

# **Foreground liberalism, background nationalism: A discursive-institutionalist account of EU leverage and ‘democratic backsliding’ in East-Central Europe**

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## **Foreground liberalism, background nationalism**

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**A discursive-institutionalist account of leverage and ‘democratic backsliding’ in newer EU members states**

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## **Foreground liberalism, background nationalism: A discursive-institutionalist account of leverage and ‘democratic backsliding’ in newer EU members states \***

Over the last ten years key East-Central European (ECE) states within the European Union have experienced forms of democratic regression, often termed democratic ‘backsliding’. This has confounded earlier assumptions that democracy in ECE was – largely due to EU enlargement – well-anchored and secure. Existing literature on ECE backsliding has focused heavily on the actions of illiberal national-conservative governments in the two most problematic cases, Hungary (2010- ) and Poland (October 2015- ), and been framed in terms of how EU institutions and member states could or should respond to the challenge posed by such backsliding (Sedelmeier 2017; Pech and Scheppele 2017).

In this article, we argue for a threefold change of emphasis in the debate on backsliding in ECE. First, we suggest, the unexpected seriousness of backsliding in ECE calls for a step back from immediate events to engage with institutional theory and the theoretical assumptions that have underlain accounts of democratic (and undemocratic) change in ECE. These, we argue, reflect predominantly rational- and historical institutionalist assumptions stressing direct incentives facing parties and voters and various putative ‘lock-in’ mechanisms stemming from EU accession and, subsequently, membership.

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Second, we suggest prevalent rational- and historical institutionalist assumptions about consolidation, leverage and ‘backsliding’ (de-consolidation) in ECE can be supplemented by a theoretical approach that reinserts actors and their ideas in an institutional setting, the ‘discursive institutionalism’ (DI) formulated by Vivian Schmidt (2008, 2010, 2011). Third, in consequence of this change of institutional perspective, we argue for a shift in empirical focus. Rather than focusing mainly on illiberal national-conservative governing parties in the most egregious cases, we suggest an additional focus on liberal mainstream pro-EU parties which, DI approaches imply, embody and give content to a liberal-democratic institutional settlement. We therefore test the potential weakness of democratic institutions by examining the discursive evolution of mainstream pro-EU parties in two relatively benign cases, where little backsliding has occurred: the centre-right in Bulgaria, and the centre-left in Czech Republic.

We first review the literature on EU influence and democratic backsliding in ECE, highlighting their assumptions about the nature of actors and institutions. We then highlight the potential benefits of a discursive institutionalist (DI) perspective. Next, we relate these ideas to outwardly liberal, pro-European political actors in Bulgaria and Czech Republic in pre- and post-accession periods, examining discourse on ethnic inclusivity to track commitment to a pluralistic liberal-democratic framework. In both cases we find that ‘background ideas’ of ethnically-exclusive titular states increasingly impinged on ‘foreground ideas’ of liberal pluralism.

Our closing discussion reviews the implications of a DI perspective on ‘democratic backsliding’, which entails seeing illiberal political change in the region less as a turning point triggered by shifting institutional incentives, than the fallout of a more unpredictable

process of shifting political discourses. We conclude by briefly mapping the policy implications of DI for EU policymakers currently grappling with democratic regression in ECE.

### **Theorising democratisation and leverage in ECE**

Despite initially pessimistic expectations of democratic breakdown (Greskovits 1998), democratisation in ECE after 1989 was rapidly deemed a success story, with many accounts agreeing that EU influence had been decisive. Subsequent debate centred on when and where European Union influence had been strongest, and whether the EU had exercised greater influence by resetting incentives or working through a cultural ‘logic of appropriateness’ reshaping norms and identities using mechanisms like (elite) socialisation or social learning. Although disagreeing over the importance of structural and cultural preconditions<sup>1</sup>, most authors plumped for interest- and incentive-based frameworks, usually highlighting the EU’s pre-accession conditionalities and the leverage they afforded (Schimmelfennig and Sedelmeier 2005; Vachudova 2005, 2009, 2015; Epstein 2008; Dimitrova 2015; Börzel 2015; Börzel and Schimmelfennig 2017). Democratic conditionalities included broad ‘external incentives ... linked to the fundamental political principles of the EU, norms of human rights and liberal democracy, and the institutions of the market economy’ and the more specific political conditions of the ‘enlargement acquis’ relating to minority rights, regionalisation, and transparency and accountability in policy making (Schimmelfennig and Sedelmeier 2005, pp 210-12; citation p. 212). Leverage was assumed

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<sup>1</sup> Epstein (2008, p. 203) argues there were preconditions (the West as a cultural model, consistent application of policy in existing member states) for leverage, while Schimmelfennig and Sedelmeier (2004, p. 2014) dismiss these as ‘causally irrelevant’.

