

**Europeanisation of Policy-Making in South-Eastern Europe: The Case of
Bulgaria**

Pavlina Stoykova
PhD Candidate
The University of Manchester
School of Social Sciences; Government, International Politics and Philosophy (GIPP)
E-mail: Pavlina.stoykova@postgrad.manchester.ac.uk

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Introduction

Over the past two decades the established patterns of executive-legislative relations in the European Union member states has been challenged by the realities of Europeanisation. Recently, substantive amount of studies have shifted their attention to the impact of European integration on the former communist accession countries. However, as yet, their findings are confined to the first wave of applicants from East Central Europe and the case of the South-East European countries remains largely unexplored. In this paper, therefore, I shall seek to open up this debate through an empirical study of how and why their national polity actors incorporate the impact of the EU accession process.

Firstly, the essay shall elaborate on the conceptual findings of the Europeanisation literature confined to the member states of the European Union. In doing so, it will contest the emergence of a coherent theoretical agenda, inspired by a uniform definition. However, it will outline a persistent empirical focus on Europeanisation of policies and politics. As it is argued, the latter resulted in marginalisation of the conceptual and methodological challenges of the polity problematique. The above is considered to provide the template for the research and scholarly reflections on Europeanisation of the members to be. The essay shall argue that the “new” Europeanisation literature follows its pattern of conceptual eclecticism and that its findings also display an empirical and methodological prioritisation of policy implementation. The latter informs a restricted polity agenda, which focuses on the executive and struggles to comprehend the changes undergone by the legislature with reference to Europeanisation.

The rest of the paper shall try to comprehend the impact of the EU accession process on a non-EU polity in a refined theoretical framework and apply the latter with specific reference to the empirical case of Bulgaria.

I. Europeanisation: In search of the European Studies Most Wanted Label

Over the last couple of years the growth of the Europeanisation literature has been substantive. However, even a brief review of the literature reveals lack of agreement on what the term actually means, which has resulted in its extremely diversified usage.

The existing diversity in terms of conceptual understanding can be subdued to three domains - *policy, politics and polity*. Borzel defines Europeanisation as: “a process by which domestic *policy areas* become increasingly subject to European policy-making.” (Emphasis added) (Borzel 1999,

574). Knill and Lehmkuhl, who interpret Europeanisation as the impact of EU policies on domestic regulatory styles and structures within a certain policy sector, have further supported this restrictive focus on policies (Knill and Lehmkuhl, 1999, 1). The empirical findings of two of the most comprehensive studies on Europeanisation are also informed by the same conceptual restriction to policies (Cowles et. al. 2001; Heritier et. al. 2001). On the other hand, authors like Schmidt and Andersen emphasize only the *polity* side and examine respectively the sociological and political dimension of its transformation under the EU pressure towards adaptation (Schmidt 2001; Andersen 2002). The scope of Europeanisation has been further extended to include the *politics* dynamics with a specific focus on political parties, lobby and interest groups (Ladrech 1996). The conceptualisations of each of the three domains outlined above have been competing to exhaust the understanding of the very idea of Europeanisation. This inevitably raises doubts about the coherence of its definition and subsequent research agenda. On the other hand, their inclusion as different aspects of a single dependant variable subjected to EU influence might result in a “overwhelmingly “ comprehensive research agenda of Europeanisation. The simultaneous impact of the EU on policies, politics and polity is constitutive for the understanding of the phenomenon in the studies of Richardson and Goetz (Richardson 1996; Goetz 2001). In accordance with their interpretation, the political scope of Europeanisation includes the role of political parties, interest groups, the peculiarities of the institutional development and the content of separate sectoral policies.

What follows from this brief discussion is that the political scope of the Europeanisation literature varies into a wide range. However, even a simple quantification of the debate makes evident that the theoretical endeavours have predominantly defined Europeanisation as a cause of domestic *policy change*.

The focus of the Europeanisation definition determines the procedural mechanisms of the concept, or in other words the answer to the question “on what” sets the limits to the answer on the question “how”. The implication that the mechanisms of change should be at least domain compatible (if not domain specific) also refers to the argument that the source and subject of causation should be correspondent in terms of their spatial characteristics, i.e. policy, politics or polity. The latter is not to dispute the fact that (for example) European policy templates have the potential to affect indirectly certain aspects of the polity and politics- through empowering of technical bureaucracies, imposing of formal institutionalisation of specific policy sector, etc. It is rather based on simplification, inevitable for the general “truths” of any theoretical approach. Thus,

the conceptualisation of Europeanisation as an impact on policy is likely to result in persistent efforts to outline policy relevant mechanisms. The latter thesis has not been explicitly acknowledged in the literature. However, as it is argued here, it has been confirmed by its agenda which prioritises policy at the expense of politics and polity mechanisms.

The substantive amount of literature builds upon the classification offered in a single study by Knill and Lehmkuhl (1999). They examine the operational mechanisms of Europeanisation as pertaining to the following categories: 1. prescription (on the part of the Union) of formal institutional models or structures- positive integration; 2. alteration of domestic opportunity structure and redefining the existing distribution of power and resources- negative integration; 3. alteration of the beliefs and expectations of the domestic actors, leading to changes in their cognitive structures and preference formation. The potential scope of the mechanisms' application is smaller than the territory mapped by the three domains and they can account for only part of the empirically identifiable impact of Europeanisation.

