Pavel Ivanov

PhD Candidate
Department of Public Administration, Faculty of Philosophy, Sofia University "St. Kliment Ohridski", Sofia, Bulgaria

Executive Director
Institute of Public Administration

Corresponding author:

e-mail: pavelii@uni-sofia.bg

ORCID:
https://orcid.org/0009-0001-6440-4165

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RULES-IN-FORM AND RULES-IN-USE AS A DUAL-PROCESS ACCOUNT OF INSTITUTIONAL ACTION IN BULGARIAN REGULATORY GOVERNANCE

ABSTRACT

This study examines why formally valid regulatory regimes often perform weakly in practice. It argues that the deeper problem lies in the gap between contemporary better regulation methodologies and the institutional environment in which public administration and regulated businesses actually operate. This analysis applies the distinction between rules-in-form and rules-in-use to Bulgarian regulatory governance, drawing on bounded rationality, dual-process reasoning, transaction costs, information asymmetry, and regulatory capture. Empirically, it uses three surveys conducted in 2026 among regulatory experts, public administration officials, and business respondents. The findings show systematic underestimation of administrative burden, limited use of alternatives to regulation, weak cost-benefit analysis, unintended incentives for circumvention, and an and an underdeveloped incentive environment for compliance. The study concludes that regulatory quality does not result from more detailed rules alone. It requires institutional capacity to translate written provisions into working rules-in-use through clearer rules, lower compliance costs, safeguards against capture, and institutional learning.

KEYWORDS: regulatory quality; rules-in-use; institutional formalism; regulatory capture; compliance costs

JEL: K23, D02, D72, H11, L51

INTRODUCTION

Public debate often conveys the impression that governance problems can be solved through new legislation. A problem is identified, a rule is created, a procedure is added, and behavior is expected to adjust to the new legal framework. Within this logic, the adoption of a legal act begins to appear as the substantive part of the policy decision, while questions of implementation, compliance costs, trust, and actual behavioral responses are pushed into the background. This apparently rational sequence reveals a recurring weakness of contemporary regulatory regimes. Instead of analyzing how rules operate in practice, governments often seek a rapid regulatory response.

This tendency can be characterized as a rule-making reflex. It appears when a complex social or economic problem is almost automatically translated into a new rule, a new regime, or a new administrative requirement. Such an approach assumes that both those subject to regulation and public institutions possess sufficient information, analytical capacity, and organizational

discipline to convert regulatory intent into predictable practical outcomes. However, while institutions structure human interaction through rules that reduce uncertainty, they do not automatically guarantee effectiveness (North, 1990, p. 6). The central question, therefore, is not only whether a rule exists as a formal text, but whether it becomes a rule-in-use, that is, a shared practical understanding around which behavior is actually organized (Ostrom, 2005, pp. 18-20).

Regulatory processes are often designed as if public institutions and regulated economic actors operated continuously in the analytical mode of System 2[1]. In practice, however, institutional environments often favor decisions characteristic of System 1. They are fast, defensible, routine, and oriented toward risk reduction. Applied to regulation, this means that better regulation methodologies may require analytical behavior, while their practical implementation is often shaped by rapid institutional reactions, procedural defensiveness, and formal execution.

Real regulatory environments rarely confirm the assumption of a smooth transition from a written rule to the intended behavior. Businesses do not operate under conditions of full information, and regulatory compliance is not costless. Their responses are shaped not only by the content of rules, but also by incomplete knowledge, uncertainty about subsequent enforcement, the likelihood of actual inspection or control, and compliance costs. This is consistent with Herbert Simon's argument that rationality is inherently constrained by fragmentary knowledge of consequences and by the limited range of alternatives that reaches the decision-maker's awareness (Simon, 1997, pp. 92-94). North similarly links weak and costly enforcement to historical stagnation and contemporary underdevelopment (North, 1990, p. 54). Rules are therefore neither perceived nor applied automatically. They are interpreted through the costs, incentives, expectations, and institutional signals created by the environment in which they operate. The gap between a rule as written and a rule as practiced is therefore not an exception but a structural feature of regulatory systems.

The same logic applies to public institutions. Public administration also does not operate under conditions of full information, sufficient time, and unlimited analytical capacity. It works under pressure from deadlines, political demands, limited expertise, organizational inertia, and public accountability. Under these conditions, formal procedure can displace substantive judgement about the causes, alternatives, costs, and probable behavioral effects of regulation. The rule-making process can then produce rules that are legally sound but function poorly within the institutional environment in which they are expected to operate.

The core issue addressed in this study is not the legal soundness of a given rule, but whether it has been designed with an understanding of actual behavior, trust in institutions, compliance costs, and the limits of administrative capacity. Rules do not operate in a vacuum. They operate within a specific historical, institutional, and social environment in which their formal existence alone does not guarantee practical effectiveness. When this connection is absent, regulation may begin to function more as a system for certifying that procedures have been completed than as a mechanism for orienting economic behavior. Even a well-conceived rule can then remain a weak rule-in-use.

From this perspective, the study examines the gap between rules-in-form and rules-in-use in the Bulgarian regulatory environment. The theoretical framework links institutional analysis, behavioral economics, and the political economy of regulation in order to explain why formally

[1] The concepts "System 1" and "System 2" are used here as an analogy to Kahneman's dual-process model of cognition. System 1 denotes a fast, automatic, and low-effort mode of operation, while System 2 denotes a slower, deliberate, and analytically demanding mode. The analogy does not imply that institutions think in a psychological sense. Rather, it describes two distinguishable modes of institutional behavior: one reactive and procedurally oriented, the other analytical and focused on the real-world effects of rules.

existing rules often fail to produce the expected economic and social effects. The empirical analysis draws on data from three surveys conducted in 2026 among regulatory experts, public administration officials, and business respondents. These data make it possible to assess whether the weaknesses of regulation reflect isolated administrative deficits or form part of a deeper institutional pattern.

The structure of the study follows this analytical logic. It first presents the theoretical framework, then examines empirical evidence on administrative burden, incentives to circumvent rules, administrative capacity, and the broader incentive environment shaping regulatory behavior. The discussion interprets the results in the specific Bulgarian context of vertical distrust, institutional formalism, and the asymmetric influence of well-organized small groups. The conclusion explains why regulatory quality depends not on the quantity of written rules but on the capacity of the institutional environment to convert rules into working rules-in-use.

1. LITERATURE REVIEW

1.1. Rules-in-form and rules-in-use

A central step in this study is to shift the focus from the formal content of legal acts to the way rules guide economic behavior in practice. This shift is grounded in legal theory and the sociology of law. Kolev distinguishes between the static and dynamic functions of law. The static function concerns the consolidation of existing social relations into legal institutions, while the dynamic function concerns the means through which social relations are shaped and regulated (Kolev, 2015, p. 110). A similar logic is found in Naumova's discussion, through Roscoe Pound, of the distinction between law in books and law in action. This distinction directs attention beyond the statutory text itself and toward its operation in the social environment (Naumova, 2012, p. 19). Dimov develops a related point, arguing that a legal rule operates only hypothetically and begins to operate in reality only when the conduct of the person to whom it is addressed becomes a fact (Dimov, 2017, p. 19).

Ostrom defines rules as prescriptions that specify which actions or outcomes are required, prohibited, or permitted (Ostrom, Gardner, & Walker, 1994, p. 38). What is decisive in this definition is not only the prescription itself, but also the possibility of enforcement and the shared understanding among participants of what the rule actually requires. The question of regulatory quality therefore turns not only on whether a rule is formally established. What matters more is whether it becomes a rule around which behavior is actually organized (Ostrom, 2005, pp. 18-20).

