



CENTRE FOR ADVANCED STUDY SOFIA

## CAS WORKING PAPER SERIES

**Issue 4**

Sofia 2011

This publication presents part of the research outcome of a project carried out at the Centre for Advanced Study Sofia under the title

# **Shaken Order: Authority and Social Trust in Post-Communist Societies**

(Case Studies in Law)  
2007–2009

*Available in electronic form at  
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CAS Working Paper Series No. 4/2011

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**RUZHA SMILOVA**

**THE DUTY TO OBEY THE LAW AND SOCIAL TRUST:  
THE EXPERIENCE OF POST-COMMUNIST BULGARIA**

Post-communist societies are marked by a deficit of trust: members of these societies tend to trust authority and their fellow citizens less than the members of societies in developed democracies, and their low stock of trust is further depleted during the transition period. This low and further declining trust is often accompanied by a shaken belief in citizens' duty to obey the law and in declining levels of law-abiding behaviour. The main question of my research is: how are the above phenomena related in the case of post-communist Bulgaria? Is low trust in institution the cause for lower trust in one's co-citizens, or the other way around? Is the relation is more dynamic? Do these two types of trust relate and how do they relate to the decline in the levels of law-obedience in the country and to the attitudes of citizens to their obligations to obey the law? Exploring the mutual dynamics of social trust, trust in institutions and the attitudes towards the law is thus the main task of my research.

***TRUST AND THE OBLIGATION TO OBEY THE LAW***

***1.1. THE STRONG CONCEPTUAL CONNECTION BETWEEN  
TRUST IN AUTHORITY AND A BELIEF IN A DUTY TO OBEY IT***

The received wisdom has it that legitimate political authority creates an obligation of obedience for its subjects. Indeed, the political theorists hold that there is a strong conceptual connection between legitimate authority and the obligation to obey. The traditional view is that when an authority is le-

gitimate, this implies that its subjects owe it a duty of obedience (Wolff 1971).

From this strong conceptual connection one infers that when citizens *believe* in the legitimacy of their state and its authority, they also *believe* in the existence of their own moral duty to obey its laws and administrative directives.

Thus, those interested in the attitudes of citizens towards their obligations to obey are advised to look at the levels of *vertical trust* citizens have in the legitimacy of their state and civil institutions. The link seems direct: when citizens *trust* those institutions, they will likely also *believe they have a duty* to obey them.

Thus one could predict that with high levels of *vertical trust* in state authorities will come high levels of law-abiding behaviour and high levels of belief in the existence of a duty to obey. Low levels of vertical trust in state and civil institutions will likewise be correlated with low respective levels of law-abiding attitudes and behaviour.

My main interest in this study is not merely to establish this simple correlation in the case of post-communist Bulgaria. Rather, it is to identify the main *determinants* of low trust in authority and the correlated shaken belief in the existence of a duty to obey it.

This issue falls within one of the major research areas in the growing literature on determinants of social capital. Under intense study recently is the question as to whether the unfavourable states of society (characterised by low and further depleting stocks of trust) are due to the low levels of trust between its members, or else to the low levels of trust in the institutions of the society – or the causal relation is more complex?<sup>1</sup> Interestingly, both types of trust/distrust seem to come together: researchers have found a *relatively strong correlation* between levels of vertical (in social and political institutions) and horizontal (social) trust (Newton 1999). Little has been definitively established, however, about their dynamics, about the causal links between them (Rothstein and Stolle 2002). My study of the relationship of social and vertical trust to the duty to obey the law in Bulgaria is aimed as a modest contribution to clarifying this theoretically interesting issue.

*THE MAIN HYPOTHESIS: GENERALISED SOCIAL TRUST  
AFFECTS THE BELIEF IN A DUTY TO OBEY AUTHORITY*

One plausible candidate for explaining the levels of belief in the existence of a duty to obey – and the respective trust in the authority of the state – is the level of generalised social trust in the society under consideration.

1 Uslaner (2002), Badescu and Uslaner (2004), Rothsetin and Stolle (2002, 2008), You (2005), Kumlin and Rothstein (2003), et al.

Thus I have formulated the following main hypothesis of my research on the attitudes of Bulgarian citizens toward their duties to obey the law:

*The general perception that ‘not enough others are obeying’ (e.g. paying their taxes or bills) will be the main explanation why people are reluctant, when they are, to obey the law (e.g. pay their taxes and bills).*

In short, I test the hypothesis *that the belief in the existence of a duty to obey depends on the levels of horizontal social trust.*

This hypothesis is in line with H.L.A. Hart’s account of ‘the duty of fair play to obey the law’ (Hart 1955, Klosko 1992, Simmons 1987). On this account one has to obey the law of a community, whose benefits one has enjoyed, otherwise one takes unfair advantage of the members who do obey. This duty is an example of a conditional duty of a special kind. One is under a valid duty to obey, according to this account, only when the so-called ‘compliance condition’ is met: ‘enough others comply with the law, follow the rules, pay their taxes and bills’, etc. (Edmundson 2002). With insufficient general compliance levels, there is no duty to reciprocate, obey the law, pay one’s bills, etc.

Precisely at this point is the connection of the fair-play account of the duty to obey with the main task of my research, namely to explain the levels of law obedience and rule following observed among the Bulgarian citizens. Thus my hypothesis is that the relatively low levels of generalised social trust in Bulgaria (measured by the expectation that not enough others will play by the rules, obey the law, pay their bills) ultimately explain the low levels of law-obedience and, more generally, the attitudes of Bulgarians towards their legal obligations. The causality here runs from low horizontal trust to low levels of obedience and low levels of belief in the duty to obey. As should be clear from this brief outline, the source of my hypothesis is precisely the fair-play account, which seems particularly well suited to the observed phenomena.

### **1.1. THE ROLE OF TRUST IN INSTITUTIONS**

Trust in law and order, and in other societal institutions, does play a crucial role in the proposed explanation. These institutions play an assurance function: their crucial role is to assure (through regulation, and when necessary, through the threat of coercion) citizens that enough others will indeed play their part. Given this assurance, the average citizen could be confident he will not be exploited by the others and could safely act on his own duty. The trust in institutions (vertical trust) here would support and strengthen the trust in others (horizontal social trust).

Yet this role would be secondary, as well working institutions do not by themselves create obligations to obey them. Rather, by performing their assurance role, they could guarantee sufficient compliance with law. They thereby help create and sustain higher levels of horizontal social trust, and correspondingly, higher levels of law-abiding attitudes and behaviour.

As is obvious from this brief sketch, the relationship here is complex and dynamic. I studied how horizontal social trust fails to generate duties of obedience when not assisted by well working and trustworthy institutions through a case study of a utilities company, Toplofikatziya Sofia, and the attitudes of Sofia's citizens towards paying their central heating utility bills.

To prepare the groundwork for this discussion, however, let me briefly review the quantitative data on the vertical and horizontal social trust, as well as the levels of law-compliance in the country.

#### 1.4. VERTICAL TRUST IN INSTITUTIONS IN BULGARIA

First a brief look at the levels of trust in institutions. The data show that this type of trust is low in Bulgaria, and is declining further.

Thus in 1998 some 44% of Bulgarians distrusted political institutions. This result is higher than the distrust in other CEE countries, where the average is 28.1%. Compared to levels of distrust in institutions in developed democracies, Bulgaria's score is considerably higher.<sup>2</sup> The latest survey results again show that over 50% of Bulgarians have no trust whatsoever in political parties, the Parliament and the government of the country. And more than 90% distrust rather than trust political parties.<sup>3</sup>

The trust in the judicial system (the courts and the prosecutorial office) is also critically low and is declining further. For the period 1999–2008, for example, the trust in the judicial system as a whole dropped from 2.09 to 1.79.<sup>4</sup> In 2008, 40.1% of Bulgarians claimed to have no trust whatsoever in the judicial system. The distrust towards it is only matched by the distrust in the political institutions in the country. In sum, the trend is stable and is towards increasing distrust in political institutions and the judicial system.<sup>5</sup>

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2 1998 *New Europe Barometer* survey, quoted in Howard (2002).

3 *State of Society III* survey (December 2007).

4 Measured on a scale '1 equalling no trust, 4 equalling high trust'.

5 *European Values Study*, Fourth Wave (April – June 2008). The results show that 54.1% have no trust in the political parties, 51.3% do not trust the Parliament, and 47.1% the Government. Compare these results with the ones from *State of Society III* survey (December 2007): according to the data, 48.8% have no trust whatsoever in the political parties, 48.5% fully distrust the Parliament, and 38.1% the Government, with a mean of trust (on a scale from 1 to 10, 1 meaning no trust, and 10 meaning full trust) for the political parties equalling 2.27, for the Parliament 2.29, and for the Government 2.74.

We get a somewhat different picture in a recent study by Linde and Eckman (2005), according to which Bulgaria and Poland in the mid and late 1990s experienced increasing levels of trust in political institutions, reaching in 2001 the highest levels of trust amongst the CEE countries at 36%. The increase of trust in the political institutions for Bulgaria in the period 1993–2001, according to the data used, had been the stunning 17%. This favourable result, as the authors of the study themselves recognise, could be at least partly attributed to the ‘Simeon effect’ – the electoral mobilization that brought to power the government of the former Bulgarian king. Indeed, disappointment followed just a few months after the popular mobilisation and his ensuing landslide victory. The disillusionment rapidly brought down the levels of trust in political institutions, which fell below its 1993 levels and never recovered.

More recent data from the regular surveys in Bulgaria, as indicated above, show the alarming (and increasing) rates of distrust of most<sup>6</sup> political institutions, in particular the institutions of representative democracy.

### 1.5. HORIZONTAL SOCIAL TRUST

Now I will take a brief look at the level of horizontal or generalised social trust in the country. ‘Bridging’ social capital, to use Robert Putnam’s memorable concept for the ‘generalised social trust’, characterises those societies where through a joint adherence to the norms of reciprocity and mutual trust their members manage to mitigate the excesses of their self-interest and thus solve their collective action problems.

Societies with low stocks of horizontal social trust, or low levels of bridging social capital, seem to suffer all kinds of misfortunes: from lower GDPs and slower economic growth to low quality democratic institutions, more corrupt governments, worse public health, etc. Indeed, numerous studies have confirmed these relatively strong correlations. I will not review here the literature on social capital, which is a huge and growing industry, with its own methodological quibbles and research dilemmas. For our purposes the general message is all we need: this type of social capital is ‘good’ for society, and the more of it, the better!

