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Research Article

Between Populism and Technocracy: How National Executives in Bulgaria and Serbia Manipulate EU Rule of Law Conditionality?

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Abstract

This article explores how national executives in Serbia and Bulgaria address European Union (EU) rule of law conditionality by framing it within the populism/technocracy dichotomy. The rule of law remains one of the main problems of EU relations with the two countries. While acknowledging the nuances of pre- and post-enlargement Europeanisation, this article explores the technocratic and populist narratives exploited by the national executives in their interactions with the EU and their domestic public. Rather than positioning the current executives unequivocally either as populist or technocratic, we argue that the political elites act strategically in using both populist and technocratic techniques towards their publics when explaining interaction with the EU. We explore the extent this type of executive behaviour is determined by the countries' formally different status. While we look for the levels of possible similarity and distinction in the two cases/countries stemming from their different EU membership status, our findings confirm the existence of strategic defensive populist and technocratic techniques applied towards the EU and the national public in both countries. The aim of this strategy is to mitigate the impact of the EU rule of law pressure and to secure the persistence of the existing rule of law shortcomings within the process of European integration. Interestingly, our research did not identify substantial impact of the formally different status towards the EU of the two countries.

Keywords

Populism; Technocracy; Rule of Law; EU; Europeanization; Bulgaria; Serbia

As the European integration progressed over the years, as an 'unsatisfactory metonymic synecdoche' (Foster and Grzymiski 2019: 5), it encompassed many policy fields outside its initial narrow economic framework. This development contributed to the influx of politics into the EU integration process previously imagined and developed mostly as technocratic. Controversiality of European Union (EU) issues and decision-making (i.e. politicisation) went up, and new actors, those beyond governmental representatives and Brussels-based technocrats, started to be interested and involved in the integration process (Schmitter 1969: 166). Because the controversiality has become a limiting factor for the national executives, famously referred to as 'constraining dissensus' (Hooghe and Marks 2009:5), they have started using different techniques and strategies to depoliticise EU issues within their domestic arenas and translate them favourably to their domestic publics. Opposition parties and movements have been using the EU issues to reach the voters and fill-in the political space left empty by the mainstream, usually pro-EU parties (Van Der Eijk and Franklin 2004; Marks 2004; Hooghe, Marks and Wilson 2004). It has become commonplace in EU politics literature to call these opposing, Eurosceptic parties and movements 'populist'. However, others acknowledge that there are cases of political parties where populism and Euroscepticism are not simultaneously present (Pirro and Taggart 2018).

Although the research on populism in Europe is proliferating, we find that the main focus goes to the widely defined 'populists' beyond the ruling pro-EU elites. In the context of Bulgaria and Serbia we have identified the existence of populist inclinations of the pro-EU governing, mainstream or centrist parties and their leaders, shaping the interactions with the EU. Hence, their "populism" is not anti-liberal, but fits into the accepted norms of policymaking in the EU. We want to enrich this field by exploring the populist inclinations of the "pro-EU" ruling elites, formally involved in the integration process.

Secondly, we note that populism is not the only strategy that the executives use when they position themselves regarding the EU integration issues. When there is a need to depoliticise the potentially conflictual issue (Radić-Milosavljević 2016) or to acquire sources of additional legitimisation (Domaradzki 2019a: 228), the executives' resort to other techniques, such as technocratic explanation. This populism/technocracy dichotomy works in the executives' handling of EU issues is an under-researched topic, and this is the gap that our paper aims to fulfil. Finally, we want to examine whether this strategic political behaviour is influenced by the countries' formal position in the EU integration process.

Thus, we study and compare the hypothesised behaviour in an EU Member State, namely Bulgaria, and in Serbia as an EU candidate country to examine whether our observations on executives' handling of EU issues are valid in different formal legal and political contexts. Hence, we question the extent to which the formal Europeanisation pressure has an impact on the identified strategies, re-examining the argument of the 'leverage model' of democracy promotion that the EU's ability to impose political practice is at its peak when the membership perspective is at stake (Freyburg, Lavanex, Schimmelfennig, Skripka, et al. 2015: 1, 12, 18-20).

In both countries, we find cases of 'mainstream populism', i.e. populism in governing, centrist parties, and their representatives in the executive bodies. We compare the two countries in the different stages of the EU integration process but within the context of the rule of law conditionality that both countries have to comply with – Bulgaria within the Cooperation and Verification Mechanism (CVM) and Serbia within its EU accession process.

The rule of law conditionality is a common area of concern, at the same time highly prioritised by the EU, and politically sensitive and misgoverned in both countries observed. For this reason, we expected the rule of law area to be an adequate playground for populism although potentially less favourable to technocratic styles. Nevertheless, in both countries, the executives have never contested the need for reforms. Usually, they would

give their support to adopting the relevant norms, claimed the necessity and success of domestic harmonisation with EU law, and they would show an exceptional understanding of the democratising effects that these norms would bring. They would praise the work and advice from experts. Nevertheless, the implementation, if at all, remains mostly formal, and the populist technique would be used to circumvent the critique.

The usual assumption about populist narratives towards the EU would be to expect the confrontation with the external power that makes the national political elites take the unpopular moves and be blamed for the difficult and costly reforms. By analysing more profoundly the behaviour of the executives in Serbia and Bulgaria, we claim that the nature of this populism is pragmatic, that the EU has been exploited in defensive way, as a shield against popular discontent, and that it leaves room for other political styles and strategies, such as technocratic ones. Both populist and technocratic techniques have the purpose of supplying the national executives with additional legitimation and securing the endurance of power. In other words, the two countries' executives are examples of the strategic use of populist and technocratic discourses on the EU (Lynggaard 2012:93).

The first part of the paper identifies behaviours that we recognise as either populist or technocratic. We then combine descriptive approach and a qualitative content analysis to explore their presence in the executive's communication of the EU-related rule of law reforms and how two countries' executives handle the EU rule of law conditionality. Finally, we use the concluding part of the paper to compare the two countries and synthesise our findings, thus verifying the claims raised in the introductory part.

