

Institutional Uncertainty: The Hybrid Market Order in Bulgaria



Tanya Chavdarova

Abstract This chapter examines the specific character of the market order in Bulgaria by employing theoretical tools related to research on neopatrimonialism. The central assumption is that the neopatrimonial type of political dominance shapes a hybrid social order in Bulgarian society. It involves informal rules and practices penetrating into formal institutions in all areas of public life. A core feature of this hybrid social order is institutional uncertainty, which results in low levels of institutional trust. It is claimed that under the conditions of such a neopatrimonial social order, an institutional lock-in effect is taking place which hybridises market institutions and makes them dependent on the political regime. The manifestations of market hybridisation are studied through secondary analysis of comparative data related to the ambiguity of formal market institutions and the dominance of systemic corruption as a key informal institution.

Keywords Market · Hybrid social order · Institutional uncertainty · Neopatrimonialism · Formal and informal institutions · Institutional ambiguity · Corruption · Cronyism · Institutional trust · Bulgaria

1 Introduction

The institutionalisation of an economy integrated by market mechanisms in Central and Eastern Europe after 1989 was essentially a process of transferring and imposing the formal market institutions of capitalism. Imitating the well-established order of advanced capitalist economies saved learning costs and compensated for the impossibility of an *ex ante* rational assessment of the institutional effects. The newly established institutions that resulted from imitating foreign models can basically be either isomorphic, which was the intended aim, or they can deviate from the models, triggering a process that increases heterogeneity (Beckert 2010).

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Institutions have become more heterogeneous in Central and Eastern Europe, and this process has been intensively researched over the last three decades. The paradigm of the transition to the market economy has been gradually replaced by a multiplicity of theoretical schemes which underline the hybrid nature of post-communist capitalism (for an overview see Rapacki 2019; Szelényi and Mihályi 2020). Among these, the “varieties of capitalism” approach has received particular attention. In this framework, a “dependent market economies” model was proposed to be applied to Central and Eastern Europe (Nölke and Vliegenthart 2009). This model is characterised by an alternative type of insertion into the global economy, related to international value chains controlled by Western multinational companies. The “diversity of capitalism” approach has produced alternative ideas. In this type of reasoning, Bohle and Greskovits (2012) identified three types of post-socialist models (neoliberal, embedded neoliberal and neo-corporatist). This set of works questions the role of state mediation to counterbalance market-led dependencies.

Following the abrupt opening of post-socialist economies to the global market, both approaches have been used extensively to study the role of *exogenous* factors shaping the institutional landscape of capitalism in Central and Eastern Europe. In contrast, the role of *endogenous* factors has not been studied in such a systemic manner. This chapter focuses on endogenous factors by examining the impact of the political order on the market order. Focusing on the example of Bulgaria, it aims to examine the consequences of the functioning of the political regime on formal and informal market institutions.

The analysis applies theoretical tools related to research on neopatrimonialism, originating in association with the academic work of G. Roth (1968). Neopatrimonialism is a commonly used concept in political science that indicates a hybrid mode of political order (Erdmann and Engel 2007: 95). It is characterised by a mixture of modern and patrimonial systems: modern order presupposes a legal-institutional framework on which citizens can rely, while under patrimonialism, rules are applied informally and with partiality. Under neopatrimonialism, patrimonial logic is incorporated into bureaucratic institutions (Bratton and van de Walle 1997: 62).

Neopatrimonialism is the prevalent form of political dominance in the non-OECD world and the examples of Africa and Latin America have been widely studied (von Soest 2010: 2). Countries described as neopatrimonial usually have common characteristics, such as colonial legacies, a weak state and unfair elections or no elections at all (Erdmann and Engel 2007: 114). A growing body of literature on neopatrimonialism in some contemporary societies in the European periphery has appeared in the last decade. This may be surprising as they have no colonial legacy, their bureaucratic institutions are capable of operating elections, or they are categorised as strong states. More recently the term gained popularity as a tool to understand contemporary Russia and the post-Soviet region (e.g. Robinson 2013; Gel'man 2016; Skigin 2017). It has also been applied in studies on Romania (e.g. Stanciugelu and Niculescu 2012), Turkey (e.g. Ugur-Cinar 2017) and Bosnia-Herzegovina (e.g. Puljek-Shank 2017) for various research purposes.

The applicability of the theoretical perspective of neopatrimonialism to Bulgaria has never been examined in a dedicated work. In research on institutions in many ex-socialist countries, reference is commonly made to patronage and clientelism to explain the abuse of public resources and the failure to achieve the intended outcomes of intervention. This is also relevant for Bulgaria, where most of the research in the area is devoted to relations between oligarchic groups and political parties (Petkov 2019), party patronage (Spirova 2012), lobbying (Hristova-Valcheva and Toneva-Methodieva 2014), state capture (Barnes 2007) and political risks to international business (Stoychev 2017). This type of research tends to focus on Western-type political and institutional set-ups. Neopatrimonialism, in contrast, is more normatively neutral in the way it describes patterns of interaction (Puljek-Shank 2017: 672). By adopting the concept, this chapter contributes to understanding the structural possibilities and limitations on the agency of economic actors in the state and society.