What is not clear (and is the subject of intense study recently, as I mentioned) is whether the unfavourable states of society, characterised by low and further depleting stocks of generalised social trust, are due to the low levels of trust between its members, or rather, they are produced because citizens have little confidence in society’s institutions. In the latter case it might be that citizens’

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6 The only exception from this trend is the Presidential office, which due to the peculiarities of its constitutional design (direct popular election coupled with little prerogatives and responsibilities) has enjoyed more popular support. Even this institution, however, has seen a decline in the levels of trust in recent years.

distrust in institutions is what undermines the ability of those institutions to help them resolve their societal problems. It has been noticed that both types of trust occur together – indeed a relatively strong correlation between levels of vertical (in social and political institutions) and horizontal (social) trust has been established (Newton 1999). Yet the relationship is more dynamic than one might infer from this neat picture. Shedding light on the causal link between them is the purpose of my current research on the relationship between social trust and the duty to obey the law amongst Bulgarian citizens.

As a preliminary note, let me state that the level of generalised social trust in Bulgaria may be low by comparison compared to the champions in this race (the Scandinavian countries and Netherlands), yet it is not excessively low. Indeed, the data from WVS (World Values Survey) and EVS (European Values Study) indicate that Bulgarians trust their co-citizens more than do many citizens of the other post-communist countries. Using data from the 1990s to early 2000 – with scores of 30.3% (1990), 28.6% (1997) and 26.9% (1999)<sup>7</sup> – of Bulgarians declaring trust in their co-citizens rank higher than the Czechs, Poles, Croats, Estonians, Hungarians, Serbs, Latvians, Lithuanians, Russians, Slovenes, Slovaks, and the lowest scoring Romanians. More interestingly, Bulgarian scores are higher than those of some longer established democracies with better working economies, such as Greece, France, Portugal, and Israel (You 2005: 4).

Yet, there is a clear trend towards decline in the levels of horizontal social trust, and from 1999 it has been a rapid decline, reaching 17.7 % in 2008.<sup>8</sup> At this point the critically low trust in the political institutions of the country already matched with low levels of horizontal social trust. This ‘fit’ between low levels of horizontal and vertical trust is a relatively new development, and has not characterised the transition period as a whole. Rather, against the background of steady decrease in the levels of horizontal trust, we see volatility and a lack of stable, clear trends in the levels of vertical trust (from 19% trust in political institutions to 36% in 2001, and in 2008 we have more than 90% of Bulgarians having *no or little* trust in them). This in itself is an interesting result that falsifies the correlation thesis stated above. It will also play out in the discussion of the attitudes of Bulgarians towards paying their utility bills.

7 EVS – 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Waves.

8 EVS 2008, preliminary results. At present we have only the data for generalised trust among Bulgarians, which makes it impossible to give a more relevant, comparative perspective on this development.

1.6. OBEDIENCE TO LAW IN BULGARIA:  
ATTITUDES AND PRACTICE. THE CASE OF TAX EVASION

As a proxy for the levels of obedience to law in post-communist Bulgaria I will use the data available on tax evasion in post-communist Bulgaria, being aware of the problems involved. The justification is that we do not have reliable quantitative data on obedience to law in general – even the idea of collecting such data is mind-boggling! Though my main interest is in the attitudes of Bulgarians towards their duty to obey the law generally, I am aware that normally people are much more ready to address the narrower issue of a moral duty to pay their taxes. We have, accordingly, more data on the latter. No less important for the purposes of my analysis is that it is possible to measure the scope of the tax evasion and to compare the results with the results from the surveys that register attitudes. Interesting results are produced by these comparisons, as we will see.

The picture we get from the available data on tax evasion in Bulgaria is mixed, yet the trend is towards an increasing tolerance of tax evasion and towards a high incidence of this practice.

**1.6.1. The Quantitative Data**

The recent data show that the rate of those who say tax evasion should be legally sanctioned has dropped by more than 3% in just 1 1/2 years (spring 2006 – December 2007), from 69 to 66%, while those stating that tax evasion is not a problem has risen by 6%, to reach 11%. Around 20% of Bulgarians think that only ‘big money’ tax cheaters should be prosecuted, while the rest should be left alone.<sup>9</sup> The data concerning tolerance to evading bill payments are similar – 28.9% do not mind those not paying to use the services, and only 60.4% claim the services should be refused to them.

This trend towards an increasing tolerance of tax evasion may seem a relatively new development in Bulgaria. Thus a comparative study of changing attitudes to tax evasion in 10 transition countries (McGee 2007) using data from two rounds of the World Values Survey<sup>10</sup> found a relatively low tolerance towards tax evasion in Bulgaria. It also identified a positive trend towards less

9 *State of Society II* (spring 2006) and *State of Society III* (December 2007) Reports. One finds similar sentiments publicly expressed even by state officials charged with overseeing the tax compliance of citizens. Thus in an interview for a news agency, the head of the Taxation Control Unit of the National Revenue Agency declared that tax evasion in the country for 2007 amounted to 800 million leva. He further commented that the problem for the budget was not the tax evasion by the general public (he calls this phenomenon ‘the Andreshko syndrome’ and admits it is widespread) but rather the tax fraud by the big business in the country. Though a correct observation, this public statement does not fit with this official’s public role of a guard to the tax morale of the citizens. See [http://frognews.bg/Frog/index.php?option=com\\_content&task=view&id=4661&Itemid=83](http://frognews.bg/Frog/index.php?option=com_content&task=view&id=4661&Itemid=83).

10 For Bulgaria the surveys were held in 1990 and 1999.

tolerance. Thus in 1990 57.4% thought that tax evasion is never justifiable, while in 1999 these attitudes were shared by 66.9% of Bulgarians.

Remarkably, the trend towards increasing opposition to tax evasion is almost unique for Bulgaria – in almost all other post-communist countries (except Poland) the trends is the opposite, leaving one to wonder what could be the explanation. There is one obvious candidate – Bulgarians have started with relatively higher levels of tolerance towards tax evasion and decline in the levels of tolerance is to be expected. This explanation is not confirmed by the data, since the rates for Bulgaria in 1990 (2.59),<sup>11</sup> though somewhat higher than the average for the CEE countries (2.377), do not mark the Bulgarian case as an outlier. In 1999 the average for the CEE countries is already much higher – 2.704 (more tolerance), while Bulgarians have grown much less tolerant to tax evasion (with an average of 1.985).<sup>12</sup> They have grown less tolerant both compared to their own attitudes 9 years earlier, and compared to the average for the CEE countries. This marks Bulgarians as a clear exception from the general trend.

These data for Bulgaria have puzzled the author of the above comparative study. In 2008 in a new article he had extended the comparative study on attitudes towards tax evasion to cover 15 transitioned and 2 developed democracies, yet reached the same conclusion:

‘Another surprise is that Bulgaria, one of the more corrupt countries according to some studies, has about the same degree of aversion to tax evasion as does Denmark, the country with the most aversion to tax evasion’.<sup>13</sup>

This author speculates that there might be something different in the mentality of Bulgarians that separates them from the neighbouring and the rest of the post-communist countries, yet he admits that a further study must be conducted in order to find out what that might be.

### ***1.6.2. The discrepancy between moral attitudes and practice***

The same trend (as well as the same puzzle) has been noticed and studied by Bulgarian sociologists already a decade ago.

Noticing that in mid 1990s and early 2000s there were ample self-reports by the general population in Bulgaria of high levels of duty-complying attitudes and behaviour, they have hypothesised that there *frequently exists an often significant discrepancy between the explicitly stated moral attitudes and people’s actual, everyday practice.*

11 On a 1–10 scale, 1 being ‘tax evasion is never justifiable’ and 10 being ‘tax evasion is always justifiable’.

12 McGee (2007).

13 McGee (2008).

This phenomenon of discrepancy between stated moral attitudes and the attitudes expressed in everyday practice, of course, is not unique to Bulgaria. In Bulgaria, it has been aptly documented by Vladimirov et al. (1998, 1999). In 1997 the value dilemmas of Bulgarian citizens in the transition period were studied in a national representative survey. The results confirmed the discrepancy between moral attitudes and everyday practice, and were interpreted by the authors as a manifestation of social anomie. The emergence of the 'instrumental', goal-directed person (around 60% of the total population), aiming at success and having only an instrumental attitude towards the people around him, was identified. The emergence of this *homo economicus* was interpreted as the most significant change in the social fabric of society that the transition period has brought about.<sup>14</sup>

More recently, a 2003 study by the Bulgarian sociological agency, MBMD, looked at tax and social security evasion. It likewise documented the strong discrepancy between the individual estimates of the respondents about the general level of tax and social security liability evasion, and the acknowledgement of their own tax evasion practices. For example, more than half of all interviewed by the MBMD in June 2003 believed that over 50% of the companies in Bulgaria evade taxes and social security liability payments. But when these companies were asked about whether they meet their own obligations, more than 70% turn out to be prompt taxpayers.<sup>15</sup>

In a 2003 study estimating the size of the informal economy in the country, researchers reported that only around 5% of their respondents admitted to having not paid or to having cheated on their taxes, and more than 90% claimed to have paid all of their due taxes and bills on time.<sup>16</sup>

The Vitosha Research sociological agency also conducted a similar study entitled the 'Hidden Economy of Bulgaria' in 2004.<sup>17</sup> Their results also show that the overwhelming majority (more than 90%) of taxpayers declared they pay their bills and taxes on time, even when this poses considerable difficulties for their household members. Yet according to the same study, the size of the 'hidden' economy during this period is estimated to be somewhere between 26% and 50% of the whole economy in Bulgaria. This opens a huge gap between the stated moral positions and the actual practice.