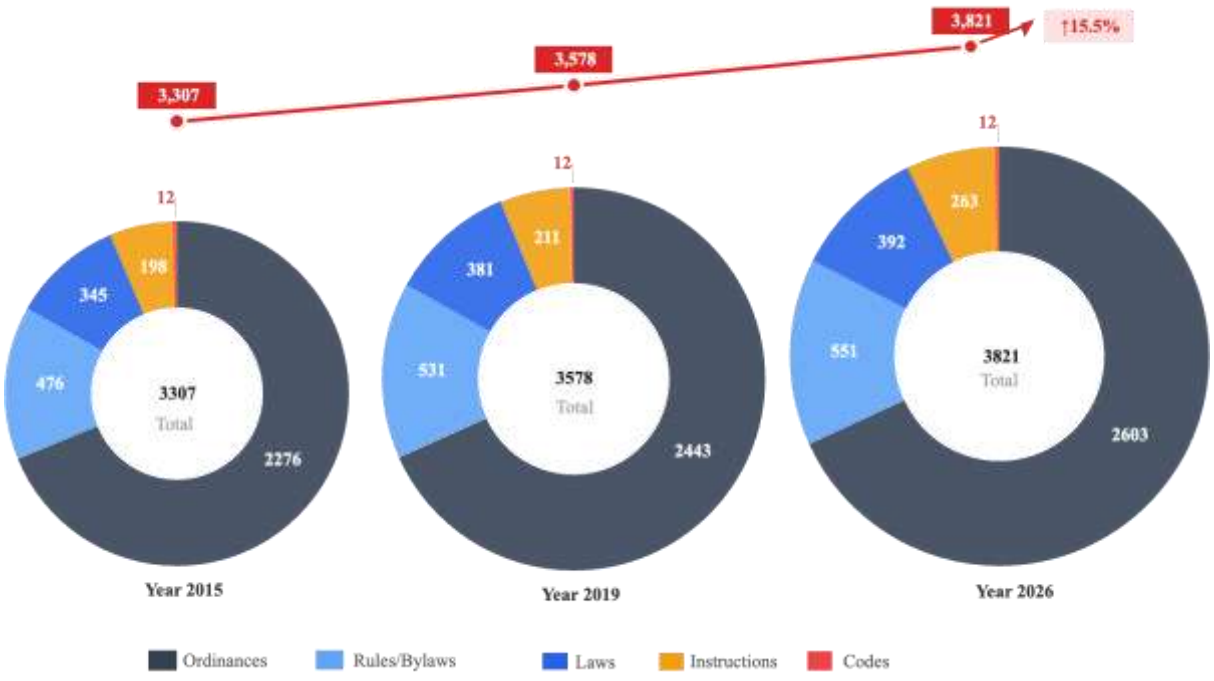
This point leads directly to Ostrom's distinction between working rules, rules-in-form, and rules-in-use. Working rules are the set of rules to which participants would refer if asked to explain and justify their actions to other participants (Ostrom, 2005, p. 19). Rules-in-form are formally recorded prescriptions. Rules-in-use denote the rules to which participants actually orient their behavior. In an open society governed by the rule of law, rules-in-form and rules-in-use tend to coincide. In systems not governed by the rule of law, however, central laws and considerable enforcement efforts may exist, while individuals generally attempt to evade rather than obey the law (Ostrom, 2005, p. 20). The problem therefore lies not simply in the number or formal completeness of norms, but in the gap between the written rule and the rule that actually organizes behavior. This gap becomes more pronounced when there is no shared understanding of the rule's content. As Vincent Ostrom argues, if no shared meaning exists when a rule is formulated, confusion will arise about which actions are required, permitted, or forbidden (V. Ostrom, 1980, p. 342, as cited in Ostrom, 2005, p. 20). Regulatory quality therefore depends not on the mechanical introduction of a central model, but on the

correspondence between the rule, its environment, and the structure of interaction (Ostrom, 1990, p. 14).

In the Bulgarian academic literature on public policy, this distinction has been articulated by Petrov and Tanev (2018), who describe what they term the 'iron rule' of the policy process: “every action that is carried out (by people) is not exactly what was planned (also by people), and what was planned is not exactly what was desired (by the same people)” (Petrov & Tanev, 2018, p. 142, translation by the author). Their formulation describes, in the language of policy analysis, the same gap between rule-in-form and rule-in-use that this study examines empirically in the Bulgarian regulatory context.

For Bulgaria, this distinction carries particular weight. The country has a substantial and growing body of legal acts, as illustrated in Figure 1. The central question, however, is not whether sufficient rules exist, but whether they are converted into practical expectations. What matters is how a rule is understood, monitored, sanctioned, and interpreted within a specific institutional environment. The distinction between rules-in-form and rules-in-use is therefore the starting point for the analysis of regulatory quality.

Figure 1. Growth of the national regulatory corpus: 2015, 2019, and 2026.



Source: *Author’s calculation based on the Ciela legal information system data, January 2026.*

1.2. Bounded rationality and institutional System 1

The gap between rules-in-form and rules-in-use is directly linked to how economic actors and public administration make decisions in practice. The classical model of homo economicus assumes an actor endowed with full information, capable of foreseeing the consequences of every action and consistently maximizing expected utility. This model is analytically convenient, but it offers a poor description of behavior in an actual institutional environment. In practice, decisions are made under incomplete knowledge, limited attention, uncertainty, and information-processing costs.

Herbert Simon was among the first to subject this assumption to sustained scrutiny. For Simon, rationality in the strict sense would require "a complete knowledge and anticipation of the consequences that will follow on each choice", whereas in reality "knowledge of consequences is always fragmentary" (Simon, 1997, p. 93). In actual behavior, only a small fraction of the possible alternatives ever comes to the decision-maker's awareness, and even those that do are evaluated under incomplete information about their consequences[2] (Simon, 1997, p. 94). Simon's broader point is that actual behavior departs from the model of objective rationality because it is impossible for individuals to know all alternatives or all their consequences (Simon, 1997, p. 77). It follows that neither regulated economic actors nor public administration can be assumed to operate under conditions of full rationality. They act within constraints of information, time, attention, capacity, and risk.

This logic has direct implications for regulation. If those subject to rules act under bounded rationality, their behavior cannot be understood as the result of a complete calculation of all legal, economic, and organizational consequences. They perceive the regulatory environment through a limited set of signals, including visible administrative burden, procedural complexity, the likelihood of inspection or control, compliance costs, and accumulated experience from previous interactions with institutions. This does not mean that their behavior is irrational. It means that it is adaptive under constrained conditions.

The same logic applies to public administration. Regulatory decision-making also takes place under limited attention, incomplete evidence, time pressure, political demands, and organizational risk. Under such conditions, public administration does not necessarily search for the optimal regulatory solution. Whereas the economic model assumes a maximizer who "selects the best from among all those available", Simon's administrator "satisfices" and looks for a course of action that is "satisfactory or 'good enough'" (Simon, 1997, p. 119). In regulatory governance, this can produce an institutional tendency to rely on familiar instruments, established procedures, and formally defensible solutions. This tendency provides the behavioral foundation of institutional System 1, understood here as a mode of public action that is fast, routine, procedurally defensible, and oriented toward reducing organizational risk.

Kahneman and Tversky's prospect theory adds an important dimension to this framework. People evaluate outcomes not in absolute terms but relative to a reference point that often coincides with the status quo. In their formulation, "losses loom larger than gains" and "the value function is steeper for losses than for gains" (Kahneman & Tversky, 1979, p. 279). Regulation that requires changes to established practices and creates additional compliance costs may therefore be perceived as a loss, even when its long-term benefits appear clear from the perspective of the rule-making institution.

Kahneman's dual-process model makes it possible to specify the mechanism behind these behavioral responses more precisely. System 1 "operates automatically and quickly, with little or no effort and no sense of voluntary control", while System 2 is associated with effortful mental activities, including complex computations (Kahneman, 2012, p. 26). Errors can be limited "only by the enhanced monitoring and effortful activity of System 2" (Kahneman, 2012, p. 36). This distinction allows bounded rationality to be understood not only as a deficit of information but also as a tension between automatic and analytical modes of judgement.

In this study, System 1 and System 2 are used not only as psychological categories of individual cognition but also as an analytical metaphor for two modes of institutional action. Institutional

[2] Simon's example concerning old maids, cats, mice, bees, and the clover harvest illustrates the practical impossibility of tracing all remote and indirect consequences of a decision. It is used here only to clarify the limits of exhaustive rational calculation and the relevance of bounded rationality for administrative decision-making (Simon, 1997, pp. 94-95).

System 1 denotes a fast, reactive, routine, and procedurally defensible regulatory response. Institutional System 2 denotes a slower mode of action based on the comparison of alternatives, realistic cost analysis, assessment of behavioral effects, and ex post learning. The metaphor is useful because it shows that both regulated economic actors and public administration may operate under cognitive and organizational constraints.

Institutions often design rules as if those subject to them acted continuously in a System 2 mode. In reality, regulated economic actors frequently respond in a mode closer to System 1. They orient themselves by immediate costs, visible requirements, the likelihood of sanctions, and the practical complexity of procedures. When rules are excessively complex, unstable, or difficult to understand, the response of regulated economic actors is not always based on analytical assessment. More often, it takes the form of minimal compliance, selective adaptation, or the search for procedural loopholes.

The same logic applies to public administration. Under conditions of limited time, incomplete data, political pressure, and organizational inertia, public administration may also fall back on fast, reactive, and procedurally defensible decisions. The formal framework of better regulation assumes a mode of work close to System 2, yet in practice it often remains shaped by institutional System 1. Methodologies and procedures may therefore exist formally without producing the expected analytical quality.

