

Living in Parallel Universes?

The implementation of EU rules on movable cultural heritage in Bulgaria¹

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Abstract. This paper proposes an analytical framework, which we use to examine the implementation of the European Union's policy on movable cultural heritage. We apply this framework to the case of transposition and implementation of the EU rules regarding movable cultural heritage in Bulgaria. We find different implementation outcomes stemming from one and the same formal policy. Due to high levels of polarization between political decision makers, the implementing actors have broad discretion to apply different informal policies. In depth analysis of implementation also suggests that under these conditions different implementing players have followed their normative orientations and applied completely different informal policies. Different implementing actors apply different policies and, thus, as it were, they live in parallel universes where different implementation practices exist.

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1. Introduction

The actual implementation of EU policies is still understudied: a recent paper summarizing the findings of a database compiling qualitative studies of implementation found that only 19 per cent of all studies deal with implementation as opposed to formal transposition (Toshkov et al. 2010). Implementation is, however, the last and arguably best measure of how Europe hits home, how citizens experience policies that may have been conceived in Brussels and taken long time to become formally part of the domestic legislative framework. In this paper, we aim to bring our understanding of implementation further and broaden the scope of examined policy fields by offering a theoretically driven study of implementation in an area which is both understudied and closely connected to core internal market issues: the area of cultural heritage.

The European cultural heritage policy aims to protect important cultural goods of the member states. Although the common market allows for the free movement of goods, for some cultural goods export is only possible with a community license. The policy defines these cultural goods and guarantees their return within the EU the moment they have been unlawfully taken from the territory of a member state. The policy allows member states to adopt further, national constraints on the movement of cultural goods. Bulgaria adopted the EU policy measures over several years and does not appear to have problems with formal adoption. The domestic implementing authorities, however, reacted differently to the changes. While some adjusted their actual practice in line with the new legislation, others continue to work as before. This leads this to the empirical puzzle of the case which is why implementing were authorities able to maintain different practices and why legislative authorities did not force them to comply.

Scholars of implementation have long known that changes in legislative rules do not necessarily lead to changed policies and practices on the ground. In the context of the European Union (EU), implementation of rules adopted at European level starts with the formal transposition of directives, but real implementation, defined as changed policies and changed practices on the ground, is a different story. Brunsson and Olsen's (1997) research on organizational reform has shown that organizations faced with

external reform demands can create two parallel sets of structures of formal and informal rules. At a second stage of implementation of reform, organizations sometimes isolate the changed rules and keep them only for symbolic compliance with external requirements, while in practice continuing to operate according to different informal rules. In the European Union context, Lang's (2003) research of implementation of the EU's structural funds rules, which departs from Brunsson and Olsen's findings, finds several stages of implementation, which range from at first, isolating the changed rules, to, at a second stage, either merging of the parallel structures or reinforced isolation of the formal rules from the actual policy practice.

These are major questions from the implementation literature, which have so far received less attention than transposition² and should be examined at the next stages of CEE implementation and Europeanization research. The theoretical puzzle defining the focus of this paper is the existence of different outcomes from the adoption of one and the same formal European policy – sometimes the adoption of formal policy leads to changes also in the informal policy, which is applied in practice, whereas in other cases, changes in formal policy remain just 'law on the books' and different informal policy is applied.

The situation of the new(er)³ EU member states from Central and Eastern Europe (CEE), is particularly interesting in terms of the age-old problem of the gap between formal policy and actual implementation. First, because of the communist legacy of making laws without applying them in practice – known in the law literature as legal nihilism⁴. Second, because of the speedy and broad adaptation to the EU during pre-accession. It has been widely accepted that the Eastern enlargement of

² See again the overview by Toshkov et al. (2010) and the database of qualitative studies at the Institute for European Integration Research at the Austrian Academy of Sciences.

³ As the 2004-2007 eastern enlargement of the EU is now in the past, member states from Central and Eastern Europe rightly object to the label, 'new member states' which is used here only for convenience.

⁴ This problem has been, of course, much more acute in Russia and former USSR states.

the EU involved the most extensive adaptation and stringent criteria for accession ever.⁵ Driven by conditionality, the candidates from CEE and Cyprus and Malta adopted the body of EU rules and regulations quite successfully, demonstrating, in some cases already before accession, a lower deficit of adoption of EU directives than many of the older member states. A major question, however, remains, namely ‘How are EU rules implemented in practice in the new member states?’ This question arises in the ongoing debates of researchers and practitioners on the ‘real’ extent to which new member states from Central and Eastern Europe have adapted their policies to comply with the *acquis communautaire*.

This paper aims to address this question by first, proposing a general model of implementation as an interplay of formal and informal policy rules and second, applying this model to the case of the transposition and implementation of a directive on the return of cultural goods⁶ and a regulation on the export of cultural goods⁷ in Bulgaria. We follow transposition and implementation⁸ in Bulgaria in the period 2005-2009, a couple of years before and after accession to the EU. As mentioned above, we chose Bulgaria as it can be seen as a crucial case, which offers, in methodological terms, a valuable test as it is expected to strongly confirm or disconfirm prior hypotheses (McKeown, 2004: 141). In our case, Bulgaria’s implementation can serve to confirm or disconfirm the hypothesis⁹ that high levels of formal

⁵ The well known Copenhagen criteria, specifying demands for the existence of market economy, democracy and the rule of law and adoption of the EU *acquis*.

⁶ Directive 93/7/EEC of the Council of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State (OJ No L 74 of 27.3.1993), modified by Directive No 96/100/EC of 17.2.1996 (OJ No L 60 of 1.3.1996) and by Directive No 2001/38 of 5.6.2001 (OJ No L 187 of 10.7.2001).

⁷ Regulation (EEC) No 3911/92 of the Council of 9 December 1992 on the export of cultural goods (OJ No L 395 of 31.12.1992), modified by Regulation (EC) No 2469/96 of 16 December 1996 (OJ No L 335 of 24.12.1996), by Regulation (EC) No 974/2001 of 14 May 2001 (OJ No L 137 of 19.5.2001), and by Regulation (EC) No 806/2003 of 14 April 2003 (OJ No L 122, 16.5.2003). Recently, this regulation and its amendments are codified by Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods (OJ No L 39 of 10.2.2009). For its implementation, Commission Regulation No 752/93 of 9 December 1992 applies (OJ No L 77 of 31.3.1993), modified by Regulation (EC) No 1526/98 of 16 July 1998 (OJ No L 201 of 17.7.1998) and Regulation (EC) No 656/2004 of 7 April 2004 (OJ No L 104 of 8.4.2004).