This gap has not shrunk sustainably in recent years. Though there was a trend towards decline in the share of the hidden economy in the pre-accession

14 Qtd in Chavdarova (2004).

15 Data qtd in Kelchev (2006). Also discussed in a media publication from 2003, available at <http://217.75.128.36/asp2/s3nArt.asp?media=9&artno=31&artdate=2003/12/12&CDLANG=BG>

16 Goev, Valentin and Venelin Boshnakov (2003).

17 The report is available at <http://vr.online.bg/fileSrc.php?id=1145>

period of 2006, the year 2007 marked a 'renaissance period' when the informal economy reached again one-third of GDP.<sup>18</sup>

Similar are the results on the rate of tax evasion in the country. According to the most recent estimates, Bulgarians rank third among 38 in the EU (after Italians and Romanians), with 4% of their personal income not declared for tax purposes.<sup>19</sup>

In sum, judging from the answers to the value surveys questions, it might seem that the overwhelming majority of the population in Bulgaria has been paying their taxes and social security liability. They have also been expressing a growing intolerance to law breaching (tax evasion). Yet the constantly growing size of the hidden economy and the high rate of documented evasion of tax and security liability payments in the country tell a different story, which should serve as a corrective of the inflated results above. This gap needs an explanation.

Even if we take at face value the relatively lower (than one could expect) tolerance of tax evasion and law-breaching behaviour in post-communist Bulgaria, it is not difficult to show it is not an equilibrical result. It does not take much for the subterranean tendency of subdued law-breaching behaviour to erupt in massive, often open, practices of disregard for the law. A scandal at the top often suffices.

This is, I will argue, what happened in Sofia and, probably to a lesser extent, in the other Bulgarian towns with socialist-style central heating companies. There have long been payment evasion practices, many of which were gaining strength; yet these practices were not publicly manifested and were not perceived as a major social problem. However, with a scandal at the top management the situation radically changed. The argument will be illustrated with a case study of Toplofikatziya Sofia (henceforth TS) and the attitudes of Sofia citizens towards paying their central heating bills.

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18 The results were announced at a meeting in mid-2008, where the phrase 'renaissance period' was used to describe the trend. More at <http://www.csd.bg/artShow.php?id=9358>

19 The data were publicised in the Bulgarian mass media in mid October 2008, based on a survey by the Associazione Contribuenti Italiani, the association of Italian tax payers.

## 2. THE CASE STUDY: TOPLOFIKATZIYA SOFIA AND ITS CUSTOMERS.

### 2.1. THE ANALOGOUS DUTY TO OBEY THE LAW AND THE DUTY TO PAY ONE'S CENTRAL HEATING BILLS: RULE OF LAW AS A MAJOR PUBLIC GOOD AND THE COLLECTIVE ACTION PROBLEM

As I mentioned at the outset of my report, the starting hypothesis of my research on the attitudes of Bulgarian citizens towards their duties to obey the law was that the general perception that *'not enough others are obeying (paying their taxes/bills)* will be the main explanation why people are reluctant, if they are, to obey the law (pay their taxes/bills). I hypothesised that the belief in the existence of a duty to obey would depend on the levels of horizontal social trust in the respective society.

*The relatively low levels of generalised social trust in Bulgaria (the expectation that not enough others will play by the rules) would ultimately explain the low levels of law-obedience and the attitudes of Bulgarians towards their legal obligations more generally.*

This hypothesis draws upon the fair-play account of the duty to obey, according to which one has to obey the law of a community, whose benefits one has enjoyed, otherwise one takes unfair advantage of the members who obey (Hart 1955, Arneson 1982). Yet on this account one is under a valid duty to obey only when 'enough others comply with the law, follow the rules, pay their taxes and bills', etc. (Edmundson 2002). With insufficient general compliance levels, there is no duty to reciprocate, obey the law, pay one's bills, etc.

The causality runs from low horizontal trust to low levels of obedience. Vertical trust – in law and order, and other societal institutions – does play a crucial, yet a secondary role. It is to assure (through regulation and the threat of the use of coercion) citizens that enough others will indeed play their part. Given this assurance, the average citizen reliably believes he will not be exploited by the others and can safely act on his own duty. The trust in institutions (vertical trust) here would support and strengthen the trust in others (horizontal social trust). It would thus guarantee and help bring about higher levels of horizontal social trust, and correspondingly, higher levels of law-abiding attitudes and behaviour.

This picture also fits nicely the assumptions in the rational and the public choice literature, which successfully explains the major problems with the tax complying behaviour and with the *provision of public goods* more generally. The relevance of such explanations is clear. The *rule of law itself* is a major public good – it may even be the principal one. It could thus be expected to suffer from the same problems that accompany the provision of every other public good. 'Playing by the rules', obeying the laws, etc. are, accordingly,

prime examples of contributing to the provision of a public good. The general analysis of the problems with the provision of public goods will naturally extend to them, as well.

The rational choice theorists have provided an insight into the dynamics that govern the provision of such public goods. According to their analysis, there is always a risk of under-provision of a certain public good, due to a widespread (real or suspected) practice of 'free-riding'. 'Free-riding' is defined as using a public service/public good without contributing to its provision. When this risk of free-riding is a general knowledge, and when there is no available assurance against being exploited by the free-riders, this discourages citizens from voluntary participation in its provision. In the end, the public good is not produced as a result of this general expectation of free-riding. In such a world mutual distrust reigns, making co-operation risky, and human life there is 'solitary, poor, nasty, brutish, and short', in Hobbes' vivid description.

It is particularly suitable to test the above hypothesis by studying what types of attitudes towards one's obligations to pay one's utility bills generates the central heating system in the communal blocks of flats in post-socialist Bulgaria.

The reason is that the central heating service is structurally similar to the case of *public goods*. It meets the two main conditions for a public good: 1) it is non-rival, i.e. the consumption of the service by one does not diminish the consumption of the service by another; and 2) it is non-excludable, i.e. once the service is provided (produced and delivered), it is impossible else or very expensive to exclude non-contributors from using and benefiting from it.

From here it is just a step to free-riding, which is the major problem that plagues the provision of public goods. This is a product of the non-excludability condition: it predictably breeds free-riding behaviour. And the possibility of free-riding, in its turn, brings about an under-provision of the public good. The prospect of under-provision (worse quality and insufficient quantity of the good) discourages co-operative behaviour. *Under-provision of the public good becomes a self-fulfilling prophecy.*

The analogy with law-obedience is a close one: if one cannot be excluded from benefitting from law-and-order – and from a well governed society with a rule of law more generally – while not contributing to the provision of such public goods (by obeying the law and playing by the rules more generally), one is tempted to free-ride, which itself further threatens effective provision and availability. *Non-compliance with the law becomes a self-fulfilling prophecy.*

The analogy with law-obedience – namely, paying one's central heating bills – is further supported by the fact that 'divorcing' the state is costly if not impossible, and the same applies to one's relations with the central heating

companies (henceforth CHCs).<sup>20</sup> The benefit of the ‘public good’ – central heating – is forced upon the customers<sup>21</sup> in a way structurally similar to the law being forced upon the citizens without regard to their actual and active consent. Robert Nozick’s memorable objection to the fair-play account of the duty to obey springs immediately to mind:<sup>22</sup> one is forced to contribute content to a communal public address system, which has been ‘piped’ to the house of the unwilling participant, benefiting him against his will. But one cannot have a moral obligation to contribute when goods are forced on one – they have to be accepted first, concludes the most famous contemporary libertarian.

The fair-play account of the duty to obey is the account that takes the central problem of law-obedience and of *collective action* more generally, to be the *possibility of free-riding on the efforts of the others*.<sup>23</sup> This possibility of free-riding on the services paid by others is the central problem of the socialist-type central heating systems, as well. It is precisely this possibility of free-riding, when coupled with the non-trivial nature of the goods provided by the state, which removes much of the sting of Nozick’s example. One may indeed have a moral obligation of fair play to contribute to the co-operative efforts of the others to produce an important public good, given that one is benefitting from this good, even if one has not willingly accepted it.

Let me give the theoretical backbone of the *collective action problem* in order to clarify this point. The main features of the collective action problem are spelt out by Mancur Olson (1965). He has argued that *large anonymous groups* face serious problems of collective action in the provision of public goods. This occurs in cases when 1) the provision of the public goods requires the contribution of less than all their potential beneficiaries; 2) where the contribution of no one in particular is crucial for the success of the collective enterprise; and 3) when *non-contribution is not easily detectable*, and thus cannot be punished. In sum, the problem of collective action is a result of the *possibility of free-riding on the efforts of the others*.

The main *reasons for not contributing to a common enterprise*, continues Olson, are the following: 1) fear not to be exploited by free-riders, itself a direct result of the universal preference for receiving maximum benefit with minimum effort; 2) one’s own preference for such maximum benefit; and 3) lack of assurance that potential free-riders will be punished. In such settings the individual maximizing rationality of the participants drives them towards

20 Selling one’s flat is often the only way out. Though not a general practice, this consideration has played a role in the decisions to sell one’s flat often enough to become a publicly rehearsed argument. It is one of the arguments one hears and reads about most often in the numerous e-forums, when the tenuous relations with CHCs are discussed.

21 One cannot entirely disconnect one’s flat from the system without threatening the access to the service of one’s neighbours who might want to use it (the pipes run through all the flats in the socialist-era communal buildings, forming a single heating system).

22 Nozick (1974), 93.

23 Arneson (1982).

an irrational, sub-optimal yet stable equilibrium of non-contribution to the provision of the public good. It ultimately leads them to a collectively and individually irrational result – the non-provision or insufficient (in quality and quantity) provision of public goods. The threat of punishment – issued by a well-organised group standing to lose a lot from the non-complying general behaviour – and the use of coercion more generally (Levi 1999) are considered effective means of solving the collective action problem there. Alternatively, Ostrom (1990) has argued that under certain conditions self-governance and self-organization of the users of the public good suffices to solve the problem. The proposed solution only works, however, when the community is small, its members trust each other, and they are not myopic; they therefore have a long-term preference to have access to a sufficient quantity of the good rather than to maximise their immediate profits, etc. Yet even in this instance, well-working institutions are needed to monitor and, when necessary, to sanction free-riding behaviour

It is obvious that all the above conditions for the emergence of a collective action problem are present in the case of the socialist-style central heating service in operation in Bulgaria. This makes it ideal for a case study of the collective action problems in post-communist Bulgaria. By analogy, it also makes it a good case study of obedience to law and the rule of law more generally, these things being prime examples of public goods, and thus easy victims to the same type of collective action problems.

As this brief outline of the explanatory theory suggests, a case study of the attitudes of citizens towards the services of a CHC is a useful way to check my main hypothesis. Since the central heating in the socialist-type of blocks of flats is structurally similar to a public good, it breeds on a smaller scale the same type of problems of collective action – such as free-riding on the efforts of the others – that plague the larger society and are manifest in the general lack of belief in the existence of a duty to obey the law.

