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Overcoming History, Becoming European?

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Overcoming History, Becoming European?

Politics of the Past and European Union Accession in Bulgaria
and Serbia

Proefschrift

ter verkrijging van de graad van doctor aan de
Rijksuniversiteit Groningen
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*“Master,” the lion replied calmly.
“Didn’t you know that Fantastica is the land of stories? A story can be new and yet
tell about olden times. The past comes into existence with the story.”*

*“Then Perilin, too, must always have been there,”
said the perplexed Bastian.*

*“Beginning at the moment when you gave it its name,” Grograman replied,
“it has existed forever.”*

- Michael Ende, *The Neverending Story*

*Herinnering is zo levend dat ontkennen niet kan.
Het is zo levend en zo niet meer.*

- Henny Wentholt-Helmers

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Abbreviations and notes

Throughout the text, political parties are introduced by their domestic name and the domestic abbreviations are used. Example: *Demokratska Stranka* (Democratic Party, DS).

BSP:	Bulgarian Socialist Party
CoE:	Council of Europe
Council:	Council of the European Union
DOS:	Democratic Opposition of Serbia
DPS:	Movement for Rights and Freedoms (Bulgaria)
DS:	(former) State Security (Bulgaria)
DS:	Democratic Party (Serbia)
DSB:	Democrats for a Strong Bulgaria
DSS:	Democratic Party of Serbia
EC:	European Commission
EP:	European Parliament
EPP:	European People's Party
EU:	European Union
GERB:	Citizens for European Development of Bulgaria
GSS:	Civic Alliance of Serbia
ICTY:	International Criminal Tribunal for the former Yugoslavia
LDP:	Liberal Democratic Party (Serbia)
MEP:	Member of European Parliament
MP:	Member of Parliament
NDSV:	National Movement Simeon the Second (Bulgaria)
NS:	New Serbia
PES:	Party of European Socialists
Platform:	Platform for European Memory and Conscience
Prague Declaration:	Prague Declaration on European Conscience and Communism, 2008
SAA:	Stabilisation and Association Agreement
SDS:	Union of Democratic Forces (Bulgaria)
SNS:	Serbian Progressive Party
SPO:	Serbian Movement of Renewal
SPS:	Serbian Socialist Party
SRS:	Serbian Radical Party
UN:	United Nations
WCC:	War Crimes Chamber (Serbia)

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Niké Wentholt. "Mirroring Transitional Justice: Construction and Impact of European Union ICTY-conditionality." *Südosteuropa Journal of Politics and Society* 65, no. 1 (2017): 77–98.

Niké Wentholt. "Open Archives to Close the Past: Bulgarian Archival Disclosure on the Road to European Union Accession." In *State-Sponsored History*, edited by Nico Wouters and Berber Bevernage, 161–175. London: Palgrave Macmillan, 2018.

Introduction

War, communism, democratisation, genocide, violence—the twentieth century is often described in terms of such extremes, turmoil and conflict. The 1990s shook the established world order to its foundations, compelling leading scholars as well as politicians to reconsider internationally-led transitions. The end of the Cold War popularised the idea that global solutions could affect economic, social, and political change. However, there remained the question of how to deal with the past: How to address injustices committed by authoritarian regimes or armed groups? This is explored within the field of transitional justice. Transitional justice is commonly defined by the United Nations (UN) as “the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.”¹ Gaining ground during the 1980s in Latin America, the idea of transitional justice really took flight with the post-socialist transitions that occurred in the former Soviet Union and Eastern Europe, as well as events such as the wars during the break-up of Yugoslavia, the end of Apartheid in South Africa, and the Rwandan genocide.²

This book will focus on Southeast Europe, most commonly known as the Balkans. All these countries³ were led by authoritarian socialist regimes in the post-Second World War period until the 1990s. Dealing with post-socialist transition and some additionally with post-war transition (caused by the armed conflict in Yugoslavia), this region is thus well suited to an exploration of transitional justice. The area also provides a fascinating stage in itself, as it forms the periphery of Europe (and sometimes its border),

¹ United Nations Secretary General, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General to the Security Council, S/2011/634*, New York, 2011, 4. A common distinction made between these measures renders them either retributive, focussed on the perpetrator and punishment, or restorative, focussed on the victim and the societal, although this is a rather simplified depiction. Retributive justice can, for example, contribute to truth telling, which forms the realm of restorative justice. By their very judicial function, investigations, prosecutions, and trials directly work upon the past. They scrutinise the facts, and thus aim to establish truth both for those directly involved, and for a wider audience. By making judgements about responsibility and accountability, and by acknowledging facts, they “shed light on the past.” Cynthia M. Horne, “The Impact of Lustration on Democratization in Postcommunist Countries,” *The International Journal of Transitional Justice* 8 (2014): 500. Moreover, they might engage with the question of the relationship between past and present. As Marc Osiel emphasises, trials can function as “monumental spectacles” that articulate the rupture between the peaceful present and the violent past. Sometimes, their core task even seems to be accompanied by a verdict on how this past is to be perceived, via which judges or their representatives may then claim to provide closure for the victims. Marc Osiel, quoted in Raluca Grosescu, “Master Historical Narratives and Transitional Criminal Justice in Post-Communist Societies: Bulgaria, Germany and Romania in Comparative Perspective,” Centre for Advanced Study Sofia (CAS), *Working Paper Series* 6 (2014), 4, <http://www.cas.bg/uploads/files/WPS-APP-6/Raluca%20Grosescu.pdf>. All URLs of the references have been checked and verified by me on 20 February 2019.

² The post-Cold War period also saw changes in thinking about state power: within the new paradigm, state collapse was associated with human rights violations, whilst before its focus had been on state-induced violence. This further consolidated the perceived value of transitional justice, since it was thought to contribute to state stability. Bronwyn Anne Leebaw, “The Irreconcilable Goals of Transitional Justice,” *Human Rights Quarterly* 30, no. 1 (2008): 105.

³ With the exception of Greece.

geographically as well as in the cultural and historical imagination. How did these countries move from war and authoritarianism to an aspirational future within the European Union (EU)?

Transitional justice: the political and the politicised

Whilst the question above may appear simple, it masks important academic as well as practical dynamics and complications. Let us start with the concept of “moving away from,” which is studied within the field of transitional justice—a field that for some “does not really know what it is.”⁴ Despite (or perhaps due to) the urgency of political and economic changes, the field has been both under- and overdeveloped. It is overdeveloped in the sense that it has recently been conceptually and practically linked to all other academic realms it could possibly be related to: peace studies, memory studies, and conflict resolution, to name but a few.⁵ A recent edited volume, entitled *Transitional Justice Theories*, sets out to offer a more complete theorisation of the field, however, rather than resolving any methodological difficulties, the work raised such a diverse picture of transitional justice that it merely served to reinforce the complexity of the concept.⁶ The idea risks losing its cohesion and scope if it diverges along so many tangents.⁷

Yet the field is also underdeveloped, in the sense that it remains unclear precisely what it intends to achieve, and how—not least as it lacks “theories of change.”⁸ At the same time, the concept cannot be detached from its normative underpinnings. These in particular stem from the branch of liberalism that characterised popular and academic understanding of change in Western countries in the 1980s and 1990s—values that do not translate into a conceptualisation of clear steps resulting in supposed change.⁹ Recent research has attempted to unwrap and deconstruct this fundamental ideological stance, whilst typologies of transitional justice as a “global project” and an “industry” have now

⁴ Anna Macdonald, “From the Ground Up: What Does the Evidence Tell Us about Local Experiences of Transitional Justice?” *Transitional Justice Review* 1, no. 3 (2015): 114. For a recent assessment of the “centrifugal forces” of the transitional justice field, including the lack of conceptual coherency in the different mechanisms constituting transitional justice, see Pablo de Greiff, “Transitional Justice Gets Its Own Encyclopedia: Vitamins or Steroids for a Developing Field?” *The International Journal of Transitional Justice* 7 (2013): 547–553.

⁵ Hence, Christine Bell questioned transitional justice’s eligibility as a field. Christine Bell, “Transitional Justice: Inter-disciplinarity and the State of the ‘Field’ or ‘Non-Field,’” *International Journal of Transitional Justice* 3, no. 1 (2009): 5–27.

⁶ Susanne Buckley-Zistel et al., *Transitional Justice Theories* (London: Routledge, 2014).

⁷ Therefore, recently, many scholars have come to conceptualise transitional justice as an “approach” via which to achieve justice in times of transition from conflict or repression, rather than as a distinct form of justice in or of itself. For an introduction into the debate, see, e.g., Bell, “Transnational Justice”; Stephen Winter, “Towards a Unified Theory of Transitional Justice,” *International Journal of Transitional Justice* 7, no. 2 (2013): 224–244.

⁸ Jens Iverson, “Transitional Justice, Jus Post Bellum and International Criminal Law: Differentiating the Usages, History and Dynamics,” *The International Journal of Transitional Justice* 7, no. 3 (2013): 418; Michael P Scharf, “From the eXile Files: An Essay on Trading Justice for Peace,” *Wash. & Lee L. Review* 63 (2006): 346.

⁹ Macdonald, “From the Ground Up,” 115.

become commonplace.¹⁰ Amongst other criticisms of liberalism, some have pointed out the detrimental effects of the “top-down” approach that has characterised most of its practice, as well as its inherent power asymmetries¹¹—most notably the ways in which it ignores local customs, mediation, wisdom, and realities.¹²

Even if we were to reach a consensus on what transitional justice should do, it is unlikely that this would translate into its satisfying global implementation. As a number of studies have shown, the success of transitional justice does not depend on the preferences and needs of the community—whether international, national, or local—but rather on the political will to embark on such a process.¹³ Confronting historical injustice is often an uncomfortable process that has little positive effect on a given electorate. Furthermore, when the public does desire transitional justice, political elites can be tempted to manipulate the process for their own gain.¹⁴ Drawing a line between past and present helps to establish the in-group as innocent and righteous successors whilst in reality, most transitional situations exhibit significant overlap in structures, personnel, and ideology between old and new regimes. Although state-led processes are especially vulnerable, even non-political forms of transitional justice are not immune to the risks of such opportunism.¹⁵

¹⁰ Paul Gready, *The Era of Transitional Justice: The Aftermath of the Truth and Reconciliation Commission in South Africa* (Abingdon: Routledge, 2011), 5; Rosemary Nagy, “Transitional Justice as Global Project: Critical Reflections,” *Third World Quarterly* (2008): 275–289.

¹¹ Although these objections may indeed seem to apply more to the coloniser/settler context than to the Balkans, Sarah Maddison and Laura J. Shepherd explain that the very origin of transitional justice in “Western triumphalism” reflects a deep power asymmetry. Sarah Maddison and Laura J. Shepherd, “Peacebuilding and the Postcolonial Politics of Transitional Justice,” *Peacebuilding* 2, no. 3 (2014): 260. In addition, many organisations in the region are wary of using the term transitional justice. Especially in Serbia, where the International Criminal Tribunal for the former Yugoslavia (ICTY) has almost become synonymous with transitional justice, many prefer different labels. Jamie Rowen, *Search for Truth in the Transitional Justice Movement* (Cambridge: Cambridge University Press, 2017), 63.

¹² Dap Louw and Lezahne van Wyk, “The Perspectives of South African Legal Professionals on Restorative Justice: An Explorative Qualitative Study,” *Social Work, Maatskaplike Werk* 51, no. 1 (2015): 490–510; Don John O. Omale, “Justice in History: A Critical Examination of ‘African Restorative Traditions’ and the Emerging ‘Restorative Justice’ Paradigm,” *African Journal of Criminology and Justice Studies* 2, no. 2 (2006): 33–64. Recently, special attention has been paid to local practices of justice in sub-Saharan African countries. Although here, again, there is a tendency to politicise, essentialise, and romanticise these practices. Literature indicates there is also a mismatch between international understandings and local understandings of key terms in transitional justice. Accountability, reconciliation, truth, and justice—they all mean something else to diverging audiences, making it even more difficult to assess, or worse, to quantify, the effects of transitional justice. Macdonald, “From the Ground Up,” 90–93, 95–96, 113. This article is in itself an extended literature study, analysing evidence from a wide sample of studies engaging with local realities and perceptions of transitional justice.

¹³ For an interesting discussion of the relation between needs, academic expectations, and (political) realities, see, e.g., Kirsten Ainley, “Evaluating the Evaluators: Transitional Justice and the Contest of Values,” *International Journal of Transitional Justice* 11, no. 3 (2017): 421–442.

¹⁴ See, e.g., Anja Mihr, “Transitional Justice and the Quality of Democracy: From Democratic Institution Building to Reconciliation,” *SIM Special 37. Transitional Justice: Between Criminal Justice, Atonement and Democracy* (2012): 29.

¹⁵ For instance, in the case of Ireland, Cillian McGrattan shows how truth seeking can be used to materialise, activate, and fix existing ethicised understandings of the past that impede inclusive and pluralist narratives rather than promote them, thus making the “truth recovery paradigm ultimately concerned with political power.” Cillian McGrattan, *Memory, Politics and Identity: Haunted by History* (London: Palgrave MacMillan, 2013), 143–144. See also Cillian McGrattan, “Policing Politics: Framing the Past in Post-Conflict Divided Societies,” *Democratization* 21, no. 3 (2014): 389–410. Also relevant here is Lavinia Stan’s work on truth commissions, often described as “political tools producing political results at

A cynical, perhaps pragmatic reading might suggest that this makes transitional justice “just another” policy area subject to the whims of political interests. Rather than treating the politicisation of transitional justice as a possible conclusion, I use its politicisation as my starting point. In order to investigate this political dealing with the past, I focus specifically on political parties, as they need to negotiate electoral wishes, on the one hand, and external demands and expectations, on the other hand, including those of the EU.

Yet this focus on politics and political parties perhaps comes at a methodological, even moral cost, potentially denying wider issues of justice and transition.¹⁶ This echoes the call from leading expert Louise Arbour who, speaking more than a decade ago, suggested that transitional justice needs to fully engage with socio-economic and cultural injustices.¹⁷ Moreover, the focus on political parties goes against the current academic interest in civil society actors, which are considered to be understudied.¹⁸ My choice not to pursue these pleas adds to this book’s limitations.

Nevertheless, this decision was deliberate and stems from a wish to interpret the field of politics itself more broadly. Only by gaining this broader understanding will I be able to unpack the politics inherent to my research question. Originating in the West and perpetuating power imbalances, transitional justice is considered a hegemonic paradigm.¹⁹ In 2010, Paul Gready wondered whether “transitional justice has become the conscience of transitional globalisation without troubling its essential characteristics,” referring especially to neo-liberalism.²⁰ Whilst I consider these critical reflections on globalisation to be valid, a deeper examination of their nature lies beyond the scope of this dissertation. However, their general tenet is especially relevant since my research focus includes a multilateral actor, namely, the European Union.

politically defined times.” Lavinia Stan, “Truth Commissions in Post-Communism: The Overlooked Solution?” *The Open Political Science Journal* 2 (2009): 2. Karin Aggestam has further assessed the limits of non-political approaches to transitional justice. Karin Aggestam, “Recognition Just Peace,” in *Rethinking Peacebuilding: The Quest for Just Peace in the Middle East and the Western Balkans*, eds. Karin Aggestam and Annika Björkdahl (Abingdon: Routledge, 2013), 46. See also Katharine Hodgkin and Susannah Radstone, “Patterning the National Past: Introduction,” in *Contested Pasts. The Politics of Memory*, eds. Katharine Hodgkin and Susannah Radstone (London: Routledge, 2003), 170.

¹⁶ As Paul Gready posits, a purely political approach to transitional justice and transitional justice scholarship runs the risk of placing limits on “structural change in new democracies, and within these limits the danger is that the marginalised are remarginalised.” After all, these marginalised groups have little to no place in the conventional political categories that are used in such political practice and scholarship. Gready, *The Era of Transitional Justice*, 8.

¹⁷ Louise Arbour, “Economic and Social Justice for Societies in Transition,” *International Law and Politics* 40, no. 1 (2007): 1–27. See also Zinaida Miller, “Effects of Invisibility: In Search of the ‘Economic’ in Transitional Justice,” *International Journal of Transitional Justice* 2, no. 3 (2008): 266–291.

¹⁸ See, e.g., Laura Arriaza and Naomi Roht-Arriaza, “Social Repair at the Local Level: The Case of Guatemala,” in *Transitional Justice from Below: Grassroots Activism and the Struggle for Change*, eds. Kieran McEvoy and Lorne McGregor (Oxford and Portland: Hart Publishing, 2008), 40–64; Thomas Diez, Apostolos Agnantopoulos, and Alper Kaliber, “File: Turkey, Europeanization and Civil Society: Introduction,” *South European Society and Politics* 10, no. 1 (2005): 1–15.

¹⁹ Rowen, *Search for Truth*, 159.

²⁰ Gready, *The Era of Transitional Justice*, 8.

In fact, this is one of the reasons I have chosen not to use the term “transitional justice” to denote the core processes studied in this book. In my research, the political use of the past is central. I did not want the *perception* of, and *meanings assigned* to, the past by the actors that I study to compete with the many political, academic, and normative assumptions that already underpin transitional justice as a concept. In other words: it is difficult to differentiate a specific political party’s stance on transitional justice from the implicit prescriptions of the field. Instead, the inelegant yet neutral term “dealing with the past” allows me to approach the issue more openly. After all, I am not interested in whether (or not) political parties fulfil all of the different requirements and elements of transitional justice (about which little consensus exists anyway), but rather in how *they* define the issue. This is not to deny the significant role that literature and thinking on the subject of transitional justice have played in helping me to develop my thoughts and concepts—something that will be acknowledged throughout this book. This awareness of the politicisation of the past also informs my use of the term “socialism” instead of “communism” (apart, obviously, from quotations that specifically use the term “communism”). Whilst neither could be considered neutral, the term “communism” arguably carries the strongest connotations, both positive and negative.

I define dealing with the past in the context of EU accession as “presenting the violent past and defining its place in the present in times of far-reaching political change in light of supposed EU expectations and demands.”²¹ This means that I engage with a given (past) practice or narrative if it fulfils two conditions: (1) as a minimum, it engages with the past and not only with the present and/or future—it thus refers to (or silences) the wrongdoings of the past; (2) it aims *or claims* to bring transition forwards, either in favour of, or in opposition to, a (future) unified Europe. As opposed to the normative field of transitional justice, the term “dealing with the past” covers the myriad of ways in which one can choose to engage (or not) with the past. It allows for confrontation, but also for denial, or something in between.²² My full research question thus becomes: How did the

²¹ The specific formulation of this definition is my own, but it is inspired by several authors, including the well-known definition of Ruti Teitel, who defines transitional justice as “that conception of justice associated with periods of political change,” and that of Carlos Closa Montero, who emphasises the function of transitional justice in building a more “democratic, just, or peaceful future” in times of “new political beginnings” and explicitly links transitional justice to “memory.” I have replaced the concept of memory with “perceptions of and attitudes towards the violent past” since I want to underline the active construct of these perceptions and the active ways in which they not only represent, but also act upon the past. Carlos Closa Montero, *Study on How the Memory of Crimes Committed by Totalitarian Regimes in Europe is Dealt With in the Member States* (commissioned by the European Commission, 2008), 12–13, <https://digital.csic.es/handle/10261/34366?locale=en>; Ruti Teitel, “The Law and Politics of Contemporary Transitional Justice,” *Cornell International Law Journal* 38 (2005): 837.

²² As Nico Wouters aptly notes, the term “dealing with the past” seems to imply that the past is a problem that needs to be fixed. He interprets it as a call for “confronting the past.” Whilst this is indeed often considered the “morally” right way to deal with the past, I do not adopt Wouter’s interpretation. Instead, I conceptualise dealing with the past as the overarching category within which “confronting the past” is only one of the possible strategies. Nico Wouters, ed., *Transitional Justice and Memory in Europe (1945–2013)* (Cambridge: Intersentia, 2014), 11.

prospect of EU accession (and the EU membership status in Bulgaria after 2007) influence political dealing with the violent²³ past in Bulgaria and Serbia, facing a single transition from socialism and a double transition from socialism and war respectively, in the years 2000–2012?

The European Union, transition, and dealing with the past

The term “EU accession prospect” merits more attention. When dealing with the past, national, regional, and international levels are “constantly mediated by each other.”²⁴ In 2004, Jon Elster identified two factors in transitional justice processes, the “endogenous” and the “exogenous.”²⁵ The process of EU accession, singled out in this research, provides an interesting take on Elster’s distinction. The exogenous is clearly at work in the normative and political status and power of the EU, guiding and deciding upon the accession process, even if membership negotiations largely play out in the domestic sphere. Accession is subject to internal politics that acknowledge and are accountable to electoral preferences. Issues of the past that are connected to EU accession thus acquire an endogenous quality as well.

It is perhaps because of this methodological and analytical complexity that, despite acknowledgement of the “increasing role” of international actors,²⁶ academia has limited itself mainly to studying domestic dealing with the past in Southeast Europe.²⁷ John Gledhill—one of the few scholars who did set out to investigate the impact of “processes of regional integration” and European institutions—concluded in 2011 that the EU’s influence was “partial and variable.”²⁸ This answer may sound frustratingly vague, but it

²³ I speak here of “violent” history not in the sense of armed fight, but to emphasise that the pasts of socialism and war both included repression and violated human rights, and conventions related to democracy and rule of law.

²⁴ Valerie Arnould, “Transitional Justice in Peacebuilding: Dynamics of Contestation in the DRC,” *Journal of Intervention and Statebuilding* 10, no. 3 (2016): 325.

²⁵ Jon Elster, *Closing the Books. Transitional Justice in Historical Perspective* (Cambridge: Cambridge University Press, 2004), 73–74.

²⁶ Naomi Roht-Arriaza, “The Role of International Actors in National Accountability Processes,” in *Politics of Memory: Transitional Justice in Democratizing Societies*, eds. Alexandra Barahona De Brito, Carmen Enríquez and Paloma Aguilar Fernández (Oxford: Oxford University Press, 2011), 40.

²⁷ This does not only apply to Eastern and Southeast Europe, but also globally, except for research into international courts, which has proved a rich and diverse source of literature. See, e.g., Helga A. Welsh, “Beyond the National: Pathways of Diffusion,” in *Post-Communist Transitional Justice: Lessons from Twenty-Five Years of Experience*, eds. Lavinia Stan and Nadya Nedelsky (Cambridge: Cambridge University Press, 2015), 168. In 2018, a book was published on the under-researched role of international “assistance” for transitional justice, looking mainly at funding mechanisms and civil society. See Paige Arthur and Christalla Yakinthou, *Transitional Justice, International Assistance, and Civil Society* (Cambridge: Cambridge University Press, 2018). Regarding Eastern Europe, a recent publication by Vello Pettai and Eva-Clarita Pettai highlights the need for, as well as the methodological difficulties of, studying transitional justice across borders, especially in the case of cross-country comparisons. Vello Pettai and Eva-Clarita Pettai, “Dealing with the Past: Post-Communist Transitional Justice,” in *The Routledge Handbook of East European Politics*, eds. Adam Fagan and Petr Kopecký (London: Routledge, 2017), 282, 289.

²⁸ John Gledhill, “Integrating the Past: Regional Integration and Historical Reckoning in Central and Eastern Europe,” *Nationalities Papers: The Journal of Nationalism and Ethnicity* 39, no. 4 (2011): 501; as also discussed and elaborated upon in Welsh, “Beyond the National,” 168. More generally, Gledhill writes: “the domestic-level focus of existing

confirms the difficulty of studying the impact of international actors on a complex and largely domestic process. In the case of the EU, an additional complicating factor is the lack of a transitional justice policy. Helga A. Welsh has recently also called for more attention to the international dimension, but her article, as well, is better read as an exploratory work than grounded empirical research.²⁹ Thus, several methodological questions remain: How to pinpoint causality if every political decision is the result of many interests, from the in- and outside? How to identify watershed moments in processes that flow in various directions, seemingly at once?

The complexity of these questions in no way excuses any refusal to engage with them. European identity was a defining trope in the emergent post-socialist politics of Eastern and Southeast Europe. As thoroughly analysed by (amongst others) Ian Manners and Lisbeth Aggestam, this factor increased the “normative power” of the EU.³⁰ The EU itself also explicitly wishes to transform (potential) candidate member states, beyond the mere technical details of the process itself. The 1993 Copenhagen criteria testify to this, with their emphasis on broader economic reforms, democracy, the rule of law, and human rights. As claimed by academics³¹ and EU policymakers³² alike, EU enlargement can stimulate domestic reform towards peace and democracy. Moreover, as recent research from Laura Davis shows,³³ the EU often *did* engage, albeit indirectly, with questions of transitional justice.³⁴ Others take this idea even further, stating that the EU “advocates a

explanations [for reckoning with the past] is understandable However, as processes of regional integration have deepened across CEE, and European institutions have come to inform a host of socialist and political processes, it is worth considering whether this new institutional context has informed the capacity of political and civic elites to realize projects of collective remembrance and/or processes of transitional justice.” Gledhill, “Integrating the Past,” 488.

²⁹ Welsh, “Beyond the National.”

³⁰ Lisbeth Aggestam, “Introduction: Ethical Power Europe?” *International Affairs* (2008): 1–11; Ian Manners, “Normative Power Europe: A Contradiction in Terms?” *Journal of Common Market Studies* (2002): 235–258. See also, Diez, Agnantopoulos, and Kaliber, “File.”

³¹ Frank Schimmelfennig and Ulrich Sedelmeier, “Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and East Europe,” *Journal of European Public Policy* 11 (2004): 664–667.

³² Milada Anna Vachudova, “Democratization in Postcommunist Europe: Illiberal Regimes and the Leverage of the European Union,” in *Democracy and Authoritarianism in the Postcommunist World*, eds. Valerie Bunce, Michael McFaul and Kathryn Stoner-Weiss (Cambridge: Cambridge University Press, 2010), 92. For examples from speeches, see Štefan Füle, “Remarks in the European Parliament Debate on Enlargement,” SPEECH/12/851 (Strasbourg: European Commission, 2012), 2; Štefan Füle, “Committee on Foreign Affairs, European Parliament,” SPEECH/13/816 (Brussels: European Commission, 2013).

³³ Laura Davis, *The European Union and Transitional Justice* (New York: International Center for Transitional Justice and Initiative for Peacebuilding, 2010).

³⁴ In a document from 2006, experts within the EU define transitional justice as the “framework for confronting past abuse as a component of a major political transformation—from war to peace or from authoritarian rule to democracy. . . . [Tools include] criminal prosecutions, whether national, international or hybrid; truth commissions; reparation programmes; and vetting programmes.” However, this definition is mostly used in EU foreign policy dealing with “third countries” outside the EU’s own territory and the accession space. Committee Civilian Aspects of Crisis Management, *Draft Document on “Transitional Justice and ESDP,” in view of the PSC Meeting on 20 June 2006*, 10674/06 (Brussels: Council of the European Union, 2006), 2–3.

policy of caring for the past,”³⁵ exerts “soft conditionality,”³⁶ and enjoys “passive leverage.”³⁷

Milada Anna Vachudova and Alina Mungiu-Pippidi suggest that this prominent role of the EU was possible because accession became a “focal point” for domestic political actors.³⁸ From an early stage, leading political parties in the region committed themselves to European membership, and changes in power constellations within their own borders did little to change this commitment.³⁹ As many findings in this book will testify, this “elite conversion” was often a partial one, failing to establish a real discontinuity with socialist and war pasts, and thus providing only a shallow interpretation of EU integration.⁴⁰ Welsh noted in 2015 that the EU’s relatively recent involvement with transitional justice measures “have come too late to affect Central and Eastern European countries in concrete ways. Nevertheless, the prospect of joining European institutions influenced discourse and practices.”⁴¹ This, Welsh maintains, includes the possibility of the EU acting as a promoter of norms in the field of dealing with the past,⁴² which I suggest opens more potential avenues of impact than the idea of “passive leverage” might initially seem to suggest. The EU is not the only actor to direct “top-down” processes (even if passively); domestic actors can also assign norms and expectations to the EU.⁴³

This is a line of thought that has also been explored by Jelena Subotić in the context of concrete EU engagements with the past. She concluded that if non-compliance “is too costly internationally,” but so are the electoral costs of compliance because of the issue’s unpopularity, domestic elites tend to “[repack] transitional justice normatively.”⁴⁴ In the space between EU demands and domestic expectations, Welsh confirms, “both advocates and opponents jiggled the possibility of EU membership to legitimise their own agendas.”⁴⁵

³⁵ Máire Braniff and Sara McDowell, *Commemoration as Conflict: Space, Memory and Identity in Peace Processes* (New York: Palgrave Macmillan, 2014), 137–138.

³⁶ Ana Milošević and Heleen Touquet, “Unintended Consequences: The EU Memory Framework and the Politics of Memory in Serbia and Croatia,” *Southeast European and Black Sea Studies* (2018): online pre-publication.

³⁷ Vachudova, “Democratization in Postcommunist Europe,” 92.

³⁸ Vachudova, “Democratization in Postcommunist Europe,” 92, 94. See also Alina Mungiu-Pippidi, “EU Enlargement and Democracy Progress,” in *Democratisation in the European Neighbourhood*, ed. Michael Emerson (Brussels: Centre for European Policy Studies, 2005), 34. Aneta Borislavova Spendzharova observed already in 2003 that Bulgaria and Romania “have begun letting the EU in their domestic agendas.” Aneta Borislavova Spendzharova, “Bringing Europe In? The Impact of EU Conditionality on Bulgarian and Romanian Politics,” *Southeast European Politics* 4, no. 2–3 (2003): 142.

³⁹ Geoffrey Pridham, “European Union Accession Dynamics and Democratization in Central and Eastern Europe: Past and Future Perspectives,” *Government and Opposition* 41, no. 3 (2006): 383.

⁴⁰ Alina Mungiu-Pippidi, “When Europeanization Meets Transformation,” in *Democracy and Authoritarianism in the Postcommunist World*, eds. Valerie Bunce, Michael McFaul and Kathryn Stoner-Weiss (New York: Cambridge University Press, 2010), 68.

⁴¹ Welsh, “Beyond the National,” 175.

⁴² Welsh, “Beyond the National,” 175.

⁴³ This relates to the concept of the EU as a normative actor, which will be further explored in chapter 1.

⁴⁴ Jelena Subotić, “Bargaining Justice: a Theory of Transitional Justice Compliance,” In *Transitional Justice Theories*, ed. Susanne Buckley-Zistel et al (London: Routledge, 2013), 128.

⁴⁵ Welsh, “Beyond the National,” 176.

Understanding EU influence on dealing with the past thus goes beyond conventional research paths of studying conditionality.⁴⁶

What kind of concepts grasp the malleability that is so characteristic of the influence of EU accession? An interesting starting point might be to examine those that do not. Because of their close proximity to my research question and the wealth of theorisation already surrounding them, concepts such as “Europeanisation” and “diffusion,” popular amongst political scientists, immediately spring to mind. The first concept—Europeanisation—studies the impact of EU accession on domestic states. In its most simple form, it refers to the processes via which countries “become like Europe.” Whilst I have familiarised myself with the literature and give due acknowledgement to this work where applicable, Europeanisation is less equipped for the topic of dealing with the past. As already discussed, it is unclear what the norms and standards are that the EU wants to export in this realm. Similarly, whilst the concept of diffusion, as its definition suggests, works well for straightforward assessments of cross-border movement and the transfer of ideas, it is of little help when attempting to disentangle international or regional norms and the domestic dealing with the past. Therefore, instead of speaking about the impact of EU accession, this book studies the influence of the “prospect of EU accession” (and, in the context of Bulgaria after its entrance into the EU in 2007, “status of EU membership”). This reflects the multiple ways in which EU accession can influence the behaviour of domestic political parties when dealing with the past, allowing parties to assign values, expectations, and assumptions to EU accession without necessarily being embedded in actual EU policies.

The EU is a complex institution with supranational, international, and state characteristics and is seen by some as an “institutionalised political construct.”⁴⁷ Methodologically, this means that we need a constructivist understanding of the EU if we are to understand its internal diversity and development throughout the years, as well as its outward “self-creative,” “multi-directional,” transformative character.⁴⁸ The EU’s influence on dealing with the past in Southeast Europe is likely just as complex. I will therefore study EU engagement with dealing with the past both in terms of practice and

⁴⁶ Conditionality is often defined, with the help of Schimmelfennig and Sedelmeier’s work, as “reinforcement by reward,” its success depending on the “determinacy” of conditions, the nature of rewards, the presence of a “credible membership perspective,” and the domestic adoption of costs and “spoilers” (i.e., other political issues or Eurosceptic actors that impede EU accession). Schimmelfennig and Sedelmeier, “Governance by Conditionality,” 664–667. However, in this research I prefer a definition in line with the work of Alina Mungiu-Pippidi, conceptualising conditionality as a “supposed to be smart power” that intends to “shape behavior” by offering incentives in return for reform. Mungiu-Pippidi, “When Europeanization Meets Transformation,” 73.

⁴⁷ Zaki Laidi, *Norms over Force: The Enigma of European Power* (New York: Palgrave Macmillan, 2008), 41.

⁴⁸ The EU accession process, thus, is a multiple outcome process, including “resistances, reconstructions and negotiations.” Gerard Delanty and Chris Rumford, *Rethinking Europe: Social Theory and the Implications of Europeanization* (London: Routledge, 2005), 16–18, 46, 49. See also Laidi, *Norms Over Force*, 41.

narratives.⁴⁹ It is important to realise that this influence is neither static, nor merely a top-down process. As Thomas Diez, Apostolos Agnantopoulos, and Alper Kaliber conclude, “the relationships between the EU and membership candidates can be understood as an exercise in the reconstruction of the EU as a normative power.”⁵⁰

It is in the above context that the EU’s stance on dealing with the past in Southeast Europe is discussed across the first two chapters of this book. The first deals with practice (policy and official attitudes), whilst the second looks at EU narratives of both socialist and war pasts. This two-legged approach of studying practice as well as narratives is also used in the case study chapters. I see these political narratives (whether cultivated by the EU, Bulgarian parties or Serbian parties) as “strategic constructions” with “instrumental goals”, although I acknowledge that they may also reflect political principles.⁵¹ Thus, narratives very much function in direct connection with political practice, like coalition-making and advocacy.⁵² In other words, narratives can create the logic that underscores the intended practice, making practice and narratives mutually reinforcing.

Identifying the more divergent channels of influence of the EU accession prospect is all the more urgent because EU accession is not simply an external factor to otherwise domestic processes of dealing with the past: it also transforms their meaning. As Rosemary Nagy exquisitely explains, the notion of a “before” and “after” in transitional justice “implies that the transitional problem has to do with ‘then’ and not the ‘now,’” thus allowing political elites to avoid questions of their own potentially unjust rule.⁵³ In this way, the process of EU accession highlights the ongoing transition and the need for reform in the “now.” This research aims primarily to offer insights into the influence of the EU accession prospect in the cases of Bulgaria and Serbia, whilst to other researchers, it may serve to explore the broader and more methodological question of how to approach the subject of EU accession and its influence when dealing with the pasts of the countries concerned.

⁴⁹ In the words of Kennet Lynggaard, EU enlargement creates a “discursive context for domestic actors, policies and institutions,” in which they can assign values and expectations to the EU accession prospect. I will not study this influence and interaction in terms of discourse for reasons that will be explained later, but this statement illustrates one of the more implicit channels of possible EU influence. Kennet Lynggaard, “Discursive Institutional Analytical Strategies,” in *Research Design in European Studies: Establishing Causality in Europeanization*, eds. Theofanis Exadaktylos and Claudio M. Radaelli (Hampshire: Palgrave Macmillan, 2013), 85.

⁵⁰ Diez, Agnantopoulos, and Kaliber, “File,” 3.

⁵¹ Michael D. Jones et al, “Introducing the Narrative Policy Framework,” in *The Science of Stories*, eds. D. Jones et al (New York: Palgrave Macmillan, 2014), 9.

⁵² From the model constructed by Jones et al, my research question exclusively merits interest in the meso level of groups. Jones et al, “Introducing the Narrative Policy Framework,” 15.

⁵³ Nagy, “Transitional Justice as Global Project,” 280.

Case studies and comparison

This book studies two countries in Southeast Europe that faced questions of dealing with the past in relation to EU accession: Bulgaria with its past of authoritarian socialism, and Serbia, with a past of authoritarian socialism as well as the 1990s wars that accompanied the break-up of Yugoslavia. Whilst my research question makes a clear distinction between post-socialist and post-war transitions, the final research presented in this book differs from this initial premise. Rather than making a strict comparison between single and double transition, I have chosen to focus more on the more complex processes in both cases. To clarify this choice, I first have to explain my initial motivation. The differences apparent between dealing with legacies of war and of authoritarianism present important questions, upon which prominent international scholars and practitioners have already touched. As Pablo de Greiff reported in 2012 to the UN:

whereas in the authoritarian settings the violations typically involve significant abuse of State power, in many conflict settings, in which institutions already find themselves under severe strain, the violations often come about as a result of generalised social conflict in which, among other factors, there is a plethora of violent agents.⁵⁴

This led me to question how the EU engaged with socialist and (the 1990s) war pasts differently, and how the reactions of the domestic political parties differed accordingly.

Whilst academically speaking, this question may have made sense, it speaks more of my initial naivety regarding the EU's interest in dealing with the pasts of its aspiring member states. As I soon discovered, the EU largely refrained from engaging with the legacy of socialism as compared to that of war—which not only left a large part of my research question answered, but also largely redundant. Simultaneously, I realised that Bulgarian and Serbian political parties still referenced to the EU accession prospect, even when Brussels had not expressed interest in the topic that was domestically debated. Apparently, the influence of the EU accession prospect went beyond direct EU engagement with the socialist or war past, and instead involved questions of wider norms and expectations. These factors moved my focus away from the differences between post-socialist and post-war transitions, to what they had in common. This pointed me towards a more profound question, namely: *How* did political parties in Bulgaria and Serbia engage

⁵⁴ United Nations General Assembly and Pablo de Greiff, *Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence*, by Pablo de Greiff, A/HRC/21/46, *Human Rights Council*, August 9, 2012, 6, <https://www.right-docs.org/doc/a-hrc-21-46/>.

the EU accession prospect to further their strategies on the past? This then became a new sub-question, which completed the following list:

Primary research question:

How did the prospect of EU accession influence political dealing with the past in Bulgaria and Serbia, facing respectively a single transition from socialism and a double transition from socialism and war, in the years 2000–2012?

Sub-questions:

- (a) How did the EU engage with the socialist and war pasts in the aspiring member states in Southeast Europe?
- (b) How did the EU present the socialist and war pasts in Southeast Europe in terms of narratives?
- (c) How did political parties in Bulgaria and Serbia engage with the EU accession prospect (or the EU membership status of Bulgaria after 2007) in order to further their orientations and parliamentary positions on the past?
- (d) How did political parties in Bulgaria and Serbia narrate the past in relation to the EU accession prospect (or the EU membership status in Bulgaria after 2007)?

The core part of this book consists of eight chapters, divided in three parts, followed by a concluding, comparative chapter 9 as well as an epilogue. Each chapter answers (a part of) the above sub-questions (SQ) and uses a specific set of sources. The sources are read with the help of Dvora Yanow's method of "interpretive policy analysis" combined with the insights of the Discourse-Historical Approach (DHA).⁵⁵ This enables me to read "back and forth" between "policy artefacts" (text) and context,⁵⁶ while studying how different historical elements (e.g. events, actors, identities) are given meaning in relation to each other and political strategies through "interdiscursivity." Hence, my research does not constitute conventional discourse analysis: I am exclusively interested in political meaning of the use of history and not in the semantic or linguistic aspects of these arguments.

⁵⁵ In order of the text: Dvora Yanow, *Conducting Interpretive Policy Analysis* (London: Sage Publications, 1999); Martin Reisigl and Ruth Wodak, "The Discourse-Historical Approach (DHA)," in *Methods for Critical Discourse Analysis*, eds. Ruth Wodak and Michael Meyer, 87–121 (London: Sage, 2009).

⁵⁶ In order of the text: Yanow, *Conducting Interpretive Policy Analysis*, 14, 15, 22; Reisigl and Wodak, "The Discourse-Historical Approach."

Rather than listing them here, I will introduce my source body in each chapter. The chapters of each part build upon each other's findings and are preferably read in tandem. The following short list gives an overview of this book's structure:

Part I: EU (chapters 1–2)⁵⁷

- Chapter 1: SQ (a): EU practice
- Chapter 2: SQ (b): EU narratives

Part II: Bulgaria (chapters 3–5)

- Chapter 3: SQ (c): Bulgarian party orientations
- Chapter 4: SQ (c): Bulgarian parliamentary decision-making
- Chapter 5: SQ (d): Bulgarian parliamentary narratives

Part III: Serbia (chapters 6–8)

- Chapter 6: SQ (c): Serbian party orientations
- Chapter 7: SQ (c): Serbian parliamentary decision-making
- Chapter 8: SQ (d): Serbian parliamentary narratives

The division of part I in EU practice and EU narratives has been explained above. Part II and III on Bulgaria and Serbia are both divided in three chapters. They respectively analyse the orientations of domestic political parties, parliamentary decision-making (both practice), and parliamentary narratives. Chapter 4 on Bulgaria and chapter 7 on Serbia each contain a “case in case study,” in which the influence of the EU accession prospect becomes particularly clear: respectively the 2006 archives law in Bulgaria, and the EU's conditionality on Serbia regarding co-operation with the Hague Tribunal. Without losing the comparative element to my research, this book will thus look at the two types of transition, more as a context to the overall question of how the EU accession prospect influenced political dealing with the past, rather than as a dependent variable in need of a discrete study of its own.

Some technical decisions should be mentioned too. For the sake of clarity, the book refers to Serbia and Bulgaria, even when it denotes their predecessor states (the Yugoslav and Bulgarian kingdoms before the Second World War, Yugoslavia, the People's Republic of Bulgaria, Serbia and Montenegro, etc.). Regarding Serbia's war past during the 1990s, the focus is solely on the Bosnian and Croatian wars and does not include the Kosovar conflict. The (ongoing) contested nature of Kosovo makes it difficult to study as a past war. Additionally, the conflict also continues to receive a significant amount of academic attention, thus diminishing the need for further engagement in this study.

⁵⁷ Every part is treated as a separate section of the dissertation. I.e., reference formatting for shortened notes starts anew after every part of the dissertation (although footnote numbering starts anew every chapter).

Selection of case studies

The selection of the case studies, especially their specific combination, may at first glance appear strange. Except for a recent study by James Dawson about “cultures of democracy,”⁵⁸ Bulgaria and Serbia are rarely juxtaposed. Generally, scholars interested in Bulgaria place it in a comparative context with Romania, mainly by virtue of their simultaneous accession to the EU.⁵⁹ Similarly, Serbia is often coupled with Croatia because of their recent shared past.⁶⁰ Even apart from the appeal of going beyond established pairings, the case selection reflects an important choice stemming from the topic I am interested in. Transitional justice scholars acknowledge that the legitimacy and electoral appeal of any given (former) regime is essential to the pursuit of dealing with the past.⁶¹

I found this general sense of *ownership* of the past to be present in both Bulgaria and Serbia. Indeed, the legitimacy of the Bulgarian socialist regime is considered an explanatory factor for the country’s relatively late transition.⁶² In Serbia, the nationalist orientations mobilised by the wars in the 1990s further entrenched identification with the Yugoslav state in which, according to the popular imagination, all Serbs previously lived together.⁶³ This stands in contrast to Romania and Croatia, for example, the socialist pasts of which could be dismissed and externalised as respectively the work of one individual (Nikolae Ceausescu) and the forces of foreign dictatorship (Yugoslavia, denying Croatian national identity). Thus, in Bulgaria and Serbia, transition was characterised by the continuing presence of parties from the former regimes, namely, the Bulgarian Socialist

⁵⁸ James Dawson, *Cultures of Democracy in Serbia and Bulgaria: How Ideas Shape Politics* (London: Routledge, 2014).

⁵⁹ E.g., Kalin Ivanov, “The 2007 Accession of Bulgaria and Romania: Ritual and Reality,” *Global Crime* 11, no. 2 (2010): 210–219; Dimitris Papadimitriou and Eli Gateva, “Between Enlargement-Led Europeanisation and Balkan Exceptionalism: An Appraisal of Bulgaria’s and Romania’s Entry into the European Union,” *Perspectives on European Politics and Society* 10, no. 2 (2009): 152–166; Cosmina Tanasoiu, “Europeanization Post-Accession: Rule Adoption and National Political Elites in Romania and Bulgaria,” *Southeast European and Black Sea Studies* 12, no. 1 (2012): 173–193.

⁶⁰ E.g., Christopher Lamont, *International Criminal Justice and the Politics of Compliance* (Farnham: X, 2010); Marko Stojić, *Party Responses to the EU in the Western Balkans Transformation, Opposition or Defiance?* (Cham, Switzerland: Palgrave Macmillan, 2018).

⁶¹ Helga Welsh (1996), Nadya Nedelsky (2004), and John Moran and Eva Jaskovska (2005), quoted in Lavinia Stan, “Determinants of Post-Communist Transition: An Overview,” Global Challenges Conference *Justice and Imagination: Building Peace in Post-Conflict Societies*, Mount Holyoke College, February 28–March 1, 2014, 7, 10–11, 12–13.

⁶² Tsveta Petrova acknowledges the economic dissatisfaction of the Bulgarian people under socialism, yet maintains that this did not fundamentally delegitimise the regime itself. However, Mungiu-Pippidi, in her general assessment of the region as a whole, takes a different stance. She argues that socialism was actually perceived as a “total failure” in the Eastern Balkan countries, leading to the regimes’ “total lack of legitimacy.” Thus, the late revolutions were due more to the high level of state control and the lack of organised opposition, rather than the alleged support from the people. Here Mungiu-Pippidi offers an important qualitative nuance to overly simplistic conclusions, as it is indeed true that in Bulgaria, little opposition to the regime existed before the transition. This does not take away the fact that the socialist regime in Bulgaria successfully presented itself as home-grown, and as we will see throughout the chapter on Bulgaria, this trope was successfully employed by the successor Socialist Party. Tsveta Petrova, “A Postcommunist Transition in Two Acts,” in *Democracy and Authoritarianism in the Postcommunist World*, eds. Valerie Bunce, Michael McFaul and Kathryn Stoner-Weiss (New York: Cambridge University Press, 2010), 111; Mungiu-Pippidi, “When Europeanization Meets Transformation,” 64.

⁶³ This imagination excludes right-wing, nationalist interpretations, which indeed dismiss socialism and the Yugoslav state as foreign impositions that repressed the Serbian national identity.

Party and the Socialist Party of Serbia.⁶⁴ Other relevant similarities between Bulgaria and Serbia include their shared Ottoman past, the simultaneous processes of socialist uprising and the destruction of the monarchy during the Second World War, as well as Russia's influence on political elites and the electorate alike.

The main difference that underscores this research, namely Serbia's double transition (from socialism and the 1990s wars) as compared to Bulgaria's single transition (from socialism), is evident. However, there are also the countries' diverging pre- and post-Ottoman historical trajectories, different linguistic and cultural traditions, their varying socialist experiences, and asymmetrical EU accession paths. The latter two deserve some more explanation. Whilst Titoism in Serbia cannot be put on a par with the more repressive socialism of Bulgaria, both socialist regimes used concentration camps (the most notorious being Goli Otok in Yugoslavia and Belene in Bulgaria), the repression of ethnic minorities (striking examples being Kosovar Albanians in Yugoslavia and Bulgarian Turks in Bulgaria),⁶⁵ and an extensive state security apparatus.⁶⁶ Most importantly, whilst I do not doubt that different experiences of socialism prompt different reactions by successor regimes, my main focus is on how political parties employed the EU accession prospect in framing these experiences. In other words: the research focus is here on memory(-making), rather than history(-telling).⁶⁷ Of course, I will acknowledge the historical realities to which these perceptions refer.

Second, with regard to the countries' different EU trajectories, "post-accession conditionalities" were applied to Bulgaria after gaining EU membership. This so-called co-operation and verification process had the effect of levelling the playing field.⁶⁸ The additional monitoring of Bulgaria's ability to implement the EU's demands had to compensate for the otherwise disappointing progress. Significantly, the Bulgarian leadership was receptive to this form of conditionality and EU pressure. For example, when Bulgaria was denied permission to join the Schengen zone in 2011, Bulgaria called this

⁶⁴ In addition, as hinted at above, many individuals from the former regime found a new, largely blemish-free political future in other parties—a feature shared with many other countries in the region. The chapters on Bulgaria and Serbia will further explore the consequences of this continuity of personnel.

⁶⁵ Many Croatians and Bosniaks equally felt that their identities, customs, and languages were repressed by the Yugoslav state. The repression and persecution of Bulgarian Turks and their legacy will be discussed in chapters 3–5 on Bulgaria.

⁶⁶ Although here, again, there is a difference in scale. The influence of Bulgaria's security apparatus was far-reaching and the regime committed brutal human rights violations, especially in the 1940s and 1950s.

⁶⁷ Nevertheless, it is difficult to distinguish between the concepts of history and memory because, in political reality, the two concepts are often deliberately conflated—exactly because they are so different. Whilst certain actors might want to present memory as history in order to lay claim to a set of "objective facts," few historians would agree with this definition of their discipline, considering history as a field as a perpetual debate about the interpretation of evidence. Notwithstanding, this claim on history can help such actors to strengthen a sense of national identity or, instead, to stress imagined divisions within society, depending on their specific political interests.

⁶⁸ Papadimitriou and Gateva, "Between Enlargement-Led Europeanisation and Balkan Exceptionalism," 160.

decision “fully justified.”⁶⁹ In this sense, in the period following Bulgaria’s accession, there remained pressure on the country to implement reforms, comparable to Serbia.

More abstractly, from the perspective of EU accession, Bulgaria and Serbia can be grouped as part of the “unpopular and troublesome corner of Europe.”⁷⁰ This informed “Balkan exceptionalism,” which embodied a more cautious EU approach towards these countries compared to the “first accession wave”—countries in Central and Eastern Europe that became EU members in 2004. The decoupling of Bulgaria and Romania from this group of countries testifies to this exceptionalism. Serbian political parties in favour of EU accession initially expected to acquire membership well before 2010. In this sense, whilst accession was a more tangible, short-term prospect for Bulgarian parties, the domestic perception of its feasibility did not differ that much between the two countries.

This research looks specifically at Bulgaria’s and Serbia’s periods of EU integration in the years 2000–2012. The year 2000 corresponds (albeit approximately) to important EU-related milestones in both countries. Bulgaria received an official invitation to open negotiations in December 1999,⁷¹ whilst Serbia was welcomed as a potential candidate member in 2003, three years after it had ousted Slobodan Milošević in October 2000 and had ended its international isolation. The year 2012 marks Serbia’s acquisition of so-called candidate member status and Bulgaria’s five-year anniversary as a member state. Following the country’s accession in 2007, I examine Bulgaria in the context of its “EU membership status” when dealing with its past, not least because, as explained above, the EU applied ongoing and conditional pressure on Bulgaria’s performance—even as a member state.

Designing comparison

Such varying case characteristics demand a cautious comparative approach. As is acknowledged widely in transitional justice research, cross-comparison is difficult.⁷² More pressing for me as a historian is that some of my discipline’s leading figures would even argue that “where comparison begins, as a method of generalisation, history ends.”⁷³ Others acknowledge that seeking historical laws is a “mission impossible,” but argue that “comparative approaches only emphasise and make particularly manifest what is implicit

⁶⁹ Tanasoiu, “Europeanization Post-Accession,” 189.

⁷⁰ Papadimitriou and Gateva, “Between Enlargement-Led Europeanisation and Balkan Exceptionalism,” 156. See also Antoaneta Dimitrova and Rilka Dragneva, “Bulgaria’s Road to the European Union: Progress, Problems and Perspectives,” *Perspectives on European Politics and Society* 2, no. 1 (2001): 80–82.

⁷¹ Dimitrova and Dragneva, “Bulgaria’s Road to the European Union,” 84–85.

⁷² Pettai and Pettai, “Dealing with the Past,” 290.

⁷³ Michael Oakeshott, “History and the Social Sciences,” in *The Concept of a Philosophical Jurisprudence: Essays and Reviews 1926–1951*, eds. Michael Oakeshott and Luke O’Sullivan (Exeter: Imprint Academic, 2007), 118; as also analysed in Thomas W. Smith, *History and International Relations* (London: Routledge, 1999), 23.

in any kind of historical work.”⁷⁴ Comparison can help the historian to select explanatory factors and determine their hierarchy, with the added benefit of “transcend[ing] the boundary of any single social system.”⁷⁵ Since a researcher still requires the “historical imagination” to come up with these explanations in the first place,⁷⁶ I will approach the two countries first and foremost as case studies in their own right that further our in-depth knowledge of individual processes. This means that in my analysis, I pay close attention to the need to understand how domestic specificities prevail over comparative considerations.⁷⁷

Taking the plea of historical, political comparison to heart, this book also aims to bridge a “methodological and epistemological divide” in literature on dealing with the past.⁷⁸ By using a comparative element in a historically grounded, elaborate case study approach, this study strikes a balance between “macro-” and “micro-level research.”⁷⁹ Although I am modest about the generalising potential of these very context-specific findings, the concluding chapter and epilogue will be as explicit as possible about the lessons that stem from these case studies in order to maximise the contribution to the literature.

Bringing history back into dealing with the past

The methodological reflections above hint towards one of the main guiding principles of this book: the wish to bring history back into the study of dealing with the past. Transitional justice as a field stems from political science—a dynamic that, amongst the other pros and cons of the process, has generally overstepped concepts of political identity-

⁷⁴ Jürgen Kocka, “Comparison and Beyond,” *History and Theory* 42, no. 1 (2003): 43–44.

⁷⁵ William H. Sewell Jr, “Marc Bloch and the Logic of Comparative History,” *History and Theory* 6, no. 2 (1967): 217. Similar to case study analysis in the political sciences and international relations (IR), in history “small-n” comparative case studies serve to show the complexities “on the ground” that generalised research cannot show. William H. Sewell Jr, in his commentary on the influential work of Marc Bloch, argues that the underlying logic of historical comparison is always that of “hypothesis testing,” thereby even further stressing the similarities between history, political science, and IR. Whereas political scientists and IR scholars explore the complexity of small-n or large-n case studies in order to eventually make generalisations about them, historians do not see this as their main goal, but instead use comparison as a method to explore the selected case studies in-depth. In this way, comparison can highlight uniqueness and particularity as well as help to transcend and formulate broader insights, whilst helping the researcher to critically engage with his or her own assumptions. Sewell Jr, “Marc Bloch,” 209, 210. Or, in the words of Jürgen Kocka, comparison can be an eye-opening “*Verfremdung*” experience, because of a continuous cycle of reinterpretation and redrafting. Kocka, “Comparison and Beyond,” 40. See also Marjatta Rahikainen and Susanna Fellman, “On Historical Writing and Evidence,” in *Historical Knowledge: In Quest of Theory, Method and Evidence*, eds. Susanna Fellman and Marjatta Rahikainen (Newcastle upon Tyne: Cambridge Scholars Publishing, 2012), 16, 29, 30.

⁷⁶ Sewell Jr, “Marc Bloch,” 217. Or, as Sewell puts it on the same page: “[T]he comparative method is never a substitute for historical imagination; it is a servant which must be put at its command.”

⁷⁷ Here, I embrace the idea that case study research in history has no other aim than to embrace this complexity according to the adage coined by Jacques Revel: “why make it simple when one can make it complicated.” Jacques Revel, “L’histoire au ras du sol,” in *Le Pouvoir Au Village: Histoire d’un Exorciste dans La Piémont du XVII^e Siècle*, ed. Giovanni Levi (Paris: Gallimard, 1989), xxiv. See also Rahikainen and Fellman, “On Historical Writing and Evidence,” 15–16.

⁷⁸ Macdonald, “From the Ground Up,” 117.

⁷⁹ Macdonald, “From the Ground Up.”

making and legitimacy.⁸⁰ Thus, a relatively small number of historians have engaged with it.⁸¹ Transition is a moment of rupture, and dealing with the past only becomes possible by virtue of establishing a discontinuity between past and present.⁸² Understanding the political meaning of these claims requires sensitivity to what history is, what it does, and how it is perceived. Political elites that claim rupture can not only “obscure continuities of violence and exclusion,”⁸³ but also construct an excuse not to engage with violations in the “long gone” past. Historians are well-suited to assess these attempts to juggle continuity and discontinuity in political speech.

Additionally, research within the political sciences on dealing with the past often fails to “provide a strong sense of the dynamic effects . . . over both the short and long term,”⁸⁴ and to acknowledge that the “past often affects the present not as straightforward repetition—as suggested by the cry ‘never again’—but in modified, evolving ways, through complex processes of continuity and change.”⁸⁵ Historical awareness furthermore helps to identify to which past politicians are referring—a sensitivity that will prove essential to the chapters on Bulgaria and Serbia, in which it becomes clear that we need to speak of dealing with a plurality of “pasts.”

Being a historian helps me to take claims to the past seriously. It is easy to dismiss dealing with the past as merely a symbolic topic (or even non-topic) in politics. Indeed, this is an argument that many of those who oppose any confrontation with the past frequently employ. Addressing the past would distract from more urgent issues; it would be a strategy to avoid assuming responsibility for present-day problems and divide a society already struggling to find cohesion after a difficult episode in history. On a more personal note, I encountered similar reactions when speaking to Bulgarian and Serbian citizens from various ages and political orientations during my fieldwork. According to many, political statements on the past were never to be taken seriously.

⁸⁰ Raluca Ursachi even goes as far as to argue that the dominance of political science in the field of transitional justice has, paradoxically, hidden the political motivations underlying transitional justice. Political scientists, she explains, tend to focus on the moral and ideological pros and cons of transitional justice. Conversely, social scientists have more tools to study political actors’ strategic motivations. Moreover, they include the concept of identity as an important political “resource,” which can be heavily informed by transitional justice mechanisms. Raluca Ursachi, “In Search of a Theoretical Framework of Transitional Justice: Toward a Dynamic Model,” in *Lustration and Consolidation of Democracy and the Rule of Law in Central and Eastern Europe*, eds. Vladimira Dvorakova and Anđelko Milardović (Zagreb: Political Science Research Centre, 2007), 79.

⁸¹ One of the exceptions here is Wouters, *Transitional Justice and Memory*.

⁸² Maddison and Shepherd, “Peacebuilding,” 257, 262; Miller, “Effects of Invisibility,” 270; Nagy, “Transitional Justice as Global Project,” 280; Derk Venema, “Transitions as States of Exception: Towards a More General Theory of Transitional Justice,” in *Critical Perspectives in Transitional Justice*, eds. N. Palmer, D. Granville and P. Clark (Antwerpen: Intersentia, 2012), 73–89. In fact, confrontation with the past requires a precarious balance between discontinuity and continuity: whilst the violent ideas (sometimes in the form of ideologies), structures, and institutions of the past have to be *broken with*, they at the same time have to *be accounted for*.

⁸³ As an example, violence against women is believed to actually increase after the end of conflict. Nagy, “Transitional Justice as Global Project,” 280.

⁸⁴ Macdonald, “From the Ground Up,” 119.

⁸⁵ Gready, *The Era of Transitional Justice*, 11.

Whilst this cynicism is understandable, this book studies the political references to the past as political arguments in their own right, informed by the essential distinction between history and memory. Partially, the reason for this approach is that it is methodologically the only option: if my conclusion is in advance that those memory-making claims can and should not be taken seriously, I would jump directly from an open-ended research question about the use of the past, to one specifically studying abuses of the past. This is too narrow and would represent an approach I could not support. Secondly, as will be the common thread throughout this book, the past is often a serious concern for political parties, finding its way into their programmes and influencing party politics and parliamentary decision-making.

My position as a historian also shaped my decision to “deal with the past” instead of employing transitional justice as my guiding conceptual framework. Apart from my reflections on why transitional justice shows signs of outgrowing itself as an academic concept—it is too political and normative, and too divergent in its scope—I find the term “transition” (singular) problematic in the context of a research question that involves multiple transitions. It is about transition from socialism (to democracy?), transition from war (to peace?), but also about the transition towards becoming a member state of the EU. This study will try to reflect on the effects of all three of these transitions in the context of how political parties deal with the past.

One final point (which arguably could have come first) is that I have written this book as a Dutch researcher based at a Dutch university and thus, it should be read within these limitations. When presenting my research, I was often asked whether I had any family ties to Bulgaria and/or Serbia. The answer is no. I do not pretend to understand how dealing with the past in both countries has impacted people’s everyday lives. In this research, I have used my outsider’s perspective to study domestic political parties in as serious a manner as possible—something that might be more difficult for people who have to put up with these politics and their disappointments. Insiders’ accounts on these issues will always exceed my efforts, and I only hope that my research can contribute to domestic scholarly debates.

CHAPTER

1 EU Practices of Post-Socialist and Post-War Dealing with the Past: Balancing Retributive and Restorative Justice

This book studies the influence of EU¹ accession on the politics of the past in Bulgaria and Serbia. However, as the terms “influence” and “politics of the past” could be described as somewhat open to interpretation, studying the idea of “EU accession” and EU engagement with the socialist and war past, the topics discussed in this chapter and the next, would seem to offer a more defined approach. However, not only does the EU consist of multiple institutions; the term “engagement” can also mean various things. This results in two main research challenges.

The first problem concerns the identification of relevant and representative sources. Even today, it is impossible to speak of a clear EU approach to “dealing with the past” or even of a clear transitional justice policy, as touched upon already in the introduction. Neither constitute concrete parts of EU policy. Therefore, to comprehensively answer my research question, it is important to mention the “silences” in the EU’s (lack of) engagement with the past. In addition, as already mentioned in the introduction, a range of scholars have posited that the EU often took “concrete action” in the field, albeit not under the explicit banner of transitional justice or dealing with the past.² In order to identify these actions, as Katy A. Crossley-Frolick argues, one has to look at the EU’s involvement “in retrospect.”³

The second problem relates to the interpretation of these sources. It would be misleading to present EU policy as reflecting a fixed and unchanging interpretation of dealing with the past. Ideas about transition and the EU’s role in the process evolved during the 1990s and 2000s, as will be elaborately explained in this chapter and the next. Much more than a simple problem, in the context of this book, the element of change thus becomes a core research topic.

As a result of these two challenges, this chapter and the next will approach EU engagement with the past as broadly as possible. Even when there was no direct EU involvement, EU accession might have more generally influenced the politics of the past adopted by Bulgarian and Serbian political parties. After all, entering the EU is also a question of identity, and history and identity have always been strongly connected in the

¹ I am aware that it is not formally correct to speak of the “EU” and the “European Commission” for the full time period that is discussed in this book, as the names and structures changed during the years. Nevertheless, for the sake of consistency, I will denote the predecessors of the EU and the EC with these terms as well.

² María Avello, “European Efforts in Transitional Justice,” *FRIDE: Fundación para las Relaciones Internacionales y el Diálogo Exterior*, Working Paper 58, September 2008, 8–9, http://fride.org/descarga/WP58_Transitional_justice_ENG_sep08.pdf; Katy A. Crossley-Frolick, “The European Union and Transitional Justice: Human Rights and Post-Conflict Reconciliation and Europe and Beyond,” *Contemporary Readings in Law and Social Justice* (2011): 37; Laura Davis, *The European Union and Transitional Justice*, International Center for Transitional Justice and Initiative for Peacebuilding, 2010, 11. Admittedly, the EU has a few policies that use explicit transitional justice terms. In 2003, for example, the European Parliament adopted a resolution on a “European network of national contact points for restorative justice,” but since this did not explicitly focus on the past, but rather on general criminal justice, it will not be discussed here.

³ Crossley-Frolick, “The European Union and Transitional Justice,” 37.

EU. It is thus likely that approaches to dealing with the past are connected to ideas about “becoming European.” In order to examine the full potential of the EU’s influence, this chapter will look specifically at the level of EU practice, presented in sub-question (a), whilst the subsequent chapter will focus on its overarching narratives, formulated in sub-question (b).⁴ Whilst EU practice might sound straightforward, it is best understood as just one part of the EU’s general enlargement policy. This enlargement policy should be seen both as a form of state-building and foreign policy,⁵ and as a transformative tool that allows the EU to transfer values to aspiring member states.⁶ Here, I indeed conceptualise the EU and its enlargement process as a “normative power” in which strategies and norms collide.⁷ This chapter thus first examines how the EU understood its own genesis, and how it saw its role and influence vis-à-vis (potential) candidate members. What kind of influence did the EU aim for, and how did it wish to achieve this?

1.1 The goal of accession: Defining European identity

The EU is, without doubt, first and foremost an economic union. Since the fall of socialism in the countries in Central and Eastern Europe, the EU has nevertheless—whether out of genuine conviction or merely as a justification for its increasing integration—increasingly presented itself as a union of values. With the impending “reunification” of the continent, at the start of the 1990s there was a need for some sort of established collective identity. Thus, the EU had to establish criteria for “belonging.”⁸ This fitted within an ongoing, decade-long development of including issues of democratisation and human rights in its policies, which thus came to define, in the words of Klaus Eder, a “particular commonness.”⁹

The Maastricht Treaty, signed in 1992, confirmed the start of the gradual change from a mostly economic to a more politically-inspired union. It created an important legal

⁴ In her important article on the subject, Gwendolyn Sasse identifies the ways in which narratives, norms, and assumptions have “real effects” on accession practices and outcomes. Gwendolyn Sasse, “The Politics of EU Conditionality: The Norm of Minority Protection During and Beyond EU Accession,” *Journal of European Public Policy* 15, no. 6 (2008): 842, 844.

⁵ Milada Anna Vachudova, “Democratisation in Postcommunist Europe: Illiberal Regimes and the Leverage of the European Union,” in *Democracy and Authoritarianism in the Postcommunist World*, eds. Valerie Bunce, Michael McFaul and Kathryn Stoner-Weiss (Cambridge and New York: Cambridge University Press, 2010), 92.

⁶ This idea of the EU’s “transformative power” is well-established, but not without academic critique. The EU refers to this transformative power itself. E.g., European Commission, “Speech by Stefan Füle, ‘Enlargement in perspective: how do candidate and potential candidate countries perceive accession in the light of the current crisis?’,” Conference in the European Parliament, Brussels, 6 March 2013, SPEECH/13/195,” Press Release, Brussels, 2013. Lisbeth Aggestam’s criticism concerns the (hidden) ideological meaning of this power, speaking about a “quest for control over the actions of others.” Lisbeth Aggestam, “Introduction: Ethical Power Europe?,” *International Affairs* (2008): 5.

⁷ Aggestam, “Introduction,” 6.

⁸ Klaus Eder, “Remembering National Memories Together: The Formation of a Transnational Identity in Europe,” in *Collective Memory and European Identity: The Effects of Integration and Enlargement*, eds. Klaus Eder and Willfried Spohn (Hants: Ashgate, 2005), 198.

⁹ Eder, “Remembering National Memories Together,” 198.

context for human rights, making them the cornerstone of the newly defined EU.¹⁰ In 1993, in the Copenhagen criteria, the EU declared that aspiring members should respect and guarantee a proper functioning of “democracy, rule of law, human rights and protection of minorities.”¹¹ In 1999, it launched the slogan: “an area of freedom, security and justice.”¹² Via this statement the EU, albeit cautiously, positioned its impact as more than the sum of its parts. Strategic EU documents—those formulated in Tampere, The Hague, and Stockholm—refer to the need to identify the “added value” of the EU based on the notion of subsidiarity.¹³

The accession process had to ensure that these values were transferred to the aspiring member states. Reaching the finish line of the “journey towards membership” represented both the reward for, and evidence of, a country’s commitment to these supposedly universal and European values of democracy and human rights.¹⁴ The path metaphor proved a popular trope to present membership as the “final destination” of a linear path of integration.¹⁵ This required a shared “European civilisation identity”¹⁶—a feature that was claimed by most, if not all of the reforming elites of Central and Eastern European countries. Many in Brussels thus saw the EU’s expansion as a stimulant for identity formation—not only for the EU, but also for the aspiring member states.

¹⁰ Commission of the European Communities, “Treaty on European Union,” February 7, 1992, <http://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/maastricht-treaty>.

¹¹ European Commission, “Accession Criteria,” 2012, n.p., http://ec.europa.eu/enlargement/policy/glossary/terms/accession-criteria_en.htm.

¹² E.g., European Council, *Tampere European Council 15 and 16 October 1999: Presidency Conclusions*, Tampere: European Parliament, 1999, 1; European Council, *The Hague Programme: Strengthening Freedom, Security and Justice in the European Union*, 16054/04, The Hague: Council of the European Union, 2004, 4.

¹³ European Council, *The Hague Programme*, 8. Careful readers may notice that this definition of EU values presents a problem: human rights, democracy, and other related values that are consistently claimed by the Copenhagen criteria and other documents as values belonging to the EU, are essentially universal in nature. This presents the EU with a dilemma between adopting a “thin” identity based on universalism and inclusiveness, or a “thick” identity that stresses particular Europeaness. In a slightly uncomfortable compromise between both, universal notions of democracy, human rights and peace were incorporated into the package of benefits held by the EU as values that were historically European. Aggestam, “Introduction”; Gerard Delanty, “Models of European Identity: Reconciling Universalism and Particularism,” *Perspectives on European Politics and Society* 3, no. 3 (2002): 345–348; Catherine MacMillan, *Discourse, Identity and the Question of Turkish Accession to the EU: Through the Looking Glass* (Farnham: Ashgate, 2013), 78, 93, 101; Ian Manners, “Normative Power Europe. A Contradiction in Terms?” *Journal of Common Market Studies* (2002): 239. EU documents also recognise this tension. E.g., Council of the European Union, *EU Strategic Framework and Action Plan on Human Rights and Democracy*, 11855/12, Strategic Framework, Luxembourg: Press Office Council of the European Union, 2012, 1.

¹⁴ Commission of the European Communities. *Communication from the Commission: 2005 Enlargement Strategy Paper*, COM (2005) 561 final, Brussels: Commission of the European Communities, 2005, 3.

¹⁵ MacMillan, *Discourse, Identity and the Question of Turkish Accession*, 79; Rainer Hülse, “Imagine the EU: The Metaphorical Construction of a Supra-Nationalist Identity,” *Journal of International Relations and Development* 9 (2006): 411.

¹⁶ Willfried Spohn, “National Identities and Collective Memory in an Enlarged Europe,” in *Collective Memory and European Identity: The Effects of Integration and Enlargement*, eds. Klaus Eder and Willfried Spohn (Hants: Ashgate, 2005), 3.

1.1.1 *The membership perspective as incentive for reform*

The shared norms and values engrained in the Copenhagen criteria encapsulated the more technical and legal reforms (the *acquis communautaire*) that countries were required to accept and implement. Concrete measures such as judicial reform were thus connected to abstract notions of democracy and the rule of law. After the 2004 enlargement wave the question of *how* these norms and values could be transferred, bringing with them the specific demands of the *acquis*, acquired an additional dimension. This mimics the work of scholars Frank Schimmelfennig and Ulrich Sedelmeier who, in 2004, concluded that the EU's transformative role is *dependent* on the credibility of its promise of membership.¹⁷

Whilst Schimmelfennig and Sedelmeier had originally considered credibility as an important condition for securing the effectivity of the EU's demands, the enlargement strategies of the European Commission (EC)¹⁸ describe a (credible) membership perspective as, in itself, "a powerful incentive" for domestic reform.¹⁹ Especially the 2005 enlargement strategy, perhaps due to the "lessons learned" from the 2004 accession wave, highlights that a "continued," "convincing political perspective for eventual integration into the EU" will be "crucial" in sustaining and "advancing" the reforms.²⁰ It was, after all, the "European perspective" that "has driven the significant progress."²¹ Concretely, the documents describe how the credibility of eventual accession helps pro-reform actors to secure public support for the painful changes required by the EU and the overall transition process.²² It is therefore important that the accession perspective was "credible," "visible," "clear," and "tangible" for both state and citizens.²³

¹⁷ Frank Schimmelfennig and Ulrich Sedelmeier, "Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and East Europe," *Journal of European Public Policy* 11 (2004): 661–679.

¹⁸ Until the Lisbon Treaty of 2009, the EC was called the Commission of the European Communities. For the sake of coherence, the Commission of the European Communities is here also denoted as the EC.

¹⁹ For instance, the 2007–2008 enlargement strategy states that "the effectiveness of conditionality in driving reforms depends on maintaining a credible prospect of eventual integration into the Union." Commission of the European Communities, *Communication from the Commission to the European Parliament and the Council: Enlargement Strategy and Main Challenges 2007–2008*, COM(2007) 663 final, Brussels: Commission of the European Communities, 2007, 9, 17. In 2011, this idea was repeated: "the continued credibility of the enlargement process is an important element for advancing reforms in the enlargement countries and ensuring support of Member States." European Commission, *Communication from the Commission to the European Parliament and the Council: Enlargement Strategy and Main Challenges 2011–2012*, COM(2011) 666 final, Brussels: European Commission, 2011, 4, 23. This is also expressed in other documents. E.g., European Commission, *Parliamentary Questions: Answer Given by Mr Barrot on Behalf of the Commission to E-0501/2009*, Brussels: OJ C 189, 2009, 2.

²⁰ Commission of the European Communities, *Communication from the Commission: 2005 Enlargement Strategy Paper*, COM 2005 561 final, 2005, 2; European Commission, *Enlargement Strategy 2011–2012*, COM(2011) 666 final, 4, 23.

²¹ Commission of the European Communities, *Communication from the Commission: 2005 Enlargement Strategy Paper*, COM 2005 561 final, 2005, 2; European Commission, *Enlargement Strategy 2011–2012* COM(2011) 666 final/A, 23.

²² Commission of the European Communities, *2005 Enlargement Strategy Paper*, COM 2005 561 final, 3; Commission of the European Communities, *Communication from the Commission to the European Parliament and Council: Enlargement Strategy and Main Challenges 2006–2007*, COM(2006) 649, Brussels: Commission of the European Communities, 2006, 2.

²³ Commission of the European Communities, *Enlargement Strategy 2006–2007*, COM(2006) 649, 14; European Commission, *Communication from the Commission to the European Parliament and the Council: Enlargement Strategy and Main Challenges 2010–2011*, COM(2010) 660, Brussels: European Commission, 2010, 3.

At the same time the EU, mostly via the European Parliament (EP), frequently stressed that countries should not reform merely for the sake of joining the EU.²⁴ The documents suggest that the countries' progress, incentivised by the EU membership perspective, "has value in itself" by serving wider goals of modernisation, democratisation, and economic growth.²⁵ In the specific post-war context of the former Yugoslavia, the EU presented accession to the "post-national" European space as an opportunity to leave its particular past of nationalism, ethnic tensions, and tribal conflict behind.²⁶ In 2003, the EP "recognised that peace and security have been crucial factors" driving the aspiring countries' desire to join the EU.²⁷

In these ways the EU explained and defended the inevitable costs prospective members would incur. However, existing member states needed to be convinced of the benefits of enlargement as well. In this regard, the Yugoslav wars provided some salient lessons, most notably how EU accession could help prevent such conflicts on the continent in the future.²⁸ In 2001, the EU admitted that it had developed an increasing awareness of the "strategic dimension" of enlargement.²⁹ It presented "the European integration model" as the best way to achieve peace and security, democracy, growth, human rights, and the rule of law across the whole of Europe.³⁰ Subsequent enlargement strategies consistently emphasise prosperity and stability,³¹ although the specific envisaged benefits differ from document to document.³² In 2006, the EC praised the accession programme as "one of the

²⁴ Underlining its support for Albania's eventual accession, the EP for example reminded Tirana that it should commit to "European values and standards," not only to join the Union, but also "as a goal in itself." European Commission, *Parliamentary Questions: Joint Reply to written questions E-1261/06, E-1263/06 and E-1265/06*, Brussels: OJ C 328, 2006, 3. Similar ideas about the beneficial effects of the requested reforms were used in communications regarding Bulgaria's accession. Council of the European Union, *Parliamentary Questions: Reply to E-0468/2006*, Brussels: OJ C 328, 2006, 3; EU-Bulgaria Joint Parliamentary Committee, *20th Meeting, Final Statement. Adopted on 28 November 2005*, Adopted final statement, Brussels: European Parliament, 2005, 3.

²⁵ Commission of the European Communities, *2005 Enlargement Strategy Paper*, COM 2005 561 final, 3.

²⁶ MacMillan, *Discourse, Identity and the Question of Turkish Accession*, 78.

²⁷ European Parliament, *European Parliament Resolution on the Conclusions of the Negotiations on Enlargement in Copenhagen*, P5_TA(2003)0168, 2003, 3.

²⁸ Commission of the European Communities, *Composite Paper: Report on Progress Towards Accession by Each of the Candidate Countries*, 1999, 4, 29, https://www.ab.gov.tr/enlargement-strategy-papers_49348_en.html.

²⁹ Commission of the European Communities, *Composite Paper: Report on Progress towards Accession*, 4.

³⁰ Commission of the European Communities, *Composite Paper: Report on Progress towards Accession*, 36.

³¹ Commission of the European Communities, *2005 Enlargement Strategy Paper*, COM 2005 561 final, 2; Commission of the European Communities, *Enlargement Strategy 2006–2007*, COM(2006) 649, 2, 4, 5; Commission of the European Communities, *Enlargement Strategy 2007–2008*, COM(2007) 663 final, 3, 16; Commission of the European Communities, *Communication from the Commission to the Council and the European Parliament: Enlargement Strategy and Main Challenges 2008–2009*, COM(2008) 674 final, Brussels: Commission of the European Communities, 2008, 1, 8; Commission of the European Communities, *Communication from the Commission to the European Parliament and the Council: Enlargement Strategy and Main Challenges 2009–2010*, COM(2009) 533, Brussels: Commission of the European Communities, 2009, 18; European Commission, *Enlargement Strategy 2010–2011*, COM(2010) 660, 2; European Commission, *Enlargement Strategy 2011–2012*, COM(2011) 666 final, 2, 22.

³² All mentioned values, in order of being used most to being used less: peace, stability, prosperity, democracy, security, rule of law, human rights, growth, political stability, safety, and world standing or strength of international position.

EU's most effective policies, successfully contributing to peace, stability and democratic development throughout the continent.”³³

1.1.2 Enlarging into Southeast Europe: Implementing lessons learned

Within this overall context of EU accession practice, the membership aspirations of Southeast Europe fulfilled a special role. The 2004 enlargement round, adding no less than ten new countries, was a major learning experience for the EU. Bulgaria and Romania were told that they needed to perform better, especially in terms of economic management, corruption prevention and rule of law, in order to enter. Whilst these two countries indeed clearly failed to fulfil certain membership conditions, some scholars additionally point towards the influence of “Balkan exceptionalism”: the idea that the countries of Southeast Europe are somehow essentially different and needed to be dealt with accordingly.³⁴

The influence of Balkan exceptionalism became most tangible in the postponement of Bulgaria's and Romania's EU accession. Indeed, a different Balkan approach can already be identified in 1990, when the EU decoupled the two countries from the Central and Eastern European “frontrunners.” The EU introduced new clauses to the so-called Europe Agreement that enabled suspension in case of human rights violations and democracy setbacks—a fate that was later to befall Bulgaria and Romania. The cautious approach to Bulgaria and Romania extended beyond their accession in 2007. Suspended entrance into the Schengen zone was one of several “post-accession conditionalities”—a term now commonly used in order to continue pressure—imposed by Brussels. These lessons learned then informed the EU's engagement with the former Yugoslavia and thus, due to this increasing caution towards enlargement into Southeast Europe, the region provides us with two interesting cases via which to identify and trace developments in EU involvement with dealing with the past.

1.1.3 Connecting EU principles to dealing with the past

How does this EU perception of accession relate to dealing with the past? This answer is centred on the premise (which is in fact neither new nor unique) that most, if not all, mechanisms of dealing with the past touch upon broader issues of transition that belong to the EU enlargement mandate. As Olivera Simić illustrates, several conventional EU treaties and agreements guiding enlargement constitute a “legal framework in which the

³³ Commission of the European Communities, *Enlargement Strategy 2006–2007*, COM(2006) 649, 4.

³⁴ E.g., Dimitris Papadimitriou and Eli Gateva, “Between Enlargement-Led Europeanisation and Balkan Exceptionalism: An Appraisal of Bulgaria's and Romania's Entry into the European Union,” *Perspectives on European Politics and Society* 10, no. 2 (2009): 152–166.

concept [of dealing with the past/transitional justice] may be situated.”³⁵ Furthermore, Welsh adds, the Copenhagen criteria’s “pursuit of democracy and rule of law was not without utility in enabling policy entrepreneurs [in Central and Eastern Europe] to assert soft influence.”³⁶ Although these criteria have functioned as the main guidelines for accession procedures since their adoption in 1993, they provide “very little guidance about how to evaluate the achievement of democracy goals.”³⁷ It is in this manoeuvring space—between the definition and the implementation of the political criteria of the enlargement process—that the EU’s attitude towards dealing with the past (and the ramifications thereof) can be found.

Given that this chapter engages with such a fluid topic, it is important to define a clear framework within which to structure its research findings. The field of transitional justice is often split out in two “branches” which, in this context, happen to be particularly useful in understanding how the EU’s conventional interests relate to dealing with the past: *retributive justice*, including lustration and criminal justice; and *restorative justice*, dealing with questions of commemoration and truth. This division is purely academic and not derived from EU practice—as discussed previously, the EU did not develop a clear transitional justice approach.

Retributive justice, with its focus on criminal prosecution and lustration, directly connects to the EU’s concerns about, amongst others, the rule of law, judicial performance, and human rights whilst restorative justice, with its focus on ensuring justice for victims, largely appeals to minority rights and democracy. These categories speak to another popular distinction within transitional justice, namely between retrospective and prospective justice. These respectively describe a focus on repairing damage done in the *past*, and an eagerness to create a more just *future*. Retributive justice is based upon the idea that the past should be corrected in the present. In contrast, as was the case in South Africa, restorative justice can be understood as the need to forgive and reconcile, and rests upon the idea that the past can be closed and overcome.³⁸ In line with the overall structure and comparative aim of this book, I will analyse the EU’s engagement with post-socialist

³⁵ Olivera Simić, “The European Union and the Western Balkans: Time to Move Away from Retributive Justice?” in *The EU and Member State Building: European Foreign Policy in the Western Balkans*, eds. Soeren Kiel and Zeynep Arkan (Abingdon: Routledge, 2015), 193.

³⁶ Helga A. Welsh, “Beyond the National: Pathways of Diffusion,” in *Post-Communist Transitional Justice: Lessons from Twenty-Five Years of Experience*, eds. Lavinia Stan and Nadya Nedelsky (Cambridge: Cambridge University Press, 2015), 175.

³⁷ Gergana Noutcheva, *European Foreign Policy and the Challenges of Balkan Accession: Conditionality, Legitimacy and Compliance* (Abingdon: Routledge, 2012), 39.

³⁸ Sirkka Ahonen, *Coming to Terms with a Dark Past: How Post-Conflict Societies Deal with History* (Frankfurt am Main: Peter Lang AG, 2012), 146, 150. Obviously, the situation “on the ground” in South Africa both during and in the wake of the—arguably still ongoing—transitional justice process is much more complex than the above characterisation accounts for.

and post-war transitions through these two lenses. The start of each section makes explicit how retributive and restorative justice relate to concrete EU accession interests.

The annual progress reports of the European Commission, which served as the “main administrator”³⁹ of the enlargement process, are the most valuable sources to pinpoint this EU understanding of dealing with the past in practice. These reports make several important aspects explicit: their content and structures reveal the priorities of the enlargement procedure; their assessment of progress indicate the dominant evaluation yardsticks; and their annual character allows me to trace the development of definitions and evaluations over time. Analysis of EU policy towards all countries in the Southeast European region offers more substantiated insights into the EU’s overall approach towards post-socialist and post-war accession countries. To match the case study analyses in the ensuing chapters of this book, illustrations and examples are specifically derived from EU approaches towards Bulgaria and Serbia.

1.2 Post-socialist transition: From overcoming to confronting the past

1.2.1 *Retributive justice: Balancing the Copenhagen criteria of the rule of law and democracy*

In many post-socialist Central and Eastern European countries, lustration has been the most immediate area of retributive justice. Also known as vetting or explained as “administrative disqualifications” or “purges,”⁴⁰ lustration is the attempt to “purify” the (renewed) authority of those associated with the old, discredited elite. Policies vary, but always include the “screening of individuals for certain public positions” based on their association with certain institutions in the previous regime.⁴¹ Criminal justice and lustration thus share a reliance on investigation and fact-finding. Significantly, lustration does not require an official trial, which is an essential element of criminal justice.

Lustration and criminal justice can be linked to the EU’s mandate through the supposed influence of retributive justice on post-violence state-building. Interestingly, it is argued that lustration and criminal justice have the ability to undermine, as well as bolster, the construction of liberal democracies. Let us start with arguments in their

³⁹ Noutcheva, *European Foreign Policy*, 39.

⁴⁰ Timothy Garton Ash, “Trials, Purges and History Lessons: Treating a Difficult Past in Post-Communist Europe,” in *Memory and Power in Post-War Europe*, eds. Jan-Werner Müller (Cambridge: Cambridge University Press, 2002), 273.

⁴¹ Natalia Letki, “The Consequences of Lustration for Democratisation: The Experience of East Central Europe,” in *Past and Present: Consequences for Democratisation, Proceedings of the Seminar Organised within the Project Disclosing Hidden History: Lustration in the Western Balkans*, eds. Magarditsch Hatschikjan and Corinna Noack-Aetopoulos (Thessaloniki: Centre for Democracy and Reconciliation in Southeast Europe, 2004), 5.

favour—for example the ways in which lustration can be “politically productive.”⁴² It enables the removal of those responsible for political and economic misconduct, if not outright crimes. This connects to the Copenhagen criteria of fighting corruption and ensuring political accountability.⁴³ Democracy and the rule of law—two other Copenhagen criteria—are, moreover, considered as fundamentally incompatible with the ongoing political and societal participation of former leaders and personnel. Criminal prosecution can underline the new regime’s break with its predecessor. Combined with “purification,” the more literal interpretation of lustration, criminal justice is thought to re-establish a legitimate political community.⁴⁴

However, lustration and criminal justice may endanger efficient and sustainable governance.⁴⁵ In connection to the same Copenhagen criteria of democracy and the rule of law, this particularly applies to lustration which, if applied in an overly ambitious manner, can deprive the state of much needed expertise and professionalism. Furthermore, its inherent lack of mechanisms of criminal prosecution runs the risk of arbitrariness and personal bias.⁴⁶ Human rights, as another Copenhagen criterion, thus also enters the equation.⁴⁷

Next to political reservations, there are also important legal objections against transitional criminal justice and lustration. This directly connects to the Copenhagen criterion of rule of law and judicial performance. The pursuit of (criminal) charges following a regime change often seriously compromises the basic legal principle of *nulla poena sine lege*, which holds that only legally prohibited actions can be punished. After all, activities that the new regime considers illegitimate did not necessarily violate the laws of the old regime—indeed, they were often actually in harmony with the objectives and laws of the state.⁴⁸ In the case of serious human rights violations, due to their acknowledged universal nature, such objections become less relevant. Besides, most of the socialist regimes in Southeast Europe had ratified human rights conventions already in the 1960s and 1970s, making such violations illegal, even according to the applicable national law.

⁴² Katherine Verdery, “Post-Socialist Cleansing in Eastern Europe: Purity and Danger in Transitional Justice,” in *Socialism Vanquished, Socialism Challenged: Eastern Europe and China, 1989–2009*, eds. Nina Bandelj and Dorothy J. Solinger (Oxford, UK: Oxford University Press, 2012), 72.

⁴³ In its accession policy towards Bulgaria and Romania, the EU started paying extra attention to corruption, which became a focal point of the integration process. The lack of compliance in this area even led the EU to implement conditionalities upon both countries after accession in 2007. Kalin Ivanov, “The 2007 Accession of Bulgaria and Romania: Ritual and Reality,” *Global Crime* 11, no. 2 (2010), 211.

⁴⁴ E.g., Cynthia M. Horne, “The Impact of Lustration on Democratization in Postcommunist Countries,” *The International Journal of Transitional Justice* 8 (2014), 501, 503–504; Ewa Ochman, *Post-Communist Poland: Contested Pasts and Future Identities* (Abingdon: Routledge, 2013), 20; Verdery, “Post-Socialist Cleansing,” 64.

⁴⁵ Horne, “The Impact of Lustration,” 498, 503; Ochman, *Post-Communist Poland*, 18.

⁴⁶ Verdery, “Post-Socialist Cleansing,” 65.

⁴⁷ Because of its reliance on collective association with the former regime, lustration is considered to lack “political neutrality”—an essential value in liberal democracies. Ochman, *Post-Communist Poland*, 18.

⁴⁸ Verdery, “Post-Socialist Cleansing,” 65.

Nevertheless, in a legal sense, it is problematic to condemn individuals—as lustration often sets out to do—based upon their membership of institutions that were once legal in the context of the regimes in which they operated. For the Hungarian constitutional court this was enough to block any moves towards lustration.⁴⁹ Whilst criminal justice is exclusively concerned with the individual, lustration generally starts by considering the collective from whence it impacts the individual. In fact, lustration quite straightforwardly turns collective responsibility into individual guilt.⁵⁰ This mechanism exists in a tense relationship with international law, human rights, and national constitutions, which together constitute several fundamental Copenhagen criteria.⁵¹ Thus, paradoxically, lustration can be said to contribute to the rule of law by excluding those considered unfit for reasons of transparency and democracy from official positions, whilst simultaneously undermining this very same rule of law by violating the principle of individual guilt.

Next to these political and legal dimensions, criminal justice and lustration touch upon broader social questions. Their implementation and outcomes enter into wider discussions of guilt, responsibility, and accountability towards violent pasts. Thus, apart from the specific Copenhagen criteria mentioned above, retributive justice is strongly intertwined with broader questions that are of significant interest to the EU: democracy, the rule of law, human rights, and compliance with international law and the legal organisations that govern them.⁵²

An ambiguous EU approach towards retributive justice

In the context of post-socialist retributive justice, we are clearly confronted with the problem of the EU's lack of a consistent transitional justice policy. Of course, the EU supports the International Criminal Court (ICC)—a high-profile symbol of international criminal justice. However, the court's statutes do not allow for the prosecution of crimes committed before its establishment in 2002. Hence, no socialist leaders from the region of Southeast and Eastern Europe have been indicted by this court. Criminal prosecutions at the domestic level have occurred, but did not generate an official EU response. Lustration therefore offers a more insightful topic of study for this section on EU engagement with retributive justice in post-socialist countries.

⁴⁹ Verdery, "Post-Socialist Cleansing," 65.

⁵⁰ For an interesting reflection on this mechanism, see Verdery, "Post-Socialist Cleansing," 67–69. Katherine Verdery defends the choice for collective-based lustration by pointing at the network structure of socialist regimes. To thus individualise lustration is to deny the very socially embedded system in which the individual functioned only as part of a network.

⁵¹ Horne, "The Impact of Lustration," 502.

⁵² For more information on the supposed "democracy-promoting qualities" of lustration, see, e.g., Horne, "The Impact of Lustration," 496.

Already in 1996, the Council of Europe (CoE) had adopted a resolution on “measures to dismantle the heritage of former communist totalitarian systems.”⁵³ Whilst not an EU institution, the decisions of, and debates that take place within, the Council of Europe often offer inspiration and guidance for EU resolutions.⁵⁴ In its 1996 resolution, the Council of Europe stated that, in their view, lustration should always be implemented on an individual basis, guided by the notion of individual rather than collective guilt. However, it also emphasised strongly that lustration could help to sustain newly established, legitimate regimes and provide “a breathing space for democracy.”⁵⁵

References that pay such attention to the positive sides of lustration are difficult to find in EU documents. A research report published by the European Commission in 2012 instead favours a cautious approach towards lustration. It acknowledges that lustration is often thought to contribute to freeing the judiciary (and politics) from non-democratic elements that might otherwise undermine the rule of law and human rights, although cautioning that “lustration (i.e. dismissal of those associated with abuses of the previous regime) or vetting procedures bear the risk of further politicising the system for a prolonged period of time. Therefore, a balanced approach needs to be taken.”⁵⁶ We might ask if the EU adhered to, and acted upon, this warning, to which the answer would appear to be “yes.” As relevant literature confirms, the international community—including the EU—is generally highly critical of lustration, often even dismissing it *a priori* on the grounds of human rights concerns.⁵⁷

To illustrate how the supposed EU’s dismissal of lustration played out in practice, it is helpful to briefly examine the far-reaching and much debated lustration programmes in Central Europe. EC progress reports concerning Poland and the Czech Republic from

⁵³ Council of Europe Parliamentary Assembly, *Resolution 1096 (1996) on Measures to Dismantle the Heritage of Communist Totalitarian Systems*, Adopted Resolution, Strasbourg: Council of Europe, 1996.

⁵⁴ Both institutions maintain “intense co-operation” and good relationships with each other and, as underlined by Jean-Claude Juncker, are “products of the same idea, the same spirit and the same ambition.” Council of Europe, “The Council of Europe’s Relations with the European Union,” 2014, http://www.coe.int/t/der/EU_en.asp.

⁵⁵ Council of Europe Parliamentary Assembly, *Resolution 1096 (1996)*, n.p.

⁵⁶ European Commission, *Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: EU Support for Sustainable Change in Transitional Societies*, JOIN(2012) 27 final, Brussels: EUR-Lex, 2012, 7.

⁵⁷ Milan Cakić, “Lustracija u Evropi i Srbiji. Motivacija za donošenje zakona o lustraciji i njegove društvene funkcije,” *Sociologija* 52, no. 3 (2010): 301; Ryan Moltz, “Communist Legacies: The Politics of Lustration in Eastern Europe” (PhD diss., University of Minnesota, 2014), 117. See also Cynthia M. Horne and Margaret Levi, “Does Lustration Promote Trustworthy Governance? An Exploration of the Experience of Central and East Europe,” in *Building a Trustworthy State in Post-Socialist Transition*, eds. János Kornai and Susan Rose-Ackerman (London: Palgrave Macmillan, 2004), 59. For the case of Central and Eastern Europe, see John Gledhill, “Integrating the Past: Regional Integration and Historical Reckoning in Central and Eastern Europe,” *Nationalities Papers: The Journal of Nationalism and Ethnicity* 39, no. 4 (2011): 488, 497; Paul Goble, “Analysis from Washington: Toward Collective Innocence?” May 9, 1996, <http://www.rferl.org/content/article/1080478.html>. Interestingly, Lavinia Stan points out that Western Europe had a different attitude towards lustration when its own countries were concerned: after 1945, “epurations” were used to remove Nazi members and sympathisers from society. Lavinia Stan, “Determinants of Post-Communist Transition: An Overview,” *Global Challenges Conference “Justice and Imagination: Building Peace in Post-Conflict Societies,”* South Hadley: Mount Holyoke College, 2014, 18.

the late 1990s and early 2000s expressed serious concerns regarding the lustration law. In the case of Poland, the EU warned that “should Poland decide to adopt this legislation [the 1997 Lustration or ‘Vetting’ Act] efforts will be required to ensure that the law is implemented in accordance with full respect for human rights and the due process of law.”⁵⁸ In two successive progress reports on the Czech Republic, the EU demanded that the “deadline for terminating the lustration measures [should be] respected.”⁵⁹ In rare cases, lustration affected the EU directly. For example, in 2007, the majority of Members of European Parliament (MEPs) from various political factions strongly rejected the vetting of their fellow MEP Bronislaw Geremek. Some of his defenders even denounced the new Polish lustration act as a “witch-hunt” and dubbed lustration a “Stalinist and fascist method.”⁶⁰

EU responses to lustration initiatives in Southeast European countries confirm this distrust. Albania’s lustration law from 2008, for example, received much attention from several EU institutions.⁶¹ The European Commission raised concerns regarding “[the] procedure and substance” of the country’s lustration law, its limited “consultation and consensus,” and its compatibility with “constitutional requirements and international standards.”⁶² The government was urged to “reconsider the legal and political ramifications.”⁶³ In an official declaration, the Presidency of the Council “on behalf of the EU” recalled that the law “gives rise to concern,” stating:

The EU reiterates that the Council of Europe, the OSCE [Organisation for Security and Cooperation in Europe] and EU experts stand ready to provide advice and

⁵⁸ Commission of the European Communities, *Regular Report from the Commission on Poland’s Progress towards Accession*, COM (98) 701 final, Pre-Accession Report on Poland, 1998, 12.

⁵⁹ Commission of the European Communities, *2001 Regular Report on the Czech Republic’s Progress towards Accession*, SEC(2001) 1746, Pre-Accession Report on the Czech Republic, Brussels, 2001, 17. In the report from 2000, slightly different words had been used (“deadline for phasing out the lustration measures” instead of “deadline for terminating the lustration measures”). Commission of the European Communities, *2000 Regular Report from the Commission on the Czech Republic’s Progress towards Accession*, COM (2000) 703 final, Pre-Accession Report on the Czech Republic, Brussels, 2000, 13.

⁶⁰ European Parliament, *Debates. Mandate of a Member*, Minutes of Debate, Strasbourg: European Parliament, 2007, <http://www.europarl.europa.eu/sides/getDoc.do?type=CRE&reference=20070425&secondRef=ITEM-004&language=EN>.

⁶¹ In 2010, in its country-specific summaries on human rights, the European External Action Service recalls the EU’s “concern” regarding the Lustration Law: European Union External Action, 2010, 105. In 2009, for example, the Common Foreign and Security Policy EU Head of Mission dedicated two reports out of a total of five to the country’s lustration law. Council of the European Union, *CFSP Instruments (Declarations, Demarches, Heads of Mission Reports and Political Dialogue Meetings)*, 18171/10, PESC1676, FIN764, 2010, 29, data.consilium.europa.eu/doc/document/ST-18171-2010-INIT/en/pdf.

⁶² Commission of the European Communities, *Commission Staff Working Document: Albania 2009 Progress Report*, SEC(2009)1337, Brussels: Commission of the European Communities, 2009, 8. See also Council of the European Union, *Declaration by the Presidency on Behalf of the EU on the Albanian Lustration Law*, 6481/09, Brussels: Council of the European Union, 2009, 1; also quoted in Gjeragina Tuhina, “Albanian Lustration Law Under Fire by EU,” *Balkan Insight*, February 16, 2009, <http://www.balkaninsight.com/en/article/albanian-lustration-law-under-fire-by-eu>.

⁶³ Commission of the European Communities, *Albania 2009 Progress Report*, SEC(2009)1337, 8.

assistance to the Albanian authorities in finding ways to achieve the legitimate objective of dealing with the past in full compliance with relevant standards.⁶⁴

Whilst it is not clear how the lustration law precisely relates to “ways to achieve the legitimate objective of dealing with the past,” the document makes clear that lustration is not the best way forward. In further press releases and progress reports regarding the Albanian case, the EU only mentioned being “informed” of constitutional problems of the lustration law,⁶⁵ noting that the law “was adopted without full consultation [of the relevant authorities],”⁶⁶ whilst also stating that they “judged . . . [the law] to be constitutional.”⁶⁷ International actors such as the United States of America (USA) and the United Kingdom (UK) also urged for revision of the law. In 2009, the Albanian Constitutional Court declared the law unconstitutional in a move supported by the Council of Europe’s Venice Commission, which offers legal advice to its member states in order to help them achieve “European standards.”⁶⁸

The EU thus seemed—informed by international law and widely accepted moral-ethical considerations—to have followed international consensus. However, the US Ambassador to Albania remarked that the EU Heads of Mission failed to agree on a unanimous stance against the law.⁶⁹ This seems to be valid too for the EU’s stance on lustration in other post-socialist countries. The vast majority of progress reports on, and enlargement strategies concerning, countries that debated or implemented lustration do not, or only partially, cite domestic lustration mechanisms. Furthermore, when lustration is included in the document, it is often in the form of a factual, simple observation.⁷⁰ If assessments are made, their formulation is opaque. For example, a progress report from 2012 notes that Macedonia’s lustration law was accompanied by “concerns . . . about the proportionality and constitutionality of the law” (albeit without specifying the source of these concerns).⁷¹

⁶⁴ Council of the European Union, *Declaration by the Presidency*, 6481/09, 2.