Originating in political science, the cited literature delivers insights mostly into neopatrimonialism as a *political* regime. Due to poor interdisciplinary communication between political science and business studies, the economic aspects and consequences of neopatrimonialism have been studied to a considerably lesser degree (Laruelle 2012: 305; Robinson 2013: 137). Notable exceptions include studies on entrepreneurial adjustments to institutions of the neo-patrimonial order (e.g. Leitner and Meissner 2017; Meissner 2018; Wegner 2019); on interpretations of neopatrimonialism through economics and its relevance for economic development (Sindzingre 2011; Kelsall 2011; Mkandawire 2015); and on the impact of a neopatrimonial regime on tax administration (von Soest et al. 2011). This chapter aims to contribute to interdisciplinary dialogue by studying the *economic* aspects of neopatrimonialism from a sociological viewpoint. Studying a hybrid market order can provide insights into its origins and dependence on the political order. The central assumption is that a neopatrimonial type of political dominance shapes the hybrid social order in Bulgarian society. It is characterised by penetration of informal rules and practices into formal institutions in all areas of public life. A core feature of this hybrid social order is institutional uncertainty, which results in low levels of institutional trust. It is claimed that, under the conditions of a neopatrimonial social order, the market order can only have a hybrid nature.

As the hybridisation of patrimonial and modern orders is always unique, neopatrimonialism as a concept does not allow societies to be measured quantitatively as less or more patrimonial (Meissner 2018). However, a comparative perspective is possible by operationalising and studying the key variables that make up the neopatrimonial order. This chapter seeks to enrich comparative theory on hybrid social orders by exploring the hybrid state of market institutions in Bulgaria. The methodology involves secondary data analysis and empirical results are used from various comparative datasets.

In the first part of this chapter, the neopatrimonial market order is examined from a theoretical point of view. Formal market institutions are associated with the public market order, whereas informal ones are seen as conventions of private market ordering. Following Erdmann and Engel (2007), the analysis assumes that a neopat-

rimonial social order can be considered as institutionalised when institutional uncertainty becomes the main feature of a social order. Furthermore, the institutional uncertainty of the market order is operationalised through two core variables: institutional ambiguity and systemic corruption. The second section briefly outlines the economic development and the quality of governance in Bulgaria over the last few decades. The third section focuses on institutional uncertainty in Bulgaria and its manifestations through the institutional ambiguity of formal market institutions and systemic corruption, both in its monetary and its non-monetary forms. The last section is devoted to studying the level of public trust in institutions as a consequence of institutional uncertainty.

2 Theoretical Background

Institutions are rules that structure everyday life, thus reducing uncertainty (North 1990: 13). There are formal as well as informal institutions, which are interconnected. Formal institutions are defined as written rules and procedures for fulfilling social roles, determining the structure of the social order and introduced, maintained and enforced through official channels. In modern capitalist societies, the main formal market institutions involve legal regulations concerning property rights, exchange, competition and security of contracts. They stem from and are based on public authorities (basically the government), thus creating the *public* market order.

Formal institutions are characterised by their incompleteness, meaning that they cannot cover all contingencies. Consequently, the actors involved develop informal institutions: “socially shared rules, usually unwritten, that are created, communicated and enforced outside of officially sanctioned channels” (Helmke and Levitsky 2004: 727). Informal institutions expedite actors’ work or address problems not anticipated by formal rules (ibid. 730). Accordingly, these players themselves create a *private market ordering* through voluntarily introduced and voluntarily observed rules. Whereas public order refers to the *rules of the game* imposed by public policy, private ordering refers to the *playing of the game* between “bilateral traders as they attempt to perfect their trading relations in a self-help way” (Williamson 2002: 438). Private market ordering institutions therefore have an informal character.

In this perspective, market institutions should be studied as an interplay between the rules of the game and actually playing the economic game. However, the economic sphere only has relative autonomy, as the rules of the game are the point of intersection between the economy and the state, between the economic and the political regime. It is logical to assume that contemporary market economies need modern systems of political dominance. Under a modern political order, relations between officials (ruling elites/bureaucracy) and private actors are formal and impersonal. In contemporary research on non-OECD countries, however, there is a substantial body of empirical evidence for a hybrid mode of social organisation in which “the public and the private, the political and the economic, the individual and

the collective, the ‘old’ and the ‘new’, all overlap” (von Soest 2010: 2). This special type of social order involving “conflicting modes of organisation and their legitimisation” is often described as “neopatrimonialism” (Robinson 2013: 137).

In contemporary political science literature, neopatrimonialism refers to the simultaneous operation of two ideal-typical Weberian forms of domination: a traditional sub-type, patrimonial domination,¹ and modern, legal-rational bureaucratic domination (see Bratton and van de Walle 1997; Erdmann and Engel 2007: 104; von Soest et al. 2011: 1309). Hence, neopatrimonialism is conceived as a *hybrid order*. Erdmann and Engel define it as a system in which two forms of logic and institutional patterns exist side by side: the patrimonial system of personal rule and the legal-rational system of modern statehood:

The patrimonial penetrates the legal-rational system and twists its logic, functions, and output but does not take exclusive control over the legal rational logic. That is, informal politics invades formal institutions. Formality and informality are intimately linked to each other in various ways and by varying degrees; and this mix becomes institutionalised. (Erdmann and Engel 2007: 105)

Since formal rules are dependent on and shaped by informal politics, the core characteristics of the neopatrimonial political order is “*insecurity* about the behaviour and role of state institutions (and agents)” (ibid.). The lack of calculable institutions makes actors insecure about the proper (formal or informal) means they should apply in any particular situation. The two types of logic are mutually reinforcing, which means that insecurity is reproduced in a systemic way (ibid.). This is in fact a situation where the institutional uncertainty created by public institutions is constantly reproduced (ibid. 108). Stemming from the political realm, *institutional uncertainty* diffuses itself among all areas of public life. It thus becomes the main feature of neopatrimonialism as a *social order*.