⁸ EC regulations have vertical and horizontal direct effect, however, since Bulgaria was still a candidate member in 2004/5, the export of cultural goods regulation needed to be incorporated in Bulgarian law.

⁹ For a discussion of the possibility that new EU rules remain empty shells, see Dimitrova (2010).

compliance go hand in hand with actual disregard of implementation and enforcement in CEE states, resulting in a world of ‘dead letters’ (Falkner and Treib, 2008). The reason why Bulgaria is a crucial case is that its short record as EU member state contains evidence of a high level of adoption of formal EU rules with bad application of EU rules in certain areas. On the one hand, in mid-2008, Bulgaria was declared by the EU Commission, based on Bulgarian notification data, to have zero transposition deficit, in other words to have transferred all of the EU’s existing directives into national law. On the other hand, only a few weeks later, the country received one of the most critical monitoring reports in EU history, in which the European Commission invoked clauses allowing a freezing or stopping of funding on a number of pre-accession and post accession financing programmes due to suspicions of corruption, fraud and illegal practices.¹⁰

The choice of movable cultural heritage policy has been guided by other considerations. We selected this policy area as it has relatively few legislative measures and thus allows us to eliminate the possibility that other factors, such as issue linkages with other policies would make it more difficult to apply our model. In the process of researching the case study, we have nevertheless found that, for domestic policy makers, movable cultural heritage policy and its implications are much broader than the European policy. Although we have become well aware of the complexity of this area, we have found that most other issues in the Bulgarian policy debate can be disregarded when studying the implementation of the EU instruments, while keeping the essential elements of the process in the picture.

The paper proceeds as follows. In the next part we present a framework explaining the variation in implementation based on the choices of implementing actors. In the second part of the paper we analyze the transposition and implementation of the return of cultural goods directive and cultural goods export

¹⁰ Serious problems with EU rules have been discovered in areas with distributive consequences, under the SAPARD and ISPA programmes and operational programmes on transport and regional development. An OLAF report from 2008 revealed cases of abuse of EU rules under SAPARD by a wide network of Bulgarian and other EU citizens, which led to the conviction of some of the persons involved by a German court. The Bulgarian members of the same group, which has been accused of abusing SAPARD funds are still under investigation but have not yet been convicted.

regulation. For this in-depth implementation case study we combine interviews with documentary evidence, legislative sources and media reports, and with testing out the informal rules ‘on the ground’. This ‘active’ form of participant observation adds a new dimension to process tracing in methodological terms as it allows us to compare interview and documentary data with the actual workings of the policy for those for whom it is intended. In the next section, we trace transposition and implementation and highlight different outcomes in policy implementation and show how the mechanisms suggested in the theoretical framework account for this outcome. We also draw some tentative conclusions as to the theoretical and practical implications of our analysis.

2. Implementation of European policy

The ever-growing body of literature on EU legislation and the member states is rich with a variety of explanations why a country may be delayed in transposing EU legislation. Implementation proper, however, has rarely been studied, mostly because it does not lend itself to large-scale comparative research. Jacques Ziller, co-author of one of the earliest studies of transposition and implementation in the EU (Siedentopf and Ziller, 1988), has rightly noted that most research in compliance in the EU has been biased towards transposition research and little work has been done on actual implementation.

Mastenbroek’s (2005) thoughtful overview of this literature, which confirms this assessment, while Toshkov et al. (2010) quantify it by telling us that only 19 per cent of studies deal with implementation as opposed to transposition. This paper has therefore focused on a single country case, which is explored in depth. Despite this narrow focus, we first aim to present a model and an explanation that are both theoretically driven and rooted in existing insights from transposition and implementation research. In the following paragraphs, we examine some of the most relevant studies and suggest how our proposed framework builds on their findings.

Implementation studies in a broader sense have tended to choose between two kinds of theoretical explanations, those rooted in political factors and those focusing on administrative issues and capacity. In the international relations literature, Tallberg’s (2002) much cited article on paths to compliance has

defined this division of the compliance literature and summarized the main elements of the two main approaches. According to him, IR studies of compliance by states are broadly divided between enforcement and compliance approaches. The variables central for the enforcement approach are described by Tallberg as incentives and sanctions, both determining whether states would shirk or comply with already signed international agreements (2002: 612). By contrast, the management approach suggests that states want to comply with agreements they have signed, but are hindered by rule ambiguity and capacity limitations (2002: 613).

Making the connection with research into EU rule adoption by CEE states during the pre-accession period, we can immediately see that the ‘enforcement’ model is the closest relative of the ‘external incentives model’, which was quite successful in explaining compliance of CEE states with EU formal rules (Schimmelfennig and Sedelmeier, 2005). By contrast, a large chunk of the public administration literature which aimed to diagnose the deficiencies of the political and administrative systems of the post communist countries from Central and Eastern Europe focused on capacity issues (see, for instance, Verheijen, 2000). It was, in fact, the approach adopted by the European Commission, which stressed administrative capacity as one of the key areas to be improved if the candidates were to become well functioning members of the EU. Throughout the years of pre-accession preparation, this concern with administrative capacity was translated, among others, in institutional investment in developing systems for coordinating EU policy making within the CEE administrations (Dimitrova and Toshkov, 2007).

In a similar vein, a large scale analysis of pre-accession compliance of CEE states by Hille and Knill (2006) came to the conclusion that the quality of the administrations of CEE states was the main factor for their progress towards fulfilling pre-accession criteria. In-depth research of Poland’s enlargement preparations by Zubek (2005, 2008), on the other hand, stressed both institutional capacity and political coordination were crucial for good transposition.

Research into compliance by CEE member states beyond implementation is growing, but is still a domain inhabited by a relatively small group of scholars (Toshkov et al. 2010; Sedelmeier, 2008, 2009;

Toshkov, 2008, 2009; Falkner and Treib, 2008). Two important comparative studies of implementation in CEE highlighted the interplay of administrative and political factors for successful transposition. The work by Toshkov (2008, 2009) combines large-scale transposition research with case studies looking into transposition in a number of the new member states. He showed the importance of both political factors and administrative capacity for the successful transposition of EU directives. The study of social policy directives by Falkner and Treib (2008) includes both transposition and implementation. Based on their findings in the social policy field, Falkner and Treib suggest that CEE states belong to a 'world of dead letters' characterized by a 'pattern of politicized transposition and shortcomings in enforcement and application' (2008: 308). Their findings (2008: 304-5) also underlined the importance of enforcement bodies and their administrative capacity.

That both administrative and political factors will matter for implementation is in itself an important, although not a surprising conclusion. But what kind of interplay and hierarchy can we expect between political and administrative actors in the process of implementing EU policies? After all, it is quite logical to expect that different actors would matter at the transposition and implementation stages of the overall process of implementation.