Institutional System 1 appears when the difficult questions of causes, alternatives, costs, and behavior are replaced by the simpler question of how to produce a quick and visible regulatory response. This is the institutional rule-making reflex. Complex problems are simplified, indirect consequences are underestimated, and rules are created as if their formal validity were sufficient to secure actual compliance. Institutional System 2 requires the opposite. It involves the comparison of alternatives, realistic analysis of administrative burden and compliance costs, attention to actual behavior, and mechanisms for institutional learning. The formal existence of impact assessment methodologies is therefore insufficient when those methodologies require System 2 but are implemented in a System 1 mode.

1.3. Uncertainty, transaction costs, and the risk of regulatory capture

Regulation has a dual institutional character. In some cases, it reduces uncertainty and makes market exchange possible, especially when information is unevenly distributed or transaction costs are high. In other cases, regulatory rules can be complicated, captured, or used strategically by well-organized small groups. Regulation does not arise simply because the state wishes to create rules. It also emerges when market exchange itself encounters persistent constraints, including information asymmetry, abuses of market power, cartel behavior, and consumers' inability to verify the quality of the goods or services offered.

A classic illustration of this problem is George Akerlof's analysis of the used car market. In his model, the seller knows the actual quality of the car, while the buyer cannot reliably distinguish a high-quality car from a defective one. Akerlof refers to the defective car as "the 'lemon' … the American slang term for a car that turns out to be defective after purchase" (Akerlof, 1970, p. 489). This asymmetry changes the logic of exchange. Since buyers cannot verify quality in advance, they offer a price that reflects the average expected quality in the market. That price is too low for owners of genuinely high-quality cars, who therefore withdraw from exchange.

Akerlof's central result is that "there tends to be a reduction in the average quality of goods and also in the size of the market" (Akerlof, 1970, p. 488). At the limit, the market may collapse entirely, so that "no goods will be traded at any price level" (Akerlof, 1970, p. 490). The

example shows why information asymmetry is not merely a communication problem. It changes the structure of incentives and can make mutually beneficial exchange impossible.

The market mechanism does not always contain sufficient internal corrective capacity to overcome this dynamic. Akerlof therefore argues that "numerous institutions arise to counteract the effects of quality uncertainty" (Akerlof, 1970, p. 499). Guarantees, brand names, and mandatory disclosure requirements act as quality signals. They help buyers form more reliable expectations and provide a basis for redress when the expected quality is not delivered (Akerlof, 1970, pp. 499-500). At a broader institutional level, certification, standards of origin, and transparency requirements in regulation perform a similar function. They do not eliminate the information imbalance entirely, but they can reduce it to a level at which exchange remains possible. In this sense, regulation is not simply an external constraint on the market. It can also be a condition for the market's functioning.

It does not follow, however, that every form of state intervention successfully addresses information asymmetry. Bulgarian practice contains regimes in which the state creates a formal quality mark without eliminating the underlying uncertainty. The star categorization of food and entertainment establishments offers a clear example. Instead of focusing on substantive issues of food safety, sanitary requirements, reliability of information, and traceability of responsibility, the state categorizes economic activity into more than thirty types of establishments, including mekicharnitsa, a small establishment specializing in mekitsi making, bistro, and other similar venues. This may create an administrative symbol of quality that can mislead consumers without reducing the underlying information imbalance. What is at stake here is not a substantive quality regime, but a regime of designation in which the administrative label substitutes for real quality assurance. It does not eliminate information asymmetry, but conceals it behind an administrative symbol inherited from the communist period.

If regulation may be necessary, its costs must also be considered. Coase shows that the market mechanism does not function without costs. To carry out a transaction, a suitable partner must be found, information must be exchanged, negotiations must be conducted, the contract must be formalized, and execution must be monitored. These are transaction costs, and they are not zero. Markets can therefore be understood as institutions that facilitate exchange by reducing the cost of carrying out transactions (Coase, 1988, p. 7). Williamson develops this framework further by emphasizing that comparisons should be made not with ideal constructs but with actually feasible alternatives, each of which is imperfect (Williamson, 1991, p. 270). Clear and predictable rules, including property rules, can therefore reduce transaction costs. Complex, opaque, and unstable rules, by contrast, increase these costs and distribute them unevenly, particularly for smaller economic actors.

At this point, the political economy dimension of regulation becomes central. Olson shows that the capacity for organized action is unevenly distributed. Small groups receiving concentrated benefits have a much stronger incentive to coordinate than large groups whose interests are dispersed across many people. His argument is that rational, self-interested individuals will not normally act to achieve a common group interest when the group is large, unless coercion or a separate individual incentive changes the calculation (Olson, 1971, p. 2). This explains why large groups with dispersed interests face greater collective action problems than small groups with concentrated benefits. Olson's broader conclusion is that larger groups are less capable of advancing their common interests (Olson, 1971, p. 36).

This logic explains the durability of regimes that grant special economic advantages to limited and well-organized groups. Benefits are concentrated and easily defended, while costs are dispersed across many citizens or economic actors. For each affected individual, the personal cost may appear low, but the aggregate social cost remains substantial. Tullock adds the next important element. Once an institutional possibility for securing a stable rent exists, resources

begin to be invested not in creating new wealth but in defending an already established advantage. Such expenditures represent social waste because they are directed toward obtaining or preventing transfers of wealth rather than increasing wealth itself (Tullock, 1967, p. 228). The underlying problem is therefore not only the transfer itself, but the resources spent in attempts to obtain or prevent such transfers (Tullock, 1967, p. 231).

Stigler gives this logic its classic political economy formulation by arguing that "as a rule, regulation is acquired by the industry and is designed and operated primarily for its benefit" (Stigler, 1971, p. 3). Peltzman builds on this framework but qualifies it. In his model, the regulator does not simply serve a captured industry. Rather, the regulator acts as a political broker who must assemble a winning coalition under competing pressures. Two implications follow. First, even the favored group cannot extract everything that the political process could in principle grant it. As Peltzman argues, "this winning group will not obtain even a gross gain through political action as great as is within the power of the political process to grant it" (Peltzman, 1976, p. 221). Second, "political entrepreneurship will produce a coalition which admits members of the losing group into the charmed circle" (Peltzman, 1976, p. 222). Capture in Peltzman's framework is therefore partial and negotiated. A successfully sustained rent is rarely presented as a rent. It is framed in the language of necessity, and political compromise transforms a special economic advantage into the apparent defense of the public interest.

Bulgarian practice offers several cases in which this logic is sufficiently clear. These cases can be grouped into three categories according to the dominant mechanism of institutional deformation.

The first category covers regimes of regulatory capture in which mandatory intermediation is legally entrenched in favor of a limited and well-organized professional group. The most visible example is the regime of notarial involvement in the transfer of ownership of motor vehicles. In Estonia, the Estonian Transport Administration provides an e-service environment in which vehicle transactions include ownership transfer for the sale and purchase of a vehicle (Estonian Transport Administration, n.d.). In Bulgaria, the transfer of ownership of motor vehicles continues to require notarial involvement, even though a technological alternative has already been demonstrated. This contrast is difficult to explain by technical lag alone. It reveals an institutional arrangement in which the form of legal certainty also functions as a protected economic advantage for a small group. A similar logic can be observed in restrictions in pharmaceutical legislation, as well as in regimes for taxi services, where market entry restrictions are legitimized through the language of public safety but may also protect existing positions from competition. The mechanism corresponds to the logic described by Olson, Tullock, and Stigler, since it combines a protected economic advantage for a small group with a dispersed social cost.

The second category covers cases of misdirected regulation, in which the rule targets the visible symbol of the problem rather than its real causes. The 2012 to 2013 ban on cigarette tubes is a clear example. Instead of directing control at specific violations of the tax and excise regime, the state banned a legal product as a category. The publicly visible image of the problem displaced analysis of the mechanism that produced it. The result was a new burden on the legal sector without convincing evidence that illegal trade had been eliminated. The star categorization of food establishments follows a similar logic. It creates an administrative symbol of quality without necessarily removing the actual information asymmetry between consumers and service providers. In both cases, regulation operates as institutional System 1. It responds to the visible demand for action but does not rest on a sufficiently realistic analysis of causes, incentives, and probable behavioral effects.