to play out both directly in governments' reactions to conditionalities and indirectly by impacting and realigning electoral politics. In ECE states with a liberal 'party constellation' of pro-European forces, democratic conditionalities were generally accepted without demur or, for certain policies, after only limited resistance (Schimmelfennig 2009; see also Vachudova 2005, 2009, 2015). However, where strong illiberal ruling parties calculated that reforms would undermine their power, conditionality played out by empowering and reinforcing liberal opposition camps. In Vachudova's influential account (2005, 2009, 2015), the 'active leverage' of accession conditionality – underpinned by the costs of potential exclusion - led to the displacement of illiberal nationalists and ex-communists by liberal pro-European coalitions in Slovakia, Romania and Bulgaria in 'watershed elections'. The dynamic, as Vachudova (2005, p. 220; see also Schimmelfennig 2007) summarizes it, was that 'the EU's pre-Accession process provided strong incentives for all mainstream parties to change their political and economic agendas (if not their hearts and minds) to prevent their country from falling behind.' Accounts of the apparent success of ECE democratisation were more eclectic in their explanations of how and why democratic institutions would endure. Very often, they invoked historical institutionalist (HI) notions of critical junctures, 'increasing returns' and path dependent lock-in (Pierson 2000; Capoccia 2016). Thus, Vachudova (2005; 2007, 2009) saw the coming to power of liberal reformers in ECE – either immediately after the fall of communism in 1989 or in 'watershed elections' in the late 1990s – as a critical juncture which locked in a democratic path by bringing in liberal reforms, forcing nationalists and ex-communists to adapt and modernize, thus closing off alternative paths of development. Other writers suggested – in line with mainstream theories of democratic consolidation (Linz and Stepan 1996; Schedler 1998) - a cultural lock-in mechanism: over time, actors eventually shift from meeting liberal-democratic standards

because of a rationalist cost-benefit calculus to genuine ‘hearts and minds’ commitments based on a logic of appropriateness and identity change. Thus, Schimmelfennig (2007, pp. 39-40) for example, foresaw, that leverage would ‘reinforce and stabilize existing [liberal] norm conformance and create a virtuous circle’ (Schimmelfennig 2007, p. 39).

### *Theorising ‘democratic backsliding’*

Accounts of democratic lock-in, however, proved to be both too optimistic empirically and open to question in theoretical terms. At the empirical level, developments in Hungary and Poland suggested that the problem with democracy in ECE was no longer simply one of low democratic quality (see Roberts 2010) or weaker than hoped consolidation, but the erosion of democracy *as a regime*. In bypassing, neutering or partifying countervailing institutions such as constitutional courts, public media, regulatory agencies and NGOs, illiberal governing parties were creating semi-authoritarian, hybrid regimes (Ágh 2016, Zgut and Przybylski 2017) - a textbook process of democratic backsliding through ‘executive aggrandisement’ (Bermeo 2016).

Secondly, from the time democratic backsliding made itself felt in ECE with the advent of populist governments in Poland in 2005 and Hungary in 2010, it has been explained using the same theoretical frameworks previously used to account for the region’s apparent democratic success: as the product of (weakened or absent) EU incentives and (failed) path dependent lock-in. The main change made by analysts was to update or rethink their empirical assessments. Thus, the falling away of accession conditionalities - or their replacement with weaker, more cumbersome post-accession conditionalities such as the Article 7 ‘rule of law mechanism’ - facilitated backsliding by changing the calculus for local

elites (and voters), making it less costly to turn to illiberal politics (Dimitrova 2015; Sedelmeier 2017). Similarly, 'lock-in' mechanisms such as oversight and monitoring institutions, it was suggested, had worked patchily, failing to generate 'increasing returns', because they were established tardily or incompletely due to unfavourable configurations of domestic forces or veto players (Sedelmeier 2012, pp. 35-36). Overall, in hindsight, backsliding experience in contemporary ECE seems to confirm the potential weakness of institutions as a 'lock-in' mechanism for democratic consolidation noted by both Bernhard (2015) and Alexander (2001), who argues that the costs of institutional change to 'revision parties' can be low and that social or electoral demands can trump even the best-made constitutional anchors. Accounts of backsliding also make use of the idea – common in historical-institutionalist writing – of exogenous shocks as a source of disruptive path-breaking (equilibrium-upsetting) change. If the collapse of Soviet-backed communist regimes was the initial exogenous shock triggering democratisation (Vachudova 2007), then the Great Recession, the strains on the Eurozone, or the European Refugee Crisis were triggers for backsliding, both impacting directly on ECE domestic politics and indirectly in inducing crises in the wider EU (Greskovits 2015).

The backsliding literature has sometimes discussed ECE in cultural terms making explicit the unstated argument in earlier democratisation literature that the region's democracy was potentially vulnerable because its politicians and electorates lacked liberal-democratic values. Some accounts suggested that illiberal norms rooted in the communist (and pre-communist) past were reasserting themselves or that a cultural shift was seeing ECE elites move away from liberal, Western-oriented norms (Gallina 2008), linked to the global rise in illiberal populisms. In theoretical terms, however, such arguments are ambiguous. It is unclear whether the story is one of liberal institutions failing to constrain and (re-)shape

illiberal cultures, or whether – in line with the so-called ‘sociological’ new institutionalism (discussed below) – political institutions needed to be re-conceived as having always been primarily expressions of identity.

Such rationalist-cultural syntheses are an awkward theoretical amalgam. Moreover, they have proved a shaky guide to understanding the nature and durability of democracy in ECE empirically. Until mid-late 2000s the scholarly consensus was that ECE countries such as Hungary and Poland had built institutions comparable, but not equal in quality to, those in Western Europe (Ekiert, Kubik and Vachudova 2007, pp. 8-9, 12). Many concluded as early as the 1990s that democratic consolidation in these states had ‘passed by the point of no return’ making authoritarian reversal unlikely (Ekiert and Kubik 1998, p.580; see also Linz and Stepan 1996). It is unclear then why backsliding should have occurred so rapidly in such supposedly consolidated democracies, why it appeared first and most forcefully in supposedly ‘liberal pattern’ states, where democratic leverage was apparently unneeded; and why parties previously included in the mainstream right, rather than ex-communists or radical outsider parties, should have been the main vehicles for backsliding.

