

The Road to Europe I: Legacies, Strategies, Norms and the Development of the Rule of Law in Hungary and Bulgaria after 1989. The Case of Human Rights

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ABSTRACT

This article examines changes in the rule of law in two post-communist countries: Hungary and Bulgaria, in relation to their bid to join the European Union. I concentrate on human rights issues. First, the article considers the impact of policy legacies on the feasibility of domestic change. Second, I propose that a rationalist perspective focusing on the elites' strategic behavior explains some of the observed change, but cannot account fully for the extent of compliance (or lack thereof) with international human rights standards. Third, I find 'domestic resonance' with human rights norms to be an effective supplementary mechanism.

We cannot get through a foreign policy debate these days without someone propositioning the rule of law as a solution to the world's troubles. How can US policy on China cut through the conundrum of balancing human rights against economic interests? Promoting the rule of law, some observers argue, advances both principles and profits. What will take for Russia to move beyond Wild West capitalism to more orderly market economics? Developing the rule of law, many insist, is the key ... Indeed, whether it's Bosnia, Rwanda, Haiti, or elsewhere, the cure is the rule of law, of course.

Thomas Carothers¹

After the collapse of the communist regimes across Eastern Europe in 1989, countries from the Baltic states in the north to Bulgaria and Romania in the south took the path of reform in order to establish democracy and a functioning free market economy. Some governments were able to deliver on their domestic reform agendas more successfully than others, but by the late 1990s, Eastern European transitional countries had one thing in common: for all, membership in the European Union (EU) had become a priority. The unprecedented expansion of the EU in May 2004 comprised ten new countries: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania,

Malta, Poland, Slovakia, Slovenia. Bulgaria and Romania remain at the doorstep to the Union, but hope to join by 2007.

In order to enjoy the benefits of full membership, the candidate countries had to fulfill the rigorous requirements for joining the Union. They had to transpose into their national legislation over 80,000 pages of EU law, the *acquis communautaire*; create stable democratic institutions and a functioning market economy; and demonstrate their commitment to the rule of law and their respect for human rights.² One crucial area for understanding post-communist transitions and explaining the relative success of some and the failure of others is the rule of law. In my view, the rule of law is essential for the consolidation of transitional democracies because it makes possible the self-reinforcement of democratic decision-making. However, such a positive outcome depends on the actual implementation of a good rule of law framework, rather than its rhetorical promotion and transposition as a body of laws. Before we explore the development of the rule of law in Eastern Europe after 1989, it is necessary to outline what we understand by this concept.

What is the rule of law?

I single out three main lines of interpretation and research on the rule of law. First, the rule of law can be viewed as a constitutional separation of powers and the implementation of checks and balances in order to prevent abuse of power by a tyrannical ruler or government. This research tradition emphasizes the domestically-driven nature of building the rule of law. For example, in the early stages of the development of the governments of Great Britain and the United States, domestic groups mobilized and pushed for the adoption of political mechanisms that would make possible the ousting of power-hungry rulers (North, Weingast 1989).

Guillermo O'Donnell views the rule of law in the Anglo-American tradition as "an intermediate dimension between the political regime and the broad socioeconomic characteristics of a given country" (2004, 3). For O'Donnell, the rule of law does not refer exclusively to the formal application of a body of laws; it also demands fairness, efficiency, transparency, and accountability on the part of the legal, judicial, and penal systems. In addition to these formal and informal requirements, the rule of law guarantees the political freedoms and civil rights of the citizens. It is meant to ensure that all officials, including the highest ranking elites, "are subject to appropriate legally established controls" (O'Donnell 2004, 5). In addition, the existence of a civic culture which supports the basic principles of the rule of law is essential in order to hold the administrative officials and the elites accountable.

A second line of interpretation of the rule of law focuses on setting up an independent and fair judiciary which oversees and ensures the proper application of the country's laws (Schedler et al. 1999). In a democratic system, the judiciary is supposed to implement in practice the principles of checks and balances mentioned above. Although in the literature it has been shown that a judiciary with strong political ties can act against its supposed "masters,"³ the general recommendation of both academics and practitioners

is to set up an independent judiciary that has the capacity to rule against state officials if they transgress the boundaries of their power (O'Donnell 2000).

