law as a necessary indicator and a tool for effective anti-corruption strategies while disregarding the complexity of actorness, both collective and individual. The pressure of international organisations on governments to pursue an anti-corruption course is, viewed as part of globalisation, associated with the prescribed norms of

---

[47]Susan Rose-Ackerman (1999) has argued that a competitive political system can be a check on corruption, and for elected politicians, the most immediate form of "punishment" occurs at the pools. The distinctive incentives for corruption in democracies depend on the organisation of the electoral and legislative processes and the campaign finance methods. In a democracy, electoral voting rules and legislative processes interact with underlying political cleavages to affect the opportunities for corruption.

good governance and the policies imported into a country in exchange for closer integration into the world community.

This also explains why the principal-agent model has been one of the dominant theoretical tools for explaining the relations between the powerholders and their subordinates. The followers of the principal-agent perspective have unpacked important perspectives of the normative grounds for exercising democratic accountability in the institutional context of the political systems. However, they have failed to explain the actors' 'willingness to exercise democratic accountability in practice. Collective action took another step forward by engaging the perspective that corruption is expected behaviour. Therefore, implementing any anti-corruption reform should be seen as a collective action problem since people will choose to act corruptly based on their expectations. However, this approach also did not elaborate on the conditions under which abuses of power take place and when people become part of the corrupt system (in the forms of clientelism, nepotism.).[48]

Paul Heywoodhas argued that the mainstream academic research and policy-makers have so far devoted surprisingly little attention to unpacking the concept of corruption, leading to solutions that are doomed to fail since they are based solely on institutional reconfiguration.[49] Heywood has also pointed out that the contemporary corruption-perception indicators and policy responses are focused on nation-states and government actions rather than on the overall aspect of the impact of globalisation on the transformation of this phenomenon. Heywood's rightful observation that the private sector actions (including tax havens, tax evasions, or offshore financial worlds) have been left out of the focus

---

[48] Upon the electoral rules and the party systems format in a democratic polity (Lipjhart, 1999; Powell, 2000), different types of patronage-based and party-voter linkages occurred, argued Herbert Kitschelt and Steven I. Wilkinson. "In many political systems, citizen-politician linkages were based on direct material inducements targeted to individuals and small groups of citizens whom politicians know to be highly responsive to such side-payments and willing to surrender their vote for the right price" (Kitschelt, Wilkinson; 2010: 2).

[49] Heywood asserts that corruption is better understood as a spectrum containing a number of different types of activities, not as dichotomies of 'petty vs. grand corruption', 'need vs. greed corruption' or 'systemic vs. individual' corruption.

of regulation or advocacy has indeed shown that they take ample space in the contemporary way of doing politics.

Therefore, the new scholarly debate suggests that we should turn our attention to its complexities and the limits of the binaries predominant in political science: corrupt/ non-corrupt, good/bad, ethical/non-ethical, and instead point to the key importance of context (Ledeneva, 2019). Given the complexity of corrupt behaviour and its embeddedness in context, approaching corruption as a paradox of liberal democracies and an outcome of the hollowed representative democracies can give more answers on the complexity of corruption. This approach to the ambivalence of corruption is, however, hard to reflect in the measurements methodologies, and the next generation of measurements will have to capture the transcendent from the binary oppositions between subjective and objective, public and private, formal and informal, legal and illegal, good and bad, prey and victim.[50] Therefore, the contemporary understanding of corruption is expected to grasp the transcendental dimension of the inherent ambivalence of corrupt behaviour, the blurred boundaries, and the grey zones in which it resides, its drivers, and implications (ibid.)

In order to do so, the contemporary understanding of corruption must be seen in a broader context, including the effects of globalisation, the process of Europeanisation, and the share of competencies and authorities. Moreover, the nation-states in the EU, which are supposed to implement anti-corruption policies, are also EU member states, meaning transformed member states and members of specific EU institutional design with a very specific approach towards anti-corruption. From this perspective, we might be able to find the common logic under which citizens have become disenchanted from their societies and why the gradual disenchantment of the societal classes from their societies and political parties are important features for understanding the modern ways of abuse of power as a fundamental part of doing politics. Furthermore, this perspective can help us understand the triggers of resistance to law enforcement and creating social traps, a concept discussed in this chapter.

---

[50]Paradoxical concepts, as Ledevena argues, including legal corruption, legislative corruption, state capture, and business capture, point in the direction of the unfitting nature of dichotomies for grasping the complexity of corrupt behaviour.

Some aspects of this new logic can be found in the early work of Della Porta and Vannucci, in their research on the Italian case in 1999, when they have argued that - the spread of corruption develops when politics begins to attract chiefly those individuals who are able and willing to derive personal benefits from the control of public resources. Their study found the Italian social party crisis had developed when the working party membership had abandoned the party, and the new middle class had entered it, occupying power positions (Della Porta, Vannucci, 1999, 2005). This new political class was characterised by a "business" approach to politics, in that political involvement was considered a way to enrich oneself. The careers of many of the corrupt Italian politicians reveal common tendencies that were summed up by many in the neologism *ramprantismo* – an Italian neologism that can be translated as being "on the make". In line with Della Porta and Vannucci' conceptualisation, "moral costs reflect internalised beliefs, as the *esprit de corps*, the "public-spiritedness" of officials, the political culture, the public attitude towards illegality. In economic terms, we may distinguish between two concepts of moral cost. From a *macro-analytic* perspective, moral costs are one of the dimensions on which the negative effects of corruption within a certain society can be measured. Besides *economic* and *political* costs, the widespread practice and the perception of high levels of corruption tend in fact to produce *moral* costs, undermining the "moral values" and ethical codes that sustain co-operative and public-interest inspired strategies within public and private organisations" (Della Porta, Vannucci, 2005: p.2). The "contract" that public agents stipulate with the state – and therefore with the citizens the state represents – imposes the respect of rules restricting the discretionary power of the agent, universally adopted for limiting the potential conflict between the private interests of the agent and those of the principal (i.e., the public) (in Della Porta, Vannucci, 2005: p.1).

In this regard, the misbalance of democratic powers (executive, legislative and legal) increases the opportunities for misusing public resources for private gain through hidden transactions that involve the violation of some standard of behaviour. Bakker and Nordholt have argued that "the discrepancy between norms and values of any individual and those of their environment that results in corruption behaviour is born by institutions within a society". (Bakker; Nordholt, 2000:11). Hence, the conflicting norms and values are essential if one understands why corruption penetrates some societies more than others (Bakker; Nordholt,

2000:11). This approach will also identify the *possible horizontal and vertical institutional gaps*[51] as suggested by Bakker and Nordholt (Bakker; Nordholt, 2000: p.11).[52]

In these institutional gaps, corruption takes root. In such a situation, corruption becomes so endemic that opposition parties hope to inherit the networks that nourish it when they take office, leading to avoiding political conflicts and engagements rather than confronting them. Such situations of conflict avoidance have been creating many specific rifts of the representative democracies - where the lack of scrutiny and oversights have encouraged new styles of abuses of power, with one specific in common, legislative corruption.

These conditions have been particular in the case of Central-Eastern Europe. 'Europe's communist regimes never developed the climate for open debate and the ability to criticise the government without being punished that are the vital substructures of democracy' (Crouch, 2020: 16). Once the liberal democratic regimes have replaced the communist regimes, the corruption by wealth has also introduced new paradoxes and risks to the abuses of power.

As Crouch argued, the liberal democracy has introduced two levels of how this operates. The first level is 'through formal election processes, where rules to ensure strict equality among all citizens are usually

---

[51] When old norms and values may have lost their validity, whereas new norms and values have not yet been institutionalised, as suggested by Bakker and Nordhold, a discrepancy occurs, where economic institutions, such as the 'free market' may have been introduced, but the political and legal institutions necessary to effectively control these institutions, have not yet been developed (Ibid). This discrepancy is referred to as the horizontal institutional gap, and if this institutional gap is not bridged quickly enough, corruption usually consolidates. (Ibid). When national economic, political, and legal institutions are not equipped to direct the globalisation and the international organisations established for this purpose do not have sufficient authority, it creates a discrepancy called the vertical institutional gap.

[52] Berlusconi, the Italian politician, followed by many corruptive scandals, and the country's most prosperous entrepreneur was also a product of these opportunities followed in a 'post-democratic model of having few connections to voters and no historical, social roots', as Colin Crouch has argued in his latest book 'Post-Democracy' (Crouch, 2000). It was a condition when party leaders came increasingly to believe that they did not need core constituencies, and all the interests of the majority of unemployed had to be represented by someone who knows how to make 'money.' (ibid.)

accepted as paramount, and the informal toing and froing of debate, lobbying and pressure-everything that goes on to link the world of government to the rest of society between elections. The latter is what we call 'civil society'. The significance of this question depends on how economically unequal a society is' (Crouch, 2020 p.20). This two-level operationalisation of liberal democracies has created different opportunities and constraints for abuses of power, to be discussed in the fourth and the fifth sections. When the liberal democracy clashed with the specific type of the EU transformative powers, it created unique political, economic, and societal settings for doing politics.

Therefore, this research suggests that we should not think of corruption in terms of problems and a solution, but rather - *as a paradox of liberal democracy* - unpacking both the conditions under which abuses of power have become available to the actors of doing politics and have become part of the rules of the game. Therefore, this perspective will take into account the transformation of the abuses of power to what Oskar Kurer conceptualised as legislative and legal corruption, suggesting the transformation of the abuses of power through the law, law-making, and law implementation (Kurer, 2005).

The *concept of legislative corruption* is an important feature for understanding the violation of formal rules beyond the operational cases and understanding how to access power when doing modern politics. Daniel Kaufmann has also introduced the concept of legal corruption, understood as the manipulative use of the law. The concept has been justified by arguing that corruption should be re-defined to include "how the elites collude and purchase, or unduly influence the rules of the game, shape the institutions, the policies and regulations and the laws for their own benefits" (Kaufmann 2005; Rothstein 2011). Overall, the term legal corruption covers situations when public policy is thwarted or 'captured' by various private interests instead of serving the common public policy. (Kaufmann 2005; Rothstein 2011).

As Kurer has elaborated, 'the implicit distinction between 'public' and 'private' is neither 'modern' or 'Western', and it is *the impartiality principle* that can provide a starting point for the discussion of both corruption in 'traditional societies' and contemporary political corruption involving violations of nondiscrimination norms regarding access to the political process and the allocation of rights and resources. This approach also tends to grasp the evolution of the term 'corruption', more plausibly

associated with the violation of norms of distributional justice.'[53] As Kurer has elaborated, legislative corruption proper relates to the design of the rules and regulations on the input stage of the political process. It can take a form when legislators might not engage in legislation that breaks nondiscrimination norms, but when legislators do engage in the adoption of laws or amendments to laws that serve the party leadership's interests, political elites, or third party interest (business interest, corporates, lobby groups.) Legislative corruption, in this regard, is a question of violating the impartiality principle and the nondiscrimination norms associated with it[54] (Kurer, 2005, p.235).

It is also an overstepping of certain bounds in providing legal privileges to particular groups, failing to constrain the opportunities for other abuses of power in the chain of corrupt activities. Therefore, the core of legislative corruption concerns violations of non-discrimination norms in the allocation of rights and duties, benefits, and obligations with a long-term impact on citizens' equal access to rights and public goods, jeopardising their belief in the legality of the political systems. The result of such occurrences is indeed undermining the democratic legitimacy of the state and the state activities. As Rose-Ackerman has put it, 'corruption significantly affects the efficiency, fairness, and legitimacy of the state activities' (Rose-Ackerman, 2010: 125). As it is an abuse of power for more control of power in its core, it also affects the morals values of the societies (Della Porta, Vanucci, 1998), and it undermines the functioning of the institutions (Ledeneva, North, 2000).

---

[53] On the input stage of the political process, legislative corruption proper relates to the design of the rules and regulations themselves. Legislators might not engage in legislation that breaks nondiscrimination norms. The core of legislative corruption concerns violations of nondiscrimination norms in allocating rights and duties, benefits, and obligations. An ideal measurement of the level of corruption would capture all actions that violate nondiscrimination norms.

[54] Overall, "the term *legal corruption* covers situations when public policy is thwarted or 'captured' by various private interests instead of serving the common public policy" (Kaufmann 2005; Rothstein 2011). Kaufmann points to "the background to the financial and economic crisis that hit the world economy in the fall of 2008, and he points out how powerful agents in the United States financial sector used their influence to relax regulatory oversight and capital requirements" argues Bo Rothstein (Rothstein 2011: 208).

However, one of the most damaging outcomes is the loss of mutual or *social trust* between the citizens and misuse of the impartiality principle, potentially violating the trust, both towards institutions and towards 'the others'. Bo Rothstein (2007, 2011) has elaborated on this concept in his seminal work on the concept of corruption which he linked to the understanding of social traps and the problems of mutual trust, by which he extended the academic views on this phenomenon to impartiality principles that imply and encompass the rule of law (Rothstein, 2011: 29).

In Rothstein's views, the exercise of power by public authorities in an impartial manner should be the basis for what counts as the quality of governance (QoC) and for effective political institutions. (Rothstein, 2011:p.13)[55] However, the institutional setting is embedded in the specific political systems of states that should have the democratic capacities to regulate the relations to its citizens on two dimensions, both the input and the output side. Vivien Schmidt has also introduced another dimension – *the throughput dimension* – also seen as a normative dimension for measuring EU democratic legitimacy, discussed elsewhere.[56] In Rothstein's views, political equality implies *impartial treatment* on the political system's input and output side. (Rothstein, 2011: 12).

Political equality also complements the democratic theory views on the requirements of justified procedural democracy that should compound the political decisions and government policies with citizens' preferences (Scharpf, 1997:19). In modern democracies, these mechanisms are mostly reflected in representative institutions in which political decision-makers can be held accountable by means of elections, according to Scharpf. Schmidt argues that the input side depends on citizens expressing demands institutionally and deliberatively through representative politics while providing support via their sense of identity and community (Jann, 2016: 35; Schmidt, 2016) or the extent to which citizens feel *ownership* of their concerns and demands. Hence, *input legitimacy is a criterion focused on citizens' attitudes toward and engagement in a political community* along with

---

[55] Impartiality is then also seen as the parallel legitimising and defining principle for the output legitimacy and can, in a similar way, encompass various administrative practices (Ibid.)

[56] For more discussion on the input, output, and throughput legitimacy, see the work of Vivien A. Schmidt in '*Europe's Crisis of Legitimacy: governing by rules and ruling by numbers in the Eurozone*' 2020. Oxford University.

the responsiveness of governments to citizens' political demands and concerns, argues Vivien Schmidt (Schmidt, 2015: 13). *Output legitimacy*, on the other hand, "depends on the extent to which policy choices provide for the common good, and is predicated on those policies' effectiveness and performance, again judged by the people" (Schmidt, 2015: 11). As argued by Schmidt, output legitimacy can be defined and evaluated in two distinct ways: political and technical. *Political evaluations of policies' output legitimacy* depend on the extent to which they resonate with citizens' values and community norms, with judgments likely to invoke normative principles of distributive justice, fairness, or equity. *Technical evaluations* are instead the domain of experts whose assessments are based on their technical knowledge and philosophies, with judgments likely to invoke economic principles such as competitiveness, fiscal balance, growth, or social well-being (Schmidt, 2015: 11). The evaluation criteria then applied by citizens are inspired by the basic values in a society, which are the products of political socialisation and *the political culture,*[57] as argued by Bakker and Nordholt (Bakker; Nordholt, 2000: 11). However, in the case when "a society is undergoing a period of (radical) change, and basic values have not yet been crystallised, citizens find it difficult to judge the legitimacy of the regime, because they are caught between the values of the old institutions and the values incorporated in the new institutions". (Cited in Bakker and Nordholt, 2000). The closure of horizontal and vertical institutional gaps represents the diverse specifics of the political systems, especially the role of individual and collective actors and the exercise of a (un)accountable use of power.

---

[57] Mungui-Pippidi had conceptualised two types of political culture: universal and particularistic (Mungui-Pippidi, 2006: 82; Rothstein, 2011: 109). According to Mungui-Pippidi, in countries where all public goods are distributed on a non-universalist basis that mirrors the vicious distribution of power, corruption has taken root in the particularistic political culture. On the contrary, the wealth level will affect the extent to which given countries can develop universalistic norms among their civil servants and politicians (selection based on competence; performance without favoritism), Martin Lipset argued (Lipset, 1959: 84). "The poorer the country, the greater the emphasis which is placed on nepotism, i.e., support of kin and friends. The weakness of the universalistic norms reduces the opportunity to develop efficient bureaucracy, a condition for a modern democratic state." (Ibid.). Hence, the general income level of a nation will also affect its receptivity to democratic political tolerance norms." (Lipset, 1959: 83).

That said, the exercise of democratic accountability, both horizontal and vertical, even when passive, is instrumental in achieving various important elements of legitimacy, 'such as scrutinising the exercise of public authority by political executives to political forums, including the exercise of impartiality, as a feedback mechanism to establish popular control of government.' (Cited in March; Olsen 1995: p.141–81; Mulgan, 2003). Oscar Kurer has also argued in the same vein "impartiality applies to spheres of state actions other than those directly governed by law. When public policy is enacted in 'human processing' areas, broad discretionary powers usually need to be transferred to lower-level government officials responsible for implementing policy" (Kurer, 2005: 230), which is why all levels of societal structures are important for understanding both the opportunities and constraints to the abuses of public power and successful implementation of anti-corruption measurements. The key measurement is certainly the enforcement of laws, as owned and exercised by the citizens. Therefore, the concept of social traps is vital in understanding the forms of resistance, such as weak law enforcement or law trust in 'the others', or public institutions.

The concept of social traps, developed on the premise of actor-institutional theory, pays significant attention to the role of citizens as actors and their mutual trust, rather than only to the formal or the normative dimension in the use of the power impartiality principle. In Rothstein's view, the social trust's metaphor expresses a strategic situation where actors can choose to cooperate or not, based on the citizens' beliefs about others or the mutual trust, and this situation may end up being most disadvantageous to them all. (Rothstein, 2005: p.18). As Rothstein has argued, 'efficient cooperation for common purposes can come about only if people trust that most other people will also choose to cooperate.' (Rothstein, 2005: p.12).[58]

This means that collective actions or problems, as corruption is seen to be, are bound to people's beliefs about what others are doing or going to do. These are situations or traps when political systems have developed heavy forms of corruption, in which citizens themselves participate in the

---

[58] Rothstein argues that when we lack trust, the social trap will slam inexorably shut. That is, we end up in a state of affairs that is worse for everyone, even though everyone realises that they would profit by choosing to cooperate. See discussion in Rothstein, 2005.

corrupt relations, according to their belief that everyone else is participating in the corrupt system, whether in the form of clientelism, patronage or becoming part of the political culture. The reason behind this is because once confidence and trust in others are destroyed, the transition from cooperation to a social trap can take place very quickly as it also has a snowball effect.

Contriving the social trust is, however, a complex construction affected by a few factors, including 'solidarity linked to a welfare state built on a confidence that the (public) institutions within the system are such that they do not invite widespread cheating.' (Cited in Rothstein, 2005). Other factors can include personal knowledge about the individuals in question, culturally determined stereotypes, or memories of how actors have acted in similar situations in the past (Lange et al. 2000; Scharpf 1997, Rothstein, 2005: p.15). Borrowed from the concept of game-theory, as also discussed in Fritz Scharpf' s seminal work, '*How actors play the game*' , Rothstein also develops this understanding that the choices actors would make, whether to cooperate or not, are also linked to the concept of *anticipation* when people also try to predict the possible decisions of others. The aspect of predictability is also an essential feature for understanding social traps, as it is also bound to the unpredictability of corrupt actions when abuses of power are taking place, especially concerning decisions and policies affecting citizens' daily lives. (in Rothstein, 2011: 236).

The concept of social traps allows us to link historically established social and cultural institutions and norms and emphasise the importance of human strategic actions and choices. (Rothstein, 2002: 14) As Claus Offe argued, questions remain on what brings countries into a vicious circle with corrupt institutions and also, in a corrupt context: "*which motives, values, and political forces would push forward the reform project…what are the incentives to introduce incentives designed to control corruption or to redesign opportunity structures*?" (Offe, 2004: p.91)

This is the other significant contribution of Rothstein's conceptualisation of social trust, as it also brings into perspective the role of the actors and institutions in the welfare states. As he argues, in line with Rose-Ackerman's views (2011) - the institutions of the democratic state are not limited to the representative side of politics, and they are joined by the comprehensive and numerous political institutions whose mandate is to implement policy. (Rothstein, 2005: 107). This is also the administrative side of the democratic establishment, which impacts the legitimacy and

how democracy works, as in modern welfare states, administrative institutions encompass everything from law enforcement to courts to unemployment offices, public health care, social services offices, and public schools (Cited in Rothstein, 2005: 107). These institutions are vital to the political system's legitimacy for two reasons ; the act of mutual trust among citizens and the relationship to their welfare.[59] This aspect of the intermediation between citizens and their societies, whether from the aspect of fairness (in their contacts with administrative and public institutions) or trust in others (the key actors for intermediation), is an important aspect for understanding the concept of corruption as a paradox of liberal democracy, as we will discuss in the third chapter.[60] Moreover, Rothstein treats actorness in duality rather than as a complex and transcendental concept, with 'grey zones' in between. He sees the role of the political parties as impartial per se, performing partisanship duties only, but disregards the aspect of individual actorness in party politics or the role the parties have been playing in developing a political culture of mutual trust, if or when they act as intermediaries and representatives of the citizens.

---

[59] As Rothstein points out, the task of administrative institutions is actually, in concrete and specific terms, to supply citizens with their democratic and social rights. Accordingly, they are more closely connected to the aspect of democratic theory that ensures liberty and civil rights than to democracy as an aggregation of preferences. (In Rothstein, 2005).

[60] The ethics of public officials are also central, not only concerning how they do their jobs but also the signals they send to citizens about what kind of "game" is being played in society. Rothstein has explained this with the example of people drawing personal conclusions from the actions they observe in others – and they also draw conclusions in the other direction: "To know oneself is to know others." The process identified here puts the spotlight on what socio-psychological research calls *procedural justice*. This research has shown that people do not care only about the final result of personal interaction with public institutions. They are often at least equally interested in whether the procedure that eventually led to the final result may be considered fair (Lind and Tyler 1997). There are many aspects of procedural justice: Whether one has been treated with respect and dignity, whether one has been able to express one's opinion to the responsible officials throughout the process, and a great deal else (Tyler 1998). This argument enjoys strong empirical support in research conducted by psychologist Tom Tyler on why *people accept the principle of compliance with the law.* Tyler argues that the basis of public support of laws and authorities lies in how citizens judge the way in which authorities exercise their power (Tyler 1998). See discussion in Rothstein, 2005: p. 122-132.

This research suggests that political parties, as much as the democratic institutions, especially the national parliaments, to which diverse bodies and regulatory institutions are accountable (courts, regulatory bodies), play an equal part in developing both opportunities and constraints to abuses of public power. Moreover, this research proposes that the current conditions of doing politics and the abuses of power have a long history of state transformations related to the nature of the EU integration project and its essential requirements of liberal democracies. These aspects are to be discussed in the next section.

3.3. Europeanisation, Historical Transformations, and State Sovereignty

In the previous two sections, we have elaborated on the concepts that aim to bring us closer to the logic of the contemporary ways of doing politics and the paradox of corruption. We have also elaborated on the institutional and the sociological aspects, more specifically, social trust as a necessary condition in the enforcement of laws and the actors' engagement, more precisely the citizens, in taking control over abuses of power. We have intricated on the aspect of legitimation, conceptualised as an important tool for 'reinforcing relationships between attributes of institutions, moral agents, political rules and procedures'. (Kneip; Merkel, 2017: p.6). In the previous and empirical section that follows, we will use the concept of legitimation as an *actual justification process that requires account giving to empower* citizens to take control over laws and solve collective problems. This empowerment, however, takes place in a specific context of a welfare state and political system in which actors, both collective and individual, are developing relations and mutual trust. Indeed, the process of actual justification or legitimation renders the actors with a normative framework to act upon abuses of power and deviations of norms, indiscernible or legal ways, even when they take place on a legal ground. (i.*e legislative corruption*). When a basic form of legitimation and account giving between institutions is in place, a flow of information is provided that allows for transparency of governmental activities, with a tendency to diminish the concentration of power and reduce possibilities for capturing institutions for private interest (Scott, 2014: p.472-487).

However, the act of institutional, social, or moral justification does not stand on its own. The act exercised through the available instruments of democratic accountability (both vertical and horizontal), the institutional

design, and the national parliaments' role is equally essential. In the previous section, we have elaborated why both horizontal and vertical forms of accountability are essential instruments for the democratic embeddedness of the states, both internally as nation-states and externally as EU Member states, in the broader neoliberal regimes' context of globalisation. For both types of embeddedness, the national parliaments, the political parties as collective actors, this aspect, and the MPs as individual actors of representative democracies play crucial roles in transforming states and societies in which citizens would like to live or project their future.

However, the transformations of the states are not static in terms of sovereignty, constitutionalism, regimes, or territory. (i.e., post-Yugoslavian countries). The institutional design of the states is also specific and embedded in political systems in which 'integrity pillar' institutions, as Jeremy Pope put it (in Mungui-Pipiddi, 2016), including regulatory or independent bodies hold a normative role to deliver on the protection of the statehood, the state interests, and the state sovereignty. These institutions are usually auditors, ombudsmen, public prosecutors, or committees of inquiry (Pope, 2000: p.1-10). Among the scholars on EU affairs, these institutions have been recognised by scholars also as non-majoritarian institutions[61] and are different in their nation-state institutional design than the ones that Giandomenico Majone (1994) described in his seminal work, "*The Rise of the Regulatory State in Europe*". In particular, Majone elaborated on the *EU institutional design and the delegation of powers to independent non-majoritarian institutions* (the European Central Bank, the European Court of Justice) with the aim of 'favouring the regional integration of economies, the construction of transnational modes of rule and their impact on promoting markets above politics' , contributing to the, i.e., *technical approach to output legitimacy.* Vivien Schmidt has also elaborated on this aspect by elaborating how the technocratic authority has been increasingly substituted for the

---

[61] NPM reforms have also included attempts to depoliticise decision-making and protect impartial expertise against intervention and influence from politicians and powerful societal groups by delegating authority to non-majoritarian, single-purpose institutions. However, such efforts involve competition among professions and types of knowledge, and disenchantment with some experts and a belief in others that have generated the ups and downs of professions as well as organisational forms (Cited in Olsen, 2010: p.187).

government over the years, due to the "shift of decision-making from the administrative state—directly under the authority of governments—to the regulatory state, in which governing authority has moved to independent bodies (under the influence of neo-liberal philosophies, in particular since the 1980s in Europe), with the EU as a significant force in this force" (cited in Schmidt, 2020). She elaborated that the non-majoritarian institutions use supranational modes of governance in the executive role (e.g., the ECB in monetary policy and the ESM) or as delegated agencies - e.g., *regulatory agencies and the EU Commission in the context of the European Semester*. The European Semester is an EU instrument for monitoring the implementation of anti-corruption recommendations in (some) of the EU Member States. We will elaborate on its adequateness in the fifth chapter.

The performance of these institutions is associated with EU output legitimacy. It doesn't only concern the design of policies that are determined to be economically beneficial but also more generally enhancing in areas of societal problems, such as the concerns over corruption. What is more, the effectiveness of these policies is left in the hands of experts (for example, *Rule of Law* experts and experts engaged in crisis management, such as in the case of conflict risks zones/countries.)[62] As discussed by Vivien Schmidt (2020: 28; 126-130), this contemporary style of technocratic governance comes from the type of co-decision making, focused primarily on the technical agents of the European Commission as an institution with normative powers to execute EU strategies. As Schmidt has elaborated, 'by fostering cooperation in the consensus-based policy formulation process, by increasing the powers of the European Parliament in the co-decision, and by the rise of lobbying MEPs as a veritable growth industry, the rules of the games in the EU has much orientated towards providing technical expertise' (Cited in Schmidt, 2016, 2018).[63]

In terms of an EU style of governance and the role of actors of representative democracies, these aspects are important features of

---

[62] In the past years, the call of experts has taken a new direction in the case of the Western Balkans, when Rule of Law experts have been engaged (i.e., Priebe report) after a deep state crisis in North Macedonia, triggered by high-level political corruption.

[63] For an in-depth discussion on the EU institutional design and the rise of the 'ruling by names' concept, see the discussion in Vivien Schmidt's work (2016, 2019, 2020).

constructing the new logic of doing politics and understanding corruption as a paradox of liberal democracies. That said, these perspectives are also challenging to be given an empirical interpretation if proper prehension of the role of the EU and the process of Europeanisation is not elaborated, both from the aspect of the EU transformative role in the process of democratisation and state transformation, specifically in the context of CEE countries.

In order to do so, we will approach the scholarly debate on the process of the EU integration, i.e., Europeanisation, from the perspective of policy-making, and the process of democratisation, to elaborate on the indirect legitimation and the mutual independence between the Member States and the EU. In this research, we will focus on the transformative processes under the process of Europeanisation and the conditions created as a result, under which the abuses of power have taken new forms, and corruptive practices have reached new goals , with variety among states. The second reason for this approach is due to the understanding of the *'indirect legitimacy'* and the joint legitimation between the EU and its Member States through the instruments of representative democracies, as we have elaborated in the previous chapter. Taking the position that the key actors of representative democracies are entrenched in the broader societal context, we will first turn to the concept of the social contract (Rousseau, 1762), as inherited in the communist regimes, to understand the following specifics of the CEE region.

First, the change from communist and socialist regimes to liberal democracies and the aspect of legitimacy. Second, the specific transformation of sovereignty, from national to shared EU sovereignty, i.e., *limited sovereignty*, and third, the economic market transformations from central planning to competitive liberal markets (*i.e., waves of privatisation*).

In the case of the CEE run, in post-1989 Europe, these complex processes ran almost in parallel, which created particular conditions once the EU conditions in terms of law-making, party transformation, and elite-oriented policy-making merged with the specific political systems. By tracing the changes, we will be able to unpack the conditions under which states have interacted with the EU during the integration process (i.e., Europeanisation), specifically during the EU enlargement process in different waves. We will also identify the patterns among the selected cases studies regarding the challenges to their democratic societies. We

will unpack the concept of corruption as the paradox of liberal democracies. We will demonstrate that the ways societal gaps have been created, especially the marginalisation of the national parliaments, the specific party democracy, and the weakening of the law-making processes due to a set of factors, have triggered particular opportunities for the political elites to grab more power and to undermine the legality of the states in their core functions. This will also confirm the key assumption of the causal linkages between the societal gaps and the unaccountable use of power.

To begin with, we will turn to the key arguments of leading scholars such as Susan Rose-Ackerman, who have emphasised the importance of the state constitutions in the core of the good governance discussions. As Rose-Ackerman put it, "*a strong and healthy constitution is the first thing to look for because the strength which comes from the good government is more reliable than the resources which large territories yield*" (Rose-Ackerman, 1997: 54). In the same context, she argued - "*democracy might not be a cure to corruption. However, democratic structures can provide the conditions needed for anti-corruption policies to succeed.*" (cited in Rose-Ackerman, 1997). This important perspective in the democratic theory approach towards the 'cures' for corruption was advanced later on by other scholars such as Peter Lindseth (2010), who brought another view to the importance of the national mechanisms, most notably to the collective oversight of the policy processes, when exercised by the executives and concerning certain core democratic and constitutional commitments, including increased recourses to national parliamentary scrutiny of supranational action (Lindseth, 2010).

In a similar vein, institutional theorists have argued that normative legitimacy is not just important to the justification of institutions, but it also imposes a moral duty on individual actors to comply with rules and procedures (March and Olsen; 1989; Olsen, J.P. 2010: 2).[64] David Beetham also argued that 'the willingness of actors to engage as moral agents is shaped by how they perceive the normative standing of the power holders.' (Cited in Beetham, 2013: 38). These perspectives can explain the linkages of the mutual independence and enforcement between the formal rules and informal practices, or the collective and individual actors, as advanced among the scholarly community with a focus on the concept of

---

[64] See further discussion in Olsen, 2010: 28-70.

corruption, conceptualised as deviance of norms or abuse of public power for private interests (North, 1990; Rose-Ackerman, 2010: 125). This view on corruption as an informal institution is a form of compliance with the 'corrupt system', as well as an indicator of everyday resistance to an ineffective system that is unable to solve problems or protect citizens' interests. The former is, bound to the specifics of the political systems and the available democratic instruments, and the latter to the aspect of legitimacy and the citizens' belief that the system, i.e., the state, can solve their collective problems.

An important aspect of these views is precisely the link between the formal and informal institutions or the social relation between citizens and their societies/states in developing a mutual approach towards the 'corrupt system' as a collective problem. Under the process of Europeanisation, run in parallel with the processes of democratisation and globalisation, different risks to the CEE institutional capacities and performances have emerged, without closing the gap between citizens and their societies, inherited from the past regimes.

In fact, 'the EU enlargement has magnified the gap between citizens and their governments' (Bickerton, 2016: p.181), rather than addressing the transition *with the citizens'* involvement in their matters. The interaction between citizens and their societies, through the means of democratic institutions, is a mechanism for creating social good, and in this regard, social trust.[65] As discussed in the previous section, this interdependence between the formal rules and the informal practice in the political systems modifies the behaviors of collective and individual actors. It shapes the level of cooperation required for maintaining the stability of political order. The relationship between actors can be compromised as a result of hidden actions that benefit 'the few' rather than 'the many', in the form of the hidden allocation of rights and duties, benefits and obligations, or law manipulation that unduly influences the 'rules of the game' (Kaufmann 2005; Rothstein 2011; Kurer, 2005: 231). As a result, the trust between actors is broken, and actors end up in situations of *social traps* where mutual distrust means 'individuals, groups or organisations are unable to

---

[65] Linch has discussed that the interaction between people and emerging democratic institutions largely focuses on what people need to know, think, and do to sustain such institutions, rather than on what people actually know, think, and do to shape and adapt to the post-communist environment (Linch, 2012: 4).

cooperate even where cooperation would benefit all', in addition to low confidence that 'others' will follow the rules of the game or that rules and procedures are equally applied (Rothstein, 2005: 1-22). Hence, the problems of social trust are exemplified, but not limited, infrequent anchors of citizens' mistrust in democratic and administrative institutions, weak law enforcement, disengagement from cooperation with others and with society in general.

That said, in the case of CEE countries, re-building the relation between citizens and their (post-communist) societies in a new neoliberal context has required a proper acknowledgement of the law-making and law-enforcement processes, which were and still are the essence of anti-corruption strategies. This would, however, require building a solid legal system on the pillars of a firm statehood, under which conditions the actors should be able to use democratic means and instruments effectively with the aim of taking control over abuses of power and enforce the rule of law in practice. The state control of the abuses of power was and still is one of the essential EU conditionalities for EU membership under the Copenhagen criteria. However, the expectations that a state would hold sole responsibility for corruptive practices, while disregarding the state transformations taking place under EU integration processes, or the share of competencies between states and the EU, without acknowledging the final authority in the chain of accountability, have created consequences for the quality of democracy per se.

A few scholars have articulated the shortcomings in the EU's acknowledgement of the need for background information on the political regimes for each system where relations between actors have taken place (Mungui-Pippidi, 2016, Ledeneva, 2009: p.76). However, the EU has preferred a top-down incremental approach in the implementation of anti-corruption strategies (Guasti, Dobrovsek, 2011).[66] The EU's incremental approach towards the EU anti-corruption policy was not the only factor

---

[66] Petra Guasti and Dobovsek have also argued that: "the EU conditionality, as well as the leverage, varied across the region, depended on contextual factors (cultural heritage), institutional factors (institutional set-ups-especially the functioning of the checks and balances system); and actors, their interactions as well as the willingness of actors to implement proposed changes (Guasti & Dobovsek, 2011: 2). Moreover, functional systems of a checks and balances (accountability) system have shown to be a crucial factor for the successful prevention of corruption and incentive for effective legal enforcement.

contributing to the chasm between expectations and deliverables. The historical transformations of the states in different periods, run in parallel with the EU's own institutional transformations, have created another set of conditions under which democratic accountability is exercised, both on EU and national levels. (Lord, Pollak, 2010: 969; Brusis, 2018: p.32).[67] More specifically, the EU's own profound development through its approach to solving emergency crises. During the period of the management of the emergence crises (White, 2020), the EU developed the, i.e., TINA (*there-is-no-other-alternative*) syndrome as a necessity for different sorts of transformations, including Constitutional changes with the aim of legal harmonisation. Heather Grabbe also argued that this EU approach, evident in her book "EU Integration Process in the CEE region" (Grabbe, 2014), 'was seen as an already familiar scenario of solving political questions that have turned into manageable technical issues. However, the strategy of focusing on practical economic integration and knitting interests together so that people will stop paying so much attention to nationalist claims has its downside in the re-emergence of unsolved political questions that can disrupt all the careful technical work. In this regard, the EU has influenced the shape of the regulatory institutions that affected the acquis, such as the national parliaments.

The EU technocratic approach combined with 'the elitist views of the EU integration process, and of the consequent failure to convert a majority, or even a significant minority, of Europeans to the cause of political integration, was another weak point of the EU integration process that introduced an additional democratic deficit' , argued Olsen (Olsen, 2010: 52). 'The dominant legitimating language has been technical-functional and apolitical or even anti-political language. It has been commonplace to

---

[67] Democratic accountability also assumes an informed citizenry that knows what powerful agents are doing and the evidence and reasons behind their behaviour (Olsen, 2014: 111-114). The European Commission is a key institution in charge of monitoring and implementing the enlargement policy. Governance, as the European Commission explained, means rules, processes, and behaviour that affect the way in which powers are exercised at the European level, particularly regarding openness, participation, effectiveness, and coherence" (Majone, 2014:190) Yet, what we can observe is that in "the post-modern system of governance of the EU" policy is (still) considered a monopoly of the Few, rather than of the Many, of the technocrats, rather than the represented citizens. Moreover, in its enthusiastic perception of the old/new concept of governance, the Commission ignored all the negative or problematic aspects of this fashionable paradigm." argues Majone (Majone, 2014:190).

talk about 'the way forward', 'improvement', 'better regulation', and 'progress' and to legitimise institutional solutions as 'inevitable', 'necessary', 'natural', 'technical', 'rational', 'efficient', 'practical', or 'suitable,' often without making the underlying normative premises explicit. ' (Olsen, 2010: 52). This indeed has been and still is the rhetoric used for the applicant countries that have to meet the Copenhagen criteria to democratise their political systems and take control of corruption to become an EU Member State checks and balances between political institutions.' (Grabbe, 2014: 6).

Hence, the process of the external EU demands to democratise its political systems, indeed introduced the EU demands for institutional and legal reforms that have been gradually introduced through the process of EU conditionality. However, these transformations and demands of reform have merged with the specific state and constitutional building of the post-communist regimes. After the many years of closed regimes with dominant political party leaderships and closed forums for public debate, it was expected that the shift to democratic and liberal regimes would introduce a new set of rules for the game in which context the normative demands for accountability would be greatly encouraged, and the level of secrecy would be brushed aside, creating a space for a new culture of account-giving, as core of the state-building processes. Yet, the EU's own 'secretive' policy-making has spawned triggers for new trajectories and conditions, especially for the national parliaments, party politics, and law-making processes, under which the publicity "which is elementary to the political life", especially at the national level has created a specific scope for the development of varieties of consequences, including different levels of corruption.

As Christopher Bickerton (2012, 2016) has argued, over a period of time, the EU has been considering "the *unpredictability of public debate and of public expectations* as a possible source of conflict" (ibid.)[68]. The CEE countries, especially in the post-1989-period of a state of transformation, were caught in the discrepancy between the need for external efficiency and internal accountability under the unique political and economic country regimes and reorientation towards liberal democracies. In this

---

[68] The argument is also that Europe's people do not rule through the Parliament as this institution has sacrificed its representative role in favour of being an influential insider in the EU's legislative machine (Bickerton, 2016: p. 40).

period, before and during the Big Bang enlargement, political leaders expanded their leadership capacities to effectively manage the political crisis, promising delivery on democratic re-institutionalisation while disregarding the need for intermediation and re-connection with their citizenry.

As we have elaborated in the previous section, the build-up of an effective system of checks and balances, as a core pillar of new democratic regimes, is the immune system against internal risks and external influence. That said, both vertical and horizontal accountability is crucial for the effective implementation of an anti-corruption policy. Reaching positive results in the separation of powers (executive, judicial and legislative) is crucial for effectively preventing and penalising corruption. Persson, Ronald, and Tabellini have proved that the separation of power improves the accountability of elected voters and thereby the utility of voters, but only under appropriate checks and balances (Persson, Ronald, and Tabellini, 1997: p.6). In the same vein, Della Porta and Vanucci argued that accountability acts as a mechanism of institutional constraints over the moral cost of corruption (Della Porta, Vannucci, 2005: p.2) and can influence the individual choice to violate a law, bias procedures, or engage in political and legal corruptive practices. Firm evidence exists that normative constraints are essential for enforcing ethical universalism as a governance norm, argues Mungiu-Pippidi (Mungiu-Pippidi, 2013: 108). Peter Lindseth has as well argued that "by providing the normative justification for national oversight mechanisms, the delegation sought to surmount the gap of the fundamental instability in the legal and political boundaries between the legislative, executive, and adjudicative powers, categories that he believed would inevitably devolve to the national leader to exercise" (see discussion in Lindseth, 2010: p.56).