3. Implementation between multiple actors, interests and discretionary space

Building on previous work (Dimitrova and Steunenberg 2000), we propose an actor oriented model, which starts from the choices of key players such as the enforcing European players and domestic veto players. We suggest the process of transposition and implementation is defined in turn by both national political and administrative actors as well as the European Commission.

In our argument we define a policy as a set of (formal and informal) rules and practices aiming to achieve a certain objective with regard to a particular issue or a sector, then the formal policy is defined by (primary and secondary) legislation and is enforceable by third parties. The informal policy consists of

the rules that are used in practice and the way actors actually apply them.¹¹ We define implementation of EU policies as a process with several stages, the first of which, in the case of directives, is transposition – the adoption of a directive in national legislation. We define implementation proper as a second stage whereby policies are adjusted (if necessary) so that the informal policy or practices fit the adopted formal policies. Implementation, in this definition, involves a set of activities by administrative actors to ensure application of the policies formally agreed to (see also Siedentopf and Ziller, 1988). Further enforcement in the form of sanctions is a possible third stage, which may or may not follow, depending on how well the states have complied with the new legislation.¹²

Our interest is, however, now focused on the informal policy that will emerge on the ground and the role of the implementing actors – administrative actors, which shape the practices on the ground. These are mid-level state officials and civil servants who, similarly to veto players, are in an organizational position which makes them key figures for the implementation of a policy.¹³ It is also important to note that as Dimitrova (2010) has argued, in the post communist context, some veto players may exist that may not have a formal position in the political system, but still play a role in decision making. We take such informal veto players into account.

A first element in our argument is to focus on the preferences of players at various levels. These include the overseeing Commission, the national veto players involved with the making of a legislative policy and the administrative actor who has responsibility for the implementation of the policy. Preference heterogeneity has an important impact on the extent to which players have an incentive to deviate from the European policy. If players share similar views on a matter, there will be not much of a discussion on how a policy will be implemented.

¹¹ In this paper, we use the terms informal policy and policy practice interchangeably.

¹² We use a division similar to Versluis (2007: 59) in defining these stages, however that we take a slightly different interpretation of implementation by stressing the adjustment of informal rules in a policy area to fit the adopted formal rules. We use the term compliance synonymously with implementation.

¹³ We do not include in this analysis Lipsky's street level bureaucrats, although clearly they also have discretion in implementation. Our focus is a level higher.

Secondly, we assume that by delegating the implementation of a policy to a lower-level player—we call this the *implementor*—the delegating veto players will be faced with discretion. Steunenberg (2006) discusses the role of players at different levels in the transposition process and argues that differences in views among these players have an impact on the outcome. The structure of the decision making process provides lower-level players with the possibility to make decisions that are not fully shared by the overseeing, higher-level players. The reason for this is that in making a collective decision against the implementor's choice, the higher-level players need to agree to change the implementor's policy. If there are several higher-level players, they may not be able to agree on a common action.

We label the implementor's policy the *informal* policy. The higher-level players in the domestic arena—the domestic policy makers—may adopt another policy, which is called the *formal* policy. This policy could be the result of a national legislative process. The preferences of the domestic veto players define the *unanimity set*, that is, a set of points for which any further change is objected by at least one of the players. The implementor may prefer an informal policy within or outside this unanimity set. If outside, the domestic veto players are able to force the implementor to change its informal policy in the formal policy that is the result of agreement among the veto players. If the implementor prefers an informal policy within this set, the domestic veto players are not able to change it. In that case, the implementor's policy will stand.

We expect the implementation of a policy to be the result of the interactions between players at three distinct levels, that is, on the European, national and operational level. A first finding is that undisputed and straightforward implementation of the European policy is rather rare. It will only occur when the implementor prefers this policy and, given the location of the unanimity set, is able to choose it without any legislative reversal:

Hypothesis 1 (incidental compliance): When the European policy is located in the domestic unanimity set and coincides with the domestic implementor's preferences, there will be no implementation gap between the European policy and the informal domestic policy.

This means that in most instances one cannot expect that the European policy will be implemented very precisely at the informal level. The corollary of this hypothesis is that if the European policy is not in the domestic unanimity set and the implementor's ideal position is not equal to the European policy, there will be an implementation gap between the European and the domestic policy. In other words, differences between the policy-as-agreed and the policy-as-implemented are more likely than full compliance.

Our proposed framework includes the Commission as an enforcer—an external agency with a certain capacity to impose the European policy on the domestic actors.¹⁴ Furthermore, we suggest that the Commission has policy preferences but that these preferences are closely related to the adopted policy. This assumption is fairly realistic given the Commission's agenda setting role in EU decision making and especially its crucial role in enlargement. It is worth pointing out that with regard to the new member states, the Commission has been a powerful actor giving detailed suggestions for specific policy changes and solutions and monitoring implementation. Accounts by participants in the CEE accession negotiations have stressed the inclination of the Commission to propose policy solutions even when the EU legislative measures were broad and open to interpretation.¹⁵

We regard the level of enforcement as a mixture of costs and benefits. On the one hand, the Commission faces transaction costs, which are a function of possible ambiguities in the interpretation of European law, information asymmetries, or capacity limitations. On the other hand, the Commission prefers enforcing some policies more than others, which is result of the salience of a policy and whether the Commission prefers some 'drift' during implementation (Steunenberg, 2010). Distinguishing costs and benefits implies that the Commission will not challenge every deviation from a European policy, but

¹⁴ At the enforcement stage, the Commission may involve other actors such as the European Court of Justice, to achieve compliance. These interactions can be analyzed further (for instance, Steunenberg 2010), but since we focus here on the domestic implementation process, we disregard them.

¹⁵ According to Maniokas (2005:54), the Commission "...managed to almost monopolize relations with the candidate countries by assigning priorities to their governments, which oftentimes went beyond the *acquis*..." He stresses that the Commission's preferences were dominant most of the time, even though other negotiators pointed out that when member states had specific negotiation issues which they felt strongly about they pushed the Commission to adopt certain positions (Telicka and Bartak, 2007:150).

only those deviations for which enforcement contains net-benefits. Secondly, the Commission will select such a level of enforcement and thus prosecute deviations from the European policy up to the point where marginal costs equal marginal benefits. We will summarize the resulting levels of enforcement as ‘strong’ versus ‘weak’. With *strong enforcement* we mean a situation where the Commission constrains the choice of a domestic policy; in case of *weak enforcement* the domestic actors do not feel this restriction.