Third, the rule of law can be understood as maintaining clear rules of the game, transparent and enforceable laws governing the behavior of the relevant social and economic actors. Unlike the first two lines of interpretation, the third one focuses exclusively on the formal side of the rule of law. After all, the very concept of rule of law presupposes the existence of laws recognized by participants in all spheres of society. It is therefore important to understand how a country's laws come to be: whether they are the product of the demands for regulation on behalf of domestic actors and groups or transplanted from an external political entity.

Legacies, strategies, norms and the impact of EU conditionality

The literature on democratization and the rule of law has traditionally focused on the domestic dynamics of establishing and enforcing lawfulness in the state. But recently, academics have documented and explained the significant impact of the European Union on policy-making in the Eastern European candidate countries (Schimmelfennig and Sedelmeier 2004; Vachudova 2005). So we can now trace the legal adjustment processes in Eastern Europe after 1989 and examine the nature of the domestically-driven and internationally-driven mechanisms of change.

My departure point in this article is the observed change in the domestic legal frameworks and institutions in Bulgaria and Hungary after 1989. I want to understand the dynamics of this change in the area of human rights, with particular attention to the impact of EU conditionality. To define conditionality, I draw on the work of Philippe Schmitter, for whom the classical locus of such policies is the IMF, even if democracy has never been among the explicit conditions set by this international organization. Schmitter describes conditionality as "the use of fulfillment of stipulated political obligations as a prerequisite for obtaining economic aid, debt relief, most-favored nation treatment, access to subsidized credit, or membership in coveted regional or global organization" (2001, 42). EU pre-accession conditionality in particular makes membership in the Union dependent upon fulfillment of the Copenhagen criteria outlined earlier, which include standards concerning the rule of law (Mayhew 1998).

Hungary and Bulgaria are two suitable cases for my research because, despite having to satisfy the same EU conditionality in the period 1997-2003, these countries display two significant variations. First, there is variation at the absolute level of institutionalization and quality of the rule of law, and in 1997 and 2003 Hungary was ahead of Bulgaria.⁴ Second, there is variation in the amount of change caused by EU conditionality. Between 1997 and 2003 the Bulgarian governments implemented more reforms to satisfy EU accession criteria than the Hungarian governments, which had made more progress before explicit EU conditionality began.

On a theoretical level, in order to explain how change takes place, I concentrate primarily on the choices made by the political elites in these two countries. This essentially rationalist approach focuses on the elites' *strategies* in response to the material incentives created by the prospect of

joining the EU. I complement it with a historical institutionalist approach, focusing on the role of institutional and policy *legacies* for reinforcing (or road-blocking) the implementation of the elites' decisions. In my view, rather than being incompatible, these two theoretical approaches give us insights into different sides of the accession negotiation process and its results. I also consider the relevance and plausibility of constructivist arguments about the role of *norms* in the EU accession process.

This article first examines the legacies of communist rule in the realm of human rights. In my view, the main goals of human rights laws are to protect citizens from the exercise of arbitrary, coercive state power; to secure freedom from prosecution of national minorities; and to guarantee the fair treatment of prisoners, asylum-seekers and refugees. The applicable parts of the EU *acquis communautaire* deal primarily with the Copenhagen criteria for human rights and the Justice and Home Affairs *acquis*. By progress I mean passing legislation that assures both minority inclusion in decision-making and equal and fair treatment of all citizens.

I argue that the extent of domestic change caused by EU conditionality depends on the speed and quality of reforms adopted by the domestic elites after 1989. In "fast reformers" like Hungary, the rule of law was largely established prior to EU conditionality by local elites, while in "slow reformers" such as Bulgaria, the local elites initially failed to implement positive rule of law changes. In the latter case, EU conditionality has been a necessary impetus for reform. Following the discussion of legacies, the article presents a set of rationalist and constructivist mechanisms explaining domestic human rights change in Hungary and Bulgaria after 1989.

Legacies

Now I turn to a more careful analysis of the observed variation in Bulgaria and Hungary's levels of institutionalization and quality of the human rights legal framework. The evidence presented in Table 1 in the Appendix suggests that in 1997 Hungary was ahead of Bulgaria in creating legal guarantees for the protection of human rights. In fact, by 1997 Bulgaria had not signed essential human rights instruments, such as the Council of Europe's Framework Convention on Minorities and Protocol 13 to the European Convention for Protection of Human Rights, concerning the abolition of the death penalty. At the same time, Hungary was party to all important international human rights conventions.