## *2.1. TOPLOFIKATZIYA SOFIA AND THE FREE-RIDER PROBLEM*

### ***2.2.1. The case study: Methodology***

The case study on the attitudes of Sofians towards paying their central heating bills was based on interviews with Toplofikatziya Sofia (henceforth TS) managers and employees, with customers from different social and age groups, and with sociologists who have studied the case. An important source of information was the media coverage of the financial situation and the other problems surrounding TS, including the scandals at the top management of the company, and the repercussions this had on civil society and relevant institutions. Analysis of the legal framework – the laws and regulations gov-

erning the operation of the CHCs, as well as the decisions of the Bulgarian constitutional court – was an important part of my work. Another important source of information was the discussions of TS problems on internet forums on social networking and self-help websites. These are a particularly valuable source of information on the attitudes of the TS customers towards the company and towards paying their bills, towards their neighbours and towards the regulating institutions. The anonymous discussions therein often provide more direct access to what people feel and think, especially when such sensitive issues as one's attitude to and reasons for not paying one's bills are discussed. In fact, I have not managed to hold in-depth interviews with TS customers who acknowledge to have refused to pay their bills. My interviews with citizens whom I suspected of not paying their bills (queuing in front of the Federation of the Consumers and in front of the Complaints desk at TS Sofia) were rather short, and those respondents as a rule refused to discuss with me the issue in more detail (being too suspicious or too angry, or perhaps too afraid they will be blamed). Thus my insights into the reasoning of the customers who do not pay their bills (or do not pay them regularly) were based on participant observations (at the Federation of the Consumers' session for complaints against TS) and on an analysis of the e-forum discussions. I have also held in-depth interviews with representatives of the Federation of the Consumers in Bulgaria and with their lawyer, who is responsible for defending the customers of TS in the court cases against the company.

### 2.2.2 *Toplofikatziya Sofia – a story of failed regulation*

A closer look at the problems around the communal central heating system is necessary to support my claim, namely that the insufficient level of generalised social trust is the main explanation for the attitudes of Bulgarians towards the law.

It is no secret that CHCs in Bulgaria (be they privatised or publicly owned) experience major problems. These problems are recurrent. They bring the CHCs – and particularly Toplofikatziya Sofia, as the biggest such company in the Balkans,<sup>24</sup> located in the capital of the country, with approximately 400,000 customers (households) – into the focus of public attention at least once a year, with growing intensity. My claim is that some of these problems are connected to the *widespread and growing free-riding behaviour* in the use of the central heating services in Bulgaria, and the related problem of the *fear not to be exploited by the free-riders*.<sup>25</sup>

24 According to the information on the history of the company, posted on its website: [http://www.toplofikaciasofia.bg/za\\_nas/istoria](http://www.toplofikaciasofia.bg/za_nas/istoria). The CHC in Bucharest is larger, with 600,000 households as its customers. It does experience similar problems, though on a smaller scale, with some 15 million Euros of unpaid bills. The unpaid heating bills of Sofians amount to a stunning 130 million Euros (as of the beginning of October 2008).

25 It is difficult to get *hard data* on the proportions of this type of behaviour. According to data from a well-informed respondent, the practice in 2005 was shared by some 13–15%

There have always been free-riders on the efforts of the others, and this too has been present in the case of TS. However, the growth of this practice has been strongly encouraged by low levels of law enforcement and by numerous scandals at the top, specifically at the management of the company, including its owners, as well as the Ministry of the Economy and Energy and the municipality of Sofia. Free-riding has been further exacerbated by the failure of state institutions to take effective measures to curb the growing practice, which has reached epidemic proportions. Free-riding has brought TS to the verge of bankruptcy several times, to the point when in the second half of 2008 the company had to discontinue parts of its service and be saved by yet another state subsidy.

Many legislative and administrative measures have been taken for tackling this issue, yet their success rates have been low. It could indeed be argued that *most* of the legislation in this field in recent years was motivated by this concern. The failures of these measures demanded adopting ever-new rules, regulations and laws. This brought chaos and uncertainty into the system, further increasing their ineffectiveness. The result was collapse of the system.

The process started in 1999, when the Law on the Energy and Energy Efficiency<sup>26</sup> was adopted. It aimed at regulating and reforming the socialist energy sector, part of which were the 20 CHCs in the major towns of Bulgaria (the law did so in accordance with the free market rules – terminating state subsidies, minimal regulations of the prices, and turning CHCs into profit-making companies rather than existing as a semi-social service). This process of liberalization, however, was not accompanied with serious reforms in the sector. The so-called ‘Master plan for rehabilitation’ of the major equipment (pipelines and stations) of TS, for example, was adopted already in 1997 and financed with a loan from the World Bank. Yet its implementation only started in 2002 and the full amount of the loan was never used. More interestingly, the rehabilitation project did not include reconstruction of the vertical pipe heating system in the buildings, which has been recognised as the major culprit for the free-riding problems.

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of the customers of TS. According to the same source it doubled in just two years, testifying to the high rate of ‘learning’. In my interviews with top officials of the company I was not given more reliable data. The explanation given was that the company has no way of measuring this rate. Since ‘stealing’ heat is not criminalised, a prosecutorial order cannot be issued to justify entry into the private property of a suspected perpetrator against his will. This, of course, does not mean that there are no indirect ways of measuring it. Interestingly, when the top managers of the CHCs lobby for criminalising the ‘stealing’ of heat energy, they use figures. The head of Toplofikatziya Sofia, Petko Milevski, for example, claimed in 2008 that up to 60% of the energy is stolen by neighbours – used by some and paid by others. Yet he did not produce official data in support of his claims, prompting the public to suspect him of speculations and bluffing in order to push for the criminalisation of these acts. See <http://www.expert.bg/n113482/p15/>

26 *State Gazette* 64 (16.07.1999). It has been repealed by the new Law on Energy, in *State Gazette* 107 (09.12.2003).

The liberalization process did bring a host of problems, even if it did not bring about the needed reforms. The main problem was the higher prices for the service. The aim of the process was to open the service to the market and remove the state subsidies with the hope that market competition would effectively regulate the prices. CHCs, however, are quasi-natural monopolies, which fact defies this nice market logic. Without state subsidies and strict regulation, under monopolistic conditions the prices could only go up! These higher prices provided immediate incentives to free-ride. And the conditions for free riding themselves were always present, as non-excludability is the main feature of the socialist-type central heating with vertical pipe systems in the communal blocks of flats.

How does free-riding in this case work? The liberalised and constantly growing prices for the central heating prompted many of the customers of the companies to declare they would not use the service. Many indeed did not. Yet because of the technical impossibility of disconnecting them from the service for good (the vertical pipe system runs through all the flats, making exclusion from use of the service without threatening the access to the rest to this service technically impossible), only their heaters were closed, but the pipes remained. This encouraged some to continue using the service without paying for it. We have here a case of 1) an impossibility to monitor rule-observance coupled with 2) an impossibility to exclude from the service those who are not contributing to it. These two conditions, as was argued above, are a perfect breeding ground for free-riding on a massive scale. And when the incentive is present, there is hardly a way to stop it.

The introduction in the amended provisions of the Law in 2001, which required the removal the heaters of those who declared they did not to use the services of TS, did not change the trend. The pipes could not be removed, since this would mean discontinuing the service to the rest of the customers. Yet if the pipes stayed, the possibility of free-riding was always open.

Nor did the introduction in 2003 of the new Law on Energy for the so-called system of 'heat energy accounting' help to curb these practices. With the introduction of this last innovation, CHCs delegated the measuring of their customers' individual energy consumption<sup>27</sup> to special commercial firms, known as 'Firms for Share Distribution'. These firms had to introduce a system for measuring the individual shares of the total energy consumption in the building, which served as the ground for issuing the utility bills. Yet this innova-

27 During socialism and prior to the introduction of the system of 'energy accounting', the bills were issued according not to individual consumption but according to the size of the flat, i.e. or the volume of the heated space. With no possibility to regulate one's individual consumption and economise, this led to huge waste. It also required constant state support for the CHCs, which were social rather than commercial enterprises. The economic collapse of the country and the monetary restrictions introduced by the World Bank and IMF were the impetus for reforming this inefficient and unsustainable system.

tion, though initially welcomed by some of the conscientious and responsible customers, who wanted to be able to measure, monitor and regulate their consumption (and their bills),<sup>28</sup> proved inefficient and ultimately unfair under the conditions (vertical pipes system). Since it measured the consumption and determined the shares only of the customers who did not remove their heaters and/or did not cheat, the free-riders' consumption (which again was not directly measured) was also distributed among the rest, who again paid more than fair share.<sup>29</sup>

Most importantly, these innovations did not and could not stop the free-riding practices, since the background conditions (1) and (2) above were still present. Rather, the ingenuity of the free-riders was only further stimulated: they were inventing ever new and more efficient modes of cheating, ultimately stealing from the service at the expense of their neighbours.<sup>30</sup>

Let me state as explicitly as possible how *vicious this problem of free-riding is* and how often intractable is its solution.

1. Start with the presence of the conditions for free-riding.
2. Add the incentive. The practice gets going.
3. When some stop paying for the service, this increases the price for the rest.
4. This provides additional incentives to some of the so-called 'suckers'.

28 There were many who opposed it, of course. The reasons advanced were manifold, but would basically come down to this: the instruments used to measure the consumption had to be paid by the customers themselves and buying them was obligatory. The price, the claim was, was also speculative, creating huge profits for the firms without any investments. The public discontent was huge when at the end of the heating season the heating bills did not shrink as a result of the introduction of the new system, proving the investment pointless.

29 The legislature tried to forestall this by a special provision in the Law on Energy from 2003. It stated that between 15% and 30% of the whole energy consumption was to be paid by all flat owners in shares depending on the size of their property only, with the exact percentage decided upon by the council of the owners in each of the buildings. The practice was to decide on a minimum of 15% of the consumption to be distributed among all, while the percent of the total consumption used by free-riders often exceed it, sometimes significantly. Thus in the winter of 2003/2004 it was not exceptional that in a building of 24 flats just 4 flats would use, measure and pay for their heat energy consumption, while the rest would declare they only use hot water but not their heaters. Yet even in such drastic cases the council of the owners could still decide that the percentage of the total consumption to be paid by all would be the minimum possible – 15%. Thus the owners of the 4 flats had to distribute among themselves the difference, and of course received outrageously high bills. This, of course, encouraged many to free-ride. And it discouraged the conscientious customers.