Therefore, the institutional framework gives a valuable platform for understanding the stability of the political systems and the 'relationship between constitutional design and political (and moral) behaviour' , under which the incentives for corruptive behaviours can be analysed. As Stein Steinmo has argued, 'institutionalists place particular emphasis on the role institutions play in structuring behaviour, as the most common definition for institutions is rules (Steinmo, 2012: p.123) or the standards and procedures they *must* obey. ' Kathleen Thelen also argued that understanding the specification of the mechanisms behind particular institutions is the key to grasping important elements of both stability and

change in political life (Thelen, 1999: p.401). In this regard, patterns among CEE countries on the institutional opportunities and constraints of democratic accountability are important for understanding the theoretical observations on the national state capacity to develop societies and political systems that can cope with collective problems (corruption), but also contribute to the quality of democracy and the EU indirect legitimation.

Based on these views, we will turn our focus on the historical preconditions of the CEE countries, especially in the post-1989 period, when the EU integration process, as a state-driven and state-based process, has introduced specific 'peculiarities and mysteries in the way states in Europe, have been transformed.' (Bickerton, 2009). Based on this approach in the EU (inter-governmental) integration theory, we will borrow the concept of member states as a distinctive kind of state where national power is exercised in concert with others.In contrast to the EU functionalist theory, we will argue that the process of state transformation from nation-states to EU member states, in interaction with the EU way of doing politics, is creating a specific scope for representative democracies, in which national executives bind themselves to EU executive powers and demands, while at the same time their own domestic public is becoming disenchanted from them, through the weakening rather than strengthening of the key intermediaries , such as national parliaments, political parties and other social actors (trade unions, regulatory or independent bodies.). Within this scope, we will then elaborate how this type of paradox has also contributed to the creation of key preconditions under which abuses of power, especially in the form of legislative or legal corruption, are taking place in contemporary societies and why contemporary corruption should be seen as a result of this paradox:

> This type of paradox of member statehood in the way in which political power is exercised by national governments, but in ways that appear external to and far removed from the national societies over whom these governments rule, is responsible for the crisis of democratic representation in Europe. Many attribute this crisis to the expansion of the EU, but it is, in fact, a product of the transformation of the state in Europe."

> (Bickerton, 2012: p. 4).

With this approach, we will be able to address the question of the mutual responsibility upon EU indirect legitimation by focusing on the concept of accountability, (state) sovereignty, and the final political authority/competencies over EU policies, specifically (EU) anti-corruption policy, as these questions remain firmly ensconced within academic writings. In line with these views, a few other scholars have touched upon these questions from different perspectives on the question of the state, the tensions of sovereignty, or the location of final authority, in the context of EU integration (Agh, 2012, 2020) or European disintegration, Zielonka (2018), Rupnik (2016), Krastev (2019). These questions are also relevant to the importance of the constitutional transformations taking place after the fall of the communist regimes, pledged to the concept of sovereignty, and the location of authority, which we will trace originally to the unaccountable abuses of power. With the aim of discussing the patterns under which legislative corruption is exercised, we will also elaborate on the scope under which the state has been shaped by the historical predispositions of the welfare states based on the Esping-Andersen typology (1990), which offered a categorisation between conservative, liberal and social democratic regimes. The transition of the old Central and Eastern Europe welfare state type to the new market economy was a common trajectory. Typical conditions for the Central and Eastern Europe welfare type were that job security and housing were guaranteed and provided by the state. "In Eastern Europe, the old communist welfare regime was characterised by three basic pillars: full and quasi-obligatory employment; broad and universalistic social insurance; and a highly developed, typically company-based, system of services and fringe benefits" (Esping-Andersen, 1990: p. 9; Cook, 2012: 681). This pre-context as one of the independent variables in the original hypothesis will allow us to draw arguments on the roles different social actors (Martin and Thelen 2007; Immergut, 2010: 240)[69] play in order to build connections or social trust among the citizens, the political leaders/democratic representatives and their societies.

The context of the CEE countries, also as specified in the typology of Castles et al. (2010), supports the arguments on the linkages between the political systems, their capacities to maintain legitimacy through the acts

---

[69] "The welfare state politics and policies do not just affect the organisation of interests and their expression in politics, but can even reframe societal categories and reconfigure the categories of political conflict. " (Immergut, 2010: 240)

of actual legitimation, i.e., justification, and their 'retention' over the hollowness of democracy. In line with Immergut (2010) and Cook (2012) , on the role of organised interest in politics, we can elaborate on the transitions or transformations of societies, such as the post-1989 period, and the unpredictability and uncertainty that these processes are bringing to economic development and the quality of the institutions, which should implement laws and policies. The aspect of unpredictability is also relevant for law-making processes, and law implementation is certainly affixed to the principle of impartiality and social trust (Lange, 2005; Rothstein, 2011).

In the case of CEE countries, specifically, the principle of impartiality also has an important role in the exercise of democratic legitimacy and legitimation. The citizen's belief that the political system is able to solve collective problems for the post-communist regimes has been shaped by the broader economic and social context of statehood and the type of welfare state. The major changes that occurred in the post-1989 period were the collapse of state-sponsored private capital, the loss of job security, and the reduction of economic growth, which later served as justification for the globalisation and liberalisation of the markets through the means of privatisation and the endorsement of private ownerships. This period of liberalisation of the markets, accompanied by the weakening of the labour market and the dismantling of the trade unions as social actors, with the first origins taking place in the UK under Thatcherism, shaped the new type of social contract between the citizens and their societies. This liberalisation prioritised the quest for competitiveness, and in many cases, the institutions of the past were preserved but ended up serving a very different purpose. This is also the period when EU integration placed several constraints on how far national democracies could establish their own "social compromises" and sustain their own social and economic models.[70]

These circumstances created new opportunities for the old communist elites to reach the public good on behalf of the need to privatise public capital and liberate from the market (and especially banks) regulations for the processes of democratisation and Europeanisation. The EU elitist

---

[70] This approach created vacuums of state sovereignties and tensions between different types of sovereignties, as the new theoretical advances in EU integration theory have shown. See the work of Brack et al.. (2020).

approach, as Heather Grabbe (2014) has elaborated in her seminal work on the EU transformative processes, affected the marginalisation of the democratic institutions, especially the national parliaments, at the cost of the empowerment of the executives in their relations with Brussels' diplomatic and bureaucratic leading actors. This approach, quite specific for the EU policy-making, did not contribute to constraining the powers of the post-communist elites in reaching the available institutional capacities and instead is cemented in their views and positions on how this new re-gained power under the EU watch can or should be used. The effects of these practices in contemporary societies and in doing politics are a few, including the weakening of political competition and the mechanisms of internal accountability and deliberation, as shown in the work of Solveig Richter & Natasha Wunsch (2019).[71]

These processes, however, ran in parallel with other economic and state transformations taking place in the Western democracies and the economic and political crisis of the 1970s. 'This was a period that signalised exhaustion of the post-war Keynesian compromise between business and labour, and a period of weakening of the representation of the citizen's interest, at the expense of the corporatism. In this type of corporate state, the organised interest was attacked, partly from a growing ideological opposition to the idea of governing through coordination with societal interest groups and partly also as a result of a transformation in political parties' (Bickerton, 2012; Mair, 2013).[72] The governments then responded by seeking legitimacy in the horizontal frameworks of policy-making at the European level. The EU member statehood is the outcome of this thinning of state-society relations, and the form and content of the

---

[71] In their article, Solveig & Wunsch showed that the EU pressure for simultaneous economic and political reforms opened opportunities for business actors to build powerful clientelistic networks that reached into politics. Second, top-down conditionality weakened political competition and the mechanisms of internal accountability and deliberation. Finally, formal progress towards membership and high-level interactions with EU and member state officials legitimised corrupt elites. A congruence analysis of the Serbian case provides empirical evidence for the hypothesised linkages between EU conditionality and state capture. See Solveig, Wunsch. 2019. *Money, power, glory: the linkages between EU conditionality and state capture in the Western Balkans.*

[72] See Bickerton, C. 2012. In his book "European Integration, from Nation-State to Member-State", he introduced the concept of a new type of an EU Member State from the new-intergovernmentalism perspective.

present-day EU correspond to these societal and political changes. (Bickerton, 2013, 4-24). This period of state corporatism in the 1970s, marked by the demise of an international currency system, and the reorientation towards new economic policies, was run in parallel with the cartelisation of party politics in Western democracies, and in a very specific way in Eastern societies, as discussed in Mair's work on CEE (2009); Lipset, Rokkan (1967).

During party politics' transformations, a void between party politics and societies was born, with shifts in party ideologies and overall citizens' disenchantment from politics and political life, when citizens became spectators of the political scene rather than active participants in politics. (See Mair, 2009, 2013). This 'void' as elaborated in the seminal work of Peter Mair (2013), has also shaped the EU approach in recognition of the very specific political party cleavages in the CEE region and the societal gaps which have been taking place in these political regimes over recent history.

Giadomenico Majone (Majone, in Lord, 2015) named this void a "tension between economic integration, national sovereignty, and democracy. " The term itself, as Majone has elaborated, also recognises the role of the sovereign state self-governing, to which the 'mechanisms of external regulation promulgated by the EU' placed within the political development of Eastern European states have created specific conditions of '*limited sovereignty*' (Bickerton, 2009: p. 732-735). That said, the EU's own historical transformations, accompanied by the EU treaties, especially in the period of the post-Maastricht Treaty, have shaped the essence of the EU integration process itself, evident, although not limited, in the field of the policy design, as we will elaborate on in the case of anti-corruption policy.

The book elaborates on the views of a bond between today's politics and the concept of sovereignty, marred by a limited sense of political possibility and organised around *the increasingly unaccountable exercise of power.* As the authors argued, the retreat of state sovereignty has coincided with diminished political possibilities throughout the world. Second, the concept of sovereignty is bound up with a particular idea of responsibility. The idea of a supreme power, subject to no higher law, articulates the idea that human beings are the authors of their own destiny. In practice, by pulling apart responsibility (enshrined in the sovereign) and ultimate authority (enshrined in the international community), 'sovereignty as

responsibility' only means that the exercise of power is that much more distant and unaccountable to a state's citizens. Therefore, the role of the sovereign states, sovereignty, and state transformations in the CEE countries during the process of Europeanisation is significant for understanding the broader context of the emergence of the autocratic logic for returning to sovereignty and self-government. Evidence of this need to return to state sovereignty can be seen not only in Hungary, Poland, and the Czech Republic but also in the Western Balkans. As the core of the concept of sovereignty itself denudes the identification of the final authority in the use of power, we will use this approach to elaborate on the constraints triggered as a result of the EU integration process and the conditions under which the abuses of power are taking place, focusing on the legislative corruption.

This view also complements the theoretical views borrowed from the EU integration theory on the existing paradox of European integration (Bickerton, 2012: p. 22), summarised in two specific approaches: (1) a state-based process that appears as external to the state; (2) a fundamental process of social and political change that appears as an apolitical, essentially technical, matter of institutional reform.

> Europeanisation is 'processes of (a) construction, (b) diffusion, and (c) institutionalisation of formal and informal rules, procedures, and policy paradigms styles - "ways of doing things" Is about shared beliefs and norms which are first defined and consolidated in the making of EU public policy and politics and then incorporated in the logic of domestic discourse, identities, political structures, and public policies'
>
> (Radaelli 2002: p. 30; Bickerton, 2012: p. 22).

The construction of this logic, however, is shaped, by the mutual interdependence between the EU and the states, through the instruments of representative democracies, and its key actors: the national parliaments, political parties, and other relevant bodies. These holds the normative responsibility to conduct public control and exercise the democratic accountability in practice. With the aim of doing so, the parliamentary scrutiny as part of post-parliamentary strategies (Lord, Beetham, 2001: p. 458), as well as all forms of oversight, especially in the phase of adoption and evaluations of laws, play essential roles in the process of democratic embeddedness, both internally and externally towards the EU. However,

the nation-states, which are EU Member States, have also transformed their political systems in order to fit the necessary institutional, political and economic EU requirements.

As we have elaborated in the previous sections, the nation-states and their complex institutional structures need to cope with the conditions of the liberal markets, to depend both on the internal and external regimes, while being embedded in spheres of conditions enabling democracy (Merkel, 2004, p.36-48). With this view, a successful democratisation process indeed requires stable and functional institutions that can resist or mitigate the internal and external crisis, while the system manages to maintain the citizen's belief that their interest is protected. However, in the case of CEE and EU enlargement, these processes have been somewhat paradoxical in their demands and delivery, especially in the case of the key actors of representative democracies. As Kristi Raik has elaborated (2004), 'the inclusion of the Parliament and civil society complicated and slowed down the work of officials.' In addition, the lack of human and financial resources forced the people responsible to comply with the demands of the integration process and to focus on what was inevitable in order to achieve membership and to limit deliberation to a minimum. Thus, integration did undeniably speed up reforms, but the quality of democracy was harmed by pressures from the EU *to do too much and too quickly* (See Raik, 2004: 591) Grabbe (2006, 2016), Schimmelfennig and Sedelmeier (2005); have also criticised the marginalisation of the national parliaments during the processes of democratisation and Europeanisation (Raunio and Hix; 2000: 143; Rittberger, 2005: 119).

Hefftler and Rozenberg (2015) identified that the 'fast-track' legislative strategy of harmonising the laws in CEE countries during the preparation and the accession phase that introduced an additional burden to the parliaments have slowed down their development of a culture of democratic accountability. (Hefftler, Rozenberg; 2015: p.15). Such a situation would amount to an obstacle in pursuing legitimation strategies through national parliaments. The EU's accession process also may have 'inhibited the development of parliaments in CEE countries, alongside their legal systems and political parties, distancing those institutions from society and publics' (Bickerton, 2009: 742).[73] Others (Raik, 2004: 592; Grabbe, 2014: 6) have suggested that EU integration even harmed the

---

[73] See also discussion in Pridham 2006: 381; Grabbe, 2006: 54.

quality of democracy by putting pressure on the (applicant) states and their societies to deliver efficient results.

Based on these views, as offered in the work of Malova, D. & Haughton, T. (2002); Kristi Raik (2004), Grzyma-Busse (2003); Heather Grabbe (2006), Vachudova (2009, 2013); Bickerton (2009), this research has identified three critical implications, or constraints of the process of Europeanisation upon the political systems of the nation-states becoming EU Member States:

- *The marginalisation of the national parliaments*
- *The law-making process*
- *The transformation of party politics/political parties*

These three aspects will be contemplated by the main key criteria upon which we will examine the conditions which have contributed to the disengagement between societies and their citizens in the CEE, creating opportunities for social traps, in which the control of corruption or the law enforcement practised by the citizens, have become complex tasks. Moreover, by examining these indicators in three different case studies with different EU Membership statuses, in different historical periods, i.e., EU enlargement, we will also be able to examine whether these same conditions are triggers for the contemporary way of doing politics, in which the abuses of powers, i.e., corruption is even (politically) legalised, and whether there are repetitive patterns.

3.4. Conclusion

The conceptualisation framework we have elaborated in this chapter allows us to examine the effects of these conditions on the process of legitimation through the national parliaments, as we have also discussed in the first chapter. The actual processes of legitimation or justification in the use of power reveal the interdependencies between different actors and institutions in a political system and the quality of relations, and the sustainability of account chains between citizens and their elected representatives. When exercised effectively, the process of legitimation also guards against abuses of power and deviations from norms and provides access to information, i.e., transparency. Consequently, it can gradually build citizens' belief in the capacities of the political system to maintain order and stability under which citizens can exercise their rights, respect and enforce laws, and provide for the legality of the system.

Therefore, it is crucial for the legitimacy of the political order (Olsen, 2014: 111).

We have also provided an overview of how the national parliaments hold a unique normative position to provide an adequate checks and balances system. By engaging jointly with other integrity pillar institutions in account-giving processes, they contribute to the process of legitimation and democratic accountability. Such practice can have a few advantages. First, by exercising *horizontal accountability*, the parliaments can control the capacity of state institutions and check abuses by other public agencies and branches of government (Bovens, 2007: 452-63). Alongside this normative power, "the parliaments are also held in position to control the political accountability of public officials, including competitive political party funding, an exercise of freedom of information, media freedom and other".[74] This accountability model also allows for the inclusion of civil society through advocacy awareness raising, monitoring government activities (during the drafting of laws in the ex-ante legislative scrutiny), and scrutiny of results and law enforcement, i.e., ex-post. (Kaufmann and Dininio; 2009: p.19). Ideally, these mechanisms work together to instantiate the three essential elements of democratic accountability: limits to vulnerabilities, justification, and empowerment. (Warren, 2014: p. 47)

In this chapter, we have also discussed the importance of accountability for providing quality of democracy. As argued by Olsen, accountability means "giving answers to someone else; being bound to explain and justify action and inaction; and explaining how mandates, authority, and resources have been applied, with what results and whether outcomes meet relevant standards and principles" (Olsen, 2014: p. 107). The exercise of accountability can also reveal incompetence, fraud, malpractice, and the abuse of power (Ibid.) Effective accountability actions then allow for disruption of integrated patterns of corrupt behaviour and empowering institutional and individual actors to collectively try solutions for the existing problems, discuss and revisit repetitive obstacles together towards progress and success. Hence, when *mechanisms of horizontal accountability* are included in the routines of the actors, that type of legitimation includes anti-corruption legislation, ethics codes, internal reporting and whistle-blowing, audit requirements, investigative bodies,

---

[74] See categorisation under IPU, the World Bank, 2007.

prosecutors, the judiciary, law enforcement, legislative oversight. (Kaufmann and Dininio; 2009: 17).

As discussed in Olsen and Warren, "the exercise of accountability as a process of interaction also provides for learning, improving communication, and raising standards of quality that contribute to moral self-development and self-government. Its leading to accountability culture and regime change." (Olsen, 2014; Warren, 2014). They have also acknowledged that "the inherited political settings are affected by the actors,' motivation, knowledge, time and energy, understanding, dedication, overburden, and resilience." (ibid.) In the words of Warren, the mechanisms of democratic accountability are built on the development of state capacity and the empowerment of individuals to demand accountability through rights and powers.[75] (Warren, 2014: p. 43-47). In this regard, the national parliaments vary in their ability to exercise democratic accountability or provide effective control over executives. Nevertheless, national parliaments have proven to be capable of institutional adaptation and learning, with each parliament choosing its own method of scrutiny depending on the parliamentary traditions of the country and on what the parliaments want to achieve. (Auel and Benz, 2005; Auel, 2005, p. 303-18).

The act of legitimation through national parliaments can therefore contribute to both internal and external democratic embeddedness. It can also contribute to identifying the (mis)use of the unaccountable power, bound to the principle of sovereignty, as we have also discussed in this chapter. Thus, the historical predispositions and factors under which the concept of sovereignty has been transforming under the process of Europeanisation is an important feature of analysis to identify the conditions under which states and actors, both collective and individual, are using the available democratic means for the process of legitimation.

The legitimation as an authorisation of a relationship between micro and macro levels also demonstrates that core institutions and actors at both levels are legitimate. (Kneip and Merkel, 2017, p.12-14). This, however, can only happen if parliaments and party politics) do not contribute to the hollowing out of democracy. As Bellamy and Castiglione have rightfully put it, "citizens must be able to exercise both *real influences*, through

---

[75] Historically, accountability systems have been integral to state capacity building, and they have tended to precede democratic accountabilities (Philp, 2009).

selection and authorisation and to be able to exercise *control*, through transparency and accountability, over their rulers, in the aim for the political system to survive a crisis of effectiveness, or to be able to adapt to transformations to restore the effectiveness". (Bellamy; Castiglione, 2010: 81). We can illustrate these sentiments by zooming in on empirical observations of actual legitimation and citizens' exercise of control through the national parliaments and the factors that have contributed to these conditions under the EU integration process. In the next chapter, we will examine the anti-corruption policy in different historical phases and demonstrate how national parliaments pursue legitimation strategies in anti-corruption. This will also allow us to provide arguments on the EU approach in supporting the states (an applicant or member) in meeting their democratic obligations to their own citizens and provide for the EU indirect legitimacy borrowed from its Member States (Lord, 2016; Bickerton 2012; Lindseth, 2010).

Chapter 4

Competences, Conditions, and Constraints

After the fall of the Iron Curtain in 1989, the CEE countries decided to join the European Union with the aim of sharing democratic values and principles, as well as the benefits of the liberal markets of free capital and movement, in the hope of a political change of regime from communist to liberal democracies. Therefore, the processes of Europeanisation and democratisation aimed to support the applicant states in the transformation of their legal and institutional frameworks into stable guarantees of democracy and to provide for delivery of democratic principles and values, the rule of law, and protection of human rights.[76] Under the EU enlargement process, the EU conditionality instruments serve to check the level of democratic preparedness of the nation-states to become EU Member States. The process of transformation and the unique position of the EU Member States in their new inter-governmental relationship, as we have demonstrated in the second chapter, is an important aspect for analysing EU policy-making and the mutual independence of the representative democracies of its Member States, with the aim of the delivery of quality of democracy. The need for democratic embeddedness, both internal and external, requires re-visiting the logic of doing EU politics through different historical phases, of

---

[76] Under the Copenhagen criteria, applicants states need to upgrade 'new' democratic conditions to prove that their state political systems are democratised and hold the functional, institutional, and democratic capacities to join the EU. See discussions in Pierson, (1994); Schimmelfennig, (2005); Hughes, Sasse, Gordon, (2002); Raik, (2004); Grabbe, (2005; 2016).

important events, such as EU enlargement waves, or crises of the European Union.

The contribution of the use of the critical junctures for the purpose of the analysis is threefold. First, it provides the necessary scope for analysing the EU shared competencies in policy delivery, such as in the case of EU anti-corruption policy or its absence. Second, it allows for examining the conditions that have emerged due to the EU integration process (i.e., *Europeanisation*). Third, to empirically observe the constraints of representative democracies that contribute to the loop of backing the hollowness of democracy, or the disenchantment between the citizens and their societies, i.e., corruption takes new forms or variances. As a result, we will be able to elaborate on the specific conjuncture between the hollowness of representative democracies and the opportunities for corruption, expatiating also on the paradox of corruption as a result of liberal democracies, a concept discussed in the first and second chapters.[77]

The competencies, conditions, and constraints in the EU anti-corruption policy design are important features of the analysis, especially from the aspect of the EU way of doing politics and its conjuncture with the specific context of the CEE countries. In CEE countries, for the purpose of this study, exemplified by three case studies - Slovenia, Croatia, and North Macedonia - there has been a unique process of transformations under EU integration, a specific welfare's background, and 'limited sovereignty' replaced with EU sovereignty, with the aim of delivering on democratic standards, but also the pursuits of the liberal regime, since the 1990s.

In the post-communist period, the Central European states, including the socialist states from the former federation of Yugoslavia, which fell apart in 1991, have been given an enthusiastic opportunity to transit to liberal market economies under the framework of the single market of the European Union, and to re-build their societies so they can catch up with the Western democracies. As we will see in the fifth and final chapter, Westernisation and democratisation back in the 1990s included both the version of the leading Western countries and the version of the American type of democratisation and state-building of the post-communist

---

[77] Although the cases of Hungary or Poland are not studies of this research, the findings of this research can also give some of the answers to why autocratic regimes refer to gaining back control of their state's sovereignty in the absence of an accountable use of power.

societies. This joint vision of democratisation, crafted under the veil of the close EU-Atlantic relations in the post-1989 period and the shifts to the neo-liberal regime, especially as seen in the visions of Margaret Thatcher and the American President Ronald Reagan, has played an important role in the approach that the European Union has taken in the process of Europeanisation. This approach and the interpretation of the key concepts of democratic values and principles, such as the rule of law, the constitutional, legal, and state transformations, which were unique in the case of the European Union, clashed with the lack of visions of the CEE countries over what type of democratic societies they wanted to live in. This symbiosis of the European Union strategy to democratise the post-communist regimes and the American vision of democratisation in terms of capacity building based on the pillars of the new liberal values has created a particular scope for the ways of doing politics or policy-making, both on the EU and the nation-state level.

This unique approach of democratisation and symbiosis of the EU-Atlantic vision of the transformation of the post-communist societies is best reflected in the design and the approach the EU took towards the EU anti-corruption policy and the instruments it has applied in tackling this negative phenomenon of 'abuses of power for third-party interest'. The timing is also, therefore, not coincidental. As we will discuss further, the conceptualisation of corruption and the use of instruments and mechanisms in the design of anti-corruption policy emerged in the 1990s due to the link of corruption with the post-communist regimes, and the control of corruption as one of the key conditions for the EU applicant states as part of the democratisation process.

Up to the 1990s and the period of transformations, both for the political regimes of the CEE and the EU, corruption was either marginalised in the broader discussion of the EU or limited only to the post-communist states and is still a challenge, as we will discuss further. As Patrycija Szarek-Mason has elaborated in her seminal book on EU anti-corruption policy, four changes have contributed to shifts in the acknowledgement of the negative phenomenon of corruption - "the end of the Cold War, globalisation, the rising influence of NGOs and a wave of bribery scandals worldwide" (Szarek-Mason, 2010: 21). In the same vein, Della Porta and Meny argued that "the wave of bribery scandals across the world in the 1990s, revealed that the problem of corruption was not confined to the developing countries, but affects the well-established democracies as

well" (Della Porta and Meny, 1997:4). Other identified set economic factors, which have contributed to the increase of corruption, were the increased role of the government in the economy, the growth of international trade and business, and the economic changes in transition countries (Tanzi; in Szarek-Mason, 2010: 23).

As a result of these acknowledgements, in 1996, the first anti-corruption instrument was introduced before adopting the EU resolution on combating corruption in Europe in 1995 by the European Parliament. With this resolution, the EU gave formal recognition that 'the EU must equip itself with its own policy of combating corruption that would enable it to establish both the requisite preventive and repressive measures' (Szarek-Mason, 2005: 79). Most importantly, the European Parliament called to take the fight against corruption beyond protecting the EC financial interests and address it in a more general way. It also "took further actions by calling on the Member States to take actions against corruption in a number of policy areas, such as tax legislation and other legal provisions that indirectly encourage corruption, including the funding of the political parties and the rules of declaration of interest. However, the recommendations of the EP had no legal force, and the Member States were not bound to taking any action, although they did have an important political significance." (Szarek-Mason, 2005: 80). From the perspective on the EU institutional design and the views on the EU democratic deficit, the EP presented a long-term vision of the European Union's role towards fighting corruption in the context with the other EU institutions, especially the European Commission. Even since the 1990s, the EP has been a strong advocate for developing an all-encompassing anti-corruption policy that would address corruption as a general threat to the rule of law and democracy within the Member states, as argued by Szarek-Mason. (Ibid). In order to examine the trajectory of the EU anti-corruption policy and the logic behind EU policy-making, as we have discussed in chapter 3, in the following section, we will present the key phases of the policy approach.

4.1. The Historical Context of EU Anti-Corruption Policy

As we have discussed in the previous section, it was only during the 1990s, in the post-Cold war period, and, i.e., 'Third Way' of democratic transition, that the topic of corruption was incorporated into the discussion in the European Union. There were a few preconditions to these occurrences. As discussed in Castles (1982), since the 1970s, *the 'Third*

Wave" of democratic transition has, by greatly enlarging the number and type of democracies, raised questions about the dynamics of democratic accountability and responsiveness.

The signs of political corruption were evident in other parts of Western democracies. "In the United States of America, and the United Kingdom, two of the world's most well-established democracies, were followed by corruption scandals." (Heywood, 1997: 417). As cited in Heywood, (1997) "President Bill Clinton has been dogged both by the so-called White-water scandal and by questions over how his 1996 re-election campaign was funded; in the latter, John Major's Conservative government found itself caught up during the 1997 election campaign in allegations about 'sleaze' centering in particular on the 'cash-for-questions' issues" (cited in Heywood, 1997).[78] As Paul Heywood has discussed, political corruption in established western democracies was usually viewed as an aberrant deviation from the norm. Such a view was undermined by the extraordinary revelations of systemic corruption, which began to emerge in Italy in the early 1990s: the entire Italian post-war way of doing politics was revealed to have rested on a complex web of corrupt networks, which encompassed politicians, bureaucrats, and businessmen at the highest levels (Heywood, 1997, 418).[79] This was the period when the various linkages between politicians, parties and citizens, came into the discussion of the types of models of democratic representation that would best capture the party models. The ways in which parties' appeals and programs have been reflecting and leading their constituencies' standards responsible for the party model have brought a new understanding of 'the partisan complexion of governments that makes a difference for a wide range of social and economic policies in advanced capitalist democracies.' (Castles, 1982, Esping-Andersen, 1990). This aspect of party models, partisan complexion and the social connections between the parties and their constituencies/citizens was relevant not only for understanding the dynamics of democratic accountability in representative democracies, but

---

[78] See further in Paul Heywood, 1997. Political corruption: problems and perspectives. Political studies.

[79] At the dawn of the 1990s, when the corruption scandals emerged in many advanced capitalist democracies, quite evident in Italy, was the case of "Cavaliere", linked to the businessperson Silvio Berlusconi (*Le Monde Diplomatique, 2020*) and the 'new way' of doing politics by using the available clientelistic networks for economic or business purposes.

also for understanding the different types of patronage-based, and party-voter linkages existing in many countries, including some advanced industrial democracies. That said, this is the period when the existing clientelistic networks, present in Italy and elsewhere (Della Porta, Vanucci, 1999), were brought into the discussion on the forms of corruption, patterns, resistance strategies, and clientelistic transactions.

The transactions between a citizen's vote in return for direct payment or continuing access to employment, goods, and services, as a form of clientelistic accountability, had had historical roots in the cases of Italy and Spain, before and after they became EU Member States. However, what also becomes evident in this period "is that not all parties compete for voters based on coherent programmatic packages that can be neatly arranged on a left-right dimension or some other low-dimensional depiction of strategic configuration among parties" (Cited in Kitschelt and Wilkinson, 2007). Italy was, however, not an isolated case, as cases emerged not only in Spain and Greece but also in France, Germany, Austria, and Belgium (ibid). In Germany also, The Christian Democratic (CDU) Union's donor scandal of the 1990s led to the political downfall of former Chancellor Helmut Kohl and the party's chairman[80] (Spiegel, 2019). The corruption scandal revealed that the CDU had accepted illegal donations throughout the 1990s and had developed a money-laundering system to deal with them.

However, the critical role for the variances among democratic linkage mechanisms[81] is 'the state formation in interaction with patterns of social mobilisation and political enfranchisement as key factors shaping the presence or absence of clientelistic linkage under democratic conditions' (Kitschelt, Wilkinson, 2007: 4). This is also one of the arguments we have discussed in chapter three about the role of the key actors of representative democracies, especially the political parties, in understanding the opportunities and constraints in the abuses of power. This is also the

---

[80] See further in Von Gerd Langguth, 2009. The Scandal that Helped Merkel Become Chancellor. Spiegel International. Available at: https://www.spiegel.de/international/germany/germany-s-schreiber-affair-the-scandal-that-helped-merkel-become-chancellor-a-640938.html

[81] Important comparative studies on the United States, France, and Britain in the 1970s and 1980s, with Martin Sheftler as chief among these studies. See further in Kitschelt and Wilkinson, 2007.

argument that good governance measurements are not sufficient enough to understand the logic of corruption or the factors that have contributed to clientelism, patronage, or other forms of unaccountable interactions.

The conditions contributing to triggering these types of motions leading to the unaccountable use of power are to be discussed in the comparative analysis of this chapter, especially the role of the state formation under the EU Integration Process. The valuable contribution of Kitschelt and Wilkinson, 2007 is that they have found that that politicians cannot build their unlimited powers, in autocratic regimes, on organisational infrastructures with instant results. Their accountability exclusively then relies on short-term performance ratings (*retrospective voting)* or personal qualities (*charisma*), which gives a very useful interpretation of the roots of populism and the means of technocratic knowledge. We can see this occurrence in the contemporary ways of doing politics, including the use of data surveys, personal blogs, private rating agencies, or consultancy outsourcing with the aim of winning their elections (by showing performance, efficiency, and effectiveness) or using their personal charisma to appeal to people in general (populism).

As identified in periods of historical junctures or historical transformations such as post-war Europe and the early 1990s, the roots of these occurrences helped to highlight the role of democratic (public) accountability, which was supposed to distinguish the western democracies from the communist regimes (Heywood, 1997: 419). As Paul Heywood has pointed out, the lack of trust in public institutions associated with this has been the basis of democracy in the absence of trust; democracy itself is threatened. Therefore, political corruption is a 'manifestation of the contemporary crisis of the nation-state, or even more particularly, western democratic states.' (ibid.) This period is, therefore, a turning point when the understanding of corruption as a threat to the economic interest of the European Union shifted as well, not only in the use of terminology from the "fight against corruption" to the discourse of "good governance" but also with proposals introduced to the Maastricht Treaty. 'Corruption contributed to de-legitimation of the political and institutional systems in which corruption takes root' (Heywood, 1997: 421). This research aims to demonstrate that in contemporary democracies, the political systems contribute to the use of (legislative) corruption due to the hollowed legitimation through institutionalisation. Private interest needs democratic institutions, especially legalised ways of

doing politics, in order to justify the abuses of power and avoid institutional or public punishments (via elections). The decline in the influence of representative organisations, such as political parties and trade unions, and the transfers to the European Union, especially the process of privatisation, contributed to the blurring of divisions between public and private spheres and infiltration of the doctrine of 'new public management' removing many regulatory agencies from direct public accountability.[82]

The absence of democratic accountability proper and the shortcomings in the understanding of corruption as a problem of representative democracies in the European Union, rather than as an isolated problem limited to a few countries, are most evident in the EU approach in designing or adopting EU anti-corruption policy that might address all the many consequences as a result. To address the key challenges of the EU approach towards corruption, we will address a few important standing points as developed through the four stages. The three different phases of EU anti-corruption policy[83] included the latest phase, which has been taking place since 2016when the European Commission decided to drop the EU Anti-Corruption report and monitor corruption to be conducted for some, not all EU Member States under the European Semester. The phases of the chronology are discussed in the following section.

A) *Phase I. (1995-2004).* At the end of the 1990s and the period of post-cold Europe, the bond between the EU and the United States of America was specifically oriented towards the liberalisation of democracies and building partnerships with like-minded countries. In this context, the issue of corruption was impended from a joint perspective and by the adoption of the same instruments. At the end of the 1990s, the United Nations (UN), the World Bank, and the International Monitory Fund (IMF) started to address the issue of corruption as a policy concern by promoting the concept and the indicators of good governance. The same approach was followed by the European Union and applied during the

---

[82] The Special Eurobarometer issued in December 2017 suggests that corruption is still very common in Europe – in public institutions, different branches of governments, and a source of party-political funding. (Hoxhaj 2020: 11).

[83] The periodisation to be found originally in the work of Andi Hoxhaj (2020). *The EU Anti-Corruption Report A Reflexive Governance Approach.* Routledge

EU enlargement process for the CEE countries that took place in the same period. As Patrycja Szarek-Mason (2010) also discussed in her book, before this period, especially until 1995, the EU was not fully aware of the role it needed to play in addressing corruption, mainly considering it as a problem taking place among some EU member states, and left it to the international organisations to develop relevant instruments against this. This approach did not take a very different turn in the period that followed. Nevertheless, the EU institutions demonstrated a shift in the interest in their mandates to tackle this phenomenon. In 1995, the European Commission issued its first Communication on the EU policy against corruption in 1997 – the first EU policy document to focus primarily on the issue of corruption. This marked the start of the first phase in addressing corruption in policy-making at the EU level. The Communication highlighted that corruption negatively impacted *fair competition* in the EU and posed a direct threat to the open and free markets within the EU. In particular, corruption was pointed out as a problem affecting the proper functioning of the internal market, the financial interest of the EU, and international trade.

Furthermore, the Communication acknowledged that corruption had a negative impact on the functioning of good governance and the rule of law (See in Csonka, 1997: 343-353). This Communication, adopted by the European Commission, *declared three main objectives for developing an anti-corruption policy*: to protect the EU's financial interests, protect officials of the EU and the member states, and protect the private sector. Unfortunately, in all three areas, there were some superficial anti-corruption instruments in place (Hoxhaj, 2020: 13). This has left the implementation of the anti-corruption instruments in the member states inadequate, let alone effective in practice.

This first Communication also produced the definition of corruption as 'any abuse of power or impropriety in the decision-making process, brought about by some undue inducement or benefit.' (European Commission, n.6). The European Court of Auditors accepted this definition in 1998. (Court of Auditors, 'Special Report No 8/98', OJ C 23022 July 1998). The integral part of the definition "abuse of power for private gain", as discussed by P, Szarek-Mason, (2010), was to " broaden and embrace a socio-economic approach which looked to address corruption in the context of good governance." To date, almost twenty-five years later, the broad EU definition of corruption as "misuse of public

power for public gain." remains a contested issue, stimulating debates over accepting a common definition, and ground mainly on the definition accepted by the international organisations, such as the Transparency International (TI).[84] In the period which followed, the Commission made a number of recommendations, particularly the introduction of accounting and auditing standards, the blacklisting of corrupt companies, and the banning of tax deductibility for the EU Member States.

In this period, however, ten countries from the CEE countries opened their negotiation talks with the EU-meeting the *Acquis Communautaire*, and the problem of corruption appeared on the EU agenda, mainly as a part of the good governance indicators. In the late 1990s and beginning of the 2000s, the EU lacked a coherent anti-corruption policy, clear benchmarks for the EU candidate states, and a clear framework for evaluating the extent, nature, and causes of corruption in CEE countries, as it was also a largely unfamiliar concept, with very different views on its origins, constraints, and conditions. In the same period when the Commission pushed for anti-corruption policies in the CEE candidate states through the Copenhagen Criteria, the EU was unable to impose such policies on the existing member states. Instead, the Commission required candidate states to sign and ratify the Council of Europe Criminal Law Convention on Corruption by attaching it to the acquis. By 2002, eight of the ten CEE candidate states had adopted the convention, compared to only three out of fifteen existing member states. However, this also meant that 'the CEE candidate states were-being-held to different standards from those already within the EU' (Cited in Hoxhaj, 2020: 15).

Under the EU accession process, the focus of accession negotiations on the harmonisation and implementation of the acquis was beyond the scope of the EU. During the same period, in the late 1990s, the EU institutions were themselves involved in corruption scandals, particularly the European Commission, which caused a halt in anti-corruption policy development at the European level until 2003. These scandals, however, triggered the start of the second phase of the development of the EU anti-corruption as a policy field within its institutions.

---

[84]As discussed by Andi Hoxhaj, definitions and perceptions of corruption vary across member states. Coming to define collective definition is far from easy – simply because the legal definitions, as well as the cultural understandings of a corrupt act, differ considerably from one member state to another. See Hoxhaj, A 2020.

b) *Phase II (2004-2007).* The second phase is characterised mainly by the internal problems of the EU itself and the scandals involving the Santer Commission. In response to these scandals, the EU established the Commission's integrity and the European Anti-Fraud Office (OLAF), whose main responsibility it was to investigate corruption in EU institutions. OLAF was set up to protect the financial interests of the EU and the reputation of the EU Institutions. In addition, the EU Commission acknowledged that transparency was an important element in preventing corruption and thus began to publish data about EU fund beneficiaries, lobbying regulations, strengthening ethics in the EU institutions, and adjusting the regulation of access to documents at the EU level. (Szarek-Mason, 2010: 37). During this period, the Council of Europe developed 20 '*Guiding principles'* to support the national dialogue improving anti-corruption practices. The 20 guiding principles are a form of soft law measures and are not legally binding. Therefore, the national governments were only encouraged to implement these principles when drafting their national anti-corruption policy. In this period, the Council of Europe also established the anti-corruption monitoring body- The Group of States against Corruption (GRECO)-to monitor the performance of the 20 guiding principles. GRECO is an important institution in supporting monitoring instruments in evaluating its members' compliance with the anti-corruption standards through a process of mutual evaluation and peer pressure.

The Criminal Law Convention on Corruption (Criminal Law Convention) and the Civil Law Convention on Corruption are necessary anti-corruption measurements whose goals ensure the legal protection of informants cooperating with investigating and prosecuting authorities.[85] In 2003, the Commission issued the second '*Communication on a Comprehensive EU Policy against Corruption.*' The Commission's understanding of a 'comprehensive policy against corruption' meant reducing the level of corruption within the EU institutions and tackling

---

[85] In this period, the EU adopted international anti-corruption standards and promoted to its member states the adoption of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the UN Convention against Corruption. According to Ralf Rogowski, the shift of attitudes in the EU to support international initiatives indicated that the EU at this point gave up pursuing their own anti-corruption policy but rather adopted international measures. See further in (Rogowski2003).

the EU member states more forcefully. (European Commission, n.6) This second Communication developed the concept at the EU level, defining it as 'an abuse of power for private gain', and in 2003, it went further by embracing both public and private sectors within this definition. In defining corruption for the purpose of EU policy, the Commission included a narrow criminal law definition and a broader notion of corruption used for the purpose of preventive policy (Carvel, 2003: 119-123). EU criminal law recognises only discrete corrupt practices, such as taking or offering bribes and fails to cover the full range of corrupt activities, which might be involved (Ibid.)[86]

Furthermore, the EU also ratified the United Nations Convention against Transnational Organized Crime (UNTOC) and the United Nations Convention against Corruption (UNCAC). However, the Commission made the ratification of these anti-corruption instruments only as a compulsory part of the negotiating chapter with CEE countries. As a result, by late 2014, none of these conventions had been ratified by the EU member states, and for CEE countries, the binding ratification ended on the day of accession of the CEE countries to the EU, on May 1, 2004 (Szarek-Mason, 2010: 10).