When the European policy is located outside the domestic unanimity set, the domestic veto players have an incentive to shift this policy towards a more preferred, domestic one. Whether they are able to adopt a deviating domestic policy and whether the implementor will subsequently implement this policy depends on the degree of enforcement. In case of strong enforcement, the Commission matters because domestic players will be constrained in their choice. The scale of the shift partly depends on the enforcer’s calculus. Still, both the domestic veto players and the implementor are constrained by the Commission in making their choices. They therefore cannot choose their most preferred policy. In case of the domestic veto players this means that the policy allowed by the Commission is outside the unanimity set. As a consequence, the implementor does not have an opportunity to shift the policy during the implementation process. Commission monitoring but also national oversight precludes this. We therefore expect:

Hypothesis 2 (domestic adaptation): When the European policy is not located in the domestic unanimity set and European enforcement is strong, we can expect the formal policy to deviate from the European policy and to be the same as the informal policy.

The range of domestic responses is rather different when the European policy is located within the unanimity set. Domestic veto players will not be able to change the European policy and will opt for a literal transposition of the directive (Dimitrova and Steunenberg 2000). If the implementor shifts the informal policy outside this set, in case it has different preferences than the domestic veto players, the veto players will respond by reversing this policy towards a more commonly accepted formal policy within the unanimity set. Within the domestic unanimity set, however, the implementor may shift the

policy due to the inertia of the domestic veto players. This shift is conditional on the strength of enforcement from the European Commission. We therefore expect:

Hypothesis 3a (parallel policies): When the European policy is located in the domestic unanimity set and does not coincide with the implementor's preferences, there will be deviation in the informal policy from the formal and the European policy. This deviation is conditional on the strength of enforcement.

Only in the case of strong enforcement, the differences between formal and informal policy would be small, minor deviations from the European policy, which are common in implementation. We note that in a different configuration, which we will address in one of the following hypotheses, a situation of parallel policies may also occur.

Finally, when the European policy is not in the domestic unanimity set, but Commission enforcement is weak, the outcome of the domestic implementation game can again be affected by inertia. Although the domestic veto players will adopt a deviating formal policy, the implementor may prefer another policy than the formal one. As long as the informal policy remains in the unanimity set, the domestic policy makers will be divided over the policy and unable to stop implementation.

Hypothesis 3b (parallel policies): When the European policy is not located in the domestic unanimity set and European enforcement is weak, we can expect the informal policy to deviate from the European policy and to differ also from the formal policy.¹⁶

The main consequence hypotheses 3a and 3b is, is that 'parallel policy universes' develop in which the domestic policy makers may claim that the European policy is properly transposed and legally implemented, but the domestic implementor, following its own preferences, works on the basis of a different informal policy, inspired by different ideas. These could be the domestic status quo ex ante, which was replaced by the European policy, or existing policy ideas from the policy sector, which were not incorporated in the European policy.

¹⁶ This is only true if the implementor does not prefer the formal policy. If the implementor's preferences coincide with the formal policy, we have another case of domestic adaptation.

4. Legislating and implementing EU rules on movable cultural heritage in Bulgaria: multiple implementation practices

As mentioned above, the case of Bulgaria is critical for testing explanations of the relationship between formal and informal policy implementation due to the discrepancies between the country's excellent record in transposition and some existing evidence of deviation in informal policy practices. In order to establish the formal rules and informal practices of implementation, this part of the paper provides an overview of the transposition and implementation of the two EU measures and discusses the informal policy practice.

The commitment to adapt Bulgaria's existing legislation on cultural monuments were part of the negotiations of the Customs Union chapter, which included the EU *acquis* in the area of moveable cultural heritage. First, Bulgaria had to bring its policy in line with the Union's cultural goods export regulation¹⁷, which sets rules on the export of 'cultural goods'¹⁸ to countries outside the EU. According to the regulation, depending on the age and monetary value of a specific type of cultural good, export is only possible with a community license. An example of such a good is a painting of more than 50 years old with a value of more than 150.000 Euro. Second, Bulgaria had to transpose the return of cultural goods directive according to which member states need to guarantee the return of goods that may have been unlawfully taken from the territory of another member state. This policy concerns national treasures that fit within the categories defined in the preceding regulation.¹⁹ In order to implement this policy, Bulgaria

¹⁷ It is also worth noting that as part of the EU assistance in implementing the *acquis* in the area of movable cultural heritage, a Dutch Bulgarian project was set up to assist the ministry of culture and stimulate debate on the nature of the policy (*Strengthening the institutions and administrative capacity of the Bulgarian Ministry of Culture and Tourism for full application of the acquis communautaire related to cultural heritage*). This can be seen as an informal channel of Europeanisation that aimed to support lesson drawing from other EU member states and societal debate. The most important incentive for policy change, however, seems to have been, as always, EU pre-accession conditionality.

¹⁸ In the context of Regulation 3911/92 and later Regulation 116/2009 the term 'cultural object' or 'good' refers to an object fitting to one of the categories listed in the Annex of this regulation.

¹⁹ Directive 93/7/EEC focuses on a more narrowly defined set of cultural goods, since it defines a 'cultural object' or 'good' as "...national treasures possessing artistic, historic or archaeological value and belongs to one of the categories listed in the Annex or does not belong to one of these categories but

had to define which goods are national treasures and to register these so that in case of unlawful removal a request of return could be made. In both pieces of legislation, the European policy explicitly allows member states to make their own decision which objects constitute national treasures and, if they wish, to implement a more restrictive export regime also for categories that are not part of European law.

Examining the implementation of EC law requires a quick look back at the policy status quo before Bulgaria started harmonizing its legislation with the Union as a result of the accession negotiations.²⁰ The legislation which shaped the policy status quo dates back to the communist period. In the past, Bulgaria has had a rather restrictive regime requiring a license for the export of cultural goods. This situation did not change much when Bulgaria started accession negotiations. The initial adaptation of the old policy did not change the policy's restrictive character and was quite minimal and incremental.

The first legal changes necessary for the transposition of the directive and the implementation of the regulation were introduced with an amendment of the Law on Cultural Monuments and Musea from 1969²¹ and two decrees. One decree specifies a procedure for valuation of declared cultural goods²², while the other specifies the procedures for the export and temporary export of cultural goods.²³ This could be described as 'quick and dirty' transposition, given that the original law on Cultural Monuments and Musea dated from 1969 and reflected completely different societal relations and the notions of private property typical for the communist state. Even simply due to its age, the law was outdated and had

forms an integral part of ...public collections ...or the inventories of ecclesiastical institutions" (see Article 1).

²⁰ For a timeline of events and most important legislation, please see the Appendix.

