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The political economy of state capture in central Europe

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Abstract

This article demonstrates that the majority of new EU member states experience serious problems of state capture. It argues that Central European states cluster around two dominant modes of party competition. In the first, predominantly ideologically-committed elites (Poland, Hungary, Estonia, Slovenia and Estonia), established relatively 'electoral professional' party competitions only to face deepening fiscal constraints on mainstream ideological competition. Following the collapse of the social democratic left both Hungary and Poland experienced attempts to re-assert political monopoly i.e. 'party state capture'. In the second group (Czech Republic, Slovakia, Romania, Bulgaria and Latvia), more entrepreneurial political elites established 'brokerage' party systems in which public policy remains a side-product of an essentially economic competition. All five states show high levels of 'corporate state capture' in which public power is exercised primarily for private gain. These findings contest the more optimistic expectations of the institutionalist literature on state-building and democratic consolidation.

The Political Economy of State Capture in Central Europe

The stable party competitions and Weberian states of post-war Western Europe were founded on strong elite commitments to democracy and socially embedded through sustained productivity growth and universally rising living standards. But those conditions have never existed in Central Europe (see Epstein, this volume). Consequently their states are not consolidating as those of post-war Western Europe did nor are they likely to in the foreseeable future. What we are seeing instead, this paper argues, are serious problems of state capture not just in the usual suspects, Romania, Bulgaria and now Hungary but in the majority of the new member states.

The argument advanced here is that the region is peculiarly vulnerable to two modes of state capture: party state capture and corporate state capture. In the former parties re-politicise the state in pursuit of political monopoly. In the latter public power is exercised primarily for private gain, and private interests pay to subvert the legitimate channels of political influence (Hellman et al, 2010, pp. 2-3). While it is plausible that both modes could operate together the evidence suggests two surprisingly clear clusters of Central European states around a dominant mode, with some relatively non-corrupted systems facing vivid attempts to re-monopolise the values and allegiance of the state (*e.g.* Hungary, Poland) and the more corrupted systems showing a clear and consistent

prioritisation of the extraction of financial value (*e.g.* in the Czech Republic, Bulgaria). In the latter, attempts to penetrate the state are evidently aimed more at financial than political monopoly. Post-EU membership the only systematic attempt to roll back democracy has occurred where hitherto effective representation failed for political economic reasons: in Hungary.

The clustering of states seems to follow from distinct patterns of party competition; one established on the basis of public representation, the other on the basis of corporate competition between only nominally ‘political’ actors. Which pattern took root was determined by the level of initial elite commitment to democratic values and its sustainability was subject to political economic conditions. The early and deep institutionalisation of these modes and hence the clear clustering of cases was possible because of the near total character of institutional site-clearing and rebuilding that ensued in the post-communist transition.

Our order of business then is to establish where each of the new member states stand in this picture; to explore why much of the political science literature has tended to be over-optimistic about party-state development and democratic consolidation in the region; to unpack the mode of party competition thesis in more depth and to provide critical case studies: Poland and the Czech Republic. In conclusion the paper explores why, excepting in egregious violations of the separation of powers (see Sedelmeier, this volume), the current EU can do little to change these trends once they are established.

State capture in practice and theory

The World Bank Governance Indicator, ‘control of corruption’ (Kaufmann et al, 2010, p. 4) offers a reliable measure for corporate state capture and the Czech Republic, Slovakia, Latvia, Bulgaria and Romania have consistently fallen within the mid 50th to mid 60th percentile worldwide rankings (1996-2011), placing them in the same cohort as South Africa, Brazil and Peru. The Czech Republic moved downwards from scores in the high 70th percentiles in the mid-1990s to a plateau of low to mid-60th scores by 2000, from which it has not risen. In fact, performance has tended to plateau through the 2000s in all five countries despite EU membership. Estonia, Slovenia, Poland and Hungary ranked between the 70th and 80th percentiles during the same period, with Lithuania staying steady in the mid to high 60th percentile. Poland and Hungary, however, saw deteriorating control of corruption performance during the duration of notably anti-system governments, those of Law and Justice in Poland (2005-07) and FIDESZ in Hungary (2010-).

For party state capture we can use the World Bank Governance Indicator of ‘government effectiveness’ which measures perceptions of the quality of public services and policy formulation and the degree of administrative independence from political pressures. Estonia, Slovenia, Poland, Hungary and Lithuania again show high performances, between the 70th to mid-80th percentiles (1996-2011). But Hungary’s rankings steadily deteriorated after 2008 and worsened through the FIDESZ administration, with Poland likewise seeing a drop to the high 60th percentile ranking coincident with the short-lived government of Law and Justice. Lithuania saw its government effectiveness improve

from 2004 onwards, moving into the 70th percentile rankings. What is also notable and helps explain their unwarranted reputation for consolidation is that the Czech and Slovak Republics have also ranked in the 70th-80th percentiles for government effectiveness. But as Darden has demonstrated, between the two world-wide clusters of negligibly corrupt states with high government efficiency and failed states with massive corruption there is actually no linear correlation between state capacity and state corruption (Darden, 2008). In other words it is quite possible to combine high corruption with high social order.