Historical institutionalism helps to account for the different starting points of reform in the two countries. A very useful characteristic of this theoretical approach is its emphasis on "path dependent" outcomes. Peter Hall and Rosemary Taylor observe that "it [path dependence] rejects the traditional postulate that the same operative forces will generate the same results everywhere" (1996, 941), because it assumes that "[causal] forces will be mediated by the contextual features of a given situation often inherited from the past" (1996, 941). Path dependence theory is applicable to Eastern European post-communist transformations when trying to account for the impact of communist legacies on subsequent reform efforts. In this case,

“unfavorable” policy legacies have a negative effect on the prospect for successful future reform. Path dependence can also be used to explain why the same causal influence produces different policy outcomes: the “unfavorable” legacies constrain the amount and speed with which reform can occur. I will now provide brief historical sketches which outline the different starting points of the transition process in Bulgaria and Hungary, and show why in the realm of human rights Bulgaria had more unfavorable legacies than Hungary.

The reasons for Hungary lead over Bulgaria in 1997 can be traced back to political developments in the country under the communist regime and during the early years of transition. Two factors were essential. First, bottom-up citizen mobilization demanding basic human rights such as freedom of speech and organization, as well as the release of political prisoners led to the Hungarian popular uprising in the autumn of 1956. Although the uprising was crushed, starting in the 1960s a new generation of Hungarian leaders turned to a more moderate policy domestically. Some individual rights were granted to the citizens, and many political prisoners were freed under an amnesty (Swain and Swain 2003).

Second, Hungary is for all practical purposes ethnically homogeneous, owing to a dramatic loss of territory following World War I.⁵ The first post-communist Hungarian governments easily passed minority-friendly laws, because none of the country’s minorities were seen as aspiring to secession. After the first free parliamentary elections in 1990, center-right and center-left coalitions have alternated in government. Yet, this alternation did not compromise the reform efforts in the country, including in the area of human rights. As a result, Hungary has kept a steady course as one of the region’s forerunners toward becoming a EU member.

By contrast, the communist regime in Bulgaria severely suppressed citizen demands for more political rights. The country was virtually sealed off from the West, and the stance of the regime vis-à-vis dissidents was uncompromising. Because political opposition in the country was weak, the communist party did not experience significant pressure to reform. The repressive reaction of Bulgarian communist governments to any kind of dissent is illustrated by the case of Georgi Markov, a BBC World Service journalist and an adamant critic of the communist regime. Markov died in London in 1978 after a poison injection from the tip of an umbrella, allegedly the work of the Bulgarian secret services.

A further obstacle to protecting human rights in Bulgaria during communism and the early years of transition was the endorsement of ethnic assimilation policies. Throughout the 1970s and 1980s, Bulgarian governments forced the Turkish minority to take Slavic names.⁶ The process culminated in a mass exodus of Bulgarian Turks to Turkey in 1989. During the 1990s, this legacy kept human rights reform in Bulgaria from being smooth and consensual. Passing laws in order to protect minority rights was problematic and slow because many politicians feared this could prompt demands for secession on behalf of the Turkish minority, especially in those territories of Southern Bulgaria that border on Turkey.

Milada Vachudova has proposed several factors to account for the transformations in East European countries in the years immediately after the

fall of communism. During the period 1989-1994, countries with favorable initial conditions at the outset of transition implemented significant domestic reforms before the start of accession negotiations with the European Union. So once recognized as candidate countries, these states satisfied EU requirements relatively quickly. In Hungary we can attribute this virtuous circle of reform to the three factors outlined by Vachudova: strong domestic opposition, ethnic homogeneity, and traditions of democracy and capitalism (2005). By contrast, in countries with unfavorable initial conditions, such as Bulgaria, reform efforts in most areas were slow and less effective because under communism domestic opposition had been weak, ethnic cleavages were significant, and democratic and capitalist traditions were absent. The historical sketches presented above corroborate Vachudova's theory. Partly due to Bulgaria's unfavorable starting point, some very important reforms in human rights did not start until the European Union pressed for their implementation, whereas in Hungary human rights reforms had been underway since the beginning of transition in 1989.