RESEARCH FRAMEWORK

While embedding our research in the category of populism and technocracy, we are obliged to define the meanings of these two essential terms. Populism is a term that made an enormous career. What is more, despite the numerous attempts to define and clarify what populism means, it lives its own life in the hands of scholars, journalists, and politicians. In this article, we will not aim to provide another definition or to explain the term again. Instead, we need to frame its meaning in our research and political context.

While acknowledging the key conceptualisation of the term as a 'pure people' versus 'corrupt elite' and as a 'thin ideology' (Mudde 2017: 6) in this paper, we will not deliberate on the nature of populism from a theoretical perspective (Laclau 1977, Ardit 2007, Albertazzi and McDonnell 2008). As Ionescu and Gellner (1969) recognise, populism is elusive and protean in the sense that it can take different forms and is rather flexible depending on the surrounding context (Gidron and Boniatovski 2013: 3). In its essence, the mentioned surrounding context concerns the political culture (Mudde and Kaltwasser 2017: 62). Furthermore, populism will also be dependent on the player that reaches for it.

In its contemporary form, the term has also significantly framed the political discourse within the western literature with an accent on the contestation of liberal democracy (Stanley 2017; Albertazzi and McDonnell 2007). Notwithstanding the term's extensive usage, we will largely remain on the verge of the terminological discussions. Instead, in the context of our research, we see populism as a political strategy, and we will explore its application by the incumbent political leaders in Serbia and Bulgaria. Thus, we will not explore populist strategy in the quest for power, which we call 'offensive populism'. Instead, we will pursue the exploitation of populist narrative as a 'defensive populism' strategy of powerholders to endure.

The subject of our research will be the narratives of the incumbent political elites, namely the heads of the executives, and the object of our research are the narratives of the two political leaders' Boyko Borisov and Aleksander Vucic. We explore the ways of 'telling the

story' about the EU in their respective countries, i.e., how they present it, how they 'translate' the issue to their domestic publics and how they portray themselves vis á vis the EU integration.

To explore this, we decided not to use quantitative, statistical content analysis, counting how many times a particular word appears in the text since this would strip our research of the important context in which these speeches were given. Instead we applied a qualitative study of how national executives speak about the EU-inspired rule of law reforms. In other words, we wanted to understand how they perceive the problem of the EU-inspired rule of law reforms through how they speak about it. For this reason, we applied a qualitative analysis of their statements by analysing the interviews, opening/inauguration speeches, and other statements found in electronic media in the observed period. (Андреев [Andreev] 2007: 13) We compared our findings with the populist and technocratic benchmarks set in advance in order to recognise/identify them in the executive leaders' speeches.

The collection of materials followed a strict timeframe. In Bulgaria's case, we started our analysis with the inception of the CVM, and in Serbia, with the opening of accession negotiations as these events represent the formal commencement of the current rule of law conditionality. Due to the unexpected pandemic-related constraints, we limited our research to the available online sources, which, if not complete, provide tangible, if not complete, basis. Despite the extensive research and the number of relevant speeches and interviews, we acknowledge that the lack of comprehensive archive and library research allows us to raise only careful hypotheses that can serve as hints for a more in-depth exploration that will confirm or reject our observations.

For the sake of our research, we have extracted a list of political behaviours identified in the literature as populist. They have become the benchmarks for our analysis. Hence the applied toolbox will contain the following characteristic features of populism:

- an important aspect of the populist arsenal is the invoking of the sense of belonging to the people. Margaret Canovan describes three different senses that populists use: unified or 'united people', 'our people', and 'ordinary' or 'common people' (Canovan 1999: 5). For our purpose, the appeal to common or ordinary people is the most suitable one as we argue that the executives in both countries usually present themselves as speaking in the name of the 'pure people' or 'the simple people' against the privileged economic, political and intellectual elites and others that allegedly support them (media, think-tanks or NGOs).
- Use of emotions of alertness, fear, uncertainty and negativity regarding the so-called 'elite'. Although we talk about defensive populism, we are aware that in our context, emotions of fear, uncertainty, and negativity can be used against the European Union and its institutions and can serve as a catalyst of political capital. The same feelings can also be applied to foster a saviour's image solely able to resolve complicated or contradictory EU demands and harsh reforms. Additionally, negativity towards the elites is often used to dismiss the political opponents who criticise the non-implementation of the EU-inspired reforms.

- Oversimplifications to explain the world evoking a sense of uncertainty and unclarity, as well as a conscious evoking of the feeling of anxiety.
- Populism is also often associated with the 'moralisation' of the political debate and the re-politicisation of disregarded groups and issues (Mudde and Kaltwasser 2013: 118). Populism has a specific 'mood' (Canovan 1999: 6) of heightened emotions that are typically connected with one charismatic leader.
- Demagoguery – people are told what they want to hear. (Krasteva 2013)
- Disregard for mediating institutions (Krasteva 2013)
- Finally, the deliberate discrepancy between promise and reality, posture, and capacity provided by the explored elites can also be labelled as populist. (Ditchev 2013)

This framework does not exhaust the list of possible behaviours that we expect to find out. Instead, we will use it as a benchmark towards which we can juxtapose our findings and measure the presence of 'defensive populist' and technocratic techniques in the political strategies of the Bulgarian and Serbian political leaders and their entourages.

The second term, technocracy, is a form of governance discussed and advocated for as early as in classical thinkers such as Francis Bacon, Saint-Simon and Auguste Comte (Radaelli 1999: 14-15). It denominated a depoliticised, alternative mode of governing society by knowledge and rational thinking. The idea of technocratic governance is rooted in the belief that technocrats or experts with specific knowledge can manage governance more efficiently than elected politicians, especially in complex times. Nowadays, the government made exclusively of experts is not what is typically advocated. However, technocracy rather means governing with the help of experts, for example through the expert committees, think-tanks, independent agencies, or task forces (Radaelli 1999: 24). Appointing technocratic or non-partisan ministers in governments is also a common form of infusing technocracy or expertise into the governing process (Pinto, Cotta and de Almeida 2018).