²¹ This law was initially passed in 1969 (State Gazette no 29, 11 April 1969). The Bulgarian translation uses the term 'cultural monuments', which seems to equal to 'national treasures' in the European terminology. In this paper we prefer the latter term as it is used in the EU documents.

²² Decree No. 1 of 28 January 2005 on the procedure for the evaluation of declared cultural goods owned by legal entities and individuals issued by the Ministry of Culture, published in the State Gazette no 13 of 8 February 2005, amended, State Gazette, no 33, of 15 April 2005 (Original title: "Naredba no 1 of 28 January 2005 za reda za izvurshvane na oценка na deklarirani dvizhimi pametnici na kulturata, sobstvenost na juridicheski I fizicheski lica").

²³ Decree on the export and temporary export of cultural goods issued by the Ministry of Culture, published in the State Gazette, no 96, of 24 October 2004, amended State Gazette no 51, 21 June 2005 (Original title: "Naredba za iznos I vremenen iznos na dvizhimi pametnici na kulturata").

already undergone a very high number of amendments, seventeen from the time of adoption till 2005 when an amendment was made with the aim to transpose the European directive.

Bulgaria was somewhat delayed in complying with the obligations to comply with EU legislation in the movable cultural heritage field undertaken in the Customs Union negotiation chapter. The Commission had already launched formal infringement proceedings against Bulgaria which were discontinued when an amendment in 2005 was passed.²⁴ The motivation attached to the 2005 amendment mentions specifically the necessity to comply with the export regulation on cultural goods (Motives, 2005). The motivation of the amendment stated that the implementation of the regulation was in accordance with the obligations undertaken by the Bulgarian government in the EU accession negotiations under negotiation Chapter 25, Customs Union. One of the main tasks of the amendment was to introduce the categories of cultural goods requiring a community *license* as prescribed by the export regulation. The categories of goods as well as their value thresholds for this permission regime were defined in an annex of this law. For other cultural goods that were not defined as national treasures and did not fall under one of these categories, the law allowed export, but only with a *certificate* issued by the Director of the National Centre for Museums, Galleries and Fine Arts. The 2005 amendment also proposed a single unified register of national treasures to facilitate their return to Bulgaria if they have been unlawfully exported to another EU member state.

As for the character of the policy under the amended legislation, it still put an emphasis on identifying one kind of cultural good, ‘national treasures’. More specifically, ‘national treasures’ were defined in Bulgarian law as goods of “... scientific and /or cultural value” that have “public importance”.²⁵ Based on our interviews, we have the impression that this definition provides little guidance to the implementors of Bulgaria’s movable cultural heritage policy. There are a variety of interpretations. A point of view shared

²⁴ The third Commission report (2009: 4) on the application of Directive 93/7/EEC notes that Malta, Poland, Slovakia and Bulgaria were late with transposing the directive before the deadline set in their accession negotiations and therefore infringement proceedings were launched.

²⁵ See Article 3 of the Law on Cultural Monuments and Museums.

by a large part of the expert community, for example, defines any object part of an existing museum collection is a 'national treasure' resulting in a situation where thousands of objects fall under a very restrictive export regime. Moreover, this view seems to inform the assessments of privately owned objects. Goods that are defined and registered as 'national treasures' cannot be permanently exported.

The specific position of Bulgaria as a country that was not yet member of the EU but was preparing for accession was reflected in the introduction of a pre-accession transitional period. The Decree no 1 and the annex to the amended 1969 law divided the period between 2005, the time of amendment adoption and the expected date of full EU membership of Bulgaria, 2007, into three stages: in 2005, in 2006 and after Bulgaria's accession to the EU, thus introducing a form of transitional arrangement. The three stages allowed the export of cultural goods with different, progressively rising values: The values of objects permitted for export were, for example: paintings and drawings could be exported if their value is less than 100,000 BGL²⁶ in 2005, in 2006 they could be exported if they were valued lower than 200,000 BGL and after full membership this threshold was raised to 300,000 BGL.

This transitional arrangement was meant to achieve full compliance with the monetary values specified in the cultural goods export regulation by the time of accession. Thus, after 2007, the values of cultural goods subject to export restrictions would become considerably higher than previously defined. It must be noted that already in 2005, the implementation of these provisions could have been foreseen as problematic, due to the underdeveloped market in Bulgaria for cultural goods and the very restrictive provisions of the original 1969 law. The decree and the amendment of the law, however, can be said to formally transpose the EU measures in the area of movable cultural heritage in a reasonably correct way. Following this legal change, however, the discussion of the amendment of this old legislation triggered, only a few months later, a second stage of bargaining between relevant actors as a result of which, some years later, in 2009, a completely new law has been adopted.

²⁶ BGL is Bulgarian Leva. At the time of writing, 1 euro equals approximately 1,95 BGL. The annex of the Regulation defines this value as 150,000 euro, thus the amounts are roughly the same in the Decree and the European regulation.

The analysis of the implementing measures so far shows that the Bulgarian government and the Minister of Culture had taken sufficient measures to live up to the obligations under negotiation chapter 25, Customs Union and introduce the provisions regulating the export and temporary export of cultural goods. The next question, however, is whether the actual policies on the ground were affected by the formal change of legislation.

The main implementing bodies were committees of experts appointed by the general Museums Directorate. A specific expert evaluation committee is appointed by the director of a national or regional museum. Several different expert committees may be appointed depending on the type of artifacts citizens formally need to register and may want to export – e.g. paintings, archaeological artifacts, ethnographical artifacts and others. These committees have the task to register and assess the quality of objects, even if these objects are later rejected as ‘cultural’ goods. Based on a legally defined form, their conclusion is limited to four categories: an object can be (1) a national treasure, (2) a cultural good belonging to one of the categories defined by the export regulation, (3) a cultural good that does not belong to these categories, or (4) has no qualities of a cultural good. Based on the committee’s assessment, objects classified as national treasures should be included in a nation-wide register.²⁷ The classification affects the possibilities for export. Objects in categories (4) and (3) can be exported, although goods of category (3) require an export certificate.²⁸ Goods in category (2) are subject to permission and require a community license, while national treasures (1) may only be temporarily exported.

When the implementation of the policy was tested by the researchers in January 2008, a year after Bulgaria’s accession to the European Union, it was discovered that one of the main expert committees attached to the National Gallery of Fine Arts was proceeding with its work in the exact same way as they

²⁷ It is not clear to us whether, at the time of writing, such a register has been created.