### **A discursive institutionalist perspective**

We believe that the ‘fourth new institutionalism’, the discursive institutionalist (DI) approach developed by Vivien Schmidt, may generate distinct insights into current processes of ‘backsliding’ and (de-)democratisation in ECE. Although most commonly used to study policy-making because of the distinction it draws between ‘communicative’ (public) and ‘co-ordinative’ (technical) discourses, DI makes broader distinctive claims about the nature of institutions, which distinguish it from the earlier three ‘new institutionalisms’ (Hall

and Taylor 1996).<sup>2</sup> DI's defining claim is that institutions are not merely incentive structures that co-ordinate collective action (as in 'rational institutionalism'), historically-anchored patterns of constraint (as in historical institutionalism) or embedded political-cultural formations (as in sociological institutionalism), but contexts of meaning that are constituted, re-constituted and changed by the discursive (inter-)action of social and political actors (Schmidt 2008, p. 314). Such actors, Schmidt holds, are reflexive ('sentient') and follow a 'logic of communication', rather than the simple means-end logic of fixed preferences and interest maximisation (as in RI), a 'logic of path dependence' (as in HI), or a 'logic of appropriateness' centred on embedded cultural norms as in sociological institutionalism (SI) (Hall & Taylor 1996; also Schmidt 2010, pp. 4-15).<sup>3</sup> For DI, actors formulate (and re-formulate) strategies, sometimes pragmatically, sometimes as committed 'ideological entrepreneurs' (Schmidt 2016, pp. 330-31; see also Kubik 2019 forthcoming), which not only make sense cognitively, but also resonate in terms of norms and values that give them legitimacy in wider 'meaning contexts' (Schmidt 2010, pp. 14, 17-18; see also Schmidt 2008, pp. 309-313).

The distinction that other institutionalisms render as one between (institutional) structure and agency is viewed in DI as a distinction between three levels of discourse: 1) policy level ideas, 2) programmatic (paradigmatic) ideas and 3) underlying (public) philosophies. Actors draw constantly on 'foreground discursive abilities' in political interaction, while taken-for-

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<sup>2</sup> Given space constraints, we do not engage with the theoretical case for DI or debates between institutional theorists about DI's potential and limitations. On this, see the exchange between Bell (2011) and Schmidt (2012) and Hay's (2016) discussion.

<sup>3</sup> As Schmidt (2016, p. 319) notes 'if actors behave in ways that correspond to RI, HI or SI assumptions (as they sometimes do) it is because these assumptions have achieved such dominance in the given institutional context that they function as shared rationalities or 'background ideas'.

granted 'background ideas' underpin agents' ability to make sense in each meaning context, in terms of the ideational rules or 'rationality' of that setting (Schmidt 2008, pp. 314; see also Schmidt 2010, pp. 15-17; Schmidt 2016). As well as having an objective existence, institutions are thus embodied in actors' (shared) background ideas about them. However, actors' 'foreground discursive abilities' also give them the ability to rethink and change (or maintain) institutions (Schmidt 2008, p. 314).

As Schmidt (2010, p.314) puts it

discursive abilities represent the logic of communication which enables agents to think, speak, and act outside their institutions even as they are inside them, to deliberate about institutional rules even as they use them, and to persuade one another to change those institutions or to maintain them. And it is because of this communicative logic that DI is better able to explain institutional change and continuity than the older three new institutionalisms.

Although it can address continuity, DI has a bias for change and posits a social and political order where institutions are considerably less (enduringly) stable than in the accounts of the three more familiar new institutionalisms. This makes DI well-attuned to analyse emerging processes of change such as 'democratic backsliding' and has distinct implications about how we might view such processes.

Firstly, in viewing institutions as discursively constructed and maintained, DI is sceptical not only of the extent of rooted-ness of any institutional order, but also of the HI notion that periods of equilibrium or stasis are punctuated by decisive turning points, tipping the region (or countries within it) in a new direction. Rather, DI suggests that crises are discursively constructed and their precise mechanisms and meaning are the object of contestation (See,

for example, Schmidt 2013, Moffitt 2016, Saurugger 2016, Hay 2016; Kubik 2019 forthcoming). In this perspective, although political change may be faster or slower, the search for tipping points or critical junctures shifting ECE (or individual ECE countries) onto an illiberal path, or the exogenous shock of political, economic or migration crises triggering such junctures is misleading. In this respect, DI assumptions align with sceptical perspectives in both regional democratisation and Europeanisation literatures: they imply, firstly, that the initial impetus towards consolidation in ECE was weaker than assumed and perhaps incomplete (Dawson and Hanley 2016); and secondly, that EU democratic conditionality was always something of a chimera, sustained by the shared interests of domestic and EU elites in maintaining a 'myth of conditionality' (Hughes, Sasse and Gordon 2007; see also Haughton 2007; Kochenov 2008; Mungiu-Pippidi 2014). The predominant framing of the ECE's democratic difficulties – including now obvious democratic regression of some states - as 'de-consolidation' or 'backsliding' on substantial earlier democratic progress is questionable.