The third category covers cases in which regulation itself creates conditions for a shift toward informality. This occurs when compliance costs exceed an acceptable threshold for a significant

portion of those subject to regulation. The mechanism appears particularly clearly in labor-intensive activities with low value added, seasonal activity, narrow margins, and limited capacity to absorb fixed administrative and social security costs. In parts of construction, agriculture, and household services, formal compliance with requirements can raise the cost of labor to a level at which informality begins to look like a predictable adaptation to a specific structure of costs and incentives, rather than merely an individual violation. A similar mechanism can be observed where requirements impose a disproportionate administrative burden on small producers or smaller economic actors despite low actual fiscal risk. In such cases, regulation does not strengthen the formal environment but weakens the incentives for participation in it.

The three categories illustrate different manifestations of the same problem. In the first, the rule protects a concentrated economic advantage. In the second, it responds to a visible symbol rather than to the actual cause. In the third, it raises compliance costs to a level at which compliance itself becomes less likely. What unites them is that regulation ceases to reduce uncertainty and to orient economic behavior in a predictable manner. Instead, it creates new costs, incentives for circumvention, and opportunities for strategic adaptation.

A central conclusion emerges from this analysis. Information asymmetry and transaction costs explain why regulation may be necessary. The same conditions, however, also show why it can be distorted. When information, influence, and the capacity for organized action are unevenly distributed, rules can be captured, complicated, and used strategically. Regulation therefore has a dual character. It can reduce uncertainty and facilitate market exchange, but it can also create new compliance costs, entry barriers, and conditions for regulatory capture. In the first case, the rule supports exchange. In the second, it protects established positions.

1.4. Horizontal trust, vertical distrust, and rules-in-use in Bulgaria

Sustained compliance with rules cannot be reduced to sanctions and control. In Ostrom's institutional analysis, trust and reciprocity are among the conditions under which formal rules can become working rules-in-use. Particularly important for the Bulgarian context is Ostrom's discussion of Koford's findings on trust and reciprocity (Koford, 2003, as cited in Ostrom, 2005, p. 74).

In the study presented by Ostrom, Koford uses two experimental approaches that allow horizontal and vertical trust to be compared. The first is the horizontal trust game, in which two participants of equal status exchange resources under full anonymity. In this version, 44 of the 47 participants acting as investors sent money. This result is comparable to American samples, where 30 of 32 investors did the same (Ostrom, 2005, p. 74). These data indicate that the capacity for horizontal trust among Bulgarian participants is high and does not differ substantially from results observed in Western market societies.

The second approach is the vertical trust game, in which participants occupy asymmetric positions of employer and worker. In Western samples, higher wages typically generate higher effort as a form of reciprocity (Fehr, Kirchsteiger, & Riedl, 1993, p. 443, as cited in Ostrom, 2005, p. 73). Among Bulgarian students, however, the result differs. A substantial number of effort choices are concentrated at the minimum level, and the mean effort remains low (Koford, 2003, p. 17, as cited in Ostrom, 2005, p. 74). Moreover, the wage level is not associated with the level of effort. This means that the reciprocity observed in the horizontal context weakens substantially under hierarchical relations.

In the analysis presented by Ostrom, this asymmetry is explained through the historical legacy of Bulgaria and, more broadly, of the Balkans. According to this interpretation, long Ottoman

rule, followed by decades of Soviet-type communist rule, contributed to durable distrust of the state and hierarchical authority. In such an environment, non-compliance with rules is not perceived solely as a violation. It can also be associated with disagreement, caution, strategic adaptation, or resistance to authority that is not seen as fair and predictable. People learn to trust their equals more than those in positions of power. When participants are placed in the roles of employers and workers, horizontal solidarity weakens and behavioral patterns differ sharply from those observed in the horizontal trust game (Ostrom, 2005, pp. 74-75).

These observations have direct relevance for the analysis of regulation in Bulgaria. They show that the problem is not a general inability to trust, but the weakness of vertical trust in institutions and hierarchical authority. Low trust between citizens and the state, and between businesses and regulators, should not be explained solely by an individual propensity for opportunism. It can also be understood as a historically formed response to an institutional environment in which authority is often perceived as distant, unpredictable, or unjust. Under such conditions, stricter control does not always lead to higher compliance. It may instead produce formal execution, selective adaptation, and institutional navigation. Selective adaptation refers to behavior in which economic actors do not reject the rules entirely but choose different degrees of compliance with specific requirements. Institutional navigation refers to behavior in which economic actors orient themselves not only by the content of the legal rule, but also by practical experience of how institutions interpret, apply, delay, control, or disregard that rule. When rules are perceived as legitimate, fair, and predictable, economic actors have a stronger incentive to comply with them even under limited control. When rules are not perceived in this way, coercion can rarely substitute for absent trust.

1.5. Institutional inertia, path dependence, and learning

Douglass North defines institutions as “the rules of the game in a society or, more formally, ... the humanly devised constraints that shape human interaction” (North, 1990, p. 3). He emphasizes that their primary role is to establish “a stable (but not necessarily efficient) structure to human interaction” (North, 1990, p. 6). The qualification “but not necessarily efficient” is decisive for the analysis. It explains why regulatory regimes built around the interests of narrow groups, or shaped by authoritarian institutional legacies, can remain stable and be routinely reproduced even after formal political change.

The mechanism behind this durability is path dependence. Organizations that emerge within a given institutional system develop interests and skills tied to its maintenance. This generates increasing returns and practical lock-in to the established trajectory (North, 1990, pp. 7, 92-95). If access to administrative decisions depends on personal contacts and informal intermediaries, economic actors develop skills for institutional navigation rather than productive innovation. Change is difficult because vested interests form around an informal and unproductive status quo vulnerable to corruption and oriented toward its preservation. North emphasizes that “the inability of societies to develop effective, low-cost enforcement of contracts is the most important source of both historical stagnation and contemporary underdevelopment” (North, 1990, p. 54). Low-cost and predictable enforcement of rules is therefore a condition not only for legal certainty but also for an environment in which innovation can develop.

Acemoglu and Robinson’s distinction between inclusive and extractive institutions extends this argument to the distribution of power. Inclusive economic institutions “allow and encourage participation by the great mass of people in economic activities that make best use of their talents and skills” (Acemoglu & Robinson, 2012, p. 74), while extractive institutions are “designed to extract incomes and wealth from one subset of society to benefit a different subset” (Acemoglu & Robinson, 2012, p. 76). Political institutions, in turn, “determine who has power in society and to what ends that power can be used” (Acemoglu & Robinson, 2012, p. 80).

This distinction matters because it allows regulation to be understood not only as an administrative technique but also as an expression of institutional power. Bulgaria is a member state of the European Union, with transposed legislation, market institutions, and formal guarantees of regulatory independence. The question is therefore not whether formal institutions exist, but whether they function as inclusive institutions in specific regulatory regimes. When regulatory requirements continue to redistribute advantages in favor of well-positioned small groups despite formal reforms and largely unrealized programs for reducing administrative burden, an extractive logic may be preserved within an apparently inclusive institutional environment. The capture logic described by Stigler, the collective action mechanism described by Olson, the path dependence analyzed by North, and the concentration of political and legislative power in particular sectors can therefore reinforce one another, even within an environment of formal European integration. Reform under such conditions requires not only legal rules that are better drafted but also broader institutional participation and mechanisms that make capture more difficult, more costly, and more visible (Acemoglu & Robinson, 2012, pp. 80-81).

Mokyr adds knowledge and innovation as central conditions for productive economic development. In his view, technological progress provides society with a “free lunch” because it allows output to grow without a proportional increase in the resources expended (Mokyr, 1990, p. 3). The condition for realizing this potential, however, is not merely technological. “Technology is knowledge, even if not all knowledge is technological; living standards today are higher because we know more” (Mokyr, 2002, p. 2). What matters is whether the institutional environment allows knowledge to be accumulated, disseminated, and converted into productive techniques.

This perspective is directly linked to regulatory quality. When rules raise the cost of trial and error, penalize deviation from established practices, and protect entrenched positions from new competition, they constrain precisely the kind of economic initiative on which long term economic progress depends. Mokyr emphasizes that “institutions determine the structure of incentives and penalties faced by those proposing new techniques to be put to economic use” (Mokyr, 2002, p. 18). Regulation can therefore create an environment for institutional learning and innovation, but it can also become a mechanism for protecting existing rents.

In this respect, Mokyr’s argument approaches the political economy of regulation. When rules protect those who have already secured established positions rather than those offering better solutions, the mechanism comes close to regulatory capture. Mokyr formulates this directly when he writes that institutional forces “protect entrenched vested interests that might incur losses if innovations were introduced” (Mokyr, 1990, p. 12). Regulatory quality therefore depends not only on the legal form of the rule. It also depends on whether the institutional environment directs knowledge toward innovation, learning, and productive development, or toward the protection of the status quo.