²⁸ The Decree on the export and temporary export of cultural goods links the export of goods to their registration, since it requires the expert evaluation as part of the registration procedure as one of the documents for the application of an export license or certificate.

did before the 2005 amendment. The previously existing informal policy, reinforcing and complementing the provisions of the law of 1969, guided the expert committee(s) to value paintings according to their author, using an extensive list of major artists in Bulgaria for the last couple of centuries. All works of these authors were automatically considered as national treasures and thus their export was not allowed.²⁹ Works of other authors that were not on this list were evaluated as having ‘no qualities as a cultural good’ and could be exported. This policy empowered the museum expert evaluation committee to determine whether or not an object could be seen as belonging to the national cultural heritage and whether it was, in the meaning of the 1969 law, of legitimate public interest. Furthermore, this informal policy, which was, before 2005, complementing the previous formal policy enshrined in the 1969 legislation, bore all the marks of a political system in which private property in general and property and trade in cultural goods in particular, could not officially exist.

It is clear that up to 2005, when the 1969 law was amended to take into account European policy, there could not be much of an open market in cultural artifacts in and outside Bulgaria due to this law and the informal policy attached to it. At the same time, numerous newspaper articles testify to the fact that, in the late 1990s, a thriving black market trading in ancient (for example Roman, Greek, Thracian) artifacts developed which was meant for export of such goods from Bulgaria to collectors abroad. This was a situation typical of the transition period when old legislation was not enforced due by the weak post communist state. It also illustrated the fact that the restrictive law and policy were not a barrier for illegal exports and a variety of informal practices which contravened official policy.

The implementation of the European directive and regulation was thus made more difficult in practice, due to the fact that the official market was quite underdeveloped. Market values would depend on the internal trade of only a few auction houses and galleries and would not be obvious to the experts. Thus, when confronted with the specific threshold amounts determining whether a community license or a

²⁹ According to one interviewed expert, this so-called restrictive list system was a product of the power relations between communist officials and artists under the previous regime, the latter acting as patrons for the former and allowing them to sell or export their work only under very restrictive conditions.

certificate is required, the implementing actors such as the above mentioned committee of experts were at a loss. For example, in the category of 19-20 century paintings, the market value, in 2005-2007 of very few, if any works of art would exceed the amounts specified the export regulation. Therefore, a more differentiated approach in which only some outstanding work of a given author would be classified as 'national heritage' while other, less significant works would be labeled as cultural goods might have resulted in an easy export of the latter based on a certificate that has to be granted by the minister based on the opinion of the evaluating committee.

The expert committee under the National Gallery for Fine Arts, however, did not make any references to the threshold amounts specified in the new legislation. The committee restricted itself to deciding on the one question, namely whether an object would be considered a 'national treasure' or whether it had no qualities as a cultural good at all (categories 1 and 4). Another expert committee convened under the same legislation, by the same Museum directorate, dealing with ethnographic objects and artifacts followed a similar path of limiting its evaluation on whether or not an object is a cultural good. If so, the object would be labeled as a 'national treasure'. The main difference with the committee on fine arts was that the committee did not use a well-specified 'list' that would classify some categories of objects automatically as 'not exportable'. In that respect, the informal policy was more in line with the new formal policy. Still, the idea that there are cultural goods which are not national treasures seems to be highly problematic in the Bulgarian context. As a consequence, the protection provided by the European policy may not yet be fully effective, since the inability to discriminate between important and unimportant national cultural objects slows down their registration and thus their possible return in case of unlawful export.

The story of transposition and implementation of these two rather small in scope EU measures could have ended here, but in fact, the changes of legislation were considered insufficient by Bulgarian political elites. There were elements in the amended law which opened up broad political and societal debate and triggered a new, extensive round of amendments and law making about the exact shape of the movable

cultural heritage policy.³⁰ Clearly, the amending legislation of 2005 touched upon several areas of very high political salience for Bulgaria and possibly for many other post communist states: the acquisition and ownership of cultural artifacts, the definition of national cultural heritage, and the definition of private property. In the period 2005-2008, a vigorous debate followed and there were several attempts to adopt brand new legislation in this area which would also affect the policies covered in the EU legislation.³¹ The process of adapting to EU policies, although formally completed, provided an opening for a new round of bargaining on a completely new draft law on cultural heritage.

After prolonged and polarized debates in the National Assembly and in especially in the Standing Committee for Culture that prepared the drafts, finally a new law was adopted in March 2009 and came into force in April 2009.³² The new law includes stricter registration requirements and the need to demonstrate proof of legal ownership of objects. Moreover, for national treasures/specific cultural goods the law introduces the concept of ‘holder’ that replaces private ownership. Immediately after being passed the law was challenged in front of the Constitutional Court by the Ombudsman, who claimed that several articles and key concepts were potentially incompatible with the Constitutional guarantee of private property.

At the same time, interviews with experts revealed that the new law was considered impossible to apply and unworkable for stake holders.³³ All societal actors were affected by the uncertainty of the new provisions and the market was blocked. Auction houses stopped their auctions in fear of confiscation of

³⁰ For some of these discussions, see the contributions to Afman and Knoop (2008).

³¹ In 2008, the coalition government led by the Movement for Simon the Second presented a new cultural heritage draft in parliament, which it was forced to withdraw after a few months. The government press release suggested the draft was withdrawn for further work and elaboration in view of problems with cultural objects, which had been exported unlawfully but were not included in the law’s definitions (www.today.bg, consulted at 30 June 2008).

³² Law on the Cultural Heritage, adopted on 26 February 2009, State Gazette no 19 of 13 March 2009, in force 10 April 2009, with the exception of Art 114, para 2 and art 126, which come into force from April 2010.

³³ Among the cited problems were the very short period (3 months) in which everyone who possessed any cultural goods/ objects would need to register them with the musea, the very broad definition of such goods and objects that would include everything from a carved wooden spoon to ancient Greek coins or prehistoric finds.

paintings under the unclear and restrictive provisions of the 2009 law.³⁴ According to an interviewed museum expert, the musea themselves had no capacity to register and evaluate all cultural goods that would potentially be subject to registration according to the new law of 2009.³⁵ Thus, from the perspective of this paper, a new formal policy was put in place in 2009, but the informal policy was in complete deadlock. In this period, some museum committees, such as the fine arts one mentioned above, continued to act according to the old informal rules and apply restrictive regime for exports based on the same practices and formal policy of 1969. Other committees tried to apply the new law, but they suffered from a complete lack of clarity in application resulting from the delay in the issuing of secondary legislation such as decrees to flesh out the new provisions. Practically all stakeholders were highly dissatisfied. Thus it was no surprise that after the change of government in Bulgaria following the July 2009 elections³⁶, in August 2009, a working group of experts was convened to start working on changes in the newly adopted law.

5. Implementation in the light of the hypotheses

Explaining our case in terms of the hypotheses developed in this paper, we need to establish the preference configuration and the location of the status quo. This includes the preferences of the domestic policy makers versus the European cultural policy and the preference of the implementing player.