Amid visible politicisation of the current EU integration process, its highly complex and regulatory nature is still the contributing factor for maintaining and grasping technocratic narratives as legitimising factors when domestic policy reforms are necessary. We find these both in the EU member states and in the candidate countries.

Although with the same goal of providing additional sources of legitimacy, populist and technocratic narratives have different appeals. The first one is persuasive, based on non-verifiable general claims and half-truths. The second claim is deliberative, reasonable, based on facts and evidence. Thus, populism and technocracy have different legitimisation claims. For the former, these lay in the 'will of the people' and assertion it 'returns power to the people' or 'speak for *the people*' (italics in the original, Canovan 1999: 4). The latter bases its legitimacy on effectiveness and expert knowledge, which is supposed to be particularly suitable for regulatory or highly technical policy fields. Both populist and technocratic narratives and governing methods have a common source: they respond or feed on the deep mistrust in the political elites and their ability to provide for the common good.

Without going into the normative flaws of both populist and technocratic legitimacy claims, we aim to explore whether they play a part in the executives' behaviour in the context of European integration processes in the two countries. As a highly demanding process in

terms of the scope and complexity of the reforms it presupposes, the EU integration should represent a favourable condition for establishing a whole system of experts and bureaucracy capable of managing the reforms rationally and efficiently. This system is supposedly so self-evident, as are the EU-inspired reforms themselves, which usually are never questioned. This reckoning of a broad consensus on the necessity or inevitability of European integration should supposedly justify and enable the 'politics of expertise' (Radaelli 1999) and avoid politics of potentially conflicting values in the society.

Our research focuses on the executive's narratives and methods, leaving aside the populism in opposition parties and movements, which is undoubtedly present. The reason is that we consider the governing parties (i.e. those present in the executive structures) the most significant players in the countries relations with the EU and the primary 'transmission belt', modelling the domestic public discourse on European integration and shaping the EU perspective on the events at the national level.

The environment in which we will search for a defensive populist and technocratic political strategy is related to two countries, which are in distinct formal relations with the EU. However, regardless of this formal difference, the two countries are subject to the EU rule of law conditionality. Bulgaria is an EU member state since 2007. Nevertheless, it remained under the special CVM devised for the first time when this country, together with Romania, joined the EU. Despite the strong criticism towards the CVM (Gateva 2013; Domaradzki 2019a; Dimitrov, Haralampiev, Stoychev, Toneva-Metodieva 2014), it aimed to exert additional post-enlargement pressure on the Bulgarian authorities to improve the rule of law. After 12 years and nineteen reports, in the fall of 2019, based on the European Commission's recommendation, the Bulgarian authorities claimed that the mechanism is over.

Falling into the EU candidate countries category, Serbia is under the rule of law scrutiny as part of its EU accession process. The EU has been setting the rule of law conditionality in several documents related to the accession negotiations with Serbia, such as the EU's Negotiating Framework and its Common Position for the negotiating chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom, and Security). The EU has been regularly evaluating Serbia's progress in many policy fields, but the rule of law has been marked as one of the key areas of concern. In addition to annually issued reports regarding the overall negotiating package, the European Commission has been notifying the Council on Serbia's progress in areas covered by Chapters 23 and 24 by way of issuing specific bi-annual non-papers on these two chapters.

Both countries are subject to measuring democratic governance by the Freedom House through the 'Nations in Transit' reports, done in 29 countries (2020). The two countries fall into different categories (Bulgaria being a 'semi-consolidated democracy'; Serbia a 'Transitional or Hybrid Regime'), with slightly different democracy scores. However, the two countries' situations are not very distinct regarding the two indicators of our particular interest (namely, the judicial framework and independence, and corruption). Both countries suffer from widespread corruption and selective justice, a slow judiciary that struggles for its independence and suffers from governmental pressures.

Both Serbian and Bulgarian executives come from parties that are using populist styles. We are cautious not to call them 'populist parties' because they are not exclusively populist, although populism is a substantial part of their profile (Stojiljkovic and Spasojevic 2018; Смилев 2019; Андреев [Andreev] 2007). As we shall see, they are using other methods and styles to reach out to voters and acquire legitimacy.

CONCEPTUALISING POPULISM AND TECHNOCRACY IN SERBIA AND BULGARIA

Sketches of the Contemporary Populism in Bulgaria

Virtually the whole Bulgarian political spectrum can be classified within a theoretical populist framework. (Raycheva and Peycheva 2017: 75; Андреев [Andreev] 2007: 16) The evolution of the Bulgarian political system over the last thirty years was initiated by the mushrooming of political parties after the collapse of communism and the metamorphosis of the Bulgarian Communist Party (renamed as Bulgarian Socialist Party – BSP) to the principles of political pluralism. During the first decade the political landscape was dominated by the competition between the BSP and the Union of Democratic Forces (UDF) with the crucial role of the Movement for Rights and Freedoms that tipped the balance and determined the nature of the parliamentary majority. The protracted transformation and the economic crisis of 1996 led to a substantial shift in Bulgarian politics. The 1997 Kostov government took decisive steps towards the EU and NATO and introduced the currency board, thus framing the Bulgarian political consensus. The return of the former Tsar, Simeon Saxe-Coburg-Gotha, as Prime Minister in 2001 marked the beginning of populist waves that substantially reorganised Bulgarian politics (Смилов [Smilov] 2019: 108-127).