The theoretical approaches reviewed here define regulation as an institutional process rather than a self-sufficient legal text. Ostrom and North show that rules operate effectively only when they become practical expectations within a specific environment. Simon and Kahneman explain why neither economic actors nor public administration can be regarded as continuously operating in a mode of full analytical rationality. Akerlof, Coase, and Williamson show that regulation can reduce uncertainty but also generate new costs. Olson, Tullock, Stigler, and Peltzman reveal the risk that rules and the costs they entail may be captured by well-organized small groups. North, Acemoglu, Robinson, and Mokyr show that sustainable regulatory quality depends on an institutional environment that fosters learning, adaptation, and the productive use of knowledge. On this basis, the central thesis of the study is that weaknesses in regulation

arise when methodologies assume institutional System 2, while actual practice remains shaped by institutional System 1.

2. METHODOLOGY

The empirical analysis is based on three surveys, organized as separate research modules. They were conducted in early 2026 and cover a total of 190 respondents with different institutional profiles in Bulgaria. The three groups were selected to provide complementary perspectives on the same set of phenomena. The first captures how regulation is designed. The second examines how it is applied within public administration. The third shows how it is perceived by the regulated economic actors to whom it applies. The three cross sectional modules are designed to capture converging perceptions across institutional vantage points. The analysis interprets agreement between modules as empirical convergence consistent with the theoretical framework, not as evidence of a causal mechanism.

The expert module includes 23 specialists in regulation and public policy, reached through the Institute of Public Administration. The sample is mixed, comprising 56.5% civil servants and 43.5% external consultants, experts from non-governmental organizations, or representatives of academia. Most respondents have practical experience in conducting impact assessments. The predominant areas of expertise are economics and finance (43.5%), social sciences (26.1%), and law (21.7%).

The administrative module includes 143 civil servants reached through the same channel. Participants come from three types of structures, including central administration (64.3%), territorial administration (27.3%), and independent regulatory bodies (8.4%). Almost half work daily on issues related to digitalization and new technologies, including artificial intelligence, while around a third do so occasionally. This profile adds analytical relevance to their responses, because a significant share of the sample is directly engaged with regulatory and technological issues in daily administrative work.

The business module includes 24 business respondents, identified and contacted with the assistance of the Ministry of Labor and Social Policy among enterprises actively engaged in corporate social responsibility. The small size of this sample should be taken into account when interpreting the results. The data are indicative rather than statistically representative of business as a whole. Their analytical value derives from the profile of the group rather than from its size. Enterprises with active corporate social responsibility practice should, as a rule, be more inclined toward voluntary compliance, public legitimacy, and engagement with institutions. The attitudes recorded among them therefore have conservative diagnostic value. If even within this group there is an orientation toward minimal compliance when mandatory requirements are introduced, alongside a low assessment of state support, this points to a deeper problem in the incentive environment rather than to an individual propensity for non-compliance.

The survey items were assessed on a five-point agreement scale. The reported mean scores therefore indicate the average position of respondents on this scale. The quantitative results are interpreted together with selected qualitative responses, which are used not as independent representative evidence but as illustrative material clarifying the mechanisms suggested by the survey data. The comparison between modules is cautious, since some questions are not identical across groups but are treated as substantive analogues where they address the same regulatory mechanism.

The results were analyzed along four analytical axes. The first covers administrative burden, compliance costs, and rule ambiguity. The second traces unintended incentives for circumvention or minimal compliance. The third examines administrative capacity and the

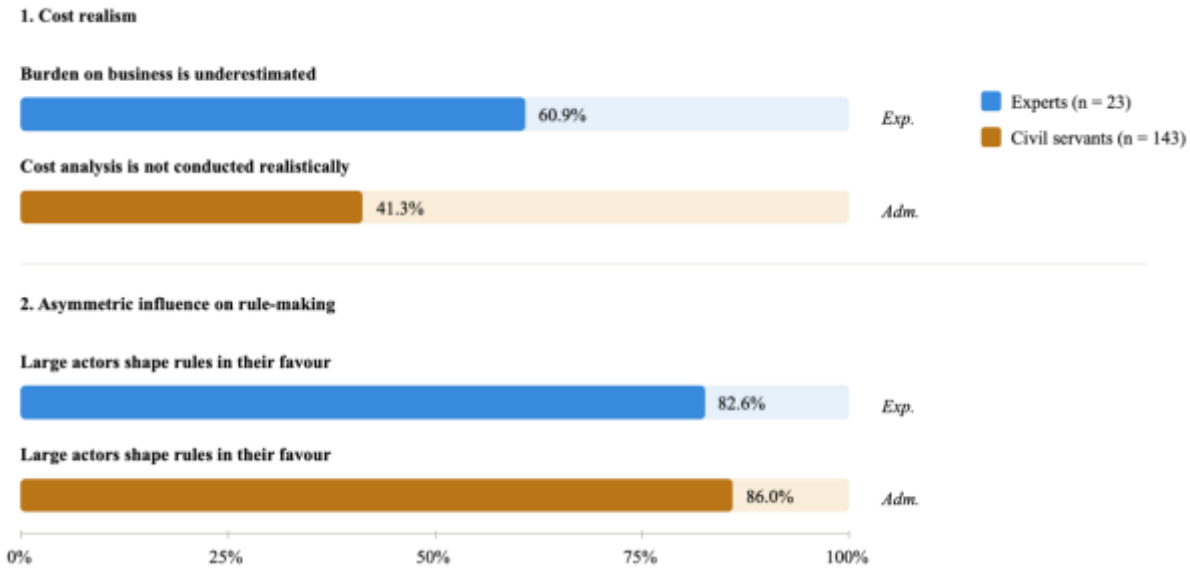
incomplete activation of institutional System 2. The fourth concerns the incentive environment and the willingness to act beyond minimum requirements.

3. RESULTS

3.1. Administrative burden, compliance costs, and rule ambiguity

The first analytical axis concerns the conditions under which formal rules become difficult to understand, apply, and follow in practice. It brings together the perceived burden of regulation, the realism of cost analysis, and the stability and clarity of regulatory rules. Figure 2 presents two pairs of comparable statements from the expert and administrative modules. The first pair concerns cost realism and is discussed in this section. The second pair concern asymmetric influence in rule-making and is developed in the following section, where the analysis turns to unintended incentives and strategic adaptation.

Figure 2. Convergence between the expert and administrative modules: cost realism and asymmetric influence on rule-making



Source: *Author's calculation based on survey data, 2026. The questions are not formulated identically across the two modules but were selected as the closest substantive analogues for purposes of comparison.*

The first pair concerns the realism of cost analysis. On the expert side, 60.9% agree that the current institutional culture underestimates the regulatory and administrative burden on business, with a mean score of 3.74 out of 5. On the administrative side, when civil servants are asked whether a realistic, rather than merely formal, analysis of business costs is conducted before new regulatory requirements are introduced, 41.3% disagree, with a mean score of 2.83. Only about a quarter respond affirmatively, while the remainder take a neutral position. The two groups speak from different institutional positions but point in the same direction. Actual compliance costs often remain insufficiently visible in the rule-making process, and the formal existence of methodological requirements has not yet been embedded in stable organizational practice. This finding is consistent with earlier Bulgarian empirical research on regulatory impact assessment. In a pilot analysis of 61 impact assessments, Kalfova found that an evaluation method was specified in only 2% of cases, that costs were monetized in only 3% of cases, and that benefits were not monetized in any of the assessments. A clear definition of the underlying problem was present in only 52% of the reviewed assessments (Kalfova, 2018, pp. 116-119). These results indicate that the procedural completion of impact assessment forms does not, in practice, generate the analytical content formally required by the methodology.

The qualitative responses illustrate this clearly. One response identifies "lobbying pressure and the underestimation of compliance costs and the distortion of incentives in the economy" as a leading weakness in the preparation of rules. This is important because administrative burden is not presented merely as an operational inconvenience. It appears as part of a broader weakness in the way rules are prepared, justified, and connected to their likely economic effects.

A second weakness concerns the stability and clarity of the rules themselves. A total of 56.6% of civil servants state that frequent changes in policy and legislation hinder the consistent application of rules, with a mean score of 3.57. The same share reports a need for additional clarification because businesses do not understand precisely what is required of them under new rules, with a mean score of 3.72. The coincidence of these two shares should not be interpreted mechanically, but it does point to a common problem. Rules are perceived as both unstable and insufficiently understandable.