Institutional uncertainty, for its part, has some core manifestations in neopatrimonial hybrid systems. In various studies, depending on the aims, they are related to different variables. The focus, however, has been mostly on patron–client bonds or systemic clientelism/patronage/favouritism, capture, predation, cronyism, systemic corruption, rent extraction, conditional property and institutional ambiguity (see Laruelle 2012; Skigin 2017; Meissner 2018). The analysis here elaborates on two *interrelated* attributes: *institutional ambiguity* and *systemic corruption*. These are considered as central to studying institutional uncertainty, as to a large degree they contain and/or presuppose all of the other variables.

Institutional ambiguity means that the legitimate rules of the game are unclear. Ambiguity can appear both between formal and informal institutions and among formal institutions (Meissner 2018). Concerning the first case, Robinson (2013: 138) points out that under neopatrimonialism, formal and informal rules are not mutually supportive but rather work against one another. Concerning the second

¹According to Weber, “Patrimonialism (...) tend[s] to arise whenever traditional domination develops an administration and a military force which are purely personal instruments of the master” (Weber 1978: 231).

case, ambiguity among formal institutions means that procedures, regulations and laws are unclear or even contradictory, since the ruling elites tailor them to fit their particular interests. Laws are underdetermined (unclear or contradictory) so that the rulers can interpret them according to their needs. In the economic sphere, this form of arbitrariness applies to all areas of trade, competition and tax law, as well as to administrative regulations. Property and contract rights are best secured through personal connections.

The second attribute, *corruption*, is most widely defined as “misuse of public office for private gain” (Rose-Ackerman 1978). Corruption goes hand in hand with the (informal) concentration of power (von Soest et al. 2011: 7). Systemic corruption constitutes a key part of the neopatrimonial order in its two forms: monetary (bribery) and non-monetary (systemic favouritism). In its monetary form, corruption involves using one’s authority to sustain status and wealth by extracting bribes. Bribery means a direct and often one-off payment for specific services. Bribery, although not absent on high political levels, is particularly used as a term to characterise relationships between the lower strata of society or smaller firms and members of administrative authorities (Aligica and Tarko 2014: 159). Monetary corruption is always associated with a significant degree of arbitrariness and a lack of predictability, although certain “going rates” may apply.

In its non-monetary form, corruption involves different forms of favouritism. In the discourse of political sciences, *systemic clientelism* is considered as an integral part of neopatrimonialism (Bratton and van de Walle 1997: 62, Erdmann and Engel 2007: 106, von Soest et al. 2011: 4). Clientelism involves awarding personal favours in order to secure political support and obedience. Such favours include public sector jobs or distribution of public resources through licenses, contracts and projects (Bratton and van de Walle 1997: 65). Actors turn to clientelism in order to reduce the insecurity produced by institutional ambiguity. In this way, however, insecurity spreads, provoking further investment in clientelism. This is how clientelism contributes to the reproduction of institutional uncertainty (ibid. 108).

Whereas clientelism implies a dyadic and asymmetric relationship between patron and client (Erdmann and Engel 2007: 107), “cronyism” indicates the overlap between the political elite and business groups, mainly large businesses (Aligica and Tarko 2014). It means that firms which are politically connected to the government enjoy “benefits that unconnected firms do not” (Sindzingre 2011: 98). Unlike bribery, cronyism is based on reciprocity and exists over a long period of time. The academic discourse strongly associates cronyism with rent-seeking (e.g. Haber 2002; Aligica and Tarko 2014; Szelényi and Mihályi 2020). Cronyism is driven by the incentive of rent-seeking (Aligica and Tarko 2014: 158). “Rent” is defined here as “that part of the payment to an owner of resources over and above that which those resources could command in any alternative use” (Buchanan 1980: 3). Rent is typically created when government limits competition to the privileged group by using “licenses, quotas, permits, authorisations, approvals, franchise assignments - each of these closely related terms implies arbitrary and/or artificial scarcity created by the government” (ibid. 9).

When cronyism becomes a norm in relationships among economic and political elites, then rent-seeking behaviour becomes a structural and systemic feature of the market order. In such an order, politics and economics are syncretically linked and sustain each other. The functioning of economic institutions can be understood only in the light of their connection to political institutions. The essence of this connection is the penetration of informality into formal market institutions through their control or even capture by a small number of people and their networks.

3 Economic Development and Quality of Governance in Bulgaria

Hybrid systems owe their existence to a large extent to material exchange built up between the ruler and the ruled. However, as Ugur-Cinar (2017: 327) points out, material exchange is necessary but insufficient for the system to reproduce. It is sustained by discursive mechanisms which explain how a regime is legitimised in the eyes of the citizens. This legitimisation is closely related to informal rules inherited from the past. In the Bulgarian case, the neopatrimonial hybrid order is a historical legacy. During the first capitalist period following the national Liberation of Bulgaria from the Ottoman Empire (1878–1944) and thereafter during the socialist period (1944–1989), the state occupied strategic redistributive positions in economics. After the Liberation, given the scarcity of private capital in the context of economic backwardness and poverty, private capital was formed from that of the state; its holders expected the state to determine its goals, which it duly did. Even in the best periods for private capital, the state maintained its extraordinary role in the economy, especially with regard to its institutional structure (Avramov 2007). Thereafter, socialism provided fertile ground for further strengthening the role of the state in the economy. This is why the economic ethics of prosperity in the country's modern history allowed, tolerated and even required informal connections with political figures. Informal rules of the market game such as *vruzki* (personal connections), corruption and clientelism in particular became institutionalised (Chavdarova 2000, 2013).