30 The self-help and other e-forums were full with friendly advice/requests for advice on how to 'cheat the monopolist', how the 'hack' the central heating, etc. Interestingly, already in 2001 many people realised this is cheating – and that it harms one's neighbours rather than the state-owned monopolist. Many knew (certainly those technically well versed to be able to cheat the system) that the quantity of the heat provided by the monopolist was measured at the entrance of the heating station in the block, and that individual bills had to cover it all, no matter how it was distributed amongst the neighbours. Contrary to the claims of a sociologist I interviewed, who has done research on the free-riding practices among the TS customers, namely that they do not realise they are doing something wrong, my impression is that the free-riders were and are well aware of the implications of their deeds already at a very early stage, probably already in 2001. This is obvious in the technical innovations used not only to mislead the controlling bodies, but also to remain unnoticed by their neighbours. The inventiveness of our free-riders deserves a text of its own.

First the monetary incentive is strengthened, and then a new one is added to it, so as not to be exploited and used by the rest. These two encourage even more people to get involved in free-riding practices, which are innumerable in type and degree of law- and rules-breaching behaviour.

5. The last blow is dealt when the relatively few who are still paying, realise it is irrational to continue paying for a service (it is expensive and of low quality) and stop paying for it, ending the co-operative venture.

A good illustration of the same process is Arneson's typology of persons, parties to a co-operative venture. The *free-rider type*, as a profit maximiser, is unwilling to contribute to it, since he can enjoy the benefits without contributing, once the service is produced. The *reluctant co-operator* is willing to contribute his fair share, provided *all the others also contribute* – he does not want to be exploited. Finally, the *nervous co-operator* reasons differently – he is willing to contribute his share, but only provided *enough others* (though not all) are contributing to keep the service going. Yet even the last one gives up co-operating when the prospects of continued co-operation are bleak.<sup>31</sup>

It is clear that when the practice of free-riding is well known, and when it is left unchecked by the state institutions charged with regulating the service, this discourages not only the reluctant co-operator from contributing but the nervous co-operators as well, even when these are the predominant majority!

Thus the conclusion is that when conditions for free-riding are present, even in a society with a few free riders, the practice will grow. If left unchecked it will threaten to destroy major social services and public goods of significant importance.

At the time of writing this paper<sup>32</sup> TS (and some of the other CHCs in the country) were again experiencing serious financial difficulties, and were being threatened, yet again, with bankruptcy. This has happened recurrently. Yet for the first time in its history CHC Sofia has terminated its services to even duly paying customers if they have the misfortune to share a building with neighbours who have not paid and who refuse to pay their bills. Thus the nightmare of the nervous co-operator is realised: he was not only exploited by some of his neighbours, but even the service for which he was willing to pay unfairly high price was removed, leaving him and others like him worse off. Whatever trust he had towards his neighbours has been destroyed. And without trusting that enough others will continue contributing to the co-operative venture, he will not contribute himself. Since the same applies for everybody else, the result is that the public good is not produced. This leaves everybody worse off.

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31 Arneson (1982), 622–23.

32 September 2008.

This brief sketch only shows the problem is far from being just ‘theoretical’ – driven by and serving the explanation offered by a controversial theory of the duty to obey. *The fair play account* that I have advanced as the best candidate for explaining the levels of law-abiding behaviour in Bulgaria seems best suited to explain the large collective action problems facing the consumers of central heating in the communal blocks of flats.

### 2.3. IS NOT THE EXPLANATORY THEORY TOO STRONG?

Yet there is one fact that seems to falsify my hypothesis. It might be argued that the observed levels of free-riding behaviour overall are in fact lower than predicted by the theory, and thus they cannot be easily explained within its framework. In short, is not the explanatory theory too strong?

The reason to ask the question is that in the above-described conditions one may expect the levels of free-riding to be much higher from the very beginning. Recall that according to the theory, the only ‘incentive’ for law-compliance is the threat of legal punishment – or, to put it bluntly, this is the threat of coercion. When present, it tips the balance of reasons in favour of paying the bills. Yet this threat was never particularly credible during the transition period in the post-socialist countries. Thus it could hardly serve the task of being such a ‘negative’ incentive for compliance with the rules. The question therefore is not why there was so much free-riding but rather why there was so little free-riding, at least initially, if they were not monitored and duly sanctioned?

Bulgaria is a case in point. As already indicated in the first part of my text, it is a country that, during its transition period, experienced relatively high level of evasion of tax and social security liability payments. Yet by 2005 relatively few people been convicted for these crimes.<sup>33</sup> This lack of effective convictions makes it hard to explain why rational actors (motivated by a concern to maximise their profit alone) were at all willing to pay their taxes. The risk of being caught and punished for not paying them was minimal, and the risk of being exploited by others was too great.

It is still rather difficult to obtain reliable data on the conviction rate for such crimes. This prompts a reasonable explanation that convictions are embarrassingly low in number. The National Statistical Institute does not provide such information in its regular reports on the crime and conviction rates in Bulgaria. It uses a more general category, namely document frauds. The number of convictions for this general category is rather unimpressive, well below the average of 200 per year.<sup>34</sup>

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33 Kelchev (2006).

34 These data are available at <http://www.nsi.bg/SocialActivities/Crime.htm>

We do get some information on the convictions rate for tax evasion and frauds from the 2008 Report of the Ministry of the Interior on the progress of Bulgaria with regard to measures taken for judicial reform and the fight against corruption and organised crime.<sup>35</sup> There we read that for 2007 there were 343 convictions for tax fraud, and some 73 more for the first two months of 2008. However, the fact that these data are presented in a report on the progress made on the recommendations in a pre-accession monitoring report of the European Commission (and could not be found in any other document publicised widely enough in the Bulgarian media) indicates that the target group for these actions is not directly the Bulgarian citizens but rather the EC.<sup>36</sup> Accordingly, the preventive effect of these convictions is virtually non-existent.

Thus the law and order institutions in the country did not fulfil one of their main functions – to assure the conscientious citizens they would not be exploited by free-riders, so that they could safely act on their duties to obey the laws and pay their bills.

This relative inaction of the law and order institutions in the country only encouraged further non-compliant behaviour. Against this background, the observed level of law-abiding behaviour may seem surprisingly high. Certainly if Mancur Olson were entirely right, we should expect even higher rates of tax evasion and non-compliance with the rules.

We could accept the theory if we add two riders to it: First, the theory predicts high-levels of free-riding not only when there are no sanctions but also when the incentives to free-ride are stronger and offset the effect of the sanctions. Since prior to 1997 the price of energy was still heavily subsidised and regulated by the state, and continued to be so for some years following (by 2001 there was a moratorium on price increases, leading to rapid jumps thereafter), there was little incentive to free-ride even when the probability of sanctions was minimal. It simply did not pay to cheat, or did not pay enough to offset the psychological discomfort, the required investment in time and effort, and the risk of be caught. There were, of course, free-riders, but the practice was not wide-spread. Yet when the price went up the situation changed. It was then that the free-riding started to develop as a practice on a massive scale.<sup>37</sup>

The second rider is that when a considerable part of the population trusts each other – in the minimal sense of ‘trusting that enough others will continue to follow the rules, pay their bills, obey the law, to enable the co-oper-

35 [http://www.mvr.bg/NR/rdonlyres/5CDB8193-D74C-4379-A113-77881338BC47/0/summar\\_BG.pdf](http://www.mvr.bg/NR/rdonlyres/5CDB8193-D74C-4379-A113-77881338BC47/0/summar_BG.pdf)

36 The major obstacle to Bulgaria's EU accession in the last years of the accession process has been the reform of the judicial system and the fight against corruption and organised crime. Even as an EU member, Bulgaria is still monitored for progress in these respects, and the progress achieved leaves much to be desired.

37 One finds the first self-help advice and discussions on how to ‘hack’ the heating system in e-forums in 2001.

ative venture to continue' – they refrain from these free-riding activities. The reasons could be numerous, yet the most important is that the co-operative venture is perceived by them as worth their effort. They expect to profit from it, and they expect this profit to be a long-term one, which normally suffices to discourage them from free-riding, since they realise free-riding threatens the long-term sustainability of the co-operative venture. Yet when the practice becomes widespread, they become 'nervous' co-operators; and the more nervous they get, the more the free-riding practice flourishes. When a point is reached, when they cannot expect even in the long run to profit from the co-operative venture, they naturally stop paying. They stop obeying the law when the threat of sanction is not present.

#### 2.4. THE TRIGGERING CONDITION OF THE DOWNFALL: SCANDAL AT THE TOP

By 2003 the effects of the practice of free-riding had become visible enough to prompt the adoption of a new Law on Energy, in which explicit sanctions for refusing to pay one's bills were introduced, with more effective mechanisms for debt collection envisaged (though free-riding, i.e. stealing energy from one's neighbours, was not criminalised). Though not perfect, it temporarily alleviated the worst effects of free-riding. Yet the practice continued, and was spreading, though it was not perceived as a major social problem.

In the winter of 2006/7 a scandal broke out, which drastically changed the situation and brought about a crisis in TS from which the company never managed to recover. The name for this crisis: a crisis in trust.

The scandal involved the fraudulent behaviour of the then director of TS Valentin Dimitrov – nicknamed 'Valyo Toploto' – and some of the other top managers in the company. The failure of law and order institutions in the country to take active measures and to convince the citizenry that a fair trial would efficiently punish the perpetrators of the publicly significant crime had a shocking result. Only 12% of the customers paid their heating bills in Sofia on time (compared to the planned rate of 78% for this period).<sup>38</sup> The significant change here is not simply the rapidly diminished payments for this service. Rather, non-payment became not just widespread, but it was *openly voiced* and *publicly justified*. Thus it became an openly demonstrated practice of epidemic proportions. As a result, by March 2007 the Sofia Central Heating

38 According to data available in the print and e-media, the rate of debt collection has been steadily decreasing and has been minimal in 2007, despite targeted campaigns in this regard. See <http://www.dnevnik.bg/show/?storyid=390203>

Co. had accumulated already more than 220 million leva (approximately 112 million Euro) in unpaid heating bills,<sup>39</sup> which threatened it with bankruptcy.<sup>40</sup>

## 2.5. THE REACTION OF THE INSTITUTIONS

What could be the explanation for this trend of rapidly (within a very short period) diminishing law-abiding behaviour, which was also openly manifested and publicly justified? The facts unequivocally show that what prompted<sup>41</sup> the openly acknowledged non-payment of the bills were the scandals at the top – the management of the company and the management of the state, with major politicians from the ruling coalition likewise implicated in the scandal. My respondents relished expressing their frustration that ‘the gang’ at the top has not been punished. They were also voicing concerns that the corrupt practices must be continuing there, the main reason speculated as to why some might not be willing to pay their bills.

