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**The Impact of European Union Pressure on Immigration
and Asylum Policies in Romania: a Structural Account of
the Decision-making Process**

Flavia Jurje

Ph.D. Candidate

Central European University, Budapest

jurje_flavia@phd.ceu.hu

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Abstract

The aim of this paper is to determine the impact of EU pressure (i.e. Europeanization) on the polity and politics in a new EU member state (MS), Romania. More specifically, it will assess how Europeanization altered the institutions of the decision-making process (*polity*), the power configuration and conflict among national elites (*politics*), for asylum and immigration policies, considered as a case of hard Europeanization (as part of the *acquis communautaire*), before and after Romania joined the EU. There are three main expected causal relationships. First, Europeanization leads to a less inclusive decision-making process, in the sense that it reduces the possibilities for pre- and Parliamentary consultations, debate in Plenum, and dialogue with non-state actors. This is related to the relatively short time frame within which foreign decisions have to be taken and to the alleged 'take-it-or-leave-it' character of the EU conditionality (Moravcsik 1998), which diminishes the chances for law amendments from Parliaments and non-state actors. Second, Europeanization impacts on the power configuration among domestic actors, by empowering state executives at the expense of the legislative and other societal actors. The rationale behind this hypothesis is that governmental bodies represent nation states in international negotiations and also have the technical capacity and expertise in elaborating public policies (Schimmelfennig 2001). Third, Europeanization influences the level of conflict in the domestic legislative process by reducing its intensity. This is a consequence both of the fact that controversial rules are likely to be accepted more easily under the EU pressure and the general consent towards integration (Grabbe 2002). To investigate these potential causalities, social network analysis is the main method employed (see for example Wassermann and Faust 1999). Data collection was done by face-to-face, semi-structured interviews with the relevant stakeholders involved in the decision-making process for the case of immigration and asylum policies.

Introduction

Europeanization, generally referred to in terms of the domestic impact of European Union (EU) integration, has been ardently debated in the last years. While the concept *per se* has been under continuous contestation, there is no doubt that a new research agenda has emerged drawing from international relations, EU studies, public policy, and comparative politics alike (Graziano and Vink 2007). The promising research area associated with this agenda has sought to disentangle the aforementioned impact by primarily looking at either the conditions under which Europeanization is likely to succeed or to the mechanisms that would lead to national adaptation.

The aim of this paper is to analyze the impact of EU pressure (i.e. Europeanization) on the polity and politics in a new EU member state (MS), Romania. More specifically, it will determine how Europeanization altered the institutions of the decision-making process (*polity*), the power configuration and conflict among national elites (*politics*) in the case of asylum and immigration policies, in a longitudinal analysis (i.e. before and after Romania joined the EU)¹. This policy package is considered a case of hard Europeanization, as part of the *acquis communautaire*, belonging to the first pillar of the EU policies, a very important and extensively debated sector among MS.

There are three main expected causal relationships produced by the EU pressure in this policy field. First, Europeanization leads to a less inclusive decision-making process, in the sense that it reduces the possibilities for pre- and Parliamentary consultations, debate in Plenum, and dialogue with non-state actors. This is related to the relatively short time frame within which foreign decisions have to be taken and to the alleged ‘take-it-or-leave-it’ character of EU conditionality (Moravcsik 1998), which diminishes the chances for law

¹ This paper is part of my PhD thesis that analyzes the impact of EU pressure (i.e. Europeanization, operationalized as hard and soft) on the polity and politics in Romania, for the case of immigration and asylum, social, and culture policies, before and after accession (i.e. a cross-sector and longitudinal analysis). The data available at this stage of the research correspond to the immigration and asylum policies, classified as a case of hard Europeanization, before and after Romania joined the Union.

amendments from Parliaments and other non-state actors. Secondly, Europeanization impacts on the power configuration among domestic actors, by empowering state executives at the expense of the legislative and other societal actors. The rationale behind this hypothesis is that governmental bodies represent nation states in international negotiations and also have the technical capacity and expertise to elaborate public policies (Schimmelfennig 2001). Thirdly, Europeanization influences the level of conflict in the domestic legislative process by reducing its intensity. This is a consequence both of the fact that controversial rules are likely to be accepted more easily under EU pressure and the general consent towards integration (Grabbe 2002). To investigate these potential causalities, social network analysis is the main method employed (see for example Wassermann and Faust 1999).

This paper contributes to the existing literature on policy making and Europeanization at least in three ways. First, it addresses one of the shortcomings of previous Europeanization studies namely the focus on the policy dimension solely. This research argues that the polity and politics dimensions of any policy process are of particular relevance, since determining how a decision is reached and who participated in the policy-making process can reveal important aspects about the likely outcome of that policy (e.g. who will actually benefit from that particular policy).