After 1989, the Bulgarian economy was abruptly opened to the global markets and consequently the role of exogenous market development factors substantially increased. Conditions were thus created for breaking with the legacy of the past and for emancipation of the market from politics. The Bulgarian economy has developed significantly in the last 30 years, undergoing four stages in its development. The first stage (1989–1997) involved a huge degree of uncertainty (even chaos) leading to substantial year-to-year variations in all socio-economic indicators. The pace of privatisation was slow and accompanied by contradictory government tax and investment policies and bureaucratic red tape which kept **foreign direct investment** (FDI) at a level among the lowest in the region. Then 1996 and 1997 were crucial years, both economically (with the bankruptcy of 16 banks, hyperinflation

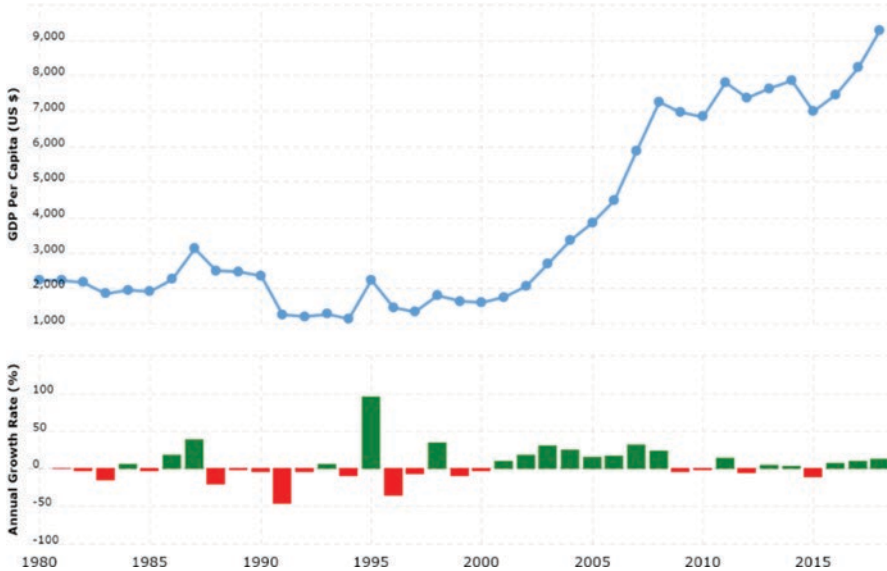


Fig. 1 Bulgaria GDP per capita 1980–2020. (Source: World Bank cit. in Macrotrends 2020)

and the introduction of a currency board) and politically (with the onset of intensive public protests which brought down the government).

The second period (1998–2008) was more settled in terms of conditions for doing business. After 1997, Bulgaria speeded up privatisation and began to attract substantial FDI, showing stable growth in GDP per capita after 2000 (see Fig. 1). In 2005, with the end of the privatisation of the major state-owned companies, a slowdown in FDI was observed. After the start of negotiations in 1999 on the accession of Bulgaria to the European Union (EU), an extensive process began of harmonising Bulgarian legislation with European legislation. In the course of this process, the European Commission (EC) became and still is the key conditionality actor for Bulgarian institutional reforms, along with the International Monetary Fund (IMF) and the World Bank. After joining the EU in 2007, Bulgaria registered a peak in FDI of about 6 billion euros, although low productivity and competitiveness remained a significant obstacle to economic development.

The third stage (2009–2011) began with the unfolding of the global economic crisis. It seriously affected the backbone of the Bulgarian economy, the small businesses sector,² putting strong pressure on small firms to improve productivity and diversify their markets. Bulgaria saw its economy decline by 5.5% in 2009, but quickly restored positive growth levels to 0.2% in 2010.

²Micro-firms (less than 10 employees) account for 92.6% of the total number of non-financial enterprises in Bulgaria; large enterprises account for 0.2% (NSI 2019). From 2008 to 2013, the value added by SMEs declined by 4%, whereas for large companies it increased by about 8% (EC 2014).

The fourth stage, marked by stable GDP per capita growth, began with the first signs of economic recovery after 2011. Yet Bulgaria's income per capita is still the lowest in the EU. Higher growth in productivity is therefore critical to accelerating convergence. Productivity will need to grow by at least 4% per year over the next 25 years if Bulgaria is to catch up with average EU income levels (World Bank 2019). This is a challenging task, as the country is currently facing highly unfavourable demographic developments (an aging and declining population), huge labour emigration and relatively low private investment.

Both theoretical and empirical research has reaffirmed the critical importance of institutions in explaining variations in economic development (Rodrik et al. 2004). In these circumstances, given the unfavourable conditions described above, economic development in Bulgaria is crucially dependent on institutional performance. The IMF estimates that improvements in the quality of Bulgaria's institutions, especially through promoting the independence of the judicial system and the impartiality of courts and through protecting property rights, could bring about efficiency gains of almost 20% (IMF 2016: 2).

Institutional performance is typically related to good governance, or to the capacity of institutions to effectively formulate and implement public policies and to keep the trust of citizens. Quality of governance is widely studied using the World Bank's Worldwide Governance Indicators (WGI) that summarise the views of enterprises, citizens and experts responding to surveys (World Bank 2020). Six aggregate governance indicators have been reported for over 200 countries since 1996. Four of them are directly related to market developments and will be considered here³: *Government effectiveness* (perceptions of the quality of public services and the degree of its independence from political pressure, the quality of policy formulation and implementation and the credibility of the government's commitment to such policies); *Regulatory quality* (perceptions of the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development); *Rule of law* (perceptions of the extent to which agents have confidence in and abide by the rules of society and in particular the quality of contract enforcement, property rights, the police and the courts, as well as the likelihood of crime and violence); *Control of corruption* (perceptions of the extent to which public power is exercised for private gain, including both petty and large-scale forms of corruption, as well as the capture of the state by elites and private interests) (ibid.).

