State Capture Deconstructed

Risk Measurement in Vulnerable Economic Sectors in Europe

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CSD

CENTER FOR
THE STUDY OF
DEMOCRACY

The current policy environment is particularly favourably disposed towards strengthening the European Union's response to state capture vulnerabilities. In 2020 the EU introduced a range of new initiatives, including the European Rule of Law Mechanism, the European Democracy Action Plan, and a ew Security Strategy with a strong focus on anti-corruption. The report complements previous CSD efforts to understand and monitor state capture vulnerabilities and provides a useful practical framework for risk assessment, which could guide EU policy and law enforcement efforts. It presents the findings from the pilot implementation of an innovative methodology for assessing state capture and corruption at the economic sector level based on red-flag indicators and big data. The analysis covers three economic sectors (construction, wholesale of fuels and wholesale of pharmaceuticals) in four EU countries (Bulgaria, Italy, Romania and Spain).

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State Capture Estimation and Monitoring of Anti-Corruption Policies at the Sectoral Level /SceMaps/

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EXECUTIVE SUMMARY

The notion of *state capture* has long been used to explicate the practice of private business subverting government policy and decision-making in its favour. It has typically referred to a series of individual corrupt transactions at the senior government level. Developments across many European countries and further afield, however, indicate that the practice has gone beyond a simple deviation in the functioning of a given public institution and increasingly reflects a stable pattern of institutional behaviour, which is resistant to the application of standard, generalised anticorruption policies. This report presents the results from the application of an innovative analytical tool, the *State Capture Assessment Diagnostics* (SCAD) on sectoral level, which provides policy relevant findings about state capture, characterising it as a systemic failure of public governance.

From accidental to systemic

The new reality of state capture as a *de facto,* wholesale privatisation of government decisions and the monopolisation of entire economic sectors requires the development of new tools of analysis that will inform a new generation of good governance policies. SCAD reveals the **exploitation of the power of government for private benefit in a systematic and permanent manner**, involving various forms of corruption and illegitimate activities.[1] The building blocks of state capture include a variety of tools, such as power over the enforcement of regulations, privileged access to public resources, asymmetric control over the media and the financial sector, and influence over domestic and foreign policy. SCAD exposes the mechanisms through which the drafting, adoption and enforcement of government rules and regulations is warped in favour of a small number of captors (actors with privileged status enjoying undue advantage in economic and/or political terms).

SCAD reveals how state capture is enabled by weak governance mechanisms by highlighting four dimensions of capture (business, institutional, political and black market) and two types of enablers, which refer to the institutional and environmental characteristics that affect the system of governance, thus allowing or facilitating state capture (see the figure below).

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[1] Stoyanov, A., Gerganov, A., and Yalamov, T., *State Capture Assessment Diagnostics*, Sofia: Center for the Study of Democracy, 2019.

State capture model

Institutional enablers

Corruption and AC ineffectiveness · Lack of transparency · Lack of impartiality · Private interest bias

Black market capture · State capture dimensions · Business capture

Political capture · Institutional capture

Captured media · Administrative corruption · Judiciary corruption

Environmental enablers

Monopolisation

Privileged access to procurement

Lobbyist laws

Privileged status (control and sanctions are applied selectively)

Concentration of direct subsidies

Ineffectiveness of anti-monopoly laws

Source: Stoyanov, A., Gerganov, A., and Yalamov, T., *State Capture Assessment Diagnostics*, Center for the Study of Democracy, 2019.

Sharpening the tool: zooming in on sectoral captures

Built upon a decade-long analysis of corruption and state capture across several European countries, SCAD **measures the results and effects of business capture, as well as the institutional and environmental enablers at the national level.** In addition, the tool allows for a closer examination to be made of how individual public institutions, economic sectors and business organisations are affected, thus increasing the efficacy of the respective institutional and sectoral policies. This report presents the findings of such an examination by **assessing on a sectoral level the key dimension of business state capture and the institutional characteristics that enable it** in several economic sectors (construction and the wholesale of fuels and pharmaceuticals) within four European countries (Bulgaria, Italy, Romania and Spain).

The new sectoral level methodology adds two important elements. First, taking into account the importance of privileged access to procurement as part of the business capture dimension, the report **provides an analysis of state capture risks and corruption-related behaviour in public procurement** based on integrated big-data. Second, the measurement of institutional enablers through index-based expert assessments was complemented by a methodology for **monitoring the implementation of anti-corruption policies** in key regulatory and control institutions, identified through expert assessments. Although differing in nature, when collated, the findings of these two optics in relation to the same phenomenon allow the identification of risks and vul-

nerabilities that might not be visible to a single analytical tool. Moreover, the results offer the possibility for conducting robust monitoring and analysis, as well as for advising management decisions within a particular public organisation or company.

The findings were produced as a result of the application of three mutually-complementary methodologies and their respective research instruments (see the figure below):

- *State Capture Assessment Diagnostics on Economic Sector Level (SCAD-ESL)* assesses state capture risks and vulnerabilities at the sectoral level using index-based expert assessments. It also focuses the attention on the ineffectiveness of anticorruption policies, the lack of integrity and impartiality, and private interest bias.
- Analysis of the **risks of state capture and corruption-related behaviour in public procurement** through "red flag" indicators based on integrated data and implemented through a specially designed and developed interactive web platform.[2] The platform pioneers a three-dimensional approach for analysing state capture risks and vulnerabilities on both the side of buyers (contracting authorities) and suppliers (companies), combining public procurement data, company financial and ownership information, and a media alert system, which identifies alleged cases of misconduct related to procurement. The assessment is carried out on the basis of a combination of red flags, each indicating a risk situation that might be the result of corruption or state capture.
- *Monitoring Anticorruption Policy Implementation (MACPI)*[3] identifies vulnerabilities and potential gaps between high corruption risk practices in individual public institutions (identified as key for the regulation of the sectors through SCAD-ESL) and the availability of anticorruption policies addressing these risks. It then evaluates the ease of implementation, actual implementation, and the subsequent enforcement of these policies.

While state capture assessment at the national level through the application of SCAD provides valuable and insightful knowledge on vulnerable areas in the entire economy, its sector-specific tools are of greater practical relevance at the level of economic sectors due to their specific characteristics. Moreover, many of the information sources (including the knowledge and know-how of experts used in the MACPI tool), as well as the vulnerabilities and policy gaps, differ across sectors and thus, the sectoral assessment produces more robust and reliable results.

The *State Capture Assessment Diagnostics* demonstrates that **state capture vulnerabilities are sizable at the national level in Europe** and are particularly problematic in certain Eastern European countries. SCAD further uncovers that several sectors, such as pharmaceuticals, fuels and construction, deserve special policy attention as sources of state capture vulnerabilities. The results of the piloting of the SCAD-ESL (sectoral level) and the red-flagging in public procurement (achieved by the analysis of big data) presented in the current

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[2] *https://analytics.scemaps.eu.*
[3] Initially developed and implemented as a separate tool, it was integrated in the methodological framework for assessing state capture on sectoral level. See: Stoyanov A. et al., *Monitoring Anti-Corruption in Europe. Bridging Policy Evaluation and Corruption Measurement*, Sofia: Center for the Study of Democracy, 2015.

State capture assessment on sectoral level – concept and research instruments
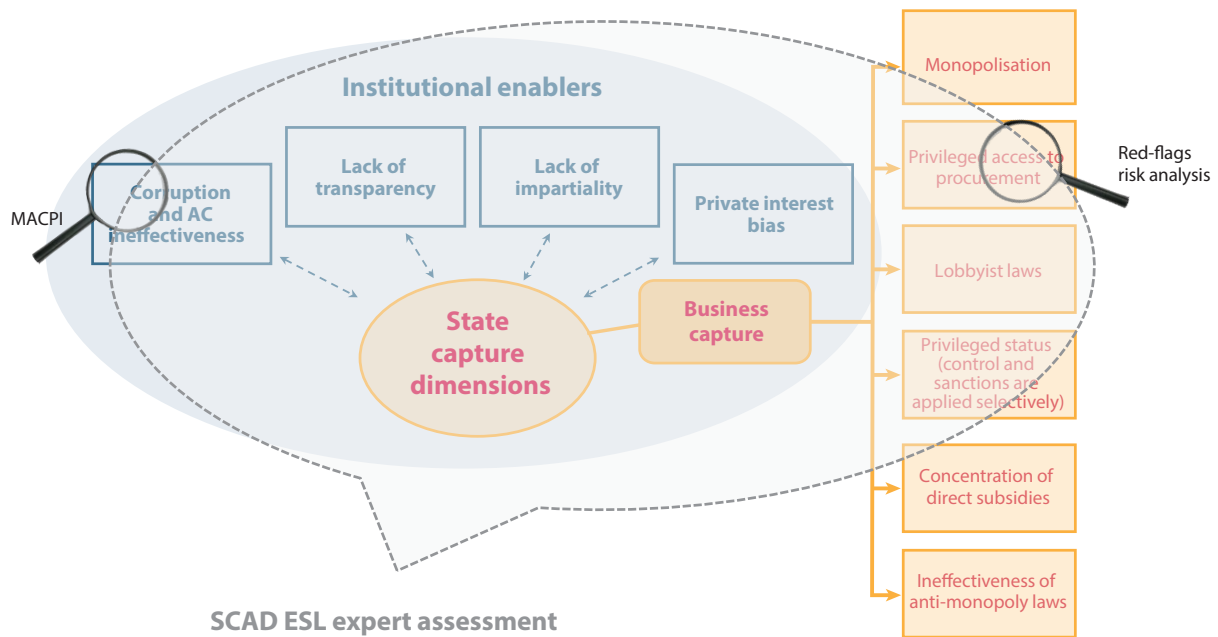
Source: CSD, 2021.

study confirm that state capture risks in these three sectors are higher than those at the national level in all four of the countries in question (Bulgaria, Italy, Romania and Spain). Nevertheless, Bulgaria and, partially, Romania, have been revealed as the countries with a higher degree of state capture vulnerability on both sectoral and public procurement level. It appears likely that the disruption of competitive market forces and the undoing of democratic checks and balances across European economies during the Covid-19 pandemic has further exacerbated state capture vulnerabilities within member states and sectors.

The **issue of state capture is still not adequately captured in European policy debates**, which appear much more centred on different forms of corruption, thus neglecting a systematic evaluation of the linkages between them. Supplementing the SCAD model with instruments capable of deciphering media and judiciary capture is required as the next step forward when it comes to responding to the need of the EU's Rule of Law mechanism for scalable tools to perform an integrated analysis of state capture. In many European countries, oligarchic groups insist on having complete discretion in domestic affairs while claiming the benefits of good governance at the European level. In order to expose this discrepancy – and thus challenge it – the EU needs to ensure its policies are grounded in verifiable evidence concerning the specific mechanisms through which state power is being hijacked for private interests. This is exactly what the *State Capture Assessment Diagnostics* provides.

STATE CAPTURE AS A GOVERNANCE THREAT

Upon its introduction in the late 1990s, the notion of *state capture* was supposed to mark an evolution in the understanding of corruption, reflecting the practice of private business subverting government policies and decision making in its favour. Nevertheless, the concept has been viewed as a series of individual corrupt transactions rather than as the systemic change in the nature of a governance regime resulting from sustained pressure from captors (companies or persons with privileged access to government decision-making). Today, in many European countries and elsewhere, the practice has evolved beyond a simple deviation in the functioning of a given public institution and has morphed into a stable pattern of institutional behaviour that is resistant to the application of standard, generalised anticorruption policies.

From accidental to systemic

The new reality of state capture as a *de facto* wholesale privatisation of government decisions and the monopolisation of entire economic sectors requires the development of new tools of analysis which would inform a new generation of good governance policies. Introduced by the Center for the Study of Democracy (CSD), the *State Capture Assessment Diagnostics* (SCAD) reveals the **exploitation of the power of government for private benefit in a systematic and permanent manner**, involving various forms of corruption and illegitimate activities.[4] It exposes the mechanism through which the drafting, adoption and enforcement of government rules and regulations is warped in favour of a small number of captors at the expense of society and business at large. These could be economic actors (e.g., business enterprises or persons who control them), but also institutional actors (e.g., public officials, political parties or groups inside them), or even illegal actors (e.g., black market players). In reality the lines between these distinctions are often blurred, and a captor could represent a complex network of intertwined actors who mutually reinforce each other through the privatisation of different state functions or institutions. In this way, they ensure systematic and permanent privileges to the whole network. This underlines the **functional and process-wise nature of state capture, which allows captors to gain privileged status in a given economic sector or public institution** (e.g., judicial or media capture). The building blocks of state capture include a variety of tools, such as power over the enforcement of regulations, privileged access to public resources, asymmetric control over the media and the financial sector, influence over domestic and foreign policy to name just a few.

As a next generation analytical tool, the model used by SCAD reveals the path-dependant nature of state capture as enabled by weak governance mechanisms. This is achieved by highlighting four possible dimensions of capture (business, institutional, political and black market) and two types of

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[4] Stoyanov, Gerganov, and Yalamov, *State Capture Assessment Diagnostics*, Center for the Study of Democracy, 2019, p. 27.

enablers, which refer to the institutional and environmental characteristics that affect the system of governance, thus allowing or facilitating state capture (Figure 1).

Figure 1. The building blocks of state capture
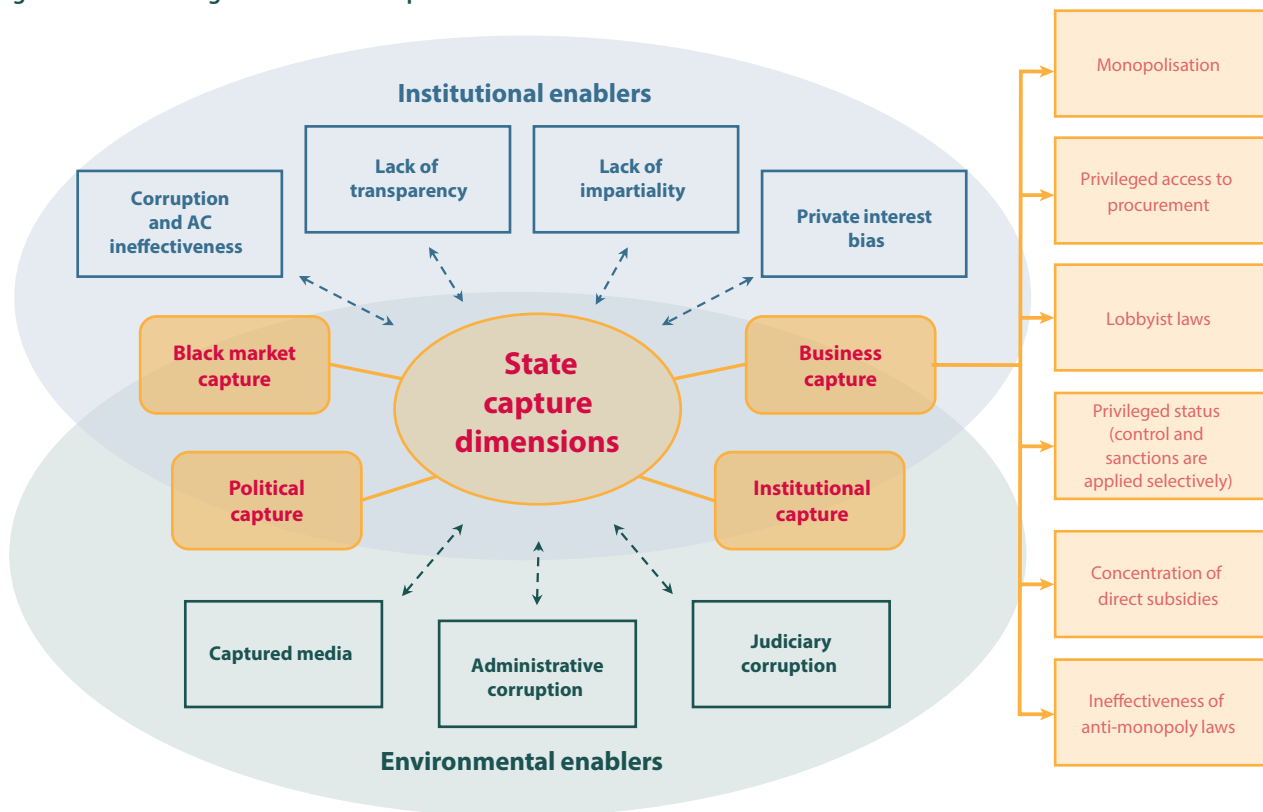
Source: *CSD, 2021, based on: Stoyanov, Gerganov, and Yalamov, State Capture Assessment Diagnostics, 2019.*

While state capture is a hidden phenomenon (most of the evidence for its presence is anecdotal) it nonetheless leaves behind tangible public traces. Furthermore, since it needs to affect public policy, it is bound to leave visible effects that can be subsequently discovered by suitable pattern-finding methods. It is these public traces from the existence of state capture activity that SCAD identifies, which can then be used to inform policy adjustments in relation to the improvement of the integrity of government. Built upon a decade-long analysis of corruption and state capture across several European countries[5], SCAD **measures the results and effects of business capture and institutional and environmental enablers at national level.**[6] Thus, it is an instrument that focuses the attention of policymakers, researchers and practitioners on certain vulnerabilities existent within national level public institutions, which enable captors to successfully pursue their objectives.

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[5] Stefanov, R., Karaboev, S., and Yalamov, T., *Evaluating Governance and Corruption Risk in Bulgaria*, Sofia: Center for the Study of Democracy, 2017; Center for the Study of Democracy, *Shadow Power: Assessment of Corruption and Hidden Economy in Southeast Europe*, Sofia: Center for the Study of Democracy, 2016; Stoyanov, A., Gegranov, A. and Stefanov, R., *State Capture Diagnostics Roadmap*, Working Paper, Sofia: Center for the Study of Democracy, 2016; Center for the Study of Democracy, *State Capture Unplugged: Countering Administrative and Political Corruption in Bulgaria*, Sofia: Center for the Study of Democracy, 2016.