Preferences of the domestic policy makers. As mentioned above, the 2005 amendment of the Bulgarian cultural monuments law brought formal policy in line with the EU acquis. However, the new

³⁴ For example, the Victoria Auction House, which organized regular auctions of 19-20th century art, cancelled its planned auctions as soon as the law was in force. Later, in 2010, an attempt to hold auctions again resulted in some arrests linked to claims that the auctioned art had not been registered properly.

³⁵ Since each item needs to be described, it may take at least 10 minutes to evaluate one item and register it. A medium-size shop with 2,500 items requires then about 52 working days, or one expert working for 10 weeks. In addition, the shopkeeper needs to pay a fee of 3 BGL per item adding to a total of BGL 7,500 (or about 3,850 euro).

³⁶ The July 2009 elections led to the fall of the triple coalition led by the Bulgarian Socialists that had passed the 2005 and 2009 laws. The elections were won by the GERB formation (Citizens for European development of Bulgaria), a new political party defining itself as center right, which formed a minority government with the support of small parties on the right.

formal policy provoked tremendous discussions among political parties and NGOs, as well as in the media. Statements made in these discussions, the minutes of parliamentary debates, media and expert interviews provide evidence of the preferences of key actors, which are summarized in Table 1.

Table 1: Preferences of key actors

Preferences of actors:	In favor of the old style restrictive policy, all cultural goods are national treasures	In favor of a new policy, transposing EU law, but also essentially restrictive	More liberal approach, supports market for cultural goods
Coalition parties in power 2005-2009: Socialists (KZB, Coalition for Bulgaria)	Yes, mostly, all movable and immovable goods are national treasures ³⁷ but some were in favor of new policy ³⁸		
NDSV (National Movement for Simeon II)		Yes, for a new law to respond to new realities and also EU requirements (sponsored the law); required official documents of ownership for all cultural goods ³⁹	
DPS (Movement for Rights and Freedoms)		Declared support for the 2005 law but split ⁴⁰	
Parties in opposition: UDF (Union of Democratic Forces)		For new, but restrictive law ⁴¹	
Main party in government from 2009: GERB			For a more liberal interpretation ⁴²
Other stakeholders: Experts	Divided: new legislation recommended, but some argue for more restrictive laws, others argue for a more liberal approach which aims to give some space for market and private initiative ⁴³		
Other stakeholders: NGOs linked to government (informal veto players)			Argued for open market, more liberal policy, against specific parts of the new law which restrict ownership without proof
Other stakeholders: The Orthodox Church			Argued for a less restrictive regime of registration of cultural objects and no official proof of origin

³⁷ Based on press statements of member of parliament Merdzhanov from the Socialist party in internet press sources 3.1.

³⁸ The socialists have been split as evidenced by the fact that many MPs refused to vote for the new law (see sources 3.2).

³⁹ Based on official statement of the NDSV political council reported in the press source 2.4.

⁴⁰ Based on statement of Member of Parliament Chetin Kazak in the press, source 2.5.

⁴¹ Based on statements during the public consultations on the 2009 law, documented in internet and press sources 2.1.

⁴² Based on press statements of the Minister of Culture Rashidov, media sources 2.2 and 3.1.

⁴³ According to statements in mediapool.bg by archaeologists working at musea from Sofia University (sources 2.3).

As the table shows, domestic players have rather different views on what Bulgarian national policy on movable cultural heritage should be. Some have a more liberal view aiming to stop illegal market in cultural goods by facilitating registration of cultural objects and accepting already existing collections, while others follow a more restrictive route which requires registration based on official document provided by the state of all cultural objects and counting a wide range of objects as ‘national treasures’. As a consequence, the domestic unanimity set is quite broad especially if we take into account that non-governmental actors that enjoy powerful patronage relationships with state actors can act as informal veto players (Dimitrova, 2010). Some of the NGOs tried to influence the deliberations of the Standing Committee on Culture or public consultations on the 2005 and 2009 laws.⁴⁴ The most active and visible NGOs most likely represent the so called ‘big collectors’⁴⁵ linked with the former communists or are new oligarchs.

Preferences of the implementor. The preferences of implementing actors have been established directly by us in the process of trying out the policy as participant observers. There have been ample statements from both committees as to what the right policy is according to them. They reflect some of the preferences of political actors, but also expert opinions cited in the broader debate in the media which distinguishes one very powerful domestic discourse and another, much less prominent, slightly more liberal one.

The one discourse, associated with one of the committees, which we can label ‘the patriots’, asserted that the new law did not make sense. According to ‘the patriots’, market values could not be established for any classical works of art and working according to the amounts specified in the EC Regulation would mean valuable works would be exported abroad, or ‘lost’. Works of so called classical authors, included on the committee’s list, are declared as ‘national treasures’ irrespectively of their quality.

⁴⁴ Some NGOs even developed their own website dedicated to lobbying against restrictive legislation. See Archea, at: <http://archaeology.zonebg.com/index.htm>.

⁴⁵ Including, for example, the former chief of Department Six of the former Political Police Service Dimiter Ivanov, now chairing Foundation ‘Arete Fol’ (media sources 3.2).

This is the dominant view among the broader public, as becomes clear from a representative public opinion poll by *Alfa Research* taken in September-October 2009. To the question how movable monuments of culture should be kept, 54% of respondents answer, only in state musea. That owners may hold such goods but not sell them is the opinion of 11% of respondents. The option that anyone may own such goods is only supported by 3% while 32% have no opinion (B. Dimitrova, 2009).

The other group of implementors whom we can label ‘the new internationalists’, saw it as their task to subscribe to a new European policy which according to them was more adjusted to existing realities and fitted to a forward looking museum policy. This implementor, the committee under the auspices of the Ethnographic museum, has on the whole a more nuanced view and aims to implement the 2005 law and corresponding secondary legislation by evaluating the quality of each object and its value according to the EU regulation. However, this committee does not work with other categories of cultural goods than ‘national treasures’ either.

Clearly, these different implementing actors, each responsible for a specific subfield, have different preferences with regard to the formal national policy. Compared to the European policy, both committees seem to share the policy notion that all ‘publicly interesting’ artifacts are cultural goods and therefore should be regarded as ‘national treasures’.

European enforcement. As evident from the case presented above, the Commission does monitor implementation (see the discussion on p. 15). However, after the 2005 amendment, the Commission stopped formal proceedings for infringement as it was satisfied with the amendment as formal policy implementing the European policy. We consider therefore European enforcement to be relatively weak.