Strategies and norms

So far, this article showed that in 1997 Bulgaria had a lower starting point in the EU accession process in terms of the quality of its human rights legal framework. Yet, later on, domestic change did take place in both Bulgaria and Hungary. I will now examine the second type of variation observed in the two cases concerning the overall change from 1997 to 2003, during the EU accession process. I argue that the causal mechanisms explaining change in the area of human rights are, first, the elites' rational consideration of the costs and benefits of compliance and, second, the extent of "domestic resonance" with international norms.

My primary sources of evidence are the European Commission's regular reports on the progress of Hungary and Bulgaria toward membership, released yearly since 1997. I consider these reports to be a systematic and reliable source of information about the changes demanded by the European Commission, as well as the timing and extent of compliance of the candidate countries. So I will use them to reconstruct how the EU has caused domestic change in each country.

One type of strategic calculation driving the decision by domestic elites to change the human rights legal framework is grounded in the country's political dynamics. For example, Istvan Pogany has argued that the impetus for reforming the human rights framework in Hungary came from domestic factors (2003). According to Pogany, Jozsef Antall, Hungary's first post-communist Prime Minister, initiated a program of recognizing and safeguarding minority rights because in the early years of transition the Hungarian government was concerned about the status and treatment of Hungarian minorities abroad, especially in neighboring Romania, as well as in Slovakia and Serbia. Pogany suggests that the Hungarian government adopted a highly progressive minority rights regime at home in order to be able to demand legitimately a corresponding treatment of Hungarian minorities abroad (2003, 14).

Another type of strategic adoption of international human rights norms is based on the prospect of joining the EU and the anticipated benefits of membership. Simply stated, compliance with a new human rights regime is necessary if a country wants to join the Union. Obviously, this reasoning applies only to credible future members of the EU, which both Hungary and Bulgaria were by the mid-1990s. Bulgaria's legal achievements in human rights in 2003—improvements in protection from discrimination, child protection laws, and the creation of an Ombudsman—were all direct responses to the requirements for harmonization with EU law (Bulgarian Helsinki Committee 2003).

My point reinforces Katia Papagianni's findings concerning the different compliance record of two other EU applicant countries, Estonia and Latvia, with Council of Europe (CoE) human rights norms. Papagianni emphasizes that Estonia's quick adoption of the CoE norms was due to a strong domestic consensus that EU membership is a priority. The Estonian elites barely engaged in debate over the merits of international norms; compliance was done "automatically" in order to accelerate the negotiation process (Papagianni 2003).

However, the narrowly rationalist perspective employed so far cannot fully explain the extent of domestic compliance (or lack thereof) with international human rights regimes. The rationalist mechanisms are not easily applicable in the area of human rights for two major reasons. First, the EU *acquis communautaire* as such does not contain clear provisions concerning human rights. Therefore, the Commission monitors compliance exclusively according to the Copenhagen political criteria, which leave considerable room for maneuver for domestic governments. An excerpt from a speech by Hungarian Member of Parliament Andras Kelemen illustrates the significant leeway of candidate countries with respect to full implementation of the changes demanded by the EU. As long as some efforts are made toward compliance, the EU Commission tends to note progress in the human rights realm.

"As regards the recurring criticisms from the European Commission, they cannot be judged from a uniform viewpoint. Some of them include outstanding examination criteria, which are not characteristic to Hungary, but a general problem...the question of gypsies exists with the same weight in the Czech Republic, Slovakia and Romania. At the same time, our progress report speaks in appreciation of the fact that after the medium-term strategy, the long-term strategy has also been completed."⁷

Second, to the extent that they exist, the EU policy and institutional requirements in the realm of human rights are not a clear and uncontested subject of cost/benefit analysis. Rather, they gain recognition and acceptance only when they coincide with similar requirements formulated by other international organizations. In the area of human rights, the EU's influence is largely diffused, because the Union acts in conjunction with other international actors such as the Council of Europe (CoE), which have their own mechanisms for promoting domestic change (Checkel 1999). The European Union is not

the first international organization to advocate the implementation of laws and regulations concerning the protection of basic human rights. For example, in the early 1990s, the Council of Europe initiated monitoring procedures concerning the implementation of the European Convention on Human Rights, setting a precedent for the later and more comprehensive European Commission regular reports.⁸