Secondly, a DI approach implies that in ECE it is domestic social and political actors, who are the ultimate agents of change and stability in liberal-democratic institutions. This is most evident in the discourse of a national-conservative incumbents such as Hungary's Viktor Orbán, whose speeches envisioning an 'illiberal state' show precisely how illiberal actors can 'think, speak, and act outside ... institutions even as they are inside them' and in so doing change those institutions. However, in DI it is arguably the elite discourses of the self-styled liberal mainstream that hold the key to how democratic institutions function and whether they endure. The role of the 'liberal' or 'reformist' ECE elite, as makers and hands-on implementers of 'reform' trajectories is noted in many conventionally-framed accounts of democratisation and Europeanization (Jacoby 2006; Vachudova and Epstein 2008;

Vachudova 2005, 2009, 2015). However, in such accounts after these elites have performed the historic task of switching their countries to a liberal path after 1989, little attention is paid to their agency, especially their discursive agency. Instead, the analytical heavy lifting is carried out by examining the EU's incentive structures (and hoped-for path dependent lock-in) and the design of domestic institutions (Tomini 2015). DI implies that, rather than being merely the (recalcitrant) subjects of institutional incentives, path dependent lock-in or socialization mechanisms, domestic actors, their understandings of themselves and their environments are key to how (democratic) institutions will be constituted (or de-constituted).

Taken together, these insights suggest that we need 1) an analytical focus extending over a longer period than just a critical election bringing (or not bringing) an illiberal governing party to power and its aftermath and 2) also to consider the discourse of key actors identified by the EU and by the literature as 'liberal reformers', whose (assumed) role lies in publicly validating formally liberal-democratic institutions, giving them substance and solidity; and 3) that it is the discourse and discursive shifts of mainstream liberal parties that provides a key indication of the (de)consolidation or regression of liberal-democratic institutions.<sup>4</sup>

### *Minority rights as a touchstone of (il)liberalism*

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<sup>4</sup> We take 'liberal' to mean not only forces that identify with liberal philosophies, but a range of mainstream ideologies of left and right based on shared commitments to norms of political equality, individual liberty, civic tolerance and the rule of law.

To discuss these issues concretely, we focus on the discursive positioning of two key liberal pro-European mainstream parties in two countries, Bulgaria and Czech Republic, in relation to minority rights. Although a DI perspective could be applied to illiberal actors and institutions in countries which are already deep into democratic regression, we focus on these states because they are 'benign' cases where no strong overtly illiberal forces had emerged and where there has been no sustained, successful power grab. Although we are not using the classic case-comparative method, our logic is broadly that of 'least likely' cases (Gerring 2007: pp. 116-119): if we find illiberal underpinnings or illiberal drift in self-presented pro-European mainstream parties in countries where significant backsliding has not occurred, we may reasonably infer that this could be a wider phenomenon.

Minority rights – regulating the inclusivity/exclusivity of the political community - is chosen as one of the earliest elements of the EU's democratic conditionality, and was prominent in both the 1993 EU Copenhagen criteria and the EU's democratic acquis. All 2004-7 ECE accession states except for Poland and Slovenia had significant Roma populations or sizeable, territorially-concentrated national minorities.

Liberal democracies can meet the claims of ethnic and national minorities in various ways, some more far reaching than others (Deets 2004) and culturally conservative expressions of majority identities need not exclude recognition of minority rights. Nevertheless, ethnic inclusivity provides a good test of congruence with the core liberal democratic norm of pluralism and can signal much about approaches to liberal checks and balances in general. Where ethnic minority voices are curtailed, the door is left open for other interests and identities to be declared outside the national community. Ethnic exclusivist discourses make

the idea of distorting the democratic playing field by stripping away institutional checks and balances of constitutional liberalism thinkable, acceptable, even necessary.

We now turn to our two case studies. In the Europeanization literature, Bulgaria appears as a 'successful laggard' (Bechev and Noutcheva 2008). The country's post-1989 politics were initially dominated by the staunchly illiberal ex-communist Bulgarian Socialist Party (BSP). However, EU accession conditionalities appeared decisive in averting a BSP-led relapse into authoritarianism by boosting a self-styled liberal pro-European camp, whose main vehicle was the Union of Democratic Forces (UDF) (Vachudova 2005, pp. 220). By the time the UDF was unexpectedly defeated in 2001 all major parties, including the BSP, had committed to the 'liberal consensus' (Krastev 2007) of free-market economics, and EU and NATO membership.

The Czech Republic, by contrast, was seen as a leader in post-communist democratization. In the literature, it thus fits as a 'liberal pattern' state where the strong domestic liberal actors were enough to drive democratization, with EU influence restricted to problem areas, but fading out as accession became near certain (Schimmelfennig and Sedelmeier 2005; Vachudova 2005, 2009). As the electoral fortunes of the Eurosceptic free-market Civic Democrats (ODS) waned from mid-1990s, Czech accession was overseen by a government led by the Czech Social Democratic Party (ČSSD), a party squarely in the liberal-democratic mainstream, without ties to former ruling Communists, and unambiguously pro-integration.

### **Illiberalism by omission? The 'titular state' as background idea**

In a context defined by EU Accession, the public ('communicative') discourse of liberals in both states framed ratification of the minority rights *acquis* as part of the broader project of national modernization and 'civilizational choice' to (re-)join the West or 'return to Europe'.

Conscious of external EU oversight - and the need to keep public pronouncements aligned with their 'co-ordinative discourse' to EU policymakers and officials - mainstream liberal incumbents kept ethnopolitical debates off the domestic political agenda by making no mention of them or by delegitimising minority interests on plausibly liberal individualist grounds. They did so, we argue, because of the resilience of the 'background idea' of what we call the 'titular state', a prevailing understanding of the national state as the property of the ethnic community from which it derives its name/title, the purpose of that state being to further the interests of this titular ethnic majority<sup>5</sup>. This continued to 'set the limits of the imaginable' (Schmidt 2016, p.318) with respect to policy choices. In both cases, in line with Schmidt (2016, p. 323), we infer the (limiting) nature of the 'titular state' background idea by 'working backwards' from actors' more specific, lower-level policy- and politics-related statements and actions.