Predicted versus actual policy. Due to the strong polarization of preferences⁴⁶, the domestic unanimity set is broad, as the domestic players disagree on further elaborations of the European policy. The European policy falls within the domestic unanimity set, as hypothesis 3a predicts. Moreover, European

⁴⁶ Especially concerning issues of definition of what is national heritage and cultural monuments in relation to property rights.

enforcement can be regarded as weak. Indeed, as predicted, the 2005 amendment of the Bulgarian law incorporated literally the regime of the European export regulation.

The informal policy, however, may differ from the formal one, depending on the implementing player's preferences. As we found in our research, one of the implementors does not prefer the formal policy and applies another informal policy (hypothesis 3a). The committee of the National Gallery of Fine Arts indeed informally has been applying the older policy and disregarding the formal policy. By declaring the whole oeuvre of some authors to be 'national treasure', this informal policy not only 'coincides' with the policy under communism, but also resonates with some of the most powerful sentiments expressed in public discussions on cultural policy.

The other implementor, the committee under the auspices of the Ethnographic museum, has preferences, which are closer to the European policy. It has aimed to implement the European rules well and even has been asking the Ministry of Culture for instructions on the implementation of the formal policy as embedded in Bulgarian law, including the 2009 amendment. Although having a different view than the expert committee on fine arts, the expert committee on ethnographic objects also applies an informal policy that deviates from the formal one, which is in line with our hypothesis 3a.

Thus, the two European measures were respectively transposed and implemented formally, but at the level of informal policy there is variation. We found that two different, parallel sets of rules exist, which corroborate our expectations: when domestic policy makers are in deadlock, the implementing policy is mainly shaped by the implementing actors.

6. Conclusions: from implementation to Europeanization

This paper developed a model explaining the various outcomes of the implementation of a formal EU policy and applied this model to the implementation of movable cultural heritage policy in Bulgaria. By applying a structured analytical approach to an in-depth case study in the area of movable cultural heritage, we have gained a better understanding of the relationship between formal compliance with EU rules and policies and practices on the ground.

The framework developed in this paper explains the differences between formal (adopted) and informal (implemented) national policy with the existence of different preferences between, on the one hand, European and national policy makers and on the other, national policymakers and the national implementing actors. Based on this framework, we also establish that national policymakers can informally allow a reversal of European policy to an earlier national policy if the EU policy is not located in the domestic unanimity set.

Another contribution of the paper is that, based on our model, we can define a whole set of specific outcomes with regard to formal and informal domestic policies. One of these outcomes, domestic inertia, allows parallel informal and formal policies to co-exist.

Further, by means of an extensive, in depth case study with elements of participant observation, we were able to establish the formal and informal policies for one case of EU policy adaptation. We found that implementing actors exist in ‘parallel policy universes’ and are able to apply different policies because of the divergence of the positions of domestic veto players that results in a very broad domestic unanimity set. In other words, the domestic polarization on the issue of cultural heritage in Bulgaria has created broad bureaucratic discretion for informal policies to be applied. With a law that reflects a very broad set of political preferences, implementing actors have a free hand to follow their own preferences.

Even with an implementing actor that aims to implement the European policy well, it has been unable to apply a distinction between ‘national treasures’ and other cultural goods, including those defined by the European export regulation. This leads to a very restrictive regime which burdens existing resources to identify, register and preserve cultural goods. The inability to select the ‘treasures’ out of all existing cultural objects creates an additional capacity problem in a field that has limited resources and thus reduces the effectiveness of the policy.

Therefore, we can add a new twist to the literature that claims that implementation is a matter of administrative capacity. Our case shows that the policy as currently applied in practice is also made ineffective by (administrative) capacity limitations, mostly of the musea, that need to register a huge

number of objects with limited personnel. This capacity limitation is in fact made worse by the interpretation of the implementing actors.

We note that the framework does not explain (nor does it aim to do so) where the different implementors' positions come from. Our close empirical observation of this case, however, allows us to draw some conclusions which echo the insights of scholars who have noted that under conditions of uncertainty, players use ideas and norms as roadmaps to define their actions (Keohane and Goldstein, 1993). Members of both committees (our implementors) have expressed strong normative views on the formal legal arrangements. The patriots' discourse which we have commented upon earlier is highly dominant in Bulgarian media and policy circles. Many actors, from the broad public to the constitutional court have expressed their own notions what can be considered appropriate when it comes to cultural heritage. The EU regulations provided, in a sense, just an opening for this debate to unfold.

This brings us to our final insights from this implementation study. We have found that the kind of Europeanization that follows transposition and implementation is not a simple process of adapting to EU requirements. This second wave of Europeanization is a mobilization of domestic actors that attempt to renegotiate policy and change the status quo – a conclusions that echoes the findings of the second wave of Europeanization literature (for example, Héritier *et al*, 2001). In this respect, implementation and Europeanization East are not much different from Europeanization in the European Union before the last enlargement.

Appendix: Timeline of the changes in Bulgarian cultural heritage policy

Linked to the implementation and transposition of the Directive on the return of cultural objects unlawfully removed from the territory of a Member State and the Regulation on the export of cultural goods.

1969	Law on Cultural Monuments and Musea adopted
	Numerous amendments
2004	Decree of the Minister of Culture on the export and temporary export of cultural goods, State Gazette no 96, amended 2005, State Gazette no 52, June 2005.
2005	Adoption of amendment of the Law on Cultural Monuments and Musea containing references to the EU legislation, 1 st measure for the transposition of Directive 93/7 EEC.
	‘Decree no 1 of 28 January 2005 of the Minister of Culture on the procedure for the evaluation of declared cultural goods owned by legal entities or individuals’.
2007	Debates in the Parliamentary Standing Committee on culture start on a draft law on Cultural heritage.
2008	A new draft law on cultural monuments submitted to parliament and then withdrawn.
2009	
February	Law on Cultural Heritage adopted, published State Gazette no. 19 of 13 March 2009.
April	Law on Cultural Heritage in force.
July 29	Ombudsman submits Law for review to the Constitutional Court, asks about provisions of art 113, al. 1,2,3 and para 5, al 2 and 3 of the concluding provisions and their compatibility with the Constitution.
August	A working group of experts is convened by the Ministry of Culture to discuss broad and substantial amendments to the new law.
August 30	Amendment to two specific provisions of the Law on Cultural heritage submitted to Parliament by two GERB members of Parliament (Pavel Dimitrov and Daniela Petrova).
September 29	The Constitutional Court decides: rejects the claim that the provisions of article 113 are incompatible with articles 17, al 1 and 3 of the Bulgarian Constitution and declares the provisions of para 5, al 2 and 3 of the transitional and concluding provisions to be indeed incompatible with the Constitution.

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