For Bulgaria, none of the four indicators shows any drastic fluctuations in the 1996–2014 period after their initial increase between 1996 and 2002 (see Fig. 2). *Regulatory quality* is comparatively the best over the whole period in question. The government's ability to effectively implement the regulatory framework is weaker. The weakest link is in the closely related *Rule of law* and *Control of corruption* indicators, which have not undergone any significant change since Bulgaria's accession to the EU in 2007.

³The other two indicators are *Voice and accountability* and *Political stability and absence of violence/terrorism* (World Bank 2020).

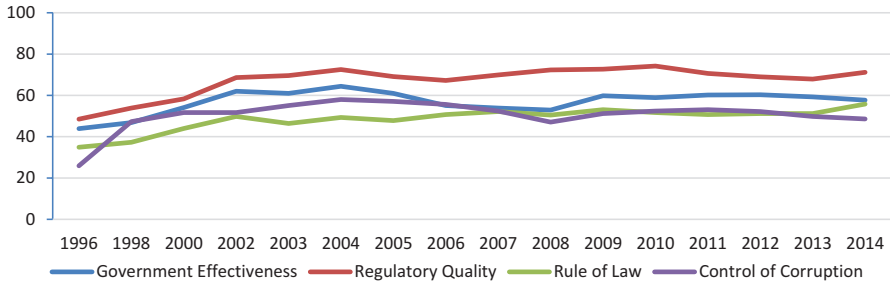


Fig. 2 Bulgaria 1996–2014: Aggregate governance indicators. Note: The lines on the graph show Bulgaria's percentile ranking with regard to each of the four governance indicators. The percentile rank among all countries ranges from 0 (lowest) to 100 (highest) and indicates the percentage of countries worldwide that rank lower than the indicated country, i.e. higher values indicate better governance scores. (Source: World Bank 2015)

These results show firstly that there is no correlation between growing GDP per capita and stable governance indicators, especially after 2000. These results call into question the cited IMF estimate. They are in line with some findings about the connection between neopatrimonial governance and economic development based on the example of some African states. Research on case studies from Kenya, Côte d'Ivoire, Malawi and Rwanda provides evidence that neopatrimonial mechanisms, with a view to the long term, can be harnessed for developmental purposes (Kelsall (2011)). Based again on African studies, Mkandawire (2015) concludes that neopatrimonialism has no predictive value with respect to economic policy and performance.

Secondly, the relative stability over an extended period of the governance indicators, especially *Rule of law* and *Control of corruption*, may indicate that the dramatic changes in formal institutions have been counterbalanced by the stability of inherited informal institutions. This would mean that the importance of the exogenous factors ensuing from the opening of the Bulgarian economy has been undermined by endogenous factors that have prevented a break from historical legacy.

4 Institutional Uncertainty of the Hybrid Market Order

4.1 Institutional Ambiguity: The Legal Framework and its Enforcement

Over the whole period after 1989, the legal framework in Bulgaria has been marked by instability and by major or minor inconsistencies in legislation, with resulting inadequacies and contradictions. This situation occurs frequently in the numerous and often incoherent changes in market legislation. The Commerce Act, for instance, was amended 25 times in the period from 1991, when it entered into force, until

2000. In the same period the Labour Code and the Income Tax Act were amended 24 times (Gancheva 2000). A number of laws simultaneously stipulate enforcement rules and a constantly increasing number of other bylaws, resulting in contradictions and discrepancies in the regulations (Valtchev et al. 2011). The pace of amendment of the legislation has not decreased over the years. O. Gerdjikov, a prominent Bulgarian lawyer, former chairman of the National Assembly and a former Prime Minister, aptly defined the current National Assembly as a “rapid reaction corps”, making “continuous amendments to amendments to laws according to a particular situation in a specific case” (Dnes.bg 2019). These practices nurture institutional ambiguity as a systemic feature of social order.

The means for effectively imposing market laws in the country have consolidated over time and especially during the 2000s. However, the legal framework of markets remains unbalanced. Some elements regulating the market environment have been substantially improved, while others are persistently problematic.

Relative strengths of Bulgaria include fiscal health and the income tax burden. The country made a substantial improvement in fiscal and budget transparency after 2006 and simplified the collection of personal income tax by levying a flat rate of 10% since 2008. The revenue institutions are highly efficient: the key management and risk management practices of the revenue administration are well aligned with those of other EU countries (IMF 2019). There are also some positive trends in the conditions for doing business, along with improved security of property rights and an increasing level of economic freedom. Bulgaria takes fourth place in the list of countries making huge strides in the *Index of Economic Freedom*: from 48.6 in 1995 (the first measured year) to 69 in 2019. It is ranked in 37th place among 180 countries as a moderately free economy (Miller et al. 2019: 4).

The most problematic institutional fields are related to the rule of law and control of corruption. Rule of law has two highly critical aspects: a low level of government integrity (index -35.1) and effectiveness of the courts (index -41.9) (ibid. 18). Bulgaria lags behind its peers in terms of the public perception of judicial independence and control of corruption. On the basis of Global Competitiveness Reports, the independence of Bulgaria’s courts is perceived to be lower than average for New Member States and the EU during 2007–2017. In addition, the 2018 Eurobarometer result shows that, despite improvements, only 30% of respondents from both the general public and companies (compared to EU averages of 56% and 48%, respectively) believe that courts and judges are independent (IMF 2019: 22).