One reason these trajectories may come as a surprise is that the transitions literature has tended to draw more optimistic conclusions about the consolidation of Central European states versus the deterioration of those further east. But the evidence of the last ten years suggests the reason for this optimism may be methodological, *i.e.* that the dominant institutionalist approaches have downplayed the substance of ideological values and government practice. From Hellman (1998), through Grzymała-Busse and Jones-Luong (2002) and O'Dwyer (2006) to Grzymała-Busse (2007) institutionalist accounts have tended to agree that it is the institutional robustness of competition between political elites that explains degrees of Weberian state building: a formalised variable on which Central Europe has fared relatively well. But these studies have carried discretely pluralist assumptions over from the post-war West European context about how an institutionally robust political system begins competition and how, once started, the mechanics of polyarchy sustain the necessary incentives to take the state out of the political game. But the sharpening political conflicts and deteriorating government performance through the 1970s and 1980s in the West had forced pluralist thinkers to

admit the dependence of their assumptions on the ideological and political economic conditions of that post-war era: conditions which Central Europe has simply never had.

It is because of these missing conditions that the institutional robustness of competition alone can make little sense of the advent of anti-system, state-capturing governments in two countries that started the transition with among the strongest political competitions and state building thereafter: Poland and Hungary (Grzymała-Busse, 2007, pp. 11-12). Or why the Czech Republic, endowed with the most institutionally stable bi-polar party competition and the most classically pluralist structural conditions of the entire region (O'Dwyer, 2006), has shown levels of corporate state capture on a par with those of Ukraine (World Bank, 2011, p. 20).¹ More generally, the ongoing failure of the majority of new member states to consolidate autonomous state structures over time runs counter to the pluralist optimism that underpins these institutionalist texts.

Given space constraints I will focus on the rightly influential and exceptionally comprehensive text by Anna Grzymała-Busse, *Rebuilding Leviathan*, to highlight those factors that institutionalist methods necessarily elide but that with the benefit of hindsight are significant. *Leviathan* also identified the institutional robustness of party competition as central to state-building dynamics. It argued that clear, critical and monitoring party competition and plausible governing alternatives were what drove rational actors to take

¹ According to World Economic Forum survey data from 2008, the latest available, the Czech Republic ranked equal with Ukraine for the diversion of public funds to “companies, individuals or groups due to corruption.” This placed the Republic fifth worst out of twenty two post-communist states, behind, in order, Bulgaria, Armenia, the Kyrgyz Republic and Russia.

the state out of the political game since the credible threat of their imminent replacement in government made it prudent for them to do so (Grzymała-Busse, 2007, pp. 10-15). In *Leviathan* then, the flaw of the Czech, Slovak, Latvian and Bulgarian systems compared to those of Poland, Hungary, Estonia, Slovenia and Lithuania was that they came into their transitions semi-formed in terms of political competition. In contrast to the higher performing cases their legacies of relatively weak dissident oppositions and hence hard-line communist parties had prevented the emergence of reformed ex-communist social democratic parties to play the disciplining role of strong opponents. The resulting dominance of single parties meant less state reform and explained higher levels of state exploitation. But since the World Bank indicators show *Leviathan* is entirely correct in identifying the higher corruption of these 'intermediate' cases what is it exactly that this institutionalist approach is failing to capture? The difficulty is that the book's formal criteria *a priori* cannot account for the systematic subversion of political competition by a relatively dominant party or for the deterioration of political competition in formerly more robust competitions.

In practice the unwillingness of more weakly institutionalized party systems to build regulated state institutions has done more than allow enormous private benefits for parties in otherwise functioning democratic systems: the verdict of *Leviathan*. Rather, their preference for non-regulation in key institutions under the guise of neo-liberalism (Czech Republic) or through more clandestine forms of de-institutionalisation (Bulgaria, Romania, Latvia and more erratically, in Slovakia) has built a system of incentives for primarily, rather than purely opportunistically entrepreneurial party behaviour. What

followed was less the incidental exploitation of the state than the evolution of parties into brokerage firms: a far more systematically corrupt development than *Leviathan* implies. The theoretically pluralist background to *Leviathan* would also suggest that this more corrupt cluster should have improved their state-building over time rather than levelling out at a globally just-above-average level of performance even ten years into EU membership. In their ground-breaking essay on state-building written just a few years earlier, Jones-Luong and Grzymała-Busse had argued that the stronger a country's capacity for voluntary association and popular mobilisation the more elite competition would be constrained into robust forms. Secondly, the more formal institutions with credible capacity existed over informal norms the more competition would be constrained to operate within those institutions (Grzymała-Busse and Jones-Luong, 2002, pp. 537-538). But far from such optimistic trajectories playing out in these cases their flat-lining performance suggests that the early institutionalisation of corporate state capture pre-empted the constructive relationship anticipated between political systems, deepening electoral cleavages and civil organisation. The competitive element in what Mungiu calls 'competitive particularism' (Mungiu, 2006, p. 94) remained motivated by access to state assets.