⁶⁵ Council of the European Union, *First Meeting of the EU-Albania Stabilisation and Association Council: Joint Press Release*, 10113/09 (Presse 142), Brussels: Council of the European Union, 2009, 2.

⁶⁶ Commission of the European Communities, *Enlargement Strategy 2009–2010*, COM(2009) 533, 22.

⁶⁷ European Commission, *Commission Staff Working Document: Analytical Report Accompanying the Communication from the Commission to the European Parliament and the Council. Commission Opinion on Albania’s Application for Membership of the European Union*, SEC(2010) 1335 final, Brussels: European Commission, 2010, 10.

⁶⁸ The European Commission for Democracy Through Law, “For Democracy Through Law: The Venice Commission of the Council of Europe,” n.d., https://www.venice.coe.int/WebForms/pages/?p=01_Presentation&lang=EN.

⁶⁹ Robert Clegg Austin, “Transitional Justice as Electoral Politics,” in *Post-Communist Transitional Justice: Lessons from Twenty-Five Years of Experience*, eds. Lavinia Stan and Nadya Nedelsky (New York: Cambridge University Press, 2015), 43.

⁷⁰ E.g., European Commission, *Commission Staff Working Document: The Former Yugoslav Republic of Macedonia 2010 Progress Report*, COM(2010)660, Brussels: European Commission, 2010, 12; European Commission, *Croatia 2010 Progress Report*, SEC(2010) 1326, Progress Report, Brussels: European Commission, 2010, 10; Stabilisation and Association Council, Minutes of the *First Meeting of the EU-Albania Stabilisation and Association Council*, UE-ALB 4951/10, Brussels, 2010, 11.

⁷¹ European Commission, *Commission Staff Working Document: The Former Yugoslav Republic of Macedonia 2012 Progress Report*, SWC(2012) 332 final, Brussels: European Commission, 2012, 15.

To further complicate matters, the EU sometimes assessed lustration measures in positive terms. In 2003, the adoption of Serbia's Law on Accountability for Human Rights Violations, also known by domestic and EU actors as the "lustration law," was welcomed by the EC as "an important step in dealing with the past."⁷² Following concerns that the law violated Serbia's constitution, a representative of the centre-right European People's Party (EPP) asked in a written statement: "how [can] truth and justice infringe the Constitution of a democratic state?"⁷³ Whilst in 2011 the EP highlighted the concerns of the Venice Commission and Helsinki Committee regarding the "constitutionality and potential misuse" of the Macedonian lustration law as discussed above.⁷⁴ In 2011 and 2013, the EP adopted resolutions that congratulated Macedonia on the "political will" to "complete the long overdue" publication of the names of former Yugoslav secret service agents.⁷⁵ The lustration process, to be completed soon,⁷⁶ was welcomed as a mechanism via which to "break with the Communist past" and the authorities were encouraged to extend the law's reach.⁷⁷

My findings thus add nuance to the alleged international community's dismissal of lustration.⁷⁸ Contrary to the literature, EU practice was diverging, often rather cautious and sometimes ambiguous. The region of post-socialist Southeast Europe offers examples of rejection and concern (Albania), as well as encouragement (Macedonia). The passage of time alone cannot fully account for these differences: the EC negatively assessed lustration in Central and Eastern Europe, whilst it later positively evaluated Serbia's lustration law, before dismissing its Albanian counterpart. Moreover, to assume that the EU tailored its responses to context-specific factors in each country is to ignore the contradictions within individual cases. It is therefore best to conclude that the EU lacked a consistent approach towards lustration.

The EU, therefore, sometimes simply chose silence, as the case of Bulgaria testifies. "Reform of the judiciary" and the "fight against organised crime" are recurring topics in

⁷² Commission of the European Communities, *Commission Staff Working Paper: Report on the Preparedness of Serbia and Montenegro to negotiate a Stabilisation and Association Agreement with the European Union*, SEC (2005) 478, Brussels: Commission of the European Communities, 2005, 13.

⁷³ European Parliament, *Minutes of the Debate on the Enlargement Report for Serbia*, Brussels: European Parliament, 2012, n.p.

⁷⁴ European Parliament, *European Parliament Resolution of 6 February 2014 on the 2013 Progress Report on the Former Yugoslav Republic of Macedonia*, P7_TA(2014)0103, Strasbourg: European Parliament, 2014, 2.

⁷⁵ European Parliament, *European Parliament Resolution of 7 April 2011 on the 2010 Progress Report on the Former Yugoslav Republic of Macedonia*, P7_TA(2011)0151, Strasbourg: European Parliament, 2011, 3.

⁷⁶ European Parliament, *European Parliament Resolution of 7 April 2011*, P7_TA(2011)0151, 3.

⁷⁷ European Parliament, *European Parliament Resolution of 23 May 2013 on the 2012 Progress Report on the Former Yugoslav Republic of Macedonia*, P7_TA(2013)0226, Strasbourg: European Parliament, 2013, 4.

⁷⁸ For example, the EU recently also declared itself to be in favour of lustration in Libya, which is clearly beyond the scope of this paper, but further challenges the "anti-lustration" paradigm that is supposed to prevail in EU policy.

EU practice, but rarely reflect or act upon past injustices.⁷⁹ During meetings between EP delegations and Bulgarian representatives in the years from 2000 until 2007, neither lustration nor criminal justice were discussed,⁸⁰ nor did Bulgaria's official condemnation of the socialist regime in 2000 and 2004 evoke reactions from the EP delegation's programme of otherwise quite wide-ranging discussions.⁸¹

The same seems to apply to Serbia. Although the EC, as mentioned above, welcomed the lustration law, EP participants in the interparliamentary meetings, bringing together Serbian and European members of parliament, did not raise the issue. When Serbian parliamentarian Željko Ivanji commented that a "lustration process had never taken place," there was no comment or follow-up from EP members,⁸² even though other wide-ranging topics did find their way into the meetings. Political issues such as minority rights, corruption, and the rule of law were explicitly (and high) on the agenda in the meetings on Bulgaria and Serbia, and remained so in the case of Bulgaria even after its accession in 2007.⁸³ This all links back to a broader point: the EU's general disregard for the socialist past as a relevant factor in designing accession policies.

Explaining the EU approach towards retributive justice

How do we explain this lack of EU engagement with questions of criminal justice and lustration in post-socialist accession countries? As already discussed, post-socialist retributive justice shares some substantial common ground with the EU's Copenhagen criteria. Here, the fight against corruption is a good example. As we have seen, many scholars attribute this form of misconduct to a failure to remove the old regime from

⁷⁹ Several annual pre-accession progress reports from the years 1998-2007 as can be found on https://ec.europa.eu/neighbourhood-enlargement/countries/package_en. In the 2000 progress report, for example, (and this is illustrative for all preceding and ensuing reports, too) the EC lists a number of problems ranging from insufficient funding to unsatisfactory training of legal staff and persistent bribery, at no point are these practices linked to the authoritarian socialist past. Commission of the European Communities, *2000 Regular Report from the Commission on Bulgaria's Progress towards Accession*, Brussels, 2000, 16-18, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/archives/pdf/key_documents/2000/bg_en.pdf.

⁸⁰ As concluded from the documents, minutes, and recommendations (eight in total) from the meetings of the Interparliamentary Delegations/Joint Parliamentary Committees of the EP and Bulgaria in 2004-2007 (available on: http://www.europarl.europa.eu/intcoop/euro/jpc/d_bg/default_en.htm) and those documents, eighteen in total; and the documents from 2000-2004 (available on: http://www.europarl.europa.eu/intcoop/euro/jpc/bulg/default_en.htm). As also discussed in Janusz Bugajski, "Bulgaria: Progress and Development," in *Central & East European Politics: From Communism to Democracy*, eds. Sharon L. Wolchik and Jane L. Curry (Plymouth: Rowman & Littlefield Publishers, Inc., 2011), 248; Hristo Hristov in Andrey Kovatchev, *Proceedings from the Conference "The Endured European Dream of Bulgaria: 1944-1989"* Conference Proceedings, Brussels: EPP Group, 2010, 81.

⁸¹ Carlos Closa Montero, *Study on How the Memory of Crimes Committed by Totalitarian Regimes in Europe is Dealt With in the Member States* (Commissioned by the European Commission, 2008), 24, <https://digital.csic.es/handle/10261/34366?locale=en>; Hristo Hristov in Kovatchev, *Proceedings from the Conference "The Endured European Dream of Bulgaria."*

⁸² Interparliamentary meeting EP-Serbia, Minutes from the *1st EP-Serbia Interparliamentary Meeting*, PE 409.353_EN, 21-22 November 2006, Brussels, 4, http://www.europarl.europa.eu/intcoop/euro/id/dsee/minutes_en.htm.

⁸³ Cosmina Tanasoiu, "Europeanization Post-Accession: Rule Adoption and National Political Elites in Romania and Bulgaria," *Southeast European and Black Sea Studies* 12, no. 1 (2012): 177-178.

leadership positions. Conversely, the EU approached corruption mainly as a “technical” problem with few roots in the past.⁸⁴ Corruption was only linked to post-socialist transition sporadically by individual MEPs.⁸⁵ Indeed, in the context of Southeast European countries, not a single progress report cites socialist legacies as a problem.

Interestingly, this stance quickly started to change, following the enlargements of 2004 and 2007. Alongside calls for remembrance and a confirmation of the EP’s “united stand against all totalitarian rule,” on April 2, 2009, the EP adopted the resolution on European Conscience and Totalitarianism, which expressed “respect for all victims of totalitarian and undemocratic regimes in Europe and pa[id] tribute to those who fought against tyranny and oppression.”⁸⁶ Because it symbolised many other important changes in the EU’s attitude towards the past—most notably in terms of narrative—this resolution will appear several times throughout this chapter and the next. Whilst the resolution promises to “condemn the perpetrators,” it leaves out the dimension of punishment for individual criminals.⁸⁷

However, the resolution’s potential influence on retributive justice in post-socialist countries extended beyond its superficial meaning. Through the resolution, the EP established the Platform of European Memory and Conscience (hereafter referred to as the Platform) that subsequently, in 2012, initiated a project called “Justice 2.0.” The project aims to “achieve legal redress for the crimes of Communism.”⁸⁸ However, the project has struggled to materialise.⁸⁹ Apart from several project presentations throughout Central and Eastern Europe during 2015 and 2016 and a well-attended and well-prepared meeting in the EP,⁹⁰ little progress has been made towards raising international awareness of the issue and bringing to court those perpetrators who are still alive.⁹¹

⁸⁴ Kurtoglu Eskisar, M. Gul and Awsegul Komsuoglu, “A Critical Assessment of the Transformative Power of EU Reforms on Reducing Corruption in the Balkans,” *Southeast European and Black Sea Studies* (2015): 2, 7.

⁸⁵ MEP Jan Tadeusz Masiel, for example, commented that “[corruption] is deeply ingrained in the psyche of people raised for generations in poverty, oppression and injustice under Communist rule.” European Parliament, *Debates. Progress towards Accession by Bulgaria and Romania*, Minutes of Debate, Strasbourg: European Parliament, 2005, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20051025+ITEM-020+DOC+XML+V0//EN&language=EN>.

⁸⁶ European Parliament, *European Conscience and Totalitarianism: European Parliament Resolution of 2 April 2009 on European Conscience and Totalitarianism*, P6_TA(2009)0213, Adopted Resolution, Brussels: European Parliament, 2009, 1.

⁸⁷ European Parliament, *Resolution on European Conscience and Totalitarianism*, P6_TA(2009)0213.

⁸⁸ Neela Winkelmann, *Justice 2.0. International Crimes of the Communist Regimes: Cases for Further Investigation and Signal Litigation Using International Criminal Justice*, Prague: Platform of European Memory and Conscience, May 27, 2015, 4.

⁸⁹ Laure Neumayer, “Integrating the Central European Past into a Common Narrative: The Mobilizations Around the ‘Crimes of Communism’ in the European Parliament,” *Journal of Contemporary European Studies* 23, no. 3 (2015): 358.

⁹⁰ I attended this meeting on May 27, 2015. Whilst the meeting was attended by several representatives of the EU, it was also open to the public upon registration. A roundtable discussion was followed by a presentation of the documentary film “Justice 2.0.” The attendees were presented with printed promotion and information.

⁹¹ Platform of European Memory and Conscience, *Justice 2.0*, May 13, 2015, <https://www.memoryandconscience.eu/justice>.

The Platform, as well as the Justice 2.0 project, are “a markedly Central and Eastern European endeavour.”⁹² This also applies to the nationalities of its representatives, who are all from Central and Eastern Europe, and its support, which comes most notably from the Czech authorities.⁹³ The Platform has secured a broad support base and, as Laure Neumayer states, “draws its legitimacy from the [2009] EP resolution.”⁹⁴ The EC financially supported two of its main projects and interestingly, considering that previously the EU seemed to have had little interest in the issue of international criminal justice in relation to the socialist past, parts of the Justice 2.0 project were also directly facilitated by the EP. The venue of the conference on May 17, 2017—namely, the European Parliament—underlined the EP’s commitment, as does the fact that the conference was chaired by the MEP Sandra Kalniete.

As a fairly logical consequence of the aforementioned legal, political, and societal difficulties of post-socialist criminal justice and lustration, the EU’s approach to retributive justice remained hesitant. In the following, I turn to the other dimension of dealing with the past, namely, restorative justice. It is here that we can trace a growing interest in history and memory as part of EU practice towards accession states.

1.2.2 *Restorative justice: (Re)writing the history of post-socialist Europe*

If one thinks of dealing with the past and the relation between the present and the past, it is difficult to miss the importance of memory—a key component of restorative justice.⁹⁵ Whilst remembrance and commemoration are generally considered to be important aspects of dealing with the past, during the last decade, “memory studies”—in every sense as interdisciplinary as the field of transitional justice—has emerged as an academic field in its own right. In this chapter, I contextualise memory, remembrance, and commemoration specifically within the context of dealing with the socialist past. This inevitably entails that I do not engage with many dimensions of regular memory studies, such as questions of an ethnographic, anthropological, (socio-)psychological, and/or sociological nature. Instead I analyse memory in a similar manner as I conceptualised the historical dimensions of lustration and criminal justice—namely as a fluid political tool via which to legitimise power. Here I make a strong distinction between history and memory—that is, between

⁹² Neumayer, “Integrating the Central European Past into a Common Narrative,” 358.

⁹³ This project is largely driven via lobbying from Central and Eastern European countries and sustained through MEPs from these countries. This project specifically reflects a desire expressed in 2011 by Czech government officials and victims of socialism. Neumayer, “Integrating the Central European Past into a Common Narrative,” 358; see also Winkelmann, *Justice 2.0*, 4.

⁹⁴ Neumayer, “Integrating the Central European Past into a Common Narrative,” 358.

⁹⁵ Katharine Hodgkin and Susannah Radstone, “Introduction,” in *Contested Pasts: The Politics of Memory*, eds. Katharine Hodgkin and Susannah Radstone (London: Routledge, 2003): 1, 14.

history as a “certain notion of referentiality,” and memory as a practice that has little to do with representing, but all the more with assigning, meaning.⁹⁶

The enlargement project towards Central and Eastern Europe confronted the EU with a region upon which the past represented a heavy burden. The prevailing attitude towards its socialist past was not only “one of the cleavages which structures the nascent democratic political fields in the former Eastern bloc”;⁹⁷ it also led to divisions within the EU itself. Especially following the 2004 accession wave, the various EU institutions had no option but to increasingly engage with questions of memory, remembrance, and commemoration. The consequences of this engagement for EU narratives of transition and the socialist past will be further dissected in chapter 2. However, in the following, I will focus on the changes that occurred in EU practice during these years.

The fall of socialism prompted various groups and institutions within the EU to take a stance. The Party of European Socialists (PES) within the European Parliament probably faced the most difficult task, namely to reconcile its socialist identity with the dismissal of the authoritarian regimes in the regions of Central and Eastern Europe. Initially, the PES decided to support parties rising from anti-socialist opposition movements, whilst treating the former ruling socialist parties as “pariah.”⁹⁸ Eventually, however, the PES adopted a milder stance towards the latter group and admitted them into their ranks.⁹⁹ As a consequence, former socialist parties now had a direct platform in the EP, making the issue of the memory of socialism all the more complex.

Whilst the EU as a whole hesitated to adopt this anti-socialist rhetoric, one of the largest groups within the EP felt no such reservations. As we will see throughout this chapter, it was the conservative EPP that was most eager to remind their colleagues of the socialist wrongdoings and the need to redress socialist harm. In the beginning of 2004, it adopted a resolution to “condemn totalitarian communism.”¹⁰⁰ The concise document expressed concerns about the lack of real political transformation, truth, and recognition for socialist victims. Underlining the injustice done, the resolution contrasted the hesitant international attitude towards the uncompleted post-socialist transition with the unambiguous global condemnation of Nazism and fascism. Most importantly for my research, it proposed multiple concrete initiatives to promote access to information about the crimes committed and to enhance their commemoration.¹⁰¹

⁹⁶ Hodgkin and Radstone, “Introduction,” 2.

⁹⁷ Neumayer, “Integrating the Central European Past into a Common Narrative,” 346.

⁹⁸ Michael Holmes and Simon Lightfoot, “Limited Influence? The Role of the Party of European Socialists in Shaping Social Democracy in Central and Eastern Europe,” *Government and Opposition* 46, no. 1 (2011): 39.

⁹⁹ Holmes and Lightfoot, “Limited Influence?,” 41.

¹⁰⁰ European People’s Party, *XVth EPP Congress: Resolution Condemning Totalitarian Communism*, Brussels: European People’s Party, 2004; Neumayer, “Integrating the Central European Past into a Common Narrative,” 347.

¹⁰¹ European People’s Party, *XVth EPP Congress*.

Whilst no other groups in the EP followed up on the resolution and thus it did not generate concrete action at the time, the EPP's resolution became part of a particularly vivid debate. In Strasbourg, the Parliamentary Assembly of the CoE was busy discussing and drafting resolution 1481, issued in January 2006. Describing the graveness of the "crimes of totalitarian communist regimes," the resolution expressed regret for the impunity afforded to the perpetrators and the general lack of knowledge about the crimes.¹⁰² It proposed that "awareness of history is one of the preconditions for avoiding similar crimes in the future," calling for genuine and objective investigation into these wrongdoings.¹⁰³ Towards this aim, the draft resolution built upon CoE resolution 1096 and urged its member states to "dismantle the heritage of former socialist totalitarian systems" in order to enable criminal prosecution, archival disclosure, property restitution, and the rehabilitation and compensation of victims.¹⁰⁴ Eventually, resolution 1481 was only two votes short of a two-third majority and thus failed to be adopted. Nonetheless, the text itself and the debate surrounding the resolution created a momentum that went well beyond the meeting rooms of the Council of Europe. Domestic political elites discussed the issue in their national parliaments.

When in 2006 the EC decided to prolong the "Europe for Citizens Programme" that had premiered two years earlier, this should thus not be seen in isolation from the effects of CoE resolution 1481. To "keep history alive" was and remains one of the project's fundamental aims.¹⁰⁵ As another sign of the concrete change in the EU's attitude towards the socialist past, the EC organised a public hearing on "crimes of genocide, crimes against humanity and war crimes committed by totalitarian regimes." Taking place on April 8, 2009, the hearing was used by representatives from Eastern Europe in order to prepare their agenda in light of the upcoming Czech EU Presidency and twentieth anniversary of the fall of socialism.¹⁰⁶ The Czech Republic was indeed one of the strongest forces behind the Eastern European lobby. One year before, its government had initiated the Prague Declaration on European Conscience and Communism. Signed by prominent figures from across Europe, it called for education about, and the condemnation of, communism.¹⁰⁷ A direct result of the declaration was the EP's adoption of a European Day of Remembrance for the Victims of Stalinism and Nazism.

¹⁰² Council of Europe Parliamentary Assembly, *Resolution 1096 (1996)*, 1.

¹⁰³ Council of Europe Parliamentary Assembly, *Resolution 1096 (1996)*, 1.

¹⁰⁴ Council of Europe Parliamentary Assembly, *Resolution 1096 (1996)*, 2.

¹⁰⁵ Markus J. Prutsch, *Culture and Education. European Historical Memory: Policies, Challenges and Perspectives*, Note, Brussels: European Parliament, Directorate-General for Internal Policies, Policy Department Structural and Cohesion Policies, 2013, 6, 16.

¹⁰⁶ Neumayer, "Integrating the Central European Past into a Common Narrative," 347.

¹⁰⁷ Various signatories, "Prague Declaration," in *Proceedings of the International Conference European Conscience and Communism*, 2008: 158–162.

Eventually, all of these initiatives culminated in the aforementioned EP resolution on European Conscience and Totalitarianism, adopted on April 2, 2009.¹⁰⁸ The Council of the European Union followed suit with a similar document in June that same year.¹⁰⁹ It is important to acknowledge the active, individual effort of MEPs and other EU representatives in achieving this change. Laure Neumayer has coined these actors “memory entrepreneurs.”¹¹⁰ The foregoing needs to be seen in context: only five years earlier, the EPP had been on its own in its condemnation of socialism. Only because they “managed to assimilate the parliamentary rules of interaction” did the pro-confrontation MEPs prompt other EP groups to rally behind their cause.¹¹¹

Tracing the EU's stance towards restorative justice in Southeast European post-socialist states

In terms of timeline, the above development coincided with the accession paths of Bulgaria and Romania. Both countries acquired membership precisely when EU accession practice started to include restorative justice. Bulgaria's membership is particularly insightful here. Up until 2006, progress documents, joint parliamentary meetings, and other relevant material contained no references to memory issues, mirroring general EU disinterest in the topic. Apart from some very specific comments during debates,¹¹² discussions focused on more urgent contemporary issues—for example, the rights of the Romani, nuclear power plants, and corruption.¹¹³

An important exception here should be made for the EPP and for the Dutch MEP Els de Groen¹¹⁴—a name that will frequently reappear throughout this book. De Groen, an MEP for the Green Party, asked the European Commission and European Council to support Bulgarian disclosure of the former secret service archives, although her words

¹⁰⁸ The EP resolution directly referred to CoE resolution 1481. European Parliament, *European Parliament Resolution on European Conscience and Totalitarianism*, P6_TA(2009)0213.

¹⁰⁹ Council of the European Union, *Press Release 2950th Council Meeting, General Affairs and External Relations, General Affairs, Luxembourg, June 15, 2009*, 10938/09 Presse 173, 2009, 17; Council of the European Union, “Council Conclusions on the Memory of the Crimes Committed by Totalitarian Regimes in Europe,” *Minutes of the 3096th Justice and Home Affairs Council Meeting, Luxembourg, June 9–10, 2011*, <https://www.memoryandconscience.eu/wp-content/uploads/2011/08/JHA-conclusions-10062011.pdf>; Council of the European Union, *Press Release 3096th Council Meeting, Justice and Home Affairs Luxembourg, June 9–10, 2011*, 11008/11, PRESSE 161, PR co 37, 2011, 22; Annabelle Littoz-Monnet, “Explaining Policy Conflict across Institutional Venues: European Union-Level Struggles over the Memory of the Holocaust,” *Journal of Common Market Studies* 51, no. 3 (2013): 500–501.

¹¹⁰ Neumayer, “Integrating the Central European Past into a Common Narrative,” 348.

¹¹¹ Neumayer, “Integrating the Central European Past into a Common Narrative,” 350. For a thorough analysis of their initiatives and arguments, see the full article.

¹¹² In a debate in 2005, for example, an MEP for the Independence/Democracy group Borghezio called for opening up the files relating to the Bulgarian secret service's alleged support for the 1981 assassination attempt on pope John Paul II. European Parliament, *Debates. Applications for Accession of Bulgaria and Romania*, Minutes of Debate, Strasbourg: European Parliament, 2005, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20050412+ITEM-027+DOC+XML+V0//EN&language=EN>.

¹¹³ See various documents from the EU-Bulgaria joint parliamentary committees, available in English on www.parliament.bg.

¹¹⁴ Els de Groen is also often called “Elly de Groen-van Kouwenhoven” in EU sources.

initially failed to find fertile soil.¹¹⁵ Together with three colleagues, she tried to include a positive reference to the “start of opening the archives of the former totalitarian secret services in Bulgaria and Romania for public examination” in a resolution on Bulgaria’s and Romania’s accession in mid-2006.¹¹⁶ The motion was rejected and the resolution that was eventually adopted did not mention archival disclosure.¹¹⁷ The pressure to disclose the secret service files thus seems to be best explained as a concern of individual MEPs and the EPP.

Both the Commission and the Council clearly and repeatedly distanced themselves from the issue.¹¹⁸ Jacques Barrot, the European Commissioner for Justice from 2008 to 2010, stated in 2008 that the issue of Bulgaria’s disclosure of its secret service archives did not fall within the EU’s mandate, which focussed on “judicial reform, and the fight against corruption and organised crime.”¹¹⁹ The rationale underlying the EU’s lack of involvement conflicts with commonly accepted wisdom amongst scholars and NGOs. Like lustration and criminal justice, archival disclosure can be connected to the Copenhagen criteria. Corruption and fraud are inextricably linked to totalitarian legacies and the way these are dealt with. One could even posit that the right to access personal files falls under the Copenhagen criterion of human rights. I am, however, not in the position, nor do I want, to formulate some sort of judgement on this practice. Rather, I want to investigate how this attitude changed, seemingly so swiftly, throughout all EU institutions.

¹¹⁵ European Parliament, *Debates: Progress Report on the Accession of Bulgaria and Romania*, Debate, Strasbourg: European Parliament, 2006. See also Els de Groen, *Een moeras vol krokodillen* (Breda: Stichting Uitgeverij Papieren Tijger, 2009); Els de Groen, interviewed by Author, *Interview* (April 23, 2015); Els de Groen, “Bulgaria’s Future Needs an Open Past,” n.d., www.elsdegroen.nl/pdf_docs/dnevnik_eng.pdf.

¹¹⁶ European Parliament, *Motion for a Resolution to Wind up the Debate on Statements by the Council and Commission*, by Daniel Marc Cohn-Bendit, Joost Lagendijk, Milan Horacek and Elly de Groen-Kouwenhoven on behalf of the Verts/ALE Group, 2006, 3.

¹¹⁷ European Parliament, *Texts Adopted: European Parliament Resolution on the Accession of Bulgaria and Romania (European Council of 15-16 June 2006)*, P6_TA(2006)0262, Adopted Resolution, Strasbourg: European Parliament, 2006.

¹¹⁸ Council of the European Union, *Parliamentary Questions: Joint Reply to Written Questions E-1261/06, E-1263/06, E-1265/06*; Council of the European Union, *Parliamentary Questions: Reply to E-4991/2006*, Brussels: OJ C 291, 2008; Council of the European Union, *Parliamentary Questions: Reply to E-0468/2006*; European Commission, *Parliamentary Questions: Answer Given by Mr Frattini on Behalf of the Commission to E-3237/2007*, 2007; European Commission, *Parliamentary Questions: Joint Answer Given By Mr Barrot on Behalf of the Commission to Written Questions E-3416/08 and E-3417/08*, Brussels: OJ C 999, 2009. In an answer from 2009, Mr Barrot, on behalf of the EC, once more emphasised that the EU’s only role was that of a facilitator and referred to the “Active European Remembrance” branch of the Europe for Citizens programme. European Commission, *Answer Given by Mr Barrot to E-0501/2009*, 3. In the interest of completeness, this reluctance to engage with archival disclosure was not limited to the Southeast European candidate member states. In 2005, the European Commission stated in a reply to a question about archival opening in all EU member states that it “promotes scientific research *inter alia* on the social and cultural heritage,” but does not “intervene in the methods to disclose sources, such as the archives that the Honourable Member alludes to.” European Commission, *Parliamentary Questions: Answer given by Mr Frattini on Behalf of the Commission to E-2154/2005*, Brussels: OJ C 299, 2005. Already in 1991, the European Commission had declared with regard to Nazi archives that it “had no power to act in this field [of archival opening],” dubbing it “primarily a matter for the Member States.” European Commission, *Parliamentary Questions: Answer given by Mr Delors on Behalf of the Commission to E-662/91*, Brussels: OJ C 210/33, 1991.

¹¹⁹ European Commission, *Joint Answer Given by Mr Barrot to E-3416/08 and E-3417/08*, n.p.

EP rapporteur Geoffrey van Orden, a representative of the EPP group, played a key role in how this change materialised in the case of Bulgaria. Beginning in 2001 and maintaining the same stance until Bulgaria's accession in 2007, he pressed the Bulgarian authorities to start serious investigations into the murder of Georgi Markov in 1978.¹²⁰ Markov was a Bulgarian dissident, killed in London in infamous but mysterious circumstances involving an umbrella gun. In a wider context, investigating this murder also touches upon the area of retributive justice, however, it is discussed here because the main obstacle for the investigation lay in the access to information.

De Groen's plea for archival disclosure, which had enjoyed such little support in the EP until mid-2006, was taken up by Van Orden in the remaining months before the accession of Bulgaria. This happened at a moment when (as chapter 4 will explore further) the Bulgarian parliamentary debate on establishing a law regarding archival disclosure had gained fresh momentum—something the political Right had pursued for years, albeit with little success.¹²¹ Van Orden included a clause in his final report on Bulgaria's accession “welcoming” the imminent law and praising it as a “measure that will help build public confidence and demonstrate a clear break with the past.”¹²² The resolution was adopted by the European Parliament on November 30, 2006.

However, in the debate on the resolution that preceded its adoption, none of the MEPs referred to the archives' clause. It is therefore intriguing that Simeon Djankov, the Bulgarian Deputy Prime Minister and Minister of Finance from 2009 until 2013, partially supported by the Bulgarian historian Iskra Baeva,¹²³ suggested that the Bulgarian archival law passed in 2006 was “a condition for entry into the European Union.”¹²⁴ As will be demonstrated in chapter 4, this claim goes against the (somewhat messier) reality, in which specific individuals took the lead and carefully chose their moment. However, the EU indeed increasingly engaged with the topic of archival disclosure, and memory in general, from 2006 onwards. In the aforementioned 2009 resolution on European

¹²⁰ European Parliament, *Debates: Progress Report on the Accession of Bulgaria and Romania*, Minutes of the Debate, Strasbourg: European Parliament, 2006; Geoffrey van Orden, *Bulgaria Clears Last Hurdle Before Accession*: November 30, 2006, <http://arc.eppgroup.eu/press/showpr.asp?prcontroldoctypeid=1&prcontrolid=5526&prcontentid=9856&prcontentlg=en>.

¹²¹ Niké Wentholt, “Open Archives to Close the Past: Bulgarian Archival Disclosure on the Road to European Union Accession,” in *State-Sponsored History*, eds. Nico Wouters and Berber Bevernage (London: Palgrave Macmillan, 2018), 161–175.

¹²² European Parliament, *European Parliament Resolution on the Accession of Bulgaria to the European Union*, P6_TA(2006)0511, Brussels: OJ C 316E, 2006: 119.

¹²³ Iskra Baeva, “How Post-1989 Bulgarian Society Perceives the Role of the State Security Service,” in *Remembering Communism: Private and Public Recollections of Lived Experience in Southeast Europe*, eds. Stefan Troebst, Mariia Nikolaeva Todorova and Augusta Dimou (Budapest: Central European University Press, 2014), 367–384.

¹²⁴ Simeon Djankov, “Bulgaria: The Greatest Vacillations,” in *The Great Rebirth: Lessons from the Victory of Capitalism over Communism*, eds. Anders Aslund and Simeon Djankov (Washington: Peterson Institute for International Economics, 2014), 146. In a similar vein, John Gledhill, albeit cautiously, links the EU's call for reform of the judiciary reform to Romania's decision to start an investigatory commission to address socialist crimes. Gledhill, “Integrating the Past,” 491.

Conscience, the EP expressed its “regret” that archives with sensitive information from socialist times were still inaccessible “in some Member States.”¹²⁵ The resolution urged the authorities to make a “genuine effort” to open the archives and protect them from political “abuse.”¹²⁶ The year before, the Bulgarian archival committee had attended the public hearings in Brussels on “totalitarian regimes and the disclosure of the records in Eastern Europe.”¹²⁷ The Platform for European Memory and Conscience monitored the implementation of the Bulgarian archival law adopted in December 2006.¹²⁸ Moreover, the EU was the main financial supporter of the 2009 commemoration of former dictator Todor Zhikhov’s fall.¹²⁹ This remarkable shift in the EU’s engagement with memory questions in Bulgaria thus quite accurately followed more general trends, as identified above.

The same increase in attention for restorative justice in EU accession practice can be seen with regard to the socialist pasts of the countries of the former Yugoslavia. Calls to enhance the memory of its socialist past have, as with Bulgaria, come mostly from the EPP political group. The Bulgarian MEP Andrey Kovatchev, who also tried to enhance memory of the Bulgarian socialist past, urged the Serbian authorities to “follow the example of all the countries east to [sic] Berlin” and disclose the socialist secret service archives.¹³⁰ Whether it was due to this short speech or to more behind-the-scenes lobbying efforts, the final resolution adopted by the European Parliament in 2012 on Serbia echoed Kovatchev’s recommendation. The document expressed “regret” that the archives of the Yugoslav secret police remained largely classified and urged the authorities to undertake serious research into the massacres of 1944–1945.¹³¹ Such declassification, the report suggested, would be evidence of “efforts to eliminate the legacy of the former Socialist services.”¹³²

¹²⁵ European Commission, *Joint Answer Given by Mr Barrot to E-3416/08 and E-3417/08*, 3.

¹²⁶ European Commission, *Joint Answer Given by Mr Barrot to E-3416/08 and E-3417/08*, 3. A similar demand had been made in 2005 with regard to Second World War archives. European Parliament, *European Parliament Resolution of the Sixtieth Anniversary of the End of the Second World War in Europe on 8 May 1945*, P6_TA(2005)0180, Adopted resolution, Strasbourg: European Parliament, 2005, 2.

¹²⁷ Reiner Schiller-Dickhut and Bert Rosenthal, *The European Network of Official Authorities in Charge of the Secret-Police Files: A Reader on Their Legal Foundations, Structures and Activities* (Berlin: Die Bundesbeauftragte für die Unterlagen des Staatssicherheitsdienstes der ehemaligen Deutschen Demokratischen Republik, 2009), 13.

¹²⁸ In 2012 the Platform denied the archival committee COMDOS entrance because the committee included people that had worked for the former totalitarian communist regime. In protest the Platform sent letters to the prime minister, the president, and several other ministers. Platform of European Memory and Conscience, “Bulgarian Committee COMDOS Presently Not Welcome to Join the Platform of European Memory and Conscience,” February 21, 2012, <http://www.memoryandconscience.eu/2012/02/21/bulgarian-committee-comdos-presently-not-welcome-to-join-the-platform-of-european-memory-and-conscience/>.

¹²⁹ Venelin I. Ganey, “The Inescapable Past: The Politics of Memory in Post-Communist Bulgaria,” in *Twenty Years After Communism: The Politics of Memory and Commemoration*, eds. Michael Bernhard and Jan Kubik (New York: Oxford University Press, 2014), 213–231.

¹³⁰ In 2010, Andrey Kovatchev also organised a conference on Bulgaria’s post-communist transition. Andrey Kovatchev, quoted in European Parliament, *Minutes of the Debate on the Enlargement Report for Serbia*, n.p.

¹³¹ European Parliament, *Enlargement Report for Serbia: European Parliament Resolution of 29 March 2012 on the European Integration Process of Serbia*, P6_TA(2012)0114, Adopted resolution, Brussels: European Parliament, 2012, 12.

¹³² European Parliament, *Enlargement Report for Serbia*, P6_TA(2012)0114, 6–7.

Interestingly, this sudden interest in the Yugoslav socialist past also coincides with the achievement of full co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY), which was (as will be discussed elaborately in chapter 2) an absolute condition for EU accession. In general, the EU's involvement with restorative justice in the former Yugoslavia has been mostly directed towards its war past.

1.3 Post-war transition: Advancing EU priorities¹³³

Did the EU's shifting practice towards post-socialist retributive and restorative justice also have parallels with the EU's practice regarding war pasts? To appreciate this comparative effort, it is important from the outset to emphasise the significant qualitative difference, namely that engaging with war pasts featured much higher on the EU's list of priorities. All sorts of normative presumptions led Brussels to believe that it had a direct interest in dealing with the legacies of conflict. EC enlargement strategies describe "issues stemming from past conflicts" as a "major impediment" blocking the path of the Western Balkans towards EU accession.¹³⁴ Thus, "resolving" the problems of the violent past is directly connected to progress within mechanisms of European integration.¹³⁵

In this way, the EU presented membership both as a reward for successfully dealing with the past, and as an instigator of the very same process. This duality resembles general EU assumptions surrounding the accession process (as discussed earlier in this chapter), namely, EU membership as both an end point and—when functioning as a prospect—an incentive for successful transition. Most importantly, the EU placed itself in the position of model for these processes. The European Commission, for example, described the achievements in official relations between Kosovo and Serbia in 2013 as "further proof" of the "[EU perspective's] role in healing history's deep scars."¹³⁶ As the following pages will illustrate, in this way the EU projected its own experience in dealing with the past on post-war transition in Southeast Europe.

¹³³ In a modified version, this sub-chapter has been previously published in Niké Wentholt, "Mirroring Transitional Justice: Construction and Impact of European Union ICTY-Conditionality," *Südosteuropa Journal of Politics and Society* 65, no. 1 (2017): 77–98.

¹³⁴ European Commission, *Enlargement Strategy 2011–2012*, COM(2011) 666 final, 8; European Commission, *Communication from the Commission to the European Parliament and the Council: Enlargement Strategy and Main Challenges 2012–2013*, COM (2012) 600 final, Brussels: European Commission, 2012, 7.

¹³⁵ European Commission, *Enlargement Strategy 2012–2013*, COM(2012) 600 final, 7.

¹³⁶ European Commission, *Communication from the Commission to the European Parliament and the Council: Enlargement Strategy and Main Challenges 2013–2014*, COM(2013) 700 final, Brussels, 2013, 1.

1.3.1 Retributive justice: Bringing justice to the victims of war as an EU imperative

EU practice on retributive justice offers the most straightforward framework within which to explore how the EU approached post-war transition differently than post-socialist transition. Corresponding to well-defined legal understandings of war crimes, this area of dealing with the past spoke to the EU's most explicit concerns about justice, the rule of law, and human rights, as they are established in the Copenhagen criteria. The ICTY came to dominate EU practice in this regard. The Tribunal's status was indeed extraordinary as it symbolised a "return" to international criminal justice after the Nuremberg and Tokyo trials following the Second World War. During the Cold War, no "neutral" terrain existed on which these experiments with international criminal justice could be repeated.¹³⁷ However, the conflicts in the former Yugoslavia, coinciding with the end of the bipolar world, created the necessary conditions for the UN to establish the ICTY in 1993. Its founding document, UN Security Council resolution 808, expressed its commitment to bring the perpetrators to justice and the hope that this would deter and "put an end to such crimes."¹³⁸

The countries involved in the violent breakup of the former Yugoslavia had to cooperate with the ICTY as an absolute condition for entering into and continuing negotiations for EU accession. With this support for the court, the EU followed the broader international trend to leverage its financial and economic assets and "wield conditionality policies" for the sake of international criminal justice.¹³⁹ Furthermore, foreign officials of the United States "long viewed full ICTY cooperation to be a pre-condition both for further Euro-Atlantic integration,"¹⁴⁰ as well as for economic support. Specifically, Serbia's cooperation with the ICTY, as the country hosting the most indictees, became the "test case"¹⁴¹ or "laboratory"¹⁴² of the long-awaited second chance to realise the ideal of international criminal justice.

"Full co-operation" with the ICTY became an unnegotiable part of the membership demands and dominated the EU's engagement with the war past. However, there was some acknowledgement of domestic legal efforts. The Serbian War Crimes Chamber (WCC), for

¹³⁷ Alette Smeulers and Fred Grünfeld, *International Crimes and Other Gross Human Rights Violations* (Leiden: Martinus Nijhoff Publishers, 2011), 17.

¹³⁸ United Nations Security Council, *Resolution 808 (1993)*, S/RES/808, February 22, 1993, www.icty.org/x/file/Legal%20Library/Statute/statute_808_1993_en.pdf, 3.

¹³⁹ Julie Kim, *Balkan Cooperation on War Crimes Issues: CRS Report for Congress* (Washington: Congressional Research Service. The Library of Congress, 2008), 3.

¹⁴⁰ Kim, *Balkan Cooperation on War Crimes Issues*, 3.

¹⁴¹ Jelena Subotić, *Hijacked Justice: Dealing with the Past in the Balkans* (Ithaca: Cornell University Press, 2009), 38, 47.

¹⁴² Jasna Dragović-Soso and Eric Gordy, "Coming to Terms with the Past: Transitional Justice and Reconciliation in the Post-Yugoslav Lands," in *New Perspectives on Yugoslavia: Key Issues and Controversies*, eds. Dejan Djokić and James Ker-Lindsay (London: Routledge, 2010), 193.

example, is mentioned in all progress reports.¹⁴³ Operational since 2004, the WCC targets the most direct perpetrators, whilst the ICTY tries the more high-ranking commanders and politicians. The 2008 interparliamentary meeting of Serbia and the EP declared in its joint statement that it was “pleased to note that domestic courts competent for war crimes trials have continued to work efficiently.”¹⁴⁴ However, the EC’s evaluation of the WCC became increasingly critical, in 2013 expressing its concern about the low number of indictments, “mild sentences,” poor witness protection, and failure to prosecute officials.¹⁴⁵ Whilst Serbian analysts were also critical, they were mostly surprised by the positive achievements of the court—in the first ten years of its existence, it indicted a total of 162 persons and convicted twenty-seven of them, whilst also starting a further twenty-two trials.¹⁴⁶

A determined EU approach towards retributive justice

How did the EU’s insistence on co-operation with the ICTY play out in practice? When in 2003, in Thessaloniki, the EU confirmed “its unequivocal support to the European perspective of the Western Balkan countries,” these countries in their turn “pledge[d] full and unequivocal co-operation with the International Criminal Tribunal for the former Yugoslavia.”¹⁴⁷ The EU thus turned towards “reinforcement by reward” by using full conditionality.¹⁴⁸ “[F]ull cooperation with the ICTY” was included in the Stabilisation and Association Agreement (SAA) signed in 2008.¹⁴⁹ Serbia’s ICTY co-operation was also

¹⁴³ Commission of the European Communities, *Commission Staff Working Document: Serbia 2006 Progress Report*, SEC (2006) 1389, Brussels: Commission of the European Communities, 2006; Commission of the European Communities, *Commission Staff Working Document: Serbia 2008 Progress Report*, SEC(2008) 2698 final, Brussels: Commission of the European Communities, 2008; Commission of the European Communities, *Commission Staff Working Document: Serbia 2009 Progress Report*, SEC (2009) 1339, Brussels: Commission of the European Communities, 2009; European Commission, *Commission Staff Working Document: Serbia 2010 Progress Report*, SEC (2010) 1330, Brussels: European Commission, 2010; Commission of the European Communities, *Serbia 2007 Progress Report*, SEC(2007) 1435, Brussels: Commission of the European Communities, 2007.

¹⁴⁴ Interparliamentary meeting EP-Serbia, Joint Statement from the *2nd Interparliamentary meeting. 25-26 November 2008, Belgrade*, November 25-26, 2008, 4.

<http://www.europarl.europa.eu/parlArchives/delArch/delPubSearch/view.do?language=EN&body=DSEE&legId=6>.

¹⁴⁵ European Commission, *Commission Staff Working Document: Serbia 2013 Progress Report*, SWD(2013) 412 final, Brussels: European Commission, 2013, 2.

¹⁴⁶ Damjan Brković et al., *Postupci za ratne zločine u Srbiji (2003–2014): Analiza rezultata praćenja suđenja Misije OEBS-a u Srbiji* (Beograd: Organizacija za Evropksu Bezbednosti i Saradnju, 2015), 312.

¹⁴⁷ European Union, *EU-Western Balkans Summit, Thessaloniki, June 21, 2003, Declaration*, C/03/163, 10229/03 (Presse 163) (Thessaloniki: EU Press Releases, 2003), 1–2.

¹⁴⁸ Schimmelfennig and Sedelmeier, “Governance by Conditionality,” 193; Simić, “The European Union and the Western Balkans,” 193.

¹⁴⁹ Member States of the European Union, and Serbia, *Stabilisation and Association Agreement Between the European Communities and Their Member States of the One Part, and the Republic of Serbia, of the Other Part*, Brussels: European Commission, 2008, 13.

consistently assessed by the annual progress reports and other communications issued by the EC.¹⁵⁰

This “full co-operation” included several components, amongst which archival disclosure, information sharing, and arrests and extraditions to the ICTY. The EC’s annual progress reports, incorporated these various components of full cooperation in their assessments. All documents from 2006 onwards first note the progress made by the Serbian authorities: “good work concerning waiver or witnesses and access to documents,”¹⁵¹ “significant progress,”¹⁵² “major step[s] forward,”¹⁵³ “further progress,”¹⁵⁴ “improved cooperation,”¹⁵⁵ “active” cooperation,¹⁵⁶ and “adequate” responsiveness.¹⁵⁷ Nonetheless, the progress reports concluded that “full co-operation” with the ICTY was not achieved yet because of the remaining fugitives.¹⁵⁸ More specifically, all of the reports referred to the necessity of arresting Ratko Mladić, a Bosnian Serb general who was indicted (and now convicted) for several war crimes, including genocide in Srebrenica.¹⁵⁹ Hence, the final evaluation of the condition was restricted and much less positive. In reality, performance on the sub-criterion of fugitive arrests thus determined the EU’s assessment. “[O]nly apprehension and extradition of the fugitives to The Hague can be deemed the most convincing evidence of full cooperation,” the EP explained.¹⁶⁰ When war-time politician Goran Hadžić—the last remaining fugitive—indicted for numerous crimes

¹⁵⁰ Commission of the European Communities, *Serbia 2006 Progress Report*, SEC (2006) 1389, 15; Commission of the European Communities, *Serbia 2008 Progress Report*, SEC(2008) 2698 final, 21, 23; Commission of the European Communities, *Serbia 2009 Progress Report*, SEC (2009) 1339, 19, 23; European Commission, *Serbia 2010 Progress Report*, SEC (2010) 1330, 18, 21; European Commission, *Commission Staff Working Paper: Analytical Report Accompanying the Document Communication from the Commission to the European Parliament and the Council: Commission Opinion on Serbia’s Application for Membership of the European Union*, SEC(2011) 1208, Brussels: European Commission, 2011, 33; European Commission, *Enlargement Strategy 2011–2012*, COM(2011) 666 final, 3.

¹⁵¹ Commission of the European Communities, *Serbia 2006 Progress Report*, SEC (2006) 1389, 15.

¹⁵² Commission of the European Communities, *Serbia 2008 Progress Report*, SEC(2008) 2698 final, 21, 23.

¹⁵³ This referred to the arrest of Karadžić. Commission of the European Communities, *Enlargement Strategy 2008–2009*, COM(2008) 674 final, 50.

¹⁵⁴ Commission of the European Communities, *Serbia 2009 Progress Report*, SEC (2009) 1339, 19; Commission of the European Communities, *Enlargement Strategy 2009–2010*, COM(2009) 533, 57.

¹⁵⁵ Commission of the European Communities, *Serbia 2009 Progress Report*, SEC (2009) 1339, 19.

¹⁵⁶ European Commission, *Enlargement Strategy 2010–2011*, COM(2010) 660, 17.

¹⁵⁷ European Commission, *Serbia 2010 Progress Report*, SEC (2010) 1330, 18.

¹⁵⁸ Commission of the European Communities, *Serbia 2006 Progress Report* SEC (2006) 1389, 16; Commission of the European Communities, *Enlargement Strategy 2007–2008*, COM(2007) 663 final, 6, 17; Commission of the European Communities, *Enlargement Strategy 2008–2009*, COM(2008) 674 final, 4, 9, 14, 18; Commission of the European Communities, *Serbia 2009 Progress Report*, SEC (2009) 1339, 19–20; European Commission, *Serbia 2010 Progress Report*, SEC (2010) 1330, 21; European Commission, *Enlargement Strategy and Main Challenges 2010–2011*, COM(2010) 660, 17.

¹⁵⁹ Commission of the European Communities, *Serbia 2006 Progress Report*, SEC (2006) 1389, 18; Commission of the European Communities, *Serbia 2008 Progress Report*, SEC(2008) 2698 final, 21; Commission of the European Communities, *Serbia 2009 Progress Report*, SEC (2009) 1339, 19; European Commission, *Serbia 2010 Progress Report*, SEC (2010) 1330, 18.

¹⁶⁰ European Parliament, *Stabilisation and Association Agreement between the EC and Serbia: European Parliament Resolution of 19 January 2011 on the European Integration Process of Serbia*, P7_TA(2011)0014, Strasbourg: European Parliament, 2011, 4.

against humanity, was finally extradited in 2011, the EC and EP announced that Serbia's had reached a "fully" and "entirely" "satisfactory level" of ICTY co-operation.¹⁶¹

The combination of the condition's breadth of formulation and firmness of evaluation enabled the EU to "incentivise and bargain" with relevant pro-reform authorities.¹⁶² Whereas this leads one to expect a similarly strict implementation, sanctions and rewards were instead adjusted to the domestic political situation in Serbia. For example, in 2005 the Council of the European Union declared itself "mindful of the forthcoming anniversary of the democratic uprising in October 2000."¹⁶³ A comparative historical reconstruction of EU pressure in 2006 and 2008 further illustrates how implementation grew more sensitive to the specific domestic political context.

In both years, the EU held out an appealing carrot—the SAA—but chose to use different sticks. When the EU stepped up its pressure to encourage arrests of ICTY indictees in 2006, the political power balance in Serbia allowed for little negotiation. Prime Minister Vojislav Koštunica had limited room for political manoeuvring because his party relied on the support of the conservative Socialist Party—not to mention that he was already a stark opponent of the ICTY, which he accused of being an "American court."¹⁶⁴ Unable and unwilling to yield to the EU's pressure, he therefore declared that "Mladić is hiding all by himself."¹⁶⁵ Upset by this reluctant attitude, the EU made continuation of the SAA negotiations conditional upon Mladić's extradition. Having once extended the deadline based upon Serbian promises, on May 3, 2006, the EU decided to block further negotiations when these promises were not honoured. The Netherlands as an individual member state played a significant role in this decision, resisting clemency because it was determined to bring to trial the leading figure of the Srebrenica genocide, which—due to the involvement of the Dutch military—was also a "national trauma" for the Netherlands. Whilst Miroljub Labus, the head of the delegation responsible for EU negotiations, resigned, the Serbian government continued its work without major changes and without

¹⁶¹ European Commission, *Analytical Report, Commission Opinion on Serbia's Application for Membership*, SEC(2011) 1208, 33; European Parliament, *Enlargement Report for Serbia: European Parliament Resolution of 29 March 2012*, P6_TA(2012)0114, 3.

¹⁶² Máire Braniff, *Integrating the Balkans: Conflict Resolution and the Impact of EU Expansion* (London: Routledge, 2011).

¹⁶³ European Union Delegation to the United Nations, "Summary: EU Council Conclusions on Western Balkans. Council of the European Union 2679th Session—External Relations—Luxembourg, 3 October 2005," October 3, 2005, http://eu-un.europa.eu/articles/en/article_5083_en.html, n.p.

¹⁶⁴ Frank Schimmelfennig, "EU Political Accession Conditionality after the 2004 Enlargement: Consistency and Effectiveness," *Journal of European Public Policy* 15, no. 6 (2008): 930.

¹⁶⁵ B92, "EU Talks Called Off," May 3, 2006, https://www.b92.net/eng/news/politics.php?yyyy=2006&mm=05&dd=03&nav_id=34718, n.p.

renewing its efforts to capture Mladić.¹⁶⁶ It would take more than a year for the SAA negotiations to be resumed.¹⁶⁷

In January 2008, the EU's aim was the same. Nevertheless, both the political situation and the EU's strategy were different—and so was the outcome. Since 2007, a more pro-EU coalition had come to power in Serbia. Despite failing to capture Mladić, the coalition improved ICTY co-operation. In June 2007, the new government managed to reopen the frozen SAA negotiations.¹⁶⁸ The upcoming parliamentary and presidential elections in the first half of 2008 further added to this political momentum. Perhaps recognising this opportunity, in January 2008 the Netherlands again used its power as an individual member state to prevent the SAA from entering into force.¹⁶⁹ Similar to the situation in 2006, this decision was based on Serbia's failure to arrest the remaining fugitives—most notably Mladić.

However, refusing to turn Serbia's (again) broken promise into an absolute stalemate at this stage of the negotiations, the other member states did not follow the Dutch initiative. Instead, the EU designed a temporary agreement, hoping to mobilise domestic progressive forces.¹⁷⁰ For example, Olli Rehn—then European Commissioner for Enlargement—told the press that the Serbian citizens were about to choose “between a nationalist past and a European future.”¹⁷¹ EU foreign policy chief Javier Solana stated that the EU had to show its “commitment to get Serbia as close as possible to the EU.”¹⁷² Whilst the Foreign Minister of Slovenia (and then Council President), Dimitrij Rupel, declared: “We have not forgotten all the conditions,” continuing, “we thought it was important to give Serbia signals at this point of time.”¹⁷³ In line with the EU's hope to strengthen

¹⁶⁶ Robert Bideleux and Ian Jeffries, *The Balkans: A Post-Communist History* (Abingdon: Palgrave Macmillan, 2007), 318–319; Schimmelfennig, “EU Political Accession Conditionality,” 930.

¹⁶⁷ Bideleux and Jeffries, *The Balkans: A Post-Communist History*, 319.

¹⁶⁸ Máire Braniff, *Integrating the Balkans*, 125; Victor Peskin, *International Justice in Rwanda and the Balkans: Virtual Trials and the Struggle for State Cooperation* (Cambridge: Cambridge University Press, 2008), 86; Schimmelfennig, “EU Political Accession Conditionality,” 930.

¹⁶⁹ For an insightful and refreshing exploration of the precise position and strategies of the Netherlands in this debate in the Council through the lens of unanimity negotiations, see Sandrino Smeets, “Unanimity and Exposure in the EU Council of Ministers—or How the Dutch Won and Lost the ICTY Debate,” *European Journal of Political Research* 54 (2015): 288–304.

¹⁷⁰ Braniff, *Integrating the Balkans*, 127–128; Florence Hartmann, “The ICTY and EU Conditionality,” in *Chaillot Paper No 116: War Crimes, Conditionality and EU Integration in the Western Balkans*, eds. Judy Batt and Jelena Obradović-Wochnik (Paris: European Union Institute for Security Studies, 2009), 67; Christopher Lamont, *International Criminal Justice and the Politics of Compliance* (Farnham: X, 2010), 85; Noutcheva, *European Foreign Policy*, 930–936; Peskin, *International Justice in Rwanda and the Balkans*, 89; Subotić, *Hijacked Justice*, 2009.

¹⁷¹ Commission of the European Communities, *General Affairs and External Relations Council: Extracts from the Press Conference of Dimitrij Rupel, Olli Rehn, Javier Solana and Benita Ferrero-Waldner*, I-056229, European Commission Audiovisual Services, 2008, 1, <http://ec.europa.eu/avservices/video/shotlist.cfm?ref=55534>.

¹⁷² BalkanInsight, “EU Offers Deal to Serbia,” *Balkan Insight*, January 28, 2008, <http://www.balkaninsight.com/en/article/eu-offers-deal-to-serbia>, n.p.

¹⁷³ BalkanInsight, “EU Offers Deal to Serbia,” n.p.

progressive forces, Serbia's pro-reform party won the subsequent elections,¹⁷⁴ leading to what Europeanisation scholar Adam Fagan dubbed a "shift towards cooperation with the demands of the EU."¹⁷⁵

The above illustrates the relative flexibility of the EU's implementation of the ICTY condition in 2008. Although a short detour from the question of ICTY conditionality, the reasons behind such a lenient gesture deserve an (albeit brief) exploration.¹⁷⁶ It stands in striking contrast to the popular academic view that "enlargement fatigue" led to an increasingly severe accession policy.¹⁷⁷ If the member states indeed felt that further enlargement was undesirable or simply too bothersome, the Dutch reluctance would have offered a sufficient pretext to again halt negotiations with Serbia. Security considerations can perhaps explain this seemingly unlikely choice. From an EU perspective, the security situation in the Caucasus had worsened following Russia's military intervention in Georgia. This pushed the EC in 2008 and 2011, when the Arab Spring also entered the equation, to emphasise the need for "political stability" in the candidate member states.¹⁷⁸ Moreover, EC enlargement strategies reveal that the EU increasingly held a credible membership perspective, and thus a commitment to its own promises, essential to enforcing reforms.¹⁷⁹

Recalling the general lack of enthusiasm for lustration and criminal justice in post-socialist transition, it is thus important to emphasise once more the fundamental difference in the EU's approach towards Southeast European post-socialist and post-war countries. Not only did a strict but pragmatic implementation of ICTY accession conditionality explicitly aim to bring all indicted perpetrators to justice; the EU also pushed for domestic legal mechanisms (albeit less energetically). Interestingly, the EU's engagement with the war past of the former Yugoslavia has become a benchmark—perhaps even a new norm—in academic literature. As Lavinia Stan recently summarised, the

¹⁷⁴ Adam Fagan, *Europe's Balkan Dilemma: Paths to Civil Society or State-Building?* (London: Routledge, 2010), 116; Subotić, *Hijacked Justice*, 80.

¹⁷⁵ Fagan, *Europe's Balkan Dilemma*, 116.

¹⁷⁶ This question has been addressed by, amongst others, Braniff, *Integrating the Balkans*, 128–129; Hartmann, "The ICTY and EU Conditionality," 67; Lamont, *International Criminal Justice*, 85; Noutcheva, *European Foreign Policy*, 930–936; Peskin, *International Justice in Rwanda and the Balkans*, 89; Subotić, *Hijacked Justice*.

¹⁷⁷ Matthias Dobbels, "Serbia and the ICTY: How Effective Is EU Conditionality?" *EU Diplomacy Papers* 6 (2009), <https://www.coleurope.eu/research-paper/serbia-and-icty-how-effective-eu-conditionality>.

¹⁷⁸ Commission of the European Communities, *Enlargement Strategy 2008–2009*, COM(2008) 674 final, 2; European Commission, *Enlargement Strategy 2011–2012*, COM(2011) 666 final, 3.

¹⁷⁹ Whilst all enlargement strategies from 2005 onwards mention the importance of the membership "perspective" in motivating countries to endure often difficult reforms, the 2007–2008 enlargement strategy is the first to fully mimic Schimmelfennig and Sedelmeier's work by stating that the "effectiveness of conditionality in driving reforms depends on maintaining a credible prospect of eventual integration in the Union." Commission of the European Communities, *Enlargement Strategy 2007–2008*, COM(2007) 663 final, 9. Whilst the 2008–2009 and 2009–2010 strategies are again more implicit on the issue, from 2010 onwards, the importance of the "credibility" of the membership perspective is once more emphasised. European Commission, *Enlargement Strategy 2010–2011*, COM(2010) 660, 3, 4, 20; European Commission, *Enlargement Strategy 2011–2012*, COM(2011) 666 final, 23, 25; European Commission, *Enlargement Strategy 2012–2013*, COM(2012) 600 final, 23; Hartmann, "The ICTY and EU Conditionality," 74.

international community, including the EU, indeed went out of its way to bring Yugoslav war criminals to justice, but “failed to apply equal pressure on Eastern European new democracies to redress [their] socialist wrongs.”¹⁸⁰

1.3.2 Restorative justice: Commemoration of war as “soft conditionality”

The words of Lavinia Stan quoted above may equally apply to the realm of EU practice on restorative justice. The EU gradually (albeit with initial reluctance) engaged with questions of restorative justice regarding the socialist past. However, in the case of post-war transition, the EU’s attention was immediate and consistent. In recent research, Ana Milošević and Heleen Touquet have even called this EU attention for memory in the former Yugoslavia “soft conditionality.”¹⁸¹ Interestingly, the most important medium through which this engagement with restorative justice was expressed, was again co-operation with the ICTY. Over the years, more and more hopes and tasks were assigned to the Tribunal, including its supposed contribution to reconciliation and long-lasting peace. The EU, as the following will illustrate, played an important role here.

Whereas the ICTY’s core task concerned prosecution, in the late 1990s, many within and outside the court started to realise that its work carried more potential. The investigative process could be more than simply a necessary step for prosecution. The information collected through witness testimonies and archival exchange with the Southeast European authorities meant that the ICTY acquired and created an impressive volume of data. By simply providing the facts about the war, it was believed that the ICTY brought victims recognition of their suffering and addressed political lies and silences surrounding the war. Indeed, now that the Tribunal has closed down, many consider “fact-finding” its most important contribution. Leading scholars underscored this alleged link. “Shrinking the Space for Denial” is the insightful and self-evident title of one of the most influential research reports written on the ICTY’s impact.¹⁸² It is, however, important to also note here that the ICTY did not include reparations programmes or other forms of material compensation for victims. In 2011, the court’s president requested the UN General Assembly to explore the opportunity of a victims’ trust fund, as exists for the International Criminal Court, but this has not been realised.¹⁸³ Whilst the Council of Europe has been amongst a small cluster of international organisations to criticise Serbia

¹⁸⁰ Stan, “Determinants of Post-Communist Transition,” 17.

¹⁸¹ Ana Milošević and Heleen Touquet, “Unintended Consequences: The EU Memory Framework and the Politics of Memory in Serbia and Croatia,” *Southeast European and Black Sea Studies*, 2018: online pre-publication.

¹⁸² Diana Orentlicher, “Shrinking the Space for Denial: The Impact of the ICTY in Serbia,” *Open Society Justice Initiative* (2008): 32, 8, http://www.opensocietyfoundations.org/sites/default/files/serbia_20080501.pdf; Peskin, *International Justice in Rwanda and the Balkans*, 90.

¹⁸³ Gentian Zyberi, “The Transitional Justice Process in the Former Yugoslavia: Long Transition, Yet Not Enough Justice,” *Oxford Transitional Justice Research Working Paper Series*, March 1, 2012, 6, <https://ssrn.com/abstract=2067355>.

for its lack of adequate reparations, the EU documents studied for this research did not voice such concern.¹⁸⁴

The standard academic distinction between retributive criminal justice and restorative non-criminal justice¹⁸⁵ is thus open to question in the case of the ICTY and the Western Balkans—the court was believed by many, including its own staff, to do both. What is more, the ICTY chose to play more than merely a passive role in archiving facts. In 1999, the court established its outreach programme, intended to impact upon dealing with the past in the region “beyond the judicial mandate.”¹⁸⁶ The EU was, and remains, the main donor financing this programme.¹⁸⁷ An important goal of the outreach programme is to “inform[,] listen and [to] encourage dialogue.”¹⁸⁸ This shift towards outreach corresponds to an increased understanding amongst practitioners and scholars of the need for restorative justice. Fact-finding, truth commissions, local initiatives, and the involvement of civil society are now considered necessary components of a complete approach to justice that enables long-lasting reconciliation and peace.¹⁸⁹

The EU’s support for a regional fact-finding initiative further confirms the EU’s endorsement for post-war restorative justice.¹⁹⁰ Around a decade ago, several civil society organisations in the Western Balkans started the RECOM process. This “non-political gathering” formed a coalition and aims to establish an official organ called the Regional Commission Tasked with Establishing the Facts about All Victims of War Crimes and Other Serious Human Rights Violations Committed on the Territory of the Former Yugoslavia in the Period from 1991–2001.¹⁹¹ The coalition consists of civil society, formed from all the countries involved in the wars of the 1990s, and organises hearings throughout the region. The initiative presents itself as complementary to the ICTY¹⁹² and declares that it is

¹⁸⁴ Zyberi, “The Transitional Justice Process in the Former Yugoslavia,” 7.

¹⁸⁵ In her book from 2013, Sirkka Ahonen describes the difference between criminal courts on the one hand, and truth and reconciliation commissions on the other hand, based on their different “philosoph[ies] of justice.” Whereas the former believe justice is served through punishment, the latter assume that “recognition of past wrongs is sufficient.” Whilst insightful, I think this distinction does not correspond to the discourse that today accompanies the work of criminal courts, which is retributive as well as restorative. Ahonen, *Coming to Terms with a Dark Past*, 19.

¹⁸⁶ Janine Natalya Clark, “International War Crimes Tribunals and the Challenge of Outreach,” *International Criminal Law Review* 9, no. 1 (2009): 105, DOI: 10.1163/157181209X398835.

¹⁸⁷ Clark, “International War Crimes Tribunals,” 105.

¹⁸⁸ United Nations ICTY, “Outreach Programme,” <http://www.icty.org/en/outreach/outreach-programme>, n.p.

¹⁸⁹ Dragović-Soso and Gordy, “Coming to Terms with the Past,” 208; Smeulers and Grünfeld, *International Crimes*, 465.

¹⁹⁰ Iavor Rangelov’s statement that the EU “ignored” domestic transitional justice mechanisms thus also seems to be outdated. Iavor Rangelov, “EU Conditionality and Transitional Justice in the Former Yugoslavia,” *Croatian Yearbook of European Law and Policy* (2006): 368.

¹⁹¹ Coalition for RECOM, *The Statute Proposal of the Regional Commission Tasked with Establishing the Facts about All Victims of War Crimes and Other Serious Human Rights Violations Committed on the Territory of the Former Yugoslavia*, 2011, 3.

¹⁹² Simić, “The European Union and the Western Balkans,” 198.

mindful that the trials held before the ICTY and before national courts, although contributing significantly to punishing war crimes perpetrators, do not fully satisfy victims' needs for justice and are insufficient for the creation of the conditions necessary to achieve a lasting peace in the region.¹⁹³

It is clear that RECOM's concept of justice exceeds the strict definition of legal justice as used by the ICTY and WCC. In this light, it is interesting to highlight the distinction that RECOM's statute makes between the "victims' needs for justice" and the "trials held before the ICTY and before national courts." This dichotomy indeed bears resemblance to the distinction between retributive and restorative justice.¹⁹⁴ True and fully satisfactory justice, the founders conclude, requires a focus on the victims' needs for truth and justice.¹⁹⁵ The EC and EP have recognised and supported RECOM in their reports and resolutions as well as in terms of financial help, accounting for 80 per cent of the initiative's budget.¹⁹⁶ They praised the initiative's potential for reconciliation in the region, especially after the arrests of the remaining ICTY fugitives.¹⁹⁷ Co-operation with the initiative is evaluated by the EC in its annual progress reports, monitoring the Serbian path towards EU membership. RECOM's members differ in their evaluation of EU support, but generally agree that especially the EC's endorsement will positively impact RECOM's work.¹⁹⁸

Apart from its support for RECOM and the ICTY's outreach programme, Brussels also put its weight behind the cause for restorative justice in Serbia. An EP recommendation from 2007, albeit in a rather vague manner, urged the Serbian government to work towards providing the truth about the war's atrocities, since "Serbia must honestly confront its recent past in order to progress."¹⁹⁹ In early 2009, the EP adopted a resolution that condemned the genocide in Srebrenica committed by the army

¹⁹³ Coalition for RECOM, *The Statute Proposal*, 3.

¹⁹⁴ Smeulers and Grünfeld, *International Crimes*, 463, 478.

¹⁹⁵ Marijana Toma, Staff member Humanitarian Law Centre, interview with author, Belgrade, July 13, 2012.

¹⁹⁶ Simić, "The European Union and the Western Balkans," 200.

¹⁹⁷ European Commission, *Communication from the Commission to the European Parliament and the Council: Enlargement Strategy and Main Challenges 2010–2011*, COM(2010) 660, 2010, 9; European Commission, *Analytical Report, Commission Opinion on Serbia's Application for Membership of the European Union*, SEC(2011) 1208, 4; European Commission, *Enlargement Strategy 2011–2012*, COM(2011) 666 final, 8; European Commission, *Serbia 2012 Progress Report*, SWD(2012) 333 final, 20; European Commission, *Enlargement Strategy 2012–2013*, COM(2012) 600 final, 7; European Commission, *Serbia 2013 Progress Report*, SWD(2013) 412 final, 1; European Commission, *Enlargement Strategy 2013–2014*, COM(2013) 700 final, 14; European Parliament, *Stabilisation and Association Agreement between the EC and Serbia*, P7_TA(2011)0014, 4; European Parliament, *Enlargement Report for Serbia*, P6_TA(2012)0114, 10; European Parliament, *European Parliament Resolution of 18 April 2013 on the 2012 Progress Report on Serbia*, P7_TA(2013)0186, Strasbourg: European Parliament, 2013, 12.

¹⁹⁸ Simić, "The European Union and the Western Balkans," 200–201.

¹⁹⁹ European Parliament, "European Parliament Recommendation to the Council of 25 October 2007 on Relations between the European Union and Serbia. P6_TA(2007)0482," October 25, 2007, 6, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0482+0+DOC+XML+V0//EN&language=EN>.

of the Republika Srpska in 1995 on Bosniaks.²⁰⁰ The resolution's significance in light of this book is threefold. First, it testifies to the EP's commitment to bring war criminals to justice and its recognition of the need for "increased attention . . . to war crimes trials at the domestic level," although the importance of "support[ing] the valuable and difficult work of the ICTY" is given an even more prominent position in the resolution.²⁰¹ Second, it firmly connects the European future of the region to its violent past, emphasising "the importance of reconciliation as part of the European integration process."²⁰² Third, it speaks to the EP's belief in restorative justice. The final preamble is particularly revealing, stating that "the institutionalisation of a day of remembrance is the best means of paying tribute to the victims of the massacres and sending a clear message to future generations."²⁰³ The resolution thus calls for the "recognition of 11 July as the day of commemoration of the Srebrenica genocide all over the EU" and the Western Balkans.²⁰⁴ The EP's confidence in the importance of this resolution for the EU and the region is underscored by its final clause, instructing the EP President to forward the document to the other EU institutions, member states, and the governments of the Western Balkans. Using its "soft pressure," the EP thus encouraged member states in the Western Balkans to adopt similar declarations.²⁰⁵

The EU was proud of this support for restorative and retributive justice. In 2012, the EC reiterated how

[a]s an example, the EU has contributed to reconciliation in the countries emerging from the former Yugoslavia and the clear conditionality of the accession process ensured the prosecution of war crimes and cooperation with the International Criminal Tribunal for the former Yugoslavia.²⁰⁶

Indeed, the formulation leaves it unclear how the EU has contributed to reconciliation in the region. The sentence does not causally link reconciliation to the ICTY, but the juxtaposition of the two observations in the same sentence ("the EU has contributed to reconciliation . . . and the clear conditionality . . . ensured the prosecution of war crimes")

²⁰⁰ The term "Bosniak" denotes the ethnic Muslim population living in the region of the former Yugoslavia, mostly in Bosnia and Herzegovina. In Serbia, the Bosniak minority lives mainly (but not exclusively) in the Sandžak border region. As are all words denoting ethnicity in post-war contexts, the term can be very problematic. Throughout this research, I try to steer away from essentialising ethnicity, but find that this term most aptly describes the realities in the region. European Parliament, *European Parliament Resolution of 15 January 2009 on Srebrenica*, P8_TA(2015)0276, Strasbourg: European Parliament, 2009.

²⁰¹ European Parliament, *European Parliament Resolution of 15 January 2009 on Srebrenica*, P8_TA(2015)0276, 2.

²⁰² European Parliament, *European Parliament Resolution of 15 January 2009 on Srebrenica*, 1.

²⁰³ European Parliament, *European Parliament Resolution of 15 January 2009 on Srebrenica*, 1.

²⁰⁴ European Parliament, *European Parliament Resolution of 15 January 2009 on Srebrenica*, 2.

²⁰⁵ Milošević and Touquet, "Unintended Consequences," 4.

²⁰⁶ European Commission, *EU Support for Sustainable Change*, JOIN(2012) 27 final, 10.

is remarkable. The document also shows that co-operation with the ICTY is considered part of “[s]upport for conflict prevention, peace-building and security”—which is in fact the title of the subsection from which the quotation is taken. Revealingly, the document positively evaluates the EU’s approach towards reconciliation and the prosecution of war crimes. The case is even presented as “an example” for the way in which the EU could design such a “broader approach” towards peace-building. Specifically, it points towards the success of the “clear conditionality of the accession process.”²⁰⁷

The importance of the ICTY in EU accession practice is thus difficult to overstate. Not only did it signify a breakthrough in the global pursuit of international criminal justice, but co-operation with the Tribunal was also a direct membership condition as well as, more abstractly, equating to a sign of Europeanness. The EU extended these expectations to the realm of restorative justice, believing that the trials that took place in The Hague would pave the way for reconciliation and peace. Such engagement was absent in the EU’s approach to post-socialist transition. EU practice in this case was, firstly, more ambivalent, illustrated for example by the varying responses to lustration. Secondly, the socialist past was only gradually acknowledged as a possible area of EU interest. The answers from this chapter may indeed sound highly provisional and perhaps unsatisfying. Thus, the next chapter will start out from these unanswered questions by studying EU narratives on both past and future.

²⁰⁷ European Commission, *EU Support for Sustainable Change*, JOIN(2012) 27 final, 10.

CHAPTER

2 EU Narratives of Post-Socialist and Post-War Dealing with the Past: Framing the European Path

Whilst the previous chapter looked specifically at EU practice towards accession countries, this chapter is concerned with the narratives it employs. On this level, the distinction made between retributive justice and restorative justice becomes untenable. Lustration, criminal justice, memory, and commemoration are all connected parts of a broader narrative to establish continuity and discontinuity, identity and difference.¹ A narrative always involves a “plot,”² and thus the past as well as the future. When the fall of socialism opened up the possibility for unprecedented enlargement, not only did the EU need narratives to make sense of this change for its current member states, it also needed to project a story of European identity, history, and ambition to its new and aspiring member states.

Whereas the previous chapter already hinted at Brussels’ changing perception of the socialist past in Eastern European countries, this chapter will show that this re-narration of European history was even more profound. Adopting a chronological approach, it will start with the EU’s general relation to its own past and the challenges it faced when post-socialist Central and Eastern European countries knocked on Europe’s doors. This development leads on to an analysis of the EU’s take on the socialist past of the aspiring member states, after which a discussion of the changes in this narrative will logically bring me to examine the EU’s narrative on the war past of the former Yugoslavia.

2.1 “Overcoming” the socialist past: Dealing with the new Europe’s history

The identity of the EU is closely connected to its take on history. The idea of “learning from the past” has been paramount in the EU’s founding documents.³ For decades this past was dominated by and, it could even be argued limited to, the Second World War. The post-war decades had granted the EU plenty of time to give meaning to these historical events and to incorporate them in its identity.⁴ Within the broader narrative of the tragic, violent, and destructive World Wars, from the 1990s onwards, the EU put more and more emphasis on the Holocaust as a meaningful event in itself.⁵ Member states were urged to commemorate Europe’s path of overcoming the Second World War, and the specific evil of the Holocaust became a core element of EU identity and its “foundational narrative.”⁶

¹ Katherine Hodgkin and Susannah Radstone, “Patterning the National Past. Introduction,” in *Contested Pasts: The Politics of Memory*, eds. Katharine Hodgkin and Susannah Radstone (London: Routledge, 2003), 170.

² Michael D. Jones et al, “Introducing the Narrative Policy Framework,” in *The Science of Stories*, eds. D. Jones et al (New York: Palgrave Macmillan, 2014), 5.

³ Fabrice Larat, “Present-ing the Past: Political Narratives on European History and the Justification of EU Integration,” *German Law Journal* (2005): 281–284.

⁴ Benoit Challand, “1989, Contested Memories and Shifting Cognitive Maps of Europe,” *European Journal of Social Theory* 12, no. 3 (2009): 401.

⁵ Carlos Closa Montero, “Dealing with the Past: Memory and European Integration,” *Jean Monnet Working Paper* (The Jean Monnet Program, NYU School of Law), no. 1 (2011), 10. The author has granted me permission to cite from this working paper. See also Prutsch, *Culture and Education*, 19.

⁶ Zoltán Dujisin, “Post-Communist Europe: On the Path to a Regional Regime of Remembrance?” in *Thinking Through Transition: Liberal Democracy, Authoritarian Pasts, and Intellectual History in East Central Europe After 1989*, eds. Michal

This appreciation of history had a concrete influence on the EU's political trajectory. The Holocaust and the broader legacy of war and division together functioned as a justification for further unification and integration from the days of the Schuman Declaration, signed in 1950 and striving for "[t]he coming together of the nations of Europe" through economic interdependence.⁷ The memory of the Second World War shaped the EU's view on human rights and democracy.⁸ Both the EU's internal integration and its enlargement, seen as signs of overcoming nationalism and "old hatreds," thus further solidified the image of the free and democratic West.⁹ On the national level of the (then) member states, there were certainly differences and perhaps even competition in experiences, however, this did not particularly challenge the overall story on the supranational level.¹⁰

2.1.1 *Reconciling two histories of Europe in one continent*

This Western European success story was strengthened by the developments in Central and Eastern Europe. The dominant narrative taught that it was socialism that had led to the division of Europe and threatened the democracy and freedom so heavily fought for in the West. Stories of repression in the socialist East were therefore regarded as regrettable, but ultimately external events that the new and free post-war Europe could not afford to engage with. Once in a while, albeit quite marginally, individual MEPs would ask questions about political scandals in the countries on the other side of the Iron Curtain. Answers from other EU institutions were generally supportive of these concerns, referring to their commitment to the 1975 Helsinki Agreements.¹¹ For example, in 1989, in the case of the Bulgarian dissident Ibraim Ismailov Arifov, the Council of Ministers confirmed that it "kept a close watch on the events in Bulgaria."¹² Furthermore, it intended to inquire into

Kopeček and Piotr Wciślik (Budapest: Central European University Press, 2015), 559; Milošević and Touquet, "Unintended Consequences," 4; Aline Sierp, *History, Memory and Trans-European Identity: Unifying Divisions* (New York: Routledge, 2014), 1, 133, 136. Sometimes, the term "foundational myth" is used, but I prefer the word "narrative" here.

⁷ "Declaration of 9th May 1950 delivered by Robert Schuman," Robert Schuman Foundation, May 10, 2011, <https://www.robert-schuman.eu/en/doc/questions.../qe-204-en.pdf>. See also Stefan Auer, "The European Union's Politics of Identity and the Legacy of 1989," *Humanities Research* (2010): 137; Larat, "Present-ing the Past," 281, 284, 290; Milošević and Touquet, "Unintended Consequences," 1.

⁸ Challand, "1989, Contested Memories," 399; Littoz-Monnet, "Explaining Policy Conflict," 490, 493.

⁹ Auer, "The European Union's Politics of Identity," 135; Thomas Diez, "Constructing the Self and Changing Others: Reconsidering 'Normative Power Europe,'" *Millennium: Journal of International Studies* 33 (2005): 634; Sierp, *History, Memory and Trans-European Identity*, 1, 133, 136.

¹⁰ Sierp, *History, Memory and Trans-European Identity*, 2014.

¹¹ Council of Ministers, European Community, and Meeting for Political Cooperation, *Réponse au Question Ecrite N 3026/86 de Arbeloa Muru*, Réponse, Journal Officiel des Communautés Européennes, 1987.

¹² Ministers for Foreign Affairs, European Community, and Meeting in Political Cooperation, *Reply to Written Question No 545/89 Put by Mr Arbeloa Muru*, Reply, European Community, Retrieved from the Historical Archives of the European Parliament, Luxembourg, 1990.

the fate of this doctor of Turkish descent, who opposed the Bulgarian politics of forced assimilation and was sentenced to eight years in prison in 1986.¹³

Yet socialism in the East did not take on the same status as fascism in Western Europe's (historical) identity narrative. When, in the 1980s, groups of individual MEPs asked for EU support for archival disclosure and proposed resolutions in which they compared "communist" (sometimes referred to as "Stalinist") crimes to those of Nazism, uniting them under the label "totalitarian," the EU refused to support any official condemnation of socialist crimes.¹⁴ Nazism was still too central to the EU narrative for socialism to seriously compete with it in terms of gravity. Indeed, during the same decades, remembrance of the Holocaust "went well beyond the institutional borders of the EU": the Holocaust embodied a "global imperative as to the political-normative considerations that should prevail in tackling past injustice."¹⁵ As has been concluded by several scholars, even the significant enlargements in the 1970s and 1980s, bringing in other countries from Western and Southern Europe, did not raise fundamentally different narratives of the EU's past and its linear post-1945 trajectory towards democracy and human rights.¹⁶ The established member states could demand that new countries commemorate the Second World War and Holocaust as a condition upon entering the EU without encountering significant resistance.¹⁷

Thus, when socialism initially fell, and Eastern European states moved closer to the EU, its existing identity narrative was reinforced and asserted. The desire of Polish, Hungarian, and other elites to "reunite" with Europe underscored the success story of the development of a free and democratic (Western) Europe in the wake of the destruction of the Second World War. The EU also acknowledged the value of this reunification narrative, set against a shared background of the Second World War. In 2000, addressing Bulgarian representatives, the EU's Enlargement Group spoke about "the process of European construction, begun in the aftermath of the war which shattered our continent," emphasising that "your country too is part of our shared history, heritage and culture; and

¹³ Muru, *Written Question 545/89*; Ministers for Foreign Affairs, European Community, and Meeting in Political Cooperation, *Reply to Written Question No 545/89*.

¹⁴ Grund, Schlee, Neubauer, Dillen, and Schoddruch, *Proposition de Resolution d'Urgence [...] au Nom du Groupe Technique des Droites Europeennes. Objet: Charniers en Europe de l'Est*; Proposition de Resolution, Strasbourg: Parlement Européen, 1990; Klepsch and Caro, *Motion for a Resolution [...] on the Condemnation of All Crimes Committed by Totalitarian Regimes*, Working Documents, European Parliament, Retrieved from the Historical Archives of the European Parliament, Luxembourg, 1979; Pordea, et al., *Proposition de Resolution sur l'Adoption [...] d'une Déclaration Contre L'Imperialisme Soviétique et le Système Communiste Totalitaire*, Documents de Seance, Parlement Européen, Retrieved from the Historical Archives of the European Parliament, Luxembourg, 1986;.

¹⁵ Dujisin, "Post-Communist Europe," 559.

¹⁶ Larat, "Present-ing the Past," 286; Closa Montero, "Dealing with the Past"; Prutsch, *Culture and Education*, 23.

¹⁷ Littoz-Monnet, "Explaining Policy Conflict," 490.

your accession will mark a further important step in European unification and integration.”¹⁸

However, the impending reunification also proved a challenge. The “return to Europe” raised the problem of two fundamentally different European histories. The Eastern European countries that joined the EU after 2004 leaned on a totally different dominant conceptualisation of the post-Second World War period. Whereas the normalised EU narrative revolved around revival and rebuilding, according to the anti-socialist elites of the new member states these decades were characterised by repression and distress.¹⁹ Adding to this clash, one could argue that whilst the “old” Europe looked upon socialism as a successfully diverted threat, the “new” states perceived it as an imposed fate that their Western neighbours had declined to combat.²⁰ Since memory is closely connected to questions of identity, this development also affected the EU’s self-definition. Brussels was forced to state explicitly what it stood for. Whilst for many decades it could simply state to be united along common “principles,” in December 2007, the EU underscored in the Lisbon Treaty that it was a “union of values.”²¹ The start of accession negotiations with the post-war countries in Southeast Europe only added to the saliency of this developing identity and historical narrative.

As a result of the above, there was now a two-way pressure to change the dominant narrative of the past. Just as it had asked its new member states from Western and Southern Europe, the EU now urged its new member states to equally accept the Holocaust and the Second World War as a central point in history.²² This did, however, hardly fit the narratives of the past in these post-socialist countries. They deemed their suffering under socialism to be at least as important as their experiences during the Second World War. Consequently, the Eastern European countries lobbied both outside and within the EU for inclusion of *their* version of history in the narrative of Europe’s past.²³

¹⁸ Council of the European Union, “Enlargement Preparation for the Intergovernmental Conference Opening the Negotiation Process with Bulgaria,” January 18, 2000, 2, http://www.consilium.europa.eu/register/en/content/out?typ=SET&i=ADV&RESULTSET=1&DOC_TITLE=intergovernmental+Bulgaria&CONTENTS=&DOC_ID=&DOS_INTERINST=&DOC_SUBJECT=&DOC_SUBTYPE=&DOC_DATE=01%2F01%2F2000%3A02%2F12%2F2000&document_date_from_date=01%2F01%2F2000.

¹⁹ Closa Montero, “Dealing with the Past,” 2, 8–11; Littoz-Monnet, “Explaining Policy Conflict,” 490.

²⁰ Auer, “The European Union’s Politics of Identity,” 142; Csilla Kiss, “The European Legacy: Toward New Paradigms,” *Historical Memory in Post-Cold War Europe* 19, no. 4 (2014): 429.

²¹ Eva-Maria Poptcheva, *Member States and the Rule of Law: Dealing with a Breach of EU Values*, Briefing, European Parliamentary Research Service, 2015, 2.

²² Ochman, *Post-Communist Poland*, 35.

²³ Closa Montero, “Dealing with the Past,” 2, 8–11; Littoz-Monnet, “Explaining Policy Conflict,” 490, 494, 501; Maria Malksoo, “The Memory Politics of Becoming European: The East European Subalterns and the Collective Memory of Europe,” *European Journal of International Relations* 15, no. 4 (2009): 656, 659; Georges Mink, “Between Reconciliation and the Reactivation of Past Conflicts in Europe: Rethinking Social Memory Paradigms,” in *Democracy, State and Society: European Integration in Central and Eastern Europe*, eds. Magdalena Gora and Katarzyna Zielinska (Krakow: Jagiellonian University Press, 2011), 127–146.

This lobbying at first proved fruitless. Whereas scholars already recognised and investigated the increasing significance of the East-West divide in memory in the early 1990s,²⁴ the EU's institutions only gradually came to recognise and accept this call for a pluralist historical narrative.²⁵ In 2001, the EP suggested “a common ‘European Declaration,’” which was to contain

mutual recognition of and regret for the crimes against humanity, atrocities and injustice committed during and after the Second World War, as well as the commitment to embrace fully the common values and objectives of European integration as [an] effective means of overcoming past divisions, enmities and prejudices rooted in nationally-determined historical and political interpretations of the past.²⁶

In this way, the recommendation encouraged the recognition of each other's pasts. Nevertheless, it did little to acknowledge either the specific experiences of Eastern European countries or their demands. An EP resolution from 2005, adopted sixty years after the end of the Second World War, welcomed Eastern Europeans who lived under “socialist dictatorships.”²⁷ Whilst constituting a first step towards the inclusion of socialism in the EU's narrative, the resolution still failed to include any explicit reference to those who suffered under socialism and instead mainly focussed on victims of “Nazi tyranny.”²⁸ Once more the centrality of the Holocaust in European memory was foregrounded by various EU institutions, urging the candidate member states to deal with the memory of Second World War crimes as a priority.²⁹

The effect was that new European states intensified their lobbying upon entering the EU. For example, a Hungarian MEP used his permitted one-minute speech during an EP meeting in 2005 to honour “those nations . . . freed from socialist dictatorship.”³⁰ He then proposed a ban on socialist symbols similar to the one on swastikas. One year later

²⁴ Gérard Namer, “Une Mémoire Collective Européenne: Est-Elle Possible?” *Schweizerische Zeitschrift für Soziologie* 19, no. 1 (1993): 25–32. However, Namer does not exclusively discuss the tensions between the Eastern and Western European narratives, but rather focusses on the general question of memory and historical narrative in Western Europe.

²⁵ Prutsch, *Culture and Education*, 15.

²⁶ European Parliament, *Enlargement Progress Report for 2001: European Parliament Resolution on the Progress Made by Each of the Candidate Countries for Accession*, P5_TA(2002)0536, Adopted, final resolution, Strasbourg: European Parliament, 2002, 40.

²⁷ European Parliament, *European Parliament Resolution of the Sixtieth Anniversary of the end of the Second World War*, P6_TA(2005)0180, 1.

²⁸ European Parliament, *European Parliament Resolution of the Sixtieth Anniversary of the end of the Second World War*, P6_TA(2005)0180, 2; Ochman, *Post-Communist Poland*, 47.

²⁹ Ochman, *Post-Communist Poland*, 47.

³⁰ European Parliament, *Report of Proceedings, Final, Meeting Thursday, 27 January 2005*, P6_CRE(2005)01-27, Report of Proceedings, Strasbourg: European Parliament, 2005, 13.

two MEPs from Poland and Latvia put the horror of socialism and the crimes of Nazism on equal footing whilst arguing for active remembrance of the former.³¹ Similar demands were repeated in the following years.³² As in the 1970s, the 1980s, and the 1990s, answers from both the Commission and Council in the 2000s were supportive, but avoided the specific topic at hand. In a reply to a question from the Latvian MEP Inese Vaidere, the Council circumvented the term “communist,” which had been so present in the question, instead elaborating on the EU’s general condemnation of “all forms of violence and discrimination.”³³

However, Central and Eastern European countries did not give up their fight, and were eventually more successful. In 2009, a European network that brought together organisations dealing with socialist secret service files stated that “[t]he eastward expansion of the EU needs the ‘westward’ expansion of memory; it needs the critical examination of communism in all of Europe.”³⁴ On April 2 that same year, the anti-socialist lobby scored an absolute victory when the EP, referring to the 2006 CoE resolution, adopted its own resolution on European Conscience and Totalitarianism. This document was already mentioned in the previous chapter, for it functioned as a landmark resolution. Here, it will be assessed on the basis of its underlying narratives. Acknowledging the “double legacy of [Nazi and communist] dictatorship” in Central and Eastern Europe, the resolution first of all asks for attention to be paid to the victims of authoritarianism and totalitarianism.³⁵ It also declared that it was essential to “keep the memories of the past alive, because there can be no reconciliation without truth and remembrance,” and in order to “honour the victims [and] condemn the perpetrators.”³⁶ The resolution claimed that Europe can only be “united” if it succeeds in establishing a shared vision of its history (which, as stressed earlier in the document, does not imply that any party can claim to own a “monopoly on interpreting history”)—a history that acknowledges the “common

³¹ European Parliament, *Report of Proceedings, Tuesday, 4 April 2006*, Report of Proceedings, Strasbourg: European Parliament, 2006, 92, 94.

³² Hanna Foltyn-Kubicka, *Parliamentary Questions: Oral Question with Debate O-0052/09. Subject: European Conscience and Heroes of the Fight Against Totalitarianism*, Session Document, European Parliament, 2009; Jana Hybaskova, “Oral Question with Debate O-0139/08/rev.1,” Session Document, European Parliament, 2009; Inese Vaidere, *Parliamentary Questions: Written Question by Inese Vaidere (UEN) to the Council. Subject: Crimes of the Totalitarian Communist Regime*, E-0591/08, Written Question, 2008.

³³ Council of the European Union, *Reply to Written Question E-0591/2008*, n.p.

³⁴ Schiller-Dickhut and Rosenthal, *The European Network of Official Authorities in Charge of the Secret-Police Files*, 4.

³⁵ European Parliament, *Resolution on European Conscience and Totalitarianism*, P6_TA(2009)0213, 2.

³⁶ European Parliament, *Resolution on European Conscience and Totalitarianism*, P6_TA(2009)0213, 2. The final resolution was preceded by three draft motions for a resolution, introduced in March 2009. The European Commission and Council of the European Union, albeit more reluctantly (see Littoz-Monnet, “Explaining Policy Conflict,” 500–501), adopted similar statements three months later. Council of the European Union, “Council Conclusions on the Memory of the Crimes”; European Commission, *Report from the European Commission to the European Parliament and to the Council: The Memory of the Crimes Committed by Totalitarian Regimes in Europe*, COM/2010/0783 final, December 22, 2010, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52010DC0783>.

legac[ies]” of “Nazism, Stalinism and fascist and Communist regimes.”³⁷ The upcoming twentieth anniversary of the fall of the Berlin Wall is supposed to contribute to these “feelings of togetherness and cohesion.”³⁸ One of the last clauses even advocated a “comprehensive reassessment of European history” in order to enhance European integration.³⁹ At the same time, and demonstrating that the Western European countries had not fully given up on their former founding narrative, the resolution stressed the “uniqueness” of the Holocaust.⁴⁰ This final phrase came from the motions of the Liberals and Greens, who eventually decided to support the resolution in this amended form.⁴¹

The importance of historical re-narration to the EU’s future is also present in the discourse of the Reconciliation of European Histories Group, established in 2010. This “informal group of Members of European Parliament,” primarily from Central and Eastern Europe and representing the EPP, states that “[r]eunification of Europe requires reconciliation of the dominant historical narratives in different parts of the Continent.”⁴² In 2013, members of the Group asked the EP for a ban on symbols of totalitarian regimes, iterating that

Europe will not be united unless it is able to form a common view of its history, recognises Nazism, Stalinism and Fascist and Communist regimes as a common legacy and brings about an honest and thorough debate on their crimes in the past century.⁴³

Although, in the words of political scientist Laure Neumayer, “its reach was restricted to a narrow parliamentary segment: the post-Communist political right,” the Group has been fairly significant, both in terms of its visibility, and its effects.⁴⁴ In 2013, for example, the museum of the European Parliament agreed to “add content illustrating Soviet aggression” in response to the Group’s complaints about the lack of attention for the Soviet Union as an “ally of Nazi Germany” and “co-aggressor” in the Second World War.⁴⁵

³⁷ European Commission, *Joint Answer Given By Mr Barrot to E-3416/08 and E-3417/08*, 2.

³⁸ European Commission, *Joint Answer Given By Mr Barrot to E-3416/08 and E-3417/08*, 2.

³⁹ European Commission, *Joint Answer Given by Mr Barrot to E-3416/08 and E-3417/08*, 3–4.

⁴⁰ European Commission, *Joint Answer Given by Mr Barrot to E-3416/08 and E-3417/08*, 2.

⁴¹ Neumayer, “Integrating the Central European Past into a Common Narrative,” 355.

⁴² Reconciliation of European Histories Group, “About Us,” n.d., <https://eureconciliation.eu/about/>, n.p.

⁴³ Reconciliation of European Histories Group, “The Ban of Totalitarian Symbols Is Not Considered Necessary by the President of the EP,” March 5, 2014, <https://eureconciliation.eu/2014/03/05/the-ban-of-totalitarian-symbols-is-not-considered-necessary-by-the-President-of-the-ep/>, n.p.

⁴⁴ Neumayer, “Integrating the Central European Past into a Common Narrative,” 356.

⁴⁵ Reconciliation of European Histories Group, “Parliamentarium Museum Will Add Content Illustrating Soviet Aggression,” March 20, 2017, <https://eureconciliation.eu/2014/03/20/parliamentarium-museum-will-add-content-illustrating-soviet-aggression>.

2.1.2 *Presenting the socialist past as a mistake*

In the period from the 1990s up until 2009, the growing EU thus gradually integrated the narrative of socialist “evil” into its new self-definition and identity narrative. The question remains how this narrative framed the relation between accession and overcoming the socialist past. The best route to an answer lies in the original lobbying effort of the post-socialist Central and Eastern European elites—after all, it was this effort that had led to the adoption of a new (or at the very least “updated”) EU stance on the continent’s past.

During and directly after the overthrow of socialism, (former) dissidents in Eastern Europe cited any “powerful” rhetoric of the socialist past as a “mistake.”⁴⁶ Since they took on important roles in the post-1991 period, this language gained strength and significance. The idea that socialism was an alien and temporary rupture from an otherwise free, democratic, and European (Western) path helped these political groups to consolidate their call for NATO and EU accession, as well as other benefits associated with membership of the “Western club.”⁴⁷ Key representatives within the EU gradually accepted this take on history,⁴⁸ which I will from now on refer to as the “overcome narrative.”

Especially the more right-wing, conservative political groups were attracted to this overcome narrative, and sometimes they found literal ways to present the past as such. For example, the chairman of the EPP, Wilfried Martens, spoke of the “long aberration of Communism.”⁴⁹ In 2004, the Italian Romano Prodi, then President of the European Commission, praised unification in light of the “artificial division the Iron Curtain imposed on us.”⁵⁰ At other times, the message was presented as part of other metaphors, associating a future within the EU with becoming “normal” again, or as “coming home,” having been “away” for a while.⁵¹ This language, indeed, directly mirrored the words used by post-socialist Eastern European elites.

EU representatives also used this overcome narrative for the more distant countries in Southeast Europe. In 2010, Hans-Gert Poettering, the former EP President, stated at a conference on Bulgaria’s totalitarian past that “Bulgaria has always been part of the

⁴⁶ Alina Mungiu-Pippidi, “EU Enlargement and Democracy Progress,” in *Democratisation in the European Neighbourhood*, ed. Michael Emerson, Brussels: Centre for European Policy Studies, 2005, 15. See also Tatiana Zhurzhenko, “The Geopolitics of Memory,” *Eurozine* (2007).

⁴⁷ Kiss, “The European Legacy,” 429.

⁴⁸ MacMillan, *Discourse, Identity and the Question of Turkish Accession*, 78; Hülse, “Imagine the EU,” 406. See also Tony Judt, “The Past is Another Country: Myth and Memory in Post-War Europe,” in *Memory and Power in Post-War Europe*, ed. Jan-Werner Müller (Cambridge: Cambridge University Press, 2002), 157–183.

⁴⁹ European People’s Party, “Anastasia Moser Confirmed as Leader of Bulgaria’s BANU-PU for the Seventh Time,” Press Release, Retrieved from EU Historical Archives, Florence, D.1.2004.11-006, 2004, n.o.

⁵⁰ Romano Prodi, “Speech by the President of the European Commission, Accession Day, Press Conference, Speech/04/22” (Dublin: European Commission, 2004), 2. See also Larat, “Present-ing the Past,” 279.

⁵¹ Hülse, for instance, cites a German deputy of the FDP, who states that the “Central and East Europeans need a European perspective: They want home to Europe [sic].” Hülse, “Imagine the EU,” 408; MacMillan, *Discourse, Identity and the Question of Turkish Accession*, 80.

European family.”⁵² He used this trope consistently—already in 2007, he had praised the new member states Bulgaria and Romania for reaching this “historical milestone.”⁵³ It was their reward for the “long and often arduous return to the united European family they always belonged to.”⁵⁴ President of the Council of the European Union, Herman van Rompuy, added in 2012 that “through the bonds of culture, history, and geography, Romania [already before gaining membership] fully belonged to the European family.”⁵⁵ Honouring the Bulgarian dissidents who had risked their lives to “defend our European values,” Poettering, together with this successor Jerzy Buzek, dubbed them “bridge builders” between “the democratic past and the European future of the Bulgarian nation.”⁵⁶ The language was often cheerful, for example, when EP rapporteur Geoffrey van Orden emphasised how the Bulgarian people were “overjoyed” to gain membership of the “Western club of free nations.”⁵⁷

Important documents added to the narrative of Europe as a family which, through enlargement, welcomed long-lost members back into its ranks. In the 2004 Constitution for a Europe Draft Treaty, leaders of all twenty-five member states paved the way for integration⁵⁸ and further enlargement by declaring themselves “convinced” of the commitment of the European nations to “transcend former divisions,” as a group of nations “united even more closely, to forge a common destiny.”⁵⁹ This language fitted well in a longer tradition of EU discourse centred on the theme of family and unity.⁶⁰ Whilst a 2004 study by Andreas Musolff dissects this role of the family metaphor in internal EU integration debates,⁶¹ the above clearly shows that it was also popular in the enlargement narrative.