The result of this approach is that the EU anti-corruption framework remained mainly non-binding and inadequate, never truly extending the scope of understanding of the varieties and levels of corruption, nor the conditions that contribute to these variances, which differ across the EU Member States. In fact, the problem of corruption in some of the older EU Member States, such as Italy, Greece, Spain, Germany, Belgium, and France. were brushed aside once these nation-states became EU Member States, never truly reflecting the origin of the existing problem, as we have previously elaborated. Moreover, by avoiding the acknowledgement of this problem and leaving it to non-binding regulations, as is still the case, the EU failed and continues to fail to acknowledge the many consequences

---

[86]Bribery is simply one type of corruption. There are many others, such as buying votes, favouritism, nepotism, trading in influence, and illegal political party financing; at this point, the EU policy neither focused on nor developed policy nor law to address these.

of this avoidance as a result, in the forms of the rise of populism, techopopulism or even the origins of the EU financial crisis in 2008.[87]

In fact, during the second phase as well, the EU has put its main focus on establishing new institutions for tackling corruption, and the same was required by the EU candidate states before the Big Bang expansion in 2004, when ten countries became full EU Member states - Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia. Two other countries, Romania, and Bulgaria, then joined in 2007, but for these countries, the EU changed its strategy and developed a new mechanism for addressing corruption, establishing the 'Co-operation and Verification Mechanism' (CVM), based on the Articles 37 and 38 of the Treaty of Accession. The establishment of the CVM marked the beginning of the next phase of the EU anti-corruption policy as a policy field.

c) III phase (2007-2016). The next phase is characterised by the lessons learned from the EU enlargement in 2004, and the EU focuses on promoting the values and principles of liberal democracy and strengthening the rule of law in Europe. During this period, the fight against corruption became a key objective of the EU enlargement policy, although anti-corruption as a policy remained less significant than the economic and administrative reforms that supported the proper functioning of the single market. After the accession of the CEE states in 2004, the Commission acknowledged corruption as a serious problem and tried to avoid a similar mistake with Bulgaria and Romania, which were scheduled to join the EU in 2007.

One of the reasons behind this approach was the changing political climate within the member states, and their relationship with the EU being a significant factor in the policy change: 'the refusal of the Constitutional Treaty in the Dutch and French referendums showed public disapproval for various aspects of EU policy, including the enlargement policy. As a result, and under pressure, the Commission had to adapt and develop a rigorous monitoring mechanism in addressing the outstanding legal and policy concerns related to anti-corruption instruments in Bulgaria and

---

[87] Heather Grabbe has argued that the impetus for new EU powers on democracy comes not just from problems with democratic pluralism and governance in recent joiners, but also Member States (media pluralism in Italy) and the poor governance revealed by the Euro crisis in Greece. See further discussion in Grabbe, 2014.

Romania' (Cited in Hoxhaj, 2020: 23). The EU also learned from the previous round of enlargement of the CEE countries that corruption is a widespread phenomenon, and better tools should be developed for the implementation of anti-corruption legislation (Ganev, 2007). As a result, the EU policy towards Bulgaria and Romania reinforced the approach to sanctions and the CVM instrument aimed at monitoring the progress of these EU Member States. The new approach extends to the application of pre-accession monitoring instruments and improved EU enlargement and anti-corruption policy but still lacks coherent and tailor-made anti-corruption benchmarks.

In the period that followed, the Euro crisis in 2008, in combination with EU enlargement, pushed the EU to develop new mechanisms and competencies in the rule of law and democratic practice, but still hesitantly and with resistance from some members. Heather Grabbe (Grabbe, 2014: 8). In 2010 then, with the establishment of the Stockholm Programme, which set out key priorities for the EU in the areas of justice, freedom, and security for the period 2010-2014, aiming to address key challenges in the areas of justice, freedom, and security, as well as fighting corruption, the EU anti-corruption policy developed further. This was also the period of the EU post-financial crisis, which took place in 2008, and the new interest of the European Commission in expanding its political mandate in public procurement, financial control, and the establishment of coherent anti-corruption policy cooperation with GRECO. In this period, after the adoption of the Lisbon Treaty in 2007 and the expansion of the mandates and the role of the European Parliament in the EU institutional design, the EP became more vocal, requiring the development of a comprehensive anti-corruption policy for monitoring the risks to corruption in all EU member states.

The 2017 study on "Corruption in the EU" has shown that citizens' attitudes to reporting corruption have differed greatly among the Member States, and social acceptance for reporting corruption in the EU is generally low. (Bakowski and Voronova, 2017: 10) According to the Eurobarometer survey, the social acceptance rate is more than 60%, in eight (old) Member States, while in nine (new) Member States, the social acceptance rate is below 30%". Such citizens' reluctance to report corruption, especially in the new Member States, is linked to the low level of trust in institutions and political leaders. The special Barometer survey on corruption, published in September 2017, also supports these

arguments. Data has shown that despite an 8 point decrease since 2013, over two-thirds (68%) of respondents still think that corruption is widespread within their own country. As the survey shows, "Across the EU, over half of respondents think corruption is widespread among political parties (56%) and among politicians at national, regional or local levels (53%). Moreover, most Europeans think that corruption is not sufficiently tackled. Six in ten Europeans (60%) trust the police to deal with corruption, but in all other cases, no more than a quarter trust other institutions, including the justice system, the Ombudsman, the media, and anti-corruption agencies" (Eurobarometer survey, 2017).

After the financial crises, new institutions of democratic presentations were established at the European level, mostly associated with the European Parliament, including the widespread creation of oversight committees within national parliaments (Lindseth, 2010: 204). Mechanisms for these bodies to exchange information and coordinate their activities at the supranational [88]level, such as COSAC, were also established. On a nation-state level, National Councils or parliamentary committees were established, with the mandate to monitor EU integration processes, in most cases to balance the executive Ministries or bodies in charge of EU affairs.[89] As previously discussed, initiatives for developing "more sophisticated frameworks to assess the function of national parliamentary scrutiny in relation to national EU policies" were also emphasised by scholars (Auel; Auel and Benz, 2005; Auel and Rittberger, 2006 in Lindseth, 2010: 204).

Under these new circumstances, the EU decided to prepare and promote a comprehensive EU Anti-Corruption Report, with the aim of addressing the negative phenomenon of corruption in all Member States and its consequences on a broader set of political and economic commitments. The established aim by the European Commission was to dedicate its resources to publishing, such as reports every second year, aiming to

---

[88] Conference of Community and European Affairs Committees of Parliaments of the European Union.

[89] Yet this has not been enough to offset the European integration's weakening of national and (regional) representative systems. (Føllesdal and Hix, 2006; Fossum and Crum, 2012: 74) "many of these multilevel concepts recognise that the exact relationship between national parliaments and the EP remains underdetermined." (Crum, 2018:1).

facilitate more peer learning and the exchange of best practices. The Commission was careful in its wording, created based on best practices from the Council of Europe, the UN, and the OECD while concentrating on the crosscutting problems of particular concern at the EU level.[90] The European Commission initially suggested that the Report should evaluate the level of corruption within the EU institutions. However, since the Commission perceived it as biased in evaluating its own institutions, DG Home Affairs dropped the idea.[91] The Report had a good potential to influence the policies of member states in taking corruption more seriously. With this report, the EU extended its objectives to focus anti-corruption policy in areas where corruption had a social and political impact on member states (Hoxhaj, 2020: 27).

The preparation of the second iteration of the Report was scheduled for publication in 2016 and was in progress until the Commission Vice President Frans Timmermans announced in January 2017 that the Commission had decided to drop the Report altogether. The shift to the European Semester marks the last phase of the EU policy approach towards anti-corruption, which is still in place. Timmermans justified this step by announcing that the Report published in 2014 served well as the basis for dialogues with the member states, which was a useful instrument for background information. The Commission Vice President also suggested that one of the reasons behind this decision was the overlapping with the anti-corruption instruments by other international organisations, which also revealed the key weakness of the EU approach towards this paradox in the first place. In the two-pages of page internal letter to the chair of the EU parliament's civil liberty committee, British

---

[90] The Report was also supposed to cover assets recovery, accounting standards, statutory audits for EU companies, and the enhancement of integrity in sport and match-fixing, as well as an evaluation of the EU's external policies concerning the EU candidate states. The 2014 Report did not pay attention to any of these areas. See further discussion in Hoxhaj, A. 2020.

[91] Instead, the Transparency International (TI) promised to deliver the TI Integrity System Report, and by 2013, it presented a comprehensive study on the state of corruption at the EU level. There were a few shortcomings in this approach, such as the lack of external reviews on the EU Institutions through their membership in UNCAC.

socialist MEP Claude Moraes[92], the Commission vice-president Frans Timmermans offered the following justification.

> The necessity of a more efficient and versatile approach that would therefore be to complement the continued focus given to corruption issues in the European semester with operational activities to share experience and best practices among Member States' authorities and actively working in a wider context alongside international organisations such as the UN, Council of Europe, the OECD, G7 and others who are engaged in valuable anti-corruption work, as well as private stakeholders and civil society organisations.

> (Timmermans, 2017).

The Commission suggested instead taking another approach in monitoring the vulnerabilities to corruption via the instrument of the European Semester, which also introduced additional vulnerabilities. First, the limitation of the European Semester as an economic tool instrument marginalising the focus on the rule of law, law enforcement, and other specifics of the political systems of the EU Member States. Second, the lack of justification on the selection of EU Member States to be monitored under this instrument, lacking both transparency and the logic behind the decision to include some, and leave out the other EU Member States.[93] Third, the European Semester being implemented through the normative powers of the national parliaments created an additional burden to the key actors of representative democracies in the absence of

---

[92] Available at: http://transparency.eu/wp-content/uploads/2017/02/20170130-Letter-FVP-LIBE-Chair.pdf

[93] As part of the monitoring process, (only) five Member States have received country-specific recommendations (CSRs) related to corruption in 2017. For example, Croatia scored 49 in the Transparency International's 2016 Corruption Perceptions Index (CPI), indicating serious problems with corruption in the public sector (favouritism and politicising of the public administration, weak integrity standards.), and none of this warranted a mention in the CSRs published in May 2017. The TI report also noted that integrity standards in politics remained causes for concern. The effectiveness and usefulness of the European semester were recently found to be under threat, as the implementation of recommendations by EU countries has worsened in the last few years, with low compliance at about 30% and with some of the lowest rates of compliance related to corruption and the shadow economy. See further in the Transparency International Report, 2018.

any acknowledgement of their key role in tackling corruption on the nation-state level. The key role of the national parliaments, bound to the normative powers of exercising democratic accountability and their transformations under the EU integration process, are to be discussed in the following section.

4.2. The State Transformation and Representative Democracies

As elaborated in the previous section upon anti-corruption policy, the discussion on the EU policy-making approach is an integral part of the vision of the type of union that Europe wants to be. Among the discussions on the political and economic European Union, the integration of the national economies of the Member States, while preserving their national sovereignties essentially intact, has always been a challenging argument, mainly due to the inseparable interaction between politics and economics, especially in the context of the liberal democracies. The separation between the state and the market is an old liberal principle, but as Giandomenico Majone (2015, in Lord et al. l: 177) has discussed, this principle has been repealed at the national level and is firmly embedded in the founding Rome Treaty, with the main objective of the earlier treaty being the elimination of trade barriers and the encouragement of competition in the sectors of coal and steel, and with the extension of authorities over regulations of taxes as well, decisions over investments, prices of quotas, it became difficult for a state-market relation to be avoided (ibid.)

This was also a period of a significant influence of the logic of competition within the common market, influenced by the US model of rules on state aids to industry and on national procurement policies, and"removal of distortions of competition caused by state regulations or resulting from the existence of public-owned companies and companies granted special rights by the member states. This aim to depoliticise the European policy-making, a contrast to the way of democratic politics at the national level, where redistributive issues are the lifeblood of majoritarian politics, often determining the fate of governments. (cited in Majone, Lord, 2015: 117).[94]

---

[94] As discussed in Majone (2015), under the Roma treaty, the EP had at most a consultative role in politically sensitive areas, such as social security and the social protection of workers, and even today, agreements reached between management and

The process of privatisation and regulations of the markets and the depoliticisation of EU policy-making in the CEE region ran in parallel with the elite-led consensus on the transformation of the constitutional order and the need for economic liberalisation (Rupnik, 2007: 19), the former with the aim of demonstrating a democratic separation of powers, the latter of attuning with the principles of a liberalisation of the markets. 'The first entailed a separation of powers, as well as the importance of politically "neutral" institutions such as the constitutional court, the central bank, and the board supervising public media- constitutionalism took precedence over citizenship and participation. The second part implied a need for large-scale privatisation of the economy and its integration into the international (primarily European) market. ' (cited in Rupnik, 2007: 20).

The interplay between these two elements created unique conditions in the CEE post-communist regime, which we have discussed in chapter three. In the post-1989 period, the dissidents' movements were associated with the ideas of civic participation and civil society, 'which were soon eclipsed by the institutionalisation of democracy and the formation of a party system. In fact, the weakness of political participation and the absence of powerful social actors were seen as favourable conditions for the conversion to a market economy. ' (cited in Rupnik, 2007). This created a paradox in the simultaneous and interdependent political and economic transitions. To push through radical market reforms, the elite-led governments needed strong democratic legitimacy, such as that which came from the break with the old totalitarian regime in 1989.[95] However, since civil society was still underdeveloped and the political participation low, the implementation of economic reforms benefitted by producing fast results, easily seducing the citizens to embrace economic liberalisation and privatisation, much sooner than the entrance of democratic values and principles. This type of sentiment required trust, social and institutional, as basic pillars for consolidating the political systems in which citizens desired to live. Since the later process required long-term

---

labour can be transformed into European law without any discussion by the European Parliament. (Majone, Lord, 2015: 117)

[95] The free market came to Poland under the banner of a trade union called "Solidarity." Václav Klaus, the Czech prime minister in the early 1990s, would not have got a chance to launch his market reforms without the political legitimacy provided by the presidency of Václav Havel. See further discussion in Rupnik, 2017.

action, strategies, and goals, the new elites took this opportunity to 'start consolidating democratic institutions without the participation and by forming a policy consensus at the expense of politics' (Rupnik, 2007: 20) while at the same time forcing the implementation of economic liberalisation.

The results of such interplay came in the form of expanded mistrust in the key democratic institutions of representative democracies and a suitable environment for elite-led executives 'to grab more power for private interest' and to start 'learning' the available means, ' so they would be able to avoid punishment for the abuses of power, not only by the judiciary but also by the electorate and their political party members. Within this paradox, the first signs of populism were born, and this left room for legislative corruption. One of the most challenging outcomes of representative democracies was mistrust in the national parliaments.[96] This decline of trust in democratic institutions is evident in all three case studies.[97]

However, these processes also ran in parallel with the process of state transformation and state consolidation, as in the case of post-war Yugoslavian states, where the inter-ethnic wars were taking place at the beginning of the 1990s. These countries and Central European countries opened accession dialogues with the EU, almost during the same period, and even though the EU enlargement processes took a different direction in the case of the Western Balkans, the EU integration process has introduced equivalent conditions for all applicant nation-states, under which state transformations have taken place. That said, the process of Europeanisation in the post-1989 period and the specifics of the EU policy-making have indeed merged with this specific interplay of politics and markets, i.e., economic liberalisation in the CEE, triggering a specific set of conditions within the political systems. Under this set of conditions, new opportunities for corruption have emerged, bound to the

---

[96] The findings that 'only a fifth of Poles think that their parliament is useful compared to four-fifths who find that private companies contribute to the economic development of the country' – see in Rupnik, 2007 - was not common, or a case isolated only to Poland. This is a common occurrence in all CEE states and similar to other Western democracies.

[97] Data available in Bertelsmann Transformation Index (BTI). Available at: https://www.bti-project.org/en/home.html?&cb=00000

unaccountable use of power and 'legitimatised' through the means of the hollowed representative democracies.

The preconditions for the hollowness of representative democracies, with few specifics for the CEE region, can be traced back to periods of crisis in the nation-states and their claims to popular sovereignty, identified in historical periods, especially in the period prior and after the 1970s and the transformation, i.e., the corporate, post-industrial state. During the period of state transformation and state embeddedness into the global political economy, the communist states were adjusting under their own terms to this economic globalisation. Once the financial system and the economic slowdown triggered by the collapse of Bretton Woods from the two oil price shocks in the 1970s, the deregulation and internationalisation of capital markets took a new pace in trade liberalisation. This was also the period (the late 1970s and early 1980s) when the "golden age of welfare capitalism began to falter, and the 'silver age' began to dawn." (Castles 2007a; Castles et al. l, 2012). During the second era of economic globalisation, the competition between nation-states rose, intensifying the pressure for taxation and redistribution while also unbalancing the power between labour and capital. (ibid.) As the communist countries drew their legitimacy from the social/working classes based on the Marxist-Leninist doctrine, this triggered tensions in the popular sovereignty, in the same period when the role of the state in society and economy in a global context was challenged itself.

The consequences of the new global economy had long-term consequences for the 'profligate governments and uncompetitive economies' argued Esping-Andersen in his seminal book "*Welfare States in Transition: National Adaptations in Global Economies.* " (1996).[98] In the case of Eastern Europe, the old communist welfare regime was characterised by three basic pillars: full and quasi-obligatory employment; broad and universalistic social insurance; and a highly developed, typically company-based, system of services and fringe benefits. The post-democratic reforms have eroded the first and third of these pillars. Instead of full employment mass unemployment has emerged; the collapsing (or privatised) state enterprises are decreasingly capable of furnishing accustomed services. As the viability of both is destroyed, existing income

---

[98] See further in Esping-Andersen. 1996. *Chapter in After the Golden Age? Welfare States in transition*.

maintenance programmes face under-financing and over-burdening, and one of the most commonly advocated strategies in the current welfare state crisis is *privatisation*, as an answer to 'post-industrial' society. These arguments are also shared by James Mark et al. (2019), in their book "1989: A global history of Eastern Europe" viewing the structural adjustments of the national economies in the CEE, developed on the world's peripheries alongside their construction within the Anglo-American sphere, where their advocates questioned a postwar consensus on welfare capitalism and Keynesian trade cycle policies (James et all. 2019: 15).

That said, the transition to neoliberal regimes also had a decisive effect on the state's role and the principle of sovereignty, both as a political and social concept. The former refers to the institutional and constitutional changes that states took in order to adjust to the new neoliberal regimes and the deregulation of the markets.[99] They later refer to the constraints drawn from the social actors and social groups such as the trade unions, the political parties, and the other intermediate bodies in pursuing the exercising of the principles of the neoliberal regimes. Key vulnerability to sovereignty under these transformative processes was the common idea that people are the ultimate source of authority. However, these have two different implications for the legitimacy of constitutional order in the modern world. As cited in David Beetham's book, the first implication is that "the order has to contain some element of popular representation by the electoral process even if this is complemented or qualified by rules embodying a different source of authority. This constitutional setting requires governing authority through regular, universal, free, and fair elections, where policy choices are shaped *through public debates and competition of political parties*, and where institutions that are exempt from electoral accountability will still operate in the shadow of democratic majorities or, at least, of a democratic *pouvoir constituent.*" (Bellamy, 2007).

However, the contemporary modern state is a new type of transformed state, as we have discussed in the first chapter. The contemporary EU member states, as transformed nation-states, operate in a complex manner and combine both vertical and horizontal dimensions of sovereignty

---

[99] Political and institutional mechanisms of interest representation and political consensus-building mattered tremendously in terms of managing welfare, employment, and growth objectives. The postwar European economies were able to maximise both welfare and efficiency owing to the capacity cited in Esping-Andersen, 1996.

(Bickerton, 2012; Bickerton, Hodson, and Puetter, 2015). This type of member state operates both on the nation-state and the EU level, constantly challenged either by its internal dimensions or among different horizontal dimensions of sovereignty. (Brack et al. 2019). The *member statehood* in the views of Bickerton, Hodson, and Puetter (2015), has highlighted three observable and characteristic features: a) their legitimising discourses; b) their organisational arrangements; c) the modes of political conflict within member states. Based on this theoretical approach, the nature of the democratic authority is located in the vertical dimension between the state and its own society as the source of legitimate authority in the people. However, even then, legitimacy remains internal to the political system itself, and the Member States, in contrast, legitimise their authority horizontally.[100] This also shifts the focus to the role of the actors to legitimise the processes on a national level and mitigate the risks, which might be imposed due to the need for vertical legitimation with the EU.

On the note of constraints, Jan-Werner Müller wrote about the new 'constitutional settlement' which had emerged, related to weakening parliaments and, in particular, restricting the ability of legislatures to delegate power. Therefore, as Jan Zielonka (2006, 2018) has put it, these questions have become so pressing that we may need to develop theories of European disintegration in order to accommodate some of the present tensions and conflicts. In order to do so, exploring the dimension of *parliamentary sovereignty* or the capacity of the parliaments to take part in the political process is an important aspect, both from the legal and political perspectives of understanding the principle of sovereignty. Whether the people as an ultimate law-making authority can take the authority of laws or hold control over an accountable use of power brings

---

[100] Popular sovereignty, therefore, is a mediated relationship between people and state, and it cannot belong to the body of the people separate from the state. What is most important in these horizontally structured discourses of legitimacy is that authority rests not simply upon action in concert with others but also that decisions are made at a distance from partisan politics. (Bickerton, Hodson and Puetter 2015: 57). As Bickerton has put it, the originality of member statehood lies in the idea that binds it together as a community of individual wills - in relation to one another, with their community, with the society in whole, and with the state. The concept of member statehood, therefore, proposes a more fundamental change in the relationship between state power and the procedures of democratic rule located within domestic politics. (Cited on Bickerton, 2012: 71).

two implications—first, the rights of citizens to participate in the legal and political processes within its society. Second, the citizens' duties to contribute to the common good as defined in Rousseau's 'Social Contract', reflected in the capacity of transformation from self-interested *volonte des tous* into a common-interest oriented *volonte generale* (Scharpf, 2009: 174).

This important aspect of the relation between the society and the state is quite specific in the case of Eastern European states, creating a scope for tensions and conflicts between the popular or parliamentary sovereignty, aiming to draw legitimacy from the 'collective' will of the people. In order to grasp these dynamics of transformation and the conditions under which these tensions are triggered, in the next section, we will look more closely at the specific historical period, both for the post-communist states and for the EU, from the aspect of the transformation of the states and the political parties. These opportunities and constraints to the principle of sovereignty will be discussed in the following sections.

4.3. The 'Limited Sovereignty' in Post-Communist Countries

"*No society in history has been called on to manage the end of empire, the marketisation of its economy, and the democratisation of its political system simultaneously.* "[101]

The state-society relationship can be traced to the vacuums between authority and responsibilities, bonded to the principle of sovereignty. For decades the CEE region has been a laboratory for exploring these relations that aim to improve our understanding of the region, but also of the functioning of the EU, both as a project and as a process. As a project that aims to deliver results in the functioning of the liberal market, and as an ongoing process that is never entirely settled, it aims to transform societies and deliver a democratic change for the benefit of European citizens,

Attila Agh argued that 1989 is recognised as a turning point in the history of Eastern Europe after the collapse of the bipolar world (Ágh, 2020). In this period, Eastern enlargement was an economic and political necessity as a substantial part of the EU**'s** deepening and widening policy. This was a period of transformation of the nation-states under EU enlargement, but also a period for facing the constraints in the exercise of power as

---

[101] David Beetham, 2013:189.

experienced in the post-communist countries. It was expected that by setting the CEE countries on the track of Westernisation, these constraints would be overcome and mitigated. This period of transformation also coincided with the post-Cold War revision of the concept of sovereignty itself. By joining the EU, it was expected that the CEE nation-states "will be liberated from the tyranny of Soviet rule and regain its sovereign independence". Yet, as Chris Bickerton has identified, the limited sovereignty of the pre-1989 period, formally declared by Leonid Brezhev in 1968, was replaced by a new form of domination, this time emanating from Brussels. (cited in Bickerton, 2009). In the same vein, David Beetham argued that the constraints of the communist system of rule in its classical form had to be broken from two sources, first being from the people and represented uniquely by the Communist party. The limitations on their representation were justified by the reference to a second source of authority, the one from the social-communist doctrine. (Beetham, 2013).

This 'replacement' of a different kind of EU domination was transformative in its core and has contributed to a rise from a nation-state to a member state, which is exposed both to vertical and horizontal justification with the EU authority. The conditions under which this replacement has taken place had and will continue to trigger sovereignty conflicts, politicisation on a national level, and opportunities for abuses of power. As traced in the secondary literature, we will hereby present the specific merge between the 'limited sovereignty in post-communist and post-socialist countries,' with the specific type of EU policy-making, a shaped set of factors discussed in chapter two and three.

The concept of sovereignty in Eastern Europe has been transformed by a set of internal and external historical dynamics during the industrialisation in the late 1940s and 1950s, and the First[i] and the Second World Wars, especially the post-war period (Judt, 2010). The politicians in the Western Europe of the 1950s and 1960s saw national planning and government intervention in the economy as the two pillars of their national growth strategy. It was the response to this crisis by Europe's governments, particularly their efforts at isolating themselves from the demands and expectations of their own societies, which laid the foundation for today's EU. (Bickerton, 2016: p.48). The factors that have shaped the relations between states and societies in Western Europe have also shaped the type of constraints they have introduced to their political autonomy and self-government in Eastern Europe.

The events in the Former Yugoslavia, before the fall and the ethnic wars, were also profoundly bound to the concept of sovereignty. (Sarotte, 2009, Woodward, 1995). Susan Woodward has argued that the Yugoslav conflict was an inseparable part of the more widespread phenomenon of political disintegration, bound to undermining the principle of sovereignty so that they could not address the issue of sovereignty itself and the disintegration of governmental authority, as well as the politics of transforming a socialist society to a market economy (Woodward, 1995: p. 15).

This was also the period of the return of the nation-states and the national idea in Europe, bound to the right and ideas of self-determination, national independence, and national sovereignty. (Brubaker, 1996: 3). Since the post-1989-era was also a period of massive privatisation, electoral democracy, and other elements of "transition" of political and economic regimes, the Yugoslavian exit from communism also contributed to these developments (Zielonka, 2006: p.26).[102] The period of 1989 was therefore seen not as an end, but as a beginning of creating the international order that has persisted until today and the role of the EU in overcoming the conflict between two completely different visions of modernity: a Western versus a Soviet one (Sarotte, 2011: p.6).

When the communist party entered a phase of deep crisis during the 1980s, it resulted in the spectacular collapse of the communist regimes across Eastern Europe in 1989. (Beetham, 2013: p. 179). In this period, people were already pushing their interests by challenging the state authority of the Communist parties, with the rise of events of popular mobilisation and protests, evident in East Germany, Poland in 1981, and Czechoslovakia in 1986. This new change in the relation between the state and the citizen took the form of dissident movements and their 'desire to carve out some autonomy within civil society' , making 'a virtue out of the retreat of the individual from public life.' (Bickerton, 2009).

During the same period, an important political party transformation occurred, shifting from mass politics to interest representation. This is the period which Peter Mair called *the void in party politics* of representative

---

[102] The Western Balkan states erected from the former Yugoslavia have been and still are historically and geographically important cases for exploring the events of the EU in the post-1989 era, with the aim of understanding the contemporary EU and the paradox of liberal democracies.

democracies. In this period of Western party democracy decline, the political parties established themselves "as key cogs within the wider governing framework of national polities." (Cited in Mair, 2013). As a result, the distinction between parties and the state became blurred. This transition in the relationship between political parties and their citizens ran in parallel with the post-1989 concept of sovereignty, which has involved a redefinition of sovereignty and,in particular, its attachment to the principles of independence and formal equality (Beetham, 2013: 189).[103]

The replacement of external authority of the EU, under the EU enlargement process since the 1990s and particularly before the Big Bang enlargement in 2004, aimed to integrate the Eastern European countries into the EU and to encourage a new relationship between the states and its societies, in the exercising of liberal and democratic principles, mainly by introducing constitutional changes that would regulate the separation of powers. This separation should have brought clear constraints to the executive elites in using power, to regulate the 'secrecy' of running the states inherited by the communist regime, and revitalise the opportunities for shifts of powers from centralised political party leadership to multiparty democracy.'

However, the EU accession process has further distanced these institutions from society, leaving the political elites far removed from their own populations.[104] The EU integration process has instead introduced three main constraints to the key actors of the popular, parliamentary, and constitutional sovereignty: *the national parliaments, the political parties, and the law-making processes exercised by the elected representatives*. From the point of democratic theory, national parliaments should serve as key institutions where some degree of collective self-reflection is possible, laws are ultimately matters of self-legislation by citizens, and political parties have their roots in society. However, their strength must be bound to the depth of their social base, found in their local communities, and gradually built through the actors of social intermediation, such as trade unions, churches, and political parties. Therefore, popular sovereignty should be built on these key intermediating actors between societies and

---

[103] This is the period of the irreversibility of the principle of popular sovereignty. See further in Beetham, 2009.

[104] See further discussion in Bickerton, 2009: 742.

their citizens and strengthened on a national basis, as it also shares the competencies with the pooled or shared EU sovereignty. When a state fails to identify and incorporate the input from its core social actors, it is difficult to identify where the final authority lies once shared on the EU level.

The 'limited sovereignty' as inherited from the post-Cold War period, has been redefined at the expense of the EU type of transformation of the state, and these features are critical to understanding the paradox of liberal democracies, which creates opportunities for an unaccountable use of power, where corruption takes root or uses sophisticated forms of legislative corruption. In order to examine these views, in the next section, we will look closely at the constraints that have been introduced to the national parliaments, the political parties, and the law-making process, creating conditions for different forms of corruptive practices. We will also consider these constraints as indicators upon which the hollowness of representative democracies can be further examined and identify core shortcomings in understanding corruption.

4.3.1. Indicator I: The Role of the National Parliaments

The EU accession had a crucial opportunity in shaping the institutional structures, including the relationship between parliament and government and the relationships between citizens and political party organisations (Mansfeldová, 2011). In the period of democratisation and Europeanisation, the Eastern European countries implemented a few major reforms to strengthen the parliamentary procedures. These reforms included: (a) rationalisation of the legislative process; (b) empowerment of working bodies in the legislative process; (c) a diminishing role of civil society actors in the legislative process; (d) increasing the role of parliamentary party group leaders (e) limiting the time available for speeches and replies (Fink-Hafner; Krasovec, 2010). In the period which followed, additional amendments were implemented, such as establishing working groups and committees, mostly as part of reaching rushed objectives to demonstrate a willingness to implement institutional reforms that would satisfy the harmonisation with the EU. However, as empirical evidence has shown, the many changes made in the rules and procedures, as found in the case of the Slovenian parliament, especially by 2010, have significantly affected Slovenia's political system's functions (Fink-Hafner; Krasovec 2009; Mansfeldova, 2011). The case of Slovenia is

not isolated, and these similar patterns were identified in the experts' interviews conducted in Croatia and North Macedonia, although not always in an explicit context as in the case of Slovenia.

At the same time as the institutional transformation for the purposes of democratisation, the legislatures were marginalised vis-a-vis the executives during the EU integration process and pushed to do 'too much and too quickly' with the aim of harmonisation. (Heather Grabbe, 2007; 2013; Raik, 2004). At the same time, as the national parliaments were marginalised, the inclusion of civil society and public debate in the applicant states also had an implication on EU enlargement (Raik, 2004: 591), as it created tensions in the rush to achieve efficiency, particularly in the requirement of speed versus the time needed for deliberation. This also meant a lack of civic participation and intermediation of the citizens' viewpoint at the expense of expertise. Instead of reaching the citizens' values and creating political judgements, the space for deliberation has remained mainly hidden by the rising authorities of the executives. This was also identified by Kristi Raik in her work, where it was found that membership conditions demanded that the candidate states prioritised fast and efficient decision-making. In contrast, public debate and the inclusion of various political and societal groups would have required more time and resources. The competition with the other candidate countries in the same group, such as in the case of North Macedonia and Croatia up to 2003, showed that the political leaders were more responsive to the conditions and demands imposed from the EU than to domestic expectations.

This pattern was identified in the other EU applicants' states. The same findings were found in Slovenia, Croatia, and North Macedonia, to be empirically discussed in the fifth chapter. What is more, in the period of formal parliamentary institutionalisation, public deliberation was reduced to a minimum, leaving a vast gap for improvisation. What is a key risk is that these findings found by scholars in 2004 (Raik, Grabbe) related to the EU enlargement process, when the first wave for the CEE took place, including the case of Slovenia, are again confirmed in the contemporary context, almost two decades later, in all three cases.

The inclusion of civil society in all three countries is still inconsistent, particularly in the engagement with the national parliaments, including the case of Slovenia, as the most advanced democracy out of the three cases. As one of the TI experts in Slovenia has identified: "

'The civil society and the media landscape on the local level remain seriously underdeveloped. Local journalism is significantly underdeveloped. I should say mainly because, during the last twenty or so years, it has been quite visible that local level journalism is dying, and journalism or information channels by municipalities have replaced it. So, the local level is a black hole when it comes to uncovering big corruption stories."

(Interview with TI expert, Slovenia)

These formalistic and yet empty transformations of the role of the national parliaments in the new liberal and democratic setting had created long-term effects on the actual oversight powers of these institutions and the rise in the hollowness of representation between the citizens and their collective representatives. In this expansion of the hollowness of representative democracies, the true powers of the national parliaments to democratise the post-communist societies and build new social relations with their citizens are still under-acknowledged.

As we have elaborated in chapter three, the national parliaments indeed hold normative powers to exercise oversight and public scrutiny over the executive use of public power in different dimensions of the societies and communicate their citizens' values and attitudes through the representative institutions. The parliamentary oversight instruments to exercise both horizontal and vertical accountability include - public scrutiny of audit reports, information of financial management of public money as reported by the State Audit Offices, or information on the annual finances used by the political parties before and during elections. It also includes scrutiny of reports on human rights violations and administrative malpractices, including the breach in the principle of impartiality as experienced and reported by citizens to the State Ombudsman. The normative oversight powers also involve ex and ante evaluation of laws and legislative activities. In all three countries, the national parliaments have the authority to appoint judges or other actors of the third, judicial power in the system of checks and balances, and also to adopt Constitutional changes, occasionally also creating tensions with the popular sovereignty exercised through referendums.

In the case of the first wave of enlargement, it was usual practice for unelected judges to take the lead in the governing, rather than the representatives of electorates, without a given mandate by the authority

of the national parliament. (See discussion in Mark et al. l., 2019: 113). As Ganev has shown, the promulgation of new constitutions, as in Romania and Bulgaria in 1991, did not mean more participation that is democratic. On the contrary, 'this led to disappointment among the wider population, who witnessed parliamentarians often engaging in sterile debates, rather than issuing the legislation necessary for bringing sense in the chaos of early regime change.' (Ganev, 2007: 132).

These practices are not restricted either to countries or to time and are still present under the EU enlargement process with the Western Balkans.[105] In 2018, North Macedonia, as a major pre-condition, had to resolve a three-decade-long name dispute with its neighbour Greece (Bechev, 2019) by changing its Constitutional name from the 'Former Yugoslav Republic of Macedonia' to the 'Republic of North Macedonia', i.e., the Prespa Agreement. (Vankovska, 2020), after long internal conflicts over the use of parliamentary and popular sovereignty. Despite these changes, empirical data has shown that activities implemented by the Western Balkans under the EU conditionality have extremely limited the influence on democracy and the rule of law (CSF, 2019).

That said, the oversight powers of the national parliaments, which are also bonded to the deliberation and public justification of the use of public powers in the interest of the citizens, also have the necessary moral and normative capacity to strengthen the channels between the societies, the state, and their citizens. When the process of legitimation as a process of actual justification (Gronau and Schmidtke 2016), is run through the authority and the mandate of the national parliaments, citizens can exercise their authority, 'owning' the laws and take control over their vision in which type of societies they want to live in. In other words, in a democratic system, the actions of public scrutiny and parliamentary oversight on behalf of the citizens adapt the concerns of citizens to be

---

[105]Albania has passed comprehensive judicial reform with a view to strengthening the rule of law and making progress in complying with the Copenhagen criteria, adopted in June 2016, by changing more than one-third of its constitution as a major pre-condition to the opening of accession talks with the EU (Hoxhaj, 2020). These revisions of the constitutional apparatus in the name of shared sovereignty with the EU, under the framework of EU conditionality, are not limited only to Albania or are a recent occurrence.

voiced, as a few scholars have already demonstrated (Bovens, 2010; Auel; 2005; Lindseth, 2010).

The oversight powers of the national parliaments are also a key instrument in strengthening the democratic capacities of the European Union as a non-state, multistate polity that operates from beyond the state (Lord, 2015: 10). From this perspective, whether or not the European Semester is an effective tool for monitoring anti-corruption efforts through the capacities of national parliaments is also an important indicator of the indirect legitimation between the States and the EU. The findings drawn from the case of Slovenia and Croatia, compared with the challenges in the potential EU Member States, such as North Macedonia, and discussed in the fifth chapter, can also contribute to the discussion on the rise of populism as a form of Euroscepticism and public disenchantment with the EU[106] evident especially during and after the Eurozone crisis.

That said, the oversight capacities of the national parliaments in the CEE play a decisive role in narrowing the gaps of abuses of power and contributing to EU democratic legitimacy. However, recognising their normative capacities requires acknowledgment of their institutional specifics, bound to their historical transformation from post-communist to democratic regimes. The exercise of accountability was fragile and unique, related to the normative power of the communist party, the party leaders, and the other social actors such as trade unions and local assemblies. The 1989 post-war period was an opportunity created for an actual turnaround of the national parliaments into democratic institutions that could support the state-rooted democratisation of the CEE societies by taking proper control over the opportunities for corruption and abuses of power pillars of the culture of democratic accountability. This type of accountability culture would have empowered the attempts for transparent policy-making and built conditions for effective oversight over law enforcement, which is demonstrated as crucial for anti-corruption strategies. Proper public scrutiny over law implementation would have had value for its actual justification or legitimation and actual public oversight over law implementation, results, and societal impact in between elections, avoiding the reliance on electoral accountability only. These processes, however, are time-consuming, and the EU's own specifics towards time

---

[106] The European Semester is a key instrument in one, but not equally applicable in all EU Member States, contributing further to the East-West divide.

in the delivery of results, demonstrating efficiency and effectiveness, have often triggered trade-offs with accountability and transparency[107], inviting both appeals to technocracy and an appeal to the people in general (populism). The origins of both aspects of the disenchantment between citizens and the national parliaments are also bound to the CEE's specific political party transformation in a historical context. The role of political parties as organisational hierarchies and elected representative - MPs is another important indicator for locating the sources of democratic deficit, or the hollowness of representative democracies, and the opportunities for abuses of power, especially legislative corruption.

4.3.2. Indicators II: Political Party Transformation

In chapter three, we discussed the transformation of party politics in Western democracies that ran in parallel with important welfare types of changes in the industrial and post-industrial periods in Europe, especially during the 1970s and 1980s, and the painful adjustments made to the neo-liberal regimes. The leading scholar in party politics, Peter Mair, has demonstrated that popular democracy and party politics have largely shaped the way the EU is doing politics.' As more and more policies, traditionally decided politically at the national level, are now decided at the EU level, mainstream parties have had increasing difficulty in mediating between their responsibilities to govern (by the EU rules) and their need to be responsive to their electorates'. (Cited in Mair, 2013.) The politicisation in the absence of actual legitimation, or the exercise of 'politics without policy' on the national level, has become increasingly wide and present in all parts of the EU, both in the EU zone and on the periphery. This detachment between the national citizens and their input in political matters takes a few forms in the contemporary democracies, mainly evident in the increasing political volatility, coming from citizens' sense that their preferences - "whether expressed through the ballot box, social concertation processes, or social activism - do not count" (Mair,

---

[107] See discussion in Vivien Schmidt. 2015. EU Crisis: *Ruling by the numbers*. Vivien A. Schmidt has argued that "the absence of any deeper political integration that could provide greater democratic representation and control over an ever-expanding supranational governance contributed to the Eurozone financial crisis ending up with the Council's ‚one size fits one' rules. Followed by the EU Commission's 'one size fits all' and the European Parliament's 'no size at all' rule as the EP has largely been excluded from most decisions on the euro by EU treaties as well as in cases where international institutions have been involved" (Schmidt, 2015: 17).