An attempt to spot the characteristics of Bulgarian populism is a risky endeavour. The 'master-passions' of Bulgarian populism focus on the 'recognition by the world', the broken territorial dreams, and the love-hate relations with Russia (Ditchev 2013). This account must be supplied by such arguments as the discrepancy between economic expectations and reality, between political expectations and concrete policies and so on, as well as the presence of contradictory evaluations of the transition to democratic society and market economy (Raycheva and Peycheva 2017: 72-73). Notably, populist arguments have also incorporated the membership in NATO and the EU to take advantage of the disappointed enlargement expectations. No political party is resistant to the use of populist rhetoric (Raycheva and Peycheva 2017: 75).

Already over a decade ago, Boyko Borisov and his party Citizens for European Future of Bulgaria (GERB) was identified as a part of a 'populist waves' (Zankina n.d. 5; Смилов [Smilov] 2019: 116-121; Smilov 2008: 18-19; Andreev 2009) and as a 'soft populist party' (Zankina n.d.; Smilov 2008). Boyko Borisov's is identified as "populist by ideology and a style of behavior". Hence, GERB relies on the cornerstone populist assumption of the existence of homogeneous and antagonistic groups (pure nation vs corrupted elites) and the individual charisma of its leader as a solution to unresolvable issues (Андреев [Andreev] 2007:6). The second label "populism as democracy" positions Borisov's party as adjusting its model of representative democracy to optimise the short-term interests of the movement and its leader. It is also open to new members regardless of their qualities or ideological affiliations (Андреев [Andreev] 2007: 15).

Importantly, our conceptualisation of the GERB's populism is not purely theoretical. GERB's emanation, Boyko Borisov is recognised as a particular type of 'eclectic populist' making references to the common people, yet also tending to discredit opponents (Raycheva and Peteva 2017: 77; Malinov 2008). Borisov is also "experimentalist" in the sense that he often declares, only subsequently to withdraw political initiatives, as soon as they fail obtaining popular support. Borisov also often positions himself as an arbiter between his own ministers and the people, not hesitating to play the role of an accurate and independent mirror of the public mood (Смилов [Smilov] 2019: 118-119). At the same time Borisov is pro-EU and pro-democracy exploiting the disillusionment with the elites and the transition and enjoy much greater electoral success. GERB's populist nature stems from the fact that the party does not have a main political ideology, and populism is the core of their political identity (Cholova and De Waele 2014: 60). Hence, Borisov is considered as a political leader that applies populist strategies (Смилов [Smilov] 2019: 118-119).

The party's track record matched sufficiently to include GERB among the populist parties in the 2018 Populism in Europe report (Boros, Freitas, Laki and Stetter 2018).

Main Features of Contemporary Populism in Serbia

Contemporary Serbian populism falls on the fertile ground of the citizens' disillusionment and their significant mistrust in politicians and democratic institutions and a weak democratic culture and tradition. This undemocratic culture materialises in the widespread citizens' belief that an undemocratic government is sometimes better than the democratic one and that the Serbian society is not mature enough for democracy (Stojiljkovic and Spasojevic 2018). Empirical research done in 2017 shows that around 70 per cent of citizens agree with the statement that 'the majority of politicians care only for those rich and powerful' (Lutovac 2017: 56). The same research finds around 65 per cent of citizens who, in various degrees, do not agree with the statement that 'the majority of politicians can be trusted' (Lutovac 2017: 56), and 41 per cent of those who see politics as 'a struggle between good and evil' (Lutovac 2017: 58).

Populism, found mainly (but not exclusively) with Serbia's current ruling party, is characterised by its appeal to the broadest possible public (or 'the common people'), its ideological vagueness, its confrontation with the elitism in the name of the people, frequent resorting to demagoguery and protest politics, reliance on a strong and charismatic leader, and constant generating of pseudo-crises (Mikucka-Wójtowicz 2019).

The vital part of the ruling party's populism is a confrontation that spread widely to society. Every critique directed towards the ruling party almost always provokes an overreaction by the President and other party members. The conflict goes so far that the ruling party itself organised protests against the opposition political forces (Radio Slobodna Evropa 2020; Danas 2020a, 2019a). The government finds the enemies in all sorts of its critics, but most often in the opposition parties' leaders, frequently labelled as thieves and 'tycoons', in other words, wealthy elites not representing the ordinary people. These opposition leaders are often marked as old or previously governing elites who ruined Serbia (Vlada Republike Srbije 2014) and should be replaced with new (actual) political leaders who will rebuild Serbia from scratch. Serbia's rare independent media and non-governmental organisations are often targeted as 'American' television and 'paid by foreign or Soros money', implying that they act as foreign-influenced agents. Sometimes even intellectuals are receiving assaults. Academics are easily picked as enemies of the regime because of their criticism towards government and the understanding that supporters of the governing Serbian Progressive party (*Srpska napredna stranka* – SNS) party are mainly among those with elementary education or lower and those older than 65 (Colovic and Ivo 2018: 43; Danas 2019b).

Compared to the populism existent during the 1990s and earlier, contemporary populism is not based on the confrontation with the foreign actors. Generally, most of the relevant parties are declaratively pro-EU oriented (Stojiljkovic and Spasojevic 2018: 111) and in favour of international cooperation. Nevertheless, the EU integration issues have been systematically depoliticised in Serbia (Radić-Milosavljević 2016), especially since Serbia's southern province of Kosovo declared independence in 2008 and the normalisation of relations between Belgrade and Pristina became one of the crucial conditions or a 'key priority' in Serbia's EU accession process (European Commission and HR of the EU for FASP 2013).