[6] Stoyanov, Gerganov, and Yalamov, *State Capture Assessment Diagnostics*, Center for the Study of Democracy, 2019.

Sharpening the tool: zooming in on sectoral captures

The application of SCAD at the national level provides evidence for the design of strategic policies designed to counteract state capture. Additionally, the tool allows for a closer examination to be made of how individual public institutions, economic sectors or business organisations are affected, thus supporting the improvement of the respective institutional and sectoral policies. **This report presents the findings of such an examination by assessing the key dimension of "business state capture" and the institutional characteristics that enable it on sectoral level (i.e., the institutional enablers)**.

Furthermore, the new sectoral-level methodology adds two important elements. First, taking into account the importance of privileged access to procurement as part of the business capture dimension, an original methodology was developed for the **analysis of state capture risks and corruption behaviour in public procurement** based on integrated big-data. Second, the measurement of institutional enablers through index-based expert assessments was complemented by a methodology for **monitoring the implementation of anti-corruption policies** in key regulatory and control institutions, identified through the expert assessment. Although differing in nature, when collated the findings of these two optics in relation to the same phenomenon enable the identification of risks and vulnerabilities that may not be visible to a single analytical tool. Moreover, the results offer the possibility for conducting robust monitoring and analysis, as well as for advising management decisions within a particular public organisation or company.

Figure 2. SceMaps interactive web platform: Red flags
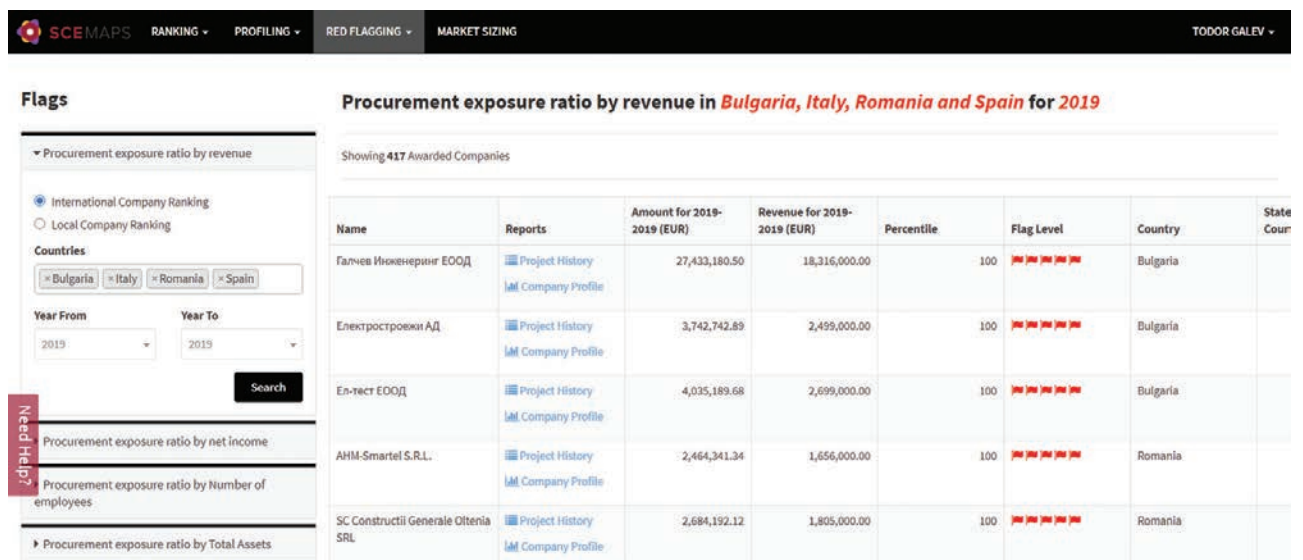
The new methodology is a practical instrument, which empowers policymakers and officials, think-tanks, watchdog organisations, investigative journalists, and researchers to **monitor state capture pressure at the sectoral level**. The entire methodology and each of its elements is designed to be:

- replicable and scalable across other economic sectors and countries;

- applicable to both designing preventive measures and driving investigations of particular malpractices;
- valuable and usable for a broad group of stakeholders, including policy-makers, civil society, watchdog organisations, investigative journalists, law enforcement officials, and researchers.

This monitoring framework combines three mutually-complementary methodologies and their respective research instruments[7]:

- *State Capture Assessment Diagnostics on Economic Sector Level (SCAD-ESL)* assesses state capture risks and vulnerabilities at the sectoral level using index-based expert assessments. It also focuses the attention on the regulatory and control institutions that demonstrate risky profiles according to the levels of the institutional enablers (i.e. ineffectiveness of anticorruption policies, lack of integrity, lack of impartiality and private interest bias).
- Analysis of the **risks of state capture and corruption behaviour in public procurement** through "red flag" indicators. These are based on integrated data and implemented through a specially designed interactive web platform.[8] The platform pioneers a three-dimensional approach for analysing state capture risks and vulnerabilities on both the side of buyers (contracting authorities) and suppliers (companies), combining public procurement data, company financial and ownership information, and a media alert system, which identifies alleged cases of misconduct related to procurement. The assessment is carried out on the basis of a combination of red flags, each indicating a risk situation that may be the result of corruption or state capture. A single red flag is not necessarily a sign of suspicious behaviour, however, the accumulation of red flags for a particular company, contracting authority, sector or country raises serious concern regarding existing problems in the procurement processes on the micro (single company or contracting entity), meso (sector), or macro (country) level.[9]
- *Monitoring Anticorruption Policy Implementation (MACPI)*[10] detects vulnerabilities and potential gaps between high corruption risk practices in individual public institutions (identified as key for the regulation of the sectors through SCAD-ESL) and the availability of anticorruption policies addressing these risks. It then evaluates the implementability, implementation, and enforcement of these policies.

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[7]   For detailed description see Gerganov A., Mineva D., and Galev T., *State Capture Assessment on Sectoral Level: Methodological Toolkit*. Sofia: Center for the Study of Democracy, 2021.

[8]   *https://analytics.scemaps.eu.*

[9]   The methodology of the risk analysis in public procurement, including the computation of filters, rankings and red flags, is derived theoretically from the list of indicators, indicating state capture and corruption pressure, and used as basis of the SCAD-ESL assessment, e.g. tenders are won by very few ultimate owners or tenders are often won by very new, unknown companies, etc. For a detailed description, see: State Capture Assessment on Sectoral Level: Methodological Toolkit.

[10] Initially developed and implemented as a separate tool, it was integrated in the methodological framework for assessing state capture on sectoral level. For information on it see: Stoyanov et al, *Monitoring Anti-Corruption in Europe. Bridging Policy Evaluation and Corruption Measurement*, Center for the Study of Democracy, 2015.

Figure 3. State capture assessment on sectoral level – concept and research instruments
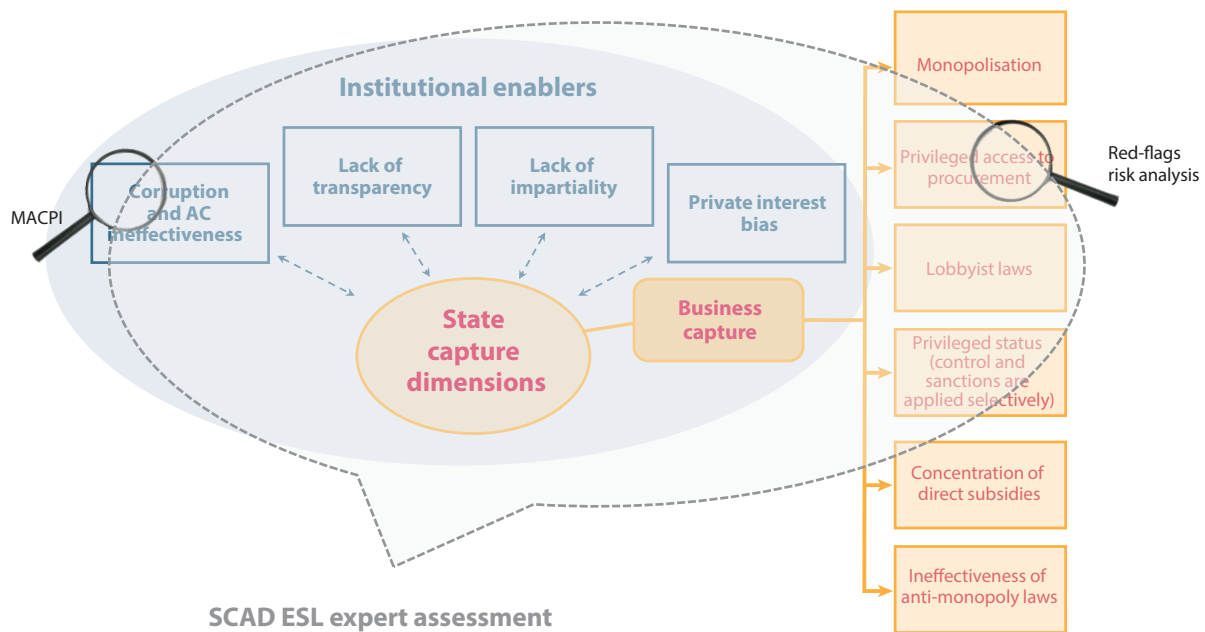
Source: CSD, 2021.

While state capture assessment at the national level through the application of SCAD provides valuable knowledge (unobtainable through other means) on vulnerable areas across the entire economy and could focus and prioritise the further assessment of state capture, quantitative analysis is of greater practical relevance at the level of economic sectors due to their specific characteristics. Moreover, because many of the information sources (incl. the knowledge and know-how of experts) and the vulnerabilities and policy gaps differ across sectors, the sectoral assessments produce more robust and reliable results.

The funnel-like approach, implemented in the current analysis, enables the quantitative assessment of key components of state capture on the sectoral level, offering a possibility for combining them with national-level findings about the environmental characteristics of the studied domain (i.e. environmental enablers). This approach aids the **design of preventive policies and measures on the national and sectoral levels all the way down to the level of a single public organisation or company.** It also helps law enforcement authorities by allowing them to **trace the systematic problems** seen on a macro level to a small number of practical cases of misconduct on a sectoral or institutional level that could be further investigated and sanctioned. The findings of this method could also prompt researchers and investigative journalists to further unravel illegitimate schemes, such as cases of legal corruption or illegitimate but legal practises, which hamper competition and act contrary to the public good[11].

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[11]   Kaufmann, D., and Vicente, P., Legal corruption, *Economics & Politics*, 23(2), 2011, pp. 195-219.

Figure 4. Funnel-like approach to state capture diagnostics
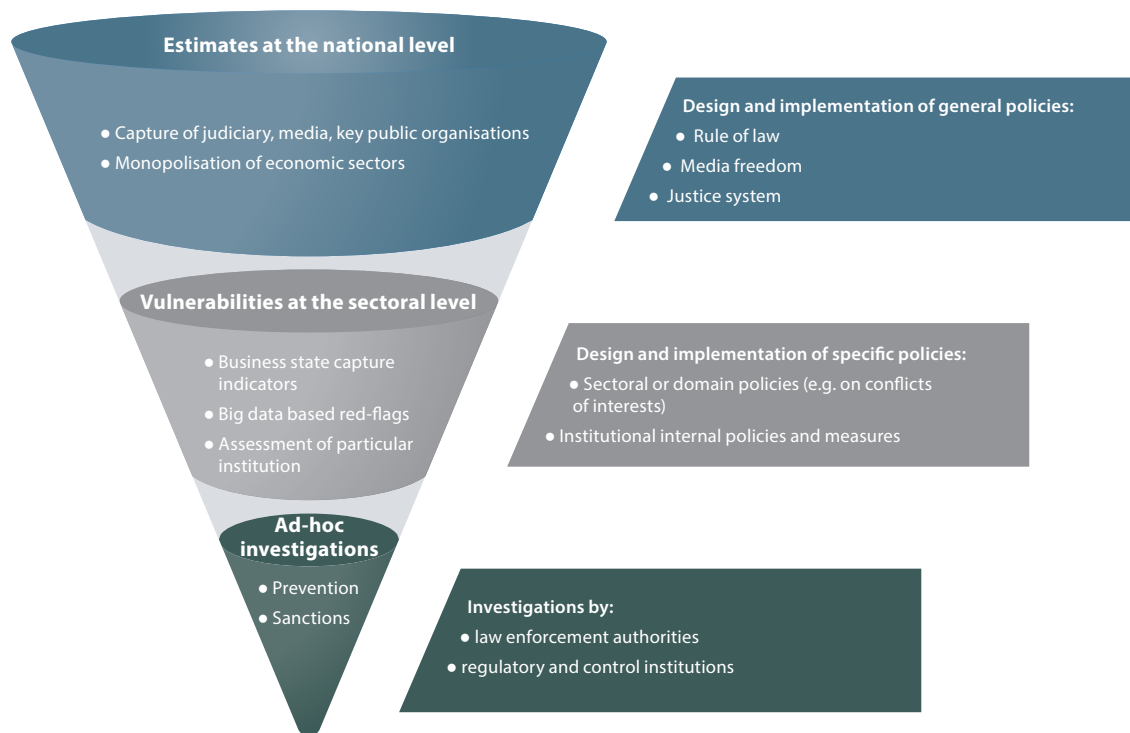
Source: CSD, 2021.

The approach offers two possibilities for addressing state capture vulnerabilities and risks identified on the sectoral level: (i) improving the resilience against state capture pressure of relevant public institutions through internal or sectoral policies on corruption, monopoly, lobbying, conflicts of interests, etc. and (ii) investigations of specific cases by responsible authorities or independent experts (incl. journalists) exposing unlawful and illegitimate activities of particular captor networks.[12]

Policy intersection #1: State capture and organised crime

As based on the various forms of corruption that constitute part of the systematic and long-term relations between the captor and the captured institutions, state capture processes could also be used by organised crime, as it is corruption.[13] On the one hand, **organised crime groups use state capture mechanisms to influence the government institutions** in favour of their private gains, irrespective of whether they are part of their legal or illegal business. On the other hand **state capture could also produce specific types of relationships and dependence between public officials and the captors** even if the former do not directly support the illegal aspects of the business interests of the latter. Certain types of organised crime could be considered more prone to engage in state capture as they involve or make use of a complex network of regulatory, control and financial institutions. Moreover, their capture gives enhanced guarantees for expected long-term favourable reaction rather than single corruption act.

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12   For more details see: Gerganov et al., *State Capture Assessment on Sectoral Level: Methodological Toolkit*, Center for the Study of Democracy, 2021, p. 11.
13   Center for the Study of Democracy, *Examining the links between organised crime and corruption*, Sofia: Center for the Study of Democracy, 2010.

Environmental crimes, money laundering, counterfeiting of goods, misuse of public funds (incl. through public procurement) are examples of such crimes. The EU's new 5-year strategy against organised crime outlines that over 60% of criminal networks active within the EU are engaged in corruption and more than 80% of them use legitimate businesses as a front for their activities.[14] In particular, the strategy highlighted that the **existing instruments and rules, including criminalising both active and passive corruption of public officials, do not cover certain offences** such as trading in influence, abuse of power, illicit enrichment, misappropriation or other diversion of property by a public official.[15] Each of these are often elements of state capture, even if not named as such in the strategy. In addition, Member States are required to introduce new legislation protecting whistle-blowers, as well as the creation of safe channels for reporting corrupt practices,[16] which could contribute significantly to the fight against state capture while its alleged cases are reported very often initially namely by watch-dogs organisations and investigative journalists. **Tackling state capture in its complexity will also strengthen the fight against the infiltration of criminal groups in the economy and society**, based on investment of part of their considerable earnings in legal businesses. Moreover, as noted above, state capture is used to maximize the profit of criminal groups from both legal and illegal activities across different economic sectors. Ultimately, the strategy calls for specific measures and instruments that could strengthen the fight against state capture, provided it is recognised and addressed properly. Among them include support for more effective investigations to disrupt organised crime structures and a renewed focus on high and specific priority crimes (e.g., revising the EU rules against environmental crime, establishing an EU toolbox against counterfeiting, applying stricter anti-money loundering regulations, and reinforcing law enforcement and the judiciary for international investigations, etc.). Above and beyond this, the wider application of the "Administrative approach" to serious and organised crime as complementary to traditional law enforcement activities is included.[17]

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[14] European Commission, *Fight against organised crime: New 5-year strategy for boosting cooperation across the EU and for better use of digital tools for investigations*. Press release, Brussels, April 14, 2021.

[15] European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy to Tackle Organised Crime 2021-2025*. COM(2021) 170 final, European Commission, Brussels, 2021, p. 20.

[16] ibid.

[17] Promoted through the European Network on the Administrative Approach, this is a method whereby local authorities, in collaboration with law enforcement authorities and civil society, use administrative tools such as procedures for obtaining permits, tenders and subsidies to prevent organised crime infiltration of legal businesses and administrative infrastructure. The approach could add an important local dimension to the activities against state capture, as it often develops and manifests itself in local institutions (e.g. privileged access to public procurement or local subsidies).

Policy intersection #2: State capture and security

In the latest EU Security Union Strategy, security is seen as a cross-cutting issue that impacts every sphere of life and affects a multitude of policy areas.[18] The strategy outlines four pillars: building a future-proof security environment, tackling evolving threats, protecting Europeans from terrorism and organised crime and building a strong security ecosystem. As an abuse of good governance rules in the process of drafting, adoption and enforcement of the rules in favour of private interests, **state capture could seriously and systematically weaken each of the pillars through distorting the activities of key institutions**, including law enforcement and the judiciary. In particular, serving the private gains of specific business, criminal or (foreign or domestic) political interests, it could worsen national security through bad governance of public policies and spending in areas such as the defence industry, energy security, penetration of authoritarian corrosive capital[19] in financial and political system of the country[20], prevention and detection of hybrid threats, and increasing the resilience of critical infrastructure.