2013: Schmidt, 2015: 21).[108] The source of such occurrences, as identified in Mair's work, comes from the potential and capacities of political parties (party politics) to survive and adapt to changes and choices to reach party stability.[109]

In the case of the communist system, the authority was delivered from a dual source: first from the people, represented uniquely by the Communist party and the communist-socialist doctrine. (Beeetham, 2013: 182). As argued by David Beetham:

> This definition of 'the people' and limitation on their representation was justified in turn by reference to the second source of authority, the doctrine of Marxism-Leninism, and its claims to exclusive knowledge of the conditions of evolution towards a communist future. (ibid.) 'It was this doctrine that privileged the working class as the most progressive social class, with its interests identical to those of society as a whole, and the Communist party as the exclusive interpreter and representative of those interests. This meant that the popular consent, necessary for the legitimacy in the communist system, was not express primarily through elections but rather through the extent of mass activism at the grassroots, which provided a continuous demonstration of popular commitment to the party's cause and served to validate its claim to the leading role in society. In this 'mobilisation' model, the expression of popular consent is divorced from the process of appointment to office and choice of policy alternatives, which remain an elite prerogative in accordance with the superior knowledge or capacities to which they lay claim.'

> (Beetham, 2013, p.182).

---

[108] Surveys and poll documents quite clearly show this public disenchantment with the EU as well as with national governments. The Eurobarometer polls have demonstrated a massive loss of trust in both national governments and the EU over time. Trust in the EU dropped from a high of 57% in spring 2007 to a low of 31% in spring 2012, that continued unchanged in 2013 and spring 2014, while trust in national governments dropped from a high of 43% in spring 2007 to 24% in autumn 2011 and to an even lower 23% in autumn 2013. (Eurobarometer; Gallup poll, Sept. 2013).

[109] See further in Peter Mair (2005). "Party System Change Approaches and Interpretations"

This source of authority is one of the crucial differences with liberal democracy rules, whose political parties and leaders draw their legitimacy from the 'free and fair' electoral management capacities. The shift has also changed or created a new scope of interpretation of the process of legitimation operated at the elite, political party, and mass level (electoral body). The leading role of the communist party, its leaders, and its claim on representation (popular sovereignty) in the communist regimes was to exercise the state monopoly of communication. (Beetham, 2013). Furthermore, the operationalisation of legitimacy and the management on the party and mass politics level was exercised through the means of the centralised-planned economy based on public ownership and through the bureaucratic apparatus, which should have enabled the transition from centralised to decentralised planning in the period of transitions.[110]

The management of the party and mass politics, especially, was organised through the power of the public belief - *the belief that society is organised to pursue a collective purpose*. This form of realisation of socialism (Beetham, 2013) was the necessary ingredient for the communist model to deliver legitimacy. As David Beetham argued, in the absence of procedures of public accountability, this belief was necessary to ensure a minimum of integrity in the holders of power. In the absence of electoral consent,[111] it was a necessary instrument for mobilising a mass base for the party without any degree of commitment. 'Without the belief in the validity of a collective purpose, in short, the communist model lost its vital stimulus; it became reduced to a pursuit of private interest destined to frustrations and harassments devoid of any public justification' (Cited in Beetham, 2013: p. 185-186).

---

[110] As discussed in Beetham - The central planning laid the foundation for impressive industrial and economic development. A 'command' economy stifles initiatives and self-determination at the level of the enterprise. The problem at issue here was not just a matter of economic performance but of its consequences for the belief system of socialism, which played such a central part in both economy and polity. The communist model was publicly dependent upon a uniformity of belief system to a degree that capitalist democracies were not. With the latter, a belief in individual liberty and popular sovereignty was required to underpin the rules of political and economic organisations. See further in Beetham, 2013: 184-192.

[111] The competitive elections could not contribute to the economic reform process without a clear mandate from society.

That said, the adaptation of the post-communist party politics to the liberal democratic model of representative democracy was a difficult task, which left behind different types of consequences, both in the rise of the autocratic regimes and the rise in the abuses of power (i.e., corruption). Moreover, the specific trajectory of the party politics development in Central Europe also created conditions under which other contemporary challenges to party politics developed, including the rise of *populism* (Rupnik, 2007; Muller, 2016; Mudde, 2017); A common challenge to these occurrences is the rise and claim to elite or political corruption, which both populists and technocrats ofter use in defence of 'people' *from* the corrupt elites. That said, the conditions under which party politics is organised and exercised in the political systems are also important for understanding the opportunities for corruption, or the absence of constraints, as an indicator of the unaccountable use of power by the elected representatives and the democratic emptiness, where elites use opportunities to abuse public power.

In order to specify the key features of this indicator, in this section, we will also turn to the particularities of the party politics transformation in the post-communist countries. As Peter Mair has observed (1997), the first divergence from Western party democracy was that the new party systems emerged in the wake of the democratisation process, without an effective bond to real civil society. The Communist parties had firm roots in some elements within society but were different in their scope or organisation. This has created a foundation for a weak institutional and societal penetration of democratic party systems in post-communist states (Kitschelt et al., 1999) once a shift to multiparty systems took place. This meant a combination of open articulation of social conflicts at the highest level of the state, with the unity of direction needed to implement the tough decisions involved in the marketisation of the economy (Cited in Beetham, 2013: p.188). The communication of social conflicts through the organisation and the central hierarchy of the post-communist political parties was also a significant challenge in the absence of the capacity for internal party democracy. These internal party shortcomings ran in parallel with the external process of democratisation.

The external democratisation of party politics introduced a few variances within the electoral rules and the party systems format (Lipjhart, 1999;

Powell, 2000),[112] - the distinctions of *majoritarian versus consensus* types of democracies (Lijphart, 1999) allowed for identifying or mapping checks and balances' organisational and institutional frameworks. Furthermore, the distinction between *presidential and parliamentary democracies*, based on the Persson, Ronald, and Tabellini typology - based on the voters' exercise of control that affects the separation of powers between executive and legislature, manifested through the effects of the information asymmetries, *knowledge, skills, competences,* on the strength of the accountability mechanism exercised in the public forums. (Persson, Ronald and Tabellini, 1997: p.5)[113] Persson, Ronald, and Tabellini (1997: p.3) have argued that the balance of power varies between the executive, the legislature, the judiciary, and the citizens in presidential or parliamentary systems. These types of typologies affect the accountability practices as well, as discussed in the fifth chapter.

The second difference was related to the, i.e., *freezing of the party system* (based on Rokkan's theory that in Eastern Europe, this took place in reverse of the four stages of transformation: *formal incorporation of strata, mobilisation, activation, the process of politicisation*, compared to the established democracies in Western Europe (Mair, 1997).[114] These new party systems in the post-communist regimes were not a result of and through a long-term process of democratisation and politicisation. In the

---

[112] In Herbert Kitschelt and Steven I. Wilkinson's views, the electoral models are also linked to the types of citizen-politician linkages and patronage, where a few individuals and small groups of citizens are building relations in which votes are paid for the right price, usually in the form of services of job appointments. See Kitschelt, Wilkinson; 2010: 2. The clientelistic patronage type of corruption is still very much present in CEE countries, also inherited from the post-communist regimes.

[113] Persson, Ronald, and Tabellini (1997: 3) have argued that the balance of power varies between the executive, the legislature, the judiciary, and the citizens in presidential or parliamentary systems. "The executive and the legislature have different powers in presidential and parliamentary systems, but different constitutions also make these bodies more or less powerful, depending on how they structure the legislative process". See further discussion in Persson, Ronald, and Tabellini (1997). *Separation of Powers and Political Accountability*. Quarterly Journal of Economics 112.

[114]In other words, these new party systems did not result from and through a long-term process of democratisation and politicisation, but were rather created in the aftermath of that process, in that the citizens had already been effectively 'incorporated', 'mobilised', 'activated', and 'politicised' under the previous non-democratic regime (Cited in Mair, 2007: 180).

words of Lipset and Rokkan, 'the democratisation process in Western Europe tended to result in *a high level of organisational mobilisation of most sectors in the community*, and it was this, which 'left very little leeway for a decisive breakthrough of new party alternatives'.' (Cited in Lipset and Rokkan, 1967: 54). What they are referring to are the mechanics of the freezing process, and almost nothing of equivalence is to be found in post-communist transition. As opposed to the 'normal' Western European experience, what we see in post-communist Europe is not a terminus but rather a departure point, a beginning in party politics, and that certainly makes a difference (ibid.)

This distinction, related to *the cleavage structures*[115], proved very important in the stabilisation of Western European party systems and the mobilisation of collective political identities. This transition from *a belief in society that pursues collective actions* into the identification of new political identities should have been a key objective in the process of internal and external democratic embeddedness. Yet, in the post-communist democracies, such independent partisan intervention is minimal; the electorate and the parties, which 'organise' the electorate, are different, in particular, less grounded within civil society. Many of the new parties are primarily ad-hoc or top-down parties, which have originated within parliament or at the elite level rather than having been built up from the ground. Like all such parties, they are either less likely or simply less able to establish a strong organisational network at a mass level. Nevertheless, the data traced in the experts' interview show that this is a practice in all three Slovenian, Croatian, and North Macedonian cases, as discussed in chapter five. As one of the interviewers has put it:

> "The most continuous parties are the reformed communist parties, the NP Communist Social Democratic party, which is now called Slovenian Democratic Party. Then the Nationalist Party returned to

---

[115] The conceive of cleavages as being derived from strong and enduring collective identities, which, in turn, are derived from the anchoring created by a stable social structure on the one hand and the organisational intervention of parties and related groups on the other. (Mair, 2007 p.187).

the parliament. They all accepted the formal communist parties, having the same leader for a very long time and preventing actual change of the top. "

(Interview with an expert in political parties, Ljubjana)

Furthermore, the *constitution-makers* in these new democracies found themselves obliged to restructure the political system and to establish procedures for competition in a context in which mass politics had already been established. This was also an important difference in that it suggests enhancement of the scope for intense competition. 'Basic constitutions must be written more or less from scratch, involving choices that are of fundamental importance to the character and functioning of the party system, and this in itself is clearly a lengthy process.' (Cited in Lijphart, 1991). In the case of the CEE countries, under the EU integration process and legal harmonisation with the EU, the constitutional transformations were, exercised on frequent occasions in the absence of public scrutiny or public debate. When eventually written, these constitutions themselves become subject to frequent amendments, a process that is perhaps especially apparent in the regular revisions of the electoral laws. Even when there is basic agreement on the formal rules, there are nevertheless persistent conflicts over interpretations and competences, 'as can be seen most clearly in the pervasive tensions between presidential and parliamentary prerogatives, which now characterise many of the post-communist democracies' (Mair, 2007: 190).[116]

The final distinction concerns one additional feature that has also played a crucial role in stabilising electorates in the established Western democracies and is inevitably marked by its absence in new democracies. That is the existence of a *clear structure of competition*.[117] The long-term

---

[116] In new democracies, by contrast, and especially in the post-communist democracies, the institutional environment is exceptionally and inevitably unstable, with conflicts over the initial establishment and subsequent adaptation of the constitutional rules of the game being one of the most evident features of the process of democratic transition and consolidation (Mair, p.190).

[117] The third major difference between established party systems and the newly emerging post-communist party systems involves the context of competition. The parties, which emerge into electoral competition, are, in the main, new parties, which, by definition, lack an established standing, status, and legitimacy within the electorate at large. (See further in Mair)

process by which party systems may eventually become consolidated can also be seen as a long-term process *by which the structure of competition becomes increasingly closed and predictable,* and through which, as Schattschneider (1960) might have put it, *conflict becomes eventually 'socialised.'* (Mair, 1997: p.192). All three of the inter-related factors that shape the context of competition are more or less characteristic of many of the established party systems. That is,

> 'stable organisational structures, institutional certainties, and relatively closed structures of competition — tend to be marked by their absence in the case of newly emerging party systems in general and in the post-communist party systems in the case of the post-communist party systems particular. '

> (ibid.)

The gradual decline in party competition and the rising dominance of the leading party's leaders have further centralised their position, as evident in the contemporary politics of Hungary and Poland, and Slovenia as well. As Zdenka Mansfeldova has discussed (2011), the opposition governments have gradually declined in their checks of power, and after the financial crisis, the number of new parties, especially prior to elections, started to rise, offering solutions to peoples' problems. Slovenia, up until the financial crisis in 2008, had a very stable institutional and political system, in spite of the large number of parties in parliament, and in 2010, the effective number of parties started declining. (Mansfeldova, 2011).

In the same vein, Anna Grzymala-Busse argued that the transformation of the parties depended on the "portable skills" they had acquired based on their organisational practices under communism. As Anna Grzymala-Busse demonstrates by comparing Poland, Hungary, the Czech Republic, and Slovakia, 'the level of political competition was pivotal in helping to limit how much political parties could manipulate the state for their own benefit. In the more competitive political systems, opposition political parties could make their criticisms heard and checked the power of ruling parties.' (Cited in Gryzmala-Busse, 2003). The role of the opposition is also crucial for legitimation in the exercise of public scrutiny and democratic accountability, based on its own constraints due to the politicisation processes taking place in the specific political systems. The position of the parliamentarians, as individuals and as electoral candidates, representing their constituencies, also plays an important role in building the culture of

competition, constructive opposition, and the culture of political accountability, as we will discuss further in chapter five.

It is this very absence, in turn, which is likely to play such a crucial role in encouraging and facilitating electoral instability. These variances in historical trajectories of the political parties in the CEE certainly shaped the current position of these actors in representative democracies However external factors or constraints invoked by the legislatures also shaped the hollowness of democracies in the later stages of democratic development.

Democracy is considered an inherent social good, and the interaction between people and emerging democratic institutions largely focuses on what people need to know, think and do, rather than on what people actually know, think, and do to shape and adapt to the post-communist environment (Linch, 2012: 4). However, the lack of real debate or the significant involvement of national parliaments and political parties as mediators between the citizens and their societies, seemingly depoliticised at the EU level by technocratic decisions, has weakened national party politics in the national democracies (Schmidt, 2015: p.21). Within the post-communist and post-conflict period context, the CEE countries were caught in the discrepancy between the need for external efficiency and internal accountability under the unique political and economic country specifics. While political (leadership) capacities had to manage the institutional crisis and produce efficient results in democratisation, they also lacked the political capital to re-connect with citizens and bring them into the learning curve of the principles and standards of democracy as well.

In Slovenia, Croatia, and North Macedonia, the dominance of the charismatic leader and the lack of clear party ideology have taken new roots in their societies. Some of the parties are more independent, some less, but clearly are run by a charismatic leader. (*Interview with a former minister at the Slovenian government*). In the case of Slovenia, however, there is also evidence of the need for citizens' shifts to social partners, precisely due to the decline of party politics. As another expert observed in the case of Slovenia, there are shifts in citizens' trust towards different types of representation:

> At the moment, citizens trust the social partners more or social partnership, which is an indirect form of representation. In the recent period, I think the competence is lower than it was during

the first decade, both in the parliament and in the executive. Now it´s just much worse. Also, more recently, coalitions have been rather large because the party system is so fragmented. So, this is another reason why the executive cannot be very efficient. Currently, we have a minority coalition, and each time, on each big issue, they need to find enough votes among parties which are not in the government at all. I think there is a kind of change probably going on which is not publicly visible, but otherwise, it would be difficult to understand why, for example, the extreme National Party is giving support to the government. Since otherwise, it criticises all the parties, all their leads, all the time since it was established.

(Expert in political parties and University professor , Ljubjana)

These fragmentations in party politics are evident in all three countries. Another common feature is that all party leaders are usually bound to corruptive scandals. In Slovenia, the former and current Prime Minister Janša of the Slovenian Democratic Party (SDS) was under investigation in the so-called Patria affair. In 2013, the Ljubljana District Court sentenced Janša to two years in prison for soliciting commissions from a Finnish firm during his first term (2004-2008), but the Constitutional Court repealed the case in April 2015 and ordered a retrial. (BTI Report, Slovenia). In the case of Croatia, since 2000, the prime minister has held the most powerful political function in the hierarchy and is the head of the executive branch. In June 2016, the HDZ President and Vice Prime Minister Tomislav Karamarko had to resign because it was revealed that his wife's company had provided consulting services for the company of a former manager of Croatia's oil company INA who was involved in one of Sanader's corruption affairs. (BTI Report, Croatia, 2018: 8).

In North Macedonia, the wire-tapping scandal has revealed significant corruption coordinated by the former Prime Minister, Nikola Gruevski. Many of these developments have caused mistrust in political institutions and political parties and loss of social trust among the citizens, expressed by low satisfaction with democracy or political institutions. According to the Slovenian Public Opinion Poll, in 2013, only 6% of respondents expressed satisfaction with democracy, and even 57% of them were greatly dissatisfied. In 2016, this percentage was 10% and 45%, respectively. (BTI report, Slovenia).

Another common pattern evident in Slovenia and North Macedonia, especially after the major crisis in 2016, is the support for technocratic leadership and expert governments. This pattern is very likely linked to the EU approach towards a technocratic way of mitigating crises, which has been supporting the politicisation process on a national level.

The EU type of '*emergency crisis*' politics, or governing by emergency, as demonstrated in Jonathan White's book (2020),[118] created specific types of conditions, once merged with the specifics of the political systems of CEE, including party politics. A distinctive feature of the emergency type of doing politics, apart from the use of the TINA (*There-is-no-other-alternative*)[119] method (Olsen, 2010; Grabbe, 2014: p. 6), is the common use of technical expertise in the crisis-solving attitude with the elite governments. As Johan Olsen has argued, the elitist view of the integration process and the consequent failure to convert a majority was a weak point of the EU integration process that introduced a democratic deficit. (Olsen, 2010: p. 52). "The dominant legitimating language has been technical-functional and apolitical or even anti-political language. It has been commonplace to talk about 'the way forward', 'improvement', 'better regulation', and 'progress' and to legitimise institutional solutions as 'inevitable, 'necessary', 'natural', 'technical', 'rational', 'efficient', 'practical', or 'suitable,' often without making the underlying normative premises explicit". (Cited in Olsen, 2010: p. 52).

Hence, the process of the external EU demands to democratise its political systems and fight corruption, indeed introduced new reforms that have been transforming the expectations of the state political institutions of the post-conflict societies. This elite-based correspondence was and still is commonly used during negotiations processes between the EU and the

---

[118] See further in White, Jonathan. 2020. *Politics of last resort: Governing by emergency in the European Union*. Oxford University Press; Oxford, UK

[119] The EU integration (enlargement) process introduced the TINA (there-is-no-other-alternative) syndrome as a necessity of change and transformation. The EU approach was seen as an already familiar scenario of solving political questions that have turned into the management of technical issues. 'The strategy of focusing on practical economic integration and knitting interests together so that people would stop paying so much attention to nationalist claims has its downside in re-emerging as unsolved political questions that can disrupt all the careful technical work'. (Cited in Grabbe, 2014). See further discussion in Grabbe, Heather. 2014. *Six Lessons of Enlargement Ten Years On: The EU's Transformative Power in Retrospect and Prospect*.

nation-states. As Vauchova (2005) has also found, during the EU accession process and the quest for consensus among political parties, the rival domestic policies did not take the usual form. This has contributed to reducing the quality of political competition while increasing the competition based on competence or later based on the public or media image of the party candidates (Vauchova, 2005).

This sequestered interaction between the European Commission and the national governments' elites was always more linear, in which national and local actors, particularly MPs or political parties, have barely been consulted as part of the process. (Hughes, Sasse, Gordon, 2002: 331). As the authors have discussed, the political parties are also strapped by the limited financial resources, dependent on the contributions of their members. The absence of institutional forums for the assembly, representation, and cooperation of subnational governmental elites act as a constraint on their organisational and mobilising capacity, but it is also a constraint on the capacity of national parties and elites to project their influence at the local level. (Hughes, Sasse, Gordon, 2002: p.348). The effects of the EU enlargement process on the disjuncture between the national elites and their citizens in the post-communist societies were recognised in the work of a few other scholars, especially concerning the role of the political parties as actors in the process. (Kitschelt et al., 1999). As cited in Hughes, Sasse, Gordon (2002: 332),

> "the key mediating role played by parties in linking the people and the polity in CEE countries has remained underdeveloped as the political parties have been slow to consolidate their position in Eastern Europe, and many have remained top-down elite entities without extensive grassroots organisation."

> (ibid.)

These processes and procedures have required time and understanding *of the will of the people, as experienced in their communities*, rather than as experienced by the national experts and elites. These constraints to the transformations of party politics privileged the executive over the parliaments in a rush to make rapid progress in the adoption of laws, transposing *the EU acquis* into the national legal system, which had introduced new conditions for abuses of power. Despite these varieties of factors that have produced different risks to CEE institutional capacities and performances, EU enlargement has magnified the gap between

citizens and their governments, rather than addressing the transition *with the citizens'* involvement in the public forums or giving them access to the available monitoring and controlling institutional mechanisms.

By jointly building the relations of democratic accountability, they would have rebuilt the lost social trust and learned to adapt to new institutional and social changes jointly. This, however, required taking ownership of the laws rooted in their societies, with the aim of effective law enforcement, both for the purpose of internal and external democratic embeddedness. The introduction of legitimation, as the third indicator for identifying when corruptive legislative practices are at risk, is to be discussed in the next and final section of this chapter.

4.3.3. Indicator III: The Law-Making Process and EU Harmonisation

The elite-led transformation created feelings of alienation from such changes among a part of the population. Such disconnect between political parties and their electorates only deepened into the 2000s. A gap continued to exist between international representations of these states as consolidated democracies and EU members and citizens' perceptions, among whom significant numbers did not consider 1989 to have been an unambiguously positive turning point in their lives (Greskovits, 2015: p. 28-37).

Under these conditions, the EU integration process forced the executive elites to intensify the law-harmonisation procedures, legitimised by the national parliaments in all CEE applicant states. However, the laws/legal transformation did not deliver the expected results, primarily evident in the lack of law enforcement for the successful implementation of anti-corruption strategies. A few scholars have reached similar results on the conjuncture between the EU integration process and the fast-tracking procedures. Malova and Haughton have found that 'as part of the EU integration process, all CEE countries have developed *a fast-track procedure* for passing the EU legislations through the national parliaments that allows for virtually no debate among parliamentarians.' (Cited in Malova, Haughton, 2002).

As regulated by the Rules of Procedures, in most CEE countries, including our selected cases of Slovenia, Croatia, and North Macedonia, the standing orders usually require *three readings* to adopt any piece of legislation. Each reading should involve the parliamentarians in open and

public discussion, ensuring that all political forces in the parliament can provide input into the legislative drafting process, then conclusions and evaluation after some time. However, "*the absorption of the EU's acquis communautaire, running to around 80,000 pages, has shortened the time for public deliberation and scrutiny*" (Cited in Malova, Haughton, 2002).

Furthermore, the tight timetables weakened the national parliaments by leaving little space for discussion on policy matters in public or reaching decisions by the opposite parties. This was particularly evident in the fast law adoption period, with the absence of public deliberation or engagement of civil society or other social groups in these procedures. This activity would have had value as an exercise of vertical accountability yet remained limited in all three countries, with some variances in the case of Slovenia, where historically the role of the trade union was much more effective in the past than in Croatia or North Macedonia. This shortcoming was identified in the data based on the experts' interviews. One of the former MPs in Macedonian Parliament interviewed for this research has described this occurrence as follows:

> 'At my first day in the parliament upon my election at the parliament after voting over one hundred of laws in one day. Moreover, it was drama for me because you cannot even read them on the first day. Moreover, this happened, and it still happens very often. Moreover, it usually is hidden behind the 'red flags' of EU laws. So, these are the laws with the European flag, and we need to pass them in a fast procedure, so they are on the fast track, and it happens very often. Even legislation that should not be under the EU flag happens to be under the EU flag. Moreover, this is a good approval policy to engage all the factors to vote for it. I disagree entirely with these processes. I think that the legislation should have proceeded in proper ways. Alternatively, the parliamentarians should have enough time to read them, discuss them, have public debates, and develop a more critical approach because the parliament typically approves what the executive proposes. Moreover, if you see the amount of legislation on an annual level that the parliamentarians have initiated, it is just a small number. Usually, the parliamentarians have been pressured by the executive and have been initiated to write legislation.'

> (Interview with former MP at Macedonian Parliament).

This type of bypassing the legislative and legal procedures gave great scope to the party leaders to grab more power to misuse these procedures in the fast-tracking adoption of laws, and in the absence of public debate, usually for third-party interest (i.e., corruption), or for other types of corruptive practices. This institutionalisation of the, i.e., *shortened procedures* for acquis-harmonisation with EU legislation empowered the parliamentary committees to use the fast-track procedures in the policy-making processes, the absence of proper scrutiny, or oversight of the law implementation. Therefore, the use of the *fast-tracking* procedures hampered both the procedural culture and the culture of accountability in these new democracies. This change in the culture of law adoption, during the process of Europeanisation and democratisation, when the national parliaments were marginalised, and the political parties faced varieties of shortcomings in the process of transition to neoliberal regimes, developed opportunities for a legal and legalised abuse of power, which was hard to identify in its initial phase, or penalise in later. That said, in the final chapter, we will discuss how much these practices have changed in the contemporary context, using this identified indicator as a weakness that empowers the legal abuses of power by governing elites.

4.4. Conclusion

The limited sovereignty, bound to the lost belief in the validity of a collective purpose and the strayed stimulus of the communist model, required replacement with a new type of legitimacy, drawn from a collective idea of shared goods, values and principles, and a shared purpose about the future of the EU. What was previously pursued in the absence of public justification was expected to be repaired by a new societal goal by which societies were starting to re-build new social contracts with their citizens based on a new culture of public accountability. In order to do so, the executive powers should be checked by the legislatures, while the judicial power keeps the legal order in check based on the rule of law. Under these democratic principles, the CEE states at the beginning of the 1990s promised to transform their constitutional and political systems during the process of EU integration and by the supervision of the European Commission. The EC had and still has the key institutional responsibility to monitor the progress of the EU applicant states in harmonisation and association with the EU principles, rules, and regulations.

The EU integration process did not regulate the rules and principles over the types of accountability that both the nation-states and the EU were supposed to regulate to re-build new social relations between the states, i.e., societies and their citizens, to actually succeed. By embedding the new social contract into the citizens' local values, beliefs, and social attitudes, the institutional and social gaps created as the result of the parallel transformative processes, , as we have discussed in this chapter, would have been adequately addressed. Furthermore, law enforcement[120] would have been set on firm legal and constitutional norms as a necessary factor in taking control over corruptive practices. This, however, required an acknowledgment of the exercise of other types of accountability, apart from the electoral, which would place a significant focus on the political competition from the perspective of delivery of results and societal impact, rather than only on the party leader's promises in electoral cycles. The benefits of transparency, legality and stakeholder access would have helped provide public justifications in the internal party democracy among the political parties and contributed to electoral accountability. However, as we have discussed in chapters three and four, the joint EU interpretation of the western types of neoliberal and democratic principles and values, with the American type of democratisation of post-communist countries, has shaped the EU policy approach towards highly important and unique policies for the European states. The EU adoption of international measures against corruption[121] has confirmed the logic of doing politics without recognising the hollowness of representative democracies that have been slowly transforming under different factors and in different periods, as we have shown in this chapter.

The EU can transform the national parliaments, while at the same time, it does not encourage a redefinition of the impact of parliamentary scrutiny or effective accountability frameworks. The EU anti-corruption monitoring framework and accountability deficit (the limited scope of parliamentary scrutiny) limit the EU in accessing accountability over

---

[120] In most democratic societies, the citizens are limited in their legal or institutional opportunities to direct, draft and enforce laws and policies, so they transfer their sovereignty to popular representatives, who, in turn, have the responsibility to legislate laws and to hold executives accountable for the success of the laws' enforcement and policy implementation.

[121] Such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the UN Convention against Corruption.

results. In this regard, scholars also have noted that "when it comes to the most sensitive and difficult issues in democratic transition, such as the status and treatment of minorities, human rights, corruption, and organised crime, the EU is often agnostic about what policies countries should adopt, has no democratic acquis on which to draw to guide the candidates and has no codified guidance on how to solve the trickiest dilemmas of democracy," argues Grabbe (Grabbe, 2014: 7). This sentiment will be elaborated in the next chapter, which will offer discussion, followed by comparative analysis in three case studies based on the indicators identified in this chapter.

Chapter 5

Discussion

As we have discussed in the previous chapters, the fall of the communist and socialist regimes in 1989 marked a historical beginning rather than an end to a new set of political, economic, and social changes from the CEE countries, including the ones from the former Yugoslavia. These challenging processes in these new democracies ran in parallel, under the Western strategies for democratisation, creating opportunities, and constraints to their political systems, in the exercise of the core democratic principles and values, particularly the operationalisation of the concept of democratic accountability. The historical framework of the post-communist regimes, and the specific conditions under which the (popular) legitimacy powers were drawn, once they merged with the EU approach of doing politics, under the processes of Europeanisation and democratisation, created a specific scope for sovereignty transformation to, i.e., limited sovereignty, bound to an unaccountable use of power, political and legal (law-transformation). These conditions created a particular trajectory for the internal and external embeddedness of democracy, creating obstacles for the indirect legitimation between the Member States and the EU through the means of representative democracies. This hollowness of democracy, found both on the nation-state and EU level, especially in the process of legitimation, created a specific democratic paradox in which abuses of power, i.e., corruption, are both outcomes and triggers in undermining the quality of democracy, creating a loop between opportunities and constraints, for corruption. In this chapter, we will empirically examine these observations in three case studies: Slovenia, Croatia, and North Macedonia from a comparative perspective, and will apply the three identified indicators from chapter

four in order to contribute to the analysis, test our hypothesis, and identify the patterns and variances.

First, we will examine the historical context in post-1989 Europe and the waves of EU enlargement. Secondly, we will map the institutional framework for exercising democratic accountability through the national parliaments, particularly the available oversight instruments for use within the national parliaments and check the use of public power. Finally, we will examine the sociopolitical factors that shape the motivations or attitudes of MPs, as political party members but also citizens 'representatives, to engage in public scrutiny and check the legitimation process exercised by executives in the systems of checks and balances. These three steps will demonstrate the conditions we have identified under which collective actors exercise democratic accountability, the chains of accountability, and the actual process of account giving. By examining these outcomes in three different cases, we will trace the common trigger(s) in the transformation of sovereignty, the key challenges to the EU indirect legitimation, and the role of the representative democracies and EU in this mutual re-enforcement of the accountable use of power.'

5.1. The Democratisation and Europeanisation Processes from a Historical Perspective: Slovenia, Croatia, and North Macedonia

In the post-1989 period of the nation-state building process and the fall of Yugoslavia:[122]

Slovenia, Croatia, North Macedonia, Serbia, Montenegro, and Bosnia, the EU membership was seen as an opportunity for a safe transition to liberal democratic regimes, accepting new pluralistic values and identities, and the sharing of sovereignties under the EU coordination of laws, policies, and marker management. The fallen or the newly erected states embraced this opportunity by adopting association and negotiation agreements with

---

[122] Yugoslavia constituted republics with separate units within a federal state whose presidency comprised representatives from all six republics, as well as two autonomous regions (Vojvodina and Kosovo) within Serbia. The different regions had different pasts – Slovenia and Croatia in the north were primarily Catholic, Bosnia dominant Muslim, while Macedonia, Montenegro, and Serbia, predominantly Orthodox. In Judt, Tony. 2010.

the EU, hoping that the EU enlargement would have the same and equal capacities to absorb these post-communist regimes into the new model of political and economic functioning. In order to do so, it applied the Copenhagen criteria as an indicator of the countries' progress in demonstrating the capacity to cope with the competitive market of the EU and safeguard democratic values and principles. These processes are seen as one, however, they were quite complicated and required a complex political, social and institutional approach so that it would not threaten the fragile sovereignty of the states while they were still dealing with state-building capacities, or undermine their legitimacy, for the purpose of regime change to neoliberal democracies. Moreover, some of these states were also dealing with a period of stabilisation of post-ethnic wars that took place with great intensity in Bosnia, Croatia, Kosovo, and Serbia, and border and arm confrontations between Slovenia and Croatia.[123]. This was followed by inter-ethnic confrontations in North Macedonia in the period from 1991 until the end of the 2000s, which were mitigated by the American engagement on the ground. This historical background was different from that of the Central European states in the post-1989 period and required different types of conflict-mitigation arrangements.

In 1991, Slovenia decided to declare independence, followed by the 'premature' recognition of independence, first of Slovenia (December 1991) then Croatia (January 1992), by the German Foreign Minister Hans-Dietrich Gensher. (Cited in Judt, Tony, 2010). The post-Yugoslavian countries also differed in their federal socio-economic model, which dominated in the period under the leadership of Tito. In this period, the strong need for national self-identification and protection of the state-territorial integrity and state sovereignty was the key driver for the elite's post-communist governments, happening at the same time as when they entered into normative commitments with the EU, to democratise their societies. As Pero Maldini and Davor Paukovic identified, this prerequisite brought into question the case of Croatia, where the dissolution from a communist regime, the length of the war, the recovery, and the transformation to a competitive social market economy shaped the process of democratisation (Maldini, Paukovic, 2015: p. 20). These

---

[123] The state independence of Slovenia triggered civil and ethnic wars in the regions, followed by the official fall of the Yugoslav federation in 1993, the inter-ethnic war in Bosnia (1992-5), ethnic separatism in Kosovo, and Serbia

preconditions had a crucial role in the process of domestic transformation and the commitment to reforms for the successful implementation of the EU policies for democracy promotion (ibid.), including the commitments for implementing anti-corruption policy reforms.

Despite these commitments, the process of democratic consolidation has been left somewhat incomplete even after the accessions, both in the case of Slovenia and Croatia. To elaborate on the common challenges, we will first elaborate on the scope under which the key changes were introduced to the political systems, the economic regimes, and the societal changes in all three countries, aiming for internal and external democratic embeddedness.

a) *Political party transformations*. As part of Federal Yugoslavia, the countries were run by dominant political party leaders, i.e., presidents of the states. Croatia[124], in 1990, introduced a semi-presidential system up to 2000, when it changed to a parliamentary system.[125] As discussed in Kulenovic and Petkovic, up to 2000, Croatia was run by the president and political party leader Franjo Tuđman, who marked the centralised political party leaderships and used his presidential power to pass decrees through which he circumvented the legislative and judicial branches (Cited in Kulenovic, Petkovic, 2016: 112). Similar findings were, again confirmed by semi-structured interviews:

> 'During this semi-presidential system, especially in the post-1992 period, the Croatian parliament was marginalised, and the president Franjo Tudjman was the dominant figure, with full control over the parliamentary majority, Tudjam held his powers through his position as president, but also as political party leader. Since 2000, the parliaments have been in a sub-ordinated position, submitted to the government. They are a sort of voting machine of

---

[124] Croatia established relations with the EU in 1992 when most member-states recognised Croatia as an independent state. The intensification of those relations started with negotiations about the Stabilisation and Association Agreement in 2000, which Croatia had signed by the end of 2001, and which entered into force in early 2005 after its ratification by the parliaments of EU member states.

[125] Enes Kulenovic and Kresimir Petkovic have divided the formation of political power in Croatia into 20 years of Croatian statehood, including four periods: 1) The Tuđman era (1990-2000); 2) Račan's coalition (2000-2003), 3) Sanader's reign (2003-2009) and, finally, 4) The Kosor era (2009-2011). See further discussion Kulenovic, Petkovic, 2016. *The Croatian Princes: Power, Politics, and Vision (1990-2011)*

> the ruling party or ruling coalition and the party leader, controls the nomination process and the candidate process, i.e., upon elections.'[126]

The 2000 elections in Croatia, led by the Coalition of Račan as the new prime minister, enacted constitutional changes. With the new constitutional changes, the semi-presidential system was abolished, the presidential powers reduced, almost erasing the traces of the president's constitutional responsibility, but increasing the powers of the prime minister, who was also the president of the political party with the dominant majority in parliament. As one of the interviewers noted:

> With these constitutional changes, the internal party democracy was expected to be regulated, as Article 6 regulates the actions of political parties as democratically organised bodies. However, we did not apply that to any law that would demand political parties to be democratically organised. So, practically our political parties are entirely autonomous in how they will build up the political party. This also regulated the type of internal party democracy. There are some steps nominally speaking in recent years, but internal democracy is always a very tricky thing.[127]

The finding on the lack of internal party democracy is also relevant in the cases of Slovenia and North Macedonia. The general conclusion drawn from the interviews is that no incentives were introduced for the internal transformation of the political parties after the post-communist period, and their integration into the political systems was partial and focused only on the electoral aspect, but not on the identification of the specifics of the organisational hierarchy. Moreover, even though the political party system was transformed at the beginning of the 2000s, more than a decade has passed for the political party finances to be regulated by law.

Slovenia officially started negotiation talks with the EU in 2000, and by 2004, it had become the first EU Member State from the former Yugoslav block of states. Croatia filed a request for membership in the EU in early 2003, received a positive opinion from the European Commission, and in

---

[126] Interview with a Teaching Assistant in Political Sciences at Catholic University in Zagreb, Croatia, May 2018.

[127] Interview with an expert in the political, party, and electoral system in Croatia, and associate professor in Political Science, University of Zagreb; Conducted in May 2019.

the same year, based on the recommendations by the European Council, gained candidate status and the right to use the pre-accession funds of the EU.[128] Croatia had officially started negotiations with the EU in 2005, and, it had adopted and closed all 35 chapters by mid-2011 when the negotiations were finished. In 2011, Croatia adopted the legislation on party finances, when 'meticulous regulation on political finances and financing of the campaigns was finally enacted, providing for detailed provision on supervision and sanctions in case of financial fraud'. (Cited in Kulenovic, Petkovic, 2016: p.118-119). In late 2011, Croatia signed the Accession Treaty, after which a referendum was held in Croatia in 2012. Upon the Treaty's ratification by the national parliaments of the EU member states, Croatia became a full EU member-state on July 1, 2013.

Slovenia's first experience with a democratic parliament goes back to 1990 when a tricameral assembly - an inherited socialist institutional arrangement – was democratically elected as a representative body. (Pegan, Krašovec, 2021: 1-7)0. This parliamentary system was regulated by the newly adopted Slovenian Constitution, and since then, the Slovenian parliament has had two chambers. The lower directly elected chamber - *the National Assembly (Državni zbor)* – is a 90 seat chamber representing citizens. The indirectly elected upper chamber –*National Council (Državni svet)* – is a 40 seat chamber representing local interests and socio-economic interest groups. The Assembly, elected through universal suffrage, occupies a major role in the Slovenian political system, while the National Council takes a relatively weak role with the possibility of issuing a suspensive veto, which the Assembly can override with the majority of all MPs.[129]

---

[128] ISPA, PHARE and SAPARD programs. These accession funds were accessible for Macedonia and Slovenia as well.

[129] The National Assembly is elected by a proportional electoral system. The electoral system has been criticised for years now, with only small changes being implemented. Several electoral reform ideas have circulated, such as the abolishment and resizing of the 88 electoral districts, the introduction of the preferential vote in the 11 electoral units, the introduction of a mixed electoral system, or a two-round majoritarian system. However, none of these ideas have so far come to fruition. As in other parliamentary systems, the upper house can delay legislation via a suspensive veto, which has been used in 73 instances with five successes between 2007 and 2019. The Council also has the right of legislative initiative insofar as it can submit to the National Assembly a proposal to pass or amend laws. Between 2007 and 2019, the Council made 35 legislative initiatives, but only seven were adopted in the Assembly. Unusually for

In the early years, Slovenia established a reputation of being a stable post-communist democracy. However, over the years, the party system has been characterised by party fragmentation, a high number of political parties elected into parliament, and frequent change of the governments with an average duration of fewer than two years, causing increased electoral volatility and instability in constitutional changes.[130] The 2004 elections represented the lowest point in terms of electoral volatility, perceived by a lack of accountability and historical distrust toward parties and weak roots of political parties in society. (BTI Report 2018, Slovenia). The key problem of detachment between the citizens and their society, which increased in time, was a further excellent opportunity for abuses of power during the stages of privatisation, followed by corruption scandals. The risks of corruption remained in all three phases of privatisation, from the first stage of the dismantling of the trade unions to a stage where the workers could hardly organise themselves as an important group even in the first step of privatisation.[131]

> This re-organisation of wealth, already in the first step of privatisation, was also somehow connected to the risk of corruption because due to a lack of knowledge, and their advantages over workers, exploiting this opportunity. Therefore, I would say there was already definitely a risk of corruption in the first step of privatisation. As was also in the second step, which started in 2004 or 2005 when the central left Slovenian Democratic Party took power. This political party somehow introduced this economic cleavage in the Slovenian party system to a more significant extent at the time. Earlier, all political parties called for some social liberal economy. However, in the second step of privatisation, there was also a clear idea from Prime Minister Janez

---

a parliamentary system, the Slovenian lower chamber elects both the prime minister (PM; head of government) and the government's ministers. Over the years, the asymmetry between the two chambers has deepened, and so far, no serious discussion on reforming the National Council has taken place. See discussion in Pegan, Krasovec. 2021.

[130] The People's Party (Slovenska ljudska stranka or SLS), the party with the longest political tradition, has been an important player in the early years of independence, forming coalitions with centre -left and centre-right parties.

[131] E-Interview with an expert in political and party systems in Slovenia & Professor in Political Science at the University of Ljubljana, Slovenia, conducted in March 2019.

Janša, who wanted to introduce an economic elite that would be closer to the economic right and not to economic left-oriented people. Therefore, there were other opportunities for some corruption to be investigated.

(Interview with expert and professor in political science, Ljubljana).

That said, the dominant centre-right party, the Slovenian Democratic Party (SPD), has remained under the leadership of Janez Jansa, with interruptions during the so-called Patria affair.[132] As identified in the BTI Reports on Slovenia, 'many of these developments, along with the government's inability to fight the economic crisis and increasing perceptions of systemic corruption, have caused mistrust in political institutions and Slovenia's democratic arrangement to collapse. These circumstances not only contributed to high levels of support for new parties in parliamentary elections and non-partisan candidates in local elections but also record-low voter turnout in the 2014 parliamentary elections (51%) and European Parliament (EP) elections (24%).' (BTI Report on Slovenia, 2016-2018).