Taken together, these results show that some difficulties with compliance cannot be explained solely by opportunism among economic actors. They are also linked to institutional complexity that increases cognitive load and hampers voluntary compliance. This picture corresponds to Simon's logic of behavior under bounded rationality and incomplete knowledge. Businesses do not react to rules as fully informed maximizers. They respond through limited information, practical experience, expected costs, and uncertainty about how the rule will actually be applied.

3.2. Unintended incentives to circumvent rules

The second analytical axis shifts from the burden and clarity of rules to the behavioral responses that weak rule design may generate. The central issue is not only whether businesses comply or fail to comply. The deeper question is whether the rule itself creates incentives for minimal compliance, strategic adaptation, or circumvention.

A particularly important finding concerns the quality of rule design. A total of 65.2% of experts agree that legal acts introducing regulatory regimes are often drafted in ways that create unintended incentives to circumvent the law, with a mean score of 3.74. Only 17.4% disagree, while the same share takes a neutral position. This assessment locates the problem not only in the intentions of businesses, but also in the construction of the rules themselves. If a rule is designed without sufficient attention to incentives, costs, ambiguity, and likely behavioral responses, it can create the very forms of adaptation that it later attempts to control.

The administrative module shows how this weakness is recognized in practice. A total of 57.3% of civil servants agree that businesses seek ways to circumvent rules by exploiting gaps and "grey zones" in legislation, with a mean score of 3.77. Experts identify a problem in the way rules are designed, while public administration reports parallel observations about the behavior of economic actors. The two modules speak from different institutional positions, and the convergence between them is what the empirical design captures. This does not establish strict causation. It is consistent with the thesis that a poorly constructed rule can create conditions for rational adaptation beyond its original intent, but the two-module design documents converging perceptions across institutional vantage points rather than a causal mechanism. In this sense, circumvention should not be read only as individual dishonesty. It can also be understood as a predictable response to an institutional environment in which rules are complex, unstable, costly, or open to strategic interpretation.

The second pair of statements in Figure 2 captures the strongest convergence between the two modules. On the question of whether large market actors succeed in influencing rules in their favor at the expense of smaller firms, agreement is expressed by 82.6% of experts and 86.0% of civil servants. This proximity does not demonstrate the presence of regulatory capture, but it is a strong empirical indication of recognized asymmetry in the rule-making process. It is

consistent with the analyses of Stigler and Olson, according to which concentrated interests are better positioned to influence rules than the dispersed majority.

This asymmetry is analytically important because it connects the design of rules with unequal capacity for strategic adaptation. Larger and better organized firms are more capable of influencing, interpreting, or navigating complex regulatory requirements, while smaller firms are more likely to experience the same rules as cost, uncertainty, or administrative burden. Regulation therefore does not simply impose obligations uniformly. It can redistribute practical advantages through the very way in which rules are drafted, clarified, applied, and revised.

In the qualitative responses, this dynamic is described concretely. The unintentional creation of a shadow economy is linked simultaneously to an excessively rapid regulatory response, a formal approach to impact assessments, and lobbying pressure during the drafting of rules. One response captures this point especially clearly, noting that "when business has the sense that rules can be 'arranged', complying with them looks like naivety rather than a competitive advantage".

This observation is important because it shifts the explanation of non-compliance away from individual dishonesty and toward the way in which rules structure behavior. Through the dual-process model, it can be interpreted as a manifestation of institutional System 1 in rule-making. Rules are designed to produce a quick, visible, and procedurally defensible response, often without sufficient attention to their behavioral effects in the environment in which they are applied.

In addition, the data show that 62.2% of civil servants believe that firms aim to meet only the minimum required standards, with a mean score of 3.84. This statement does not capture active circumvention of rules, but rather threshold adaptation to the required minimum. Together, the results outline a spectrum of behavioral responses to weakly constructed regulation: formal compliance with minimum requirements, exploitation of gaps and ambiguities, and strategic influence over the content or application of rules. The broader implication is that regulation designed without realistic attention to costs, clarity, incentives, and asymmetries of influence may produce the very behavior it seeks to prevent.

3.3. Administrative capacity and incompletely activated institutional System 2

The assessment of institutional resources completes the picture. Only 43.4% of civil servants agree that public administration has sufficient human resources and budgetary capacity to ensure effective control over rule compliance. Disagreement is expressed by 25.9%, while 30.8% take a neutral position, with a mean score of 3.26. This combination does not point to institutional collapse, but neither does it indicate robust capacity. Rather, it reveals an environment in which implementation capacity exists only in part and remains uneven and uncertain.

The result concerning the capacity to regulate technologically complex sectors is particularly important. A total of 41.3% of civil servants disagree with the statement that their administration has the necessary expertise to regulate artificial intelligence systems effectively, with a mean score of only 2.83. In the qualitative responses, this weakness is articulated clearly. One respondent notes that "the regulatory framework, whatever it may be, is always outdated in relation to high-technology sectors", while another states that "without narrowly specialized knowledge, experience, and expertise, it is not possible". These responses reveal not only a shortage of resources but also a deeper institutional problem. Institutional System 2 remains incompletely activated not only because of a lack of will but also because of the difficulty of securing the necessary analytical capacity under existing conditions.

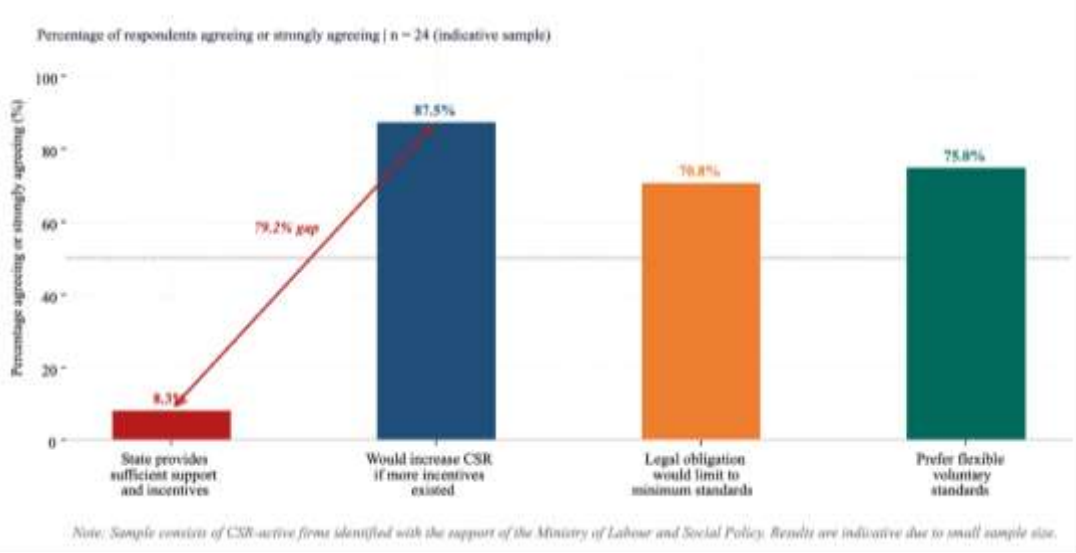
Taken together, these results do not describe only separate procedural weaknesses. They show why the analytical mode of public administration remains incompletely deployed. Methodologies for assessment, impact analysis, and control formally exist, but their practical application often remains shaped by reactivity, limited capacity, and procedural defensiveness. The underestimation of administrative burden, unrealistic or often absent cost-benefit analysis, the unintended creation of conditions for circumventing rules, and the limited capacity to regulate technologically complex sectors all point to incompletely activated institutional System 2. Methodologies remain at the level of formal requirements when the institutional environment does not provide the time, knowledge, consistency, and organizational memory necessary for their actual application.

3.4. Incentive environment and willingness to act beyond minimum requirements

Behind the issue of administrative capacity lies a broader question concerning the type of behavior that the regulatory environment itself encourages. If public administration struggles to sustain an analytical mode of action, it is even less likely to create conditions under which those subject to rules have reason to go beyond minimum compliance. The focus is therefore not limited to incentives in a narrow sense, but extends to the broader incentive environment. This includes benefits, costs, sanctions, rewards, the likelihood of inspection or control, administrative burden, and expectations about how rules will actually be applied.

The business survey adds an important corrective to the standard administrative intuition that stricter rules automatically produce higher compliance. In the expert module, 73.9% of specialists agree that sanctions are perceived as the principal instrument of rule-makers, leading to the underestimation of softer instruments, incentives, and alternatives to a sanction-based approach, with a mean score of 4.13. From the perspective of businesses, data from the survey of attitudes toward corporate social responsibility show a clear gap between willingness to undertake more voluntary initiatives and the perception of actual public support (Figure 3).