Policy intersection #3: State capture and foreign influence

State capture is considered as a local or national phenomenon depending on the activities of domestic institutions, while foreign countries are considered in most cases to be enablers of specific mechanisms that facilitate the process (e.g., use of offshore or tax heavens for hiding the beneficial owner or the illicit financial flows). However, in the last few years, studies of malign foreign influence and its political, economic and hybrid instruments on the democratic institutions in the European countries have suggested that **state capture could be deployed as a foreign policy tool, or at least could facilitate its aims**, as mentioned above.[21] Local captors could become enablers of foreign malign influence and allow the foreign state to achieve its end and avoid some of the consequences of its behaviour.[22]

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[18] European Commission, Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Security Union Strategy, COM/2020/605 final, European Commission, Brussels, 2020.

[19] The term refers to the use of capital as a foreign policy tool, when opaque financial flows from authoritarian states aim to undermine the rule of law and democratic governance in other countries, irrespective if the capital if formally private or state-owned. Using state capture tactics, the adversary state power exploits the governance deficits in key markets and institutions of the targeted country. See: Stefanov, R., and Vladimirov, M., *Deals in the Dark: Russian Corrosive Capital in Latin America*, National Endowment for Democracy, Washington D.C., 2021.

[20] For a description of the use of state capture mechanisms by foreign adversary states in Europe, see also: Conley, H. et al, *The Kremlin Playbook 2: The Enablers*, Center for Strategic and International Studies, Washington D.C., 2019; Stefanov, R. et al., *The Kremlin Playbook in Southeast Europe: Economic Influence and Sharp Power*, Sofia: Center for the Study of Democracy, 2020.

[21] ibid.

[22] Stoyanov, Gerganov, and Yalamov, *State Capture Assessment Diagnostics*, Center for the Study of Democracy, 2019, p. 30.

> **Policy intersection #4: State capture and financial frauds**
>
> In previous years, professional ethics and integrity of public officials have been outlined by both the European Anti-Fraud Office (OLAF) [23] and the Commission Anti-Fraud Strategy[24] as a strategic objective and one of the guiding principles and standards for the common fight against fraud across the EU. As an integral part of the institutional characteristics that affect the system of governance allowing or facilitating state capture, professional integrity is a basic component, the importance of which goes above and beyond the issue of fighting fraud.[25] In the past few years, various areas of disbursement and redistribution of EU funds (e.g. the Common Agricultural Policy) have raised attention of European and national policy makers as "fuelling fraud and corruption and the rise of rich businessmen" [26] across the Member States, and particularly in Central and Eastern Europe. [27] Cases of financial frauds, including with European funds, are reported to be based on exploiting political ties with ruling parties and governments, conflicts of interests, lack of transparency and accountability and proper scrutiny both during and after the distribution process.[28] Both the EU Anti-Fraud Strategy and the Joint Anti-Fraud Strategy for the European Structural and Investment Funds[29] seek to improve fraud detection by introducing big data technologies and new methods for tackling complex offenses and fraud at the national and international level. In particular, the complexity of the issues and mechanisms that facilitate these cases, and that are described separately by the existing analysis, fits into the overall analytical framework of state capture and could be tackled more effectively if addressed properly as an integrated phenomenon.

Lacking policy integration

The notion of state capture is used widely by the media, politicians, and experts in Europe, but it does not exist as a term in the national or the EU legislation, unlike the terms of corruption, conflicts of interest or abuse of power, which are each well defined. Thus, there are no specific regulations focused on tackling state capture in its intricacy and complexity. However, in both European and national contexts there are specialised policies, institutional and legal frameworks focused on different issues central to the state capture concept (e.g., corruption, anti-monopoly, conflicts of interests and integrity of public officials). One of the main reasons for the absence of an integrated approach could be down to the **lack of comprehensive analytical framework and respective policy tools** for assessing the current state and for monitoring the development of state capture processes, unlike the issue of corruption,

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[23]   European Anti-Fraud Office, *Management Plan 2021*, European Commission, Brussels, 2021.

[24]   European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the Court of Auditors on Commission Anti-Fraud Strategy: enhanced action to protect the EU budget*. COM(2019) 196 final, European Commission, Brussels, 2019.

[25]   ibid., p. 18.

[26]   Dordevic, N., "*Fraud, corruption, and misuse of EU agricultural funds a major problem in CEE, say MEPs*," *Emerging Europe*, February 26, 2021.

[27]   Sabev, D. et al. *Where does the EU money go? An analysis of the implementation of CAP funds in Bulgaria, the Czech Republic, Hungary, Slovakia and Romania*, A Report commissioned by the Greens/EFA group in the European Parliament, Brussels, 2021.

[28]   Organisation for Economic Cooperation and Development, *Fraud and corruption in European Structural and Investment Funds. A spotlight on common schemes and preventive actions*, OECD, 2019.

[29]   European Commission, *Joint anti-fraud strategy for shared & indirect management 2020-2025*, DG REGIO, DG EMPL, DG MARE, Brussels, 2019.

for example, which has been widely studied and subsumed into the political discourse.

The **current report fills this gap, at least partially, by piloting a new approach for sectoral assessment of state capture**, focusing on four European countries (Bulgaria, Italy, Romania and Spain) and three economic sectors found by previous national-level assessments to be of high risk with strong vulnerabilities to state capture and corruption[30]:

- Wholesale of solid, liquid and gaseous fuels[31] – a heavily regulated sector, dominated by large multinational and domestic companies;
- Wholesale of pharmaceutical goods – a multinational market, characterised by large corporations, and prone to strong influence and (illegal) lobbying;
- Construction – a sector, vulnerable to multiple state-capture threats, most prominently: procurement concentration.

The state capture assessment on the sectoral level should also take into consideration the national characteristics that facilitate state capture pressure and the level of resilience of public institutions.[32] The pilot countries, like others in the EU, do not apply the state capture concept in their legislation and policy, even if it is used by media, politicians and experts, as mentioned above. While they have specialised institutional and regulatory frameworks focused on several of the issues central to the concept (e.g., corruption, anti-monopoly, or integrity of public officials,) they do not have a systematic approach to the phenomenon. While **the existence of several risks and vulnerabilities that could be attributed to state capture (incl. corruption) have been highlighted as a serious problem in each of the four countries** over the last decade, they have been considered only as separate issues. These include specific corruption risks and governance deficits in public procurement, the lack of or inefficient implementation of regulations regarding conflicts of interests and lobbying, as well as the regulatory and administrative burdens on free competition, which create favourable conditions for high market concentration in specific sectors.

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[30] Stoyanov, Gerganov and Yalamov, *State Capture Assessment Diagnostics*, Center for the Study of Democracy, 2019.

[31] According to the Statistical classification of economic activities in the European Community, NACE rev.2. EUROSTAT 2008.

[32] The chapter, presented here with limited revisions, was originally prepared for: Gerganov, A., and Galev, T., *Assessing state capture vulnerabilities and pressure at the sectoral level*, Sofia: Center for the Study of Democracy, 2021 (forthcoming).

National context: Bulgaria

Bulgaria is the country most vulnerable to corruption and regulatory and policy instability due to the lack of transparency and predictability of the legislative process, coupled with low efficiency of the judiciary and the specialised anti-corruption bodies.[33] A warning **sign of state capture is political interference in the work of the public administration**, which leads to frequent legislative changes.[34] Despite comprehensive reform of the country's legal and institutional anti-corruption frameworks in 2017 and 2018, the results have remained underwhelming,[35] while **some of the reforms were assessed by independent experts as facilitating stronger state and judiciary capture**. In particular, the country still lacks "solid track record of concrete results in the investigation and prosecution of high-level corruption".[36] The interference or even control of the judiciary by powerful political and economic lobbies has been a notable obstacle for both business environment and public sector reforms. Ultimately, however, the most serious issue remains the **lack of accountability of the Prosecutor General and the position's exceptional power** over the work of the entire prosecution service, as well as influence on the governing body of the judiciary, namely, the Supreme Judicial Council.[37]

Public procurement in Bulgaria has remained a focal point of corruption risks and governance deficits and has "suffered from structural weaknesses, including systematic irregularities in procurement procedures, lack of administrative capacity and deficient control mechanisms".[38] The changes in the Public Procurement Act from 2018 aimed at increasing transparency and limiting corruption risks, and the introduction and the mandatory use of the e-procurement system since the early 2020, have not yet given rise to tangible outcomes.[39] At the same time, the **limited results in the fight against corruption – and particularly against top-level political corruption** – are reflected in public perceptions, which rank Bulgaria as one of the most corrupt countries in Europe.[40] Thus, the regulatory and control institutions and law enforcement organisations have also been suspected of being captured by private (political or economic) interests rather than being instrumental for tackling state capture.

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[33] European Commission, *2020 Rule of Law Report: Country Chapter on the rule of law situation in Bulgaria*, 2020, p. 12.; European Commission, *European Semester Country Report Bulgaria 2020*, p. 7.

[34] European Commission, *European Semester Country Report Bulgaria 2019*, p. 56.

[35] European Commission, *2020 Rule of Law Report: Country Chapter on the rule of law situation in Bulgaria*, 2020, p. 11.

[36] European Commission, *European Semester Country Report Bulgaria 2020*, p. 58

[37] European Commission, *2020 Rule of Law Report: Country Chapter on the rule of law situation in Bulgaria*, 2020, pp. 4-5.

[38] European Council, *Council Recommendation on the 2016 National Reform Programme of Bulgaria and delivering a Council opinion on the 2016 Convergence Programme of Bulgaria*, 2016, p. 3.

[39] European Commission, *European Semester Country Report Bulgaria 2020*, p. 58.

[40] ibid, p. 58.

National context: Italy

Italy has made continuous progress in its anti-corruption policies with positive results, but some challenges remain. In 2016, corruption had been highlighted as a critical issue in the country, with references to organised crime, public procurement and affecting the private sector and large public works[41]. In 2019 and 2020, a new anti-corruption law, combined with stronger prevention measures ensured by the National Anti-corruption Authority, has considerably strengthened the country's anti-corruption framework.[42] Particularly, "the capacity to detect, investigate and prosecute corruption is very effective and benefits from the expertise of the law enforcement authorities in the fight against organised crime".[43] At the same time, the country still fails to address critical vulnerabilities to state capture, such as over-regulation and restrictions of competition in important sectors including retail, business services, local public services, concessions and transport[44], the fragmented regime of addressing conflicts of interest, and lobbying and "revolving doors"[45], which create favourable conditions for monopolisation, inefficiency of public spending and deteriorating governance.

National context: Romania

Romania highlighted as an example of a country that went through a phase of widespread political corruption in the period after joining the EU. However, in 2017, the country made "substantial progress on much of the reform of the judicial system and the investigation of high-level corruption".[46] Nevertheless, **since 2018 "the progress in the fight against corruption has suffered significant setbacks"**[47] due to the government's pressure on key anticorruption institutions (e.g. the National Anti-Corruption Directorate) trying to influence their work and to limit their independence.[48] In addition, numerous amendments to anti-corruption and other laws have undermined the independence of judges and prosecutors, as well as the overall public confidence in the judiciary.[49] Thus, the latest assessments have highlighted that **"corruption continues to be a major problem for the business environment in Romania"**.[50] While the government currently supports the fight against corruption, Romania is still facing important challenges to restore the progress since the period before 2017 due to the damage done through legislative amendments and **continued pressure on judicial institutions, which deteriorates its capacity to investigate high-level corruption**.[51] In this situation, state capture remains a serious threat to the country, even despite the renewed commitment of the current government to make progress on the preventative side through the comprehensive National Anti-Corruption Strategy.

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[41] European Commission, *European Semester Country Report Italy 2016*, p. 68.
[42] European Commission, *European Semester Country Report Italy 2019*, p. 6.
[43] European Commission, *2020 Rule of Law Report: Country Chapter on the rule of law situation in Italy*, 2020, p. 1.
[44] European Commission, *Recommendation for a Council Recommendation on the 2019 National Reform Programme of Italy and delivering a Council opinion on the 2019 Stability Programme of Italy*, 2019, p. 12.
[45] European Commission, *2020 Rule of Law Report: Country Chapter on the rule of law situation in Italy*, 2020, p. 11.
[46] European Commission, *European Semester Country Report Romania 2017*, p. 11.
[47] European Commission, *European Semester Country Report Romania 2019*, p. 6.
[48] European Commission, *European Semester Country Report Romania 2019*, p. 56.
[49] Ibid.
[50] European Commission, *European Semester Country Report Romania 2020*, p. 7.
[51] European Commission, *2020 Rule of Law Report: Country Chapter on the rule of law situation in Romania*, 2020, p. 10.

National context: Spain

Spain has strengthened its anti-corruption institutional and regulatory framework in recent years, including through the establishment of respective agencies in some autonomous regions and separate municipalities.[52] However, the **country failed to develop a national anti-corruption strategy, as well as an integrated and systematic policy approach** towards various risks and vulnerabilities.[53] While in recent years there has been a surge in corruption investigations involving cases at the local and regional levels, the government has made slower progress towards improving the regulatory and institutional framework at the central level and has failed to ensure harmonisation across government levels, which has created wide regional variations in the quality of governance. Similarly, i**ssues presenting serious risks for state capture have been strengthened and improved, but without consistency across various levels of government** and categories of officials, remaining divided between several law enforcement authorities. This refers primarily to the improved legal framework for integrity in the public sector, which was put in place to strengthen the integrity mechanisms in parliament, as well as to reinforce the regimes of asset disclosure, conflict of interest and incompatibilities of high-ranking officials in the central state administration.[54] Meanwhile, there is no national level legislation to regulate lobbying. The Transparency Act[55] regulates what information state authorities are required to make publicly available, but does not refer to lobbying and the accountability of public officials is left to the discretion of the respective authority or person.

[52] European Commission, *European Semester Country Report Spain 2019*, p. 73.
[53] European Commission, *European Semester Country Report Spain 2019*, p. 73.
[54] European Commission, *2020 Rule of Law Report: Country Chapter on the rule of law situation in Spain*, 2020, p. 7.
[55] *Law 19/2013, of December 9, on transparency, access to public information and good governance*. Official State Gazette, no. 295, of December 10, 2013.

FACTORS FACILITATING BUSINESS CAPTURE IN BULGARIA, ITALY, ROMANIA AND SPAIN

Despite widespread recognition concerning the existence of different forms and trends of risks and vulnerabilities that could be attributed to state capture in the four countries, they **do not have integrated policies against it,** and the institutional and regulatory frameworks suffer from varying degrees of fragmentation and inefficiency.[56] Accordingly, the identified risks and vulnerabilities are not addressed systematically and in future-proof manner.

The current analysis assesses and quantifies the results and effects of several of these risks and vulnerabilities, focusing on two key elements central to the state capture concept: business capture and institutional enablers. Employing the concept described above, the assessment of business capture[57] covers two groups of factors:

- assessment of the public organisations regulating and/or controlling the sectoral market, evaluated in terms of integrity, impartiality, inclination to private bias, and the effectiveness of their anti-corruption policies;
- assessment of the economic sector itself in regard to the overall level of monopolisation and ineffectiveness of anti-monopoly laws, as well as the existence of four categories of non-market mechanisms, which provide illegitimate competitive advantage and, when occurring systemically, are a strong symptom of state capture in a sector: (1) privileged access to procurement, (2) laws providing illegitimate competitive advantage to certain businesses, (3) selective application of control and/or sanctions, and (4) concentration of public grants and subsidies to selected companies in the sector.

The index of businesses state capture pressure (BSCP) indicates the existence of systematic problems of well-established and long-term forms of state capture in the three sectors of all studied countries. Spain ranks first with highest score of the BSCP index in two sectors (construction and wholesale of pharmaceuticals), followed by the marginally lower scores of Romania and Bulgaria within a single sector each (respectively wholesale of pharmaceuticals and wholesale of fuels). Meanwhile, Italy remains last with the lowest index value. The index values for the four countries are very high (the lowest is 57%), which underlines the need for specific preventive policies and measures in each of them.

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[56] Longer version of this chapter was originally prepared for: Gerganov and Galev, *Assessing state capture vulnerabilities and pressure at the sectoral level*. Center for the Study of Democracy, 2021 (forthcoming)

[57] The assessment of business capture is based on a large sample expert survey, which provides assessment scores for each of the empirical indicators. The indicators are constructed to measure not only the existence of specific institutional or regulatory frameworks but also their real implementation. Following the three-levels of indicators operationlisation and the respective indicators grouping, index and sub-indexes' scores are computed, based on the predefined methodology. For detailed explanation, incl. indicators and computations of scores, see: Gerganov et al., *State Capture Assessment on Sectoral Level: Methodological Toolkit*, Center for the Study of Democracy, 2021.

Figure 5. Measured concepts and indicators

Business state capture pressure

General monopolisation pressure
- Assessed overall level of monopolisation in the sector

Ineffectiveness of antimonopoly laws
- Laws regulating the sector help/hinder/not related to the formation of monopolistic, oligopolistic or cartel structures

Specific monopolisation pressure
- A specific company or a small number of companies win disproportionately high number of public tenders
- Laws provide illegitimate competitive advantage
- Selective application of control and/or sanctions
- Concentration of public funds in the sector (euro funds, direct subsidies, etc.)