As for those countries that got off to a more competitive start, institutionalist indicators necessarily strain to capture changes in values within these systems. *A priori* such indicators cannot identify anti-system actors who fulfil the institutional criteria of robustly competitive players but undermine the separation of powers: a methodological constraint revealed as problematic in more recent years. While Hungary ostensibly

confirms *Leviathan*'s depiction of 'declining competition equalling declining performance' - FIDESZ became more ambitious for state power following the collapse of the main competitor, the Hungarian Socialist Party – this cannot explain why the pillar of the liberal left mainstream in Hungary suddenly collapsed over ten years into transition nor why, even before the Socialists' troubles, FIDESZ had indicated anti-pluralist tendencies in its first administration. The rise of Poland's anti-system Law and Justice Party is straightforwardly confounding of the institutionalist theory since party competition has remained strong.

When it came to understanding cases of deteriorating state performance Grzymała-Busse was clear in *Leviathan* that she wasn't trying to theorise institutional 'stickiness': thus if the robustness of competition changed she argued that this change would have immediate effects on state exploitation (Grzymała-Busse, 2007, p. 15, ftn. 39). But though theoretically consistent this makes for a restricted theory of democratic state building insofar as consolidation remains mysterious. The implication of *Leviathan* is that institutionally robust competition must exist at all times for state integrity to be sustained, but this is questionable given that post-war Western Europe experienced numerous party crises that failed to undermine the integrity of the given state, and Latin America is replete with cases of historically competitive party systems and weak state-building. All of which suggests that political competition is a necessary but insufficient guarantor of Weberian standards.

Legacies, elites, party organisation and competitive strategies

The high point of polyarchic analyses had coincided with the post-war era of 'embedded liberalism' (Ruggie, 1982) but the benefits to democracy of pluralist political structures had turned out to depend on vocational elite commitments to democratic values and political economic conditions that maintained their popularity. The West European party systems literature has consequently long monitored the corrosion of stable party competitions after the 'Golden Age' of European growth. From Kircheimer's (1966) 'catch all' parties to Panebianco's (1988) 'electoral-professional' parties, Koole's (1994) modern cadre parties, Katz and Mair's (1995) cartel parties and Hopkin and Paolucci's (1999) 'parties as business firms' this literature has focused on socioeconomic changes and concomitant shifts in the ideological values and strategies of political elites. As these scholars established, the resulting changes in the identity, social embeddedness and organisational characteristics of parties have significantly altered the effective constraints on governing elites.

If we review Central Europe's revolutionary legacies we can see a clear distinction between political elites that began with deep ideological commitments to democracy and those that did not, the issue being whether the latter were nevertheless strategically constrained and if so, by what. In *Politics Without a Past* Cohen distinguishes 'ideological' and 'mass elites'. 'Ideological' elites she describes as those that remained bearers of alternative ideological visions to Communism: democratic and nationalist, civic and ethnic. These elites preserved historical consciousness of non-Communist ideas and, either via organised dissent through the last decades of Communism or through the resonance of nationalist identity politics, possessed connections to relatively stably

defined and coherent social bases (Cohen, 1999, pp. 5-6). Applying Cohen we can identify the dissident and reformist-led parties of Poland, Hungary, but also Estonia, Lithuania and Slovenia as standing within this category.

In distinction to 'ideological elites' Cohen developed the idea of the 'mass elite' to describe the product of Czechoslovak Communist socialisation (the fragmented ideological elite around Vaclav Havel and Charter 77 notwithstanding). A 'mass elite' is a political elite with the characteristics of the mass as associated with the writings of Hannah Arendt: a group that has been unhinged from traditional institutions and ties by a militantly orthodox or repressive Communism but without being integrated by any modern ideological framework or interest groups. Cohen identified 'mass elites' as ideologically non-committed and hence motivated by short term personal self-interest (Cohen, 1999, pp. 5-6). The Czech Republic, Romania, Bulgaria, Latvia and with caveats, Slovakia have clearly remained dominated by mass elite parties.

The strategic calculations of these relatively socially and ideologically unanchored 'mass elites' regarding party longevity were necessarily different from those of relatively constrained 'ideological' elites. Two different logics of competition thus emerged in the region over time, logics which were further confronted with the management of performance in government and the electoral response to it.

Where parties were attached to emerging electoral cleavages and social bases through their ideological commitments they developed into relatively 'electoral-professional'

parties *i.e.* historically rooted parties increasingly dependent on political ‘professionals’ to develop new strategies of party competition (Panebianco, 1988). For such parties, seeking to maintain the credibility of their normative identities, programmatic competition was the most sustainable source of party establishment, assuming conducive political economic conditions over time. And as Tavits has shown, those that also invested in organisational strength and membership, other things being equal, fared better than their ideological matches in like cases (Tavits, 2012).