EU representatives sometimes deviated from the linear depiction of the return to Europe in order to stress the need for accession countries to push for reform. In 2010, appealing to the political responsibility of those in question, Poettering presented the

⁵² Hans-Gert Poettering in Kovatchev, *Proceedings from the Conference “The Endured European Dream of Bulgaria,”* 36.

⁵³ European People’s Party, “Bulgarie et Roumanie: le Groupe PPE-DE salue le feu vert à leur adhésion à l’UE le 1er janvier 2007,” Press Release, Hans-Gert Poettering, MdPE, Retrieved from EU Historical Archives, Florence. D.1.2006.9-0098, 2006, n.p.

⁵⁴ European People’s Party, “Bulgarie et Roumanie,” n.p.

⁵⁵ European Council the President Herman van Rompuy, “Speech to the Parliament of Romania: Joint Meeting of the Chamber of Deputies and of the Senate,” EUCO 68/12, PRESSE 170, PR PCE 60, Speech, Press Release, Bucharest: Press Office of the Council of the European Union, 2012, 1.

⁵⁶ Hans-Gert Poettering in Kovatchev, *Proceedings from the Conference “The Endured European Dream of Bulgaria,”* 8, 36.

⁵⁷ European People’s Party, *Press Release: Bulgaria Clears Last Hurdle Before Accession*, Retrieved from EU Historical Archives, Florence, D.1.2006.11-0090, 2006.

⁵⁸ Larat, “Present-ing the Past,” 274.

⁵⁹ Member States of the European Union, “Preamble of the Treaty Establishing a Constitution for Europe,” *Official Journal of the European Union*, OJ C 310/2004, 2004, 3.

⁶⁰ Larat, “Present-ing the Past,” 286.

⁶¹ Andreas Musolff, *Metaphor and Political Discourse: Analogical Reasoning in Debates about Europe* (New York: Palgrave MacMillan, 2004), 14.

elections that year as a decisive moment for the Bulgarian people to choose between a “future [within] the Western alliance” or a “return to the past,” including “dependence on Russia”⁶²—although no real alternative was offered.⁶³ Poettering warned against, in Musolff’s words, taking the “wrong path,” which eventually “leads into cul-de-sacs.”⁶⁴ Whilst the word “socialist” was not explicitly used, this narrative clearly contrasts a future within the EU on the one hand, with a repressive and dependent past on the other. Whether the road towards the EU was depicted as a choice or a historical inevitability, the narrative presented the socialist past and the European future as the starting and the ending points of transition, within a binary formulation of repression and freedom; dark and light.

The overcome narrative thus corresponds to another metaphor of Musolff’s study, namely the prevalence of “the journey” in EU integration discourse.⁶⁵ Whilst his study did not focus on enlargement, the above examples seem to be perfectly compatible with the definition of a “journey that proceeds from a departure point towards a goal/destination along a specific path (or several paths).”⁶⁶ For the political goal to be achieved, “obstacles” have to be removed from the path, after which the “progress” of individual travellers can be “measured against specific distance signs along the path.”⁶⁷ Indeed, this metaphor closely corresponds to the EU’s own historical narrative of European identity in contrast to its own past of war and fragmentation. The Eastern enlargement with its triumph over socialism⁶⁸ simply added a post-socialist dimension to the originally post-Nazi narrative of overcoming fascism. In 2009, the Council confirmed this “updated” and more inclusive history, highlighting that the EU represents “everything that is the opposite of totalitarianism.”⁶⁹

To summarise, in the years up until 2009, Central and Eastern European elites were thus at least partially successful in the transfer of their anti-socialist narrative to the EU. The idea of a return to Europe and the depiction of the socialist past as a mistake together create what I have referred to as the overcome narrative, and also carried appeal for leaders in Western Europe.

⁶² European People’s Party, *Hans-Gert Poettering Appelle au Soutien des Partis Politiques Favorables a un Avenir Européen pour la Bulgarie*, Press Release, Retrieved from EU Historical Archives, Florence, D.1.2001.5-2010, 2001, n.p.

⁶³ Musolff, *Metaphor and Political Discourse*, 59.

⁶⁴ Musolff, *Metaphor and Political Discourse*, 43.

⁶⁵ Musolff, *Metaphor and Political Discourse*, 39.

⁶⁶ Musolff, *Metaphor and Political Discourse*, 42.

⁶⁷ Musolff, *Metaphor and Political Discourse*, 43.

⁶⁸ Nadia Kaneva calls this the “myth in the Western collective imaginary.” Nadia Kaneva, “Remembering Communist Violence: The Bulgarian Gulag and the Conscience of the West,” *Journal of Communication Inquiry* 31, no. 1 (2007): 52.

⁶⁹ Council of the European Union, *Summary of the Plenary Session of the European Parliament, Held in Strasbourg on 25 March 2009. Joint Debate: European Conscience and Totalitarianism, 8272/09*, Summary, Brussels: Council of the European Union, 2009, 5.

2.2 “Confronting” the war past: Yugoslavia’s past as Europe’s mirror image⁷⁰

How did the above overcome narrative relate to the EU’s stance on the war past of the Western Balkans? In 2011, EC President José Barroso declared that “the reunification will not be completed without the West Balkans as part of the European Union.”⁷¹ A year later, Herman van Rompuy praised the countries’ commitment to “cast away the shadows of their past, and live up to their European vocation.”⁷² This partially reflected the same “return to Europe” narrative and the supposed need to “overcome” the past, as found in the EU narrative of post-socialist transition. In 2009, the EP stated that inter-ethnic reconciliation was needed to “overcome . . . the burden of the past.”⁷³ The journey metaphor was present here as well: moving towards the EU would enable the dark legacies of the past to be dismantled. At a conference dedicated to the work of the International Criminal Tribunal for the former Yugoslavia (ICTY) in the presence of prosecutors from the Western Balkans, Olli Rehn told the participants to “definitely close the dark chapters of the recent Balkans wars, and allow the countries of the region to move towards EU integration.”⁷⁴

However, in the above quotation, Rehn points towards a different definition of “closing the dark chapters” than previously seen in the EU’s post-socialist narrative. “No one can live in a memory-less world,” Rehn added.⁷⁵ Of interest here is the insistence on confrontation with the past, rather than the simple task of “overcoming” it. Rehn was not the only one to directly link Serbia’s experience to that of (Western) Europe. In 2010, Catherine Ashton praised Serbian President Tadić’s condemnation of the “massacres [note that she did not use the qualification “genocide”, controversial in Serbia]⁷⁶ that took place in Srebrenica,” since “we [across Europe] have learned that one has to be open and self-critical when dealing with the past.”⁷⁷ “In order to define and grapple with the future,” she continued, one needs to “understand the past.”⁷⁸

⁷⁰ Minor parts of this sub-chapter, in a significantly modified version, have been previously published in Wentholt, “Mirroring Transitional Justice.”

⁷¹ European Parliament Press Service, “Story: Future of Western Balkans Lies in Europe,” April 15, 2011, http://www.europarl.europa.eu/pdfs/news/public/story/20110408STO17340/20110408STO17340_en.pdf; MacMillan, *Discourse, Identity and the Question of Turkish Accession*, 99, footnote 13.

⁷² European Council the President van Rompuy, “Speech to the Parliament of Romania EUCO 68/12”, 2.

⁷³ European Parliament, *Consolidation Stability and Prosperity in the Western Balkans: European Parliament Resolution of 24 April 2009 on Consolidating Stability and Prosperity in the Western Balkans*, P6_TA(2009)0331, Adopted Resolution, Strasbourg: European Parliament, 2009.

⁷⁴ Olli Rehn, “Victims Always Deserve Justice and Truth,” Speech/09/167, April 2, 2009, http://europa.eu/rapid/press-release_SPEECH-09-167_en.htm, 2. See also Wentholt, “Mirroring Transitional Justice,” 82.

⁷⁵ Rehn, “Victims Always Deserve Justice and Truth,” 2.

⁷⁶ As will also be discussed in chapter 7, naming the crimes in Srebrenica is a controversial matter: Ashton has chosen here to speak of massacres rather than genocide.

⁷⁷ Catherine Ashton, “The EU and the Western Balkans in a Changing World,” Speech/10/32, February 18, 2010, 4, http://europa.eu/rapid/press-release_SPEECH-10-32_en.htm.

⁷⁸ Ashton, “The EU and Western Balkans,” 3.

The EU thus asked for confrontation with the past and it was not difficult for Brussels to make this demand concrete. After all, in 1993, the United Nations had established the ICTY and had made co-operation with the Tribunal an international obligation for the countries involved in the wars of the 1990s. The ICTY thus became part of the EU's "confront" narrative of dealing with the war past in the Western Balkans. Yet how did the EU justify its insistence on co-operation with the Tribunal? It appears that, whereas co-operation with the ICTY was first described in legal terms, it was later connected to European values, and finally to more abstract claims on restorative justice. After discussing these three justifications, I will analyse how they interact in the EU's overarching narrative of the need to confront the war past of the former Yugoslavia.

2.2.1 *ICTY co-operation as an international obligation and a sign of Europeanness*

At first the EU justified its ICTY conditionality as an effective means by which to enforce co-operation with the Tribunal as an international obligation. In the 2003 Thessaloniki agenda, drawn at the Western Balkans summit, the EU's insistence on co-operation with the ICTY was connected to a "respect for international law" as an "essential element of the SAP [Stabilisation and Association Programme]"—a pre-accession stage of EU co-operation with countries in its enlargement space.⁷⁹ This frame was then repeated throughout other meetings and documents. For example, in 2005, David Hudson, as deputy head of the EC delegation, opened the interparliamentary meeting by stating that "in terms of its **international obligations**" [emphasis in original], the country had "achieved significant progress with the ICTY, but further progress needs to be made to bring remaining fugitives to justice."⁸⁰

Over time, the EU increasingly presented co-operation with the ICTY as specifically an accession condition. In the Thessaloniki summit (already referenced above), the EU had described "full cooperation with ICTY" as "vital for further movement towards the EU."⁸¹ "Providing justice for war crimes is a legal, political and moral imperative to which we [not specified, NW] are all committed."⁸² Going beyond the technical language of ICTY co-operation as an accession condition, its spokesperson Javier Solana described the "excellent operation" of the Serbian authorities, which had led to the arrest of the much

⁷⁹ European Union, *EU-Western Balkans Summit*.

⁸⁰ Interparliamentary meeting EP-Serbia Montenegro, Minutes from the *2nd EP-Serbia and Montenegro Interparliamentary Meeting, 5 December 2005, Belgrade*, PE 366.233, December 5, 2005, 3, http://www.europarl.europa.eu/intcoop/euro/id/dsee/minutes_en.htm.

⁸¹ European Commission, *Annex A: The Thessaloniki Agenda for the Western Balkans, 2518th Council Meeting, External Relations, Luxembourg, June 16, 2003*, 10369/03 (Presse 166), Luxembourg: General Affairs and External Relations, 2003, 12.

⁸² EU-Western Balkans Summit, *Thessaloniki Declarations*, C/03/163, 10229/03 (Presse 163), June 21, 2003, n.p., http://europa.eu/rapid/press-release_PRES-03-163_en.htm.

sought war criminal Radovan Karadžić, as a step that “will bring Serbia closer to European values.”⁸³ Solana’s colleague, Olli Rehn, enthusiastically welcomed this as a “milestone” in Serbia’s path “towards a European future.”⁸⁴ In 2011, shortly after the arrest of Mladić, Van Rompuy connected these three different tiers of ICTY co-operation—domestic, European, and global. He congratulated Serbian President Boris Tadić with this accomplishment, “not only for Serbia, but for the region and international justice as well.”⁸⁵ Two months later, he depicted the arrest of Hadžić as “a further important step for Serbia in realising its European perspective” and “equally crucial for international justice.”⁸⁶ Criminal justice for war suspects was thus not only supported by the EU through incorporating it as an accession condition, but was also directly associated with Serbia’s international performance and European future.

Co-operation with the ICTY thus also became a sign post of worthiness for European membership. During the 2004 interparliamentary meeting, the representative of the Dutch Presidency of the Council listed full co-operation with the court as one of the five focal points on the “road to the Union.”⁸⁷ This priority was later confirmed by Enlargement Commissioner Olli Rehn.⁸⁸ Here it is worth noting that, to a certain extent, this dual role of ICTY co-operation—as an international obligation and as a “test” of Europeanness—was also adopted in Serbian policy practice. In Serbia’s National Programme for EU integration of 2009, ICTY co-operation is the first topic in the subsection titled “International Obligations.” As the document states, Serbia considers co-operation with the court “primarily . . . in the context of acceptance, upgrading and respect of the values and rule of law as recognised in European countries.”⁸⁹ Serbia understood that, by that time, the ICTY condition signified commitment, both to a universal ideal, and to a European identity. “In addition,” the document continues, “an awareness has been developed that fulfilment of the ICTY’s mandate will contribute to reconciliation among peoples in the region.”⁹⁰ The origin and meaning of this “awareness” are the topic of the next section.

⁸³ B92, “EU: Karadžić Arrest Important Step,” July 22, 2008. https://www.b92.net/eng/comments.php?nav_id=52102, n.p.

⁸⁴ B92, “EU: Karadžić Arrest Important Step”; Braniff, *Integrating the Balkans*, 125–126.

⁸⁵ European Council the President, “Overcoming the Crisis, Moving towards the European Union,” Speech by President Herman van Rompuy at the 1st Serbia-EU Forum, EUCO 70/1, PRESSE 305, September 9, 2011, europa.eu/rapid/press-release_PRES-11-305_en.pdf.

⁸⁶ European Council the President, *Joint statement by President van Rompuy, President Barroso and High Representative Ashton on the Arrest of Goran Hadžić*, EUCO 53/11, PRESSE 257, July 20, 2011, https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/123971.pdf.

⁸⁷ Interparliamentary meeting EP-Serbia Montenegro, Minutes from the *1st EP-Serbia and Montenegro Interparliamentary Meeting, 15-16 December 2004, Strasbourg*, PE 366.148, December 15–16, 2004, 4, http://www.europarl.europa.eu/intcoop/euro/id/dsee/minutes_en.htm.

⁸⁸ Interparliamentary meeting EP-Serbia Montenegro, *1st EP-Serbia and Montenegro Interparliamentary Meeting*, 3.

⁸⁹ Republic of Serbia, Government, *Amended National Programme for Integration of the Republic of Serbia into the European Union*, Belgrade, 2009, 40, http://www.seio.gov.rs/upload/documents/NPI/mpi_2009-10_incl_annexes_eng.pdf.

⁹⁰ Republic of Serbia, Government, *Amended National Programme*, 40.

2.2.2 ICTY co-operation as a step towards peace and reconciliation

The EU thus moved from stressing co-operation with the ICTY as an international obligation, to presenting it as an EU value and accession condition. A third justification for the EU's ICTY conditionality was found in the Tribunal's supposed contribution to reconciliation in the region. The EC dubbed co-operation an "essential" condition and "key" to achieving a "lasting reconciliation in the region."⁹¹ In 2009 and 2012, the EP urged the Western Balkan societies to see the extradition of war criminals, not only as a membership condition, but "above all a step towards bringing justice to the victims . . . and reconciliation in the region."⁹² References to universal values and morals were thus rife. Slovenian MEP Jelko Kacin posited that "Serbia should confront with history [and deliver Mladić to The Hague] and only then it could become a mature country."⁹³ His colleague Doris Pack "regretted" the Serbian government's unsatisfying co-operation with the ICTY, as to do so would have allowed them "to free themselves from such heavy legacy."⁹⁴

Key to this assumption of the ICTY's contribution to reconciliation was the belief that accountability was a necessary requirement for lasting peace. Cutting across all of the documents and reports on the post-war countries in Southeast Europe is the strong condemnation of "impunity" for the crimes of the 1990s.⁹⁵ Indeed, the EU consistently foregrounded the term "impunity"⁹⁶ and attempts to bring it to an end were dubbed a "first lesson that must be learned"⁹⁷ and a "fight."⁹⁸ Impunity was discarded as "a failure to move from the post-war to a transition agenda."⁹⁹ "[I]mpunity continues," the EC warned for the

⁹¹ European Commission, *Enlargement Strategy 2011–2012*, COM(2011) 666 final, 8; European Commission, *Enlargement Strategy 2012–2013*, COM(2012) 600 final, 7.

⁹² European Parliament, *European Parliament Resolution of 26 November 2009 on the Commission's 2009 Enlargement Strategy Paper Concerning the Western Balkan countries, Iceland and Turkey*, P7_TA(2009)0097, Strasbourg: European Parliament, 2009, 3; European Parliament, *Enlargement Report for Serbia*, P6_TA(2012)0114, 3.

⁹³ Interparliamentary meeting EP-Serbia, *2nd EP-Serbia Interparliamentary Meeting*, November 25–26, 2008, 11.

⁹⁴ Interparliamentary meeting EP-Serbia Montenegro, *1st EP-Serbia and Montenegro Interparliamentary Meeting*, 4.

⁹⁵ The term "impunity" is broadly used by the EU to refer to failures of the judicial system. Since this dissertation is only concerned with *transitional* justice, the following analysis specifically discusses impunity that refers to the crimes committed during socialism and war. In the case of Albania, for example, the word "impunity" is often used, but refers to ongoing corruption amongst politicians and judges.

⁹⁶ For example, The EP's commitment to combatting impunity is described as a "persistent campaign over many years." Florence Benoit-Rohmer et al., *The Impact of the Resolutions and Other Activities of the European Parliament in the Field of Human Rights Outside the EU*, Study, Brussels: European Parliament, Directorate-General for External Policies of the Union, Directorate B, 2006, 13, 103.

⁹⁷ Albin Dearing, representative of the European Union Agency for Fundamental Rights (an authoritative EU body), quoted in Council of the European Union, *Totalitarian Regimes' Heritage in Hate Crimes: Summary Seminar Conclusions*, 16599/13, FREMP 189, JAI 1036, COHOM 259, DROIPEN 144, Brussels: Council of the European Union (Lithuanian Presidency), 2013, 6.

⁹⁸ Commission of the European Communities, *Commission Staff Working Document: Croatia 2007 Progress Report*, SEC(2007) 1431, 2007, 10; Commission of the European Communities, *Serbia 2007 Progress Report*, SEC(2007) 1435, 12; Commission of the European Communities, *Commission Staff Working Document: Kosovo Under UNSCR 1244/99 2009 Progress Report*, SEC(2009) 1340, 2009, 12; European Commission, *Croatia 2010 Progress Report*, SEC(2010) 1326, 10. This trope can be found in several progress reports in the subsection "Human Rights and the Protection of Minorities."

⁹⁹ This specifically referred to the Republika Srpska in Bosnia and Herzegovina. Commission of the European Communities, *Report from the Commission: The Stabilisation and Association Process for South East Europe Second*

case of Bosnia, urging the authorities to design a “country-wide strategy” to prosecute suspected war criminals still at large.¹⁰⁰

Beyond its specific documents on the ICTY, the EU was clear about its expectations for international criminal trials. In 2008, at the celebration of the International Criminal Court’s tenth anniversary, the EU Presidency declared that “[p]eace and justice are both necessary components of one single solution,” concluding that “there can be no amnesty for the most serious crimes.”¹⁰¹ This connects to the work of Karen Smith, who states that the EU’s concern with democracy and good governance stems from “the democratic peace proposition: democracies don’t fight each other, therefore promoting democracy is a peace strategy.”¹⁰² Apart from physically removing war criminals from society and addressing the victims’ need for legal prosecution, it is believed that justice after conflict testifies to good governance and democracy.

However, as Smith herself also notes, the EU did not always practice what it preached. For the sake of stability, authoritarian leaders in the Balkans were considered “necessary” to ensure stability and implementation of the Dayton peace agreement. Authoritarian leaders who had signed this treaty, including Slobodan Milošević, were therefore tolerated by the EU.¹⁰³ This stands in stark contrast to the idea of the EU’s democracy-brings-peace thesis. In the case of Milošević, it was not until the Kosovo War that a critical tipping point was reached. His indictment by the ICTY for crimes committed in Kosovo thus provided a welcome occasion for the EU to streamline its somewhat diffuse attitudes towards his leadership. Whilst it previously sent “inconsistent signals about [its] priorities”¹⁰⁴—the promotion of democracy and the fight against impunity on the one hand, and stability on the other—it now merged these narratives into one of an absolute necessity to remove Milošević from office. By presenting the ICTY as a state-building tool as well as a judicial mechanism, the EU built a narrative that included promises of justice and peace, as well as democracy, the rule of law, and reconciliation.

Annual Report, COM (2003) 139 final, SEC(2003) 339 - SEC (2003) 343, Annual Report, Brussels: Commission of the European Communities, 2003, 28.

¹⁰⁰ Commission of the European Communities, *Commission Staff Working Document: Bosnia and Herzegovina 2007 Progress Report*, SEC(2007) 1430, Progress Report, Brussels: Commission of the European Communities, 2007, 14.

¹⁰¹ Council of the European Union, *Declaration by the Presidency on Behalf of the EU to Mark the 10th Anniversary of the Rome Statute of the International Criminal Court*, P/08/81, ST 11900/08 (Presse 214), P 81/08, July 16, 2008, http://europa.eu/rapid/press-release_PESC-08-81_en.htm.

¹⁰² Karen E. Smith, *European Union Foreign Policy in a Changing World* (Cambridge: Polity Press, 2008), 130.

¹⁰³ Smith, *European Union Foreign Policy*, 131, 142.

¹⁰⁴ Smith, *European Union Foreign Policy*, 142.

2.2.3 Justice and state-building: Projecting the EU's expectations on the ICTY

The fact that co-operation with the ICTY became an absolute accession condition only confirmed and reinforced this interlinked narrative. After all, this condition made the arrest and handing over of war criminals part of the state-building and Europeanisation effort of the Western Balkans. This three-layered narrative—of justice leading to reconciliation, thence to state-building—followed the EU's foundational identity narrative, resting upon the notion of the Nuremberg court as the facilitator of European integration.¹⁰⁵ By prosecuting high-ranking perpetrators, Nuremberg had delivered justice to a war-torn continent.¹⁰⁶ This allowed Western European powers to reconcile peacefully, on the basis of which former enemies could become one Europe, united by democratisation and the rule of law.¹⁰⁷ This experience was then projected onto the Western Balkans.¹⁰⁸ In 2009, Rehn suggested that, as with France and Germany some decades before, the former Yugoslavia “need[ed] to overcome the wounds of the war” in order to become part of the “European project.”¹⁰⁹

This understanding—of retributive justice leading to reconciliation and peace—initially fitted in well with the broader consensus on retributive justice, shared by most practitioners, politicians, and scholars. Formulated as the “peace versus justice” debate, it was only in the early days of transitional justice that scholars and practitioners seriously doubted the efficacy of criminal justice in bringing societal cohesion. In more recent years, the slogan “peace and justice” or “peace because of justice” has replaced this dichotomy. The various EU institutions aligned themselves with this stance, underlining that “peace and justice are complementary aims” and highlighting the “vital role” of international criminal justice in this synergy.¹¹⁰ In this new conceptualisation, courts do not only serve to punish the perpetrator, but also to ensure “accountability” and bring closure for victims.

UN Security Council documents establishing the ICTY confirmed this idea. Although they focus on the Tribunal's retributive aspects as its main goal, relevant UN resolutions stress the court's contribution to “lasting peace,” “restoration and maintenance of peace,” and “(national) reconciliation.”¹¹¹ The ICTY accordingly states on its website that

¹⁰⁵ Wentholt, “Mirroring Transitional Justice,” 84-86.

¹⁰⁶ Isabelle Delpla, “How Has the ICTY Changed Our Perceptions of War?” *Südosteuropa Journal of Politics and Society* 61, no. 4 (2013): 544.

¹⁰⁷ Delpla, “How has the ICTY Changed Our Perceptions of War?” 553.

¹⁰⁸ Wentholt, “Mirroring Transitional Justice.”

¹⁰⁹ Rehn, “Victims Always Deserve Justice and Truth,” 2.

¹¹⁰ Council of the European Union, *Council Document on the Main Aspects and Basic Choices of the Common Foreign and Security Policy (CFSP) Presented to the European Parliament in Application of Point G (Paragraph 43) of the Interinstitutional Agreement of 17 May 2006*, 10665/09, Annual Report from the Council to the European Parliament, Brussels: General Secretariat of the Council of the European Union, 2009, 32.

¹¹¹ United Nations General Assembly, and Security Council, *Report of the International Tribunal for the Prosecutions of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991 to the United Nations*, A/49/342, S/1994/1007, August 29, 1994, 12-14,

it strives to “fulfil its mandate of contributing to peace and security in the region.”¹¹² Even today, scholars defend the idea of the ICTY being the essential constituent of transitional justice, and thus of reconciliation and peace in the region.¹¹³

However, since the 1990s, for both academics and practitioners, understandings of transitional justice have quickly evolved. Yet rather than returning to the “peace versus justice” debate, it has expanded the concept of justice: many now emphasise the importance of restorative justice as, at the very least, a complementary mechanism to courts and tribunals. As Pablo de Greiff suggests, transitional justice and its mechanisms tend to “over-promise and under-deliver.”¹¹⁴ Recent studies therefore refute the EU’s expectation that a single international criminal court, located within the realm of retributive justice, could further restorative goals.¹¹⁵ Fact-finding, truth commissions, local initiatives, and the involvement of civil society are necessary components of a complete approach to justice that enables long-lasting reconciliation and peace.¹¹⁶

Shifting attitudes within the ICTY reflect this increasing academic nuance.¹¹⁷ Its personnel are keen to adjust the promises made to reflect more its actual delivering capacity, believing that reconciliation can only be an additional and intended consequence of their main task to bring retributive justice.¹¹⁸ The ICTY adopted an outreach programme aimed at enhancing the court’s positive impact on peace and reconciliation, however, the

http://www.icty.org/x/file/About/Reports%20and%20Publications/AnnualReports/annual_report_1994_en.pdf; United Nations Security Council, *Resolution 808 (1993)*, S/RES/808, February 22, 1993, www.icty.org/x/file/Legal%20Library/Statute/statute_808_1993_en.pdf; United Nations Security Council, *Resolution 827: Adopted by the Security Council at its 3217th Meeting, on 25 May 1993*, S/RES/827, May 5, 1993, 2, http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/827%281993%29; United Nations Security Council, *Resolution 1166: Adopted by the Security Council at its 3878th Meeting, on May 1998*, S/RES/1166, May 13, 1998, 2, http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1166%281998%29; United Nations Security Council, *Resolution 1503. Adopted by the Security Council at its 4817th Meeting, on 28 August 2003*, S/RES/1503, August 28, 2003, http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1503%282003%29; United Nations Security Council, *Resolution 1534: Adopted by the Security Council at its 4935th Meeting, on 26 March 2004*, S/RES/1534, March 26, 2004, http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1534%282004%29.

¹¹² United Nations International Criminal Tribunal for the former Yugoslavia, “Outreach Programme,” n.d., <http://www.icty.org/en/outreach/outreach-programme>.

¹¹³ Madoka Futamura and James Gow, “The Strategic Purpose of the ICTY and International Peace and Security,” in *Prosecuting War Crimes: Lessons and Legacies of the International Criminal Tribunal for the Former Yugoslavia*, eds. James Gow, Rachel Kerr and Zoran Pajic (Abingdon: Routledge, 2014), 19; Madiha Inara Khan, “Historical Record and the Legacy of the Tribunal for the Former Yugoslavia,” in *Prosecuting War Crimes: Lessons and Legacies of the International Criminal Tribunal for the Former Yugoslavia*, eds. James Gow, Rachel Kerr and Zoran Pajic (Abingdon: Routledge, 2014), 91, 93.

¹¹⁴ Pablo de Greiff, *Panel Discussion at Transitional Justice and SDG 16+: Report Presentation*, The Hague: Knowledge Platform Security and Rule of Law, February 8, 2019, n.p.

¹¹⁵ Janine Natalya Clark, “Judging the ICTY: Has It Achieved Its Objectives?” *Southeast European and Black Sea Studies* 9 (2009): 123–142; Delpla, “How Has the ICTY Changed Our Perceptions of War?,” 545; Marlene Spoerri, “Justice Imposed: How Policies of Conditionality Effect Transitional Justice in the Former Yugoslavia,” *Europe-Asia Studies* 63, no. 10 (2011): 1830, 1847; Iva Vukušić, “Successes and Failures of Transitional Justice in BiH,” in *State-Building and Democratization in Bosnia and Herzegovina*, eds. Valery Perry and Soeren Keil (Farnham: Ashgate, 2015), 153, 161.

¹¹⁶ Dragović-Soso and Gordy, “Coming to Terms with the Past,” 208; Smeulders and Grünfeld, *International Crimes*, 465.

¹¹⁷ Vukušić, “Successes and Failures of Transitional Justice,” 161–162, footnote 9.

¹¹⁸ Anonymous, Staff member ICTY Belgrade, interview with author, July 7, 2012; Clark, “Judging the ICTY,” 133; Futamura and Gow, “The Strategic Purpose of the ICTY,” 20; Toma, interview.

UN did not consider this a “core activity” and, as a result, the outreach programme relied almost exclusively on donations by the EC.¹¹⁹

Conversely, the EU’s justification for demanding co-operation with The Hague, increasingly relied on the ICTY’s supposed contribution to reconciliation. Whilst an EP resolution from 2007 already described Serbia’s co-operation with the Tribunal as “a key step towards achieving lasting reconciliation in the region,”¹²⁰ from 2009 onwards the EU consistently emphasised this connection, especially in EC enlargement strategies and EP recommendations and resolutions. In 2009, the EP concluded that the ICTY had “already made a significant contribution” to reconciliation and peace in the region.¹²¹ With this narrative, the EU thus actively carried out a message that was debated within the wider academic community and even exceeded the claims of the court itself. When in 2011 the last remaining fugitives of the ICTY were arrested, the EC praised the extraditions of Mladić and Hadžić as “marking an important step towards reconciliation.”¹²² The conditionality’s focus on arrests was thus directly connected to the EU’s broader expectations of the court’s restorative potential.¹²³ This link permeated the Serbian side, with official documents declaring that “an awareness has been developed that fulfilment of the ICTY’s mandate will contribute to the reconciliation among peoples in the region.”¹²⁴

The three justifications of ICTY conditionality—being an international obligation, an EU value, and a reconciliation tool—together formed the overarching narrative of Serbia’s envisioned development. The Tribunal was expected to build the state, peace, and a European member state. In this way, the EU made dealing with its (1990s) past an inherent part of the narrative of EU accession.

Different narratives thus underscored the contrast between the *laissez-faire* attitude of the EU towards the socialist past and the absolute conditionality it demanded with regard to the war past. However, from 2005 onwards, at the expense of the overcome narrative, the EU’s language on the socialist and war pasts gradually converged. This can best be considered as the success of Eastern and European right-wing elites to incorporate the history of socialism in the EU’s foundational narrative. Dealing with socialism is now narrated in similar terms as war: it should be confronted and its memory “never forgotten.” The recently opened House of European History in Brussels, and the way it presents the

¹¹⁹ Clark, “International War Crimes Tribunals,” 105.

¹²⁰ European Parliament, *European Parliament Recommendation to the Council of 25 October 2007*, P6_TA(2007)0482, 3.

¹²¹ European Parliament, *European Parliament Recommendation to the Council of 12 March 2009 on the Mandate of the International Criminal Tribunal for the Former Yugoslavia*, P7_TA(2009)0136, March 12, 2009, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2F%2FEP%2F%2FTEXT%2bTA%2bP6-TA-2009-0136%2b0%2bDOC%2bXML%2bV0%2F%2FEN&language=EN>.

¹²² European Commission, *Enlargement Strategy 2011–2012*, COM(2011) 666 final, 3.

¹²³ Wentholt, “Mirroring Transitional Justice.”

¹²⁴ Republic of Serbia, Government, *Amended National Programme*, 40.

role of war and socialism in the making of Europe, testifies to this re-narration. Whilst important differences of approach still exist in EU attitudes towards the socialist and (1990s) war pasts of acceding countries, the basic assumption is now the same: that both pasts are of such importance that studying them forms a prerequisite to understand the present day. War and totalitarianism, in this assumption, represent everything non-European. This calls for remembering, for fact-finding, and for telling the story of the EU on the basis of these narratives and cautionary tales.

In the aforementioned 2005 and 2009 resolutions, denouncing totalitarianism and thereby the socialist regimes, the European Parliament emphasised that reconciliation would be impossible “without truth and remembrance.”¹²⁵ It urged post-socialist countries to “keep the memories of the past alive.”¹²⁶ Other EU institutions and representatives also stressed that “[k]nowledge gaps” regarding the totalitarian past should be filled¹²⁷ and, in addition to memory, the past should be “confronted.”¹²⁸ This narrative is also found in the EU’s funding mechanisms. For example, the Europe for Citizens Programme aimed to “bring together people from local communities across Europe to . . . learn from history and to build for the future” and invited projects “promoting and celebrating Europe’s values and achievements, while preserving the memory of its past.”¹²⁹ Without proper knowledge of, and engagement with, the past, this language seems to suggest that transition towards a just future will be in vain. In 2009, the EC Commissioner for Justice, Fundamental Rights and Citizenship, Viviane Reding, confirmed that commemoration is considered vital to “building a better and stronger European Union.”¹³⁰ EP President Jerzy Buzek declared in 2010 in a conference organised by Bulgarian representatives that reconciliation relies upon remembrance and “openness,” rather than forgetting.¹³¹

¹²⁵ European Parliament, *European Parliament Resolution of the Sixtieth Anniversary of the End of the Second World War*, P6_TA(2005)0180, 2; European Parliament, *European Conscience and Totalitarianism*, P6_TA(2009)0213, 1.

¹²⁶ European Parliament, *European Parliament Resolution of the Sixtieth Anniversary of the End of the Second World War*, P6_TA(2005)0180, 1; European Parliament, *European Conscience and Totalitarianism*, P6_TA(2009)0213, 2, 3.

¹²⁷ European Commission, *The Memory of the Crimes*, COM/2010/0783 final, 7.

¹²⁸ As stated by Alexandr Vondra Czech, Deputy Prime Minister for European Affairs, President-in-Office of the Council. Council of the European Union, *Summary of the Plenary Session*, 8272/09, n.p.

¹²⁹ Europe for Citizens website, quoted in Prutsch, *Culture and Education*. Most recently, the formulation of these goals has slightly changed; the programme now seeks projects that will “[r]aise awareness of remembrance, the common history and values of the EU and the EU’s aim—namely to promote peace, the values of the EU and the well-being of its peoples”—and that aim “to contribute to citizens’ understanding of the EU, its history and diversity” and “to raise awareness of remembrance, common history and values and the aim of the EU,” making special reference to “totalitarian regimes in Europe’s modern history especially, but not exclusively, Nazism that led to the Holocaust, Fascism, Stalinism and totalitarian communist regimes” in order to “commemorate the victims of their crimes.” Europe for Citizens, “European Remembrance,” n.d., https://eacea.ec.europa.eu/europe-for-citizens/funding/european-remembrance-2018_en.

¹³⁰ European Commission, “Statement by Vice-President Viviane Reding, EU Justice Commissioner on the Europe-Wide Day of Remembrance for the Victims of All Totalitarian and Authoritarian Regimes. MEMO/11/564,” 23 August 2011, http://europa.eu/rapid/press-release_MEMO-11-564_en.htm?locale=en.

¹³¹ Jerzy Buzek in Kovatchev, *Proceedings from the Conference “The Endured European Dream of Bulgaria.”*

2.3 Two narratives of the past, one focus on the future

We have thus identified two narratives of the relationship between memory, past, and future. Whilst not totally irreconcilable—indeed, the second complemented rather than replaced the first—they do differ in some important ways. To summarise, the overcome narrative was dominant in the EU’s stance on post-socialist dealing with the past until 2009. It underscored the necessity to distance the past in order to move forward. Furthermore, the language employed confirmed a normative distinction between the erroneous, violent past that has to be “closed,” and a peaceful future within the EU that could then be entered. Memory has no central place in this narrative, which instead seems to assume that the past can be “left to itself” and does not require re-interpretation. In fact, there was little focus on the past at all; instead, all attention was directed towards the future. By essentialising the past as something bad and alien, the narrative grants the “right to remember”¹³² as much as it approves the “right to forget.”

The second, the confront narrative, no longer allowed for the past to be silenced. The right to remember, and its concomitant right to forget, was thus transformed into a “duty to remember.” It relied upon a conception of a temporal continuum that enables jumping between future, present, and past in order to keep memories alive and thus confront the past.¹³³ The EU held this stance towards the war past of Serbia and other countries in the Western Balkans from the very beginning, yet its communications with, and language concerning, post-socialist states in Eastern Europe lacked any such emphasis on confronting the past until 2009. This year was marked by a landmark resolution from the EP, followed by similar documents from the EC and the Council. Subsequently, with Slovenia, Bulgaria, and Romania already in its ranks, the EU equally increasingly adopted a “duty to remember” approach.

Yet, simultaneously, the differences between the two narratives should not be overestimated—something EU documents can help us to reconcile. A European Council regulation from 2013 included an amendment, originally proposed by the EP, which highlighted the

¹³² As Antoon de Baets stated in 2009, in academia “there is an overwhelming consensus that we have a *right* to memory” (emphasis in original), whilst the “duty to remember” is understandably and—from the historian’s perspective—righteously more contested. Antoon de Baets, *Responsible History* (New York: Berghahn Books, 2009), 4.

¹³³ As described by Anne Leebaw, this way of thinking about dealing with the past fits within a strong academic tradition that conceptualises transitional justice as “progressive and linear,” whilst some scholars now argue that it is more multi-directional. Bronwyn Anne Leebaw, “The Irreconcilable Goals of Transitional Justice,” *Human Rights Quarterly* 30, no. 1 (2008), 117.

importance of keeping the memories of the past alive as means [sic] of moving beyond the past and building the future, and highlight the value of the Union's role in facilitating, sharing and promoting the collective memory of those crimes.¹³⁴

Memory is thus presented as a means by which to consolidate the transition from a violent past to a more just future. Let us once more recall that Enlargement Commissioner Olli Rehn simultaneously stated that “no one can live in a memory-less world,” as well as that through remembrance, Serbia had to “definitely close the dark chapters of the recent Balkans wars, and allow the countries of the region to move towards EU integration.”¹³⁵ When Bulgarian MEP Andrey Kovatchev urged the Serbian authorities to open up the socialist archives in 2012, thus aiming to confront the hidden, painful parts of history, he stated that “the shadows of the past cannot lead us to a democratic European future.”¹³⁶ Such a narrative thus makes dealing with the past instrumental to the overarching need for integration into the EU. Both the overcome narrative and the confront narrative are thus intrinsically part of the transition ideal in the overall concept of EU accession—one based on linearity and progress.¹³⁷

Dealing with the past thus became simply another area of domestic politics subject to EU accession criteria. The *acquis communautaire* and the Copenhagen criteria are in essence both aspirational descriptions of what EU members should be, and (ambitious) reflections of that which the EU already considers itself to be. This point provides the final foundation stone upon which my argument rests, namely, that the EU constructed its narratives of post-socialist and post-war transitions, and the modes of dealing with the past required to become European, based largely on its own experiences of the past.

In 2010, Poettering reminded the member states that “learning from the darkest chapters of our past” was necessary for a “successful, democratic future.”¹³⁸ Dealing with the past was directly linked to becoming European, but at the same time such a united Europe was considered helpful in “overcoming” past miseries. On the sixtieth anniversary

¹³⁴ Council of the European Union, *Council Regulation (EU) No 390/2014 of 14 April 2014 Establishing the “Europe for Citizens” Programme for the Period 2014–2020*, Adopted Council Regulation, Brussels: Official Journal of the European Union, 2014, 4 (as also cited in Prutsch, *Culture and Education*, 17); European Parliament, and Committee on Culture and Education, *Report on the Proposal for a Council Regulation Establishing for the Period 2014–2020 in the Programme “Europe for Citizens,”* A7-0424/2012, Plenary Sitting, Strasbourg: European Parliament, 2012, 98–99.

¹³⁵ Rehn, “Victims Always Deserve Justice and Truth,” 2.

¹³⁶ Andrey Kovatchev in European Parliament, *Minutes of the Debate on the Enlargement Report for Serbia*.

¹³⁷ This is a relatively neutral formulation of the transition ideal. Scholars who subscribe to a more critical interpretation of the EU’s “hegemonic” position and ideology, instead reiterate how Brussels tries to “normalise,” “orientalise,” “balkanise,” and/or otherwise essentialise the alleged uncivilised space of the Balkan territory. Boris Buden, “The Post-Yugoslav Condition of Institutional Critique: On Critique as Countercultural Translation,” *European Institute for Progressive Cultural Policies*, 2007, <http://eipcp.net/transversal/0208/buden/en/>: 1; Katerina Kolozova, “Slavoj Žižek Imagining the Balkans,” *Psychoanalysis, Society and Culture* 16 (2011): 304; Rasto Močnik, “Social Change in the Balkans,” *Eurozine* (2003): 4–5.

¹³⁸ Hans-Gert Poettering in Kovatchev, *Proceedings from the Conference “The Endured European Dream of Bulgaria,”* 36.

of the Second World War, the EP stated that only a “strong Europe . . . can offer a means of overcoming the atrocities of the past.”¹³⁹ The upcoming commemoration of the fall of the Berlin Wall was presented as the perfect opportunity to “enhance awareness of the past and recognise the role of democratic citizens’ initiatives,” as well as to “strengthen feelings of togetherness and cohesion.”¹⁴⁰

The EU’s involvement with commemorating the past was additionally justified through the concept of reconciliation. “Each member state has its own approach” to dealing with the memory of gross human rights violations, the Council concluded in 2010, “but in the interest of reconciliation, the memory of those crimes must be a collective memory The Union must play the role of facilitator.”¹⁴¹ In practice this meant, for example, according to the 2009 EP resolution, that the EU should try to “strengthen the teaching of European history” by articulating the successes of integration and “the stark contrast between the tragic past and the peaceful and democratic social order in today’s European Union.”¹⁴² By articulating the relevance of memory issues for democracy, reconciliation, and the rule of law, the EU thus created a narrative that enabled dealing with the past to become part of the accession package.

2.4 Concluding comparative remarks

To draw these two chapters towards a conclusion, it is insightful to combine the findings on the distinctive pairing that structured them—practice and narrative. The EU’s different practices in dealing with socialist and war pasts corresponded to quite different narratives. Whilst both converge in terms of the EU’s linear transition ideal, the overcome and confront narratives radically diverge in their understanding of memory and the importance of the past in moving forward.

Looking to account for these differences, narratives, and practice, we should be careful not to forget the more straightforward, yet no less valid, explanations. As has been widely recognised in literature, after the 2004 and (especially) the 2007 enlargement waves, many member states had urged the EU to be more demanding towards new members. Enhanced engagement with how aspiring member states dealt with the past became both a logical consequence, and an attractive accession requirement. Interestingly, post-socialist Bulgaria and Romania acceded in the midst of this “memory turn.” In 2007 they joined a Union that was busy re-assessing its past in order to account for the

¹³⁹ European Parliament, *European Parliament Resolution of the Sixtieth Anniversary of the end of the Second World War*, P6_TA(2005)0180, 1.

¹⁴⁰ European Parliament, *Resolution on European Conscience and Totalitarianism*, P6_TA(2009)0213, 2.

¹⁴¹ Council of the European Union, “Council Conclusions on the Memory of the Crimes,” 2.

¹⁴² European Parliament, *Resolution on European Conscience and Totalitarianism*, P6_TA(2009)0213, 2.

experience of totalitarian socialism of its new and future members. This went hand in hand with an increased attention for memory and commemoration of these socialist experiences—experiences that in the perception of the EU were formerly only those of the other, yet now of the new self. Whilst this development culminated in the 2009 EP resolution, the process quite probably affected the closing stages of these countries' accession in 2007.

The EU's call for archival disclosure in Bulgaria a couple of months before its accession in 2007 indeed already pointed towards this increased engagement. This is, however, only part of the story. The EU had started to consolidate its commitment to retributive and restorative justice in the post-war countries of the Western Balkans well before the memory turn of 2009. Thus, a temporal explanation of increased EU engagement with the past does not suffice if we are to explain the difference between its post-socialist and post-war stances. Most concretely, although the EU started demanding ICTY co-operation in the early 2000s, in 2004 and 2007 the EU did not require the post-socialist Central and Eastern European countries on its doorstep to similarly "confront the past."¹⁴³

A second possible reason for the difference in approaches already does more to address this qualitative difference in perception and points towards hidden normativity within the EU's approach. Lavinia Stan states that the Western European Left refused to unambiguously condemn and confront socialist crimes.¹⁴⁴ It is true that a quick search into the EP archives shows that the crimes of socialism were frequently excused for by EP members, mainly via oral questions.¹⁴⁵ To equate the crimes of socialism with the crimes of any war, let alone the Second World War, remains controversial. This may indeed to some extent explain why the EU had an easy time asking for post-war dealing with the past—both in terms of legal means and memory—whilst it hesitated to demand a similar, let alone equal, treatment of the crimes of socialism. However, this seems to be quite a limited take on the substantially different qualitative perceptions of the EU, so perhaps we could, and should, go beyond direct EP party strategies if we are to reveal the more profound political factors underlying these diverging EU approaches.

This second chapter, with its focus on narratives, hinted at a third explanation which, more than the first two explanations, engages the concept of political identity. It links the nature of these two transitions to the EU's own history. As discussed previously, the EU had little difficulty in applying the narrative of teleological historical development

¹⁴³ Wentholt, "Mirroring Transitional Justice," 81.

¹⁴⁴ Stan, "Determinants of Post-Communist Transition," 17–18.

¹⁴⁵ E.g., Stavros Lambrinidis et al., *Written Question E-0233/06, Subject: Condemnation of Communist Regimes by the Council of Europe*, Written Question, Strasbourg: European Parliament, 2006; Diamanto Manolakou, *Oral Question H-0087/05*, Oral Question, Strasbourg: European Parliament, 2005.

to post-war as well as post-socialist transitions. The violent past present in both contexts found its way into the discourses of transition—to human rights, democracy, and rule of law—already so present in the EU’s own foundational narrative. The confidence in its own way of dealing with the memory of the Second World War ensured that the EU presented its own experience, expanded by the lessons learned, as the way ahead for accession countries. According to EC Commissioner Reding, the EU should be a “beacon of inspiration and a source of encouragement to all nations struggling to come to terms with the suffering of their past.”¹⁴⁶ Similar words were issued by a representative of the European Commission during the accompanying speeches of the 2009 EP resolution. Whilst member states had to “find their own way forward” with regard to commemorating their pasts, EC Commissioner Ján Figel declared that the EU was ready to “facilitate” this process by “encouraging discussion and furthering the sharing of experiences.”¹⁴⁷

This normative and teleological conception of history is not without internal criticism. In 2013 the EP issued a report intended to investigate European attitudes towards, and the future opportunities for, its historical memory. Senior researcher at the European Parliament, Markus Prutsch, concludes that contrasting the “dark past” with the “bright present” testifies to a “biased black-and-white scheme of history” that fails to give proper due the complexity of European history.¹⁴⁸ Instead of promoting such stereotypical images of history, the EU should strive towards a more pluralistic “European culture of remembrance.”¹⁴⁹ This critical assessment raises interesting and academically valid points. Whilst it confirms that the EU indeed tended to narrate its own past in linear terms, it reminds us that the EU is not a homogeneous institution and is thus open to change sparked by internal criticism.

However, in terms of actual experiences, the EU’s history looked far more like the post-war narrative than the post-socialist story. The case of the Western Balkans presented the EU with a familiar picture. The violent Yugoslav wars reminded the EU of her own past, riddled by nationalist strife and bloody conflict. Whereas the EU had little familiarity with socialist authoritarianism, Yugoslavia had shown once more how nationalist conflict could take a whole region to the brink of devastation.¹⁵⁰

I argue that the EU’s interest in dealing with the past in the Western Balkans was derived from its own specific historical experiences and the memory thereof. After initial hesitations to intervene in the conflict in Yugoslavia, it made up for this lack of engagement by committing itself fully to the peace-building process—including dealing with the past.

¹⁴⁶ European Commission, *Statement by Vice-President Viviane Reding*, 2.

¹⁴⁷ Council of the European Union, *Summary of the Plenary Session*, 8272/09, 7.

¹⁴⁸ Prutsch, *Culture and Education*, 5, 6.

¹⁴⁹ Prutsch, *Culture and Education*, 6.

¹⁵⁰ Wentholt, “Mirroring Transitional Justice,” 81-82.

The EU knew that overcoming nationalism was a challenge, but at least something with which it had experience—and in which it took pride.¹⁵¹ Herman van Rompuy's speech, three years later, is most illustrative in this respect:

Making peace to build the future: this is what France, Germany and others started, three generations ago. Substituting the bloody battlefields with negotiation rooms in Brussels. Putting age-old rivalries about borders or minorities to rest, and replacing them with a will to live together, to belong together. These principles are still at the core of our Union. They still form a powerful force for change. Today we stand reminded by the determination of countries such as Croatia and Serbia to cast away the shadows of the past, and live up to their European vocation.¹⁵²

This transition, like the one experienced by the EU, was thus to include all the measures that the EU had taken itself—(limited) lustration as well as criminal justice, commemoration as well as remembrance. This experience had developed in Western Europe after the Second World War and the Holocaust in a rather messy process of coming to terms with the past, but was eventually presented as a clear set of mechanisms that had enabled the EU to become what it is today.¹⁵³ This was projected on the region of the former Yugoslavia. The central role of the ICTY in the EU's accession policy most concretely testifies to this. After all, according to the EU's historical narrative, the Nuremberg trials formed an essential bridge towards overcoming the horrors of the Second World War and building a peaceful Union.

Concluding, in the case of countries that experienced both post-socialist and post-war transitions, in terms of dealing with the past the EU paid substantially more attention to the latter whilst only haphazardly engaging with the former—at least until the “memory turn” in 2009. Apart from being a story of the EU's own history, it also tells us about the relevance that the EU assigned to different pasts: socialism was seen as something to “overcome,” and war as something to “confront.” The following chapters explore how these different approaches influenced domestic political dealing with the past.

¹⁵¹ Wentholt, “Mirroring Transitional Justice,” 82.

¹⁵² European Council the President van Rompuy, “Speech to the Parliament of Romania,” EUCO 68/12, 2.

¹⁵³ See also Sierp, *History, Memory and Trans-European Identity*.

Case Study 1: Dealing with the Past in Bulgaria

*B*ulgaria's history of the last five centuries is more the history of big powers than of autonomy. Like many countries in the region, Bulgaria's experience with democracy before the 1990s was short. Having being ruled by the Ottomans for more than 500 years, Bulgaria enjoyed a couple of optimistic months in 1878 when it acquired self-governance (formally still within the Ottoman Empire), but European states decided to curb its territorial ambitions. The interwar period, in which Bulgaria was a constitutional monarchy, renewed national hopes and is seen by right-wing, liberal parties as high peak of Bulgarian history. In their view, socialism arrived as a new "dark age." For those supporting socialism, the establishment of the new regime on 9 September 1944 signified the end of Bulgaria's shameful collaboration with the Nazi regime. From the historian's perspective, Bulgaria's version of socialism initially brought more economic equality but also belonged to the most repressive in the region. The dictators of the Bulgarian People's Republic, first Georgi Dimitrov and, from 1954 onwards, Todor Zhivkov, were loyal to the Soviet Union. Especially in the first decades of socialism, their tight rule amounted to concentration camps and skewed justice through 'people's courts'. While Stalin's death brought initial signs of democratisation across the socialist bloc, including Bulgaria, the arguably worst episode of Bulgaria's socialist period took place towards its end. In the early 1980s, the authorities started an assimilation campaign called the "revival process" targeting the Turk minority. Atrocities continued until the end of the decade and included forced name change, large-scale deportation, killing and persecution, and have been called ethnic cleansing by historians. Throughout its whole existence, Zhivkov's regime, continuing the course set by Dimitrov, excelled in stark repression of dissent. This was the reason why, when the regime was dethroned through an internal party coup in 1989, organised opposition was small (however determined). The Bulgarian Communist Party renamed itself Socialist and, making modest headway in reforming the party from the inside out, tried to cling on power by promising democratisation to the discontent crowds. Whilst the transition took off hesitantly, so did the process of dealing with the past.

CHAPTER

3 Bulgarian Political Party Orientations

When, in 1990, Bulgaria embarked on its transition from socialism, it could look to the north for role models, as many Central and Eastern European countries were on a comparable journey. Yet despite obvious similarities, the challenges facing Bulgaria were, to a certain extent, unique. Todor Zhivkov had been the longest-ruling dictator in the region, the country's ties to the Soviet Union had been stronger than anywhere else, and its wartime collaboration with the Nazis had granted the socialist regime extra legitimacy. The prospect of EU accession offered a goal as well as reference point for parties struggling to envision a future after socialism. Using predominantly primary (and some secondary) sources, this chapter investigates how the EU accession prospect influenced political dealing with the past in Bulgaria. Specifically, I pay attention to how Bulgarian political parties co-opted the prospect of EU membership in their attempts to further their own strategies towards the country's socialist past.

The order of this and the ensuing chapters follows three levels of domestic politics that were influenced by (or could influence) the EU accession prospect, which together constitute the main, overarching case study:

- 1) Individual party orientations;
- 2) Party constellations and ensuing parliamentary decision-making, including plenary debates;
- 3) Narratives of the past and the EU future developed in parliament.

One chapter is devoted to each level. This first chapter will study, for the selected parties, how their party principles and strategies connected to EU accession, the past, and the combination of both. The second chapter (chapter 4) focusses on the parliament and is structured chronologically in order to analyse adopted laws and declarations (as well as those that remained in the draft phase). Chapter 4 includes a case in case study of the 2006 Bulgarian law that disclosed the archives of the socialist secret service in order to study the intricacies of the EU accession prospect in depth. Having thus gained a firm grasp of party orientations and parliamentary decision-making on the socialist past, chapter 5 will explore the narratives underpinning them. My main body of sources¹ for all three chapters consists of parliamentary minutes from debates, laws, declarations, and proposed laws, as well as proposed declarations from the official website of the Bulgarian parliament;² issues

¹ The translations in this chapter are my own, sometimes with the help of native speakers. I have chosen to translate as literally as possible, possibly at the expense of linguistic elegance, since I am not a native speaker and wish to keep the extra interpretive layers to a minimum. The responsibility for the translations of course resides with me only. For Romanisation of Bulgarian names and titles, I used a slightly adapted version of the BGN/PCGN transliteration system. When referring to well-known persons, I use the popular spelling, for example "Parvanov" rather than "Pürvanov," and "Petar Stoyanov" rather than "Petür Stoyanov."

² Accessible via www.parliament.bg.

of the official state court (Dŭrzhaven Vestnik);³ political party documents as available on the internet or in collections and books;⁴ personal testimonies and interviews as available in books;⁵ files from the presidential archives;⁶ and finally, interviews with those directly involved.⁷

This chapter will thus set the stage for the full case study, which spans three chapters in total. To that end, it first analyses how the Bulgarian post-socialist party-political sphere related, both to the past, and to the prospect of EU accession: To what extent did political parties contest the past of socialism and the envisioned future within the EU? This first section reveals that the past indeed held a salient position in Bulgarian post-transition politics and as such structured inter-party relations. The second section posits that EU accession was a goal to which most, and at one point all, parties unambiguously subscribed. With this important underlying context established, the analysis of selected parties will investigate how they individually positioned themselves towards the past and the EU accession prospect, and specifically how they combined these two positions.

3.1 The past as a political line of division in the Bulgarian parliament

Bulgarian academic literature converges in the consensus that the past played—and perhaps continues to play—a major role in Bulgarian party politics. Especially in the first decade of transition, the main lines of division within the Bulgarian parliament were drawn along various party attitudes towards the socialist past. Furthermore, these divisions to a large extent shaped party identities. This accounts for the fairly stable and polarised two-party system that dominated Bulgarian party politics until the early 2000s. In this binary, the “red” post-socialists of the *Bŭlgarska sotsialisticheska partiya* (Bulgarian Socialist Party, BSP), the direct successor of the Communist Party, faced the “blue” anti-socialists of the *Sŭyuz na demokratichnite sili* (Union of Democratic Forces, SDS).⁸

³ Accessible via www.dv.parliament.bg.

⁴ Party websites and Library of University St. Kliment Ohridski and Library of the Parliament, Sofia. Specific references are included in footnotes throughout the three chapters.

⁵ From the Library of Sofia University St. Kliment Ohridski, Sofia City Library, and Library of the Parliament, Sofia. Specific references are included in footnotes throughout the three chapters.

⁶ Central State Archives, Sofia, Bulgaria.

⁷ For this chapter I conducted interviews in Sofia with parliamentarian and political scientist Prof. dr. Ekaterina Mihajlova; Vasil Kadrinov, a civil society activist and former assistant of Els de Groen; journalist Dr. Boyko Penchev; historian Prof. dr. Diana Mishkova; historian and politician Prof. dr. Iskra Baeva; historian Prof. dr. Evgeniya Kalinova; and staff of the Bulgarian committee in charge of the state security archives (COMDOS) in the period March–June 2016, Sofia, Bulgaria. Additionally, I interviewed Els de Groen, writer and former MEP, in the Netherlands.

⁸ Klaudiya Florentina Dobre, “Sledite ot Komunizma: Pamet i zabrava v publichното prostanstvo v Sofia i v Bukuresht. Primerniyat Sluchaj s Shest Pametnika i Tyahnata Sudba,” in *Da poznaem Komunizma*, by Ivajlo Znepolsi (Sofia: Institut za izsledovane na blizkoto minalo, 2011), 146; Milen Ljoebenov, *Bulgarskata partijna sistema: Grupirane i strukturirane na partijnite predpotjitatija 1990–2009* (Sofia: Universitetsko Isdatelstvo “Sv. Kliment Ohridski,” 2011), 82; Ekaterina Mihajlova, interview with author, May 2016; Stoycho P. Stoychev, “Europeanization of the Bulgarian Party System:

Whilst this polarisation superficially resembled traditional left-right divisions, the background of this structure was different from, for example, Western parliamentary systems. Scholars argue that the complicated histories of both Bulgarian parties inhibited them from adopting the clear economic and social programmes that one would expect from traditional “left” and “right” politics.⁹ Instead, on the one hand, the BSP entered the 1991 elections as the direct successor to the communist party, thus juggling its former ideological basis with its supposed new identity. Whilst on the other hand, the SDS started out as an ad-hoc movement of former dissidents, activists, experts, and others whose only common denominator was their aversion for the socialist regime.¹⁰ Oscillating between the different views of their members and between their historical backgrounds and future visions, both the BSP and SDS gradually grew into their role of programmatic political parties. Thus, initially, their only consistent political identity stemmed from their respective relation to the socialist past.

The clash between the BSP’s apologetic stance towards the socialist past and the SDS’s unambiguous dismissal of the former regime extended into all policy areas—self-evidently, especially to the field of dealing with the past itself. As no party has ever won two subsequent elections, power shifts between the former socialists and the anti-socialists took on a cyclic pattern. Bulgaria’s track record of confronting the past can therefore be almost precisely traced back to the corresponding electoral conjuncture. When the “blues” were in power, laws were adopted that aimed to compensate victims, purge perpetrators from society, or disclose the secret archives. However, because every “blue” period was followed by a “red” electoral victory, few of these attempts were sustained for longer than one electoral cycle.

What made the issue even more contentious—and highly pertinent for individual politicians—was that many of them had been personally involved in the crimes and abuses that were (or were not) to be addressed. Bulgaria had known an extensive *Dŭrzhavna sigurnost* (State Security, DS) network. Especially when the various archival committees started disclosing the names of DS collaborators, it became clear that many former socialist agents had been elected to parliament. This phenomenon was not limited to the BSP. Other parties, including the SDS, also had former DS agents on their electoral lists. Even in Filip

Dynamics and Effects,” *CEU Political Science Journal* 3, no. 1 (2008): 6; Nikolai Vukov, “Past Intransient/Transiting Past: Remembering the Victims and the Representation of Communist Past in Bulgaria,” in *Remembrance, History, and Justice: Coming to Terms with Traumatic Pasts in Democratic Societies*, eds. Vladimir Tismaneanu and Bogdan C. Iacob (Budapest: Central European University Press, 2015), 488–489.

⁹ See e.g. Iskra Baeva, interviewed by Author, *Interview* (28 March 2016); Diana Mishkova, interviewed by Author, *Interview* (6 June 2016); Boyko Penchev, interviewed by Author, *Interview* (9 June 2016).

¹⁰ Mihajlova, interview; Dragomir Stoyanov, “The Impact of EU Integration on the Bulgarian Party System,” in *The European Union and Party Politics in Central and Eastern Europe*, eds. Paul G. Lewis and Zdenka Masfeldová (New York: Palgrave Macmillan, 2007), 193.

Dimitrov's right-wing government, as Ruslan Semerdzhiev noted in an interview in 2011, many were related to the DS.¹¹ The involvement of members of parliament with this repressive organisation further confirms that dealing with the past did not only fulfil a symbolic role. Apart from impacting political party orientations, divisions within parliament, and legislation, the debate on the past affected individuals—both within and outside parliament—whose futures were at stake either because they had been wronged by the past, or had been part of that wrongdoing.

The cyclic status quo remained largely stable until 2001 when, as many experts note, a decisive turning point came that shifted attention away from political dealing with the past.¹² In that year, the former Bulgarian tsar Simeon established his party *Natsionalno dvizhenie Simeon Vtori* (National Movement Simeon the Second, NDSV), promptly winning the elections and only eleven weeks later gaining more than 42 per cent of the electoral vote. Similar to the way in which the division between former socialists and anti-socialists had become conflated with the traditional left-right division that structured so many parliaments in the Western world, the major changes in Bulgaria from the year 2001 onwards reflected a trend also visible in the Western world, namely, the rise of populism. Whilst the NDSV was strongly anti-socialist, it did not share the SDS's willingness to address and confront the socialist past. In the years that followed, other new populist parties, which will be introduced later, also came to the fore.¹³ They similarly transcended the old divisions between the Left and the Right, and between socialist and anti-socialist. Together these new parties distorted the conventional polarised political arena and ended, not only the primacy of the past, but also that of the traditional "red" versus "blue" rivalry.¹⁴ However, the theme of the socialist past would, as we shall see, find other roles to play in parliament.

Before getting to the core analysis of party orientations towards the past and EU accession, I need to make one important remark concerning the pervasiveness of the past in the Bulgarian debate beyond the political sphere. The demarcation between anti- and former socialists actually extends to many areas of society, including academia. Although not true for all scholars, many social scientists and historians concerned with the socialist past are either directly related to a political party (for example, Iskra Baeva for the BSP and Ekaterina Mihajlova for the SDS, both of whom I interviewed) or, more loosely,

¹¹ Ruslan Semerdzhiev, quoted in Martin Ivanov, Venelin Stoychev, and Orlin Spasov, eds., *Glasovete na prehoda. Liberalite* (Sofia: Iztok Zapad, 2011), 368.

¹² Dobre, "Sledite ot Komunizma," 146; Ljoebenov, *Bulgarskata partijna sistema*, 82; Mihajlova, interview; Vukov, "Past Intransient/Transiting Past," 488–489.

¹³ Boris Gurov and Emilia Zankina, "Populism and the Construction of Political Charisma: Post-Transition Politics in Bulgaria," *Problems of Post-Communism* 60, no. 1 (2013): 5, 6.

¹⁴ Dobre, "Sledite ot Komunizma," 146; Gurov and Zankina, "Populism and the Construction of Political Charisma," 4; Mihajlova, interview; Ljoebenov, *Bulgarskata partijna sistema*, 82; Vukov, "Past Intransient/Transiting Past," 488–489.

identify themselves with either the “right” or “left” political camps. Significantly, (public) academic discussions often diverge along these traditional lines. In perhaps the most infamous clash of these two academic spheres, protesters tried to disrupt a conference in 2012 dedicated to Todor Zhivkov’s daughter—an event organised by Iskra Baeva and Evgeniya Kalinova at the University of Sofia. Whilst critical voices blamed the conference for legitimising and even praising the socialist regime, Baeva responded that the protesters’ political tone “surprised” her. Baeva emphasised that, rather than having a political agenda, it was a historical conference organised by the university.¹⁵

It was exactly this argument of the conference’s scientific integrity that was problematised by Baeva’s academic and political adversaries. In a roundtable forum organised in 2011, and in the introduction to the editing volume stemming from that event, the meeting’s organisers and editors of the volume specifically mentioned Iskra Baeva and Evgeniya Kalinova and questioned the academic degree of their work.¹⁶ The forum from which the book originated was organised by amongst others the Bulgaria Institute Open Society, the Bulgarian Helsinki Committee, the Institute for Research of the Recent Past, and included scholars and leading thinkers from more liberal, perhaps right-wing backgrounds.

As this example of academic rivalry demonstrates, the significance of the past endured, and was perhaps even revitalised, in the Bulgarian political arena after 2001—albeit in different forms. For Bulgarian political parties, the changes after 2001 meant that the past and the attitude towards it were no longer the main divisional line between them, but instead represented a more fluid point of contestation and agreement across former party lines. Becoming less dogmatic, the issue of the socialist past now allowed for new party coalitions to emerge. This was related to another development, namely, the progress being made in negotiations towards EU membership.

3.2 EU accession as common goal

Although, at least until 2001, the field of Bulgarian party politics was fundamentally divided on the issue of the socialist past, regarding its vision of the future it was, to a certain extent, united. An ambition to join the EU was something all parties shared. In an address on March 3, 1997, President Petar Stoyanov, speaking as the Bulgarian leader, talked of

¹⁵ Sofia Velkova, “Protesti i skandali sūprovodiha kongerentsiyata za Lyudmila Zhivkova,” October 19, 2012, www.mediapool.bg: http://www.mediapool.bg/protesti-i-skandali-saprovodiha-konferentsiyata-za-lyudmila-zhivkova-news198546.html. See also Iskra Baeva, interviewed by Author, *Interview* (28 March 2016).

¹⁶ Mihail Gruev and Diana Mishkova, “Predgovor,” in *Bŭlgarskiyat komunizŭm: Debat i interpretatsii*, eds. Mihail Gruev and Diana Mishkova (Sofia: Tsentŭr za akademichni izsledvaniya, 2013), 16.

the “road to the European family.”¹⁷ Also within the BSP, the desirability of an EU future as a Bulgarian priority was not a subject of debate, even though the party fundamentally opposed NATO membership. In parliamentary debates, interviews, and other statements, BSP representatives debated the “how,” but never the “why” or the “whether” of their support for EU membership. To illustrate this point, in a collection of interviews with and articles by the prominent BSP member Krasimir Premyanov, published in 2007, almost every contribution underlined the importance of EU membership at least once.¹⁸ Concrete decisions, such as the party’s choice of leader on the eve of new elections, were explicitly linked to the membership prospect.¹⁹ Indeed, some party documents also specifically referred to co-operation with EU partners.²⁰ This confirms the general trend that, from 2000 onwards, Bulgarian political parties associated themselves with EP groups and other like-minded organisations. However, this unambiguous support for EU membership did confront the BSP with some dilemmas and electoral resistance, resulting in the party—as formulated by Premyanov—“attempting to find a balance” between the legitimate expectations of the electorate for left-wing policies and the necessity of supporting EU membership.²¹ Furthermore, an official party document from 2004 even included several warnings that the EU might have become too much of a focal point for the party. Indeed, the question of whether there was even a strategy beyond January 1, 2007 (the date of Bulgaria’s EU accession) was repeatedly raised.²²

As introduced in the previous section, the rise of populism from 2001 onwards did not affect this pro-European consensus—if anything, it actually strengthened the support for EU accession. A large part of the populist message was based on the image of Bulgaria as a modern European country and the establishment of the political party known as *Grazhdani za Evropejsko razvitie na Bulgaria* (Citizens for the European Development of Bulgaria, GERB) was illustrative in that regard. The party sailed an overtly populist course, whilst it had also clearly committed its name to Bulgaria’s European future. The party was established in 2006 by the former mayor of Sofia, Boyko Borisov, who was later to become prime minister. GERB quickly grew to become a significant force in Bulgarian politics. As

¹⁷ Petar Stoyanov, *Türzhestveno slovo na Prezidenta na Republika Bŭlgariya: G-n Petür Stoyanov po sluchaj Natsionalniya praznik na Bŭlgariya 3 mart*, Tsentralen türzhaven arhiv, Fond 1224 Opis 4 a.e. 618. 1-38, 48-64, 1997, 5.

¹⁸ Krasimir Premyanov, *Silna politika se pravi s alternativni: Sbornik s intervyuta, statii i izkazvaniya v mediite, na plenarni zasedaniya na VS na BSP i drugi partijni forumi (2002–2007)* (Sofia: Siela, 2007).

¹⁹ E.g., Krasimir Premyanov, “Predsedateliyat na ‘Otkrit forum’ Krasimir Premyanov ‘Stanishev premier ne e losho reshene.’” Premyanov, *Silna politika se pravi s alternativni*, 76.

²⁰ E.g., Premyanov, “Predsedateliyat na ‘Otkrit forum,’” 74.

²¹ Krasimir Premyanov, “Nashiyat prehod beshe bez kompas,” in *Silna politika se pravi s alternativni: Sbornik s intervyuta, statii i izkazvaniya v mediite, na plenarni zasedaniya na VS na BSP i drugi partijni forumi (2002–2007)*, ed. Krasimir Premyanov (Sofia: Siela, 2007), 101.

²² Federatsiya Otkrit forum, “Sastoyanie na upravlenieto na stranata v usloviyata na tristranna koalitsiya. Stenograma ot natsionalnoto suvestanie na Federatsiya ‘otkrit forum’ v BSP, provedeno na 1 yuli 2006g. v zala 8 na NDK,” in *Federatsiya ‘Otkrit forum’ v denwniya red na Bŭlgariya* (Sofia: Siela, 2005), 126, 129, 131, 141, 142.

another example, the rise of the NDSV also illustrated the possibility for the political co-existence of populism and a pro-EU stance. After its victory in the 2001 elections, the NDSV entered a coalition founded upon European values and included EU membership amongst its priorities.²³

This consensus on the desirability of EU membership did not prevent political parties from praising their own commitment to the EU future and dismissing that of other parties. More specifically, claiming to be truthful to European history was an important argument that allowed parties to exalt their own supposed “Europeanness” and dismiss others as being non-European. For example, in an official party document from 2000, the BSP accused the “Right” of failing to honour Bulgarian identity in the realms of “spiritual revival” and culture due to their heartless liberal individualisation—an accusation that suggested that the “Right” was moving the nation away from European values.²⁴

3.3 Combining the past and EU accession in individual party orientations

3.3.1 *Selection of political parties*

The focus of this chapter on political parties may at first seem straightforward. However, in the context of Bulgaria, it raises many complex questions. First of all, there is the sheer quantity of parties to consider, as the Bulgarian political landscape is home to a plethora of different parties. My focus is therefore on those parties that have most consistently managed to achieve the electoral threshold (set at 4 per cent of the votes) and thus acquired parliamentary seats. In addition to the criteria of size and significance, I also used three analytical categories:

- (1) political attitudes towards the past;
- (2) political attitudes towards dealing with this past;
- (3) political attitudes towards the prospect of EU membership.

These analytical categories not only fit my research question; they also correspond to the domestic Bulgarian political sphere. As stated before, amongst Bulgarian specialists there is a general consensus that the main political fault line was to be found in the various parties’ attitudes towards the past, even after 2001. Additionally, whilst EU membership

²³ Narodnoto Sabranie, “Stenogrami ot plenarni zasedaniya: Prvo izvanredno zasedanie, Sofia, vtornik, 24 yuli 2001 g,” July 24, 2001, <http://www.parliament.bg/bg/plenaryst/ns/1/ID/1953>.

²⁴ BSP, “Natsionalna strategiya za razvitie. Rabota, rastezh, razvitie (prieta na 44-ya kongres na BSO - 6-7 maj 2000g.),” in *Programno razvitie na BSP: Sbornik dokumenti (1990–2005)*, eds. Georgi Pirinski, Nora Ananieva and Evgenij Kandilarov (Sofia: Tsentra za istoricheski i politologicheski izsledvaniya, 2008), 500.

was a widely shared goal, the parties positioned themselves differently vis-à-vis the notion of what EU membership would entail, especially with regard to the past.

Yet, as we will see, these categories do not necessarily coalesce into a clear grid. Some parties and/or coalitions strongly rejected the socialist past, favouring instead confrontation with it through active memory. These parties, with equal conviction, also orientated themselves towards EU membership, using it as a reason to disclose past secrets. However, whilst also rejecting the socialist past, others were fairly uninterested in its memory; they supported EU membership (as all parties formally did), but did not connect it to the issue of the past. Then, predictably, there were those that cherished an ambiguous attitude towards the socialist past, rejected confrontation with, and memory of, this past, whilst equally committing themselves to EU membership, framing the prospect of membership as a reason not to address that past. Applying the criteria of size and significance and the three analytical categories above, the parties under scrutiny number six:

- the BSP, the successor party of the former socialists;
- the SDS, the main liberal opposition party after 1989;
- the *Demokrati za silna Bulgaria* (Democrats for a Strong Bulgaria, DSB), which seceded from the SDS in 2004;
- the *Dvizhenie za prava i svobodi* (Movement for Rights and Freedoms, DPS), a centrist party with a specific focus on Bulgaria's Turkish minority;
- the populist centre-right party NDSV revolving around the former tsar Simeon II;
- the populist, pro-European party GERB, established in 2006.

Here, a methodological dilemma occurs. Partially due to the high number of political parties and fragmentation, during elections, parties tended to unite around common programmes in the form of coalitions. The problem is that these coalitions were highly unstable. It is thus generally not possible to refer to one coalition over a longer period of time stretching beyond more than one election. Secondly, the parties themselves also tended to be unstable. After an unrivalled first wave of newly established parties at the start of transition in 1989, some dissolved, others merged, and some split after internal conflict (like the DSB, which emerged from the SDS's ranks). Other parties, such the NDSV in 2001 and GERB in 2006, emerged on the basis of the individual popularity of, respectively, the former Tsar Simeon II Saksoburggotski (Simeon), who briefly reigned Bulgaria in the 1940s when he was still a minor (with a regency ruling on his behalf) and

the former mayor of Sofia, Boyko Borisov.²⁵ These two parties, both directly associated with the rise of populism in Bulgaria, are thus less dependent on programmatic policies for their support, which is based more on individual charisma.

It is important to acknowledge the particularity of these parties, as well as their internal troubles through discontent and disagreement. I will take these into account in this and the two subsequent chapters (where relevant) by explicating the names of individual party members and their backgrounds, as well as comparing comments and strategies of fellow party members. To further understand these complex party constellations, this chapter should be read in tandem with the next, which will explore parliamentary decision-making.

3.3.2 SDS and DSB

The SDS started out as a coalition of several parties united in their opposition to the former regime. Even when more parties started to form and occupied the traditional “blue” side of the spectrum, the SDS continued to symbolise anti-socialist politics. Their stance on anti-socialism was enthusiastically connected to the party’s support for Bulgaria’s EU future, not least as it was the SDS government that had started the EU accession negotiations. These Europhile, anti-socialist orientation was central, both to the party’s identity, and its position in parliament. Its leaders also knew how to connect their anti-socialist and pro-European messages rhetorically. In 1998, on Liberation Day, President Stoyanov spoke about the “historical lessons” learnt as a result of Europe’s “victory” over “fascism and socialism” as the basis for “today’s European idea for reunification.”²⁶ Bulgaria, he stated, was now willing to take “its place as an independent, proud, sovereign and worthy country in the family of European nations.”²⁷ SDS representatives further substantiated this link between battling socialist and entering Europe through emphasis on Christian-democratic values.²⁸ Going back as far as the “second half of the ninth century,” Stoyanov stated a decade after Bulgaria’s transition, how Bulgaria joined “the Christian world” and thus Europe in 870.²⁹

Within the SDS, there was some space for manoeuvre in the late 1990s and early 2000s regarding how to properly engage with this past. Although outwardly the party

²⁵ I am much indebted to a member of the assessment committee who identified factual errors and shared them with me, so that they have been corrected in this version of my dissertation.

²⁶ Petar Stoyanov, [without title], Speech held on March 3, 1998, Tsentralen dŭrzhaven arhiv, Fond 1224, Opis 4, a.e. 618, n.p.

²⁷ Stoyanov, [without title], Speech held on March 3, 1998, n.p.

²⁸ Iskra Baeva and Evgeniya Kalinova eds., *Sotsializmŭt v ogledaloto na prehoda* (Sofia: Iztok-Zapad, 2011), 27.

²⁹ Stoyanov, *Slovo na Prezidenta Petar Stoyanov na Dŭrzhavniya priem po sluchaj 24 maj*, Sofia: Tsentrali Arhivi Sofia, Fond 1224, Opis 4, a.e. 618, n.d., n.p. Whilst this archival file does not mention the year in which the speech was held, its position in the archival fond suggests the late 1990s or early 2000s.

voiced its commitment to archival disclosure—the prosecution of perpetrators of “communist terror,” compensation, and restitution—not all members agreed.³⁰ Most infamous was the rivalry in the early transition years between President Zhelyu Zhelev and Prime Minister Filip Dimitrov, both of the SDS. Whilst the latter, supported by a more radical faction within the party, wanted to adopt far-reaching lustration measures, the former prioritised national reconciliation and unity.³¹ This approach may very well have been inspired by Zhelev’s position as president, and thus ostensibly representing the whole nation.³² Zhelev’s position was in many ways continued by his successor (also from the SDS-ranks) Stoyanov. In 1997, in reaction to the proposed lustration law, Stoyanov stated: “We cannot constantly look back and we cannot move rapidly forward if we carry the shadows of our past.”³³ Ivan Kostov, prime minister at the time and prominent SDS figure, uttered similar words.³⁴

Judging from the SDS’s quite active engagement with the past in the 2000s, it becomes clear that Dimitrov’s stance eventually proved strongest. It is certainly not beyond the realms of possibility that Dimitrov and his supporters were helped in this through the SDS’s association with the similarly pro-confrontation EPP. As discussed in chapter 1, the EPP had adopted a resolution calling for the EU to condemn “totalitarian Communism” and, amongst other things, for archival disclosure. Association with the EPP thus suited Dimitrov’s eagerness to confront the past well. Another important shared mark of identity between the EPP and the DSB concerned the parties’ joint Christian identity. The SDS received observer status in December 1997 and just months later associated membership³⁵ of the EPP.³⁶ One year later, the SDS consolidated its membership of its “new European family” via the election of Minister of Foreign Affairs and SDS member Nadezhda Mihajlova as vice-president of the EPP.³⁷

³⁰ Hristo Hristov and Alexander Kashumov, “Justice and Accountability Mechanisms in Bulgaria in the Transition Period (1989–2008),” in *After Oppression: Transitional Justice in Latin America and Eastern Europe*, eds. Vesselin Popovski and Mónica Serrano (Tokyo: United Nations University Press, 2012), 284; Stoychev, “Europeanization of the Bulgarian Party System,” 6;

³¹ R. J. Crampton, *Bulgaria* (New York: Oxford University Press, 2007), 396. Crampton stresses that in fact, Zhelev and SDS Prime Minister Filip Dimitrov did not get along well at all.

³² However, as an interview from 2011 suggests, this may have also been the result of more profound considerations about responsibility. Zhelyu Zhelev emphasised that he rejected collective responsibility, as he believed that in practice this would be as harmful as a collective absence of responsibility. In his view, responsibility was always personal. Zhelyu Zhelev, quoted in Ivanov, Stoychev and Spasov, eds., *Glasovete na prehoda. Liberalite*, 183. At the same time, Zhelev is also reported to have stated that “before we turn the page of the past, we should read it.” Tzvetan Todorov, “The Evil That Men Do...” *The UNESCO Courier*, December 1999, 18–19, <https://en.unesco.org/courier/december-1999/war-evil-men-do>.

³³ Petar Stoyanov and Ivan Kostov, quoted in Hristov and Kashumov, “Justice and Accountability Mechanisms,” 285.

³⁴ Stoyanov and Kostov, quoted in Hristov and Kashumov, “Justice and Accountability Mechanisms,” 285.

³⁵ Observer status and associated membership allow for co-operation between EP and domestic parties when countries are not yet EU member states.

³⁶ Maria Spirova, “Parties and Party Development in EU-Candidate States: The Case of Bulgaria,” *Europe-Asia Studies* 60, no. 5 (2008): 802.

³⁷ Spirova, “Parties and Party Development,” 803; Stoychev, “Europeanization of the Bulgarian Party System,” 7.

In 2004, led by Kostov, several members split from the party and formed the DSB.³⁸ Their attitude towards the past was similar to the SDS's, albeit stronger. One of the founding documents of the DSB started with the statement that the party would strive for "a strong Bulgaria in a united Europe."³⁹ It contained the explicit demand that the former socialist state security archives should be opened and declared the BSP to be its "main political opponent."⁴⁰ This fragmentation of the right-wing block worried the EPP and, although it did allow the DSB to become a member in 2006, the EPP tried (unsuccessfully) to encourage a coalition built around the former partners. Ultimately, it did not surprise many that, although the EPP had continued to support the SDS when the NDSV sought association with the EPP, the EPP chose to side with the promising new party GERB in 2007 in preference to both the SDS and DSB.⁴¹

3.3.3 BSP

During the country's transition, the Bulgarian Communist Party re-branded itself as the Bulgarian Socialist Party. It put dictator Zhivkov's personality cult to "good" use by, not unlike the process of de-Stalinisation in the Soviet Union, blaming most of the regime's violations on him personally. The first decade of transition, nonetheless, turned out to be disastrous for the BSP. In a bid to further reinvent itself, the party made reform-minded Georgi Parvanov its leader in 2001. This showed the willingness of the BSP to explore new paths. When, also in 2001, Parvanov was elected president of Bulgaria, the party further confirmed its new course by choosing the reform-minded, relatively unexperienced thirty-five-year-old Sergei Stanishev to occupy the vacant seat of party chairman. These modernist reforms paid off in the form of subsequent electoral victories.⁴² In this way the BSP managed, not only to survive in the new Bulgarian political sphere, but also to acquire a position in Europe.

Already in 2000, the party adopted as its official slogan "a new time, a new Bulgaria, a new BSP," and strongly associated itself with the European Left.⁴³ Declaring the changed character of the BSP and emphasising its newness, the programme affiliated the new party identity with the "family" of the European and global Left, and with European values and

³⁸ Stoychev, "Europeanization of the Bulgarian Party System," 13.

³⁹ Demokrati za silna Bŭlgariya, *Politicheski pozicii na uchreditelnoto sŭbranie na DSB*, May 2004, n.p., <http://dsb.bg/bg/blogs/article/2525>.

⁴⁰ Demokrati za silna Bŭlgariya, *Politicheski pozicii*, n.p.

⁴¹ Gurov and Zankina, "Populism and the Construction of Political Charisma," 5; Spirova, "Parties and Party Development," 804.

⁴² Stoyanov, "The Impact of EU Integration," 192–193.

⁴³ BSP, "Programa deklaratsiya na bulgarskata sotsialisticheska partiya (prieta ot 44-ya kongres na BSP, proveden na 7 maj 2000g)," in *Programno razvitie na BSP: Sbornik dokumenti (1990–2005)*, eds. Georgi Pirinski, Nora Ananieva and Evgenij Kandilarov (Sofia: Tsentr za istoricheski i politologicheski izsledvaniya, 2008), 228–233.

standards.⁴⁴ The European Union was cited as a positive model for development.⁴⁵ In 2002 and 2005, this idea was repeated by defining the BSP as a European socialist party—again declaring the party’s commitment to reform and modernity.⁴⁶ The Party of the European Socialists (PES) was at first hesitant to allow the BSP within its ranks—as it was towards all former ruling socialist parties.⁴⁷ However, once they were united with other leftist parties in the Coalition for Bulgaria, the Bulgarian socialists eventually found their way into this EP group in 2002.⁴⁸ PES member status granted external “legitimacy” to the BSP and other socialist parties in the region, which themselves had weak partisan identifications. According to experts, this added to the BSP’s overall claim on “newness” and “allowed them [the party] to distance themselves from any socialist past.”⁴⁹

This conclusion might ring true for all regional socialist successor parties seeking European association. Yet, for the BSP, choosing a European future did not simply mean abandoning its past. A large part of the party’s electoral support came from “nostalgia,” or simply genuine appreciation, towards the old regime⁵⁰ and the BSP indeed often emphasised the positive aspects of the country’s socialist past. For example, in 1998 the party called for co-operation with Russia on the argument of the countries’ friendly historical relations.⁵¹ However, this willingness gradually changed between 1999 and 2012, not least since it became increasingly less tenable to deny the crimes of the socialist regime on both the domestic and international level. The party thus switched from a relatively apologetic, to a more distanced stance towards its authoritarian socialist past. The term “party of the future” was coined to underline its commitment to a “new, democratic start.”⁵² But when the BSP announced its new European orientation in 2000 it also

⁴⁴ BSP, “Programa deklaratsiya 7 maj 2000g,” 228.

⁴⁵ BSP, “Natsionalna strategiya 6–7 maj 2000g,” 531.

⁴⁶ BSP, “Politicheska platforma ‘BSP-partiya na promyanata, partiya na budeshteto’ (prieta ot 45-iya kongres na BSP, yuni 2002g,” in *Programno razvitie na BSP: Sbornik dokumenti (1990–2005)*, eds. Georgi Pirinski, Nora Ananieva and Evgenij Kandilarov (Sofia: Tsentr za istoricheski i politologicheski izsledvaniya, 2008), 262; BSP, “Politicheska rezolyutsiya na 46-iya kongres na BSP (3–4 dekemvri 2005g., utvürdena s reshenie na VS na BSP ot 18 dekemvri 2005g.),” in *Programno razvitie na BSP: Sbornik dokumenti (1990–2005)*, eds. Georgi Pirinski, Nora Ananieva, and Evgenij Kandilarov (Sofia: Tsentr za istoricheski i politologicheski izsledvaniya, 2008), 584.

⁴⁷ The PES initially encouraged the establishment of the party *Bulgarska EvroLevitsa* (Bulgarian Euro Left, BEL), which united several social democratic parties, because it did not want to associate itself with the former communist ruling party. This attitude changed through the years (see also chapter 2). Michael Holmes and Simon Lightfoot, “Limited Influence? The Role of the Party of European Socialists in Shaping Social Democracy in Central and Eastern Europe,” *Government and Opposition* 46, no. 1 (2011): 39.

⁴⁸ Holmes and Lightfoot, “Limited Influence?,” 39; Spirova, “Parties and Party Development,” 800–801.

⁴⁹ Holmes and Lightfoot, “Limited Influence?,” 42.

⁵⁰ Stoychev, “Europeanization of the Bulgarian Party System,” 6.

⁵¹ “Rabota, rastezh, razvitie - alternativata za Bülgeriya (politicheski prekti na BSP) (chetirideset i treti kongres na Bulgarskata sotsialisticheska partiya - 1-3 maj 1998g.),” in *Programno razvitie na BSP: Sbornik dokumenti (1990–2005)*, eds. Georgi Pirinski, Nora Ananieva and Evgenij Kandilarov (Sofia: Tsentr za istoricheski i politologicheski izsledvaniya), 417.

⁵² BSP, “Politicheska platforma yuni 2002g”; National Council of the BSP, “10 noemvri - demokratichното nachalo togava i sega: Politicheska pozitsiya na Natsionalniya sovet na Bulgarskata sotsialicheska partiya, 31 oktomvri 2009g,” October 31, 2009, 1, http://bsp.bg/documents/resheniq_nacionalen_syvet.html; National Council of the BSP, “Politicheskoto obrüshtenie

acknowledged the party's historical roots, indicating an unwillingness to fully break with its history.⁵³ In 2008, the party praised its communist predecessor's achievements and "the historical significance of the revolutionary struggles."⁵⁴

Whilst this ambiguous attitude towards the past remained a constant factor in the BSP,⁵⁵ its preference for *dealing* with the past was much more consistent. The party rejected all confrontation with the past, which it denounced as the "revanchism" and "dogmatism" of Bulgaria's Right.⁵⁶ The party's association with PES in 2002 and 2005⁵⁷ further added legitimacy to this dismissive attitude on the European level. The PES itself, as discussed in chapters 1 and 2, also generally opposed dealing with the past. However, at the same time, the PES was sufficiently pragmatic to lower its resistance when it stood no chance against an overwhelming pro-confrontation majority in the EP. For example, most of its members voted in favour of the 2009 EP declaration that condemned totalitarian socialist regimes, after the PES had managed to amend significant clauses in its favour.⁵⁸

On the national level, the BSP found an appealing mechanism via which to merge the party's support for EU accession with its unwillingness to confront the past, namely, that of reconciliation. The narratives behind this argument will be explored in chapter 5. For now, it is important to grasp that this confirmed the party's new identity whilst giving it a way out of the discussion on the legacy of socialism. The BSP had reformed—so the justification read—and now wanted to focus on the future. To embark on the road to EU accession required Bulgaria to unite. Critical of this rhetoric, the Bulgarian scholar Nikolai Vukov concluded that the BSP's "search for political reconciliation was obviously yet another step . . . to avoid the claims of historical and legal accountability."⁵⁹ Moreover, by calling for rapprochement between the anti- and post-socialist sides, the party tried to qualify as a reasonable coalition partner aiming to overcome the sharp divisions running through the Bulgarian parliament. This concretely resulted in the government's

na natsionalniya sovet na BSP po povod na dvadesetgodishninata ot preimenuvaneto na partiyata," March 27, 2010, 1, http://bsp.bg/documents/resheniq_nacionalen_syvet.html.

⁵³ BSP, "Programa deklaratsiya 7 maj 2000g," 228, 232.

⁵⁴ Congress of the BSP, "Obrushtenie na 48-iya kongres na BSP kum bulgarskata obshtestvenost," April 5, 2015, 2, <http://bsp.bg/files/attachments/2015/07/31/9-may-obrastenie.pdf>.

⁵⁵ Iskra Baeva and Petya Kabakchieva, "How Is Communism Remembered in Bulgaria? Research, Literature, Projects," in *Remembering Communism: Private and Public Recollections of Lived Experience in Southeast Europe*, eds. Stefan Troebst, Mariia Nikolaeva Todorova and Augusta Domou (Budapest: Central European University Press, 2014), 71.

⁵⁶ BSP, "Politicheska platforma yuni 2002g," 243.

⁵⁷ The BSP acquired observer status in 2002 and associate membership in 2005. Stoychev, "Europeanization of the Bulgarian Party System," 17.

⁵⁸ Laure Neumayer, "Integrating the Central European Past into a Common Narrative: The Mobilizations Around the 'Crimes of Communism' in the European Parliament," *Journal of Contemporary European Studies* 23, no. 3 (2015): 355.

⁵⁹ Vukov, "Past Intransient/Transiting Past," 493.

participation with both the NDSV and the DPS in 2005, neither of whom much wanted much to engage with the past.⁶⁰

With the party's electoral victory in 2005 and subsequent government participation, all the signs thus pointed towards Bulgaria's process of confronting the past arriving at a new low. Paradoxically, it was during these years of BSP supremacy that a law was adopted to disclose the secret service archives. This was striking because both of its coalition partners, the NDSV and DPS, were generally uninterested in confrontation with the past. Moreover, these parties and especially the BSP contained many individuals who—as this law would reveal—had served as state security agents and would thus find themselves in a good degree of professional peril. As the next chapter will explore, the surprising adoption of the law had much to do with the momentum of EU accession. The BSP and its coalition partners had made European integration their government's main goal,⁶¹ and the BSP thus went along when the archives law's proponents convinced the assembly that disclosing the secret files would be essential for accession. Just like the PES did in the European Parliament in 2009, this time the BSP recognised that it would be better to try and pragmatically contain the damage when it could no longer avoid anti-socialist measures.

3.3.4 *DPS*

The DPS's political role and influence were heavily based on its leadership. Chairman Ahmed Dogan led his party with a strong hand, evoking criticism of the party's internal democracy.⁶² However, the party had a consistent electoral basis that guaranteed continued support. Although using ethnic, racial, or religious identity as a legitimate basis for political organisation was outlawed by the Bulgarian constitution, the DPS originated from the “desire of Bulgarian Turks for separate representation in the party arena.”⁶³ With some knowledge of Bulgaria's recent past, it is easy to understand this urge. Throughout the 1980s (although the beginnings can be traced back to the late 1970s), Zhivkov's regime forcefully repressed and practically expelled the Turkish minority from the country. Cynically called “the revival process,” this assimilation campaign was part of a larger project of the Communist Party to strengthen the national commitment to Bulgaria's socialist future in the face of the upheaval facing the wider socialist world. The Turkish minority was seen as a threat to such unity—or at least they were framed as such. Whilst

⁶⁰ As will be more elaborately analysed in section 3.3.4 that follows next, the DPS's attitude to dealing with the past was ambiguous. Whilst generally the party's focus was not on dealing with the past, it sought recognition for the revival process that had directly targeted its main electorate—the Bulgarian Turks.

⁶¹ Stoyanov, “The Impact of EU Integration,” 193.

⁶² Stoychev, “Europeanization of the Bulgarian Party System,” 8.

⁶³ Stoyanov, “The Impact of EU Integration,” 194; see also Stoychev, “Europeanization of the Bulgarian Party System,” 7.

overall, Bulgaria had been the closest ally of the Soviet Union in Eastern Europe, this process of “Bulgarisation” was strongly condemned by Moscow, yet Zhivkov went along with it anyway. Bulgarian Turks were killed or injured in protests, several hundreds were imprisoned in the infamous Belene concentration camp, and all were forced to either change their names to Bulgarian ones or flee the country. Violent counter-acts by the Bulgarian Turkish resistance were used by the regime’s propaganda machine to paint an image of Islamist fundamentalism.⁶⁴

The socialist past—or more accurately, the dismissal of the socialist past—was thus very much entrenched in the DPS’s identity. Although in 1991, it had called for a ban on the BSP,⁶⁵ throughout the late 1990s and early 2000s, the DPS adopted a milder attitude towards the Socialist Party—most likely prompted by the BSP’s internal changes as well as its own willingness to govern. In 2005, the DPS even entered into a coalition with the BSP and NDSV. This is a good place to note the DPS’s striking ambiguity towards *dealing* with the socialist past. Whereas it strongly called for denunciation of the revival process, the party did little to advocate for, and even resisted, other concrete pro-confrontation measures. The reason for this is as predictable as many party members had actually been involved in the socialist regime. Disclosure of the secret service files after 2006 made this painfully clear. Moreover, it is illustrative that the DPS, together with the BSP, rejected the possibility of “voluntary lustration” enabled by this disclosure: whilst other parties chose to reject candidates for elections when they appeared to have worked for the secret service, the DPS did not.⁶⁶

Although EU membership in itself was not as much a central point for the DPS as it was, for example, for the SDS, the DPS sought European support to garner recognition for the atrocities committed during the revival process. The party was exceptionally creative in finding channels to do so through various European institutions, including the EU. Making a case at the European Court of Human Rights in Strasbourg, the DPS tried to get the revival process recognised as a case of genocide. It should be said, however, that for a significant period, the Council of Europe (CoE) seemed to have been a more important authoritative institution than the EU for the DPS and its civil society partners.⁶⁷ Specifically, the DPS referred during debates to the CoE Framework Convention for the Protection of National Minorities.⁶⁸ In 2001, the Balkanlalar Association of the Repressed

⁶⁴ See e.g., Evgenia Kalinova, “Remembering the ‘Revival Process’ in Post-1989 Bulgaria,” in *Remembering Communism: Private and Public Recollections of Lived Experience in Southeast Europe*, eds. Stefan Troebst, Mariia Nikolaeva Todorova and Augusta Dimou (Budapest and New York: Central European University Press, 2014), 567–594.

⁶⁵ Stoyanov, “The Impact of EU Integration,” 194.

⁶⁶ Hristov and Kashumov, “Justice and Accountability Mechanisms,” 287.

⁶⁷ Kalinova, “Remembering the ‘Revival Process,’” 583.

⁶⁸ The Bulgarian parliamentary proceedings are published in HTML format and thus do not contain page numbers. To help under researchers, I always mention (in the text or in the footnote or in both) the name of the MP that made the

Balkan Turks, a Turkey-based NGO, reportedly issued an official complaint at the European Court of Human Rights in Strasbourg. Bulgaria, they argued, was guilty of a “refusal of justice” because it had failed to punish anyone for the revival process.⁶⁹

Occasionally, DPS members explicitly referred to the EU. In a parliamentary debate in 2000, Lyutvi Mestan claimed twice that denunciation of the revival process constituted an EU membership demand. EU representatives, he told the assembly, were appalled by the repression of the Turks. In his meeting with the adviser of the Belgian Minister of Interior—who had been surprised to hear Mestan’s explanation about the difficulties that Bulgarian Turks in Belgium faced when applying for new identity papers in their home country—Mestan reiterated that the Bulgarian state had never adequately addressed the consequences of the forced name changes during the revival process.⁷⁰ This excerpt illustrates a key element of the way in which all of Bulgaria’s political parties used the EU membership prospect—the way in which individuals used their contacts and status within EU institutions to further their strategies on the past. Mestan, without a doubt, mastered this role, continuing his plea with a warning, namely, that if the issue of forced name changes was not solved, Bulgaria would not achieve full membership, even if most of his colleagues liked to think that Bulgaria fulfilled the political criteria of membership of the EU and NATO.⁷¹ Thus, despite, or perhaps precisely because of, the vague formulation of the EU’s Copenhagen criteria as explored in chapter 1, the DPS was well aware of their content and used this manoeuvring space. However, this EU argument impressed few parliamentarians. Speakers after him did not follow up on this specific reference, nor did his colleagues.

Another way for the DPS to engage with the past in relation to EU accession was through its association in 2001 with the European Liberal Democrats and Reformists (ELDR). Although the ELDR was not as vocally anti-socialist as the EPP, it did gradually move towards the EPP’s initiatives condemning the socialist past. Scholar Laure Neumayer positions the ELDR, together with the EPP and Greens, with the “anti-Socialist mobilisations” in the European Parliament.⁷² In 2009, the European Liberals, who had by then changed their name to the Alliance of Liberals and Democrats in Europe (ALDE) were amongst the EP parties to support the resolution to condemn totalitarian socialist regimes,

statement. Lyutvi Mestan in Narodnoto Sabranie, “Chetiristotin chetirideset i treto zasiedanie, Sofia, petük, 3 noemvri 2000 g,” November 3, 2000, <http://www.parliament.bg/bg/plenaryst/ns/6/ID/931>.

⁶⁹ As documented by Kalinova, “Remembering the ‘Revival Process,’” 583; Mediapool, “Südüt v Strasburg othvärli molbata na bulgarski turci sreshu Bülğariya,” April 28, 2005, <https://www.mediapool.bg/sadat-v-strasburg-othvarli-molbata-na-balgarski-turtsi-sreshtu-bulgaria-news104376.html>. However, after an extensive, targeted keyword search in both English and Bulgarian in the European Court database, the complaints could not be retrieved.