Institutional enablers

Lack of integrity
- Activities are not transparent
- Not accountable for actions
- No checks and balances

Lack of impartiality
- Often serves private interests
- Would never sanction certain people/firms
- Rules of operation are violated often

Private interest bias
- Private interest bias

Ineffectiveness of anti-corruption policies
- Estimated external corruption pressure
- Estimated pressure from above
- Estimated involvement in corruption

Source: *CSD, 2021, based on Gerganov et al.,* State Capture Assessment on Sectoral Level: Methodological Toolkit, *Center for the Study of Democracy, 2021, p. 19.*

Figure 6. All sectors captured at over 50%
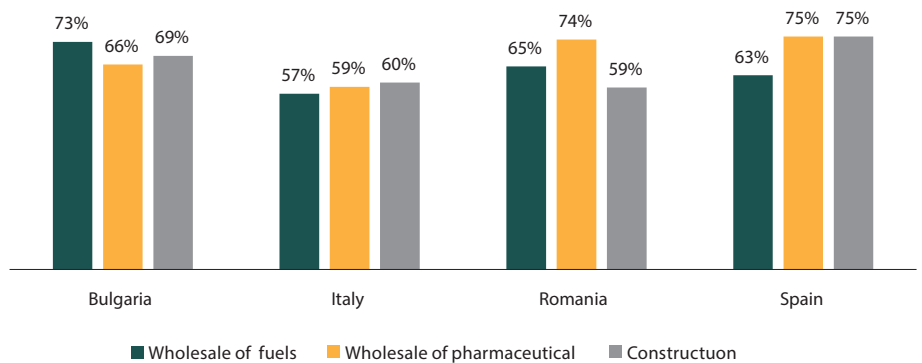
scores, 0-100%

Source: *SCAD ESL 2020.*

The differences among the countries are more evident when the sub-components of the BSCP[58] and the factors that affect them are considered. Bulgaria ranks first according to the **general monopolisation pressure** in all sectors:[59]

- **Civil engineering (as sub-sector of construction)** is the sector regarded as the most vulnerable to monopolisation in Bulgaria (index value 93%), as well as among the other countries. In Bulgaria, this is likely to be as a result of the existence of multi-billion publicly funded programmes for large infrastructure projects implemented since the country's entry into the EU in 2007, which have been regularly accompanied by numerous journalistic and expert investigations of alleged cases of high-level corruption and state capture, but nevertheless remain unprosecuted by the law enforcement authorities.
- The monopolisation pressure in the **wholesale of fuels** in Bulgaria (index 90%) is based predominantly on the suspected cartelisation of the sector, which has gone largely unnoticed by the country's antimonopoly body, the state Commission for Protection of Competition[60]. In Italy, which has the second highest index value (85%), the pressure is assessed to be the result of a combination of suspected cartel and oligopolistic trends.
- In the **wholesale of pharmaceuticals**, the monopolisation pressure in Bulgaria is again highest among the four countries (89%) and could be attributed to both monopolisation trends and the small size of the market as compared to countries whose larger markets are seen as less vulnerable to monopolisation. However, assessments for suspected cartels and oligopolistic trends in the market of Romania rank it second after Bulgaria.

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58 As explained above, the BSCP index is composed of three sub-components that measure different elements of business capture - *General monopolisation pressure*, which reflects the existence of different forms of market concentration (monopoly, oligopoly or cartel), *Ineffectiveness of antimonopoly laws*, which is a stand-alone indicator, and *Specific monopolisation pressure*, which refers to a set of illegitimate and illegal practices resulting in undue advantages (public procurement concentration, lobbyist laws, selective control and sanctions and selective public support measures).

59 The Construction sector is assessed with its three sub-sectors: (i) civil engineering, (ii) construction of buildings of all types, and (iii) specialized construction activities.

60 Investor.bg, „КЗК: Няма картел на пазара на горива, а обмен на търговска информация" [Commission for Protection of Competition – there is no cartel in the fuels market but only exchange of commercial information], March 31, 2017; Mediapool.bg, „КЗК отново не видя картел и монопол при горивата" [Commission for Protection of Competition again does not see a cartel and monopoly in the fuels market], March 12, 2019.

Figure 7. General monopolisation pressure in Bulgaria is highest

■ Wholesale of fuels   ■ Wholesale of pharmaceutical   ■ Constructuon
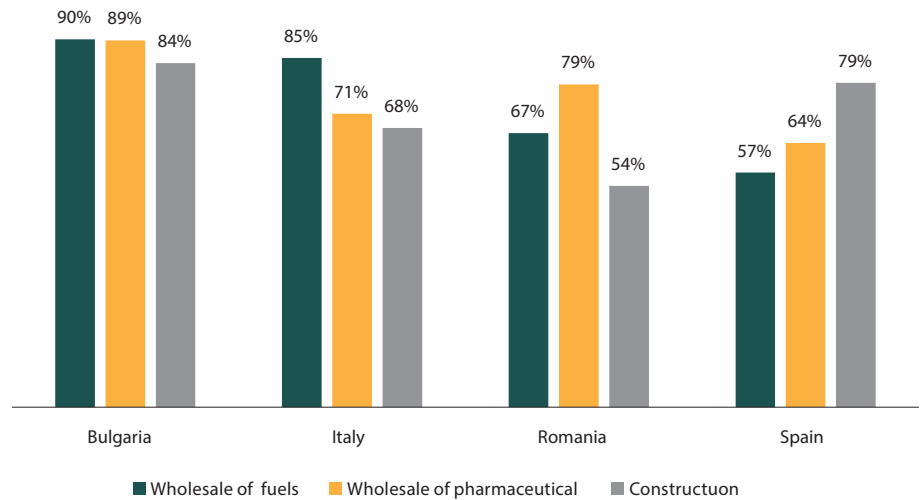
scores, 0-100%

Source: *SceMaps, SCAD ESL 2020.*

The countries rank differently according to the other sub-component of BSCP, namely, the ineffectiveness of anti-monopoly laws, which is highest in Spain (wholesale of pharmaceuticals 64% and wholesale of fuels 50%) and in Romania (wholesale of fuels 62%), while in the other sectors and countries it remains much lower (below 46%).

In the last sub-component of BSCP – the specific monopolisation pressure – Spain retains the highest values in two sectors (construction – 89% and wholesale of pharmaceuticals 86%), while Bulgaria and Romania come second with the highest value in a single sector each (pharmaceuticals for Romania and fuels for Bulgaria). The **very high scores (above 60%) for all sectors and countries are an indication of widespread presence** of such practices.

Figure 8. State capture through anti-monopoly laws is highest in Spain

■ Wholesale of fuels   ■ Wholesale of pharmaceutical   ■ Constructuon
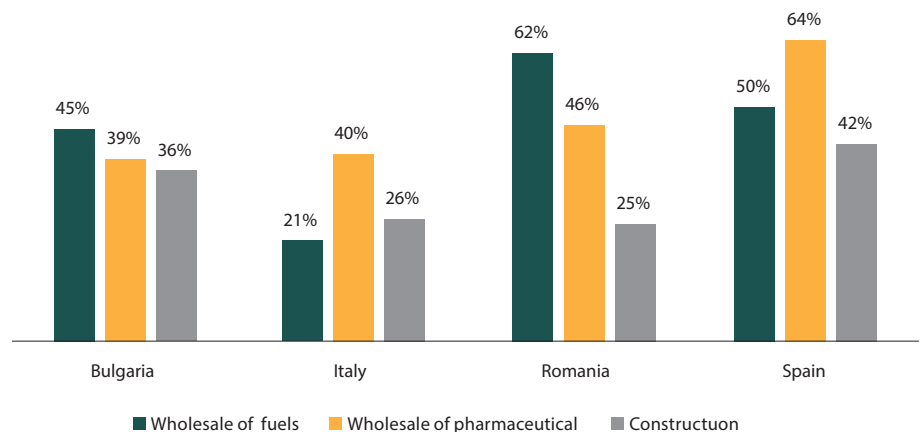
Share of respondents agreeing with the statement "The antimonopoly laws rather help the formation of monopolistic, oligopolistic or cartel structures than hinder them"

Source: *SceMaps, SCAD ESL 2020.*

Despite the high scores of all sectors, the specific monopolisation pressure index ranks **construction** as the only sector with **scores above 70% for all**

four countries. The same trend is not observed regarding the other two BSCP sub-components (general monopolisation pressure and ineffectiveness of anti-monopoly laws). These resu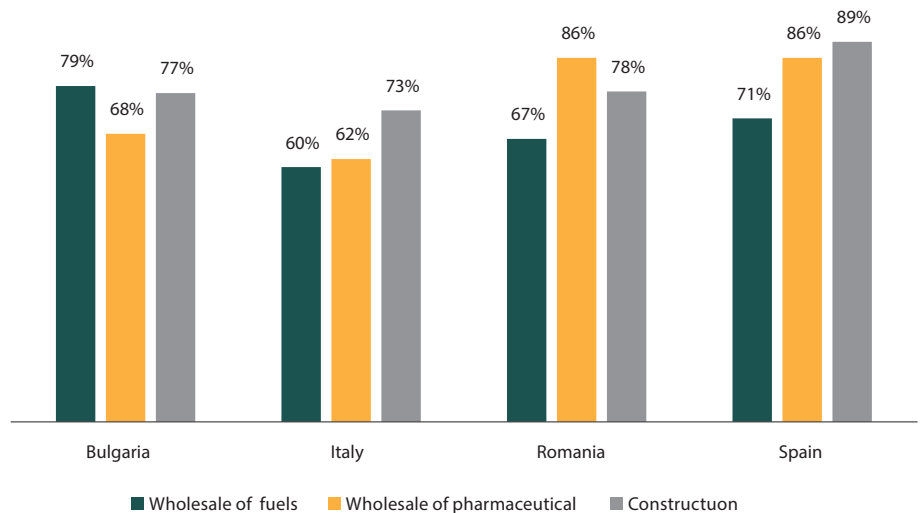lts reveal that the sector is more vulnerable to the four categories[61] of illegitimate and illegal practices than the other two.

Figure 9. Construction is the most vulnerable sector to illegitimate activities

* Specific monopolisation pressure (scores, 0-100%)

Source: SceMaps, SCAD ESL 2020.

When comparing sectors, construction, and particularly its sub-sector of **civil engineering, which concentrates the largest portion of public spending, appears the most vulnerable sector to state capture** in all countries. However, despite differences among the sectors, BSCP's components reveal the existence of well-established mechanisms of state capture in all of them. BSCP also confirms the importance of **privileged access to public procurement** as a key element of business capture. Moreover, the state capture process, which makes such privileged access possible, often includes other mechanisms, such as selective (only targeting captors' competitors) control and sanctions, lobbyist laws and concentration of public subsidies or grants.

State Capture and Corruption Risks in Public Procurement

Public procurement, taxation, customs activities and regulatory functions, are also considered to be among the economic areas most prone to risks of corruption and conflicts of interests.[62] Moreover, all *forms* of corruption are present in procurement, from petty or administrative corruption to political corruption and state capture.[63] In procurement, the "captors" are private busi-

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[61]   These include: (1) privileged access to procurement, (2) laws providing illegitimate competitive advantage to certain businesses, (3) selective application of control and/or sanctions, and (4) concentration of public grants and subsidies to selected companies in the sector.

[62]   Organisation for Economic Cooperation and Development, *Anti-corruption Reforms in Eastern Europe and Central Asia: Progress and Challenges 2016-2019*, 2020.

[63]   See: Deyong, M. et al., Corruption and public procurement, In: Ferguson G. (ed.) Global corruption: law, theory and practice, 3-rd edition, University of Victoria, 2018; Hellman, J., Jones, G., and Kaufmann D., *Seize the State, Seize the Day: State Capture, Corruption, and Influence in Transition*. Policy Research Working Paper No. 2444. World Bank, Washington, DC., 2000.

ness enterprises or oligarchs controlling large groups of companies, which use different forms of corruption to influence the implementation of legislation, rules and institutional procedures in order to acquire non-competitive advantages over their market rivals. The captured institutions include legal entities that spend public funds through public procurement procedures, including, national, regional and local public administrations, educational, health and social service institutions, as well as state owned enterprises obliged to comply with the respective national public procurement regulations.[64]

The analysis of the risks of corruption-related behaviour in public procurement makes use of **red flag indicators** based on the integration of three different sets of data on public procurement[65], companies' financial and ownership information from public and proprietary sources[66] and media articles, referring to suspicious behaviour of a particular contracting authority or company. The assessment is carried out on the basis of a combination of red flags, each of them indicating a risk situation, which might be the result of corruption or state capture and which could indicate state capture vulnerabilities. A single red flag is not a categorical sign of suspicious behaviour, but the accumulation of red flags for a particular company, contracting authority or country indicates serious concern regarding existing problems in the procurement process on the micro (single company or contracting entity) or macro (country) level.

The analysis, which is made possible through the elaboration of the web-based interactive tool, covers more than 100,000 tenders in the four countries and three selected sectors for the period 2010-2019. The analysed tenders amount to more than EUR 364 billion in public money, spent by almost 3,000 contracting entities and allocated to more than 45,000 companies in Europe during this period.

Construction accounts for the largest portion of public spending through procurement out of the three sectors, markedly surpassing the other two. It accounts for 58% of the three sectors in terms of awarded value in Italy, 74% in Spain and Bulgaria and 76% in Romania. The comparison between the countries, looking at the proportion of awarded value per capita annually, confirms the dominance of construction, but also reveals that **Bulgaria and Romania spent between 30% to 50% more per capita annually** in construction for the period 2010-2019 than Italy and Spain, despite the smaller size of their markets (respectively EUR 1,509 per capita annually in Italy, EUR 1,756 in Spain, EUR 2,631 in Romania and EUR 2,867 in Bulgaria).

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[64] Beyond these institutions, the captors target also regulatory and control institutions, related to the implementation of public procurement and more general competition rules, as well as the justice system. The ultimate goal is to guarantee a successful outcome in case of a possible follow-on inspection or in case the tender award decision is challenged.

[65] It is based on Tenders Electronic Daily (TED) - the online version of the 'Supplement to the Official Journal' of the EU, dedicated to European public procurement, which publishes procurement award notices and other tenders' documentation.

[66] Company ownership information is used to collate the data related to subsidiaries and shareholders into a single parent company. This provides a more realistic picture of the behaviour of economic conglomerates than when their legal entities (subsidiaries) are considered separately.

Figure 10. Total value of public procurement in selected sectors 2010 – 2019 (EUR billion)
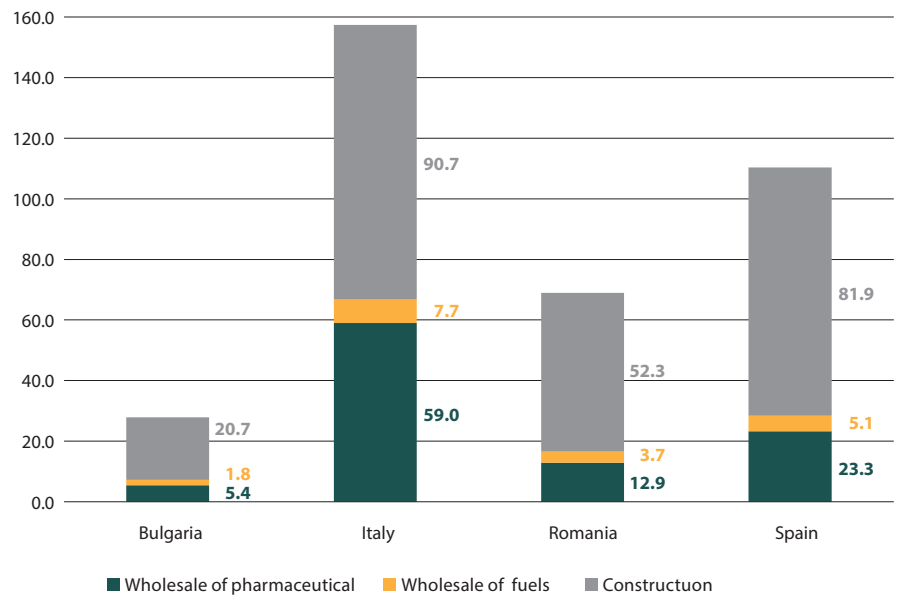
Source: SceMaps web-based interactive tool, https://analytics.scemaps.eu, 2021.

The data shows that the number of tenders and the number of awarded companies per country have increased for the period 2010-2019, which suggests that the general business and competition environment has improved. However, this is difficult to evaluate extensively due to the spread of many illegitimate practices, such as the use of complex networks of subsidiaries and controlled companies for formal diversification of suppliers (when in reality the awarded tenders are concentrated into a small number of economic actors), or bid rigging (an illegal practice in which formally competing suppliers collude to determine the winner of a bidding process).

The assessment of vulnerabilities and risks in public procurement based on the existence of red flags demonstrates that **Bulgaria, Romania and partially Spain display signs of state capture and corruption in public procurement, while Italy remains a less "captured" state**. Despite differences among them, the review of the red flags indicates that public procurement in Bulgaria and Romania is, in general, much more vulnerable to suspicious behaviour on both the side of suppliers (companies) and buyers (contracting authorities) as compared with Spain and Italy. The analysis covers the nine-year period 2011-2019 and while shorter periods could give rise to more red flags, the longer selected period, even reducing sensitivity, allows for the identification of companies with continuous (recurring) suspicious behaviour.

In Bulgaria, the share of public authorities (buyers) that concentrate over 60% of the value of awarded contracts to a single supplier is about twice as much as the respective share in the other three countries (21% compared to 12% for Italy and Romania, and 10% for Spain). Bulgaria also has the largest group of buyers accounting for over 90% of the tenders of a given supplier, although the total sum of awarded contracts by these buyers is much smaller than in Spain, for example. This indicator raises red flags for both public authorities and companies, which could be further explored and investigated on a case-

by-case basis through the information and profile data of each legal entity, which is available through the web-based tool.

The buyer concentration index calculates the concentration of the total value of contracts, awarded by a contracting authority (the buyer), to a particular supplier for the period 2010-2019. The index represents the risk that a given buyer (contracting authority) allows particular supplier to gain competitive advantage through the use of illegal means. An index equal to 100% means that a single buyer has provided the entire sum, received from public procurement contracts by a particular supplier.