The two mechanisms of vertical Europeanisation refer exclusively to the EU modes of regulation which by definition are confined to the policy sector. This is also acknowledged by Knill and Lehmkuhl who explicitly focus their study on the EU regulatory functions and their impact on domestic policies. Thus, the mechanisms appear to operationalise causation confined only to a *specific domain of change* and to support the argument for correspondence between the source and the subject of causation. Nevertheless, the claim for the inevitability of the latter runs the risk of being formalistic. If we strip the phrasing of the vertical mechanisms to the core idea of their argument we come up with "prescription of new templates" (for positive integration) and "abolition of existing templates" (for negative integration). Thus, their scope of application will depend entirely on the definition of "template" which can well include the constitutive dimensions of the polity and politics domains. However, the extension of the spatial scope of the mechanisms does not overrule certain limitations of the range of consequences they can account for, or in other words the type of questions they have the potential to answer. The two mechanisms operationalise the exertion of *direct pressure in pursuit of an initially designed goal/template by the European Union. The content of the mechanisms' instruments overlaps with the substantive dimensions of possible change*. Thus, they inform a research agenda that examines only the prospects for *convergence/divergence* of final outcomes in comparison with an initially downloaded model and ignores the issue of *indirect* effects that the latter might produce. The "goodness of fit" thesis, initially advanced

by Cowles, Caporaso and Risse, dominates to a significant extent the above line of inquiry (Cowles et. al. 2001). It hypothesises on the potential of the EU “template” to have uniform impact on the domestic structures, referring to the initial degree of their compatibility as the main intervening variable. This theoretical approach has dominated the “Europeanisation of polity” literature which has been confined to exploration of the substantive consequences of the EU institutional policy and comparative assessment of their commonalities. In doing so it has inevitably concentrated on the issues targeted by the EU and thus has prioritised the reforms within the executive, professionalisation of the public administration and national policy-coordination (Kassim et. al. 2000; Knill 2001; Featherstone and Kazamias 2001).

The ontological claim implied by the logic of the third (horizontal) mechanism suggests its broader application. Cognitive structures are constitutive for the realities of policies, politics and political and the ideational aspect of Europeanisation has the potential to affect all three of them. Thus, the cross-domain application of the horizontal mechanism of Europeanisation depends only on the ability of the separate studies to detect within each of them the relevant subject of research. However, the analytical agenda of these studies bears the inevitable restrictions of “methodological individualism”. The ambition to account for socialisation and identity-shaping effects of the EU, norm development and diffusion, prioritises the role of individual agency. The latter can be constituted as moral entrepreneur, representative of a clearly defined social or professional group, member or employee of a national or European institution. Thus, their findings on the substance of domestic change are based on interpretation of individual experiences and restricted by the relativity of the latter.

On the overall, the general debate on the concept and mechanisms of Europeanisation has been concentrated on the policy problematique. The polity domain has been either neglected or explored from strictly institutionalist perspective, where the empirical findings have been confined to the exploration of the substantive and direct impact of Europeanisation. The mainstream theoretical debate has excluded the issue of “side” or indirect effects of the integration process and has not provided the analytical template for its research. The hypothesis of weakening of the national legislatures vis-à-vis the executives in the context of European integration falls within the above category of secondary impact. Even if this field of inquiry has not been completely abandoned, the contributions to it display certain conceptual and methodological deficiencies which will be reviewed briefly.

The topic of deparlamentarisation has been developed into a recognised area of inquiry in the mid 1990s, with the publication of two seminal volumes which not only put it on the agenda but also set the format for its exploration (Norton ed., 1996; Laursen and Pappas 1995). They introduced Europeanisation as the inevitable theoretical framework for its research and adopted its discourse. However, the theoretical efforts of their contributors did not go further than that- they either only referred to it at the beginning of their essays or were “presumptuous” about its content and outcomes. The new “deparlamentarisation” literature did not reflect upon the existing theoretical debate and was pro forma based on its findings. Its theoretical deficiencies made it difficult to legitimise a correlation between the nature of domestic change and the impact of EI, and forced it into descriptive narrative of the otherwise rich empirical material on domestic parliamentary transition. Its initial ambition to explain domestic change failed partly because of the incapacity to identify specific mechanisms of causation. Those were attributed simply to the “logic of European integration” (Fabbrini 2002, 36) and “the political environment of the European Union” (Raunio and Hix 2000, 5).

Furthermore, the testing of the “deparlamentarisation” hypothesis was often based on research of the executive institutions and their strengthening even within the limits of their originally prescribed competences was consistently misinterpreted as evidence of its verification (Fabbrini 2002). The idea that the strengthening of the executive inevitably correlates to weakening of the other branches of government implies almost mechanical understanding of their relations. On the other hand, the studies that explicitly adopted “parliaments” as their main dependant variable focused predominantly on the *formally* defined competences of the legislatures (Norton ed. 1996; Falkner 2002). The restriction of the domestic polity change to constitutional amendments left out of the picture the *political* dimension (actual leverage in the domestic decision-making process) of the deparlamentarisation thesis. Finally, the findings on the EU impact on deparlamentarisation were mainly legitimised by contrasting the periods before and after full membership (Norton ed. 1996; Raunio and Hix 2000; Fabbrini 2002). This temporal control variable is by all means relevant, though insufficient as the pre-membership period was for some of the countries a distinctive period in their history with its specific dynamics.

II. The External Dimension of Europeanisation

For a significant period of time the process and outcomes of Europeanisation have been considered to be geographically confined to the current member states of the European Union. Yet, from the mid 1990s certain studies have tried to examine the developments of CEECs in the context of their *anticipated integration* to the European Union (Agh 1998; Agh 1999a; Goetz 2000; Grabbe 2001; Demetropoulou 2001).

These new studies on Europeanisation do not share a consensus on its definition and mechanisms much bigger than the pre-existing literature. However, in this case this is due to the scarcity of the debate, rather than its intensity. Lippert, Umbach and Wessels offer the broadest definition, perceiving Europeanisation as a phenomenon which: “is about the resources in time, personnel and money directed by current and future member states towards the EU level.” (2001). It is well acknowledged that any over deterministic definition is likely to be proven restrictive. Yet, the above one indicates neither distinctive content, nor defined subject areas of Europeanisation. Furthermore, the authors define the concept in terms of its possible outcomes rather than through reference to its constitutive characteristics. Grabbe adopts a more focused approach defining Europeanisation as: “the impact of the EU accession process on national patterns of governance” (Grabbe 2001, 1014). Her definition has the advantage of a specified temporal and spatial domain. However, the content of ‘national patterns of governance’ might be subject to very broad interpretations. Agh offers a definition which is closer to the area distinction made in the ‘inward looking’ Europeanisation literature. It looks at the Europeanisation as: “the impact on policy processes, policy actors and institutions, and the logic of national policy-making.” (Agh 1999a, 842). Nevertheless, the theoretical framework of the new studies is rather “thin” and very few of them refer explicitly to an existing definition or articulate a new interpretation of their own. Thus, the differences in the opinions appear to be random, rather than displaying particular tendencies.