⁷⁰ Lyutvi Mestan in Narodnoto Sabranie, “Chetiristotin chetirideset i peto zasiedanie, Sofia, chetvürtük, 9 noemvri 2000 g,” November 9, 2000, <http://www.parliament.bg/bg/plenaryst/ns/51/ID/1160/>.

⁷¹ Lyutvi Mestan in Narodnoto Sabranie, “Chetiristotin chetirideset i peto zasiedanie 9 noemvri 2000.”

⁷² Neumayer, “Integrating the Central European Past,” 360.

as discussed in chapter 3.⁷³ More specifically for the case of Bulgaria (and as will be discussed in the next chapter), ALDE would play a significant role in the adoption of the law on archival disclosure. Through its association with the ELDR, and latterly the ALDE, the DPS thus found legitimacy on the European level for its denunciation of the socialist past. The party also realised that its opponents sometimes used the EU membership prospect to *avoid* confrontation with the past. The “consensus between the left- and the right-wing political powers’ for the sake of “eurointegrational processes,” Mestan posited, was to blame for the failure to denounce the revival process.⁷⁴ Mestan here thus directly attacked the reconciliation argument, so popular amongst anti-confrontation parties such as the BSP.

3.3.5 NDSV

As we have seen, the rise of the NDSV transformed the Bulgarian political arena. A decade after the start of transition, the party intentionally embodied an era of “newness.”⁷⁵ This was a highly successful strategy, which resulted in parliamentary victory in 2001. The former tsar Simeon personified the idea of a future free of socialism. Significantly, as he had lived in exile, he was not connected to the totalitarian regime or corruption scandals.⁷⁶ This gave the NDSV an interesting point of departure from which to frame its own position vis-à-vis Bulgarian history and the EU future. To start with the latter, the NDSV strongly and unambiguously pursued EU integration and NATO membership, and considered Bulgaria an “inseparable part of Europe.”⁷⁷ Simeon’s unique position gave him the perfect edge to argue that he could bring Bulgaria back to Europe. In the first sentences of his inauguration speech in 2001, Simeon spoke about the “true chance [for the NDSV] to lead Bulgaria into the new 21st century and to take, in the unifying Europe, the place to which we are entitled.”⁷⁸ As former tsar and (then) prime minister, connecting Bulgaria’s alleged European monarchical past and EU future, Simeon here mimicked the speeches of his Eastern European colleagues, speaking of a “return to Europe.” This to a large extent resembled the EU’s “overcome narrative” as identified in chapter 2.

The NDSV was strongly and directly anchored in Bulgaria’s past. Its name, identity, legitimacy, and much of its support came directly from its leader. In this way, Simeon possessed a winning combination of assets in the form of newness to the much-despised

⁷³ With 85% of its members voting in favour, ALDE was even the party with the strongest support for the eventual version of the declaration, which was adopted on April 2, 2009. Neumayer, “Integrating the Central European Past,” 356.

⁷⁴ Lyutvi Mestan in Narodno Sabranie, “Chetiristotin chetirideset i treto zasедanie 3 noemvri 2000,” n.p.

⁷⁵ Gurov and Zankina, “Populism and the Construction of Political Charisma,” 4.

⁷⁶ Crampton, *Bulgaria*, 415; Gurov and Zankina, “Populism and the Construction of Political Charisma,” 8.

⁷⁷ NDSV, “Deklaracija za osnovnite cennosti na NDSV,” 2002, <http://www.ndsv.bg/content/28.html>. See also: Gurov and Zankina, “Populism and the Construction of Political Charisma,” 8.

⁷⁸ Simeon Saksokoburggotski in Narodno Sabranie, “Prvo izvanredno zasедanie 24 juli 2001,” n.p.

Bulgarian political establishment and the ability to claim a rich Bulgarian legacy—embodied through his own life story. His personal history also allowed him to distance himself from Bulgaria’s dark Second World War legacy. Simeon frequently cashed in on the people’s appreciation of his father, King Boris III, for allegedly saving Bulgarian Jews⁷⁹—a public appeal he was well aware of. In his inauguration speech in July 2001, Simeon referred to the Bulgarian past as much as he emphasised his commitment to the European future. To be Bulgarian today meant to cherish one’s “roots,” as well as to prepare for the future. In fact, the former facilitated the latter, because it was through respect for Bulgaria’s “legacy” that the nation could build a “new, different Bulgaria.”⁸⁰

Yet this appraisal of the distant past and the accompanying eagerness to embark on the EU future did not translate into a desire to engage with the decades of socialism in between. Self-evidently, the NDSV strongly denounced the socialist past, since it ended the monarchical rule from which its leader was a direct descendant. From Simeon’s list of steps to be taken to ensure EU membership, any engagement with the past was absent.⁸¹ This was in line with his overall programme, or in fact the apparent lack of any programmatic consistency at all,⁸² not to mention the party’s identity. One of the main reasons for the party’s success, and closely related to Simeon’s personal attributes, was the promise to overcome the anti-socialist/post-socialist divide and instead focus on economic growth.⁸³ The party and Bulgaria had “to move forward” and Simeon promised to focus on national reconciliation rather than confrontation. Dealing with the past was deemed irrelevant and thus expelled to the margins.⁸⁴ This further confirms the resemblance between the NDSV’s take on the past and the EU’s “overcome narrative”—namely, that the socialist decades were a mistake that did not deserve much attention.

This stance regarding the past was the opposite of the EPP’s advocacy for the condemnation of totalitarian socialist regimes and active confrontation with this past. Nevertheless, the NDSV was determined to pursue its association with this EP party. In its 2002 declaration on the party’s “foundational values,” the NDSV presented itself on the basis of its ideas and values as “part of the family of European people’s parties”⁸⁵—a formulation that in Bulgaria raises direct connotations with the EPP.⁸⁶ However, the NDSV

⁷⁹ Gurov and Zankina, “Populism and the Construction of Political Charisma,” 7.

⁸⁰ Narodno Sabranie, “Prvo izvanredno zasiedanie 24 yuli 2001.”

⁸¹ Narodno Sabranie, “Prvo izvanredno zasiedanie 24 yuli 2001.”

⁸² Gurov and Zankina, “Populism and the Construction of Political Charisma,” 5.

⁸³ Gurov and Zankina, “Populism and the Construction of Political Charisma,” 4; NDSV, “Deklaracija za osnovnite cennosti na NDSV”; Stoychev, “Europeanization of the Bulgarian Party System,” 19.

⁸⁴ Baeva and Kalinova, *Sotsializmŭt v ogleдалoto na prehoda*, 143.

⁸⁵ NDSV, “Deklaracija za osnovnite cennosti na NDSV,” 2002. <http://www.ndsv.bg/content/28.html>.

⁸⁶ In Bulgarian, names of political parties are not capitalised. The “semejstvoto na evropejskite narodni partii” (literally translated as “the family of European national/people’s parties”) thus shows much resemblance to the Bulgarian name for the EPP, “Evropejska narodna partija,” especially in combination with the word “family,” which is often used to denote the political groups in the EP, but can also denote a more generally formulated group of European people’s parties.

saw its candidacy blocked by the EPP-member SDS. The Bulgarian democrats had little in common with Simeon's party, and instead everything to fear. They understandably did not want the populist, ideologically, and programmatically ambiguous NDSV to enter the EPP.

Thus, deprived of a European partner, the NDSV was helped by the DPS, with which it had entered into a coalition (together with the socialists) in 2005. The DPS supported Simeon's entrance into the party of the European Liberals.⁸⁷ Therefore, it is interesting to note that, when the aforementioned 2006 archives law was adopted in the Bulgarian parliament, none of the ruling parties were (associate) members of the EPP, whilst it was the latter that had been calling for archival disclosure in post-socialist countries on the European level since 2004. This observation merits some overarching commentary on the relationship between EP party membership and archival disclosure, not least as the Party of European Socialists, to which the BSP belonged, behaved quite pragmatically towards the issue, and the European Liberals eventually supported condemnation of the socialist totalitarian regimes too. As discussed in chapter 1, both parties eventually endorsed the 2009 EP resolution to condemn totalitarian regimes. Membership of European parties was thus not a restraining factor in opening the Bulgarian secret service archives.

3.3.6 GERB

GERB⁸⁸ was established in 2006 by Boyko Borisov, the charismatic mayor of Bulgaria's capital Sofia. Like the NDSV, the party revolved mainly around the appeal of its leader. Borisov presented GERB as a movement rather than a party, consisting of "like-minded individuals united by a cause—namely, the desire to make Bulgaria a true European country."⁸⁹ Fitting well within this identity, Bulgaria's first elections to the European Parliament in 2007 became GERB's first electoral victory. GERB was already a member of the EPP by this time, which it dubbed "GERB's coalition partner" for the lack of one in Bulgaria.⁹⁰ The EPP had supported GERB's participation in these elections, for it considered Borisov a trustworthy actor in the newly gained EU member state—and GERB's results in the elections did not disappoint. As discussed above, the EPP chose GERB because of Borisov's electoral success and the feud within the "old" blue coalition that had led to the secession of the DSB from the SDS.⁹¹ This membership and support of the EPP increased GERB's European profile.⁹²

⁸⁷ Stoychev, "Europeanization of the Bulgarian Party System," 18.

⁸⁸ The full name of the party is currently not in use anymore. The acronym GERB also means "crest" in Bulgarian and is thus now used as the party's sole name.

⁸⁹ Gurov and Zankina, "Populism and the Construction of Political Charisma," 9.

⁹⁰ Boyko Borisov, quoted in Gurov and Zankina, "Populism and the Construction of Political Charisma," 13.

⁹¹ Gurov and Zankina, "Populism and the Construction of Political Charisma," 13.

⁹² Gurov and Zankina, "Populism and the Construction of Political Charisma," 5, 9.

GERB and the EPP might have been a great match for several reasons, yet a shared attitude towards the socialist past was (at least initially) not amongst them. Whilst, as described in chapter 2, the EPP had advocated confronting the socialist past, GERB was rather uninterested in the issue.⁹³ This disinterest was informed by rather opportunistic motives. GERB dismissed the necessity for engagement with the past exactly because it claimed to focus on the EU future only. Interestingly, GERB's attitude towards the past underwent some change after EU accession. Using the momentum offered by the 2009 EP resolution, GERB politician and MEP Andrey Kovatchev organised the conference "The Endured European Dream of Bulgaria 1944–1989" in Brussels in 2010.⁹⁴ According to scholar Ana Luleva, this conference was clearly "oriented outwards, towards partners from the EU," thus using the EU as a platform via which to garner broader international attention.⁹⁵ During this conference, important Bulgarian anti-socialist speakers were accompanied by high-ranking representatives from EU institutions, most of whom called for further confrontation with the past.⁹⁶

Domestically, GERB partnered with the extremist right-wing party Ataka via formal and informal agreements. Whilst taking a slight detour from the main focus of this section, it is interesting to investigate the (in)compatibility of a party that has "European development" in its name and one that rejects basic universal and European values of minority rights, religious freedom and, in some instances, the rule of law. Ataka is heavily nationalist and anti-Islam, and its politics and actions often challenged the rule of law. However, the differences between the parties are less striking than they might at first seem. Ataka's entrance into the political arena eventually turned nationalist discourse mainstream.⁹⁷ Other parties saw the appeal of such a nationalist stance and gradually adopted it in their politics, including GERB and the BSP,⁹⁸ and even the DSB.⁹⁹

By the time Ataka associated itself with GERB, it had additionally toned down its anti-European, anti-establishment attitude, which had resulted in the party's isolation in

⁹³ As the proceeding chapters will also show, GERB often failed to take an explicit stance in the debate on the past. GERB was in power in 2009, but "did not have a strategy for exploiting the twentieth anniversary of 1989," for example. Venelin I. Ganey, "The Inescapable Past: The Politics of Memory in Post-Communist Bulgaria," in *Twenty Years After Communism: The Politics of Memory and Commemoration*, eds. Michael Bernhard and Jan Kubik (New York: Oxford University Press, 2014), 225.

⁹⁴ Andrey Kovatchev, *Proceedings from the Conference "The Endured European Dream of Bulgaria - 1944–1989,"* Conference proceedings, Brussels: EPP Group, 2010.

⁹⁵ Ana Luleva, "Transitional Justice and Memory Culture in Post-Socialist Bulgaria," *Our Europe: Ethnography, Ethnology, Anthropology of Culture* 2 (2013): 126.

⁹⁶ Kovatchev, *Proceedings from the Conference "The Endured European Dream of Bulgaria."*

⁹⁷ Philip Dandolov, "Right-wing Populist Parties and the Mellowing Down of Euroscepticism in Eastern Europe under the Influence of Europeanization," *Sociology and Anthropology* 5, no. 2 (2017): 117–123; Andrea L. Pirro, *The Populist Radical Right in Central and Eastern Europe: Ideology, Impact, and Electoral Performance* (Abingdon: Routledge, 2015), 147. It is revealing that in recent years that fall outside the timeframe of this study, far-right political parties have actually entered GERB's ruling coalition.

⁹⁸ Dandalov, "Right-wing Populist Parties," 119.

⁹⁹ Pirro, *The Populist Radical Right*, 147.

the first years after its establishment in 2005. Thus, becoming a reasonable partner for GERB, the parties “entered into an informal pact” after the 2009 parliamentary elections, allowing GERB to enjoy majority support and form a one-party government.¹⁰⁰ GERB and Ataka found each other in their populist orientation and shared aversion to the DPS, although Ataka went much further in its opposition to minorities. Adding to GERB’s general rejection of dealing with the past as a meaningful area of politics, this dislike translated into a dismissal of the DPS’s call for recognition of the revival process. Yet, as the partnership with Ataka showed, GERB’s ideological profile was flexible, if indeed one existed at all. The one political theme that stood out for GERB was European integration—all the others were negotiable. Since GERB’s attitude towards dealing with the past was one of general disinterest, the EU membership prospect formed an essential argument for pro-confrontation and anti-confrontation parties alike that hoped to get GERB on their side. As the next chapter will illustrate, in situations in which EU membership was convincingly claimed to be at stake, the party was willing to put the past in service of the future.

3.4 Concluding remarks

The above has, for each selected party, set out the positions towards the past and EU membership. Much of this chapter has been rather factual, but I have also made a start on my analysis of how these two levels interact: parties such GERB and the NDSV opportunistically combined their pro-European stance with a disinterest in the past, whilst the SDS connected its anti-socialist stance to its commitment to the European future—especially its choice to join the EPP bolstered the pro-confrontation faction within the Bulgarian party. Association with European partners, especially EP party groups, was very important for the selected parties, but these choices did not always directly align with their preferred way of dealing with the past. The main reason for this is simple. The EU generally—neither its main institutions, nor the individual EP parties—considered dealing with the socialist past as much of a priority. The EPP may have initially counted as an exception to this. However, its association with GERB in the late 2000s proves that the EPP picked its partners rather more on the basis of their electoral success than their moral stance on the past.

As a tentative conclusion, I thus argue that—perhaps with the BSP and NDSV as exceptions in the period after 2005—the EU membership prospect did not fundamentally alter individual parties’ *long-term* strategies on the past and the party constellations that resulted from this. My emphasis is here on long-term. After all, the above analyses of

¹⁰⁰ Dandalov, “Right-wing Populist Parties,” 119.

individual parties have actually hinted upon some moments where such influence of the EU membership prospect was tangible. The next chapter will, therefore, explore the parliamentary decision-making processes and debates surrounding key individual laws and declarations.

CHAPTER

4 Bulgarian Parliamentary Decision-Making

In the previous chapter, I identified the main political actors and their relation to Bulgaria's socialist past, the country's future in the EU, and the (at times complex) relationship between this past/future dynamic. The stage is now set to explore the way in which all of the various relations and strategies played out in the Bulgarian parliament. What were the most important (draft) parliamentary acts relating to the past? How were they realised (or prevented from being realised)? This chapter is structured as a chronological analysis of the landmark acts on the socialist past, discussed in parliament between 2000 and 2012.

Based on a combination of literature research (in Bulgarian and English) and targeted searches on the official website of the Bulgarian parliament, I first establish a timeline of important political events, laws, and declarations (adopted or non-adopted) that directly concerned dealing with the past. From this list, I selected those laws, declarations, and events that fulfilled the following three criteria:

- (1) The event or act stirred debate on the national level and/or was initiated from the national level;
- (2) Political parties have engaged with the event or act, through parliamentary debate, drafting bills and declarations, and official statements;
- (3) Political parties referred to, or otherwise instrumentalised, the EU membership prospect or EU membership status.

The approach outlined above means that I had to leave out important and often studied events such as the destruction of the mausoleum of Georgi Dimitrov in 1999,¹ civil society initiatives that were not taken up by political parties or, if they were, were not coupled to the prospect of EU membership, and local instances of memory politics—for example, the numerous commemorations that were organised by local branches of the DPS, but were not discussed in the national parliament.²

The previous chapter described how fluid Bulgarian party politics on the past were, especially when populist parties were concerned. Therefore, I use the terms “pro-confrontation side” and “anti-confrontation side” in order to describe the different political “camps”—although this is admittedly not a particularly elegant solution. My hope, however, is that these terms at least capture the bipolar nature of the political manoeuvring

¹ I did not include this high-profile event, since I did not find references to the prospect of EU membership, nor did national political parties elaborately discuss the political decision for its demolition. This absence of parliamentary debate is, indeed, one of the main aspects that make this case so fascinating and stirred nationwide protests. For an interesting article on this topic, see Maria Todorova, “The Mausoleum of Georgi Dimitrov as lieu de mémoire,” *The Journal of Modern History* 78, no. 2 (2006): 377–411.

² Kalinova, “Remembering the ‘Revival Process,’” 570.

that occurred whilst also expressing the flexible affiliations parties and individuals had with the two sides. The first term encompasses the (generally liberal and/or right-wing) politicians in favour of disclosing archives, condemning the socialist regime, punishing perpetrators, and compensating victims. The second term includes those (from a wide background) that generally do not wish any of the above.

4.1 Background 1989–1999: Memory issues abound, but little justice

The period under scrutiny is limited to the years 2000–2012. This means that perhaps the most active and revealing years in terms of dealing with the past, directly after transition, are beyond the scope of this chapter. However, the attempts to deal with the past during this transitional period 1989–2000, whether or not successful, shaped the arena for memory politics in later years. Therefore, I will first highlight some of the most important parliamentary acts and debates of that early period, which impacted upon later developments relevant to this research.

SDS initiatives to confront the past met with significant resistance. However, in 1991, their efforts did lead to a law for the “Political and Civil Rehabilitation of Repressed Persons.” This law aimed to give financial compensation and pensions to victims of the socialist regime. However, critics state that the financial provisions were meagre, and the law was badly implemented.³ The same applies to the prosecutions of some high-level socialist functionaries, including former dictator Todor Zhivkov, in the 1990s. The proceedings were tedious and took many years, and thus lost the attention of the public. People were unimpressed because of the lack of convictions—the fact that some of the defendants died during trial was also of little help. Yet at the same time, seeing the former dictator, some of his main ministers and secretaries, and officers from the most notorious prisoner camps brought before the court held significant symbolic value for Bulgarians. A far-reaching lustration law, the Panev Law, was initially adopted, but eventually declared unconstitutional.⁴ Finally, when the BSP came to power in 1995, the law came to a

³ Carlos Closa Montero, “Dealing with the Past: Memory and European Integration,” *Jean Monnet Working Paper* (The Jean Monnet Program, NYU School of Law), no. 1 (2011): 80; Kovatchev, *Proceedings from the Conference “The Endured European Dream of Bulgaria,”* 30; Luleva, “Transitional Justice and Memory Culture,” 120; Narodnoto Sabranie, “Zakon za politicheska i grazhdanska reabilitaciya na represirani lica,” 1991, <http://www.lex.bg/bg/laws/ldoc/2132567042>.

⁴ As is often the case with lustration laws (see also chapter 1), the law received critique, both internationally and domestically, for failing to take into account the individuality of cases. Helsinki Watch, for example, “protested” the law and wrote a letter to President Zhelev to voice its concern with the “broad language of the new law” and its “presumption of guilt merely because an individual held a political or professional position associated with a now-discredited organization, without any attempt to show that the person acted in a criminal, repressive or corrupt manner.” Helsinki Watch, “Decommunization in Bulgaria,” *Human Rights Watch*, August 1993, 9, <https://www.hrw.org/sites/default/files/reports/BULGARIA938.PDF>.

definitive end.⁵ Retributive justice after socialism thus largely remained an unfulfilled promise.

Pro-confrontation groups also called for restorative justice. Whilst court hearings and lustration processes can fulfil a role in dealing with the past through their potential for truth-telling, in Bulgaria, this remained unrealised; the poor results of the judicial process and lustration law failed to contribute meaningful insights concerning the socialist regime. The desire for truth nevertheless lived on. According to scholar Liliana Deyanova, “the fixation upon secret police files, conspiracy paradigms, and ‘a clean past’ proved to be one of the central issues in the debates on the memory of socialism.”⁶ One type of intervention especially popular amongst Bulgaria’s political parties were political declarations and laws that proposed a certain interpretation of the past, several examples of which are discussed later in this chapter. The question of archival disclosure was also very prominent during this period. As explained by Helga A. Welsh, gaining access to such files occupied an important position in the way post-socialist states dealt with their pasts.⁷ With prosecutions being hardly more than legal facades and considering the highly contentious status of property restitution, files were “the prime mode of revelation.”⁸ The case in case study that follows later in this chapter is devoted to this issue.

Memory issues also shaped parliamentary politics. Perhaps to compensate for this lack of legal convictions and lustration, several types of commemoration for socialism’s victims acquired high political salience and visibility. As Nikolai Vukov observes, the presence of politicians in memory events “was largely perceived as mandatory” and “indispensable in taking a moral stance against the socialist period.”⁹ Thus, commemoration became a standard component of regular politics—at least for the parties that wished to associate themselves with the anti-socialist side.¹⁰ Many parties were also individually active in this realm, and the DPS in particular built various monuments commemorating the revival process.¹¹

A central debate concerned the annual September 9 celebrations, which marked the day on which the socialist regime came to power in 1944. With this debate, parliament connected to a broader sentiment in society. One in four Bulgarians regarded this date to

⁵ Baeva and Kalinova, *Sotsializmŭt v ogledaloto na prehoda*, 140.

⁶ Liliana Deyanova, “From Memory to Canon: How do Bulgarian Historians Remember Communism?,” in *Remembering Communism: Private and Public*, eds. Stefan Troebst, Mariia Nikolaeva Todorova and Augusta Dimou (Budapest: Central European University Press, 2014), 454.

⁷ Helga A. Welsh, “Beyond the National. Pathways of Diffusion,” in *Post-Communist Transitional Justice: Lessons from Twenty-Five Years of Experience*, eds. Lavinia Stan and Nadya Nedelsky (Cambridge: Cambridge University Press, 2015), 170.

⁸ Welsh, “Beyond the National,” 170.

⁹ Vukov, “Past Intransient/Transiting Past,” 488–489.

¹⁰ Vukov, “Past Intransient/Transiting Past,” 488–489.

¹¹ Baeva and Kalinova, *Sotsializmŭt v ogledaloto na prehoda*, 82.

be the “most important political event in modern Bulgarian history”¹² and the BSP in particular was determined to retain the holiday. When in 1991, the parliament voted against abolition of the national holiday, many Bulgarians protested by going to work on September 9 anyway. The anti-socialist side eventually won by replacing the September 9 holiday with the proximate date of September 6—the Day of Unification, which had already been celebrated in Bulgaria before the socialist reign.¹³ The debate was further complicated by an internal division within the SDS. President Zhelyu Zhelev, in his attempt to preserve and promote national unity and reconciliation, argued that September 9 should not be “passed in silence,” emphasising that crimes had taken place before September 9 as well.¹⁴

Pro- and anti-confrontation parties were similarly invested in the debate surrounding history textbooks. In 1996, when the BSP was in power, three new types of textbooks were proposed. The books were approved by the BSP, yet all three received criticism for their failure to mention the revival process at all (two books) or only in a controversial manner (one book).¹⁵ Predictably, the subsequent SDS-led government also wanted to introduce new textbooks. Approved by the SDS, the books were eventually introduced under the tenure of the NDSV, who won the 2001 elections. The new books positioned the subject of history under the broad framework of “history and civilisation” and categorised socialism under the label of totalitarianism.¹⁶

Now that the general developments of the first decade of transition are sketched, the core analysis of the years 2000–2012 can commence. I have divided this analysis into four basic timeframes, based on two main considerations. First, I have accounted for the closing ties between the EU and Bulgaria, starting with the EC’s approval of membership negotiations in late 1999 (thus starting the analysis from the start of 2000) and ending in Bulgaria’s accession in 2007. Second, I have based my timeframes on developments within the Bulgarian political arena—from the traditional left-right divide to the rise of populism in 2001. These periods are:

- Bipolar parliament: 2000–2001
- Rise of populism: 2001–2006
- Case in case study on the eve of EU accession: the 2006 archives law
- Bulgaria as an EU member state: 2007–2012

¹² Ganev, “The Inescapable Past,” 226.

¹³ Nikolai Vukov, “Remembrance of Communism on the Former Day of Socialist Victory: The 9th of September in the Ritual Ceremonies of Post-1989 Bulgaria,” in *Remembering Communism: Private and Public Recollections of Lived Experience in Southeast Europe*, eds. Stefan Troebst, Mariia Nikolaeva Todorova and Augusta Dimou (Budapest: Central European University Press, 2014), 550.

¹⁴ Vukov, “Remembrance of Communism,” 559.

¹⁵ Baeva and Kalinova, *Sotsializmŭt v ogledaloto na prehoda*, 89; Kalinova, “Remembering the ‘Revival Process,’” 575.

¹⁶ Baeva and Kabakchieva, “How Is Communism Remembered in Bulgaria?,” 76.

4.2 Bipolar parliament 2000–2001: Undoing the acts of previous coalitions

In the years before 2001, in which the Bulgarian parliament was strictly divided between former socialists and anti-socialists, the country's socialist past was extremely prominent. However, predictable bipolar voting patterns determined any actual confrontation with the past. As discussed in sub-chapter 3.1, at this time the leading coalition was generally replaced by its opponents after each parliamentary election. By revoking its predecessor's decisions, the incoming coalition in most cases negated any steps taken towards concrete dealing with the past. It is therefore unsurprising that, following two years of BSP rule, the SDS was quick to push through an archives law when it came to power in 1997.¹⁷ It was because of a significant amendment in 2001 that the law really gained traction.¹⁸ In 1997, 135 out of 240 MPs had voted in favour of granting citizens the right to access their personal files.¹⁹ SDS Prime Minister Ivan Kostov, who would later leave the party and establish the DSB, defended the law by emphasising that all states "already integrated in Europe and NATO" had adopted such laws.²⁰ The archival commission established through the law was generally known as the Bonev commission, conveniently named after its president, the Minister of the Interior, Bogomil Bonev from the SDS. Whilst some names of collaborators (secret agents and civilians associated with the secret service) were revealed, insufficient implementation of the law's provisions initially hindered access to the archives.²¹

4.2.1 Attempts to disclose the archives

The 2001 amendment resulted in the establishment of the so-called Andreev Commission, similarly named after its president Metodi Andreev, again from the SDS.²² The commission published a total of nine reports in its short lifespan and revealed the affiliation of several high-ranking public officials with the secret service.²³ Whilst the 2001 amendment increased the reach of the law, its implementation was still hindered by political resistance

¹⁷ Nadège Ragaru, "Les dossiers de la Sûreté d'État bulgare: Le communisme dans les pliures du temps," *Revue des Études Slaves* 81, no. 2–3 (2010): 207.

¹⁸ The full Bulgarian name of the law is *Zakon na izmenie i dopълnenie na Zakona za dostъp do dokumenite na bivshata DS i na bivsheto Razuznavatelno upravlenie RU na Generalniya shab GSh*, "Law on Amending and Expanding the Law on Access to Documents of the Former Secret Services and of the Former Intelligence Agency of the General Headquarters." *Dŭrzhaven Vestnik*, "Broj 24, vtornik, 13 mart 2001 g., Sofia," March 13, 2001, 1–9, <http://dv.parliament.bg/DVWeb/broeveList.faces>.

¹⁹ Metodi Andreev, "Hronika na problemena s dosietata (1990–2006)," *Vesti*, May 27, 2006, <https://www.vesti.bg/novini/pylniat-tekst-na-publikaciia-podgotvena-ot-redakciia-spravochna-informaciia-na-bta-893384>; *Dŭrzhaven Vestnik*, "Broj 63, Sryada, 6 avgust 1997 g., Sofia," August 6, 1997.

²⁰ Narodnoto Sabranie, "Trideset i peto zasедanie, Sofia, sryada, 30 yuli 1997 g.," July 30, 1997, n.p., <http://parliament.bg/bg/plenaryst/ns/6/ID/2226>.

²¹ Ragaru, "Les dossiers de la Sûreté d'État bulgare," 207.

²² Andreev, "Hronika na problemena s dosietata." See also Hristov and Kashumov, "Justice and Accountability Mechanisms," 289.

²³ Andreev, "Hronika na problemena s dosietata"; Hristov and Kashumov, "Justice and Accountability Mechanisms," 289.

from the anti-disclosure side and a negative judgement from the constitutional court. This latter point is important, although not necessarily surprising. As discussed in chapter 1, archival disclosure and the subsequent steps towards lustration can be problematic legally. However, in Bulgaria, as suggested by the SDS parliamentarian Ekaterina Mihajlova, political motives played a role in the court's rejection of the committee's work. The members of the constitutional court "were [experiencing a] conflict of interests, to put it mildly."²⁴ Moreover, Mihajlova joined ranks with Kostov, in his criticism of Stoyanov who, as president, had allegedly blocked the process of archival disclosure.²⁵ The previous chapter already touched upon the hesitant attitude of both Stoyanov and his SDS colleague Zhelev towards any confrontation with the past. Yet, in 2013, Stoyanov denied this allegation and pointed out that he had signed the archives law in 1997 and its 2001 amendment, as published in Bulgaria's state court.²⁶ Moreover, he emphasised that he found archival disclosure to be "absolutely necessary" for Bulgaria.²⁷

Whilst it is impossible to know Stoyanov's true intentions, it is clear that archival disclosure and lustration remained largely uncharted territory in Bulgaria until the issue (this time more successfully) resurfaced in 2006. In both 1997 and 2001, EU accession hardly played a role, firstly, because of the EU's ambiguous and often outright dismissive stance vis-à-vis archival disclosure and lustration (as discussed in chapter 1); and secondly, because of the low salience of the prospect of EU membership at this time. Although the signing of the Accession Partnership in 2000 could have been instrumentalised by pro-confrontation parties in the case of the 2001 amendment, they apparently saw little benefit in doing so.

4.2.2 *Declaring the criminal nature of the socialist regime*

More symbolic yet equally significant parliamentary acts regarding the past fared better in the period between 1999 and 2001. In 2000, the parliament discussed and adopted a law that declared the previous regime criminal. Proponents of this law took the first steps towards connecting dealing with the past to the prospect of EU accession.²⁸ The law "frame[d] the liability" of the socialist regime by listing its crimes in the context of Bulgarian history, national and European values, and international reputation.²⁹ Much

²⁴ Ekaterina Mihajlova, quoted in Martin Ivanov and Orlin Spasov, eds., *Glasovete na prehoda: Desnite* (Sofia: Iztok Zapad, 2013), 195.

²⁵ Mihajlova, quoted in Ivanov and Spasov, eds., *Glasovete na prehoda: Desnite*, 195.

²⁶ Petar Stoyanov, quoted in Ivanov and Spasov, eds., *Glasovete na prehoda: Desnite*, 516–518.

²⁷ Stoyanov, quoted in Ivanov and Spasov, eds., *Glasovete na prehoda: Desnite*, 516–518.

²⁸ Closa Montero, "Dealing with the Past," 3; Deyanova, "From Memory to Canon," 453; Kovatchev, *Proceedings from the Conference "The Endured European Dream of Bulgaria,"* 29; Luleva, "Transitional Justice and Memory Culture," 122; Dürzhaven Vestnik, "Broj 37, petük, 5 maj 2000 g., Sofia," May 5, 2000, <http://dv.parliament.bg/DVWeb/broeveList.faces>.

²⁹ Kovatchev, *Proceedings from the Conference "The Endured European Dream of Bulgaria,"* 29.

controversy between (and within) the various political parties emerged as a result of the law. Within the SDS, many were reluctant to support the bill. Indeed, President Stoyanov—who was associated with the party, but did not favour confrontation with the past—seriously considered using his presidential veto to overturn the parliamentary majority in support of the law. However, the fact that the law would only have symbolic meaning, without judicial consequences, eventually consoled him and other hesitant anti-socialists.³⁰ The SDS-led coalition fell shortly after, which only added to the law's disputed status and helped its opponents to further diminish its significance.³¹

As scholar Ana Luleva suggests, the highly symbolic phrasing of the 2000 law, coupled with the lack of legal consequences, “illustrates the desire of the political Right to maintain its identity as an anti-totalitarian political force but, at the same time, to refrain from the politics of retributive justice accepted in other post-socialist states.”³² Whether the negligence of retributive justice was indeed a conscious policy of the anti-socialists, as Luleva suggests, or rather resulted from broader political unwillingness, inability, and constraints, is difficult to determine. In spite of these issues, the law created a precedent from which proponents of confrontation with the past were to build their arguments in later years. The law was frequently mentioned in future debates on other aspects of dealing with the past and is, for that reason alone, worthy of further investigation.

In the debate surrounding the law to deem the communist regime criminal, the EU membership prospect was used at several points to advance the argument at hand. If Bulgaria wanted “to be part of the democratic world, [if] we want the European Union, [if] we want NATO,” as Ekaterina Mihajlova of the SDS stated, parliament had to declare the communist regime criminal.³³ The next chapter will discuss the narratives in the debate, but for now, it is important to acknowledge that EU accession had already in 2000, albeit modestly, begun to shape the debate and its outcome. Proponents of the law had the most to gain from linking their arguments to the EU membership prospect—something that extended beyond the party-political sphere. The Union for the Repressed, a civil organisation that closely co-operated with the anti-socialist camp in parliament and that sometimes participated in the debates of parliamentary committees and other venues, congratulated the SDS (and President Stoyanov) on their commitment to joining the “democratic community in Europe,” whilst the law itself was described as a “moral” gesture to the victims of socialism.³⁴

³⁰ Baeva and Kalinova, *Sotsializmŭt v ogledaloto na prehoda*, 2011; Svetla Kazalarska, *Muzeyat na Komunizma: Mezhdū pametia i istoriyata, politikata i pazara* (Sofia: Universitetsko izdatelstvo “Sv. Kliment Ohridski,” 2013), 264.

³¹ Baeva and Kalinova, *Sotsializmŭt v ogledaloto na prehoda*.

³² Luleva, “Transitional Justice and Memory Culture,” 122.

³³ Ekaterina Mihajlova in Narodnoto Sabranie, “Chetiristotin chetirideset i treto zasiedanie 3 noemvri 2000.”

³⁴ Sŭyuz na represiranite, Oblast Kyustendil, *Do Prezidenta na Republika Bŭlgariya, 1 April 2000, N. 0305042000*, Kyustendil: Tsentralen dŭrzhaven arhiv, Fond 1224, Opis 4, a.e. N 1027, 2000, 42–43.

It is important to remember that, whilst we should definitely not overstretch our conclusions based upon the vague nature of references to “Europeanness,” at least until 2006, the majority of references to EU membership remained rather abstract for a good reason. As demonstrated in chapter 1, there were simply very few explicit EU demands to refer to. In 2004, the Bulgarian social scientist Ivanka Mavrodieva observed that for a long time political references to impending EU and NATO membership were very figurative, only becoming more pragmatic and to-the-point from 2002 onwards.³⁵ This conclusion is generally in line with my own findings, however, I would suggest that, specifically with regard to dealing with the past, the year 2002 seems too optimistic. Indeed, as this chapter will show, concrete use of the EU membership prospect in relation to dealing with the past only became frequent from 2004 onwards. A much more powerful body in these early years, at least judging from the arguments chosen by the political parties, was the Council of Europe. For example, the SDS liked to refer to the 1996 CoE resolution on “measures to dismantle the heritage of former communist totalitarian systems,” which had called, amongst others, for the disclosure of secret service files, the prosecution of individual perpetrators, and property restitution.³⁶

Sometimes, this undefined (and sometimes uninterested) EU attitude towards dealing with the socialist past prompted Bulgarian political actors to come up with creative connections between the EU level and domestic dealing with the past. For example, the former Minister of Agriculture, Stanislav Dimitrov, stated in an essay in 2004 that Bulgaria would still need to implement some sort of lustration in order to be able to implement the administrative reforms demanded by the EU. Dimitrov argued that the abundance of former collaborators, sustaining the socialist bureaucratic system, impeded such a transition.³⁷ The DPS was especially skilled in such use of the EU membership prospect. In 2000, Lyutvi Mestan, also of the DPS, drew attention to the forced name changes imposed on Bulgarian Turks by reminding the assembly that solving the problems with the “rights and liberties of minorities is a main condition for realisation of the most important national priority—full membership of the EU and NATO.”³⁸ Yet despite this, and as shown in the previous chapter, the DPS was initially more focused on the opportunities offered in Strasbourg than in Brussels for pursuing minority rights and recognition of the revival process.

³⁵ Ivanka Mavrodieva, *Evropejskata i Atlanticheskata integratsiya na Bŭlgariya: Retoricheski aspekti* (Sofia: Universitetsko izdatelstvo “Sv. Kliment Ohridski”, 2004), 57.

³⁶ Council of Europe Parliamentary Assembly, *Resolution 1096 (1996) on Measures to Dismantle the Heritage of Communist Totalitarian Systems*, Adopted Resolution, Strasbourg: Council of Europe, 1996.

³⁷ Stanislav Dimitrov, “Nesŭstoyalata se dekomunizatsiya,” in *Pamet za utre: Mezhdunarodno obsŭzhdane na komunizma: Bulgarskata gledna tochka*, ed. Vasil Stanilov (Sofia: Rabotilnitsa za knizhnina Vasil Stanilov, 2004), 190.

³⁸ Lyutvi Mestan in Narodnoto Sabranie, “Chetiristotin chetirideset i treto zasedanie 3 noemvri 2000.”

4.3 Rise of populism 2001–2006: Shifting coalitions and attitudes regarding the past

In later years, the EU membership prospect acquired a more central position in parliament. However, this development initially remained without consequences for dealing with the past: whilst EU membership continued to get closer, once the NDSV came to power in 2001, the debate on the past became less salient. Simeon's focus on the politics of national reconciliation positioned any engagement with the past as an obstacle to a better future.³⁹ At first, this was bad news for those fighting for confrontation with the past. Indeed, all such attempts that did take place in the period between 2001 and 2005 (most of which remained unsuccessful) had either been initiated before, or replicated earlier proposals.⁴⁰

4.3.1 *The archives counter law and the NDSV's ambiguous stance on dealing with the past*

Confirming the demise of debates on the past in the Bulgarian parliament, the NDSV's main "contribution" came in the form of a counter law that blocked the attempts of the SDS to force archival disclosure.⁴¹ In 2002, the party pushed through the "Law on the Protection of Classified Information." This made the work of the archival committee in charge of the secret service files impossible. As discussed earlier, the committee, which had already faced much resistance, could no longer disclose the information found in the files, as the new law defined any such disclosure as an illegal breach of national security.⁴²

The introduction and success of this bill was akin to the BSP's tendency to undermine the SDS's achievements upon regaining power, or indeed the eagerness of the blue party to revoke the measures of the red government it was succeeding. Interestingly, the NDSV leadership justified its counter law by pointing at impending EU and NATO membership. With no less than thirteen references to NATO, the motivation section of the draft bill extensively discussed why this law was required for NATO membership.⁴³ Simeon

³⁹ Ragaru, "Les dossiers de la Sûreté d'État bulgare," 208.

⁴⁰ For example, the aforementioned history textbook revisions implemented under the NDSV-led coalition were already ordered under the SDS government. Baeva and Kabakchieva, "How Is Communism Remembered in Bulgaria?," 76. The publication of several documents claiming to provide the "truth" about the revival process was initiated by the DPS alone. Kalinova, "Remembering the 'Revival Process,'" 584.

⁴¹ Assen Agov in Open Society Foundation Sofia and Tsentür za pluralizüm Bŭlgariya, "International Round Table Discussion 'Pace Resolution 1096 and the Problems of Its Enforcement in Some Countries of the Former Socialist Camp,'" April 27–28, 2002, www.juen.bg/klasific_informacia/mkm-eng.htm; Simeon Sakskoburggotski, "Zakonoproekt za zashtita na klasifitsiranata informatsiya," October 16, 2001, 60–64, <http://parliament.bg/bg/bills/ID/10205/>; Dürzhaven Vestnik, "Broj 45, vtornik, 30 april 2002 g., Sofia," April 30, 2002, 14–39.

⁴² See Assen Agov in Open Society Foundation Sofia & Tsentür za pluralizüm Bŭlgariya, "International Round Table Discussion"; Kovatchev, *Proceedings from the Conference 'The Endured European Dream of Bulgaria'*, 31.

⁴³ Sakskoburggotski, "Zakonoproekt za zashtita na klasifitsiranata informatsiya," 60–64.

also mentioned the law's compliance with EU regulations five times, explaining how the laws of other EU member states were used as models to draft the bill, and highlighted how this law would be an important step towards membership.⁴⁴ Apparently, the NDSV considered the existing acts from NATO and the EU as models for their own legal framework.

As an illustration of how seriously the law was taken by the NDSV and its supporters, parliament consistently hindered attempts from pro-confrontation parties that in any way attempted to amend it. Kostov, was amongst several members of parliament who issued draft bills to try and open the secret service files. Like other proponents, he argued that archival disclosure was recommended by the CoE resolution from 1996, which condemned socialist regimes. In a striking similarity with the NDSV rhetoric discussed above, Kostov also connected archival disclosure to alleged demands from Brussels. Just as Simeon had posited that his law would advance EU integration, so Kostov held that his proposed amendment would help to realise an “unproblematic” accession to the EU.⁴⁵ Whilst these references were by no means insignificant, they need to be placed in context: despite the increasing salience of the EU accession prospect in 2004, references to NATO appeared at least as frequently.⁴⁶ Kostov's draft bill did not mention NATO, only the EU, whilst an earlier attempt from other parliamentarians to amend Simeon's bill had, in its turn, sidestepped EU accession and only mentioned the proposed amendment's positive effect on Bulgaria's NATO membership.⁴⁷

Thus, in direct attempts to seek international co-operation to confront the past, EU member states and the EU were assigned more authority than NATO. Shortly after Simeon's counter law in 2002, the Open Society Foundation organised an international roundtable in Sofia together with Bulgarian pro-confrontation parties, journalists, and civil society. Representatives from all Central and Eastern European former socialist countries were invited, although not all eventually made it to the conference. From the minutes it becomes clear that many of the Bulgarian and foreign representatives were very worried about the recent setback in the process of full archival disclosure. Testifying to the appreciation that many Bulgarian representatives cherished for the work done in the other former socialist countries, they asked concrete questions to the foreign representatives about experiences abroad.⁴⁸

⁴⁴ Sakskoburggotski, “Zakonoproekt za zashtita na klasifitsiranata informatsiya,” 60, 64.

⁴⁵ Ivan Kostov, “Zakonoproekt za izmenenie i dopulnenie na zakona za zashtita na klasifitsiranata informatsiya,” October 21, 2004, <http://parliament.bg/bg/bills/ID/11097/>.

⁴⁶ Donka Bonteva, *Istoriya na SDS. 07.12.1989-07.12.2009. Dati, sŭbitiya, lichnosti*, Sofia: SDS, 2012, 136.

⁴⁷ Jordan Bakalov, Ivo Tsanev and Nikolaj Chukanov, “Zakonoproekt za izmenenie i dupulnenie na Zakona za zashtita na klasifitsiranata informatsiya,” June 14, 2002, <http://parliament.bg/bg/bills/ID/10400/>.

⁴⁸ Open Society Foundation Sofia & Tsentŭr za pluralizŭm Bŭlgariya, “International Round Table Discussion.”

For instance, the Bulgarian participant Todorin Pakerov—a lawyer and legal advisor on the archival committee led by Andreev—gave a “comparative analysis of the legal basis on which the issue of the access to the archives of the former secret services of the former socialist countries in Central and Eastern Europe has been solved.”⁴⁹ He concluded his speech with an overview of the Bulgarian situation, after which he called on the “respected foreign guests” to “share there [sic] experiences.”⁵⁰ A question by Hristo Tsvetkov, a colleague of Pakerov,⁵¹ illustrates how he evaluated archival disclosure in terms of EU accession. He asked a German representative to comment on the idea—allegedly held by “prominent journalists and experts”—that “unless an international institution for opening the secret services archives is established, there will be no success or real integration, or real fight against corruption in Europe and the European Union.”⁵²

Proponents of archival disclosure thus sought to strengthen their case within, as well as outside, parliament. However, with the sitting coalition, even their appeals regarding the EU membership prospect stood little chance. Although Kostov’s draft amendment was not adopted, it still performed better than earlier attempts for archival disclosure that the NDSV-dominated parliament had voted down even before they could be debated in the assembly—let alone voted on.⁵³ The reasons behind the NDSV’s insistence on blocking archival disclosure are not obvious. Civil society leaders Hristo Hristov and Aleksander Kashumov even called the 2002 counter law “a surprise.”⁵⁴ Anti-socialism was, after all, at the core of party leader and Prime Minister Simeon’s rhetorics. As the historian and critic Vesselin Angelov observed shortly after the adoption of the law, the “Prime Minister, one of the victims of the socialist regime, unfortunately does not want to know the truth about his family, even the truth about his own personal history.”⁵⁵

The bigger picture surrounding the law indeed remained ambiguous regarding the NDSV’s motivation to draft the law. Individual party members supported the archives counter law, but were also critical. Todor Peykov, one of the few NDSV representatives with an established political career, announced just weeks after adoption of the law on classification that he was working on a new bill aimed at gaining access to the state security

⁴⁹ Todorin Pakerov in Open Society Foundation Sofia & Tsentür za pluralizüm Bŭlgariya, “International Round Table Discussion.”

⁵⁰ Todorin Pakerov in Open Society Foundation Sofia & Tsentür za pluralizüm Bŭlgariya, “International Round Table Discussion.”

⁵¹ As explained in the previous section, the NDSV’s counter law on classified information made the work of the committee impossible.

⁵² Hristo Tsvetkov in Open Society Foundation Sofia & Tsentür za pluralizüm Bŭlgariya, “International Round Table Discussion.”

⁵³ Several parliamentary meeting proceedings derived from parliament.bg in the period October 2004 until September 21, 2005.

⁵⁴ Hristov and Kashumov, “Justice and Accountability Mechanisms,” 290.

⁵⁵ Vesselin Angelov in Open Society Foundation Sofia & Tsentür za pluralizüm Bŭlgariya, “International Round Table Discussion,” n.p.

archives. Recalling how he had tried multiple times to start a lustration process in the early 1990s, he expressed his frustration with the ruling coalitions in that decade whilst praising the NDSV's coalition for "eliminating" several state security agents from powerful positions.⁵⁶ In the same year, several representatives from the NDSV even joined the SDS in an appeal to the constitutional court to reopen the archives and amend the law that the NDSV had itself proposed, illustrating just how divided the party was on the issue.

Developments in other areas of dealing with the past further attest to the NDSV's ambiguous stance. Two amendments on the Law for the Political and Civil Rehabilitation of Repressed Persons were proposed by a NDSV representative; one in 2002, the other in 2003. The initiator of the amendments, Miroslav Sevlievski, on one occasion with the support of the DPS's Ahmed Yusein and the SDS's Mario Tagarinski, proposed, not only to expand the number of victims' family members who were eligible for compensation, but also to strengthen the position of retired, formerly repressed persons.⁵⁷ In line with my earlier warning that the centrality of the EU argument until 2006 should not to be overstated, Sevlievski's proposed amendments did not refer to the EU membership prospect. Concluding, it seems safe to say that the NDSV was not alone in its opposition to interventions that might confront the past.

In order to understand why the NDSV nevertheless insisted on blocking archival disclosure, it is important to remember that it is a highly specific form of confrontation with the past. As we have seen in chapter 1, archival disclosure and the lustration that often results do not only raise questions about the rule of law and human rights, but may also endanger individuals on account of the information that may surface. Whilst Simeon had a "clean sheet," many of his fellow party members had been very much present during socialist times and had in fact held controversial positions. Most pressingly, several members of the party's coalition partner—the DPS—had, as would be revealed later on, files in the state security archives as informants. Simeon's colleagues and allies feared they would be compromised—as would many other members of parliament—by the information in the files.

The most plausible analysis is simply that Simeon had more important issues to focus on than dealing with the past, whilst archival disclosure additionally presented a political liability. As a way forward, restitution and compensation—regulated via the law on rehabilitation mentioned above—provided a completely safe mechanism via which to

⁵⁶ Todor Peykov in Open Society Foundation Sofia & Tsentr za pluralizъм Bŭlgariya, "International Round Table Discussion."

⁵⁷ Baeva and Kalinova, *Sotsializmŭt v ogleдалoto na prehoda*, 144; Miroslav Sevlievski, "Zakonoproekt za izmenie na dopŭlnenie na Zakona za politicheska i grazhdanska reabilitatsiya na represirani litsa," July 31, 2002, 1–2, <http://parliament.bg/bg/bills/ID/10443/>; Ahmed Yusein, Mario Tagarinski and Miroslav Sevlievski, "Zakon za izmenenie i dopŭlnenie na zakona za politicheska i grazhdanska reabilitatsiya na represirani litsa," July 3, 2003, <http://parliament.bg/bg/bills/ID/10689/>.

address past injustices. In line with Simeon's anti-socialist position, restitution and compensation were, moreover, likely to benefit the members and partners of the NDSV, as those Bulgarian individuals and institutions related to the monarchy could claim many material losses incurred by socialist nationalisation policies. This pragmatic, perhaps opportunistic approach to dealing with the past (and politics in general), allowed the party to tailor its strategies towards both the wishes of the electorate and its political partners. When the prospect of EU membership gained greater traction and was thus more successfully instrumentalised by the pro-confrontation side, the NDSV changed course accordingly—to which I turn my attention now.

4.3.2 *Condemning the socialist regime*

The prospect of EU membership reached new heights during the debate on the declaration that condemned the socialist regime.⁵⁸ In September 2004, the month in which many Bulgarian socialists hoped to celebrate the sixtieth anniversary of the beginning of the socialist rule on September 9, 1944, the SDS and DSB issued separate yet similar draft declarations.⁵⁹ A combination of the two was adopted on September 9, 2004. Both acts, and thus also the eventually adopted declaration, depicted the socialist regime as committing “terror,” corrupted by a “foreign force”—the Soviet Union.⁶⁰ In terms of its aims and content, the declaration resembled the 2000 law that had declared the socialist regime criminal. Both acts spoke of socialism's destruction of the “values of European civilisation.”⁶¹ Opponents of the declaration were well aware of this and eagerly pointed towards their overlap in order to label the new declaration as politicised and trivial. However, the SDS and DSB claimed that domestic factors combined with impending EU membership called for another statement to condemn the socialist regime.

Starting with domestic factors, the declaration's proponents pointed at the growing nostalgia for socialism. Now that a new generation had grown up—one that had not actually experienced socialist realities, but instead longed for the alleged stability and security it had offered—they believed that it became once more important to condemn the socialist regime even though it was only four years since the 2000 law that had declared the socialist regime criminal. In the words Ekaterina Mihajlova of the DBS, Bulgaria had to take a strong stance against “all attempts to the rehabilitation of [the socialist regime's]

⁵⁸ Dürzhaven Vestnik, “Broj 81, petük, 17 septemvri 2004 g., Sofia,” September 17, 2004, <http://dv.parliament.bg/DVWeb/broeveList.faces>, 10. Full title: Declaration of the National Parliament at the Occasion of the 60-Years Anniversary of the Establishment of the Communist Regime in Bulgaria.

⁵⁹ Narodnoto Sabranie, “Trista devetdeset i peto zasiedanie, Sofia, sryada, 8 septemvri 2004 g.,” September 8, 2004, <http://parliament.bg/bg/plenaryst/ns/1/ID/999>.

⁶⁰ Dürzhaven Vestnik, “Broj 81,” 10.

⁶¹ Dürzhaven Vestnik, “Broj 81,” 10.

symbols and falsifications of the socialist past.”⁶² This observation was not without basis: in 2004, the BSP had organised a large celebration of Zhivkov’s birthday on the Day of Bulgaria’s Unification.⁶³ In the same year, the BSP hosted a concert in the NDK, one of Sofia’s main landmark buildings from the socialist era, to celebrate the sixtieth anniversary of the socialist uprising and coup d’état (also known as the ‘people’s uprising’), whilst party leader Sergei Stanishev had personally signed tens of thousands of greeting telegrams for the occasion.⁶⁴

Linking these domestic developments to the prospect of EU membership, the SDS and DSB used the normative status of the EU as a Union of human rights, democracy, and rule of law. This made nostalgia for the socialist past appear incompatible with the European future. In the DSB proposal, the lagging Bulgarian process of overcoming the past was contrasted with Bulgaria’s status as an EU candidate member state, on the “threshold” of accession.⁶⁵ Later in the debate, Mihajlova called on her colleagues to vote in favour of the declaration to “support the European future of Bulgaria.”⁶⁶ The DPS, departing from its own specific interests, also jumped on this pro-EU and anti-socialist bandwagon during the debate on the declaration to condemn the socialist regime; for example, Ahmed Yusein referred to his party’s attempts to seek recognition for the revival process at European forums. Thus, both underscoring his party’s pro-European stance as well as again demanding attention for the revival process, he positioned his party in favour of condemnation of the socialist regime.⁶⁷ However, it was not the DPS’s support for the declaration that was most surprising. The positive votes of the NDSV, the largest party in parliament holding half the seats, was pivotal to the success of the proposal. The declaration was adopted on September 9, 2004 by more than three quarters of the MPs present—only the BSP voted against.⁶⁸

The EU membership prospect is not a sufficient factor to explain the declaration’s success, but there are several reasons why we might conclude that it quite possibly influenced party constellations vis-à-vis the declaration. First, Bulgaria had been excluded from the 2004 enlargement round. The uncertainty and realisation that EU membership was not guaranteed added urgency and authoritative value to the EU membership prospect argument. Second, as chapter 3 has shown, the main parties had all associated themselves with groups in the EP, eager to show their commitment to the EU perspective. Third, the

⁶² Ekaterina Mihajlova in Narodnoto Sabranie, “Trista devetdeset i shesto zasedanie, Sofia, chetvürtük, 9 septemvri 2004 g,” September 9, 2004, <http://parliament.bg/bg/plenaryst/ns/1/ID/106>.

⁶³ Vukov, “Remembrance of Communism,” 562, footnote 37.

⁶⁴ Vukov, “Remembrance of Communism,” 562, footnote 37, 563.

⁶⁵ Ekaterina Mihajlova in Narodnoto Sabranie, “Trista devetdeset i shesto zasedanie 9 septemvri 2004.”

⁶⁶ Ekaterina Mihajlova in Narodnoto Sabranie, “Trista devetdeset i shesto zasedanie 9 septemvri 2004.”

⁶⁷ Narodnoto Sabranie, “Trista devetdeset i shesto zasedanie 9 septemvri 2004.”

⁶⁸ Baeva and Kalinova, *Sotsializmüt v ogledaloto na prehoda*, 94, 143.

domestic environment allowed for the formation of new coalitions regarding the past. The rise of populism had ended the primacy of the left-right division, thus making dealing with the past initially a less salient issue. Yet, in the longer term, this reshuffling of parliamentary structures and the redefinition of the party-political identities opened up the space for new coalitions to form around those questions, whereas beforehand these debates had simply ended in stalemate between the SDS and BSP. The above-presented argument put forward by the DSB and SDS promised to bring tangible benefits in the form of progressing EU accession, and this exerted a particular appeal to a party such as the NDSV, which was proud on its progress towards EU integration.

As discussed, only two years earlier, the NDSV had sided with the anti-confrontation camp by terminating archival disclosure. It has used the prospect of EU membership, amongst other arguments, to justify this action. However, the 2004 declaration proved that the party was not trapped in this anti-confrontation attitude. The combination of the party's strong condemnation of socialism, allied with its claim to focus on the future, allowed the NDSV to adopt whichever side in the debate on confrontation with the past it chose, according to its preference at the time. EU accession served as one of its main programmatic points, whilst the issue of confrontation with the past was not central to its identity. The pro-confrontation side's persuasive use of the EU membership prospect thus nudged the NDSV to join their ranks, although lingering internal disagreements still testified to the party's ambiguity towards dealing with the past. An individual NDSV representative, Kamen Vlahov, expressed an anti-confrontational standpoint during the debate,⁶⁹ although this move did not receive any follow-up and the party overall voted in favour. When Nadezhda Mihajlova's referred to Europe—albeit not specifically to EU membership—NDSV MPs applauded.⁷⁰ NDSV representative Yavor Milushev contrasted the alleged socialists' nostalgia to the prospect that “in three years, we will be in Europe.”⁷¹ Instead of looking back, as the BSP did, Bulgaria would have to seek new landmark events to celebrate—and EU integration would offer them. Predicting that in a few years Bulgarian society would proudly celebrate January 1, 2007, Milushev clearly referred to the expected date of EU accession and even suggested it as a new Bulgarian holiday.⁷²

The central point of the EU argument in the final text was clear. Whilst the 2000 law had kept to just one reference to Europe, by 2004, the prospect of EU membership had found its way into the official text several times: Bulgarian socialism had destroyed human

⁶⁹ Kamen Vlahov in Narodnoto Sabranie, “Trista devetdeset i shesto zasedanie 9 septemvri 2004.”

⁷⁰ Narodnoto Sabranie, “Trista devetdeset i shesto zasedanie 9 septemvri 2004.”

⁷¹ Yavor Milushev in Narodnoto Sabranie, “Trista devetdeset i shesto zasedanie 9 septemvri 2004.”

⁷² Yavor Milushev in Narodnoto Sabranie, “Trista devetdeset i shesto zasedanie 9 septemvri 2004.”

rights and constitutionalism, the basis for constructing “a United Europe”; it had interrupted “our European path,” whilst Bulgaria now found itself on the “threshold of the European Union.”⁷³ The declaration even claimed that “[i]n Europe, a long time ago, democrats from the Right as well as the Left condemned communism as a form of totalitarianism.”⁷⁴ Thus, the debates on the past and the prospect of EU membership had undeniably become entangled.

4.3.3 The effectiveness of the EU membership prospect: A mixed record

In the years that followed, as EU membership came closer, references to the EU became even more frequent. Amendments to the aforementioned Law on the Political and Civic Rehabilitation of Repressed Persons (known as the rehabilitation law) again offer insightful illustrations of this development. As with the proposals by NDSV and DPS representatives in 2002 and 2003, MPs tried to widen the definition (and hence increase the numbers) of victims of socialism considered eligible for compensation. The SDS's Georgi Pinchev added urgency to his support for the bill by pointing out that Bulgaria would soon be an EU member.⁷⁵

However, the EU was still not a standard component of all political arguments. In the debate on the rehabilitation law, Pinchev was the only MP to refer directly to the EU.⁷⁶ Moreover, the motivation section of the original amendment proposed by Ahmed Yusein and Metin Syulejmanov of the DPS did not refer to the upcoming EU membership, nor did their party's previous draft amendments.⁷⁷ The DPS, normally not shy about appealing to European institutions, did apparently not consider this a useful addition. This illustrates, again, the need not to exaggerate the importance of the EU argument: politicians were not always factual in their references to alleged EU interest in dealing with the past, but they carefully chose their moments. This in itself also reflects the ambiguous EU attitude towards the past, of which political parties seemed aware.

Neither was the use of the EU-argument a guaranteed recipe for success. Following a long history of failed attempts,⁷⁸ in 2006 Petar Stoyanov of the SDS once again proposed an Institute of National Memory of the Crimes against the Bulgarian Nation.⁷⁹ As his

⁷³ Dŭzhaven Vestnik, “Broj 81,” 10.

⁷⁴ Dŭzhaven Vestnik, “Broj 81,” 10.

⁷⁵ Georgi Pinchev in Narodno Sabranie, “Sto shestdeset i sedmo zasedanie, Sofia, chetvŭrtŭk, 21 septemvri 2006 g.,” September 21, 2006, <https://www.parliament.bg/bg/plenaryst/ns/2/ID/199>.

⁷⁶ Narodno Sabranie, “Sto shestdeset i sedmo zasedanie 21 septemvri 2006.”

⁷⁷ Ahmed Yusein and Syulejmanov, “Zakonoproekt za izmenenie i dopŭlnenie na zakon za politicheska i grazhdanska reabilitatsiya na represirani litsa,” May 17, 2005, <http://parliament.bg/bg/bills/ID/8566/>.

⁷⁸ Kazalarska, *Muzeyat na Komunizma*, 263, footnote 106.

⁷⁹ Petar Stoyanov, “Zokonoproekt za Instituta za Natsionalna pamet za prestŭplenyata sreshtu bŭlgarskiya narod,” April 7, 2006, <http://parliament.bg/bg/bills/ID/8686>.

colleagues in 2002 had already suggested to take the Polish Institute of National Remembrance as a model, Stoyanov defended his draft law by referring to the Polish and Hungarian experiences. If Bulgaria were to follow these examples, he suggested, the country would “enter Europe in a more honourable and less blemished way.”⁸⁰ Despite the use of the prospect of EU membership to try and further its cause, a combination of resistance from the BSP coupled with the disinterest of the other parties means that, in Bulgaria, to this day, such an institute still does not exist.

Only seven months after Stoyanov’s failed proposal, the pro-confrontation side achieved definitive success when the law for archival disclosure was adopted.⁸¹ In this case, I argue, the EU membership prospect played a decisive role. The law is of extraordinary relevance to this research for a number of reasons. First, the timing of the law, adopted three weeks before EU accession, assured that EU membership had never been more relevant to the strategies of Bulgarian MPs regarding the past. Second, it resulted from a long domestic debate that allows me to sketch changing party constellations with regard to confronting the past. Third, the nature of archival disclosure goes to the very core of the debate on dealing with the past: it raises issues such as the desirability to disclose, rather than to hide; the necessity to engage with the past, rather than to sidestep it; and the applicability of individual responsibility, rather than the de-personalisation of a former abstract regime.

4.4 Case in case study: The 2006 archives law on the eve of EU accession⁸²

In December 2006, Bulgaria did what all other countries in the region of Central and Eastern Europe (CEE) had done (long) before: it adopted a law that disclosed the archives of the former socialist *Dŭrzhavna Sigurnost* (DS); the Bulgarian secret service.⁸³ This institution, often compared to the East-German Stasi and the Soviet KGB, had formed an extensive network in totalitarian socialist Bulgaria.⁸⁴ Although this case study will analyse

⁸⁰ Petar Stoyanov in Narodното Sabranie, “Sto dvadeset i vtoro zasedanie. Sofia, chetvŭrtŭk, 1 yuni 2006 g.,” June 1, 2006, <http://www.parliament.bg/bg/plenaryst/ns/2/ID/147>.

⁸¹ Dŭrzhaven Vestnik, “Broj 102, vtornik, 19 dekemvri 2006 g., Sofia,” December 19, 2006, <http://dv.parliament.bg/DVWeb/broveList.faces>.

⁸² Parts of this sub-chapter have previously been, in a significantly modified version, published in Niké Wentholt, “Open Archives to Close the Past: Bulgarian Archival Disclosure on the Road to European Union Accession,” in *State-Sponsored History*, ed. Nico Wouters and Berber Bevernage (London: Palgrave Macmillan, 2018), 161–175.

⁸³ Simeon Djankov, “Bulgaria: The Greatest Vacillations,” in *The Great Rebirth: Lessons from the Victory of Capitalism over Communism*, eds. Anders Aslund and Simeon Djankov (Washington: Peterson Institute for International Economics, 2014), 8; Elza Ibrosheva, “Spies Like Us: Media, Politics and the Communist Past in Bulgaria,” *Central European Journal of Communication* 1, no. 8 (2012): 23; Narodното Sabranie, *Zakon za dostŭp i razkrivane na dokumentite i za obyavyavane na prinadlezhnost na Bulgarski grazhdani kum dŭrzhavna sigurnost i pazuznavatelните sluzhbi na Bulgarskata narodna armiya*, October 13, 2015, <http://www.lex.bg/bg/laws/ldoc/2135540283>.

⁸⁴ Hristo Hristov, “Kato pŭrvo nyama vtoro,” November 21, 2006, http://www.capital.bg/blogove/dosieta/zakonut/2010/07/23/937043_kakvo_triabva_da_znaem_zakona_zakon_dosieta.

the limitations of the law and its ambiguous political significance, it is understandable that the law has been described as a “breakthrough” unparalleled in Bulgarian history.⁸⁵ Not only did the 2006 law bring all the DS files together in one location; it also established an archival committee charged with an extensive mandate, namely, COMDOS. The tasks of this “independent state body” include the disclosure and preservation of the archive files and the dissemination of findings from its own research.⁸⁶ In addition to providing access to researchers and journalists, the committee publishes reports on DS collaborators in those public positions listed in the law’s controversial third article, which was (and remains) subject to much debate and revision.⁸⁷

COMDOS explicitly distances itself from lustration, or the forceful purification of society. However, in the words of the committee itself, its publications contribute to a “moral” lustration in which the targeted individual, or the institution hiring that individual, may determine the consequences of the proven affiliation with the DS.⁸⁸ Academic literature confirms that the work of the committee has “mere moral effect.”⁸⁹ However, political parties can, and indeed appear to, consult the committee and the disclosed files in order to vet their candidates, thus allowing for “a kind of voluntary lustration.”⁹⁰

Remarkably, it was the anti-disclosure side that dominated parliament in the years leading up to the archives law. In the parliamentary elections of 2005, the BSP turned out to be the largest party with 31 per cent of the votes. Its party leader, Sergei Stanishev, became prime minister with socialist President Georgi Parvanov already in power. The BSP had formed a coalition with Simeon’s party, and were uninterested in—if not dismissive of—archival disclosure and the DPS, which focused on the socialist crimes committed against Turkish Bulgarians rather than any confrontation with the past as a whole. The SDS and the DSB together received a mere 14 per cent of the votes. During 2005 and 2006, bills and law proposals by the pro-disclosure side were voted down or otherwise hindered. It does not take much imagination to connect this observation to recent knowledge disseminated by COMDOS, namely, that many of these anti-disclosure parties’ members and leaders could be found (and indeed were found) in the DS files. With the stakes so

⁸⁵ Ibroscheva, “Spies Like Us,” 17.

⁸⁶ Hristo Hristov, “Kakvo tryabva da znaem za zakona za dosietata,” July 23, 2010, http://www.capital.bg/blogove/dosietata/zakonut/2010/07/23/937043_kakvo_triabva_da_znaem_zakona_zak_dosietata/; “Zakon za dostup i razkrivane na dokumentite,” 2015.

⁸⁷ COMDOS, interview with author, June 20, 2016; “Zakon za dostup i razkrivane na dokumentite,” 2010.

⁸⁸ COMDOS, interview; Schiller-Dickhut and Rosenthal, “The European Network of Official Authorities in Charge of the Secret-Police Files,” 6.

⁸⁹ Hristov and Kashumov, “Justice and Accountability Mechanisms,” 286.

⁹⁰ Hristov and Kashumov, “Justice and Accountability Mechanisms,” 286.

high, these parties' eventual (if partial) support for the law is all the more reason for surprise.

The prospect of EU membership was of particular significance in the archival debate and, as we have seen, the debate on archival closure had come to the fore a couple of times in the Bulgarian parliament until being revived in 2006 when EU accession came within reach. The law was eventually adopted mere weeks before Bulgaria entered the EU on January 1, 2007. On August 29, 2006, an SDS MP declared that the Bulgarians had to thank "the demands of the European Union" for having the ruling coalition "at last" seriously discussing archival disclosure.⁹¹ Academic literature also seems to suggest a direct link between EU accession and the adoption of the law. Whilst Hristo Hristov and Aleksander Kashumov abstractly describe a "growing pressure by EU institutions and officials . . . aiming to change the situation in Bulgaria,"⁹² Iskra Baeva and Simeon Djankov, as pointed out in chapter 1, both call the archives law an "absolute accession condition."⁹³ This case in case study will explore to which extent these statements are correct.

4.4.1 *The EU membership prospect: Individuals and accession momentum*

Despite the EU's general negligence of dealing with the past, some groups and individuals within the EU took a pro-active stance on the archival issue. Here it is important to remember the resolution adopted by the EPP—the largest political group in the European Parliament (EP)—which had "invited" member and candidate member states alike to disclose formerly classified socialist files.⁹⁴ Yet, as we now know, this political initiative did not enjoy EU-wide adoption. It was in fact an MEP for the Greens/European Free Alliance (Greens) group, Els de Groen, who actively took up the Bulgarian archival "issue" in the pre-accession years. As somewhat of an atypical parliamentarian, having a background as a children's book author and journalist, during her time in the EP, De Groen adopted Romani issues and archival disclosure in Bulgaria as her core political interests.

Besides consistently (if unsuccessfully) raising the issue in questions addressed to the European Commission and Council and in EP debates and draft resolutions,⁹⁵ De

⁹¹ Hristo Krichiev in Narodnoto Sabranie, "Petnadeseto izvanredno zasедanie, Sofia, vtornik, 29 avgust 2006 g," August 29, 2006, <http://parliament.bg/bg/plenaryst/ns/2/ID/191>.

⁹² Hristov and Kashumov, "Justice and Accountability Mechanisms," 292.

⁹³ Iskra Baeva, "How Post-1989 Bulgarian Society Perceives the Role of the State Security Service," in *Remembering Communism: Private and Public Recollections of Lived Experience in Southeast Europe*, eds. Stefan Troebst, Mariia Nikolaeva Todorova and Augusta Dimou (Budapest: Central European University Press, 2014), 367–384; Djankov, "Bulgaria: The Greatest Vacillations," 146.

⁹⁴ European People's Party, *XVIth EPP Congress: Resolution Condemning Totalitarian Communism*, Resolution, Brussels: European People's Party, 2004.

⁹⁵ European Parliament, *Debates: Progress Report on the Accession of Bulgaria and Romania*, Debate, Strasbourg: European Parliament, 2006; European Parliament, *Motion for a Resolution to Wind up the Debate on Statements by the Council and Commission*, by Daniel Marc Cohn-Bendit, Joost Lagendijk, Milan Horacek and Elly de Groen-Kouwenhoven on behalf of the Verts/ALE Group, Session Document, Strasbourg: European Parliament, 2006.

Groen visited Bulgaria on several occasions. In May 2006, she organised a conference in Sofia, bringing together archives law experts from the CEE region. She received support from some of her fellow EP group members and enjoyed the help of her Bulgarian assistant and civil society activist Vasil Kadrinov, but had no official EU mandate. During a meeting with the Minister of the Interior and BSP representative, Rumen Petkov, she showed him a decision by the Bulgarian court that supported journalist Hristo Hristov's plea for access to the archives of the iconic dissident Georgi Markov, who was murdered in London in 1978. She then told him that swift disclosure of all files would send a "favourable signal to Brussels."⁹⁶ Opening an international conference she co-organised shortly afterwards, bringing experts from the region together to inspire the Bulgarian archives law and decision-makers, she thanked the attendees on behalf of the Green Party in the EP.⁹⁷

It is difficult to determine whether Petkov genuinely supported the law,⁹⁸ or simply wanted to use the law to bring down a personal rival⁹⁹—or both. However, when societal pressure increased and the pro-confrontation side succeeded in coining the issue an EU requirement, Petkov and some of his BSP colleagues slowly rallied behind the law.¹⁰⁰ The NDSV also shifted its position in favour of the law now that archival disclosure was framed as an EU accession issue, which was, after all, the party's main goal. Journalists and other pro-disclosure individuals outside politics strengthened their efforts and started the "Clean Voices" initiative to express support for archival disclosure—a move echoed by several newspapers. Ahmed Yusein, MP for the DPS, which had also now clearly chosen the pro-disclosure side despite the party leader's later confirmed affiliation with the DS, stated that he felt supported by "society and the media debate on the issue."¹⁰¹

The pro-disclosure side, which was thus already gaining strength, then received formal support from the EP in the last months of 2006. The EP enlargement rapporteur for Bulgaria, Geoffrey van Orden, also from the EPP, had for quite some years explicitly urged the Bulgarian authorities to allow research into the murder of the aforementioned

⁹⁶ Els de Groen, *Een moeras vol krokodillen* (Breda: Stichting Uitgeverij Papieren Tijger, 2009). See also Els de Groen, interview with author, April 23, 201.

⁹⁷ Groen, *Een moeras vol krokodillen*, 84. De Groen suggested the possibility that during this process, Petkov came to realise that archival disclosure would be best for the Bulgarian people. Groen, interview. As far as currently known, a file on him does not exist.

⁹⁸ Groen, interview.

⁹⁹ Hristov, "Kakvo tryabva da znaem za zakona za dosietata"; Ibrosheva, "Spies Like Us," 17–18.

¹⁰⁰ Narodnoto Sabranie, "Petnadeseto izvanredno zasiedanie 29 avgust 2006." Although not directly connected to the secret service archives, Rumen Petkov became subject of a corruption scandal two years later. As Minister of the Interior, he had hired two officials who were later charged with links to the mafia. After his forced resignation, he was appointed by Prime Minister Stanishev as the BSP's member of a commission tasked with the investigation of corruption and organised crime in governance. Unsurprisingly, the commission did not investigate Petkov. Cosmina Tanasoiu, "Europeanization Post-Accession: Rule Adoption and National Political Elites in Romania and Bulgaria," *Southeast European and Black Sea Studies* 12, no. 1 (2012): 185.

¹⁰¹ Ahmed Yusein in Narodnoto Sabranie, "Petnadeseto izvanredno zasiedanie 29 avgust 2006."

Georgi Markov, whose files were part of the DS archives.¹⁰² Yet not until November 2006, in his final report on Bulgaria's accession, did Van Orden include an official reference to the archives law. In one of the clauses he "welcomed" Bulgaria's perceived willingness to disclose the secret service archives and praised the upcoming law as a "measure that will help build public confidence and demonstrate a clear break with the past."¹⁰³ The EP adopted the resolution on November 30, 2006. This did not go unnoticed in the Bulgarian domestic debate, and the pro-disclosure camp referred to it directly in order to further its agenda.¹⁰⁴ A couple of days later, the SDS representative Eliana Maseva told the assembly that "the monitoring reports and statements by Geoffrey van Orden" called for archival disclosure and related this to more abstract references to European democratic rules.¹⁰⁵ The argument that archival disclosure had now allegedly become a condition for entrance into the EU meant that, even for those who formerly supported anti-disclosure, opening the files became the only viable political option. The Bulgarian parliament adopted the law on December 6, 2006.¹⁰⁶

4.4.2 *After EU membership: Continuing the debate*

Following EU accession, the law remained heavily contested in the Bulgarian political arena. Through the mechanism of "post-accession conditionalities," most notably admission to the Schengen zone, the EU had a tool, even after January 1, 2007, via which to enforce the implementation of agreed promises. Nevertheless, as we have seen in chapter 1, and despite Van Orden's explicit engagement, the EC and Council declared themselves uninterested and unequipped to deal with archival disclosure. This stance—albeit only partially—changed after Bulgaria's accession. This was a significant factor in explaining what did (and did not) happen after the law's adoption.

In the absence of any direct EU interest in its work, COMDOS was hindered by a lack of political will.¹⁰⁷ The BSP continued to impede the law's implementation, especially because many of its high-ranking party members had worked as DS agents. Firstly, the party tried to delay the process of setting up the archival committee, using the law's

¹⁰² European People's Party, *Press Release: Bulgaria Clears Last Hurdle Before Accession*, Retrieved from EU Historical Archives, Florence. D.1.2006.11-0090., Press Release, European People's Party, 2006.

¹⁰³ European Parliament, *European Parliament Resolution on the Accession of Bulgaria to the European Union*, P6_TA(2006)0511, OJ C 316E, 2006, 117–121. See also Vasil Kadrinov, interview with author, April 17, 2015; Vasil Kadrinov, interview with author, May 28, 2016.

¹⁰⁴ Narodnoto Sabranie, "Sto Devetdeset i shesto zasedanie, Sofia, sryada, 6 dekemvri 2006 g," December 6, 2006, <http://www.parliament.bg/bg/plenaryst/ns/2/ID/234>.

¹⁰⁵ Eliana Maseva in Narodnoto Sabranie, "Sto Devetdeset i shesto zasedanie 6 dekemvri 2006."

¹⁰⁶ Narodnoto Sabranie, "Sto Devetdeset i shesto zasedanie 6 dekemvri 2006."

¹⁰⁷ Dobre, "Sledite ot Komunizma," 146.

provision that national parliament elects the committee's members.¹⁰⁸ Another strategy concerned the lack of resources allocated to the committee in order to preserve and disclose the archives. For example, the parliament only provided a building for the new centralised archive four years after the law's adoption.¹⁰⁹ In the 2010s, the BSP repeatedly yet unsuccessfully tried to close down the archival committee. Using the same arguments of protecting national security and focusing on the future instead of the past, it continues to block the disclosure of former military intelligence files and generally limits the law's reach.¹¹⁰ These actions by the anti-disclosure side have had severe impact on the work of the archival committee.

The archival committee, however, continues to exist and has become more autonomous in the domestic sphere, whilst also increasing its co-operation with partners across Europe.¹¹¹ COMDOS participates in the European Network of Official Authorities in Charge of Secret Police Files; a German initiative that unites similar organisations across the Eastern part of the continent.¹¹² Here, the partial shift in EU engagement with the socialist past is highly relevant. When the EP adopted the resolution to condemn totalitarian regimes in 2009, as elaborately discussed in chapters 1 and 2, it established the Platform for European Memory and Conscience (Platform).¹¹³ This Platform monitors the work of COMDOS and actively supports its work. Now that COMDOS is working towards digitising its files in order to improve access, the committee welcomes support from the Platform and its regional partners—not least as the committee still has to work with limited staff and scarce resources.¹¹⁴ In an interview I conducted with the COMDOS secretary in 2016, he pointed out the great discrepancy in resources between the thousands of staff working for the Polish Institute for National Remembrance, whilst meaningfully gesturing to the small office in which we were seated.¹¹⁵ More worrying than this lack of resources are the Platform's accusations that some COMDOS members, including the socialist chair, are themselves DS-affiliated.¹¹⁶ However, in the aforementioned interview,

¹⁰⁸ V. Gospodinova and S. Krüsteva, "Kakvo tuk znachat nyakakvi si srokov," January 27, 2007, http://www.capital.bg/politika_i_ikonomika/bulgaria/2007/01/26/307410_kakvo_tuk_znachat_niakakvi_si_srokov/; "Zakon za dostüp i razkrivane na dokumentite," 2015.

¹⁰⁹ Dobre, "Sledite ot Komunizma," 151.

¹¹⁰ COMDOS, interview; Dobre, "Sledite ot Komunizma," 151; Ibroscheva, "Spies Like Us"; Lada Trifonova Price, "Secrets, Lies and Journalist-Spies: The Contemporary Moral Dilemma for Bulgaria Media Professionals," *The International Journal for Press/Politics* 20, no. 2 (2015): 191, 201.

¹¹¹ COMDOS, interview; Schiller-Dickhut and Rosenthal, "The European Network of Official Authorities in Charge of the Secret-Police Files," 13.

¹¹² Schiller-Dickhut and Rosenthal, "The European Network of Official Authorities in Charge of the Secret-Police Files," 6; Welsh, "Beyond the National," 178.

¹¹³ European Parliament, *European Conscience and Totalitarianism: European Parliament Resolution of 2 April 2009 on European Conscience and Totalitarianism*, P6_TA(2009)0213, Adopted Resolution, Brussels: European Parliament, 2009.

¹¹⁴ COMDOS, interview; Dobre, "Sledite ot Komunizma," 151.

¹¹⁵ COMDOS, interview.

¹¹⁶ Platform of European Memory and Conscience, "Bulgarian Committee COMDOS Presently Not Welcome to Join the Platform of European Memory and Conscience," February 21, 2012,

the committee declared itself aware of many of these shortcomings and expressed a willingness to address them.¹¹⁷

From 2010 onwards, as also indicated by COMDOS itself, evaluations of the committee by former critics have become more positive, to the point of describing its work as “consistent and effective.”¹¹⁸ This translates into broader societal recognition of the institute. The media frequently report on the work of the committee, although the liberal media are clearly more interested in the issue. COMDOS’s revelations do not always lead to political action,¹¹⁹ but often to scandals that mobilise public opinion. Early in 2008, several civil society organisations came together in the so-called “Citizens for a Pure Parliament” initiative. Using the possibilities offered by archival disclosure, they specifically informed the European Parliament and the European Commission of Bulgarian assembly candidates whose names had been found in the files. In this way they tried to circumvent the lack of action by parties such as the DPS and BSP, who did not remove such persons from their lists.¹²⁰

4.4.3 *The 2006 archives law as case in point*

The 2006 archives law was adopted at a key moment on Bulgaria’s path to EU accession. This EU momentum highlights some more general findings collected throughout the last two chapters. Firstly, the case confirms that support for EU membership was a common denominator amongst all Bulgarian political parties, and an electoral promise that could not easily be violated. When confrontation with the past—in this case through archival disclosure—was convincingly connected to this prospect, anti-confrontation parties also re-considered their positions. The BSP remained opposed to archival disclosure, but since the party was itself pro-EU accession, it had little space for manoeuvre when Van Orden directly confronted the issue. In addition, the case showed the relative fluidity of party constellations after 2001, when the bipolar structure collapsed, and the question of the past was no longer the main line of division or even party orientation. Thus, the NDSV could actually change course during the years when the “EU argument” spoke most clearly

<http://www.memoryandconscience.eu/2012/02/21/bulgarian-committee-comdos-presently-not-welcome-to-join-the-platform-of-european-memory-and-conscience/>.

¹¹⁷ COMDOS, interview.

¹¹⁸ Hristov and Kashumov, “Justice and Accountability Mechanisms,” 293. See also Baeva and Kalinova, *Sotsializmът в огledaloto na prehoda*, 59–60; Monica Ciobanu, “Post-Communist Transitional Justice at 25: Unresolved Dilemmas,” *Annals of the University of Bucharest* (2014): 119, 134, 123; COMDOS, interview; Kadrinov, interview, 2015; Kadrinov, interview, 2016.

¹¹⁹ For example, when (former) President Parvanov was unmasked as former DS agent “Gotse,” he did not resign, nor was he forced to step down.

¹²⁰ Hristov and Kashumov, “Justice and Accountability Mechanisms,” 287; Kadrinov, interview, 2015.

for archival disclosure, as it had done in 2004 with regard to the declaration on the sixtieth anniversary of the establishment of the socialist regime.

Moreover, the case underscores the importance of co-operation across borders. Several regional conferences, including the aforementioned meeting organised by Els de Groen, preceded the establishment of COMDOS. The committee directly benefits from the Platform and the expertise of similar institutions abroad. Although the level of this co-operation should not be overstated, countries that are at a more advanced stage of archival disclosure are apparently willing to assist this process. COMDOS member Ekaterina Boncheva was, for instance, funded by the Konrad Adenauer Foundation to visit Berlin and learn about the process of archival disclosure in Germany.¹²¹ The case study also connects to the conclusions drawn in chapter 1, indicating that the EU on an institution-wide level was generally uninterested in post-socialist dealing with the past, at least until 2009. This created space for both the pro-disclosure and anti-disclosure camps to present the EU membership prospect in line with their preferred strategies towards the past. In this case study, so close to the actual accession date, the pro-disclosure side arguably “won,” recognising the EU momentum and pushing through a law that had been discussed for more than a decade. Individual actors within the EU and within Bulgaria *actively* synchronised the calendars in Brussels and Sofia in order to make archival disclosure the only viable political option.

4.5 Proving EU membership’s worth 2007-2012: Writing a new past

It is tempting to think that Bulgaria, after almost a decade of pursuing membership, would become complacent when it had entered the EU in 2007. However, the EU made sure to carefully monitor Bulgaria’s overall transition process through so called post-accession conditionality. After the 2009 elections, the new coalition led by GERB’s Boyko Borisov announced that its main goal was to “please Brussels.”¹²² This is relevant to my research question, since Bulgaria’s EU accession coincided with the gradual change in the EU’s attitude towards the socialist past. The case in case study on archival disclosure has already briefly alluded to the effects of the EU’s partial interest in the socialist past, but in this section the influence of the EU-wide change will be more elaborately dissected.

4.5.1 *The EU’s shifting stance on socialist past: A new chance for the Right*

The first opportunity for Bulgarian pro-confrontation parties to partake in the ongoing anti-socialist lobbying in the EU, came in 2008. In September that year, the DSB and a small

¹²¹ Welsh, “Beyond the National,” 174.

¹²² Tanasoiu, “Europeanization Post-Accession,” 179.

party closely co-operating with the SDS both proposed a draft decision to support the Prague Declaration written earlier that year.¹²³ This declaration, discussed in chapter 1, had been initiated by several Central and Eastern European countries and intended to seek attention for the suffering of many under socialism. It was signed, not only by representatives from the countries from the region, but also by around fifty Members of European Parliament from elsewhere. Bulgarian proponents of the Prague Declaration appealed to their country's experience of socialism as an experience shared with the declaration's signatories from the region.

Apart from several calls on Bulgaria's supposed "Europeanness," contributions to the Bulgarian debate on potential support for the Prague Declaration also included specific references to the EU. Lūchezar Toshev, for example, urged the assembly to consider the EC discussion on "active European memory" happening "at the moment."¹²⁴ His colleague, Veselin Metodiev from the DSB, spoke of the EU's foundational "values" honoured in the declaration. He additionally referred to several individual member states that had supported the declaration.¹²⁵ Countering these claims, the BSP's Yanaki Stoilov suggested that this focus on the past distracted from current problems that saw Bulgaria lagging behind in the EU.¹²⁶

With the latter counter statement, the socialists repeated an argument that may have worked well for years. However, in 2008 and 2009, the pro-confrontation side had actual developments in the EU on its side. Partially inspired by the Prague Declaration, the EP adopted the resolution on European Conscience and Totalitarianism on April 2, 2009, as discussed in chapter 2. Soon after, Lūchezar Toshev issued a draft decision in the Bulgarian parliament to declare support for the resolution and the Council of the EU conclusions that had followed up on it.¹²⁷ The decision was drafted in July 2009 and adopted in Sofia on November 19, only a few months after the EP resolution.

Moreover, the EP resolution offered the perfect stimulus for the pro-confrontational side to re-introduce failed attempts to address the socialist past. In 2010, DSB leader Kostov submitted a draft declaration to condemn the attempt to forcibly assimilate Bulgarian Turks—in the declaration referred to with the word "Muslims"—

¹²³ Narodnoto Sabranie, "Chetiristotin i shesto zasedanie, Sofia, sryada, 17 septemvri 2008 g.," September 17, 2008, <http://parliament.bg/bg/plenaryst/ns/2/ID/469>.

¹²⁴ Lūchezar Toshev in Narodnoto Sabranie, "Chetiristotin i shesto zasedanie 17 septemvri 2008."

¹²⁵ Veselin Metodiev in Narodnoto Sabranie, "Chetiristotin i shesto zasedanie 17 septemvri 2008."

¹²⁶ Yanaki Stoilov in Narodnoto Sabranie, "Chetiristotin i shesto zasedanie 17 septemvri 2008."

¹²⁷ Deyanova, "From Memory to Canon," 455; Narodnoto Sabranie, "Chetirideset i treto zasedanie, Sofia, chetvürtük, 19 noemvri 2009 g.," November 19, 2009, <http://www.parliament.bg/bg/plenaryst/ns/7/ID/638>; "Reshenie otnosno podkrepa na evropejski aktove za osūzhdane na prestūplenyata na komunisticheskite i natsionalsotsialisticheskite rezhimi," *Narodnoto Sabranie*, July 22, 2009, http://www.parliament.bg/bg/ns_acts/ID/13326/.

under the so called “revival” process.¹²⁸ Here, the democrats took on an issue that was formerly mostly championed by the DPS. Apart from mentioning some important Council of Europe documents, the draft included a vague reference to “European and global thought” in a legal and moral sense.¹²⁹ During a parliamentary committee discussion in 2010 on this proposal, the DPS’s Yunal Lyutvi more concretely expressed his discontent that the Council of Europe and the European Parliament had already condemned these crimes whilst the national parliament had yet failed to do so.¹³⁰ Kostov suggested that if the BSP truly recognised the crimes of its predecessors—and not “only to enter the party of the European socialists”—it needed to support the declaration.¹³¹

4.5.2 Leveraging political support: Using the “Europe” in GERB’s name

Kostov’s draft declaration on the revival process received support from his own party, the DSB, as well as from the DPS and the SDS, although initially lacking the approval of the largest party in parliament, GERB—a party that, as the previous chapter has illustrated, was not at all keen on engaging with the past. Veselin Metodiev of the SDS specifically turned to GERB, as its support was needed to get the declaration through parliament. He claimed that together, their parties “represent part of one political family of Europe,” which allegedly condemned all political violence regardless of whether it had taken place in the past or present.¹³² Despite Metodiev’s vague reference to the “political family of Europe,” it is highly likely that he meant the European People’s Party in Brussels. After all, the SDS, the DSB, as well as GERB were all affiliated with this EP group. We again need to recall here the resolution that the EPP had adopted already in 2004 to condemn totalitarian socialist regimes and call for confrontation with this past. Metodiev thus claimed that GERB had to translate its affiliation with the EPP to a commitment to address the past on the domestic level. However, he did so in vain, as Kostov’s proposal was outvoted by a significant majority, including GERB. Again, the EU argument alone was not sufficiently convincing.

¹²⁸ Komisiya po pravata na choveka i veroizpovedaniyata, “Chetirideset i pŭrvo narodno sŭbranie, 11 02 2010,” February 11, 2010, <http://www.parliament.bg/bg/parliamentarycommittees/members/237/steno/ID/1557>; Ivan Kostov, “Deklaratsiya, osŭzhdashta opita za nasilstvena asimilatsiya na bŭlgarskite myusyulmani,” October 28, 2009, http://www.parliament.bg/bg/ns_acts/ID/13813/9; Dŭrzhaven Vestnik, “Broj 5, vtornik, 17 yanuari 2012 g., Sofia,” January 17, 2012, 3, <http://dv.parliament.bg/DVWeb/broevList.faces>.

¹²⁹ Komisiya po pravata na choveka i veroizpovedaniyata, “Chetirideset i pŭrvo narodno sŭbranie 11 02 2010.”

¹³⁰ Yunal Lyutvi in Komisiya po pravata na choveka i veroizpovedaniyata, “Chetirideset i pŭrvo narodno sŭbranie 11 02 2010.”

¹³¹ Ivan Kostov in Komisiya po pravata na choveka i veroizpovedaniyata, “Chetirideset i pŭrvo narodno sŭbranie 11 02 2010.”

¹³² Narodnoto Sabranie, “Sto osemdeset i sedmo zasedanie, Sofia, sryada, 19 yanuari 2011 g.,” January 19, 2011, www.parliament.bg/bg/plenaryst/ns/7/ID/2555.

Later years provided new incentives to give the resolution to condemn forced assimilation another try. In January 2012, a new (but very similar) proposal was discussed. Arguments in the debate were again targeted at GERB. Additionally, Lūchezar Toshev from the SDS decided to target the BSP, who had announced that they would abstain from voting. He strengthened his political attack by connecting the BSP's alleged "ambiguous stance regarding this question" to both the BSP's status as the socialists' successors and Bulgaria's EU membership. "We must not forget the perpetrators of the crimes, we need to condemn everyone who violated human rights in Bulgaria," Toshev stated, as this was the attitude that "has made us member of the Council of Europe, of the European Union."¹³³ Tuncher Kürdzhaliev from the DPS boldly urged his colleagues to remember that they had embraced a "rich and better value system—that of the European Union."¹³⁴ The declaration would resonate, he continued, with various European texts, including the EU's Charter of Fundamental Rights.¹³⁵

Kürdzhaliev's combination of abstract and concrete references to EU membership reflected the wording of the declaration he was defending. The first preamble of the declaration on the revival process aligned itself with "European and global thought," whilst the second preamble specifically called upon "the European Charter of Human Rights," which is short for the aforementioned Charter of Fundamental Rights of the European Union.¹³⁶ This time, the pro-confrontation side succeeded and the declaration was adopted in January 2012 with 112 out of 115 votes. All GERB members present (half of the deputies) voted in favour, whilst most members of the BSP and all of Ataka were absent during the voting.¹³⁷

The striking difference between GERB's voting behaviour in 2010 and 2012 on essentially the same declaration is complex to explain. First, the EU argument had possibly become more convincing for GERB. As part of the new incentives mentioned above, Bulgaria had been rejected entry into the Schengen zone in 2011. Borisov had responded by declaring Bulgaria's commitment to do better. In 2012, GERB may thus have been determined to prove its pro-European course. A second explanatory factor was GERB's flirtation with Ataka after 2008, as discussed in the previous chapter. During the 2012 debate, Ivan Kostov from the DSB called GERB out on this co-operation with Ataka. He

¹³³ Lūchezar Toshev in Narodnoto Sabranie, "Trista i pŭrvo zasedanie, Sofia, sryada, 11 yanuari 2012," January 11, 2012, <https://www.parliament.bg/bg/plenaryst/ns/7/ID/2685>.

¹³⁴ Narodnoto Sabranie, "Trista i pŭrvo zasedanie 11 yanuari 2012."

¹³⁵ Narodnoto Sabranie, "Trista i pŭrvo zasedanie 11 yanuari 2012."

¹³⁶ Already during its drafting process, the Charter of Fundamental Rights of the European Union was conceptualised as the "European Charter of Human Rights," and the latter title remains in usage in Bulgarian political documents.

Dŭrzhaven Vestnik, "Broj 5," 3.

¹³⁷ Narodnoto Sabranie, "Registracii i glasuvaniya po parlamentarni grupi," January 11, 2012, parliament.bg/pub/StenD/gv110112.pdf.

presented this pact as the reason for GERB's opposition to the declaration, but emphasised that GERB now had a more secure position that allowed the party to change its stance.¹³⁸ In 2012, GERB's dependence on Ataka had indeed subsided. First, GERB's success in the 2011 presidential and local elections had consolidated its position. Second, and more importantly, several MPs had left their parties, making them independent deputies who in fact supported GERB.¹³⁹

Referring to GERB's unofficial "majority" in parliament, Kostov was well aware of the new political leverage of GERB. In this new context, he thus urged GERB to vote "according to their conscience," followed a couple of sentences later by another reference to "European values."¹⁴⁰ Toshev of the SDS strongly emphasised Christian support for Muslims and their plight throughout the past two decades,¹⁴¹ which appealed to GERB's status as a member of the heavily Christian-oriented EPP. Yet, the issue clearly remained contentious: half of GERB members were not present during the voting, and GERB did not once decide to speak during the debate in 2012. Again, the opportunism, lack of any internal voting discipline, and the absence of a stance with regard to dealing with the past of a party such as GERB and also the NDSV prove to be complicating factors when explaining voting behaviours. Whilst this fluidity made the party more susceptible to the increasing strength of the EU membership status, its importance should not be overstated.

4.5.3 *The ambiguous effects of EU membership status*

In addition to the above, the prospect of EU accession did not help those that desired an Institute for National Memory in order to investigate the crimes of Bulgaria's socialist regime. As already discussed, such an institute had been previously, yet unsuccessfully, advocated in 2006. Now that Bulgaria was an EU member state and the EU had taken the issue of the legacy of Europe's socialist regimes upon itself, Toshev tried his luck again in September 2011. He emphasised that Bulgaria was the only country of the "European family" without such an institute¹⁴² and referred to the 2009 EP resolution that condemned totalitarian communist regimes.¹⁴³ Apart from the text itself, we need to recall, this resolution was significant because it led to the establishment of the Platform of European Memory and Conscience. The Platform had the explicit mandate to support initiatives to further the research and memory of the crimes of totalitarian socialism. Twice in the

¹³⁸ Narodnoto Sabranie, "Trista i pŭrvo zasедanie 11 януари 2012."

¹³⁹ Gurov and Zankina, "Populism and the Construction of Political Charisma," 12.

¹⁴⁰ Ivan Kostov in Narodnoto Sabranie, "Trista i pŭrvo zasедanie 11 януари 2012."

¹⁴¹ Lŭchezar Toshev in Narodnoto Sabranie, "Trista i pŭrvo zasедanie 11 януари 2012."

¹⁴² Narodnoto Sabranie, "Dvesta devetdeset i pŭrvo zasедanie. Sofia, sryada, 30 noemvri 2011 g," November 30, 2011, <https://www.parliament.bg/bg/plenaryst/ns/51/ID/2674/>.

¹⁴³ Komisiya po pravata na choveka i veroizpovedaniyata, "Zhaljite i peticiite na grazhdanite, 15 09 2011 pŭrvo glasuvane," September 15, 2011, <http://www.parliament.bg/bg/parliamentarycommittees/members/237/reports/ID/2965>.

debate on Toshev's proposal, proponents pointed at Sweden and the Netherlands as EU members that, despite not having a socialist past, still had such institutes.¹⁴⁴ In order to counter the common argument that such engagement with the past would only create more animosity, Toshev referred to the Polish experience. Whilst in this example, Toshev argued—in a way that might now sound rather ironic, considering recent Polish political setbacks, which have resulted in a return to the historical censorship of the past—that the Polish Institute for National Remembrance actually fostered reconciliation.¹⁴⁵

In this debate, Martin Dimitrov from the SDS again turned to GERB. He devoted the majority of his speech to what he saw as the discrepancies in GERB's endorsement of the Museum of Socialist Art and its refusal to support the (far less costly) Institute for National Memory. GERB's dismissal of the initiative again confirms the ambiguous and opportunistic attitude of the party towards the past, although it did eventually (if half-heartedly) support the condemnation of the revival process, but not the institute. The failure of the SDS to get the bill through parliament, moreover, illustrates that the argument of EU membership, whilst popular amongst pro-confrontation parties, was not decisive; the EU membership argument had been similarly overturned several times in the pre-2007 period. Bulgaria's singular status as the only EU member state without such an institute was insufficient even to convince a party that had devoted its name to European development.

Despite Toshev's failure to enlist the Platform's support on behalf of remembrance of the socialist past, the Platform was influential in furthering the work of the archival committee COMDOS, as established through the 2006 archives law. The Platform's work fed into the committee's efforts to seek co-operation abroad.¹⁴⁶ EU membership was thus not only relevant to Bulgaria's process of dealing with the past because it (re-)activated the debate on related issues; accession also offered—albeit perhaps meagrely and largely outside the mainstream EU channels—new frameworks such as the Platform, but also the Prague Declaration and the Reconciliation of European Histories Group.

We should not forget, however, that the anti-confrontation side also, albeit less frequently, tried to use EU membership to its advantage. On September 9, 2009, parliament started its session with a declaration from the DSB to mark the sixty-fifth anniversary of the establishment of the socialist regime and condemn it once more.¹⁴⁷

¹⁴⁴ Narodnoto Sabranie, "Dvesta devetdeset i pŭrvo zasedanie 30 noemvri 2011."

¹⁴⁵ The rapporteur of the parliamentary Commission on Human Rights and Religious Rights, which had voted almost unanimously in favour of the draft bill, endorsed and repeated Toshev's argument. Komisiya po pravata na choveka i veroizpovedaniyata, "Zhaljite i peticiite na grazhdanite."

¹⁴⁶ COMDOS, interview.