In Serbia, the governing SNS was founded by several high party officials breaking away from the nationalist, right-wing, anti-EU Serbian Radical Party (*Srpska radikalna stranka* – SRS) in 2008. Thus, one of its aims of distancing from this heavy political burden was to be fulfilled by taking a pro-EU stance. The party looked for external recognition by the EU and its member states to prevent being marked as a party that will bring Serbia 'back to the nineties' (Stojiljković and Spasojević 2018: 115). One of the incentives has been to

look for external support from its fellow party family on the European level, the European Peoples Party. Their representatives indeed showed their political support on many occasions, especially around the elections in Serbia (Radić-Milosavljević 2017: 266). Thus, the SNS showed and used its newly found 'Europeanness' as an 'electoral tactics to come to power, secure political future, and obtain "European legitimacy"' (Stojic 2018: 78). Authors who researched the ideological positioning of parties in Serbia and their stance towards the EU find that both before and after winning the executive positions, the Serbian Progressive Party used both Europeanist and populist strategies. SNS took a catch-all character (Stojiljković and Spasojević 2018: 116, 119) with weak or vague ideological profiling, which taken together with its Europeanness it is classified as 'Soft Euroenthusiastic' or 'populist Euroenthusiasm' (Stojic 2018: 62, 71-72, 80-82).

As part of the Serbian Progressive Party's Europeanist posture and its desire to present itself as belonging to the club of modern European progressives, came the appointment of the first woman Prime Minister, at the same time openly lesbian. In addition to improving the Western perception of Serbia and its state of human rights protection, political analysts consider Ana Brnabic to be chosen only to figure as a prime minister. The real power would lay in the hands of the President Aleksandar Vucic (Surk 2017; Karabeg 2018; Bojic 2017a, 2017b), at the same time being the president of the party.

Nevertheless, official narratives used to justify Brnabic's appointment, first as a minister for public administration and local self-government (2016) and later as the Prime minister (2017), were technocratic (Dedovic 2017). As an expert with no previous history in party life or politics, she was supposed to work on Serbia's modernisation and necessary reforms, bringing the country closer to the EU. In the meantime, however, Brnabic has become a member of the Serbian Progressive Party. In our analysis of her statements, we find that she embraced more populist narratives over time, thus lining-up with President Vucic, whom she has a habit of calling 'boss' (Danas 2020b). Thus, in the next part, we analyse mainly Vucic's statements as the two executives often converge by using the same or similar explanatory patterns.

Acknowledging the presence and the specific context of populism in the two countries, we now move to explore whether and how the two countries' political leaders are applying populist and technocratic strategies in the context of the EU relations.

BORISOV AND VUCIC'S DEFENSIVE POPULIST AND TECHNOCRATIC STRATEGIES

Borisov's Defensive Populist and Technocratic Techniques of Dodging the EU-Inspired Rule of Law Reforms

The rule of law remained as one of the unfinished pre-accession aspects of Bulgaria's membership in the EU. The need for further rule of law reforms forced the EU to impose, for the first time in its history, a post-accession CVM towards Bulgaria (and Romania) in 2007. For Bulgaria six benchmarks were set up aiming to improve the independence of the judicial system, the fight against corruption and defeat the organised crime. Their purpose was to exert post-accession pressure and provide information and guidance on the necessary rule of law reforms in the country. The peculiar corruption experience of the Triple coalition of BSP, DPS and NDSV, led to the emergence of Boyko Borisov's GERB as the main contestant of the dominant political status quo. Since 2009, Borisov have dominated the Bulgarian political landscape with three governments. His power was interrupted three times by short-lived "technical governments" and once (2013-2014) by the government of Plamen Oresharski, hence making Borisov the dominant politician of the last decade.

The analysis of the available speeches, statements and comments of Boyko Borisov provide us with two vectors of analysis. The first one traces the evolution of this populist strategy, whereas the second highlights its content.

Borisov embraced the 'fight against corruption' narrative months before becoming a Prime Minister for the first time in 2009 (БНТ1 [BNT1] 2009). In the context of the unprecedented freeze of EU funds during the Stanishev government, less than two years after joining the EU, Borisov coined his image as the right person to defeat corruption, while stating that 'only the political ruling party has the power to fight corruption' (БНТ1 [BNT1] 2009). During his Premiership early years, he reacted to the reports as friendly recommendations and immediately provided ad hoc solutions instructing other branches of power and institutions (btvновините [btvnovinite] 2011).

With time, this position was expanded to incorporate Borisov's image of the inner guy who knows and keeps a hand on Brussels' developments. This image is not only directed towards the Bulgarian public but is also explored within the EU. This image was reinforced throughout the years to the extent that the EU representatives started associating the fight against corruption with Borisov's next governments (European Commission 2015: 2). Even during the recent protests against Borisov since 2020, leading EU politicians explicitly supported Borisov as the fighter against corruption (EPPgroup.eu 2020). On the other hand, for the Bulgarian public opinion, Borisov become the insider who translates the Bulgarian reality to the EU leaders and shapes the EU's politics.

In terms of content, Borisov's defensive strategy consists of application of general language, simplification and trivialisation of sensitive issues, exploitation of the EU's political correctness and casting of magic spells.

Borisov himself rarely refers explicitly to the judicial reform. Instead, when discussing problems related to the EU post-accession conditionality, defined as a demand for reforms according to the European Commission's six benchmarks in 2007, he rarely talks in detail about the particular benchmarks. Instead, Borisov adopted a general language framed within the rule of law narration, which he often uses to steer the discussion around the problems and escape the awkward detailed questions. The generalisation of the questions within the rule of law framework places him in a position from which he highlights particular actions, even if not related to the asked questions, as examples of progress in the rule of law. This tactic of ignoring uneasy questions that are subsequently silenced and delegitimised was also noticed on a more general governmental level (Иванова [Ivanova] 2020).

Simultaneously, Borisov skilfully simplifies and trivialises CVM related issues. Borisov never goes into the technical details of the particular benchmarks. Instead, the rule of law aspect from his perspective is brought down to fighting corruption and smuggling. He uses the formal division of powers to push the ball on the judiciary related questions to the relevant judiciary bodies. Once the question of rule of law is narrowed to fight against corruption and smuggling, Borisov highlights the relevant institutions' tangible successes like the Customs Agency, the National Income Agency, the Organized Crime Unit, the National Agency of National Security, or the Police (Нова [Nova] 2019, Правен свят [Praven sviat] 2016).