Prosecution offices and regional, district, appellate and supreme court judges also share this opinion, according to the results from nationally representative studies among them conducted in 2016 (BILI 2016). Assessments of prosecutors show considerable scepticism: 64% of them believe that significant changes are still absent and almost three quarters of them (73%) do not believe that people with the highest moral and professional qualities obtain promotion in the prosecution office hierarchy. Perfunctory and unjust assessment of the work of the courts are among the key factors depleting the internal self-regulating mechanisms of the judiciary. This problem has been closely identified by both prosecutors (75%) and judges (67%). The practice of high-ranking magistrates giving oral instructions on the out-

come of cases is pointed out by 40% of prosecutors and 34% of judges. The lack of a clear and fair environment for career advancement makes magistrates susceptible to pressure and places them in various dependencies (*ibid.*). It is therefore not surprising that only 1.7% of small businesses with contractual problems have referred them to court (Gancheva 2000: 40).

Control of corruption is particularly weak in the area of public procurement. In this regard (and in relation to the governance of state-owned enterprises) Bulgaria does not compare well with its peers (IMF 2019: 16). The Public Procurement Act has been amended 18 times between 2014 and 2019 (Cherneva 2019), which explains why 70% of businesses perceive public procurement bids as a put-up job (Bakurdzhiev 2017). Thus, despite many reforms since EU accession, the public perception of weak judicial independence and widespread corruption has changed little (IMF 2019: 22).

4.2 *Systemic Corruption*

4.2.1 **Public Perceptions of Corruption**

Empirical research identifies corruption as one of the most problematic factors for doing business in Bulgaria, although, for obvious reasons, it is difficult to measure it accurately using quantitative indicators. Corruption in the country appeared to have diminished throughout the course of the EU accession process and shortly afterwards, but deteriorated after 2010 and remained high (IMF 2019: 22). According to the 2018 Corruption Perception Index (CPI) data of Transparency International (TI) for Europe, Bulgaria's CPI stands at 42 points, with the country in 77th place in the world ranking⁴ (TIB 2019). This score has dropped six places in the world ranking (from 71st in 2017), which is an indicator of retreat.

In the regional ranking of EU Member States, Bulgaria remains in last place (the average value of the EU index is 64.6). Analysis of TI–Bulgaria for the 2012–2018 period shows a negative trend in comparison to positive developments in many other EU countries. The data show that despite relative political and economic stability, the main weaknesses in this seven-year period are related to efficiency in the use of public resources, the functioning of supervisory institutions and the court system in the country (*ibid.*).

The 2017 report of the EU Special Eurobarometer on corruption confirmed these findings. It showed that almost 90% of respondents in Bulgaria believe that there is corruption in national public institutions and agree that bribery and connections

⁴The CPI ranks countries in terms of their perceived levels of corruption, as determined by expert assessments and opinion surveys, on a scale from 100 (very clean) to 0 (highly corrupt). Use of the CPI should be considered carefully as it is derived from perception-based data. Nonetheless, they have a strong impact on expectations and, correspondingly, on the decisions and behaviour of ordinary people and businesses.

often make it easier to obtain public services. It also revealed that 12% of Bulgarians – among the highest in the EU – have experienced or witnessed corruption (IMF 2019: 22).

The data discussed provide evidence that corruption in Bulgaria is neither incidental nor just institutional or confined to particular sectors of activity; it is not episodic, but *systemic*. Moreover, data from various qualitative studies on small businesses in Bulgaria testify that corruption has become routine and is accepted as a means of conducting everyday transactions, i.e. it has become *institutionalised* (Chavdarova 2014). From an economic tool that lubricates transactions, corruption has pervaded the whole of society and has become its organisational principle; from a problem it has turned into a solution to the problem. Institutionalised corruption is to a large extent determined by institutional ambiguity: it is a rule that is known with certainty, whereas there is insecurity about the other rules. By offering regulation of business relationships through hidden redistribution, corruption functions as a fundamental informal institution of the private market ordering.

4.2.2 Cronyism: The Link between Politics and Economics

In the market environment of institutional ambiguity, non-monetary corruption mostly takes the form of cronyism. Large businesses take the lead, since they typically have privileged access to government officials. The cronyism merging the authorities with large businesses has received ample confirmation. Only in the last 5 years (2015–2019), Bulgaria had been torn by a series of scandals testifying to rampant political corruption, cronyism and rent-seeking on the highest levels of society. In 2015, recordings of conversations between two judges were leaked, in which the Prime Minister Boyko Borisov and the Prosecutor General Sotir Tsatsarov tell them how to decide cases (this case was dubbed *Yaneva-Gate*). In 2017, a meeting took place between the Prosecutor General and a businessman in which the former warned the latter to be careful about his political views (the so-called *Tzum-Gate* scandal). The prosecution terminated the two investigations without convictions in 2017. In 2016, the investigator B. Atanasov publicly stated that there was a special unit at the Prosecutor's Office whose role was to initiate bogus criminal proceedings against government opponents.

Under these conditions, the European Commission started identifying progress in Bulgaria's justice system. The Commission published *Bulgaria's 2018 Cooperation and Verification Mechanism (CVM)⁵ report*, which declared three of the six benchmarks monitored by the Commission as closed: judicial independence, legal framework and organised crime (EC 2018). The Bulgarian public and some international organisations were outraged. Many reputable judges and established

⁵The Cooperation and Verification Mechanism of the EU was set up in 2006 to ensure the progress of judicial and anti-corruption reforms at the time of Bulgaria's accession to the EU in 2007.

civil society members made statements that the 2018 report does not provide an objective evaluation (for details see Vassileva 2019).