Even more than their kin in Western Europe, however, these Central European electoral-professional parties confronted daunting political-economic challenges in government. Party state capture occurred when a pillar of this competition, on the social democratic left in both instances, was knocked out by deepening fiscal constraints on credible economic competition. Given the region’s dominant socio-economic electoral cleavage the collapse of the left ushered in a political battle for the support of lower income voters but in conditions where the impossibility of sustaining redistributive programmes had been proven. Party state capture duly followed from conspiracy-rich nationalist appeals that required the ‘renewal’ of the state and the closing down of democratic competitions now argued to have failed ‘the people’.

Mass elite parties, in the meantime, carried the extreme elite flexibility we associate with ‘business-firm’ parties. Hopkin and Paolucci had observed that new parties in the post-authoritarian democracies of Greece, Portugal and Spain had faced strong pressures towards the ‘electoral-professionalism’ of the established parties of Western Europe but

without the inherited constraints on pushing that model to its logical conclusion. Consequently they could more readily become parties, in Down's phrase, 'that might formulate policies in order to win elections rather than win elections in order to formulate policies' (Downs, 1957, p. 28). Thus "the [business-firm] party, instead of being a voluntary organisation with essentially social objectives, becomes a kind of 'business firm', in which the public goods produced are incidental to the real objectives of those leading it; in Olson's terminology, policy is a 'by-product'" (Hopkin and Paolucci, 1999, pp. 310-312).

Since the 1989 revolutions had called for the dismantling of the Communist patronage state the continuation of that monopoly was impossible, but the greater the post-revolutionary continuation of mass elite control the greater the capacity of these elites to monopolise the process of the state's demise. Central Europe's mass elite parties, however, unlike Forza Italia, were not established businesses seeking access to democratic parliaments, but were formed by MPs arising in either reform-communist or 'opposition' parliamentary groupings who instrumentalised the dismantling of the state to establish brokerage businesses and party hierarchies built on those businesses. Such parties established themselves by monopolising and asset-stripping state resources and information *e.g.* state reserves, including of oil and metals, domestic and foreign company data and protected themselves by disabling existing formal state oversight over government action (Ganev, 2001).

These measures gave first-mover advantage to Communist elite networks in what developed into electorate-mediated competitions over on-going brokerage rights over state-assets. Even where Communist elite ties to the state were ostensibly broken by the election of dissident led governments, as in the Czech and Slovak Republics, we see functionally equivalent efforts to maximise elite discretion after their small ideological elite was effectively purged following the partition of Czechoslovakia by two mass elite parties (Innes, 2001). In the five countries starting out with predominantly mass elites their convergence on the brokerage model is evident despite very different economic inheritances and reform time-lines. And in the absence of vocationally democratic elites voters in these systems can do little more than churn through different factions of political-business networks, hence their convergence towards chronically high corporate state capture rankings combined with high voter volatility and party turnover rates.

Shefter concluded that ‘internally created parties’, *i.e.* those emerging from within state institutions, will consider patronage a viable option as a key survival strategy (Shefter, 1994). Given that the majority of Central European parties emerged and still emerge from within existing parliamentary parties we should not be surprised that only when they were led by committed and constrained democratic elites were there efforts to build Weberian states. Thus where *Leviathan* argued that it was robustness of competition that counted, I would contend that it was the predominance of vocational elites that determined a democratic mode of institution-building. The result is the same division of cases as *Leviathan*'s but on a different basis and with different expectations. It is also worth noting how un-amenable the corrupt cluster is to explanation through different

variables often cited as relevant in accounting for party system, and hence party-state, dynamics, *i.e.* in creating barriers to entry. In practice, variation in electoral systems or the effective number of parties is too high across both clusters to account for the patterning that we see. The following two critical case studies, the first of the pressures on ‘electoral professional’ competition in Poland and the second on the evolution of brokerage parties in the Czech Republic, are offered to test this theory - with both cases providing confirmation.

Ideological competitions, government performance and party-state capture: Poland

As the country with the strongest and most diverse legacy of dissent: an established dissident elite rooted in large sections of society, a committed generation of reformist former communists and a society distinguished by a vibrant and uniquely independent Catholic Church, Polish experience illustrates the pressures facing even the most well founded party systems of the region: those engaged in relatively ‘electoral professional’ modes of programmatic competition. Like their Western counterparts, these party systems had to address the pressing public policy problems of the day to maintain their credibility (Kitschelt, 2010, pp. 669-670). Moreover, with a dominant socioeconomic cleavage regionally (Rohrschneider and Whitefield, 2009) a successful economic policy had to stand at the heart of any government’s reputation for competence. If we then consider the astonishing scope of the transitional project of marketisation and integration into the Single European Market, particularly for an economy as in need of industrial restructuring as Poland’s, it is clear that the biggest performative challenges would be

confronted by those parties on the economic 'left': *i.e.* by those seeking to mitigate the social impact of marketisation on lower income groups via public spending.

When Kitschelt showed how modern, office-seeking West European social democratic parties pivoted left-libertarian or right-centrist depending on the credible competitors to their left or to their right, even the centre-right pivoting social democrats retained positions on the economic left (socialist-capitalist) axis (Kitschelt, 1994). If this retention of leftist economic space becomes impossible, however, *i.e.* if social democratic parties in government lose all serious traction on social justice issues in economic terms, then this logically forces the collapse of their normative project and the credibility of the party as such. It diminishes the space for economic representation and opens up the risk of anti-system players increasing their vote among lower income voters. This scenario is exactly played out in the Polish, but also, notably, in the Hungarian case.