The slowness and inability of the judicial system to cope fairly and efficiently with the problem was obviously one of the major contributing factors for this frustration. As a result of this ineffectiveness of the institutions to cope with the problem, the trust in the company was shattered. Citizens did not trust that they were being well served, for which a prompt payment was owed. Instead of stepping in to restore the trust, the institutions in Bulgaria were again slow to react, and at the end of the day did little to remedy this.

Before the scandal with the fraud at the top of the company broke out, there were sufficient levels of bill payments to keep TS running, even without the presence of a coercive threat of punishment for non-payments. There were indeed free-riders, and their numbers were steadily increasing; according to estimates, in just two years the theft rate of free-riding customers (declaring not to use, yet using its services) had doubled. However, those fraudulent customers kept a low profile, and the practice of free-riding was not openly manifest. Though it constituted considerable problem for the CHCs, its social importance was negligible by comparison with the inefficiencies of the system itself, which were the main concern at the time.

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39 [http://business.actualno.com/news\\_99321.html](http://business.actualno.com/news_99321.html)

40 The privatisation of the company has been negotiated for more than two years between the state and Sofia municipality. The prospects of privatization at present (October 2008) are not clear – the two owners seem eager to get rid of their ownership over the troubled company. The saga here seems endless.

41 The publicly announced reasons for declaring a boycott on the payments to TS and the other CHCs, made by Pavel Karlev and the Federation of the Consumers in Bulgaria, can be found here <http://pravata.hit.bg/Motivi.html>. The Declaration, drafted by the Federation against certain provisions in the Law on Energy, and against the malpractice of the Firms for heat energy share distribution, had already been sent to all relevant state institutions in March 2005. It was followed by a collection of signatures for a petition for legislative change. The boycott on the payments of the bills was the final measure taken, after exhausting the legal means for legislative pressure.

The free-riding, no doubt, has been a socially-significant phenomenon, and there have indeed been conflicts between neighbours concerning the bills. The 2003 Law on Energy has a provision allowing unsatisfied customers to challenge their bills on the grounds that their relative shares of their building's consumed energy were not correctly determined. It was known that some of the highest bills were due to the relatively high rate of free-riding and energy theft in the respective block of flats. But it could also be attributed to the high rate of non-use of the service, which beyond a certain level rapidly brings down the efficiency of the central heating in the building and results in unrealistically high utility bills. These challenges by the unsatisfied customers led to disclosures of this malpractice, to conflicts between neighbours, and to raised levels of distrust among them.

Yet the main complaints for the high bills were always directed at TS and the CHCs, or to the 'companies for energy accounting', which were blamed for cheating their customers. Despite this, the majority of the customers, though complaining, continued to pay their bills.

After the scandal broke out in April 2006, with the charges of fraud being pressed against Valyo Toploto, the Federation of the Consumers in Bulgaria widely advertised its appeal to boycott the payment of the unreasonably high bills.<sup>42</sup> The boycott gained popularity. I believe its popularity is partly attributable to the inaction of the law-applying institutions in effectively tackling the scandal. As a result of these developments, the remaining constraints on the law-breaching behaviour, responsible for the prior relatively higher levels of payments on the part of most of the customers, finally dropped. The non-payment of the bills became a massive and openly advertised practice.

Something had to supplant the lacking trust, and the fear of being caught and legally sanctioned for non-payment was the most obvious candidate to take the place of the shaken and virtually absent trust in the institutions.

Not surprisingly, the legislature stepped in, promulgating in August 2006 a new provision in the Law on Energy. It mandated the collection of debts through Writs of execution – issued by the courts without going through lengthy trials – where TS and the other CHCs were to prove the debts. These Writs were to be issued on the ground of the bills only. This provision met strong popular resistance, leading to tens of thousands of complaints to all the relevant institutions. A step-by-step guide of how to proceed in not paying one's central heating bills and avoid to being prosecuted for it was published, along with the appeal by the Federation of Consumers in Bulgaria to boycott the company. Various websites offered advice, and collective complaints and law suits against the TS and the other CHCs were filed. The major reason for

42 The appeal by the Federation of consumers to boycott the company was published at <http://pravata.hit.bg/> and was widely publicised in the media.

the resistance was the lack of trust in TF to issue correct and fair bills, and the lack of trust generally. The legislature gave a clear advantage to TS against its customers. This further undermined their trust.

Under popular pressure, the ombudsman of Bulgaria, Ginyo Ganev, stepped in and challenged twice (in 2006 and 2007) the constitutionality of this provision, asking the Bulgarian Constitutional Court (BCC) to decide whether these measures violated the equality before the law provision of the Bulgarian constitution. The ombudsman opined that this provision clearly violated this major constitutional principle, giving clear advantage to the creditors – the monopolistic providers of a service of major public importance – over their debtors, the consumers of the service.<sup>43</sup>

The BCC, however, was quick to provide an easy solution to this problem in its decision.<sup>44</sup> According to five of the constitutional justices, the new provision did not contradict the equality before the law provision of the Constitution and did not discriminate against the consumers. This minority decision<sup>45</sup> of the constitutional justices, which supported the new provision in the Law on Energy, was justified with reference to the EU law provision of ‘Protecting services of general economic interest’. Lawyers<sup>46</sup> commented on the decision by pointing out that indeed there is such a provision in EU law, yet it mandated a very strong protection of the interests of the consumers against monopolistic providers of services of general public interests. The opinion of the lawyers was that consumer protection against the monopolists – providers of such services – had not been guaranteed by the Law on Energy: it was instead directly contradicted by this new provision of the law.<sup>47</sup>

43 The ombudsman has been actively involved in checking the activity of the TS and of the firms for heating accounting (share distribution of the energy), following an epidemic of complaints by consumers of this service. His opinion and recommendations for legislative and administrative responses to the problems were widely publicised and have been perceived by the general public as supporting them against the state- and municipality-owned monopolist, TS. The next step for the ombudsman was to directly challenge in front the Bulgarian Constitutional Court the constitutionality of the above-mentioned provision of the Law on Energy.

44 Decision of BCC №4 /2007, on BCC case № 10 /2006.

45 For an affirmative decision of the BCC, ruling a legal provision unconstitutional, 7 ‘yes’ votes are necessary. The ombudsman’s motion received only 6 positive votes. Yet a minority of only 5 constitutional justices voted against, with 11 rather than 12 justices present, when the case was decided.

46 [http://bulgaria-of-the-citizens.blogspot.com/2007/03/blog-post\\_29.html](http://bulgaria-of-the-citizens.blogspot.com/2007/03/blog-post_29.html)

47 It is important to note, that in the Law on Energy there are certain provisions meant to protect the interests of the consumers. They are, however, rarely implemented. One such important provision mandates that when in a building more than 50% of the heaters are disconnected from its heating system, the heating company has to inform the customers of that building that the service provided is inefficient and expensive, and that this will result in very high bills. This would give an opportunity to the general meeting of the flat owners in that building to decide to collectively deny the service provided. Such information is rarely if ever given by the CHCs to their customers, who are thus made to pay for an expensive and bad quality service. This behaviour is just one example of self-serving inaction on the part of the companies, who make their customers pay high prices for bad quality service. This self-serving behaviour provides good breeding ground for free-riding.

It could nevertheless be argued that, as a result of this decision of the BCC and the implementation of the new provision in the law, more than 38,000 extra-judicial cases (through such issued Writs of execution) were started by TS and some 48 million leva effectively collected. This procedure arguably saved TS from bankruptcy and indeed protected the immediate general interest in having an important public service running.

It should be noted that the bankruptcy threat at the beginning of 2007 was indeed immediate. The problems of the company had accumulated: four of its managers were prosecuted for abuses and frauds related to their official positions, and there was a constant crisis in the management of the company for over a year, with the top managers changing every 4 months. The conflict between the heads of the owning institutions of the company – the state through its Ministry of Economy and the Energy and the municipality of Sofia – became public. The Mayor of Sofia, Boyko Borisov (GERB – Citizens for European Development of Bulgaria ), accused the Minister of Economy and Energy, Roumen Ovcharov (Bulgarian Socialist Party), of trying to cover the abuses in TS, while the representative of the executive threw charges of ‘populist PR’ against the head of the Bulgarian capital. Under these chaotic conditions – with conflicts between institutions, constant allegations of further fraud, and information of unfairly calculated bills on a massive scale – it is no surprise the consumers were unwilling to pay their bills. The boycotts, indirectly supported by the widely publicised official position of the ombudsman of Bulgaria, became widespread – some 70,000 complaints against unfair bills were received by the Federation of the Consumers. The Office of the Ombudsman was flooded with demands for effective protection of the rights of citizens against the monopolist; the same was true of the State Commission on Energy and Water Regulation, the State Commission on Consumer Protection, the Parliamentary Commission on Energy and the Parliamentary Commission on Citizens’ Complaints.

As a result of this management and administrative chaos and the consumer boycotts, the financial state of the company was rapidly deteriorating. According to information presented at the general meeting of the shareholders of the company in March 2007, the payment rates had been sharply dropping since October 2006. In the first quarter of 2007 the rate of payment reached only 12%, leaving more than 220 million leva of uncollected consumer debts.<sup>48</sup> Thus it could be argued that unless these extra-judicial provisions were implemented, the company could have gone bankrupt, leaving hundreds of thousands of Sofians in the cold, and even threatening the stability of the electric energy system of the country.

Yet there is an even darker side to this story. The problem is that the contro-

48 <http://news.expert.bg/n94323/>

versial decision of the BCC may have backfired, despite achieving its immediate purpose.<sup>49</sup> Be this as it may, one thing, more important in the long run, is clear: this decision served the indirect purpose of damaging the trust in the judicial system. Instead of raising the confidence of the Bulgarian citizenry in the *fairness* of the judicial system, a primary task of any constitutional court, its decision sparked heated debates and allegations that the BCC, through its controversial decision, served the *partial* interests of a monopolist (and one suspected of fraudulent actions at that!) rather than *impartially protecting* the interests of all citizens.<sup>50</sup> This decision has hardly raised the prestige of the BCC, and has hardly led to an increase in the levels of trust in the judicial system, which were in any case already critically low.