The year 2019 was marked by an escalation of social tension stemming from cases of corruption and systemic favouritism. Especially blatant was a property scandal with a real estate development company named Arteks Engineering. In March 2019, two Bulgarian media and the non-governmental Anti-Corruption Fund revealed that four high-level government officials from the ruling GERB coalition bought luxury apartments at discount prices from Arteks and that GERB lawmakers had amended the country's Construction Code to the benefit of Arteks. They resigned from office amid a criminal investigation launched after their suspicious real estate deals. But after a three-month investigation the Anti-Corruption Commission concluded there was no conflict of interest on the part of any officials. Even the head of Bulgaria's Anti-Corruption Commission had to resign in 2019, as he had failed to include some of his assets in his tax declaration.

In July 2019, the Supreme Judicial Council (SJC) nominated only one person (Ivan Geshev) as Prosecutor General of Bulgaria. Civil society actors consider this nomination to be inadmissible due to his track record of human rights violations. It is also argued that the nomination procedure was flawed (ibid.). Bulgaria was shaken by mass protests (October–December 2019), firstly against Geshev's nomination and the SJC itself and, afterwards, against his election and re-election by the SJC, after the President had vetoed the election.

Despite these developments, the European Commission reaffirmed in its CVM report published on 22 October 2019 that the judicial independence, legal framework and organised crime benchmarks had been closed because of satisfactory progress. It recognised that some work remained regarding the other three benchmarks (continued reform, general corruption and high-level corruption). Nonetheless, the Commission concluded that “the progress made by Bulgaria under the CVM is sufficient to meet Bulgaria's commitments made at the time of its accession to the EU” (EC 2019).

The Commission clearly became lenient with regard to the long-standing problems of high-level cronyism in Bulgaria. On the surface, it is easy to see that the European People's Party provided support to GERB, the ruling party in Bulgaria, in an unprincipled manner as its “family member” and other political deals behind the scenes, leading to double standards and growing Euroscepticism in Bulgaria. One may also raise arguments about the Commission's faulty progress evaluation methodology, lack of transparency, etc. At a deeper level, however, the Commission's support to a government that assaulted the rule of law may be interpreted as a symptom of the *globalisation of cronyism*.

5 Trust in Institutions

With regard to the historical legacy and data discussed above, systemic distrust in the proper functioning of formal institutions appears to be a logical consequence. Data from the nationally representative European Quality of Life Surveys (EQLS) conducted in 2007, 2011 and 2016 by the European Foundation for the Improvement of Living and Working Conditions (Eurofound) provide convincing evidence that institutional trust is at a critically low level in Bulgarian society. EQLS measures overall trust in institutions as constructed from trust in the national government, parliament, legal system, police and media. The index of overall trust in institutions in Bulgaria was estimated at 3.5 in 2007; 3.5 in 2011; 3.9 in 2016 (Eurofound 2018b: 13, see Fig. 3).

In 2007, Bulgaria showed the lowest levels of overall trust in institutions among EU Member States. In 2011, it showed the second lowest levels of institutional trust (after Greece, 3.0 and the same level as Croatia and Romania). In 2016, Bulgaria again ranked second (together with Greece), while the minimum value was for Croatia (3.8) (ibid.) The survey suggests that although a crisis of trust was observed in European societies in the aftermath of the financial crisis, in many of them the decline in trust was a temporary phenomenon during the recession. Trust had not

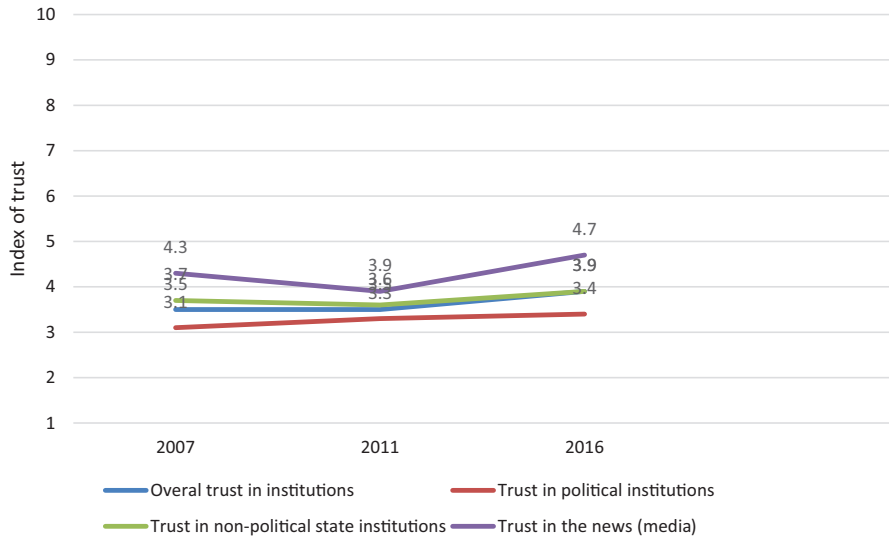


Fig. 3 Trust in institutions in Bulgaria: 2007–2016. Notes: (1) Overall trust in institutions is the average of trust in the national parliament, trust in the national government, trust in the legal system, trust in the police and trust in the news/media. Trust in political institutions is the average of trust in the national parliament and trust in the national government. Trust in non-political state institutions is the average of trust in the legal system and trust in the police; (2) the index of trust varies between 1 = “does not trust at all” and 10 = “trusts completely”. (Source: Eurofound 2018b: 13–16)

fully recovered in a number of Southern and Eastern European countries and among them Bulgaria stands out with its particularly low levels (Eurofound 2018a: 2).