In search of more convincing mechanisms explaining domestic legal change in human rights (or the lack thereof), I turn to constructivist accounts. Jeffrey Checkel has attempted to explain the motivation of domestic actors to accept new normative prescriptions with the mechanism of “domestic resonance.”⁹ It predicts that lasting change will occur when international pressure resonates with domestic mobilization. I find this mechanism to be applicable in the case of developing the human rights legal frameworks of Hungary and Bulgaria. According to the logic of domestic resonance, when the issue pushed by the international organization resonates with the agenda of a domestic constellation of actors such as NGOs, the likelihood of domestic change increases significantly.

However, what we may very well observe in my two cases is a lack of such domestic resonance with the international human rights regime pushed by the EU. Then, even after initial elite compliance with EU recommendations and a basic amendment of the human rights legal framework, substantial change is not likely to take place, at least not in the short term. Indeed, the following discussion suggests that the lack of broad domestic resonance with the norms promoted by the EU has hampered progress in what I call in Table 1 “level 2” and “level 3” human rights legal reforms. These refer to the creation of institutions and the training of personnel needed to implement change (level 2), and the adaptation of cognitive frames pertaining to human rights issues by individual citizens (level 3).

*Political Rights and Civil Liberties*¹⁰

Now that I have outlined theoretically why I expect the Hungarian and Bulgarian elites to implement the changes recommended by the EU, I will provide factual evidence that the Commission’s suggestions are important in human rights reform in the two countries and I will explore the limits of change caused by the EU. The evidence is drawn from my analysis of the European Commission’s yearly reports. Table 1 in the appendices summarizes the 1997-2003 human rights developments in Hungary and Bulgaria, outlined according to three dimensions. The table demonstrates the legal gaps in Bulgaria and Hungary’s human rights frameworks, which have been identified and criticized by the European Commission. The 2003 section shows cumulatively the changes implemented by the countries by that year. I also present two charts based on Freedom House data. They trace the development of political rights and civil liberties in Hungary and Bulgaria during the period 1998-2003.

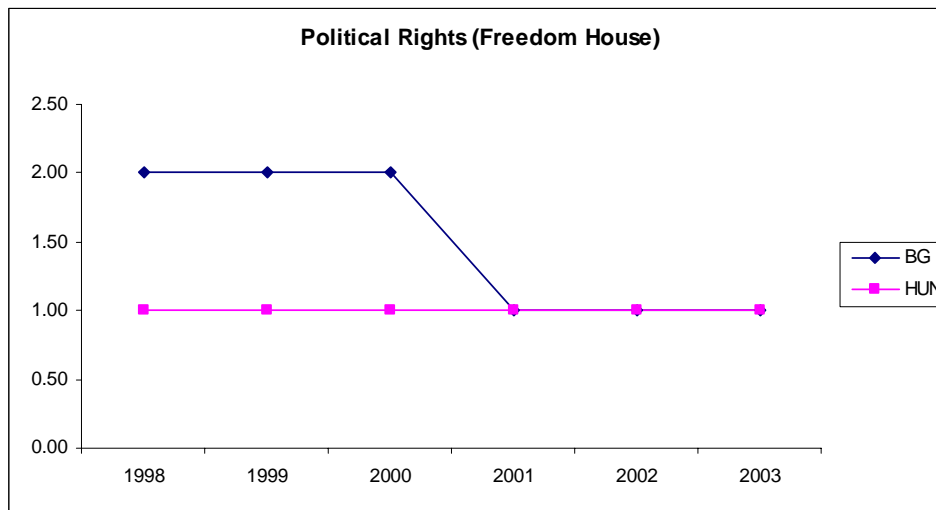


Figure 1: Assessment of political rights in Bulgaria and Hungary, 1998-2003.