#### *Bulgaria's Centre-Right UDF Government 1997-2001*

Bulgaria's pro-European liberal centre-right decisively gained government office in 1997 as the ex-communist BSP administration struggled with a dire economic situation and mass protests. In 1996-7, the UDF's future prime minister Ivan Kostov outlined his government's philosophy of the 'civilizational choice'. The 'civilization' referenced was, naturally, that of 'Europe', or more broadly, 'the West', explicitly framed as embracing EU and NATO membership and rejecting the BSP's alleged Russophile leanings.

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<sup>5</sup> This comes close to Brubaker's (1996) idea of the 'nationalizing state'. However, our term stresses that a background idea, not state action, generates this result.

This pro-European 'civilizational choice' discourse did not explicitly extend to greater ethnic inclusivity. In the 1997 election campaign the party did drop the ethnic nationalist and anti-Turkish tropes previously used in tandem with its BSP opponents (Ragaru 2001, pp. 302-7). In power, the UDF was, unlike the previous BSP administration, prepared to make liberalising institutional changes. The Framework Convention on the Protection of National Minorities (FCNM), which formed part of the *acquis*, was ratified in 1999; limited Turkish-language instruction in schools was introduced; and airtime was given over for Turkish-language news on state television.

Yet the UDF also followed a strategy of keeping references to ethnopolitical debates out of their communicative discourse (Vachudova 2005, p. 202) and keeping formal institutional change strictly limited. Contradicting the signal sent by ratification of the FCNM, the UDF government 'cut the salaried staff of the National Council for Ethnic and Demographic Affairs, the only government agency dealing with ethnic minorities' (Bulgarian Helsinki Committee Report 1999, pp. 13-14).

A more significant omission was the UDF's reluctance to address part of the Bulgarian constitution that gravely constrained – and still constrains - the expression of ethnic minority interests: clause 11.4 has since 1991 forbidden parties 'formed on an ethnic or religious basis'. Despite the plausibly civic phrasing, this clause was only ever designed to be used against minority parties. Several small (mainly Macedonian) parties have been banned – including during the UDF administration - while the Movement for Rights and Freedoms, representing the bulk of ethnic Turkish voters (9 per cent of the electorate), had narrowly survived attempts to ban it (Ganev 2004, Rechel 2007). Throughout the UDF-led administration, the MRF continued to exist under the shadow of prohibition and only then by repeatedly disavowing that it represented an ethnic constituency (Dawson 2016, p. 84).

Indeed, the UDF was still cautiously competing for anti-Turkish votes while in office. The party and its leaders found ways to attack and de-legitimize the MRF using a liberal discourse. Central to Kostov's programme, for example, were denunciations of MRF leader Ahmed Dogan as 'a curse on Bulgaria' on the grounds that the MRF kept ethnic Turkish voters dependent on patronage (Borden 2005). The liberal discourse of a European 'civilizational choice' was also deployed for the purposes of exclusion. For example, Kostov in 2000 argued that the country's 'Oriental legacy' ought to be jettisoned once Bulgaria returned to Europe (De Dominicis 2011, p. 450) – an ambiguous comment that could be understood equally as calling for a modernized liberal Bulgaria or suggesting that Muslim and Turkish minorities embodied backwardness and were outsiders to the national project of liberal Europeanization.

#### *The Czech centre-left 1998-2006*

In the Czech Republic, as in Bulgaria, a liberal mainstream pro-European governing party, the Czech Social Democrats (ČSSD), drove the fulfilment of formal requirements of the *acquis*. Like the Bulgarian liberals, ČSSD (and other mainstream Czech parties) saw accession as part of a civilizational choice: a 'return to Europe' re-asserting pre-communist liberal national traditions. The Czech Republic had no sizeable, territorially-concentrated national minorities equivalent to Bulgaria's ethnic Turks. However, two issues of identity and inclusion arose during accession which highlighted the boundaries of mainstream Czech liberalism: the rights of the Roma and, to a lesser extent, the unresolved historical debates around the 'transfer' of Sudeten Germans from Czechoslovakia in 1945-6.

The treatment and status of the Roma minority, estimated at 2-3 per cent of the population, threw Czech self-perceptions into sharp relief, functioning in President Havel's words as 'a litmus test of civil society' (cited in Fawn 2001, p. 1195). This was also a focus of concern for the EU during accession. Through Social Democrat(-led) governments spanning 1998-2006, Czech public policy accepted the need for targeted programmes to equalize the position of Roma, with the 'coordinative discourse' of policymaking embracing ideas such as inclusion and cultural diversity (Fawn 2001; Ram 2012). However, the Czech Social Democrats like Bulgaria's liberals maintained a communicative discourse largely silent on minority rights. As in Bulgaria, when they did engage with minority issues, they tended to do so on liberal individualist grounds ('the civic principle') to deny group claims of minorities. Successive Social Democrat party programmes from the 1990s made no mention of the Roma or minority rights, focusing on general questions of economic and social development. When the issue was forced on to the national political agenda by EU criticism or racist violence, the Social Democrats presented the claims of the Roma minority and anti-Gypsyism as political and electoral problems to be managed – and kept off the political agenda – rather than challenged.