Figure 3. Incentive environment among enterprises with active corporate social responsibility practice.



Source: *Author's calculation based on survey data, 2026*.

Given the small size of the sample, the results are indicative, but the profile of enterprises with active corporate social responsibility (CSR) practice gives the findings particular analytical weight. A total of 87.5% of these enterprises report that they would expand their initiatives if more incentives and support from the state were available. At the same time, only 8.3% agree

that such support actually exists. This means that the problem is not a lack of willingness for voluntary engagement, but a weakness in the publicly constructed incentive environment.

It is also notable that 70.8% of the same group agree that turning corporate social responsibility into a legal obligation would limit initiatives to the minimum requirements. This result supports the central thesis of the study. When voluntary behavior is replaced by a binding legal obligation without an appropriate incentive environment, threshold adaptation to the minimum is triggered rather than higher commitment. Regulation may thus formally extend the scope of requirements while, in practice, weakening the willingness to act beyond the obligatory minimum.

4. DISCUSSION

4.1. Institutional formalism as a durable distortion of regulation

The data do not point to isolated administrative weaknesses. They reveal a recurring pattern in which rules are produced and procedures are executed, while the connection to actual behavior often remains weak. The underestimation of administrative burden, the unintended creation of conditions for circumvention, weakened analytical discipline, and limited expert capacity are not merely technical imperfections. They point to a deeper institutional logic in which the formal justification of decisions often outpaces the real capacity of institutions to create working rules-in-use.

This logic can be characterized as institutional formalism. It appears when a rule exists as a valid legal text but does not become a stable practical expectation. It also appears when methodological requirements are completed procedurally without producing real analytical discipline. The same mechanism is visible when compliance with rules is reduced to minimal fulfilment of visible and verifiable requirements. Under such conditions, the system does not collapse. It stabilizes around limited effectiveness. This corresponds to North's understanding that institutions can establish "a stable (but not necessarily efficient) structure to human interaction" (North, 1990, p. 6). A regulatory regime can continue without visible crisis, yet without producing the expected behavioral effect. In such an environment, economic actors do not adapt to the declared aim of the rule but to the way in which the rule actually operates in institutional practice.

This pattern is not unique to the present study. Earlier Bulgarian research on regulatory impact assessment documented the same institutional dynamic in detail. Kalfova concludes that the impact assessments prepared in the first year after the 2016 reform "remain rather a form of legislative motives than the application of an information-based method for analysis" (Kalfova, 2018, p. 120). She also documents that the procedural elements of the methodology are completed in the vast majority of cases (the zero alternative/do nothing option, for instance, is defined in 100% of the assessments because it is explicitly required by regulation), while substantive analytical content remains weak or absent, with an evaluation method specified in only 2% of cases and monetary valuation of benefits in none (Kalfova, 2018, pp. 116-119). Read together with the present findings, this earlier evidence suggests that institutional formalism has been a durable feature of the Bulgarian regulatory environment rather than a recent phenomenon.

4.2. The dual-process logic of institutional action

The distinction between System 1 and System 2 has twofold significance for the analysis. For regulated economic actors, the complexity of the regulatory environment encourages strategies for reducing effort, risk, and compliance costs. Such strategies include minimal compliance, the search for loopholes, the use of procedural ambiguities, and the shifting of responsibility.

Within public administration, the pressure for a fast and visible response encourages institutional System 1. It appears in procedural defensiveness, rule-making activity without sufficient behavioral analysis, and formal justification in place of substantive judgement about the consequences of rules.

This interpretation does not imply that institutions think in a psychological sense. The dual-process model is used here as an analytical metaphor for distinguishing two modes of institutional action. The empirical results show that better regulation methodologies assume institutional System 2, while their practical application often remains constrained by institutional System 1.

Ostrom, Gardner, and Walker show that institutional failure is not inevitable. It depends on the way interaction is organized, on the possibility of communication, and on the capacity to establish working rules and strategies (Ostrom, Gardner, & Walker, 1994, p. 5). Overcoming this problem does not require the mechanical multiplication of rules. It requires better organization of the processes through which rules are created, monitored, applied, and corrected. This is where the transition from institutional System 1 to institutional System 2 begins.

4.3. Vertical distrust and the persistence of rent-seeking

The conclusion concerning weaker vertical trust in relations between citizens and the state, and between businesses and regulators, gives the analysis of regulatory capture a specifically Bulgarian dimension. The problem cannot be reduced to a low general propensity to trust. What matters more is that trust weakens precisely in relations with authority, control, and institutional hierarchy. Under such conditions, regimes that present concentrated economic advantages as legal certainty, professional standards, or public necessity encounter broad public resistance only with difficulty.

This feature can be explained through Bulgaria's historically accumulated experience with authority, which is often perceived as distant, unpredictable, and accessible through informal practices. In such an environment, citizens and economic actors are more likely to develop strategies of cautious accommodation than a stable expectation of impersonal, equal, and predictable application of rules. This does not mean that such patterns are unchangeable. It does mean, however, that the reform of regulatory processes cannot rely solely on new legislation. It must take into account accumulated distrust of hierarchical authority and durable practices of orientation in an unpredictable institutional environment. The capture logic described by Stigler, reinforced by Olson's analysis of collective action, becomes particularly persistent in such an environment. Small and well-organized groups have a stronger incentive to defend a specific economic advantage, while the costs of that advantage are distributed across many citizens and economic actors. For each affected actor, the individual loss often appears too small to justify organized opposition. In aggregate, however, the social cost can be substantial. The asymmetry between concentrated benefit and dispersed burden is therefore not a chance deviation but a structurally predictable result of the uneven capacity for organized action.

It is precisely here that vertical distrust reinforces the logic of rent-seeking. When citizens and businesses do not expect institutions to act consistently, impartially, and with regard for aggregate costs, mobilization against ostensibly technical regimes remains weak. The protected economic advantage is presented as an element of order, security, or professional control, while its cost remains dispersed and barely visible. Regulation may thus cease to reduce uncertainty and instead begin to stabilize inefficiencies that are rational for a small organized group but costly for society as a whole.

The notarial regime for the transfer of ownership of motor vehicles illustrates this mechanism. Mandatory intermediation is justified through legal certainty and the protection of civil interests, but at the same time it entrenches a stable economic advantage for a limited professional group. In this sense, the regime can be considered not only an instrument of certification and legal protection but also an institutional mechanism through which a protected economic advantage is sustained. In Tullock's logic, resources invested in acquiring, preserving, or defending such an advantage represent social waste, since they do not create new wealth but serve to maintain an already established position (Tullock, 1967, p. 228). Regulation thus ceases to operate primarily as a means of reducing uncertainty and begins to function as a mechanism for stabilizing inefficiency.

A second documented Bulgarian case illustrating the same mechanism comes from the milk production sector. In a detailed study of Ordinance No. 2 of 23 February 2017 on the specific requirements for the production of raw cows' milk, Kotseva-Tikova (2019) shows how the regulation expanded the number of obligatory testing indicators from three to five, introduced an additional 'veterinary' qualification for accredited laboratories, and added registration requirements that effectively monopolized the laboratory testing market. The Commission for Protection of Competition, in its Decision No. 562 of 17 May 2018, confirmed that the regulatory framework 'restricts competition by creating legal uncertainty' regarding the requirements that laboratories must meet (Kotseva-Tikova, 2019, p. 74). This case shows the same logic at work in a different sector: a regulation formally justified by EU food safety requirements operates, in practice, as a barrier to entry that protects a narrow group of incumbent service providers.

Acemoglu and Robinson's distinction between inclusive and extractive institutions places this logic in a broader institutional context. When political and economic power are concentrated in limited groups, path dependence becomes more durable, and change cannot be achieved through new legislation alone. What is required is broader effective participation, limits on arbitrariness, and mechanisms that make institutional capture more difficult, more costly, and more visible (Acemoglu & Robinson, 2012, pp. 80-81).

4.4. Polycentricity as a Structural Alternative to Institutional Formalism

Ostrom offers an alternative through the logic of polycentric governance. When power is distributed across multiple centers of decision making, the monopoly over information is harder to maintain, control becomes broader, and the concentration of regulatory powers in a single institutional center becomes less likely. Conversely, in a highly centralized environment, rules can more easily become stable channels for redistributing advantages to well-positioned groups (Ostrom, 1990, p. 14).

This logic links Ostrom with North and Stigler. Distributed governance can simultaneously constrain the institutional inertia described by North and make regulatory capture more difficult. Polycentricity expands the institutional channels through which information about the operation of rules can be gathered. It allows comparison between different solutions and reduces dependence on a single administrative centre. In this sense, polycentricity is not merely an organizational model but a mechanism for institutional learning.