The debate on the mechanisms of Europeanisation reproduces the level of intensity and the outcomes of the one confined to the current member states. Grabbe (2001) is the only who deals systematically with question and presents a distinct classification of the ways in which the EU integration exerts impact on the applicant states. She points to the following mechanisms: gate-keeping (access to negotiations and further stages of the accession process), benchmarking and monitoring, provision of models: legal and institutional templates, aid and technical assistance, advice and twinning. However, this classification as such has not been explicitly implemented at

least in the majority of the studies (for the exception on twinning see Papadimitriou and Phinnemore 2003). The latter observation seems to fit the profile of the general approach to the issue, which is predominantly focused on empirical research, rather than theoretical “accessories”. It has to be further noted that the very template provided by Grabbe has limited scope and can not account for the variety of impacts produced by the European Union.

The mechanism of gate-keeping does not have the potential to exert direct pressure and can be fully used only on rare occasions. The second, fourth and fifth mechanisms can hardly be operationalised on their own. With the possible exception of aid, they all function as tools to either assess or enhance the implementation of the legal and institutional templates provided by the European Union. The latter corresponds directly to the vertical mechanism of positive integration introduced by Knill and Lehmkuhl and thus shares its focus and restrictions. It operationalises the exertion of direct pressure, meant to advance an already existing model of European Union governance. As such it predetermines the dimensions of substantive change and leaves out for debate only the extent to which they are reached. The issue convergence/divergence within a pre-given framework dominates the majority of the new Europeanisation studies. Most of them adopt an institutionalist perspective, examining the linkage between the influence of the EU accession and the increased level of efficiency and modernisation of the government institutions (Agh 1998; Brusis and Dimitrov 2001). They draw on the comparison with the pre-democratic period and seek to track the overcoming of the communist heritage in the context of the integration processes.

The question of national polity adjustment in the context of accession could not benefit from the general theoretical debate on Europeanisation “Eastern style”. Certain studies examine it in correlation with the EU impact and thus share the focus of the present paper. We can divide those in two categories.

The first group examines to what extent the accession process provides incentives for the strengthening of non-directly elected and non-political actors in the CEECs. Its contributors exclusively focus on the executive and run the risk of researching the wrong variable. These studies concentrate on the growing importance of bureaucrats and professional civil servants in handling the EU affairs in the applicant countries (Grabbe 2003; Goetz and Wollman 2001; Agh 1999a).

The second category of the existing literature refers directly to the structural weakening of the legislature vis-à-vis the executive in the context of the accession process (Agh 1999a; Grabbe 2001; Lippert et.al. 2001). However, it should be noted that these studies display a deficiency similar to

that of the “old” deparlamentarisation literature- i.e. they are empirically rich, though not thoroughly informed by a theoretical perspective. They use Europeanisation as the inevitable framework but refer to its content almost as common knowledge. Thus, their conclusions appear to be random, rather than in support of a certain concept and its main hypothesis. Secondly, they misinterpret to a certain degree the context of Europeanisation. Most of them refer to the transition period immediately after 1990 and explore the initial attempt for democratisation of the CEECs, thus attributing to Europeanisation the cause for normalisation of their political systems (Olson 1997; Agh 1997; Sadurski 2004). In doing so, they substitute its distinctive source (the European Union) with adherence to common European values as human rights and democratic stability. Finally, only few of them try to specify whether the occurring processes of deparlamentarisation are context contingent or inevitable consequence of the accession, making a comparative analysis between the CEECs (Goetz 2001; Goetz and Margets 1999).

III. Europeanisation- Conceptualising Parliamentary Involvement in the context of the EU accession process

On the overall, Europeanisation lacks the main attributes of a fully blown theory and, to quote Radaelli, is still a problem rather than a solution of academic puzzles. This alone does not overrule its potential as a research agenda and conceptual framework. It is still the main reference point for understanding the EU impact in the domestic realm. Its successful implementation as analytical tool depends on the ability to define, with reference of each of the domestic domains, hypothetical propositions and to construct valid methodological matrix for their verification. The review of the current debate points to the conclusion that the existing general Europeanisation and polity Europeanisation literature has struggled to explore the parliamentary problematique in compliance with the above criteria. The ambition of the next part of this paper is to fill that gap and to construct a coherent scheme for conceptualising the Europeanisation impact on parliamentary involvement in EU affairs.

The paper shall engage with the explicit *hypothesis* that the accession process causes weakening of the legislative versus the executive branches of government, thus providing the latter with an unchallenged monopoly of the policy-making process. For its exploration I will resort to the *theoretical framework* of Europeanisation, interpreted here as *a process by which the European Union 1) prioritises as exclusive partners these domestic actors that correspond to its own centre of*

power, 2) sets the limit of the resources available to national governmental, parliamentary and non-governmental actors for compliance with its requirements, 3) defines the inter-institutional distribution of the same resources towards optimisation of the effectiveness of its interaction with the applicant countries in the context of accession. This corresponds to the top-down approach to Europeanisation and reflects the asymmetrical pattern displayed in the EU/CEECs relationship. The successful application of the theoretical framework depends on some further considerations. Firstly, as the components of the definition suggest, the proper interpretation of the “EU impact” as the main explanatory variable of deparlamentarisation requires us to distinguish between the *polity template of the EU* (as a side in the interaction through which the impact is channelled) and the *characteristics of the accession process* (as mode of interaction). In other words, to assess is it something embedded in the EU or just the circumstances of the specific enlargement process that cause the above outcome. Thus, the paper will review them separately. Secondly, once it has identified the reasons and sources of causation, it shall come up with a scheme for evaluation of their outcomes, in other words for measuring parliamentary involvement in EU affairs. It is considered that the threshold for it will consist in assessing the extent to which Europeanisation effects *widen the gap between formal legal and de facto powers of the legislatures*.