The post-war 'transfer' (*odsun*) of Czechoslovakia's 3 million strong Sudeten German minority had already been subject of a divisive *samizdat* debate in 1980s, periodically emerging as a political issue after 1989 as questions of historical responsibility, property restitution and relations with Germany arose. Liberal former dissidents and Christian Democrats saw the *odsun* as a mass abuse of human rights and project of ethnic cleansing, which had paved the way for communist totalitarianism. However, Social Democrats (and the neo-liberal right) took the view that while not defensible in terms of contemporary

liberal norms, the 'transfer' was a historical fact and part of a settlement that re-founded the Czechoslovak (hence the Czech) state.

Taken together, these ambiguities and silences of liberal, pro-European parties reveal that their liberalism was constructed with an in-built bias to maintaining the existing ethnic hierarchy. It reflected a resilient and usually implicit background idea shared among all mainstream Bulgarian or Czech parties: that a fundamental purpose of the state was to advance the interests of the titular majority nation and that this defence could, in certain circumstances, trump liberal-democratic norms. Such omissions in the 'civilizational' pro-Western discourse of pro-EU reformers would later morph into explicitly illiberal responses to developments such as the European Refugee Crisis.

### **Illiberal by commission: Foregrounding the 'titular state' in times of crisis**

In more recent times in both Bulgaria and the Czech Republic the titular state background idea has been foregrounded by parts of the (erstwhile) liberal mainstream seeking to think through and define the nature of social and political challenges in a changed domestic and European environment. A decade on from accession, discourses of 'returning to Europe' were less compelling. Mainstream liberal ECE politicians could no longer easily present themselves as constrained by EU conditionalities or pitch themselves to voters as the EU's preferred accession partners. The EU struggled to respond coherently to either the Eurozone crisis or the European refugee crisis and the East-West gap in EU wages and living standards appeared entrenched.

Both our case studies highlight a shift in the communicative discourse of some liberal actors from tacit affirmation of the titular state as 'background idea' to entrepreneurial attempts

to foreground this idea, melding pro-EU liberal constitutionalism with illiberal norms. In the Bulgarian case, this has involved UDF's successor bloc openly scapegoating ethnic minorities, though without explicitly rejecting liberal constitutionalism. Some Czech social democrats went further, arguing for the need to avoid the 'mistakes' of Western Europe about migration and multiculturalism and suggesting that the social democratic left should instead embrace the idea of Fortress Europe.

### *The illiberal drift of the Bulgarian centre-right 2013-2015*

When Bulgaria faced its first parliamentary elections as an EU member in 2009, the Union of Democratic Forces had long been supplanted as the main centre-right force. In its place stood the Citizens for the European Development of Bulgaria (GERB), a personal party which traded on the popularity of celebrity Mayor of Sofia Boiko Borisov, mixed neo-liberal fiscal orthodoxy, the open embrace of Bulgarian ethnic nationalism (Nancheva and Koneska 2015) and patronage politics. GERB was forced from office in February 2013 by protests driven by impoverished pensioners and rural citizens enraged by the party's links with energy companies which had hiked winter fuel prices. The subsequent decision of BSP-backed caretaker prime minister Plamen Oresharski to appoint 32-year-old media baron Delyan Peevski to head Bulgaria's national security apparatus in May 2013 brought Sofia's middle-class, including many younger, more highly-educated citizens, to the streets, seemingly signalling a renaissance of pro-European liberalism.

The appearance of an apparently battle-ready liberal civil society appeared to lend support to the notion that liberal reform may be 'locked in' even when illiberal elites were in office, albeit by a well-mobilized civil society. These protests discursively articulated Bulgaria's

socio-political crisis as a continuation of the struggle against a corrupt 'Communist' elite for democracy and liberal 'European norms'. On 8 July 2013, the French and German ambassadors echoed this construction of the crisis in a joint statement of encouragement which proclaimed that 'the oligarchic model' of politics was not compatible with 'civilized' European norms'.<sup>6</sup>

However, as in the Kostov-era, liberal protesters' advocacy of 'Europe' and 'democracy' and maligning of 'Communists' was not accompanied by any shift towards a socially or ethnically inclusive vision of Bulgaria's political and national community. First, alongside the explicit pro-Europeanism, the protests became a vehicle for those who sought to delegitimize the interests of the socially marginalized (Stoyanova 2016, p. 5). Commentaries in right-leaning newspapers and NGO websites lauded the protests as the expression of 'quality' over 'quantity' (Yanakiev 2013) and willed the 'bourgeois' to victory over an alliance of 'oligarchs and the poor' (Ganev 2013). Second, when the protests were swelled by groups chanting anti-Turkish slogans against the MRF's role in the Oresharski government, the dominant response of Sofia-based progressives was one of disapproval but no direct challenge, prompting some ethnic Turks to wonder whether the protests were also for them (Gyulestan 2013).

When GERB returned to office following the October 2014 elections, it was, however, joined in coalition by the Reformist Bloc, a grouping containing the UDF's successor parties, drawing support from the same highly-educated urban demographic that had driven the Sofia protests. While the protesters' avoidance of ethnopolitical issues echoed the stance of

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<sup>6</sup> 'France, Germany Urge Bulgarian Government to Cut Ties with Oligarchy', 8 July 2013, Novinite. Available <http://www.novinite.com/articles/151850> Accessed 20 August 2017.

the old UDF, the successor parties' role in government suggested an overt discursive shift towards an ethnic exclusivist interpretation of Bulgarian pro-European liberalism. In early December 2014, Reformist Health Minister Petar Moskov announced that ambulances would not enter Roma ghettos where medical staff allegedly risked attack<sup>7</sup>. Justifying the measure, Moskov described Roma as *populatsiya*, a term usually applied to livestock. Moskov was unequivocally supported by party colleagues: the Reformist Bloc released a statement that rejected charges of xenophobia, reducing the issue to one of 'compliance with the law.'<sup>8</sup>