The main problem, however, with political parties not being rooted in society, has remained constant since the period of Slovenia' s independence.[133] As one of the interviewers has pointed out:

In the majority of Slovenian political parties. for sure, there is some internal democracy, but the question is if, in fact, this internal democracy exists. The new political parties which have emerged in

---

[132] The Bertelsmann Transformation Index (BTI): In 2013, the Ljubljana District Court sentenced Janša to two years in prison for soliciting commissions from a Finnish firm during his first term (2004-2008), but the Constitutional Court repealed the case in April 2015 and ordered a retrial. In September 2015, a new judge declared a "lapse of time," meaning the case will never be retried. Some important developments also affected media structure during this time. First, in 2015, a new media house, Nova 24TV was, established with the support of the SDS. Second, the financial management company FMR, owner of the Slovenian transnational industrial company Kolektor, bought the largest daily newspaper, the Delo. (Cited in BTI Index Report, 2016-2018, see further. Available at: https://www.bti-project.org/en/home.html?&cb=00000

[133] In local elections across 212 municipalities in 2014, 115 non-partisan mayors were elected, and non-partisan lists won nearly 30% of the votes in municipal councils, evidence that the parties were not socially well-rooted (in BTI, 2018).

large numbers lack internal structures, and serve the benefits of the few, and also do not survive longer periods."

(Interview with expert and professor in Political Science, University of Ljubljana).

The same patterns of detachment between the electorates and their party leaderships and the general disconnection between the citizens and their societies are quite evident in the case of North Macedonia. This country also gained its independence in 1991 after the fall of Yugoslavia, and this has been followed by some variances in the external circumstances that have affected its state-building process under the process of Europeanisation and democratisation. Its long-term name dispute with Greece over more than three decades, which ended in 2019 with the Constitutional name change into the Republic of North Macedonia, was the biggest obstacle on its path of becoming a full EU Member State in the same group of enlargement with Croatia. The internal aspects had also affected the specifics of the party transformation and the normative framework of the political system in this regard. After the dissolution of Yugoslavia, North Macedonia adopted inter-ethnic peace settlements as the basis for their internal stability and constitutional order (Ordanovski, Matovski, 2007: 54). The adoption of the Ohrid Framework Agreement in 2001, after the ethnic conflict, introduced a new complexity to the accommodation of a unitary state, arising from the dynamics of ethnic party politics in Macedonia. 'With the entry of the Democratic Union for Integration/DUI, Macedonia's political scene has decidedly evolved towards a competitive ethnic two-party system, an order which is considered less stable than most other options. With this system, two parties in each ethnic community have equal chances of winning the majority of votes from their related ethnic groups'. (Cited in Ordanoski Matovski, 2007: 54-55). The governmental coalitions and the party competitions are built on these inter-ethnic pillars and are also affecting the scope under which party politics is exercised, quite specifically in the case of North Macedonia.

These complex processes of the party and political transformation run in parallel with the process of privatisation and changes in private ownership. In all three countries, privatisation runs in mainly three phases, with different dynamics and specifics affected by external factors: the phase of EU enlargement, the EU membership status, and mainly the

exposure to EU crisis, particularly the EU financial crisis. The privatisation process and the transition to a liberal market economy model were also precise in these countries due to the particular past system of collective social ownership where the managerial rights of firms, companies, and factories in the Yugoslav republics were owned by the workers employed in these businesses. Once the rules on the deregulation of the markets were introduced at the end of the 1990s, the political elites saw an opportunity to introduce a new distribution model on ownership, which highly reduced the worker's rights of ownership at the expense of the political elites, mainly the core leadership of the former communist parties. The distribution model, as elaborated in the work of Kulenovic and Petkovic, was organised into three categories: a) workers were offered the possibility of buying stocks from companies where they were employed, b) private investors were bidding for the ownership of companies, and c) some ownership remained in state possession.[134] 'Only a very small part of the ownership of these companies ended up in the hands of the workers, with a much larger part ending up in the hands of private investors with political connection to the ruling party. Though, the largest part remained in the hands of the state, i.e., under the control of the political elite in power.' (Cited in Kulenovic; Petkovic, 2016: p. 122).

The privatisation process of the public-owned companies and enterprises continued during the periods of the EU accession and the rise of the direct foreign direct investments (FDI), creating opportunities for trading with EU states, the US, and others (i.e., China). At the same time, the public sectors continued to expand in the absence of national or state strategies for dynamic structural reforms. This type of macro-economic management of public goods, mainly as envisioned by the political party elites, has brought short-term results regarding the level of employment. For example, before the financial crisis in 2008, Croatia's unemployment fell from 14.2% in 2003 to 8.2% in 2008 (IMF, 2011). On the other hand, traditionally, North Macedonia has struggled with youth and long-term employment (CSF, 2019) since the periods of transition to liberal market economies.

---

[134] These categories elaborated in the work of Pulenovic and Petkovic, 2016, are applicable to all three case studies, as the distribution models were very similar, with some variances in the time of privatisation.

At the same time, the EU elites continued to push for the next stages of privatisation, as some of the EU progress also reported (in the case of Croatia, 2005-2009; the European Commission, 2005: 35), objections that the process of privatisation was too slow, partially due to a "large number of lawsuits against the Croatian Privatisation Fund.". The 2005-2009 progress reports (EC, 2005: 35) from the Commission's point of view, the slowing down of the privatisation process in Croatia was a sign of inadequate preparation for the EU common market, with a lack of governmental control. In the case of Slovenia, the same type of pressure was also applied, especially during the stages of the privatisation of the largest bank in Slovenia, 'Ljubljanska Banka.'[135] Before the financial crisis in 2008, where Slovenia was also greatly affected, all parliamentary parties had until 2004 advocated similar social-democratic and socio-economic policies for the preservation of the welfare state (BTI, 2017). This situation changed because of the 2004 election, followed by the financial crisis in Slovenia in 2009, when the cleavage between socio-democratic and neo-liberal economic policies became more prominent, and most Slovene parties moved towards economic rights. Because of the crisis, in 2013, on approval of the EC, the Slovenian government was forced to take a 2.8 billion euro high-interest credit to raise the banks' capital on the condition that the banks would be privatised later.[136]

Evidence of these occurrences also took place in North Macedonia, almost in the same period as in Croatia, as both countries opened the accession process with the EU at the same time in 2003. In North Macedonia, the process of privatisation of the largest state enterprises happened in the

---

[135] In 2016, Nova Kreditna Banka (MKBM) bank was sold to the Apollo Fund for a mere 250 million euros, although the government had previously poured 870 million euros in to raise its capital. The shares of all small shareholders had been revoked, and the biggest Slovenian bank NLB also finally went on sale. The country had already just invested 1.5 billion euros into it. 60% of the bank had been sold earlier for about 600 million euros. Available at: https://diem25.org/fraud-and-corruption-in-slovenia/ Accessed: 22.11.2020.

136 At the same time, the EC changed the "bail-out" rules in August 2013 to "bail-in", which dispossessed all subordinated holders of bank bonds. Whereas earlier, the German, French, Irish, Italian, and other governments were allowed to bail out their banks by flooding them with enormous amounts of money, the Slovenian government was required to sell its shares in the banks. Simultaneously, the banks' business operations were strictly limited until they were sold. Available at: https://diem25.org/fraud-and-corruption-in-slovenia/

same vein, such as 'OCTA Ad[137]', 'ELEM[138]'., including the privatisation of the largest banks in the former federal Yugoslav republics.

The market regulation and the liberalisation of financial markets in the EU took place at the end of the 1970s, and the beginning of the 1980s, when capital controls were starting to be eliminated. In the UK, this started in 1979, in the, i.e., Thatcherism period, in Germany in 1981, in France in 1984, and Denmark from 1983-1988. The EU leading member states engaged with the same idea once the post-communist block expressed its willingness to join the EU competitive market. However, the financial market liberalisation was also associated with the beginning of the end for national sovereignty, when states adapted to the pressures of globalisation and the erosion of their capacity as economic actors.[139] That said, the key aim of the EU integration, which was to apply the macroeconomic interpretation of the logic of competitiveness and economic boost by introducing external economic rules and regulations to the nation-state, triggered a process of national political and social transformation, and parting the national governments and organised social interest, especially organised labour, i.e., trade unions. "More often than not, broader European responsibilities are identified as justifications for policy decisions in lieu of national interests and national obligations." (p.136). This approach also introduced tensions into the different types of welfare types of regimes that Eastern European countries traditionally faced, with some specifics of the former Yugoslav republics, where the role of organized labour was quite vital. In fact, in Slovenia, the trade unions had very dominant and powerful state roles, and they still managed to play an important role in the protection of citizens' interests

---

[137] OCTA, Ad Skopje was established in 1978 and is the biggest fuel company in Macedonia. In 1999, 81, 51% of the shares were sold to the Greek company Hellenic Petroleum.

[138] The biggest Electric Power Company in North Macedonia (i.e., Elecktrani na Makedonija).

[139] See discussion in Bickerton, 2012. He argues that, in fact, it was part of a concerted attempt by national executives to regain control over the national monetary supply. For this reason, liberalisation was promoted by central banks in Europe, for whom capital liberalisation represented an opportunity to discipline national governments and to entrench the new anti-inflationary agenda. The influence of central banks was felt through German and Dutch representatives, who pushed capital liberalisation onto weaker currency countries via the aegis of the EMS framework. (2012: 135).

in society, especially in comparison with the trade unions in other CEE countries.[140]

In the same period when economic policy-making, especially the monetary, fiscal, or tax policies were conducted at the European level, and little was left to the national governments, the anti-corruption policy remained in the domain of the Member States to act upon it, in the absence of clear identification of competencies or bidding rules. In fact, as we have discussed in chapter four, the EU anti-corruption remained underdeveloped, leaving space for a selective application of rules and procedures, unbinding interpretation, and an additional burden to the national parliaments to pass recommendations as part of the European Semester. This approach also shaped the EU experiences and views on the anti-corruption strategies in the CEE applicant states, especially at the end of the 1980s and the beginning of the 1990s.

With the state and governmental changes in 2000, in Slovenia, Croatia and Macedonia as well, and the brisk opening towards the EU markets, and the process of bank privatisations, the risks to high-level corruption, including financial frauds and other activities of political corruption, took place in parallel with the process of deregulations of capital controls. In the case of Croatia (in the period of Ivica Racan, followed by the term of Ivo Sanader), the State Audit Office in 2001 evaluated 1,006 cases of privatisation and detected unlawful activities and procedures in almost all of the companies (931), putting them under financial and judicial review (Grubisa, 2005: 69). Although the reports pointed to corruption networks, slow-selling, and bad price setting (European Commission report, 2007: 20), the courts failed to act on any of the findings and wrongdoings.

During the Sanader term, a few criminal investigations and judicial processes revealed that ministries and public companies were involved in price manipulation, as well as bank transfers for the private benefit of individual HDZ members.[141] These types of corruptive practices and

---

[140] E-Interview with anti-corruption expert, Ljubljana, Slovenia.

[141] Interview with political party expert and associate professor at Zagreb University, conducted in May 2019. This involved a demand from Sanader for the closest ministers to only use the services of one public enterprise for organising public events, and by the use of this scheme, private benefits were identified.

manipulation for electoral votes were also present in the case of Slovenia and North Macedonia.

In this period, in 2007 two other CEE countries, Romania and Bulgaria joined the EU, and this was the time when the European Commission considered taking a different approach towards the complex problem of corruption by introducing the "mechanism for co-operation and verification" that allowed it to monitor reforms and impose sanctions. Through the use of this mechanism, it duly withheld €220m ($320m) of EU money from Bulgaria in 2008. This approach, however, did not deliver long-term results in reducing systemic corruption, which followed a similar path as in the three case studies discussed in this research. Romania and Bulgaria also faced similar challenges in the process of privatisation, accompanied by the strategic distribution of state capital among the located members of the communist nomenklatura (Ganev, 2007: 31). As discussed in Ganev, '*the exacerbation of the corruption problem in Romania and Bulgaria even after the EU accession in 2007, is bound to the subversion of stable normative frameworks and the abandonment of state-building efforts as the most important symptoms*'. (Cited in Ganev, 2007: 39).

The linkages between the transformation of state sovereignty in the post-1989 period, and the paradox of corruption, which we have discussed in chapter four, are evident in the societies of all three cases. Croatia and North Macedonia particularly faced many challenges in consolidating their democracies while also trying to consolidate their states and build new relations with their citizens and a new culture of public accountability. The frequent Constitutional changes, under the process of Europeanisation, complemented by the three main indicators as identified in this research, have also contributed to the conditions under which the abuses of powers were, expected to be reduced, and penalised. The results of the frequent changes in laws and interventions in the state Constitutions, in the absence of public scrutiny or engagement of the citizens' vision of what type of societies they wanted to live in, produced a decline in citizens' social trust, evident in the lack of law enforcement or the increasing political volatility that came from citizens.[142] In the case of

---

[142] Eurobarometer polls demonstrate the massive loss of trust in both national governments and the EU over time. Trust in the EU dropped from a high of 57% in spring 2007 to a low of 31% in spring 2012, that continued unchanged in 2013 and spring 2014, while trust in national governments dropped from a high of 43% in spring

Slovenia, for example, the electoral turnout fell *from 85.6 in 1992 to barely 50 per cent of the electorate in 2014 and 2018*. (Slovenian State Election Commission).[143] What is more, with the absence of electoral reforms, it remains unclear how parliamentarians and established parties intended to motivate citizens to further participate in elections. As Pegan and Krasovec have also confirmed, an important challenge in reinforcing representation, law-making, and scrutiny, and increasing citizens' trust in government is strengthening parliament's democratic roles in substantive matters. (Pegan, Krašovec, 2021: 6). These periods of privatisation and political transformation were also followed by Constitutional changes with the aim of supporting the expected deliverables. The act of Constitutional change and the under-evaluated adoption of amendments under the control of the executive elites over the 'third-party majorities' are to be discussed in the next section. In this following section, the institutional oversight framework in the three case studies will also be presented.

5.2. The Parliamentary Oversight: an Act of Democratic Accountability and Legitimation

As we have discussed in chapters three and four, the trend that started in the early 1990s in Eastern Europe of developing 'governing parliaments' (Agh, 1999: 89) and continued under the process of democratisation and Europeanisation has been conducive to the conditions under which democratic accountability was expected to deliver on the embeddedness of the new democracies. As Atilla Agh also argued, one of the reasons for this was, that parliaments ultimately reflect society as it is, and Eastern Europe was marked by the depoliticisation of the pre-1989 period. (ibid.) EU accession, however, was another key factor in the reversal of this trend.

The ramifications due to the marginalisation of the national parliaments during the process of Europeanisation and democratisation, however, have much more serious consequences for representative democracies and the loop of corruptive practices, particularly on the creation of social traps, when the citizens mistrust both the institutions and each other, ending with resistance to changing the corruptive systems. The key

---

2007 to 24% in autumn 2011 and to an even lower 23% in autumn 2013. (Eurobarometer; Gallup poll, Sept. 2013).

[143] Available at: https://www.dvk-rs.si/index.php/en

weakness of the national parliaments in exercising their normative powers as critical guardians of the citizens' interest, but also as scrutinisers of the executive powers, as this research has identified, is the lack of use of oversight instruments as regulated by the state Constitutions, or the internal Rules of Procedures, in all three countries, with some variances in the institutional capacities.

During the period of the post-communist renewal, the CEE countries were caught in the discrepancy between the need to demonstrate external efficiency and internal accountability in a unique political, economic, and social context. The political leaders were engaged in managing institutional crises and producing promises for the EU by producing results in the democratisation and Europeanisation trajectories. However, they also lacked the necessary political capital to re-connect with their citizens and bring them into the learning curve of the principles and standards of democratisation. By jointly building the relations of democratic accountability, they would have rebuilt the lost institutional trust and learned to jointly adapt to new institutional and social changes.

Laure Neumayer, in her book '*The Criminalization of Communism in the European Political Space after the Cold War*' (2015), also identified the lack of equipped national capital, i.e., with authority capital related to their respective national states by the Central European representatives, when they entered the high-level political negotiations by 'putting Communism on the agenda at PACE', (Neumayer, 2015: 68)[144] '*The transition from a communist regime to a genuine democracy inevitably [involved] measures to free the institutions of the state, the society, and the economy from the grip of the former single party*'. However, 'among the laws and regulations adopted in a number of countries of Central and Eastern Europe under the general heading of measures to dismantle communism, some may have the effect

---

[144] 'These representatives, most of whom were members of conservative and liberal political groups (EPP, EDG, and ALDE), were sitting at PACE with former leaders of the deposed Socialist regimes who had, for the most part, joined the social democratic group SOC, or that of the far-left, GUE. Between 1991 and 1998, the SOC group had the majority at the assembly, closely followed by the EPP group.' The *Parliamentary Assembly of the Council of Europe* (PACE) in 2006 adopted a resolution on the 'need for international condemnation of the crimes of totalitarian communist regimes' and the 2009 resolution of the EP on 'European conscience and totalitarianism.' See discussion in Neumayer, Laure. 2015. The Criminalization of Communism in the European Political Space after the Cold War.

of undermining the citizen's fundamental rights and freedoms' (Cited in Neumayer, 2015: 68)

In the absence of authority capital for recognising the weak chains of the communist political systems, during periods of transitions, it came as a surprise how little attention the EU gave to the role of the national parliaments, their normative powers, and their human capital (parliamentary capacities). The EU's own institutional design of transformed nation-states and the degree of involvement of the national parliaments in the policy decision-making exposed its shortcomings in the acknowledgement of the role that parliaments could have and could play in exercising democratic accountability, apart from the electoral accountability as in most of the Western democratic societies. On the EU level also, decision-making under the third pillar gave too much power to the executive - ministers adopted the decisions within the Council without the involvement of national parliaments. (Szarek-Mason, 2010: 66). The Treaty of Amsterdam substantially increased the influence of the EU on national criminal law, but it remained open for the Member States to decide on the degree of national parliamentary scrutiny or control the executives, and different national parliamentary procedures resulted in delays in decision-making under the third pillar (Peers; Nilsson, 2010: 66). This goes against the principle of legality, according to which the legislative body gives democratic legitimacy to criminal law. (Szarek-Mason, 2010: 66).[145]

The second important aspect of the EU approach in policy decision-making and consequently the weak aspect towards the conditions and constraints under which abuses of power take place is their secretive way of doing politics and the lack of publicity, which are elementary for political life on a nation-level. Publicity is also crucial for the basic division between the public and private spheres that is essential to the modern state, but also for the constraints of corruption, as it underlines the moral

---

[145] As Szarek-Mason has discussed -" National executives play European legislators under complex and secretive bargaining rules, and their parliaments at home have to accept, possibly implement into national law, binding Union legislation: they are too slow, too uninformed, and often too bored to enforce government accountability for European affairs. Parliaments are also ignorant of what their governments instead do in the Council beforehand and merely watch as the governments scapegoat Brussels" for unpopular decisions afterwards. (Kiiver, 2006 in Szarek-Mason, 2010: 66).

as well as the legal distinction between the two types of action. (Beetham, 2013: p. 143).

That said, the CEE countries, as part of the EU accession and negotiation agreements with the EU, were committed to legal harmonisation with the EU law and implemented anti-corruption reforms through the means of the state institutional networks. This also meant that the nation-states were supposed to hold functional national parliaments and functional representative democracies. However, this institutional setup required effective institutional networks of checks and balances, a strong normative framework for exercising accountability– and a parliament that would deliver on both: the normative powers to apply moral compliance among citizens and parliamentary instruments to exercise horizontal and vertical accountability. That said, the actual legitimation and acts of justification through the oversight instruments available at the national parliaments are important features of the process of internal and external democratic embeddedness, providing constraints to the abuses of power, reducing the gaps for legislative corruption, and consequently increasing citizens' social and institutional trust of the political system.

As traced in the normative frameworks in all three countries, the rule of law is guaranteed by the Constitutions that apply a doctrine of separation of powers to the regulation of relations between parliament, executive, and judiciary. In all cases, the Constitution provides for parliament's role in overseeing and holding the executive to account and for the independence of the judiciary.[146] The institutional framework in Croatia, North Macedonia, and Slovenia regulates the oversight role of the national parliaments by the Constitution, the Law of the Assembly (Macedonia) and the Rules of Procedures (RoP). As a regulated system of parliamentary democracy, the powers of the executive, the legislature, and the judiciary are separated, and the executives are accountable to the Assembly. (Constitution of the Republic of Macedonia, Official Gazette No. 52/ 1992, Article 92 Constitution of the Republic of Macedonia, Official Gazette of RM, No. 52/ 1992, Article 72/ 2005, 2019).[147]

---

[146] Constitution of the Republic of Macedonia, Official Gazette No. 52/ 1992, Article 92.156 Constitution of the Republic of Macedonia, Official Gazette of RM, No. 52/ 1992, Article 72.

[147] The Assembly is comprised of 123 MPs elected for four-year mandates by a proportional representation system.

The important means for parliamentary scrutiny are Oversight (Committees) Hearings: the government's accountability to the parliament is brought into play by holding hearings in committees. The Inquiry Committees are also important setups for any domain or any matter of public interest. *See Annex 1*. The Assembly can also set up a permanent committee of inquiry for the protection of the freedoms and rights of citizens. In order to examine the actual process of account giving or legitimation, in the next section, we will discuss the findings from the limited process tracing applied in the case of North Macedonia.

5.2.1. The Case of North Macedonia

The limited process tracing applied in the case of North Macedonia showed that the committees form the basis for any initiation of proceedings to ascertain the answerability of public officials. The oversight hearings as a control mechanism in the case of the Macedonian Assembly were introduced under the Law on the Assembly in August 2009. As regulated by the Rules of Procedures, any relevant working body can initiate an oversight hearing. (RoL, Article 21: (1). The working body can also decide to hold an oversight hearing with the majority of the votes from the present members and with at least one-third of the total number of members (RoL, 2009, Article 22 (1).

Oversight hearings are held in order to obtain information and expert opinion about the creation and implementation of new policies, enforcement of laws, and other Governmental activities of the state administration bodies (IPU, 2016). During the oversight hearing, the respective working body can invite authorised representatives of Government or state administration bodies to the session and ask them to provide information and explanations regarding the subject of the oversight hearing. The working body can also ask the authorised representatives to submit the requested information, opinions, and positions in writing. During the oversight hearings, information must harmonise or clarify concrete issues and facts if necessary. Moreover, each parliamentary group is entitled to expert advice and a separate office, according to the number of Members of the Assembly in the group. (Rules of procedures, Article 22 (1)/Article 33). As regulated by Article 104 of the Rule of Procedures, minutes from parliamentary sessions shall be kept. After the oversight hearing, the working body submits a report to the

Assembly, which includes the key findings of the presentations and can propose conclusions to submit to the Government.

On the other hand, *the Inquiry Committee* is a mechanism that ensures ex-post control over the Government and other institutions that are accountable to parliament, i.e., the Assembly. An *inquiry committee* is a body, which can be established by a decision of the Assembly to undertake the function of political control in all areas and matters of public interest. At least 20 MPs can submit a proposal for the establishment of an inquiry committee. Terms of reference and composition of inquiry committees are specified by the decision of the establishment, whereby presidents of inquiry committees, as a rule are from among the MPs from the parliamentary opposition groups. Inquiry committees are formed to establish facts and situations related to controversial matters under the competence of ministries and other state authorities. An inquiry committee has the task of inspecting the documentation, analysing each separate event or case, and presenting the findings in front of the Assembly. Inquiry committees cannot have investigative and other judicial functions. However, the findings of the inquiry committees may be the basis of initiating a procedure to call public office holders to account. (Rules and Procedures of the Assembly of RM, Official Gazette of RM, No. 91/2008, 119/2010, 130/2010, 23/2013, Article 14). In 2008, the Macedonian Assembly had an established Standing Inquiry Committee for Protection of Civil Freedoms and Rights, in reference to Article 26 of the Constitution and the decision for establishing working bodies in the Macedonian Assembly from 26 June 2008. The Assembly has, however, no specialised anti-corruption commission (Constitution of RM, Official Gazette of RM, No. 52/1992)

In North Macedonia, for example, the document analysis in the Ombudsman reports from 2001 to 2016 identified several patterns of deviance in exercising power by administrative bodies. Citizens' complaints to the Ombudsman during 2001 to 2004/5 were related to labour relations, a particular problem with labour relations was stopped on the grounds of technological surplus and as a result of the privatisation process. (Ombudsman Annual Report, 2002: 4). The period after privatisation should have <u>been able to build a strong 'integrity pillar' institutional network to address citizens'</u> complaints as experienced in practice. However, as evident in the Ombudsman report in 2002, the initiatives taken to address the citizens' complaints did not deliver the

required outcomes. Namely, the Agency of the Republic of Macedonia for privatisation confirmed the allegations of unlawfulness in the procedure of transformation of the public property. The Ombudsman sent a complaint to the Public Attorney to annul the procedure of privatisation. However, the recommendation, for unclear reasons and without any argument, was not accepted. (*Ombudsman Annual Report*, 2002: 4-12). This type of lack of institutional cooperation and lack of action of the state bodies to the Ombudsman requests is evident in the following period.

The information on employment discrimination on political grounds became even more evident in the Ombudsman report in the period from 2003 to 2016. In 2003, the Ombudsman reported on a "drastic increase in the number of complaints in the field of labour which shows that the practice of so-called "party retaliation" continues after the conduct of any elections." In 2005, the Ombudsman continued with the practice of taking action against corrupt practices. As reported, the Ombudsman made a respective disclosure of three judges for unprofessional and unethical working. The Ombudsman reaction has been recognised as "the brightest event" in the fight against corruption in 2005 in the cooperation corruption barometer, in which 19 Chief in Editors of national media were included (Annual Report, 2005: 33). "*The frequent illegal and tolerantly passive attitude by the local authorised bodies and officials caused by personal interests or political influences*" continued to be reported as practice in the upcoming years. In 2007 the Ombudsman reported, "This situation creates justified revolt and dissatisfaction of citizens and their disbelief in the institutions, most of all in the higher officials in charge" (Ombudsman report 2007: 38). During appointment procedures, the problems mainly referred to appointing an employee for a position that did not follow his/her professional background (Ibid.) Once again, "typical cases referring to a violation of the right to working relations in conducting employment procedures at the state administration bodies, the unjustified reassigning, termination of the working relation, expressing dissatisfaction for calculated lower unemployment benefit, unrealised right to annual leave." were also reported in the Ombudsman Annual report, (2009: 41). According to them, on political grounds, the citizens continued to complain "on violation of the equality right during employment procedures at the municipal administration, as well as violation of rights to working relationships." (2010: 85). Moreover, the Ombudsman reported that additionally, "another worrying fact is spread in other areas where it is decided on

citizens' rights and a selective approach is evident as well as unequal treatment in approaching justice." (*Ombudsman report*, 2010: 90).

During this period, the Ombudsman continued to call for active participation of the Assembly to hold executives accountable, pushing for control over these occurrences and expressing alarm about the institutions' partisanship. (Ombudsman reports, 2004: 3-10; 2017). If such practices took place, this would have been considered a new path towards a political culture of accountability or breaking patterns of the vicious cycle of misdoings. In 2013, the Ombudsman raised concerns based on the Assembly's report and the provided conclusions. The report obliged the Government and the other institutions with public authority to comply with the parliamentary requests. Instead, it was reported that the decisions and Ombudsman's interventions remained only declarative and rare, lacking compliance and respect for the normative conditions by the relevant bodies. (Ombudsman report, 2013: 22). On this occasion, the Ombudsman reported on the non-cooperative attitudes by the Public Prosecutor's Offices, the Basic Public Prosecutor's Office for Organised Crime and Corruption (Ombudsman report 2013: 66), the Administrative Court (Ombudsman report, 2014: 65), and other institutions. The most significant number of complaints received at the Ministry of Interior occurred in 2015 when the corruptive scandal on the wire-tapping materials was revealed to the public.

From 2001 to 2008, the data analysis on the available Minutes of Meetings/ Stenographic Notes and the annual parliamentary reports identified a few patterns in the process of *actual justification.* In this period, there was some awareness among the parliamentarians on the need for institutional cooperation between the Ombudsman and the other state bodies on the findings, including the data on politicisation or discrimination in employment based on political grounds. Secondly, there was also more awareness of more effective engagement of the parliament in exercising its normative power to demand from the state bodies that they respect the requirements by the Ombudsman. During this period, the Ombudsman Annual Reports were discussed by the Commission for Political System. Occasionally, the Commission invited representatives from ZELS (representarives of local communities), academics, and experts in their respective fields (Assembly, annual report for the period 10/2002 - 11/2003: 64).

During the Ombudsman annual report from 2003, a few parliamentarians raised the issue of the biases of the impartiality by the public authorities and public servants. It was also suggested

> that there is a need of much broader elaboration of the necessary activities and behaviours that public officials should have, in line with their duties to respect and exercise human rights and freedoms in the Republic of Macedonia, rather than to adopt the report formally.
>
> (Stenographic notes, 2004: 71).

However, it was decided that "given our time is limited, and since this is a comprehensive report that touches on virtually all spheres, all areas of social life, we should make an effort to skip these topics." (Ibid.). Moreover, it was stated that "the fact that 75% of complaints are disregarded and the fact that none of the summoned officials has responded to the Ombudsman's indications, diminishes the confidence in this important institution" was concluded during the sessions (*Minutes of the meeting*, 2004: 49). However, there is no record of the follow-up of these recommended measures or conclusions.

That said, due to the repetition of these similar patterns of scrutiny, the analysis has found that the discussions on the Ombudsman reports lacked consistency and quality in the performance of actual justification. During the presentation of the Ombudsman Annual report in 2004, at the 97 Parliamentary Session, held on May 31, 2005, the Ombudsman called on the need for increased action by the MPs by evaluating how laws are applied, rather than by performing a technical exercise of formal adoption of the reports. During the regular plenary sessions, the Ombudsman addressed the citizens' complaints on employment based on party affiliation. These practices of facades of legitimation continued in the following period. However, the regulations under the Rules of Procedures that would improve the time-frameworks, or the rules that can introduce quality to the debate, did not change. Some of the MPs recognised the negative long-term impact of such practices on the forthcoming youth "brain-drain". (51 regular Plenary Session, April 102009). These discussions were followed by another formal adoption of the annual report.

The lack of normative compliance of the state bodies to the Ombudsman complaints and initiatives to the Agency for public administration reacted

to remained constant. Nevertheless, the formality of the public discussions continued in the following years, with limited use of the oversight means. Although the *Standing Inquiry Committee for Protection of Civil Freedoms and Rights* was established in 2008 with a duty to exercise quality discussion on the Ombudsman findings and support the capacities of exercising oversight in the protection of human rights and freedom, in the following period from 2014 and 2015, it remained completely silent. From May 10 until December 31, 2014, January 1 to March 5, 2014, and from January 1, 2015 to December 31, 2015, the Standing Inquiry Committee for the Protection of Civil Freedoms and Rights did not hold any sessions. (Annual Report, 2014: 87, 2015, 2016).

Much of the institutional theory critique on social traps is evident in the Ombudsman reports for the period of 2013-2016 as well, before and after the peak of the political crisis in 2015. That said, the indicators of corruptive practices in the form of the politicisation of public administration and the unequal access to justice, i.e., biases of the principle of impartiality, have continued to be raised in the Ombudsman annual reports (Ombudsman annual report, 2014: 72). During this period, the analysis of the EU Progress countries' progress report showed that the European Commission identified a lack of a significant effort to ensure transparency, professionalism, and independence of the public administration, in particular concerning the principles of merit-based employment that were not subject to political influence, together with the principle of equitable representation. (EU Progress Reports, 2003-2014). However, there is also a lack of sufficient acknowledgement of the normative and legal need for compliance among the Ombudsman, the National Assembly, and the other regulatory and independent bodies concerning strengthening the rule of law by using the technical language of reporting.

On 9 February 2015, a wire-tapping scandal was revealed. The main opposition party accused the government of having been involved in widespread illegal surveillance of the private communications of political actors and state officials. (European Commission, 2015: 6–7). With the introduction of the *Urgent priority reforms* and the, i.e., Priebe report based on *the rule of law experts' fact-finding mission* in the country in 2015 and 2017, the EU called on the institutions to ensure legal sanctioning of non-compliance with the requirements and recommendations of independent bodies. On this occasion, the EU took an emergency crisis approach. On

the initiative of the European Commission, i.e., *Priebe reports* were prepared, indicating the key risks to corruption, giving recommendations on the urgent priority reforms, emphasising to some extent the role of the national parliament and the regulatory bodies in healing the deep democratic crisis in the country. The main difference, in this case, was the bolder approach the EU took in their relations with the executive elites and moved from the technical language of reporting that took place during many years of the EU accession process. This approach, however, delivered only partial and ad-hoc results, failing to address the critical gaps of the representative democracy in this country.

5.2.2. Comparative Perspectives

A similar EU approach and patterns in the technical use of the oversight instruments were found in the other two case studies. As traced in the normative oversight frameworks, in all three national parliaments, the MPs could use parliamentary debates, set up parliamentary questions, initiate interpellations, and executive accountability over any subject of public interest. In all cases, parliamentary oversight was available for exercise through parliamentary committees, working bodies, or inquiry committees. *See Annex 1.*

In the case of Slovenia, however, oversight instruments were wider in scope and with more opportunities, regulated under the Rules of Procedures, suggesting higher autonomy and effectiveness of the Slovenian parliament to deliver on the exercise of public scrutiny and holding the executives to account, compared to Croatia and North Macedonia. Thus, for example, The National Assembly in Slovenia could 'order inquiries on matters of public importance, and it must do so when required by a third of the deputies or when required by the National Council. For this purpose, it appoints a Commission that has powers comparable to those of judicial authorities in matters of investigation and examination.' (*Article 93 of the Constitution).*

The relation between the parliament and the other regulatory bodies - the State Audit Office or the Ombudsman Office - is also regulated by the Slovenian parliament's Rules of Procedures, compared to the other two countries. 'The Ombudsman may investigate cases of illegal or irregular activities by state bodies. He or she may invoke fairness and good management principles and propose the initiation of disciplinary proceedings against officials. The Ombudsman has the authority to

submit a request to assess the constitutionality and legality of regulations and general acts issued for the implementation of public authority. With the consent of the person affected, he or she may submit a constitutional appeal against a claimed violation of a human right or basic freedom through an individual act by a state or similar body. The Ombudsman may submit to the National Assembly and the Government petitions to change laws and other regulations. He or she may also submit proposals to any state or other body falling within his or her jurisdiction for them to improve their methods of work and treatment of clients. The Ombudsman reports on his or her work to the National Assembly in regular annual or special reports. In performing his or her function, the Ombudsman must act according to the provisions of the Constitution and international legal acts on human rights and fundamental freedoms. While intervening, he or she may invoke the principles of equity and good administration ' (Article 3 of the Human Rights Ombudsman Act).[148]

The Rule of Procedures allows for regulating a quality debate in terms of time-framework and detailed descriptions of competencies of the MPs in the working bodies. Another available mechanism is the oversight hearings that MPs and working bodies can initiate to obtain information and ask the ministers to submit reports on law enforcement or other particulars at their disposal. The oversight hearings in the case of Croatia are regulated *under Article 91, paragraph 1 of the Constitution*. In the case of Macedonia, these controlling mechanisms were introduced only in August 2009 under the *Law on the Assembly*. In Slovenia, the hearings over the work of Government and individual ministers were regulated under Article 110 of the Constitution. Under the Rules of Procedures, a working body in the Slovenian parliament 'may organise public hearings to gather information and invite experts and other persons who might provide useful information. The calling of a public hearing and issues on which information needs to be gathered is announced in the media.'

Furthermore, the working body may ask the persons invited to the public hearing to deliver their opinions in writing. (*Article 46 of the Rules of Procedure*). See Annex: *table 2: Parliamentary Oversight Instruments in North Macedonia, Slovenia, and Croatia.*

---

[148] Inter-Parliamentary Union, Slovenia, Drzavni Zbor (National Assembly). Available at: http://archive.ipu.org/parline-e/reports/CtrlParlementaire/2287_F.htm

During an oversight hearing, MPs can evaluate Governmental actions of state administration bodies, evaluate legislations, invite external experts, conduct quality checks of delivery of action plans, and adopted strategies from central or local institutions. The parliamentarians interviewed for this research have agreed that the oversight hearings are a beneficial mechanism for detecting, preventing, and reporting on corrupt practices and deviations of norms. [149]

In the case of Croatia, compared to the case of North Macedonia and Slovenia, a specific National Committee for Anti-Corruption Policy has been established since 2007 as an integral part of the national parliament (*Sabor*). As one of the members has discussed,

> this Committee is an excellent opportunity to fight against corruption in Croatia. The plenary sessions are thematic, for example, a session about public procurement as we think this is one of the biggest problems in Croatia. We also had a good thematic session about corruption at local levels. It is a young committee; ten years is not so long; we are still learning how to monitor these processes…but I think we have changed people's perception of corruption. I think people ten years ago allowed more corruption than now." [150]

Although this Committee has not used its full potential, this type of parliamentary oversight body has a vital role in exercising horizontal accountability. What's more, when exercised, these instruments could address the problems of social traps and provide for the quality of legitimation as a process of actual justification. However, although these are essential powers for democratic accountability, their use in practice is somewhat technical and, in this regard, similar, especially in North Macedonia and Croatia. In Slovenia, these available oversight instruments are used to investigate abuses of power, such as alleged money laundering during bank privatisation of suspected illegal financing of electoral

---

[149] Semi-structured interviews conducted with MPs at the Macedonian Parliament (Narodno Sobranie na Republika Severna Makedonija) April-May 2018 and semi-structured interviews conducted with MPs at the Croatian Parliament (Narodni Sabor), May 2019.

[150] Interview with MP in four mandates and as a member of the National Council for Anti-corruption policy, conducted in Zagreb, May2019;

campaigns.[151] There is a commission for investigating abuses of power in the case of bank privatisations, and other similar cases.

In this regard, almost all of the interviewees agreed that actual account giving is an important feature to increase citizens' control and public awareness, but also an important instrument for changing the political culture of accountability in the society.[152]

An actual process of legitimation based on quality cooperation and respect for procedures can conceivably improve control over social traps and abuses of power, allowing for a restoration of citizens' belief in the political systems. (Rothstein, 2008: 145). Therefore, an exercise of democratic accountability requires an informed citizenry 'that knows what powerful agents are doing and have access to evidence and reasons behind their behaviour' ' (Cited in Olsen, 2014: 111-114). However, electoral accountability is not enough to understand the progress of embedding democracies since the quality of democracy also requires accountability between elections (Merkel, 2004: 35). Therefore, an actual legitimation process requires zooming in on the exercise of horizontal and vertical accountability. It requires a closer look at the actual process of justification taking place between elections as exercised by citizens' elected representatives.

That said, the citizens' ability to exercise their sovereignty rights and take ownership over their laws is also a reflection of their rights to control who represents their interest in representative democracies. The absence of control over their sovereignty rights, in the absence of an unaccountable use of power, is the failure of the state to use all available accountability instruments beyond the electoral accountability and the predictability of the executives' behaviour.

---

[151] Commission of Inquiry for investigating the alleged money laundering in Nova Kreditna banka Maribor, d. d., the suspected illegal financing of the Slovenian Democratic Party, and the suspected illegal financing of the election campaign for the early elections to the National Assembly in 2018.

[152] Interviews with experts, former and current practitioners: deputy State Ombudsman, former Commissioner for access to public information; former and current members of the National Committee for anti-corruption policy and parliamentarians in the National Assembly and Narodni Sabor (C#5; 6; 7; 8; M#6; 8; 9; 10; 12; 14)

The orientation towards an electoral type of accountability in Eastern and Western democracies rather than the other types, horizontal or vertical, is to some degree also a product of the specific merge of the American approach towards democratisation towards new Eastern democracies in post-1989 Europe and the elite and executive focused project of the European Union. ,'The elements of the parliamentary democracy arriving from the American perspective is different from the Continental or the British model of exercising checks and balances.'[153] A strong parliamentary majority would require strong opposition engaged in committees with oversight responsibilities. However, as identified in the data drawn from the interviews, in all three countries, especially North Macedonia and Croatia, the opposition is traditionally weak in the national parliaments, and this sub-ordinated position vis-a-vis a parliamentary majority, ruled by the party leaders or closest elites, creates conditions under which, the legitimation and justifications processes are used in a very hollowed and formalistic manner, even when there is an initiative or incentive for using the available oversight instruments.

This dominance of the executives over the parliamentary majority is indeed inherited traditionally from the past communist and socialist regimes, but the specifics of the process of Europeanisation and democratisation have enforced, rather than reduced the gaps in representative democracies, which has enabled opportunities for grabbing more power, in an advanced manner. Legislative and legal corruption are sophisticated forms of avoiding consequences or legal punishments for abuses of public power. However, the abuse of public power, for lobby groups, elites, or third party business interest, through the means of parliamentary democracies, and bypassing laws via the parliamentary majorities, is also a firm impairment of the principle of state sovereignty, and this is when the never-ending loop of paradoxes are being created in contemporary democracies.