Another specific aspect of Borisov's defensive populist tactic is the continuous blurring of the terms 'me' and 'the state'. This tactic allows him to take personal credit for any successes and to shift the accusations for failures towards relevant institutions swiftly. (Новините 2016) Even more importantly, Borisov's '*L'État c'est moi*' approach allows him to act as the state firefighter (which he was, indeed), "extinguishing" problems as soon as they reach him, as was the case with the corruption in the Territorial Expert Doctor's Commission's (TELK) (Redmedia 2018).

Borisov's rhetoric is replete with demagogic anti-corruption slogans. At a 2016 party meeting, Borisov claimed that 'if anyone is caught in corruption there will be no mercy' (Дневник [Dnevnik] 2016) that was repeated by virtually all media in the country. In 2017, he exhorted to 'Fight against corruption' (Иванова [Ivanova] 2017), and in 2018, he defined corruption as a 'scourge that has to be crashed every day and, on every level' (Plovdivski novini 2018). Borisov's words 'not only the broom will play, but we will also wipe with the rag' (ClubZ 2016) epitomise most accurately this alleged determination.

Borisov's declaratory readiness for reforms is also encapsulated in 'the political will'. However, having in mind the Bulgarian progress with the six benchmarks, it becomes apparent that the 'political will' translates simply to pro-reform rhetoric consistently repeated by Borisov in Brussels with his EU interlocutors. While the CVM reports criticism is usually downplayed, Borisov did not hesitate to invite EU experts 'to bring the fight against corruption to an end' (Иванова [Ivanova] 2016). His technocratic tactic relies also on the "outsourcing" of technical or difficult aspects to the relevant representatives of his government under the guise of division of competences.

Borisov's arguments also cast magic spells when comparisons between Bulgaria and Romania appear. His simplistic argumentation relies on the speculation that more Romanian ministers steal, and therefore they are being caught (Новините [Novinite] 2016). However, the 2016 Juncker's suggestion that the CVM for Romania can be waived earlier than for Bulgaria, prompted Borisov to promise that 'for six months we will catch up with the Romanians', while not forgetting to add that in any other dimension, Bulgaria does better than its northern neighbour (Дневник [Dnevnik] 2016a).

Borisov's rhetoric on the rule of law is further supported by the inconsistency of the CVM itself. The diplomatic language used in the reports, the "friendly reminders" rather than sound demands and changing priorities, were used by Borisov as an explanation of positive developments in the fight against corruption. For example, in 2012, when the fifth report on Bulgaria was issued, and the EC decided to abandon the interim reports, in order to give more time and recognise tangible changes (European Commission 2014: 2), Borisov used this fact as an example of increased trust towards Bulgaria (Тошева, Николов, Стоянов [Tosheva, Nikolov and Stoyanov] 2012). Even when the CVM reports touched upon technical aspects, Borisov's tactic was to highlight the positive aspects and discount the critique.

Simultaneously, the CVM was influenced by the European Commission's growing concern over the rule of law in Hungary since 2010 and Poland since 2015. The awareness that the lack of a general mechanism for the rule of law monitoring weakens its arguments, the Commission decided to move towards a more consistent approach. For that reason, questions related to the rule of law were introduced to the theoretically accenting on the economy – European Semester. Remarkably, the Borisov's government completely disregarded the 2020 European Semester report's critical content on Bulgaria's rule of law situation (Иванова [Ivanova] 2020). The side effect of the further elaboration on an all-EU rule of law mechanism was the need to extinguish the CVM mechanism, to incorporate it in the new tools, exemplified by the EU rule of law scoreboard. Hence, Borisov never referred to the impact of the EU reforms on the CVM mechanism but concentrated solely on the fact that the EU wants to close the CVM for Bulgaria (Иванова [Ivanova] 2020). However, Borisov's claims could not have been possible without Jean Claude Juncker's political dance. Juncker repeatedly supported Borisov's narrative and allowed Borisov to claim the ultimate success for the closure of the CVM. However, he left the Council and the European Parliament to make the ultimate decision, which did not happen yet (Дневник [Dnevnik] 2020). Hence, today Borisov claims that the CVM is over, whereas this claim relies solely on the 2019 EC recommendation.

The EU-Inspired Rule of Law Reform in Serbia: Between Expert and Populist Techniques

In Serbia, we start our analysis with the beginning of 2014 and the official opening of EU accession negotiations. From this date till now, Serbia has had three parliamentary elections (in 2014, 2016 and 2020) and one presidential in 2017. Nevertheless, the governing coalition has not changed considerably, so we find the 'executives' mainly in the Serbian Progressive Party, providing for the presidents, prime ministers and vice-prime minister.

Remarkably, the very start of the accession negotiations, although hailed as a 'historic day' for Serbia and the EU by the then prime minister Ivica Dacic and deputy prime minister Aleksandar Vucic (Trivic 2014), did not attract too much of the media attention in Serbia (Rakovac 2014). We assume that the reason for this depoliticisation tactic by the executives and media in Serbia might be that the EU integration resonated negatively in a considerable part of public opinion by being associated with demanding political conditions (like Kosovo recognition) and even 'blackmails' (EIO 2013; MEI 2019). As a case in point, one empirical research found the persistent percentage of survey respondents (29 per cent both in 2011 and 2017) who think that the 'highest cost that Serbia should pay in order to reintegrate Kosovo is to give up the EU membership' (IPSOS Public Affairs 2017: 39).

Another critical aspect of the accession process, the rule of law conditionality, has remained in the shadow of the 'Kosovo issue' as a key priority, even though the EU adopted its new approach ('fundamentals first'), introduced previously in the accession process with Montenegro. The approach sets the *Judiciary and Fundamental Rights* (no. 23) and the *Justice, freedom and security* (no. 24) negotiating chapters on top of the negotiating agenda (Conference on the Accession, 2014).