### **The emergence of an illiberal social democracy in the Czech Republic**

A decade after EU accession after a period of right-wing led government (2006-2013), the Czech Social Democrats again found themselves in office. However, the electoral support of the party – as well as those of its traditional rivals on the neo-liberal right - had declined as new anti-establishment movements focusing on anti-corruption made an electoral impact. On minority rights, much of its public/communicative discourse continued the pattern of 'economising' minority claims within wider policies while allowing local politicians to indulge in overt 'anti-Gypsyism'. Positions on the Beneš Decrees, which periodically emerged onto the political agenda, also remained unchanged with suggestions by some Social Democrats

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<sup>7</sup> 'Emergency Medical Teams Will Avoid Roma Districts unless their Safety Is Guaranteed', Novinite.com, 7 December 2014. Available <http://www.novinite.com/articles/165264/Emergency+Medical+Teams+Will+Avoid+Roma+Districts+unless+their+Safety+Is+Guaranteed> Accessed 20 August 2017.

<sup>8</sup> 'Moskov ne e ksenofob I fashist a iska da vudvori red' Dnevnik.bg, 12 December 2014. Available [http://www.dnevnik.bg/bulgaria/2014/12/12/2437053\\_moskov\\_ne\\_e\\_ksenofob\\_i\\_fashist\\_a\\_iska\\_da\\_vudvori\\_red/](http://www.dnevnik.bg/bulgaria/2014/12/12/2437053_moskov_ne_e_ksenofob_i_fashist_a_iska_da_vudvori_red/) Accessed 20 August 2017.

that the Czech Republic should apologise for the post-war 'transfer' immediately slapped down.<sup>9</sup>

However, it was in their efforts to frame the European Refugee Crisis that changes in some Social Democrats' views concerning the boundaries and nature of the national political community became most explicit. A small number of the party's leaders, such as its 2013 presidential candidate Jiří Dienstbier, wished the party to modernize by embracing a left-liberal position, championing issues such as social inclusion of Roma, gay marriage and a more pluralistic, multicultural view of Czech identity. However, other senior figures in the ČSSD leadership drew the opposite conclusions, and articulated an explicitly socially conservative vision of Czech social democracy – illiberal not just by omission, but by commission. In 2014, for example, Zdeněk Škromach, then one of the party's deputy leaders told an interviewer that '[I]f ČSSD concentrates on various minorities, supports positive discrimination for Roma and shuts its eyes to the fact that a problem does exist in this minority's behaviour, if ČSSD deals with lesbian and gay adoption, then it will lose elections like this'. Škromach instead advocated 'traditional social democracy' and a 'back to basics' approach (*vrátit ke kořenům*) of appealing to a larger economic constituency of (white heterosexual) 'employees, the self-employed, working people, families with children and seniors' (Parlamentní listy 2014).

However, the discourse of a culturally illiberal social democracy was clearest in the words of current President (and former ČSSD leader and prime minister) Miloš Zeman (and his supporters) in relation to the European refugee crisis. Zeman argued that, although only

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<sup>9</sup> 'Rouček jde kvůli omluvě za odsun Němců k Sobotkovi na kobereček', Novinky.cz 5 June 2011. Available <https://www.novinky.cz/domaci/236124-roucek-jde-kvuli-omluve-za-odsun-nemcu-k-sobotkovi-na-koberecek.html> Accessed 18 August 2017.

small numbers of refugees had entered its territory, the Czech Republic faced a potential 'tsunami' of predominantly Muslim migrants threatening its culture and identity (Zeman 2015a). Although allying himself with conservative nationalists in Hungary and Poland on these issues – and supporting Donald Trump - Zeman (2015b) sought to integrate his ideas with pro-European, social-democratic discourse, reasserting his support for European integration in economic and defence policy, and maintaining his longstanding commitment to a Swedish-style social model.

Speaking at a conference in Slovakia on the future of Central European social democracy, Zeman (2016) told listeners that:

Social democracy should defend national interests, should defend not only its own historical roots, but also those of European culture and should realize that this culture is incompatible with the culture of hatred towards non-believers and based on an attempt to subjugate the non-believers and enslave them...

A more elaborated version of this position has been articulated by some intellectuals close to the party. The sociologist Jan Keller, who sits as a ČSSD MEP, for example, argued that 'enforced solidarity' through acceptance of large numbers of refugees would take place at the expense of the poorest citizens and would undermine the welfare state. Keller and Zeman's argumentation develops the earlier trend in Czech social democracy to 'economize' issues of discrimination and minority rights - or present them as secondary to economic issues - and repackaged a narrow, exclusionary notion of national community as the defence of welfare and social citizenship (Parlamentní listy 2015).

## Discussion and conclusions

In this paper, we note how most accounts of democratic backsliding in ECE draw, implicitly or explicitly, on rationalist or historical institutionalist understandings of how institutions influence and shape actors or, in some circumstances, fail to do so. The unstated assumption is that post-communist elites and publics, while notionally committed to liberal-democratic forms of politics, might revert to illiberalism unless constrained by (European and domestic) institutions. Given the nature of such models, the discourse and ideas of ECE actors have remained largely unincorporated into accounts of democratic backsliding. ‘Discursive institutionalism’ (DI), we suggest, offers a useful corrective to this and a fresh perspective on democratic backsliding in ECE, which, despite its unanticipated speed and seriousness, has been studied through same set of theoretical frameworks which generated earlier accounts of successful democratic consolidation.