Figure 11. Buyer concentration index (2011 – 2019)
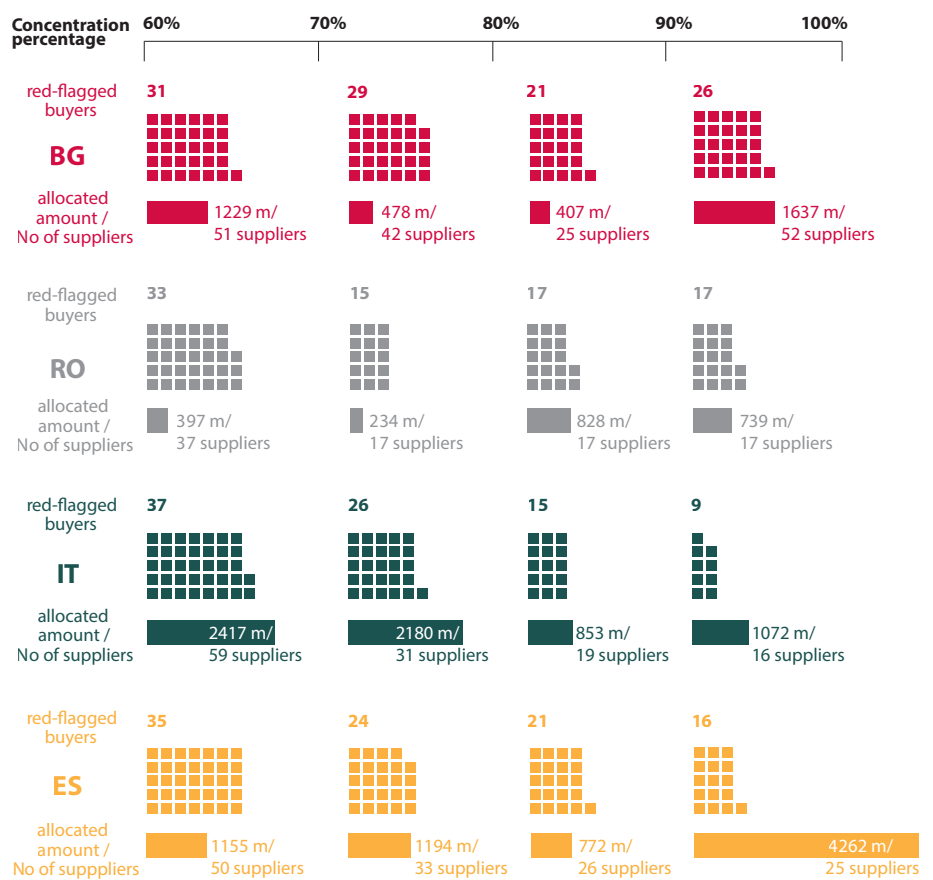
Source: *SceMaps web-based interactive tool, https://analytics.scemaps.eu, 2021.*

The ratio of procurement exposure to employee demonstrates that for the period 2011-2019, 37 companies in Romania and 21 companies in Bulgaria received large amounts of public tenders while having a limited number of employees (hence implementation capacity) as compared to their peer companies.[67] In Spain, the number of respective companies is only 3, while in Italy there is not a single company that raises this red flag. In classic economic analysis, the ratio of company's revenue per employee is a notable indicator of business efficiency. However, when this ratio is too high compared to the peer group of companies, it indicates a serious risk of misconduct, particularly

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[67]   The result covers only the companies ranking in the highest 20% of the ranking scale, which are assessed as being the riskiest.

when revenue is generated from public tenders where the rules of free market competition, based on supply and demand, are replaced by administrative decisions regarding cost and selection of winners.

The ratio of procurement exposure per employee calculates the average amount of tenders awarded per employee over a given period and ranks companies accordingly. A higher rank means that the company has a lower number of employees compared to its peers with similar revenues from public tenders. This red flag represents the risk of companies with an insufficient number of employees winning tenders that require a larger workforce and, in many cases, this is combined with the undeclared - and therefore illegal - use of subcontractors.

Figure 12. Procurement exposure per employee ratio (2011 – 2019)

The ratio of procurement exposure to revenue calculates the share of revenue from awarded public tenders in the company's total revenue over a given period. It represents the risk that some companies depend highly on public procurement to survive and are thus more motivated to use illegal means to gain an advantage over their competitors. It may also point to companies that prefer not to operate in the free market and therefore cannot be viable without the support of public money.

The procurement exposure to revenue ratio confirms that Romania and Bulgaria are the most vulnerable out of the four countries, possessing a similar number of companies that rely primarily on public procurement for their existence. However, due to the larger value of tenders on average, Romanian companies in this group have received 63% more in terms of awarded value of contracts. This indicator reveals not only a problem regarding the dependence of given companies on public procurement, but also may be an indication of the use of illegitimate means for achieving higher bid prices of their products and services.

Figure 13. Procurement exposure to revenue ratio (2011 – 2019)
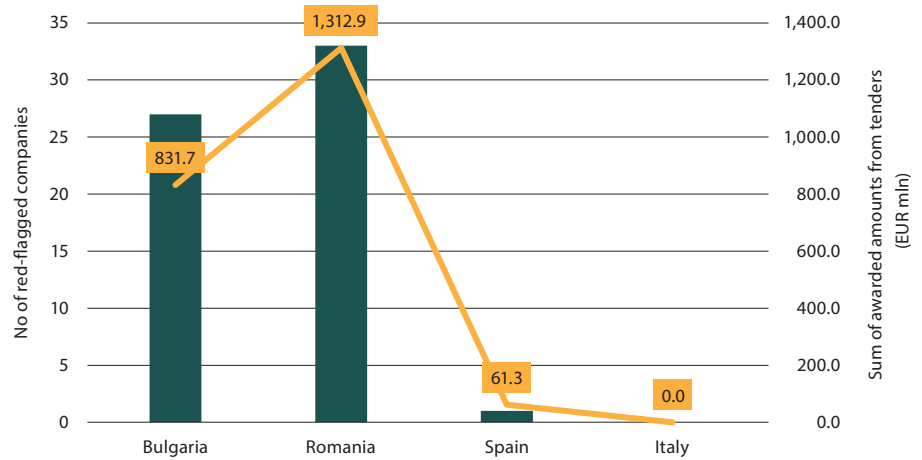
A macro analysis of the selected red flags only partially confirms the findings from the expert assessments of specific monopolisation pressure[68], while at the same time contributes to the understanding of corruption and state capture risks and vulnerabilities existing in the public procurement processes. While experts' assessments rank Spain first, the red flag analysis highlights Bulgaria and Romania as more vulnerable. However, the results of both methods present Italy as less captured.

> ### State capture recognises no sectoral boundaries in public procurement?
>
> The development of the computing models and algorithms, implemented in the web-based interactive tool, also revealed an unexpected challenge, which indicated the need for a complex and integrated approach to the analysis of different risks and vulnerabilities associated with state capture. Initially intended to follow the sector-level measurements, the analysis produced more reliable results when sectors were disregarded. One of the fundamentals of the analysis – the clusterisation of companies according to their ownership structure – makes it impossible for the results to be presented on a sector level since the companies that are included in the ownership-chain do not operate in the same sector. The clusterisation aims at overcoming the major weakness in the use of red flags, based purely on the analysis of procurement data, namely, the impossibility to see the real concentration in the procurement market hidden beyond the presence of numerous legal entities controlled by a single economic actor. However, as the analysis reveals, very often the alleged risk companies (or red-flagged ones) belong to broader corporate groups with members working in different economic sectors. In other cases, even single companies that are not part of corporate groups could implement tenders in different sectors, but awarded by a single contracting authority. In both variants, the sectoral analysis would distort the real picture, which shows the suspicious behaviour of the given company or group of companies. The reason could be that when a company uses corruption or state capture related mechanisms to obtain a non-market advantage over its competitors, it would not observe the sectoral division but will try to maximize its profit crossing the sectoral boundaries.

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68   As registered by SCAD-ESL (see sections above).

Institutional Enablers of State Capture

The regulatory and control authorities, as well as the relevant policies and regulations, irrespective of whether they are generally for the economy as a whole or are sector-specific, are the instruments that should ensure a transparent, competitive and effective business environment. Additionally, each must develop strong cooperation with other enforcement bodies, such as anti-corruption and law enforcement agencies, in order to ensure successful outcomes in tackling corruption and state capture. When these organisations are passive or ineffective, perhaps because they are partially or fully captured, captors are able to ensure systemic privileges for themselves, privatising specific government functions. The functional characteristics of these institutions, such as anti-corruption effectiveness, integrity of public officials, fairness and impartiality of decision-making and procedures, determine the second major component (in addition to BSCP) of SCAD.

Known as **institutional enablers**, these functional characteristics determine the institutional environment in which businesses operate. The enablers affect all actors in a sector and are therefore measured at the sector level, even if some of the organisations assessed have a remit for the entire economy (e.g. tax administration, customs). Enablers denote processes that could contribute to the creation of an environment that is favourable to state capture and could make institutions vulnerable to a range of corruption influences. While measuring the state capture dimensions (e.g., business capture) provides an assessment of the current status of state capture, measuring the institutional enablers provides an insight into the expected future dynamics of state capture processes as the enablers are structural features of the institutional framework.

The SCAD approach measures four types of institutional enablers (or factors) that affect the state capture pressures and vulnerabilities on the sectoral level:

- Anticorruption effectiveness - the ability of administrative structures to identify, prevent, and counteract corruption practices among officials;
- Integrity of public officials - establishment and interiorisation of standards of behaviour, showing a consistent and uncompromising adherence to strong moral and ethical principles, including through increased accountability and transparency of work;
- Impartiality - the ability to adequately apply rules of fairness and impartiality in everyday transactions and services;
- Lack of bias toward specific private interests.

According to the overall institutional enablers index[69], **Bulgaria is the country within which the institutional environment is the most vulnerable and contributes to the highest risks of state capture across all sectors.** However, the small differences as compared to Romania and Italy reveal that they also must significantly improve the resilience capacity of key regulatory and control institutions.

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[69] The index is a composite indicator, calculated on the basis of the experts' assessments of each institutional enabler for a pre-defined list of public organisations with regulatory and control functions (incl. self-regulatory organisations such as industry associations) with respect to the selected sectors. For more details, see: Gerganov et al., *State Capture Assessment on Sectoral Level: Methodological Toolkit*, Center for the Study of Democracy, 2021.

Figure 14. Institutional environment in Bulgaria is most vulnerable to state capture

Bulgaria: 35%, 33%, 36%
Italy: 29%, 30%, 32%
Romania: 31%, 31%, 33%
Spain: 28%, 25%, 23%

■ Wholesale of fuels   ■ Wholesale of pharmaceuticals   ■ Construcuon

* Institutional enablers index (scores, 0 – 100%)

Source: *SCAD ESL 2020*

Among the institutional enablers, the **lack of integrity and the ineffectiveness of anti-corruption policies have the highest scores for all sectors and all countries** (i.e., represent the riskiest environmental factors for the existence of state capture). The private interest bias and the lack of impartiality in the activities of state institutions remains less significant. **Among the factors determining the ineffectiveness of anti-corruption policies, external corruption pressure is the riskiest** and has similar values for all countries, including Spain, despite its lowest score for the overall institutional enablers index. Finally, the assessment of the lack of impartiality (which includes sub-indicators for serving private interests, inability to sanction certain people or companies, and braking internal rules or procedures) does not differ significantly between the sectors. Nevertheless, one of its sub-indicators (the inability of the respective organisation to sanction certain persons or companies) is assessed as risky, with 2 to 3 times higher scores for all countries as compared with the other sub-indicators. Consequently, the result reveals the **existence of a serious problem with persons and/or companies that are excluded from the application of general regulatory and control rules** and procedures in all four countries.

Anti-corruption policy implementation on institutional level

A critical institutional enabler that characterises the regulatory and control institutions, which are expected to ensure a transparent, competitive, fair and effective business environment, is the implementation of their internal anti-corruption policies. Moreover, it is closely linked to other functional characteristics related to impartiality, integrity, and procedural fairness. Often, the institutional anti-corruption setup in terms of internal rules, business processes and institutional culture covers all of these. The assessment of the specific anti-corruption policies follows the internal logic of each institution and is rarely comparable across the institutions, sectors or countries.

The MACPI (Monitoring Anti-Corruption Policy Implementation) tool assesses the enforcement of anti-corruption measures and policies at the level of the individual public organisation. As a result, it identifies good practices in terms of internal rules and procedures, and flags specific at-risk zones in the institutions more vulnerable to corruption pressure.[70] In this case, the application of MACPI covered nine public organisations selected as representing the types of organisations identified as fundamental for the three economic sectors based on the results of the experts' (SCAD-ESL) assessment.[71] The overall results reveal solid anti-corruption setups in most of these organisations, with some specifics that are addressed below.[72]

The **most effective and difficult to evade anti-corruption policies are related to three groups of measures**: the procedures for hiring new and managing existing personnel, the procedures for controlling budget expenditures and integrity of the staff, and the development of electronic services with a focus on reducing administrative corruption and increasing the transparency and the accountability of the organisation.[73] The first group includes measures addressing the appointment of top-level management, disqualifying applicants who have been convicted (even when an appeal is pending) for crimes against the public administration, and rotation of personnel assigned to activities with high risk of corruption. The second group of measures refers to procedures for control and audit of budget expenditures, as well as the verification of asset declarations, especially when they are strictly implemented and there is an external oversight institution. In particular, the control of asset declarations, which is a common integrity and anti-corruption policy, could only be effective if the follow-up procedures regarding the actual checking of the declared circumstances are implemented strictly, thus ensuring effective enforcement in cases of misconduct. The third group of measures includes the digitisation of the services provided to the institution's clients, which aims at reducing the need for personal contact and thus for administrative corruption. It also aims to increase and augment the transparency and accountability of the institution. On the other end, there are less effective policies that are easy to be evade, difficult to implement, or have remained only "on paper" due to the lack of elaborated business processes regarding implementation. Examples of such measures are the declaration of gifts received on the occasion of protocol events, code of ethics or clients' charter, information campaigns or control over "revolving door" practices.

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[70] MACPI is developed as a management instrument with the main aim to provide advice to institution's management how to improve their anti-corruption setup, based on the assessment of the coverage, the implementability, the implementation and the effectiveness of anti-corruption policies in a given public organisation. It could be applied also periodically to monitor the progress towards the initial benchmarking state. See: Stoyanov et al., *Monitoring Anti-Corruption in Europe. Bridging Policy Evaluation and Corruption Measurement*, Center for the Study of Democracy, 2015.

[71] National Revenue Agency and the Directorate for National Construction Control (Bulgaria), Chamber of Commerce of Trento and Emilia-Romagna Region (Italy), Romanian Competition Council, National Integrity Agency, and Sinaia Municipality (Romania), Valencian Anti-Fraud Agency and Government of the Region of Murcia (Spain). In Romania three institutions were included due to difficulties to secure sufficient number of responses from the Romanian Competition Council.

[72] It should be noted, however, that MACPI focuses mainly on administrative corruption and is less sensitive to state capture or political corruption, even it accounts for them also at least in terms of "estimated corruption pressure".

[73] More detailed analysis and description of the specific policies and measures is available in: Gerganov, A., *Monitoring Anti-Corruption Policy Implementation in high-risk sectors. Benchmarking Reports of Nine Public Organisations in Bulgaria, Italy, Romania and Spain*, Sofia: Center for the Study of Democracy, 2021 (forthcoming).

The **public institutions exposed to the highest corruption pressure are typically those providing oversight and inspection of clients (individuals and businesses) and public procurement**. In most cases, the actual corruption pressure (i.e. officials involved in this activity report being offered a bribe in the past year) is lower than the estimated corruption pressure (i.e. officials involved in this activity estimate the possibility for being offered a bribe) for a particular activity. Having higher actual pressure than estimated pressure is usually an indication of a potential vulnerability since the real risk of corruption may not be perceived, or could even be intentionally underreported by employees. For example, the "Inspection, control, surveillance, verification and sanction procedures" activity in the Government of the Region of Murcia in Spain receives the highest actual corruption pressure ranking in the organisation (18% of the officials involved in this activity report being offered a bribe in the past year). However, the activity is ranked as having much lower estimated corruption pressure. Similarly, "Tax collection" in the Bulgarian National Revenue Agency is ranked second among all activities of the organisation on actual corruption pressure (21% of the officials report being offered a bribe), but the estimated corruption pressure is again much lower.

The findings of MACPI indicate that it is crucial to have more vulnerable public services targeted by a sufficient number of highly effective, strictly implemented and service-specific anti-corruption policies. When high corruption pressure activities are covered only by general policies, ranked low on their anti-corruption effectiveness, we witness a potential vulnerability in the anti-corruption setup of an organisation. For example, the above-mentioned "Inspection, control, surveillance, verification and sanction procedures" activity is covered by only two rather general anti-corruption policies of the organisation that also aim to target 4-5 other activities. Moreover, both policies have received the lowest scores for strict control and implementation, as well as average scores for effectiveness. In contrast, the other high corruption pressure activity in the same organisation – "Public procurement" – is much better covered by 8 policies, including both specific policies directed towards this particular activity and some of the highest ranked policies in the organisation in general.

Where such discrepancies are found, the management of the organisation is advised to add specific and targeted anti-corruption policies specifically dedicated to the high-risk activity in question. For example, the high corruption pressure activities of "Control over construction documents" and "Control over construction" of the Directorate for National Construction Control in Bulgaria are covered mainly by broad and general policies related to multiple public services. A targetted policy, such as rotation or automatic random selection of the employees who carry out these activities, could further improve the anti-corruption setup of the organisation.

WHAT'S NEXT

The *State Capture Assessment Diagnostics* demonstrates that state capture vulnerabilities are sizable at the national level across Europe and are particularly problematic in certain Eastern European countries. SCAD further highlights that certain sectors, such as pharmaceuticals, fuels and construction deserve special policy attention as sources of state capture vulnerabilities. The results of the piloting of the SCAD-ESL (sectoral level) and the red-flagging in public procurement (achieved by the analysis of big data) presented in the current study confirm that state capture risks in these three sectors are higher than those at the national level in all four studied countries (Bulgaria, Italy, Romania and Spain). Nevertheless, Bulgaria and partially Romania have been revealed as the countries with a higher degree of state capture vulnerability on both the sectoral and public procurement level. It is likely that the disruption of competitive market forces and the undoing of democratic checks and balances in European economies during the Covid-19 pandemic has further exacerbated state capture vulnerabilities across member states and economic sectors. The diversity of governance deficiencies and the factors affecting them confirms the need for a broader application of an integrated analytical approach to comparative assessments at the national and sectoral levels. The results of such an analysis would subsequently allow for a targeted policy response and enable the improvement of the resilience of individual public institutions.