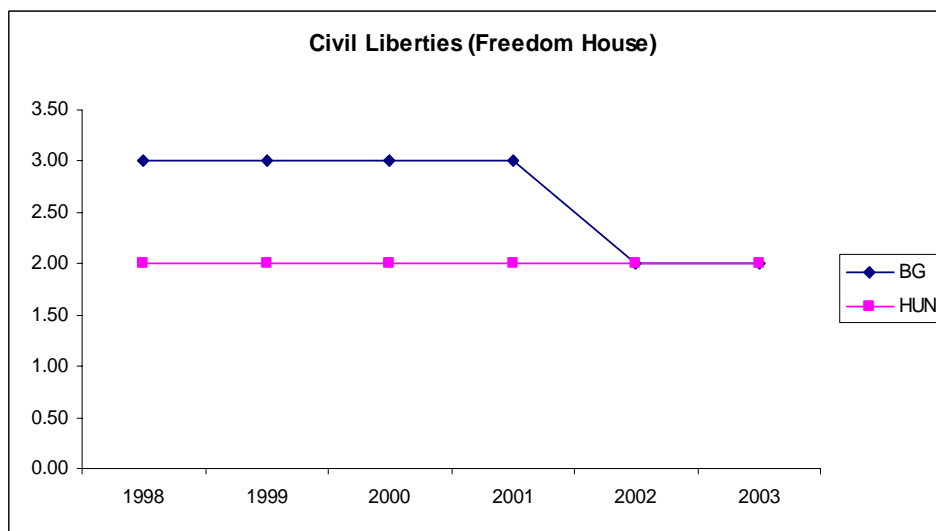


Figure 2: Assessment of civil liberties in Bulgaria and Hungary, 1998-2003.

Looking at the Freedom House data on political rights and civil liberties, we observe that Hungary started out with a very good score on both dimensions and kept it in the course of the accession process. During the process, Bulgaria improved its record both for political rights and civil liberties. In 2003, Bulgaria and Hungary were ranked equally for their civil liberties and political rights frameworks.

As I pointed out earlier, Pogany has argued that domestic developments initiated changes in the human rights framework in Hungary

(2003). This may be a valid argument concerning the initial adoption of a legal framework protecting basic human rights. Yet, reforms concerning the legal code and fundamental institutions in a country, what I refer to as “level 1” and “level 2” reforms in Table 1, are not enough to guarantee successful implementation. In my view, changing social attitudes and long-standing institutional practices, or “level 3” reforms, are the real challenge for the entrenchment of human rights. Consistent with this proposition, my analysis of the Commission’s regular reports shows that although in 2003 only Bulgaria still had to put in practice changes concerning “level 1” and “level 2” reforms, both Bulgaria and Hungary encountered problems with the successful long-term integration of their Roma minorities (level 3 reforms). Therefore, the initial domestic impetus to introduce changes in Hungary’s human rights legal framework was not sufficient to comply fully with the EU expectations in this area.

Let me illustrate this point with an outline of the application of human rights legislation in the case of the Roma minorities in Hungary and Bulgaria. By 1998, Hungary had already acceded to the major institutional human rights instruments. For example, in 1998, the Council of Europe Convention for the Protection of Minorities took effect. Yet, in the 1999 regular report, the European Commission officials cautioned that although Hungary had the legal framework for protecting minorities, continued efforts were needed to guarantee the rights of the Roma population. The Commission warned that “while their situation has not worsened, it has not improved markedly...Roma suffer widespread prejudice and discrimination in their daily lives” (1999, 13). Roma people faced significant discrimination in access to education, employment, public institutions and services. In 2001, in response to the Commission’s pressure, Hungary started implementing a medium-term Roma action program at the national and the local level, supported financially by the government.

Bulgaria has experienced similar difficulties with integrating its Roma minority. For example, in May 2000, the European Court of Human Rights decided against Bulgaria in the case “Velikova v. Bulgaria,” referring to the death of a Roma man in police custody in 1994. The court ruled that the man had died of injuries inflicted in custody and the Bulgarian state had failed to meet its obligation to conduct a fair investigation.¹¹ While it seems that Bulgaria faced stronger impediments due to the legacy of arbitrary use of police force, both Hungary and Bulgaria needed to curb and “civilize” the police. The Commission’s 2001 report on Hungary noted that police officers were suspected of excessive use of force, in particular against Roma people (2001, 22). In short, the problem with the actual integration of the Roma minorities still exists both in Hungary and Bulgaria.