The executives' posture towards the rule of law reforms has been one of the declarative acceptance of reforms' necessity. Even the requirement to change the Serbian constitution regarding 'ensuring independence and accountability of the judiciary' (Commission 2014: 25) came almost naturally. Serbia's executives, alike Borisov, either generally acknowledged the rule of law package elements or avoided dealing with the issue, like the candidate prime minister Brnabic did in her exposé in 2017 (Vlada Republike Srbije 2017). In his presidential inauguration speech in 2017, Vucic admitted that the judiciary's reform might be the most needed but certainly not the only one (Predsednik Republike Srbije 2017). In April 2014, when Vucic became the prime minister, in his speech presenting the new government programme, he talked about the inevitability of justice reform and the subsequent analysis of the relevant constitutional provisions but, on this occasion, never mentioned the requirement for the constitutional amendments nor the EU in this particular context. Overall, he embraced the EU accession process and even proclaimed 2018 as the year of the possible closure of all negotiating chapters.

Nevertheless, he framed his speech about the overall reforms in quite a defensive populist manner by tackling the national pride emotions and promising his own and his government's significant sacrifices and tireless work. He called on the members of the Parliament to do the same by saying that they are going to be 'eating, sleeping, and washing in this Chamber – but by July 15, the people of Serbia and the whole world will know that we are ready to do everything to fulfil what we promise' (Vlada Republike Srbije 2014). He concluded while speaking about Serbia's foreign relations that 'everybody should know that Serbia will not be anybody's property nor anybody's colony' (Vlada Republike Srbije 2014). This exposé was only one of many examples of the populist narratives that Vucic has been using.

The use of demagoguery by the executives, or the habit of saying what people want to hear, has been widespread when communicating the EU issues to their publics. On several

occasions, right after acknowledging the necessity of the rule of law reforms, acting prime ministers and the President were eager to declare that the reforms Serbia is implementing are pursued because of the citizens, or the Serbian people, and not because of the EU or because 'we have an idolatry approach towards the EU' (Vlada Republike Srbije 2016: 10; Predsednik Republike Srbije 2017; Kovacevic 2018). This stance was consistent with the public opinion's feelings about the EU conditionality we mentioned earlier and the position that the reforms should be pursued even if the EU did not ask for it (EIO 2013; MEI 2019).

Besides, the narrative about Serbia's 'ownership' of the rule of law reforms that are being implemented independently from the EU conditionality served to avoid criticism for the unsatisfactory pace of the reforms expressed often in the Commission's annual reports and non-papers and the experts' and civil society's public complaints. A discrepancy between what is promised and presented in the executives' speeches and what has been done is noticeable. Vucic already announced two dates (2018 and 2019), until which Serbia will do everything in its power to be ready for the membership (Vlada Republike Srbije 2016, 2014). The usual rhetoric in the executives' public speeches has been the claim that the date of accession will not depend on Serbia (as Serbia is doing everything to be ready) but on the will of the EU (RTV 2019; Predsednik Republike Srbije 2019; Dijalog 2017) implying the EU's arbitrariness in the process.

However, the Commission's reports and the simple reading of the (unaccomplished) planned reforms in Serbia's action plans for chapters 23 and 24 reveal that in 2020 the job is far from finished. In the Commission's annual reports and its bi-annual non-papers on Chapters 23 and 24, there have been repeatedly found evaluations that Serbia has 'some level of preparation', 'made limited progress' or that some issues in the rule of law field are 'of serious concern' (for example, European Commission 2019, 2018). In its last non-paper in June 2020, the EC finds that there are 'serious delays' in many key areas such as 'judicial independence, the fight against corruption, media freedom, the domestic handling of war crimes, and the fight against organised crime' (European Commission 2020).

Another element of the defensive populist tactic for casting off the critics for the lack of progress in the rule of law area has been to answer the questions by pointing to a different direction and accentuating alleged successes in other fields, such as economy or good neighbourly relations (Predsednik Republike Srbije 2019). When pushed to answer directly, the confrontational tactics would step in. It has been reflected in Vucic's attempt to discredit or blame those who ask the questions by discrediting their right to critique or 'revealing' their malevolence (Predsednik Republike Srbije 2019).

Regarding the Commission's progress reports, the executives have been using them to prove their excellent work, claiming that 'our report is way better in all spheres than any other' (Ebart 2016), or 'one of the best evaluated in the region' (Vlada Republike Srbije 2016). On several occasions, both Vucic and Brnabic used the opportunity to accentuate positive feedbacks in some areas while avoiding the reports' accompanying critics. When this was not possible, they would discredit the reports' objections as 'political remarks', in other words, not very objective ones (Politika 2018).

Hand in hand with this defensive populist tactic went the technocratic style. The drafting of the Action Plans for negotiating chapters 23 and 24 revolved around the expert missions and technical support from the World Bank and the European Commission and consultations with the national and foreign experts and stakeholders (Republic of Serbia 2020, 2016; MUP 2020). The process of judiciary reform in Serbia, especially the required constitutional reform and the judicial reform strategies, started and developed in a technocratic manner with the relevant authorities' apparent intention to depoliticise the matter. The Ministry of Justice's officials praised experts' help and acknowledged the need for reform as part of Serbia's EU accession process (Tanjug 2016a, 2015, 2014). Serbian government has used the Venice Commission's opinions, working under the auspices of

the Council of Europe (CoE), as the indicator of the judiciary reforms' success, particularly of the constitutional amendments that should have brought them (Boljevic 2020). Nevertheless, the mixed messages about the proposed amendments to the Serbian Constitution coming from this body and the other relevant CoE's body, the Consultative Council of European Judges, made a confusion that served the Serbian government to proclaim the success of the proposed reforms. Serbian Minister of Justice claimed that the Venice Commission's Opinion was positive and that the objections were directed only towards the text's translation errors. This claim was refuted by the experts and media in Serbia when the Opinion was finally published several days later, revealing more substantial objections towards the proposed constitutional amendments than previously presented by the Minister (Pescanik 2018; Istinomer 2018).