Secondly, from a methodological point of view this study develops an innovative approach to the study of decision-making by relying on the tools of social network analysis. It provides a structural account of the policy making process in a sector affected by a hard degree of EU pressure, in a cross-time research design (at two different points of time: 2005 year – during the EU negotiations, when Romania was a candidate and also received the acceding status – and 2007, the entry year). Thus, the asset of this design is that it will allow capturing variation in the EU domestic impact on polity and politics in two different stages of the Europeanization process, i.e. candidate and member state respectively.

Thirdly, the country case selection is of particular relevance since most of the Europeanization literature concentrates either on old MS or on the 2004 enlargement wave, while Romania (and also Bulgaria) was often neglected. Furthermore, while there is an extensive body of literature on the importance of different phases of the decision-making process in Western countries, in Romania there is only scarce research on this topic and drawing mostly on legal approaches. In addition, the existing studies point towards a poor policy-making process or as Ionita (2004) puts it “governing by default”. Therefore, the purpose of this selection is twofold: first, to in-depth analyze the decision-making process and second, to account for the impact of EU pressure on specific policies.

This paper is structured as follows. The first part will set the theoretical framework, describing the polity and politics dimensions of the Europeanization process and developing the hypotheses for the immigration and asylum policies in Romania. The second section will discuss methodological issues, related to the policy area selection, as well as questionnaire design aspects. The third part presents the analysis of data and preliminary results. Collection of data was done by face-to-face interviews with the relevant stakeholders involved in the decision making process in the case of immigration and asylum policies.

Europeanization of Decision-making: the Case of Romania

This part starts by providing a short overview of the variables analyzed, formulating hypothesis on the institutions of the decision-making, power configuration and conflict among domestic actors for the Romanian context.

The independent variable of the study is EU adaptational pressure, namely the EU conditionality and requirements that applicants and MS have to fulfill in order to join the Union. The dependent variable, decision-making process, is operationalized on three dimensions, institutions of the decision-making (polity), power configuration and conflict

among national elites in the legislative act (politics). The relationship between the independent and dependent variables of this research can be depicted as in the graphical representation below:

Figure 1 The chain of the relationship between the variables of this model

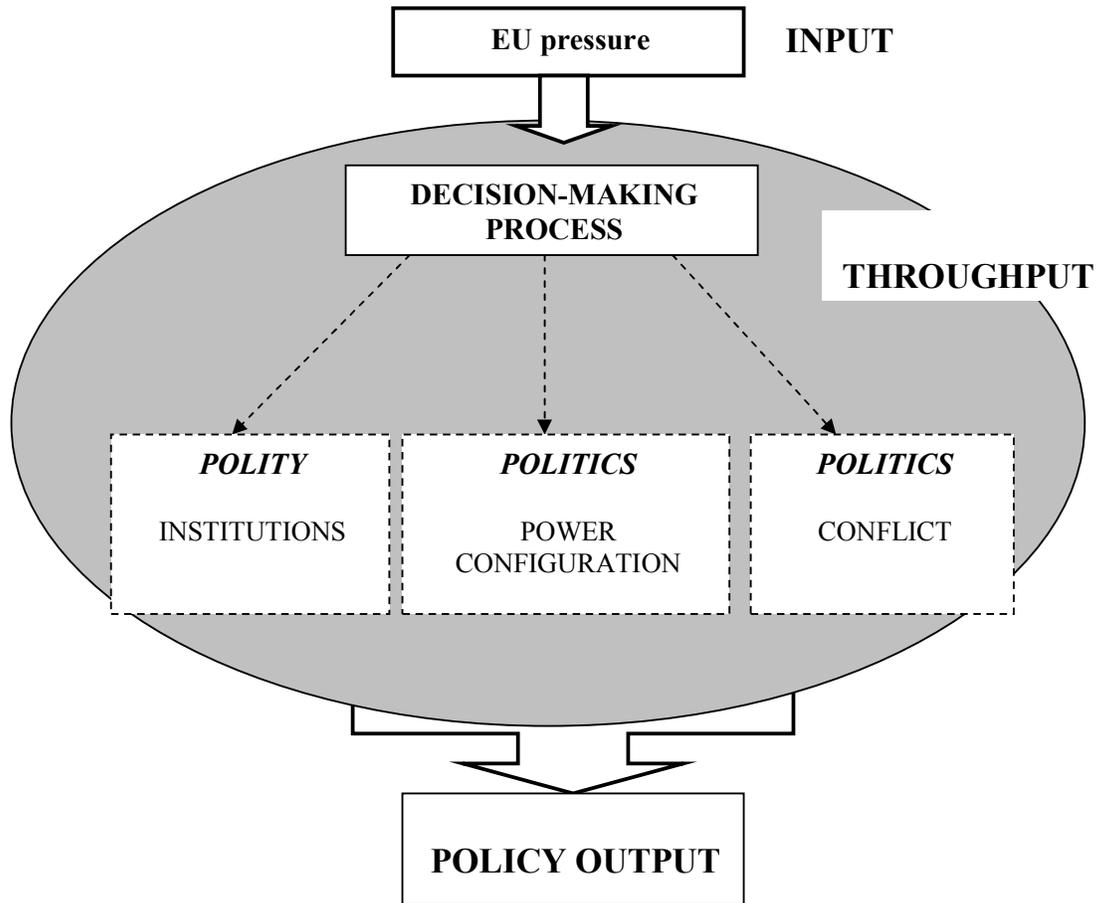


Figure 1 offers a holistic view of a public policy system, including all its components: from input (here EU pressure on domestic decision-making process) to output, which is a policy outcome/the substance-based dimension of policy-making, and highlighting the throughput/the decision-making process per se. As Braun (1997) notes “the focus on the input and output dimension of the political system often neglects the dimension of ‘conversion’ (as coined by Davis Easton), of the internal structure of the state, their order and connectedness (p.1). In this vein, the interest is not to assess whether Europeanization leads to

convergence in terms of policy outcome, but rather to grasp the impact of EU on the domestic institutions of the decision-making, power configuration and conflict among national elites in the legislative process, or in short the Europeanization of decision-making.

In the following, a thorough presentation of each dimension of the dependent variable, the decision-making process, is provided.

Institutions of the Decision-Making Process

This paper approaches institutions as formal and informal rules of the decision-making process. More precisely, they refer to the various arenas of the decision-making process, where a specific reform is discussed. In order to identify these arenas, the current study employs, as the underlying conceptual device, the stagist approach of policy processes² (Jones 1977, DeLeon 1999, see also Kriesi 1980). It implies dividing a policy-making process in various phases/stages: problem definition, agenda-setting, identification of alternatives and decision-making, implementation, and evaluation. This disaggregated image of a policy process clearly depicts how policy-making is conducted and offers the possibility of mapping the actors that participated in different stages, thus revealing important insights for the analysis of policy-making.

A policy cycle, for the Romanian ordinary³ legislative process involves the following stages: the legislative initiative (that belongs to the Government, Parliament, or citizens⁴), debates and consultations among various ministerial bodies and social partners (i.e. the pre-Parliamentary phase), the examination in parliamentary committees, debate and voting

² The criticisms of policy cycles in terms of an outdated theory (e.g. Sabatier and Jenkins-Smith 1993, Sabatier 1999) are acknowledged. However, the stagist approach is not used as a theoretical device, but rather as a concept that helps reducing the complexity of policy-making by providing a clear picture of the steps of this process (see for example DeLeon 1999). In terms of theory, this research mainly draws on Europeanization literature.

³ There is also the emergency legislative process that generally differs from the ordinary one by skipping several steps and taking place within a relatively short time frame.

⁴ There are hardly any examples of citizen initiatives that have become laws, thus the Parliament and the Government are the main *de facto* actors for initiating laws.

in the plenum of the informed Chamber, examination, debate, and voting in the other Chamber, re-examination, promulgation, and publication of the law.

The most important phases of a legislative process are considered to be the drafting of a legislative act and consultations in the pre-Parliamentary arena and then the amendments part brought in the Parliamentary Committees (face-to-face semi-structured interviews held with Romanian decision-makers and other relevant stakeholders in Bucharest, December 2007; see also Boc 2005). The consultations in the pre-Parliamentary phase, both formally (in the format of specialized expert working groups, dialogue sessions, and so on) and informally (from informal meetings to e-mails or phone calls) are of particular relevance, as at this stage the ordinary legislative process is open for input from Government and other social partners and stakeholders. In addition, lobbying for support for the given piece of legislation in the Parliamentary committees also takes place at this stage. Furthermore, when a decision is commonly agreed upon during the Committees consultations and compromises, the final vote in the Parliament is more likely to have a formal character, unless there is discontent from one or more groups on the results of the committee deliberations. In this case, depending on the nature of the subject, a debate on specific articles of the proposed law may follow in the Parliament (Deleanu 2001, Boc 2005).

The 'take it or leave it' proposition of the European legislation (see Mair and Zeilonka 2002 in Lindstrom forthcoming) together with the 'close' character of foreign decision-making (Sidjanski 1966 in Sciarini et al 2004) implies a less inclusive domestic decision-making. There is not much room left for debate and consultation. As Moravcsik (1998, 2001) notes, international negotiations are likely to become themselves the most important step, thus moving out from the domestic arena of the decision-making (see also Sciarini et al 2004). In addition, in Romania, the executive interferes in the legislative

processes related to EU rules adoption through Government Ordinances or Decisions that further restricts the prospects for debate.

