



Bulgaria: how to capture a state and gain favour with Brussels

Commentary

Spasimir Domaradzki

The cause of Bulgaria's rule-of-law deficit is not so much the government's ambitions to carry out an anti-liberal revolution (like in Hungary, for example) as the pragmatism of the elites, focused on "capturing the state". The tactic of uncritical participation in the European integration process provides the Bulgarian authorities with the EU institutions's favour and "European" legitimisation on the domestic scene. The EU faces the peculiar challenge of dealing with a situation in which European values are violated under pro-European slogans and with the government declaring enthusiasm for everything European.

The source of the protests – the Bulgarian "captured state"

The main demands of the citizens protesting in Bulgaria since 9 July 2020 are the resignation of

Prime Minister Boyko Borisov and Chief Prosecutor Ivan Geshev, as well as new parliamentary elections. Yet their expectations are far greater. According to the organisers of the demonstrations, attaining these goals would be just the first step on the path to moral renewal and abandoning the previous transformation model for an entirely new paradigm.

Democracy in Bulgaria is a façade. The country is ruled by informal oligarchical and mafia groups that have their roots in the former communist party.¹ The traditional institutions and rules of a democratic state – such as elections, a multi-party system, and media pluralism – are

1 J. Wojnicki, *Transformacja systemowa w Bułgarii – opóźniona czy specyficzna?*, in: *100 lat relacji dyplomatycznych między Polską a Bułgarią*, eds M. Czernicka, J. Wojnicki, Warszawa 2019, p. 75; S. Domaradzki, "Bulgaria's Security after 30 Years", *Политика националне безбедности* [Politika nacionalne bezbednosti] 2020, no. 1, <https://doi.org/10.22182/pnb.1812020.4>, accessed 12 October 2020.

in practice nothing more than an instrument for these groups to pursue their own interests. In the economic sphere, oligarchs associated with the government are systematically taking control of resources. Bulgaria today is a textbook example of a “captured state”.

The beginnings of the “state capture” stretch back to the first years of the Bulgarian transformation. At the time, the communist authorities conducted a top-down, controlled process of economic and political changes closer to the transformation model observed in post-Soviet countries than that in Central Europe. In the first years of the transformation, organised crime groups (often legalised as security firms) gained control of the structures of the state. This led to the criminalisation of public life and politics (including individuals and institutions with government links participating in the trafficking of humans, drugs and weapons to the former Yugoslavia).² The consolidation of the system based on mafia groups reached its apogee with the return of Tsar Simeon II, who became prime minister in 2001.

Public positions in Bulgaria are treated as a tool for exerting pressure and control on society, and thus filled by loyalists willing to do the bidding of the oligarchical elite. Violations of freedom of speech are best illustrated by the fact that Bulgaria regularly features among the second hundred countries in media freedom rankings. The only obstacle to the complete control of the state is the independent judiciary, although this is weakened by a prosecutor’s office subordinate to the government (hence the protestors’ calls for the chief prosecutor to resign) and therefore incapable of punishing criminals and eliminate corruption. Public trust in the justice system is thus minimal.

² The current prime minister, Boyko Borisov, also owned a security firm and, according to WikiLeaks, his role in organised crime was well known to the United States before he came to power.

The EU’s mafia state

The pro-European orientation solidified in the late 1990s (when Ivan Kostov was prime minister) became the official state doctrine continued by subsequent governments. But a constant tension remains between the declared objectives of integration with the EU and the aspiration of mafia-oligarchical circles to take complete control of the economy and state machinery. This contradiction still functions today.

Bulgaria (along with Romania) found itself among the backmarkers in the race for EU membership during the fifth enlargement. The main reason was the domestic situation in a state immersed in a chaotic transformation and governed by an elite striving to fully control and colonise the country. This was prevented by the implementation of the reforms, particularly concerning the rule of law, demanded by the EU.

Ultimately, EU accession was made possible by the juxtaposition of “favourable” circumstances, with the geopolitical factor (including the war in Kosovo and the desire to stabilise the EU’s eastern borders) an additional motivation. At the same time, the EU, convinced of its irrepressible power of Europeanisation, decided that Bulgaria’s membership would be the latest success of the integration process, even if it did not quite meet all the standards. The European Commission, aware of the fragility of the Bulgarian justice system, the existence of organised crime and widespread corruption, marked Bulgaria and Romania’s accession by introducing, for the first time, a Cooperation and Verification Mechanism (CVM). The intention was to continue to monitor and oversee the reform process in this area. The mechanism optimistically foresaw that the Bulgarian government would implement the Commission’s recommendations. Yet the regular reports produced as part of the CVM became a chronicle of Bulgaria’s sidesteps of reforms. In practice, the “reforms” had the opposite effect to the EU’s expectations. For example, rather than strengthening judicial independence, they led to further centralisation and political control.