The very essence of the state capture challenge, with its corrosive impact on national regulatory and control institutions, calls for a European response. Such a response must be focused on the sectoral and sub-national level, seeking to identify and unravel state capture networks across Europe's regions. In particular, it must target those regions enjoying high levels of EU funding in which the lack of vibrant local economies and stable democratic institutions could easily lead to the concentration of market and political power and the subversion of democratic checks and balances. State capture vulnerabilities can easily lead to democratic backsliding, infiltration of organised crime into the legal economy and foreign malign influence with detrimental consequences for the EU's joint resilience. Hence, the EU's response to state capture vulnerabilities is required to span different policy domains, integrate existing instruments, and develop new initiatives and capabilities.

The current policy environment is particularly favourable for strengthening the EU's policy response to state capture vulnerabilities. In 2020, the EU introduced a new European rule of law mechanism aimed at securing member states' compliance with the highest standards of democratic accountability and checks and balances. In addition, the EU launched its European Democracy Action Plan to build more resilient democracies by promoting free and fair elections, strengthening media freedom and countering disinformation. It also presented its new Security Strategy with a strong focus on corruption as a tool for aggravating different security vulnerabilities, including the protection of the financial interests of the Union. Furthermore, the United States

has promoted anti-corruption as a core national security interest and a key instrument in standing up to authoritarian malign influence in the framework of renewed global power competition.

Taken together, these broad policy developments target the institutional and environmental enablers of the state capture model identified by SCAD. As a next step, they require adequate enforcement instruments in order to bear fruit on the ground in the member states most vulnerable to state capture. The newly established European Public Prosecutor's Office, for example, cannot effectively challenge entrenched state capture networks in public procurement if it does not have the combined support of other EU institutions such as Europol, OLAF and DG Competition. The institutional architecture, however, has one important missing link that is particularly pertinent to tackling state capture vulnerabilities. Namely, the EU lacks a common anti-money laundering agency. Establishing such a body at the EU level, capable of following money trails across member states and globally, is of critical importance for an effective strategy against state capture in Europe.

In order to design effective policy instruments, the EU needs to develop a better understanding of state capture vulnerabilities and ensure the adequate monitoring of risks. The current report complements previous efforts to understand and monitor state capture and provides a useful practical framework for risk assessment, which could guide EU policy and law enforcement efforts. The SCAD family of diagnostic instruments includes tools for monitoring and capacity building for tackling state capture vulnerabilities:

- National level assessment (SCAD);
- Sectoral level assessment (SCAD-ESL);
- Red-flagging of evidence of state capture and corruption in public procurement, including market concentrations on the level of groups of companies controlled by the same owner;
- Institutional level anti-corruption assessment (MACPI).

In Europe, the issue of state capture remains outside of mainstream policy debates, which are more focused on different forms of corruption without a systematic evaluation of the linkages between them. Adding instruments for deciphering media capture and judiciary capture to the SCAD model is needed as the next step in responding to the needs of the EU's Rule of Law mechanism for scalable tools to undertake an integrated analysis of state capture. Short of such tools, the Union would be inadequately equipped to meet the most serious current defiance to European governance, namely, the use of the privilege of national sovereignty as a cover for abusing democracy for private gain. In many European countries, oligarchic groups insist on having complete discretion in domestic affairs while claiming the benefits of good governance at the European level. In order to expose this discrepancy – and thus challenge it – the EU must ground its policies on verifiable evidence about the specific mechanisms through which state power is being hijacked for private ends. This is exactly what the *State Capture Assessment Diagnostics* provides.

EXCUTIVE SUMMARY
(IN BULGARIAN LANGUAGE)

Понятието „завладяване на държавата" е в обръщение от десетилетия и описва практики, при които частни бизнес интереси манипулират държавните политики и процесите на вземане на решения в своя полза. Обикновено то се отнася до осъществяването на поредица от отделни корупционни действия на най-високите етажи на властта. Тенденциите в редица европейски и други страни показват обаче, че тази практика вече не се ограничава до нередности във функционирането на една или друга публична институция, а е прераснала в трайно институционално поведение, което не се поддава на прилагането на общоприетите политики за противодействие на корупцията. В настоящия доклад са представени резултатите от прилагането на иновативния аналитичен инструмент *Диагностична оценка на завладяването на държавата (СКАД[74])*, който предоставя важни за управленските политики изводи за завладяването на държавата именно като системен провал на публичното управление.

От изолирани действия до системна практика

Завладяването на държавата, като форма на приватизация на правителствените решения и монополизация на цели икономически сектори, изисква прилагането на нови аналитични инструменти в помощ на разработването на политики за добро управление. СКАД разкрива систематичното завладяване на държавни правомощия в полза на частни интереси посредством различни видове корупционни и противозаконни практики[75]. Способите за завладяване на държавата включват овладяването на правоприлагането, привилегирован достъп до публични средства, асиметричен контрол върху медийния и финансовия сектор, влияние върху вътрешната и външната политика и т.н. СКАД показва механизма, чрез който изготвянето, приемането и прилагането на нормативни актове и правила е впрегнато в служба на завладяващите държавата – привилегировани субекти, ползващи се от неполагащи им се икономически и/или политически облаги.

СКАД разкрива как слабостта на механизмите за управление създава условия за завладяване на държавата в четири измерения (икономика, институции, политика и черен пазар) посредством два вида предпоставки. Тези предпоставки влияят върху институционалната и обществената среда, в която се осъществява управлението и по този начин улесняват завладяването на държавата (вж. схемата по-долу).

74   От съкращението на английски език SCAD – State Capture Assessment Diagnostics.
75   Stoyanov, Gerganov, and Yalamov, *State Capture Assessment Diagnostics*, Center for the Study of Democracy, 2019.

Теоретичен модел на завладяване на държавата

Източник: Stoyanov, Gerganov, and Yalamov, State Capture Assessment Diagnostics, Center for the Study of Democracy, 2019.

Измерване на завладяването на държавата в икономическите сектори

Разработен въз основа на анализи на корупцията и завладяването на държавата в няколко европейски страни през последното десетилетие, СКАД измерва резултатите и последствията от завладяването на бизнеса, **както и факторите** или предпоставките, **определящи институционалната и обществена среда.** Освен това инструментът създава условия за по-подробно изследване на пътищата за оказване на влияние върху отделни публични институции, икономически сектори или стопански организации, което на свой ред подпомага усъвършенстването на съответните институционални и секторни политики за противодействие. Настоящия доклад представя изводите от анализа на основните измерения на завладяването на бизнеса и определящите институционални предпоставки на секторно ниво в няколко икономически отрасъла (строителство, търговия на едро с горива и търговия на едро с лекарствени средства) в четири европейски държави (България, Испания, Италия, и Румъния.)

За целите на изследването на завладяването на държавата на секторно равнище в СКАД методиката са добавени два важни елемента. На първо място, предвид важността на привилегирования достъп до обществени поръчки като част от способите за завладяване на държавата чрез бизнеса, в доклада са анализирани рисковете от завладяване на държавата и корупционните практики в областта на обществените поръчки. В ос-

новата на този анализ е интегрирането и анализа на големи бази данни за обществени поръчки и корпоративна собственост. На второ място, измерването на институционалните предпоставки за завладяването на държавата е допълнено с методика за мониторинг на прилагането на политиките за противодействие на корупцията в ключови регулаторни и надзорни институции чрез прилагане на експертни оценки. Макар и различни по характер, съчетаването на изводите от прилагането на тези два отделни изследователски инструмента върху едно и също явление позволява идентифицирането на рискове и уязвимости, които невинаги са откриваеми с един-единствен аналитичен инструмент. Резултатите създават условия за извършването на наблюдения и анализи, както и за консултирането на управленски решения в отделните публични институции или дори компании.

Представени са резултатите и изводите от прилагането на три взаимно допълващи се методики и съответните им изследователски инструменти (вж. схемата по-долу).

- **Диагностична оценка на завладяването на държавата на секторно ниво (СКАД–секторно ниво)**. С този инструмент са оценени, посредством индекси, базирани на експертни оценки, рисковете от завладяване на държавата и уязвимостите на секторно ниво. Специално внимание е обърнато също върху неефективността на политиките за противодействие на корупцията, липсата на прозрачност, липсата на безпристрастност и наличието на пристрастност към частни интереси.
- Анализ на рисковете **от завладяване на държавата и корупционните практики в областта на обществените поръчки** посредством „червени флагове“. Анализът се основава на интегрирани бази данни и се извършва посредством специално разработена интерактивна уеб-базирана платформа[76]. С платформата се прилага за пръв път триизмерен подход към анализа на рисковете от завладяване на държавата и уязвимостите, свързани както с купувачите (възлагащите органи), така и с доставчиците (компаниите). Анализът се извършва чрез интеграция на три отделни бази данни: за обществените поръчки, за финансовото състояние и собствеността на дружествата и за сигнали от медиите за подозирани нередности, свързани с обществените поръчки. Оценката се извършва въз основа на червени флагове, като всеки един флаг обозначава рискова ситуация, възникнала в резултат на корупция или завладяване на държавата.
- **Мониторинг на прилагането на политики за противодействие на корупцията (МАКПИ)**[77]. Този инструмент е използван за определянето на уязвимостите и евентуалните опасности, свързани с наличието на риск от корупционни практики по високите етажи на властта в отделните публични институции (идентифицирани посредством СКАД – секторно ниво като ключови за регулирането на

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[76] *https://analytics.scemaps.eu.*

[77] Първоначално разработен и прилаган като самостоятелен инструмент, сега МАКПИ е интегриран в методическата рамка за оценяване на завладяването на държавата на секторно ниво. Вж. Стоянов, А. и др., *Мониторинг на антикорупцията в Европа. Оценка на антикорупционните политики и измерване на корупцията*, София: Център за изследване на демокрацията, 2015.

Оценка на завладяването на държавата на секторно ниво – концепция и изследователски инструменти.
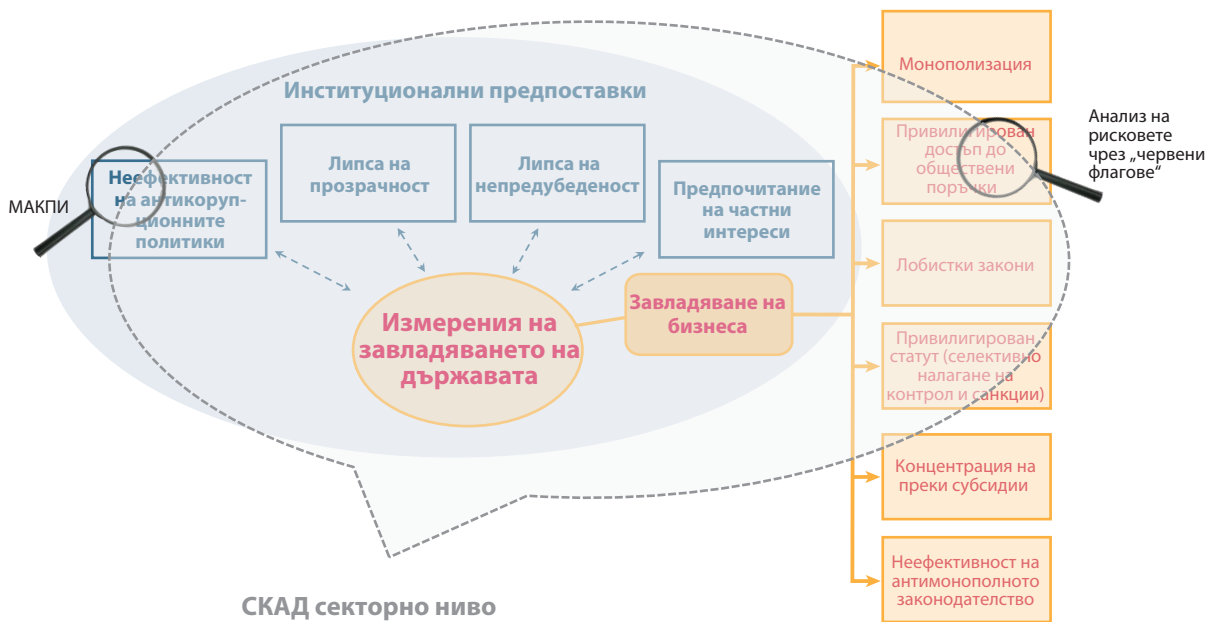
Източник: Център за изследване на демокрацията, 2021.

отделните сектори), от една страна, и липсата на антикорупционни политики за преодоляване на тези рискове, от друга.

Оценката посредством СКАД на завладяването на държавата на национално ниво осигурява ценна информация за уязвимите области в икономиката като цяло. От друга страна специфичните секторни инструменти на СКАД - секторно ниво имат по-голямо практическо значение на равнището на икономическите сектори поради техните специфични характеристики. Освен това, източниците на информация (включително експертните знания и похвати, използвани в инструмента МАКПИ), а също и уязвимостите и слабостите на политиките, са различни за отделните сектори и съответно оценките на секторно ниво осигуряват по-надеждни резултати.

EXCUTIVE SUMMARY
(IN ITALIAN LANGUAGE)

Il concetto di "cattura dello stato" (*state* capture) è da molto tempo utilizzato per descrive le pratiche delle imprese private che manipolano le politiche e i processi decisionali del governo a loro favore. Di solito si riferisce all'attuazione di una serie di singoli atti di corruzione al più alto livello governativo. Tuttavia, le tendenze in un certo numero di paesi, sia europei che non, mostrano che questa pratica non si limitata più alle irregolarità nel funzionamento di una determinata istituzione pubblica, ma si è trasformata in un comportamento istituzionale permanente e resistente alle politiche anticorruzione standardizzate e generali. Nel presente rapporto sono presentati i risultati dell'implementazione dell'innovativo strumento analitico *State Capture Assessment Diagnostics* – SCAD (*Valutazione diagnostica della cattura dello stato*) *a livello settoriale*, che fornisce risultati rilevanti sulle policy in tema di cattura dello stato, caratterizzando questo fenomeno come un fallimento sistemico della *governance* pubblica.
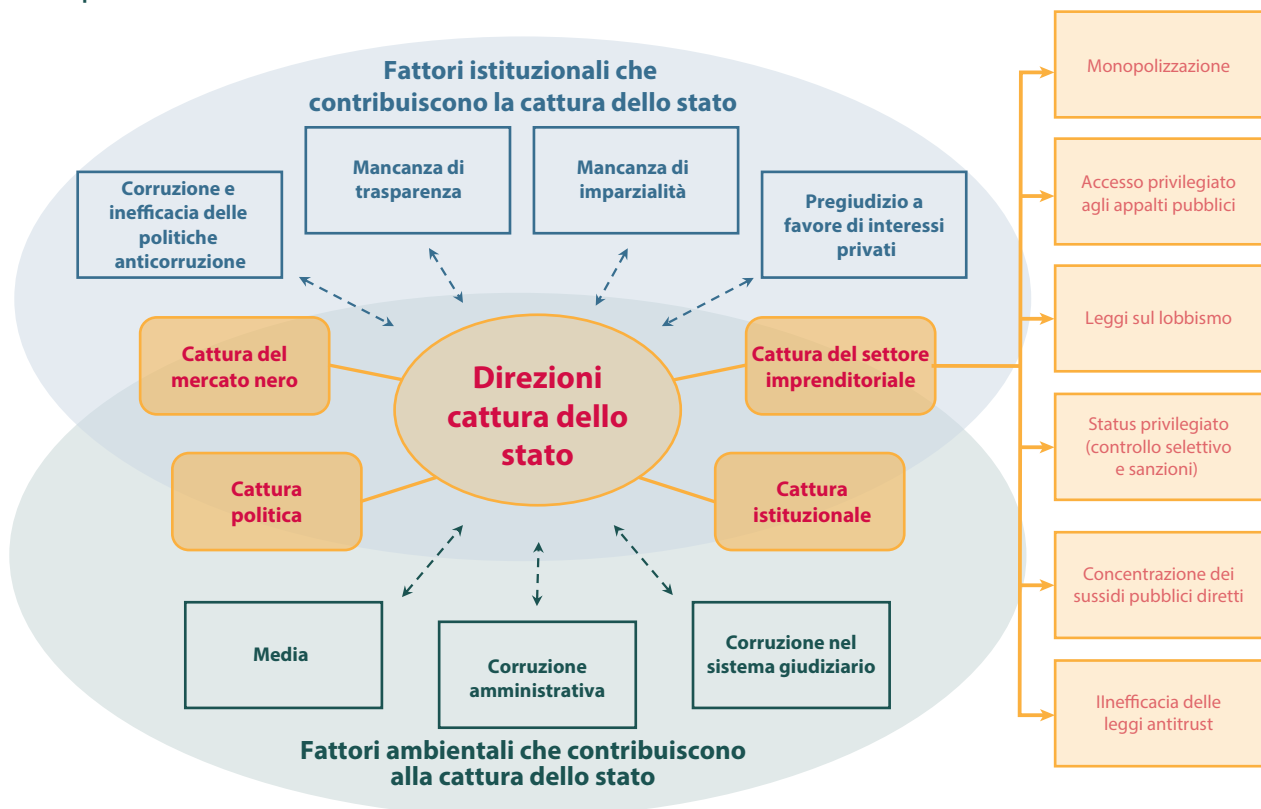
Dalle azioni isolate alla pratica sistematica

La nuova realtà, in cui la cattura dello stato è di fatto una privatizzazione su larga scala delle decisioni di governo e la monopolizzazione di interi settori economici, richiede l'applicazione di nuovi strumenti analitici al fine di sostenere lo sviluppo di politiche di buon governo. SCAD rivela **lo sfruttamento sistematico e costante dei poteri di governo a favore di interessi privati** attraverso vari tipi di atti corruttivi e illeciti[78]. Le modalità per catturate lo stato includono la padronanza dell'applicazione della legislazione, l'accesso privilegiato ai fondi pubblici, il controllo asimmetrico sul settore dei media e quello finanziario, l'impatto sulla politica interna ed estera, ecc. SCAD mostra il meccanismo attraverso il quale la preparazione, l'adozione e l'applicazione di atti normativi e regolatori viene imbrigliata al servizio di quelli che catturano lo stato – soggetti privilegiati, che godono di immeritati vantaggi economici e/o politici.

