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Prosecuting high-level corruption in Eastern Europe

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ABSTRACT

Do Eastern European courts effectively constrain politicians and uphold the rule of law? Criminal prosecution of grand (high-level) corruption can further the central principle of equal responsibility under the law by demonstrating that even powerful political actors have to submit to the laws of the land. This article introduces the *Eastern European Corruption Prosecution Database*, which contains entries for all cabinet ministers (927 in total) who served in a government that held office in one of seven post-Communist Eastern European countries since the late 1990s. The systematic data collection reveals that Bulgaria, Romania and Macedonia consistently indict more ministers than Croatia, the Czech Republic, and Poland; Slovakia has barely indicted anyone. We aim to start a research agenda by formulating hypotheses about which countries will see more corruption prosecutions and which ministers' characteristics would make them more likely to face the court. We use the database to begin testing these hypotheses and find some evidence for several associations. We find no strong evidence that EU conditionality or membership raises the profile of the grand corruption issue or leads to more indictments. Party politics seems to affect the frequency of corruption indictments more than the structure and behavior of legal institutions. Indictment rates are lower when a former Communist party controls the government and individual ministers from junior coalition partners are more vulnerable to indictment than other ministers. The existence of a specialized anti-corruption prosecution or a more independent judiciary do not seem to lead to the indictment of more ministers on corruption charges. Finally, we discuss avenues of future research that our database opens, both for the analysis of country-level and individual-level variation.

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Do Eastern European courts effectively constrain politicians and uphold the rule of law? Have post-Communist states managed to build powerful and independent judiciaries? The growing literature on the topic has reached mixed conclusions. Some newly-established or emancipated Constitutional courts built enough power and legitimacy to prevent power grabs, reduce legislative overreach, and uphold constitutional rights (Schwartz, 2000; Smithey and Ishiyama, 2002; Herron and Randazzo, 2003; Ganev, 2003; Hanretty, 2014) to the point of becoming better at delivering and guarding democracy than elected institutions (Scheppele, 2005). Ordinary and administrative courts allow citizens to sue the state and protect their rights (Goldston, 2006). However, judicial power and independence can be fickle and have been rolled back by incumbents with strong popular mandates, as the weakening of Constitutional Courts in Hungary and Poland indicates (Bugarcic, 2008;

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Bánkuti et al., 2012; Bugaric and Ginsburg, 2016). Powerful and independent judiciaries do not always maximize the rule of law. Some post-Communist judiciaries became too powerful or too independent and created political dysfunction (Schonfelder, 2005; Popova 2010, 2012; Kosar, 2016); structural reforms, inspired and pushed by a combination of domestic champions and EU support, have produced major formal change and brought Eastern European judiciaries in line with international “best practices” (Coman and De Waele, 2007; Parau, 2012; Mendelski, 2012; Dallara, 2014; Bobek, 2015). But *de facto* judicial independence remains elusive, whether due to slower ideational or personnel change within the judiciary (Bobek, 2008, 2015; Kosar, 2016) or due to the failure of EU-mandated transplanted formal institutions to overcome domestic obstacles (Mendelski, 2015).

The quintessential manifestation of courts constraining politicians is the prosecution of grand political corruption. Criminal prosecution of high-level politicians demonstrates that even powerful political actors have to submit to the law—a development which upholds the central principle of equal responsibility under the law. Since most Eastern European states are blighted by high-level political corruption (Sajo, 1998; Karklins, 2016; Holmes, 2003; Sandholtz and Taagepera, 2005; Mungiu, 2006; Kostadinova, 2012), electorates are highly concerned about it (Grigorescu, 2006), and mistrust political institutions because of it (Andersen and Tverdova, 2003), we can expect many corruption trials of high-level politicians in the region. There has been some research on the topic (Popova, 2012; Mendelski, 2015; Borzel and Schimmelfennig, 2017; Holmes, 2017; Elbasani and Šabić, 2017), but all studies we are aware of focus on single cases or on comparisons of two cases and discuss a few landmark illustrative cases, rather than the universe of cases or a selected sample.