It is important to note that the reason for the aversion to the rule of law in Bulgaria is not – as it is in Hungary or Poland – a determination for an “illiberal revolution” following the vision of party leaders, but purely the pragmatism of the informal leaders steering the “state capture” process. The Bulgarian rule-of-law problem therefore does not consciously clash with the EU’s aspiration to defend the rule of law. It is just a side effect of the process going on in the country.

Boyko Borisov – the European-mafia face of Bulgarian transformation

A year after accession, with Sergei Stanishev as prime minister, EU funds were being abused to such an extent that the Commission decided to strip Bulgaria of the funds assigned to it. On a wave of public indignation, the mayor of Sofia, Boyko Borisov, presented himself as a proficient manager and won the parliamentary election. He seized upon the pro-European narrative, promised to fight corruption, and joined the ranks of European politicians uncritically supporting German Chancellor Angela Merkel. Using the state machinery, he also ended mafia warfare. In one fell swoop, he eluded the threats from these circles, took control of the state and gave the EU the sense that Bulgaria was ceasing to be a source of problems. At a time of crisis of the economy, migration and Brexit, Borisov guaranteed predictability. He was also a guarantor of Bulgaria’s Europeanness and transatlantic orientation, winning him favour in both Brussels and Washington. Against the background of the corrupt left and advancing nationalism, Borisov stood out as a bastion of Europeanness and stability.

The phenomenon of Bulgaria’s EU membership is made even more curious by how, while formally a member of the EU, it has not moved forward to the next stages of the integration process – joining the Schengen area or adopting the euro – despite years of trying. Bulgaria’s recent entry to the ERM II exchange rate mechanism is particularly interesting since the Bulgarian lev has pegged to the euro for two decades, meaning that the

country long ago dispensed with the advantages of managing its own monetary policy in favour of the financial discipline required for membership in the euro zone. The fact that a country’s charter board is all there is to prop up economic stability in a “captured state” has led to fears that, after adopting the euro, Bulgaria’s financial stability will waver and a sense of impunity will emerge.³ The lack of an independent judiciary and the centralisation of power mean that joining the euro zone could potentially create new opportunities for draining money from the budget and EU funds. As with enlargement, EU leaders again seem keener to proclaim the rapid success of the integration process than to reflect on the specifics of the Bulgarian case and its consequences for the common currency.

Yet whereas Bulgaria’s adoption of the common currency is regulated by the accession treaty, the question of the Schengen area marks the invisible limits of Bulgaria’s membership. Despite Prime Minister Borisov’s ardent wishes and the efforts undertaken to protect the borders in the context of the migration crisis and the recommendations of the European Commission and EU politicians, the lack of membership is the result of resistance from certain countries. Led by the Netherlands, Germany and Finland, they are aware of the major risk for their own security if a state in which the justice system is controlled by mafia-oligarchical elites is allowed to join.

Aware of the fragility of their domestic rule-of-law situation, the Bulgarian government has adopted the tactic of the least resistance towards the dominant trends in the European integration process. Even regarding the rights of posted workers, an important issue for all new EU members, the Bulgarian government uncritically accepts the unfavourable terms of the new directive. The Bulgarian authorities’ passivity concerning dilemmas over the further development of European integration is therefore unsurprising. In addition, when it comes to vital issues like the possibility of

³ T. Kondarev, *Political and Economic Aspects of Bulgaria’s Accession to the Euro Area*, 2006, p. 206, <https://core.ac.uk/download/pdf/78377746.pdf>, accessed 12 October 2020.

tying EU funds to the rule of law – in the case of Poland and Hungary, for example – the Bulgarian government opportunistically goes along with the majority, believing that a “constructive” position will leave the country among the “less important problems of integration”.