SCAD rivela come la debolezza dei meccanismi di gestione crei le condizioni per la cattura dello stato in quattro direzioni (economia, istituzioni, politica e mercato nero) attraverso due facilitatori (o fattori abilitanti). Questi ultimi si riferiscono alle caratteristiche istituzionali e ambientali che incidono sul sistema di *governance* consentendo o facilitando la cattura dello stato (vedi il diagramma sotto).

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[78] Stoyanov, A., Gerganov, A., and Yalamov, T., *State Capture Assessment Diagnostics*, Sofia: Center for the Study of Democracy, 2019.

Schema per la cattura dello stato

Direzioni cattura dello stato

Fattori istituzionali che contribuiscono la cattura dello stato

Corruzione e inefficacia delle politiche anticorruzione

Mancanza di trasparenza

Mancanza di imparzialità

Pregiudizio a favore di interessi privati

Cattura del mercato nero

Cattura politica

Cattura del settore imprenditoriale

Cattura istituzionale

Media

Corruzione amministrativa

Corruzione nel sistema giudiziario

Fattori ambientali che contribuiscono alla cattura dello stato

Monopolizzazione

Accesso privilegiato agli appalti pubblici

Leggi sul lobbismo

Status privilegiato (controllo selettivo e sanzioni)

Concentrazione dei sussidi pubblici diretti

Ilnefficacia delle leggi antitrust

Fonte: Stoyanov, Gerganov, and Yalamov, State Capture Assessment Diagnostics, Center for the Study of Democracy, 2019.

Specializzazione dello strumento: focalizzazione alla cattura di settori

Sviluppato sulla base di analisi della corruzione e della cattura dello stato in diversi paesi europei che coprono un intero decennio, SCAD **misura i risultati e le conseguenze dello state capture, nonché i facilitatori istituzionali e ambientali a livello nazionale.** Inoltre, lo strumento consente di approfondire come vengano colpite le singole istituzioni pubbliche, i settori economici e le organizzazioni imprenditoriali, contribuendo al perfezionamento delle relative politiche istituzionali e settoriali. In questo rapporto sono presentati i risultati dell'analisi, realizzata valutando **a livello settoriale le principali dimensioni della cattura dello stato e le caratteristiche istituzionali che la definiscono** in diversi settori economici (edilizia, commercio all'ingrosso di combustibili e medicinali) e in quattro paesi europei (Bulgaria, Italia, Romania e Spagna).

Ai fini del nuovo livello (settoriale) di analisi, sono stati aggiunti alla metodologia due elementi importanti. In primo luogo, data l'importanza dell'accesso privilegiato agli appalti pubblici nell'ambito delle modalità per la cattura dello stato da parte dei privati, il rapporto analizza sulla base dell'integrazione di *big data* **i rischi di cattura dello stato e le pratiche corruttive nel campo degli appalti pubblici.** In secondo luogo, la misurazione dei facilitatori istituzionali attraverso indici basati su valutazioni di esperti è stata integrata da una metodologia per **il monitoraggio dell'attuazione delle politiche**

anticorruzione nelle principali istituzioni di regolamentazione e vigilanza, sempre basata sulla valutazione degli esperti. Sebbene di natura diversa, la combinazione dei risultati di queste due analisi consente di identificare rischi e vulnerabilità non sempre rilevabili con un unico strumento analitico. Inoltre, i risultati creano le condizioni per condurre osservazioni e analisi robuste, nonché per fornire consigli relativamente alle decisioni gestionali a livello di singole istituzioni pubbliche o di aziende.

I risultati sono stati ottenuti applicando tre metodologie tra loro complementari e i rispettivi strumenti di ricerca (si veda lo schema sotto).

- *State Capture Assessment Diagnostics on Economic Sector Level (SCAD-ESL) (Valutazione diagnostica della cattura dello stato a livello settoriale).* Tramite questo strumento sono stati valutati, utilizzando indici basati su valutazioni di esperti, i rischi e le vulnerabilità di cattura dello stato a livello settoriale. Particolare attenzione è rivolta anche all'inefficacia delle politiche anticorruzione, alla mancanza di integrità, alla mancanza di imparzialità e alla presenza di pregiudizi a favore degli interessi privati.
- Analisi dei **rischi di cattura dello stato e di pratiche corruttive nel campo degli appalti pubblici** attraverso "segnali d'allarme" (*red flags*). L'analisi si basa su dati integrati e viene eseguita utilizzando una piattaforma web interattiva appositamente sviluppata.[79] La piattaforma utilizza per la prima volta un approccio tridimensionale all'analisi dei rischi e delle vulnerabilità di cattura dello stato legati sia agli acquirenti (l'amministrazione aggiudicatrice) che ai fornitori (le aziende). L'analisi viene effettuata attraverso l'integrazione di dati sugli appalti pubblici, di informazioni sulla condizione finanziaria e sulla proprietà delle aziende e di segnali dai media per sospette irregolarità relative agli appalti pubblici. La valutazione viene effettuata sulla base di specifici segnali d'allarme, ciascuno dei quali indica una situazione di rischio che potrebbe essere legata a episodi di corruzione o cattura dello stato.
- *Monitoring Anticorruption Policy Implementation (MACPI) (Monitoraggio dell'attuazione delle politiche anticorruzione)[80].* Questo strumento è stato utilizzato per identificare le vulnerabilità e le potenziali minacce legate al rischio di pratiche corruttive ad alto livello nelle singole istituzioni pubbliche (identificate tramite la SCAD-ESL come chiave per la regolamentazione dei singoli settori), da un lato, e la mancanza di politiche anticorruzione per far fronte a questi rischi, dall'altro.

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[79] *https://analytics.scemaps.eu.*
[80] Originariamente sviluppato e implementato come strumento autonomo, il MACPI è ora integrato nel quadro metodologico per valutare la cattura dello stato a livello settoriale. Si veda: Stoyanov A. et al, *Monitoring Anti-Corruption in Europe. Bridging Policy Evaluation and Corruption Measurement*, Sofia: Center for the Study of Democracy, 2015.

Valutazione della cattura dello stato a livello settoriale – concetto e strumenti di ricerca.
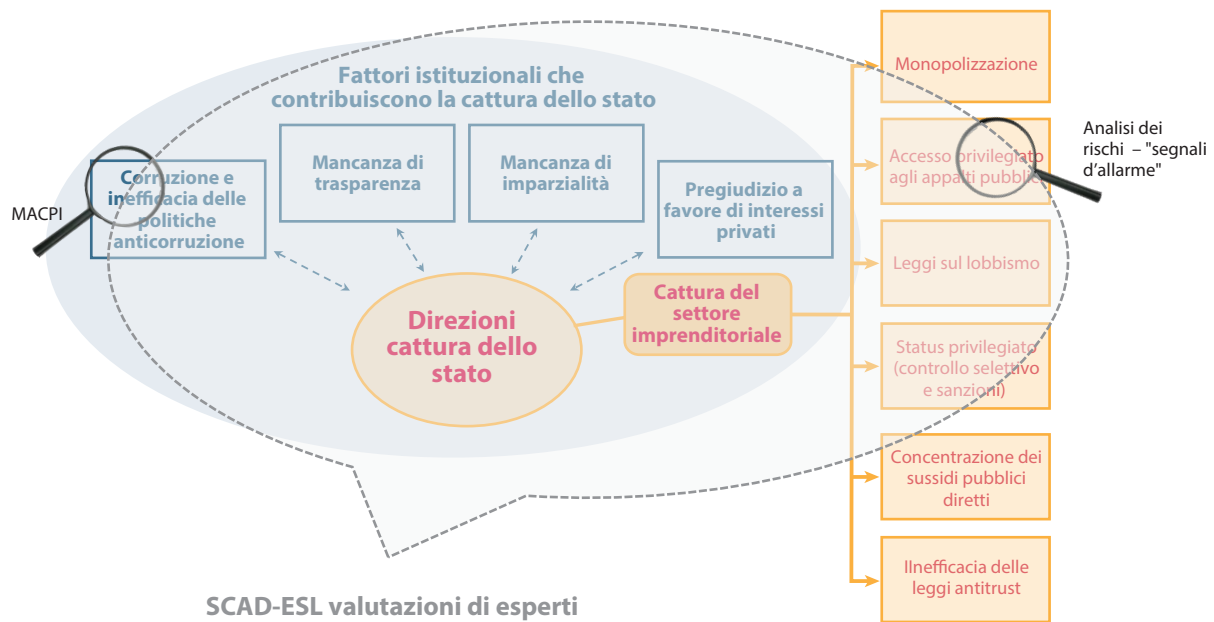
Fonte: Center for the Study of Democracy 2021.

Se da un lato la valutazione della cattura dello stato a livello nazionale attraverso la SCAD fornisce preziose informazioni sulle aree vulnerabili dell'economia nel suo complesso, dall'altro gli strumenti settoriali sono di maggiore importanza pratica al livello dei settori economici per le loro caratteristiche specifiche. Inoltre, le fonti di informazione (comprese le conoscenze specialistiche e le tecniche utilizzate nel MACPI), nonché le vulnerabilità e le debolezze delle politiche, variano da settore a settore e, di conseguenza, le valutazioni a livello settoriale forniscono risultati più affidabili e robusti.

EXCUTIVE SUMMARY
(IN ROMANIAN LANGUAGE)

Noțiunea "capturarea statului" a fost folosită de mult timp pentru a descrie practici prin care diferitele interese private ale mediului de afaceri manipulează politicile de stat și procesele de luare a deciziilor, în propriul beneficiu. De obicei, se referea la o serie întreagă de acte de corupție la nivel înalt, în mediul guvernamental. Tendințele din multe țări europene, dar și din alte state, arată că aceste practici nu se mai limitează doar la simple deviații în funcționarea diferitelor instituții publice, ci au devenit un comportament instituțional durabil, rezistent la aplicarea politicilor standard, generale pentru combaterea corupției. În prezentul raport sunt prezentate rezultate obținute în urma aplicării unor instrumente inovatoare de analiză la nivel sectorial, precum *Diagnosticul privind evaluarea capturării statului (SCAD)*, care oferă constatări relevante de politici publice despre capturarea statului, caracterizând-o ca eșecul sistematic al administrării publice.

De la accident la practica sistematică

Realitatea nouă, în care capturarea statului poate fi caracterizată ca privatizare *de facto* de amploare a deciziilor guvernamentale și o monopolizare a unor întregi sectoare economice, necesită dezvoltarea unor instrumente noi de analiză, care să vină în ajutorul elaborării politicilor de bună guvernare. *SCAD* arată **exploatarea sistematică și constantă a puterii guvernamentale în beneficiul unor interese private**[81]**,** care implică diferite tipuri de acte de corupție și activitate nelegitimă. Modalitățile de capturare a statului includ controlul asupra aplicării legislației, acces privilegiat la fonduri publice, control asimetric asupra sectorului mass media și a celui financiar, influență asupra politicii interne și externe a statului etc. SCAD ne arată mecanismele prin care elaborarea, adoptarea și aplicarea actelor normative și a altor reglementări la nivel guvernamental, funcționează în beneficiul unui număr mic de entități care au intenția de a captura statul; adică în favoarea unor actori privilegiați care beneficiază de beneficii economice și/sau politice care nu li se cuvin.

SCAD dezvăluie modul în care capturarea de stat este facilitată de mecanisme de guvernanță slabe prin evidențierea a patru dimensiuni (afaceri, instituționale, politice și piața neagră) și două tipuri de facilitatori, care se referă la caracteristicile instituționale și de mediu care afectează sistemul de guvernare, permițând sau facilitarea capturării (vezi figura de mai jos).

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[81] Stoyanov, A., Gerganov, A., and Yalamov, T., *State Capture Assessment Diagnostics*, Sofia: Center for the Study of Democracy, 2019.

Schema capturării statului
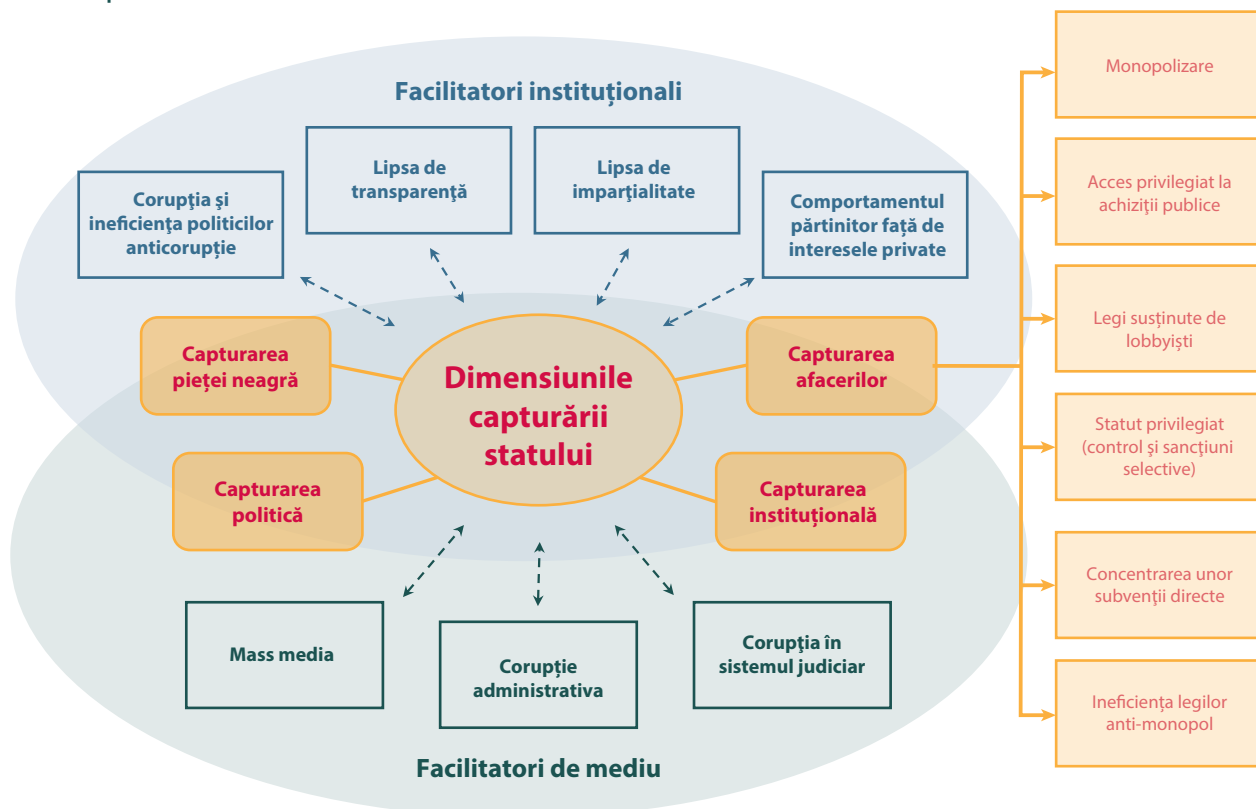
Sursa: Stoyanov, Gerganov, and Yalamov, State Capture Assessment Diagnostics, Center for the Study of Democracy, 2019.

Dezvoltarea instrumentului: concentrarea asupra capturii sectoriale

Bazată pe o analiză de zece ani a corupției și capturării statului în mai multe țări europene, SCAD **măsoară rezultatele și efectele capturării afacerilor, precum și facilitatorii instituționali și de mediu la nivel național**. În plus, instrumentul permite o examinare mai atentă a modului în care sunt afectate instituțiile publice, sectoarele economice și organizațiile de afaceri individuale, sporind astfel eficacitatea politicilor instituționale și sectoriale respective. Acest raport prezintă concluziile unei astfel de examinări prin evaluarea la nivel sectorial a dimensiunii esențiale a capturării afacerilor și a caracteristicilor instituționale care o facilitează în mai multe sectoare economice (construcția și comerțul cu ridicata al combustibililor și al produselor farmaceutice) din patru țări europene (Bulgaria, Italia, România și Spania).

Noua metodologie la nivel sectorial adaugă două elemente importante. În primul rând, luându-se în calcul importanța accesului privilegiat la achiziții publice ca parte a dimensiunii capturării afacerilor, în cadrul raportului **sunt analizate riscurile de capturare a statului și practicile corupte din domeniul achizițiilor publice,** pe baza analizei *big data*. Apoi, măsurarea factorilor instituționali prin evaluări ale experților bazate pe indecși, este completată și de o metodologie care implică **monitorizarea aplicării politicilor anticorupție** în cadrul unor instituții cheie cu rol de reglementare și de supraveghere, identificate prin evaluări făcute de experți. Cu toate că au un

caracter diferit, combinarea concluziilor celor două cercetări, legate de același fenomen, ne dă posibilitatea să identificăm riscurile și punctele vulnerabile, care nu întotdeauna pot fi depistate printr-un singur instrument de analiză. De asemenea, rezultatele creează posibilități pentru observarea și analizarea fenomenului, dar și pentru consiliere la nivelul managamentului din cadrul unei organizații publice sau companii.