However, in 2002, in response to the European Commission’s criticisms, Bulgaria took steps to ensure better minority representation in the police. As of May 2002, 158 Roma worked in police structures (European Commission 2002, 38). Another improvement in Bulgaria starting in 2000 was the growth of think-tanks and NGOs working on minority issues concerning the Roma. Eventually, the Bulgarian government adopted a framework program for the integration of the Roma into Bulgarian society. However, it remains to be seen whether the program will be carried out in practice. The

2002 regular report on Hungary also documented progress in providing more possibilities for the Roma minority in education, employment and health, as well as improved treatment of the Roma in the judicial system (2002, 14).

Conclusion

This article examined change in the human rights legal frameworks of two post-communist countries, Hungary and Bulgaria, in relation to their bid to join the European Union. The section dedicated to legacies demonstrated that in 1997 Bulgaria started the EU accession process with policy and institutional burdens such as a history of forced assimilation of minorities. In general, during the period 1997-2003, positive domestic legal change did take place both in Bulgaria and Hungary. In 1997, Hungary was already ahead of Bulgaria in the human rights reform process, especially in acceding to international human rights conventions. More cumulative change needed to take place in Bulgaria in order to qualify for EU membership and the pressure exerted by the Union had a greater overall impact. In Hungary, the EU mostly insisted on developing policies to encourage inclusive social attitude toward minorities.

I proposed that a rationalist perspective focusing on the elites' strategic behavior explains some of the observed domestic change, but cannot account fully for the extent of compliance (or lack thereof) with international human rights standards. I found domestic resonance with human rights norms to be an effective supplementary mechanism.

For some scholars the development of the rule of law is largely a domestic political enterprise. It is often regarded as an elite project and the most relevant puzzle is whether the citizens initiate the process by pushing for a better rule of law framework or the elites endorse the rule of law for strategic reasons (Weingast 1997; Maravall, Przeworski 2003). While acknowledging the validity of this approach, in the article I analyzed domestic developments induced by an international actor. The important point is that in the area of human rights reform, the EU has been willing to engage in close monitoring and, when necessary, it has helped the acceding countries to improve their legal frameworks.

Endnotes

- 1 Thomas Carothers, "The Rule of Law Revival," *Foreign Affairs* 77, no.2 (1998), <http://www.ceip.org/people/carrule.html>, 15 January 2004.
- 2 These areas are specified in the 'Copenhagen criteria'— the EU accession criteria formulated by the 1993 Copenhagen European Council.
- 3 Gretchen Helmke has shown this in her book *Courts Under Constraints* (Cambridge: Cambridge University Press, 2005).
- 4 This statement is based on World Bank's evaluation of the quality of rule of law from Daniel Kaufmann, Aart Kraay and Massimo Mastruzzi's project

- “Governance Matters III,”
 <www.worldbank.org/wbi/governance/govdata2002>.
- 5 According to the EU Enlargement website, ethnic Hungarians comprise 96.6 per cent of the country’s population. <<http://europa.eu.int/comm/enlargement/hungary/index.htm>>, 1 October 2005.
- 6 The Turkish minority in Bulgaria is currently 9.4 per cent of the population, according to the EU Enlargement website, <http://europa.eu.int/comm/enlargement/bulgaria/political_profile.htm>, 1 October 2005.
- 7 Hungarian National Assembly, “Political Debate on EU Integration—minutes from 29 November 2001,” <http://www.parlament.hu/biz/europa/angol/menu/index_1.htm>, 17 April 2004.
- 8 The ECHR is open for signing in Rome in 1950, enters into force with 10 ratifications in 1953.
- 9 For an outline of “domestic resonance” see also Rachel Epstein, “Why Do States Comply? International Institutions, Domestic Resonance, and Denationalization of Banking and Defense Planning in Post communist Poland,” unpublished manuscript.
- 10 For both “political rights” and “civil liberties” a lower numerical score means better performance. See Appendix II for Freedom House coding.
- 11 Report on the case available at the European Court of Human Rights web site, <<http://www.echr.coe.int/Eng/Press/2000/May/Velikova%20jud%20epress.htm>>, 14 April 2004.

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Appendix I

Table 1: Depth of Legal Reform in Human Rights – Bulgaria and Hungary in 1997 and 2003.