¹⁴⁷ Eventually, parliament was silent for one minute. To sooth the disagreement between both sides, the chair decided to introduce one minute of silence for all of those who fought for their ideals. According to Nikolai Vukov, the public was

Whereas the DSB representative did not mention the EU or Europe once, the next speaker from the BSP dismissed his colleague's proposal as working against unity and thus compromising a strong Bulgaria based on "the values of the European Union."¹⁴⁸ Only after this speech did Lyutvi Mestan, who supported the DSB proposal, also include the EU in his argument.¹⁴⁹

Often, the anti-confrontation side flipped the rationale of those in favour of condemning the past. When pro-confrontation parties would argue that EU membership pushed for acknowledgement of past injustices, they posited that EU membership required a focus on unity and the shared future. According to Aleksandŭr Radoslavov, a representative from one of the BSP's smaller partner parties, the 2009 EP resolution that condemned socialist regimes showed that the issue had already been sufficiently dealt with. Bulgaria faced much more pressing problems in the present day than, for example, condemning the revival process. He drew a parallel between the EU's alleged plea for unity to stand stronger in overcoming the economic crisis and the Bulgarian parliament's task to work together in these times of economic hardship.¹⁵⁰ Radoslavov also attempted to make this argument. He quoted from the EP resolution three times in order to argue that, in fact, Toshev's proposed declaration regarding the Institute for National Memory violated the resolution.¹⁵¹

Another surprising reference to the EU came from the extreme right-wing party Ataka. When the declaration that condemned the forced assimilation of Muslims was adopted, Ataka issued two draft bills to repeal it. Infamous for its xenophobic ideas, coupled with a mild but wavering pro-European orientation, Ataka was no stranger to blaming the DPS, Bulgarian Turks, and Muslims in general. In their draft bills—which were issued within four days of each other and both unsuccessful—Ataka's Stoyan Ivanov and Kiril Gumnerov posited that the declaration violated not only "Bulgarian national interests," but also "international law," with Gumnerov adding to the list the "prestige of the Republic of Bulgaria before the EU and the world community."¹⁵²

angry about this generalisation, because many would have strongly preferred specific mention of communism's victims. Vukov, "Remembrance of Communism," 255.

¹⁴⁸ Sergej Stanishev in Narodnoto Sabranie, "Dvanadeseto zasедanie, Sofia, sryada, 9 septemvri 2009 g," September 9, 2009, <http://parliament.bg/bg/plenaryst/ns/7/ID/605>.

¹⁴⁹ Lyutvi Mestan in Narodnoto Sabranie, "Dvanadeseto zasедanie 9 septemvri 2009."

¹⁵⁰ Aleksandŭr Radoslavov in Komisiya po pravata na choveka i veroizpovedaniyata, "Chetirideset i pŭrvo narodno sŭbranie 11 02 2010."

¹⁵¹ Aleksandŭr Radoslavov in Narodnoto Sabranie, "Chetirideset i treto zasедanie 19 noemvri 2009."

¹⁵² Peculiarly, both came to these conclusions in the light of the "current work of the International [Criminal] Tribunal in the former Yugoslavia." Kiril Gumnerov, "Zakonoproekt za otmyana na Deklaratsiya, osŭzhdashta opita za nasilstvena asimilatsiya na bŭlgarskite myusyulmani," April 20, 2012, www.parliament.bg/bg/bills/ID/13970; Stoyan Ivanov, "Zakonoproekt za otmyana na Deklaratsiya, osŭzhdashta opita za nasilstvena asimilatsiya na bŭlgarskite myusyulmani," April 20, 2012, <http://www.parliament.bg/bg/bills/ID/13951>.

4.6 Concluding remarks

This chronological analysis has sketched the increasing importance of EU membership in Bulgarian parliamentary dealing with the socialist past. Together with the previous chapter, it has identified the ways in which the prospect of EU accession influenced party orientations, party constellations, and the (non-)adoption of laws and declarations regarding the socialist past. Importantly, it has also outlined the *limits* of the political parties' possibilities to use the EU membership prospect and EU membership status. Not only were references to the EU accession prospect in relation to the past infrequent in the first years of the 2000s, but such appeals were also often not decisive factors. My survey included several draft declarations and draft laws that, in spite of appeals to EU membership, were not adopted or even discussed. With this in mind, it is worth asking how the EU accession prospect, and later membership status, functioned in cases where it did exert influence.

Firstly, parties claimed that the EU was directly interested in the question of how Bulgaria dealt with the legacy of socialism. Alternatively (albeit relatedly), parties claimed a link between the country's eligibility for membership and its choices regarding confrontation with the past. In its most direct form this occurred in the 2006 archives law case. I concluded that the EU accession prospect was essential in realising this law at that particular moment in time, because actors within the EU and Bulgaria actively synchronised the accession calendar in order to present the archives law as a membership condition. Indeed, even though EP rapporteur Van Orden's explicit inclusion of the archives law in his report was of key importance, the EU accession prospect was only so influential because of these co-ordinated efforts. After all, at least until 2009, the main EU institutions generally expressed disinterest or remained highly ambiguous with regard to issues of dealing with the past. Abstract appeals to the Copenhagen criteria or human rights, for example, were thus not only a consequence of lazy or opportunistic party politics, but also due to a lack of concrete EU engagement with the past. Importantly, this ambiguity created a space in which both pro-confrontation as well as anti-confrontation parties could employ the EU membership prospect in their individual orientations and parliamentary strategies. The last two chapters mentioned several examples of the DSB and SDS instrumentalising the EU accession prospect, but also the way in which the BSP and the NDSV referred to Brussels' alleged preferences to further their anti-confrontation policies. The former claimed that the Institute for National Memory and condemning socialism would hinder the "unity" required for successful EU membership, whilst the latter, for example, used the supposed security measures demanded by the EU membership prospect for the 2002 law that revoked the process of archival disclosure.

A second and more concrete way in which the EU accession prospect was of influence, was through Bulgarian interest in acts adopted in Europe. Political parties kept themselves up to date with developments on the EU level. When the EU presented concrete statements and resolutions, political parties quickly used these as reference points to add to their arsenals. The EPP resolution of 2004, the Prague Declaration of 2008—initiated by Central and Eastern European actors, but quickly gaining ground in Brussels—and the EP resolution of 2009, all found their way into the pro-confrontation's arguments and, to a lesser extent, into the anti-confrontation's arguments as well. In addition, the various parties associated themselves with individuals within the EU and other parties in the EP.

As a result of its focus on political parties, this chapter has failed to give full due to the wider influence of regional networks (such as the one connecting former state security archives), regional conferences, and co-operation with the Platform for European Memory and Conscience. My findings have, nevertheless, hinted at the far-reaching influence of cross-border co-operation. This study has mainly found indications of such co-operation for the pro-confrontation side. It is possible that I have missed important civil society initiatives from the anti-confrontation side that functioned through similar structures and cross-border diffusion.

Finally, and most revealingly when there was a general absence of direct EU engagement with the past, comes the argumentative role of the EU membership prospect and membership status. Political parties *ascribed* preferred values, expectations, and norms to the EU in order to support their proposed strategies on the past. The next chapter will therefore elaborate on these specific narratives of the past in relation to the EU membership prospect and membership status.

CHAPTER

5 Bulgarian Parliamentary Narratives

The previous two chapters analysed the influence that the prospect of EU accession had on Bulgarian political parties: their orientation towards specific issues; their various alliances and coalitions; and of course, their parliamentary decision-making processes. Significantly, the chapters revealed the frequent references made to the EU in all areas of parliamentary debate on the past—despite the EU’s relatively modest demands in this regard. The previous chapter mentioned some of these Bulgarian appeals, and in this chapter, I will try to unpack their content. I aim to study these references from the perspective of the narratives that underlie these claims regarding the relation between the past and (future) EU membership. Yet such an analysis is more than merely an exercise in connecting historical events and future images. In most cases, the divide between pro- and anti-confrontation parties was not on *which* past had to be remembered, but *whether*, *why*, and *how* this past was to be remembered. In the words of scholar Venelin Ganey, Bulgaria fought a “war on hermeneutics.”¹

Political conflict over the specific facts of the socialist regime and its crimes was still common in the early 2000s. For example, in debates in 2000 and 2004, the anti-confrontation side argued that many of the crimes were exaggerated. A predictable discussion ensued on the numbers of victims evolved, accompanied by deliberation on the extent and nature of the suffering of not only prisoners, but also ordinary people.² However, this factual debate was gradually replaced by disagreement concerning the actual meaning of the past. For example, the debate in 2000 about the law to deem the socialist regime criminal was less characterised by contestation over facts than by diverging interpretations of this evidence. Here, the basic legitimacy of socialism and socialist armed struggle during the Second World War was brought into question. Opponents argued that the crimes were not exclusively socialist in nature, but were rather the regrettable yet inevitable consequence of ordinary war and conflict.³ In this context, the EU accession prospect, as well as EU membership status, formed a framework within which these ideologically informed interpretations of the past could be positioned. In view of this complexity, this chapter will not only analyse the individual narratives as stand-alone themes, but also relate them to developments on the EU level. To what extent did claims on the connection between (dealing with) the past and the EU correspond to actual engagement in Brussels?

¹ Ganey, “The Inescapable Past,” 218.

² Various contributions in Narodnoto Sabranie, “Trista sedemdeset i pervo zasedanie, Sofia, chetvürtük, 30 Mart 2000 g,” 30 March, 2000, <http://parliament.bg/bg/plenaryst/ns/6/ID/2219>; Narodnoto Sabranie, “Trista osemdeset i vtoro zasedanie, Sofia, sryada, 26 april 2000 g,” April 26, 2000, <http://parliament.bg/bg/plenaryst/ns/6/ID/2133>; Narodnoto Sabranie, “Trista devetdeset i shesto zasedanie 9 septemvri 2004.”

³ Narodnoto Sabranie, “Trista sedemdeset i pürvo zasedanie 30 Mart 2000”; Narodnoto Sabranie, “Trista osemdeset i vtoro zasedanie 26 april 2000.”

One paramount conclusion, which is in line with findings from the previous two chapters, should be mentioned here directly. Whilst it is tempting to believe that the anti-socialist, liberal new elites were more likely to use the “EU argument” (because they were the main instigators of the “return to Europe” discourse mobilised in Central and Eastern Europe), the other side of the political spectrum also laid claims on the past in relation to the EU. Similar to the way in which the previous chapter studied the pro- versus the anti-confrontation sides of the debate, the narratives here can also be structured dichotomously.⁴

After studying these narrative strands, I discuss one common element to all of them, namely, their wide historical reach. Here, I use the term “mixing the pasts,” in the sense that they combine several pasts that most transitional justice scholars and historians would consider distinct from each other—even if, from a Bulgarian perspective, “mixing” might be considered an oversimplification as, in perceived reality, these pasts are strongly bound together in terms of identity, statehood, and present-day memory politics. From a historical perspective, however, “mixing” is exactly what happened: different historical periods were brought together in fitting narratives, also when historical evidence for such a connection was lacking.

5.1 Selection of sample and method

Based upon the research conducted for the previous chapter, I made a selection of four laws and declarations that I consider to be of key significance in the overall Bulgarian parliamentary debate on the past in relation to EU accession. These are:

- the 2000 law that deemed the nature of the socialist regime criminal;⁵
- the 2004 declaration for the sixtieth anniversary of the establishment of the socialist regime, which it condemned;⁶
- the 2006 law that disclosed the archives of the former secret services;⁷
- the 2012 declaration that condemned the attempt to forcefully assimilate Muslims (the revival process) from 2012.⁸

⁴ Like in the previous chapter, this is not to say that some political parties and individuals did not switch sides—which indeed they did on several occasions. It is for this reason that, despite the thematic structure of this chapter, I also pay close attention to chronology and backgrounds of the individuals concerned.

⁵ *Dürzhaven Vestnik*, “Broj 37.”

⁶ *Dürzhaven Vestnik*, “Broj 81.”

⁷ *Dürzhaven Vestnik*, “Broj 102.”

⁸ *Dürzhaven Vestnik*, “Broj 5.”

The contents, backgrounds, and controversies of these laws and declarations have already been discussed in the previous chapter. Their dates (2000, 2004, 2006, 2012) are significant with regard to the timeline of EU membership negotiations and therefore provide useful reference points from which to trace the changing relationship between the EU and Bulgaria. In December 1999, the Council of the European Union approved the start of accession negotiations. This was confirmed in February 2000, shortly before the Bulgarian parliament in April 2000 debated the law to declare the socialist past criminal. In 2004, when parliament discussed the declaration to commemorate the sixtieth anniversary of the victory of socialism, Bulgaria had just been side-lined and made to wait for membership (together with Romania) until 2007. This was a real blow, as the country had initially hoped to accede in 2004 together with the other countries from Central and Eastern Europe. The importance of the EU at this time is further illustrated by Bulgaria's signing of the Accession Treaty in 2005.

The most obvious connection between the Bulgarian debate on the past and EU membership manifested itself in the discussion on the law of archival disclosure, as has been touched upon in the previous chapter's case in case study. Although archival disclosure was not a direct accession condition, pro-confrontation parties successfully claimed the EU accession momentum to increase the alleged urgency of the law. Hence, the debate came to a conclusion only weeks before eventual EU accession on January 1, 2007. Lastly, the declaration to condemn the forced assimilation of Muslims was discussed in the years 2010–2012 when Bulgaria had acquired member status and had established itself within the EU institutions. However, the country was still struggling, as the EU held on to so-called post-accession conditionalities, which included travel limitations for Bulgarians.

For each law or declaration, I scanned and read the parliamentary debates, combining distant and close reading techniques in order to identify the relevant sections. Most were about 60–100 pages in length. Where applicable, I additionally studied the minutes of the parliamentary committees in which these drafts were debated and prepared for discussion.⁹ After studying the full sample, I collated references made to the EU and

⁹ I thus consider the following documents for the four cases: (1) law to declare the communist regime criminal (Narodnoto Sabranie, "Trista sedemdeset i pŭrvo zasедanie 30 Mart 2000"; Narodnoto Sabranie, "Trista osemdeset i vtoro zasедanie", Sofia, sryada, 26 april 2000"); (2) law to condemn the communist regime on the sixtieth anniversary of its establishment (Narodnoto Sabranie, "Trista devetdeset i peto zasедanie 8 septemvri 2004"; Narodnoto Sabranie, "Trista devetdeset i shesto zasедanie 9 septemvri 2004"); (3) law to disclose the archives of the former state security (Komisiya po pravata na choveka i veroizpovedaniyat, "Redovno Zasедanie na Komisiyata po pravata na choveka i veroizpovedaniyata, 3 avgust 2006g," August 3, 2006, <http://parliament.bg/bg/archive/2/3/169/steno/ID/415>; Narodnoto Sabranie, "Petnadeseto izvanredno zasедanie, Sofia, vtornik, 29 avgust 2006 g," August 29, 2006, <http://parliament.bg/bg/plenaryst/ns/2/ID/191>; Narodnoto Sabranie, "Sto devetdeset i treto zasедanie, Sofia, sryada, 29 noemvri 2006 g," November 29, 2006, <http://www.parliament.bg/bg/plenaryst/ns/2/ID/231>; Narodnoto Sabranie, "Sto Devetdeset i shesto zasедanie 6 dekemvri 2006"); (4) declaration to condemn the attempt at forced assimilation of Muslims (Komisiya po pravata na choveka i veroizpovedaniyata, "Chetirideset i pŭrvo narodno sŭbranie 11 02 2010";

Europe, and analysed them in the context of the aforementioned laws and declarations. This led me to identify several core narratives that connected the past and EU future, which I then, in turn, used to structure this chapter.

The reason why the pre-membership period is represented with three cases whilst the post-membership period has only one, is specifically this chapter's focus on the political parties' narratives of what EU membership norms entailed in relation to the socialist past. Once membership was acquired, parties were less incentivised to attribute and assign their expectations and values to the EU, of which they were now obviously part. Especially in combination with the increasingly engaged EU attitude towards the socialist past, the post-2007 years offered Bulgarian political parties concrete starting points for their arguments. They referred to specific resolutions, used the EU as a platform, and worked together with similar minds from Central and Eastern European member states. These more concrete lines of engagement have already been discussed in the previous chapter.

I am well aware of the limitations of the conclusions in this chapter, not least as they tell us little about the extent to which the parties were genuine in the narrative claims they made—whether these reflected norms and beliefs rather than simple opportunism. This chapter therefore does not claim to give the definite answer to the question of how Bulgarian political parties regarded the past in relation to the EU future. I do, however, believe that it helps us to answer how Bulgarian political parties co-opted the EU future in relation to the socialist past in their political narratives.

In the same manner, this chapter does not pretend to reveal how society beyond the political debate thought about EU accession in relation to the socialist past. From my fieldwork experience, it appeared to me that many Bulgarians are devoted (if cynical) consumers of political debate. The narratives that are identified in this chapter made their way into the public domain via news outlets, electoral campaigns, and other forms of political outreach. A good starting point for follow-up research would be an observation made by the Bulgarian scholar of political rhetoric, Ivanka Mavrodieva. In her book on the Bulgarian rhetoric regarding the EU and NATO, she starts from the premise that comments about the country's European future to a large extent intended to appeal to the Bulgarian people and their societal values, rather than to Brussels.¹⁰ Members of parliament hardly tried to convince their colleagues during the debate itself. After all, voting decisions were often based on predetermined party affiliations. Rather, they

Narodnoto Sabranie, "Sto osemdeset i sedmo zasedanie 19 yanuari 2011"; Narodnoto Sabranie, "Trista i pŭrvo zasedanie 11 yanuari 2012").

¹⁰ Mavrodieva, *Evropejskata i Atlanticheskata integratsiya na Bŭlgariya*, 46.

directed their rhetorical arguments at journalists and at wider society, thus hoping to garner attention and support for the ideas they conveyed.¹¹

A further note of caution should be observed regarding any references to “Europeanness” made by politicians. Often, MPs use general references to “Europe,” “Brussels,” and “the European family” to denote more specific organisations, such as the EU and the CoE. However, such terms may also refer to the rather abstract idea of countries with a shared European history. Moreover, some Bulgarian actors conflated these European institutions on the argumentative level or assumed relationships that in reality are not that evident. In 1995, for example, SDS politician Assen Agov praised his party’s achievement to lead Bulgaria into becoming a CoE member state in terms of a “bridgehead” to EU membership.¹² Therefore, I am cautious when interpreting general frames of “Europeanness” that may well not specifically indicate the EU. I use the rule that I only include references that either directly mention the EU, speak of “entering” or “accessing to” Europe, or denote Europe in terms of “future” or “upcoming.” Since Bulgaria has been a member of the Council of Europe since 1992 and there are no other major European association memberships to which (to the best of my knowledge) it aspired, we can assume that this speech had no other purpose than to allude to impending EU accession.

5.2 The EU as moral actor: Finding the common enemy

As the examples in the previous chapter already suggest, references to the EU were often highly loaded. The two narratives (belonging to the pro- and anti-confrontation side) that will be analysed here thus revolve around the depiction of the EU as a moral actor that cherished certain expectations of how the past should be dealt with. In the most extreme form of this rhetoric, European membership was depicted as if its acquisition was a direct reward for dealing with the past in the “correct” manner. In contrast to my earlier formulation, it did matter which past was at stake, but it was not about facts: whilst pro- as well as anti-confrontation parties posited that acquiring membership required the condemnation of a historical period, they just did not agree on which one. For the anti-confrontation side, becoming European meant a rejection of the fascist past—here also meaning Nazism within a broader interpretation of fascist regimes. For the pro-confrontation side, socialism’s past most significantly symbolised everything anti-European. Before going into the specifics of these two narratives, I will, albeit briefly, examine the overarching theme of the EU as a moral actor.

¹¹ Mavrodieva, *Evropejskata i Atlanticheskata integratsiya na Bŭlgariya*, 68.

¹² Assen Agov, quoted in Mavrodieva, *Evropejskata i Atlanticheskata integratsiya na Bŭlgariya*, 188.

Interestingly, neither the Left nor the Right needed to invent a particular EU stance towards the pasts they cited. They could both directly draw their claims from the two-sided EU historical narrative and its respective resolutions. Whereas the former only highlighted the EU's anti-fascist identity, the latter chose to put the focus on the EU's general condemnation of totalitarianism. The pro-confrontation side, however, faced the problem that the EU's narrative towards the socialist past, especially in the first half of the 2000s, revolved around "overcoming" and forgetting. Whilst prominent EU members dismissed the socialist past as a terrible "aberration," there was no clear condemnation nor an approach towards confronting it. Hence, pro-confrontation parties were initially restricted in their claims on the EU. Therefore, the pro-confrontation parties regularly emphasised that the willingness to confront the past should come from within. It should not be done purely because it was assumed to benefit the road to EU membership, so the argument read, but because it was good for the country itself. Already in 2000, with reference to the law that declared the socialist regime criminal, Dyanko Markov of the SDS emphasised that the law should not be adopted to please Europe, but rather because it was a "national problem" for the "future of our children."¹³

Whereas Markov's speech was clearly focussed on Bulgaria and even stressed that Europe had done nothing to stop the criminal regimes in Eastern Europe, Petar Stoyanov's similar argument six years later reconciled this plea for domestic responsibility with the EU membership prospect. First, he warned that disclosure of the archives should not happen simply because "somebody wants [the disclosure] from us—be it a part of the Bulgarian voters, be it part of the Bulgarian media, be it the European Union."¹⁴ However, quickly afterwards he went on to say that archival disclosure would create the true "moral climate" that would allow Bulgaria to speak of being citizens of a "United Europe."¹⁵ In this way Bulgaria's need to create a moral climate through confrontation with the past was put on a par with joining Europe. Only in this formulation, the desire to become "European" should not come from above, but from within. Similarly, Ekaterina Mihajlova, an MP for the DSB, stated in 2006 that, exactly because Bulgaria was on the threshold of becoming an EU member state, it had to "demonstrate and show" that it would choose to implement morally justified decisions (with which she meant adopting the law on archival disclosure), although importantly "not to do that solely and only, when someone from somewhere requires that from us."¹⁶

¹³ Dyanko Markov in Narodnoto Sabranie, "Trista sedemdeset i pŭrvo zasadanie 30 Mart 2000."

¹⁴ Narodnoto Sabranie, "Sto devetdeset i treto zasadanie 29 noemvri 2006."

¹⁵ Narodnoto Sabranie, "Sto devetdeset i treto zasadanie 29 noemvri 2006."

¹⁶ Ekaterina Mihajlova in Narodnoto Sabranie, "Sto sedemdeset i pŭrvo zasadanie, Sofia, sryada, 4 oktomvri 2006 g," October 4, 2006, <http://parliament.bg/bg/plenaryst/ns/2/ID/205>.

5.2.1 *The EU as anti-fascist union*

As discussed in chapter 2, the EU's foundational narrative was built on the victory over fascism and the development of European co-operation from the ashes of the Second World War. The Bulgarian socialists and their partners appealed to the authoritative value of "being European" by highlighting this shared rejection of fascism. Their arguments denounced the pre-1944 government and constitution as un-European. Yanaki Stoilov argued in the 2004 debate on the sixtieth anniversary of the socialist regime that the Bulgarian constitution before 1944 was not in line with the "European spirit and standards."¹⁷ He was supported by fellow party member Gino Ganey, who also described September 9 (the day the socialist regime established itself in 1944) as the act that "saved our country" from the fascist coalition by establishing an "equalitarian pluralist antifascist regime."¹⁸

Further contrasting fascism and socialism whilst uniting the supposed bonds between socialism and Bulgaria's European tradition, Ganey stressed that the Bulgarian anti-fascist movement had been part of a "European movement" of resistance.¹⁹ Stoilov even declared that "like Europe has 9 May, Bulgaria has 9 September."²⁰ This statement reveals that with the abstract term "Europe," Stoilov in fact referred to the EU. May 9 is observed as Europe Day by the EU, celebrating the Schuman Declaration as signed on May 9, 1950. The Council of Europe also celebrates an annual Europe Day, but four days earlier, on May 5. Stoilov thus posited that, with the end of fascist co-operation in 1944, Bulgaria committed to the European idea in the same way that Western European countries did in 1950.²¹

This narrative was used, not only to bolster their own position, but also to dismiss their opponents. After all, the pro-confrontation side claimed that, for Bulgaria, the socialist regime marked a break between a European past and a European future. If the regime before September 9, 1944 indeed represented "the European road for Bulgaria," would the "satellites of Hitler, Goebbels and Goering" also constitute the European future

¹⁷ Yanaki Stoilov in Narodno Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

¹⁸ Gino Ganey in Narodno Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

¹⁹ Ganey, "The Inescapable Past," 225.

²⁰ Yanaki Stoilov in Narodno Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

²¹ Admittedly, this reference to Europe and the EU was only one trope in a more refined argument. It blended in with more general reminiscences on the regime's supposed glory and the direct benefits it brought to the Bulgarian nation. Statistics ranging from quality education and high employment rates, to flourishing yoghurt consumption (in contrast to contemporary levels, which supposedly indicated decreasing household wealth) were used in arguments to underline how socialism had been good for the ordinary man. During their debate in 2004, both Ganey and Stoilov maintained that the Bulgarian population had enthusiastically embraced the regime change in 1944. Stoilov then connected this observation to the present day. Many Bulgarians commemorated September 9, for it had brought them work, access to free health care, state education, and more. Ganey reminded the audience that September 9, 1944, meant that Bulgaria had switched to the "good" side just in time, thus avoiding conflict with the Allied forces. Gino Ganey and Yanaki Stoilov in Narodno Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

for Bulgaria?²² This rhetorical question by Rumen Ovcharov was intended to ridicule the pro-confrontation's initiative in 2004 to condemn the socialist regime. To make sure his parallel would not be missed, he once more stated that "Hitler-fascism" should not be the "European road" of Bulgaria.²³

When pro-confrontation parties dubbed the socialist regime the predecessor of the BSP, the anti-confrontation side was quick to use an apparently parallel logic to call fascists the founding fathers of the SDS and the DSB. The intellectual Right in Bulgaria is certainly not free from fascist blemish—as is the case in many other countries in Europe. However, whereas the BSP is the direct successor party of the Communist Party, the same continuity does not apply to the SDS or the DSB. This nuance did not impress BSP MP Ovcharov. In one of his final contributions to the debate, he pointed out that the Right in Bulgaria was not a truly modern Right, but a Right partly apologetic for—again—"Hitler-fascism."²⁴ The narrative of socialism's anti-fascist victory was thus a double-edged sword for the socialists: it gave the BSP legitimacy as a true patriotic and European party, as well as offering ammunition with which to disgrace the Right's political history. This double parallel predictably met with disapproval from the Right in the assembly. Twice in the debate in 2004, Mono Hristov ridiculed the anti-confrontation's claim that on September 9, 1944, "we [Bulgaria] entered Europe."²⁵ Others expressed their discontent via disapproving sounds from the parliamentary tribune, the parliamentary minutes note.²⁶ Admittedly, mutual accusations were a common custom from both sides, sometimes even resulting in MPs being temporarily dismissed from the chamber.

From 2006 onwards, it became more difficult to uphold any positive narrative of socialism in connection with the EU future. In the light of increasing support within the CoE and EU for the condemnation of "totalitarian" socialist regimes, the anti-confrontation side shifted its two-sided narrative. Gravitating away from emphasising the inherent European character of the socialist regime, which had now become untenable, they now turned their attention to dismissing their opponent's shameful fascist collaborations. When it became clear that disclosure of the former secret service archives was inevitable in 2006, the anti-confrontation side proposed to replace September 9, 1944 with March 1, 1941. This was the day on which the Bulgarian state decided to collaborate with the fascist coalition. Referring to other European countries that had similar laws in place to investigate these Nazi crimes, Mladen Cherveniyakov concluded that Bulgarian society had the right to know what crimes the secret service had committed in the three-

²² Rumen Ovcharov in Narodnoto Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

²³ Rumen Ovcharov in Narodnoto Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

²⁴ Rumen Ovcharov in Narodnoto Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

²⁵ Mono Hristov in Narodnoto Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

²⁶ Narodnoto Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

and-a-half-years leading up to the establishment of the socialist regime in 1944. This was supposed to divert attention away from socialism's crimes, whilst stressing the wrongs of fascism in particular, and Bulgaria's Right in general. In the last sentence of his speech, Cherveniyakov even mentioned the year 1923 (when Bulgaria saw a right-wing led military *coup d'état*), as the desired start date for the investigations.²⁷

Yet changing CoE and EU attitudes towards the past seem to have significantly reshuffled the cards. In the debate on the declaration that condemned the forced assimilation of Muslims in 2012, no such references to socialism's victory over fascism as evidence of Bulgaria's "Europeanness" can be found.²⁸

5.2.2 *The EU as anti-socialist Union*

In the same way that anti-fascism was central to the anti-confrontation side's politics, anti-socialism lay at the core of the identity narrative of the pro-confrontation side—as did an eagerness to join the EU. As we know, although attempts were made anyway, the EU's unwillingness to condemn the socialist past made it initially difficult to connect these two identity pillars. Already in 2000, Mono Hristov from the SDS connected the Bulgarian constitution to the country's future in the EU and NATO through the shared dismissal of "communist, fascist, nationalist parties."²⁹ Hristov's colleague, Ekaterina Mihajlova, reiterated that, if Bulgaria wanted "to be part of the democratic world, [if] we want the European Union, [if] we want NATO," it was necessary that the assembly supported the law to criminalise the socialist past.³⁰

In the early years of the 2000s, the opposition experienced little difficulty in proving the instability of these statements, as the link between addressing the socialist past and "Europeanness" was far from obvious. Georgi Parvanov and Dragomir Draganov from the BSP were quick to ask where, in fact, this historical topic was to be found among the thirty-one themes³¹ that constituted the membership negotiations with the EU. Parvanov (who would become president two years later) even turned the argument against his opponents and argued that the demand for this law was a (very) "wrong" step on the European road—an intervention that received applause from his own political group.³² Of course, Mihajlova eventually countered, stating that the question of the past was present

²⁷ Mladen Cherveniyakov in Narodnoto Sabranie, "Sto devetdeset i treto zasedanie 29 noemvri 2006."

²⁸ Komisiya po pravata na choveka i veroizpovedaniyata, "Chetirideset i pŭrvo narodno sŭbranie 11 02 2010"; Narodnoto Sabranie, "Sto osemdeset i sedmo zasedanie 19 yanuari 2011"; Narodnoto Sabranie, "Trista i pŭrvo zasedanie 11 yanuari 2012."

²⁹ Mono Hristov in Narodnoto Sabranie, "Trista sedemdeset i pŭrvo zasedanie 30 Mart 2000."

³⁰ Ekaterina Mihajlova in Narodnoto Sabranie, "Trista sedemdeset i pŭrvo zasedanie 30 Mart 2000."

³¹ In these statements, the Bulgarian word 'temi' is used. These elements of EU accession negotiations (thirty-one at the time; currently thirty-five) are officially and conventionally called "chapters."

³² Dragomir Draganov and Georgi Parvanov in Narodnoto Sabranie, "Trista sedemdeset i pŭrvo zasedanie 30 Mart 2000."

throughout all of the negotiation themes. Her response was mocked by the Left in parliament, but she went on with an elaborate and rather rambling explanation of how EC President Romano Prodi had linked the start of negotiation talks with Bulgaria in that same year with a healthy democracy. Such a democracy, Mihajlova continued, requires respect for human rights, which requires respects for freedoms, which then requires respect for European standards. The proposed law to condemn the socialist past would therefore fulfil such European standards.³³

In the remainder of the debate, as well as in later years, Mihajlova chose to use this rather abstract language instead of her earlier specific insistence that condemning the past constituted an accession requirement. For example, she spoke of the “logic” of condemning socialism on the Bulgarian road to the EU; equated a “step towards the future” in Europe with “showing what our relation with the past is”;³⁴ and brought “European values” into a debate on the awards and medals presented to former DS agents.³⁵ Her colleague Konstantin Dimitrov linked this latter issue to “worthy membership” of the EU.³⁶

The EU’s enduring indecisiveness in this realm thus did not fully stop the pro-confrontation side from presenting the EU as an actor of interest. We should not forget that the EU’s at that point dominant “overcome” narrative towards socialism, as discussed in chapter 2, was at least as abstract as the arguments depicted above. There was thus sufficient ground for the pro-confrontation side to present their own interpretations of the EU’s supposed anti-socialist character, despite the EU’s enduring indecisiveness. This can be illustrated best through the 2000 law that declared the socialist regime criminal—one of the pro-confrontation side’s main victories. Similar to the way in which the EU had framed the socialist past as a mistake, the Bulgarian law “externalised”³⁷ the socialist regime as a foreign and temporary rupture. The Bulgarian socialist party came to power “with the help of a foreign force” that violated the Bulgarian Tŭrnovska constitution.³⁸ This furthermore made national interests subject to those of a foreign power, thereby compromising not only “national dignity,” but also “national sovereignty.”³⁹

³³ Ekaterina Mihajlova in Narodnoto Sabranie, “Trista sedemdeset i pŭrvo zasiedanie 30 Mart 2000.”

³⁴ Ekaterina Mihajlova in Narodnoto Sabranie, “Trista devetdeset i shesto zasiedanie 9 septemvri 2004.”

³⁵ Ekaterina Mihajlova in Narodnoto Sabranie, “Sto sedemdeset i pŭrvo zasiedanie 4 oktomvri 2006.”

³⁶ Kostantin Dimitrov in Narodnoto Sabranie, “Sto sedemdeset i pŭrvo zasiedanie 4 oktomvri 2006.”

³⁷ For a general exploration of this tendency in the wider region of Central and Eastern Europe, see Tatiana Zhurzhenko, “The Geopolitics of Memory,” *Eurozine*, 2007, 3.

³⁸ Narodnoto Sabranie, *Zakon za obyavyavane na komunisticheskiya rezhim v Bŭlgariya za prestupen*. May 5, 2000. <http://lex.bg/laws/ldoc/2134920192>. Known in English as the Tarnova Constitution, the Tŭrnovska konstitutsiya was adopted in 1879 and became the first Bulgarian constitution. Because the constitution foresaw in the separation of power and the guarantee of some fundamental freedoms, it was advanced for its time. As such, it still represents a source of pride for Bulgarian people today. In 1947, the socialist regime installed a new constitution named after its leader, Dimitrov.

³⁹ Narodnoto Sabranie, *Zakon za obyavyavane na komunisticheskiya rezhim*.

Akin to the EU's "overcome" narrative, through the law, the pro-confrontation side emphasised the darkness of the past. Not only did the law "declare" the regime "criminal"; expressions such as "national catastrophe" and "unceasing terror" also made socialism sound like an alien entity that had nothing to do with contemporary Bulgaria.⁴⁰ In a similar fashion—and reminiscent of the way in which the anti-confrontation side claimed anti-fascism as a European virtue—socialism was contrasted with "Europeanness." The regime was considered responsible for "purposefully and deliberately ruining the values of European civilisation" in Bulgaria.⁴¹

The law thus reflected, as well as strengthened, the pro-confrontation side's anti-socialist and pro-European stance. This extended beyond the political arena. In 2000, various civil society organisations closely co-operating with anti-socialist political parties expressed their concerns to President Stoyanov about the persistence of socialist memorials and street names. They also worried about the presence of former socialists in high office. The (former) socialists, the letter read, in this way counteracted "our" foreign policy goal of NATO and EU membership.⁴² In June 2006, six months before Bulgaria's anticipated EU accession, the city of Berlin offered the citizens of Sofia a part of the Berlin wall. This was meant to highlight the connection between the two cities formerly at the same side of the wall dividing Europe.

As soon as the debate in Brussels on the socialist past seemed to turn to their favour, pro-confrontation parties started to make their claims more concrete. In 2004, Ekaterina Mihajlova of the DSB linked Bulgaria's proximity to EU membership to "Bulgarian democratic victories." "Democrats from the right as well as from the left," she then claimed, her words later repeated by colleague Ivan Kostov, had condemned "communism as a form of totalitarianism."⁴³ Yavor Milushev presented Bulgaria's anticipated entrance into the EU on January 1, 2007 as a potential new landmark event. This new date, he suggested, could serve as an antidote to a certain political elite's nostalgia for socialism. Underscoring the contrast between the European future and socialist past, he colourfully spoke of the "sunny future" and the "rainy forecast" for September 9—the old holiday celebrating the start of socialism.⁴⁴ Nadezhda Mihajlova from the SDS (not to be confused with Ekaterina

⁴⁰ Narodnoto Sabranie, *Zakon za obyavyavane na komunisticheskiya rezhim*.

⁴¹ Narodnoto Sabranie, *Zakon za obyavyavane na komunisticheskiya rezhim*. Translation by Dora Atanasova from State Gazette, "Law on Declaring the Criminal Nature of the Communist Regime in Bulgaria," May 5, 2000, <http://www.decommunization.org/English/Articles/BZ1.htm>.

⁴² Süyuz na vüzpitanitsite na VNVU, et al., *Letter to Express Worries about BSP and Lack of Action, Presence of Communists Memorials, Streetnames etc, High Positions of Communists in Present Society and Even Political Positions*, Letter to President Stoyanov, Sofia: Tsentralen düzhaven arhiv, Fond 1224, Opis 4, a.e. N 1027, 2000, 112–113.

⁴³ There were more claims like these in the debate. Jordan Nihrizov similarly implied that the EU had condemned communism when he spoke of the BSP's "two faces": one European face; and one old, communist face. Jordan Nihrizov, Ivan Kostov and Ekaterina Mihajlova in Narodnoto Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

⁴⁴ Yavor Milushev in Narodnoto Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

Mihajlova who had, by then, joined the DSB) stated in the same debate that “the democratic world” had clearly condemned Nazism and socialism.⁴⁵

Yet also in 2004, these claims were overstretched. It was only in 2009 that the EP unambiguously condemned the socialist regime and accepted it as an important European experience similar to the suffering under fascism. As discussed in chapter 2, by 2004 only the EPP had called for the condemnation of totalitarian socialist regimes. It had not received much support from other political groups in the EP and the European socialists had clearly contested this proposal. The EC and Council had, in addition, declared dealing with the socialist past to be outside of their accession mandate. In the light of these factors, the comments of Kostov, both Ekaterina and Nadezhda Mihajlova, and others can be read as an opportunistic interpretation of a debate that was ongoing and far from over, which in turn serves as evidence of the eagerness with which Bulgarian MPs followed wider EU debates and kept themselves up to date.⁴⁶

The above analysis of the anti- and pro-confrontation narratives thus confirms how creative the parties were in forming their connections between the (socialist) past and the EU future. The teleological narratives that were deduced from presenting the EU as a moral actor culminated in the prescription of a certain way of (not) addressing the past. At the same time, the reach and success of these narratives did, however, depend on the actual situation in Brussels. As we have seen, the clear rejection of fascism in the EU’s identity narrative initially put the anti-confrontation side in a comfortable position—able to present their narrative of socialists as resistance fighters during the Second World War. Meanwhile, the pro-confrontation narrative began rather less comfortably, not least because, at first, the EU resisted Central and Eastern European lobbying efforts to put socialist and fascist crimes on an equal footing. Nevertheless, the pro-confrontation narrative slowly gained momentum over the years, corresponding to the increasing anti-socialist stance of Brussels.

⁴⁵ Nadezhda Mihajlova in Narodno Sabranie, “Trista devetdeset i shesto zasedanie 9 septemvri 2004.”

⁴⁶ It is, however, possible that these pro-confrontation MPs alluded to an ongoing debate within the EU. After all, on May 12, 2005, the EP adopted a resolution that commemorated the sixtieth anniversary of the end of the Second World War and additionally “welcome[d] the fact that the Central and East European states and peoples can now also enjoy freedom and the right to determine their destiny after so many decades under Soviet domination or occupation or other communist dictatorships.” The motion for this resolution was only tabled on May 10, 2005, long after the aforementioned Bulgarian references in parliament to such a condemnation. The motion was supported by a wide variety of political groups in the EP and included the signature of Martin Schulz, the leader of the Party of European Socialists, of which the BSP was (and remains) a part. Yet the 2005 resolution had also incorporated the recognition of communism, albeit as not much more than a side note. Hans-Gert Poettering et al., “Motion for a Resolution. B6-0290/2005,” May 10, 2005, <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=B6-2005-0290&language=EN>.

5.3 The EU as model: Mirroring European experiences

Europe offered more than simply a moral incentive to condemn a certain part of history. Many parties presented the EU as an inspiring example of how dealing successfully with the past could inform the Bulgarian domestic process. For example, in 2004 the DSB's Ivan Kostov stated that Europe is the place it is today "because she has drawn lessons from many often bloody events in her history," continuing that Bulgaria needed to follow "the same road."⁴⁷ The pro-confrontation side also frequently used the argument that Bulgaria was the only country in the region not to have reached a satisfying point in its confrontation with the past. The "long overdue" disclosure of the state security archives was put in this comparative frame. Beyond the Bulgarian parliament—in speeches and interviews—similar cross-country parallels were drawn to support these arguments.⁴⁸

5.3.1 Engaging the overcome narrative: EU as forward-looking Union based on reconciliation

The anti-confrontation side gladly highlighted the EU's core narratives of unity, cooperation, and reconciliation. These characteristics, the anti-socialists often reasoned, together enabled the EU to look forward. Unnecessary engagement with the past, animosity, and political strife thus distracted from what EU co-operation was really about. This was often framed in moralistic terms. In 2000, for example, when parliament discussed the law to declare the socialist past criminal, a BSP representative dubbed the debate and draft bill a "shame and [a] disgrace" in front of the Bulgarian state and Europe.⁴⁹ In that same debate her colleague Ivan Korilov asked "why it [was] necessary to turn back." After reminding the assembly that Bulgaria was a member of the Council of Europe and that negotiations with the European Union had just started, he asked why parliament in these important times wanted to seek "hatred," "confrontation," and "revenge."⁵⁰

This narrative retained its appeal throughout the years and was also frequently used in 2004 and 2006. For example, in 2004, Rumen Ovcharov stated (after his long elaborations on the pro-confrontation side's supposed support for "Hitler-fascism," as discussed in the section above) that Bulgaria "needs a new European vision and in [that vision] is no place for hatred."⁵¹ The independent representative, Nansen Behar, had in an

⁴⁷ Narodno Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

⁴⁸ Dnevnik, "SDS vnese zakon za Institut za izuchavane na prestupleniyama na komunizma," *Dnevnik*, December 22, 2005, https://www.dnevnik.bg/bulgaria/2005/12/22/102373_sds_vnese_zakon_za_institut_za_izuchavane_na/.

⁴⁹ Meglena Plugchieva in Narodno Sabranie, "Trista sedemdeset i pürvo zasedanie 30 Mart 2000."

⁵⁰ Ivan Kirilov in Narodno Sabranie, "Trista sedemdeset i pürvo zasedanie 30 Mart 2000."

⁵¹ Rumen Ovcharov in Narodno Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

earlier debate come to the same conclusion.⁵² An economist working at Sofia University, Behar expressed half-way during the 2000 debate his shame for the “moralising tone” of the Right and the way the discussion was politicised by both sides. He blamed politicians across the full political spectrum for seeking confrontation rather than a real solution to the problems affecting ordinary citizens. This call for a more conciliatory spirit eventually underscored the argument of the law’s superfluity and thus received applause from the Left. As was revealed in later years, and significant to fully understanding the motivation behind this position, Behar had been a state security agent.⁵³

Following Bulgaria’s accession, the anti-confrontation side characterised the EU as a forward-looking union. The EP resolution on European Conscience and Totalitarianism (followed by similar documents from the EC and Council) that condemned the past socialist regimes, discussed in chapters 1 and 2, could have meant a significant setback. However, even after the EU had taken a clear pro-confrontation position on the socialist past, anti-confrontation Bulgarian politicians claimed that it did so with the goal to “eventually” achieve “reconciliation and unity of the European peoples” and to become a stronger union.⁵⁴ Therefore, as BSP representative Radoslavov suggested in 2010 during the debate on the revival process, in such times of economic crisis, Bulgarian parties should choose co-operation and unity over division—a rhetoric upon which GERB was also keen. Radoslavov thus bolstered his argument by referring to GERB party leader and Prime Minister Boyko Borisov. After all, Borisov’s main goal was to bridge interparty divisions and prepare Bulgaria for the future. Radoslavov concluded that reminiscing about the past would only impede such a process.⁵⁵

5.3.2 Moving from overcome to confront narrative: Closing the book, but reading the pages first

The pro-confrontation side could also appeal to this reconciliation narrative. They did so as part of a broader claim on Bulgaria’s Christian heritage. In their reading, of course, reconciliation formed an incentive to investigate the past together and right its wrongs. As a central element in the identity of in particular, the European People’s Party—a group in

⁵² Narodnoto Sabranie, “Trista sedemdeset i pŭrvo zasedanie 30 Mart 2000.”

⁵³ A document by archival committee COMDOS revealed in 2011 that Nansen Alfred Behar had been serving as an agent for the secret service, his pseudonym being “Ognyanov.” COMDOS, “Republika Bŭlgariya komisiya za razkrivane na dokumentite i za obyavyavane na prinadlezhnost na Bulgarski grazhdani kum Durzhavna Sigurnost i razuznavatelnite sluzhbi na Bulgarskata narodna armiya. Reshenie N. 2-24/17.06.2012 g,” June 27, 2012, <http://comdos.bg/%D0%9D%D0%B0%D1%87%D0%B0%D0%BB%D0%BE/Decision-View/p/view?DecisionID=422>.

⁵⁴ Aleksandŭr Radoslavov in Komisiya po pravata na choveka i veroizpovedaniyata, “Chetirideset i pŭrvo narodno sŭbranie 11 02 2010.”

⁵⁵ Aleksandŭr Radoslavov in Komisiya po pravata na choveka i veroizpovedaniyata, “Chetirideset i pŭrvo narodno sŭbranie 11 02 2010.”

the European Parliament of which the SDS, the DSB, and GERB were all members—this call on Christianity reflected the important domestic position of the church, especially following the end of socialism. The country's Christian heritage was also considered to firmly position Bulgaria's history within that of Europe. In this narrative, MPs emphasised the moral, political, and spiritual value of reconciliation. Lŭchezar Toshev, speaking about a protest against the revival process by Bulgarian and Turkish Muslims, congratulated himself and his party by explaining how "Christians from the SDS stood together with [Muslims] and helped them." By handing out cups of tea to the freezing protesters, Bulgarian Christians thus supported Bulgarian Muslims in an "act of national reconciliation" that prevented a "Yugoslav scenario in Bulgaria."⁵⁶ In the present day, Toshev argued, Christians again stood by Muslims in voting for the declaration to condemn the forced assimilation campaign.

The NDSV also employed this argument in a surprising way that testifies to the party's ambiguous stance towards the past. According to the NDSV, celebration of the socialist regime had to be condemned in order to supersede the nostalgia for a now long-gone past. Yavor Milushev stated in 2004 that the BSP's insistence on celebrating September 9, 1944 impeded Bulgaria's ability to look forward. Through the metaphor of Olympic sportsmen who only look ahead and the bold statement that "in three years, we will be in Europe," he concluded that parliament, like the EU, had to move on⁵⁷—something that apparently included adopting a declaration that condemned the past. Even the SDS, in the person of Petar Stoyanov, seemed to associate EU accession with overcoming the past. Bulgaria should disclose the files, he argued in the 2006 debate on archival disclosure, in order to "close one page before our entry in the European Union."⁵⁸ It is also important here to remember that both SDS presidents, Zhelev and Stoyanov—perhaps inspired by their positions as leaders of the whole nation—had promised a more conciliatory approach in the light of Bulgaria's future.⁵⁹

These arguments by the SDS and the NDSV may at first glance resemble the EU's "overcome narrative" as discussed in chapter 2. Yet, whilst they overlap in terms of portraying the socialist past as a dark episode that needs to be closed, the implications for the present are diametrically opposed. The EU did not see much merit in governments paying attention to this past violence, whilst, in the above arguments, confrontation was a

⁵⁶ Lŭchezar Toshev in Narodnoto Sabranie, "Trista i pŭrvo zasedanie 11 yanuari 2012."

⁵⁷ Yavor Milushev in Narodnoto Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

⁵⁸ Petar Stoyanov in Narodnoto Sabranie, "Sto dvadeset i chetvŭrto zasedanie, Sofia, sryada, 7 yuni 2006 g," June 7, 2006, <http://parliament.bg/bg/plenaryst/ns/51/ID/149/>.

⁵⁹ On September 9, 1994, Zhelev had stated in a special address to the nation that the "9th of September should not be neglected, or passed in silence," despite the controversy. He described crimes that occurred before 1944 and after 1944, thus stressing that fascism as well as socialism had both been responsible for violence. Zhelev, quoted in Vukov, "Remembrance of Communism," 559.

requirement for such closure. In this sense, the statements by Milushev and Stoyanov seem to anticipate the EU's "confront narrative"—a narrative that did uphold the linear transition ideal, but incorporated a necessity to address the past through fact-finding and remembrance. Thus, until the EU gradually changed its narrative towards the socialist past from 2009 onwards, the pro-confrontation side was limited in its claims on the EU future. Their use of the reconciliation narrative featured rather awkwardly in their broader call for disclosing the past as a beneficial feature towards EU accession. The anti-confrontation side was much more comfortable with the narrative, as it fitted well their consistent call for political forgiveness and unity in the light of the future. For example, as the socialist parliamentarian Gino Ganev claimed, the Bulgarian Right was stuck in the past and failed to see the BSP's new identity. The "political music" had changed, he colourfully reiterated, but the Right had failed to acknowledge that it was no longer a "communist tune" playing. Confrontation had to make room for a more constructive and reconciliatory approach.⁶⁰ This illustrates how party stances towards the past reflect their wider identities and goals—even if the goal is as mundane as avoiding blame and securing a place in the new political arena.

5.3.3 Engaging the confront narrative: EU as a Union of human rights and openness towards the past

The above does not mean that the pro-confrontation side was left empty-handed until 2009. In their reading of EU practice and narratives, the EU represented a moral regime of human rights, democracy, and the rule of law. From that point, they deduced that EU membership required transparency and condemnation of totalitarianism, including Bulgaria's socialist regime. In 2004, Mihajlova from the SDS coupled the importance of accepting the declaration at stake with the notion that Bulgaria had to "show how [it related] towards the past and that we are worthy to enter Europe."⁶¹ In the same debate, her colleague Jordan Nihrizov declared that Bulgaria's place was in a "united Europe" with the knowledge of its own past "as it was."⁶² The issue of archival disclosure was especially receptive to such language, juxtaposing the wrongfully hidden past with the openness associated with the EU. In December 2006, Eliana Maseva reiterated how Van Orden's report called for the establishment of an archival committee that would disclose "these secrets" significant for Bulgarian society as well as for the "European and global society."⁶³

⁶⁰ Gino Ganev in Narodnoto Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

⁶¹ Nadezhda Mihajlova in Narodnoto Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

⁶² Jordan Nihrizov in Narodnoto Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

⁶³ Eliana Maseva in Narodnoto Sabranie, "Sto Devetdeset i shesto zasedanie 6 dekemvri 2006."

This argument was upheld in later years and, if anything, following EU accession it seemed to become even stronger. Urging parliament to include the proposed declaration on the forced assimilation of Muslims in the parliamentary agenda in 2012, the DSB's Veselin Metodiev framed it as part of every parliament's duty to recognise the shameful events of its history, a stance he considered to relate to "the protection of human dignity."⁶⁴ This acknowledgement was "especially important for a state, which is a member of the European Union."⁶⁵ Ivan Kostov later confirmed and highlighted his colleague's argument when he framed the assimilation process as "violations of human rights and freedoms," in "a European state" that shares the "values of the European Union."⁶⁶ Toshev, from the SDS, also stressed the necessity for Bulgaria's commitment to human rights as a "member of the Council of Europe, of the European Union"—a position that had always been supported by his party.⁶⁷

Pro-confrontation politicians not only foregrounded their own way of remembering the past; they also ridiculed that of their opponents. Parties such as the BSP did not have a historically solid memory of socialism, the argument read, but instead longed for a period that had in fact never existed. The above has already included some instances of warnings regarding socialist "nostalgia." During a conference in the EP in 2010, the Bulgarian MEP Andrey Kovatchev argued that "at some particular moments, the debate [about Bulgaria's post-Second World War history] was frozen and overshadowed by nostalgia for the repressive dictatorship, motivated by its successors."⁶⁸ Such claims were also frequent in parliamentary debates. Mihajlova, of the SDS, "condemned all politicians and organisations" that kept alive the "cult" of socialist symbols, holidays, and rhetoric.⁶⁹ The rational reasons that may underlie such longing were thus simply dismissed as cult-like "nostalgia."

5.3.4 *Comparing transitions: Models of dealing with the past in other EU states*

Apart from using these broad references to the EU as a guiding light for their domestic dealing with the past, party members also referred to individual member states as specific models. As both sides of the debate had, over the years, fifteen to twenty-five member states to choose from, they could simply cherry-pick the experience that, in line with their interpretation, suited their preferred attitude towards the past. Welsh identified Germany, the Czech Republic, and Slovakia in her study from 2015 as the leading regional models for

⁶⁴ Veselin Metodiev in Narodното Sabranie, "Trista i pŭrvo zasedanie 11 yanuari 2012."

⁶⁵ Veselin Metodiev in Narodното Sabranie, "Trista i pŭrvo zasedanie 11 yanuari 2012."

⁶⁶ Ivan Kostov in Narodното Sabranie, "Trista i pŭrvo zasedanie 11 yanuari 2012."

⁶⁷ Lŭchezar Toshev in Narodното Sabranie, "Trista i pŭrvo zasedanie 11 yanuari 2012."

⁶⁸ Kovatchev, *Proceedings from the Conference "The Endured European Dream of Bulgaria,"* 3.

⁶⁹ Nadezhda Mihajlova in Narodното Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

lustration and archival disclosure, noting that their policies “have been frequent reference points in the neighbouring countries’ discourse.”⁷⁰ Indeed, the upcoming section will discuss some interesting references to the German experience (although few pertaining to the Czech and Slovakian approach were found). Spanish and Portuguese approaches of “drawing a thick line,” according to Welsh, were used to counter these pro-confrontation examples. Again, references to Spain (but not Portugal) were present in the Bulgarian debate.⁷¹

Of course, it is difficult to establish to which extent these authoritative references to individual examples fed into the EU membership prospect. They could simply serve as inspiring examples in themselves. However, it is telling that the majority of the examples used concerned EU member states. References to non-EU states with an (in)famous track record of dealing with the past, such as South Africa, did occur, but were very rare. Remarkably, well-known cases such as Cambodia and Argentina, potentially highly informative to the Bulgarian context, were not found once in the analysed debates. Europe (and specifically the EU area) thus appears as the Bulgarian parties’ main point of reference.

The Spanish model: Claims to forgive and move on

The post-dictatorship trajectory of Spain was most popular amongst anti-confrontation parties. In the aftermath of the Francoist repression, the deliberate political choice had been made—as these parties perceived it—to forgive and forget the atrocities committed during the war and dictatorship. It is important to mention that few historians would agree with this. Especially since 2000, Spanish authorities and civil society organisations have in fact committed to finding the facts and remembrance.⁷² Nevertheless, Spain was mentioned thirteen times in anti-confrontation claims during the debate in 2000. The BSP MP Lyuben Kornezov found it sufficient to declare himself in favour of “the Spanish model” and repeated twice, “we need to put a point.” He then started talking about a current problem of children not going to school, whilst under socialism education was free.⁷³

⁷⁰ Welsh, “Beyond the National,” 171.

⁷¹ Welsh, “Beyond the National,” 172.

⁷² Political claims on experiences in EU member states frequently did not resonate with the academic consensus. I will occasionally offer some historical context to these political claims, however, I am more interested in the content and aims of these political claims rather than the question whether they are correct or not. In the Spanish case, the temporal factor is especially interesting: whilst until 2000, one could still claim that the Spanish authorities largely discarded the past, this changed significantly after 2000 when large-scale exhumations and a plethora of memorialisation activities were initiated. The majority of these references date from 2000, thus giving way to the possibility that Bulgarian parliamentarians simply had not yet caught up with recent developments. However, given the fact that their claims were already exaggerated with regard to the period until 2000 and the continuation of these references to Spain in the years after, political opportunism still seems to hold the greatest explanatory power.

⁷³ Lyuben Kornezov in Narodnoto Sabranie, “Trista sedemdeset i pŭrvo zasедanie 30 Mart 2000.”

Later in the same debate, Kornezov's colleague, Yanaki Stoilov, explained why he supported the Spanish model—or at least his interpretation of it. Spain had experienced an even “heavier” period because its civil war caused much more violence, which led to many more victims than Bulgaria's socialist regime, although the country was, he argued, now experiencing impressive growth.⁷⁴ A forward-looking policy would reap similar benefits for Bulgaria. In fact, he boasted that the Bulgarian Left had been stating the significance of the Spanish example all along.⁷⁵ Hristo Stoyanov, a representative from the Euroleft—a party consisting of several ex-members of the BSP—even ridiculed the debate on the law to criminalise the socialist regime by stating that Bulgaria had already implemented the Spanish model. Here he referred to a declaration adopted in 1997 that supposedly reflected a strategy of reconciliation over confrontation.⁷⁶

This argument was also used by representatives from other parties. During the same debate, the aforementioned independent MP, Nanser Behar, explained that the Spanish experiences showed that Bulgaria should move forward and seek a national consensus instead of wasting time on an “absurd” bill.⁷⁷ His former affiliation with the secret service probably goes a long way in explaining his preference for forgiveness and forgetting. The example remained salient in later years, although the reality of the Spanish approach to the past had shifted significantly in the direction of a more confrontational approach. In 2004, an NDSV parliamentarian posited that in Spain, God was to judge who was right. On earth one should thus not necessarily forget, but at least forgive.⁷⁸ It is to be emphasised that these remarks did not reflect the party's overall stance. As we know, the majority of the NDSV eventually supported the declaration to condemn the socialist regime. Apparently, the reference to the Spanish example was popular even outside parliament. In 2006, during an interview with the popular newspaper *Vestnik*, BSP representative Krasimir Premyanov (after having praised the secret service for its bravery) dismissed a question on socialist President Parvanov's state security affiliation as “uninteresting.”⁷⁹ The content of the archives was useless, he stated, because Bulgaria should actually follow the Greek and Spanish example.⁸⁰

⁷⁴ Yanaki Stoilov in Narodnoto Sabranie, “Trista sedemdeset i pŭrvo zasedanie 30 Mart 2000.”

⁷⁵ Yanaki Stoilov in Narodnoto Sabranie, “Trista sedemdeset i pŭrvo zasedanie 30 Mart 2000.”

⁷⁶ Hristo Stoyanov in Narodnoto Sabranie, “Trista sedemdeset i pŭrvo zasedanie 30 Mart 2000.”

⁷⁷ Narodnoto Sabranie, “Trista sedemdeset i pŭrvo zasedanie 30 Mart 2000.”

⁷⁸ Kamen Vlahov in Narodnoto Sabranie, “Trista devetdeset i shesto zasedanie 9 septemvri 2004.”

⁷⁹ Krasimir Premyanov, “Nyama sdelka mezhdu Parvanov i Kostov,” in *Silna politika se pravi s alternativni: Sbornik s intervyuta, stai i izkazvaniya v mediite, na plenarni zasedaniya na VS na BSP i drugi partijni forumi (2002–2007)*, ed. Krasimir Premyanov (Sofia: Siela, 2007), 106.

⁸⁰ Premyanov, “Nyama sdelka mezhdu Parvanov i Kostov,” 108.

Lessons from Germany, Austria, and Poland: Claims to condemn the past

The frequent references to the Spanish model in the 2000 debate evoked several counter-arguments from the *Bŭlgarskiya Zemedelski Narodni Sŭyuz* (Bulgarian Agrarian National Union, BZNS-NS), which occasionally formed coalitions with the SDS. Three MPs from this party—namely, Borislav Kitov, Kalcho Chukarov, and Stefan Lichev—maintained that Spain had at first punished perpetrators and condemned the system, before accepting the future-oriented policy.⁸¹ The very fact that the pro-confrontation side made the effort to react to the BSP's advocacy for the Spanish model shows that references to other countries were indeed held to be authoritative. At the same time, it also illustrates the ease with which parties from this side of the spectrum used history to their advantage—this interpretation of the Spanish transitional justice process is at least as contested (if not outright incorrect) as that of the anti-confrontation side.

In its turn, the SDS introduced the (allegedly failed) case of Austria and the (successful) case of Germany to further their lobbying for the law that was to ultimately condemn the socialist regime. In 2000, Mono Hristov described how Germany had confessed its guilt for the events after 1939. Austria, meanwhile, had never officially denounced Nazism in any meaningful sense. This failure accounted for the current rise of neo-fascist parties in Austria,⁸² and a link to a similar and equally dangerous “neo-socialism” threatening Bulgaria today was quickly made.

That Germany managed to deal with its Nazi past quite well, was raised again in 2010. Ivan Kostov and Jordan Bakalov, from the DSB and SDS respectively, with regard to the declaration to condemn the forced assimilation of Muslims, presented the German way of apologising to victims of the Second World War as an example for Bulgaria. Kostov concluded that this is what “the civilised countries” do.⁸³ Joachim Gauck, one of the leading figures in Germany's recent politics and its process of confronting the past, also reported that proponents of archival disclosure and lustration in Romania and Bulgaria “praised our solution almost effusively.”⁸⁴

Moreover, the German example helped to build the anti-socialist case. Although anti-fascist identity was proudly claimed by the anti-confrontation side, the pro-confrontation parties were not shy to also present fascism and Nazism as absolute evils—again, in line with the EU's foundational narrative. Comparing Nazi crimes to socialist crimes and the respective number of victims was a common way to underline the graveness

⁸¹ Borislav Kitov, Kalcho Chukarov and Stefan Lichev in Narodnoto Sabranie, “Trista sedemdeset i pŭrvo zasedanie 30 Mart 2000.”

⁸² Mono Hristov in Narodnoto Sabranie, “Trista sedemdeset i pŭrvo zasedanie 30 Mart 2000.”

⁸³ Ivan Kostov and Jordan Bakalov in Komisiya po pravata na choveka i veroizpovedaniyata, “Chetirideset i pŭrvo narodno sŭbranie, 11 02 2010.”

⁸⁴ Joachim Gauck, quoted in Welsh, “Beyond the National,” 172–173.

of Bulgaria's socialist regime. In 2012, Yunal Lyutvi from the DPS drew a parallel between the large-scale deportation during the revival process and the deportations "at the time of Hitlerism."⁸⁵

Another authoritative example raised by pro-confrontation parties was Poland. In the 2000 debate on the criminal nature of the socialist regime, Kalcho Chukarov mentioned that Poland had adopted a similar law only two months before. He emphasised that Poland was clearly ahead on the road to European integration and European values. Only two sentences later he suggested that many involved in the crimes of Bulgaria's former socialist regime were currently represented in the chamber, thus adding urgency to the authoritative example.⁸⁶

The two distinct narratives of the EU as a model for dealing with the past thus mostly confirm the conclusions from the narratives of the EU as moral actor—the anti- as well as the pro-confrontation side were eager to present Brussels as a teacher, even when the EU had shied away from taking a stance. Again, its increasing engagement with socialist crimes strengthened the pro-confrontation sides "confront narrative." Moreover, these narratives of the EU as an example suggest that Bulgarian parties were surprisingly successful in anticipating these EU-wide developments. The above has not been able (and indeed has not tried) to pinpoint causality or any other logical link, but it offers a fascinating illustration of the more implicit ways in which the accession space follows and interacts with the EU's core business.

5.4 "Mixing" the pasts

Bulgarian parties, from both sides, did not shy away from narratives that positioned their national history as part of, or close to, the EU foundational narrative. At first glance this may seem far-fetched and opportunistic, yet a more historically conscious interpretation would point at Bulgaria's centuries-old affiliation with Europe. Throughout the centuries and especially from the nineteenth century onwards, there has been a strong political tendency to look for the country's "Europeanness." The centuries of Ottoman rule suppressed Bulgaria's European connection. The country saw its independence restored through the 1878 San Stefano treaty, although the major European powers overruled this treaty only months later, thus curbing Bulgaria's national aspirations. Bulgarian liberal intellectuals presented independence as a way to "join Europe" once again and it was in

⁸⁵ Yunal Lyutvi in Narodnoto Sabranie, "Trista i pŭrvo zasедanie, 11 yanuari 2012."

⁸⁶ Kalcho Chukarov in Narodnoto Sabranie, "Trista sedemdeset i pŭrvo zasедanie 30 Mart 2000."

this context that Bulgarian parties framed their commitment to the EU future in the 1990s and 2000s.

Most historians would agree, however, that the above account is problematic and simplified. However, it captures the political narrative underscoring the “return to Europe” rhetoric that took centre stage in the 1990s. As with the period of Ottoman rule, the decades of socialism had diverted Bulgaria from its European path. Testifying to these (imagined) historical connections, in his addresses to the nation in 1997, 1998, and 1999, President Stoyanov quoted important national figures⁸⁷ from the nineteenth century who had already advocated for, and praised, Bulgaria’s strong position in Europe. The president thus framed the idea of Bulgaria’s “road to the European family” as a historical imperative dating back to the nineteenth century.⁸⁸ From this perspective, to employ “Europeanness” as a political argument in the debate on the country’s socialist past is simply the continuation of a long tradition.

Such long temporal frames can indeed be found in the narratives of anti-fascism, anti-socialism, reconciliation, and human rights analysed above. This introduces another urgent question that has perhaps been the “elephant in the room” throughout this chapter: Can we study dealing with the socialist past separately from dealing with the more distant past? Indeed, there are in fact two Bulgarian “pasts” that need to be dealt with in relation to each other—that of socialist crimes, and that of Nazi collaboration in the Second World War.⁸⁹ The start of socialism, as the anti-confrontation side did not fail to emphasise, had meant the end of Bulgaria’s collaboration with the Nazi regime. This chapter has already listed several examples of arguments concerning the Second World War in debates meant to be about the socialist past—something that the BSP was especially eager to do. The triumph over fascism, it was hoped, would rehabilitate the socialist image tainted by less glorious, but more recent episodes such as the revival process.

Whilst their claims of moral victory and the Right’s moral defeat were clearly overstated, these arguments did reveal an “inconvenient truth” for the anti-socialists. As an interview with Ivan Kostov from 2013 illustrates, the Bulgarian Right was keen to present its proud and long history. As Kostov reiterated, it had produced the country’s most important philosophers and thinkers, and had been a stable presence in Bulgarian history.⁹⁰ The allegations of the former socialist party thus undermined their anti-socialist narrative, in which the Right had always been on the “good” side of history.

⁸⁷ These were Hristo Botev and Dyakona Levski.

⁸⁸ Stoyanov, *Tŭzhestveno slovo*.

⁸⁹ For many Bulgarian scholars, this is not new information. See e.g. Diana Mishkova, interviewed by Author, *Interview* (6 June 2016); Boyko Penchev, interviewed by Author, *Interview* (9 June 2016).

⁹⁰ Kostov, quoted in Ivanov and Spasov, eds., *Glasovete na prehoda. Desnite*, 271.

However, the anti-socialist (and generally pro-confrontation) side had some argumentative resources in reserve. It is true that Bulgaria collaborated with the Nazis, but in a common effort of the tsar and the population, their counter-argument read, the country had succeeded in saving all of the Bulgarian Jews—the historical correctness, or rather incorrectness, of this statement will be discussed below. This alleged heroic deed had been honoured by the state of Israel by elating Bulgaria to a place amongst the righteous nations. It made for a popular story on the international stage as well. It was considered to strengthen the nation's just and thus inherently "European" profile. For example, in 2000, Bulgaria participated in the Stockholm International Forum on the Holocaust with the explicit motivation to tell the international community about the Bulgarian rescue operations of the Jews.⁹¹ The Organisation of Jews in Bulgaria even suggested to the president that Bulgaria organised the next Holocaust forum, so that it could bolster Bulgaria's European integration.⁹² During his speech at the forum, Stoyanov dubbed Bulgaria's saving of Jews the nation's "greatest contribution to the European civilisation in the outgoing century . . . worth more than any precious work of art."⁹³ Bulgaria, he stated, had thus "remained committed to the European humanitarian values."⁹⁴ It was this explicit coupling of Bulgaria's track record in saving its Jewish population and Bulgaria's "Europeanness" that formed the Right's response to the Left's story of Bulgarian socialism fighting the European anti-fascist struggle. According to the Right it was not (as in the socialist narrative) that, on September 9, 1944, Bulgaria joined the anti-fascist—and thus European—side; already during the war, Bulgaria had shown its resistance to fascism and its dedication to European values by protecting its Jewish population.

What is omitted from this self-congratulatory narrative, is the story of the Macedonian Jews. Living under Bulgarian administration but not in Bulgaria itself, they were deported and subsequently killed in high numbers in Europe's concentration camps. When the Association Jews of Macedonia in Israel heard of the plan to highlight the national successes in saving the Jewish population of Bulgaria during the Stockholm conference, it wrote an extensive letter in Macedonian and English to President Stoyanov.

⁹¹ Zhasmin Popova, *Faks za G-n Atanas Budev, Sekretar na Prezidenta po vŭnshnopoliticheski vaprosi, 17 yanuari 2000*, Otnoso: Mezhdunaroden forum za Holokosta. Stockholm: Tsentralen dŭrzhaven arhiv, Fond 1224, Opis 4, a.e. N 729, 2000, 46.

⁹² Emil Kalo, *Upravitelten Sŭvet, Organizatsiya na Evreite v Bŭlgariya "Shalom" do G-n Petŭr Stoyanov, President na Republika Bŭlgariya*, Sofia: Tsentralen dŭrzhaven arhiv, Fond 1224, Opis 4, a.e. N 729, 2000, 131–132.

⁹³ Petar Stoyanov, *Slovo na Prezidenta na Republika Bŭlgariya G-n Petŭr Stoyanov (zarazprostanenie) Mezhdunaroden Forum za Holokosta. Stokholm, 26–28 yanuari 2000g*, Stockholm: Tsentralen dŭrzhaven arhiv, Fond 1224, Opis 4, a.e. N 729, 2000, 158; Petar Stoyanov, *Petar Stoyanov, President of the Republic of Bulgaria: Address to the International Conference on the Holocaust. Stockholm, 26–28 January 2000*, Stockholm: Tsentralen dŭrzhaven arhiv, Fond 1224, Opis 4, a.e. N 729, 2000, 174.

⁹⁴ Stoyanov, *Slovo, Stokholm, 26–28 yanuari 2000g*, 159; Stoyanov, *Petar Stoyanov, Address, Stockholm, 26–28 January 2000*, 175.

The letter accused Bulgaria of “war crimes and holocaust denial . . . against the innocent Jews of Thrace and Macedonia.”⁹⁵ In his speech presented at the Holocaust forum, admittedly, Stoyanov did mention that the Bulgarian people “cannot but mourn the millions of Jews who perished during the War, including the innocent victims from Aegean Thrace and Macedonia.”⁹⁶ However, he decoupled their fate from Bulgarian responsibility. These Jews were simply described as those “whom no protests of the Bulgarian public could save and who passed through Bulgaria on their way to the Nazi camps.”⁹⁷ In the next sentence, he went on to express his pride for the way in which the Bulgarian Jews “never forgot the country that gave them birth and rescued them”⁹⁸—the narrative thus also having a patriotic element to it.

This reasoning, of course, did not fully cover up the blame of Bulgaria’s fascist collaboration. It is fair to argue that this memory of Bulgaria’s collaboration has haunted the anti-socialists and affected the debate on the socialist past. Their inclination to portray the socialist past as an interruption of an otherwise wholly European path, as was most clearly expressed in the 2000 law that declared the socialist regime criminal, was easily questioned by their opponents through a simple reference to the period 1941–1944. In addition, the former socialists could nuance, if not outright oppose, the anti-socialists’ bleak depiction of the allegedly criminal socialist regime. Was it not this regime after all, they asked, that had defeated the Nazis?

5.5 Concluding remarks

Each of the last three chapters has built on its predecessor, so the next logical step now is to synthesise their findings in a conclusion. Together, the chapters testify to the multiple roles that both the prospect of EU membership and EU membership status have played in the Bulgarian debate of its past. Instead of discussing them in order, I will start with the last chapter. Narratives, after all, offer insight into the more profound connections between the past and the EU future, which also informed party orientations and parliamentary decision-making.

I identified two overarching narratives connecting the past, the EU membership prospect, and finally membership status: the EU as a moral actor, offering an identity position regarding the past; and the EU as a model, requiring a certain approach towards dealing with the past. Each consisted of two interpretations, mostly mutually exclusive,

⁹⁵ Nissim Yosha, *Association Jews of Macedonia in Israel, 7 February 2000g, to His Excellency, Mr Peter Stoyanov, President of the Republic of Bulgaria, Sofia*, Skopje: Tsentralen dŭrzhaven arhiv, fond 1224, Opis 4, a.e. N 729, 2000, 130.

⁹⁶ Stoyanov, *Slovo, Stockholm, 26–28 yanuari 2000g*, 160.

⁹⁷ Stoyanov, *Slovo, Stockholm, 26–28 yanuari 2000g*, 164.

⁹⁸ Stoyanov, *Slovo, Stockholm, 26–28 yanuari 2000g*, 164.

that fitted the pro- or anti-confrontation sides' preferred strategies towards the past. The anti-confrontation side had at its disposal the narratives of, first, the EU as an anti-fascist union and, second, of reconciliation as a prerequisite to overcome the past and move towards Brussels. The pro-confrontation side instead presented the EU as an anti-socialist Union and emphasised human rights and openness towards the past as EU demands. With fifteen to twenty-five EU member states to choose from, both sides could freely select country examples that suited their respective second narrative of the EU as their model. Whereas the anti-confrontation side did generally not go beyond its favourite example—namely, Spain—the pro-confrontation side extended its range from “the usual suspect” Germany to Poland and, as a warning of how not to deal with the past, Austria. Given the ambiguous EU approach to the socialist past, it is not only remarkable that Bulgarian narratives were relatively consistent and solid, but also that both sides of the debate could use the EU accession prospect without having to invent EU positions. Rather, Brussels' own ambiguity created the space for domestic parties to pick and choose elements of the EU's narratives that suited them best.

Most importantly, understanding of these narratives' embeddedness in the Bulgarian debate gives further depth to my findings on party orientations and parliamentary decision-making. Upon coming to power in 2001 and shortly afterwards revoking the 1997 archives law, former tsar Simeon, for example, emphasised his party's commitment to EU membership in the same breath as his future-oriented politics. This was in line with narratives that had already been in use by the BSP after its switch to a pro-European course. Simeon and the BSP here found fertile ground in the EU's “overcome narrative” (analysed in chapter 2), which presented the past as an uninteresting domain that only distracted from future-oriented policies. Their stories mirrored the EU's identity narrative of linear development from a divided continent in and after the Second World War to a free, united, and democratic state in the present day—“music to the ears” of the anti-confrontation side advocating “reconciliation.” This rationale paved the way for the NDSV's anti-archives law in 2001 and proved a strong deterrent of the pro-confrontation side—that is, until the EU gradually changed its own attitude towards the past.

The archives law of 2006 is a prime example of the pro-confrontation side's successful use of political momentum. Here also, the debate on the law built upon carefully constructed narratives of the EU as an anti-socialist Union. To be a worthy EU member at the very least required the state to provide its citizens with disclosure of past secrets, indicating respect for human rights, and preferably also a form of justice for any harm done. Here, the comparison with other EU member states came in especially handy. The SDS, DSB, DPS, and other parties had referred to Germany and Poland as their examples for years, however, coupled with the EU accession momentum, they acquired additional

urgency. If Bulgaria would not adopt the archives law, they argued, it would be the only EU member state without one. A similar mechanism was at play with the declaration to condemn the revival process. When re-introduced in 2012 after years of rejection, the pro-confrontation side built on the narrative of the EU as a union of minority rights, constructed since 2000 by the DPS.

Together, the three chapters thus illustrate that “formal” politics and more abstract narratives on the past operate together and should thus preferably be studied together. The EP’s concrete policy change by adopting the 2009 resolution that condemned totalitarian regimes (followed by the Commission and Council) was so powerful because it also signified a narrative change. In Bulgaria, this led to a profound shift. At first, the EU’s “overcome narrative” suited the pro-confrontation best. The 2000 law that declared the socialist regime criminal, for example, had described the socialist past as a foreign and alien aberration on an otherwise wholly European path. Meanwhile, the anti-confrontation side could quite comfortably reside in the narrative that socialism signified Bulgaria’s anti-fascist struggle after years of shameful collaboration with the Nazis. Since the EU was built upon the victory over fascism, September 9, 1944, placed Bulgaria firmly in the European family—or so the argument read. Yet, after 2009, this narrative of the EU as an overtly anti-fascist and thus pro-socialist Union became untenable and, instead, the “overcome narrative” became the main ammunition of the anti-confrontation side that hence chose to distance itself from the socialist past.

This switch in narratives was directly connected to a very concrete change in political orientation: the BSP embarked upon a pro-EU course. The party’s position towards its own past had always been ambiguous. On the one hand, the party officially praised the achievements of its socialist predecessors, as well as “the historical significance of the revolutionary forces.”⁹⁹ On the other hand—and here its political attitude met the EU’s “overcome narrative”—already from the early 2000s, the party consequently presented itself as a “European . . . party of the future,” welcoming reform and modernity.¹⁰⁰ From the debate about the 2006 archives law onwards, this second rationale grew in importance and eventually dominated the BSP’s argument towards the archives law. An obsession with the past, a BSP representative reminded her colleagues, fails to acknowledge that “we have new realities” and that “we live in a little more recent time.”¹⁰¹

⁹⁹ Congress of the BSP, “Obrüştenie na 48-ia kongres na BSP kŭm bŭlgarskata obshtestvenost,” April 5, 2015, 2, <http://bsp.bg/files/attachments/2015/07/31/9-may-obrâstanie.pdf>.

¹⁰⁰ E.g., BSP, “Politicheska platforma,” 262. See also the analysis of the BSP in sub-chapter 3.3.3.

¹⁰¹ Marusya Lyubcheva in Komisiya po pravata na choveka i veroizpovedaniyat, “Redovno Zasedanie na Komisiyata po pravata na choveka i veroizpovedaniyata, 16 mart 2006 g.,” March 16, 2006, <http://www.parliament.bg/bg/parliamentarycommittees/members/169/steno/ID/186>.

This narrative of the socialist past as distant, unfamiliar, and irrelevant externalised the responsibility for this past.

These developments may be easily interpreted as progress from a liberal perspective. Especially from the viewpoint of the EU, which held on to the discourse of teleological transition from socialism to EU membership, this externalisation can be understood as a successful step towards becoming a worthy EU member state. Nevertheless, I do see ground for caution here. Especially now that the BSP has adopted a pro-EU course and has chosen the narrative of dissociation over that of identification with its authoritarian predecessor, there is a risk that the story of Bulgaria's post-socialist transition becomes one of discontinuity only.

Such an acceptance of discontinuity directly affects the question of accountability. Tony Judt described this political tendency to overstep the inconvenient discussion of socialist reality already in 2002 as the "denial of socialist experience."¹⁰² Judt's conclusion concerns the whole region of Eastern Europe and whilst Bulgaria seems to tell a similar story, there is a little bit more nuance to it. Rather than simple denial, there is a tendency to talk about the past in extremes. Ganev elaborately described the political disinterest in history, displayed by powerful parties like GERB, but also showed that Borisov praised Zhivkov's achievements: "[E]ven if we do one per cent of what [Zhivkov] did during his rule . . . that would be an enormous success," the prime minister stated in 2010.¹⁰³ At the same time, parties such as GERB and the NDSV existed by virtue of their focus on the future and their rejection of the past—also in 2010, GERB MEP Andrey Kovatchev organised a conference at the EP to denounce the Bulgarian socialist experience. These extremes of a positive and negative attitude towards the socialist past could co-exist precisely because of the lack of a coherent strategy of dealing with the past. What was in fact denied here, returning to Judt's conclusion, was the daily, complex socialist experience. All Bulgarians born before 1985 have memories of this period, as most spent a significant part of their lives in socialist Bulgaria. Bulgaria did not give birth to nine million new citizens in 1989. Scholar Ina Dimitrova, echoed by oral history scholarship,¹⁰⁴ has therefore pointed towards the problem of proclaiming socialism a "monster" in the Bulgarian domestic debate.¹⁰⁵ Instead, it should be dealt with as a decades-long reality that shaped people's lives—to various extents and in various ways.

¹⁰² Tony Judt, "The Past is Another Country: Myth and Memory in Post-War Europe," in *Memory and Power in Post-War Europe*, ed. Jan-Werner Muller (Cambridge: Cambridge University Press, 2002), 181.

¹⁰³ Boris Borisov, quoted in Ganev, "The Inescapable Past," 226.

¹⁰⁴ Daniela Koleva, for example, interviewed inhabitants of the area of the infamous socialist prisoner camp Belene. They described the camp in terms of a "natural disaster" and a "divine curse." Daniela Koleva, "Belene: Remembering the Labour Camp and the History of Memory," *Social History* 37, no. 1 (2012): 16.

¹⁰⁵ Ina Dimitrova, "How We Raised a Monster: Constructing the Image of Socialism during the Post-Socialist Period in Bulgaria," *History of Communism in Europe* 1 (2010): 153–165.

In the previous chapters, I have thus argued that the hesitant EU attitude towards the position of the socialist past in the “accession package” (albeit unintentionally) exacerbated this domestic denial. The EU accession prospect was not the only factor, of course, but its relevance in a political landscape united by the desire to “join Europe” should not be underestimated. The case of Bulgaria thus testifies to the findings of several scholars discussed so far in this book: the normative position of the EU ensures that it cannot simply adopt a neutral position vis-à-vis a domestic debate. Brussels’ focus on technical problems rather than memory issues and its future-oriented “overcome narrative”—at least until 2009—legitimised Bulgarian parties that similarly did not wish to engage with the past or that, like the BSP, wished to absolve themselves from association with the previous regime. Eventually, this take on the socialist era as a distant, faceless past seriously affects questions of accountability. Who is to take responsibility for the crimes if Bulgaria’s present society has nothing in common with the country before 1989?

Case Study 2: Dealing with the Pasts in Serbia

Transition is second nature for the area now known as the Republic of Serbia. Throughout distant and recent history, the territory of contemporary Serbia has seen borders and political systems change several times. After it freed itself from Ottoman rule in the nineteenth century, it entered several monarchical structures with the states that now constitute Slovenia, Croatia, Bosnia and Herzegovina, Kosovo, and Montenegro. During the Second World War, this Kingdom of Yugoslavia fell apart over the government's decision to enter an alliance with the Axis powers led by Nazi Germany. This decision was revoked after a coup d'état, which was, in its turn, crushed by ensuing German invasion. Many Serbs joined one of the two main resistance movements: the nationalist četniks (who, actually, regularly collaborated with the Nazi occupier) and the socialist partisans. In Croatia, the fascist ustaša movement collaborated with the Nazi regime. The partisans eventually secured Allied support and, following a disruptive war, ousted the monarchy and established in 1945 what would later be called the Socialist Federal Republic of Yugoslavia. Its leader, Josip Broz Tito, came to personify a new form of socialism, independent from the Soviet Union as well as the West, and grew to become one of the main leaders of the Third World Movement. However, a little over a decade after Tito's death in 1980, Yugoslavia once again fell apart in a way that shocked the European continent. Estimates suggest more than 100,000 died (including 8,000 Bosniaks killed in the Srebrenica genocide) with many more displaced in the wars that followed in Croatia, Bosnia and Herzegovina, and Kosovo. The Serbian authorities,¹ although there had not been war on Serbian territory, are widely regarded as the main aggressor. The Dayton Peace Agreement was signed in 1995 by the leaders of the newly independent countries. However, in the late 1990s, a new war arose in Kosovo, a "province" of the Yugoslav rump state (made up of Serbia and Montenegro). NATO intervened in 1999 by bombarding strategic targets in Belgrade and beyond. Civilians, including children, were among the casualties. Serbia withdrew its troops from Kosovo. Shortly after, following mass protests in the capital, socialist dictator Slobodan Milošević was ousted. On October 5, 2000, Serbia entered a new decade that required confrontation with two pasts: one of socialism, and one of war.

¹ I will use the terms "Serbia" and "Serbian state" throughout these chapters, even when the territory was officially part of a different political entity (for instance, Serbia and Montenegro together formed the Federal Republic of Yugoslavia).

CHAPTER

6 Serbian Political Party Orientations

Dealing with the past is never a straightforward process. However, in the Serbian context, this becomes an understatement—indeed, in this context, even the term “past” (singular) should be considered inadequate. The following three chapters will explore how Serbian political parties dealt with two distinct pasts: that of socialist rule, and that of Serbian involvement in the wars of the 1990s.

Whilst it would be logical to let this dual frame guide these chapters, two factors caution against such an approach. First, the comparative assessment in the previous chapter will benefit from a more comprehensive discussion of the Serbian case if it follows the same structure as its Bulgarian counterpart. Second, and much more importantly, my preliminary research results suggested that any distinction drawn between the two Serbian pasts is highly superficial. Indeed, such a division directly contradicts one of my most important eventual findings—namely, that the debates on the two pasts are inevitably interconnected. Whilst my transitional, justice-based, analytical starting point provided a clear conceptual distinction between the socialist past and the war past, the Serbian political context is very unlikely to follow suit.

The structure of this and the ensuing chapters thus follows the Bulgarian example in its tripartite division:

- (1) individual party orientations;
- (2) party constellations and ensuing parliamentary decision-making, including plenary debates;
- (3) narratives developed in parliament.

One chapter is devoted to each level. This chapter will study how, for selected parties, specific party orientations connected, both in isolation and jointly, to the theme of EU accession and the past. The second level is explored more or less chronologically in chapter 7 and includes an in-depth case in case study to examine the intricacies of party constellations and parliamentary politics. After gaining a firm grasp of the various party orientations and parliamentary acts, chapter 8 will explore the underlying narratives that guided the parliamentary debates that grew from these party dynamics. My main sources for the analysis in chapters 6 to 8 are the minutes of parliamentary debates and the laws and declarations—both actioned and proposed—drawn from the official website of the Serbian parliament and (since the Serbian Skupština does not publish its debates online, as the Bulgarian Sabranie does)¹ from the national parliamentary library. Further sources

¹ NGO CRTA has started a project, entitled “Otvoreni Parlament” (Open Parliament) which, in co-operation with the authorities, publishes online information on MPs, as well as full minutes of debates, voting results, etc. When I conducted my fieldwork, the website was offline because of a disagreement concerning the status of democracy in Serbia at that

are gleaned from issues of the official state court (Službeni glasnik) and its publications on the parliamentary website;² from party documents, as available on the internet or in collections and books;³ personal testimonies and interviews, as available in books;⁴ and finally, interviews with directly involved actors.⁵

Again, to assure the project's validity, I will demonstrate that the three tiers of my research question connect. I will link the domestic political party sphere, EU accession, and dealing with the past(s). EU engagement with both the Serbian socialist past and its war past has been studied in chapters 1 and 2. The other two tiers are now explored in this chapter. The first section shows how the past(s) held a salient position in Serbian post-transition politics. The second section posits that EU accession was a goal to which most parties unambiguously subscribed. With this important background context established, the analysis of the selected parties will investigate how individual parties positioned themselves towards this past and the EU accession prospect, as well as in combination.

6.1 The divisive nature of the past in emergent Serbian party politics

Contrary to what national holidays might lead us to believe, transitions tend to lack clearly defined starting points—an observation especially true of Serbia's double transition. For the country's transition from socialism, the two decades between 1980 (the death of Josip Broz Tito) and 2000 (the fall of the regime) would probably define the shortest starting "point" one could find. As Serbian scholars note, the link between the socialist regime ruling until 1991 and the wars marking the breakup of Yugoslavia make Serbia a unique case of post-socialist transition.⁶ This thesis concentrates on the later period, starting in

moment. The NGO refused to work on this project when the basic democratic principles were not upheld in parliament. At the time of writing in March 2019, the website was online again (www.otvoreniparlament.rs). As a general rule, I have not used the minutes on this website, instead reading the minutes on paper in the library of the national parliament in Belgrade for three reasons. First, because I decided not to rely on the unstable character of Otvoreni Parlament. Second, I could not predict if the website would even continue to exist, and thus consider it to be more helpful for future researchers to reference the page numbers of the minutes from the parliamentary library. Third, whilst the design of the website makes it very easy to look for topics via keyword search throughout various years, it is much more cumbersome if one wants to read full debates. As with the minutes present in the parliamentary library, the website is only available in Serbian. The translations in this chapter are my own, sometimes with the help of native speakers. I have chosen to translate as literally as possible, possibly at the expense of linguistic elegance, since I am not a native speaker and wish to keep the extra interpretive layers to a minimum. The responsibility for the translations of course resides with me only.

² These documents were derived from, and are still available at, www.slglasnik.com and www.parlament.gov.rs. Sources from these websites will of course be referenced individually in full.

³ These documents were collected from individual party websites and collections in the National Library of Serbia.

⁴ Collected through the National Library of Serbia.

⁵ For this chapter, I conducted interviews with historian and former parliamentarian Dr. Bojan Dimitrijević; security studies expert and parliamentarian Prof. Dr. Zoran Dragišić; the Anti-Fascist League; political scientist Dr. Jovo Bakić; former G17+ parliamentarian and civil society leader Suzana Grubješić; and security studies expert Dr. Isidora Stakić.

⁶ Miša Đurković, *Ideologija, partije i međunarodni odnosi. Ogledi o politici* (Beograd: Institut za političke studije, 2012), 45, 68–69; Vukašin Pavlović, "Programski identitet političkih partija," in *Partije i izbori u Srbiji. 20 Godina*, ed. Slaviša Orlović and Čedomir Čupić, Beograd: Friedrich Ebert Stiftung; Fakultet političkih nauka - Centar za demokratiju, 2011, 139, 142; Jovica Trkulja, "Sporije pravnog savladavanja autoritarne prošlosti u Srbiji," *Hereticus: Časopis za preispitivanje prošlosti* 7, no. 1–2 (2009), 38; Vladimir Vodinelić, *Prošlost kao izazov pravu. Srpska strana pravnog savladavanja*

2000, and therefore uses October 5, 2000 as the point from which the transition from both socialism and the war past started. The reason for this decision is very clear-cut, as on that day President Slobodan Milošević was ousted from office. Shortly after, Milošević was arrested and handed over to the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague. Admittedly, there is much to say for the idea that the Milošević regime could be considered a break already from Tito's reign, thus retarding the start of transition to the 1990s. However, others would also call Milošević's reign an "authoritarian communist regime."⁷ More concretely, October 5, 2000 for the first time expressed a broad, country-wide desire for a clear break between Serbia's former politics and a new vision. This date still has paramount value in the country. It is often referred to simply as "*petog oktobra*" (5 October).

Already during Milošević's final years and months in power, dealing with the past was a salient narrative of many party programmes. During the September 2000 elections, the *Demokratska opozicija Srbije* (Democratic Opposition of Serbia, DOS) coalition formulated ten promises to the Serbian people. These were to be fulfilled within the first hundred days of their government. The sixth of these promises concerned archival disclosure of all secret police dossiers—to be regulated by a special law and in accordance with "European standards."⁸ Additionally, showing concern for Serbia's most recent war past, the tenth promise envisioned the formation of an independent committee of experts that would "investigate and disclose" all relevant documents and audio-video records concerning Serbia's and Yugoslavia's domestic and foreign politics from the period 1987–2000 that, until then, the incumbent regime had kept secret. In addition, the committee would be mandated to study and publish the content of all talks and negotiations of high-ranked state officials who had determined the "fate of the nation."⁹

This concern with the past is understandable, not least as the DOS was a coalition of parties brought together more by their shared opposition to the Milošević regime than anything else. It was thus in their collective interest to confront the past abuses, oppression, and censorship that had previously condemned them to the political periphery. The coalition was made up of two parties with (infamously) very similar names: the *Demokratska stranka* (Democratic Party, DS) and the *Demokratska stranka Srbije* (Democratic Party of Serbia, DSS). When the DOS coalition won an unsurprising victory

prošlosti, Beograd: Centar za unapređivanje pravnih studija; Helsinški odbor za ljudska prava i Srbiji, 2002, 110; Vladimir Vodinelić, "Pravno savladavanje prošlosti: Godina treća," *Hereticus: Časopis za preispitivanje prošlosti* 1, no. 1 (2003), 12–13.

⁷ Đurković, *Ideologija, partije i međunarodni odnosi*, 45.

⁸ Demokratska stranka, "Program demokratske opozicije Srbije za demokratsku Srbiju," in *Istorija demokratske stranke. 1989–2009: Dokumenti*, by Kosta Nikolić, Bojan B. Dimitrijević, Srđan Cvetković, and Slobodan Gavrilović, Beograd: Institut za savremenu istoriju and Službeni glasnik, 2010, 199.

⁹ Demokratska stranka, "Program demokratske opozicije," 200.

in the ensuing parliamentary elections, the leader of the DS, Zoran Đinđić, became prime minister. Vojislav Koštunica—Milošević's other main opponent, who came from the DSS—was already president at that time. In his speech, in which he presented his cabinet, Prime Minister Đinđić confirmed the promise of archival disclosure and additionally stated that the parties of the coalition would draft a law concerning the return of finances and property confiscated for “ideological reasons.”¹⁰ Some individual DOS coalition partners went even further. According to the *Građanski savez Srbije* (Civic Alliance of Serbia, GSS), established in 1992, the four basic foundational laws of democracy encompassed denationalisation, privatisation, lustration, and rehabilitation—each of them implying a fundamental process.¹¹ However, because of internal disagreement within the DOS coalition and staunch opposition by members of the former regime, few of these goals were realised. In view of the foregoing, the well-respected historian Jovica Trkulja characterises the years 2000–2003 as the “period of [the] ‘politics of forgetting.’”¹²

In the early 2000s, with the socialist past being too riddled with controversy to be addressed in parliament, the wars of the 1990s instead became more central in party politics. To reflect the more pronounced interparty divisions, the DOS parties adopted new programmes. In its 2001 programme, the DSS committed itself to enabling Serbs—those expelled during the “civil wars”—to return to Croatia and Bosnia and Herzegovina. In line with “all national, political and human rights which belong to [the Serbian nation] according to international standards,” their property also had to be returned to them.¹³ An important difference between this DSS and the DS—as the two main partners in DOS—lay in their views on the Yugoslav Wars. Whilst the former held on to a conservative, nationalist interpretation of events, the DS became one of the main supporters of international criminal prosecution of Serbian war criminals.

This disagreement regarding international prosecutions would lead to further divisions between the two parties and finally resulted in the split of the DOS coalition in 2003. President Koštunica and Prime Minister Đinđić also repeatedly clashed on this point—Đinđić, in line with his party, the DS, declared his support for the ICTY in an early stage whilst Koštunica, following the party line of the DSS, was a staunch opponent of this Tribunal. The *Socijalistička partija Srbije* (Socialist Party of Serbia, SPS) and the *Srpska radikalna stranka* (Serbian Radical Party, SRS) were both directly affected by the issue of

¹⁰ Zoran Đinđić, “Imati viziju: Izveštaj o radu demokratske stranke između dve skupštine. Beograd, 5 oktobar 2001,” in *Istorija Demokratske stranke 1989–2009: Dokumenti*, eds. Kosta Nikolić, Bojan B. Dimitrijević, Srđan Cvetković, and Slobodan Gavrilović, Beograd: Institut za savremenu istoriju i Službeni glasnik, 2010, 209.

¹¹ Milan Cakić, “Lustracija u Evropi i Srbiji: Motivacija za donošenje zakona o lustraciji i njihove društvene funkcije,” *Sociologija* 52, no. 3 (2010): 300.

¹² Jovica Trkulja, “Rehabilitacija kao mera pravnog savladavanja autoritarne prošlosti u Srbiji,” *Hereticus: Časopis za preispitivanje prošlosti* 6, no. 2 (2008): 19.

¹³ Demokratska stranka Srbije, “Program, 26 maja 2001,” in *Statut i program*, n.p.: Demokratska stranka Srbije, 2001, 71.

the war past and prosecution of war criminals: their respective leaders, Milošević and Vojislav Šešelj, were amongst the first to be indicted and handed over to the ICTY.

The past also defined the political dynamics after October 5, 2000 in a more abstract sense. As opposition had been (nearly) impossible during the regimes of Tito and Milošević, political parties sought legitimacy in the pre-Tito era. The DS manifesto, entitled “Time for a New Programme!” stressed that the party was founded in 1919 and had participated in political life until it was forced to stop its work under the “communist dictatorship.”¹⁴ Indeed, most political parties emphasised their newness in relation to the former regime. This was especially true for the DOS coalition, as it presented its broad base of all oppositional parties and movements as the new road for Serbia. On October 5, 2001 (the first anniversary), Prime Minister Đinđić (from the DS) praised the leaders of the 2000 revolution against Milošević for ousting “one of the worst dictatorships in Europe” by peaceful means.¹⁵

6.2 EU accession as a wider (yet disputed) political goal

In the context of post-2000 party politics, newness, in addition to signalling a necessary break between domestic regimes, also implied a break with Serbia’s international isolation. Repeating the “return to Europe” rhetoric that had been so popular amongst Central and Eastern European countries in the 1990s, parties claimed that the revolution had opened a “new path for Serbia to Europe.”¹⁶ At the one-year anniversary of the revolution in 2001, Đinđić compared Serbia to a person that had spent fifty years under water. Now, nothing could stop Serbia on “its way to oxygen, and that is Europe.”¹⁷

The DS was not the only party to emphasise the importance of EU accession. In general, parties were eager to overcome the country’s international isolation caused by Milošević’s regime.¹⁸ Yet some scholars remain sceptical about these aspirations. As the political scientist Zoran Stojiljković observes, there is a paradox in former Yugoslav countries: people want to “return to the world and enter the EU, but at the same time we [former Yugoslavs] know little about their [the world’s and the EU’s] political structures

¹⁴ Demokratska stranka, “Program demokratske stranke: Vreme za novi program! 6 oktobra 2001. u Beogradu,” in *Istorija demokratske stranke 1989–2009: Dokumenti*, by Kosta Nikolić, Bojan B. Dimitrijević, Srđan Cvetković, and Slobodan Gavrilović, Beograd: Institut za savremenu istoriju and Službeni glasnik, 2010, 498.

¹⁵ Zoran Đinđić, “Ekspozice Zorana Đinđića, mandatar za sastav nove vlade republike Srbije. Beograd, 25. januar 2001,” in *Istorija demokratske stranke 1989–2009: Dokumenti*, eds. Kosta Nikolić, Bojan B. Dimitrijević, Srđan Cvetković, and Slobodan Gavrilović, Beograd: Institut za savremenu istoriju i Službeni glasnik, 2010, 218.

¹⁶ Jovan Komšić, “Političke stranke u Srbiji i evropske vrednosti: Programi i praksa,” in *Političke stranke u Srbiji i Evropska unija*, ed. Zoran Lutovac, Beograd: Friedrich Ebert Stiftung; Fakultet političkih nauka, 2007, 35.

¹⁷ Đinđić, “Ekspozice Zorana Đinđića,” 220.