The composite index of trust in the national parliament and the national government (i.e. trust in political institutions) is the lowest, as compared with trust in non-political institutions and media. Nonetheless, it showed gradual improvement in the period under consideration. In this respect, Bulgaria scores the fourth lowest in the EU after Greece, Slovenia and Croatia (Eurofound 2018a: 18). Trust in non-political state institutions, measured by the average score for trust in the legal system and trust in the police, is roughly the same as overall trust. Although it displays a similar positive trend, Bulgaria is at the bottom of the list of EU Member States in terms of this index for 2007, 2011 and 2016 (ibid. 19).

Numerous studies over the last 30 years show a low level of trust in the legal system in particular. A recent (2018) nationally representative survey conducted by the Open Society Institute, Sofia, revealed that most Bulgarian citizens (76%) do not believe that everyone is treated equally by the law in the country (barely 8% believe the opposite) and remain isolated from public life. Hardly a third (29%) of the respondents believed that the laws are fair, whereas 58% are of the opposite opinion. Only 14% considered the laws to be clear and comprehensible (67% express the opposite opinion) (Ivanova et al. 2018).

Weak control over corruption is a substantial factor undermining trust in institutions. The impact of corruption on trust is the most robust result among all macro-level variables studied by EQLS. Respondents living in countries with higher levels of perceived corruption have less trust in institutions and increases in perceived corruption are associated with a decline in trust in institutions (Eurofound 2018a: 45).

The low level of institutional trust casts doubt on the legitimacy of institutions and contributes to entrenchment of the legacy of conflict between legality and legitimacy in Bulgaria. Trust in institutions is an essential precondition for good and effective governance. It can increase compliance with rules and regulations and reduce the cost of enforcement. At the same time, trust reflects good institutional performance (OECD 2013). People will comply with rules if they see regulations as fair and legitimate. In post-socialist countries, where drastic structural transformations have been carried out, trust would enable authorities to implement structural reforms with serious short-term costs, but long-term benefits. In the Bulgarian case, this enabling factor is missing.

6 Conclusion

When the socialist regimes were dismantled in 1989, the dominant and somewhat naïve expectation was that new regimes would develop into democratic states with market economies that would quickly integrate into the EU. This expectation has been shattered. This chapter highlights some of the incongruities of market institutionalisation in Bulgaria and its results so far.

The possibilities of the neopatrimonial approach have been examined. The (neo-) Weberian concept of neopatrimonialism has been transferred from political science and used as an analytical tool to describe the institutional environment of market activities. Neopatrimonialism has been conceptualised as a hybrid social order in which the patrimonial logic of personal, informal power relationships penetrates into the rational-legal logic of impersonal, formal relationships. This analysis has highlighted how this hybrid social order translates into a hybrid market order in the Bulgarian case. It has been demonstrated that, under hybrid social order conditions, an institutional lock-in effect is taking place which also hybridises market institutions and makes them dependent on the political regime. It has been shown that institutional hybridity, as reflected in the quality of governance, does not correspond directly with economic development. The link between the country's economic development and the quality of governance has been discussed by comparing GDP growth and governance indicators. No match has been identified to concur with other research findings that see neopatrimonial governance, under certain conditions, as compatible with a growth-enhancing climate. Accordingly, the predictive value of neopatrimonialism with respect to economic performance has been questioned.

Institutional uncertainty has been identified as a core characteristic of a hybrid social, and hence market order. Institutional uncertainty has been operationalised through two key interdependent variables: institutional ambiguity and systemic corruption. Ambiguity in formal market institutions in Bulgaria has been revealed as embodied in the deliberate coexistence of legal norms and arbitrariness. Analysis of comparative datasets has provided evidence that systemic corruption has been institutionalised. Corruption has been revealed to be closely interrelated with institutional ambiguity. Through corruption, actors reach private agreements about playing the market game. These are an unintended outcome of repetitive conflicts and compromises in a specific socio-economic context that infuse order. Corruption has been conceived as a major informal private market ordering institution that helps actors to overcome the insecurity stemming from hybridised application of rules. Special attention has been given to cronyism as a non-monetary form of corruption. It has been discussed through analysis of recent cases of cronyism in merging political and economic actors.

It has been argued that institutional uncertainty produces low institutional trust. Various forms of trust in institutions in Bulgaria have been examined through secondary data analysis. Low levels of trust have contributed to the entrenchment of the legacy of the conflict between legality and legitimacy. In terms of market developments over the last 30 years, this means that formal market institutions may be legal but their legitimacy is questionable. Free market exchange was officially institutionalised as the economic integration pattern, whereas basic informal institutions assert reciprocity and hidden redistribution as integrative modes. During the period of socialism, the redistributive economy was simultaneously lubricated and subverted by reciprocity and hidden market mechanisms. Likewise, the present-day market economy in Bulgaria is simultaneously sustained and undermined by crony reciprocity and hidden redistribution resulting from rent-seeking practices.

The approach of neopatrimonialism underlines the role of endogenous forces in the process of institutional change and, in particular, the important role of inherited informal institutions. The neopatrimonial optics allows study of the various types of hybrid mix of patrimonial, informal and rational-bureaucratic, formal institutions in a world where *hybrid orders are the norm, not the exception*. Correspondingly, the concept of neopatrimonialism should be conceived in neutral terms and should be released from the connotations imposed by a Western-centric viewpoint on the evaluation of institutional developments.

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