The protests in Bulgaria – between hope and frustration with the EU

The protesters have an ambivalent attitude to the EU, reflecting broader trends in public opinion. On the one hand, they view the EU as a remedy to their economic and political woes, while on the other they are unhappy with Brussels and Germany for legitimising Borisov’s rule and turning a blind eye to corruption. Bulgarians continue to trust EU politicians more than their own ones⁴ and to expect pressure to be exerted on the domestic elites. Yet Brussels is sending ambiguous signals, at best. Both the European People’s Party and Renew Europe have pledged their support for Borisov and Delyan Peevski and their parties, which the protesters see as a symbol of the “captured state”. The European Commission’s passivity is also explained by Borisov’s role in the election of its president, Ursula von der Leyen, as well as his close relationship with Chancellor Angela Merkel. Bulgarians demanding that Germany put pressure on their government have been protesting outside Merkel’s chancellery and the Bundestag.

The protests in Bulgaria are yet to resonate strongly at the European Parliament. Compared to the almost ritual plenary debates on Poland and Hungary, the lack of a reaction from the

⁴ *Standard Eurobarometer 91, Public Opinion in the EU, First Results, Fieldwork, June 2019*, <https://ec.europa.eu/commfrontoffice/publicopinionmobile/index.cfm/Survey/getSurveyDetail/surveyKy/2253>, accessed 12 October 2020; *European Public Opinion Three Decades After the Fall of Communism*, 14 October 2019, R. Wike et al., Democratic Satisfaction, <https://www.pewresearch.org/global/2019/10/14/democraticssatisfaction/>, accessed 12 October 2020.

Parliament to the events in Bulgaria and the evasive statements by the Commission spokesperson point to the politicised and opportunistic treatment of the question of rule of law in the country. At the same time, the protestors see the passivity and sluggishness of EU institutions and European politicians as tacit support for the political status quo that brought them out onto the street. The Parliament’s resolution on 8 October 2020 criticising the deterioration of the rule of law will not have a significant impact on this state of affairs. It was adopted by a relatively small majority, as the EPP, which Borisov’s party belongs to, voted against it (having previously attempted to tone down the articles criticising the government’s policies).

The diversity and mass support for the protests shows that they are a widespread grassroots movement. This is fundamentally a cry of despair from the part of society alienated and passively observing the draining of the state. By raising the subject of constitutional change, Borisov and his current setup are playing for the time they need to get through to the end of the parliamentary term in March 2021. The protesters are left feeling frustrated and disappointed, not least with the EU.

Conclusions

The case of the rule of law in Bulgaria has led the EU to a crossroads in the integration process. The vehement criticism of Poland and Hungary from EU institutions has been justified by the rapid erosion of the rule of law. In Bulgaria, a system that is the polar opposite of EU values has been forming since the 1990s, regardless of the EU’s expectations of reform and the invocation of the post-accession CVM.

The EU institutions’ indolence demonstrates the important role played in the integration process by informal relations and affiliation to political groups in the European Parliament. If these institutions do not adopt a firm position, they will provide arguments to rule-of-law sceptics who see it as a tool for achieving the aim of “ever closer

union”, rather than a genuine desire to defend the rule of law and democracy as the foundations of the integration process.

The Bulgarian example shows that an EU member can use security and stabilisation concerns as a cloak for transforming into an authoritarian state. To do this, the Bulgarian elites exploited the opportunity provided by the main wave of integration, along with informal contacts and influence (when filling the main EU posts, for example). This undermines the EU's normative power.

Regardless of the protests going on in Bulgaria, we should not expect changes in Sofia's attitude to the rule of law. By formally supporting the EU's

efforts – even when the prime minister himself does not agree with them, as with the selection of Laura Kövesi as European public prosecutor – Borisov's government is assured of the EU's passive neutrality. Opposition to rule-of-law procedures would consign Bulgaria to the margins of the decision-making process and be an additional blow to Borisov, for whom EU support is a source of important political legitimisation.

From Poland's perspective, the Bulgarian example shows that the problem of the rule of law goes beyond the framework of ideological confrontation over the future of European integration and also concerns countries that uncritically support the federalisation of the EU.

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Spasimir Domaradzki – political scientist, assistant professor at the Department of European Union Law and Institutions at the University of Warsaw. Fellow at Visegrad Insight in 2019–2020. Member of Team Europe. His articles have been published in *Dziennik Gazeta Prawna*, *Polityka* and *Res Publica Nowa*.

Stefan Batory Foundation

Sapieżyńska 10a
00-215 Warsaw
tel. (48-22) 536 02 00
fax (48-22) 536 02 20
batory@batory.org.pl
www.batory.org.pl

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