¹⁸ Đurković, *Ideologija, partije i međunarodni odnosi*, 69.

and ideologies.”¹⁹ Whilst this statement is too broad for this dissertation to engage with in depth, it may help to understand the difficulties Serbian parties faced when juggling their international aspirations and the domestic expectations placed upon them. Revealingly, opinion polls show that, in general, support for EU accession is lower amongst the parties themselves (as expressed by their members and in party documents), than amongst their respective electorates.²⁰ Adding to this discrepancy is the varying commitment of voters to a future in the EU. Many who actually endorse accession express a negative opinion about Europe as a Union.²¹ This is not unlike some Serbian parties that formally support EU accession, but are reluctant to adopt EU demands and values—especially regarding engagement with the war past.²²

From 2008 onwards, all but one of the significant Serbian political parties (at least on paper) agreed on the necessity and desirability of EU integration.²³ The exception was the SRS—a party founded by Vojislav Šešelj in 1991, and often referred to simply as “the Radicals.” The opposition of the SRS to EU accession had in fact been the reason for the establishment of the rival *Srpska napredna stranka* (Serbian Progressive Party, SNS) in 2008.²⁴ Disagreeing with the restrictive radicalism of his fellow party members, former SRS deputy President Tomislav Nikolić decided to establish a party that would combine a pro-EU accession stance with the nationalist and right-wing policy that formed the basis of the Radicals’ popularity. Around the same time, the socialists of the SPS, despite their initial opposition and subsequent years of hesitation, finally confirmed their commitment to EU accession.

With the change in stance of the SPS and the entrance of (and subsequent electoral support for) the SNS, the political balance shifted even more in favour of EU accession. There was only one party that became less pro-European over the years: the DSS (again: not to be confused with the DS). However, this negative stance towards the EU more or less coincided with the party’s demise, thus having little effect and leaving nationalist, anti-European voters instead to retreat to the Serbian Radical Party. Apart from the DSS and

¹⁹ Zoran Stojiljković, “Uvodne napomene,” in *Političke grupacije u Evropi*, by Zoran Stojiljković, Maja Bobić, Nataša Pilipović, Gordana Dragojlović and Ana Stojiljković, Beograd: Konrad Adenauer Stiftung, 2011, 10.

²⁰ Based on data from an opinion poll from Centar za politikološka istraživanja i javno mnjenje, conducted in June 2007, quoted in Dragomir Pantić, “Prihvaćenost programskih opredeljenja među pristalicama partija: Na primeru nekih aktuelnih spoljopolitičkih dilema,” in *Ideologija i političke stranke u Srbiji*, by Zoran Lutovac, Beograd: Friedrich Ebert Stiftung; Fakultet političkih nauka; Institut društvenih nauka, 2007, 311–313.

²¹ Pantić, “Prihvaćenost programskih opredeljenja među pristalicama partija,” 319.

²² Komšić, “Političke stranke u Srbiji,” 9–10; as also quoted in Pantić, “Prihvaćenost programskih opredeljenja među pristalicama partija,” 303–304.

²³ Ksenija Milivojević, “Saradnja političkih stranaka u Srbiji sa institucijama Evropske unije,” in *Političke stranke u Srbiji i Evropska unija*, by Zoran Lutovac, Beograd: Friedrich Ebert Stiftung; Fakultet političkih nauka, 2007, 110.

²⁴ Marina Bulatović, “Srpska napredna stranka,” in *(Ne)demokratsko rediziranje političkih partija u Srbiji*, by Zoran Stojiljković, Gordana Pilipović and Dušan Spasojević, Beograd: Konrad Adenauer Stiftung, 2013, 277–279, 284; Đurković, *Ideologija, partije i međunarodni odnosi*, Srpska napredna stranka, Nova Srbija, Pokret snaga Srbije BK, and Pokret socijalista, “Sporazum o saradnji,” November 26, 2010, <http://www.sns.org.rs/images/pdf/Sporazum.pdf>.

SRS, domestic parties—albeit most often for pragmatic reasons—intensified their co-operation with parties in the European Parliament (EP) during the years after 2006.²⁵ This not only enhanced the various parties' communication at the European level and with similar parties from other member states, but often also increased their legitimacy at home.²⁶

6.3 Combining the past and EU accession in individual party orientations

6.3.1 *Selection of political parties*

Having now positioned the pasts and the EU future in the wider Serbian party political landscape, this chapter will continue by studying individual party orientations. Since these orientations form the basis for parliamentary coalition forming, this analysis will contribute to the overall research question of how the prospect of EU accession influenced the ways in which political parties dealt with the past in Serbia.

In the following, I will analyse a selection of Serbian political parties according to the same criteria used for the Bulgarian case study, focussing upon those parties that have consistently—or almost consistently—managed to achieve the electoral threshold (set at 5 per cent). In addition to these criteria of size and significance, I also employ three analytical categories:

- (1) political attitudes towards the past;
- (2) political attitudes towards dealing with this past;
- (3) political attitudes towards the prospect of EU membership.

Making such a selection is necessary, considering the fragmented and volatile nature of Serbian politics. Milošević's rule opposed the formation and stabilisation of an institutionalised party system. In 2000, there were no less than seventeen political parties, prompting the emergence of the DOS coalition to bring some unity to the opposition. This led Serbian scholar Miša Đurković to conclude that the underdeveloped Serbian political system is “one of the main victims” of Milošević's regime.²⁷ Since 2003, however, Đurković observes that a “relatively normal political life” in Serbia has started to develop,²⁸

²⁵ Đurković, *Ideologija, partije i međunarodni odnosi*.

²⁶ Slaviša Orlović, “Evropski parlament i evropske stranke: Perspektiva za Srbiju,” in *Političke stranke u Srbiji i Evropska unija*, by Zoran Lutovac, Beograd: Friedrich Ebert Stiftung; Fakultet političkih nauka, 2007, 139.

²⁷ Đurković, *Ideologija, partije i međunarodni odnosi*, 46–47.

²⁸ Đurković, *Ideologija, partije i međunarodni odnosi*, 47.

characterised by others as a system of “polarised pluralism.”²⁹ Yet, despite this level of polarisation, Serbia’s political sphere is still “weakly ideologically structured,” allowing parties to easily change direction and discard (apparently) programmatic principles.³⁰ Adding to this atypical profile, parties often coalesce around topics that do not observe the conventional right-left divide—a nuance made apparent by the Kosovar issue.³¹ As is the case with Bulgarian parties, Serbian parties often form coalitions. The selected parties are:

- the SPS, the former ruling party trying to reinvent itself after 2000;
- the DS, a former DOS party with a generally progressive orientation;
- the DSS, a former DOS party with a generally conservative orientation;
- the *Liberalno-demokratska partija* (Liberal Democratic Party, LDP) and G17+ as outspoken liberal and progressive parties;
- the *Srpski pokret obnove* (Serbian Movement of Renewal, SPO), a quickly evolving party that nevertheless maintained its nationalist orientation and cherished its monarchical legacy;
- the SNS, a new party that shook and restructured the existing party scene.

This list moves roughly from the more conventional parties that dominated the parliamentary scene in the early 2000s to the less typical parties. Whilst the SRS fulfils the above criteria, it is missing from the selection. With “Radical” in its name and a political style completely bereft of rules and conventional decorum, the party is often analysed as on the periphery—albeit with notable influence. Whilst the SRS has no clear programme—let alone clear principles—its stance on the past and the EU can be quickly summarised as follows: it consistently opposes the EU and condemns the past when it sees fit, but generally does not wish to confront it. As a rule of thumb, the Radicals will simply choose that which most successfully disrupts parliamentary order. The party attracts a significant number of votes, has a steady presence in parliament, and will appear several times in the following chapter. In view of the foregoing, it is obvious that attempting to understand the party’s strategy and orientations is a rather futile attempt beyond the simple analysis that the party likes to oppose others.

²⁹ Dušan Spasojević, “Dinamika političkih rascepa u Srbiji 2000–2010,” in *Partije i izbori u Srbiji*, by Slaviša Orlović and Čedomir Čupić, Beograd: Friedrich Ebert Stiftung; Fakultet političkih nauka – Centar za demokratiju, 2011, 113; Zoran Stojiljković, “Partijska scena Srbije,” in *Političke grupacije u Evropi*, Beograd: Konrad Adenauer Stiftung, 2011, 291.

³⁰ Srećko Mihailović, “Identiteti političkih stranaka i njihovih programa, 20 godina posle,” in *Partije i izbori u Srbiji: 20 godina*, by Slaviša Orlović and Čedomir Čupić, Beograd: Friedrich Ebert Stiftung; Fakultet političkih nauka – Centar za demokratiju, 2011, 190. See also Pantić, “Prihvatanost programskih opredeljenja među pristalicama partija,” 301.

³¹ Mihailović, “Identiteti političkih stranaka i njihovih programa,” 190.

The following analysis of the attitudes of Serbia's political parties towards the past(s) and EU accession is based primarily on the study of individual party documents throughout the years 2000–2012. As domestic scholars emphasise, these party programmes, manifestos, and principles should be understood as the outcome of negotiations and as a reflection of competition in two distinct domains: the ideological and the political. Parties “choose and strengthen their goals in competition for values and interests that they consider to be attractive to the public.”³² However, this does not mean that party programmes do not have their limitations: programmes are, by definition, declarations and, although often authoritative, do not force parties to obey them. Yet rather than disqualifying them, this should lead us to study programmes in connection to other political documents and processes.³³ I will therefore contextualise the findings from programmes within wider conclusions from appropriate and relevant literature, as well as other data about, for example, a party's European orientation, its domestic affiliations with other parties, and its behaviour in parliament. Most importantly, for a fuller understanding of the practical implications of these party orientations towards the past, this chapter is complimented by the following chapter, which analyses parliamentary acts.

6.3.2 SPS

After uncontested decades in power, the Socialist Party of Serbia received a huge blow in the October 5, 2000 revolution and the ensuing parliamentary elections in which the DOS secured victory. When SPS leader Slobodan Milošević was sent to The Hague, the crisis in the party deepened still further. Initially, conservative forces within the party that wished to restore Yugoslavia to its original form prevailed. However, the removal of Milošević, despite the fact that he continued to lead the party from his prison cell in Scheveningen, gradually opened up space for reform. On its sixth congress in 2003, the party even accepted EU integration as a political goal. In order to not completely disqualify itself from the possibility of political power, the SPS was forced to join the (previously “unthinkable”) mainstream position of endorsing EU membership.³⁴ This “unthinkable” option was made all the more improbable as, in 2002, the SPS programme had still directly accused Europe of blindly following the American administration in its “imperialist strategy.”³⁵ European

³² Vladimir Gligorov, “Programi i politika,” in *Ideologija i političke stranke u Srbiji*, by Zoran Lutovac, Beograd: Friedrich Ebert Stiftung; Fakultet političkih nauka; Institut društvenih nauka, 2007, 223.

³³ Pantić, “Prihvaćenost programskih opredeljenja među pristalicama partija,” 303.

³⁴ Ana Vušurović and Bojana Džulović, “Socijalistička partija Srbije,” in *(Ne)demokratsko redizajniranje političkih partija u Srbiji*, ed. Zoran Stojiljković, Gordana Pilipović and Dušan Spasojević, Beograd: Konrad Audenauer Stiftung, 2013, 252.

³⁵ SPS programme, quoted in Jovan Komšić, “Dve decenije potraga za identitetom: Partijski programi u postkomunističkoj Srbiji,” in *Partije i izbori u Srbiji: 20 godina*, ed. Slaviša Orlović and Čedomir Ćupić, Beograd: Friedrich Ebert Stiftung; Fakultet političkih nauka - Centar za demokratiju, 2011, 154.

countries, the programme concluded, had “participated” in the “aggression” of 1999 against Serbia.³⁶ In those early years of 2000, the SPS had explicitly and repeatedly opposed the EU and the Hague Tribunal in debates, or not mentioned Serbia’s EU integration in its programmes at all.³⁷

The party’s official policy change in 2003 did not directly translate into enthusiastic support for EU integration. It held on to its “critical stance towards the West” and transition more generally.³⁸ As argued by researchers, the party only really committed itself to EU integration several years later, in the period between 2006 and 2010.³⁹ On its seventh congress in December 2006, the party elected a new party leader, Ivica Dačić, who was in favour of EU integration. Milošević’s death in The Hague on March 11, 2006 enabled this change of direction, not least as his accomplices had continued to hold important positions in the party as long as he was alive.⁴⁰ The re-election of Dačić and the adoption of a new programme and statute at the eighth congress in 2010 mark further important steps on the path of change. NATO remained a foe for the SPS, since the party still strongly condemned the (in its view) illegitimate 1999 bombardments. However, EU membership was now an official goal.⁴¹ Emphasising the “close links of our country and nation with the countries and nations of the European Union, with whom we share common historic and civilisational values and traditions as well as common economic interests,” the party connected its past with its new commitment to EU membership.⁴² At the same time, the SPS clung to a positive vision of its heritage. As late as 2010, the party’s programme “proudly” commemorated how its predecessors had “fought” not only for the “freedom” of the country and social rights, but also “against fascism and Stalinism.”⁴³

The party’s new orientation came to fruition in 2008 when the SPS reconciled its differences with the DS, with whom it entered into a coalition. The agreement signed by the parties emphasised the importance of “unity of all political forces around the idea of a common European future.”⁴⁴ Illustrating perhaps that the SPS still struggled with the sensitive consequences of this pro-European turn, the agreement did not contain any

³⁶ SPS programme, quoted in Komšić, “Dve decenije potraga za identitom,” 154.

³⁷ Komšić, “Dve decenije potraga za identitetom,” 154; Komšić, “Političke stranke u Srbiji,” 28; Stojiljković, “Partijska scena Srbije,” 275; Vušurović and Džulović, “Socijalistička partija Srbije,” 252–255.

³⁸ Vušurović and Džulović, “Socijalistička partija Srbije,” 252.

³⁹ As late as 2007, political scientist Komšić concluded that the modernisation path of the SPS, including its turn towards the EU, was most likely merely a “rhetorical mask.” Komšić, “Političke stranke u Srbiji,” 30.

⁴⁰ Vušurović and Džulović, “Socijalistička partija Srbije,” 253–254.

⁴¹ Vušurović and Džulović, “Socijalistička partija Srbije,” 262.

⁴² Socijalistička partija Srbije, “Program,” December 11, 2010, 4, <https://www.sps.org.rs/documents/PROGRAM%20SPS.pdf>; Vušurović and Džulović, “Socijalistička partija Srbije,” 259.

⁴³ Socijalistička partija Srbije, “Program,” 24.

⁴⁴ Demokratska stranka, Socijalistička partija Srbije, “Deklaracija o političkom pomirenju SPS i DS i zajedničkoj odgovornosti za ostvarivanje vizije Srbije kao demokratske, slobodne, celovite, ekonomske i kulturno razvijene i socijalno pravedne zemlje,” in *Istorija demokratske stranke 1989–2009: Dokumenti*, by Kosta Nikolić, Bojan B. Dimitrijević, Srđan Cvetković, and Slobodan Gavrilović, Beograd: Institut za savremenu istoriju i Službeni glasnik, 2010, 337.

references to dealing with the past or the ICTY, but instead relied on vague support for “those initiatives that can bring us closer to standards and norms” in the EU.⁴⁵ This omission is telling, as ICTY co-operation was highly topical and salient in 2008. However, the coalition with the DS meant that the SPS tacitly chose to approve of co-operation with the Tribunal. This was, after all, not only an absolute condition of EU accession, but also a key principle of the DS as the coalition party of the SPS.

The turn towards the EU also led to a shift in the attitudes of the SPS towards the 1990s wars past in general and even, more specifically, the party’s socialist past. As the next chapter will show, the SPS decided to either support (or at the very least tacitly allow) initiatives by the DS and other parties to confront both pasts. The party, of course, did not easily change its own position, for that entailed the dismissal of decades in power of which it was still somewhat proud. Rather, it was a consequence of a practical trade-off: to accept EU membership was the only viable foreign policy goal, since the anti-European electorate had already turned to the SRS.⁴⁶ The new, pro-European partners of the SPS required the party to support certain actions regarding the past. It is largely due to this shift towards EU accession that, as we will see in the next chapter, Serbia committed itself to further co-operation with the ICTY in 2008, adopted the Srebrenica declaration, and supported the second rehabilitation law.

6.3.3 DS

Established in 1990 by progressive Serbians in opposition to Milošević’s regime, the Democratic Party wished to revive the original Yugoslav party of the same name. The DS formed one of the main parties of the DOS coalition. These early years after the transition signified the most successful episode in its history. With Đinđić as prime minister from 2000 onwards, the DS had the chance to shape Serbian politics and thus kick-start the process of EU accession as well as confrontation with the past—two goals it strongly subscribed to.

Starting with the first, despite all of its internal quibbles and conflicts, the DS can be seen as the most stable consistently pro-European party in the Serbian parliament.⁴⁷ The democrats also liked to emphasise historical continuity, stating that, already since its predecessor’s registration in 1919, the DS had a “clear democratic, civic and European” orientation.⁴⁸ Indeed, speaking at a party convention in 2007, prominent DS member and

⁴⁵ Demokratska stranka, Socijalistička partija Srbije, “Deklaracija o političkom pomirenju SPS i DS,” 339.

⁴⁶ Marko Stojić, *Party Responses to the EU in the Western Balkans: Transformation, Opposition or Defiance?* (Cham: Palgrave Macmillan, 2018), 156.

⁴⁷ Luka Božović, “Demokratska stranka,” in *(Ne)demokratsko redizajniranje političkih partija u Srbiji*, by Zoran Stojiljković, Gordana Pilipović and Dušan Spasojević, Beograd: Konrad Adenauer Stiftung, 2013, 40.

⁴⁸ Demokratska stranka, “Program demokratske stranke,” 498.

at the time President Boris Tadić stated: “Serbia will be a European country, like it is indeed a European country, like it has always been a European country. That is our identity.”⁴⁹ However, this did not diminish the need for action. It is Serbia’s “intention that our country becomes a member of the European Union as soon as possible,” Tadić confirmed in 2010.⁵⁰ The party realised that EU accession was not guaranteed, but rather a momentum that Serbia had to grasp in order not to lose such a “historical chance.”⁵¹ “The EU will not wait for anyone,” the party stated in 2007.⁵²

The DS, however, lacked the prominence needed to realise these ambitions. In March 2003, Prime Minister Đinđić was assassinated and following this tragedy the party lost many seats in the subsequent election. Whilst it initially seemed to maintain its strength with the wins during the 2007 and 2008 parliamentary elections and the election of Tadić, who became president in 2004, in the late 2010s, the party has struggled to remain relevant in the quickly changing parliamentary scene. Meanwhile, scholars struggle to understand the party’s programmatic position.⁵³ Whilst its politics suggest a social-liberal orientation,⁵⁴ the party has been eager to present itself as left-wing⁵⁵—an ambiguity that has allowed for flexible coalitions. As we saw, in 2008 it entered into a (seemingly unlikely) coalition government with the SPS, which had embarked upon a pro-European course. In the agreement, the two parties confirmed their commitment to EU accession and reiterated: “[W]e have always belonged to Europe and we share European values. Our European identity confirms our history.”⁵⁶

Perhaps the party itself offers an explanation for its eclectic programmatic course in its electoral programme from 2007, in which it stated: “All that the Democratic Party intends to achieve, leads us into the European Union!”⁵⁷ Although this statement can be read in two ways, the evidence indeed suggests that the aspiration of a future within the

⁴⁹ Boris Tadić, “Naša poruka je politika jake i stabilne evropske Srbije: Konvencija u Novom Sadu. Novi Sad, 22. decembar 2007,” in *Istorija Demokratske stranke 1989–2009: Dokumenti*, by Kosta Nikolić, Bojan B. Dimitrijević, Srđan Cvetković, and Slobodan Gavrilović, Beograd: Institut za savremenu istoriju and Službeni glasnik, 2010, 326.

⁵⁰ Boris Tadić, “Govor Boris Tadića, predsednika Republike Srbije, na svečanjoj inauguraciji,” in *Istorija Demokratske stranke 1989–2009: Dokumenti*, by Kosta Nikolić, Bojan B. Dimitrijević, Srđan Cvetković, and Slobodan Gavrilović, Beograd: Institut za savremenu istoriju and Službeni glasnik, 2010, 273–277. Similar words were written by Mirko Cvetković, “Ekspozé mandatarâ za sastav vlade Republike Srbije Mirka Cvetkovića: Beograd, 7. jul 2008,” in *Istorija Demokratske stranke*, by Kosta Nikolić, Bojan B. Dimitrijević, Srđan Cvetković, and Slobodan Gavrilović, Beograd: Institut za savremenu istoriju and Službeni glasnik, 2010, 331.

⁵¹ Demokratska stranka, “Pregovori i formiranje vlade Srbije: Beograd, mart 2007,” in *Istorija demokratske stranke 1989–2009: Dokumenti*, by Kosta Nikolić, Bojan B. Dimitrijević, Srđan Cvetković, and Slobodan Gavrilović, Beograd: Institut za savremnu istoriju i Službeni glasnik, 2010, 321.

⁵² Demokratska stranka, “Pregovori i formiranje vlade Srbije,” 321.

⁵³ Božović, “Demokratska stranka,” 69; Spasojević, “Dinamika političkih rasepa u Srbiji 2000–2010,” 115.

⁵⁴ Božović, “Demokratska stranka,” 69; Stojiljković, “Partijska scena Srbije,” 287.

⁵⁵ Orlović, “Evropski parlament i evropske stranke,” 139; Stojiljković, “Partijska scena Srbije,” 280.

⁵⁶ Demokratska stranka, Socijalistička partija Srbije, “Deklaracija o političkom pomirenju SPS i DS,” 339.

⁵⁷ Demokratska stranka, “Za bolji život! Izborni program Demokratske stranke 2007,” in *Istorija demokratske stranke 1989–2009: Dokumenti*, by Kosta Nikolić, Bojan B. Dimitrijević, Srđan Cvetković, and Slobodan Gavrilović, Beograd: Institut za savremenu istoriju and Službeni glasnik, 2010, 589.

EU was leading the decision-making processes of the DS. The party further puzzled experts when it joined the Socialist International⁵⁸ and opted for the Party of European Socialists (PES) group in the European Parliament, of which it acquired observer status in 2006.⁵⁹ This is best understood as a pragmatic choice, as the PES was at that time the largest party group in the EP.

From the perspective of the party's position with regard to the past, and in the light of my research question, the choice was far from logical. As one of the main opposition parties during the 1990s and a leading party in the October 5, 2000 revolution, it denounced the authoritarian regime and was strongly in favour of confrontation with this past.⁶⁰ At the anniversary of the revolution in 2001, Đinđić boasted about the success of the democrat opposition in removing "one of the worst dictatorships in Europe."⁶¹ Within the European Parliament, however, the PES showed its reluctance and actively opposed attempts to confront the socialist legacy in Central and Eastern Europe. Although stating causality would be a stretch, it is likely that the association with the PES fed into the democrats' decreasing appetite for addressing the past in a domestic context. The energy with which the DS had previously advocated archival disclosure and restitution is hardly discernible after it joined the European socialists. In a strategy document from 2005, confrontation with the past received much attention, although specific post-socialist measures such as property restitution and archival disclosure were missing,⁶² whilst only a couple of years before they had constituted core components of the DOS coalition's "ten promises." In the late 2000s it even proved to be a highly contentious issue within the party. The issue of rehabilitating socialism's victims (discussed more thoroughly in the next chapter) led to the expulsion of the historian Bojan Dimitrijević from the party in 2015.⁶³ A long standing DS MP, his defence of the Second World War general Milan Nedić, who was executed by partisan forces, did not bode well with fellow party members, who maintained that Nedić collaborated with the Nazi and fascist regime.

The party's commitment to confronting the 1990s, on the contrary, did not falter even experiencing a notable upsurge. Whilst the emphasis in 2000 had been on the

⁵⁸ Demokratska stranka, "Za bolji život!," 589.

⁵⁹ Orlović, "Evropski parlament i evropske stranke," 139; Stojiljković, "Partijska scena Srbije," 280–281.

⁶⁰ Demokratska stranka, "Demokratska Srbija: Srbija u Evropi. 1999," in *Istorija Demokratske stranke 1989–2009: Dokumenti*, by Kosta Nikolić, Bojan B. Dimitrijević, Srđan Cvetković, and Slobodan Gavrilović, Beograd: Institut za savremenu istoriju and Službeni glasnik, 2010, 191; Politički savet demokratske stranke, "Strategija promena: Beograd, 2005," in *Istorija demokratske stranke 1989–2000: Dokumenti*, by Kosta Nikolić, Bojan B. Dimitrijević, Srđan Cvetković, and Slobodan Gavrilović, Beograd: Institut za savremenu istoriju and Službeni glasnik, 2010, 313. In the latter source, a strategy document from 2005, significant parts were devoted to "confrontation with the past" in the light of European integration.

⁶¹ Đinđić, "Ekspozicije Zorana Đinđića," 219.

⁶² Politički savet demokratske stranke, "Strategija promena," 292–313.

⁶³ For Dimitrijević's reaction to his expulsion, see N1, "Dimitrijević: DS obrukala i sebe i mene," *N1*, December 22, 2015, <http://rs.n1info.com/Vesti/a120012/Dimitrijevic-o-iskljucenju-iz-DS.html>.

socialist past, in the mid-2000s, significant sections of party documents and speeches were devoted to co-operation with the ICTY as a “priority of our foreign and internal politics” and as a “core requirement of all European and Euro-Atlantic integration.”⁶⁴ Boris Tadić declared that his co-operation would “confirm our commitment to European values.”⁶⁵ After linking “confrontation with the past” to the process of European integration and “European cultural and historical tradition,” the aforementioned document from 2005 focussed solely on the “war years” in the former Yugoslavia.⁶⁶

The prospect of EU accession is, in all likelihood, not the only factor in this shift from dealing with the socialist past to dealing with the war past. Considering the democrats’ commitment to EU accession, however, it is not difficult to see how EU insistence on co-operation with the ICTY, compared to its more disinterested attitude towards the socialist past, “nudged” the party in the direction of the former. Co-operation with the Tribunal thus became a leading principle in the party’s orientation. As discussed in the section on the SPS, the democrats brought this commitment into practice when the two parties entered a coalition in 2008.

6.3.4 DSS

The DSS was one of the founding members of the DOS coalition and in that respected presented itself as the pro-European, anti-socialist future for the country. It had originally been founded in 1992 by a more nationalist faction seceding from the DS. In its early years, the party stood out as the most pro-European party and its supporters overwhelmingly supported the party’s goal of EU integration—at that time an even more distant prospect.⁶⁷ In 2001, the party stated that “Yugoslavia is a European country” and set the eventual goal for Serbia to become an “equal member” of the EU.⁶⁸ By gaining the status of an associated member of the EPP in June 2005, it further confirmed its pro-European stance.⁶⁹

However, the party gradually re-emphasised its initial nationalist orientation. Also in connection to its association with the EPP, the DSS “start[ed] to define itself as a national party with special emphasis on the significance of the church and Christianity.”⁷⁰ Whilst in 2001 it had simply called Yugoslavia “a European state” and launched an appeal

⁶⁴ Tadić, “Govor Boris Tadića,” 318.

⁶⁵ Tadić, “Govor Boris Tadića,” 318.

⁶⁶ Politički savet demokratske stranke, “Strategija promena,” 313.

⁶⁷ Komšić, “Dve decenije potraga za identitetom,” 155.

⁶⁸ Demokratska stranka Srbije, “Program, 26 maja 2001,” 75; also quoted in Komšić, “Političke stranke u Srbiji,” 33.

⁶⁹ Orlović, “Evropski parlament i evropske stranke,” 139; Jasna Stanić and Tijana Janković, “Demokratska stranka Srbije,” in *(Ne)demokratsko redizajniranje političkih partija u Srbiji*, by Zoran Stojiljković, Gordana Pilipović and Dušan Spasojević, Beograd: Konrad Adenauer Stiftung, 2013, 72.

⁷⁰ Đurković, *Ideologija, partije i međunarodni odnosi*, 80.

for Serbia to become a “full member of the European Union,”⁷¹ in 2007, it had tailored its programme towards the alleged “Christian values” of the EU. The official DSS position remained in favour of EU accession. Its 2006 programme “quite strongly” called for further EU integration.⁷² More recently, the party’s broader political statements and behaviour signalled a clear shift away from its initial pro-European stance and in 2012 the DSS finally left the EPP. In the years before its departure, the EPP had already reoriented itself towards the promising Progressive Party (the SNS; discussed later in this chapter). The DSS has strengthened its nationalist orientation and is now generally described as being Eurosceptical.⁷³

A similar development characterised the party’s stance on dealing with the socialist past. In the early 2000s, the party was highly committed to the ideas of archival disclosure, lustration, and restitution. Its 2001 programme, when it was still part of the DOS coalition, had already announced that the party supported the “revision of all political processes and processes with political motives from 1944 on.”⁷⁴ In these early years, the DSS political programme stood out as the most comprehensive plan for dealing with the past. It aimed at establishing coping mechanisms regarding both the country’s socialist past, and the legacy of the Yugoslav wars. Whilst these plans were not clustered under any clear overarching heading (for example “transitional justice” or “dealing with the past”), as would probably be the case today, they do follow each other in a more or less logical order in the programme—spread out over a small number of pages in the categories “political principles” and “national politics”—and as such complemented each other well. The programme listed plans for lustration, rehabilitation, restitution, and archival disclosure. Whilst advocating “national reconciliation” and warning against revanchism vis-à-vis the former regime, the programme stresses that these narratives do not free those who led the “nation and state into a catastrophe.”⁷⁵

At the same time, the party only reluctantly accepted the ICTY and held on to a nationalist interpretation of the wars in the 1990s. Its leader Vojislav Koštunica (at the time prime minister, after having served several years as president) dismissed the Tribunal as a political court and instead managed to frame the necessity to co-operate in patriotic terms. In the first years of the 2000s, however, this nationalism was kept in check in order not to endanger the European prospect. “Having in mind the tragic experience with the first and second Yugoslavia,” the party wrote, it was “decidedly against every renewal of Yugoslavia” or any other unity with its neighbours, the next sentence reading that “[a]t the

⁷¹ Demokratska stranka Srbije, “Program, 26 maja 2001,” 75.

⁷² Gligorov, “Programi i politika,” 233.

⁷³ Gligorov, “Programi i politika,” 233; Stojiljković, “Partijska scena Srbije,” 279.

⁷⁴ Demokratska stranka Srbije, “Program, 26 maja 2001,” 67.

⁷⁵ Demokratska stranka Srbije, “Program, 26 maja 2001,” 67–68.

same time [the party is] in favour of participation of our state in regional and European integration processes which are in the interest of the Serbian nation.”⁷⁶

However, in the years after 2005, the party’s commitment to confronting the past as well as realising EU membership quickly evaporated and little has materialised to replace it. This Eurosceptical and ambiguous position towards the past (best characterised as simply blocking parliamentary decision-making regardless of the specificities involved) was already occupied by the SRS, making the new position of the DSS rather redundant. The party’s influence thus quickly diminished over the years, the DSS now holding little electoral support.

6.3.5 LDP and G17+

The LDP and G17+ came from different political philosophies. Whilst the former committed ideologically to liberal democracy, the latter had started out as an NGO and departed from a position of political “realism.” G17+ presented itself as a party of experts to guide Serbia’s much needed reforms.⁷⁷ Despite these programmatic differences, I group them together here because of the similar space they occupied in the Serbian parliament vis-à-vis questions of the EU future and the socialist and war past. Both saw Serbia as a European country that deserved EU membership if profound reforms were implemented. The LDP focussed its politics on ensuring European integration and internally observed May 9 as the Day of Europe,⁷⁸ whilst G17+ wrote that “historically, culturally, economically and emotionally—Serbia is already part of Europe. Institutionally it is not.”⁷⁹ The LDP and G17+ also shared concerns about the pro-European commitments of the other parties.⁸⁰ These shared positions did not prevent (and perhaps even heightened) a sense of competition between the two parties. Despite the pro-European voice in parliament of G17+, upon its establishment in 2005, the LDP, emerging from a faction in the DS,⁸¹ posited that it filled a gap to provide “alternatives,” stemming from “modern, European, civic and liberal ideas.”⁸² The party considered the murder of Đinđić as a turning point that saw the “politics of Milošević return to Serbia, but without Milošević.”⁸³

⁷⁶ Demokratska stranka Srbije, “Program, 26 maja 2001,” 70–71.

⁷⁷ Suzana Grubješić, interview with author, June 1, 2018. G17+ is no longer in existence. In 2013, the party merged with the United Regions of Serbia, which it had itself founded.

⁷⁸ Liberalno demokratska partija, *Evropske sveske 2008*, Beograd: Odbor za evropske i spoljne poslove Liberalno demokratske partije, 2009, 55, 60, 62.

⁷⁹ Komšić, “Političke stranke u Srbiji,” 36.

⁸⁰ Liberalno demokratska partija, *Evropske sveske 2008*, 7. See also the G17+ programmes from May 2003 and March 2004, quoted in Komšić, “Političke stranke u Srbiji,” 35.

⁸¹ Boban Stojanović and Milica Jović, “Liberalno demokratska partija,” *(Ne)demokratsko rediziranje političkih partija u Srbiji*, by Zoran Stojiljković, Gordana Pilipović and Dušan Spasojević, Beograd: Konrad Adenauer Stiftung, 2013, 130.

⁸² Taken from the LDP’s Programme, *Od nas zavisi*, 2006, quoted in Komšić, “Dve decenije potraga za identitetom,” 173.

⁸³ Quoted in Komšić, “Političke stranke u Srbiji,” 36; see also Liberalno demokratska partija, *Evropske sveske 2008*, 7.

Established in 2005, the LDP participated for the first time in parliamentary elections in 2007. However, they quickly managed to build a profile as a party prepared to deal with the past, thus prompting me to include the party in this selection. The party was especially significant in the context of Serbia's co-operation with the ICTY. Expressing a consistent liberal and pro-European message, the party was highly critical of Serbia's limited progress in realising reforms and advancing EU negotiations. It blamed this mostly on the unwillingness and inability of the elite to co-operate with the ICTY.⁸⁴ Party documents testify to a thorough understanding of the requirements for ICTY co-operation,⁸⁵ as well as EU politics surrounding the issue.⁸⁶ G17+ also saw the elite's unwilling attitude towards the ICTY as a substantial obstacle in EU negotiations, prompting (as the case in case study will further discuss) its party leader to leave government when the state failed to arrest indictees demanded by The Hague.⁸⁷

Both parties were more generally in favour of confronting the past. G17+ called for a "breaking with the past," including confrontation with the socialist past through restitution, rehabilitation, and equal rights for Yugoslav fighters.⁸⁸ Although the party liked to present itself as a team of realists with no particular interest in symbolic issues of the past, its practice demonstrated engagement with these questions, especially when the prospect of EU accession was at stake. Furthermore, both the LDP and G17+ were very concerned about corruption in the country, and thus insisted on the implementation of lustration.⁸⁹

The LDP decided to follow the most progressive path by choosing to associate itself with the European Liberal Democrat and Reform Party (ELDR, later ALDE) in 2008 after close co-operation in the years before.⁹⁰ Party documents show that the party employed various channels to increase European co-operation, sending delegations to Brussels and meeting with MEPs, including Jelko Kacin, the special rapporteur for Serbia.⁹¹ G17+ and

⁸⁴ Liberalno demokratska partija, *Evropske sveske* 2008, 8.

⁸⁵ The party discusses the four aspects of co-operation with the ICTY: sharing documentation; support of the Tribunal's staff in Serbia; finding and handing over indictees; and finally, identifying the fourth as "creating an atmosphere to confront the crimes from the past." This latter aspect is recognised as the most difficult, and the "essence of the failure of cooperation." Liberalno demokratska partija, *Evropske sveske* 2008, 14.

⁸⁶ The document singles out the Netherlands and Belgium as being specifically critical of Serbia's co-operation with the ICTY. Liberalno demokratska partija, *Evropske sveske* 2008, 14–40.

⁸⁷ Komšić, "Političke stranke u Srbiji," 35.

⁸⁸ The Serbian parliamentary proceedings, kept in the library of the Serbian parliament, do contain page numbers (in contrast to the proceedings of the Bulgarian parliamentary debates). For clarity, I mention the page number as well as the name of the MP. Miroljub Labus in Narodna skupština, "Sedma sednica drugog redovnog zasjedanja, 15. decembar 2004. godine (drugi dan rada)," in *Stenografse beleške: Sedma i osma sednica drugog redovnog zasjedanja 14, 15, 16, 17, 21 i 22. decembar 2004. godine*, by Narodna skupština Republike Srbije, Beograd: Narodna skupština, 2005, 30. The issue of Yugoslav fighters will be elaborately discussed in chapter 7.

⁸⁹ Stojiljković, "Partijska scena Srbije," 285.

⁹⁰ Liberalno demokratska partija, *Evropske sveske* 2008, 48; Milivojević, "Saradnja političkih stranaka u Srbiji sa institucijama Evropske unije," 115.

⁹¹ Liberalno demokratska partija, *Evropske sveske* 2008, 48.

the LDP were also the only two countries in favour of NATO membership. Explaining this choice, the LDP wrote that integration in the North-Atlantic Treaty Organisation “could only contribute to faster accession of Serbia to the European Union.”⁹² G17+ aligned itself with the EPP who, even more than the ELDR, was committed to confrontation with the socialist past. For both parties, the EU future thus required addressing the legacies of war and authoritarianism in its broadest sense.

6.3.6 SPO

An atypical party in many respects, the SPO cherished the distant past as its guiding identity. Established in 1990 by Vuk Drašković (who would continue to lead the party for many years) and Vojislav Šešelj (who was to become one of Serbia’s most notorious war criminals), the party claimed deep roots, reaching back to the “European” Serbian monarchy preceding the World Wars. Šešelj quickly left the SPO to establish the even more radical SRS in 1991 (after his initiative for a “Serbian Četnik Movement” was denied registration due to its name). The SPO thus followed the less populist—but in no way less conservative or nationalist—course set out by Drašković. Openly proclaiming its wish for the monarchy to return, the SPO positioned itself in opposition to everything that had diverted Serbia from this royal path—most notably, the era of socialism.

To delegitimise the socialist regime most effectively was not only to emphasise its crimes, but also to undermine the socialist monopoly on the anti-fascist fight, as the SPS still liked to boast about the partisan victory over the Nazis. The SPO covered the first part of this approach by calling socialist crimes “terrorism” and “tyranny” in parliamentary debates. After 2009, every year it proposed a resolution to install a “Day of Remembrance for the victims of totalitarian and authoritarian regimes,” following the EU example set by the EP resolution, discussed in chapters 1 and 2, on European Memory and Conscience.⁹³ The failure of Serbia to keep up with “modern democratic societies” and its recent hardship were blamed on the “policy of the communist regimes.”⁹⁴ This had led the Serbian nation into the tragedy “that were the Yugoslav disintegration and the 1990s wars.”⁹⁵

The second part of the approach required the re-narration of the story of Serbia’s resistance movements—the partisans and četniks—during the Second World War as one of the SPO’s main political goals. This story of anti-fascist resistance goes to the core of Serbia’s identity narrative, as it is central to ideas of Serbia’s statehood.⁹⁶ In the years from

⁹² Liberalno demokratska partija, *Evropske sveske* 2008, 34.

⁹³ Ana Milošević and Heleen Touquet, “Unintended Consequences: The EU Memory Framework and the Politics of Memory in Serbia and Croatia,” *Southeast European and Black Sea Studies* (2018 [online pre-publication]): 11.

⁹⁴ Srpski pokret obnove, “Evropska desnica Srbije. Program,” 2010, 3, <https://www.spo.rs/doc/program-spo-eds.pdf>.

⁹⁵ Srpski pokret obnove, “Evropska desnica Srbije,” 3.

⁹⁶ Savez antifašista Srbije, interview with author, February 8, 2018.

1945 leading up to the early 2000s, the official and dominant historical narrative on anti-fascism had been clear. The partisan movement fought fascism, liberated Serbia, and created Yugoslavia, which then was tragically torn apart by nationalism. The next chapter will discuss some of the generally very successful attempts of the SPO to spin this narrative in a direction that better suited the party's nationalist, monarchist, and pro-European identity.

These three identity components deserve some more attention, as other scholars also struggle to understand their relationship. The SPO occupied quite extreme ideological positions that did not automatically suggest compatibility with EU membership, let alone the "Euroenthusiastic" orientation that the party adopted.⁹⁷ The SPO promoted "nationalist revanchism and ideological revisionisms . . . , anti-communism, historical revisionism, retraditionalisation . . . xenophobia," and more.⁹⁸ According to the political scientist Miša Đurković, the SPO presented EU accession as a "solution for everything," resulting in some "bizarre" sounding statements about the EU and its importance for Serbia.⁹⁹ The EU, according to the party, "confirms the programmatic dedication of the SPO to the Kingdom Serbia, because many monarchies are members of the European Union."¹⁰⁰ The EU accession prospect had also been central to the party's own development. Indeed, in its 2008 programme, the party described moving from the "extreme national Right" to the "centre Right" via "the principles of modern Europe."¹⁰¹ As professor Boban Stojanović confirms, EU accession was the "foundation and roof" of the SPO's 2008 programme.¹⁰²

6.3.7 SNS

Especially after chaotic political transition, historical continuity is a popular claim to lay. Similar to the way in which the DS and DSS prided themselves on their roots in the early twentieth century, and the way the SPO claimed a heritage preceding both World Wars, the SNS named itself after a famous conservative party dating back to the 1880s.¹⁰³ As previously touched upon, the SNS owed its existence to its ability to unite a nationalist and pro-European orientation.¹⁰⁴ Both stances were indeed electorally compatible: opinion polls from the years in question show that an overall majority of the Serbian people were

⁹⁷ Boban Stojanović, "Srpski pokret obnove," in *(Ne)demokratsko rediziranje političkih partije u Srbiji*, by Zoran Stojiljković, Gordana Pilipović and Dušan Spasojević, Beograd: Konrad Adenauer Stiftung, 2013, 327.

⁹⁸ Stojanović, "Srpski pokret obnove," 312.

⁹⁹ Đurković, *Ideologija, partije i međunarodni odnosi*, 97.

¹⁰⁰ Stojanović, "Srpski pokret obnove," 315–316.

¹⁰¹ Srpski pokret obnove, "Evropska desnica Srbije," 2–3.

¹⁰² Stojanović, "Srpski pokret obnove," 318.

¹⁰³ Bulatović, "Srpska napredna stranka," 280.

¹⁰⁴ Srpska napredna stranka, Nova Srbija, Pokret snaga Srbije BK, & Pokret socijalista, "Sporazum o saradnji."

in favour of EU accession, whilst a majority also expressed nationalist sentiments. Indeed a considerable percentage of SRS supporters even supported European integration.¹⁰⁵

Confirming this pro-European stance, from its establishment onwards, the SNS developed strong ties with the EPP.¹⁰⁶ In 2013 it acquired “associated status.”¹⁰⁷ Suzana Grubješić recalls how the EPP was eager to start co-operation with the SNS, for the latter quickly proved to hold a strong grip on Serbian politics. Grubješić was active for G17+, which was an associate member of the EPP until it merged with the United Regions of Serbia party and thus ceased to exist. In that sense, the SNS replaced G17+ within the EPP, despite their stark differences in orientation. Indeed, Grubješić suggests, the electoral promise of the SNS was more important to the EPP than its political ideas, some of which stood in a tense relationship to basic EPP principles.¹⁰⁸

Admittedly, the ideological and political profile of the SNS remains unclear—even to experts.¹⁰⁹ However, with regard to EU accession it was consistent. “Serbia in Europe and co-operation with the world” received a special section in its 2011 programme,¹¹⁰ whilst at the party’s five-year anniversary in 2013, EU membership was presented as one of its three basic goals.¹¹¹ This shaped the relationship between the SNS and other parties. The smaller nationalist party Nova Srbija (NS), for instance, has been very much anti-EU when it co-operated with the SRS and DSS in the early 2000s. Seeking new pro-European partners in 2005, however, it “quickly weakened its . . . anti-European discourse.”¹¹² The Progressive Party was such a compatible partner. In 2010, together with some smaller parties, the NS and the SNS entered into a co-operation agreement that devoted the first out of eight pages solely to the section “Serbia in Europe.”¹¹³

Yet, on dealing with the past, the SNS itself remained largely silent. Its 2011 programme committed the party to helping Serbian nationals outside Serbia, especially in the former Yugoslavia—and it is difficult to avoid associations with the war past of the 1990s here. In addition, the party acknowledged the Dayton Peace Agreement “and other

¹⁰⁵ Based on data from an opinion poll from Centar za politikološka istraživanja i javno mnjenje, conducted in June 2007, quoted in Pantić, “Prihvaćenost programskih opredeljenja među pristalicama partija,” 311–313, 319.

¹⁰⁶ Komšić, “Dve decenije potraga za identitetom,” 172.

¹⁰⁷ Bulatović, “Srpska napredna stranka,” 280, footnote 2; Đurković, *Ideologija, partije i međunarodni odnosi*, 84.

¹⁰⁸ Grubješić, interview.

¹⁰⁹ Bulatović, “Srpska napredna stranka,” 280; Đurković, *Ideologija, partije i međunarodni odnosi*, 93–95.

¹¹⁰ Srpska napredna stranka, and Programska platforma, “Bela knjiga ‘programom do promena,’” October 21, 2011, 39–42, <http://www.sns.org.rs/images/pdf/Bela%20knjiga-Programom-do-promena.pdf>.

¹¹¹ Bulatović, “Srpska napredna stranka,” 281.

¹¹² Its 2005 programme stated that “the goal for Nova Srbija is not only accession to European institutions but rather to strengthen these,” in order to “[support] transformation of the European Union from a ‘market society’ to ‘a political society’” and “the creation of a United Europe, with the intention of establishing a strong Serbia in a strong Europe.” Serbia belonged to Europe, the party argued, not only on the basis of geopolitics, but also because of its history and culture, stressing that “we support European ideals and share the same political philosophy with other European national parties.” NS Programme, 2005, quoted in Komšić, “Političke stranke u Srbiji,” 34; see also Komšić, “Dve decenije potraga za identitetom,” 175.

¹¹³ Srpska napredna stranka, Nova Srbija, Pokret snaga Srbije BK, & Pokret socijalista, “Sporazum o saradnji.”

international agreements and resolutions as key to stable and unhindered regional development,”¹¹⁴ yet on the issue of co-operation with the Hague Tribunal, it remained unclear.¹¹⁵ Furthermore, its association with the EPP did not make the party support archival disclosure, despite the EPP’s own commitment to this. This seems to support Grubješić’s assessment that neither the EPP nor the SNS showed much interest in the other’s principles, but rather cared about the political strength they could offer each another. The proceeding chapters will contain several illustrations of the attempts by the SNS to position itself in the debate on dealing with the past, often joining the anti-confrontation side, and struggling especially when the EU accession prospect was used as an argument by its pro-confrontation opponents. However, “struggle” might be too negative a word here, as the SNS has continued to grow, and at this point in time dominates Serbian politics.

This chapter has set the stage for the ensuing analysis of party constellations and parliamentary decision-making. It has made clear why it is so important to understand individual party orientations, in the light of my research interest, before looking at the parliamentary level. Both the past and the EU future were fundamental to the identities and strategies of all the parties concerned, although most explicitly so for parties such as the SPO, the LDP, and G17+. As much as they are each other’s opposites, they all formed their positions directly in relation to the EU future as well as the recent (and more distant) past. However, it would perhaps be too early to speak of the *influence* of the EU accession prospect on individual party orientations. For example, whilst associations with parties in the EP were important, many were not inspired by a shared orientation on the past. For the DSS, the EU accession prospect did not prove sufficient to nudge the party into supporting the ICTY. Instead, the party’s nationalist orientation proved stronger than its initial commitment to the EU future.

Yet neither did this chapter give any reason to downplay EU influence. For the SPS, acceptance of the EU future was key in its changing position with regard to the past. The SNS is an even more striking example of a party that built its programme around EU accession and whose pragmatic orientation allowed it to put its attitude towards the past at the service of this broader goal. Furthermore, the influence of the EU accession prospect manifested itself in voting behaviours on specific laws and declarations, and it is to this phenomenon that the next chapter will turn.

¹¹⁴ Srpska napredna stranka, Nova Srbija, Pokret snaga Srbije BK, & Pokret socijalista, “Sporazum o saradnji,” 3.

¹¹⁵ Đurković, *Ideologija, partije i međunarodni odnosi*, 95.

CHAPTER

7 Serbian Parliamentary Decision-Making

The previous chapter analysed the stances of the main political parties towards the socialist past, the war past, and the EU future. I now turn my attention towards how the various parties functioned in parliament: Which laws and declarations did these parties initiate; what alliances did they forge; and, when they disagreed, how did they organise their opposition? The focus here is not only on direct EU influence, but also on the more indirect ways in which the parties engaged with the prospect of EU membership. The timeframe is defined as the period between 2000 and 2012.

I conducted the research for this as well as the subsequent chapter in two phases—an approach in line with the Bulgarian case. Using a combination of literature research, in both Serbian and English, and targeted searches on the official website of the Serbian parliament, I first established a timeline of important political moments, including laws and declarations (both adopted and rejected), as well as landmark events that engaged with the past(s). In the second research phase, I studied primary source material of these points of interest, selected according to the three criteria explained in chapter 4 (and, for completeness, repeated here in a footnote).¹ In order to fully embrace the fluidity of party politics in the Serbian parliament, I use the terms “pro-confrontation” and “anti-confrontation” to identify a politician or party’s position with regard to the past(s).

7.1 Background: 1995–2000

There were some reforms made before October 5, 2000 that are essential to any understanding the overall Serbian process of transition. This prelude illustrates clearly that the starting point of the Serbian transition cannot be clearly pinpointed. It also testifies to the increasing pressure brought to bear on the regime by opposition parties which, at the time, were still repressed. I will briefly indicate some of these early transition measures. On several occasions during the 1990s, a respected group of Yugoslavian lawyers, the *Kopaonička škola prirodnog prava* (School of Natural Law), discussed the idea of the restitution of property confiscated by the socialist regime.² However, the meetings yielded no direct political results and, as late as 2008, the well-known scholar Jovica Trkulja concluded that Serbia, “until today [in 2008] has remained the only post-

¹ (1) The event or act stirred debate on the national level and/or was initiated from the national level;

(2) Political parties have engaged with the event or act, through parliamentary debate, drafting bills and declarations, and official statements;

(3) Political parties referred to, or otherwise instrumentalised, the EU membership prospect or EU membership status.

² In 1995, lawyer Vladimir Todorović presented a first draft law on the restitution. This attempt would prove to be fruitless, as were follow-up attempts by others to realise a law on post-socialist denationalisation and restitution. A law drafted by the Center for Advanced Legal Studies in 2002 encountered too much opposition to be put before parliament. Slobodan Marković, “Društveni značaj restitucije i evropeizacije Srbije,” *Hereticus: Časopis za preispitivanje prošlosti* 7, no. 1–2 (2009): 65.

communist country in Southeast Europe which has not adopted a Law on restitution.”³ It was not until 2011 that this situation would be addressed, and change implemented.

In another area of “early” regulation, the 1998 Protection of Personal Data Act governed the accessibility and security of personal data.⁴ Aleksandar Resanović, who published on this theme in 2002, states that the act’s provisions on state security made it impossible for citizens to actually make use of their “democratic rights” to access and correct the use of their personal data. Therefore, Resanović continues, “security services, particularly the Department of State Security in the Ministry of the Interior, Serbia, remain protected and inaccessible.”⁵ The security services thus continued their work based on “political, not legal grounds,” and are framed by Resanović as the “last and only surviving examples of the communist model of non-democratic institutions, the kind of which was abandoned after the collapse of the communist regime in Europe.”⁶ Whereas the 1998 law might at first glance appear to be a step towards democratic transition, closer investigation reveals this not to be the case and thus supports the choice for October 5, 2000 as the start of Serbian transition.

With this background knowledge established, I turn to the core analysis of the period 2000-2012. Based on considerations of both domestic developments and landmarks in EU accession negotiations, this period is divided in four parts:

- Bargaining the past in the midst of transition: 2000-2005
- Case in case study that spans the entire period: Serbia’s co-operation with the ICTY
- Confirming the new vision of the past: 2006-2009
- Turning the table: 2010-2012

7.2 Bargaining the past in the midst of transition: 2000–2005

As previously mentioned, Jovica Trkulja has dubbed the period from 2000 to 2003 one of “political forgetting.”⁷ Whilst there may have indeed been a small number of adopted acts that confronted the past, these cases should not be allowed to obscure the substantial amount of political and societal activity that also occurred. Indeed, the previous chapter has already discussed the commitment of the DOS to archival disclosure and other areas,

³ Trkulja, “Rehabilitacija kao mera pravnog savladavanja,” 18.

⁴ Aleksandar Resanović, “The Violation of Human Rights as a Result of Keeping and Opening Secret Files of State Security Services in Yugoslavia,” *Yearbook of the Balkan Human Rights Network*, no. 2 (2002): 328.

⁵ Resanović, “The Violation of Human Rights,” 330.

⁶ Resanović, “The Violation of Human Rights,” 330.

⁷ Trkulja, “Rehabilitacija kao mera pravnog savladavanja,” 19.

some of which were even part of their “ten promises.” Here, civil society deserves special mention.

7.2.1 Civil society as a “watchdog” to confront the past during 2000–2003

Civil society actors continued to be active after the revolution of 2000. In 2001, for example, a new law on public information and media was drafted by a working group consisting of NGOs and journalists. The latter had been the main victims of socialist repression and censorship, which the draft law aimed to eliminate. The law was adopted by the Serbian government in 2001.⁸

2001 saw more successful examples of laws and regulations drafted by civil, non-governmental groups—or at least they appear so at first glance. Two NGOs in Belgrade “independently prepared separate documents” with ready-made models for a law on the disclosure of the secret files of the security service.⁹ This indeed led parliament to draft a bill intended to realise what the above-mentioned law on the protection of personal data had failed to do—namely, to give citizens the right to access the personal information collected and stored about them by the secret service. Although it was adopted on May 22, 2002, the decree was amended only nine days later. This amendment imposed a considerable change, not only of the decree’s name, but also its nature. Resanović even calls it a “completely new decree.”¹⁰ Stipulating that citizens can only access those dossiers that directly concerned them personally, the amended decree prompted the editing board of the journal *Hereticus* to conclude that the dossiers were, in practice, closed rather than opened.¹¹ The security services thus remained on the agenda of the progressive parties who, during the election campaigns in 2003, again promised to open the dossiers.

Another example of attempted co-operation between government and civil society, also in 2001, can be found in the Truth and Reconciliation Commission established via presidential decree by Vojislav Koštunica in March 2001.¹² The commission, numbering fifteen, included historians, writers, psychologists, theologians, political scientists, sociologists, and one economist—all of whom were “prominent representatives of Yugoslav intellectual and professional elite.”¹³ Right from the start, it became clear that the

⁸ Vodinelić, “Pravno savladavanje prošlosti,” 21.

⁹ Resanović, “The Violation of Human Rights,” 333; Uredništvo, “Uvodnik,” *Hereticus: Časopis za preispitivanje prošlosti* 2, no. 1 (2004): 3.

¹⁰ Aleksandar Resanović, “Otvaranje dosijea tajnih službi: Uporedna iskustva,” *Hereticus: Časopis za preispitivanje prošlosti* 2, no. 1 (2004): 24; Resanović, “The Violation of Human Rights,” 331.

¹¹ Uredništvo, “Uvodnik,” 3.

¹² Natascha Zupan, “Facing the Past and Transitional Justice in Countries of the Former Yugoslavia,” in *Peacebuilding and Civil Society in Bosna-Herzegovina: Ten Years after Dayton*, by Martina Fischer (Münster: Lit Verlag, 2006), 333.

¹³ Mirjana Vasović, *Commission of Truth and Reconciliation in FRY: Projects and Limitations. Presentation at the University of Lausanne*, Lausanne: TRACES, 2006, 1–2.

commission had been hastily composed and its members had trouble putting their mandate into practice.¹⁴ Several discontented members left and the commission never published its findings (indeed, it remains unclear if it had any at all).¹⁵ Later in 2003, an expert concluded that the commission's mandate had been diffuse and the commission had possessed no real power.¹⁶ Furthermore, the international community did not welcome this commission. It feared that the committee functioned as a smoke screen for President Koštunica to mitigate or reduce Serbian responsibility for the wars, and to bail out on co-operation with the ICTY¹⁷—an assessment supported by several scholars.¹⁸

At the end of 2002, the Centre for Advanced Legal Studies in Belgrade drafted a new law aimed at addressing issues of responsibility for human rights violations as the basis for a law on lustration. This move built upon the efforts of several Serbian municipalities, mainly in the northern Autonomous Province of Vojvodina, which had already initiated their own lustration laws.¹⁹ These joint initiatives came together on February 11, 2003 when representatives from the regional Parliament of the Vojvodina launched a further, successful initiative to urge the national parliament to adopt such a lustration law, as will be discussed in the proceeding section.

7.2.2 *The past back on the agenda: March 2003 as a turning point*

The year 2003 would prove to be of pivotal importance in many ways—some quite unforeseen. Most relevantly, in March 2003, Serbia appointed its first vice-president for European integration.²⁰ Even more important, that same month, Prime Minister Đinđić was killed. Following the murder, an extended national state of emergency was declared and interest was refocused on the issue of organised crime in Serbia and its links to the country's recent past.²¹ Without a doubt, Đinđić's assassination was a key moment in Serbian history and a turning point with regard to dealing with the past. Đinđić's murderers were traced back to Serbia's socialist regime, and it became clear—both to

¹⁴ Resanović, "The Violation of Human Rights," 325.

¹⁵ Brian Grodsky, "International Prosecutions and Domestic Politics: The Use of Truth Commissions as Compromise Justice in Serbia and Croatia," *International Studies Review* 11 (2009): 697.

¹⁶ Vodinelić, "Pravno savladavanje prošlosti," 18.

¹⁷ The truth commission was described as "a mechanism explicitly designed to avoid ICTY cooperation." Grodsky, "International Prosecutions and Domestic Politics," 696–697.

¹⁸ See, e.g., Nenad Dimitrijević, "Learning from Serbian Failure: The Denial of Three Repressive Pasts," in *Transitional Justice and the Former Soviet-Union: Reviewing the Past, Looking toward the Future*, by Cynthia M Horne and Lavinia Stan (New York: Cambridge University Press, 2018), 313; Zupan, "Facing the Past," 333. Despite this unsuccessful experience, Nenad Dimitrijević made a compelling case in 2008 for a truth commission in Serbia, this time one with the right intentions and set-up. Nenad Dimitrijević, "Serbia After the Criminal Past: What Went Wrong and What Should be Done," *International Journal of Transitional Justice* 2, no. 1 (2008): 5–22.

¹⁹ Grodsky, "International Prosecutions and Domestic Politics," 696–697; Trkulja, "Sporije pravnog savladavanja autoritarne prošlosti," 43.

²⁰ Liberalno demokratska partija, *Evropske sveske* 2008, 7.

²¹ E.g., Dimitrijević, "Learning from Serbian Failure," 307.

Serbia and its international partners—that, as Serbian scholar Vladimir Vodinelić wrote shortly after the attack, “the authoritarian past is not yet overcome.”²² This realisation spurred a renewed effort to deal with Serbia’s recent past(s)—those of socialism and war—as well as reinvigorating ambitions for the future. Trkulja therefore describes the year 2003 as a “period of ‘politics of remembering.’”²³ Evaluating this overall effect, the LDP eventually concluded in 2008 that “despite the serious attacks on the democratic order” as a consequence of the subsequent state of emergency, the murder “contributed to the strong pro-European direction of the Serbian government.”²⁴

Considering the long and obstacle-ridden road ahead towards the EU, this trust in Serbia’s pro-European course was rather optimistic. Nevertheless, the combined effects of Đinđić’s assassination on dealing with the past, as well as EU accession, are indeed highly relevant. Barely two months after Đinđić’s assassination, the Serbian parliament finally adopted the aforementioned, long-discussed lustration law. The law, at least in principle, ushered in the process of purging socialist officials, paying special attention to the secret service. As discussed in chapter 1, the EU’s attitude towards lustration was ambiguous, however, statements by the European Commission and EPP group in the European Parliament endorsed the law. Although Serbian political parties drew few direct links between the law and the EU future, it is very likely that the law’s initiators were aware of the positive effects it could have on showing the country’s commitment to its future in the EU at such a key moment.

The Law on Responsibility for Violation of Human Rights—as the lustration law was officially called—was adopted on May 30, 2003.²⁵ As suggested above, civil society played a pivotal role in this process. Political scientist Vladimir Vodinelić states that it was due to the “tireless insistence, above all from parts of the non-governmental sector,” that this law was adopted in the first place.²⁶ Đinđić’s assassination seems only to have added to the momentum that these actors had already generated. The law was drafted by the *Građanski savez Srbije* (Civic Alliance of Serbia, GSS), a party that would later merge with the LDP.²⁷ The law generally enjoyed the support of the DS and other parties from the opposition coalition.²⁸

²² Vodinelić, “Pravno savladavanje prošlosti,” 27.

²³ Trkulja, “Rehabilitacija kao mera pravnog savladavanja,” 19.

²⁴ Liberalno demokratska partija, *Evropske sveske* 2008, 7.

²⁵ Narodna skupština, “Zakon o odgovornosti za kršenje ljudskih prava,” May 30, 2003, www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/2003/pdf_039_1232-03.zip.

²⁶ Vodinelić, “Pravno savladavanje prošlosti,” 24.

²⁷ Cakić, “Lustracija u Evropi i Srbiji,” 295; Trkulja, “Rehabilitacija kao mera pravnog savladavanja,” 14; Trkulja, “Sporije pravnog savladavanja autoritarne prošlosti,” 44.

²⁸ Nevertheless, the coalition proposed several (many of them successful) amendments to the draft law. Narodna skupština, “Osma sednica prvog redovnog zasjedanja (četvrti dan rada), 30 maja 2003,” in *Stenografske beleške: Osma sednica prvog redovnog zasjedanja. 27, 28, 29. i 30. Maj 2003. godina*, by Narodna skupština Republike Srbije, Beograd: Biblioteka Narodne skupštine, 2003, 403.

As the debate surrounding lustration makes clear, and as argued already, the law formed part of a broader political programme that included plans for laws on denationalisation and the return of property, on privatisation, and on rehabilitation.²⁹ MPs considered disclosure of secret agency dossiers—as formally provided for in the aforementioned law—to be an essential condition of lustration.³⁰ The urgency of the lustration law was emphasised by framing it as a last step in the decades-long fight against “the communist evil.”³¹ Interestingly, opponents of the law also used the frame of anti-socialism.³² MPs from the SRS accused the law’s initiators (who were after all their main political rivals) of representing a “neocommunism that came to Serbia on 5 October.”³³ In a fashion that was indeed typical of the Radicals, they exaggerated the proposed scope of the law and compared it to the repressive mechanisms of the Yugoslav socialist regime. Even more strikingly, representatives of the SPS also used a version of this narrative. In a revealing comment, Živodarka Dačin accused representatives of the DOS of having participated in the Milošević regime and the socialist party during his time in power. She, however, had “never been member of this party,” thus claiming a discontinuity between the present-day SPS and the Milošević regime.³⁴

As the above also illustrates, in their arguments MPs generally focussed on Serbia’s domestic needs and national history rather than European aspirations. It is therefore all the more remarkable that political scientist Milan Cakić wrote in 2000 that one of the “motives and reasons” for the law proposal was to intensify the “fight against corruption as an EU accession condition.”³⁵ As Cakić himself notes, however, this stands in a tense relation to the EU’s general dismissal of lustration, such that the law itself cannot have been a condition for EU integration. His statement thus suggests that proponents of lustration actively made the case that the law would endorse the fight against corruption—the latter being an EU concern. This is not an illogical link, since the theme of combatting corruption had, together with the similar high-profile EU demands regarding the fight against organised crime, been points of public focus since the assassination of Đinđić. It is difficult to find Cakić’s link between the lustration law and the EU confirmed in parliamentary minutes. As the next chapter will show, whilst lustration’s proponents made

²⁹ Narodna skupština, “Osma sednica prvog redovnog zasjedanja (treći dan rada), 29 maja 2003,” in Narodna skupština Republike Srbije, *Stenografske beleške: Osma sednica prvog redovnog zasjedanja. 27, 28, 29. i 30. Maj 2003. godina*, by Narodna skupština Republike Srbije, Beograd: Biblioteka Narodne Skupštine, 2003, 233.

³⁰ Zoran Ćirković in Narodna skupština, “Osma sednica prvog redovnog zasjedanja treći dan rada, 29 maja 2003,” 234, 281.

³¹ Nataša Jovanović in Narodna skupština, “Osma sednica prvog redovnog zasjedanja treći dan rada, 29 maja 2003,” 265.

³² Milorad Mirčić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja treći dan rada, 29 maja 2003,” 269.

³³ Milorad Mirčić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja treći dan rada, 29 maja 2003,” 269.

³⁴ Živodarka Dačin in Narodna skupština, “Osma sednica prvog redovnog zasjedanja četvrti dan rada, 30 maja 2003,” 324.

³⁵ Cakić, “Lustracija u Evropi i Srbiji,” 301.

some abstract remarks about the “road” to EU accession, they failed to link this to the fight against corruption.

Conversely, opponents of the lustration law were more eager to use the prospect of EU accession. Dragan Tomić of the SPS posited that “this will definitely not be a law that will lead us to Europe.”³⁶ Explaining why the EU would not endorse such a law, he referred to political tolerance and “cultured” political speech as alleged values and characteristics of European parliamentary systems.³⁷ This argument is interesting in the light of the cautious switch made by the SPS towards a pro-European path in 2003, as discussed in the previous chapter. It illustrates that the SPS did not shy away from using its unambiguous endorsement of EU accession in order to defend its attitude towards the past. The narrative underlying this interesting argument of “political tolerance” is investigated further in the proceeding chapter.

The lustration law was adopted with 111 votes in favour from 127 attending MPs (out of 250 seats in total). All DSS members had left their seats, claiming that the proposed law was in essence a political act intended simply to haunt its political opponents.³⁸ The party’s choice not to attend the voting is remarkable for, as demonstrated in subsection 6.3.4., the 2001 programme of the DSS had emphasised the importance of confronting the past—including lustration—and sought association with the explicitly pro-confrontation EPP. This contradictory political behaviour illustrates the conservative turn already taking place within the DSS and most likely testifies to the influence of Milošević’s former allies within the party. This observation also serves as an important reminder to not overstretch the findings of this chapter and indeed, this book overall: not only is the influence of EU accession on dealing with the past far from given, even in cases of direct association between a domestic political party and an EP group (the DSS and EPP in this case), dealing with the past itself was, for most political parties, not a principal concern.

Taking the above into consideration, it is important to comment on the eventual impact of the law. The absence of many MPs during the voting, coupled with opposition from an important party such as the DSS, may explain why, according to most experts, the law has never been implemented, remaining a “dead letter on paper.”³⁹ Within a couple of months the parliament appointed nine members to form a committee in order to study the violations of human rights stipulated in the law. However, its results—both long-term and short-term—were meagre.⁴⁰ A committee controlling the secret security service, led by

³⁶ Narodna skupština, “Osma sednica prvog redovnog zasjedanja treći dan rada, 29 maja 2003,” 251.

³⁷ Narodna skupština, “Osma sednica prvog redovnog zasjedanja treći dan rada, 29 maja 2003,” 251.

³⁸ Cakić, “Lustracija u Evropi i Srbiji,” 295; Trkulja, “Rehabilitacija kao mera pravnog savladavanja,” 14; Trkulja, “Sporije pravnog savladavanja autoritarne prošlosti,” 44.

³⁹ Trkulja, “Rehabilitacija kao mera pravnog savladavanja,” 14; Trkulja, “Sporije pravnog savladavanja autoritarne prošlosti,” 44.

⁴⁰ Resanović, “Otvaranje dosijea tajnih službi,” 26.

Boris Tadić (who would later become president), failed to undertake any further activities after its inaugural session.⁴¹ In 2004, the Serbian political scientist Stanko Pihler, in relation to the unimplemented lustration law, suggested that Serbia had set the responsible officials in the former authoritarian regime free, thus choosing amnesty over justice “under strong pressure of the international community.”⁴² Due to its limitations, my analysis in the context of the EU cannot fully prove him right or wrong. It can, however, confirm that the EU’s ambiguous stance on lustration and criminal justice (as part of the broader international context) did definitely not shrink the space for possible amnesty.

In the context of the ambiguous relation between the lustration law and EU accession, it would be prudent here to also mention two laws that were adopted around the same time, the first of which was undoubtedly connected to EU integration, namely, the 2002 law on co-operation with the ICTY. In contrast to the laws and acts already discussed, the implementation of this law is more positively evaluated by experts. In the words of legal scholar Vladimir Petrović, the law “accelerated” co-operation with the Hague Tribunal, which had become politically popular “overnight” due to increasing EU pressure.⁴³ In 2003, the Serbian parliament followed suit with a “War Crimes Law”—a law that established the Serbian War Crimes Chamber (WCC) alongside the Office of the War Crimes Prosecutor and the War Crimes Investigation Service.⁴⁴ Together, these three institutions were mandated to handle war crimes. Although the WCC was hindered by nationalist actors both within and outside parliament (and, according to the European Commission and domestic critics, realised a disappointing number of convictions), they surprised many by showcasing at least a limited degree of political independence, diligence, and legal capacity.⁴⁵ The fact that these two laws were adopted in such close proximity to each other testifies to their interconnected nature. When the WCC started its work in 2003–2004, the ICTY had already been in existence for a decade. Realising that it had to devise an exit strategy to prepare for its envisaged closing date, the Tribunal and its international supporters became increasingly willing to stimulate the capacity of domestic justice systems to prosecute war crimes. Together, the Serbian laws regulated the way in which cases, research, archives, and expertise can be shared between the ICTY and WCC.⁴⁶

⁴¹ Aleksandar Resanović, “Opening of Secret Files of the State Security Services,” Belgrade Centre for Security Policy, January 14, 2004, www.bezbednost.org/All-publications/4275/Opening-of-Secret-Files-of-the-State-Security.shtml.

⁴² Stanko Pihler, “Kako savladati zlo autoritarne prošlosti u Srbiji,” *Hereticus: Časopis za preispitivanje prošlosti* 2, no. 2 (2004): 199.

⁴³ Vladimir Petrović, “Hod po trnju: Procesuiranje ratnih zločina u Srbiji 1993–2013,” *Hereticus: Časopis za preispitivanje prošlosti* 11, no. 1–2 (2013): 103–106.

⁴⁴ Narodna skupština, “Zakon o organizaciji i nadležnosti državnih organa u postupku protiv učinilaca ratnih zločina,” July 1, 2003, www.parlament.gov.rs/narodna-skupstina.115.html.

⁴⁵ Dimitrijević, “Learning from Serbian Failure,” 312.

⁴⁶ Damjan Brković et al., *Postupci za ratne zločine u Srbiji (2003–2014): Analiza rezultata praćenja suđenja Misije OEBS-a u Srbiji*, Beograd: Organizacija za Evropsku Bezbednost i Saradnju, 2015, 31–32.

7.2.3 *The distant past enters the parliamentary debate: 2004–2006*

Using Trkulja's timeframe from 2008, Serbia's "politics of remembering" only lasted nine months—from Đinđić's murder in March, to the adoption of the lustration law in May, until shortly after, when the law's lack of implementation denoted its demise.⁴⁷ Subsequently, according to Trkulja, a "politics of forgetting" resumed.⁴⁸ Although there are some examples to the contrary,⁴⁹ this view adequately describes the parliamentary attention paid to the socialist past. However, Trkulja does not acknowledge that the more distant legacy of the Second World War actually resurfaced during these years.⁵⁰ This would form the basis for the re-narration of Serbia's history right up to and including the present day.⁵¹

As a first step in this direction, in December 2004, the monarchist, nationalist, and pro-European SPO proposed a law that challenged conventional wisdom regarding the 1940s. Hiding under the banner of an ordinary law ostensibly intended to amend the existing law on pensions for veterans and their families, it actually intended to re-narrate the role of *četnik* (Serbian nationalist) fighters during the Second World War.⁵² In the original law, only "partisan" fighters and their families and descendants had been identified as legitimate recipients of pension and compensation. Partisans formed the socialist resistance movement led by Tito, who eventually came to rule Yugoslavia. The new draft law added "*ravnogorski*"⁵³ (another word for *četnik*) to extend the reach of the law.⁵⁴ The duration of the 2004 debate on the pension law reflects the controversial nature of the topic. It took the parties a total of four days to present all their arguments in parliament. The actual voting, however, shows the dominance of the Serbian Right at that point in time. From the 211 representatives present, 174 voted in favour of the pension law,

⁴⁷ Trkulja, "Rehabilitacija kao mera pravnog savladavanja," 19.

⁴⁸ Trkulja, "Rehabilitacija kao mera pravnog savladavanja," 19.

⁴⁹ During these years, initiatives did emerge—albeit with varying degrees of success—towards the opening of the secret service archives (which had still not been realised, despite the 2003 law to this end), the return of property, and restitution. See, e.g., Marković, "Društveni značaj restitucije i evropeizacije Srbije," 65; Vladimir Todorović, "Restitucija imovine crkvama i verskim zajednicama u republici Srbiji," in *Rehabilitacija i restitucija u Srbiji: Zbornik radova*, by Jovica Trkulja and Olga Danilović, Beograd: Centar za unapređivanje pravnih studija, 2009, 225–248.

⁵⁰ This is not to say the attention for the socialist past completely disappeared. In broader society, several attempts tried to make up for the lack of archival disclosure. In 2004 it was MPs, and in 2007 academics and NGOs that launched an appeal to open the secret service archives, which despite the 2003 law remained closed to the public. However, the political parties did not rally around the initiative and it proved fruitless. Srđan Cvetković, "Bilans srpskog oktobra - 13 godina posle," *Hereticus: Časopis za preispitivanje prošlosti* 11, no. 1–2 (2013): 82.

⁵¹ Jelena Đureinović, "Law as an Instrument and as a Mirror of Official Memory Politics: The Mechanism for Rehabilitating Victims of Communism in Serbia," *Review of Central and East European Law* 43 (2018): 232–251.

⁵² Milan Radanović, "Istorijska politika u Srbiji nakon 2000: Primeri manifestovanje sprege između akademskog istorijskog revizionizma i državne revizije prošlosti," in *Izgubljeno u tranziciji. Krićka analiza procesa društvene transformacije*, by Ana Veselinović, Petar Atanacković and Željko Klarić (Beograd: Rosa Luxemburg Stiftung, 2011) 281.

⁵³ "Ravnogorski" is another word denoting *četnik*, referring to the origin of the *četnik* movement, as it was established in the Ravna Gora region.

⁵⁴ Narodna skupština, "Zakon o izmenama o dopunama zakona o pravima boraca, vojnih invalida i članova njihovih porodica," December 24, 2004, www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/2004/pdf_086_3599-04.zip.

whilst thirteen chose to abstain and twenty-four votes were cast against.⁵⁵ The law was adopted in December 2004 and came into force early in 2005.

The law's proponents pointed at the importance of reconciliation between četnik and partisan families in Serbia. In their reading, both parties essentially fought an anti-fascist struggle. This is also the reason why the law in Serbia is popularly called the law to "equalise" četniks and partisans. Calling to mind the SPO's roots in the monarchist and nationalist period of Serbian history as analysed in chapter 6, this law should thus be seen as the epitome of everything the SPO stood for.

The SPO's individual preferences aside, the law also tapped into an ongoing and broader nation-wide debate. The coalitions surrounding the SPO and the SRS had won much ground in the parliamentary elections of 2003. Winning a total of seventy-three seats, their joint gains indicated a nationalist upsurge in the Serbian parliament. Although in many ways different—mostly regarding their support for EU accession—both parties identified with the četnik movement in Serbian history. Like the SPO, the party had everything to gain from any increased legitimacy of the Serbian nationalist movement.⁵⁶ It is thus surprising that the SRS did not unequivocally support the law. During the debate, the party even tried to divert attention to supposedly more urgent topics, such as the NATO bombardments of 1999 and the fascist Croats' ustaša crimes during the wars in the 1940s and 1990s. However, as discussed in chapter 6, the SRS occupies a peripheral position in the Serbian parliament and is often most focussed on distorting the political arena. They rarely follow normal procedures and thus, their resistance to the SPO's law should be seen in that context. These unfavourable comments in the debate also seemed to have been mostly for show—indeed, eventually most of the SRS members actually voted in favour. This was welcome news for the SPO, as the Radicals held the most seats in parliament, but even without the SRS, the required number of votes would have been secured, as more conventional parties, like the DS and DSS, were also in favour.

Unsurprisingly, resistance to the law mostly originated from the SPS. The claims made by the socialists on the heritage of the partisans had previously provided a near-monopoly on the anti-fascist argument. However, the party had lost fifteen seats in the

⁵⁵ Narodna skupština, "Osma sednica, drugog redovnog zasjedanja. 21. decembar 2004. godine (prvi dan rada)," in *Stenografse beleške: Sedma i osma sednica drugog redovnog zasjedanja 14, 15, 16, 17, 21 i 22. decembar 2004. godine*, by Narodna skupština Republike Srbije, Beograd: Narodna skupština Republike Srbije, 2005, 203–204. The available primary sources unfortunately make it impossible to reconstruct individual voting, but this number is close to the twenty-two seats that were held by the SPS at that moment. Although it remains speculation, the two remaining votes against and the votes not cast are likely to come from individuals within the coalition surrounding the DS, which had lost no less than twenty-five seats in the previous election.

⁵⁶ In the debate on the 2003 lustration law, Milorad Mirčić from the SRS had, for instance, blamed the opposition of wanting to divide the Serbian nation again in partisans and četniks. Speaking of this "cancer" of the "ideological difference between us," he warned that the ruling coalition endangered the hard-won unity between četniks and partisans in Serbia. His colleague Nataša Jovanović spoke at length about several četnik leaders. Narodna skupština, "Osma sednica prvog redovnog zasjedanja četvrti dan rada, 30 maja 2003," 303, 309.

parliamentary elections of 2003, thus making the socialist party vulnerable to such clearly right-wing laws. One prominent SPS representative, Zoran Anđelković, had made his own prediction and analysis of voting behaviour on this law during the debate. He stated that he was not surprised that the SPO initiated the law, since the party “originates in the četnik movement.”⁵⁷ The Democratic Party’s support for the law, however, was more troublesome. This party, he claimed, which had provided the prime minister and led the government, supported the law out of fear that the SPO as its coalition partner would otherwise bring down the government.⁵⁸ One could question whether the law was that important to the SPO, as even for them it remained more a “moral law” than anything else.⁵⁹ However, as previously touched upon, this correction of “historical injustices from the time of communism” was central to the SPO’s programme.⁶⁰

Serbia’s EU integration had also received increased urgency and salience after Đinđić’s assassination. The SPO managed to use this momentum in order to bolster its argument for the law to equalise partisans and četniks. Nikola Jovanović claimed that it was in Serbia’s interest “that together we all enter Europe as a normal nation.”⁶¹ Honouring the četnik movement underscored the SPO’s pro-European orientation because it portrayed the Serbian monarchy (which the četniks defended) as an overtly European entity—one tragically defeated by the partisans.

Just as the 2005 soldiers’ pension law had not started the development and growth of this narrative on Serbia’s četnik, nationalist, and (alleged) anti-fascist past, neither did it end it. Going hand in hand with the rise of nationalist politics and the growth of right-wing patriotic parties after 2000, political actors seized the momentum to institutionalise this new vision of history. This development was reflected in a 2006 initiative to add portraits of wartime leaders previously accused of fascist collaboration to the walls of the Serbian government building (although these were removed again in 2009).⁶² In 2005, the Ministry of Culture sponsored the commemoration of the wartime četnik general Dragoljub Mihailović⁶³ in Ravna Gora. A symbolic place, the term Ravna Gora is often used as a synonym for the četniks and, in the words of Jelena Subotić, “the mythical birthplace

⁵⁷ Zoran Anđelković in Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 15. decembar 2004,” 13.

⁵⁸ Zoran Anđelković in Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 15. decembar 2004,” 13.

⁵⁹ Nikola Jovanović in Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 15. decembar 2004,” 11.

⁶⁰ Stojanović, “Srpski pokret obnove,” 315.

⁶¹ Nikola Jovanović in Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 15. decembar 2004,” 11.

⁶² Radanović, “Istorijska politika u Srbiji nakon 2000,” 292.

⁶³ Dragoljub Draža Mihailović was a četnik general during the Second World War who has become the personification of četnik heroism and of their unfair treatment by the partisans. He was tried and executed in Yugoslavia in 1946. There are many who believe that several četnik generals, including Mihailović, collaborated with the fascists and Nazis. Savez antifašista Srbije, interview.

of the Serbian Četnik movement.”⁶⁴ The scholar and leftist activist Milan Radanović, who is connected with the Serbian Anti-Fascist League, even calls this event the state’s “*de facto*” rehabilitation of Mihailović because of the support and participation of high-ranking politicians.⁶⁵ This was not an isolated event. For example, in 2009, a delegation including the SPO and DS laid a wreath at Mihailović’s memorial.⁶⁶ Whilst the attention for Mihailović was not new—new memorials dedicated to him had been established throughout the 2000s—in 2005 his name entered mainstream political discourse.

The war past also frequently featured in political and public debates in the years after 2003. Here, the impact of the EU membership prospect on the domestic debate could not have been clearer. Whilst the EU showed little interest in the socialist past of Serbia, let alone its more distant past, it made Serbia’s co-operation with the Hague Tribunal a direct accession condition. The EU’s engagement with Serbia’s ICTY co-operation is a unique and indeed frequently studied example of EU enlargement policy. Whilst exclusively crediting EU conditionality is to misunderstand the complexity of Serbia’s domestic political landscape, it is also difficult to overestimate the EU’s contribution to the dominance of the ICTY in the Serbian domestic political debate. The growing salience of the re-narration of the country’s četnik past occurred simultaneously with the increase in EU pressure regarding Serbia’s co-operation with the ICTY. Therefore, the following case in case study investigates the dynamics and impact of this EU conditionality. In fact, this factor is the closest this dissertation has got to analysing direct EU impact on dealing with the past.

7.3 A Case in Case Study: Serbia’s co-operation with the ICTY⁶⁷

EU accession enjoyed wide support in the Serbian political arena, especially after 2008. Since ICTY co-operation was a direct accession condition, this support translated into an endorsement of co-operation with the Hague Tribunal (on paper at least). The establishment of the SNS in 2008 by former prominent members from the Radicals (SRS) not only meant that all parties except the SRS endorsed EU accession, but also supported co-operation with the court in The Hague. However, as Jovan Komšić aptly noted already in 2007, this broad consensus did not imply an overall enthusiastic support for the court, nor for EU values in general.⁶⁸ In order to explain this phenomenon, we need to look into

⁶⁴ Radanović, “Istorijska politika u Srbiji nakon 2000”, 281; Jelena Subotić, “The Mythologizing of Communist Violence,” in *Post-Communist Transitional Justice*, by Lavinia Stan and Nadya Nedelsky (New York: Cambridge University Press, 2015), 202.

⁶⁵ Radanović, “Istorijska politika u Srbiji nakon 2000,” 293.

⁶⁶ Radanović, “Istorijska politika u Srbiji nakon 2000,” 293.

⁶⁷ Parts of this sub-chapter, in a significantly modified version, have been previously published in Niké Wentholt, “Mirroring Transitional Justice: Construction and Impact of European Union ICTY-Conditionality,” *Südosteuropa Journal of Politics and Society* 65, no. 1 (2017): 77–98.

⁶⁸ Komšić, “Političke stranke u Srbiji i evropske vrednosti,” 9–10.

the question of how parties dealt with the Tribunal, departing from the conclusions from the previous chapter on party orientations.

7.3.1 *Party orientations: Balancing the EU, ICTY, and electorate*

At the most progressive end of the political spectrum we find parties that actively supported co-operation with the ICTY, such as the LDP and, more to the centre, the DS. The programmes of these parties clearly underlined the importance of ICTY co-operation. In a report from 2008, the LDP identified insufficient co-operation as one of the two “key obstacles” on the road to EU accession.⁶⁹ Using a similar rationale, the DS wrote the year before that the international community’s trust in Serbia had deteriorated due to the failure to solve “key questions, of which co-operation with the Hague Tribunal is the most important.”⁷⁰

Being quite unique in this regard, the LDP emphasised the broader values that the ICTY represented. It argued that co-operation with the Tribunal was not “only an obligation which we have to fulfil because the international community seeks this from our country, but rather it is an obligation which we have to fulfil for ourselves.”⁷¹ The party urged the Serbian government not only to co-operate with the ICTY, but to distance itself from the politics responsible for the wars and their crimes.⁷²

The DS used a more pragmatic approach. It emphasised that ICTY co-operation as an absolute EU accession condition was essential to Serbia’s European future. During meetings with EU representatives, mirroring the above-mentioned stance of the LDP, DS representatives were careful to present co-operation as a domestic responsibility as well. During a 2004 interparliamentary meeting, Boško Ristić described co-operation with the ICTY “not only [as] an international obligation and a condition for European integration, but also a domestic political will.”⁷³ The former two arguments were, however, strongest in the Serbian domestic arena. Since EU integration is a communal goal, according to a 2007 DS document, everyone against co-operation with the ICTY “most directly works against the interests of the state and the future of [its] citizens.”⁷⁴ Here, the main goal of EU accession was thus used as a direct argument for co-operation with the Tribunal. The

⁶⁹ Liberalno demokratska partija, *Evropske sveske* 2008, 13.

⁷⁰ Demokratska stranka, “Za bolji život!,” 588.

⁷¹ Liberalno demokratska partija, *Evropske sveske* 2008, 47.

⁷² Liberalno demokratska partija, *Evropske sveske* 2008, 47.

⁷³ Interparliamentary meeting EP-Serbia Montenegro, Minutes from the *1st EP-Serbia and Montenegro Interparliamentary Meeting*, PE 366.148, Strasbourg, December 15–16, 2004, 5, http://www.europarl.europa.eu/intcoop/euro/id/dsee/minutes_en.htm. These interparliamentary meetings can offer insightful information, since they can present a “channel of lobbying” and open up the possibility for contacts outside the formal meetings as well. Milivojević, “Saradnja političkih stranaka u Srbiji sa institucijama Evropske unije,” 117.

⁷⁴ Demokratska stranka, “Pregovori i formiranju vlade Srbije,” 322.

LDP also occasionally used this rationale, for example by stressing that the road to the EU indeed “leads through The Hague.”⁷⁵ Because of the wide support for EU integration, the fact that the ICTY functioned as an accession condition thus eased otherwise unsurmountable political differences.

However, this did not mean that conservative parties easily succumbed to EU pressure. They used the same logic of the importance of ICTY co-operation as a necessary condition for EU integration. In their case, however, ICTY co-operation and EU accession were contrasted as, respectively, a necessary evil and a highly desirable goal. The DSS described the ICTY in its programme from 2001 as more a “political than a legal institution.”⁷⁶ Notwithstanding, they continued, co-operation with the Tribunal is “our international obligation which cannot be avoided.”⁷⁷ In order to escape the full wrath of the Tribunal as a potential political instrument, the party argued, co-operation with the ICTY has to be regulated so as to comply with “respect for national dignity.”⁷⁸ For the DSS the prospect of EU accession thus functioned as a justification for what was essentially undesirable ICTY co-operation. When the DSS turned increasingly Eurosceptical, the party lost its main reason to formally support ICTY co-operation. It no longer had to retreat to elaborations on national dignity and opted instead for a full-blown nationalist rhetoric.⁷⁹

The transformation of the SPS was in many ways a mirror image to that of the DSS. However, the new pro-European course of the SPS was difficult to align with the party’s opposition to the ICTY. In 2006, the party declared itself to be “against unconditional dominance of international law which is not confirmed and accepted in our parliament . . . therefore we do not recognise the Hague Tribunal.”⁸⁰ This corresponded to their ambiguous electoral stance on this issue. Opinion polls showed a discrepancy between support for EU accession on the one hand, and “trust” in the EU on the other.⁸¹ Dragomir Pantić concludes that, in fact, this distrust was largely due to the public’s discontent with the ICTY. As reiterated by Pantić, the ICTY was often framed as a “political Tribunal” and a US and EU instrument fundamentally biased against Serbs.⁸² It is for this reason that the SNS, juggling its commitment to EU integration and its right-wing support base, often avoided any discussion of co-operation with the court in public or to otherwise make its

⁷⁵ Liberalno demokratska partija, *Evropske sveske* 2008, 9.

⁷⁶ Demokratska stranka Srbije, “Program, 26 maja 2001,” 76.

⁷⁷ Demokratska stranka Srbije, “Program, 26 maja 2001,” 76.

⁷⁸ Demokratska stranka Srbije, “Program, 26 maja 2001,” 76–77.

⁷⁹ As concluded by Komšić, the addition of the clause on national dignity ironically testifies to the parties’ incompatibility rather than their compatibility with the very EU values that the integration process was supposed to enhance. Komšić, “Političke stranke u Srbiji i evropske vrednosti,” 32.

⁸⁰ Socijalistička partija Srbije, *Programska deklaracija sedmog kongresa socijalističke partije Srbije*, December 3, 2006, <http://www.spspetrovac.rs/index.php/sadržaj/jedna/11/30>; also quoted in Komšić, “Političke stranke u Srbiji i evropske vrednosti,” 29.

⁸¹ Pantić, “Prihvaćenost programskih opredeljenja među pristalicama partija,” 313, 319.

⁸² Pantić, “Prihvaćenost programskih opredeljenja među pristalicama partija,” 319.

stance explicit.⁸³ The NS followed suit and in its 2005 programme, as Komšić stresses, the NS remains completely silent regarding the issue of ICTY co-operation.⁸⁴ EU enforced ICTY co-operation thus led all the parties—except those that could count on an unequivocally progressive electorate—into precarious balancing acts.

7.3.2 EU conditionality: Enforcing arrests, diverting responsibility

The above analysis may give the impression of a rather reactive, defensive party-political arena. Whereas EU ICTY conditionality was strict, it did, however, not leave parties completely empty-handed. In the words of Petrović, “neither the [domestic] prosecution of war crimes, nor the co-operation with the Hague Tribunal in the first period after the fall of Milošević had a one-sided dynamic.”⁸⁵ The exact ramifications of EU conditionality from the perspective of Brussels have already been discussed in chapter 1. Therefore, here, I look now how these demands were debated and bargained for domestically.

A good starting point is the arrest of Ratko Mladić, the necessity of which was emphasised in virtually all important EU documents dealing with Serbia’s path to integration.⁸⁶ He was eventually captured and handed over to the Hague Tribunal in May 2011. Finally, in November 2017, Mladić received a life sentence from the ICTY for his crimes in Bosnia. The prelude to his arrest shows the dynamic at work between domestic politicians and narratives of EU conditionality. When in 2006, the EU increased pressure on Serbia to arrest and hand over Mladić, Koštunica assured his people that the government had done everything in its power and had actually uncovered and arrested members of the complex human web protecting Mladić. “The question [of finding Mladić] is only of a technical nature,” he concluded.⁸⁷ When Koštunica refused to take responsibility for the government’s failure to arrest Mladić and the EU halted negotiations in 2006, Miroljub Labus, the deputy prime minister from the progressive, liberal, and pro-EU G17+ and head of the delegation for negotiations with the EU, resigned. The failure to co-operate with the ICTY and the loss of the government’s “credibility” were key reasons that led him to leave his position.⁸⁸ He explained that he could no longer be part of a

⁸³ Đurković, *Ideologija, partije i međunarodni odnosi*, 95.

⁸⁴ The NS party programme of 2005, quoted in Komšić, “Političke stranke u Srbiji i evropske vrednosti,” 34.

⁸⁵ Petrović, “Hod po trnju,” 103–109.

⁸⁶ E.g., Commission of the European Communities, *Commission Staff Working Document: Serbia 2006 Progress Report*, SEC (2006) 1389, Brussels: Commission of the European Communities, 2006, 18; Commission of the European Communities, *Commission Staff Working Document: Serbia 2008 Progress Report*, SEC(2008) 2698 final, Brussels: Commission of the European Communities, 2008, 21; Commission of the European Communities, *Commission Staff Working Document: Serbia 2009 Progress Report*, SEC (2009) 1339, Brussels: Commission of the European Communities, 2009, 19; European Commission, *Commission Staff Working Document: Serbia 2010 Progress Report*, SEC (2010) 1330, Brussels: European Commission, 2010, 18.

⁸⁷ B92, “EU Talks Called Off,” May 3, 2006,

https://www.b92.net/eng/news/politics.php?yyyy=2006&mm=05&dd=03&nav_id=34718.

⁸⁸ Komšić, “Političke stranke u Srbiji i evropske vrednosti,” 35.

government that “despite its explicit promise” had failed to satisfy the political criteria set out.⁸⁹ He also apologised to the Serbian people, stating that “with this [the failure to arrest Mladić] we have betrayed one of the most important interests of the nation and the citizens of Serbia.”⁹⁰

When Mladić was finally arrested in May 2011, journalists and experts openly expressed their scepticism about Serbia’s efforts to capture the war criminal.⁹¹ For example, Zoran Dragišić stressed the unlikelihood of the scenario that, for several years an entire country cannot succeed in finding someone that well-known, hiding in the house of a close cousin in a small village in the flat landscape of the Serbian Vojvodina.⁹² It was only as a result of pressure from the EU and their “carrot-and-stick” approach, he explained, that “we fulfilled our international obligation.”⁹³ The political pressure exerted upon Koštunica and other high-ranking political figures forced them to eventually arrest Mladić, “because of their own political future, not because of the Serbian future.”⁹⁴ International actors eagerly welcomed the arrest as an important step and a sign of Serbia’s willingness to move forward. Scholar and former EU official Heather Grabbe declared the arrest “a symbol that Serbia is ready to put the past behind it.”⁹⁵

Many politicians were well aware of this domestic opportunism, as well as of the peculiarities of the EU’s approach to dealing with the past. As concluded in chapters 1 and 2, Brussels expressed a fairly limited commitment to justice in Serbia. Not only did it prioritise retributive over restorative justice, only gradually supporting domestic initiatives; within its insistence on co-operation with the ICTY, it also specifically focussed on arresting indictees rather than, for example, sharing files and good practices between domestic war crime courts and the international Tribunal. Most importantly, as demonstrated in chapter 2, this restricted commitment to actual transitional justice measures did not prevent Brussels from making far-reaching claims regarding the ICTY’s contribution to reconciliation and justice as a whole.

Domestic politicians found various ways to criticise or actually use the EU’s approach to the past. The minutes of interparliamentary meetings between Serbian MPs and EP members show that Serbian representatives tried (albeit irregularly) to direct the EU’s gaze towards broader post-war and post-socialist issues. In 2004 and 2005, Rasim

⁸⁹ Komšić, “Političke stranke u Srbiji i evropske vrednosti,” 35.

⁹⁰ B92, “Labus resigns,” May 3, 2006,

https://www.b92.net/eng/news/politics.php?yyyy=2006&mm=5&dd=3&nav_id=34730&start=0.

⁹¹ See, e.g., Petrović, “Hod po trnju,” 107–108; Ljiljana Smajlović, interview with author, June 26, 2012.

⁹² Zoran Dragišić, interview with author, May 17, 2012.

⁹³ Dragišić, interview, 2012.

⁹⁴ Dragišić, interview, 2012. Almost the same words were used by Smajlović, interview.

⁹⁵ Stephen Castle, “Mladić Arrest Opens Door to Serbia’s Long-Sought European Union Membership,” *New York Times*, May 27, 2011, <https://www.nytimes.com/2011/05/27/world/europe/27union.html>.

Ljajić from the small Social Democratic Party pointed at domestic war crime trials and refugee issues stemming from the 1990s. Some contributions were indeed very specific, for instance when Ištvan Takač mentioned the problem of ethnic intolerance related to “the limitation of Vojvodina’s autonomy in the 1990s.”⁹⁶ In a more general fashion, Željko Ivanji from G17+ asked attention for Serbia’s disappointing track record of confronting the socialist past. After stressing that Serbia was committed to “European values” and improved co-operation with the ICTY, he stated that “a lustration process had never taken place in Serbia.”⁹⁷ His colleague Suzana Grubješić told the representatives from Brussels that Serbia’s recent past was its “worst enemy.”⁹⁸ These individual attempts to shift attention to a broader understanding of dealing with the past, however, received little follow-up from EP members.⁹⁹ The above comments were generally peripheral and Serbian representatives generally repeated the primacy of the ICTY.¹⁰⁰

To be fair, they had good reason to embrace the EU’s prioritisation of the ICTY. The Tribunal gave anti-confrontation or opportunistic politicians a perfect smoke screen via which to avoid addressing any political responsibility for the 1990s (as well as a distraction from dealing with the country’s socialist past). The case of “voluntary surrenders,” opted for by Prime Minister Vojislav Koštunica from the DSS, offers an ironic illustration of this. Rejecting the ICTY as a legitimate body, Koštunica refused to co-operate in the arrests. Instead, supported by the Serbian Orthodox Church, he urged the fugitives to hand themselves over as a last “patriotic” deed “in the best interest of the country” and its future, since the EU had promised rewards for the successful handover of any fugitives.¹⁰¹

It is tempting to dismiss this skewed diversion of guilt and responsibility (in Koštunica’s case by turning crimes into patriotic deeds) as characteristic only of the nationalist domain. However, pro-reform elites also regularly denied political responsibility for crimes by invoking the idea of individual guilt. President Tadić, generally considered progressive and pro-EU, stated in 2004 that “these crimes [in Srebrenica] were not committed by the Serbian people, but by criminals, individuals. It is not possible to charge a whole people.”¹⁰² From a judicial perspective, he is of course right. However, victim support organisations as well as other NGOs demanded more from the Serbian state. Trying to take steps in this direction, one year later at the Srebrenica

⁹⁶ Interparliamentary meeting EP-Serbia Montenegro, *PE 366.148*, 6.

⁹⁷ Interparliamentary meeting EP-Serbia Montenegro, *PE 366.148*, 4.

⁹⁸ Interparliamentary meeting EP-Serbia Montenegro, *PE 366.148*, 5.

⁹⁹ Interparliamentary meeting EP-Serbia Montenegro, *PE 366.148*, 5; Interparliamentary meeting EP-Serbia Montenegro, Minutes of the 2nd EP-Serbia and Montenegro Interparliamentary Meeting, 5 December 2005, Belgrade. *PE 366.233*, December 5, 2005, 5–6, http://www.europarl.europa.eu/intcoop/euro/id/dsee/minutes_en.htm.

¹⁰⁰ During the same interparliamentary meeting in 2004, Ljajić did raise the issue of reconciliation, but not in relation to dealing with the past. Interparliamentary meeting EP-Serbia Montenegro, *PE 366.148*.

¹⁰¹ Jelena Subotić, *Hijacked Justice: Dealing with the Past in the Balkans* (Ithaca: Cornell University Press, 2009), 49–50.

¹⁰² Tadić, quoted in Subotić, *Hijacked Justice*, 49–50.

commemoration, Tadić declared that the crimes were committed “in the name of the Serbian nation,” although he faced significant difficulties when attempting to pass similarly framed declarations through parliament.¹⁰³

The diffuse nature of the way in which politics dealt with guilt in the Serbian context is most adequately illustrated by the reactions to a video that came to light in 2005, showing the war crimes of the Serbian paramilitary group known as “the Scorpions.” The effect of this so-called “Srebrenica tape” was twofold. On the one hand, it caused nationwide outrage and in that sense spurred the willingness to acknowledge the war crimes from the 1990s. Yet on the other hand, the tape confirmed the ease with which politicians used the memory of Srebrenica to their advantage: it became just another tool to enhance party strategy. The nationalist, anti-confrontation response to the Srebrenica tape is most revealing. Whilst the video is often considered as evidence for the direct involvement of the Belgrade government in the crimes (the paramilitaries in the video were led by the Serbian secret security service),¹⁰⁴ their reaction to the tape was defensive, claiming that Serbia had nothing to do with these horrible excesses. SRS leader Nikolić stated that the video showed that “it were not the Serbian people or the Serbian state that committed the crimes, but individuals, who have names and surnames and who have to find themselves in front of the face of justice.”¹⁰⁵ Blaming the perpetrators for staining their nation’s image and urging their arrest, the SPO’s Vuk Drašković posited that, in fact, the Scorpions “committed the biggest crime against the Serbian and Montenegrin people.”¹⁰⁶ Others pursued more specific political goals. The Minister of Justice, Zoran Stojković, argued that the domestic outrage caused by the video underscored the importance of war crimes trials in Serbia rather than in The Hague, posing (warranted) criticism on the benefits of international criminal justice.¹⁰⁷ For President Tadić, the tape was yet another reason to confront the crimes of the past in order to progress on the EU accession path.¹⁰⁸

¹⁰³ Tadić, quoted in Subotić, *Hijacked Justice*, 50.