The Polish ex-communist social democratic left had risen on claims to reformism, pro-Europeanism and its ability to mitigate the worst social costs of transition.

Programmatically constrained by the structural requirements of transition, the social Democrats adopted a stance of social-liberal technocracy only for them to collapse when the established post-communist- and already comparatively minimal welfare bargain became untenable and could not be credibly reengineered within the terms of adopted emerging market economic orthodoxies. Given a regime divide of notable historical potency Polish Social Democrats were constrained to not simply start out as market-supporting but to pivot rightwards in search of higher growth over time, only for this to

mean that when growth proved insufficient the party was effectively forced to exit the leftist economic space. As an ex-communist party the Polish Social Democrats would have risked accusations of ideological recidivism had they dared pivot economically leftwards, an anyway unappealing move given no credible competitors on that flank.

In practice high growth rates were not high enough to maintain credible welfare bargaining in the context of liberal fiscal regimes and Poland had hit fiscal difficulties long before the 2008 financial crisis. More specifically, Poland's Social Democrats struggled to maintain their transitional social contract wherein the most vulnerable to market reforms - pensioners and the unemployed - were to be protected through indexed income transfers. Successive governments faced ongoing domestic commitment and continuing investor pressure to cut public spending on the one hand but continuous upward pressures on public finances on the other as deindustrialisation, restructuring, FDI subsidies, inequality and, in more recent years, aging took hold. The funding bind was further tightened by the unintended consequences of liberalisation and liberal tax regimes, the deepening dualisation of Poland's labour markets in particular. As Polish restructuring began in the early 1990s the taxation and social security contributions needed to maintain income transfers induced a significant tax burden. Because neo-liberal economic orthodoxy dictated low tax regimes for personal income tax (Poland saw declining progressivity of PIT and corporate rates through 2000-11 (OECDa) and this was reinforced by a regional race to the bottom on tax competition for FDI, the taxation burden was shifted onto employers. This induced what Esping-Andersen has elsewhere dubbed the 'death spiral' scenario of low employment and lowered tax contributions,

requiring high payroll contributions to support the welfare system, which further lowers employment, stunting growth and business investment and increasing welfare pressures (Pierson, 2001, p. 87).

Polish Social Democrats were eventually forced to break their initial promises of indexed income transfers and improved welfare. But even after transfer entitlements were slashed - unemployment insurance coverage was cut from 80 per cent to 20 per cent already through the 1990s (Riboud et al, 2002, pp. 3,7,10) and unemployment benefit as a percentage of previous earnings reduced to 10.2 per cent by 2007, one of the OECD's lowest levels (OECDb) - the Social Democrats found themselves without the fiscal reserves to develop even minimal endogenous growth strategies *e.g.* higher investment in education, training and infrastructure, on which liberal social democratic parties in Western Europe have increasingly depended. As the region-wide tax competition deepened, spurred on by the EU's crackdown on subsidies, not only did Poland's liberal left lose its margin for any credible economic policy in social justice terms, but over time they had also steadily lost the institutional requirements for more coordinated economic solutions, as union density fell and unions were estranged by radically liberal labour market policies (Ost, 2005).

The denouement in democratic system stability came with the Social Democrats' Hausner plan which proposed cutting public administration and already minimalist social transfers in conditions of 19 per cent unemployment. By 2004 Prime Minister Miller could no longer plead the 'extraordinary politics' of transition and the normative

contradiction of austerity measures coming from a 'leftist' government proved fatal: the programme also coincided with a series of personal corruption scandals – the worst to date - that suggested a leftwing government lining its own pocket while emptying those of its electorate. The SLD duly saw a 25 percentage point decline in support between 2003-04 due to the combination of scandal, spending cuts and Miller's neo-liberal leanings, with support of those with secondary education falling further than among higher educated voters: a proxy for income in Polish polls (CBOS, 2011). The Alliance won only 11.5 per cent of the vote in the 2005 election and consequently barely a quarter of its previous seats in the Sejm. The result was the fragmentation of the Polish left and the advent of Law and Justice's coalition government: the most socially illiberal administration since 1989. This was followed by Tusk's liberal government: a continuation of 'institutionally robust' competition but now between pro- and anti-system parties.

As the Polish case illustrates, the loss of the left's normative credibility is particularly severe when the failures to manage welfare bargaining are apparently endogenous to economic management. But the consequences for the evolution of the state are potentially greater because the collapse of effective economic representation by the left in Poland but also in Hungary necessarily limited the credible space of economic competition and encouraged competing political elites to abandon 'mainstream' political-economic discourses (Ost, 2005). In these circumstances those political players not constrained by value commitments and seeking to gain the newly de-aligned lower income vote were highly likely to choose re-politicisation of the state as a powerful alternative source of

party longevity. Constituency-building through programmatic competition was no longer credible in economic terms and ‘brokerage’ style corruption was riskier in these more consolidated systems.