The other aspect of the formalistic use of the parliamentary oversight instruments is the lack of understanding of it as a contribution to the creation of an accountability culture in societies, where the formal and informal aspects of corruption should start to subtend and allow for rooting out citizens' disengagement from corrupt systems. This, however,

---

[153] E-Interview with expert and analyst on Western Balkans and EU policies. Co-founder of Berlin-based think tank. Conducted in May 2020.

requires a gradual acclivity of social trust among their citizens, which was very much eroded in the time of the communist regimes. In this regard, the political parties have played and still play a decisive role as intermediaries between citizens and their societies, but also as endorsers of the mutual trust among citizens, starting from their local constituencies, through their electorates, and gradually building more complex forms of institutional and social trust for collective purposes.

As this research has found, the national parliaments and their elected representatives in all three countries have regulated normative frameworks to scrutinise the independent regulators such as state auditors, state ombudspersons, and anti-corruption institutions based on their submitted reports on a (semi) and annual basis. These reports usually revealed various administrative malpractices, unequal social distribution, transfer of rights, or financial irregularities evident in the central and local budgets, including irregularities in the political party's financing. As one of the interviewers in North Macedonia discussed:

> The State Audit Office is one of the rare examples of an institution that, throughout the years, has always done a good job and has continuously published good information on financial irregularities. However, their reports are rarely or almost never used. The assembly has not been using the State Audit Office reports on a systematic basis. They are looking at the annual report because they have to, but there are sixty to seventy reports per year produced that nobody is looking at.[154]

In the case of Croatia, the capacities of the State Audit Office were also under-acknowledged, although, in 2007, one of the major corruptive scandals linked to the former prime minister Ivo Sanader was identified in the regular reports of the Audit Office, which was also reporting on the political party finances, including the financial management of public firms, and state-owned firms.[155] ,'They have a huge area under their control and every year this chief of the State Audit Office reports to the Croatian parliament, and you can find all kinds of irregularities done by

---

[154] Interview with political party expert and analyst in Westminster Foundation, Skopje, April 2018.

[155] Based on data on the use of one specific company for public events, the media started the tracing and financial manipulation for the benefit of the few as perceived by the expert.

state firms, ministries, political parties as well'.[156] Once the report is submitted, the parliament or the oversight committee should form an opinion and a report, and based on this report, the courts can act accordingly. We have the impression that there is no response to that (ibid.)

The use of these reports as instruments for the control of corruption and corruptive practices were also confirmed by other experts and analysts in all three countries.

> The main instrument of control is the annual report. The reports certainly, refer to illegality, maladministration, or misconduct. I think the reports are very important since it is the only time for the MPs to get a picture of what is going on in the government. [157] However, their reports are rarely or almost never used. The assembly has not been using the State Audit Office reports on a systematic basis. They´re looking at the annual report because they have to, but there are sixty to seventy reports per year produced that nobody is looking at.[158]

In the views of the experts, "this contributed to the backsliding in the implementation of anti-corruption reforms, especially where a country hedged on requests to provide track records of its achievements. The reports of independent regulators can be formally adopted every year only for their contribution to legitimation to be frustrated by technical formalities and little follow-up." In addition to this, another report discussed that in the case of Macedonia, the Assembly had debated the annual reports of the State Commission for the Prevention of Corruption only on one occasion during a period of twelve years. (National Integrity System, 2016: 65).

The EU approach towards the hollowed ways of performing democratic accountability also merged with the preconditions in the CEE new democracies, and what is more, the EU approach in the integration

---

[156] Interview with political party expert and assistant professor in Political Science at the University of Zagreb, Croatia, conducted in April 2019.

[157] Interview with former Commissioner for access to public information. Conducted in Zagreb, April 2019.

[158] Interview with an expert in the parliaments and democratisation (M#10).

process precipitated this separation between citizens' visions of their societies and the EU elites goals for the EU project.

The post-1989 period and the process of the EU enlargement was an excellent opportunity for the EU to support the consolidation of the new democracies and the newly independent states from the former Yugoslavia, to take the lead in the rule of law and become embedded in the core roots of the state sovereignty of these states, during the process of adaptation both to the EU pooled sovereignty, principles, and values, but also to the neo-liberal market regimes. The democratisation processes in CEE, and the state-building process in post-Yugoslavian countries, ran with the dominant support of American aid. The US support for these societies, especially in the post-1990s period mainly focused on economic restructuring, trade-investment, and business development, rather than democracy building and strengthening civil society (Miller et al., 2002). US democracy promotion came with a template for system building, namely the transition building designed for Latin American post-authoritarian societies. It was founded on the core assumptions that dictatorships inevitably moved towards multiparty democracy in three stages (opening, breakthrough, and consolidation) by way of free elections regardless of underlying local conditions – and by modifying existing institutions rather than through the creation of an altogether new polity (Mark et al., 2019: 117). Critics on the left labelled this blueprint a 'low-intensity democracy' that relied on former elites and technocrats rather than popular participation for them, and it was deliberately designed with the aim of marginalising other visions during the transition from dictatorship. (Mark et al. 2019: 117). However, in the period of 2005/6, the United States shifted to being more of a supportive element to the EU leads in the region, and there was the opportunity to build a strategy to go along with people's optimism when the EU, the United States and a number of states within the EU could show their common strengths, as part of the joint strategy.[159]

The EU approach was indeed essential for states which deprived their own national strategies of long-term and short-term goals and visions, besides the strong dedication to the 'Euro-Atlantic integration', in the absence of real discussion, public debate, and citizens' engagement as to what kind of societies they wanted to live in, who should represent their

---

[159] E-Interview with an expert and analyst on Western Balkans and EU policies. Co-founder of Berlin-based think tank. Conducted in May 2020;

interests, or how they should hold accountable the politicians in charge of designing the societies where they exercised their sovereign rights.

In fact, in the interviewees' views, during the process of Europeanisation, the EU did not fully understand the conditions under which parliaments were transitioning or not to their functional constitutional democracies. The EU approach in supporting the representative democracies of its member or candidate states, in meeting the standards of democratic accountability through its parliaments, remained rather technical. Typical EU monitoring report would run as follows: "civil society organisations and academia were consulted on 6 draft laws, in 14 public debates and 2 oversight hearings" (EU Progress Report, 2013: 12), without any further analysis of the conditions of the actual legitimation. As one of the interviewers described this finding: "neither the Secretariat for European Affairs nor the European institutions really followed the quality of discussions in parliament regarding different areas."[160] Furthermore, the EU did not engage in understanding the specific problems of the political systems that we are transitioning from past regimes where 'the position of the legislatures was not designed to control, as they were just not built for that,' as one of the interviewees has put it.[161] As a result, the EU most probably overestimated the capacities of post-communist states to separate powers and deliver democratic accountability or assumed that legislatures could just adopt practices of account-giving similar to those in their own institutional experience.

The consequence of this approach was threefold. First, the position of the legislative power vis-a-vis executives deteriorated rather than improved. Second, the continuing lack of actual legitimation or exercise of democratic accountability meant that legislatures had systematically adopted a role of, i.e., '*voting machines*' in service of the executives, as several interviewees in all three countries have pointed out. Third, from an institutional point of view, this weakened the normative potential of national parliaments to contribute to overcoming social traps or to start building a culture of account-giving. From the point of view of democratic

---

[160] Interview with an expert in EU affairs and former Head of Office at the Secretariat for European Affairs, conducted in Skopje, April 2018

[161] Interview with an expert in political parties and analyst at Westerminster Foundation in Skopje, conducted in April 2018.

theory, this democratic deficit impacted the legitimacy of the political systems.

Furthermore, as empirical data has suggested, the EU could have done much more to support national parliaments in the process of knowledge-sharing or in the acknowledgement of the role of legislatures on equal footing as executives. Within the transformative framework under the process of Europeanisation, parliaments have continued to improvise an exercise of democratic accountability rather than start understanding the benefits of legitimisation, such as constraining the powers of executives. "There are no parliamentary views, build-up positions or involvement of the parliaments in the national strategies for EU full membership," said one of the interviewers, "*everything is left to improvisation.*"[162]

Finally, the problems of the parliaments increased the chasm between the formal and informal institutions and enabled the MPs and the political parties to engage in the formal adoption of laws, which gradually evolved in their detachment from their citizens and societies. This has weakened the vulnerable pillars of mutual -social trust -enabling weak law enforcement and different forms of resilience. These deficits in the implementation of the anti-corruption strategies do not allow for democracies in consolidation to progress towards embedded democracies, nor for defective democracy to progress towards consolidated democracy.

The foregoing shortcomings for the process of democratic embeddedness are also a threat to the indirect legitimation of the EU and its representative democracies. The EU has efficient enough leverage to support legitimation as a democratic standard through national parliaments. However, that presupposes more attention to the actual exercise of democratic accountability. However, this type of responsibility requires a change of practices on the Union level. Almost all of the interviewees have argued that the current EU approach towards corruption in its Member States, Croatia, and Slovenia included, under the instrument of the European Semester, does not „"carry the weight" in addressing the problems, as the instrument is too weak and too formal, comprehensive and is focused on the risks of corruption to the financial deliverables, rather than the risk to the quality of democracy.

---

[162] Interview with an expert in political parties and politics, Croatia. Conducted in Zagreb, April 2019.

The shortcomings in acknowledging and developing a comprehensive EU anti-corruption strategy are too onerous to be compensated with the EU technocratic approach that has adopted and advanced it over the years, especially during periods of crisis. Examples of such a technocratic approach are evident in all three countries. For example, in the case of North Macedonia, the EU took such an approach for solving the country crisis by commissioning the, i.e., Priebe Report(s) in 2015 and 2017 respectfully, lead by *Rule of Law* experts. These report(s) supported the state's efforts to overcome a severe democracy crisis triggered by widespread corruption revealed in the media in 2015. However, on that occasion, by avoiding the usual technical language typical for the EU monitoring approach, their reports took a bottom-up evidence-based approach. In addition, they acknowledged the role of the parliaments and the role of the independent regulators in the process of account-giving as necessary conditions in separating powers and taking control over corruption.

The inconsistency in the EU approach towards anti-corruption, and the lack of justification for a comprehensive approach towards all EU Member States, undermines the legitimacy of the EU actions towards the protection of the rule of law, both in deficient and consolidated democracies of the Member States. This was not always the case, and the EU had the leverage and necessary political power to cooperate much more closely with both applicant member states (the Western Balkans) and all EU Member States, including old western democracies. As one of the interviewees in the case of North Macedonia has pointed out:

> "Back in 2004, when we were answering the (EU) questionnaires...the first glimpses of the guiding principles..especially the rule of law, it's not that much of a harder instrument, but a soft instrument. Those are standards and guiding principles which were also part of the process of its own development, and such examples of high standards need to be put in practice....concerning the parliament, they can initiate, inquiry committees, and I remember, I was pretty young, but in the 1990s it was a frequently used tool where you can exercise pressure.

> That´s a high standard, and they should be called upon if it happens during the 1990s. But, you need to maintain such a high standard."

> > (Interview with a former high executive at the Secretariat of European Affairs in Skopje, North Macedonia and current diplomat in Brussels).

These observations from the national and EU perspective once again confirmed the argument that horizontal accountability, complemented by vertical accountability, is necessary for consolidating democracy and taking control over abuses of power. The parliaments have indeed the normative power to democratise the political systems and support the building of institutional integrity networks as an important constraint to abuses of power. However, the party politics, the political parties, and the individual role of the MPs are equally essential, and the arguments behind them are summarised in the final section of this chapter.

5.3. Political Parties, Legislative Corruption, and Individual Accountability: the Sociological Aspect of Legitimation

For the larger part of their democratic history, new governments were formed following regular elections, making a convenient avenue for party leaders to focus on electoral accountability to hold positions of power and disregard all normative possibilities for the other types of accountability. The organisation of elections has become a masterful tool in the hands of party leaders to gain power over the two-third majority. They can pursue their goals and visions or advance third-party interests. The dynamics of organising elections have been quite frequent in all three cases, especially in times of crisis.[163]

---

[163] Since 2011, for example, Slovenia has organised three early elections to resolve the political deadlock. In the aftermath of the economic and financial crisis, PM Borut Pahor (Social Democrats) lost a vote of confidence in 2011. In 2014, PM Alenka Bratusek resigned following an in-party crisis. In 2018, the PM Miro Cerar resigned just before the end of the legislative term. The eighth parliamentary term has so far seen two different government coalitions, the first one headed by the newcomer Marjan Sarec, Lista Marjana Sarca) and the second by the seasoned Janez Jansa,

The lack of coherence in party politics had its own effects on parliamentary sovereignty, particularly evident in times of crisis, such as in the case of Slovenia, in the period of the EU financial crisis. The Slovenian referendum on EU austerity measures, as a result of the financial crisis that hit the Slovenian economy, revealed constitutional backsliding due to the long-term exercise of hollowed democracy. However, in the views of Matej Avbelj and Jernej Cernic, these occurrences had been hidden behind *the Potemkin village of the EU dream* long before a crisis hit the state. (Avbelj, Crnic, 2020). Although this is seen as a shared challenge among all the Eastern European states, the uniqueness of the Slovenian case is its experience of the EU financial and economic crisis, the legitimacy tensions due to the crisis, keeping in mind the constraints previously discussed.

When Slovenia held a referendum on joining the EU in March 2003, 88.6 per cent of voters, with a turnout of 60.4 per cent, expressed their support for the country's EU membership and joined the EU on 1 May 2004. (Constitution of the Republic of Slovenia, Article 3a). Since then, the Slovenian legal order, including the Constitution, has for the purpose of accession to the EU been amended four times (Art 3a; Art 47; Art 68 (twice), formally brought in compliance with EU law). "All these developments were taking place on the eve of an unexpected global financial crisis, for which Slovenia was ill-prepared, both economically and politically. (Cited in Avbelj, Crnic, 2020). Immediately at the onset of the economic crisis, in 2008, Slovenian GDP contracted by 7.8 per cent. Slovenia was thus the fifth most crisis-affected EU Member State."

During this period (1992–2008), the new parliamentary parties played an important role in mitigating the population's anti-party sentiments (Fink-Hafner, 2012). However, the 2004 elections represented the lowest point in terms of electoral volatility. Once Slovenia was hit badly by the EU economic and financial crisis, volatility began increasing again. In 2008 and 2011 (34.4% and 40.0%, respectively), it reached its highest value at 56.7% in the 2014 elections. (Fink-Hafner, Krašovec, 2013). "In 2004/2005, the central left Slovenian Democratic Party took power. This political party somehow introduced this economic cleavage in the Slovenian party system to a bigger extent. Earlier, all political parties called for some social

---

(Slovene Democratic Party; Slovenska demokratska stranka or SDS). Discussed in Pegan, Krasovec, 2021.

liberal economy. However, in the second step of privatisation, there was also a very clear idea of the Prime Minister Janez Janša, who wanted to introduce an economic elite that would be closer to the economic right and not to the economic left-oriented people". (Expert interview, February2020).[164] While party completion has gone downwards, the competencies of the MPs have weakened, and so have the capacities of the parliament.

> "The leader of the Slovenian National Party, Zmago Jelinčič, told me that his observation is that the MPs in the current parliament are, how to say, not even educated as broadly as they were MPs in the first decade. They are not into politics; they do not understand things. They actually do not respect basic rules because they are not aware of them. Members of the new party groups usually follow what they were told by the parliamentary group leader" (Interviewer with an expert in political parties, Ljubjana). Furthermore, "the civil society and medial landscape on the local level remain seriously underdeveloped. I am also surprised that the opposition does not use the reports often when it comes to keeping the government in check."

> (Interviewer with anti-corruption expert, TI.)[165]

The period between 2008 and 2010 was indeed a significant critical juncture for the Slovenian political system, the political parties, and parliament. While in 2008, just 27.6% of Slovenians were in no way satisfied with the way democracy was working, this share jumped to 56.6% in 2010, and up to 64.7% in 2014, the year the new SMC received the highest number of MPs since the country's independence (Malčič and Krašovec, 2019: 125). "*A reform for the transformation of electoral system has been proposed for a long time and never materialised, so the citizens do not directly elect the party members, but the use of mathematics elects it*"

---

[164] E-interview with an expert in political parties and political systems; Professor at University of Ljubljana, Slovenia, conducted in February 2020.

[165] E-interview with an anti-corruption expert and member at Transparency International, Ljubljana, Slovenia, conducted in February 2020.

(Interviewer with former Minister at the Slovenian government in two mandates).[166]

During this period, the third wave of privatisation began with the 2009 economic crisis and under economic and political pressures from the European Union (EU), which in 2013 led the government under Alenka Bratušek (PS) to prepare a list of 15 companies for privatisation. At the same time, 'elections have been failing to result in a meaningful political coalition that could move the country out of the tyranny of the status quo. However, Slovenia narrowly escaped the EU bailout mechanism and its accompanying strict institutional oversight through self-imposed austerity measures and a reform agenda approved by the European Commission. (Avbelj, Crnic, 2020). In fact, the privatisation of Nova Ljubljanska Banka was mandated by the European Commission as a condition of the legality of the state aid mechanism implemented by Slovenia in the reconstruction of the bankrupt banking sector.' (ibid.)[167]

During the period of transformations, the powers held by the legislative branch as regards the rule of law, in the hands of Parliamentary Inquiry Commissions, remained in its "quasi-judicial powers to investigate issues of particular concern" (Jernej Letnar Černič, 2018). Moreover, as Černič has noted, "*the majority of the electorate generally remains unfamiliar with their parliamentary representatives: hardly anybody in Slovenia would be able to name the member of the parliament who represents them from their electoral district.*"

As Kajnc-Lange, 2015, has observed, "*the deputies have only rarely shown any capacity to grasp the essence of the notions of constitutional democracy and therefore have not been able or willing to act accordingly.*" The Slovenian

---

[166] E-interview with a former minister in the Slovenian government and professor at the University of Ljubljana in the field of Construction Informatics. Conducted in March 2020.

[167] In December 2012, at the peak of the crisis, "the most far-reaching EU-law-related decision handed down by the Constitutional Court was made at the peak of the economic crisis". The Constitutional Court banned a referendum on a statute, which was also indirectly intended to give full effect to the Fiscal Compact. Constitutional Court Case U-II-1/12, U-II-2/12 [2012]. (Avbelj, Crnic, 2020). In May 2013, the Slovenian parliament amended Article 148 of the Constitution concerning the budget. In the writing of Avbelj and Crnic, "the actual implementation of the golden fiscal rule, however, as laid down in the Constitution, was left to the Fiscal Rules Act, which was to be adopted by the National Assembly by a two-thirds majority vote of all deputies. (2020).

parliamentary system has an opportunity to involve the plenary; it can adopt binding positions ex-ante; it involves sectoral committees and meetings open to the public. However, the timing, level of support and expertise, depth of discussions, and the fact that only the government's positions are discussed, without an independent review of the legislative proposal, suggesting that "the Slovenian National Assembly functions rather more traditionally, with a superficial check conducted by the CEUA". (cited in Kajnc-Lange, 2015: 665). While the

> "Quite often it seems there is no question of the quality of debates in the parliament, but there is just the question if the government actually reads to support one solution and then MPs are supposed to support that solution in the parliament. Of course, some Slovenians had to participate in this process. However, it is more of a question of how the Bank of Slovenia acts in this regard. The formal government has been claiming that this was simply an estimation of different international agencies, and later, it was simply a decision of the government. It is also necessary to know that Slovenia had to act quite quickly at the time."

> (Interviewer with University professor)[168]

The financial crisis and the economic downturn, which resulted in the legitimacy crisis, have revealed the transformation of the Slovenian political systems and its weaknesses and the effects of representative democracies' hollowness over a longer period of time. These observations confirm the assumption that the hollowness of democratic representation also acts as a constraint in taking control over societal processes and social traps when they have multiple effects, evident in times of crisis.

> "The biggest challenge is that the gap between the political elite and citizens has increased. This is particularly obvious since the entrance into the EU when the national party elites were just not competent enough for the new situation and this translated directly into not being able to manage a huge flow of money of entering the EU and Eurozone. Currently, we are having a consistent change in the political elite, new parties coming to the government, not only to parliament but also to the government. Their capacity is not

---

[168] E-interview with an expert in political parties and political systems; Professor at University of Ljubljana, Slovenia, conducted in February 2020

much bigger in terms of leading the country in the context of the EU or in global terms. What people trust in, at the moment, is basically more social partners or social partnership, which is an indirect form of representation, but they seem to take care of ordinary people´s situation much better than elected politicians. So, this is in terms of the political aspect of the economic crisis linked among themselves. This is the biggest problem that is not the only current one, but it seems to be also a problem in the near future."

(Interview with TI expert)[169]

These observations have articulated the perspective on the constitutional backsliding in Slovenia, keeping in mind the indicators of the loss of authority and control exercised by the citizens over legislative and political processes in their societies. It has also disclosed the challenges to party democracy as identified in chapters three and four. The specifics of changes in the political party spectrum, and the lack of entrenchment of political parties within their societies, exposed by the lack of vision for strengthening the capacities of the internal-party democracy, created a scope in which political party leaders cemented the positions of leading political managers or entrepreneurs, in the form of populist leaders (Bustikova, Guasti, 2018), or autocrats and Eurosceptics, but also their position as powerful elites, with very strong networks in Brussels (Kelemen, 2011; Richter; Wunsch, 2019).

With its own historical trajectories, as discussed in chapter two, the decline in party politics had also advanced the opportunities for exercising legislative and legal corruption, often even in the absence of knowledge of the MPs themselves. Evidence of this occurrence is indicative in a few cases. In the case of Croatia and the Agrokor case during the mandate of Prime Minister Plenkovic, the MPs voted or amended the laws, which advanced the position of the interest groups to gain ownership of the agricultural firm or have full access to the law or whatever is in the procedure, to gain political leverage.

"The law was just for the purpose to legally cover them. This is something which is known. In Italy, they did it with Parmalat, the same and some others. This is not a new thing. However, out of this law, they prepared it with certain advisors, entirely with a lack of

---

[169] E-interview with TI expert. Ljubljana, Conducted in March 2020.

a transparent manner, based on these advisors' lawyers and lawyers' offices and all other things. When the government took over the process of making this firm healthy, and this owner had to sign that, and he signed it, he practically gave the firm to the state. That was the precondition. We discovered that all these advisors, who had prepared the law, came as advisors in the following process of dealing with setting firms onnew ground, and of course, money and money flew through this. We discovered that the original law from Italy, which was like a model for that, had articles that would forbid people who were preparing a law to be included in that. So, in the original law, it was there, but in our law, it was kicked out. "[170]

In this case of a conflict of interest, the firm went into bankruptcy.

"Sixteen thousand workplaces were endangered, which would anyway come as a problem to the government. They invented this through a very quick procedure; they invented, I mean passed through the parliament, the Law on Strategic Firms. The whole parliament, including the opposition, voted for that. It was like we had to do that through an emergency procedure because of this and that. They even did not notice that, so, later on, they could not say anything. I mean, it is a law passed through the parliament. It is not some decree that was done by the Ministry of; I do not know, agriculture or whatever else. And then you say, "ok, but we did not know about that." No, it was on your table, and you voted for that. Even as the opposition, you voted for that. This is the case of how it can pass just through these benches. Many things. And then MPs would say: "Really? Oh, I did not know that." All those MPs do not have the time to read all the paper they have got on the table. They do not have to think about it because they have the parliamentary group's opinion and stick to that opinion. So, they do not read it. There is only perhaps one person per parliamentary group who is reading all those proposals.

(Expert interview, Zagreb).

---

[170] Interview conducted in Zagreb, May 2019. Anonymised.

The roots of these practices and the use of the *fast-tracking procedures* are to be found in the EU approach to the process of law harmonisation under the process of EU integration. As identified in all three cases, the parliaments are often overburdened by laws initiated by governments in more than 70-90% of cases. Almost all of the interviewees also confirm that *fast-track harmonisation* with EU legislation has added new complexity to the daily work of legislatures. The demand from the MPs to do 'too much too quickly' has narrowed the opportunities for legitimation in the absence of parliamentary debate and scrutiny.[171]As interviewees have confirmed, the practice of using urgent procedures had added a new level of complexity in the daily work of the legislatures.[172] By merging the first and second reading of the laws into an urgent procedure, on unjustified grounds, the quality of discussion is shortened - the procedures are limited in communication, public involvement, discussion or the time necessary for legal checks of potential risks to corruptive practices. This also undermines the quality of laws, the quality of policy-making, and the post-scrutiny procedures; Under these types of facades of legitimation, the executives have taken the advantage to change the 'rules of the games' in their favour, i.e., passing questionable laws that advance third party interest.

The data traced in the case of Slovenia reveals that the number of laws passed under shortened procedures has been steadily high since the period after the EU accession in 2004, and in the same years even higher than the laws adopted under regular procedures. See table 1.

---

[171] As argued by Malova and Haughton, the regular parliamentary procedure, which provides for several steps in making legislation, ensures that all political forces in the parliament can provide input into the legislative drafting process but also slow down the process. (Malova, Haughton, 2002). The use of the fast-tracking procedures therefore, hampered both the procedural culture and the culture of accountability in societies in general. Moreover, the penetration into the domestic laws of the states is having a substantive effect on the social and economic policies implemented.

[172] Experts' interviews with analysts and former practitioners, conducted in North Macedonia, Croatian and online interviews with Slovenian experts, interrupted due to the Covid-19 pandemic.

Table 1. Adopted laws by year and type of legislative procedure

Adopted laws	2004-2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Regular procedure	23	92	54	40	33	60	/	19	31	22	51	46	54	27
Urgen procedure	29	26	23	29	32	28	1	40	34	17	34	14	19	3
Shorthend procedure	47	46	34	25	47	33	51	45	31	24	27	16	39	21
Ratification	51	42	46	24	33	44	30	36	33	17	34	28	16	4
Total	151	206	157	119	145	166	148	73	140	131	146	105	128	55

Source: Databases of the Slovenian National Assembly, 2004-2018

The risk of the frequent use of the <u>shortened</u> procedures in law-adoption is the potential abuse of power for third party interest, including lobby groups, particularly in the absence of justification. According to the Rules of Procedures, the general rule in the legislative procedure comprises three stages (readings), although in specific cases, a law can be adopted by urgent or shortened procedures. The Rules of Procedure specify the following types of procedure: - regular procedures with three readings of a law: *the first reading* - held at a plenary session in the form of a general debate only on request of ten deputies - and the second and third readings; in specific cases, the second and third readings may be held at the same time; - *shortened procedure:* to discuss minor amendments to a law, the expiration of a law or individual provisions, minor harmonisations with other laws or the EU law, or amendments relating to procedures before the Constitutional Court or a decision thereof; - *urgent procedure*: where so required in the interests of the security or defence of the state, or in order to eliminate the consequences of natural disasters, or to prevent consequences regarding the functioning of the state that would be difficult to remedy. Such procedures can only be proposed by the Government. (*Rules of Procedures, Slovenian National Assembly*)

There is no general debate in the shortened and urgent procedures, the second and third readings are always held at the same session, and different deadlines apply for individual tasks. In the parliamentary term 2014-2018, 178 laws were adopted by the regular procedure, 87 by the urgent procedure, and 105 by the shortened procedure; the National Assembly also adopted 85 ratifications. A constitutional act was adopted under the procedure for amending the Constitution. In the parliamentary term 2011–2014, 72 laws were adopted by the regular procedure, 85 by the urgent procedure, and 100 by the shortened procedure; the National Assembly also adopted 86 ratifications and two constitutional acts

amending the Constitution. (*Report on National Assembly's work in the parliamentary term* 2011-2014: 30).[173]

The lack of justification in using the shortened or urgent procedures, where the second and third readings are merged in one debate, reduced the quality of laws and increased the risks to legislative laws.

The experts in political systems in Slovenia raised the same concerns over the use of the shortened or fast-tracking law-adoption procedures:

> In Slovenia, the political elites and actually all political parties in the 1990s decided, except for the Slovenia National party, which was a really small political party, to even sign an agreement that they would cooperate among themselves in case of these harmonisation processes with the aim that Slovenia would enter the European Union as soon as possible. So, actually, Slovenian political elites decided to cooperate in this process very closely. It is interesting in Slovenia that according to the standing order in parliament,there are supposed to be three stages, three readings in Slovenian parliament in adopting the legislation. However, according to statistical data, this normal legislation procedure has adopted quite a lot of legislation but quicker. The MPs are using shorter versions of the legislation process. I mean, it is formally allowed. If you would like to use this faster procedure, then you definitely need a formal justification. It is actually not a problem to find and to create justification. However, it is a question if this is good when we talk about the quality of the measures and the quality of legislation that has been adopted very quickly. I strongly believe that usually, MPs are supposed to follow the long process. But it is especially for the government to use these faster procedures.[174]

This pattern of passing laws without any parliamentary deliberation, for the purpose of adopting the EU acquis communautaire, was found in

---

[173] In the parliamentary term 2008-2011, 141 laws were adopted by the regular procedure, 83 by the urgent procedure, and 134 by the shortened procedure (Report 2014-2018: 29). In the parliamentary term 2014-2018, 178 laws were adopted by the regular procedure, 87 by the urgent procedure, and 105 by the shortened procedure; (Report on National Assembly's work in the parliamentary term 2014-2018: 29)

[174] E-expert interview with Professor in Political Science, University of Ljubljana, Slovenia

other CEE countries. In Hungary, 152 of the 180 laws adopted were not subject to any debate whatsoever (Market all. 2019: 118). The harmonisation of domestic and EU legislation constituted the outsourcing of democratisation, a process that local elites, still doubting whether their own populations had, in fact, a genuine fondness for liberal democracy, found beneficial. A Western-controlled process made democracy appear, at least for a time, inevitable, modern, and incontestable. Representatives from EU member states were placed in Eastern European administrations as advisers in their respective fields of expertise. Such supervision of reform was accomplished, also through the Brussels-sponsored *Technical Assistance Information Exchange Office* (In Schimmelfenning, Sedelmeir, 2005: 1-11).

In response to these events, in 2016, the National Assembly passed a law enabling citizens to replace or recall mayors during their terms. However, the decision was highly controversial, and the National Council decided to place a suspensive veto on the law. Under the constitution, a majority of members of parliament can override this veto, but no such majority was guaranteed at the time of the second assembly vote in January 2017. The 2004 elections represented the lowest point in terms of electoral volatility but also represented a critical juncture; volatility began increasing again in 2008 and 2011 (34.4% and 40.0%, respectively), reaching its highest value at 56.7% in the 2014 elections. These trends can be explained by certain recent developments, including corruption scandals, dissatisfaction with the governments' ineffectiveness at dealing with crises, low levels of trust in the main political institutions, a perceived lack of accountability and historical distrust toward parties, and the weak roots of political parties in society.

Over the years, this type of corrosion of the legal ancestry through the use of democratic means and instruments has affected the democratic consolidation, the rise of populism, with long-term effects on the societal transformations in which citizens remained further detached from their representatives except in periods of elections. This type of use of *fast-tracking or urgent procedures* did spawn opportunities for legal corruption. Furthermore, it affected the legitimacy of the EU integration process, as the citizens were more or less excluded from this process. 'It was more or less in the hands of political elites. They had to involve the citizens by referendum to decide whether Croatia would join or not, but prior to that,

it was more or less just what was concerned by the political elite.' (Interview with an expert in political systems, in Zagreb, Croatia).

The practice continued, even after periods of deep political crises triggered by corruptive scandals, such as in the case of North Macedonia. The political crisis began when the leader of the opposition released wiretapped material revealing widespread corruption and egregious abuse of power within the government. The report outlined a set of urgent reform priorities comprising the main points in the EU agenda for Macedonia. (BTI, Macedonia country report, 2018). The law harmonisation with the EU acquis continued by using the fast-track procedure, in the absence of opposition, in the following period, while on several occasions, parties managed to reach consensus on the adoption of EU-induced amendments to laws that required a two-thirds majority.

The law-adoption in the absence of opposition, or the lack of effective opposition, in conducting scrutiny, parliamentary oversight, and performing different types of accountability, is also related to the personal motives and incentives of the MPs to engage in checking the use of executive powers, often themselves remaining in a convenient inferior position vis-à-vis the elites. The factors behind this are a few, and we have discussed them in the previous sections. The MPs' attitudes towards the account-giving procedures, also are bound to the lack of knowledge, skills, support, and 'their own understanding of the role they can play in the process.'[175] As identified in this research, the individual incentives and views of the MPs to engage in account-giving processes play a crucial role in the actual process of democratic legitimation. However, they are usually bound by their understanding as to whom they should be accountable, i.e., the political party hierarchy.

The historical preconditions of limited sovereignty, as we have discussed in chapter three, did not align with state sovereignty, bound to an accountable use of power, but rather a power bound to the political party organisation in the hands of the prime ministers who also have complete control over the parliamentarian majorities, upon winning elections and entering into coalitions. These same practices were found in Croatia, Slovenia, and North Macedonia.

---

[175] Expert Interview with an Assistant Professor at the Catholic University Zagreb and former expert at the Croatian State Foundation; conducted in Zagreb, May 2019.

Another shortcoming during the process of democratic transformation is that little attention has been paid to restoring the institutional and human capacities of the parliaments that would have also supported the position of MPs. Parliaments in both states lack financial autonomy, and their annual budgets (for salary and staff included) are regulated by the Ministries of Finance under the annual state budget. The lack of financial autonomy also affects the MPs' dependency on the executives and political party leadership. In both cases, the oversight activities of the MPs are affected by the lack of knowledge capacity. In both cases, MPs have to rely on the administrative capacities of their (limited number of) assistants or staff inherited from the Yugoslavian time. In the case of North Macedonia, compared to the case of Croatia, there is research assistance provided by the Parliamentary Institute, established in 2013. However, its capacity is used in a limited capacity due to the lack of mutual (social) trust between MPs and the Institute's staff. The potential of this Institute is yet to be developed.

As one of the interviewees has elaborated:

> "There is an established Parliamentary Institute, here within the framework of the parliament, financed by external, foreign money. I can personally share my experience and views that about 90% of my colleagues do not benefit from this Institute. This is an independent body, and I can require research (analysis). However, by the time this research has been prepared, the topic is no longer relevant. The need here is daily, so there have to be some solutions for a much more frequent dynamic. I also do not think this could be an independent body. If it is supposed to be independent, it should not be an entity within the parliament; it should be outside it. I cooperate much better, and I trust my assistant rather than the Parliamentary Institute."

(Interview with an MP at the Macedonian Assembly)[176]

In Croatia, the MPs are also dealing with the same challenges of a lack of human resources, particularly in terms of research support and knowledge, and the lack of social trust in the staff, who are responsible mainly for administrative duties. Another common feature of the

---

[176] Interview with a Member of the Macedonian Parliament in two mandates. Conducted in Skopje, April 2018.

Macedonian Parliament is also the lack of financial independence. In the case of the Slovenian parliament, there is an identified variance in terms of the financial resources available to the parliamentarians, which can affect their independence. As identified by the parliamentarians, the key shortcomings are the constraints in time and resources for raising the level of preparedness for the law evaluation and follow-up process, raising the quality of discussion, and identifying risks to corruptive practices.

Third, legitimation through parliamentary scrutiny is inhibited by the design of the electoral system and the tradition of centralised political party leadership. The chains of account giving and social trust between MPs and citizens are also affected by these constraints. Interviewees confirmed that <u>the proportionally mixed electoral system</u> limits the autonomy of MPs and their accounts giving to the citizens. In the words of one interviewee, "these specifics of the electoral systems inhibit the position of the parliamentarians to be accountable to their citizens and instead they are accountable to their political party leaders." This observation was also confirmed by another expert in the case of North Macedonia:

> Part of the problem is in the system itself because usually, the parties' leaders are on the list for parliamentarians. If they manage to win the elections, they usually become prime ministers. Our system says that being a member of the parliament is incompatible. So, you cannot be a member of parliament and prime minister at the same time. The fact that we do not have democracy within the parties and that all power is focused on the leadership of the party and having in mind that almost the whole leadership goes into executive, this is how we shift the power, absolute power, to the executives. So, you know, only party members who are lower on the list of the influence within the parties are members of parliament. It also has its effects, its influence on the power of the institution. Therefore, I think because whom do parties decide who will be on the list for the next elections, for example. Again the leadership of the party decides. So, members of the parliament are somehow dependent on the goodwill of the leader who is a prime minister or deputy leader who is also a minister. Therefore, they

cannot, and they do not perform their role as a real oversight institution.[177]

These types of observations were found in the case of Croatia and Slovenia. These interceptions in the accountability chain between the party leaders, the party elected members, and the citizens also weakened the chain of establishing mutual, i.e., social trust between the representatives and the represented.

These observations, in line with Rothstein's views on the concept of social trust (Rothstein, 2011:146), confirm the assumptions that the use of the available oversight instruments, and the process of legitimation, is constrained in similar patterns identified in Slovenia, Croatia, and North Macedonia, as follows. First, there is insufficient understanding of parliament's parliamentarians' roles in preventing corruption or taking control over corrupt practices, particularly legislative corruption. Second, the frequent elections and change of party coalitions, particularly evident in Slovenia, introduce constraints on the political parties to take roots in their societies. Third, in all three cases, the constraints are bound to the lack of internal party democratisation and the specifics of the historical backgrounds, including the inter-ethnic conflicts, such as in the case of North Macedonia and Croatia. Finally, the lack of financial support and human capital to back the work of the MPs is an important feature for building the position of the MPs in the oversight procedures, which contributes to improvisations rather than an actual justification in the process of legitimation.

These observations confirm the argument that the principle of sovereignty bound to the unaccountable use and misuse of power through the actors of representative democracies – the national parliaments, political parties, and MPs – is a necessary condition for consolidating democracy and reducing the opportunities for corruption and social traps. However, it also validates our key assumption that the hollowness of representative democracies expanded due to a set of historical processes and transformations during Europeanisation. It also contains the opportunities to tackle corruption, creating a paradox of never-ending efforts for tackling corruption without any long-term or concrete results. That said, in order to craft a societal culture of accountability in which

---

[177] Expert interview with a leading Macedonian journalist and expert in EU affairs. Conducted in Skopje, April 2018.

citizens bear equal responsibility[178] as their representatives do, it is necessary to create conditions under which societies can take control over abuses of power and start to mitigate the social traps taking different forms in the varieties of political systems.

The empirical findings in all three cases also affirm the institutional risks to embedded democracies and show the importance of national parliaments, particularly in the CEE, of moving from the scope of façades of legitimation, into powerful normative institutions with the capacity to build strong institutional integrity networks (Ombudsman, State Audit and others), reducing the opportunities for abuses of power and re-building citizens' belief in each other and the political system. That said, the comparative observation of the three cases leads to one obvious similarity. In all countries, little attention has been given to democratic (horizontal and vertical) accountability exercised through the national parliaments.

Another necessary condition is acknowledging that the mutual interdependence between the nation-states, or more precisely the EU Member States since transformations have been taking place under the EU integration process, have been affecting the conditions for legitimation and the exercise of actual justification on a national level. This inter-dependency creates mutual responsibility in the protection of the EU democratic legitimacy, but also the capacities of the representative democracies to deliver on citizens' needs and expectations.

The observations presented in this chapter confirm the theoretical discussion on the exercise of democratic accountability as a necessary condition for embedding democracies and taking control over abuses of power that lead to social traps. If an actual legitimisation process takes place through the national parliaments, societies can possibly gain the chance to start revitalising the transitional burden, (re)introduce the pillars of social trust, and start breaking the patterns of social traps. Furthermore, we can assume that societies will manage to overcome this democratic deficiency by increasing the capacities of the party democracy and political parties to start carrying the burden of modern representative democracies. In this case, the benefits for the European citizens and the

---

[178] See further discussion in Frič, Pavol, 2010. *Czech Elites and Citizens as a Part of Public Accountability System*. In: Social Accounting and Public Management Accountability for the Public Good Edited by Stephen P. Osborne, Amanda Ball.

citizens of the EU will be highly rewarding by increasing the vitality of societies to mitigate the following forms of political or financial crises. However, this sentiment requires an acknowledgement of all factors contributing and constraining the democratic embeddedness, as we have identified with this research, to be summarised in the final conclusion.

Chapter 6

Comparative Analysis: Key Findings

As observed in the theoretical section, a process of legitimation based on respect for procedures can be expected to improve control over social traps and abuses of power, allowing citizens' belief in political systems to recover (Rothstein 2008: 145). Yet, procedures of democratic accountability assume an informed citizenry that knows what powerful agents are doing and have access to evidence and the reasons behind decisions (Olsen 2014: 111-114). Hence, looking at how far the role of a sovereign democratic people as the ultimate source of power is masked by problematic forms of representative democracy is important to analyse when investigating any damaged parts in embedding democracies. In particular, electoral accountability is not enough to understand the progress in embedding democracies since the quality of democracy also requires accountability between elections (Merkel 2004: 35). Therefore, a full understanding of any process of legitimation also requires a focus on horizontal and vertical accountability, as well as a closer look at the normative institutions needed for accountability and justification between elections: such as national parliaments, but also the role of the political party hierarchy and the MPs' attitudes within party politics.