It could be argued against my statement here, that I am overestimating the visibility of the BCC and its decisions. Indeed, my interviews do not show that citizens in general are aware of this decision and the role played by the BCC in the TS saga. The entire blame, according to my respondents, goes to the political class and its economic interests in keeping alive a socialist-era monster, whose non-transparent operation allowed for numerous fraud and abuse, and for lining the pockets of the political parties.

But let me return to the immediate effects of the BCC decision. I argue that in the long run, apart from anyway undermining the trust in the judicial system, it could also hardly have saved the TS from bankruptcy.

The data show that even after being privatised, most of the CHCs have experienced serious financial difficulties. This is due not only to the still low rates of debt collection but also because of the inefficiency of the entire central heating system and the need for huge investments in improving its infrastructure, including reworking the vertical pipe system into a horizontal one. It is true that the problems of the non-privatised CHCs in Bulgaria are even greater (by the end of 2007 only four of them remained in state and municipality ownership). Their demoralised managers and staff, working under conditions of constant uncertainty about the future of their companies, have no incentive to introduce effective management or any kind of reforms. These companies thus predictably accumulate further debts and losses. According to a respondent from TS, the collection of debts in 2008 remains low, with an expected annual collection rate of less than 60%. In the media are quoted estimates that, across the country, as little as 50% of the customers of the central heating companies pay their bills. And indeed, in the beginning of September 2008, TS Sofia and 3 other CHCs faced their most serious financial crisis resulting from more than 220 million leva of unpaid bills (the rate of debt collection dropped to less than 40%). From this crisis TS will likely only

49 It was difficult to estimate its effect – just too many factors could have contributed (we may have a case here of over-determination). In October 2008 it seems this had little positive effect.

50 Ibid.

recover after substantial state subsidies, only to accumulate new debts, and so on, ad infinitum. Without restoring the trust of its customers, the future of TS is bleak.

These observations allow me, I believe, to make a more general point.

It is *not simply the lack of trust that enough others will contribute* (i.e. it is not simply the insufficient generalised social trust in the country), which encourages non-compliant behaviour in Bulgaria. Rather, it is *the general perception in the population that the institutions are not only inefficient but unfair and captured by partial (economic and political) interests as well, which accounts for the low levels of both belief in the existence of obligations to obey, and the insufficient levels of law-abiding behaviour in Bulgaria.*

## **2. THE TRUST GAME IN POST-COMMUNIST BULGARIA: SOME PRELIMINARY RESULTS EXPLAINED**

This conclusion is well supported by a preliminary result in experimental game theory. In the fall of 2007 Coleman (2008) conducted in Bulgaria a number of Trust Game experiments. The trust game is an experiment devised to measure levels of generalised social trust. It was first proposed by Berg et al. (1995). In it participants can earn higher payoffs than their initial endowment amounts only if they can trust each other and reciprocate by sending one's anonymous partner a part of one's endowment. Game theory predicts that rational actors would not start playing the game at all, though this is obviously a suboptimal result for them, which they know. Yet the results of the experiment actual people show that 30 out of 32 participants start playing the game, thus having the chance to reach more optimal results than those predicted by game theory.

A trust game experiment in Bulgaria was run already in 2003 by Koford (2003) among university students, and their results were similar to those of US students – i.e. they exhibited similar levels of trust. Interestingly, Koford found that Bulgarian students had much lower results when they played the Boss-Worker Game. This testified to the low level of vertical trust in Bulgarian society.

In 2007 Coleman replicated the experiment with a representative sample of the population. He found that indeed the levels of generalised social trust (as predicted by the results of WVS) were lower in Bulgaria than in Western Europe and the United States in similar games. Thus he found differences in the results of Bulgarians and Westerners in the 'private resources' trust game. Yet the levels of trust in this game were notably higher than in the 'common property resources' trust game. In this latter game the participants

draw money from a common pool, knowing that for each dollar they decide to send in the hope of receiving reciprocation, three will be taken from the common pool. The representative Bulgarians exhibited particularly low levels of trust in this common property resource trust game. Yet, surprisingly, they were rewarding trust in this game two times more than was characteristic of the citizens in some developed democracies. An explanation was needed for these discrepancies (as well as for the quite surprising, highly rewarding behaviour exhibited through the reciprocation of the unexpected, un-hoped-for trusting behaviour of a partners).

The explanation for the decrease in the observed levels of general trust in both games could easily be provided by the experience of Bulgarians during the transition period, where both the institutions (regulating private business transactions) and those who managed public resources were *demonstrably partial* and were *perceived as self-serving and corrupt*. The perceived *greater partiality* and *self-serving behaviour* of the agents of institutions that regulated the public resources (as compared to the partiality of the institutions regulating the private transactions) can account for the lower observed results in the 'common property resource' trust game experiments in Bulgaria.

The conclusion one can draw from these results is that without fair, impartial and efficient regulatory institutions, the stock of generalised social trust in a country necessarily depletes. When those in a power position in society are left undisturbed to capitalise on their advantage at the expense of the rest of society, to exploit the weak, people in such a society stop trusting each other. Such processes of unhampered 'predatory' behaviour (which is often facilitated rather than constrained by the societal institutions) sever the bonds of solidarity, the sense of common fate in transition societies, and deplete the existing generalised social trust.

It is at this point of diminished social trust that the centrifugal forces in transitional societies are finally unleashed, with free-riding and law-breaching behaviour taking on epidemic proportions. This is indeed what happened in transitional Bulgaria, as well. It is also in such settings that an unexpected instance of trusting behaviour can be highly rewarded in a dramatically higher reciprocation rate than observed in the Western democracies. A compensatory mechanism, restoring the sense of normality, is needed if one is to retain one's dignity and sense of self-worth.

Notwithstanding this episodic compensatory reaction by the otherwise generally non-trusting Bulgarians, the recently observed general trend is one of increasing tolerance of tax evasion and apathy towards rule-breaching and free-riding. This trend indicated by the State of Society II and III surveys (conducted in April 2006 and December 2007, respectively), in which 29% of those surveyed responded that services should be used by all, irrespective of one's ability or willingness to pay taxes and bills.

The *threat of under-provision of the public goods* due to free-riding behaviour, which usually checks and balances such behaviour, is *not perceived as immediate* by the alienated, myopic, disillusioned member of the post-communist Bulgarian society.

It is the predatory behaviour<sup>51</sup> of the ‘politicians’, eager to ‘strip’ the state of responsibility for managing the common resources, which is perceived as *an immediate threat during the transition period*. This process of stripping the state of responsibilities is viewed as entirely serving politicians’ own interests.<sup>52</sup> *Institutions* are accordingly seen as vehicles for *achieving politicians’ own private goals rather than as serving the public*. Such a view of institutions could hardly support and strengthen the trust among the members of the post-communist society in Bulgaria.

#### **4. THE ROLE OF INSTITUTIONS IN THE STORY – WHICH INSTITUTIONS, WHAT ROLE?**

There is a growing consensus in the literature on social capital that institutions matter for generating and maintaining high levels of generalised social trust, and that some institutions matter more than others. Yet the agreement ends here. Norris (2001) finds the strongest correlation between confidence in the judicial system and social trust.<sup>53</sup> Uslaner (2004) finds that low levels of trust in representative political institutions should not be seen as a problem for social trust, since party politics and political life generally do not contribute to higher levels of trust.<sup>54</sup> Further, according to Uslaner (2003) the quality of governmental institutions indeed does matter, yet not for generalised trust

51 Documented in the excellent book by Venelin Ganev (2007).

52 In the *State of Society I* survey (2002) the politicians are identified as the winners of the transition by 54% of the respondents, followed by the mafia and the criminal world with 35% support; in the *State of society II* (2006) they were 35% and 28% respectively, and in the *State of Society III* survey (2007) they are considered winners by 34% and 24% respectively.

53 ‘It is notable that the strongest correlations are between social trust and confidence in the police and the legal system. Why is this? Perhaps part of the explanation is that formal sanctions are increasingly crucial for the maintenance of trustworthy social behaviour in large-scale and impersonal modern society. We increasingly rely not on the thick trust of small, closed societies which can use powerful personal sanctions, but on thin trust based on more distant personal relations and on formal and institutionalised mechanisms of inspection and control.

54 ‘If generalized trust is a key component of social capital, we should not look to political parties – or indeed political life – to foster it. Much of political life is not about bringing people together for co-operation. Politics thrives on mistrust... Elections are inherently polarizing events and the further apart parties are from each other on an ideological spectrum, the less likely they are to bring about trust in people who are different from oneself. [...] States with the strongest party organizations have *less trusting citizenries*. [...] Party activity is all about building *particularized trust* (in-group trust) rather than generalized trust’ Uslaner (2004).

but for higher trust in the political institutions themselves. Rothstein and Stolle (2002) argue for a strong link between high tax-compliance and law-abiding behaviour more generally, and high trust in law and order institutions in particular. Uslaner (2003), however, finds no such link (or at best a very modest one).

In the scholarly literature on tax evasion there also seems to exist a growing consensus that tax morale is conditioned by perceptions of general compliance (Frey and Torgler 2006). This seems to support a strong link between attitudes and law obedience, generalised social trust, and trust in law-and-order institutions (Rothstein and Stolle 2008).

My research hypothesis was that *the general perception that 'not enough others are obeying (paying their taxes and bills) will be the main explanation why people are reluctant, when they are, to obey the law (pay their taxes and bills)'*. This hypothesis was in line with the fair play account of duty to obey the law. I wanted also to establish whether Bulgarian citizens' beliefs about their obligations to obey could be explained by this account.