The dissection of the EU polity template, with reference to the “deparlamentarisation” thesis, inevitably draws on the findings of the “EU democratic deficit” literature and adopts the terms of its discourse. Within the existing enormous body of literature, two main trends could be distinguished: the first one, referred to as statist or purist, interprets the legitimacy problem by deploying the argument by analogy with the national state polity; the second one claims that the assessment of a democratic deficit problem is polity contingent and as the EU is a unique type of polity in the making its representation structure is not commensurable to the one of the sovereign state. It interprets the EU as a complex multi level construction, where the different levels are distinguished with certain types of actors, modes of political processes and level of transparency of political processes (for a detailed overview of the multi level model see Weiler 1999). Consequently, the democratic legitimacy criteria will vary in accordance with the specificity of each aspect of the European polity. The paper will build up on this perspective and review two main dimensions of the EU- interaction at the level of the European institutions and interaction at the domestic arena.

The institutional arrangement provided by the EU Treaties deviates from the standard of the classical separation-of-power doctrine. However, the argument by analogy with national institutions

has little application with reference to the Union. The existing provisions do not overpower certain institutions. They rather make it difficult to refer the different functions to specific institutions. At this level, the presence of expertise, procedural rationality and functional capacity satisfy a non-majoritarian standard of legitimacy. The institutional set up of the European Union satisfies more or less the standards of *consociational democracy* (for review of consociational democracy see Lord 1998). They refer to the international interaction of national polity units and focus on the criteria for equal position of national governments in the respective forum, equal participation in the decision-making process and proportionate distribution of voting power.

However, the sufficiency of the above criteria of legitimacy depends entirely on the specifics of interaction at the domestic arena. Those are required to match the standard model of *representative democracy*, thus providing the national executives with the legitimacy to deliver further at the Community level. Nevertheless, the institutional arrangement of the EU privileges the executives in comparison with other national actors and shifts the balance of power at the national arena. The mechanisms of the national polity translate the dealing with EU affairs into foreign policy-making which assigns it to the domain of the executive. The reconstitution of the government latter as one of the main legislative organs in the Community, its monopoly on the channels of communication and control over its resources, make almost impossible the execution of parliamentary powers (Weiler 1999, 266; Lord 1998, 52). This makes the case stronger for those who argue the lack of overall democratic accountability within the EU (Bideleux 2001) and fits the idea of the European integration as an elitist project (Featherstone 1994). The former appears to be based entirely on functional legitimacy which prioritises the values of effectiveness, optimisation of resources and capacity to deliver. Its centres of power are strictly executive- either in terms of their position at national level (the Council) or due to their function (the Commission). The *modus operandi* of the EU suggests that it will try to optimise its interaction with other actors through demanding them to mirror its decision-making devices. In the context of the accession process this can take the form of: acknowledging national executives as the only legitimate partner for communication and the main beneficiary of institutional resources. The EU does not simply contribute to the deparlamentarisation phenomenon, it does so by exporting its own democratic deficit.

However, the polity template of the European Union can not exert pressure towards convergence on its own. It needs to be operationalised through a process of interaction with another

entity. The characteristics of the latter might further enhance the dynamics of Europeanisation or decrease its effect. The accession process of the new applicants has four characteristics relevant to the focus of this study: pattern of power relations, institutional design, content of negotiations and speed of the process. Their individual and accumulative impact is considered to provide the second main cause of domestic change in the direction of deparlamentarisation. Pattern of power relations refers to the reality of political conditionality, which since the early 1990s has become the main principle underpinning the EU strategy towards Eastern Europe. In accordance with it the EU made the progress of the accession process dependable on the achievement of strict economic and political criteria. Thus, the efforts of the applicants have been exclusively directed towards the agenda identified by the Union. The latter reflects its own patterns of governance and prioritises administrative capacity and policy implementation. In the context of limited resources, the efforts to comply with the criteria inevitably undermined the institutional capacity of the national legislatures. The institutional design of the interaction process further excluded the NPs from it. Starting from the European Agreements, it has been exclusively confined to the Commission and the Council on the EU side and to national executive on the applicant side. This has given the latter monopoly of the communication and information channels with the Community, thus minimising the effect of the control and scrutiny mechanisms of the NPs. The content of the negotiations has been exhausted to a significant extent by the adoption of the *acquis*. Ensuring the compatibility of almost 80 000 pages of Community law has been proven to be an overwhelming task for the applicant countries. Some authors initially shared the opinion that the process of legal harmonisation will require legislative action, which on its part has been defined as a constitutional power of the NPs. However, its sheer volume and the pressure to adapt it within a short period of time resulted in only procedural involvement of the NPs in the legislative process.

On the overall, both the polity template of the EU and the peculiarities of the Eastern accession to it can be interpreted as legitimate reasons for the ‘deparlamentarisation’ of the applicant countries. But how shall we measure deparlamentarisation, i.e. how shall we translate the hypothesis on the outcomes into manageable questions on parliamentary involvement.