To provide a better understanding of what that challenge has meant to CEE countries in this research, we have applied comparative empirical analysis of three case studies, with a common dependent variable identified in the deterioration of democracy. In order to answer the main research question: *How has the process of Europeanisation affected the democratic conditions under which states pursue legitimation strategies (through*

the national parliaments) in tackling corruptive practices? This research has taken the following assumptions:

- (H): The 'hollowness' of representative democracies does not allow for taking control over corruption/legislative corruption;
- (H1): A set of internal and external factors – historical trajectories, internal party democracy, and the EU technocratic approach to solving the crisis – affects the actors' capacities (collective and individual) to pursue hollowed legitimation through national parliaments and created opportunities, rather than constraints for (legislative) corruption;
- (H2): The formal approach in exercising democratic accountability (oversight) over the work of the regulatory bodies by the national legislation does not allow for closing the social gaps and opportunities for corruption;
- (H3): The hollowness of democratic representation does not allow for breaking the patterns of social traps and pursuing the successful implementation of anti-corruption strategies.

Concerning the historical framework identified in the theoretical discussion, this research has found that all three cases share the experiences of the post-communist countries and have faced a complex set of transformations with the process of democratisation and Europeanisation. All three countries have faced transformations in their state sovereignties in the transition to liberal democracies, and these transformations have a common trigger – the EU integration process. The EU integration process in all three countries triggered a transformation of the national parliaments, the legal system (fast-tracking law harmonisation), and political party's transformations, with inherited historical preconditions, different from the Western democracies. These three indicators, evident in all three cases, are affecting the quality of legislation, the law adoption, and evaluation, and consequently law enforcement, as a crucial factor rooting corruption out of the political systems.

This research has also found that in all three cases, the party politics and the political party transformations are important for understanding the weak systems of checks and balances in the case of CEE, but also the gradual hollowness of democracies, where corruptive actions, especially legislative corruption, are taking place. The type of electoral system, in the

case of the three case studies, is proportional. Another constraint to the internal part of the process of democratisation is the limitation of the open-voting lists. As the party systems are de-institutionalised, this does not allow for the empowerment of the citizens to start rebuilding new social relations with their societies through the intermediary role of the political parties. The parliamentarians are still predominantly accountable to the party leaders, and this also affects their attitudes towards mutual trust in others, but also towards the act of legitimation or the use of the instruments for democratic accountability.

In this regard, the citizen's trust towards other social actors, in situations of a decline of party democracy and the failure to meet citizens' demands in solving collective problems, has shown to be highly important for the political systems to be able to revitalise or survive political or economic crises. The case of Slovenia has confirmed this variance which was not found in the case of Croatia or North Macedonia. In the case of Slovenia, an important finding is that the trade unions are still considered important societal actors that provide for trust among the citizens and safeguard their interest before third-party interest, as an alternative form of representation. In Slovenia, some alternatives to society (social contracts, social relationship) are yet to be used in their full capacity. This also can contribute to the development of the political culture of accountability. As observed by the experts interviewed in Slovenia, trade unions are important societal actors concerning the implementation of anti-corruption reforms, even though their role in Slovenia is now weaker than it was at the beginning of the process of Europeanisation after 1989. The trade unions as social actors can also contribute to the "*whistle-blower protection because they do have a significant experience when it comes to protecting sources when it comes to reporting irregularities.*" (Expert in anti-corruption, TI).

The political system's capacity to revitalise after the financial and political crisis is another important indicator of the democratic deficiencies or hollowness of democracies, with a capacity to undermine the legitimacy of the national systems. In all three cases, the stages of privatisation as part of the transition to deregulated liberal markets have been a common trigger for corruption, as pointed out in the discussion of this research. The financial crisis in 2008 revealed corrupt linkages between the banking sector and political parties within the economic context. "It also had shown, as I said, the non-competence or even corrupt relationship

between the banking sector and political parties and economy in this context." (Interview with an expert in Slovenia, 2020). In the case of Slovenia, more specifically, the clash with the EU approach towards mitigation of the crisis was most evident and testified that all conditions which we have identified as indicators of the hollowness of democracy are most evident in the times of crisis, such in the case of the financial crisis in Slovenia in 2008.

As we have identified in the theoretical observations, in all three cases, the processes of Europeanisation and democratisation, which ran in parallel with the transition periods to liberal markets and democratic regimes, were heavy burdens to the post-communist regimes with different experiences in the welfare models and the sources of legitimacy and legitimation, drawn from the centralised power of the communist elites, and communist leaders. This has created new tensions in the executive-legislative relations in the systems of checks and balances. In this regard, the national parliaments are faced with similar challenges in exercising the oversight instruments to deliver actual legitimation in law and policy-making processes. The critical challenge observed in all three cases is that the gap between the political elites, the citizens, and the societies has increased, evident in Slovenia, Croatia, and Macedonia. This is also linked to the challenges of (restoring) social trust. An important aspect of this disenchantment is the lack of legal prosecution of corrupt elites and weak law enforcement. There is a growing disenchantment with politics, almost anti-politics, filling in the gaps or the lack of knowledge or expertise. These findings confirm the third sub hypothesis (H3): *that the hollowness of democratic representation does not allow for breaking the patterns of social traps and pursuing the successful implementation of anti-corruption strategies.*

Concerning the institutional framework, in all three countries, the rule of law is guaranteed by the Constitution that applies a doctrine of separation of powers to the regulation of relations between parliament, the executive, and judiciary. In all three cases, the Constitution provides for the parliament's role in overseeing and holding the executive to account and for the independence of the judiciary. The institutional frameworks regulate the oversight role of the national parliaments by the Constitution, the Law of the Assembly (Macedonia), and the Rules of Procedures (RoP). In the case of Slovenia, compared to North Macedonia and Croatia, the Rules of Procedures are regulated in a more specific matter concerning democratic deliberation with the other social actors. For example, in the

case of the Inquiry Committee, the Rule of Law in the case of Slovenia regulates the cooperation with local and regional self-government bodies and central governmental bodies, cooperation with the State Commission for the Prevention of Corruption; Experts; or NGOs. (See Annex 1). In all cases during oversight hearings, MPs can evaluate the actions of state administration bodies, evaluate legislation, invite external experts, conduct checks on the delivery of action plans and adopt strategies from central or local institutions. Parliamentarians interviewed for this research emphasised oversight hearings as an especially useful mechanism for detecting, preventing, and reporting on corrupt practices and deviations of norms. By using these instruments, the national parliaments can support the evaluation of the moral costs in societies and support a divergence from social traps. Besides similar oversight instruments, in Croatia, there is a specific *National Committee for Anti-Corruption Policy*, established in 2007 as an integral part of the national parliament (Sabor). Although this Committee has not used its full potential, this type of parliamentary oversight body has an important role in exercising horizontal and vertical accountability. Moreover, these are the kinds of instruments that can address problems of social traps and provide legitimation through processes of justification, as almost all interviewees agreed that actual account giving is important for increasing citizens' control and public awareness, as well as being an important instrument for changing the political culture of accountability in society.

An important finding in all three cases is that parliaments have the normative power to scrutinise the work of key independent regulators such as state auditors, state ombudsmen, and anti-corruption institutions based on their submitted reports and annual reviews. Interviewees in three countries confirmed the importance of these reports in revealing different administrative malpractices, unequal social distribution, neglect of rights, and financial irregularities in central and local budgets, including irregularities in political party financing. However, their reports are rarely or almost never used. The interviewees also confirmed that this mechanism is available for the control of corruption. However, the reports of independent regulators can be formally adopted every year only for their contribution to legitimisation to be frustrated by technical formalities and little follow-up. That can contribute to backsliding in the implementation of anti-corruption reforms, especially where authorities hedge on requests to provide updates and track records of achievements.

This finding has confirmed our second sub-hypothesis (H2): that *the formal approach in exercising democratic accountability (oversight) over the work of the regulatory bodies by the national legislative does not allow for closing the social gaps and opportunities for corruption.*

In all three cases, little attention was paid during the process of democratic transformation to building up the institutional and human capacities of national parliaments in the ways needed for them to monitor the problems of corruption. Parliaments in both states lack financial autonomy, and their annual budgets (for salary and staff included) are regulated by the Ministry of Finance under the annual state budget, particularly in the case of North Macedonia and Croatia. One variance in the case of Slovenian parliament is that the budget of the National Assembly is a constituent part of the national budget and is drafted by the Secretary-General of the Assembly in agreement with the collegium Bureau of the National Assembly President. Nevertheless, the lack of financial autonomy also affects MPs' dependency on executive and political party leaderships, and the oversight activities are affected by a lack of knowledge, as found in the data drawn from the interviews. In the absence of sufficient data, in the case of Slovenia, this finding was not confirmed.

In the case of North Macedonia and Croatia, MPs have to rely on the administrative capacities of their (limited number of) assistants or staff inherited from the Yugoslavian time. Even in Macedonia, where in contrast to Croatia, there is additional research support provided by the Parliamentary Institute, established in 2013, the use of that capacity is challenged by the lack of social trust between the MPs and the Institute's personnel. Furthermore, in both cases, legitimation through parliamentary scrutiny is inhibited by the design of the electoral system and the tradition of centralised political party leadership. The chains of account giving and social trust between MPs and citizens are also affected by these constraints. Interviewees confirmed that the proportional mixed electoral system – common to Croatia and Macedonia – limits the autonomy of MPs and their account giving to citizens. In the words of one interviewee, 'the specifics of the electoral systems inhibit parliamentarians in their accountability to citizens. Instead, they are accountable to their political party leaders.' This also weakens the means of establishing mutual, social trust between representatives and the represented.

In all three cases, parliaments are also overburdened by the laws initiated by governments. In all three cases, it was confirmed that fast-track harmonisation with EU legislation had added new complexity to the daily work of democratically elected representatives. By demanding 'too much too quickly' from the MPs, the opportunities for practising the democratic standards of legitimisation have been narrowed, in addition to the ambiguity of the political parties' role in unconsolidated democracies. As interviewees confirmed, urgent procedures have also added difficulties. By merging the first and second reading of the laws into an urgent procedure, on unjustified grounds, the quality of discussion was shortened: 'the procedures are then limited in communication, public involvement, discussion or the time necessary for legal checks of potentially corrupt practices. This also undermines the overview of the quality of laws and the quality of decision-making processes. Under these facades of legitimation, executives are taking advantage to change the 'rules of the game' in their favour by passing contestable laws that might have required two-thirds majorities.

These observations confirm the theoretical expectation that horizontal and vertical accountability, i.e., democratic accountability, is a necessary condition for embedding democracies and controlling abuses of power that lead to social traps. If national parliaments can play their part in legitimating the standards and procedures of anti-corruption, societies can ease transitional burdens, start revitalising themselves, (re)introduce pillars of social (mutual) trust, and break social traps. Overcoming those democratic deficiencies enables societies to start building functional constitutional democracies for the benefit of their citizens. All that, however, requires an acknowledgment of how external factors also contribute to embedding democracy. These observations do not allow for drawing linear causalities. However, they do help us understand the conditions under which parliaments reinforce the embeddedness of democraciesand why some societies are stuck in the vicious cycle of corruption.

That said, these findings confirm the theoretical views that the institutional approach during a democratisation process can revoke or empower citizens to accept the codes of appropriate behaviour as legitimate, so they can start engaging in law enforcement, trusting each other and start accepting duties by which democracies can be made possible. However, the accountability relationships between actors and

processes need to develop the dynamics of a compelling interplay between levels of governance and institutional spheres. An actual rather than improvised legitimation is a necessary condition for overcoming the complexity of the modern institutional matrix and informal practices embedded in the specific political systems. Therefore, the control of corruption should not be expected through an incremental approach that disregards the background of the countries and the actual separation of powers in practice. On the contrary, the control of corruption as a factor that deteriorates the states' progress towards embedded democracies is a joint responsibility of all involved actors. To overcome these challenges, acknowledging the existing problems in exercising democratic accountability is highly necessary, and secondly, the acknowledgement of the shared responsibilities between the national representative democracies and the EU.

The EU indeed can play a much more decisive role. In this research, we found that the EU did not fully understand the conditions under which CEE parliaments were transitioning (or not) to functional constitutional democracies based on the rule of law. The EU approach in supporting candidate states or meeting the standards of democratic accountability through national parliaments remained rather technical. Furthermore, the EU did not engage in understanding the specific problems of the political systems that were transitioning from past regimes where 'the position of the legislatures was not designed to control, as they were just not built for that', as one interviewee has put it. Hence, the EU most probably overestimated the capacities of post-communist states to separate powers and deliver democratic accountability. or assumed CEE legislatures could just adopt the practices of account giving, which were similar to the institutional experiences of existing Member States.

This specific EU approach towards addressing these shortcomings of representative democracies is particularly evident in its approach towards EU anti-corruption policy, failing to recognise the complexity of the problem or the wide-ranging effects on other contemporary challenges of democratic societies such as populism or technopopulism. This is linked to the lack of practice on the EU level, by dropping the EU Anti-Corruption Report in 2016 and transferring to the European Semester, which monitors anti-corruption only in a selected number of Member States without clarifying this choice. Moreover, the lack of consistent soft

pressure applicable to all Member States is an additional factor for mistrust and loss of EU integrity.

That said, the European Semester as an economic tool for addressing the corruption risks in some countries is far from sufficient. The findings drawn from the interviewees also confirmed their concerns that the current EU approach towards the corruption of its Member States, under the instrument of the European Semester, does not"carry the weight" in addressing the problems behind the weak law implementation, ,'as the instrument is too weak and too formal', comprehensive and is focussed on the risks of corruption to the financial deliverables, rather than the risk to the quality of democracy. Furthermore, as part of the European Semester, the corruption risks assessments or fact sheets are currently delivered to only a few EU member states (by selective decisions lacking reasons or public justification on the criteria of such a selection). The EU anti-corruption report last published in 2014 acknowledged that the EU financial crisis was not only about financial misconduct. It was also about countries that traditionally have been failing to fight corruption, produce effective public management, or push forward structural reforms, thus reducing the trust in institutions of dealing with these societal problems. (EU anti-corruption report, 2014: 8). Hence, it is the joint responsibility of the EU and the states to tackle the problem of control over corruption.

The foregoing shortcomings in the democratic consolidation are, in its final outcome, a threat to the indirect legitimation of the EU via high-quality democratic systems in member states. The EU has the most efficient leverage to support legitimation through national parliaments. However, that presupposes more attention to the actual exercise of democratic accountability. However, this type of responsibility requires a change of practices on the Union level. This research aimed to investigate the possible causal linkages between EU democratic legitimacy and the effectiveness of the anti-corruption policy.

The exercise of democratic accountability is also closely bound to the principle of sovereignty as a political and legal concept. That said, the constraints introduced to the limited sovereignty of the post-communist countries in Central East Europe, under the process of Europeanisation, triggered political, legal, and economic transformations to the political systems of these new democracies and post-Yugoslavian states, which spawned a scope of conditions under which societies should have restored their fragile trust with their citizens, re-built their welfare states and

designed societies built on the premise of a new culture of accountability. The identified indicators in this research have also confirmed the sub-hypothesis H1: that a set of internal and external factors historical trajectories, internal party democracy, and the EU technocratic approach in solving the crisis had an effect on the actors' capacities to pursue legitimation through national parliaments in the field of anti-corruption.

The identified indicators tend to improve our understanding of the historical context of the process of Europeanisation, the process of democratisation, and the conditions triggered at the nation-state level, where corruptive practices are taking place or root in their societies. The process of Europeanisation linked to the transformative processes of the state and institutional building, the principle of sovereignty, bound to the legislative transformations (law harmonisation, law decision-making processes, and law enforcement), as well as political transformations (political parties), is an important factor in analysing the anti-corruption strategies on the EU and national level.

The EU inter-governmental approach towards policy-making is also bound to the specifics of the EU, as a project which endorses the roles of the executive in liberal democracy while leaving it to the states to democratise their societies, in the absence of political parties rooted in their societies, clear authorities over law and policy-making, unaccountable use of powers and expectations that the political will is staunch enough for the law enforcement for the effective rule of law. This research has confirmed that the process of law enforcement is much more complex and bound to the overall factors contributing to the hollowness of the representative democracies. Law enforcement is linked to the historical, political, social, and economic predispositions of the nation-states, and the conditions under which the key democratic actors, both collective and individual, are exercising their rights.

The comparative analysis presented in this chapter, accompanied by the discussion in chapter five, explains how the process of Europeanisation has affected the democratic conditions under which states pursue legitimation strategies - through the national parliaments - in tackling corruptive practices. By offering three indicators for measuring the risks to representative democracies, where abuses of power take place, this research also encourages other avenues for investigating the EU democratic legitimacy as an ongoing transformative entity with the

capacity to protect the interest of the European citizens and solve collective problems, such as corruption.

Chapter 7

Conclusion

This research set the premise for investigating the causal linkages between the EU democratic legitimacy and the crises of representative democracies in the field of anti-corruption. In order to do so, it has elaborated that there is a need for a new logic of understanding of the negative phenomenon of corruption through the lenses of state transformation under the process of Europeanisation and the gradual hollowness of democracies bound to an unaccountable use of power. This research took the approach that corruption as a negative phenomenon is an old concept but was re-introduced on a greater scale by the liberalisation and deregulation of the financial markets in the 1990s. In this research, two concepts were operationalised, ,'legislative corruption' and the lack of social trust (Rothstein, 2011), where political systems are failing to solve collective problems. Both concepts are important for understanding the misuse of power for doing politics on behalf of the 'people' seen as the ultimate source of legitimacy in democratic societies. By looking into the processes of legitimation through the national parliaments on the nation-state level, this research aimed to give answers on the conditions under which EU democratic legitimacy is expected to satisfy the democratic standards and principles, by 'borrowing' legitimacy from the representative democracies of its Member States, through i.e., *indirect legitimation* and to contribute to the internal and external embeddedness of democracies.

This research elaborated on the mutual reinforcement of corruption and the hollowness of democracy in the broader neoliberal context. Chapters two and three have identified the reasons behind this, starting from the thick conceptualisation of corruption, the specifics of the CEE countries

concerning party democracy, party cleavages, and the transformations from communist to neoliberal democratic regimes. It also demonstrated that these specifics merged with the EU policy approach towards (anti-corruption) policy and the process of democratisation, which triggered the specific conditions in the political systems of the CEE, under which corruption takes root, and legislative corruption is pushed through the legitimacy of the national parliaments. This perspective elaborated on the paradox of corruption and the contemporary ways of doing politics. Under these circumstances, new opportunities for corruptive practices are encouraged, which trap societies into a loop of corrupt systems, in which the constraints imposed on representative democracies trigger *facades of legitimation* and hidden opportunities for the executive elites to reach for abuses of power through the weakened capacities of party democracies.

Chapter four has demonstrated that the conditions created in the context of the specific historical transformations of the CEE countries - the historical context, EU enlargements; the post-1989 Cold war period, and especially, the specifics of the process of Europeanisation - clashed with the EU's own institutional specifics and intergovernmental approach, by encouraging politicisation on the nation-state level, bound to the horizontal, as much as the EU vertical sovereignty. These specifics are also followed by the EU technocratic approach towards solving crises.

These factors have created a specific loop of democratic deficits, especially evident in the technical exercise of democratic accountability, which justifies the assumptions that corruption should be seen both as a cause of democratic backsliding, but also as an outcome of the hollowed democratic representation under the scope of limited sovereignty, bound to the unaccountable use of power.

This research took the assumption that the EU approach in handling this negative phenomenon, traced in the historical development of EU anti-corruption policy since the 1990suntil the present day, is actually a symptom of a more profound crisis of the EU integration project, as it is failing to identify the long-term effects on the representative democracies, and the maintenance of legitimacy, both on a national and EU level. That said, this research has identified that the mutual reinforcement of corruption and the hollowness of democracy have remained under-acknowledged in the broader neoliberal context. The reasons behind this are a few: starting from the thick conceptualisation of corruption, the EU approach towards corruption, the specifics of the CEE countries

concerning party democracy, party cleavages, and the transformations from communist to neoliberal democratic regimes.

In order to test these theoretical observations and assumptions, this research identified *three indicators* for demonstrating the mutual interdependence between the EU and its member states in delivering the standards of democracy, seen through legitimation as an act of actual justification. In chapter four, this research identified the following indicators. First, the marginalisation of the national parliaments. Second, the transformation of the political party system in the CEE, and third, the law-making process and the EU law harmonisation process – as a set of factors affecting the process of pursuing legitimation in anti-corruption strategies. As a result, chapter three has demonstrated that the historical specifics of the post-communist regimes in CEE countries merged with the EU policy approach and the power of transformations during the process of democratisation, and this unique type of sovereignty transformation triggered a specific paradox in the use of corruption and doing contemporary politics.

Chapter four examined the role of national parliaments in pursuing legitimation strategies for constraining the abuses of power and the problems they face in ensuring checks and balances through the instruments of democratic accountability. Finally, chapter five discussed how legitimisation as actual justification through national parliaments could allow societies to start to revitalise and break social traps by taking control over corruption and support citizens' belief in the legality of its political systems.

In chapter five, we have also discussed that the national parliaments, political parties, and elected members of parliaments can play essential roles in pursuing effective anti-corruption strategies and, as such, can provide for indirect democratic legitimation, both on a national and EU level. In order to do so, it has empirically examined the role of the states and their institutional capacities to exercise the functions of legitimation and provide for the internal (national) and external (EU) embeddedness of democracies. Using three paradigmatic cases in Croatia, Slovenia (EU Member States), and North Macedonia (EU applicant state), based on document analysis and expert semi-structured interviews, the research has unpacked the causality between the observed theoretical fingerprints and the actual empirical findings.

Chapter six has identified that the national parliaments in representative democracies in different stages of democratic consolidation are facing similar challenges in their autonomy towards executives, similar inherited institutional frameworks, and constraints. These factors are making the process of democratic embeddedness vulnerable to internal and external risks. However, the unique normative powers of the parliaments to restrain the power of executives still remain under-acknowledged. Parliaments can – depending on the specifics of a political system – support the democratic embeddedness and the indirect legitimation with the EU through the capacities of representative democracies. That said, this research has tested the theoretical views on embedded democracies and has demonstrated that the 'hollowness' of representative democracies does not allow for taking control over corruption/legislative corruption. Therefore, the actual exercise of democratic accountability – horizontal and vertical – through the capacity of the national parliaments is a necessary condition for building social trust and exercising democratic standards. Indeed, it has also identified that national parliaments and the EU depend on one another to legitimise and immunise the rules-based democracy. Hence, taking control of corruption and breaking social traps is a complex but not impossible task. It is a very demanding process that requires a strong institutional matrix of effective parliaments imbued with other integrity pillars institutes that can somewhat control the rules of the game and contribute to the internal and external embeddedness of democracy.

That said, this research has demonstrated that although countries' experiences varied in terms of democratisation or Europeanisation (membership status), the problems of national parliaments in exercising actual legitimisation are similar. All three states – Slovenia, Croatia, and North Macedonia - have regulated an institutional oversight framework for the parliaments to scrutinise the executives' work, evaluate the moral costs of societies, and support a divergence from social traps. However, in all three states, democratic accountability is limited to a technical exercise. Thereby, this research has demonstrated that the institutional approach during the democratisation process can revoke or empower citizens to accept codes of appropriate behaviour as legitimate, so they can start engaging in law enforcement, trusting each other, and accepting duties that can make democracies possible. However, the accountability relationships between actors and processes need to develop a dynamic of a compelling interplay between levels of governance and institutional

spheres. To do so, increasing the quality of democracy is necessary to overcome the complexity of the modern institutional matrix and informal practices embedded in the specific political systems. Therefore, the control of corruption should not be expected through an incremental approach that disregards the background of the countries and the actual separation of powers in practice. On the contrary, the control of corruption as a factor that deteriorates the states' progress towards embedded democracies is a joint responsibility of all involved actors. Overcoming these challenges requires the acknowledging of the existing problems in exercising democratic accountability and, secondly, acknowledging the shared responsibilities between the national representative democracies and the EU.

These arguments allowed us to offer new perspectives on the linkages between the process of Europeanisation and the effects on the democratic conditions under which states pursue legitimation strategies - through the national parliaments - in tackling corruptive practices. It also elaborated on the arduous task of tackling the paradox of corruption. Both the EU and the EU Member States should equally engage in the collective efforts to protect citizens, protect the vitality of the states and representative democracies

The research has found that the difficulties in consolidating democracies, especially evident in the CEE, are linked to the process of state transformation under EU integration, bound to the general weakening of the national parliament/legislatures vis-à-vis the role of the executives; centralised party politics, particularly the lack of internal party democracy, and the questionable law-making processes. All these conditions have contributed to opportunities in which citizens lack proper democratic representation, resulting in weak law enforcement (social traps) and disenchantment between the state and its citizens. These conditions do not allow for rooting out corruption from the political systems. Furthermore, the weak role of the national parliaments, especially in their oversight capacities, and the weak internal party democracy, in the centralised position of party leaders, constrains the possibility of creating a political culture of accountability or restoring the social trust of citizens, especially in post-communist countries. The lack of social and institutional trust inhibits democratic embeddedness and reduces the quality of representative democracies, both on the nation-state and EU levels.

The *facades of legitimation*, exercised in the national parliaments, indirectly affect the EU democratic legitimacy. Moreover, improvisation in the exercise of democratic accountability constrains the identification of potential or actual abuses of power, particularly legal and legislative corruption. Nevertheless, the EU approach towards anti-corruption has remained mainly limited and associated with the EU enlargement processes and the post-communist states. This research has also found that the current EU approach in tackling corruption under the European Semester is insufficient and requires a new comprehensive approach that can also tackle the hollowness of citizens 'representation and the ineffective *rule of law*' present in many contemporary democracies.

These views also suggest that the exercise of horizontal and vertical accountability - democratic accountability – through the capacities of the national parliaments are necessary conditions for internal and external embeddedness of democracies and taking control over legal abuses of power, particularly legislative corruption. Moreover, when an actual legitimation takes place through the national parliaments, societies may re-gain the chance to revitalise the broken trust(s), break the patterns of social traps, and provide for the quality of democracy. However, this sentiment requires an acknowledgement of the involvement of the EU and the states in the safeguarding of the EU integration project, built on democratic values and principles.

List of References

AHG, Attila. (2020). *Central European Message about the Triple Crisis.* The coronavirus crisis from a Central European view. Discussion Paper/working paper.

Auel K. and Benz, A. (2005). The Politics of Adaptation: Europeanisation of National Parliamentary Systems. Journal of Legislative Studies 11/3–4 (2005), pp. 372–93.

Auel, K. (2005). *Introduction: The Europeanisation of parliamentary democracy.* The Journal of Legislative Studies. 11, (3), 303-318.

AUEL, Katrin. (2007). *Democratic Accountability and National Parliaments: Redefining the Impact of Parliamentary Scrutiny in EU Affairs. European Law Journal*, Vol. 13, No. 4, July 2007, pp. 487–504.

AUEL, Katrin; Raunio, Tapio. (2012). *Introduction: National Parliaments, Electorates, and EU Affairs in National Parliaments, Electorates, and EU Affairs.* Political Science Series 129. Institute for Advanced Studies, Vienna

AUEL, Katrin & Christiansen, Thomas (2015) *After Lisbon: National Parliaments in the European Union,* West European Politics, 38:2, 261-281;

AVBELJ, Matej; Cernic, Jernej Letnar. (2020). The Impact of European Institutions on the Rule of Law and Democracy: Slovenia and Beyond, Bloomsbury Publishing

BAKOWSKI, Piotr; Voronova, S. (2017). *Corruption in the European Union Prevalence of Corruption, and Anti-corruption Efforts in Selected EU Member States*. European Parliamentary Research Service. (EPRS)

BAKKER, Heleen; Schultle Nordholt, Nico. (2000). *Corruption and Legitimacy*. SISWO Publication 33. Amsterdam; pp. 65-95;

BAUMAN, Zygmunt. (1999). *In Search of Politics*, Cambridge: Polity Press. Volume 35.

BEETHAM, David. (2003). *The Legitimation of Power*. Palgrave Macmillan. Second edition. New York

BELLAMY, Richard; Weale, A. (2015) *'Political Legitimacy and European Monetary Union: Contracts, Constitutionalism and the Normative Logic of Two-level Games'*, Journal of European Public Policy, 22 (2): 257-74 (17 pp)

BENNET, Andrew; Checkel, Jeffrey. (2015*). Process Tracing: from Metaphor to Analytic Tool.* Cambridge University Press.

BICKERTON, Christopher. (2016). *The European Union: A Citizen's Guide*. Penguin Random House UK;

BICKERTON, Chirstopher. (2012). *European Integration, From Nation-States to Member States.* Oxford University Press;

BICKERTON, Christopher. (2009). *From Brezhnev to Brussels: Transformations of Sovereignty in Eastern Europe.* Palgrave Macmillan 1384-5748; International Politics Vol. 46, 6, 732–752

BICKERTON, Christopher; D. Hodson, and U. Puetter, eds. (2015). *The New Intergovernmentalism: States, Supranational Actors and European Politics in the Post-Maastricht Era*. Oxford: Oxford University Press;

BLATTER, Joachim; Haverland, Markus. (2014). Designing Case Studies: Explanatory Approaches in Small-N Research. Palgrave Macmillan.

BOHMELT, Tobias; Freyburg, Tina (2018). *Forecasting Candidate States'compliance with EU Accession Rules, 2017–2050*, Journal of European Public Policy, 25:11, 1667-1685, DOI: 10.1080/13501763.2017.1348385

BOVENS, Mark. (2007). *Analysing and Assessing Accountability: A Conceptual Framework.* European Law Journal, Vol. 13, No. 4, July 2007, pp. 447–468

BOVENS, Mark. (2010). *Two Concepts of Accountability: Accountability as a Virtue and as a Mechanism.* West European Politics, Vol. 33, No. 5, 946–967, September 2010

BOVENS, Mark., Curtin, D; 't Hart, P. (2010). *Towards a More Accountable EU: Retrospective and Roadmap.* (ACELG working paper series; No. 2010-04). Amsterdam: Amsterdam Centre for European Law and Governance, University of Amsterdam

BRACKING, Sarah. (ed.) (2007). *Corruption and Development: the Anti-corruption Campaigns*, New York: Palgrave.

Brusis, M. (2018). The Quality of Democracy in Central and Eastern Europe. Democracy under Stress. Changing Perspectives on Democracy, Governance and their Measurement. Prague: Institute of Sociology of the Czech Academy of Sciences. pp: 31-53

BUCHANAN; Allen; Keohane, R.O. (2006). *The Legitimacy of Global Governance Institutions;* Ethics and International Affairs, 20: 405-37 (32 pp)

BUCHANAN; Allen. (2002) '*Political Legitimacy and Democracy'*, Ethics, 112 (4): 689-719 (30 pp)

BUSTIKOVA, Lenka; Guasti, Petra. (2018). *The State as a Firm: Understanding the Autocratic Roots of Technocratic Populism*. East European Politics & Societies. Sage Publications.

ČAKAR, Dario; Krašovec, Alenka (2021): *Coping with the New Party Challenge: Patterns of Prime Ministerial Survival in Croatia and Slovenia*, East European Politics, DOI: 10.1080/21599165.2021.1873778

CAMPOS, Edgardo; Pradhan, S. (2007): *The Many Faces of Corruption: Tracking Vulnerabilities at the Sector Level,* Washington, D.C.: World Bank.

CAPOCCIA, Giovanni. (2015). *Critical Junctures and Institutional Change.* Ed. Mahoney, James and Thelen Kathleen, Cambridge University Press, p. 147-179

CARVER, James. (2003). *Combating Corruption: The Emergence of New International Law*, International Law Forum, p.119-123.

CHIVA, Christine and Phinnemore, David. (2012). The European Union's 2007 Enlargement, Routledge.

COOK, J. Linda. (2012). Eastern Europe and Russia. Chapter 46 in the Handbook of Social Policy.

COX, Michael et all. Ed. (2000). *American Democracy Promotion: Impulses, Strategies, and Impacts.* Oxford University Press.

CREMER, Georg (2008): *Corruption and Development Aid: Confronting the Challenge*, Lynne Rienner Publishers.

CROUCH, Colin. (2020). *Post-democracy after the Crisis.* Polity Press, UK.

CRUM, Ben (2018) *Parliamentary Accountability in Multilevel Governance: What Role for Parliaments in Post-crisis EU Economic Governance*?, Journal of European Public Policy,25:2, 268-286, DOI: 10.1080/13501763.2017.1363270

DELLA-PORTA, Donatella.; Vannucci, A. (1999). *Corrupt Exchanges: Actors, Resources and Mechanisms of Political Corruption.* Walter de Gruyter, Inc., New York;

EDVIN, Amenta, Nash, Kate, and Scott, Alan. (2012). *The Wiley-Blackwell Companion to Political Sociology.* Blackwell Publishing.

ESPING-ANDERSEN, Gøsta. (1996). *Welfare States in Transition: National Adaptations in Global Economies*. SAGE Publications Ltd

FOSSUM, Erik. J. (2016). Democracy and Legitimacy in the EU: Challenges and Options. ARENA Working Paper 1/2016

FRIC, Pavol, (2010). *Czech Elites and Citizens as a Part of Public Accountability System.* In: *Social Accounting and Public Management Accountability for the Public Good.* Edited by Stephen P. Osborne, Amanda Ball.

GANEV, Veselin. (2007). *Preying on the State: The Transformation of Bulgaria after 1989*. Ithaca, NY: Cornell University Press.

GANEV, Venelin I. Ganev. (2007). *Post-Accession Hooliganism: Democratic Governance in Bulgaria and Romania after*. East European Politics and Societies and Cultures Volume 27 (1), p. 26-44

GAILMARD, Sean. (2012). *Accountability and Principal-Agent Model.* Chapter prepared for the *Oxford Handbook of Public Administration*. Oxford University Press

GALLIE, W. B. (1996). *Art as an Essentially Contested Concept*. The Philosophical Quarterly,6, 1956, pp. 97 – 114

GILLEY, Bruce. (2009) *The Right to Rule: How States Win and Lose Legitimacy*, New York: Columbia University Press. Chapters 1 & 2, pp. 1-57 (56 pp)

GIDDENS, Anthony. (1990). *The Consequences of Modernity*. Cambridge, Polity.

GOSTA Esping-Andersen (ed.), (1996).*Welfare States in Transition: National Adaptations in Global Economies*, Sage Publications.

GRABBE, Heather (2006). *The EU's Transformative Power: Europeanization Through Conditionality in Central and Eastern Europe*, London., Palgrave Macmillan

GRABBE, Heather. (2014). *Six Lessons of Enlargement Ten Years On: The EU's Transformative Power in Retrospect and Prospect. Article in JCMS Journal of Common Market Studies*. DOI: 10.1111/jcms.12174

GRESKOVITS, Bela. (2015). *The Hollowing and Backsliding of Democracy in East Central-Europe.* Global Policy 6. Supplement: 28-37.

GRYZMALA-BUSSE, Anna. (2003a). "Political Competition and the Politicization of the State in East-Central Europe," Comparative Political Studies 36(10): 1123–1147.

— — (2003b). "Party Politics and Informal Institutions in East-Central Europe," delivered at the conference "Evaluating Success and Failure in Postcommunist Reform," Claremont-Mckenna College, February.

GUASTI, P. Dobovsek, B. (2011). *Informal Institutions and EU Accession: Corruption and Clientelism in Central and Eastern Europe*, 6th ECPR General Conference Reykjavik, Island, 25.-27.8 2011

FJELDE, Hanne; Håvard Hegre (2014) Political Corruption and Institutional Stability, *Studies in Comparative International Development* 49(3): 267–299.

FLORA, P, et all. (1999). *State Formation, Nation-Building, and Mass Politics in Europe. The Theory of Stein Rokkan.* Oxford University Press.

HABERMAS, Jürgen. (2012). *The Crisis of the European Union: A Response.* Polity Press.

HABERMAS,, Jürgen. (1996*). Between Facts and Norms. Contribution of a Discourse Theory of Law and Democracy.* Polity Press

FINK-HAFNER, Danica, Mitja; Hafner-Fink and Meta Novak. (2015). '*Europeanisation as a Factor of National Interest Group Political-Cultural Change: The Case of Interest Groups in Slovenia'.* East European Politics and Societies and Cultures 287, 301

HEFFLER. C., Neuhold C., Rozenberg O., Smith J. (eds). *The Palgrave Handbook of National Parliaments and the European Union.* Palgrave Macmillan, London.

HEYWOOD, Paul. (1997). *Political Corruption: Problems and Perspectives.* Political Studies, XLV, 417-435.

HIX, Simon; Bjørn Høyland (2011). The Political System of the European Union. Basingstoke ; New York: Palgrave Macmillan.

HOXHAJ, Andi. (2020). *The EU Anti-Corruption Report A Reflexive Governance Approach.* Routledge

HUGHES, James; Sasse, Gwendolyn; Gordon, Claire. (2002). *Saying 'Maybe' to the 'Return To Europe' Elites and the Political Space for*

Euroscepticism in Central and Eastern Europe. European Union Politics. Sage publication. Volume 3 (3).

Hughes, J., Sasse, G., Gordon, C. (2005). *Europeanization and Regionalization in the EU's Enlargement to Central and Eastern Europe*: The Myth of Conditionality. London: Palgrave Macmillan

KAUFMANN, Daniel and Vicente, Pedro C. (2005). Legal Corruption. Department of Economics/CSAE, University of Oxford. Available at://mpra.ub.uni-muenchen.de/8186/MPRA Paper No. 8186

Kaufmann, Daniel; Kraay, Aart; Mastruzzi, Massimo. (2008). Governance Matters VII : Aggregate and Individual Governance Indicators 1996-2007. Policy Research Working Paper No. 4654. World Bank, Washington,

Daniel Kaufmann and Phyllis Dininio (2006). Corruption : a key challenge for development in *The role of parliament in curbing corruption (2006). Stapenhurst, Rick; Johnston, Niall; Pelizzo, Riccardo. (ed.) Washington, D.C. : World Bank*

Kaufmann, D. and Dininio, P. N. J. et all. (2006). 'A Key Challenge for developmentDevelopment. '. In R. Stapenhurst et al, N. Johnston and R. Pelizzo (eds.), The Role of Parliament in Curbing Corruption. World Bank or reconstructionInstitute Development Studies, pp. 13–24.

KLIMA, Michal. (2020). *Informal Politics in Post-communist Europe. Political Parties, Clientelism and State Capture*. Routlege.

Kneip, S., & and Merkel, W. (2017). 'The idea Idea of democratic Democratic legitimacyLegitimacy' (. WZB Discussion Paper. Berlin. : WZB (forthcoming).

KRASTEV, Ivan. (2002). *The Inflexibility Trap: Frustrated Societies, Weak States and Democracy*. Centre for Liberal Strategies.

KITSCHELT; Wilkinson, (2007). Ed. *Patrons, Clients and Policies Patterns of Democratic Accountability and Political Competition*. Cambridge University Press.

KELEMEN, R. Daniel. (2011). *Eurolegalism: The Transformation of Law and Regulation in the European Union*, Harvard University Press,

KOHLER-Koch, B.; Berthold, R. (2007). *Debating the Democratic Legitimacy of the European Union*. Rowman and Littlefield Publishers.

KRASOVEC, Alenka. Slovenia: *Political Developments and Data in 2018*. European Journal of Political Research.

KULENOVIĆ, Enes; Petkovic Kresimir. (2016). The Croatian Princes: Power, Politics, and Vision (1990-2011). Croatian Political Science Review, Vol. 53, No. 4, 2016, pp. 105-131

KURER, Oskar (2005). *Corruption: An Alternative Approach to its Definition and Measuremen*t. Political Studies. Political Studies Association, vol. 53(1), pages 222-239

LADRECH, Robert. (1994). '*Europeanization of Domestic Politics and Institutions: The Case of France*', Journal of Common Market Studies, 32, 69–88.

LADRECH, Robert. (2007). '*National Political Parties and European Governance: The Consequences of "Missing in Action*', West European Politics, 30, 945–60.

LEDENEVA, Alena, Bratu, R. Koker, P. (2017), *Corruption Studies for the Twenty-First Century: Paradigm Shifts and Innovative Approaches*. The Slavonic and East European Review;

LEIBRIED, Stephan. (2015). *The Oxford Handbook of Transformations of the State*, OUP;

LIPSET, Seymour M. '*Some Social Requisites of Democracy: Economic Development and Political Legitimacy*', *American Political Science Review*, Vol.53, No.1 (1959), pp.69–105;

Seymor M. Lipset, Political Man. The Social Basis of Politics (Baltimore, MD: Johns Hopkins University Press, 1981), p.31.

JOHNSTON Michael, (2005). *Syndromes of Corruption: Wealth, Power, and Democracy*, Cambridge University Press.

JONES, Erik et all (2016). *Failing Forward? The Euro Crisis and the Incomplete Nature of the European Integration*. SAGE Publication.

IMBEAU, M. Lane (2018). *Parliaments as Agents of Corruption Control: The Impact of Legislative Institutions on the Level of Perceived Corruption*. IPSA

IMMERGUT, M., Ellen (2010). *Political Institutions. Chapter 15* in *Oxford Handbook The Oxford Handbook of the Welfare State*; Edited by Francis G. Castles, Stephan Leibfried, Jane Lewis, Herbert Obinger, and Christopher Pierson; Oxford University Press;

LANGE. S.Kajnč. (2015). *Slovenian Parliament and EU Affairs: Strong Formal Powers Awaiting Interest and Capacity to Be Used*. In: Hefftler C., Neuhold C., Rozenberg O., Smith J. (eds).The Palgrave Handbook of National Parliaments and the European Union. Palgrave Macmillan, London.