If we extend this account of the supply-side vulnerabilities of our more programmatic electoral systems we can see that in Lithuania the Social Democrat’s eventual shift to neo-liberal economic policies appeared more determined by external shocks than endogenous party strategy. And here the response to the Russian economic crisis and EU accession was a populist attempt to outflank the social democrats from the left. The social democratic left and pro-system competition survived most strongly, that is, up until the financial crisis, where coordinated market development and competitive corporatist strategies were pursued from the outset, uniquely, in Slovenia. Social democratic parties have also survived, though not thrived – Estonia has yet to see a Social Democratic government - where welfare preferences have been traded off against a dominant national question, as in Estonia but also to a degree in Lithuania.

Mass elite competitions, brokerage parties and corporate state capture: Czech

Republic

The Czech Republic is an open society that experienced clear state-ness (after 1993), relatively functional administrative and fiscal legacies, low inequality and relatively high socio-economic development, relatively high and uniformly distributed FDI (Hancke and Kureckova, 2008) and international integration in NATO and the EU. According to recent studies the Czechs also have the most distinct socioeconomic/left-right cleavage of

the region (Rohrschneider and Whitefield, 2009). In this, by far the most structurally advantaged of the putative ‘brokerage’ cases therefore we might have most reasonably expected a positive reform of the party-state relationship over time. Because of the relatively weak opposition, however, the values of the first Czech coalition government and its dominant party, Vaclav Klaus’s Civic Democratic Party (ODS), turned out to be critical in framing the new political game towards corporate state capture.

Constituted out of communist ‘grey-zone’ mass elites the ODS claimed belief in the impersonal power of the market and seized the technocratic high ground by insisting that it alone understood how to institutionalise a market system. The party thus co-opted the discursively ‘scientific’ mode of the old system, albeit now in Hayekian terms, so that the economy and not democratic institution-building were supposed to be the engine from which all social transformation, including democratisation, would follow. But while even a quick review of the ODS’s actual economic policies would reveal a highly pragmatic rather than neo-liberal approach to market-making, Klaus held firm to party control of the state and its non-regulation. As a rent-seeking mass elite party, therefore, the ODS was consistent in its ideological inconsistencies. From the early 1990s to the time of writing the ODS has justified the failure to professionalize the civil service as an anti-state principle having undermined the one potentially serious reform attempt made by the Social Democrats.

By the end of the Klaus coalition governments of the early 1990s, which ended in 1997 amidst major bank collapses and party finance scandals involving the right wing coalition

members and Social Democrats, the ODS had lost its credibility as a party able to offer growth without pain and the ministries had clearly developed as political fiefdoms.

Support for the centre-left Czech Social Democratic Party (ČSSD) had duly risen as it embraced a platform of ‘cleaning up the state’ and their ‘Clean Hands’ campaign of 1998 proved the tipping point. The ČSSD won 26.5 per cent of the vote in 1996 and 32.3 per cent in 1998. However, as the rising party of a ‘catch all’ opposition the ČSSD had also become increasingly factionalised and dominated by its own rising mass elite factions.

The 1998 elections results produced a narrow ČSSD victory but after failed coalition talks the remaining option was a ‘toleration’ agreement with the ODS. The resulting Opposition Agreement gave *de facto* legislative veto powers to the hitherto dominant party and Klaus extracted a more majoritarian electoral law (a move to D’Hondt) as the ODS’s price. President Havel decried the Agreement as ideologically incoherent and the Supreme Court declared the electoral law unconstitutional in 2001. But in the interim the deal undermined the former right-wing rival and coalition partner, the Christian Democratic Union/Czech People’s Party (KDU-ČSL) and the new Freedom Union: a breakaway faction and would-be replacement for the ODS, now exposed as impotent. The Agreement also undermined the ČSSD government since the ODS voted down their major proposals even as it extracted patronage and legislative favours (Innes, 2001). The ČSSD thus rode out the second recession unable to secure much of their mandate, weakening the party’s ideological members even as the process of bailing out and privatising the Republic’s banking system strengthened the party’s more corrupt mass elites. According to the former Senate Vice Chairman, Edvard Oustrata (Independent), the

Opposition Agreement of 1998 “divided all the most important jobs between parties while the ČSSD pretended to govern.” As such it “reintroduced the worst aspects of the Pětka”: the group of five coalition party leaders in 1930s Czechoslovakia who had colluded in entrenching their control of the state. (Author interview, 2005). Within a year the ‘Clean Hands’ campaign had stalled and was cancelled after those responsible were found to have exploited investigations for their own purposes (East European Constitutional Review, 2002).