The Europeanisation hypothesis can only be testified through examination of the *relative empowerment* of the executive and legislative institutions in the context of the domestic policy-making process and the gap between the formal legal and actual political powers of the NPs. Hence, the starting point should be the competences constitutionally assigned to the institutions. The

Eastern European applicants share a common legal template which provides their NPs with three main functions: legislative, scrutiny and control and participation in the policy-making process. Clear separation between these functions is impossible in practice since they are mutually constitutive and should be introduced only for the purposes of analytical comprehensiveness. Their de facto relevance will be assessed through the following research questions:

- Legislative power: originally has three components: legislative initiative, assessment of the compatibility of the draft act with the existing body of legislation and adopting new legislation. The transposition of the *acquis* subsumes the first two of them to one-proposition of amendments of the existing domestic legislation, based on its pre-existing level of approximation with the EC law. The relevant variables are: the independent access of the Parliament to the texts of the Community law; its capacity to review the existing domestic legislation separately from the government; how proactive it is in the drafting amendments process- at least half of the initiatives should belong to its members.
- Control and scrutiny: is it based on the standard mechanisms of parliamentary control or more thorough procedure has been developed after the beginning of the accession process; do the parliaments have sufficient financial and managerial resource to operationalise a complicated control procedure if such has been formally stipulated; what is the balance between the questions *antes* and *post fact*; what proportion of the questions require accountability or inquire for information; what percentage of the questions are asked on the basis of information received previously from the government/governmental agency; what is the ministerial “turnout” on the control day.
- Policy-making strength: this function requires some clarification. Mezey defines it as: “the constraint that the legislature is capable of placing on the policy-making activities of the executive.” (Mezey 1979). This is quite a narrow perspective. The alternative of saying yes/no, similarly to the veto power, does not represent a strong leverage tool on its own. The interpretation of the third function should be developed towards proactive rather than restrictive participation of parliaments and should include the capacity to modify the policy direction of the government. Relevant variables: sporadic or routine involvement of NP representatives in the institutional framework established with the EC; formalised presence and voting status of MPs in the national coordination and

negotiation structures; composition, expertise and financial resources of the parliamentary European Affairs Committee; percentage of political documents on EU affairs drafted by the MPs; number of political initiatives that were modified/dropped before their implementation due to anticipated parliamentary resistance.

The answers to these questions can provide us with evidence of domestic change or the lack of it. The crucial question to address is how we establish the EU impact as the main cause for the empirical findings. So far, the treatment of alternative or intervening variables in deparlamentarisation studies has been rather rudimentary. Inevitable starting point should be the timing of the external impact, i.e. it should precede domestic change. The comparative analysis *before and after* requires precise definition of the point in time after which the EU impact became tangible and of the overall temporal framework of the research project. This is not necessarily an easy task. The accession of the CEECs has been equally driven by legal and political documents and manifestations. If the former can be dated, it is the accumulation through time and the sequence of the latter that contributes to their impact. The usage of time and sequence as control variable can hardly prove on its own that domestic change is caused by or even correlated to the EU. This is particularly true with reference to the CEECs where the processes of democratic transition and consolidation, which largely overlap with the accession period, have made the shifts in the strength of the legislature subject to number of competing variables. In order to determine their relevance in contrast with the Europeanisation hypothesis, one shall rely on comparison between two or more countries where the systemic change, though in the same context, displays qualitatively different characteristic. Within each case study the level of parliamentary involvement with EU affairs should be compared with the governmental/legislature balance of power in terms of other domestic areas of policy-making. Those need to be correspondent to the main functions of NAs in the context of accession. Hence, it is crucial that the comparative analysis focus on the work of the Foreign Affairs and Legislative Committee within each parliament. This will overrule to a certain extent the alternative variables of inevitable deparlamentarisation of the foreign policy and general domination of the legislative process by the executive. The paper shall apply those considerations in its final empirical part.

IV. Europeanisation of the Bulgarian Polity: Legislature vs. Executive

The division of powers between the legislative and the executive lies at the core of the constitutional order and defines the pattern of their interaction within the policy-making process. The Council of Ministers as a central executive organ: “The Council of Ministers shall head the implementation of the state’s domestic and foreign policy.” (Constitution of the Republic of Bulgaria 1991, art.105 (1). Its powers are significantly balanced by the capacity of the Parliament to *formulate* the domestic and foreign policy. The National Assembly is exclusively vested with the competences to legislate and to supervise the legality and compatibility of all legislative acts. It further scrutinises and controls the work of the government (Constitution of the Republic of Bulgaria 1991, art.1 (1), art.62, art.84, art.85). It should be stressed that clear separation between these functions is impossible in practice since they are mutually constitutive. However, for the purposes of analytical comprehensiveness the impact of Europeanisation on each of them shall be examined subsequently.

European Integration and Foreign Policy-Making Capacity

As obvious from the above paragraph the constitutional provisions do not define the foreign policy issues explicitly within the domain of a single institution. Their operational, every day management falls within the immediate competences of the central executive organs. However, the Parliament has been assigned significant powers for both the initial formulation and further implementation of the foreign policy. In this respect the management of the EU affairs provides a qualitatively new test ground for the institutionalisation of its competences and policy-making capacity. As it is argued, the incentives of the integration process resulted in the gradual transposition of powers from the legislative to the government branches of government and in the final marginalisation of the former.

On the part of Bulgaria the initiation and further normalisation of its political relations with the EU was primarily driven by the ‘grand decisions’ of the National Assembly. Referring to the progress already made by Poland and Hungary it clearly articulated the necessity of advancement towards signing the TCA. As soon as in 1990 the Bulgarian Parliament adopted a decision whereby the willingness of the Republic of Bulgaria to become a member of the European Community was officially expressed and the signing of an EA was regarded as a step towards this ultimate goal

(History of Relations: Bulgaria and the European Union 1988-1999). Hence, the Parliament was setting the direction of the government efforts for political co-operation with the Community and provided it with an explicit mandate for further action towards its achievement. Thus, it fully utilised its formally set powers to define the strategic goals and general priorities of the Bulgarian foreign policy. The substantial involvement of the Bulgarian Parliament in the European policy-making process represents a trend common for the CEECs. It reflects the concern of the EC with the stabilisation of their basic democratic institutions and the identification of the latter as the *main political partners* in the first years of transition. However, the EC approach itself was determined by the constitution of the parliaments as major loci of systemic change that sought to overcome the conditions of passivity experienced during communism (Olson 1997, 401; *also see* Agh 1997, 417). Thus, the EC approach towards the Eastern European countries was responsive to, rather than determining the balance of their domestic policy-making process and its referencing as main explanatory variable at this stage is likely to be exaggerated.