To move the research agenda forward, we have created the first database that systematically tracks the prosecution of cabinet ministers on corruption charges. The *Eastern European Corruption Prosecution Database* contains entries for all cabinet ministers (927 in total) who served in a government that held office in one of seven post-Communist Eastern European countries (Bulgaria, Croatia, Czech Republic, Macedonia, Poland, Romania, and Slovakia) since the late 1990s. Table 1 contains an overview of the governments surveyed in this analysis (see Table 2).

For each minister, the database contains information about their portfolio, the beginning and end of their tenure in office, party membership and ideology, and their corruption prosecution experience, that is, whether a minister has been indicted on corruption-related criminal charges; if they have, when the indictment was filed in court; and whether and when the indictment has ended in an acquittal or a conviction. The database allows both individual-level and country-level analysis. The seven countries share a civil law judicial tradition and successful post-Communist era democratization, albeit with different pace and degree. They vary on the perceived level of corruption, the strength and timing of EU leverage, and the scope and success of judicial reform in the post-Communist period.

This article introduces the *Eastern European Corruption Prosecution* database by describing the variation in indictments for grand corruption in the region, both at the country level and at the individual level. The data demonstrates that more ministers get indicted for corruption in the Balkans than in Central Europe. We aim to start a research agenda by formulating a broad range of hypotheses that could explain variation in prosecutions of grand political corruption at the country level and at the individual level. We use the database to begin testing these hypotheses and find some evidence for several associations: 1) fewer ministers from cabinets that include a former Communist party get indicted for corruption; 2) countries with weaker democratic institutions indict more ministers for corruption; 3) ministers in portfolios with greater corruption opportunities get indicted more often; and 4) ministers from junior coalition partners are more vulnerable to a corruption indictment. Finally, we discuss avenues of future research that our database opens, both for the analysis of country-level and individual-level variation.

1. Introducing the Eastern European corruption prosecution (EECP) data base

When it is completed, the EECP Data Base will include all cabinet ministers from all cabinets that held office in Bulgaria, Croatia, Czech Republic, Macedonia, Poland, Romania and Slovakia between the late 1990s and the present. We chose the

Table 1

Cabinets included in the East European corruption prosecution data base.

Country	Cabinets
Bulgaria	Kostov (1997–2001), Sakskoburggotski (2001–5), Stanišev (2005–9), Borisov I (2009–13)
Croatia	Mateša (1995–2000), Račan I (2000–1), Račan II (2001–2), Račan III (2002–3), Sanader I (2003–6), Sanader II (2006–8), Sanader III (2008–9), Kosor I (2009–10), Kosor II (2010–11), Milanović (2011–16)
Czech Republic	Zeman (1998–2002), Špidla (2002–4), Gross (2004–5), Paroubek (2005–6), Topolánek I (2006), Topolánek II (2006–10), Fischer (2009–10), Nečas (2010–13)
Macedonia	Georgievski (1998–2002), Crvenkovski (2002–2004), Bučkovski (2004–2006), Gruevski I (2006–2008), Gruevski II (2008–2011), Gruevski III (2011–2014)
Poland	Buzek I (1997–2000), Buzek II (2000–1), Miller I (2001–3), Miller II (2003–4), Belka (2004–5), Marcinkiewicz I (2005–6), Marcinkiewicz II (2006), Kaczyński (2006–7), Tusk I (2007–11), Tusk II (2011–14)
Romania	Isărescu (1999–2000), Năstase I (2000–3), Năstase II (2003–4), Popescu-Tăriceanu I (2004–6), Popescu-Tăriceanu (2006–7), Popescu-Tăriceanu (2007–8), Boc I (2008–9), Boc II (2009–10), Boc III (2010–12), Ungureanu (2012), Ponta I (2012), Ponta II (2012–14)
Slovakia	Dzurinda I (1998–2002), Dzurinda II (2002–6), Fico I (2006–10), Radičová (2010–12), Fico II (2012–16)

Source: East European Corruption Prosecutions (EECP) database.

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