¹⁰⁴ Jasna Dragović-Soso, “Apologising for Srebrenica: The Declaration of the Serbian Parliament, the European Union and the Politics of Compromise,” *East European Politics* (2012): 168; Subotić, *Hijacked Justice*, 62–66. Interestingly, this was not the conclusion of the International Court of Justice, which ruled that the Scorpions were indeed established and sustained by the Serbian government, but fell under the rule of the Republika Srpska rather than the Serbian state. Dragović-Soso, “Apologising for Srebrenica,” 166.

¹⁰⁵ B92, “Uhapšeni osumnjičeni sa snimaka,” June 2, 2005,

https://www.b92.net/info/vesti/index.php?yyyy=2005&mm=06&dd=02&nav_id=169686.

¹⁰⁶ B92, “Uhapšeni osumnjičeni sa snimaka.” According to Jelena Subotić, the Serbian Minister of Defence uttered similar words. However, I could not retrieve this cited article or find other sources for this statement. Subotić, *Hijacked Justice*, 64.

¹⁰⁷ B92, “Uhapšeni osumnjičeni sa snimaka.” This call for domestic trials in preference to international Tribunals and courts is made by many others, including politicians and scholars, and has indeed recently acquired a new momentum. The assumed neutrality of such international criminal justice is, for example, also questioned by African states that criticise the International Criminal Court (ICC).

¹⁰⁸ B92, “Uhapšeni osumnjičeni sa snimaka”; see also Dragović-Soso, “Apologising for Srebrenica.”

Overall, the EU's conditionality was (at least eventually) effective in enforcing co-operation with the ICTY, especially considering the arrests of perpetrators. As a result of the widespread support for EU integration, most parties (at least on paper) supported co-operation with the ICTY. This can, however, not easily be equated with a real internalisation of the norms that the ICTY was supposed to enhance. In the context of accession conditionality, some Serbian actors opportunistically presented ICTY co-operation as a "necessary evil" on the road to the EU. Furthermore, political elites blamed both the ICTY and the EU for enforcing co-operation.¹⁰⁹ In addition to these conclusions, the above also testifies to the importance of studying practice as well as narratives. In the context of Serbia's war past, the EU's insistence on individual guilt in its reconciliation narrative offered solace to those eager to divert the question of political responsibility.

7.4 Confirming the new vision of the past and EU future: 2006–2009

As shown above, the EU's ICTY conditionality foregrounded the legacy of the 1990s in Serbian politics. The prevalence of the Tribunal in the domestic political debate is very striking. Whilst understandably receiving a lot of academic attention, it is easy to overlook the fact that the country's socialist past also received a significant amount of political attention in the second half of the 2000s. Whilst it can be argued that there was too much focus on retributive justice in dealing with the past of the 1990s, at the expense of restorative justice, in the case of the socialist past it was the other way around. In the elections and parliamentary debates of the early 2000s, opening the security archives and lustration (which can be categorised, at least partially, under retributive justice) had been salient political topics. During the years 2004–2006, however, mainstream political attention shifted away from these topics to the far more topical and electorally attractive theme of re-narrating Serbian četnik history, which was presented as a form of restorative justice. A first law that testified to this change was the previously discussed 2005 law on soldiers' pensions. Later years would show even more revealing parliamentary acts and debates.

¹⁰⁹ See also Laurel E. Fletcher and Harvey M. Weinstein, "Violence and Social Repair: Rethinking the Contribution of Justice to Reconciliation," *Human Rights Quarterly* 24, no. 3 (2012), 601; Bronwyn Anne Leebaw, "The Irreconcilable Goals of Transitional Justice," *Human Rights Quarterly* 30, no. 1 (2008): 110; Tanja Mišćević, "Answer to question from Author," Public Event: *Western Balkans-EU with Prof. Tanja Mišćević*, Den Haag: Clingendael, May 22, 2018.

7.4.1 Consolidating the new Second World War narrative: Rehabilitating "anti-fascist" četniks

In 2006, the Serbian parliament adopted its first Law on Rehabilitation, concerning those wrongly convicted under the socialist regime.¹¹⁰ It targeted persons who "were deprived of life, freedom or other rights with or without an administrative or judicial decision on political grounds from 6 April 1941 to the date of the law's commencement."¹¹¹ It is the latter part that sets the law apart from similar rehabilitation legislation in other countries in Eastern Europe, which has the socialist regime's establishment as its starting point.¹¹² The law itself and the debate that accompanied it in many ways confirmed the ongoing process of historical revision of the četnik past.¹¹³ Its timing also allows for an interesting analysis of the intersection between this law and EU accession: not least because of the high salience of ICTY conditionality, EU integration was on every politician's mind at that time.

Just as the 2005 soldiers' pension law was intended to equalise četniks and partisans, scholars have had few problems identifying the true motives behind the rehabilitation law. According to scholars Milan Radanović and Jelena Subotić, one of the law's aims was to "enable criminalisation" of the partisan moment¹¹⁴ and to "effectively rehabilitate [č]etnik and quisling forces."¹¹⁵ The choice for 1941 instead of 1945 is a revealing political decision here, defended by the laws proponents because of the "breakdown of the system" at that point in time, preluding the "totalitarianism" that was to follow.¹¹⁶ The law did not specifically mention socialism or communism, but the debate as well as the eventual implementation reveals that it was directed specifically at the victims of partisans and socialism during and directly after the Second World War.¹¹⁷ Even without denying that partisan forces indeed committed several crimes, it can be argued, for instance as formulated by social scientist Jelena Đureinović, that this historical revision

¹¹⁰ Narodna skupština, "Zakon o rehabilitaciji," April 17, 2006, www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/2006/2751-05-cir.zip.

¹¹¹ Narodna skupština, "Zakon o rehabilitaciji," December 5, 2011, www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/2011/3678-11.zip. Translation from Đureinović, "Law as an Instrument," 16.

¹¹² Đureinović, "Law as an Instrument," 16.

¹¹³ Trkulja, "Rehabilitacija kao mera pravnog savladavanja," 17.

¹¹⁴ His argument is partially based on the starting date for crimes to be considered as eligible for rehabilitation being set at 1941 instead of 1944. On April 6, 1941 the Germans occupied Serbia, whilst in 1944, the partisan movement came to power and established Yugoslavia. According to the law's opponents, it thus included the "normal" wartime casualties. To include the years of the war, in his opinion, was meant to rehabilitate, and thus declare innocent and to restore the honour of, četnik fighters executed by the partisans under wartime law. Radanović, "Istorijska politika u Srbiji nakon 2000," 282–283.

¹¹⁵ Subotić, "The Mythologizing of Communist Violence," 201.

¹¹⁶ Zoran Stojković in Narodna skupština, "Druga sednica prvog redovnog zasedanja, 4 april 2006. godine (drugi dan rada)," in *Stenografske beleške: Druga sednica prvog redovnog zasedanja 3, 4, 5.i 6. april 2006. godine*, by Narodna skupština Republike Srbije, Beograd: Biblioteka narodne skupštine, 2006, 105.

¹¹⁷ Đureinović, "Law as an Instrument and as a Mirror," 246.

rested upon a “deliberate neglect and denial” of the crimes of četnik fighters with the intention to portray them as “innocent victims of communism.”¹¹⁸

What matters here is not so much the question of who was right—both sides committed horrible crimes. Rather, it is the political objective underscoring the law. SPS leader Ivica Dačić, whose party considered itself directly attacked by the proposed rehabilitation measures and who thus had similarly opportunistic motives to defend his position, admitted that the formal justification for the law was solid. However, Dačić declared, it would be “unacceptable” to rehabilitate people, especially the četnik generals Dragoljub Mihailović and Milan Nedić, who had collaborated with the “occupiers between 1941 and 1945.”¹¹⁹ Indeed, the rehabilitation law can be read as an attempt to cover Serbia’s narrative of the anti-fascist fight with a nationalist interpretation. In a last effort to counter the law, Dačić therefore also expressed his argument from a patriotic point of view. The law, he stated, would potentially enable the rehabilitation of Muslim factions and the ustaša—also historical Serbian enemies in the war.¹²⁰

However, the above did not stop the law from achieving a comfortable majority of 107 votes in favour, and only twenty-one against out of the 130 present MPs—the Radicals were not present during the voting.¹²¹ The intentions underlying the 2006 law were indeed confirmed when, almost immediately after the law’s adoption, attempts began to rehabilitate General Mihailović. Dačić’s concerns materialised when in 2015 the court eventually ruled in favour of Mihailović’s rehabilitation. This led legal scholar Nenad Dimitrijević to conclude that the rehabilitation of “fascist collaborators” was the culmination of nationalist “misuse of transitional justice.”¹²²

It becomes clear from the above debate that in 2006, political parties were very concerned with Serbia’s position in the international community. This especially applied to opponents of the law. Calling this proposal and the 2005 law that equalised četnik and partisan fighters a “revision of history,” Žarko Obradović from the SPS, for example, stated: “the whole world laughs at us.”¹²³ The “wide world” had after all established victory over fascism; only Serbia decided to honour collaborators with the fascist occupational forces.¹²⁴ However, in general it appears that arguments relating to the Serbian context were still prevalent. Despite the high salience of EU accession, its initiators presented the 2006 law as mainly having a domestic aim, possessing “moral” value in correcting

¹¹⁸ Đureinović, “Law as an Instrument and as a Mirror,” 238–239.

¹¹⁹ Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 111.

¹²⁰ Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 112–113.

¹²¹ Đureinović, “Law as an Instrument and as a Mirror,” 238–239; Tomislav Nikolić in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 148.

¹²² Dimitrijević, “Learning from Serbian Failure,” 303.

¹²³ Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 140.

¹²⁴ Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 140.

“mistakes” made in the past.¹²⁵ One representative from G17+ taking issue with the idea that the law would be adopted because of the international community’s expectations stated that “we have to adopt this law for ourselves, and not because of external pressure.”¹²⁶ Also in 2011, when the law was “updated” and the parliamentary and public debate on the topic resurfaced, Aleksandar Juković from the SPO called the law on rehabilitation one of the “foundations” of his party’s programme, emphasising that the SPO had been calling for it for more than twenty years.¹²⁷ This law would allow Serbia to move towards a better, even “normal” or “new” future” as a “liberal society.”¹²⁸

Liberal-oriented intellectuals and legal scholars generally evaluate the law as technically unfit for purpose. The law had many weaknesses and, as Srđan Cvetković writes, “according to the general expert evaluation, [it was] one of the worst laws from a technical law perspective.”¹²⁹ In 2008, a working group was established to draft a new version of the law¹³⁰ and in 2011 it was eventually renewed.¹³¹ Some scholars conclude that, despite its shortcomings, it was still (if only partially) successfully implemented, as it did open up the possibility for many rehabilitation requests to be successfully issued.¹³² The symbolic value of the law extended beyond parliament. Court proceedings not only discussed specific cases, but also in a more general sense, “wartime and the nature of the [č]etnik movement.”¹³³ The law’s main intention was thus communicated well through the court room. Especially when famous figures were involved, court hearings of rehabilitation cases frequently triggered demonstrations by those in favour (and against), all gratefully using a media industry that showed a keen interest in the issue.¹³⁴

That same year, the Serbian Liberal Party (despite what its name might imply), running a conservative and monarchist programme close to that of the SPO, called for the rehabilitation of četnik leader Milan Nedić.¹³⁵ This request was supported by other actors through both political and societal channels. For example, DS representative and historian

¹²⁵ Mirko Čikiriz in Narodne skupštine, “Treća sednica drugog redovnog zasedanja 22. novembar 2011. godine (prvi dan rada),” in *Stenografske beleške: Treća sednica drugog redovnog zasedanja 22. i 23. novembar 2011. godine*, by Narodna skupština Republike Srbije, Beograd, 2013, 59; Zoran Stojković in Narodna skupština, “Druga sednica prvog redovnog zasedanja, 4 april 2006,” 105.

¹²⁶ Ištvan Išpanović in Narodna skupština, “Druga sednica prvog redovnog zasedanja, 4 april 2006,” 135.

¹²⁷ Aleksandar Juković in Narodna skupština, “Treća sednica drugog redovnog zasedanja, 22. novembar 2011,” 50, 52.

¹²⁸ In order of the quotes: Zoran Stojković in Narodna skupština, “Druga sednica prvog redovnog zasedanja, 4 april 2006,” 104–105, 117; Borko Ilić in Narodna skupština, “Druga sednica prvog redovnog zasedanja, 4 april 2006,” 157; Milan Vučković in Narodna skupština, “Treća sednica drugog redovnog zasedanja, 22. novembar 2011,” 68.

¹²⁹ Cvetković, “Bilans srpskog oktobra,” 83.

¹³⁰ Vladimir Vodinelić, “Zakon o rehabilitaciji: Tužna priča sa možda srećnim krajem,” *Hereticus: Časopis za preispitivanje prošlosti* 6, no. 2 (2008): 47.

¹³¹ Cvetković, “Bilans srpskog oktobra,” 83; Đureinović, “Law as an Instrument,” 241.

¹³² Cvetković, “Bilans srpskog oktobra,” 83; Trkulja, “Rehabilitacija kao mera pravnog savladavanja,” 17.

¹³³ Đureinović, “Law as an Instrument,” 249. Đureinović here specifically speaks about the proceedings of the case on General Mihailović. However, the statement also applies to other high-profile cases.

¹³⁴ Đureinović, “Law as an Instrument,” 245.

¹³⁵ Đureinović, “Law as an Instrument,” 245.

at the Institute for Contemporary History, Bojan Dimitrijević, expressed his support for Nedić's rehabilitation on national TV.¹³⁶ His support stemmed from decades of specialised historical research and was, as Dimitrijević himself stated, not informed by political motives.¹³⁷ Nevertheless, he was ousted from the DS whilst his support was well received by right-wing (extremist) groups, who presented the names of Nedić and Mihailović within a framework of patriotic heroism.

In this light, a more recent development deserves mention (even though strictly speaking it falls outside the scope of the period studied in this research). Following a neo-Nazi gathering in Belgrade's centre in February 2018, the LDP submitted a demand to parliament to suspend the rehabilitation law. In an interview, LDP representative Đorđe Žujović stated that the "consequences of the law on rehabilitation are much broader" than just the legal dimension.¹³⁸ He made a direct connection between the law, the general phenomenon of fascism in Belgrade and Serbia, and the specific Nazi slogans displayed in the demonstration.¹³⁹ The specific attention for this law confirms that, whilst it had mostly symbolic meaning, as emphasised in the debate as well, its message and reach was significant. As Đureinović concludes, this form of "memory politics has served the purpose of political delegitimisation of socialist Yugoslavia and providing legitimacy to the present political order."¹⁴⁰ In addition to political parties, it was thus also (extreme) right-wing factions in society that benefitted.

7.4.2 Digging up the četnik "European" past: Commissions on executions and secret graves

In parliament, the exploration of Serbia's Second World War past and socialist crimes continued. In 2010, a commission for an investigation into the fate of victims in the Vojvodina region during the Second World War was established after Tadić accepted an initiative by the Hungarian President László Sólyom.¹⁴¹ Even more relevant, in 2009, the SPO proposed a state commission to investigate the "circumstances of General Mihailović's execution and his place of burial."¹⁴² Nationalist groups enthusiastically welcomed the initiative, reviving the belief in the četnik movement as "anti-communist

¹³⁶ Radanović, "Istorijska politika u Srbiji nakon 2000," 268.

¹³⁷ Bojan Dimitrijević, interviewed with author, February 9, 2018.

¹³⁸ Danas, "LDP traži ukidanje Zakona o rehabilitaciji," *Danas*, February 5, 2018, <https://www.danas.rs/drustvo/ldp-trazi-ukidanje-zakona-o-rehabilitaciji/>.

¹³⁹ Danas, "LDP traži ukidanje."

¹⁴⁰ Đureinović, "Law as an Instrument," 250.

¹⁴¹ Cvetković, "Bilans srpskog oktobra," 90.

¹⁴² Cvetković, "Bilans srpskog oktobra," 90; Radanović, "Istorijska politika u Srbiji nakon 2000," 286; Subotić, "The Mythologizing of Communist Violence," 201.

liberation fighters and national heroes.”¹⁴³ After establishing this commission, the government founded a similar institution in July of the same year, intended to investigate the “secret graves” of victims of socialist executions whose bodies had never been found.¹⁴⁴ This proved to be the basis for many other requests for rehabilitation.¹⁴⁵ This second state commission sprang from the combined efforts of the Institute for Contemporary History, media outlets, government representatives, and an SPO MP. It also initiated co-operation with a similar institution in Slovenia.¹⁴⁶

This state commission on the secret graves suffered, to some extent, from the same design and implementation problems as the 2006 rehabilitation law. Both were the results of messy political aims and goals, only partially hidden behind formal legal and administrative language. Various experts explain its failure to bring about tangible results by virtue of the lack of political will faced by the committee.¹⁴⁷ Srđan Cvetković, for example, states that the committee had to avoid any mention of the socialist regime in its name for “political reasons”¹⁴⁸—after all, from 2008 to 2012, the SPS was still part of the government. Since the commission had to work without (or with very little) budget, much of its work depended on volunteers¹⁴⁹ and several of its members left due to their discontent.¹⁵⁰ The commission additionally had to work with insufficient and sometimes missing archival records.¹⁵¹ Yet despite these handicaps, the committee revealed in 2011 that it had identified more than 35,000 persons and thirty-three grave locations—although both lists are known to contain factual errors, including a gross overestimation of the numbers of victims.¹⁵²

The commission’s work is interesting in the light of EU accession. Emphasising the political nature of this commission, as Subotić points out, it considered “the četnik

¹⁴³ Dimitrijević, “Learning from Serbian Failure,” 308. In this quote, Dimitrijević provides a description of nationalist sentiments, not his own opinion. In fact, he describes this public support as “the most visible sign that transitional justice turned into a defense of fascist collaboration.” Dimitrijević, “Learning from Serbian Failure,” 309.

¹⁴⁴ Komisija za tajne grobnice, “O nama,” *Komisija 1944*, n.d., <http://www.komisija1944.mpravde.gov.rs/lt/articles/o-nama/>.

¹⁴⁵ Cvetković, “Bilans srpskog oktobra,” 84.

¹⁴⁶ Komisija za tajne grobnice, “Saradnja sa državnim komisijom za tajne grobnice Slovenije,” *Komisija 1944*, 2009, <http://www.komisija1944.mpravde.gov.rs/lt/articles/aktivnosti/saradnja/saradnja-sa-drzavnom-komisijom-za-tajne-grobnice-slovenije.html>.

¹⁴⁷ Cvetković, “Bilans srpskog oktobra,” 90. In its list of “planned activities,” for example, the committee for the secret graves already acknowledged that because of the high number of secret graves, “it is not able to undertake steps that would lead to the exhumation of all secret graves, but only to open the process which will, taking into consideration the Slovenian experience, last years.” Komisija za tajne grobnice, “O nama.”

¹⁴⁸ Cvetković, “Bilans srpskog oktobra,” 89.

¹⁴⁹ In its 2011 yearly report, the committee thanked the “large number of staff and volunteers from the whole of Serbia.” Komisija za tajne grobnice, “Godišnji izveštaj 2011,” *Komisija 1944*, 2011, <http://komisija1944.mpravde.gov.rs/lt/articles/aktivnosti/godisnji-izvestaj-2011.html>.

¹⁵⁰ Cvetković, “Bilans srpskog oktobra,” 89–90.

¹⁵¹ Cvetković, “Bilans srpskog oktobra,” 89.

¹⁵² Dimitrijević, “Learning from Serbian Failure,” 309; Komisija za tajne grobnice, *Godišnji izveštaj 2011*.

movement [to be] antifascist and pro-European.”¹⁵³ Her observation is in line with my broader conclusion in this chapter, namely that the debate on the četnik past, whether in the form of equalising četniks and partisans (as was the focus of the 2005 law on soldiers’ pensions), or rehabilitation (as was the topic of the 2006 law) were less about condemning socialist crimes than about whitewashing nationalist episodes in Serbian history. The above claim on četnik anti-fascism, Subotić argues, “indicates that even this promising new effort will possibly be hijacked by the revisionist forces, interested more in rehabilitating the [č]etniks than in finding out the truth about communist crimes.”¹⁵⁴ Radanović stresses that only researchers from the state commission got access to the archives—a fact that brings him to the conclusion that only one interpretation of history was allowed.¹⁵⁵ There is possibly some truth in this statement, as the aforementioned laws indeed promote one certain interpretation of the past, but it needs to be noted here that Serbian activists, historians, and political scientists remain highly divided on the issue.¹⁵⁶

Although it remains difficult to pinpoint causality, the historical revision of Serbia’s Second World War and socialist pasts—instigated by both rehabilitation laws, the state commissions on graves, and the law to equalise partisans and četniks—shows many parallels with similar developments in Central and Eastern European countries. Moreover, it fits within the timeframe of the EU’s own adoption of the “confront” narrative, as discussed in chapter 2. Whilst this new EU narrative did not in itself engage with the history of četnik and other nationalist movements during the Second World War in the region, it did help bolster the SPO’s and other conservative parties’ strategies. These strategies were two-fold, namely, criticising socialist crimes, whilst simultaneously constructing a narrative of the četnik anti-fascist struggle. The 2009 EP resolution on the condemnation of totalitarian communist crimes boosted this strategy’s first aims. Every year since 2009, the SPO has urged parliament to adopt a similar resolution domestically and to establish a “Day of Remembrance for the victims of totalitarian and authoritarian regimes”¹⁵⁷—efforts the party continues to this day.¹⁵⁸

Revealingly, the SPO MP Aleksandar Čotrić proposed July 17 as the Day of Remembrance. This was the day on which General Mihailović had been executed in 1946—a man who had “fought against two totalitarianisms: against fascist occupation of the country and against the establishment of Bolshevik order, but [fought] for democratic

¹⁵³ Subotić, “The Mythologizing of Communist Violence,” 203.

¹⁵⁴ Subotić, “The Mythologizing of Communist Violence,” 203.

¹⁵⁵ Radanović, “Istorijska politika u Srbiji nakon 2000,” 299.

¹⁵⁶ On a short anecdotal note, I noticed during my interviews that references to my other interviewees (from opposite sides of the debate) would sometimes invoke strong reactions from the people I was talking to.

¹⁵⁷ Milošević and Touquet, “Unintended Consequences,” 11.

¹⁵⁸ E.g., N1, “SPO traži Dan sećanja na žrtve totalitarizma,” *N1*, July 10, 2016, <http://rs.n1info.com/a175828/Vesti/Vesti/SPO-trazi-Dan-secanja-na-zrtve-totalitarizma.html>.

values.”¹⁵⁹ This Day of Remembrance was to show “respect for the victims, as well as commitment to the promotion and progress of democratic and European values.”¹⁶⁰ The SPO and other likeminded parties thus managed to enhance their strategy’s second aim—promoting the narrative of četnik anti-fascism, as well through this new EU narrative. The Day of Remembrance, scholars Ana Milošević and Heleen Touquet confirm, was urging Serbian citizens to “join hands in building the European future of Serbia.”¹⁶¹

7.5 Turning the table: 2010–2012

The process that had been initiated via the 2006 rehabilitation law and its ensuing committees overcame its final remaining obstacles because of a significant political turn by its main adversary—the Socialist Party. As discussed, the SPS, in the wake of Milošević’s death, adopted a pro-European course and, in the period between 2006 and 2010, it gradually started to live up to this new conviction.

7.5.1 *The rehabilitation law “updated”: Foregrounding EU accession and nationalism*

The shift in orientation by the SPS became tangible and highly significant in the debate and outcome of the “updated” 2011 rehabilitation law and, as will be discussed later, on the Srebrenica declaration, eventually adopted in 2010. As the 2006 rehabilitation law was technically lacking and thus proved frustrating to its proponents, they initiated a new rehabilitation law five years later in 2011, intended to offer a better procedure. It stipulated rules for compensation and restitution—something the law in 2006 had failed to do—and narrowed down the eligibility criteria for rehabilitation. Those who lost their lives “in armed conflicts as members of the occupational armed forces and quisling formations” no longer qualified.¹⁶² This addition illustrates the controversy caused by the 2006 rehabilitation legislation. However, by 2011, several people who were excluded in the later version had already been rehabilitated under the previous law. These decisions were not revoked.¹⁶³ Another revealing clause in the 2011 text is the statement that “[t]he Republic of Serbia, within the meaning of this law, is not responsible for the deeds and acts of the occupational forces during the Second World War on the territory of the Republic of Serbia.”¹⁶⁴ Out of a total of 128 MPs present, the law was adopted by 121 votes in favour.

¹⁵⁹ Srpski Pokret Obnove, *Čotrić: da Srbija ustanovi dan sećanja na žrtve totalitarnih i autoritarnih režima*, July 11, 2016, <http://spo.rs/vesti/683-cotric-da-srbija-ustanovi-dan-secanja-na-zrtve-totalitarnih-i-autoritarnih-rezima.html>.

¹⁶⁰ Srpski Pokret Obnove, *Čotrić*.

¹⁶¹ Aleksandar Čotrić, interviewed by Milošević and Touquet in 2014, quoted in Milošević and Touquet, “Unintended Consequences,” 11.

¹⁶² Narodna skupština, “Zakon o rehabilitaciji 2011.”

¹⁶³ Dimitrijević, “Learning from Serbian Failure,” 309; Đureinović, “Law as an Instrument,” 241.

¹⁶⁴ Narodna skupština, “Zakon o rehabilitaciji 2011.”

Apart from the content of the new law, the voting pattern differed significantly between 2006 and 2011. Therefore, a comparative assessment of these patterns offers insight into the shifting political coalitions vis-à-vis the past and the prospect of EU accession. In 2006, all SPS representatives had voted against the rehabilitation law. In 2011, all of them, except for two MPs (who withheld their votes) supported the law. SPS member Đorđe Milićević described the law proposal in 2011 as a “condition” for EU membership and emphasised EU integration as a priority of the government¹⁶⁵—then consisting of the SPS, the DS, and other smaller pro-European parties. In the same statement, Milićević also spoke on behalf of his party. He emphasised that the SPS considered the law, besides supposedly being an EU condition, to be “necessary” in the light of Serbia’s interests. The SPS was ready to “correct historical mistakes” in order to look towards the future, whilst remaining proud of its socialist history.¹⁶⁶ His colleague, Mirislav Petronijević, also from the SPS, was just as explicit when he said that the law was necessary for the government to “fulfil all standards in accession to the EU.”¹⁶⁷ The correlation between the SPS’s shift towards the rehabilitation law and its changing attitude towards the EU is thus not merely incidental.

The other parties that supported the rehabilitation law in both 2006 and 2011 were in favour of EU accession as well (at least on paper). Amongst them were the DSS and the smaller *Nova Srbija* (New Serbia, NS), which had run for election together in 2007. Both parties had a complex attitude towards EU membership as well as the past, and both became increasingly Eurosceptic, conservative, and unwilling to confront the past.¹⁶⁸ Reflecting this ambiguity, both parties did not explicitly refer to the EU and in general did not extensively engage in the debate. In 2006, DSS MP Mika Vlaović explained that the ongoing debate on the law did not benefit “Serbia and our friends.”¹⁶⁹ In fact, it “surely” benefitted “our enemies.”¹⁷⁰ He therefore called on his colleagues to vote for this law in order to “show that we are a new Serbia.”¹⁷¹ The DSS thus discarded the EU accession prospect and simply focussed on the domestic dimension. Miroslav Markićević from the NS built a similar argument when he criticised the way in which the initiators of the

¹⁶⁵ Đorđe Milićević in Narodna skupština, “Treća sednica drugog redovnog zasjedanja, 22. novembar 2011. godine (prvi dan rada),” in *Stenografske beleške: Treća sednica drugog redovnog zasjedanja 22. i 23. novembar 2011. godine*, by Republika Srpska narodna skupština, Beograd: Narodna skupština, 2013, 71.

¹⁶⁶ Đorđe Milićević in Narodna skupština, “Treća sednica drugog redovnog zasjedanja, 22. novembar 2011,” 72–73.

¹⁶⁷ Mirislav Petronijević in Narodna skupština, “Treća sednica drugog redovnog zasjedanja, 22. novembar 2011,” 28.

¹⁶⁸ The position of the NS towards the past is difficult to qualify and varied greatly over the years. The party had also supported the 2003 lustration law and the 2004 pension law aimed at equalising četniks and partisans. In the debate on the lustration law, Zoran Čirković from the NS emphasised the importance of “full archival disclosure” to this end, reminding parliament of the draft law that he had entered to disclose these files. Zoran Čirković in Narodna skupština, “Osma sednica prvog redovnog zasjedanja treći dan rada, 29 maja 2003,” 281.

¹⁶⁹ Mika Vlaović in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 166–167.

¹⁷⁰ Mika Vlaović in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 166.

¹⁷¹ Mika Vlaović in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 166–167.

rehabilitation law had used the EU accession prospect during the debate in 2011. Not only did he question whether this law was a European condition;¹⁷² he also asked his colleagues whether it would be desirable to have civilians believe that the law was due to EU pressure.¹⁷³

Whilst other proponents were thus keen to highlight the rehabilitation law's supposed connection to EU membership, the DSS and NS explicitly denied such a link. It is key here to understand that the re-narration of Serbia's četnik past had made both arguments possible. Nationalism and pro-European voting behaviour became increasingly compatible and could not only exist alongside each other, but also separately. The 2005 law on četniks and partisans and both rehabilitation laws, as well as all the broader societal and political developments that enabled this shift in narrative, ensured that Serbia's nationalist past could be depicted in terms of anti-fascism and Europeanness, as well as simply in terms of Serbia's greatness.

The SRS took an interesting position as well on both rehabilitation laws. Whilst it can be argued that this nationalist party would only benefit from the rehabilitation of the četnik movement, the party decided not to be present during the vote in 2006.¹⁷⁴ The similarities with the party's behaviour regarding the 2005 law to equalise partisans and četniks, as previously explored, is clear. The official reason for the Radicals' opposition was the supposedly arbitrary character of the law.¹⁷⁵ The law's initiators were even accused of opening another the Hague Tribunal in Belgrade.¹⁷⁶ In addition, the party dismissed their opponents' use of the EU accession prospect, not least as they simply rejected the validity of EU accession as a foreign policy goal.¹⁷⁷

However, by 2011, the SRS had disintegrated and Tomislav Nikolić's party, the SNS, had taken a large part of the Radicals' electorate. Disagreement over EU accession had constituted the main reason for Nikolić to establish his own Progressive Party¹⁷⁸ and Vučić and other high-ranking figures from the SRS had followed him. However, this did not mean that the newly established SNS supported the rehabilitation law. Whilst, for the SPS, the new pro-European course seemed to have been the main reason to switch positions on rehabilitation, this factor did not suffice for the SNS. Thus, both the Progressives and the Radicals decided not to take part in the vote.

¹⁷² Miroslav Markićević in Narodna skupština, "Treća sednica drugog redovnog zasjedanja, 22. novembar 2011," 69.

¹⁷³ Miroslav Markićević in Narodna skupština, "Treća sednica drugog redovnog zasjedanja, 22. novembar 2011," 71.

¹⁷⁴ Tomislav Nikolić in Narodna skupština, "Druga sednica prvog redovnog zasjedanja, 4 april 2006," 148.

¹⁷⁵ Aleksandar Vučić in Narodna skupština, "Druga sednica prvog redovnog zasjedanja, 4 april 2006," 159.

¹⁷⁶ Stevica Dečanski in Narodna skupština, "Druga sednica prvog redovnog zasjedanja, 4 april 2006," 174.

¹⁷⁷ Miroslav Markićević in Narodna skupština, "Treća sednica drugog redovnog zasjedanja, 22. novembar 2011," 69;

Vjernica Radeta in Narodna skupština, "Treća sednica drugog redovnog zasjedanja, 22. novembar 2011," 37, 38, 42.

¹⁷⁸ Bulatović, "Srpska napredna stranka," 277–279.

7.5.2 *Pro-European parties against rehabilitation: Problematising the EU accession prospect*

It is intriguing that in 2011—besides the SRS and SNS, which basically tried to block all laws dealing with the past—precisely the most progressive, liberal, and in fact pro-European parties opposed the rehabilitation law, specifically, the Social Democrat Party and LDP. Thus, whilst all parties in favour of the rehabilitation laws formally supported EU accession, those against were even further advanced on the pro-European scale. Aleksandra Jerkov from the League of Social Democrats of the Vojvodina voted against rehabilitation on both occasions. In 2011, she was the only representative of the governing parties to do so. Meho Omerović from the Social Democrat Party in 2011 directly called out the law's proponents for failing to explain how exactly this was an EU condition. According to Omerović, the new rehabilitation law was not about the EU, but instead about the proponents' self-interest, trying to capitalise on the supposed anti-fascist victory of the četniks, whilst they were actually on the side of the occupiers.¹⁷⁹ He argued that if the government was really interested in EU accession, it should commit to solving problems of poverty and employment instead.¹⁸⁰ He repeated this argument later in an interview, claiming that the law was not in any way a condition for EU candidacy.¹⁸¹ In 2016, he called upon the EU to react to Croatia's attempt to rehabilitate and glorify fascism.¹⁸² This testifies to his continued engagement with the topic, as well as his belief that the EU should be concerned with the revisionism of Serbia's (or for that matter, Croatia's) Second World War past.

It is probably for this reason—the questionable EU engagement with the topic of rehabilitation—that most proponents were rather abstract in their claims on the EU. Touting the moral value of the law once more, the SPO MP Mirko Čikiriz posited in 2011 that the topic essentially concerned a “respect of human rights,” which is the “foundation on which the EU rests.”¹⁸³ He called the law “another proof” that Serbian society had taken “a step ahead in the process of its democratisation.”¹⁸⁴ Still as part of the same sentence, the SPO representative stressed that in the EU there is a “place for all political parties,” including monarchists such as himself and republicans (as long as they subscribe to accepted human values).¹⁸⁵

¹⁷⁹ Meho Omerović in Narodna skupština, “Treća sednica drugog redovnog zasjedanja, 22. novembar 2011,” 63.

¹⁸⁰ Meho Omerović in Narodna skupština, “Treća sednica drugog redovnog zasjedanja, 22. novembar 2011,” 67.

¹⁸¹ RTV, “Usvojen Zakon o rehabilitaciji, protiv SDP i Jerkov,” *RTV*, December 5, 2011, http://www.rtv.rs/sr_lat/politika/usvojen-zakon-o-rehabilitaciji-protiv-sdp-i-jerkov_287599.html.

¹⁸² Radio Slobodna Evropa, “Omerović: U Hrvatskoj na djelu rehabilitacija ustaštva,” August 2, 2016, <https://www.slobodnaevropa.org/a/27895716.html>.

¹⁸³ Mirko Čikiriz in Narodna skupština, “Treća sednica drugog redovnog zasjedanja, 22. novembar 2011,” 58.

¹⁸⁴ Mirko Čikiriz in Narodna skupština, “Treća sednica drugog redovnog zasjedanja, 22. novembar 2011,” 59.

¹⁸⁵ Mirko Čikiriz in Narodna skupština, “Treća sednica drugog redovnog zasjedanja, 22. novembar 2011,” 58.

The debate on the rehabilitation laws thus problematises the relation between the past and the EU future, and shows the ambiguous meaning of their initiators' claims to the prospect of EU accession. It is therefore important to seek more specifically the exact content of these Europe-based arguments. Radanović connects the timing of the 2006 rehabilitation law to the Parliamentary Assembly of the Council of Europe (CoE) resolution 1481,¹⁸⁶ adopted just months before the 2006 Serbian rehabilitation law, which underscored the “need for international condemnation of crimes of totalitarian communist regimes,” as discussed in chapter 1.¹⁸⁷ Despite this remarkable timing, references to the CoE resolution were rare in the debate in 2006. However, in the debate on the 2011 update of the law, the resolution played a more prominent role. A representative from the DS—a party that had also supported the rehabilitation law in 2006—referred several times to this specific CoE resolution and called Tito one of the “European dictators.”¹⁸⁸

Several themes developed throughout this chapter are thus illustrated by the debate on the 2011 rehabilitation law. Firstly, with respect to the 2006 law, it confirms the increasing salience of (and support for) the EU accession prospect in these years and the impact this had on the debate surrounding how to deal with the past. The changing attitude of the SPS towards the law shows the importance of the “EU argument.” Secondly, however, the analysis also shows that the link between orientations towards dealing with the past and EU accession is rarely straightforward. For the newly established SNS, the turn towards EU accession did not lead to support for the rehabilitation law. In fact, it was the most progressive, pro-European parties that decided not to support the law in 2011. They realised that Brussels did not require such a rehabilitation process and their opponents were, in fact, seeking legitimisation of Serbian nationalism—both past and present.

The debate on denationalisation and the restitution of property confiscated by the socialist regime also came to a resolution in 2011, in which the prospect of EU membership played an important role. After years of political straggling and postponing, in September 2011, the Serbian parliament adopted the Law on Property Restitution and Compensation. Deputy Prime Minister Bozidar Đelić from the DS called the law “a significant requirement for candidate status for EU membership.”¹⁸⁹ Likeminded scholars joined this stance,

¹⁸⁶ Parliamentary Assembly of the Council of Europe, *Resolution 1481 (2006): Need for International Condemnation of Crimes of Totalitarian Communist Regimes*, Draft Resolution, Strasbourg: Council of Europe, 2006.

<http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17403&lang=en>.

¹⁸⁷ Radanović, “Istorijska politika u Srbiji nakon 2000,” 282–283.

¹⁸⁸ Dragoljub Mićunović in Narodna skupština, “Treća sednica drugog redovnog zasedanja, 22. novembar 2011,” 44, 46–47.

¹⁸⁹ Narodna skupština, “Trinaesto vanredno zasedanje 21. septembar 2011. godine drugi dan rada,” quoted in, and translation from, Melina Rokai, “Restitution and Denationalization of Property in Serbia, as Part of Transition and Democratization of the State: A Legal and Historical Approach,” *Revista de Stiinte Politice* 15 (2015): 59.

referring to the Copenhagen criteria in their argument that the “rule of law and [the] protection of human rights cannot be without protection of property rights.”¹⁹⁰ Thus, “there is no accession into the EU without the adoption of a general law on restitution.”¹⁹¹ In a recommendation to the Council of the European Union, the EP had indeed referenced to the Serbian restitution laws as a “matter of urgency . . . in line with those of other countries.”¹⁹² In fact, in parliament as well as in the media, proponents presented the rehabilitation law as a necessary condition for the implementation of the law on restitution as “one of the conditions for the EU.”¹⁹³ The EU’s interest in restitution was thus used as a pretext for the supposed need for rehabilitation. However, the influence of the EU accession prospect on restitution was not very sustainable. Implementation of the law was slow and many claimants did not receive any restitution.¹⁹⁴

7.5.3 *Dealing with the war past of the 1990s: Lining up EU expectations*

As much as Europe was present in the 2011 debate on the rehabilitation law, especially in comparison to its 2006 predecessor, it featured most frequently in debates on the wars of the 1990s. As the case in case study has shown, this is certainly true of the political debate on the ICTY, but also of other political topics related to the past. In March 2010, parliament adopted a declaration that condemned the “crimes in Srebrenica.”¹⁹⁵ The proposal had been submitted by MPs from the DS, the SPO, G17+, as well as some smaller parties and, remarkably, again by the SPS.¹⁹⁶ The declaration was eventually adopted with 127 out of the 149 votes cast.¹⁹⁷ A long domestic debate thus culminated in a progressive (although, as will become clear, limited) victory. President Boris Tadić had been seeking to instigate this political recognition of Serbian responsibility for many years. Whilst mostly domestic actors engaged with the process, there were some important external factors that influenced the year-long, ongoing Serbian debate on the crimes in Srebrenica. First, there were the rulings of the International Court of Justice (ICJ), lifting the notion of guilt from the Serbian state because the genocide “cannot be attributed to [the Serbian state] under

¹⁹⁰ Marković, “Društveni značaj restitucije i evropeizacije Srbije,” 61.

¹⁹¹ Marković, “Društveni značaj restitucije i evropeizacije Srbije,” 61.

¹⁹² European Parliament, *European Parliament Recommendation to the Council of 25 October 2007 on Relations Between the European Union and Serbia*, P6_TA(2007)0482, Strasbourg, European Parliament, October 25, 2007, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0482+0+DOC+XML+V0//EN&language=EN>.

¹⁹³ Marija Maleš, “Homen: Deo opozicije će glasati za Zakon o rehabilitaciji,” September 15, 2011, <https://www.blic.rs/vesti/politika/homen-deo-opozicije-ce-glasati-za-zakon-o-rehabilitaciji/e8g5e0l>.

¹⁹⁴ Dimitrijević, “Learning from Serbian Failure,” 310.

¹⁹⁵ Narodna skupština, “Deklaracija narodne skupštine republike Srbije o osudi zločina u Srebrenici,” March 31, 2010, www.parlament.gov.rs/upload/archive/files/cir/pdf/ostala_akta/2010/Deklaracija%20o%20Srebrenici%20cir.zip. See also Petrović, “Hod po trnju,” 107–108.

¹⁹⁶ RTV, “Deklaracija o Srebrenici u Skupštini, ne spominje se genocid,” *R7V*, March 27, 2010, http://www.rtv.rs/sr_ci/politika/deklaracija-o-srebrenici-u-skupstini-ne-spominje-se-genocid_180928.html.

¹⁹⁷ Petrović, “Hod po trnju,” 107–108.

the rules of international law of State responsibility,” although upholding the fact that Serbia “violated its obligation to prevent the Srebrenica genocide”.¹⁹⁸ This two-sided conclusion allowed nationalists to claim that Serbia was innocent, whilst more progressive politicians saw it as a further need to admit responsibility. In the latter half of the 2000s, the EU membership prospect became increasingly important as another external factor. In the debate in 2010 on the final version of the declaration,¹⁹⁹ MPs repeatedly and explicitly linked the declaration to the EU. Čedomir Jovanović, from the very progressive and pro-European LDP, stated that “when we talk about Srebrenica . . . , we above all think of our European future.”²⁰⁰

Most importantly, the declaration was presented as an essential follow-up to the EP resolution on Srebrenica from 2009, as discussed in chapter 1. Esad Džudžević from the parliamentary group of minorities and a representative of Bosniak Serbians started by saying that he did not belong to the initiators—probably to shield himself from accusations that the draft declaration was a Bosniak declaration. In his speech, which was one of the opening statements of the debate, he referred to the EP resolution “in the context of the fact that according to all research 67 per cent of the citizens of our state” are in favour of EU accession.²⁰¹ By accepting this declaration, Serbia would show that, in line with the EP resolution, it “share[d] the common values” of the other twenty-seven EU member states.²⁰² After reading the full resolution to the parliament, he called upon it to announce July 11 (denoting the fall of Srebrenica and the start of the ensuing massacre) as a remembrance day for the victims of genocide, which “is also part of the obligation which derives from this resolution which I have read.”²⁰³ Jovanović from the LDP also referred to the EP resolution in order to call for acknowledgement of Serbian responsibility for the genocide.²⁰⁴ The LDP, however, issued several amendments to the draft declaration, as it did not go far enough. This argument was also communicated to the media. Jovanović told the Serbian news agency that Serbia needed “new values” for a “new policy capable of fulfilling European aspirations and the demands of society.”²⁰⁵ Telling the “full truth”

¹⁹⁸ International Court of Justice, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, 160–173, 175–176, 185–187.

¹⁹⁹ For an excellent investigation into the domestic politics and preceding political acts leading up to the declaration, see Dragović-Soso, “Apologising for Srebrenica.”

²⁰⁰ Narodna skupština, “Treća sednica prvog redovnog zasedanja, 30. mart 2010. godine,” in *Stenografske beleške: Dan za poslanička pitanja druga i treća sednica prvog redovnog zasedanja 25. i 30. mart 2010. godine*, by Narodna skupština Republike Srbije, Beograd: Narodna skupština, 2011, 122.

²⁰¹ Esad Džudžević in Narodna skupština, “Treća sednica prvog redovnog zasedanja, 30. mart 2010,” 109.

²⁰² Esad Džudžević in Narodna skupština, “Treća sednica prvog redovnog zasedanja, 30. mart 2010,” 109.

²⁰³ Esad Džudžević in Narodna skupština, “Treća sednica prvog redovnog zasedanja, 30. mart 2010,” 111.

²⁰⁴ Čedomir Jovanović in Narodna skupština, “Treća sednica prvog redovnog zasedanja, 30. mart 2010,” 122.

²⁰⁵ RTV, “Deklaracija o Srebrenici.”

about Srebrenica was part of such new values.²⁰⁶ Supported by some civil society actors and high-ranking individuals, the LDP mainly insisted on the inclusion of the term “genocide,”²⁰⁷ considering that both the International Court of Justice and the ICTY had ruled that the Srebrenica massacre qualified as such. This was not a cosmetic demand, but reflected the LDP’s fundamental commitment to aligning Serbian politics with international standards.

The debate about such a controversial issue was heated, both in- and outside parliament. Several other draft declarations were issued simultaneously, emphasising Serbian victimhood during the conflicts, including the NATO bombardments.²⁰⁸ Already before the discussion of the Srebrenica declaration in parliament, Ivica Dačić from the SPS announced to the press that a special session would also be held on a declaration to condemn “the crimes against members of the Serbian nation on the territory of the former Yugoslavia.”²⁰⁹ The SPS, however, was in favour of the Srebrenica declaration. Like its support for the rehabilitation law in 2011, this was the result of two factors: its commitment to EU accession, and its duties as a governing party. The coalition partner of the SPS, the DS, held that with a declaration “unambiguously” condemning Srebrenica, “one part of the judgement of the International Court of Justice in The Hague would be fulfilled.”²¹⁰

It was difficult to sell this standpoint to the SPS electorate. However, Dačić had some cards left, which he eagerly played to appease his nationalist, anti-confrontation followers. First, the SPS—just like other conservative parties that eventually decided to support the declaration—had lobbied for a similar declaration to be adopted in recognition of the crimes against Serbian victims. In fact, the final clause of the adopted Srebrenica declaration called on other states of the former Yugoslavia to, “in the same way, condemn crimes perpetrated against members of the Serbian nation and offer an apology and express condolences to the families of Serb victims.”²¹¹ Dačić could thus present the Srebrenica declaration as a tool to, eventually, restore the dignity of the victimised Serbian nation. His second, successfully applied strategy was to leave out the word “genocide,”

²⁰⁶ RTV, “Deklaracija o Srebrenici.”

²⁰⁷ Dragović-Soso, “Apologising for Srebrenica,” 171.

²⁰⁸ RTV, “Predložen nacrt deklaracije o osudi zločina na štetu srpskog naroda,” *RTV*, April 1, 2010, http://www.rtv.rs/sr_ci/politika/usvojen-nacrt-deklaracije-o-osudi-zlocina-na-stetu-srpskog-naroda_181700.html. See also e.g., Saopštenja Vlade Republike Srpske Krajine, “Deklaracija o Srebrenici. Podvala Srbima,” March 26, 2010, www.srpskilst.net/saopstenja-vlade-rsk/deklaracija-o-srebrenici-podvala-srbima.

²⁰⁹ RTV, “Predložen nacrt deklaracije o osudi zločina na štetu srpskog naroda,” *RTV*, April 1, 2010, http://www.rtv.rs/sr_ci/politika/usvojen-nacrt-deklaracije-o-osudi-zlocina-na-stetu-srpskog-naroda_181700.html. See also e.g., Saopštenja Vlade Republike Srpske Krajine, “Deklaracija o Srebrenici. Podvala Srbima,” March 26, 2010, www.srpskilst.net/saopstenja-vlade-rsk/deklaracija-o-srebrenici-podvala-srbima.

²¹⁰ Demokratska stranka, “Pregovori i formiranju vlade Srbije,” 322. The DS MP refers to the ruling by the ICJ that Serbia was not guilty of genocide, because it could not be proven that the Serbian state had ordered the genocide or was otherwise directly accountable, but still violated the Geneva Conventions for having failed to prevent the genocide from occurring. International Court of Justice, *Application of the Convention*, 160-188.

²¹¹ Translation by Dragović-Soso, “Apologising for Srebrenica,” 172.

making the declaration more acceptable to his own supporters.²¹² Analyses indeed suggest that the SPS had forced its coalition partners to leave the word out of the declaration.²¹³ However, Suzana Grubješić from G17+ recalled how it was in fact the DS that was most eager to avoid the “g-word.” Indeed, during a public broadcast in the night after the declaration’s adoption, she publicly said that the declaration’s initiators all knew the crimes in Srebrenica in fact qualified as genocide. It was the DS that called her out on her crossing this boundary—not the SPS.²¹⁴ This illustrates that it was not only the SPS that had to juggle a pro-EU course, the wishes of coalition partners, and a partially conservative electorate. In a country where the legacy of the wars of the 1990s and the waves of nationalism caused by it still permeated wider society, a party such as the DS faced similar challenges. It also illustrates two other lessons that have been running through this chapter. First, the adoption of the Srebrenica declaration can best be seen as a foreign policy instrument,²¹⁵ spurred on by the perceived necessity of this act to satisfy the EU. This highlights the (potential and actual) influence of the EU membership prospect. Second, the declaration is a sobering reminder that also this prospect will not change the actual terms of the domestic debate. The omission of the word “genocide” and the call for recognition of Serbian victims show that the declaration was as much about the crimes in Srebrenica, as it was (if not more) about appeasing Serbian nationalist feelings.

7.6 Concluding remarks

The last two chapters have shown how, with regard to both the country’s socialist past and its war past, the EU accession prospect entered the orientations, party constellations, and parliamentary decision-making processes of the various Serbian political parties. Importantly, the centrality of ICTY conditionality runs the risk of distracting from the less direct ways in which the EU accession prospect influenced the country’s domestic political dimensions. Academic research has generally followed this prioritisation.

However, the case in case study has shown that the ICTY conditionality’s more profound influence, beyond the actual arrests of indictees it enforced, differed more in

²¹² RTV, “Deklaracija o Srebrenici u Skupštini.” Unsurprisingly, this debate surrounding the genocide accounted for a major part of the parliamentary debate on the declaration. Since the draft declaration referred to the 2007 ruling of the International Court of Justice which, following ICTY in 2001, had termed the massacre in Srebrenica a genocide, parties could interpret the declaration’s meaning as they saw fit. Ana Milošević and Heleen Touquet nevertheless interpret the omission of the word “genocide” as a sign that Serbia “failed to fully comply with these demands,” referring to the way in which “the EU pressured Serbia to fully acknowledge the genocide in Srebrenica.” Milošević and Touquet, “Unintended Consequences,” 10.

²¹³ Danas, “Velika Britanija priprema dokument uoči obeležavanja dvadeset godina od masakra u Srebrenici,” *Danas*, June 8, 2015, <https://www.danas.rs/politika/velika-britanija-priprema-dokument-uoci-obelezavanja-dvadeset-godina-od-masakra-u-srebrenici/>.

²¹⁴ Grubješić, interview.

²¹⁵ Dragović-Soso, “Apologising for Srebrenica,” 165.

scale than in nature from other realms of dealing with the past. This rings especially true for other aspects of dealing with the war past of the 1990s. The last few pages concluded, in tandem with the previous chapter, that the SPS's turn to Europe was a decisive factor in the party's support for the 2010 Srebrenica declaration. This illustrates the authoritative appeal of EU acts and the fact that they were monitored by Serbian parties (in this case the EP Srebrenica resolution from 2009).

The two rehabilitation laws regarding the socialist past, although not preceded by similar European initiatives, were nevertheless also accompanied by claims on the EU membership prospect. The use of the EU accession prospect by anti-confrontation parties further testifies to the fluidity of this type of claim. The case in case study furthermore highlights a finding that had been running through preceding sections as well, namely that any claim of EU interest should not be equated with a profound interest in dealing with the past accordingly. Koštunica, as the most extreme example of this mechanism, used the EU's insistence on the arrest of war criminals to bolster his nationalist take on the past.

As a related finding, whilst the primacy of EU ICTY conditionality did occasionally foreground the legacy of the 1990s, it did not completely overshadow dealing with the wider socialist past, as one might be tempted to hypothesise.²¹⁶ Firstly, the broad commitment to EU membership (especially after the pro-European turn of the SPS and the establishment of the SNS) secured the increasing significance of the EU accession prospect in all debates. Secondly, the debates on the two pasts were intertwined. Laws and declarations targeted specifically either the wars of the 1990s or the socialist past, but the respective debates did not keep to these distinctions. For example, whilst the debate about equal rights for četnik and partisan fighters departs from the idea of revising the formerly all-powerful socialist historical narrative of the Second World War, it inevitably involved the debate surrounding nationalism in the 1990s. After all, Bosnian Serb military groups used četnik symbols and claimed this heritage during the Bosnian, Croatian, and Kosovar wars. The next chapter will explore how these narratives linked the past to the EU accession prospect.

²¹⁶ The case of archival disclosure may, for example, prompt such a hypothesis. The DOS coalition had made this into one of its ten electoral promises and was quick to adopt a law to this end. However, in later years, the party seemed to move away from this topic, whilst it did explicitly commit in both word and practice to ICTY co-operation. EU integration certainly did not contribute to the process of disclosing the archives, but the high number of laws and declarations targeting lustration, rehabilitation, and historical revision shows that it did not inhibit debate on the socialist past either.

CHAPTER

8 Serbian Parliamentary Narratives

The previous two chapters studied how the prospect of EU accession entered party programmes and parliamentary debates centred on Serbia's war and socialist pasts. However, the impact of the EU accession prospect can also be studied through a narrative lens. Studying four selected parliamentary debates, I analyse the rationales and tropes underlying the political parties' claims regarding the relation between EU membership and the past. In line with the chapter on Bulgaria, I will link these to the main EU narratives of the socialist and war pasts studied in chapter 2. In line with the previous chapter, I structure the narratives dichotomously as anti- and pro-confrontation narratives. As it was common for parties and individual politicians to change their orientation to such narratives over time, I stress chronology and individual backgrounds throughout for added context. The fluidity of these narratives on the past will become clear in the final part of this chapter, entitled "Mixing the Pasts." This final part not only illustrates that dealing with the socialist and war pasts cannot be understood separately, but also underscores the pertinence of studying narratives. The ease with which politicians morphed various historical periods into one story of historical continuity helps us to understand their actions, both in parliament and within their own parties, and is thus an important political strategy in itself.

8.1 Selection of sample and method

Based upon the research conducted for the previous chapter, I have selected three laws and a declaration, all of which have been of key significance in Serbian parliamentary debates on the past in relation to EU accession. All four have been discussed regarding their contents, backgrounds, and controversies in the previous chapter. Those selected are:

- the 2003 lustration law;¹
- the 2005 law on soldiers' pensions that equalised četniks and partisans;²
- the 2006 rehabilitation law and the 2011 revised rehabilitation law;³
- the 2010 declaration that condemned the crimes in Srebrenica.⁴

In addition to the importance of these laws and declarations (discussed in the previous chapter), the dates of their adoption are also significant with regard to the timeline of EU membership negotiations. I do not necessarily suggest that there was a direct causality or even correlation between EU accession and the adopted act (although sometimes there

¹ It's official name: the Law on Responsibility for Violation of Human Rights. Narodna skupština, "Zakon o odgovornosti."

² Narodna skupština, "Zakon o izmenama."

³ Narodna skupština, "Zakon o rehabilitaciji 2006," Narodna skupština, "Zakon o rehabilitaciji 2011."

⁴ Narodna skupština, "Deklaracija."

was). Rather, my intention is to emphasise how these cases represent various distinct stages and contexts during the accession period. In 2003, Serbia was recognised as a potential candidate member state at the Thessaloniki European Council Summit. Co-operation and negotiations with the EU thus rapidly intensified in the ensuing years, explaining my choice for the 2005 law on četniks and partisans, which was adopted in late 2004 and came into force in the beginning of 2005. As discussed in chapter 1, the years between 2006 and 2008 saw increased EU pressure to enforce Serbian co-operation with the ICTY. In 2009, Serbia formally applied for membership after a European partnership agreement was established in 2008. The debates on the rehabilitation laws in 2006 and 2011 thus frame this period well. In 2012, three years after Serbia's application, the country was granted candidate membership status. The debate on the 2010 Srebrenica declaration is thus well placed to reflect the increased topicality and urgency of EU membership.

For each law or declaration, combining distant and close reading techniques, I read the full parliamentary debates in which they were discussed. Since many of these debates took up to several days, minutes varied in length—up to several hundred pages in some instances. I collated all references to the EU and Europe, and analysed them once all four cases (the above laws and declaration) had been read. Identifying recurring narratives and tropes throughout these references, I categorised them and it is this categorisation that accordingly provides the structure for this chapter. Because they allude to the very essence of EU accession, the three overarching narratives mirror those of Bulgaria, however, in their content, differences (but also similarities) between the two countries emerge. The first overarching narrative establishes measures on dealing with the past from the (future) perspective of EU accession. Alluding to the “overcome” and “confront” narratives of the EU (whether deliberately or more indirectly), Bulgarian parties presented their claims as membership requirements. Anti- as well as pro-confrontation parties thus assigned certain expectations, values, and morals to Brussels. The second overarching narrative revolved around the EU as a model for dealing with the past. Direct or more indirect references to EU experiences after the Second World War were presented as authoritative lessons for Serbia's envisaged process. In order to make these arguments more specific, individual member states featured as concrete examples for Serbia. The third overarching narrative, as touched upon above, is that of “mixing the pasts.” This narrative connects various findings from the two other narratives and testifies to the importance of the past in Serbian political debate.

As explicitly discussed in chapter 5 (which examined Bulgarian parliamentary narratives), I am aware of the limitations of my conclusions when broader public opinion

is concerned and I extend the same degree of caution to any reference to “Europeanness.”⁵ To avoid repetition, these reflections are here repeated in footnote two.⁶

8.2 The EU as moral actor: Projecting Brussels’ expectations

8.2.1 *Engaging the overcome narrative and pushing aside responsibility for the two pasts*

As the EU pressure on Serbia to co-operate with the ICTY made clear, confrontation with the war past was an absolute necessity for accession. However, EU interest in the socialist past was much more ambiguous. The anti-confrontation side benefitted, especially in the early years of the 2000s, from the EU’s overcome narrative as discussed in chapter 2. Of course, the SPS did not adopt the part of the narrative that denounced socialism as a mistake and aberration, however, the idea of looking and moving ahead, overcoming past divisions, was very much in line with their preferred policies. For example, in 2003, Dragan Tomić from the SPS asked “what will the law on lustration bring us?” before stating that “I think that it will bring us nothing. It will surely not be a law which will lead us to Europe.”⁷ Directly contrasting the European future and lustration, he added in the next sentence that “this return and digging through the past is not good.”⁸ Instead, he

⁵ Sometimes, Europe was only referred to in general as an aspirational goal, without mentioning any reasons why. This was especially the case for parties that had themselves an ambivalent attitude towards the EU. Nova Srbija (NS), for example, officially supported EU integration but, as discussed before, actually did little to achieve this. NS representative Velimir Ilić, in the debate on the Srebrenica declaration, referenced the ICTY negatively, but ended his speech by saying that “we do not have the right to play around with the future of this state, with the youth who wishes to live normally and peacefully, who wishes to become part of Europe and the world.” Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 115. The remark seems to be deliberately vague.

⁶ I am well aware of the limitations of my conclusions: they tell us little about the extent to which the parties were genuine in their claims, or whether these arguments reflected norms and beliefs rather than opportunism. Therefore, this chapter neither aims nor claims to give the definite answer to the question of how Serbian political parties regarded the past in relation to the EU future. They also reveal little about the societal level. However, the narratives identified in this chapter did spread to the public through news outlets, electoral campaigns, and other forms of political outreach. I can imagine that other researchers more qualified in political reception can use the conclusions of this chapter to investigate the impact of these politicians’ attempts to tie the past to the European future. A short note of caution is needed regarding the interpretation of references to “Europeanness” made by politicians. Vague references to “European norms” were frequently made. Additionally, and as can be expected from political professionals, MPs used general references to “Europe” and “the European family” to denote more specific organisations, like the EU and the CoE. These same terms may, however, also refer to the (indeed very abstract) idea of countries with a shared European history. Moreover, some Serbian actors conflated these European institutions on the argumentative level or assumed causal relationships that in reality might not be that evident. In this chapter, I am thus very careful with my interpretations of these general frames of Europeanness that do not specifically indicate the EU. In general, I use the rule that I only consider references that either directly mention the EU or speak of “entering” Europe or “acceding” to European membership, or that denote Europe in terms of “future” or “upcoming.” Since Serbia has been a member of the Council of Europe since early 2003 and there are no other European associations it aspired to enter, we can assume that this trope had no other purpose than to refer to (aspirational) EU accession. I will make the references’ level of abstraction explicit, so as to not overstretch my conclusions nor delude the reader.

⁷ Narodna skupština. “Osma sednica prvog redovnog zasjedanja (treći dan rada), 29 maja 2003,” in *Stenografske beleške: Osma sednica prvog redovnog zasjedanja. 27, 28, 29. i 30. Maj 2003. godina*, by Narodna skupština Republike Srbije, Beograd: Biblioteka Narodne Skupštine, 2003, 251.

⁸ Dragan Tomić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja, 29 maja 2003,” 251.

suggested, Serbians would “all together” find their way to Europe through “a good economy, good income, good employment for the young generation and a good common future.”⁹

This specifically Serbian version of the EU’s overcome narrative rested upon the additional trope of unity as a supposed requirement for any “European future.” Here, the past was presented as a divisive factor in Serbian society. Zoran Anđelković contrasted looking “towards Europe, towards the European union” with “further political reckoning in Serbia.”¹⁰ Earlier, he had insisted that people “who honestly think about the future of Serbia” would not discuss the lustration law.¹¹ In the context of the general dismissive attitude of the international community, chapter 1 analysed the EU’s equivocal attitude towards lustration in Southeast Europe, ranging from endorsement to outright rejection. Dragan Tomić from the SPS predictably decided only to emphasise the latter and connected it to the trope of unity. He claimed that this supposed opposition to the law was derived from the “absolute political tolerance,” respect for, and acceptance of, political opposition as a characteristic of European parliaments. Lustration did not fit such a European political value set.¹² Milisav Petronijević from the SPS further developed this argument, emphasising that Serbia was still split along the lines of the “so-called old regime and the good new regime . . . , those in favour of The Hague and those against, in favour of Europe and against.”¹³ The 2006 rehabilitation law, Petronijević alleged, would not offer a solution able to overcome this division.¹⁴

As has been noted several times already, the SPS had an ambiguous attitude towards EU accession.¹⁵ The timing of the lustration and rehabilitation laws therefore offer a revealing way to investigate this stance. In 2003 the SPS officially changed its course in favour of EU accession, whilst experts consider 2008 to be the year that the SPS fully committed to this stance. It is likely that for Tomić and Anđelković, abstract references to “Europe” were more a rhetorical tool than an appeal to concrete EU membership issues. Nevertheless, their argument fits remarkably well within the overcome narrative that had, up to that point, characterised the EU’s attitude towards the socialist past. The SPS was

⁹ Dragam Tomić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja, 29 maja 2003,” 251.

¹⁰ Zoran R. Anđelković in Narodna skupština, “Osma sednica prvog redovnog zasjedanja, 29 maja 2003,” 280.

¹¹ Zoran R. Anđelković in Narodna skupština, “Osma sednica prvog redovnog zasjedanja, 29 maja 2003,” 278.

¹² Narodna skupština, “Osma sednica prvog redovnog zasjedanja, 29 maja 2003,” 251. Dimitrijević also shows that in the debate on the rehabilitation laws, calls for “national reconciliation” to “overcome the binary opposition” were used by proponents of the laws. Dimitrijević, “Learning from Serbian Failure,” 310.

¹³ Milisav Petronijević in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 155.

¹⁴ Milisav Petronijević in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 155.

¹⁵ It seems, however, that even in the years that the SPS moved between a pro- and anti-European orientation, the word “European” was used to denote positive abstractions. It is, for example, notable that Ivica Dačić, whose SPS party in 2006 remained very ambivalent towards EU accession, was “glad” to hear that a political opponent called the Serbian constitution “democratic, good and European.” Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 122.

quite possibly aware of this strategy of dismissing engagement with the past as little more than a distraction from the EU future.

Although the SNS and SPS knew many differences, they shared the combination of an official commitment to EU accession and a conservative voter base. In 2004, when Tomislav Nikolić was still a member of the SRS—a party that prides itself on its nationalism and anti-EU stance—he had simply ridiculed the initiators of the law that aimed to equalise četniks and partisans because of their insistence on becoming a member of the EU.¹⁶ In the debate on the rehabilitation law in 2011, however, he had established a party (the SNS) that officially supported EU integration. This presented him with the same challenge as the one faced by the SPS. In the debate, the SNS kept mostly silent and did not engage with the proponents' references to the EU accession prospect and its members.

In the late 2000s, anti-confrontation parties found it much more difficult to use the EU accession prospect, not least as in this period an EU confront narrative came to prevail. The debate on the Srebrenica declaration brought this tension to a head. The SNS did not support the declaration, and this time Nikolić turned to the EU as a means to frame his opposition. In somewhat of a detour, he raised the topic of a Bosnian textbook called *Mosaic of the Past*. In the “great community of European nations,” he said, one did not have to accept everything at the risk of “drowning” language, nation, and the state.¹⁷ Thus, he apparently argued, Serbia did not need to succumb to alleged pressure from the EP resolution on Srebrenica, thus betraying its national pride. However, this line of reasoning was far from “bulletproof” and his opponents remained very unimpressed by it. Nikolić benefitted from the fact that the EU had not explicitly called on Serbia to hold itself collectively or politically accountable for the events in Srebrenica.¹⁸ Instead, Nikolić emphasised that it is not the state but individuals who commit crimes, thereby repeating a similar EU narrative of individual responsibility, studied in chapter 2, used to legitimise the ICTY. He then ridiculed and deconstructed his opponents' attempts to portray the Srebrenica declaration as an “ultimatum” for EU accession.¹⁹

¹⁶ This attempt to present Europe again as a region that tolerated difference in order to voice his opposition to the rehabilitation law sounds somewhat far-stretched. However, the position of the Serbian nationalist Right on the topic of dealing with the past had also been quite ambiguous in 2003, 2004, and 2006, as discussed in the previous chapter. As part of the SRS, Nikolić had opposed the lustration and rehabilitation law on the basis of rather opaque arguments of these being anti-Serbian. Now that he subscribed to the idea of European integration, in 2010, he dismissed the idea that European integration required assimilation and political orthodoxy. Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 14. decembar 2004. godine (prvi dan rada),” in *Stenografse beleške: Sedma i osma sednica drugog redovnog zasjedanja 14, 15, 16, 17, 21 i 22. decembar 2004. godine*, by Narodna skupština Republike Srbije, Beograd: Narodna skupština Republike Srbije, 2005, 6.

¹⁷ Tomislav Nikolić in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 131.

¹⁸ This rejection of burdening the Serbian state with any form of collective responsibility, held neither historically correct nor desirable, had also been present in the debate on the lustration law. Dimitrijević, “Learning from Serbian Failure,” 313.

¹⁹ Tomislav Nikolić in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 128–129.

Whilst Nikolić sought to find common ground with his newly acquired pro-European allies, the SRS could simply continue its anti-EU stance in the debate on the Srebrenica declaration and overturn the EU's confront narrative. The SRS had used the same arguments before. Already during the debate on the lustration law in 2003, Gordana Pop-Lazić had ridiculed the belief held by the law's initiators that Serbia would enter the EU within ten years.²⁰ In the debates on the 2010 Srebrenica declaration and the 2011 rehabilitation law, this argument was connected to the alleged anti-Serb bias of the EU and the West in general. During the 2011 debate, an SRS representative referred to Šešelj's new book, entitled *The Criminal Javier Solana*, then the EU High Representative.²¹ The SRS immediately understood, Dragan Todorović stated, that the Srebrenica declaration is a "farce"; the result of "pressure of our Western friends who would judge the Serbian nation for something that it has not done."²²

Specifically, the argument citing the EU's anti-Serbian bias was tied to the popular nationalist narrative of Serbian victimhood.²³ Representatives from the SRS and NS frequently and elaborately mentioned expulsions, mainly "Oluja" (Operation Storm in 1995), and massacres in which Serbs were killed.²⁴ These war crimes indeed occurred, resulting in many Serbian victims who were either expelled, displaced, wounded, or killed. However, historians overwhelmingly agree that Serb victims were, compared to their Bosniak and Croat counterparts, lowest in number.

This image of international ignorance towards Serbian victimhood persisted. Jovan Palalić from the Radical Party stated that the government's politics made it "obvious" that they considered the EU as "the only goal" for which there is "no alternative" at the cost of the "national interests of the Serbian nation."²⁵ Reconciling his pro-European position and nationalist commitment, Nikolić called upon the authority of the EU to challenge anti-Serbian bias—after all, other parliaments had not adopted (the equivalent of) a Srebrenica declaration. What had the law's initiators done to convince the European Parliament to adopt a similar declaration to condemn Serb victims?²⁶ Serbian victimhood was also put in the context of broader European suffering. In 2004, Aleksandar Vučić, as a member of the SRS, stated that, whilst "the Germans [committed crimes] on Jews, the Turkish on Armenians and the ustaša on Serbs," the latter was the "third genocide committed in the

²⁰ Narodna skupština, "Osma sednica prvog redovnog zasjedanja četvrti dan rada, 30 maja 2003," 300.

²¹ Nataša Jovanović in Narodna skupština, "Druga sednica prvog redovnog zasjedanja, 4 april 2006," 178.

²² Narodna skupština, "Treća sednica prvog redovnog zasjedanja, 30. mart 2010," 99.

²³ For a thorough and comprehensive analysis of the "myth" of Serbian victimhood throughout history, see Ana Antić, "Evolucija i uloga tri kompleksa istorijskih mitova u srpskom akademskom i javnom mnjenju u poslednjih deset godina," in *Historijski mitovi na Balkanu: Zbornik radova* (Beograd: Universitet u Sarajevu Institut za historiju, 2003), 259–290.

²⁴ Narodna skupština, "Treća sednica prvog redovnog zasjedanja, 30. mart 2010," 114.

²⁵ Narodna skupština, "Treća sednica prvog redovnog zasjedanja, 30. mart 2010," 105.

²⁶ Narodna skupština, "Treća sednica prvog redovnog zasjedanja, 30. mart 2010," 130.

history of humanity.”²⁷ “Nobody, nowhere in Europe,” Vučić claimed, had committed crimes of the same order as the “Croat ustaše” during the Second World War.²⁸

8.2.2 Engaging the confront narrative: Between seeking collective responsibility and seeking unity

Parties in favour of confrontation with the country’s war past could lay a strong claim to the EU accession prospect. Not only was co-operation with the ICTY an absolute accession condition, the EU’s confront narrative was also explicit about the need to establish accountability. The debate on the Srebrenica declaration in 2010 offers an insightful illustration of this. Čedomir Jovanović from the LDP stated: “when we talk about Srebrenica and about the resolution, first of all we think about our European future. Half a billion Europeans have said what they had to say about the events in Srebrenica.”²⁹ With this “half a billion Europeans” Jovanović was probably hinting at the entire EU population (in quite an overstretched manner) in order to refer to the EP resolution on Srebrenica of 2009. “How do we think to be in the EU,” he then asked, “if Serbia does not recognise 11 July [the day on which the genocide is commemorated in Bosnia and abroad]?”³⁰ Suzana Grubješić from G17+, aware of the central role played by the Srebrenica genocide in the international view of the conflict, called the “monstrosity of the Srebrenica massacre” a “symbol” of the suffering during the wars and “a measure of our humanity and our peaceful dream.”³¹

Parties in favour of confrontation with this past also employed notions of guilt, responsibility, and accountability.³² For example, Jovanović put Serbian responsibility for Srebrenica in the context of the supposed “new values” that Serbia as an EU candidate member had to adopt. “In March 2001 [probably referring to arrest of Milošević], we thought that individuals can take on responsibility in the name of the whole nation,” Jovanović admitted.³³ However, now, he continued, Serbia needed to recognise “what members of our nation have done.”³⁴

²⁷ As explained before, ustaša refers to the Croat nationalist, fascist movement that collaborated with the Nazis during the Second World War. Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 15. decembar 2004,” 14.

²⁸ Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 15. decembar 2004,” 14.

²⁹ Čedomir Jovanović in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 122.

³⁰ Čedomir Jovanović in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 122.

³¹ Suzana Grubješić in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 127.

³² For a very insightful article that uses qualitative and quantitative techniques to analyse the tropes used in the debate on the Srebrenica declaration, see Daniela Mehler, “Understanding Normative Gaps in Transitional Justice: The Serbian Discourse on the Srebrenica Declaration 2010,” *Journal of Ethnopolitics and Minority Issues in Europe* 11, no. 4 (2012): 127–156.

³³ Čedomir Jovanović in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 122.

³⁴ Čedomir Jovanović in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 123.

Although Jovanović did not use the term “collective responsibility,” this statement can be interpreted as such. The EU narrative had never gone that far; rather, as analysed in chapter 2, the EU’s narrative on the Yugoslav wars held that reconciliation and peace would indeed be fostered by justice, but limited this to criminal justice with a focus on individual guilt. Jovanović and the LDP thus went far beyond what the EU would logically require from Serbia, in the first place because they were mostly motivated by domestic concerns. Complaining about the failure of the Committee of Truth and Reconciliation, which he stated “has done nothing,” he argued that, thus far, Serbia had not extracted any “conclusions from the mistakes.”³⁵ To call for recognition of Serbian political responsibility for these crimes for the sake of the nation and region itself was the territory of only the most progressive parties.

Those in favour of the declaration but with a less outspoken progressive orientation, such as the DS, presented their support for the Srebrenica declaration in more pragmatic ways. Aware of nationalist attitudes towards the past that were dominant amongst their electorate, such parties had difficult waters to navigate. As touched upon in the case in case study in the previous chapter, they generally chose to depict the ICTY, and dealing with the war past in general, in pragmatic terms, as a hurdle to overcome on the way to the EU. In one of the opening statements on the Srebrenica declaration, Nada Kolundžija from the DS stated: “Opening this debate and, I believe, adoption of the declaration is the most responsible way we close one tragic episode of the recent past and open the door to a future in which there will be peace, tolerance and co-operation.”³⁶ Further, Kolundžija emphasised Serbia’s “international outlook” and “international position.”³⁷

Interestingly, here Kolundžija used the trope of individual guilt, also dominant in the EU’s narrative about Serbia’s need to confront the past through the ICTY: “Are we ready to say—guilt is not and cannot be collective? It can be and is only, exclusively, individual.”³⁸ She also emphasised that Serbian victims should receive recognition through additional declarations.³⁹ The result of combining these tropes was an unstable narrative. It illustrates the conclusions from the previous chapter, namely that progressive parties also presented co-operation with the ICTY and confronting the wars in general as an essentially patriotic choice: it helped Serbia to move forward by closing its past, rather than starting a painful process of looking inwards to discover structures of state responsibility. The main aim of this emphasis on individuality seems to have been defensive. Apart from lifting the accusation of collective responsibility from the Serbian

³⁵ Čedomir Jovanović in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 121.

³⁶ Nada Kolundžija in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 103.

³⁷ Nada Kolundžija in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 103.

³⁸ Nada Kolundžija in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 108.

³⁹ Nada Kolundžija in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 108.

state, it shielded the DS against the conservative accusations (of which some examples by SRS representatives are included in this chapter) that the declaration was pro-Western, but anti-Serbian.

This use of the EU accession prospect was often connected to more abstract references to European values. These were contrasted to the “illnesses” that had fallen upon Serbia in the 1990s, because of which the country could not move “ahead.”⁴⁰ Jovanović at one point complained that the declaration’s initiators failed to make these EU values explicit. If Serbia was a candidate for EU membership, he stated, the country would have to respect “some new values” that were “not sufficiently clearly” present in the draft resolution.⁴¹

Jovanović’s complaint was not unfounded. Proponents of the Srebrenica declaration moved seemingly effortlessly between abstract and concrete references, throwing in morality where they saw fit. For example, Suzana Grubješić from G17+ started her speech by saying that the declaration:

does not need to have any links nor with the EU, nor the transition, nor with politics at all. It [the declaration] needs to have links with whether we can answer the question of whether we are at all humans.⁴²

Further to this, Grubješić’s colleague from the DS, Nada Kolundžija, suggested to her fellow parliamentarians that in order “to build on the values of the European society, we need to know, first of all, what the elementary values of this society are. Human life is the elementary value of this system,” adding that this value should not be dependent on national identity or any other belonging.⁴³

The use of “European values” to confront the war past also provided a popular means by which to dismiss opponents. Grubješić asked the SNS at the end of her speech on the Srebrenica declaration whether it had the “courage to confirm in practice its self-proclaimed Europeanness.”⁴⁴ After all, the SNS identified itself as a pro-European party and combined this with a nationalist orientation and general opposition to confrontation with the past. Vljeko Senić, also from G17+, directly addressed Nikolić, stating: “you cannot, the first time from when you have crossed to the European path,⁴⁵ be a nationalist

⁴⁰ Vljeko Senić in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 135.

⁴¹ Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 122.

⁴² Suzana Grubješić in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 127.

⁴³ Nada Kolundžija in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 134.

⁴⁴ Suzana Grubješić in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 128.

⁴⁵ Here, Senić thus referred to Nikolić’s anti-EU orientation as a member of the SRS, in contrast to his sudden pro-EU turn as a leader of the SNS.

as well as a European.”⁴⁶ Claiming these to be incompatible positions, he reminded Nikolić that “it is not sufficient to change the name of the party and to talk differently.”⁴⁷

Reacting to these attacks, Nikolić tried to square the circle by formulating other European norms of political openness, as we have seen in the above section. Depending on the reader’s political and academic starting point, she or he may find one interpretation of EU values more plausible or accurate than another. Regardless of one’s preference, however, the point here is that both parties equally claimed to know what these EU values were. Both of these claims appealed to a recognised EU narrative on the past—respectively overcome and confront. It would be an exaggeration to claim that these parties deliberately picked and instrumentalised these narratives, but the compatibility of their domestic statements with actual existing EU positions on the issue tells us that both could claim the legitimacy—albeit to a different extent—of their EU-based arguments.

Regarding the socialist past, the pro-confrontation side had to try harder to make the EU accession prospect work for them. Like the anti-confrontation side, these parties claimed to focus on the future. During the debate on the lustration law in 2003, Ivan Andrić from the GSS (a party that later merged with the LDP) claimed that “without clear confrontation with the past, the future of this country will not exist.”⁴⁸ The metaphor of a path to the EU also entered the equation here. Gordana Čomić framed the adoption of the lustration law as one small stone in “a long road, [along] which we will go together” through societal and political consensus, towards EU integration.⁴⁹ Calling the draft law “one of our fundamental pre-election promises,” the high-ranking DS MP also confirmed the central and timely importance of the theme to the wider Serbian political arena.⁵⁰ Similar arguments about togetherness and unity in confronting the past were repeated by her colleagues, also in later debates.⁵¹

The argument presented above continued to gather momentum in the years that followed. When the rehabilitation law of 2011 was tabled, the EU had adopted significant resolutions that condemned the socialist regime, as discussed in chapters 1 and 2. This gave pro-confrontation parties a considerable edge. The SPO’s Mirko Čikiriz alluded to a Western European post-Second World War trajectory and stated that Serbia had never

⁴⁶ Vojko Vukobratović in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 135.

⁴⁷ Vojko Vukobratović in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 135.

⁴⁸ Ivan Andrić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja, 29 maja 2003,” 234.

⁴⁹ Gordana Čomić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja, 29 maja 2003,” 289.

⁵⁰ Gordana Čomić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja, 29 maja 2003,” 233.

⁵¹ Ljubiša Kesić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja, 29 maja 2003,” 254; Nada Kolundžija in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 103; Bogoljub Pejčić in Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 14. decembar 2004,” 3–4; Zoran Stojković in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 104. In general, as has been discussed in the previous chapters, it can be said that the 2005 law on soldiers’ pensions revolved around the supposed need of Serbia to shed past divisions and to unite. We have also seen that the law can be read as an attempt to re-evaluate history towards a more anti-socialist and nationalist reading.

seen an “international investigation of the [socialist] crimes.”⁵² Here, he leaned on the increasingly successful lobby that aimed to further equalise fascist and socialist crimes in Europe’s historical narrative. Considering that this comment came from an SPO parliamentarian, it should be, once again, remembered that “pro-confrontation” does not equate to Right or liberal, in the same way that “anti-confrontation” does not equate to Left or conservative. The rehabilitation law was presented, for example, as a step towards the EU because it recognised the četnik contribution to the anti-fascist fight. Conservative, nationalist-leaning politicians were all too aware of the appeal of this argument for Brussels. “We have to remember,” Đorđe Mamula from the DSS stressed after having honoured the četnik movement, that “May 9 is the Day of Europe, as well as the Day of Victory over Nazism.”⁵³

The EU’s confront narrative in the context of Serbia’s war past was thus of significant value to those parties in favour of addressing that past. Parties that supported EU membership but rejected confrontation—most notably the SNS—struggled to formulate a narrative that could combine both positions. The debate on the Srebrenica declaration offers several examples of this. However, the influence of the prospect of EU accession on narratives concerning the socialist past is a different story. Here, it was the anti-confrontation parties that benefitted from the EU’s overcome narrative. Tropes of unity and reconciliation were eagerly used, not least by the SPS before its coalition with the DS, which could thus smoothly connect its wish to leave the past behind with its support for a “new” future in the EU. However, the EU’s changing stance on the issue shifted the tables. The 2011 rehabilitation law in particular proved a good opportunity to use the EU’s recent condemnation of socialism. Concluding, the anti-confrontation and pro-confrontation sides could, albeit within limits, both benefit from the two available narratives coming from Brussels in order to construct their own stories of past and future. Of course, there was one party that was not at all affected by what happened in Brussels, namely, the Radical Party, for whom the West consistently repressed and victimised the Serbian people—a trope that will also prove relevant for the next two overarching narratives.

8.3 The EU as model: Between exceptionalism and European identity

Despite the shared legacy of several decades of socialism, politicians in Central and Eastern Europe, depending on their political orientation, like to emphasise the special status of their particular country, and Serbia is no exception to this. However, there are good reasons to argue that Serbia, in fact, is unique. Interestingly, both sides of the political

⁵² Mirko Čikiriz in Narodna skupština, “Treća sednica drugog redovnog zasjedanja, 22. novembar 2011,” 59.

⁵³ Đorđe Mamula in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 152.

spectrum in Serbia use this to their advantage. Whilst right-wing scholars and politicians point to the late start of transition in 2000 rather than the early 1990s in order to emphasise the persistent legacy of socialism, left-leaning intellectuals tend to emphasise the unique liberal character of Yugoslavia's socialist regime. Both agree that this special status requires a tailored approach when dealing with this past. Parliamentarians also refer to this position in order to support their preferred approach. This exceptionalism aside, pro-confrontation and anti-confrontation parties also referred to the EU in terms of a model via which to deal with the past. Sometime this concerned EU-wide references, whilst at other times, specific countries within the EU were singled out, either as positive examples or as warnings.

8.3.1 Serbian exceptionalism as a reason not to confront the past

Serbia's Socialist Party had of course, especially in the first years of transition, many reasons to argue that Serbia's alleged mild socialist experience excused Serbia from the need for any thorough dealing with the past. During the debate on the lustration law in 2003, the SPS emphasised the positive aspects of socialism in Serbia in comparison to other countries from the wider Eastern European region. Toma Bušetić admitted that these states had adopted similar lustration laws, but pointed towards the "harmful influence of foreign factors" in these countries as opposed to the supposedly independent regime in Yugoslavia.⁵⁴ Therefore, Serbia could and should do without lustration. Fellow party member Žarko Obradović concluded that Serbia should never be compared to the "countries and totalitarian regimes," such as Bulgaria, the Czech Republic, (East) Germany, and Poland.⁵⁵ The repeated use of the world totalitarian is interesting here: it strongly dismisses socialist rule in these states and anticipates the central role that this term, as we know, would come to hold in the CoE and EP condemnations of communist countries.

Specifying these regional differences in the debate on the 2003 lustration law, Obradović mainly stressed that Yugoslavia had enjoyed elections whilst other socialist countries had not.⁵⁶ His colleague Rajko Baralić reminded his fellow parliamentarians of the six million dossiers held by the East German Stasi as compared to the much lower number archived in Yugoslavia. Baralić told proponents of the lustration law that Yugoslavia's socialist rule "was not a totalitarian system as you wish to show."⁵⁷ Two other representatives even claimed that the law at stake and its rationale had been based on the

⁵⁴ Narodna skupština, "Osma sednica prvog redovnog zasjedanja četvrti dan rada, 30 maja 2003," 327–328.

⁵⁵ Žarko Obradović in Narodna skupština, "Osma sednica prvog redovnog zasjedanja, 29 maja 2003," 236.

⁵⁶ Žarko Obradović in Narodna skupština, "Osma sednica prvog redovnog zasjedanja, 29 maja 2003," 236.

⁵⁷ Rajko Baralić in Narodna skupština, "Osma sednica prvog redovnog zasjedanja, 29 maja 2003," 271.

denazification process in post-“fascist” Germany after 1945. To associate Serbia with this process was not only misguided, according to Dragan Slavka Pavlović, but also violated the “dignity and pride of the Serbian nation,” thus indicating “de-serbification.”⁵⁸ Another popular comparison incorporated failed examples of dealing with the socialist past. The Radical MP Milorad Mirčić, for example, pointed at the “experience of Eastern countries,” stressing that “the opening of the files caused big problems in Eastern Germany.” He even claimed that this was planned by the CIA.⁵⁹ These arguments thus managed to simultaneously emphasise Serbia’s allegedly unique experience, as well as warn of the anti-Serbian biased West and the law’s supposed negative effects on Serbian national interests.

In later years, EU countries and “Europe” started to feature in a more positive light, as an inspiration for Serbia. This follows the timeline of the gradual pro-European turn of Serbia’s Socialist Party. When discussing the rehabilitation law in 2006, for example, Ivica Dačić from the SPS called out the law’s proponents for “doing something that nowhere in Europe is a problem”—namely, re-narrating the history of Serbia’s anti-fascist struggle.⁶⁰ Two years before, his fellow party member Zoran Anđelković had called Serbia “the only country in Europe” to implement such a “violation of history” by wishing to equalise četnik and partisan fighters in the 2005 pensions law.⁶¹

Although these references to Europe do show that the SPS had toned down its anti-European discourse, they do not necessarily refer to the European Union. Indeed, and indicating the need for even more care, Europe was not central to the broader arguments: neighbouring states and other countries from the region generally featured more frequently in their arguments than EU states. For example, during the 2006 debate on rehabilitation and the 2010 debate on the Srebrenica declaration, it was mostly Croatia to which Serbia was compared, both historically and in the present day. Not only were the crimes committed by Croats apparently much worse;⁶² they also did not in any way recognise Serbian victims.⁶³ Hence, so the narrative goes, there was no need for Serbia to acknowledge any guilt or responsibility.

⁵⁸ Dragan Slavka Pavlović in Narodna skupština, “Osma sednica prvog redovnog zasjedanja četvrti dan rada, 30 maja 2003,” 356; Dragan Čolić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja četvrti dan rada, 30 maja 2003,” 364.

⁵⁹ Milorad Mirčić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja, 29 maja 2003,” 269–270.

⁶⁰ Ivica Dačić in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 113.

⁶¹ Zoran Anđelković in Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 15. decembar 2004,” 16.

⁶² Velimir Ilić in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 114; Petar Jojić in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 185; Aleksandar Martinović in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 151; Tomislav Nikolić in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 132; Jovan Palalić in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 106.

⁶³ Aleksandar Martinović in Narodna skupština, “Treća sednica prvog redovnog zasjedanja, 30. mart 2010,” 157.

8.3.2 *Serbia as just another country in need of confrontation with the past*

Even some pro-confrontation politicians acknowledged the uniqueness of the Yugoslav socialist experience. Ivan Andrić called the 2003 lustration law (which he put forward) a “model of soft lustration,” adding that “human rights have not been violated to that extent as to which they have been violated in some other communist countries.”⁶⁴ This comparison with other countries from the region appeared several times in his speeches, including in his opening statement to the debate on the lustration law.⁶⁵ It is perhaps for this reason that the pro-confrontation side was careful to refer to other countries from the EU or beyond as models for Serbia. Other references to specific European examples were rare, with the exception of Slovenia. “We also want to solve [the issue of rehabilitation] and to similarly move forward [like Slovenia],” Zoran Stojković from the DSS pleaded in the debate on the 2006 rehabilitation law.⁶⁶ Considering the background of Slovenia as the first republic to secede from Yugoslavia in 1991, it is easy to imagine that Stojković’s political opponents did not react well to this comparison.

Yet despite the foregoing, sometimes parties did prefer to emphasise Serbia’s shared status as one of many post-socialist states. In the 2011 debate on rehabilitation law, the SPO’s Mirko Čikiriz went furthest in this by repeatedly categorising Yugoslavia as one of the “totalitarian communist regimes” that “without exception” committed serious human rights violations.⁶⁷ Işpanović Ištvan from G17+ similarly labelled Serbia as one of many post-socialist countries in which the Second World War could not be discussed during the decades of the authoritarian regime. Therefore, Serbia had now, as far as still possible, to urgently “correct historical injustices.”⁶⁸ Stressing both the similarities of a wider European experience of the Second World War and the need for Serbia to catch up with other European countries, he stated that “in the majority of countries, all questions from the period of the Second World War have generally been cleared.”⁶⁹ Đorđe Mamula from the DSS emphasised how countries in other Central European and Balkan countries had already adopted similar rehabilitation laws in the 1990s.⁷⁰

In the debate on the 2005 law on soldiers’ pensions, which aimed to equalise četniks and partisans, Spain served as an example of successful reconciliation and dealing with the past. In his opening statement, the debate’s initiator, Bogoljub Pejčić, in a creative

⁶⁴ Ivan Andrić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja, 29 maja 2003,” 234.

⁶⁵ Ivan Andrić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja, 29 maja 2003,” 232.

⁶⁶ Zoran Stojković in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 117.

⁶⁷ Mirko Čikiriz in Narodna skupština, “Treća sednica drugog redovnog zasjedanja, 22. novembar 2011,” 59.

⁶⁸ Işpanović Ištvan in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 136.

⁶⁹ Işpanović Ištvan in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 136.

⁷⁰ Đorđe Mamula in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 152.

interpretation of history,⁷¹ described how “in the Spanish civil war, anarchists, left socialists, [and] communists fought amongst each other, but then all fought together against Franco’s fascist Falangism.”⁷² They were buried together and, on their communal grave, it was written that “they all loved Spain, but each in their own way.”⁷³ Unconcerned by this questionable historical claim, Pejčić stated that for the sake of “truth, reconciliation, and the future,” Serbia should honour the četnik fighters as much as it praises the partisans for their shared “fight against the occupiers and fascists,” in line with the Spanish example.⁷⁴ Admittedly, this Spanish example featured only once in this 2004 debate and was not found in any of the other debates analysed.

Occasionally, the EU’s process of dealing with the war past was presented as an example for post-socialist Serbia. In 2011, during the debate on rehabilitation, Mirko Čikiriz from the SPO reminded parliament that “[m]any perpetrators of these crimes [during the ‘totalitarian communist regimes’] were not taken to court, as has been the case with members of National Socialism and Nazism.”⁷⁵ This parallel between communist crimes and Nazism is striking, not in the least because it reflects the kind of language used by other right-wing Central and Eastern European politicians (as discussed in chapter 2) in order to convince the EU of the need to grant communist and Nazi crimes a similar status. It needs to be noted, however, that this kind of statement was a rare occurrence.

Indeed, the SPO was the party most explicit in its rejection of socialist crimes and its call upon the EU as a model for dealing with the past. In 2008, the party wrote:

A united Europe is the only defence Europe has against a repetition of her sick history, because in the past, every European nation waged war against any European nation, and both World Wars started and were decided in Europe. The bloody drama of the former Yugoslavia reminded Europe of the extent of the horror when ties are loosened through old hatreds, evil and nationalist exclusions and when people and nations turn against those closest to them.⁷⁶

Here, firstly, the SPO appeals to the EU narrative of Europe’s wars—especially the Second World War—as its historical “other”: as a central and absolute evil in its history, away from which it decidedly moved post-1945. Secondly, the quote also compares the horror of Europe’s war past to the breakup of Yugoslavia. This mirrors my conclusion in chapter 2

⁷¹ For a critical, historical reflection on the way in which political parties used the Spanish example, please see footnote 322 in chapter 5 on Bulgaria.

⁷² Bogoljub Pejčić in Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 14. decembar 2004,” 3–4.

⁷³ Bogoljub Pejčić in Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 14. decembar 2004,” 3–4.

⁷⁴ Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 14. decembar 2004,” 3–4.

⁷⁵ Mirko Čikiriz in Narodna skupština, “Treća sednica drugog redovnog zasjedanja, 22. novembar 2011,” 59.

⁷⁶ Srpski pokret obnove, “Evropska desnica Srbije,” 5.

that the EU recognised itself in the violence of the 1990s and projected its own post-war experience upon the region. Thirdly, the SPO cleverly connected this vision to the trope of Serbian EU membership: the shared tragedy of the past was supposed to translate into a bright, shared future. Earlier in its programme, the SPO had claimed that “only the European Union is a guarantee that not one Serbian citizen, neither Serb nor non-Serb, can have the status of a stranger in no matter which state of the European Union.”⁷⁷ In typical SPO fashion, in which far-fetched conclusions were the norm, the party praised the lack of barriers within the EU as a supposed positive feature for post-war unity in Serbia after accession.⁷⁸

In both the anti- and pro-confrontation narratives that used the EU as an example of dealing with the socialist past, the Second World War played a central role. Whilst the former stipulated that Europe’s appraisal for the resistance against fascism should include the Yugoslav partisans, the latter read, to the contrary, that socialist and fascist crimes should face similar condemnation in Belgrade as in Brussels. Whilst the anti-confrontation side could additionally appeal to Yugoslav exceptionalism, pro-confrontation parties rejected this and positioned Serbia’s history within that of the wider Eastern European region, appealing to the strong anti-socialist lobby that had been led by their colleagues in Warsaw, Prague, and Budapest. Even more than the previous narratives, which positioned the EU as a moral actor, this section has emphasised the importance of the četnik memory in Serbian parliamentary narratives. Originating from the early twentieth century, clearly manifesting itself during the Second World War and reinventing itself during the 1990s, the četnik movement was both a real historical (and contemporary) phenomenon and a trope in national memory politics, reaching far and wide—something to which the next and final part of this chapter will testify.

8.4 “Mixing” the pasts

It is now time to dwell on some of the main motifs running through this chapter that I have left mostly implicit. The above has identified four narratives, divided in two overarching types, used by Serbian political parties to tie their preferred strategy towards the past to the prospect of EU accession. In the following, I will come back to one of my first comments in chapter 6, namely that, in Serbian political dealing with the past, the past was most often plural. Whilst my original research question foresaw the identification of two pasts, this estimation has been too modest.

⁷⁷ Srpski pokret obnove, “Evropska desnica Srbije,” 6–7.

⁷⁸ Srpski pokret obnove, “Evropska desnica Srbije,” 7.

Largely disregarding the historical period at stake, parliamentarians frequently brought other “pasts” to the table. Jumps through time were a regular occurrence and—judging from the lack of response to speakers who afforded themselves such chronological and historical liberties—considered generally normal and acceptable. Labels from the past and their moral underpinnings were transferred through time. Dictatorship, communism, genocide, enemies, and victimhood were the most frequent categories used in these anachronistic narratives.

Whilst it has been an essential criterion to my selection previously, many of the narratives that I will now cite and discuss do not directly engage with the EU future. However, I believe that the phenomenon of mixing and merging pasts goes to the core of my research problem, as it problematises the distinction made between “dealing with the war past of the 1990s” and “dealing with the socialist past.” This is also exactly where EU accession enters the equation. The EU’s direct engagement with the war past of the 1990s, mainly through its emphasis on co-operation with the ICTY, “blurred” into dealing with the socialist past or was actively transferred to this domain.

8.4.1 *Perpetual victimhood*

No one was more equipped to engage the narrative of perpetual Serbian victimhood than the Radical Party.⁷⁹ In 2003, for example, the SRS MP Ljubomir Kraković asked why the lustration law dealt with the period from 1976 and not 1945. It was in this year, directly after the Second World War, when, according to Kraković, “the biggest crime was committed against Serbs.”⁸⁰ This crime was the “Politburo’s”⁸¹ decision to forbid “the return of Serbs to Kosovo and Metohija.”⁸² In one breath, he connected this alleged crime with the supposed repression during the democratic revolution in 2000.⁸³ In the same debate, his colleague Milorad Mirčić claimed that “neocommunism” had come to Serbia on October 5, thus comparing the 2000 revolution to the establishment of socialism.⁸⁴ The SRS indeed tirelessly referred to this event in terms of a dictatorial turn. In other debates,

⁷⁹ Abstract references to the wider past were also fairly common, for example when SRS representative Dragan Čolić framed the opponents to the lustration law, including himself, as all those “conscious of their nation, history, tradition, religion and culture, all those for whom the fatherland Serbia is above everything.” He also suggested that the call for such a law came “from abroad.” Dragan Čolić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja četvrti dan rada, 30 maja 2003,” 364. The lustration law was thus presented as a violation of national independence, as well as of Serbian identity and its history in general.

⁸⁰ Ljubomir Kraković in Narodna skupština, “Osma sednica prvog redovnog zasjedanja četvrti dan rada, 30 maja 2003,” 342.

⁸¹ The use of this term indicates that Kraković tries to make a comparison between the authoritarian socialist regime and the current Serbian state.

⁸² Ljubomir Kraković in Narodna skupština, “Osma sednica prvog redovnog zasjedanja četvrti dan rada, 30 maja 2003,” 342.

⁸³ Ljubomir Kraković in Narodna skupština, “Osma sednica prvog redovnog zasjedanja četvrti dan rada, 30 maja 2003,” 342.