The subsequent deterioration of the Parliament's capacity to *further participate* in the making of the foreign policy overlaps with the increased leverage of the EU towards the CEECs. It was pointed towards enhancement of the *implementation capacity* of the states and sought to mobilise their *institution* and *expertise* building efforts. Thus, it inevitably focused on intensive co-operation with the executive, which was identified as the leading partner for the development of the political relations. By 2000 the institutional structure prescribed by the European Agreement was significantly extended. Under the pressure of the EU requirements the Bulgarian government developed a whole new set of institutions that have the potential to cover all aspects of the EU affairs management:

- *Structures for preparation of the national positions for the membership negotiation process*: Inter Ministerial Committee (members- Heads of European Integration units within each ministry); Directorate of European Integration and Relations with International Financial Institutions (Council of Ministers); Directorate of European Integration (Ministry of Foreign Affairs);
- *Co-ordination structures*: horizontal co-ordination within line ministries- Directorate of European Integration (Ministry of Foreign Affairs); Co-ordination Council- reports on the draft positions to the Chief Negotiating Team; vertical co-ordination- Deputy

Prime Minister responsible for the integration in the structures of the EU and NATO; Council of Ministers.

- *Negotiation structures:* Minister of Foreign Affairs, Minister (without portfolio) of European Integration – Chief Negotiator; Chief Negotiating Team (members- Minister of Foreign Affairs, Minister of European Integration, all Deputy Ministers).
- *Structures for managing the political dialogue with the EU and its institutions:* Directorate of European Integration (Ministry of Foreign Affairs), Mission of the Republic of Bulgaria to the European Communities.
- *Policy implementation structures:* European Integration Directorates were established as independent units within the specialised administration of all ministries.

Additionally, adhering to the prescriptions of the Accession Agreement the Government launched a programme for both training and recruiting new expert staff. The programme has proved to be particularly efficient. In the case of the Ministry of Foreign Affairs for example for the period between 1998 and 2003 it increased the number of qualified employees from 15 to 40. The State Budget has funded substantial part of it and it has often been referred as an argument for the further reallocation of resources. Currently, approximately 250 people employed in the central administration are considered to match the European expert profile (interviews in the Ministry of Foreign Affairs, Directorate of European Integration, Sector “Political Criteria and Institutional Reform”, 11.07.2004; 04.09.2005.)

The significant institutional and expertise strengthening of the executive stands in sharp contrast with the development of the policy-making capacity of the National Assembly. The EU provided the Bulgarian Parliament neither with an up-graded capacity building agenda, nor with significant resources for the developing of such. The institutionalised political dialogue with the EU was kept at the stage of the EA- i.e. the Joint Parliamentary Committee is the only formal channel for communication and direct dialogue with the EU institutions. Its relevance for the policy-making in the later stages of Europeanisation is quite disputable, since the JPCs mainly contact and cooperate with the European Parliament and have only indirect impact on the accession process. The competences of the European Parliament are still relatively small at this stage and therefore its contacts with the National Parliaments have been less instrumental than those of the executives within the inter ministerial conferences (Agh 1999b). Thus, the Parliament was made dependant on the information and institutional resources of the Government. This has been the case with all

applicant countries since the pre-accession strategy of the Union provided a uniform institutional scheme for them.

To overcome the institutional deficit the Bulgarian parliament had to develop their proper organs. However, the institution building process inside the parliament was an adjustment process responsive to the objective pressures of the accession, rather than result of an explicitly set pattern of policy accommodation. Thus, it had to utilise only the existing general provisions. The Committee on European Integration, established by the Bulgarian Parliament in 2000 is a standard specialised organ to support the activities of the National Assembly and to fulfil on its behalf its functions within a certain policy area. Thus, the implementation of the formal political powers of the Parliament has been determined by the capacity of the Committee to deliver its functions. As already stated above the parliament sub-structures were not provided with formal contact channels with the EU institutions, except for the EP. The following factors further exacerbated its negative implications for the policy-making potential of the National Assembly and deteriorated the functional capacity of the Committee.

Firstly, the EU concentrated all its leverage and efforts on the development of co-ordination and co-operation structures within the executive and has not prescribed explicit requirements for co-ordination at macro level- between the different branches of government. Having in mind the generally low level of co-operation culture in the former communist countries and the challenge to cope with scarce resources, the way this lacunae was utilised has been predictable. The executive, being the stronger one in this asymmetrical relationship, provided nothing more than a co-ordination unit to support the work of the already existing JPC. The former is part of Sector “ Common Foreign and Security Policy, Joint Parliamentary Committee”, Directorate of European Integration within the Ministry of Foreign Affairs and permanently employs six people, which is considerably less than the staff of the other sectors. Despite the fact that this is a multifunctional unit there are no formal rules for the distribution of work and the JPC issues have not been assigned explicitly to different experts. There is evidence that with them is dealt on an ad hoc basis, without an institutionalised formal routine with the majority of the personnel concentrating on CFSP problematique (interview in the Ministry of Foreign Affairs, Directorate of European Integration, Sector “ CFSP and JPC”, 09.07.2004). The weak vertical co-operation mechanism in the case of Bulgaria is representative for the developments in the other CEECs. In most of them the Parliament is presented by the Chair of the Committee on European integration in the ministerial or inter-ministerial committees on EI,

which usually serve as the main co-ordination body in the executive infrastructure. Nevertheless, only in Poland and Hungary this took the form of a regular formally fixed routine, while in the rest it based on informal ad hoc contacts (Verheijen 1998, 36; also see Nunberg 2000). On the overall, the parliaments' representation suffers from numeric and procedural deficit, which significantly obstructs their capacity to equally participate in the government policy-making structures. The deficiencies experienced in the inter-governmental co-operation within each country seriously deteriorate the significance of the cross-country parliamentary network, which remains the only direct linkage with the EU institutions.