For this hypothesis to be fully confirmed, I had to be able to show the existence of a strong link between the attitudes of Bulgarian citizens to law obedience, and both generalised social trust and *trust in law and order institutions in particular*. This is indeed the case. On account of this, the law and order institutions are the main assurance mechanisms that back the duty of fair play; consequently, they can guarantee that enough others will obey the laws. Recall that the main problem for the validity of a fair-play duty to obey the law was that it comes with a *compliance condition* attached to it. One is under a duty of fair play (to co-operate for the production of some public good, pay one's taxes, play by the rules, etc.) only if enough others do their part – co-operate, comply with the rules, etc. The triggering condition of the duty – enough others complying – is not readily satisfied. We have here, as explained above, the case of a collective action problem. Since both my own duty and everyone else's duty is conditional on the compliance of enough others, no one is willing to start complying without a guarantee that enough others will follow. This guarantee is not readily available: it is common knowledge that compliance/co-operation is waste of effort at best (when the public good is not produced), and typically much worse, since it could also invite exploitation (others enjoy its benefits without contributing). The exploitation scenario is the predicament of the rational person, whose individual rationality traps him and his fellows in a sub-optimal equilibrium (no public good produced), in the prisoner's dilemma situation of the type described above.

The two ways to solve this collective action problem are: 1) *to rely on others – to trust* that once one has started to follow the rules, the others will follow: the public good will be produced and one will not be exploited. Horizontal social trust is here the condition for the emergence of the duty of fair play;

and 2) to *rely on authority*: to rely that certain state institutions will guarantee a sufficient level of compliance with the rules, thereby creating the necessary condition for the duty of fair play. I claimed that these are not two alternative, independent ways of dealing with the problem. Rather, they have to be used together because they are mutually reinforcing strategies – neither works satisfactorily alone. Social trust alone cannot guarantee to large anonymous groups sufficient levels of compliance with the rules. Distrustful societies do not work better when compliance with the rules is achieved through the constant use of threats of coercion. Threats are effective only as reassuring tools, and institutions cannot supplant the lack of trust. These reassuring tools typically are the law-and-order institutions.

Through the series of in-depth interviews I conducted, I tried to test the hypothesis that it is particularly the law-applying and law-enforcing institutions rather than the trust in government and political institutions that influences the Bulgarian citizens' attitude towards their duty to obey the law, i.e. their willingness to pay their taxes and bills.

This hypothesis proved too difficult to test. My respondents displayed little sensitivity to institutional differences with respect to their duty to obey the law. Thus blame for the problems with TS, for example, was indiscriminately thrown on the corrupt and self-serving political class, the predatory elite, the obedient politician, corrupt judiciary, etc. The judicial system was not perceived by my respondents as an independent player. When asked about their opinion on the BCC decision discussed above, or on how the courts were adjudicating cases against the customers of TS, respondents would typically not respond. If they did express an opinion, it was that the justices were in league with the politicians, and were serving their own interests as well as those of their patrons.

Yet this result does not falsify my hypothesis that trust in institutions is crucial for supporting generalised social trust, which is itself the ultimate source of citizens' belief in their duty to obey. When the poorly working, corrupt institutions are blamed by Bulgarians for the unenviable state of their society, they indeed direct their frustration in the right direction. This is confirmed by the observed levels of rapid decline in the level of generalised social trust in society, reaching the critically low level of 17% (a 10% drop in less than 10 years). It could plausibly be argued that trust was undermined by the poorly working institutions, which failed to regulate the relations in society and failed to assure the citizens that enough others would play by the rules so as to be worth playing by the rules at all.

**5. CONCLUSION. TRUST IN INSTITUTIONS  
AND GENERALISED SOCIAL TRUST:  
HOW ARE THEY RELATED IN BULGARIA?**

As a way of summary of my results in this study, let me address the question of how the two types of trust are related in the case of post-communist Bulgaria. Instead of repeating the main points, I will illustrate the sequel to the saga, indeed the thriller, of Toplofikatziya in its troubled relations with its customers.

As mentioned in the last section of my text, in my interviews with TS customers I observed a certain incapacity or unwillingness to make fine distinctions. I was trying to determine to what extent they are aware that free-riding – in the form of cheating on one's utility bills – is a wrong that one commits against ones' neighbours rather than to TS (which ultimately will collect the payments for whatever service it has delivered to its customers).<sup>55</sup> This was important, since it would allow me to determine whether their attitudes to law and the rules are determined by the level of generalised social trust (whether they trust their neighbours), or rather by their trust/lack of trust in institutions.

My observation was that both the 'abusers' and their 'victims' do realise but are not willing to acknowledge they realise that cheating on one's bills and free-riding is a wrong, harming chiefly one's neighbours and one's society more generally. As the target of the cheating is usually explicitly identified the monopolist, the 'politicians-serving' TS, which is blamed for all the problems. The abusers, accordingly, often have no 'bad conscience' – they rather see themselves as heroes, participating in a competitive race with TS, who is the better trickster'.<sup>56</sup> The 'suckers' for them are not the conscientious bill-paying neighbours but rather the hated monopolist.<sup>57</sup> Yet this cannot be the whole story. Already in 2001 the self-help e-forums were full of discussions on how to cheat without being noticed by one's neighbour. In fact, part of

55 A common theme among my respondents was the belief that there will be amnesty for the debts. The arguments given were that politicians will play this card at the upcoming in 2009 general elections to buy popular support, that TS will be privatised and somehow the debts will be lost track of, and that the judicial system will be so overburdened with cases that it cannot possibly hear all of them. The top management of TS have shown in September 2008 they are getting really nervous because of such general expectations. Accordingly, in the last two months they are pressing the legislature hard to take radical measures against the free-riders by criminalising the acts of stealing heat energy, through speedy legal procedures against debtors, through introduction of a single bill for an entire building, which if not paid in due time leads to discontinuation of the service.

56 The inventiveness of the free-riders is thrilling – so much ingenuity invested in finding hundred ways to cheat. The free-riders are often willing to share their experience with the wider public. There are numerous self-help websites with detailed description and advice on how to achieve high efficiency in cheating the monopolist.

57 One hears the opposite position as well, and it has gained visibility lately. One increasingly hears that not paying is not fair to those who pay, that paying for a service is obligatory once one uses it, that even if the bills are exaggerated, payment is still due for at least the fair part of it, that the boycotts on payments are thus wrong and cannot be justified since the non-payers burden their neighbours with their bills.

the difficulty of curbing free-riding practices is that the free-riders take measures their 'fiddling' with the heating system to remain unnoticed. This shows they realise that they harm their neighbours. This schizophrenic discrepancy between self-justificatory attitudes ('I beat the Monopolist by cheating him') and practice ('I beat him by harming my neighbours') is yet another instance of the anomie in transitional societies, and may be more explicit in the case of the discrepancy between the attitudes and practice of tax evasion. These are just two expressions of the same social phenomenon.

And here comes the sequel. A very interesting development occurred, relevant for my study of the relationship between 'social trust and the duty to pay one's bills/obey the law'. Pressed by its financial difficulties, TS threatened to stop delivering the service to whole blocks of flats if collectively they have more than 50% of unpaid bills. TS delivered on its promise and terminated in mid-September services to blocks with over 90% unpaid bills. This predictably led to scandals among the owners of the flats; lists with debtors were posted, turbulent councils of the owners were held, etc. One could speculate whether this was the intended or the unintended consequence of an attempt to press more customers to finally pay their bills in order to keep TS running. It cannot be doubted, however, that one thing has become clear to the customers as a result of these activities of TS: free-riding certainly harms one's duly-paying, conscientious neighbours and not simply TS and the CHCs. Not paying one's bills and taxes, not playing by the rules, harms one's neighbours, one's fellow citizens, not those at the top, not the state.

Yet this raised level of awareness has not led to any increase the trust towards TS or the state institutions, which were obviously trying to take measures to deal with a major social problem such as the free-riding. Nor has it restored the shaken trust in one's neighbour. On the contrary, the opposition to TS in society only got stronger. Some 80% of TS's customers disapproved of its actions. The arguments voiced in society were that the dutiful customers should not be made to suffer because of their neighbours or because of TS's incapacity to collect its debts. 'Disciplining the free-riders should not be done at the expense of the rest' is currently the general view. Institutions should take their responsibility and should not shift the burden onto the shoulders of the citizens. These are legitimate arguments and must be taken seriously.

One would nevertheless expect that the society itself would view more negatively the free-riding and would become less tolerant of non-payment practices as a result of this raised awareness. Yet, paradoxically, the majority seems to grow more tolerant of free-riding (53% voted on the website of TS in support of the statement that 'the service should be delivered even to those who have not paid their bills!').<sup>58</sup> It would be interesting to conduct more in-depth

58 Compare this result with the results of *State of Society III* survey from December 2007, which showed less than 30% tolerance of non-payment. It has apparently grown alarmingly in under a year.

interviews and to use representative survey data in order to determine the exact impact of these recent developments. My intuition is that these developments have not changed the picture dramatically. Rather, they might have had a negative effect. This intuition is confirmed, I believe, by the latest events in this truly amazing social saga. (However, this should be tested in further rigorous research.)

Thus as a next measure against widespread free-riding practices, the director of TS pressed for introducing a new provision in the Law on the Energy Efficiency, according to which the owners of the flats in a building will receive a common bill, to be paid collectively, otherwise the service is discontinued.<sup>59</sup> After strong resistance from society and heated debates in Parliament (the issue was discussed three times in October 2008 and each discussion took several hours), this new provision was not approved. The arguments were that this measure would introduce concepts such as collective responsibility, which contradicts the Bulgarian Constitution and violates the rights of the citizens;<sup>60</sup> would be foreign to Bulgarian culture; and would burden the customers of the CHCs with the responsibilities of the companies themselves. One thing became obvious as a result of these discussions: introducing collective responsibility in a society with shaken trust in its institutions – and no less important, shaken trust in one's neighbours – is not a working solution to these problems.

The conclusion is that when social trust is destroyed, it is hard if not impossible to rebuild. Neither the state institutions nor TS and the other CHCs have to date found an effective way to deal with the problem of lack of trust in them.

This further confirms my general hypothesis that low levels of law-complying attitudes and behaviour, as witnessed by the growing tolerance of tax and bills-payment evasion, could be explained by the rapid decline in the levels of generalised social trust observed over the last 10 years in Bulgaria. This rapid decline is itself triggered by significant failures in the institutions to regulate relations in society, proving unworthy of the trust of the citizens in this post-communist society.

59 Similar regulations exist in many European countries and are viewed positively by the customers of these communal services.

60 This was the position of the Bulgarian Ombudsman, Ginyo Ganev, <http://www.ombudsman.bg/index.php?action=view&item=news&type=2&id=682>, who threatened to challenge this provision before the Bulgarian Constitutional Court if the provision was accepted.

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