The isolation of ‘ideological’ factions within the Social Democrats is indicated by the fate of civil service reform. Once in government the only ČSSD minister determined to de-politicise and professionalize the civil service was Vladimír Špidla, the new Minister for Labour and Social Affairs but a ‘grassroots’ politician who had joined the party in 1990 and only entered parliament in 1998: a popular technocrat on the (anti-communist) left of his party but hopelessly weak in factional terms. The resulting Service Act 218/2002 was only passed, already weakened in substance by ODS, so as to guarantee EU accession, but once accession was granted this EU leverage was lost. The implementation date of Act 218/2002 was consequently not just repeatedly postponed but eventually dropped. In November 2006 the Social Democrat government adopted a Resolution (Number. 1232) returning the basic management of the civil service to the Ministry of Interior. In August 2007 the new ODS-led coalition both postponed the Act again, to 2012, and then announced it would replace it, suggesting it would prepare a new law in which personnel decision-making was maintained in the hands of individual

ministries (Scherpereel, 2009, p. 215). The abandoned law has yet to be replaced with new proposals.

For a survey of the rise of corrupt practices, internal network disputes and the growing dominance of formerly senior communists in the top ranks of the ČSSD, Jordan offers a compelling account up to 2002 (Jordan, 2002). It is clear by now, however, that the brokerage properties of the emerging party-state relationship have become systemic. According to recent data on public procurement, compiled by ZIndex at the Institute of Economics, Charles University, 80 per cent of all contracts awarded by Czech ministries between 2006-2010 were awarded without competition or 'in private'. Some 67 per cent of purchases occurred entirely outside of the Ministry of Information's Public Procurement Information System (ISVZ) and a further 14 per cent involved an identical number of candidates and winners, typically, one. Only the Ministry of Finance had more than 50 per cent of its contracts going through nominally traceable channels (52 per cent) – and as the purse-holder to the other ministries this, post-privatisation, is not surprising. Every other ministry, however, showed less than 30 per cent of their procurement going through traceable channels and the Ministry of Defence, Ministry of Local Development and the Ministry of Justice managed only 17, 14 and 11 per cent of transparent contracts respectively. The value of contracts awarded through these opaque channels is estimated at 276 billion crowns or roughly one-fifth of the current national debt (ZIndex, 2011).

For everyday politics, party elites have become adept at a form of façade activity in which multiple anti-corruption initiatives are launched while the leadership remains safe

in the knowledge that none will be implemented. Regulatory legislation can be derailed because of the ease of parliamentary amendment and lobbying is unregulated. At the ministry level, however, the answer is simply non-execution. For example, back in 1999, under Špidla's influence and under growing pressure from the EU to improve state function, a Government Programme for Combating Corruption (PCC) was adopted on 17th February and re-adopted in more developed form again in 2001, 2002 and 2003. It soon became clear, however, that the PCC was so weakly implemented that many of the agencies with roles in the Programme had little knowledge of it (SIGMA, 2003: p. 9). By 2003, moreover, the EU/OECD sponsored organisation SIGMA (Support for Improvement in Governance and Management), highlighted the following obstructions to clean government in the Czech Republic: a Czech Bribery Law that was broadly in line with EU standards but which was unsupervised and so ineffective; a 'dormant' Civil Service Act [now defunct]; a Conflict of Interest law dating from 1992 which applied to no-one below the level of Minister or Administrative Head of Department, for which there was little proof of compliance and which provided no sanctions for violations; a weak 'general duty' to avoid conflicts of interest stated in a broadly un-enforced Labour Code and a weakly developed and barely implemented Code of Ethics for public officials and elected officials; the absence of effective protection for 'whistleblowers' despite a legal obligation to report corruption (SIGMA, 2003, p. 10).

SIGMA's writ ran out with EU accession but hands-off monitoring continued via the OECD's working groups on its Governance Conventions. As with the EU pre-accession period, however, Czech authorities continue to combine failure to comply with

substantive measures, including the introduction of legal liability for foreign bribery, with enthusiasm for soft measures involving the publicising of OECD Conventions and the country's signatory status (OECDc). The EU's efforts to encourage state capacity building through regulatory impact assessments (RIA) and policy audit have also fallen on stony ground. The Czech Legislative Rules of Government introduced a RIA requirement in 1998 after strong EU encouragement but it only entered into force in January 2008 under the technical government of Jan Fischer. And with the Department for Regulatory Reform based in the Ministry of Interior the RIA unit had no power to monitor or supervise other line ministries which subsequently showed no interest in standard adoption (Staranova, 2010, pp. 122,133).

According to Transparency International's David Ondracka one can speak of the privatisation of the Czech party system with the brokerage of state-corporate interests dominating all the main political parties from the top down and the bottom up, since the limited membership of political parties makes their entrepreneurial takeover at the local level easy. The process has intensified as the rents available from privatisation dried up and this shrinking market encouraged political parties and their established business networks to turn to state-based opportunities. It has consequently ceased to be appropriate to look for inner party democracy *per se* in these parties as their internal party structures are determined through vote buying, patronage and manipulation, primarily in the services of building brokerage networks. And although the factionalism of the major parties might imply a vibrant ideological life, these factions are defined by the competing interests of different networks rather than by differences in policy, ideology or

personality (Authors interview, 2011). The ascendance of Petr Nečas to the leadership of ODS and position of Prime Minister (2010-2013), for example, was widely attributed to the fact that this reputedly ‘clean’ politician did *not* head a brokerage network and was consequently the only leader on whom factions could agree. Nečas was nevertheless forced to resign in June 2013 following the arrest of his chief aide (and supposed lover) for the alleged bribery of MPs and abuse of Military Intelligence: to spy on Mrs Nečas. The Czech government remains ‘effective’: the macro economy continues to be managed, income transfers paid *etc.* But across the board of policy making, from welfare to education, from energy to environment, new public policies are largely the side-products of identified opportunities for rent-seeking by allied party and business elites.