Secondly, the dynamics of the institution building have been paralleled by the development of expertise capacity. In general, the EU did not identify the MPs in the CEECs among the key state stakeholders to receive special training in respect of the accession process. Furthermore, the development of independent expert teams within the Parliaments was disregarded in comparison with the pressure upon the executive to enhance its managerial capacity. Consequently, the Bulgarian Parliament has not developed a training strategy similar to the long-term programme of the government. Sporadic attempts exist, in particular in co-operation with prominent academic institutions. However, the progress towards building expert and language capacity has been very slow. Additionally, the Parliament has not developed strong independent expert and administrative structures to deal with Euro-issues. In accordance with the general parliamentary procedures the MPs can have an adviser to consult their work in any specific issue area. However, the reference to this general regulation in terms of the accession process has been proven to be highly inefficient, since the advisers cannot be hired on a permanent contract and the payment is minimal. Thus, most of the people in possession of an expert capacity do prefer to work for the government or the private sector. Even if individual MPs do use the services of experts the latter do not form a separate unit in the administration of the Parliament, which stands in sharp contrast with the cross- sectoral substructures available to the executive. Hence, the European integration issues were not articulated at the necessary expert level of discourse and the parliament failed to engage itself in a constructive debate on the European polity and policies. This reflects a trend common to the CEECs where being a government employee is considered to be more attractive perspective and the experts are almost exclusively concentrated within the executive (Agh 1999b).

In this context the Committee on European Integration has not been able to use its institutional potential and to participate comprehensively in the policy-making process. Its major activities have been subsumed to participating in the EU parliamentary network and formal presentations and protocol meetings with representatives either of the member-states or the EU institutions. A closer look at its actual political agenda reveals that to a large extent it has been set and dominated by the government propositions and initiatives, which in most of the cases have been approved (interviews in the 39th National Assembly, Committee of European Integration, 2004-2005). Having in mind that the composition of the Committee reflects the distribution of the seats in the Parliament this can be assigned to the particularly strong party discipline in Bulgaria. However, the decisions of any permanent Committee, if it comes to an actual vote, are taken with consensus, which automatically overrules this argument. Furthermore, a significant part of the decisions, declarations and statements (the formal political documents adopted by the National Assembly and drafted by the Committee) do actually constitute a *post factum* ruling on a governmental decision/draft decision already taken. Thus, in contrast with the initial stage of relations with the EU the government has completely overtaken the policy-making initiative from the Parliament. To a certain extent this came as inevitable corrective of the inflatory role of the National Assembly during the first years of transition. However, the government dominance has acquired qualitatively new scope beyond this compensatory development. The executive has not only managed the daily routine of the negotiations (which falls within its immediate competences), but has also dominated comprehensively the whole accession process at the expense of the National Assembly competences. Due to its institution and expert deficiencies the Parliament has failed to deliver into practice its formal powers and has been significantly marginalized in the foreign policy-making process. As it is argued the deterioration of its overall policy-making capacity has further had a negative impact on the fulfilment of the other constitutive formal competences of the Parliament. The last two parts of this paper shall assess respectively the impact of the accession process on the legislative and control powers of the National Assembly.

Transposition of the Acquis Communautaire and 'The Facade Legislature'

In her 2000 study 'Ready for Europe' Barbara Nunberg assumed that the imperatives of the legal harmonisation with the *acquis communautaire* would inevitably put the Parliaments of the accession countries in the centre of the policy-making process (Nunberg 2000, 313). This statement draws upon the understanding that any mechanism of legal harmonisation with the EU will require legislative action, which on its part has been exclusively defined in the Eastern European constitutions as a constitutive power of the National Assembly. By definition this inference is true. However, her hypothesis is based on formal arguments and fails to comprehend the possibility for purely procedural, not substantive involvement of the National Assembly in the legislative process. As it is argued in this section, the objective pressures of the legal approximation have made the case stronger for the former alternative. The analysis of the institutional leverage on the legislative process shall proceed in two stages, reflecting the formal routine of the law making process.

The *pre-plenary stage* of the legislative process comprises the legislative initiative and the assessment of the compatibility of the draft act with the existing body of legislation. The transposition of the *acquis communautaire*, which content is by definition non-negotiable, clearly subsumes these two processes into one- proposition for amendments of the existing domestic legislation, based on its level of alignment with the EU law. The latter, due to the sheer volume and scope of the *acquis*, is an extremely demanding process in terms of institution, expert and language resources. As such, it has further utilised the determinants of the foreign policy-making asymmetry in favour of the executive dominance. Additionally, the pressures for fast transposition made the case stronger for centralised management of the process. At governmental level three specialised substructures have been set to deal *comprehensively* with the issues of legal approximation. Their functions can be subsumed to the following:

- *Translation of the acquis communautaire*: Centre for Translation (Council of Ministers)- provides binding translation of the EU law; stipulates on the final linguistic, terminological and legal editing of the texts.
- *Regular screening of the compatibility of the acting Bulgarian legislation with the provisions of the acquis*: Directorate of Legal Euro Integration (Ministry of Justice).

- *Regular screening of the compatibility of all draft normative acts of the executive with the provisions of the acquis:* Directorate of European Integration and Relations with International Financial Institutions (Council of Ministers).
- *Research of the EU member-states legislation and preparation of comparative legal studies, necessary for the drafting of the amendment legislation-* Directorate of Legal Euro Integration (Ministry of Justice).
- *Preparation of proposals for amendments of the acting legislation-* Directorate of Legal Euro Integration (Ministry of Justice); central co-ordinator- Council of Ministers.