Concluziile sunt rezultate ale aplicării unui număr de trei metodologii complementare și a instrumentelor lor de cercetare corespunzătoare (vezi schema de mai jos):

- *Diagnosticul de Evaluare a Capturării Statului la Nivel de Sectoare Economice (SCAD–ESL).* Prin acest instrument au fost evaluate, cu ajutorul indecșilor bazați pe evaluări făcute de experți, riscurile de capturare și punctele vulnerabile la nivel de sector. Instrumentul analizează cu atenție ineficiența politicilor anticorupție, lipsa de integritate, de imparțialitate și comportamentul părtinitor față de interesele private
- Analiza **riscurilor de capturare a statului, a practicilor corupte din domeniul achizițiilor publice,** prin intermediul factorilor de risc (*red flags*), bazați pe date integrate și implementat printr-o platformă web interactivă, special dezvoltată[82]. Platforma deschide drumuri printr-o abordare tridimensională pentru analiza riscurilor și vulnerabilităților legate de capturarea statului atât din perspectiva cumpărătorilor (autorități contractante), cât și a furnizorilor (companii), combinând date privind achizițiile publice, informații financiare și legate de proprietate ale companiei și un sistem de alertă media, care identifică presupuse cazuri de abateri legate de achiziții. Evaluarea se efectuează pe baza unei combinații de factori de risc, fiecare indicând o situație de risc care ar putea fi rezultatul corupției sau al capturării statului.
- *Monitorizarea aplicării politicilor anticorupție (MACPI)*[83] identifică vulnerabilitățile și decalajele potențiale dintre practicile de corupție cu risc ridicat din instituțiile publice individuale (identificate ca esențiale pentru reglementarea sectoarelor prin SCAD-ESL) și disponibilitatea politicilor anticorupție care abordează aceste riscuri. Apoi, evaluează ușurința implementării, implementarea efectivă și aplicarea ulterioară a acestor politici.

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[82] *https://analytics.scemaps.eu.*
[83] Inițial a fost elaborat și aplicat ca un instrument de sine stătător, iar acum a fost integrat în cadrul metodologic de evaluare a capturii statului la nivel de sector. Vezi Stoyanov A. et al, *Monitoring Anti-Corruption in Europe. Bridging Policy Evaluation and Corruption Measurement*, Sofia: Center for the Study of Democracy, 2015.

Evaluarea capturii statului la nivel de sector – conceptul şi instrumentele de cercetare
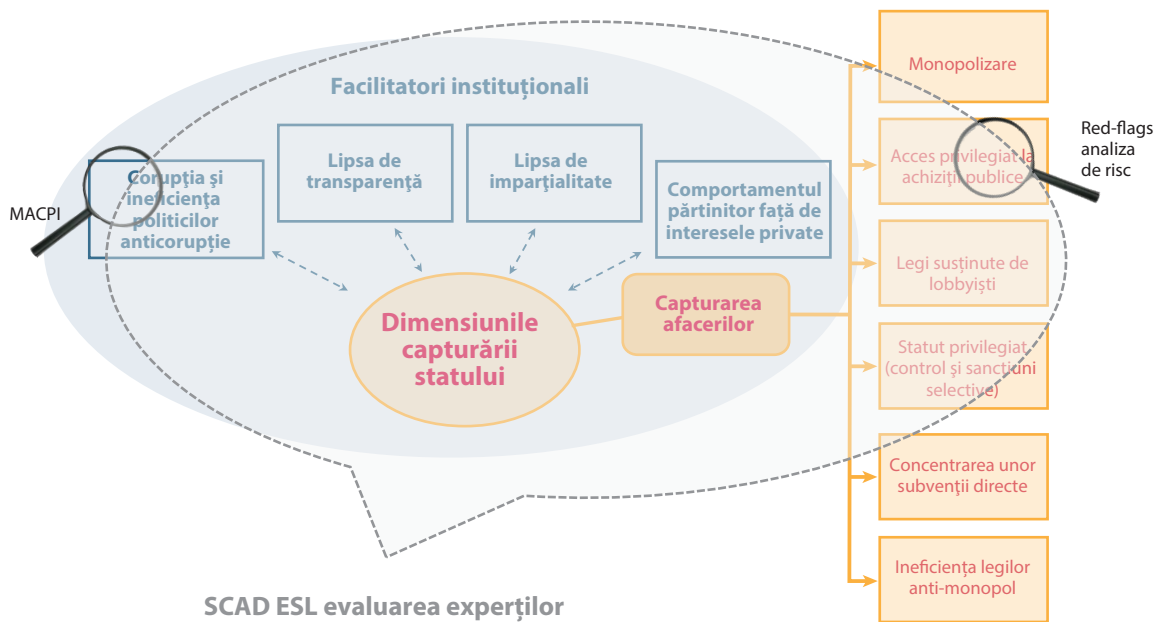
Sursa: Center for the Study of Democracy 2021.

În timp ce evaluarea capturării statului la nivel naţional prin aplicarea SCAD oferă cunoştinţe valoroase despre zonele vulnerabile din întreaga economie, instrumentele sale specifice sectoriale au o relevanţă practică mai mare la nivelul sectoarelor economice datorită caracteristicilor lor particulare. De asemenea, multe dintre sursele de informaţii (inclusiv cunoştinţele şi know-how-ul experţilor care iau parte la aplicarea instrumentului MACPI), precum şi vulnerabilităţile şi lacunele de politici publice, diferă în funcţie de sectoare şi, prin urmare, evaluarea sectorială produce rezultate mai robuste şi mai fiabile.

EXCUTIVE SUMMARY
(IN SPANISH LANGUAGE)

La noción de *captura del Estado* lleva circulando desde hace décadas y describe aquellas prácticas en las que intereses empresariales privados manipulan las políticas del Estado, así como los procesos de toma de decisiones, a su favor. Por lo general, se trata de la práctica de una serie de actuaciones corruptivas a alto nivel gubernamental. No obstante, las tendencias en varios países europeos y en terceros países demuestran que esta práctica ya no se está limitando a las irregularidades en el funcionamiento de una u otra institución pública, sino que se ha transformado en una conducta institucional permanente que no está sometida a las políticas universalmente admitidas para contrarrestar la corrupción. En este informe se presentan los resultados de la aplicación de la herramienta analítica innovadora, denominada *Evaluación de Diagnóstico para la Captura del Estado (SCAD, por sus siglas en inglés). Esta* ofrece unas conclusiones relevantes acerca de la captura del Estado precisamente como un fracaso sistemático de la gestión pública.

Desde las actuaciones aisladas hasta la práctica sistemática

La nueva realidad, en la cual la captura del Estado prácticamente representa ya la privatización a gran escala de las decisiones gubernamentales y la monopolización de sectores económicos en su totalidad, requiere la aplicación de nuevas herramientas de análisis que contribuyan al desarrollo de políticas de buena gestión. SCAD revela **la explotación sistemática y permanente de los poderes gubernamentales a favor de intereses privados** mediante diversos tipos de acciones corruptivas y contrarias a la ley[84]. Estos métodos incluyen la captura de la aplicación de las leyes, el acceso privilegiado a recursos públicos, el control asimétrico sobre los sectores mediático y financiero, la influencia sobre la política nacional e internacional, etc. SCAD muestra el mecanismo a través del cual la elaboración, la aprobación y la aplicación de las disposiciones legales y de las normas se han sometido a favor de aquellos que capturan el Estado: sujetos privilegiados que disfrutan de beneficios económicos y/o políticos.

SCAD revela la manera en que la debilidad de los mecanismos de gestión va creando las condiciones para capturar el Estado en cuatro direcciones (economía, instituciones, política y mercado negro) a través de dos tipos de factores que la favorecen (*enablers*). Estos factores ejercen influencia sobre el entorno institucional y social donde se realiza la gestión, facilitando así la captura del Estado (véase el esquema más abajo).

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[84] Stoyanov, A., Gerganov, A. y Yalamov, T., *State Capture Assessment Diagnostics*, Sofia: Centro de Investigación de la Democracia, 2019.

Esquema para la captura del Estado
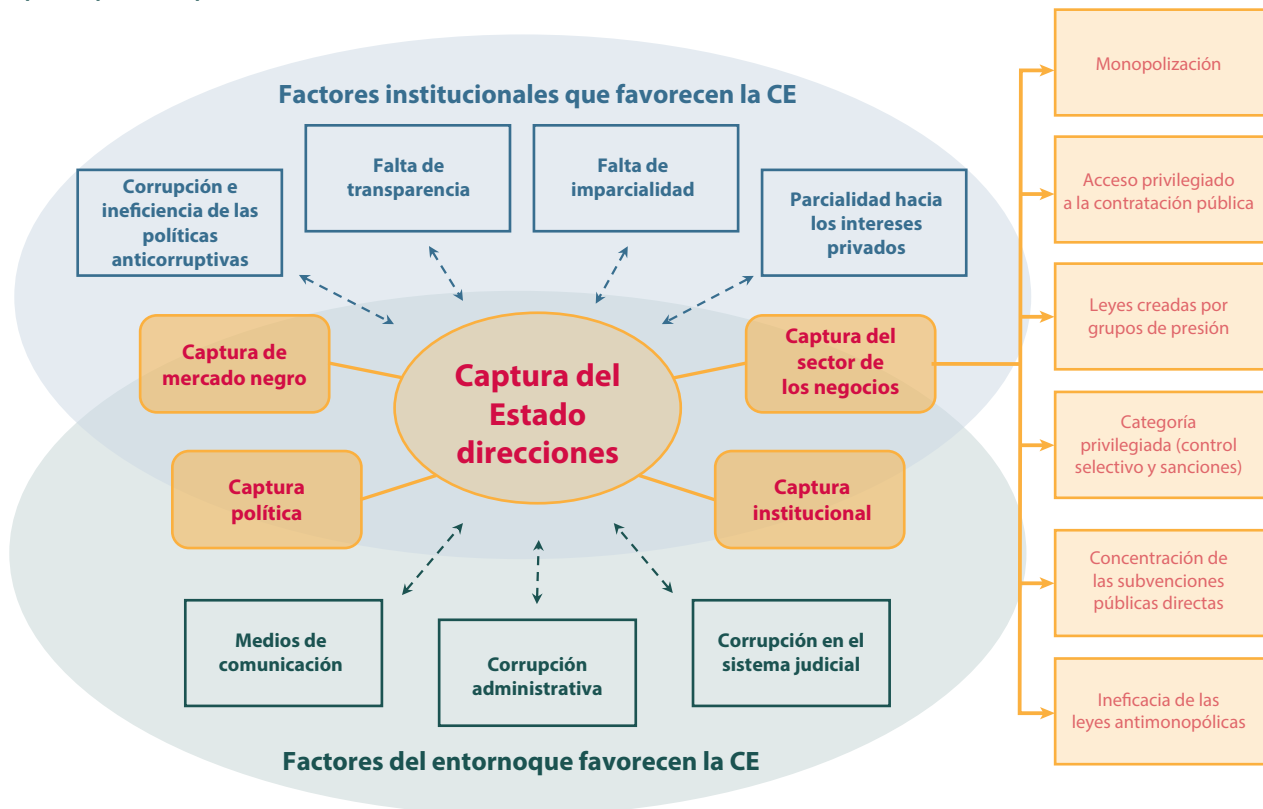
Fuente: *Stoyanov, Gerganov y Yalamov,* State Capture Assessment Diagnostics, *Centro de Investigación de la Democracia, 2019.*

Especialización de la herramienta: enfoque sobre la captura de los sectores

Elaborada sobre la base del análisis de la corrupción y la captura del Estado en varios países europeos que abarcan toda una década, SCAD **mide los resultados y las consecuencias de la captura de las empresas, así como los factores que determinan el entorno institucional y social.** Además, la herramienta va creando las condiciones para una investigación más detallada sobre las formas de ejercer influencia sobre determinadas instituciones públicas, sectores u organizaciones de la economía, que, por su parte, contribuye al perfeccionamiento de las políticas institucionales y sectoriales correspondientes. En este informe se presentan precisamente las conclusiones de esta investigación. **Las dimensiones principales de la captura de las empresas y las características institucionales determinantes han sido analizadas** en varios sectores de la economía (construcción, comercio mayorista de combustibles y medicamentos) y en cuatro países europeos (Bulgaria, Italia, Rumanía y España).

Con miras a la importancia del acceso privilegiado a las contrataciones públicas, en este informe **se han analizado los riesgos para la captura del Estado y las prácticas corruptivas en el ámbito de la contratación pública**. Para ello, e n la base de este análisis está la integración de grandes bases de datos. En segundo lugar, la medición de los factores institucionales que la favorecen, a través de índices basados en evaluaciones de expertos, se ha

completado con la metodología del **monitoreo de la aplicación de políticas anticorrupción** en instituciones clave de regulación, supervisión, contratación e inspección. Una vez más gracias a las valoraciones de expertos. A pesar de que ambas difieren en su carácter, la combinación de las conclusiones de estas dos investigaciones permite identificar riesgos y vulnerabilidades que no siempre se pueden descubrir con una única herramienta . Además, los resultados van creando las condiciones apropiadas para realizar observaciones y análisis posteriores, así como para el asesoramiento sobre las soluciones de gestión y de política interna que se adoptarán a nivel de cada una de las instituciones públicas o incluso de las compañías.

Se presentan los resultados y las conclusiones de tres métodos que se complementan y sus respectivas herramientas de investigación (véase el esquema más abajo).

- *Evaluación de Diagnóstico de la Captura del Estado a Nivel Sectorial (SCAD-ESL, por sus siglas en inglés).* Con esta herramienta se han evaluado los riesgos de captura y las vulnerabilidades a nivel sectorial mediante índices basados en evaluaciones de expertos. Se ha prestado una especial atención también a la ineficacia o ineficiencia de las políticas anticorrupción, la falta de ética y la ausencia de imparcialidad.
- Análisis de **los riesgos de captura del Estado y las prácticas corruptivas en el ámbito de las contrataciones públicas** mediante "banderas rojas". El análisis está fundamentado en bases de datos integradas y se realiza a través de una plataforma interactiva, disponible una página web pública[85]. Aquí se aplica, por primera vez, una perspectiva tridimensional en el análisis de los riesgos de captura del Estado y las vulnerabilidades relacionadas tanto con los compradores (las autoridades contratantes) como con los proveedores (las compañías). Un examen que se realiza mediante el cruzado de datos de licitaciones públicas, información financiera y de propiedad de las sociedades y alertas de los medios de comunicación sobre irregularidades en el proceso de contratación. La evaluación mediante banderas rojas, señalando cada una de ellas una situación de riesgo de corrupción o de captura del Estado.
- *Monitoreo de la Aplicación de Políticas para Contrarrestar la Corrupción (MACPI, por sus siglas en inglés)[86].* Esta herramienta ha sido utilizada para determinar las vulnerabilidades y los posibles riesgos de prácticas corruptivas a alto nivel en cada institución pública (identificadas mediante la SCAD-ESL como claves para la regulación de cada uno de los sectores), por una parte, y, por otra parte, la falta de políticas anticorrupción para superar estos riesgos.

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[85] *https://analytics.scemaps.eu.*

[86] Inicialmente desarrollado y aplicado como una herramienta independiente, ahora el MAPCC está integrado en el marco metodológico para la evaluación de la captura del Estado a nivel sectorial. Véase Stoyanov A. et al., *Monitoring Anti-Corruption in Europe. Bridging Policy Evaluation and Corruption Measurement*, Sofía: Centro de Investigación de la Democracia, 2015.

Evaluación de la captura del Estado a nivel sectorial: planteamiento y herramientas de investigación
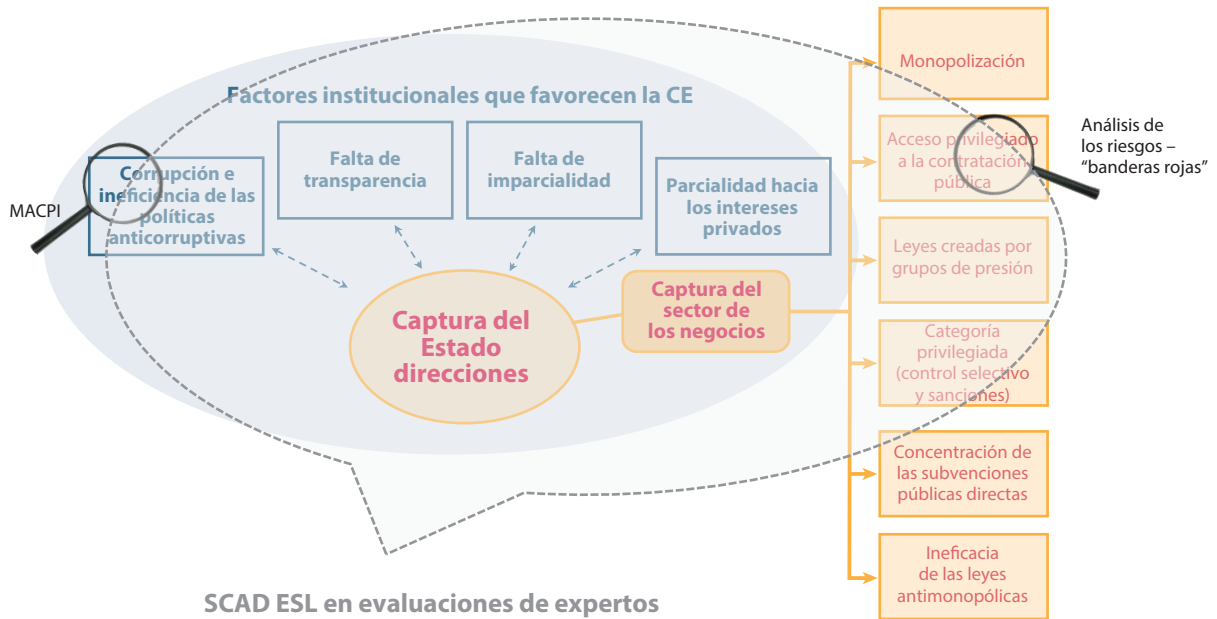
Fuente: Centro de Investigación de la Democracia (CID), 2021.

Mientras que, por una parte, la evaluación de la captura del Estado a nivel nacional mediante SCAD asegura una información valiosa sobre los ámbitos vulnerables de la economía en su totalidad, las herramientas sectoriales específicas, por otra parte, tienen una mayor importancia práctica a nivel sectorial , debido a sus características específicas. Además, las fuentes de información (incluidos los conocimientos y las prácticas de expertos que se emplean en la herramienta MACPI), así como las vulnerabilidades y las debilidades de las políticas anticorrupción, son diferentes para cada uno de los sectores, y, respectivamente, las evaluaciones a nivel sectorial aseguran resultados más fiables.