The ODS received their lowest ever electoral vote in the 2010 elections, the ČSSD their lowest since 1992 but the institutionalisation of the brokerage party system is illustrated by the two main beneficiaries of this volatility. The first ‘breakthrough’ party, TOP09, was an attempt to outflank the ODS on the nominally neo-liberal right by the former KDU-ČSL faction under Miroslav Kalousek: the Christian Democratic faction most mired in corruption scandals through the 1990s. In TOP09 Kalousek consolidated a relatively disciplined vehicle re-branded under the popular leadership of the diplomat and now Foreign Minister, Karel Schwarzenberg: multiple scandals have ensued. The second ‘breakthrough’ party, Public Affairs (VV), had championed anti-corruption only to be exposed in April 2011 as an ongoing front for a private security firm, ABL. Despite a blaze of scandal regarding private payments to VV MPs by the former ABL boss-turned Transport Minister (and, it transpired, *de facto* Interior Minister) Vít Bárta, VV,

incredibly, remained in the governing coalition. As for the old guard, Richard Falbr, former leader of the Confederation of Czech and Moravian Trades Unions, ČSSD Senator and now ČSSD MEP describes the political system as having shifted from one of ‘basic artificiality’ to one in which ‘corruption is the rule’. ‘The number of actual Social Democrats in my party at this point is an absolute minimum’, he concludes (Author interview, 2011). In spring 2012 police raided the home of former ČSSD Health Minister and MP, David Rath and found 7 million crowns hidden in a wine-box and according to a BBC report, a further 30 million under the floorboards. Klaus’s final act as outgoing President of the Republic was to declare an amnesty that included among the most notorious cases of fraud and embezzlement during his tenure.

Conclusions

Where has the EU been in all this? The EU’s leverage is necessarily limited in cases of party state capture rooted in domestic fiscal constraints and the collapse of economic competition. In a region dominated by a growth model in which consumption and dependence on foreign capital has been prioritised over increases in employment and innovation even the strongest party systems in these open economies are exceptionally vulnerable. Long before the European financial crisis the deepening of the region’s fiscal constraints had encouraged coping-mechanisms ranging from the proliferation of short-term employment contracts to the replacement of public welfare by personal debt; strategies that precluded the output-legitimacy so important in embedding the values of post-war Western European democracies (see also Epstein and Jacoby, this volume).

The EU's leverage in the cases of corporate state capture rooted in brokerage party systems is equally weak, why? Because, as Mungiu has pointed out, where public goods are distributed on a particularistic basis that mirrors the distribution of economic power within these societies, any anti-corruption strategies that these elites care to take on are typically adopted and implemented in cooperation 'with the very predators who control the government and, in some cases, the anticorruption instruments themselves' (Mungiu, 2006, p. 87). In this light the chronically high rates of voter volatility in these cases – between 20-60 per cent in each election between 1990 and 2010, where West European party systems are hitting a 'spike' if volatility exceeds 20 per cent (Dassonneville and Hooghe, 2011, pp. 33-34) - is unsurprising, as is the steady rise in the effective number of parties at both the electoral and parliamentary levels through the same period, encouraging a vicious circle of non-consolidation (Tavits, 2005). The only solution to such serious instability is an effective war on particularism and this battle is necessarily domestic and civil, as Dimitrova and Buzogány's article in this volume illustrates so well.

Can the EU at least do something to alter these domestic balances of power? The EU already mitigates the imbalances of public investment and development through its structural, cohesion and agricultural subsidies. And although these are targeted for abuse within the brokerage party systems it would surely have been worse for these countries to have opened to the globalised world economy without EU membership and the massive subsidies and latterly, bank bailouts that have come with it. But the more pressing issue raised by the current Eurozone crisis is whether the EU will seek to re-engineer the model of European capitalism away from the dominant neo-liberalism in which the rising profit-

share and tendency to boom and bust are pitching hitherto stable member states, old and new, into unlooked for political storms. Thus the EU has promoted an increasingly liberal capitalist game only to find itself in an unprecedented crisis as to how to reinforce its legitimacy. In the meantime Central Europe has developed party systems increasingly polarised between economically highly liberal right-wing parties who speak to the socio-economic ‘winners’ and, absent credibly programmatic social democrats, socially and politically illiberal parties seeking to attract ‘the losers’. And half of the new member states are characterised by brokerage parties that instrumentalise the effective mainstream space of ideological competition to primarily private ends. Consequently we should not expect stable party-state relations in this region any time soon.

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