In 2004, between forty and fifty people were permanently employed in these institutions and up to ten new positions were going to be open in the near future. Hence, the functional capacity of the executive has been significantly increased in terms of the legal approximation. In contrast, the administration of the Parliament has developed only one subunit, whose functions do not go beyond the provision of technical assistance for the Euro legislation process. Additionally, the Parliament could not utilise the existing co-ordination gap and did not acquire even a regular supervisory status in any of the structures dealing with legal integration. This made any post factum supervision almost impossible, since to be effective it requires the same adequate resource back up, which as noted is missing. The subsequent developments have been similar to the dynamics of the foreign policy making process and point to clear government domination of the pre-plenary stage of legislation. The records of the Committee on European Integration for the 2003-2004 parliamentary year reveal that only six of the draft amendment bills have been submitted by MPs. The vast majority of the legislative initiatives have come either from the Council of Ministers or from separate Ministries. However, this can be interpreted in the context of the generally stronger position of the government as legislative initiator after the mid 1990s. The distinctive element is the ‘uncritical response’ to the propositions, which contrasts the well established pattern of debates in the Committee of Legal Affairs. The presumption that the *acquis* is non-negotiable has significantly contributed to the failure of the Committee to engage in substantial critical review of the drafts and most of the government-initiated legislation has passed with ease to further plenary hearing. In this respect the Bulgarian case is representative for the adaptation developments in the other accession countries where the

attached government opinion on a draft has pre-determined to a significant extent the final ruling on it (Sadurski 2004, 384).

The impact of Europeanisation has been even bigger on the *plenary stage* of the legislation process. The pressures on the part of the EU for speedy transposition of the *acquis* have resulted into the adoption of an unprecedented fast-track procedure for passing the related laws, which constitutes a deviation from the standard routine of two plenary readings. The former has been utilised as an informal tool and has not been regulated explicitly in a normative act. However, its implementation has been consistent. In practice, if a draft receives the consensus approval of all parliamentary groups represented in the Committee of European Integration it goes through only one reading, which in most of the cases is subsumed to the actual voting. Having in mind the dynamics of the pre-plenary stage of the Committee activities we can conclude that most of the adopted legislation has not been subject to a substantive debate in the plenary sessions. This displays a pattern uniform to all Eastern European applicant countries, which had to ‘optimise’ the existing legislation procedures. In the case of Romania the government even adopts the *acquis* through special decrees which require only retrospective approval by parliament” (Sadurski 2004, 384).

What follows is that the imperatives of legal harmonisation did require legislative action. However, the involvement of the Parliament in all stages of the legislative process has been largely *procedural* and can be subsumed to the formal provision of the final legitimating stamp. Thus, it can satisfy only a minimalist interpretation of the formal legislative competences of the National Assembly in the context of parliamentary democracy. The Parliament failed to engage in substantial deliberation review of the legal texts, which guarantees the articulation of the delegated interests. This significantly contributed to the weakening of its institutionalisation vis-à-vis the executive, which controls the pace and the actual content of the legislation process within the limits of *acquis* transposition.

Availability and Efficiency of Control Mechanisms

The first two parts of this section have elaborated to a certain extent on the issue of the parliamentary control. However, it was interpreted in the analysis in terms of the incapacity of the

Parliament to participate simultaneously in the political and legislative aspects of the policy-making process. As it was argued it significantly weakened its leverage upon the executive. Nevertheless, we still need to examine its impact on the retrospective, post factum control of the National Assembly.

The parliamentary control of the management of the EU affairs has been executed through the existing standard mechanisms: formal questions that require either verbal or written response, asked either in the plenary question time or by the Committee of European Integration. As in the other applicant countries and some of the new member states, no new provisions were introduced at the beginning of the accession process to enhance the control capacity of the Parliament with particular reference to the accession process. This may be due to the fact that the incorporation of new regulations entails the slow and complicated procedure for amendment of the Constitution and the normative acts regulating the work of the Parliament. However, changes could have been implemented in informal way. The example of the plenary stage of legislation proves that informal practices are useful tool for adaptation to the accession pressures. As obvious, they have been used only towards minimisation of the Parliament's powers. Only recently the Constitution has been amended towards more substantive parliamentary control on the EU issues. In accordance with the new text the Council of Ministers shall inform the National Assembly on issues concerning the obligations of the Republic of Bulgaria resulting from its membership in the European Union (Constitution of the Republic of Bulgaria 2005, art.105(4)). It shall also inform the National Assembly in advance on the drafting and adoption of European Union instruments, and shall give detailed account for its actions (Constitution of the Republic of Bulgaria 2005, art.105(3)).

However, the implementation of the new provisions hasn't been regulated by a formal procedure and it is based on the pre-existing routine for parliamentary control. The issue is does the Parliament manage to reference it efficiently into practice. The available data points to a negative answer to this question. For the 2002-2005 parliamentary years on not more than several occasions members of the government have been asked and have given information to the Committee concerning the Bulgaria-EU relations. In most cases the purposes of their presentations was to inform, rather than to account. The control within the plenary sessions displays the same pattern: neither the structures, nor the individual MPs in the Parliament are in a position to demand regular and substantive reports from the members of the Council of Ministers (interviews, Directorate of

Legislation and European Law, Department of Parliamentary Control, Administration of the National Assembly, 09.2005). Since the absence of formal instruments for that is not an issue, it can be assigned to the lack of general comprehension of the accession process, which institution and expert aspects have already been defined. The Parliament simply does not have the technical and resource capacity to take decisions that can implement into practice its controlling role.

Conclusions

The review of the inter-governmental relations at macro lever displays the extent and nature of the Europeanisation impact on the domestic policy-making process in the case of Bulgaria. As it was argued it has significantly influenced the institution interaction, imposing a uniform pattern towards weakening of the legislative versus the executive branches of government. The focus on the part of the EU on the institutional and expert strengthening of the executive provided it with functional capacity, sufficient to dominate comprehensively the complexity of the accession process. This came at the expense of the practical dimensions of the Parliament formal competences not only to formulate, but also to participate further in the making of the foreign policy. The functional deficiency and subsequent marginalisation of the National Assembly finally deteriorated its competences as major loci and determinant of the legislation process. The latter has been dominated by the government, which has the resource and managerial capacity to respond to the EU pressures for fast transposition of the *acquis*. The accumulation of these factors undermined the overall institutionalisation of the legislature and determined its lack of comprehension of the EU membership process. This further provided the government with opportunity to avoid the scrutiny of strict parliamentary control.

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