Eventually, the process of constitutional reform that should have brought to the independent and efficient judiciary has stalled with the holding of the elections in 2020 and as several civil society representatives and experts left the consultations dissatisfied with the Ministry of Justice's proposals and the overall leading of the process (European Western Balkans 2020). Although Serbia's action plan for Chapter 23 originally stipulated 2017 as the year in which constitutional amendments were to be finalised, the process is still not over.

Anticorruption has been a prominent issue in the executives' tactic, especially Vucic's. Here the mix of technocratic and defensive populist narratives is also visible. Vucic's statements praising the quality of adopted anti-corruption laws and the experts' role in their drafting (for example the Law on Whistleblower Protection) exemplify this trend. (Tanjug 2016b). However, he has also been using the anti-corruption narrative to confront political opponents by labelling them as tycoons and claiming to 'bring justice back into the people's hands' (Politika 2019). Promised judiciary reforms and the fight against corruption went hand in hand with the Executives' frequent public commenting of the ongoing trials and investigations, proceeding before the ICTY, and even announcing arrests in media. This habit of public commenting has been noticed and condemned in the European Commission's reports on Serbia's accession progress (European Commission 2018a: 14, 18, 2014a: 40).

CONCLUSIONS

Despite the different formal position towards the EU and the substantial differences in terms of dominant political topics in the internal discourses during the analysed periods, we were able to identify the use of defensive populist and technocratic techniques in both cases. The persistence in their application allows us to identify them as defensive populist strategy and technocratic strategy.

The defensive populist strategy embraces our populist benchmarks. Vucic, much more than Borisov, uses the image of a defender of people's/Serbian interests and highlights autonomous decision-making. Borisov embraced the opaque role of an 'EU insider' representing the interests of his fellow citizens. Borisov and Vucic's demagoguery is translated to the propaganda of success that disregards critique and extrapolates even the most meagre and delicate EU words of encouragement and approval. It also aims to diffuse potential popular pressure for reforms.

Both leaders play with emotions. Vucic tickles the feelings of national pride and Borisov is the translator of the EU reality. However, the most similar element of their defensive populist strategies is the trivialisation and simplification of the complex questions of the rule of law reforms brought down to the question of fight against corruption.

The two leaders also skilfully apply technocratic tactics. In their interactions with the EU and in the process of introducing the new strategies, laws, and measures harmonising

them with the EU norms and standards, government officials use technocratic techniques either to depoliticise or to justify the often-hard reforms. This tactic is best visible in the endless adoption of strategies and action plans, which, even if implemented, have a reverse effect. The two cases show that national leaders skilfully use the need for reforms to strengthen their grasp on power further.

Hence, we claim that convincing signs of defensive populist and technocratic strategy exist and aim to accommodate the EU pressure for the internal rule of law reforms and the potential national resistance. The endurance of these practices in longer time spans also validates our hypothesis that it is applied strategically towards both the national public and the EU. By identifying the pre-, and the post-accession rule of law challenges in Serbia and Bulgaria and similar defensive populist and technocratic strategies to assuage the rule of law reforms applied by the respective heads of the executive branches, we conclude that the strategies are not dependent on the formal relationship towards the EU.

What is common for both countries, is not their formal status but substantial position of a country affected by the Europeanisation and the EU's rule of law conditionality regime. However, the persistence of the national executives' mishandling of the rule of law is largely enabled (although not caused) by the EU's inability to sanction countries' non-implementation or non-adherence to the rule of law norms both in the EU Member States and the candidate countries. In Serbia's case, the stalled enlargement process has additionally corroded the conditionality credibility.

The rule of law has become a pebble in the shoe for Bulgarian and Serbian executives alike. In a similar vein Bulgarian and Serbian authorities skilfully manipulate the relevant EU reports as a part of a tactic to downplay and mitigate their potential impact. The reports' selective and subjective interpretation is locked between the narratives of technical granularity and selective exaggeration of sentences with positive context. In both countries, we identify a similar strategy of customisation (Jańczak 2014) aiming to adjust the EU rule of law expectations into the national reality without the introduction of substantial changes (Domaradzki 2019b). Hence, instead of the different formal position towards the EU, it is the actual credibility of conditionality that matters (Freyburg et al. 2015: 18-20) when it comes to the rule of law reforms success.

Another similarity in the executives' tactic concerns the trivialisation of the rule of law and its easy application against present and imaginary political opponents. The conscious narrowing of the rule of law debate to the fight against corruption leaves most of the larger rule of law context, concerning the necessary independence, accountability, transparency, and effectiveness of the judiciary reforms outside the national political debate. The two leaders apply the tactic of capturing successes and rejecting uneasy questions through their discrediting as either malevolent, insignificant, or straight forward hostile. Their aim is not to give answers but to dominate the debate and undermine the question's logic. The application of populist strategy also provides for a less visible, but not less important undermining of the rule of law at national level.

Paradoxically, under the guise of rule of law reforms, the two leaders introduce changes that dismantle existing constitutional and legal provisions. These actions trigger little or no protests since the demand is explained with the will of the people. Hence, securing the ongoing concentration of power and state capture.

Finally, the vagueness and inconsistency of the EU reports and political correctness are frequently used by Vucic and Borisov as a fig leaf for shallow changes and twisted interpretation that ultimately further tightens the control over the judiciary. This defensive populist rhetoric formula spins the vicious circle of endless contradiction between the rule of law reality and its trivialised public perception.

Among the differences between the two countries, we have acknowledged that each analysed political leader has his style, dependent on the internal political discourse. As

long as Borisov portrays himself as the 'Brussels insider' that takes care of the Bulgarian interests, Vucic plays on the sensitive and unresolved fundamental issues of territorial integrity and nationalist undertones. What unites them is their image as defenders of state interests and the state's conscious personification with themselves. Hence, we argue that the national political elites can use populist and technocratic narratives to secure their grasp on power and at the same time to mitigate the external EU rule of law conditional pressure.

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