⁸⁴ Milorad Mirčić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja, 29 maja 2003,” 269.

they also highlighted the suffering of those arrested, prosecuted, and dismissed from their jobs in 2000.⁸⁵ Fellow Radical Petar Jojić stated that the initiators of the 2003 lustration law had “the intention to create continuity with the Bolshevik and communist method for surveillance.”⁸⁶

The examples given above were in line with the political profile of the SRS and highly nationalist. The SPS was also attracted to these parallels between the recent and more distant past. For example, SPS party leader Ivica Dačić claimed that in the alleged repression that followed the supposedly undemocratic 2000 revolution, more people were arrested than were imprisoned in the infamous socialist camp Goli Otok.⁸⁷

Moreover, both the SRS and the SPS connected these historical comparisons with expressions of distrust of the international community, sometimes even citing the EU specifically. During the debate on the 2005 law on soldiers’ pensions, Dačić complained that street names of Russian Generals and Marshals had been changed to Western counterparts, stating that “Americans and Englishmen did not liberate Belgrade.”⁸⁸ Nikolić then loudly interjected: “They have bombarded it [Belgrade]!”⁸⁹ Agreeing and repeating Nikolić’s statement, Dačić stressed that the Americans and English bombarded Belgrade more than once, “unfortunately in 1999, like in the forties.”⁹⁰

The NATO bombardments mentioned above were also a popular trope for historical comparison. The failure to bring the perpetrators of these bombardments to justice was seen to underscore the irrelevance and hypocrisy of the lustration law and rehabilitation laws. Zoran Krasić simultaneously incriminated the ICTY and NATO by questioning the timing of the bombing: “first they started bombing us” and only afterwards (in May 1999) did they indict Milošević, he iterated.⁹¹

Occasionally MPs from the opposing side of the political spectrum would also transpose events in recent history in order to stake a claim to broader victimhood. During the debate on the Srebrenica declaration, Esad Džudžević seemingly effortlessly diverted attention to the massacres during the Balkan wars in 1912, and the “genocide” perpetrated against the Bosniaks during the Second World War. Srebrenica was thus placed in a long

⁸⁵ Zoran Krasić in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 106.

⁸⁶ Petar Jojić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja četvrti dan rada, 30 maja 2003,” 327.

⁸⁷ Ivica Dačić in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 113.

⁸⁸ Ivica Dačić in Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 15. decembar 2004,” 24.

⁸⁹ Tomislav Nikolić in Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 15. decembar 2004,” 24.

⁹⁰ Ivica Dačić in Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 15. decembar 2004,” 24. Whilst a clear link to the law in question seems lacking, these historical claims are correct. They refer to respectively NATO’s bombing of Belgrade in 1999, in which American and British aircraft played a significant role, and the Allied bombardments on Yugoslav cities in Nazi occupied territory, including Belgrade, besides the heavy air raids by the Nazis. Especially the so-called Easter Bombing of 1944 caused many civilian casualties. The 600 American and British planes lacked any precision in their targets, destroying, amongst other civic buildings, a maternity hospital in the operation.

⁹¹ Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 110.

history of violence against Bosniaks.⁹² Aleksandar Martinović from the SRS directly jumped on this statement by defending the Serbian Orthodox Church against these supposed accusations. Countering Džudžević's references to Muslim victimhood, he sarcastically described an example from the Second World War in which Bosniaks had apparently "sent a roasted child on a dish [to a Četnik commander] as a present to the Serbian people."⁹³ Nikolić, who by then had already established the SNS, also rejected Džudžević statements.⁹⁴

Whilst it exceeds the scope of this research to engage more deeply at the level of semantics, an interesting area of further study could be the linguistic overlap between parliamentary language regarding both pasts. The SPS and the SRS, for example, spoke of the "war crimes" of the Second World War in similar terms as more liberal parties spoke of "war crimes" in the 1990s.⁹⁵ Such linguistic similarities might suggest an even wider converging of history into a master narrative of perpetual victimhood.

8.4.2 *Connecting past and present through the ICTY*

Nothing presented as strong a trope to connect pasts as the ICTY. The court was used as a baseline from which to highlight other perceived instances of anti-patriotic, unjust, anti-Serbian, and internationally enforced politics. In the debate on the 2003 lustration law, for example, Srboľjub Živanović from the Radical Party called out the banality of the law's claim on justice when police "arrests patriots and send them to The Hague."⁹⁶ Vjerica Radeta, from the same party and during the same debate, said that she was not afraid of The Hague, nor of opening archives, nor of lustration, thus suggesting that these three were somehow part of the same political persecution.⁹⁷ In 2006 Paja Momčilov, also from the SRS, drew a parallel between the rehabilitation law and the ICTY, calling the latter a "political court, which serves the demonisation of the Serbian people."⁹⁸ The rehabilitation law was also compared to the "political hunting" of Serbia's heroes by Carla del Ponte—then chief prosecutor of the ICTY.⁹⁹

Especially during the first years of transition, the Socialist Party was eager to refer to the pending trial of Milošević in The Hague. Žarko Obradović argued that the lustration law's proponents, claiming human rights violations during socialist times, themselves

⁹² Esad Džudžević in Narodna skupština, "Treća sednica prvog redovnog zasjedanja, 30. mart 2010," 109–111.

⁹³ Aleksandar Martinović in Narodna skupština, "Treća sednica prvog redovnog zasjedanja, 30. mart 2010," 112.

⁹⁴ Tomislav Nikolić in Narodna skupština, "Treća sednica prvog redovnog zasjedanja, 30. mart 2010," 113.

⁹⁵ E.g., Žarko Obradović in Narodna skupština, "Druga sednica prvog redovnog zasjedanja, 4 april 2006," 141.

⁹⁶ Srboľjub Živanović in Narodna skupština, "Osma sednica prvog redovnog zasjedanja četvrti dan rada, 30 maja 2003," 317.

⁹⁷ Vjerica Radaeta in Narodna skupština, "Osma sednica prvog redovnog zasjedanja četvrti dan rada, 30 maja 2003," 377.

⁹⁸ Paja Momčilov in Narodna skupština, "Druga sednica prvog redovnog zasjedanja, 4 april 2006," 182.

⁹⁹ Zoran Krasić in Narodna skupština, "Druga sednica prvog redovnog zasjedanja, 4 april 2006," 110.

violated human rights during “the time of [Milošević’s] kidnapping and arrest.”¹⁰⁰ In 2006, when the SPS had already embarked upon a pro-European course, he claimed that Milošević was “essentially killed” in The Hague.¹⁰¹ The surrender and extradition to the ICTY of SRS leader Vojislav Šešelj in February 2003 also became an important trope that functioned in tandem with references to Milošević, although the former was understandably more popular amongst the Radicals. Party members of his SRS devoted long speeches to Šešelj, even when the topic of the debate was not related to the ICTY whatsoever. Ridiculing the supposed arbitrary character of the lustration law, SRS MP Veroljub Arsić suggested that lustration would lead to the same fabricated indictments as the one “against Vojislav Šešelj and forwarded to Carla del Ponte,” thus blaming the political elite for Šešelj’s trial in The Hague as well as warning for the alleged consequences of unbridled lustration.¹⁰²

Following the socialists’ turn towards EU accession, their anti-ICTY stance obviously diminished. Since over the years the EU had only increased its pressure regarding co-operation with the Tribunal, to do otherwise would have made the socialists’ pro-European course unbelievable. After 2008, it was thus mostly the Radicals who raised the topic of the wars of the 1990s and The Hague. The chair of parliament did not intervene when the ICTY was brought up in debates, nor have I encountered cases in which parliamentarians claimed the irrelevance of arguments such as these. Whilst the opponents of the SRS often decided not to directly respond to the party’s references to the Hague Tribunal, the sheer number of references alone left a significant impact on the general tone of the debates.

More significant than frequency, however, was the transfer of meanings associated with the ICTY to the realm of dealing with the war or socialist pasts. In order to explain this point, I need to connect my findings in this chapter to those of the previous chapter. As can be seen from the above quoted examples, MPs from both the radical and socialist parties added the ICTY to the discussion in order to strengthen other accusations of betrayal, injustice, and anti-Serb bias. For conservatives, after all, EU-enforced co-operation with the ICTY embodied these notions. Yet there is more to this than meets the eye. Convicted criminals such as Mladić and Šešelj had explicitly presented themselves in the 1990s as *četniks* and their supporters continue to honour them as such today.¹⁰³ In the debate on the lustration law, SRS MP Gordana Pop-Lazić described how the “Serbian

¹⁰⁰ Žarko Obradović in Narodna skupština, “Osma sednica prvog redovnog zasjedanja, 29 maja 2003,” 238. He repeated a similar statement later in the debate. Narodna skupština, “Osma sednica prvog redovnog zasjedanja četvrti dan rada, 30 maja 2003,” 329.

¹⁰¹ Žarko Obradović in Narodna skupština, “Druga sednica prvog redovnog zasjedanja, 4 april 2006,” 142.

¹⁰² Veroljub Arsić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja, 29 maja 2003,” 287.

¹⁰³ Šešelj even established the party Serbian Četnik Movement, although it was banned from official registration due to this direct reference to *četniks*.

četnik movement” was led by “Dr Vojislav Šešelj.”¹⁰⁴ The ICTY could thus be presented as more than a court prosecuting war criminals; rather, it allegedly chased after and insulted the četnik nationalist movement as a whole.

Thus, the position of the ICTY is not only essential to my research question because it was part of direct EU conditionality, but also because of its power to shape debates on “other” pasts. One of Nikolić’s statements in the 2004 debate on the soldiers’ pension law illustrates this point even more clearly. He warned his colleagues that the law’s initiator, the SPO leader Vuk Drašković, did not deserve to draft such a law that would equalise partisans and četniks. The četnik heritage was the “most holy and most beautiful” that Serbs have, Nikolić stated, but Vuk Drašković wanted to “betray all heroes and . . . surrender them to The Hague.”¹⁰⁵ In this argument, Vuk Drašković became an enemy to Serbian četniks because of his blind co-operation with the ICTY, rather than an ally, and as such did not deserve to rehabilitate their legacy. Nikolić’s fellow party member Vučić described Drašković’s foreign policy regarding the ICTY as one of “I am sorry, I am sorry, I am sorry.”¹⁰⁶

In this way Vučić ridiculed the SPO leader’s desire to satisfy the West, whilst being extremely unsuccessful in arresting the promised war criminals. This comment was part of a speech on Serbian victimhood at the hand of Croats during the wars of the 1990s. Vučić did not seem to be bothered by the lack of any link between his narrative and the topic of the law on soldiers’ pensions.¹⁰⁷ Again, Dačić of the SPS was keen to agree with his SRS colleagues, despite their different party backgrounds, and stated that the SPO leader had “showed that he is not the best initiator” for the law, as the “wants to send today’s fighters for freedom to The Hague.”¹⁰⁸

8.5 Concluding remarks

It is now time to explore how the findings of this chapter and the preceding two chapters interrelate. Rather than summarising them one by one, I will begin from one of my latter insights that directly reflects upon my research question, namely, that to most Serbian political parties, dealing with the past and the EU future did not keep to neatly defined historical periods. I now have a sufficient base from which to argue that, although from the perspective of EU engagement (as well as academia), Serbia’s war past and the socialist past were fundamentally different issues, this does not translate directly to the way in

¹⁰⁴ Gordana Pop-Lazić in Narodna skupština, “Osma sednica prvog redovnog zasjedanja četvrti dan rada, 30 maja 2003,” 345.

¹⁰⁵ Tomislav Nikolić in Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 14. decembar 2004,” 6.

¹⁰⁶ Aleksandar Vučić in Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 14. decembar 2004,” 6.

¹⁰⁷ Aleksandar Vučić in Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 15. decembar 2004,” 12, 60.

¹⁰⁸ Ivica Dačić in Narodna skupština, “Sedma sednica drugog redovnog zasjedanja, 15. decembar 2004,” 24.

which Serbian parties framed EU accession in relation to these pasts. Whilst ICTY co-operation was the only area in which the EU directly interfered with Serbia's domestic process of dealing with the past, it was not the only area in which Serbian parties connected to the EU. Also, in relation to the socialist past, Serbian parties ascribed all sorts of values, norms, and expectations to the EU's supposed engagement with this topic. In addition, the Second World War played an essential role as a "third" past with which parties wished to deal.

The interconnection of these pasts, I maintain, affected the use of the EU accession prospect in an even more profound way. It is not an exaggeration to argue that the Hague Tribunal impacted on every debate in the Serbian parliament from the early 2000s right up to the present day, thus extending beyond the Tribunal's final demise. It took some personal experience to make me realise the scale of this. When, in late 2017, I was reading through the debates in Belgrade's parliamentary library, located in the building of the national parliament, references to the Hague Tribunal regularly caught my attention in the background noise coming from a live broadcast from the annual budgetary debate (the television was always on to provide distraction for the two librarians). Yet this was well after the court's closing date. The ICTY had come to represent general notions of autonomy and loss of independence, national pride and insult, historical injustice and "righting the wrongs of the past." I do not wish to extend my conclusions here beyond the party political sphere, but anyone with contacts in Serbia or familiar with Serbian media has most likely experienced first-hand the extent to which the ICTY has entered the collective memory.

These interlinkages of the past did not only affect the debates on lustration, rehabilitation, and the Srebrenica declaration, but also the opportunities for domestic political profiling. The trope of the ICTY as evidence for the continuous victimisation of the Serbian people, especially its heroes, and the revision of Serbia's *četnik* past had one thing in common: they (re-)narrated a vision of Serbian state- and nationhood. The result was a new balance between Serbia's nationalist past and potential European future in the political identity narrative. Right-wing parties such as the DSS, the NS, the SNS, and even the DS, "juggled" their conservative stances with their official support for EU accession—and thus ICTY co-operation. The SPO was especially creative in reconciling its nationalist, monarchist take on the past with pro-European claims, as the 2005 law on soldiers' pensions and both rehabilitation laws have shown us.

Serbia's official narrative of the past has fundamentally changed in the process. The SPO and its partners have incorporated the *četnik* past into the narrative of the anti-fascist struggle—previously the exclusive territory of the partisans. Up until 2000, the SPS had been the only party able to capitalise on being the successors of the anti-fascist liberators. As other research suggests, this revision of history has been very successful. Scholar Ana

Antić recently noted that textbooks have started to analyse the četnik movement in more positive terms.¹⁰⁹ The formal acceptance of Serbia's četnik history as anti-fascist thus meant that a nationalist and a pro-EU stance became mutually compatible. The stakes were high, as the parties most in favour of this historical revision were amongst the most outspoken in their commitment to EU accession. Winning the anti-fascist label for the četnik movement made the crucial difference, since anti-fascism has always been a strong, if not the strongest, indicator of political "Europeanness."¹¹⁰

The establishment of the SNS in 2008 is significant and illustrative of this transformation. The party combined an explicit commitment to nationalist and četnik heritage with a pro-EU accession stance. Just as the DSS under Koštunica had done in its heyday, the SNS could criticise the ICTY as a foreign, anti-Serbian institution as well as dismiss dealing with the legacy of the 1990s more generally, without discontinuing formal support for the court and EU accession. The SNS rejected the 2010 Srebrenica declaration, but preached EU accession. In this debate, pro-reform parliamentarians accused the SNS of failing to live up to its European commitment. According to their argument, nationalism and a pro-EU accession stance were incompatible.

However, I argue the exact opposite. During the debates on both rehabilitation laws, the 2005 law on soldiers' pensions, and the 2003 lustration law, parties in favour of these laws had been eager to invoke the EU argument. Under the banner of confronting the socialist past, they had, with varying levels of intention, initiated the rehabilitation of Serbia's četnik past. This was a nationalist project *pur sang*, and they were the ones that had (initially) most to gain from "Europeanising" their vision on the past, thus allowing a nationalist take on the past and the European future to flourish. However, it was the SNS that eventually benefitted the most. As SRS parliamentarians, Nikolić and Vučić had become familiar with this rationale by simply listening to the arguments of the SPO and other parties during the debates on the lustration and rehabilitation laws. Gradually, still from the safe position of the opposition, they must have realised the potential of their opponents' claims: these arguments proved to these two men that one could be both a nationalist and pro-EU accession—simultaneously. When Nikolić and Vučić decided to

¹⁰⁹ Antić, "Evolucija i uloga," 283. These political developments also resonated with the notion of Serbian victimhood in broader society. A volume published by the Museum of Genocide Victims in Serbia, for example, mentioned that Croatian ustaša crimes, including its "crime of genocide," was never condemned by the Nuremberg Tribunal, nor by any other court. Muzej žrtava genocida and Jovan Mirković, "Godišnjak Muzeja žrtava genocida. Tematski broj. Prolozi istraživanju zločina genocida i ratnih zločina. Zbornik radova," Beograd: Muzej žrtava genocida, 2009, 77, <http://www.muzejgenocida.rs/images/izdanja/Zbornik%202009.pdf>.

¹¹⁰ Savez antifašista Srbije, interview. As a further illustration, the extent to which četniks did or did not receive support from the Allied forces during the Second World War was highly debated in the Serbian parliament. MPs referred to specific documents, books, and archives that showed that either only the partisans enjoyed Allied endorsement, or that četniks were unfairly treated in history literature. This shows that the reputation of the četnik forces in a wider European context was not just an afterthought in the Serbian parliamentary debate.

leave the SRS and start their own party, they made this two-sided political orientation the trademark of their SNS.

Although here we tread outside the defined timespan of this research, this argument gains extra relevance in the light of the current political situation in Serbia. The SNS and its leader Vučić today basically hold a monopoly on most state institutions and, as some would argue, on institutions outside the state as well. This is because the party succeeds in (acrobatically) keeping the right-wing population content, maintaining peace, whilst still communicating a pro-European stance. However, whilst EU accession negotiations are today in good shape, I would not be the first to call Vučić's pro-democratic and pro-European stance a stage performance.¹¹¹

The effects of this opportunism, "mainstreaming" of nationalism, and increasing authoritarianism of the current regime¹¹² extend to dealing with the past. Yes, after 2008, all political parties except for the SRS endorsed ICTY co-operation. Yes, Mladić and others were eventually arrested so that Serbia could "turn the page." Yes, a Srebrenica declaration was even adopted to acknowledge responsibility for the massacre (albeit not referred to as genocide). Giving the EU sufficient breadcrumbs to keep it satisfied, political parties, however, had little incentive both domestically and internationally to fully address these questions of collective and political responsibility. Lustration remains unimplemented, archives remain closed, and one of the most prominent war criminals of the 1990s, Vojislav Šešelj, leads his Serbian Radical Party again from parliament. The EU's boxes have been ticked, but the violent pasts have hardly been confronted

¹¹¹ The 2017 Gay Pride in Belgrade—which I decided to join, for I wanted to understand the controversy—perhaps provides the best anecdotal illustration of this. Whilst several EU representatives praised the appointment of the first female and openly LGBT Prime Minister of Serbia, Ana Brnabić, and the organisation of a pride march after years of bans and violence, domestic organisations voiced their suspicion right away. As unlikely as it sounds, Brnabić declared that she had never had problems as a lesbian woman. Furthermore, no violence occurred during the Pride, and the almost complete absence of counter-protests felt strange. Many have suggested that President Vučić kept "his" hooligans at home to make the most out of the Gay Pride as his pro-European PR event.

¹¹² At the time of writing, large-scale protests were held in Belgrade every Saturday in opposition to the increasingly repressive and authoritarian rule of current President Vučić.

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CHAPTER

9 Comparing Transitions: A Concluding Chapter

In this final chapter, I jointly assess the cases of Bulgaria and Serbia, arriving at my conclusions via a comparison of the two countries. Due to the inherently intricate nature of dealing with the past, coupled with the complex influence the prospect of EU accession brings into play, I have studied both cases in depth. This comparative chapter will not simply juxtapose the two countries according to some pre-defined, clear criteria, but rather provides a more overarching assessment of how the EU accession prospect functioned in both countries, always paying attention to their similarities as well as their differences.

The inherent bias in my research question deserves some attention here in order to place my findings in context. I am exclusively interested in the way in which EU accession influenced the process of dealing with the past. Since this is a qualitative, rather than a quantitative perspective, it allows me to describe processes even if they were perhaps neither the most decisive nor the most fascinating at a given time. Indeed, in some of the debates studied, the political parties concerned devoted more attention to the United States than the EU—especially in the case of Serbia, NATO was often more present than the EU. However, I indeed found sufficient evidence to speak of the EU accession prospect as a significant factor.

What does this “influence of the EU accession prospect” actually mean? Early in my research process, I was forced to rethink the very meaning of this phrase in the research question. It reflects a Eurocentric approach that in effect “locks” Bulgaria and Serbia into the receiving end of a process that is just as likely to be a two-way street. However, I quickly realised that Bulgarian and Serbian political parties also actively instrumentalised EU accession as a process. First, I tried to tackle this dynamic by distinguishing between direct and indirect impact. Whilst this approach opened up the possibility to include more complex domestic reactions to EU policy, it still did not allow sufficient space to study what happened in the countries themselves—the action-reaction scheme just did not fit reality. As illustrated in chapter 1, there was sometimes surprisingly little *action* from the EU. What is more, the Serbian and Bulgarian political parties in question went far beyond *reaction*. They reacted, yes, but they also sometimes remained silent, ascribed expectations to the EU accession prospect, or actively instrumentalised EU wishes and demands for some more mundane purpose.

The different channels of influence through which the EU accession prospect manifested itself have been discussed in separate chapters on three levels, namely, party orientations, parliamentary decision-making, and parliamentary narratives. These three levels also guide this comparative chapter, highlighting individual conclusions from both cases as well as analysing the Bulgarian and Serbian cases in relation to each other. More concretely, this chapter will be structured along ten main findings to my research question and sub-questions that are listed here below. They apply to both the Bulgarian and Serbian

case, unless otherwise specified, and possibly hold more generic value as well, as it is likely that other countries on the path towards EU accession display similar characteristics. To allow for more nuance, in the more elaborate analysis of each finding, peculiarities and differences between the cases are discussed. Before discussing them in full, I will first devote some attention to a comparative assessment of the starting points from which both countries embarked on their transition.

Main findings of this dissertation:

Level: *Political party orientations*

1. Pro-confrontation and anti-confrontation political parties, but mainly the former, aligned their stance on the past with their pro-European politics.
2. For monarchist and former socialist political parties, the EU accession prospect was a major reason to adjust their stance towards the past.

Level: *Parliamentary decision-making*

3. When EU involvement in dealing with the past was high and/or explicit, parliament implemented the envisioned measure and explicitly referred to the EU demand.
4. The more political parties could plausibly claim that certain measures of dealing with the past were demands from the EU, the more they could dismiss them as foreign and imposed.
5. When the EU accession prospect influenced the adoption of laws and declarations, this did not automatically equate with profound and sustainable change.
6. When EU involvement in dealing with the past was low and/or implicit, at times, parties still engaged the EU accession prospect to justify their preferred way of dealing with the past.

Level: *Parliamentary narratives*

7. Pro-confrontation parties contrasted the EU future to the violent past, using the “return to Europe” trope and, when possible, engaged the EU’s “confront” narrative.
8. Anti-confrontation parties either portrayed the past in positive terms or engaged the EU’s “overcome” narrative in order to advocate reconciliation and moving forward in the light of a future in the EU.
9. The EU’s ICTY conditionality transformed the space for debate about the socialist past in Serbia.

10. The Second World War was an inherent part of narrating the socialist past (as was Serbia's 1990s wars past). The central position of these wars in the EU's foundational narrative made the anti-fascist fight a central trope in the claims to EU accession made by domestic parties.

9.1 Starting point of transition

According to several scholars, choices made in the first years of transition to a significant extent determine transitional justice outcomes for years to come.¹ Striking similarities between the two countries in this regard function as primers to understand political positions and debates on dealing with the past as part of my broader comparative analysis.

First, for both countries, we can compare the political constellations at the start of their transition (following academic consensus, these being 1991 for Bulgaria and 2000 for Serbia). Both the Serbian and Bulgarian post-transition new ruling elites were led by a coalition of parties. The Union of Democratic Forces (SDS) in Bulgaria and the Democratic Opposition of Serbia (DOS) similarly coalesced around a shared opposition to the ruling regime rather than around a clear political programme. After initial elections, both coalitions quickly faced problems in terms of internal cohesion and decision-making. Perhaps unsurprisingly, several smaller parties sprang from the original coalition parties in both countries although, in Bulgaria, the SDS remained the significant party whilst the smaller parties acted mainly in the periphery.

In Serbia this development was more radical. Whilst in 2000 the parties making up the DOS shared basic ideas about the country's future and the need for confronting its past(s), today they certainly do not. The Democratic Party Serbia (DSS) is now one of the most Eurosceptic and conservative parties, whilst the Democratic Party (DS) still depicts itself as progressive and pro-European. The Serbian Movement of Renewal (SPO)—also a member of the DOS—was one of the leading parties in the revision of Serbia's četnik history, initiating, for example, both rehabilitation laws, whilst the Liberal Democratic Party (LDP) eventually became a staunch opponent of these developments. Despite these differences, it is clear that in both countries the past functioned as a main political fault line.

Similarities also appear when analysing the interaction between political parties and civil society.² For example, the 2003 Serbian lustration law was prepared via civic

¹ For an overview of several of these authors' works, see Lavinia Stan, "Determinants of Post-Communist Transition: An Overview," *Global Challenges Conference "Justice and Imagination: Building Peace in Post-Conflict Societies,"* Mount Holyoke College, February 28–March 1, 2014.

² As an additional argument to the importance of civil society in the realm of dealing with the past, several of my secondary sources are volumes initiated or published by civil society institutions. For the case of Bulgaria, I should note

initiatives after the fall of Milošević, just like the 2006 Bulgarian archives law was based on drafts provided by civil society. This often happened with the help of similar organisations from abroad.³

9.2 Political party orientations

One of the rationales underlying this research was the function of EU accession as a “focal point” in both Bulgarian and Serbian parliamentary spaces. Milada Anna Vachudova, whose work was discussed in the introduction, argued that, for countries in Eastern Europe and South-Eastern Europe, choosing not to co-operate with the EU quickly became too costly politically.⁴ As Marko Stojić states regarding the unsettled party systems of post-socialist Europe, many parties lack a clear ideological profile.⁵ This ideological flexibility, combined with the centrality of EU accession as the prime foreign policy goal, allowed parties in both Bulgaria and Serbia to use the past in whichever way they felt appropriate. My research confirmed that this also specifically applied to parliamentary politics of dealing with the past. Prompted by the centrality of EU membership as a foreign policy goal and its popularity amongst the electorate, parties tried to find links between the EU future and their preferred strategy regarding the past.

However, there was one striking difference between Bulgaria and Serbia, namely, that the Serbian parliament housed one party that fundamentally opposed EU accession as a foreign policy goal whereas, in Bulgaria, even the extreme right-wing party Ataka eventually shifted towards a more pro-European course in the late 2000s. The Serbian Radical Party (SRS) was equally right-wing, but staunchly opposed the EU and everything it represented. The apparent weakness of the Serbian parties that (in the view of the SRS) blindly followed the EU’s demands was thus incorporated into their argument.

here the Centre for Advanced Studies. In the case of Serbia, the Institute of Contemporary History deserves special mention. Whilst first and foremost scientific centres, they also actively engage with the public debate.

³ This finding ties into several other academic fields, including those dealing with “diffusion.” Developments in one country can “diffuse,” so the theory maintains, through active efforts to transfer them or more indirectly by inspiring action in another country. This process is helped by geographical closeness and similar historical, political, and social trajectories. This adds significance to the choice of Serbian and Bulgarian organisations to co-operate with other groups in the region of Central and Eastern Europe. RECOM, the regional commission active in Serbia and its neighbouring state, established to ascertain the facts about the wars of the 1990s, perhaps best illustrates the power of regional action. It also confirms that, whilst it is important to be critical of old notions of Western, Eastern, or Central Europe as opposed to the Balkans, much transitional activity still takes place within the context of those regional frameworks. Thus, even more than keeping “discourses alive,” diffusion practices also concretely informed the work of institutions in Bulgaria and Serbia. Helga A. Welsh, “Beyond the National: Pathways of Diffusion,” in *Post-Communist Transitional Justice: Lessons from Twenty-Five Years of Experience*, ed. Lavinia Stan and Nadya Nedelsky (Cambridge: Cambridge University Press, 2015), 180.

⁴ Milada Anna Vachudova, “Democratisation in Postcommunist Europe: Illiberal Regimes and the Leverage of the European Union,” in *Democracy and Authoritarianism in the Postcommunist World*, ed. Valerie Bunce, Michael McFaul and Kathryn Stoner-Weiss (Cambridge: Cambridge University Press, 2010), 95.

⁵ Marko Stojić, *Party Responses to the EU in the Western Balkans: Transformation, Opposition or Defiance?* (Cham: Palgrave Macmillan, 2018), 12.

However, despite this difference, I argue that the influence of the prospect of EU accession on party orientations manifested itself in Bulgaria and Serbia through two similar channels. My **first finding** shows that especially the pro-confrontation parties referred to the EU future in order to consolidate or legitimise their orientations towards the past. Domestic parties for whom the past was central to their identity used their associations with parties in the European Parliament as a way to confirm this stance. Whilst my **second finding** shows that, for two groups of parties in particular (monarchist and former socialist), commitment to EU accession was a major reason for changing their attitudes towards the past.

9.2.1 First finding: Aligning the past and EU future

Party attitudes towards the past and the EU future were important factors in party identity. Directly following transition, in Bulgaria and Serbia the opposition coalitions had coalesced around a shared condemnation of the past. A commitment to the EU future was another common denominator. Connecting these two narratives could bolster the positions of the coalitions in both countries and this would thus remain a strong political strategy in subsequent years. In 2004, Nadezhda Mihajlova from the SDS coupled the importance of condemning the socialist regime with the notion that Bulgaria had to “show how [it related] towards the past and that we are worthy to enter Europe.”⁶ Similarly, the Serbian LDP called for a condemnation of the wars in the 1990s in order to send “a clear message . . . that we want a common future in a progressive and united Europe.”⁷ In the most successful cases, this strengthened party identities and coherence regarding both issues. For example, the LDP internally underlined its commitment to the EU by observing the commemorative Day of Europe on May 9—the symbolic date of the victory over fascism.⁸ Whilst, for the Bulgarian NDSV, a claim on Bulgaria’s place in the EU was a direct reference to the alleged glory of Bulgaria’s supposedly European monarchist past.⁹

Claiming EU interest in the past through Copenhagen criteria and “European values”

Going beyond the rhetoric of the above statements, we need to find out how parties constructed these links. The respective chapters on Bulgaria and Serbia mentioned several examples of such claims: from the Serbian SPO claiming the “European” anti-fascist fight,

⁶ Nadezhda Mihajlova in Narodnoto Sabranie, “Trista devetdeset i shesto zasедanie, Sofia, четврттук, 9 септември 2004 г.” *Parliament.bg*, September 9, 2004, <http://parliament.bg/bg/plenaryst/ns/1/ID/1066>.

⁷ Liberalno demokratska partija, *Evropske sveske 2008*, Beograd: Odbor za evropske i spoljne poslove Liberalno demokratske partije, 2009, 47.

⁸ Liberalno demokratska partija, *Evropske sveske*, 60, 62.

⁹ Simeon in Narodnoto Sabranie, “Prvo izvanredno zasедanie, Sofia, vtornik, 24 juli 2001 g,” July 24, 2001. <http://www.parliament.bg/bg/plenaryst/ns/1/ID/1953>.

to the Democrats for a Strong Bulgaria (DSB) depicting archival disclosure as a main step in creating a “strong Bulgaria in a united Europe.”¹⁰ All of the parties were creative in finding links between existing EU interests and their preferred strategy towards the past.

The Copenhagen criteria formed a toolkit for pro-confrontation parties. The combination of broad claims coupled with a lack of definition in the criteria themselves offered the domestic political parties a convenient opportunity to fill the resultant silence with their own assumptions and preferences regarding confrontation with the past.¹¹ The MP Lyutvi Mestan from the Movement for Rights and Freedom (DPS), for example, portrayed the issue of justice for Bulgarian Turks—who had been victims of large scale repression by the communist regime in the 1980s—as one of central importance to EU accession and thus to the Bulgarian future. Whilst minority rights indeed are a part of the Copenhagen criteria, Mestan took a degree of political liberty by claiming to know the EU’s priorities in evaluating this broad criteria on democracy—for example when he warned parliament that if it did not give proper attention to the issue of the historical violent and unfair treatment of Bulgarian Turks, Bulgaria would not become a full member state.¹² In Serbia, the DS called the law on property restitution “a significant requirement for candidate status of the EU” in a debate that rested on claims about the rule of law and human rights as Copenhagen criteria.¹³

Anti-confrontation parties in both countries also used the EU accession prospect in attempts to steer the political gaze away from the past. In 2002, the monarchist NDSV party of the former tsar, Simeon II, introduced a counter law to stop archival disclosure in Bulgaria, justifying this both in the text of the law itself, and during the debate with the help of references to the alleged security requirements for NATO and EU membership. Whilst, in Serbia, the lustration law violated European political values, according to the Serbian Socialist Party (SPS), because European parliaments respected political opponents instead of vetting them.¹⁴ Similar claims were repeated in later years by the

¹⁰ Demokrati za silna Bŭlgariya, “Politicheski pozicii na uchreditelното sŭbranie na DSB,” May 2004, <http://dsb.bg/bg/blogs/article/2525>.

¹¹ Gergana Noutcheva, *European Foreign Policy and the Challenges of Balkan Accession: Conditionality, Legitimacy and Compliance* (Abingdon: Routledge, 2012), 39; Karen E. Smith, *European Union Foreign Policy in a Changing World* (Cambridge and Malden: Polity Press, 2008), 144.

¹² Lyutvi Mestan in Narodnoto Sabranie, “Chetiristotin chetirideset i peto zasедanie, Sofia, chetvŭrtŭk, 9 noemvri 2000 g.,” November 9, 2000, <http://www.parliament.bg/bg/plenaryst/ns/51/ID/1160/>.

¹³ Narodna skupština, *Trinaesto vanredno zasедanje 21. septembar 2011. godine (drugi dan rada)*, Privremene stenografske beleške, Beograd: Otvoreniparlament.rs, 2011; as also cited in, and translation from, Melina Rokai, “Restitution and Denationalization of Property in Serbia, as Part of Transition and Democratization of the State: A Legal and Historical Approach,” *Revista de Stiinte Politice* 15 (2015): 59.

¹⁴ Narodna skupština, “Osma sednica prvog redovnog zasедanja (treći dan rada), 29 maja 2003,” in *Stenografske beleške: Osma sednica prvog redeovnog zasедanja. 27, 28, 29. i 30. Maj 2003. godina*, ed. Narodna skupština Republike Srbije (Beograd: Biblioteka Narodne Skupštine, 2003), 251.

Serbian Progressive Party (SNS), which also had to reconcile a pro-European course with an unwillingness to confront the 1990s and socialist pasts.

In the above examples, it was not difficult for the NDSV and SPS to make their case. Whilst their claims on the EU had little foundation, nor did the arguments from the pro-confrontation side. Archival disclosure and lustration offer interesting cases here. As explored in chapter 1, the EU held ambiguous attitudes towards both, and disinterest in the issues prevailed. When parties made such baseless claims on EU attitudes, they were frequently called out on them. For example, the 2011 rehabilitation law was described in Serbia by one socialist parliamentarian as “necessary” in the light of the government’s efforts to fulfil all EU accession standards.¹⁵ This distortion was directly contested by Meho Omerović from the progressive Social Democratic Party. He challenged its proponents to explain how the rehabilitation law was exactly a condition for EU accession as, he stated, this was obviously not true.¹⁶ This illustrates two points. Firstly, parties actually found it worthwhile to debunk unfair claims on the EU, thus testifying to the argumentative value of the EU accession prospect. Secondly, parties were not easily fooled—many knew well what the EU did (and did not) require. In Bulgaria, it was often the socialist party that fulfilled the role of watchdog. When the SDS argued that Bulgaria had to support the law that condemned the communist regime in 2000 “if we want the European Union,” the Socialist Party’s Georgi Parvanov (who was later to become president) inquired where exactly he might find this EU interest in the thirty-one themes of the membership negotiations.¹⁷

Associating with European partners

In a more concrete fashion, domestic parties sought co-operation with European partners and platforms in order to strengthen their position with respect to the past. Here, important differences exist between Bulgaria and Serbia. Whilst the associations between Bulgarian parties and parties in the European Parliament tended to mirror their orientations regarding the past, Serbian choices were more divergent. In Bulgaria, the SDS found a perfect partner in the European People’s Party, which had been calling for archival disclosure in post-socialist states since 2004, its general anti-socialism also nicely fitting

¹⁵ Mirislav Petronijević in Narodna skupština, “Treća sednica drugog redovnog zasjedanja, 22. novembar 2011. godine (prvi dan rada),” in *Stenografske beleške: Treća sednica drugog redovnog zasjedanja 22. i 23. novembar 2011. godine*, ed. Republika Srpska narodna skupština (Beograd: Narodna skupština, 2013), 28.

¹⁶ Meho Omerović in Narodna skupština, “Treća sednica drugog redovnog zasjedanja 22. novembar 2011,” 63.

¹⁷ As discussed in chapter 4, Parvanov had good reason to dislike the declaration: it would later be revealed that he was agent “Gotse” in the state security service. Dragomir Draganov in Narodno Sabranie, “Trista sedemdeset i pŕvŕo zasjedanie, Sofia, chetvŕtŕŕk, 30 Mart 2000 g,” *Parliament.bg*, March 30, 2000, <http://parliament.bg/bg/plenaryst/ns/6/ID/2219>. Countering his comment, Mihajlova from the SDS argued that the past ran through all negotiation themes.

the stance of the SDS regarding the past. In fact, the SDS was so pleased with its association that they strongly guarded the EPP against the membership aspirations of the NDSV, one of the SDS's main political opponents.

In Serbia, however, one of the most consistent pro-confrontation parties, the DS, associated itself with the Party of European Socialists (PES). The PES generally opposed, rather than endorsed, archival disclosure, lustration, and restitution—measures that were core promises of the Serbian democrats. As discussed in chapter 6, the DS had all sorts of pragmatic reasons to choose the PES—however, its stance towards the past was not one of them. Furthermore, the EPP welcomed both the DSS and, later, the SNS. Although the DSS was initially pro-confrontation, as was the EPP, the DSS soon started to oppose confrontation whilst the SNS has consistently been reluctant to do so.

Just as important was the pragmatism of parties in Brussels. The most pro-confrontation party in the EP, the EPP, had few problems associating itself with anti-confrontation parties. The EPP pushed the concerns of the SDS aside when it put its bets on GERB—a party that considered dealing with the past an unnecessary burden, yet like the SNS promised the EPP the largest electoral gains.

9.2.2 Second finding: Monarchists and former socialists: Adjusting party stances because of the EU

Clearly, parties linked the past and the EU future in creative ways. However, what happened when these two did not line up? Did they prioritise their stance towards the EU, or towards the past? I argue that monarchist and former socialist parties in particular behaved as “pragmatic actors” and changed their position on confrontation with the past specifically because of the EU accession prospect.

Monarchists: The EU as a guiding light for the royal past and the united future

Bulgaria and Serbia both have a pro-European, monarchist party. Nostalgia for their pre-war monarchies and the quest for the re-installment of their royal houses made them staunchly anti-socialist. For them, socialist times were a tragic intermezzo in Bulgaria's supposed royal, European destiny. However, they performed quite differently when dealing with this past. In Bulgaria, Simeon's NDSV presented itself as a forward-looking party, free from the legacy of socialist times that tainted so many other parties. Yet, after its sweeping victory in 2001, it initiated a law that stopped the ongoing process of archival disclosure. Opening of the files most likely formed a liability to individuals within the party, whilst confrontation with the past was not central to the party's orientation—however, support for EU integration was. When in 2006, as discussed in the case in case

study, pro-confrontation parties made a persuasive case connecting EU accession to archival disclosure, the NDSV quite effortlessly changed its position.

Whilst the NDSV made a grand entrance into post-communist Bulgarian parliamentary politics as an unexpected newcomer in 2001, the Serbian SPO had a long history, dating back to the start of the twentieth century. Although the NDSV claimed a similar lineage to the SPO based upon its leader's royal blood, only the SPO actually had such a history. Unlike Simeon's party, the SPO was very consistent in its wish to confront the country's socialist past and the party initiated not only the 2004 law to equalise partisans and četniks, but also both rehabilitation laws.

This eagerness to confront the socialist past was presented as a sign of the SPO's dedication to the EU. Just like its Bulgarian counterpart, the party had adopted a strong pro-European position during the early 2000s. Combining staunch nationalism, anti-communism, monarchism, and pro-European politics—a cocktail that to the present day confuses scholars trying to categorise the party—the SPO went to great lengths to show the compatibility of all these party principles. It claimed, for example, that kingdoms were European systems par excellence. So, whilst the NDSV changed its attitude on confronting the socialist past because of the momentum of EU accession so actively used by pro-confrontation parties, in the early 2000s, the SPO had already entangled both positions. The party created an absolute dichotomy between Serbia's socialist past and its European future. Meanwhile, it bolstered its nationalist message through the narrative of Serbia's anti-fascist fight—another significant finding, which will be discussed later.

Socialists: Sacrificing loyalty to their predecessor for loyalty to the EU

The socialist parties in both countries developed even more similarly in the ways they balanced the past and their European futures. Both were direct successors of the former ruling authoritarian parties. In Bulgaria, they replaced the word “communist” in their name to become the Bulgarian Socialist Party (BSP). In Serbia, they simply continued under the same name—that of the SPS. Both grew to develop an ambiguous discourse, combining pride and appreciation of their predecessors' achievements, albeit with an increasing emphasis on the distance between the new and the old parties. Both began the transition process as staunch opponents of EU accession, yet both changed their programmes in the years that followed. The BSP as well as the SPS formally adopted a pro-European path in 2003. Only from 2006 onwards however, did the SPS start living up to that commitment.

A combination of EU accession momentum and pressure from domestic coalitions led these socialist parties to support laws that went against their fundamental party

principles. Archival disclosure in Bulgaria, again, best illustrates this fact. Pro-confrontation parties actively synchronised their own calendars and the EU accession agenda in order to create a sense of urgency with regard to the opening of the files of the former secret service. After the formal endorsement of the EU, it had become untenable for the pro-European BSP to oppose the law any longer, even though it was part of the government and had won the preceding elections. Even more interesting was the support of the BSP member and Minister of the Interior, Rumen Petkov. He expressed a willingness to co-operate with archival disclosure even before rapporteur Geoffrey van Orden had adopted archival disclosure as an official EP concern. Pro-confrontation parties and individuals within the EU had apparently successfully argued that the EU would positively evaluate such a law. At the vote in December 2006, the BSP supported the law.

The Serbian SPS was also in government when it decided to support the 2010 Srebrenica declaration and 2011 rehabilitation law. This was a remarkable departure from its strong opposition to such initiatives previously. As discussed in chapter 7, the SPS even justified its support for the 2011 rehabilitation law by referring to EU integration—their government’s main political goal. On the basis of this and other evidence, I concluded that the SPS’s shift with regard to these political acts was primarily based on the gathering momentum of EU accession—or, at the very least, the illusion thereof. At the same time, it needs to be noted that these “formal” changes in party programmes and voting behaviour did not prove either very sustainable, or profound, as will be addressed by the fifth finding. The BSP would try several times after Bulgaria’s accession to block or otherwise impede the work of COMDOS—the archival committee. The SPS went to great lengths to leave the word “genocide” out of the Srebrenica declaration and proposed another declaration to seek attention for Serbian victims of the 1990s wars.

9.3 Parliamentary decision-making

Party orientations regarding the EU future and the past, as studied above, are best characterised as nuanced and contradictory. I now turn to more concretely explore the influence of the EU accession prospect on the parliamentary decision-making processes of Serbia and Bulgaria.

An example that stands out is Serbian co-operation with the ICTY as an absolute EU accession condition. From a political realist perspective, the EU’s demands surrounding co-operation with the ICTY constituted a near-perfect example of successful conditionality—balancing carefully selected “carrots” with specifically tailored “sticks.” The Bulgarian case also offers an example of direct EU engagement with the past, albeit a less dramatic one—the EP endorsement of the archives law in 2006. Together with further

examples, they constitute an analysis of my **third finding**, namely, that when EU interest in dealing with the past was high, parliament implemented these measures explicitly, referring to the EU demands underlying their decision.

However, the dominance of EU accession as a foreign policy goal, which underscored this mechanism, also benefitted the anti-confrontation side: when they could make a plausible claim that the EU had an interest in dealing with the past, they could dismiss the respective measure as a foreign and alien imposition. This is my **fourth finding**. EU enforcement of co-operation with the ICTY foregrounded the Tribunal's reputation as a foreign, inherently anti-Serb organ. A similar story applies to the Bulgarian archives law.

Together, findings three and four lead to an important conclusion. From a more critical perspective—one that goes beyond simply counting arrests, laws, and declarations—the influence of the prospect of EU accession and eventual EU membership status was more opaque. My **fifth finding** thus shows that the influence of the EU accession prospect on domestic dealing with the past was not necessarily profound, nor sustainable. Because findings three, four, and five directly relate to each other, they will be discussed together.

The analysis becomes even more complicated when we look at cases in which EU interest in the past was low or ambiguous. However, as the **sixth finding** shows, parties could (and often did) engage with the EU accession prospect to justify their own preferred approaches to dealing with the past. Here, once again Bulgaria's archives law will play a prominent role, together with laws condemning the communist regime and the declaration to condemn the revival process. In the case of Serbia, I will focus mostly on the two rehabilitation laws.

9.3.1 Third, fourth, and fifth finding: Reacting upon EU interest in the past

ICTY co-operation as EU conditionality: Shrinking or increasing the space for denial?

An analysis of the wider impact of the EU's ICTY conditionality should, I suggest, focus on three key concepts: collective guilt, collective responsibility, and individual guilt. The conflation of these three concepts in the domestic sphere, I argue, diminished the potential for any all-round positive impact from the ICTY with regard to dealing with the past in Serbia. Let me start with the latter term. In international criminal justice, suspected war criminals are mainly tried on the basis of individual guilt for individual crimes.¹⁸ Whilst Joint Criminal Enterprise has been part of the ICTY's trials and convictions, thus enabling

¹⁸ Eric Gordy, *Guilt, Responsibility, and Denial: The Past at Stake in Post-Milosevic Serbia* (Philadelphia: University of Pennsylvania Press, 2013), 96.

individuals to be held accountable for crimes committed as part of a collective, it has been extremely difficult and problematic to establish. The ICTY statute was evidently based on this fundamental premise—that of individual guilt.¹⁹ When the trial against the former Serbian President Slobodan Milošević commenced, in her opening statement the chief prosecutor, Carla Del Ponte, emphasised once more: “The accused in this case, as in all cases of the Tribunal, is charged as an individual,” continuing, “no state or organisation is on trial here today. The indictments do not accuse an entire people of being collectively guilty of crimes.”²⁰

In addition to the inevitable limitations that the legal definitions of individual guilt and joint criminal enterprise bring, the ICTY did not aim for any more than to try the most high-ranking war criminals. Individual prosecutions and sentences as part of retributive justice may eventually contribute to societal healing,²¹ but comprehensive confrontation with the past also requires restorative justice. This part of transitional justice focusses on the victims and aims to bring broader healing to society. The Serbian domestic War Crimes Chamber and, to an even greater extent, the regional committee for fact-finding, RECOM, did (and still) provide such complementary mechanisms. RECOM can address the notion of collective responsibility and in that (non-legal) way confront the past.

Chapter 7 argued that the EU’s focus on the ICTY distracted from these other organisations, or at least offered the ammunition for domestic political parties to overstep them. Since the EU’s support for the ICTY overshadowed its support for the WCC, the latter was provided with less leverage to step up its indictments, thus maintaining the status quo and only targeting the highest ranking, direct perpetrators—indeed, the Serbian elite have been quite successful in preventing the WCC from indicting them.²² Also, although more abstractly, the domestic debate on confronting the war past of the 1990s remained a debate on retributive justice, thus ignoring any restorative dimension. From a thorough discourse analysis of the Srebrenica declaration debate, for example, Daniela Mehler concludes that in Serbian parliament, “a predominantly legal understanding of facing the past prevails” through an emphasis on notions such as “guilt,” “responsibility,” and “judgement.”²³

¹⁹ United Nations Security Council, “Resolution 808 (1993). S/RES/808,” *ICTY*, February 22, 1993, www.icty.org/x/file/Legal%20Library/Statute/statute_808_1993_en.pdf.

²⁰ Carla del Ponte, quoted in International Criminal Tribunal for the former Yugoslavia, “Case of Slobodan Milošević, Prosecution Opening Statement,” *ICTY*, 12 February 2002, 4, http://www.icty.org/x/cases/slobodan_milosevic/trans/en/020212IT.htm.

²¹ See e.g., Laurel E. Fletcher and Harvey M. Weinstein, “Violence and Social Repair: Rethinking the Contribution of Justice to Reconciliation,” *Human Rights Quarterly* 24, no. 3 (2002): 583.

²² Diane F. Orentlicher, “Shrinking the Space for Denial: The Impact of the ICTY in Serbia,” *Open Society Justice Initiative* (2008): 25, 75.

²³ Daniela Mehler, “Understanding Normative Gaps in Transitional Justice: The Serbian Discourse on the Srebrenica Declaration 2010,” *Journal of Ethnopolitics and Minority Issues in Europe* 11, no. 4 (2012): 135.

Despite the ICTY's focus on individual guilt, several authors have argued that the way in which the EU enforced compliance with it created a domestic sense that the EU was imposing a "collective guilt" upon the Serbian nation.²⁴ After all, the logic of ICTY conditionality entails that accession progress, benefiting the whole nation, is made conditional upon the extradition of individual fugitives. This testifies to my fourth finding, namely that political parties used EU interest in the past to dismiss the respective element—ICTY co-operation in this case—as a foreign imposition. In 2010, Tomislav Nikolić stated: "Don't make the people apologise for the crimes of individuals," vocalising a popular argument amongst right-wing and centrist parties.²⁵ Parties in favour of co-operation with the ICTY were aware of this rationale and tried to counter it. In its most recent manifesto, the fairly liberal DS stated: "we are decisively against collective guilt, but also against amnesty [for war criminals]."²⁶ Indeed, the DS here accurately points out that, whilst the idea of imposed collective guilt is perhaps understandable from a Serbian conservative perspective, it is, for several reasons, flawed from an academic perspective.

Firstly, the exact opposite can also be argued—the focus on individual guilt by demanding the arrest of individual fugitives can also lessen the sense of collective guilt.²⁷ After all, through the ICTY, the EU did not hold the Serbian nation accountable, but merely suspected war criminals (and indeed, almost exclusively the most high-ranking ones amongst them). Parties such as the DS and LDP recognised this. They both stated that ICTY co-operation was necessary in order "to individualise guilt" so as to unburden the "nation as a whole"²⁸ and, together with the Srebrenica declaration, could help to "draw a difference between us and the murderers and criminals."²⁹ Secondly, the conclusion that the EU imposed collective guilt fails to distinguish between direct EU practice and its (possibly distorted) influence on the domestic level. EU conditionality perpetuated the individual approach to, for example, travel bans and freezing the assets of those suspected

²⁴ Maire Braniff, *Integrating the Balkans: Conflict Resolution and the Impact of EU Expansion* (London: Routledge, 2011), 135, 137, 148; Gordy, *Guilt, Responsibility, and Denial*, 40; Sanja Kutnjak Ivković and John Hagan, *Reclaiming Justice: The International Tribunal for the Former Yugoslavia and Local Courts* (Oxford: Oxford University Press 2011), 106.

²⁵ Tomislav Nikolić in Narodna skupština, "Treća sednica prvog redovnog zasjedanja, 30. mart 2010. godine," in *Stenografske beleške: Dan za poslanička pitanja druga i treća sednica prvog redovnog zasjedanja 25. i 30. mart 2010. godine*, ed. Republika Srbija narodna skupština (Beograd: Narodna skupština, 2011), 113. For an elaborate discussion of this type of rhetoric, see Mehler, "Understanding Normative Gaps," 142.

²⁶ Demokratska stranka, "Program demokratske stranke. Vreme za novi program! 6 oktobra 2001. u Beogradu," in *Istorija demokratske stranke 1989–2009: Dokumenti*, eds. Kosta Nikolić, Bojan B. Dimitrijević, Srđan Cvetković, and Slobodan Gavrilović (Beograd: Institut za savremenu istoriju; Službeni glasnik, 2010), 497–514.

²⁷ As argued by e.g., Fletcher and Weinstein, "Violence and Social Repair," 599; Anne Leebaw, "The Irreconcilable Goals of Transitional Justice," *Human Rights Quarterly* 95, no. 1 (2008): 110.

²⁸ Demokratska stranka, "Za bolji život! Izborni program Demokratske stranke 2007," in *Istorija demokratske stranke 1989–2009: Dokumenti*, eds. Kosta Nikolić, B. Dimitrijević, Srđan Cvetković, and Slobodan Gavrilović (Beograd: Institut za savremenu istoriju; Službeni glasnik, 2010), 587.

²⁹ Čedomir Jovanović in Narodna skupština, "Treća sednica prvog redovnog zasjedanja 30. mart 2010," 143.

of hiding indictees.³⁰ Thirdly, conditionality as an accession policy always relies upon sanctions and rewards that target a whole state in order to stimulate political elites. However, few would claim that, for instance, the EU held the Bulgarian population collectively guilty for its government's failure to combat corruption. Fourthly, the linkage of sanctions and rewards to conditionality demands can equally be attributed to the more legitimate notion of collective responsibility. This concept bridges the gap between criminal guilt targeting individuals and political conditionality targeting all citizens of a state.

It would thus be too simple to dismiss EU conditionality as having fostered (or enabled) collective guilt. Instead, I argue that it is not the EU's insistence upon collective guilt, but precisely the discourse of the EU as focussing on individual guilt so as to enhance the collective well-being of Serbia through peace and reconciliation that enabled Serbian political parties to divert attention away from any collective acknowledgement of wrongdoing.³¹ Deliberately disqualifying ICTY trials and coercive EU conditionality as a punishment for the whole Serbian nation fitted within the strong tendency of nationalist Serbian politicians to exploit the idea of the "persistent victimisation of Serbs" and a "victimised nation."³² That claim dismissed the broader goals of the ICTY and also helped to undermine the work of the WCC.³³ Illustrative of this point is the widespread, hypocritical political repudiation of Milošević's persona after his extradition to The Hague.³⁴ Amongst those who distanced themselves from Milošević were many who had in fact directly or indirectly participated in the crimes themselves.³⁵ It is this denial of Serbian political responsibility, despite a significant continuity between the past and present regimes, that estranges victims and victim organisations in the region. It provides parties with an alibi to avoid engaging with more inclusive and profound questions of responsibility for the past.

³⁰ Council of the European Union, *Press Release. 2963rd Council Meeting. Competitiveness (Internal Market, Industry and Research)*, 13513/1/09 REV 1 (Presse 272), September 24–25, 2009, 16, http://europa.eu/rapid/press-release_PRES-09-272_en.htm; Council of the European Union, *Press Release. 3000th Council Meeting: Employment, Social Policy, Health and Consumer Affairs*, 7033/1/10 REV 1 (Presse 51), March 8, 2010, http://europa.eu/rapid/press-release_PRES-10-51_en.htm.

³¹ Wentholt, "Mirroring Transitional Justice," 85–88.

³² Kutnjak Ivković and Hagan, *Reclaiming Justice*, 101. Similar findings were found in the case of Bosnia, in which the authors emphasise individual guilt in trials. See Fletcher and Weinstein, "Violence and Social Repair," 580–581.

³³ Javor Rangelov, "EU Conditionality and Transitional Justice in the Former Yugoslavia," in *Croatian Yearbook of European Law and Policy* (2006), 371.

³⁴ Gordy, *Guilt, Responsibility, and Denial*, 94.

³⁵ Eric Gordy, "Confronting the Past in Serbia: Obstacles and Opportunities," in *Serbia Matters: Domestic Reforms and European Integration*, ed. Wolfgang Petritsch, Goran Svilanović and Christophe Solioz (Baden-Baden: Nomos, 2009), 138; Gordy, *Guilt, Responsibility, and Denial*, 67.

The Bulgarian archives law and the Serbian Srebrenica declaration: Framing dealing with the past as an EU demand

Whilst it is important to realise that ICTY conditionality was certainly unique, it was not the only time when significant EU interest in the past translated into the adoption of a measure envisioned to address that past. The best example of the dynamics of the EU accession prospect beyond direct conditionality is the adoption of the 2006 Bulgarian law to disclose the archives of the former communist secret service. Here, the EU accession prospect directly contributed to the realisation of the law. EP rapporteur Geoffrey van Orden's decision to incorporate archival disclosure in his official resolution provided the decisive incentive for hesitating pro-European parties to support archival disclosure.

Similarly, Brussels prompted the adoption of the 2010 declaration on Srebrenica. The EP had, in its 2009 resolution, called upon all EU member states and countries in the Western Balkans to "commemorate appropriately" the "Srebrenica genocide."³⁶ Whilst Serbia was not specifically mentioned, it was clear that eyes were set on Belgrade. In 2010 this offered pro-confrontation parties a highly authoritative argument and thus Serbian political parties successfully tipped the scales, leading to adoption of the Srebrenica declaration.

Whilst the momentum driving EU accession proved significant, tipping the balance in favour of these measures, this did not end the controversy. To start with, the 2010 Srebrenica declaration was highly contested, not in the least because the declaration avoided the word genocide. The declaration was adopted, but the discussion continued as for some, recognition of genocidal intent was vital. Liberal Serbian organisations, supported by the international community, confronted President Nikolić and his denial of the Srebrenica genocide because he refused to call the massacre anything other than a crime when he entered office in 2012. Nikolić countered this accusation and hid behind the 2010 Srebrenica declaration adopted by his predecessor Tadić—he simply repeated its words. The more profound influence of the EU accession prospect, however, goes far beyond the question of missing words in the Srebrenica declaration. As becomes clearer with every year that passes, Serbian right-wing parties and civil organisations still successfully exploit the trope of "the anti-Serbian West" and the fact that the Serbian Srebrenica declaration was framed as a necessary step on the road to EU accession further fuelled this claim.

In a similar way, the controversy over the 2006 Bulgarian archives law continued well after its adoption. The BSP—which only gave its support reluctantly—tried to impede

³⁶ European Parliament, *European Parliament Resolution of 15 January 2009 on Srebrenica*, P8_TA(2015)0276, Strasbourg: European Parliament, 2009, n.p.

the work of the COMDOS archival committee after the adoption of the law and winning EU accession. Subsequently, the party has filed draft laws to abolish the committee, has purposefully delayed appointment of its members, and blocked the assignment of a building to house the committee and archive. Using the same arguments as it did in 2006 to inhibit the adoption of the law, the BSP claimed that the law brought division rather than reconciliation and prevented Bulgaria from focussing on the future. Nevertheless, and despite being understaffed—especially in comparison to similar organisations in the region—COMDOS continues and has improved its work.

Most importantly, and again touching upon finding number four, both the BSP and socialist-oriented scholars have depicted the archives law as a direct EU accession condition so as to conceal the painful truth that the socialist party had itself supported the law. In addition, other political parties, scholars, and intellectuals can now argue that further efforts towards archival disclosure are not only unnecessary (as the issue was solved with EU accession), but even detrimental to Bulgaria's position in the EU. After all, "more important" problems demand the country's attention, since Bulgaria is still lagging behind compared to other Eastern European member states—or so follows their rationale.

These claims on the Bulgarian archives law and Srebrenica declaration as EU demands thus mirrors another, similar political tactic. Regarding the former, the momentum of EU accession tipped the scales in a long, pre-existing domestic debate—mostly because political parties and individuals within the EP saw and seized the opportunity. Similarly, the Srebrenica declaration was not solely an attempt to please the EU. Pro-European parties wanted the declaration to improve relations with the other countries of the former Yugoslavia and underscore their commitment to values of political responsibility. Thus, even when the EU accession prospect was a *necessary* condition, it was not always a *sufficient* one. Rather, it was made into an argument and focal point that merged with ongoing, pre-existing domestic processes.

In conclusion, the Serbian level of co-operation with the ICTY, the Srebrenica declaration, and the Bulgarian archives law would most likely not have existed in their current form had it not been for the prospect of EU accession. In all three instances, a combination of concrete EU action and accession momentum proved decisive. Yet, simultaneously, this very EU factor added a dimension of "foreignness" to processes that were for the largest part domestic. Parties interested in doing so, could thus dismiss confrontation with the past as an imposed demand from the outside.

9.3.2 *Sixth finding: Inventing EU interest in the past*

The creativity of domestic political parties in incorporating the EU accession prospect was, self-evidently, greater in cases where EU interest in the past was low. For example, proponents of the Serbian rehabilitation law framed this as a requirement for a law on the restitution of property—a measure that, from the perspective of the rule of law and the Copenhagen criteria, the EU actually did vocally support. The SPO and SPS also more generally claimed that rehabilitation would put Serbia more firmly on the path to European membership.³⁷ However, the anti-confrontation side was often quick to expose weaknesses in this claim and, whereas pro-EU parties that opposed confrontation simply denied such interests, the ultranationalist Radicals enjoyed ridiculing these references to Europe.

In Bulgaria, pro-confrontation parties referred—as did their opponents—to the EU future when wanting to condemn the socialist regime in 2000 and 2004, even though such condemnation from the EU was not even close to materialising. In their view, impending EU accession meant that Bulgaria should focus on the economy instead of looking back to the past. Membership, achieved in 2007, mainly benefitted the pro-confrontation side. Trying to bolster its case to officially denounce the revival process for its crimes against Bulgarian Turks in the 1980s, a DPS parliamentarian used personal anecdotes about meetings with European leaders as authoritative arguments. However, when the democrats from the SDS and DSB wanted to establish an institute to research the socialist past, their use of the EU membership status did not pay off. When EU interest in the past was low, parties could still instrumentalise the accession prospect as an argument, but success did not automatically follow.

9.4 Narratives contrasting the past and the EU future

A short personal note illustrates that speaking of “single” and “double” transitions had been naïve, and that additionally, the political reach of the EU accession prospect went beyond party orientations and parliamentary decision-making. Reading Serbian parliamentary debates (having completed my research on Bulgaria) sometimes felt like a *déjà-vu*. I was struck by the similarities that exist between the Bulgarian and Serbian documents in terms of their rhetoric, style, and even content. The most worrying similarity concerns the interrelation between narratives of the past and the EU future, and the normalisation of extreme right-wing politics. Prematurely inserting this conclusion here

³⁷ The SPS, however, opposed the 2006 law, but endorsed the 2011 law, for reasons explained under the second finding.

already, I wish to set the tone for the upcoming section, which will directly link the findings regarding parliamentary narratives to wider political developments.

9.4.1 *Seventh finding: Pro-confrontation parties' "return to Europe" trope*

The shared emphasis on European history and the use of the “return to Europe” trope constitutes another similarity between Bulgaria and Serbia—one that constitutes my **seventh finding**. Bulgarian President Stoyanov spoke already in 1997 of the Bulgarian “road to the European family.”³⁸ Putting it even more metaphorically, President Đinđić compared Serbia to a person that had spent fifty years under water and now found itself on “its way to oxygen, and that is Europe.”³⁹ The “return to Europe” trope may have been popularised by leaders from Central and Eastern European countries, but it was apparently not an unnecessary luxury for Balkan leaders either. Considering that many of their members had been part of the previous authoritarian socialist regimes, self-confessed anti-socialist parties had everything to gain by claiming a sharp divide between present and past.⁴⁰

These references to the “Europeanness” of Bulgaria and Serbia were not invented in the 1990s and 2000s. Instead, they built on a long rhetoric of right-wing and nationalist pro-European elites that can be traced back to at least the nineteenth century. In Bulgaria as well as Serbia, the history of Ottoman occupation was central to this narrative. The two countries each considered themselves as vestiges against the oriental “enemy.”⁴¹ In the case of Serbia, this idea of defending Europe against the “invasion of Islam” acquired an especially dark dimension after it was used in the 1990s to justify violence and massacres against Bosniaks, the Muslim population of the region. The most criminal warmongers on the ethnic Serb side developed this rationale in order to mobilise their armed forces and increase fear, implying that Serbia again had to protect Europe against Jihad-waging extremists in these wars, just as it had done many centuries before.⁴²

³⁸ Petar Stoyanov, “Türzhestveno slovo na Presidenta na Republika Bŭlgariya: G-n Petŭr Stoyanov po sluchaj Natsionalniya praznik na Bŭlgariya 3 mart,” in *Fond 1224 Opis 4 a.e. 618. 1-38, 48-64* (Sofia: Central State Archives, 1997), 5.

³⁹ Zoran Đinđić, “Imati viziju: Izveštaj o radu demokratske stranke između dve skupštine. Beograd, 5 oktobar 2001,” in *Istorija Demokratske stranke 1989–2009: Dokumenti*, eds. Kosta Nikolić, Bojan B. Dimitrijević, Srđan Cvetković, and Slobodan Gavrilović (Beograd: Institut za savremenu istoriju i Službeni glasnik, 2010), 20.

⁴⁰ As discussed in chapters 3, 4, 6 and 7, there was a significant degree of continuity between personnel from the socialist regimes into the post-transition political elites, in Bulgaria as well as Serbia.

⁴¹ See e.g., Arolda Elbasani and Olivier Roy, “Islam in the Post-Communist Balkans: Alternative Pathways to God,” *Southeast European and Black Sea Studies* 15, no. 4 (2015).

⁴² Especially today, with the heightened fear in the West for Islamist fundamentalism and terrorism, this extremist rhetoric is popularised across the internet as well as in mainstream politics, with nationalist Serbs claiming that it should fulfil a leading position in the international fight against Islamist terrorism due to its alleged experience. This has real effects on the Bosniak population of the region, who understandably feel marginalised and demonised.

This right-wing narrative—that of defending Europe against the non-European “enemy,” be they Ottomans, socialists, or Jihadists—is relevant for two reasons. Firstly, it enabled the alienation of the socialist past, and secondly, it created an urgency to deal with the past before entering the EU. To start with the first point, by putting the alleged victory over socialism on equal terms as that of overcoming the Ottoman enemy, parties contrasted the country’s dark, un-European past with that of the bright EU future. In Bulgaria, the alienation of this socialist past was, for instance, formalised in the 2000 law that declared the communist regime criminal. The law incorporated references to socialism as a “catastrophe” and a foreign imposition. In Serbia, similar dismissals of the socialist past surfaced in, for example, the wording of the 2003 lustration law and were popular amongst the monarchist and pro-European SPO.

The urgency to deal with the past was nurtured by using the EU as a model. Pro-confrontation parties claimed that Serbia and Bulgaria had to address their socialist pasts in the same way Europe had addressed the Second World War. Sometimes, other European countries were used as an example. Bulgaria should thus condemn socialism like Germany had done, or “forgive and forget,” as with the Spanish model. Serbia was to follow the example set by Slovenia’s lustration law, or reconcile četniks and partisans—again allegedly in line with the Spanish. Admittedly, these references were more frequent in Bulgaria than in Serbia.

Pro-confrontation parties, in the course of the 2000s, were helped by new EU resolutions that allowed them the luxury to make direct claims. These resolutions reflected the gradual growth of the “confront” narrative that started to typify the EU’s attitude towards the socialist past from 2006 onwards. The 2009 EP resolution to condemn totalitarian regimes was key to this. When also the European Commission and Council of the European Union adopted similar declarations later that year, this was directly incorporated in the existing arguments of pro-European and pro-confrontation parties in Bulgaria and Serbia. For these parties, the EU resolutions confirmed the moral status of the EU as an anti-totalitarian Union that both rejected the socialist legacy, and called for confrontation with the past. In the case of Serbia’s war past, it was the Srebrenica resolution of the EP that carried the most important authoritative value.

9.4.2 Eighth finding: Anti-confrontation parties’ claims on reconciliation and unity

Claims on the EU accession prospect and membership status in relation to the past were not the exclusive territory of the pro-confrontation side. Parties opposing archival disclosure, vetting, rehabilitation, or other measures of dealing with the past would point towards the supposed EU values of reconciliation, political tolerance, unity, and

forgiveness. This constitutes my **eighth finding**. In Serbia, anti-confrontation parties dismissed the 2003 lustration law as a cause of division and arbitrary political reckoning that would surely not be appreciated by the EU. Similarly, in 2010 Tomislav Nikolić from the Progressive Party tried to appropriate an EU narrative—its historical tolerance of diversity—in an elaborate attempt to underline his opposition to the Srebrenica declaration. In Bulgaria, this mostly took the form of references to reconciliation. In the debate on the 2005 soldiers' pension law, Rumen Ovcharov from the SPS told his opponents that in the country's European vision, there "is no place for hatred," as he saw embodied by the law.⁴³ Another popular approach was to point towards the challenges that needed more urgent attention—to move ahead was presented as a moral imperative to become (or be) a worthy EU member state.

Two important differences between Bulgaria and Serbia manifest themselves here. Firstly, the narrative of Yugoslav socialist exceptionalism as mild and rational compared to other countries in the region initially benefitted the anti-confrontation side, at least until the EU's "confront" narrative gained strength. Secondly, Europe and EU accession were less popular in Serbia as compared to Bulgaria. This is reflected in the presence of the strongly anti-European Radical Party in Serbia, supported by other highly Eurosceptical factions, whilst no such party exists in Bulgaria. However, the anti-European identity of the SRS is a symptom of a much greater Serbian Euroscepticism. Due to Europe's general involvement with the country's recent history, Europe does not hold an unequivocally positive meaning in Serbia. Many Serbians blame the EU, or individual countries within it, for (1) recognising the independence of Yugoslav republics at an early stage; (2) holding Serbia responsible for the wars in the 1990s; and for (3) failing to recognise Serbian victimhood during both the recent wars and the Second World War. Whilst the "return to Europe" narrative in Bulgaria had almost exclusively positive connotations, in Serbia it thus had to be used cautiously. One highly significant Bulgarian party even explicitly called itself after this European ambition: Citizens for European Development of Bulgaria (GERB). Whilst the popularity of a party with such a name in Bulgaria may have been a surprise, it would have been unthinkable in Serbia. Despite the pro-European turn of the SPS and the SNS, explicit Euro-enthusiastic politics remained the territory of more marginal, liberal Serbian politics.

⁴³ Rumen Ovcharov in Narodnoto Sabranie, "Trista devetdeset i shesto zasedanie 9 septemvri 2004."

9.4.3 Ninth finding: The impact of ICTY conditionality on dealing with the socialist past in Serbia

The narrative of the EU's anti-Serbian bias was further deepened by the nature and implementation of ICTY conditionality. Although I have demoted my initial research focus on “single” versus “double” transitions for the sake of more insightful analytic paths, it is in this **ninth finding** (not coincidentally, the only finding that applies to a single country) that Serbia's double transition was in itself a significant factor compared to Bulgaria's single transition. To illustrate this, I need to sketch both the Serbian domestic context and the specific impact of ICTY conditionality.

Starting with the domestic context, the EU (and the West in general) are subject to public and political contestation. References to the 1999 NATO bombardments was an especially powerful strategy to stigmatise the West as criminal and anti-Serbian. During the 2000s, ICTY conditionality could easily be tied into this same trope. Parties opposing what they saw as enforced, unjust co-operation with the Hague Tribunal (discussed under the fourth finding) accused the EU and ICTY of the same Serbia-bashing. This dismissal of the ICTY and EU then spiralled into a broader dismissal of dealing with the past in general. Thus, I argue that ICTY conditionality, in addition to its more positive effects already discussed, not only added to the negative connotations of dealing with the wars of the 1990s, but also to that of the socialist past.

I can further strengthen this point via a comparison with Bulgaria, where parties had to go to great lengths to argue that dealing with the measures put in place to address the past sprang from external EU demands rather than domestic needs. As elaborately discussed earlier, even the 2006 archival disclosure law was, for a significant part, the product of domestic struggle. Anti-confrontation parties had it much easier in Serbia, as they only needed to point their finger at EU intervention regarding ICTY co-operation. Furthermore, anti-confrontation parties made many rather random references to “The Hague” in order to dismiss their pro-confrontation opponents as anti-patriotic. The lack of a logical relation between the EU's ICTY conditionality, on the one hand, and Serbia's process of dealing with the socialist past, on the other, did not seem to bother them at all. Tropes of foreign enforcement, anti-Serbian bias, and the betrayal of the Hague Tribunal appeared throughout the debates on the 2005 soldiers' pension law and the 2006 and 2011 rehabilitation laws. Although pro-European politicians had always been vulnerable to this type of criticism, because of the centrality of ICTY co-operation in the Serbian domestic debate, alleged anti-Serbian and insulting EU conditionality became the lens through which nationalist parties could colour the whole process of dealing with the past.

My argument should evoke some critical questions. If the process of post-socialist transition in Serbia was indeed significantly more controversial and restrained than in Bulgaria, what, then, is the reason that Serbian parliament adopted several laws to deal with this past? I argue that although the formal “results” of dealing with the socialist past in Bulgaria and Serbia may not have diverged much, ICTY conditionality led to substantial differences in terms of their long-term impact. It is true that Serbia adopted laws for archival disclosure and lustration after debates that included references to the EU, however, neither law was ever implemented. In Bulgaria, with all their limitations, the 2000 law and 2004 declaration that condemned the socialist regime had already symbolically dealt with the socialist past, whilst the 2006 archives law not only opened the secret files, but itself also served as a form of lustration.⁴⁴

Thus, the most important institutions and structures for dealing with the socialist past exist in Bulgaria—something that is far from the case in Serbia. I suggest that the process of dealing with the socialist past in Serbia has little to do with confronting the misdeeds of the socialist authoritarian regime, but instead takes a very different direction. It has become part of a strong and, I would suggest, worrisome political project. In the following section, I will illustrate this argument—again via a comparison with Bulgaria. For this, we need to go back to the narratives through which commitment to the EU accession prospect was first justified.

9.4.4 Tenth finding: The EU as anti-fascist space

My research started out from an initially naïve way of thinking about, respectively, one past in Bulgaria, and two pasts in Serbia, because I overlooked the more distant past. Due to ideological restrictions, the Second World War could not be openly discussed during socialist times. Therefore, at the start of transition, both in Bulgaria and Serbia, respectively two and three pasts demanded urgent attention, namely, the Second World War, the socialist reign and, in the case of Serbia, the wars of the 1990s.⁴⁵ It was this past—the Second World War and the notion of an alleged anti-fascist fight—so my **tenth**

⁴⁴ Admittedly, as discussed earlier, the Bulgarian Socialist Party tried to use the acquisition of EU membership as an argument to stop the work of the archival committee (COMDOS). These attempts definitely hindered the committee, but did not manage to stop or seriously impede it—indeed, right up to the present day, the committee continues its work. Although operating in sub-optimal circumstances, at least the general legal and institutional framework is in place and functioning.

⁴⁵ This is also acknowledged by political scientist Nenad Dimitrijević, who identifies three “repressive pasts” in Serbia’s modern history. He states that, whilst the pasts of socialist crimes and those of the Second World War “are clearly distinct, they were addressed simultaneously with the same transitional justice mechanisms.” Nenad Dimitrijević, “Learning from Serbian Failure: The Denial of Three Repressive Past,” in *Transitional Justice and the Former Soviet-Union: Reviewing the Past, Looking toward the Future*, ed. Cynthia M Horne and Lavinia Stan (New York: Cambridge University Press, 2018), 304.

finding posits, that often evoked the most direct political engagement with the EU's foundational narrative.

Scholars, intellectuals, and politicians have for decades grappled with the question of what makes the EU "European." In chapters 1 and 2, I argued that the past of the initial EU member states during the Second World War and the Allied victory over Nazism and fascism became the central trope of the EU's identity narrative. The Nobel Peace Prize—awarded to the EU in 2012 because of its contribution to the "advancement of peace and reconciliation, democracy and human rights in Europe"—shows that this narrative also enjoyed external legitimacy.⁴⁶ Accession countries knew that becoming European required them to emulate the narrative of overcoming fascism. Yet this was a simple task for them, as previous socialist regimes had already formalised this narrative. To claim the anti-fascist legacy had for more than half a century been the main way to establish political legitimacy.

In both Bulgaria and Serbia, in the first years of transition, socialist parties tried to hold on to their status of being anti-fascist victors. Chapters 3 and 6 respectively described how they defined themselves as successors of those who defeated fascism. When anti-socialist parties stepped up their efforts and formalised the condemnation of the socialist regime through laws and declarations, these party orientations became untenable.

In Bulgaria, not only was socialism stripped of its status as victor and instead sidelined as another form of totalitarianism, the country's collaboration with the Nazis was recast into a story of heroism. Did Bulgarian citizens not protect their Jewish neighbours? Did the king himself not guarantee the safety of all Bulgarian Jews? In this way, Bulgaria's alleged anti-fascist, anti-Nazi monarchy, which preceded socialism, proved itself worthy of its European identity. In Serbia, the recognition and rehabilitation of četnik fighters and "heroes" was presented in terms of national reconciliation. This reconciliation, proponents then argued, would help Serbia on its way to the EU. Since fascism and EU identity have always been symbolic opposites, the erasing of the labels "fascist" and "fascist collaborator" from the četnik part of history ensured that this past could be incorporated in Serbia's (supposed) European history. This paved the way for political parties to combine nationalist with pro-European stances. Whilst it was the SPO who initially championed this approach, it was the SNS that really capitalised on the combination of these two identities. Dominating the Serbian parliament and governance a mere decade after its establishment, this party has come to symbolise the new political course of the country.

⁴⁶ "The Nobel Peace Prize 2012," *NobelPrize.org*, October 8, 2018, <https://www.nobelprize.org/prizes/peace/2012/summary>. The Nobel committee explained how the EU had overcome the "suffering" of the Second World War and has ensured that, "since 1945, . . . reconciliation [between France and Germany] has become a reality." "The Nobel Peace Prize 2012: Announcement," *Nobel Prize*, October 12, 2012, <https://www.youtube.com/watch?v=Ef0wDKm6G-4>.

Some important differences between the countries need to be highlighted. In Bulgaria, the trope of the supposed anti-fascist resistance of the monarchy remained embedded in the legacy of the Second World War. In Serbia, the wars of the 1990s reactivated this narrative. The new Croat independence movement, recycling symbols from the ustaše (the Croat nationalist regime that had collaborated with the Nazis) represented a re-emergent fascist enemy—an image bolstered by the Serbian media. In contrast, četnik resistance was framed in terms of the anti-fascist fight. ICTY conditionality, or more precisely, the Serbian right-wing response to it, ensured that these binaries (i.e., nationalism and the international victimisation of Serbs; fascism and anti-fascism; heroism and weakness) remained relevant and salient even after the wars of the 1990s. This foregrounded notions of the West's anti-Serbian bias and the need to defend the Serbian fatherland in times of war and peace, benefitting right-wing extremist politics. Importantly, the adjective “extremist” is losing its accuracy, as this narrative has become more and more embedded in mainstream politics.

9.5 Conclusion within a conclusion

Having now presented the main similarities and differences that I discovered between Bulgarian and Serbian dealing with the past in the context of EU accession, I now turn to ask: What do they mean? Despite the very different EU stances taken by both countries in terms of practice and narratives, I argue that on the most profound level, the cases of Bulgaria and Serbia—albeit partially—converge. In both countries, the EU accession prospect was used by parties across the full political spectrum in order to deny (collective and political) responsibility for crimes committed in the past. Related to this, the parties emphasised discontinuity rather than continuity in order to avoid accountability. Serbia offers the most obvious example of these dynamics. EU ICTY conditionality, with its focus on individual guilt in a process of EU accession based on collective state performance, offered the excuse required to present the Hague Tribunal as inherently biased and foreign—to the undoubted benefit of nationalist parties. However, more liberal, pro-European parties could also present painful decisions as demands from the EU and The Hague, rather than domestic needs.

Bulgarian parties did not have a scapegoat such as the ICTY, but opponents of engagement with the past could still depict the EU as a Union of reconciliation, dismissing any need to confront the past. Pro-confrontation parties in their turn filled the EU silence on these topics with claims regarding EU expectations and standards. In so doing, they legitimised measures that would have otherwise seemed unattractive. However, the consequence was that, with the entrance of Bulgaria into the EU in 2007, opponents could

claim that the process of dealing with the past was finished—after all, had all the efforts towards condemning the socialist past not aimed to bring about EU membership? If this was the case, then the success of accession would close the book of the past and mean that Bulgaria could finally turn towards the future.

If the above appears reminiscent of Serbia, it is because it echoes how Serbian parties presented the arrests of ICTY indictees. Even those politicians who had strongly supported ICTY co-operation gave a sigh of relief when Mladić was arrested. They declared that Serbia could now close the chapter of the past and, albeit less directly, this also applied to the way in which Serbia dealt with its socialist past. The EU future of the country was presented as an antidote to the legacies of the wars and socialism. October 5, 2000 was presented as a turning point, a return to Europe, led by the opposition that had been suppressed for decades. This was meant to divert attention away from the fact that, as in Bulgaria, there was substantial overlap in terms of personnel and ideology between the criminalised predecessor and the (supposedly) brand new parties.

Both strategies had a similar result: they attributed the duty to deal with the past to an external actor. Whether narrowed down to a matter of merely arresting the right individuals or to the exercise of forging ahead, dealing with the past was presented as something that was required by Brussels. Even if parties could not fully blame the EU for demanding this process—although they certainly tried—then at least the fulfilment of conditionality or acquisition of EU membership could be depicted both in terms of a solution and an end point.

Not only was the duty to deal with the past externalised, so was the past itself. Apart from pretending that the EU accession calendar somehow related to a timeline for dealing with the past, Bulgarian and Serbian political parties sought legitimacy in the EU's own historical narrative in order to present the past as essentially "foreign." As Tony Judt—in his 2002 essay aptly named after Hartley's book *The Past is Another Country*—wrote, European intellectuals, politicians, and scholars portrayed Nazism as alien and imposed. Judt called this a "single beautiful lie."⁴⁷ Anti-socialist European elites did thus not have to look far to find inspiration to similarly portray socialism as a mere aberration.

However, for those who had hoped to find more insightful differences between Bulgaria and Serbia, there is a point to make about nuance and extent. In Serbia, the negative effects of enforced ICTY co-operation gave political parties that wished to do so an exceptionally strong argument to externalise the duty to deal with the past. In Bulgaria, in contrast, the lack of factual EU engagement made it harder to attribute this process to external forces. Whereas in Bulgaria, the main infrastructure for archival disclosure,

⁴⁷ Tony Judt, "The Past is Another Country: Myth and Memory in Post-War Europe," in *Memory and Power in Post-War Europe*, ed. Jan-Werner Müller (Cambridge: Cambridge University Press, 2002), 181.

commemoration, and even lustration was put in place, in Serbia most of the laws meant to deal with the socialist past remained unimplemented.

To declare the process of dealing with the past as well as the past itself over and alien, is problematic for other reasons as well. It has been recognised already a decade ago that transitional justice should not be understood as a moment in a linear process of democracy, but rather as a collection of measures that can also benefit developed democracies.⁴⁸ This should raise suspicion towards the ease with which political parties claimed that “the page had been turned.” More urgently, however, this externalisation is problematic because it gives way to historical revisionism—another phenomenon that has developed in both Bulgaria and Serbia alongside the events studied in this research. The effects of this revisionism in Bulgaria may not have been as tangible as in Serbia, but they are traces of the same, probably European-wide development. Put more directly: the critical engagement with the socialist past has had the very much intended side-effect of making the revisionist nationalist take on the past acceptable and even *salonfähig*.

This argument has been running through this work. Its first chapters have described the memory conflict in Europe when the 2004 accession wave first took shape. Western European countries first imposed their own memory narrative, with the Holocaust as its central evil. With the adoption of the 2009 EP resolution on totalitarian regimes, however, it is fair to say that Central and Eastern Europe struck back. Instead of simply adopting Western Europe’s take on the past, it now demands that its own historical narrative is taken into account. Whilst this is understandable from political and academic perspectives, the ensuing externalisation of the socialist past as an evil, alien imposition, places nationalists at the winning end of this historical revision. They portray themselves both as innocent victims of socialism and as the moral victors of transition. In Bulgaria, this has translated into the increasing public acceptance of a rather apologetic stance towards the regime’s collaboration with the Nazis.

In Serbia, this development has far exceeded the realm of a distorted historical narrative. As a result of the rehabilitation of the četnik movement, right-wing nationalism has become increasingly visible and accepted on the street and in parliament. Četnik identity is no longer a dirty word and because it redefined historical notions of nationhood, Europeanness, and anti-fascism, it is almost impossible to exaggerate the importance of this change in historical interpretation. The alleged fascist collaboration of prominent četnik figures from the Second World War was contested, corrected, denied, overlooked, justified, or simply ignored—I leave the choice of word to the reader, depending on her/his

⁴⁸ See e.g., Kieran McEvoy and Lorna McGregor, “Introduction,” in *Transitional Justice from Below: Grassroots Activism and the Struggle for Change*, ed. Kieran McEvoy, and Lorna McGregor (London: Bloomsbury Publishing, 2008), 6–7.

ideological and political preferences. It is difficult to predict the direction this recent development might take, but initial indications do not give much cause for optimism.

Epilogue

Studying political parties in Bulgaria and Serbia has taught me much about the domestic dynamics that govern how countries engage with their pasts. However, this book's main contribution lies in its analysis of how domestic and international narratives interact, are negotiated, and bargained in relation to each other. What lessons can the European Union take away from this study? Most importantly, the EU needs to conceptualise the potential influence it has on dealing with the past far more holistically. Also in academia, the influence of the international dimension has been studied in rather cautious terms. As John Gledhill wrote in 2011:

as processes of regional integration have deepened across CEE, and European institutions have come to inform a host of socialist and political processes, it is worth considering whether this new institutional context has informed the capacity of political and civic elites to realise projects of collective remembrance and/or processes of transitional justice.¹

My research has indicated that two assumptions from Gledhill's call to action seem too modest. Firstly, to conceptualise "regional integration" and "European institutions" as a "new institutional process" is to miss various other potential channels of influence. The EU accession process was not necessarily all new, but rather connected to long-existing narratives of "being European," thus also becoming a moral and normative space. It is for this reason that I have focussed on the influence of the "EU accession prospect" rather than on EU accession as an institutional context.

Second, the influence of the EU accession prospect transcends the question of whether it "informed the capacity" of elites in favour of transitional justice. This prospect also shaped the "toolbox" available to anti-confrontation parties. Whilst in some ways, the EU accession prospect encouraged parties that wished to confront the past, it limited the space for legitimate manoeuvre in other ways. Also, "realising projects" is too limited a framework within which to assess the impact of EU accession. In the preceding comparative chapter, we have analysed the influence exerted on political parties on three levels: individual party orientations, parliamentary decision-making, and parliamentary narratives.

¹ John Gledhill, "Integrating the Past: Regional Integration and Historical Reckoning in Central and Eastern Europe," *Nationalities Papers: The Journal of Nationalism and Ethnicity* 39, no. 4 (2011): 488.

A large part of this research has been an exercise in identifying and deconstructing EU norms. Europe can and does determine what is “normal.” There is no reason to assume—and this book has confirmed this—that this does not apply to dealing with the past. In fact, it is unlikely that there is an area of enlargement that is more apt to illustrate these dynamics than dealing with the past. In Bulgaria and Serbia, dealing with their own violent pasts included defining the bonds between their countries and Europe. In describing these relations, past and future become merged into a single narrative. Yet this story did not only describe the history of their countries, but also that of Europe. EU institutions did not passively await these processes in Bulgaria and Serbia and beyond, and by adopting the 2009 declaration to condemn totalitarian regimes, the European Parliament and later the European Commission and the European Council extended the story of the European past to encompass the Eastern European experience.

My case studies can be read as cautionary tales for the direction that this process may take in the future. Because of its potential nationalist side effects, it appears to be insufficient and even tricky to merely add the socialist history to the EU’s foundational narrative as simply “another evil period.” Instead, the twenty-eight (soon to be twenty-seven) member states need to recognise that including the socialist experience will necessarily change the whole historical narrative of the EU’s genesis. Carlos Closa Montero stated in 2011 that, within this framework of the “Europeanisation of national memories,” “belonging to the EU should be interpreted as a mandate for nations to revise their ‘darker legacies.’”² A (perhaps cynical but not unfounded) reading of my work would add that Bulgarian and Serbian political actors have used EU accession not to revise, but to legitimise their “darker legacies.” By confronting the socialist past, they depicted the nationalist past in a shining, European(ised) light. If this sounds far-fetched, we only need to look at current developments in Poland and Hungary for suggestions as to where such a revision of history might take us.

Therefore, I want to make a political statement here. As a normative, moral, and institutional space—whether deliberately or not—the EU influences the debate on the past and the future in the countries that wish to join. Rather than letting extremists take the lead, it had better try to steer the process more actively into a more democratic direction. However, this is not a call for more EU intervention in aspiring member states. Rather, I argue that the re-narration of the EU’s historical identity needs to start in Brussels. This should go beyond presenting the EU simply as an anti-fascist and/or anti-socialist Union, but should instead allow for complex narratives of democracy and the rule of law. Judging

² Carlos Closa Montero, “Dealing with the Past: Memory and European Integration,” *Jean Monnet Working Paper*, 2011, 34, http://digital.csic.es/bitstream/10261/43347/1/European_Integration.pdf.

from the conventional and even simplistic narratives shown in the recently opened House of European History in Brussels, the above seems little more than a distant ambition.

I admit that this reassessment of the EU's identity narrative is a difficult, if not impossible mission. However, the EU is a difficult if not impossible project—for example, the Brexit referendum took place even before the mid-point of the research presented here. To critically assess the story, it tells about its past, and thus its practice and narratives towards its member states and aspiring member states is nothing the EU has not done before. “Unity in diversity” is as much a cliché as it is a reality. It should also apply to the past of the EU and its future members.

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Bibliography

Notes:

- This bibliography only includes the works and sources that have been referenced to throughout this book.
- It has been split up in six categories, respectively: Literature; Serbian and Bulgarian primary sources; EU primary sources; Other primary sources; Interviews; News articles.
- All URLs have been checked on 20 February 2019.
- I have saved online party documents and parliamentary debates in pdf and word format. Researchers interested in these sources but unable to locate them online are welcome to contact me at nikewentholt@gmail.com.

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Nederlandse samenvatting

Titel: In het reine met het verleden, klaar voor Europa? Politieke omgang met het verleden en Europese Unie toetreding in Bulgarije en Servië

Originele titel: Overcoming History, Becoming European? Politics of the Past and European Union Accession in Bulgaria and Serbia

Politieke transitie is een complex proces. Dit geldt vooral als er sprake is van een regimewissel na een gewelddadig verleden. De casussen Bulgarije en Servië staan in deze dissertatie centraal. Waar Bulgarije een autoritair socialistisch verleden kent, wordt Servië geconfronteerd met een geschiedenis van autoritair socialisme alsmede betrokkenheid in de Joegoslavische oorlogen. In de afgelopen decennia moesten deze landen niet alleen deze verledens op enige wijze adresseren; zij opteerden ook voor lidmaatschap van de Europese Unie (EU). Deze dissertatie brengt deze twee polen van verleden en toekomst direct met elkaar in verband door te onderzoeken hoe het vooruitzicht van Europese Unie toetreding (en de status van EU lidmaatschap in Bulgarije vanaf 2007) van invloed was op politieke omgang met het gewelddadig verleden in Bulgarije en Servië, landen die respectievelijk een “enkele” en een “dubbele” transitie ondergingen, in de jaren 2000-2012.

Hoofdstukken 1 en 2 bestuderen de Europese Unie. Door te kijken naar zowel beleid als narratieven, is het mogelijk deze invloed breed te onderzoeken. In termen van beleid, de focus van hoofdstuk 1, blijkt dat de Copenhagen-toetredingscriteria van de Europese Unie, opgesteld in haar zoektocht naar gemeenschappelijke waarden, direct in verband staan met omgang met het verleden. Desondanks stelde de EU zich veelal ambigu en aarzelend op tegenover het socialistische verleden in haar oostelijke buurlanden. Consistent beleid ontbrak. Dit gold voor zowel “retributive justice”, met de focus op rechtsvervolging en lustratie om af te rekenen met de daders, en “restorative justice”, dat zich richt op herinnering en genoegdoening voor de slachtoffers. Daarentegen zocht de EU directe betrokkenheid bij omgang met het oorlogsverleden van het voormalig Joegoslavië. Samenwerking met het Joegoslaviëtribunaal was bijvoorbeeld een directe eis in toetredingsonderhandelingen met Servië.

De studie van narratieven in hoofdstuk 2 geeft meer inhoud aan deze conclusies. Het historische identiteitsnarratief van de Europese Unie legde het zwaartepunt bij de lineaire, democratische ontwikkeling van Europa nadat nationalisme en bloedige rivaliteit van de Tweede Wereldoorlog waren overwonnen. Dit narratief kwam ter discussie te staan toen Midden- en Oost-Europese landen na de val van het socialisme lidmaatschap

nastreefden—en kregen. Brussel nam weliswaar de antisocialistische retoriek over, maar was niet bereid op te roepen tot confrontatie met dit verleden. Na jarenlang lobbywerk door de nieuwe postsocialistische lidstaten nam in 2009 het Europees Parlement een sleutelresolutie aan die de socialistische regimes veroordeelde en opriep de erfenis van dit verleden direct te adresseren.

Dit “confrontatie”-narratief was de EU niet onbekend; het had namelijk vanaf het uiteenvallen van Joegoslavië de opstelling van Brussel tegenover Servië gekarakteriseerd. Servië moest zijn verleden onder ogen komen door de schuldige oorlogsmisdadigers te vervolgen, zo stelde het narratief, om zowel aan zijn internationale verplichtingen te doen, een waardige EU-lidstaat te worden, en verzoening binnen de eigen regio en eigen land mogelijk te maken. Hierin weerspiegelde de EU haar eigen historische ervaring van transitie richting vrede en democratie na de verscheurende Tweede Wereldoorlog.

Hoofdstukken 3 tot en met 5 onderzoeken hoe dit beleid en deze narratieven van de EU van invloed waren op omgang met het socialistische verleden door politieke partijen in Bulgarije. Elk hoofdstuk bestudeert één politiek niveau: partijposities; parlementaire besluitprocessen; en parlementaire narratieven. Het socialistisch verleden was een directe politieke scheidslijn tussen de “blauwe”, antisocialistische zijde en de “rode” opvolgers van het voormalig regime. Tegelijkertijd was EU lidmaatschap een breed geaccepteerd beleidsdoel onder alle partijen. Hierdoor beriepen zowel voor- als tegenstanders van confrontatie met het verleden zich op de vermeende positie van de EU vis-a-vis veroordeling van het socialistisch regime (inclusief de vervolging van Bulgaarse Turken in de jaren '80), lustratie, en archiefopening, hoewel de EU zich in de realiteit zelden uitsprak over deze onderwerpen. Het parlementaire besluitproces en debat rondom de archiefwet van 2006, die dossiers van de voormalige geheime dienst ontsloot, vormt een diepgaande case-in-case studie. Nationale partijen en politici, in tandem met individuen uit het Europees Parlement, gebruikten het momentum van EU toetreding om archiefopening als enige mogelijke optie te presenteren.

Hoe ver de invloed van (het vooruitzicht op) EU toetreding reikt, blijkt verder uit studie van de parlementaire narratieven. Partijen van het hele spectrum presenteerden de EU als morele actor omtrent, en als model voor, omgang met het verleden. Voorstanders van confrontatie beschreven de EU als een unie van mensenrechten en rechtstaat die socialisme afwijst. Tegenstanders van confrontatie, daarentegen, wezen op de noodzaak tot onderlinge verzoening en een toekomstgerichte blik, als Bulgarije deel wilde zijn van de EU. In eerste instantie trokken deze tegenstanders een parallel tussen de status van socialisten als overwinnaars van het fascisme en het identiteitsnarratief van de EU, dat inderdaad stoelde op de overwinning op Nazi's en fascisme.

De hierboven besproken ontwikkelingen in de EU maakten dit narratief echter steeds minder levensvatbaar. De EU's expliciete veroordeling van socialistische regimes in 2009 leidde ertoe dat de opvolgers van het socialistisch regime een andere strategie kozen. In plaats van identificatie met, distantieerden ze zich van hun voorgangers. Deze ontwikkeling is complexer en zorgwekkender dan op het eerste gezicht lijkt: als Bulgaarse politieke partijen het gewelddadige verleden externaliseren, daartoe gedeeltelijk in staat gesteld door ambigü EU beleid, wie neemt er dan nog verantwoordelijkheid voor de misdaden van dit verleden?

Hoofdstukken 6 tot en met 8 bevatten opvallend vergelijkbare bevindingen voor de casus Servië. Hoewel de socialistische partij zich weliswaar graag op de speciale ervaring van het Joegoslavische socialisme beroept, presenteerden antisocialistische partijen dit verleden net zozeer als een anti-Europese episode die dient te worden geconfronteerd via onder andere lustratie- en rehabilitatiewetgeving. Opvallend is dat in zowel Bulgarije als Servië het vooruitzicht van EU toetreding vooral invloed had op twee typen partijen: de opvolgers van de autoritaire socialistische partijen en monarchistische partijen.

De significantie van de Servische “dubbele” transitie schuilt met name in de verstreckende invloed van samenwerking met het Joegoslaviëtribunaal als EU toetredingseis. Dit stelde politieke partijen, van zowel conservatieve als progressieve oriëntatie, in staat om samenwerking met het tribunaal af te schilderen als een noodzakelijk kwaad. Bovendien werd omgang met het verleden gepresenteerd als uitsluitend een zaak van individuele criminele schuldvrage. Ook hier leidde dat ertoe dat discussie omtrent politieke verantwoordelijkheid voor het verleden grotendeels kon worden vermeden.

Het hoofdstuk over parlementaire narratieven bevestigt dat de EU door beide kampen wordt gebruikt om de eigen visie op het verleden te legitimeren, zelfs als de EU weinig tot geen uitspraken heeft gedaan over dit verleden. Nog meer dan in Bulgarije is het gebruik van het fascistische verleden van belang. Onder de noemer van confrontatie met het socialistische verleden slaagden enkele partijen er in om wetgeving te realiseren die de eer herstelt van door de socialisten bevochten nationalistische groeperingen en individuen. Door hen als antifascistisch verzet te presenteren—terwijl veel historici menen dat zij juist collaboreerden met de machthebber—is de officiële geschiedenis van Servië gradueel herschreven vanuit een nationalistisch oogpunt. Bovendien is de historische rol van Servisch nationalisme hiermee compatibel gemaakt met het identiteitsnarratief van de EU. Nationalistische partijen die deze ontwikkeling steunen, maken daarom opportunistisch gebruik van de toenemende oproep vanuit Brussel om het autoritaire socialistische verleden te confronteren.

Het concluderende hoofdstuk en de epiloog kijken kritisch naar de basisaannames waarmee het onderzoek begonnen is. Ten eerste blijkt het naïef om omgang met het verleden van Bulgarije en Servië te presenteren als respectievelijk enkele en dubbele transitie. In de realiteit is het verre verleden (met name de Tweede Wereldoorlog, maar ook historische episodes daarvoor) direct onderdeel van de politieke debatten over socialisme en de oorlogen van de jaren '90. In beide landen wordt het narratief van de pro-Europese, antifascistische strijd ingezet om de eigen politieke geschiedenis te legitimeren.

Ten tweede toont dit onderzoek dat de invloed van Europese Unie toetreding op (potentiële) kandidaatlidstaten verder reikt dan direct beleid of zelfs EU narratieven. Zelfs als de EU geen betrokkenheid wenst bij bepaalde onderwerpen van het verleden, wordt zij in het politieke debat in de desbetreffende landen hier toch onderdeel van gemaakt.

Ten derde wordt stilgestaan bij de nationalistische herijking van de Bulgaarse en Servische geschiedschrijving onder de vlag van confrontatie met het vermeende “anti-Europese” socialistische verleden. Vergelijkbare ontwikkelingen in Midden- en Oost-Europa doen realiseren dat de Europese Unie nood heeft aan een meer inclusief historisch narratief dat recht doet aan “eenheid in verscheidenheid.”

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Selected publications:

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