MAJONE, Giandomenico. (1998). „Europe's 'Democratic Deficit':The Question of Standards". *European Law Journal*, Vol. 4, No. 1, March 1998, pp. 5–28

MAJONE, Giandomenico (1994), „The Rise of the Regulatory State in Europe", *West European Politics,* 17/3: 77-101.

MAJONE, Giandomenico. (1999). *The Regulatory State and Its Legitimacy Problems*. West European Politics, p. 22:1.

MALOVA, D; Haughton, T. (2002). *Making Institutions in Central and Eastern Europe, and the Impact of Europe.* West European Politics, Volume 25, 2002, pages 101-120

MALCIC;, Matevž; Krašovec, Alenka. (2019). *New Parties and Democracy in Slovenia*. Politics in Central Europe. Vol. 15, No. 1;

MALDINI, Pero; Paukovic, Davor. Ed. (2015). *Croatia and the European Union: Changes and Development*, Routledge.

MANSFELDOVA, Zdenka. (2011). *Central European Parliaments over Two Decades - Diminishing Stability? Parliaments in Czech Republic, Hungary, Poland, and Slovenia.* The Journal of Legislative Studies;

March, James G., and Johan P. Olsen. (1989). *Rediscovering Institutions: The Organizational Basis of Politics*. New York: The Free Press.

MAURO, Paolo. (1998). *Corruption: Causes, Consequences, and Agenda for Further Research*. IMF Finance and Development.

MAATSCH, Aleksandra. (2017). *Effectiveness of the European Semester: Explaining Domestic Consent and Contestation.* MPIfG Discussion Paper 17/6. Max Planck Institute for the Study of Societies, Cologne

MAIR, Peter (1997). *What Is Different About Post-Communist Party Systems?* Oxford University Press;

MAIR, Peter (2013). *Ruling the Void: The Hollowing of Western Democracy.* Verso

MAIR, Peter. (2005). *Party System Change Approaches and Interpretations*; Clarendon Press.

MILL, John Stuart. (1977). *Essays on Politics and Society*. University of Toronto Press

METTLER, Suzanne; Soss, Joe, (2004). *The Consequences of Public Policy for Democratic Citizenship: Bridging Policy Studies and Mass Politics*. Perspectives on Politics, 2(1), 55-73. doi:10.1017/S1537592704000623

Merkel, W. (2004). 'Embedded and Defective Democracies'. Democratization, Vol.11, No. (5, pages): 33–58. Taylor & Francis Ltd.

MORAVCSIK, Andrew; Sangiovanni, Andrea. (2003). *On Democracy and "Public Interest" in the European Union*. CES Working Paper, no. 93. EU (122-148)

MULLER, Jan-Werner. (2012). *'Beyond Militant Democracy?'*, New Left Review, 73 39–47 (43–4).

MUNGUI-PIPPIDI, Alina et all. (2015). *Government Favoritism in Europe: The Anticorruption Report 3.* Barbara Budrich Publishers.

MUNGUI-PIPPIDI, Alina (2016). *The Good, the Bad and the Ugly: Controlling Corruption in the European Union*. Hertie School of Governance. Anticorruption policies revisited: Global Trends and European Responses to the Challenge of Corruption (Anticorrp)

MUNGUI-PIPPIDI, Alina. (2013). *Becoming Denmark: Historical Designs of Corruption Control.* Book chapter in,The Development of Good Governance'. Cambridge University Press

MULGAN, Richard. (2009). *Aristotle on Legality and Corruption.* History of Political Thought, 30(4). 596–616. ANU.

NEUHOLD, C., Rozenberg, O., Smith, J., Hefftler, C. (Eds.) (2015). *The Palgrave Handbook of National Parliaments and the European Union.* Palgrave Macmillan UK

NEUMAYER, Laure. (2019). *The Criminalisation of Communism in the European Political Space after the Cold War*. Routledge

NULLMEIER, Frank, KAUFMANN. (2012). *Post-War Welfare State Development.* Chapter in the Oxford Handbook of Welfare State. Ed. Castles et all. Oxford University Press.

LANE,Jan-Erik. (2013). *The Principal-agent Approach to Politics: Policy Implementation and Public Policy Making*. Open Journal of Political Science Vol 3. No2, 85-89

LINDSETH, Peter. (2010). *Power and Legitimacy: Reconciling Europe and the Nation-State,* Oxford: Oxford University Press (364 pp)

LIJPHART, Arend. (1999). *Patterns of Democracy: Government Forms and Performance in Thirty-six Countries*. Yale University Press;

LIPSET, Seymour Martin and Rokkan Stein. 1967. *Party Systems and Voter Alignments: Cross-National Perspectives*; New York: Free Press.

LEDENEVA, Alena et all. (2017). *Corruption Studies for the Twenty-First Century: Paradigm Shifts and Innovative Approaches.* The Slavonic and East European Review, Vol.95. No. 1

LORD, Chris; Beetham, D. (2001). *Legitimizing the EU: Is there a 'Post-parliamentary Basis' for its Legitimation?* Journal of Common Market Studies. Vol 39, No.3 pp.443-62

LORD, Chirs, Magnette, P. (2004*). E Pluribus Unum? Creative Disagreement about Legitimacy in the EU*; JCMS Volume 42, Number 1. pp.183-202

LORD, Chris. (2013) *The Democratic Legitimacy of Co-decision*, Journal of European Public Policy, 20:7, 1056-1073, DOI: 10.1080/13501763.2013.795400

LORD, Chris. (2015). *A Different Kind of Democracy? Debates about Democracy and the European Union*. Open Society Foundations.

LORD, Chris. (2004). *A Democratic Audit of the European Union. One Europe or Several?* Palgrave Macmillan; Process of Integration – page 43-44, Lindseth (2010), Power and Legitimacy;

LORD, Chris; Pollak, Johannes. (2010) *Representation and Accountability: Communicating Tubes?,* West European Politics, 33:5, 968-988;

LUPIA, A. (2003). Delegation and its Perils in: *Delegation and Accountability in Parliamentary Democracy*, Strom et.al (ed.). Oxford University Press.

North, Douglas. C. (1990). Institutions, Institutional Change and Economic Performance. New York: Cambridge University Press.

O'BRENNAN, J. Raunio, T. (2007). *National Parliaments within the Enlarged European Union: from Victims of Integration to Competitive Actors*? Routledge, Taylor & Francis Group.

OCHRANA, Frantisek (2015). *Methodology of Social Sciences*. Karolinum Press;

OFFE, Claus. (2013). *Europe Entrapped. Does the EU have the Political Capacity to Overcome its Current Crisis?* European Law Journal. Vol 19, No.5, pp. 595 – 611

OLSEN, P. Johan (2013). *The Institutional Basis of Democratic Accountability*. West European Politics 36/3: 447-473

OLSEN, P. Johan (2010). *Governing through Institutional Building. Institutional Theory and Recent European Experiments in Democratic Organizations*. Oxford University Press.

OST, David. (2006). *Defeat of Solidarity. Anger and Politics in Postcommunist Europe.* Ithaca, NY: Cornell University Press. 180-81.

ORDANOSKI, Sašo; Matovski, Aleksandar. (2007). *Between Ohrid and Dayton: The Future of Macedonia's Framework Agreement*. Südosteuropa Mitteilungen, issue: 04 2007, pages: 46-59, Available at: www.ceeol.com

PIERSON, Paul. (1996). *The Path to European Integration: A Historical Institutionalist Perspective.* Program for the Study of Germany and Europe. Working Paper No. 5.2

PEGAN, Andreja; Krašovec, Alenka. (2021). Slovenian Parliament. Available at:

PERSON, Torsten; Roland, Gerald; Tabellini Guido. (1997). *Separation of Powers and Political Accountability*. Quarterly Journal of Economics 112.

PERSSON, Thomas; Parker F. Charles; Widmalm Sten (2017). *Social Trust, Impartial Administration and Public Confidence in EU crisis Management Institutions;*

PETERS, B. Gay. (2010). *Institutional Theory of Political Science: the New Institutionalism.* 3rd edition. Continuum International Publishing group.

PLATO. (2000). *The Republic.* Cambridge: Cambridge University Press.

POTUCEK, Martin. (2017). *Public Policy: Comprehensive Introduction.* Karolinum Press.

POPE, Jeremy. (2000). *Confronting Corruption: The Elements of a National Integrity System.* Transparency International Source Book.

PRZEWORSKI, Adam., Stokes, S.C. and Manin, B. (eds) (1999) *Democracy, Accountability, and Representation.* Cambridge: Cambridge University Press.

PRZEWORSKI, Adam. (2019). *Crisis of Democracy.* Cambridge: Cambridge University Press;

PRIDHAM, Geoffrey. (2006). *European Union Accession Dynamics and Democratization in Central and Eastern Europe: Past and Future*

Perspectives. Government and Opposition, Vol. 41, No. 3 (SUMMER 2006), pp. 373-400 Published by: Cambridge University Press

RAIK, Kristi. (2004). *EU Accession of Central and Eastern European Countries: Democracy and Integration as Conflicting Logics*. East European Politics and Societies, Vol. 18, No. 4, p. 567– 594.

RADAELLI, Claudio. (2003). '*The Europeanization of Public Policy'*, in Featherstone, K. & Radaelli, C., eds., The Politics of Europeanization. Oxford: Oxford University Press.

Raunio, T. and Hix, S. (2000). *Backbenchers learn to fight back: European integration and parliamentary government*. West European Politics. (3). 142-168.

RICHTER, Solveig; Natasha Wunsch (2019). *Money, Power, Glory: the Linkages between EU Conditionality and State Capture in the Western Balkans*, Journal of European Public Policy;

ROOD, Jan. (2017). *A Crisis of Confidence in the European Union? Thematic Study Clingendael Strategic Monitor 2017*. Netherlands Institute of International Relations 'Clingendael'

ROSE-ACKERMAN, Susan. (1999). *Political Corruption and Democracy*. Faculty Scholarship Series. Paper 592.

ROSE-ACKERMAN, Susan. (1999): *Corruption and Government: Causes, Consequences, and Reform,* Cambridge University Press.

Rose-Ackerman, S. (2010). Corruption: Greed, Culture and the State. Yale Law Journal Online, Vol. 120, pp. 125-140.

ROSE-ACKERMAN, Susan. (1978). *Corruption: a Study of Political Economy*, New York, Academic;

ROTHSTEIN, Bo. (2005). *Social Traps and the Problem of Trust. Theories of Institutional Design*. Cambridge University Press.

ROTHSTEIN, Bo. (2011). *The Quality of Government. Corruption, Social Trust and Inequality in International Perspective*. Chicago and London. The University of Chicago Press.

ROTHSTEIN, Bo; Teorell, J. (2008*). What Is Quality of Government? A Theory of Impartial Government Institutions.* Governance: An International Journal of Policy, Administration and Institution. Volume21, Issue2. Pages 165-190.

ROTHSTEIN, Bo. (2011) "*Anti-Corruption: The Indirect "Big-Bang" Approach* " Review of International Political Economy 18 (2): 228-250.

ROUSSEAU, Jean-Jacques (2004/1968/1762). The Social Contract. Penguin Classics.

RUPNIK, Jacques. (2007). *Is East-Central Europe Backsliding? From Democracy Fatigue to Populist Backlash*. Journal of Democracy. Volume 18. Number 4.

RUPNIK, Jacques; Zielonka Jan, (2013). 'The State of Democracy 20 Years On: Domestic and External Factors'. 27(1) East European Politics and Societies 3, 13;

VACHUDOVA, Milada-Anna (2005). *Europe Undivided Democracy, Leverage, and Integration After Communism*. Oxford University Press

SAROTTE, Mary Elise. (2009). *The Struggle to Create Post-Cold War Europe*. Princeton University Press

Colin Scott (2014). Independent Regulators. The Oxford Handbook of Public Accountability Mark Bovens, Robert E. Goodin, and Thomas Schillemans (ed). Oxford: Oxford University Press

SCHARPF, Fritz; (2009). *Legitimacy in the Multilevel European Polity.* European Political Science Review.

SCHARPF, Fritz. (1999). *Governing in Europe: Effective and Democratic*?. Oxford University Press.

SCHIMMELFENNING, Frank; Sedelmeier, Ulrich. (2005). *Conceptualizing the Europeanisation of Central and Eastern Europe,* in Schimmelfenning and Sedelmeier (eds.). The Europeanisation of Central and Eastern Europe. Cornell University Press: 1-11.

SCHMIDT, A.Vivien. (2013) *Democracy and Legitimacy in the European Union Revisited: Input, Output and 'Throughput'* Boston University. Political Studies. 2013 VOL 61, 2–22

SCHMIDT, A.Vivien. (2015). *Democracy in Europe*. Routledge Handbook of European Politics. Chapter 9. Routlegde.

SCHMIDT, A. Vivien. (2015). *Forgotten Democratic Legitimacy: „Governing by the Rules" and "Ruling by the Numbers*. Chapter 5 in The Future of the Euro edited by Mark Blyth and Matthias Matthijs, New York: Oxford University Press

SCHMIDT, A.Vivien. (2016). *The Impact of European Integration on National Democracies: Democracy at Increasing Risk in the Eurozone Crisis*. Available at: https://www.bbvaopenmind.com/en/article/civil-society-and-eu-enlargement/

SCHMIDT, Vivien A. (2020). *Europe's Crisis of Legitimacy: Governing by Rules and Ruling by Numbers in the Eurozone*. Oxford University Press.

SCHMITTER, Paolo, C. (2003). *The Quality of Democracy: The Ambiguous Virtues of Accountability*. Istituto Universitario Europeo settembro.

STEINMO, Sven. (2012). *Historical Institutionalism*. Chapter 7. Cambridge University Press, pp 118-138

STOKES, S. C. et all (2012). *Brokers, Voters and Clientelism*. Yale University and Universidad Nacional de Cordoba.

STREECK, Wolfgang; Thelen, Kathleen (2005). *Introduction: Institutional Change in Advanced Political Economies,* Chapter (1-57) in Beyond Continuity Institutional Change in Advanced Political Economies. Oxford University Press

STROM, Kaare. (2000). *Delegation and Accountability in Parliamentary Democracies*. European Journal of Political Research, Vol. 37, No. 3, pp. 261–89;

STROM Kaare., Müller, W. C; Bergman, T., eds.(2003). *Delegation and Accountability in Parliamentary Democracies.* Oxford: Oxford University Press.

SZAREK-MASON, Patrycja. (2005). *The European Union's Fight against Corruption: the Evolving Policy towards Member States and Candidate Countries.* Cambridge University Press

THELEN, Kathleen. (1999). *Historical Institutionalism in Comparative Politics.* Annual Review Political Science 1999. 2:369–404

WARREN, E. Mark. (2014). *Accountability and Democracy.* Chapter in *The Oxford Handbook by Public Accountability.* Ed. Bovens. Oxford: Oxford University Press, pp. 39–54.

WEBER, Martin. (1978). *Economy and Society: An Outline of Interpretive Sociology.* Berkeley,   CA: University of California Press

WIBERG, Maati. (1995). *'Parliamentary Questioning: Control by Communication?', in Döring, H., ed., Parliaments and Majority Rule in Western Europe.* New York: St Martin's Press.

WHITE, Jonathan. (2020). *Politics of Last Resort. Governing by Emergency in the European Union.* Oxford University Press; Oxford, UK;

WOLFGANG, Merkel. (2004). *Embedded and Defective Democracies.* Democratization, Vol.11, No.5, pages 33-58. Taylor & Francis Ltd.

WOLFGANG, Merkel, Kneip, Sasa. (2017). *The Idea of Democratic Legitimacy* (WZB Discussion Paper. Berlin. WZB (forthcoming).

WOLFANG, Merkel. (2019). *Past, Present, and Future of Democracy.* Policy Review European Commission Directorate-General for Research and Innovation. Brussels: European Commission.

WOODWARD, Susan. (1995). *Balkan Tragedy: Chaos and Dissolution after the Cold War.* Brookings Institution.

ZIELONKA, Jan. (2018). *Counter-Revolution, Liberal Europe in Retreat*; Oxford University Press.

ZIELONKA, Jan (2006). *Europe as Empire: The Nature of the Enlarged European Union.* Oxford University Press.

Documents, International Reports, and Media Articles

Annual reports on the work of the Assembly, for the period 2001-2016. Available at: <www.sobranie.mk>, accessed 1 April 2019.

Basic Constitutional Charter [Temeljna ustavna listina], para 3 'Poročilo o izidu glasovanja in o izidu referenduma o pristopu Republike Slovenije k EU', 23 March 2003

Bertelsmann Stiftung's Transformation Index (BTI) 2016 – 2020, Slovenia, Croatia, and North Macedonia. Available at: https://www.bti-project.org/content/en/

Civil Society Forum (CSF). (2019). *Economic Issues in the Western Balkans*. European Fund for the Balkans and Democracy for Development.

Commission Staff Working Document. (2015). *Assessment of the 2014 National Reform Programme and Convergence Programme for Croatia*. European Commission

Constitution of RM (1992). Official Gazette of RM, No. 52, Article 76. Available at: https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns_article-constitution-of-the-republic-of-north-macedonia.nspx

Constitution of the Republic of Slovenia, Article 3a. Official Gazette RS, Nos. 33/91-I, 42/97, 66/2000, and 24/03. Available at: https://www.varuh-rs.si/en/about-us/legal-framework/the-constitution-of-the-republic-of-slovenia/

Constitution of the Republic of Croatia. The consolidated text published in "Narodne novine" (the Official Gazette), No. 41/01 of May 7, 2001, together with its corrections published in "Narodne novine" No. 55 of June 15, 2001. Available at: https://www.legislationline.org/documents/id/15043

Court of Auditors, 'Special Report No 8/98', OJ C 23022 July 1998;

European Commission, *Macedonia 2014 Progress Report*, October 2014, DG Enlargement. European Commission, Macedonia 2014 Progress Report, October 2014, DG Enlargement, available at:

http://ec.europa.eu/enlargement/pdf/key_
documents/2013/package/mk_rapport_2013.pdf

EU Progress Reports, Former Yugoslav Republic of Macedonia (FYRM).
(2012-2016). Progress Reports. European Commission. Brussels,
COM (2014)700 final of 8.10.2014.8 June 2015. 2016. 362 final.

The Former Yugoslav Republic of Macedonia: Assessment and
recommendations of the Senior Experts' Group on systemic Rule of
Law, 2015, 2017 Brussels

Ministry of Interior. *Conditions Relating to Organized Crime over the Past Six
Months*. 08/02/2014 Retrieved from:
http://mvr.gov.mk/ShowAnnouncements.
aspx?ItemID=13755&mid=1094&tabId=201&tabindex=0

Drzavni Zbor, Republike Slovenija. (2020). *Sedem Mandatov Drzavneg
Zbora* (ob 25 letnici Drzavneg zbora). Available at: E-
publikacija_sedem_mandatov_DZ_25_let_2018.pdf (dz-rs.si)

State Election Commission, Republic of Slovenia: https://www.dvk-
rs.si/index.php/en

Institut za javne financije. 2010. Analiza sustava zaposlenih u hrvatskom
javnom sektoru. IJF. Zagreb

Inter-Parliamentary Union, IPU. (2007). *Tools for Parliamentary Oversight:
Comparative Study of 88 National Parliaments*. Switzerland, IPU, pp. 1–
81. At

http://www.ipu.org, accessed on 1 April 2019; July 2021;

Constitutional Court Case U-II-1/12, U-II-2/12 [2012].Umanjkanje
demokracije' IUS-INFO, Zakon o volitvah v skupščine

Article 80 & 96, Ustav Republike Slovenije 1991,
http://www.uradnilist.si/_pdf/1991/Ur/u1991033.pdf

'Ustavne razprave 2001–2003, Izbor gradiv Državnega zbora' [2004] (3).

Statistični urad Republike Slovenije, National Accounts on the Economic
Crisis in Slovenia (2016) 16.

Fiscal Council of the Republic of Slovenia, www.fs-rs.si/news, Official Gazette of the Republic of Slovenia no 55/15 [2015]

Law on Prevention of Corruption. (2002). Official Gazette of the Republic of Macedonia, No. 28.

Law on Public Sector Employees (LPSE). Official Gazette of Republic of Macedonia, No. 27/2014, 199/2014, and 27/2016.

Law on the Ombudsman. (2003). Official Gazette of the Republic of Macedonia, No. 60.

Le Monde Diplomatique. Le mystère italien, Mafia, populisme, technocrates. Available at https://www.monde-diplomatique.fr/mav/176/

Ombudsman, Annuals report, Republic of Macedonia, 2001-2016. At: http://ombudsman.mk, accessed 8 September 2019

OECD Government at a Glance (2017).Country Fact Sheet: Slovenia. Available at: https://www.oecd.org/gov/government-at-a-glance.htm

The Former Yugoslav Republic of Macedonia. (2012–2017). Brussels, (332/2012; 700/2103; 700/2014; 212/2015; 362/2016; 2017).

The Former Yugoslav Republic of Macedonia. (2017). *Assessment and*

Recommendations of the Senior Experts' Group on Systemic Rule of Law Issues. Brussels, 14 September 2017;

Transparency International. (2017). *Ensuring that the European Semester Delivers Anti-corruption Results.* EU Transparency International

The Parliamentary Inquiry Committee for Protection of Human Rights and Freedoms, Minutes of the meeting (2004; 2017). At http://sobranie.mk, accessed 22 August 2019.

Slovenian National Parliament. Report on National Assembly's Work in the Parliamentary Term 2004-2008; 2011-2014; 2014-2018; Public Relations Office. Available at: UDC: http://www.dz-rs.si/wps/portal/Home/deloDZ/Publikacije/PorocilaDZ

Transparency International. (2016). *Assessment of the National Integrity System of Macedonia*. Transparency International office in Macedonia

Westminster Foundation for Democracy. (2016). Assessment of Legislative and Regulatory Provisions related to the Work of the State Audit Office (SAO). X. List of Appendices. Center for Economic Analyses (CEA)

World Development Report (2017). "*From de-jure to de-facto: Mapping Dimensions and Sequences of Accountability*" V-Dem Institute, Department of Political Science, University of Gothenburg;

Annexes:

Annex 1.

Table 2: Parliamentary Oversight Instruments in North Macedonia, Slovenia, and Croatia, based on IPU[179]

Parliamentary oversight	Oversight Instruments	Measures: Croatian Parliament	Measures: Macedonian Parliament	Measures: Slovenian Parliament	Normative duties (sources of information)
1.1. Accountability of Government to Parliament	Oral and written questions of parliamentarians;	Vote of No-confidence on Government programs and legislative proposal/ Not applicable: Government reports to Parliament	Vote of No-confidence on Government programs and legislative proposals	Regular Session; Special Agenda; Debates on proposal; Vote of confidence on Government programs and legislative proposals;	Governmental Officials; Within the scope of their powers, Government and individual ministers are independent and accountable to the National Assembly (Article 110 of the Constitution).
1.2.Oversight over the actions of the Government administration	Annual reports	Debates, questions, and recommendations submitted to the Governmental Institutions/Governmental Administration	Debates, questions, and recommendations submitted to the Governmental Institutions	Government Reports to the Parliament;	Governmental bodies; Specialized bodies: Conflict of Interest; State Commission for Prevention of Corruption; Experts; NGOs
2. Committee Hearings	Committee Hearings	Questioning; Experts' Consultations; Discussions on Annual Reports; Actions Plans; Deliverables;	Questioning; Experts' Consultations; Discussions on Annual Reports; Actions Plans; Deliverables;	In order to gather information, a working body may organize public hearings and invite experts and other persons who might	Governmental departments; Specialized bodies: Conflict of Interest; State Commission for Prevention of Corruption; Experts; NGOs;

[179] Inter-parliamentary Union, available at: https://www.ipu.org/

				provide useful information. The calling of a public hearing, together with issues on which information needs to be gathered, is announced in the media. The working body may ask the persons invited to the public hearing to deliver their opinions in writing as well (Article 46 of the Rules of Procedure).	
3. Committees of inquiry and missions to Government departments;	Inquiry Committee	Inquiry, Questioning; Experts' Consultations; Discussions on Annual Reports;	Inquiry, Questioning; Experts' Consultations; Discussions on Annual Reports;	Inquiry, Questioning; Experts' Consultations; Discussions on Annual Reports;	Governmental institutions; local and regional self-government bodies and central governmental bodies; Specialized bodies: Conflict of Interest; State Commission for Prevention of Corruption; Experts; NGOs
4. Oral and written questions of parliamentarians;	Interpellation on the conduct of the government or any of its individual members.	a) Parliamentary Debates; b) oral and written questions to the government or its individual members about the performance of its duties and implementation of the law.	a) Parliamentary Debates: b) oral questions;	Regular Session at the Assembly; Under the Rules of Procedure, a special agenda item for a session of the National Assembly is reserved once a month for parliamentary questions. For each discussion of parliamentary questions, the Bureau determines the date and time of the beginning of the discussion of parliamentary questions and the duration of discussion. (Article 241 of	Governmental/Administrative Institutions; local and regional self-government bodies and central governmental bodies.

				the Rules of Procedure).	
5. Role of Parliament in the appointment of senior Government officials	Parliamentary opinions	Parliamentary Debates	***Not applicable in the case of Macedonia***	Not applicable.	Governmental/Administrative Institutions;
6. Activity reports of the Government administration and of public services or establishments	Administrative Annual Report and Parliamentarian Requests	Discussions, questions, remarks, and recommendations/proposals/follow-up measures	Activity reports submitted by the state-owned companies, founded by the Assembly ~ Discussions, questions, recommendations;	The duty to report to the National Assembly is provided for in some sectoral legislation, such as for the Securities Market Agency and Agency for the Insurance Inspectorate.	Governmental/Administrative Institutions;
7. Representation of Parliament in governing bodies of the Government administration	Annual reports	Discussion, questions, and recommendations on ~ parliamentarians as members of administrative bodies of state-owned companies or public institutions.	Discussion, questions, and recommendations on ~ parliamentarians as members of administrative bodies of state-owned companies or public institutions	The Deputies Act determines stipulates that a deputy may not simultaneously be a member of the National Council, nor may he perform other functions or work in state bodies. (Article 10 of the Deputies Act).	National Council, Constituencies;
8. Ombudsman role and relationship to the Parliament	Appointment and Annual Reports	a) Appointment of the People's Ombudsman, as a parliamentary commissioner b) Public Discussions, Scrutiny reports, and recommendations	a) Appointment of the People's Ombudsman, as a parliamentary commissioner b) Public Discussions, reports, and recommendations	The Ombudsman submits to the parliament general annual reports and special reports on his or her work. The funds for the Ombudsman's work are to be allocated by the parliament from the state budget (Article 5 of the Human Rights Ombudsman Act).	Ombudsman Office;

9. Evaluation of Government spending & Parliamentary oversight of public companies	Annual Reports and Appointment of Chief Auditor/	Annual Reports (Ministry of Finance responsible for overseeing public companies); Oversight over public spending through the annual government reports on the implementation of the budget.	Annual reports: annual government reports on the implementation of the budget. ***Not applicable in the case of Macedonia:*** Parliamentary oversight of public companies	The finance and monetary policy Committee sets out its views on amendments within 15 days from the presentation of the proposed budget and drafts a report for the National Assembly. Evaluation of Government spending;	The Court of Audit; The Government is accountable to the National Assembly for the execution of the budget. The National Assembly passes the closing accounts of the budget together with the report of the Court of Audit (Article 155 of the Rules of Procedure).
10. Role of Parliament in national development plans	Parliament adopts development strategies for individual spheres of economic and social life.	Public Discussion and adoption of development strategies	Not applicable in the case of Macedonia	Under the proposal of the Government; Under the Rules of Procedure, the National Assembly adopts constitutional acts amending the Constitution, laws, authentic interpretations of laws, the state budget, the supplementary state budget, amendments to the state budget, and the annual financial statement of the state budget, the Rules of Procedure of the National Assembly.	
11. Budgetary autonomy of Parliament	NO	/	NO	YES. The budget of the National Assembly is a constituent part of the national budget. It is drafted by the Secretary-General of the Assembly in agreement with the collegium Bureau of the National Assembly President.	

Source: *Inter-Parliamentary Union (IPU) Data;* National documents and data gathered from semi-structured interviews. Adapted by the author

Annex 2: List of Experts Per Country (MKD; CRO; SLO)[180]

1. Interview with an expert in EU affairs, a former executive at the Secretariat of European Affairs in Skopje, Macedonia, and current executive at the Macedonian Diplomatic Mission in Brussels. MKD

2. Interview with an expert on EU affairs, a former executive at the Secretariat for European Affairs in Skopje, Macedonia, and member of the main coordinative body of the Macedonian national administration in the EU accession process. A former employee at the Macedonian Diplomatic Mission in Brussels. MKD

3. Interview with an expert in anti-corruption. Policy officer at Transparency International –Brussels, working on integrity issues at the European institutions. Brussels, Belgium;

4. Interview with an expert in EU affairs and legislation. Member of the Parliamentary Institute, providing support to the MPs of the Macedonian Parliament. A former executive at the Secretariat of European Affairs in Skopje, Macedonia. MKD

5. Interview with an expert in political systems and Member of the Parliamentary Institute providing support to the MPs of the Macedonian Parliament. MKD

6. Interview with an expert in political systems and public administration. Assistant professor at the *International Balkan University* in Skopje and former employee for the Secretariat for European Affairs in Skopje, Macedonia. MKD

7. Interview with a Deputy Ombudsman at the Macedonian Ombudsman Office and former State Secretary at the Secretariat of European Affairs in Skopje, Macedonia. MKD

---

[180] *Abbreviations:* MKD – Republic of North Macedonia; CRO – Croatia; SLO – Slovenia. 30 (thirty) interviews in total were carried out between March 2018 and May 2019. Fourteen interviews were conducted with Macedonian experts, nine with Croatian experts, one with an expert in the Western Balkans (Macedonian/Croatian), one with Brussels experts in anti-corruption, and five with Slovenian experts.

8. Interview with an expert in parliamentary and EU affairs. Former Head of Unit for Justice, Freedom and Security at the Secretariat of European Affairs in Skopje, Macedonia, and current employee at National Democratic Institute (NDI), Skopje. MKD

9. Interview with an expert in party politics and political systems. Senior program manager at the National Democratic Institute (NDI), Skopje. MKD

10. Interview with an expert in EU affairs and party politics. Former Member of the Macedonian Parliament (MP) and current assistant professor at the Faculty of Law, University of Cyril and Methodius, Skopje. MKD

11. Interview with an analyst in party systems and representative democracies at the Citizens Association MOST, NGO with expertise in monitoring elections. Skopje, MKD

12. Interview with an expert in parliamentary democracy and political systems. Member of the Westminster Foundation for Democracy, former local activist. Skopje, MKD

13. Interview with Member of the Macedonian Parliament (MP). Skopje, MKD

14. Interview with Member of the Macedonian Parliament (MP). Skopje, MKD

15. Interview with a professional journalist and expert in political systems and EU affairs. Editorial host of a show that broadcasts on national media.

16. E-Interview with an expert in Western Balkans and EU affairs. Co-founder of Berlin- based non-profit think tank.

17. Interview with an expert in political science and party politics. Teaching assistant in Political Science at the Catholic University in Zagreb, Croatia, and former expert at Croatian State Foundation. Zagreb, CRO

18. Interview with an expert in political systems. Teaching assistant in Political Science at the Catholic University in Zagreb, CRO

19. Interview with an expert in party politics and political science. Teaching Professor in Political Science at the University in Zagreb, Croatia. CRO

20. Interview with Member of the Croatian National Parliament (MP) and expert in EU affairs. Zagreb, CRO

21. Interview with Member of the Croatian National Parliament (MP), the national and current member of the National Council for monitoring anti-corruption, Zagreb, CRO

22. Interview with former Member of the Croatian National Parliament (MP) from 2000 to 2015 and former member of the National Council for monitoring anti-corruption, Zagreb, CRO

23. Interview with former Information Commissioner in Croatia (Ombudsman) and current associate professor of Administrative Law and Public Administration in Faculty of Law in Zagreb, CRO

24. Interview with an expert in anti-corruption and political systems. Senior Research Associate at the Department for European Integration of the Institute for Development and International Relations (IRMO) Zagreb. CRO

25. Interview with an expert in anti-corruption. Member of the Public Finance Institute Zagreb. CRO

26. E-interview with an expert in political institutions, political processes, and democratization. Professor of political science at the University of Ljubljana, Slovenia, SLO

27. E-interview with an expert in political parties, interest groups, and policy analysis. Interest Groups and Policy Analyses. Professor of political science at the University of Ljubljana, Slovenia, SLO

28. E-interview with an expert in anti-corruption (lobby groups and party financing). Member of the Transparency International Slovenia, SLO

29. E-interview with an expert in anti-corruption. Secretary-General of Transparency International Slovenia, SLO

30. E-interview with a former minister in Slovenian government on two mandates and current professor at the University of Ljubljana, SLO

Annex 3: Interview Protocol, Information Sheet, and Consent Form

Interview Protocol

Introduction: 5 minutes

Identification. Name, surname, position.

Research Purpose and Research Aim: This research is part of the PLATO program, an Innovative Training Network (ITN) under the H2020 Marie Skłodowska-Curie Actions (MSCA) (2017-2020). In my Ph.D. project entitled "The new understanding of EU democratic legitimacy and anti-corruption", I study the role of actors (parliaments, political parties, MEPs) and parliamentary scrutiny (institutional factors) over abuses of power (anti-corruption policy, ACP) under the process of Europeanisation and democratisation/EU's policies and actions after the financial/political crisis in 2008.

II. Introduction to Terms and Conditions

Terms and conditions:

The timeframe of the semi-structured interview will be between 45-60 minutes. *Data protection*: The information provided in the interview will be treated in full confidentiality. The interview will be transcribed, and I may also take notes during the interview. With your approval, I would like to ask for your permission to audio record the interview.

III. Start of the Interview:

A. Personal Experience/background

What is your previous and current background? *in the EU affairs/EU enlargement process/EU integration process/democratisation process?

B. EU Context

1. What are your views about the EU monitoring capacities over the rule of law and anti-corruption policy – currently (European Semester) and in the past periods under the EU integration/conditionality process?

2. In your views, is the EU approach in addressing the problem of corruption on a nation-state and EU level sufficient? If not, why not?

3. Has the EU supported the role of the executives and the parliaments/legislatures in an equal manner during the process of Europeanisation and democratisation? If not, why not?

4. In your views, what role does the EU plays in affecting nation-state sovereignty?

5. In your views, how does the EU affect the political parties' 'transformation/ role' in democratisation processes? In the CEE countries?

6. How can the EU support the work of the national parliaments in monitoring anti-corruption policy?

7. What are your views about the inter-parliamentary cooperation/cooperation with the European Parliament in anti-corruption policy?

8. In your opinion, what are your views about the (possible) trade-off between efficiency and accountability (at the expense of accountability) under the EU integration process? Do you recall any specific cases/occasions?

9. In your opinion, how is national sovereignty affected under the process of Europeanisation, and does this affect the (quality) of the democratisation process?

C. National Context

1. How effective are the national parliaments in holding public officials (and institutions) accountable for their actions (i.e., using the available oversight mechanisms? If not, why not? If yes, which one?

2. In your opinion, how are or were the political parties (historically) transformed under the process of democratisation and Europeanisation?

3. In your opinion, what factors have contributed to the current position of the political parties in the process of democratisation?

4. In your opinion, what has been or is the level of cooperation between the governmental institutions, the national parliament, and the civil society organisations regarding anti-corruption policy?

5. In your opinion, how effective are parliaments, political parties, and MPEs in scrutinising abuses of powers? If not, why not, and how can this be changed?

6. In your opinion, how effective is the work of the regulatory and independent bodies: State Audit Office/Ombudsman. (in cooperation with the parliaments) in scrutinising abuses of power (annual reports, actions plans, strategies).? If not, why not?

7. Do you recall any occasions when corruptive risks or (potential) abuses of public power/public money have been discussed in parliamentary oversight hearings? If yes, when/which cases and what has been the follow-up? If not, why not?

8. From your personal experience, which external and internal factors have affected (or still) affect the role of the parliament in exercising its oversight role?

9. (*Optional*) What is your view on the role of human capital (skills and expertise) of the MEPs in scrutinising the quality of anti-corruption policy progress?

10. In your views, what type of electoral model is the best for the country, and does the electoral model affect the culture (of exercise) of accountability?

11. In your view, how can the oversight hearings contribute to law enforcement in anti-corruption policy and against the concentration of power?

12. In your view, how can the role of the executives/political elites be constrained (balanced in the exercise of power)?

13. In your view, in which way are external actors (interest and business groups) affecting the process of balance of abuses of power (on the rule of law, prosecution and legislation included?) (i.e., possible links to political elites?)

14. In your view, what is the role of the rule-of-law experts or other technocratic experts in addressing the challenges of the backsliding of democracy?

D. Final Remarks

Suggestions, your opinions, experience. (with a focus on the rule of law, EU anti-corruption policy, and the democratisation process)

End of the Interview

Participant Information Sheet

Please take time to read the following information carefully and discuss it with others if you wish. Please contact the lead investigator if there is anything that is not clear or if you would like more information. Take time to decide whether or not you wish to take part.

This research is part of the PLATO program, an Innovative Training Network (ITN) under the H2020 Marie Skłodowska-Curie Actions (MSCA) (2017-2020). The 15 researchers involved in the network analyses of the EU's policies and actions after the financial/political crisis in 2008. In my Ph.D. project entitled '*New understanding of EU democratic legitimacy and anti-corruption'*. I study the role of the parliaments and their scrutiny over anti-corruption policy (ACP). The main objective is to understand the role that parliamentary oversight has in the progress of anti-corruption strategies and what drives the parliamentarians to exercise the scrutiny mechanisms. In my research, I would like to shed light on different arguments on the involvement of national parliaments in the scrutiny processes and their contribution to better results in the anti-corruption policy.

You have been selected for an expert interview because your expertise is directly associated with this research study, as evidenced by your position *XX,* and expertise in the *XX*. As a result, your views and expertise are highly relevant to the study. The aim of the interview is to gather your relevant knowledge, perspectives, and assessments on the capacity of the parliament(s) to perform scrutiny and an oversight role (with a focus on the scrutiny processes over regulatory and other independent bodies), the parliamentarian expertise. The aim is not to identify any personal preferences or attributions, and the interview questions are not intended to be of a sensitive nature.

The suggested format of the interview is in person or electronically (Skype, mail, or by phone) if some of these options are more convenient for you. *The suggested dates are 16th-17th of May (Thursday-Friday) or 20th of May (Monday), 2019.* The date and time will be mutually agreed to your convenience when you indicate your availability and interest in taking part. The interview is likely to last around 45-60 minutes and will be held in English.

The information provided in the interview will be treated in full confidentiality. With your approval, I would like to audio record the

interview. The interview will be transcribed by the lead investigator only, who may also take notes during the interview. The audio recording, transcript, and notes are for the lead investigator's review and use only and will be stored on a safe password-protected server owned by the Czech Social Science Data Archive (CSDA).

The raw data will be permanently deleted when the analysis has been concluded and the findings published in scientific publications. Any direct quotes that may be used in scientific publications will be anonymised. An anonymised summary of the interview will be archived in the Czech Social Science Data Archive (CSDA).

You have the right to withdraw your consent at any time. You have the right to request access to and rectification or erasure of information about yourself obtained via this study. Any complaints can be addressed to the Czech Office for Personal Data Protection.

For more information about your rights as an interview participant, please see Chapter 3 of the EU GDPR (Articles 12-23) available at: https://gdpr-info.eu/chapter-3/.

Participation in the interview is voluntary, and refusal or withdrawal will involve no penalty or loss, now or in the future. The data will be treated according to European laws on research and privacy, including the EU General Data Protection Regulation.

The research results will be published in the form of academic publications, which will constitute the Ph.D. dissertation of the lead investigator (SOU Project No: 200070).

The research is part of the PLATO project (The Post-Crisis Legitimacy of the European Union), which has received funding from the European Union's Framework Programme for Research and Innovation Horizon 2020 under the Marie Skłodowska-Curie Grant Agreement No. 722581 for the period 2017-2020. You can read more about the PLATO project in this flyer available online: https://www.plato.uio.no/plato-itn-flyer.pdf

Lead Investigator: Emilija Tudjarovska Gjorgjievska

Ph.D. Researcher

Institute of Sociology

Czech Academy of Sciences

Jilská 1, 110 00 Praha 1

Czech Republic

www.soc.cas.cz / www.plato.uio.no

Contact: emilija.tudjarovska@soc.cas.cz

Data protection officer: Mgr. Jindřich Krejčí, Ph.D.

Head of Department, Deputy Director for Scientific and Project Activities, Senior Fellow

Czech Social Science Data Archive

Interview Consent Form

- I confirm that I have read and understood the Participant Information Sheet.
- I have had the opportunity to ask questions and had them answered.
- I understand that any personal information will remain confidential and that no material which could identify me personally will be used in any publications.
- I understand that my participation is voluntary and that I am free to withdraw at any time without giving a reason.
- If I decide to withdraw from the study, I agree that the information collected about me up to the point when I withdraw may continue to be processed.

I hereby consent to take part in this study.

Name of the research participant:

Organisation:

--   --------------------

Signature of the research participant   Place and Date