The Estonian example, already considered as a contrast to mandatory intermediation, indicates a further point. The Estonian Transport Administration provides an e-service environment in which vehicle transactions include ownership transfer for the sale and purchase of a vehicle (Estonian Transport Administration, n.d.). When an administrative process is reorganized through a digital channel with low transaction costs, regulation begins to facilitate exchange rather than entrench protected intermediation.

For Bulgaria, this means that improving the quality of the regulatory framework cannot be limited to the adoption of new legislation. What is required is a change in the way institutions are organized, supported by stronger accountability mechanisms, broader participation by affected parties, transparency in the rule-making process, real tracking of effects, and the possibility of correction. Only under such conditions can rules be transformed from formal prescriptions into working rules-in-use.

In this context, polycentricity is a structural alternative to institutional formalism. It does not automatically guarantee high-quality regulation, but it creates better conditions for the transition from the rule-making reflex to institutional System 2. Through broader feedback, comparison between alternative courses of action, alternative service channels, and a wider distribution of knowledge, regulation can begin to produce not merely rule-making activity but genuine institutional adaptability.

4.5. Alternative interpretations and the explanatory scope of the framework

Two alternative readings of the same empirical findings should be considered. The first locates the central problem in the accumulated burden of the regulatory framework. In its more radical deregulatory version, articulated most clearly in recent European policy literature, including the 2025 manifesto Deregulation, not Simplification published by the 4liberty.eu network and the Friedrich Naumann Foundation, the weakness of European and Bulgarian regulation lies in the accumulated volume of rules (Vlachynský, 2025). According to this view, the volume of EU legislation has increased by 729% since the Maastricht Treaty, while procedural simplification is no longer sufficient. The proposed response is binding net reduction, including a 1% annual cut in the legislative stock, universal sunset clauses and conditionality of EU funds on national deregulatory performance. The European Commission's own simplification agenda responds to similar pressures but defines the problem differently: not primarily as the quantity of rules, but as accumulated complexity, administrative burden and difficulties in implementation (European Commission, 2025). These two positions converge on the diagnosis that the regulatory framework requires reform, but they diverge on whether the binding constraint lies mainly in the volume of rules or in the complexity and implementation of existing rules. The second interpretation explains the findings mainly through corruption in the narrow sense. It treats regulatory capture as a matter of illicit exchanges between individual officials and individual firms. Both interpretations are plausible and receive partial support from the survey data, especially from responses concerning rule instability and asymmetric influence.

However, neither interpretation explains the full pattern observed across the two empirical modules. The regulatory stock argument cannot explain why the strongest convergence between experts and civil servants concerns asymmetric influence, with 82.6% and 86.0% respectively, rather than the volume of rules itself. If the accumulated volume of rules were the main binding constraint, one would expect comparably strong convergence on regulatory burden and cost realism. Yet convergence on the cost realism axis is substantially weaker. Moreover, the proposed remedy of net reduction operates primarily on rules in form, whereas the empirical findings suggest that the binding constraint lies in the conversion of rules in form into rules in use. The regulatory stock could be reduced by 1% annually and still leave intact the underlying asymmetry of influence, the institutional formalism of cost analysis and the only partially mobilized administrative capacity.

The narrow corruption thesis also has limited explanatory reach. It cannot account for the fact that civil servants themselves report that businesses adapt to gaps and grey zones in the rules. Such behavior does not require corruption. It requires ambiguity, uneven enforcement and rational adaptation to the expected operation of the institutional environment. This is where the

rules in form and rules in use framework has broader explanatory scope. Rules may exist in any quantity, comply formally with methodological requirements and still fail to operate as shared working norms if the institutional environment does not convert them into rules in use. The framework therefore does not exclude overregulation or corruption as contributing factors. Rather, it places them within a broader account of how regulatory quality is produced, weakened or displaced in practice.

CONCLUSION

The principal problem in many regulatory regimes is not simply that rules are sometimes unclear, incomplete, or legally unsound. The deeper problem is that the rule-making process itself often operates as institutional System 1. It responds quickly, produces a visible regulatory response, and assumes that the formal adoption of a rule has completed the substantive part of the policy decision. The analysis of actual behavior is then replaced by a procedurally defensible regulatory response. This is the rule-making reflex.

This reflex is particularly problematic because contemporary better regulation methodologies assume a mode of work close to System 2. They require the comparison of alternatives, realistic analysis of costs and benefits, assessment of administrative burden, participation by affected parties, ex post evaluation, and institutional learning. In practice, however, these instruments are often applied in a System 1 mode. The external form of analysis is preserved, but its capacity to discipline decision making weakens. The rule exists, but it does not always become a rule-in-use. The weakness of regulation is therefore not merely legal. It is institutional and behavioral.

The empirical data support this interpretation clearly. The underestimation of administrative burden, reflected in 60.9% agreement among experts, the insufficient use of alternatives to regulation, also at 60.9% agreement, the recognition of unintentionally created conditions for circumventing the law at 65.2% agreement, and weak confidence in realistic cost analysis, expressed through 41.3% disagreement in the administrative module, are not isolated technical imperfections. To this picture should be added the weakness of the incentive environment, visible in only 8.3% agreement that public support for CSR initiatives actually exists. These results do not point to separate procedural weaknesses but to a durable pattern of institutional behavior. Within this pattern, institutions reproduce familiar solutions, organizational risk is minimized, and the difficult analysis of actual behavior is replaced by more easily defensible formal execution.

The Bulgarian context amplifies this problem because regulation does not operate in a socially neutral environment, but in one marked by historically accumulated vertical distrust between citizens and the state, and between businesses and regulators. Under such conditions, stricter control does not always lead to higher compliance. It often produces more concealed formalism, selective adaptation, and institutional navigation. Behavior is then shaped not only by the rule as a legal text, but also by how that rule actually operates as an institutional regime. When rules are perceived as unpredictable, burdensome, or shaped by more strongly organized interests, minimal compliance and the search for “grey zones” are not deviations from the system but rational adaptations to it.

The logic of Olson, Tullock, and Stigler has significant analytical value at this point. The persistence of regimes such as mandatory notarial intermediation in vehicle transactions can be explained by the structural asymmetry between concentrated benefits and dispersed costs. This persistence is not necessarily due to higher social efficiency, but to an institutionally entrenched rent defended through the language of legal certainty. Regulation may thus cease to be an instrument for reducing uncertainty and become a mechanism for stabilizing inefficiency.

The principal conclusion of the study follows from this analysis. The quality of regulation is not determined by the number of legal rules or by the formal complexity of procedures. It depends on the capacity of the institutional environment to convert rules in form into rules in use. This requires clarity, applicability, predictability, low compliance costs, limits on special economic advantages, and real mechanisms for institutional learning. It also requires a polycentric organization of regulatory processes, in which knowledge, control, and feedback do not remain concentrated in a single center but are distributed among public institutions, expert communities, civil society organizations, and economic actors.

This conclusion has direct implications for the current European policy debate. Calls for radical deregulation (Vlachynský, 2025) and calls for procedural simplification through legislative packages such as the European Commission's omnibus initiatives (European Commission, 2025) appear as opposing strategies. The present analysis suggests that both, taken alone, are insufficient. Without a parallel effort to convert rules in form into rules in use, neither volumetric reduction nor procedural streamlining will produce sustainable improvements in regulatory quality.

The required change therefore goes beyond replacing weaker legal texts with better ones. The more substantive transition is from the rule making reflex to institutional System 2. This means that regulation should not be understood as a quick response to market or social distortions through a new legal text, but as an institutional process that can be tested, adapted, and corrected, and that takes account of actual behavior. Only then can the rule become a working rule. Otherwise, the operating mode of governance will continue to stabilize inefficiency, and rulemaking activity will reproduce institutional formalism under the appearance of good governance.

ENDNOTES

1. The concepts “System 1” and “System 2” are used here as an analogy to Kahneman’s dual-process model of cognition. System 1 denotes a fast, automatic, and low-effort mode of operation, while System 2 denotes a slower, deliberate, and analytically demanding mode. The analogy does not imply that institutions think in a psychological sense. Rather, it describes two distinguishable modes of institutional behavior: one reactive and procedurally oriented, the other analytical and focused on the real-world effects of rules.

2. Simon’s example concerning old maids, cats, mice, bees, and the clover harvest illustrates the practical impossibility of tracing all remote and indirect consequences of a decision. It is used here only to clarify the limits of exhaustive rational calculation and the relevance of bounded rationality for administrative decision-making.

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