Applied to issues of (de-)consolidation in ECE, DI implies that, even when democratic institutions seem well-established, it is ultimately actors that make and constrain institutions, not vice versa. Using the DI framework, we find commitments to liberalism and constitutionalism of ostensibly liberal pro-European forces which should be bulwarks against backsliding in two ECE states to be circumscribed by a resilient ‘background idea’: the national state as property of and instrument for the titular ethnic majority. In both Bulgaria and the Czech Republic, we find influential liberal actors evolving from tacit conformity with ethnic exclusivity as a ‘background idea’ to ideational entrepreneurship melding liberal and illiberal norms, including open advocacy of ethnically-exclusive norms. In the Czech Republic, we even see the beginnings of a novel, Central European social democratic discourse blending appeals to social and ethnic solidarity. For both Bulgarian liberals and conservative Czech social democrats, the civilizational discourse of

belonging/returning to Europe functions as a means of illiberal exclusion, rather than a means of identifying with liberal and democratic values.

Viewed through the lens of DI, ECE democracies appear more fragile than implied in accounts rooted in a view of institutions as incentive structures or lock-in mechanisms but, above all, as possessed of *different* vulnerabilities. Crises ('exogenous shocks') and formal institutional design, while they matter, matter less and differently than sometimes supposed. Discursive backsliding overlaps with both pre- and post-accession periods and falls either side of the Great Recession. Our study thus suggests that illiberal drift cannot be read as a mechanical reaction to changing incentives of EU institutions or exogenous shocks of recession or refugee crisis: despite stronger mainstream liberal, social democratic traditions and weaker impacts of the global recession and refugee crisis, it was Czech (rather than Bulgarian) mainstream actors who have innovated most in an illiberal direction.

Why and how do such weaknesses in the under-examined political mainstream matter? Our presentation of discourse on minority rights and cultural pluralism shows movement from constrained liberalism to outright illiberalism, but also hints at channels through which a fuller illiberal transformation of actors and (consequently) institutions can occur. Although they lack the strong illiberal nationalist parties of Hungary, Poland or the Western Balkans, both Bulgaria and the Czech Republic present institutional cracks and conduits through which such 'liberal reformers' might make power grabs: the ill-defined prerogatives of the Czech president which enable the appointment of presidential-technocratic governments; the provision to ban ethnic parties in the Bulgarian constitution; or proposals to introduce a

majoritarian voting system in Bulgaria.<sup>10</sup> These might eventually develop into frontal assaults on constitutional norms and institutions paralleled by the transformation of liberal discourse into overtly illiberal forms echoing Hungary or Poland. However, future research must also remain alert to the possibility of slower forms of creeping authoritarianisation, abetted or led by transformed parties of the supposed liberal mainstream.

DI-inspired perspectives can, however, also contribute to understanding cases like Hungary and Poland, where the illiberal transformation of democratic institutions is well under way. To fully understand such cases, we suggest, it may be important not only to analyse the ongoing politics of building ‘illiberal democracy’ and the ideological direction of governing parties, but also crucial earlier periods of discursive change: for example, the late 1990s when Fidesz evolved from liberalism to conservatism, or the mid-2000s when both Fidesz and Poland’s Law and Justice underwent rethinking and radicalisation following electoral and political setbacks.

For European policymakers grappling with the challenges illiberal parties (in the making) currently pose, there is bad news and good. The bad news is that an EU strategy, both pre- and post-accession, focussing on incentives and institutional constraints may continue to prove a bad bet. The intertwining of identities, ideas and institutions possessed by DI suggests that seeking ever more powerful carrot-and-stick mechanisms – such as proposals to link structural funds to the domestic rule of law - may be ineffective. Even if they do not control them, illiberal and sometimes authoritarian national governments will push against,

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<sup>10</sup> ‘Bulgarian Parliament rejects at first reading proposal by Borissov’s party for full majoritarian electoral system’; *Sofia Globe*, 17 June 2017. Available <http://sofiaglobe.com/2017/06/15/bulgarian-parliament-rejects-at-first-reading-proposal-by-borissovs-party-for-full-majoritarian-electoral-system/> Accessed 20 September 2017.

and through their presence in them subtly transform, European institutions. This process would play out in the type of hybrid EU taking in national democracies and proliferating national authoritarianisms that Kelemen (2017) all too plausibly envisages.

The good news – albeit qualified – is that a DI perspective implies that apparent loss of leverage post-accession may be less the grand failure that conventional rationalist and historical institutionalist approaches imply: EU leverage in ECE was (and is) less powerful than assumed. Conditionalities succeed in manipulating the incentive structures of superficially liberal actors and electorates even while titular nationalist ‘background’ ideas set ‘limits of the imaginable’ domestically, sustaining or keeping open the space for an illiberal turn. However, illiberal institutional settlements in turn do not constrain or lock in actors – and may prove equally changeable as and if conservative nationalist ‘background ideas’ are foregrounded. Foreground ideas – publicly advocated and inviting critique – are more liable to erode or evolve than background ideas. EU actors should seek out and, when they can, lend legitimacy to domestic projects promoting cultural change by re-working assumptions about a titular national state. Such tendencies may be found beneath formal national organisations in loose “counterpublics” of the kind identified by Dawson (2016). Strategies embracing ideas and identities and ‘hearts and minds’ change may sustain (resurgent) liberal democratic institutions better than those narrowly focused on institutions as devices to (re)set elite incentives.



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