	1997	2003
Level 1: legal framework	<ul style="list-style-type: none"> - Not signed; the Council of <i>Europe's (CoE) framework convention</i> on minorities. - Not signed; <i>Protocol 13 to the European Convention for Protection of Human Rights (ECHR)</i> and Fundamental Freedoms concerning the abolition of the death penalty. - The law on refugees is not in accordance with the <i>Geneva Convention</i>. It gives the police too significant a role in the process of examining requests for asylum. 	<ul style="list-style-type: none"> - By 2003 Bulgaria has adopted <i>the CoE convention on minorities</i>. - In December 2002 Bulgaria ratified <i>Protocol 13 of the ECHR</i> on the abolition of the death penalty in all circumstances. - In 2001 Bulgarian legislation on asylum is already to a large extent aligned with the <i>acquis</i> and includes the main international instruments such as the UN <i>Geneva Convention</i> on the Status of Refugees of 1951, the New York Protocol on the Status of Refugees of 1967, and the European Convention on the Protection of Human Rights and Fundamental Freedoms of 1950.
BG		
HUN	<ul style="list-style-type: none"> - There are no major problems over respect for fundamental rights. The rights of minorities are guaranteed and protected. - Certain improvements are still needed in the operation of the judicial system and in protection for the Roma, but the measures recently taken by the government constitute progress. 	<ul style="list-style-type: none"> - There are no major problems over respect for fundamental rights.
Level 2: structures, institutions for implementation, personnel	<ul style="list-style-type: none"> - The effective administration of the <i>acquis</i> in this area requires increased investment in human resources, i.e. training judges and specialists. - Organizations reported police engaged in inhuman and degrading treatment on persons in detention. 	<ul style="list-style-type: none"> - As of May 2002, 158 Roma worked in police structures. With donor support, a police training center has been created.
BG		

	<p>- Lack of clear division of responsibilities between the Office of Refugee and Migration Affairs and the other authorities involved in cases of expulsion or readmission of asylum-seekers. <i>Detention of asylum-seekers is too long.</i></p> <p>- <i>Overcrowded prisons</i> are a growing problem in Hungary. Most prisons date back to the second half of the 19th century.</p>	<p>- New legislation on asylum and the residence of foreigners in January 2002. It provides legal remedy against the rejection of visa applications and <i>reduces the maximum period of detention for illegal migrants from 18 to 12 months.</i></p> <p>- <i>A new remand prison</i> was opened in Budapest in September 2000 and another new prison in Veszprem was under construction. They fully meet international standards.</p>
<p>Level 3: practices, cognitive templates, domestic acceptance</p> <p>BG</p>	<p><u>1997 Monitoring Report:</u></p> <p>- The Roma suffer considerable discrimination in daily life and are the target of violence by the police or by individuals whom the police does not always prosecute.</p>	<p><u>2003 Monitoring Report:</u></p> <p>- A framework program for the integration of Roma into Bulgarian society was adopted in April 1999, following extensive consultations between the government and most of the Roma organizations and human rights NGOs. Further progress is needed.</p> <p>- NGOs working in the field of protection of the Roma minority have introduced good practices and success stories that became part of the government program.</p>
<p>HUN</p>	<p>- Continued attention needs to be paid to the respect of the human rights of the Roma. They suffer widespread prejudice and discrimination in their daily lives. More than 150 segregated schools remain throughout Hungary.</p>	<p>- The majority of persons belonging to the Roma community are still exposed to social inequalities, social exclusion and widespread discrimination in education, employment and access to public services. Segregation in schools has remained a serious problem.</p>

Appendix II

Freedom House Coding

The *Freedom in the World* survey conducted by Freedom House measures freedom by assessing two broad categories: political rights and civil liberties. Political rights include the right to vote and compete for public office and to elect representatives who have a decisive vote on public policies. Civil liberties include the freedom to develop opinions, institutions, and personal autonomy without

interference from the state. The scores run from 1 to 7, where a lower score indicates better performance. For example, for political rights a rating of 1 means that the country comes closest to the ideals suggested by the survey checklist questions, beginning with free and fair elections. Those who are elected rule, there are competitive parties or other political groupings and the opposition plays an important role and has actual power. Minority groups have reasonable self-government or can participate in the government through informal consensus. Similarly, for civil liberties, countries that receive a rating of 1 come closest to the ideals expressed in the civil liberties survey checklist, including freedom of expression, assembly, association, education, and religion. The survey is available at <http://www.freedomhouse.org/research/index.htm>.