Moreover, the limited time frame within which foreign-oriented decisions have to be taken, together with the massive quantity of the EU ‘imposed’ legislation put additional strain on deliberation. This applies particularly to CEE applicant states that are considered to have an asymmetric bargaining and domestic contestation power implying full compliance unlike the Western states (Schimmelfennig 2001, Grabbe 2003).

It is assumed that the EU impact on the polity dimension differs before, respectively after integration. A candidate state (in this research, year 2005 for Romania), seeking to become an EU member, will try to comply with the EU conditionality as much as possible, without displaying sound contestation (see for example Grabbe 2003, Vachudova 2005). Legislation in meeting these requirements would thus be adopted without involving extensive domestic analysis or consultation in the domestic decision-making structures. After a country becomes a member of the Union, (after 2007 for Romania) the picture may change to a certain extent. Given that the EU pressure for change is not that acute anymore, or as Schimmelfennig and Sedelmeir (2007) put it “once the candidates have joined the EU, they already reap the benefits of membership and cannot be induced to comply with EU rules by conditional incentives” (p.94), it might be the case that states change their decision-making style. Namely, a lower EU pressure may imply more domestic legislative consultations and debate as compared to the before accession moment. However, the decision-making process on issues involving EU is expected to be less inclusive than in the case of an ordinary legislative act, given that accession conditions are still in place.

Hypothesis 1: The impact of EU pressure on the legislative process leads to a less inclusive decision-making process, by weakening the dialogue with non-state actors in the pre-Parliamentary phase and amendments in the Parliamentary Committees.

Hypothesis 2: For 2005 moment, Europeanization would lead to a less inclusive decision-making process (diminishing the importance of the Parliamentary Committees, consultation of non-state actors); after 2007, Europeanization is likely to produce weaker effects on the level of inclusiveness (compared to the 2005 period), however still reducing the number of actors that take part in the decision-making process.

Empowerment of State Actors

According to Börzel and Risse (2003), the Europeanization process may lead to a redistribution of power among domestic actors. This perspective is in line with the rationalist institutionalism logic, where Europeanization is conceived of as “a political structure which offers some actors additional resources to exert influence, while severely constraining the ability of others to pursue their goals” (2003, p.63), thus leading to a ‘differential empowerment’ (Börzel and Risse 2000, Risse et al. 2001).

In the same direction, Moravcsik (1998, 2001) has emphasized the fact that Europeanization strengthens state executives. He argues that “international negotiations and institutions change the domestic context in which policy is made by redistributing four domestic political resources: initiative, institutions, information and ideas (Moravcsik 1998, p.2). Thus, the main argument would be that international negotiations influence who would have the control over the domestic agenda (initiative), alter who can participate in the domestic decision-making procedures (institutions), and increase information asymmetries “altering legitimate domestic ideological justifications for policies (ideas)” (Moravcsik 1998, p. 11). In this view, changes in the channels of decision-making brought about by Europeanization usually favor the actors who are directly involved in international negotiations and institutions, that is, state executives. Putnam’s (1988) work on the two-level game, contending that the transfer of a domestic issue to the international level reinforces

state executives, both at the national and international level follows the same line of argumentation.

These arguments are likely to work in the Romanian setting as well. First, it is the government that represents the states in the EU negotiations processes. This is a general indication of the legal ‘positional power’⁵ hold by domestic actors in issues regarding foreign affairs, and particularly EU negotiations. Second, for the particular case of the negotiation regarding EU legislation that has to be domestically internalized, the role of the executive bodies (e.g. the Ministry of European Integration, the Ministry of Foreign Affairs, and various governmental agencies) was also empowered by the ‘exclusive nature’ of this kind of decisions, at the expense of the legislative bodies (see Holzacker 2007).

The time element points also towards a power configuration structure in favor of domestic executives, but with a stronger degree in 2005 compared to the 2007 accession moment and afterwards when the EU adaptational pressure is becoming lower. State cabinets are likely to be empowered both when Romania was a candidate country (moment 2005) and as a member state (year 2007), although after 2007 the effect is expected to be weaker compared to 2005. Numerous external assessments of the decision-making process in Romania (e.g. OECD/SIGMA, World Bank reports) indicate that the main mechanism of legislating is Governmental Emergency Ordinances. When it comes to decisions related to the EU, it is even more the case that the government would prevail in articulating policies.

Hypothesis 3: State executives are reinforced as a consequence of Europeanization.

Hypothesis 4: Europeanization empowers the executive both in 2005 (as a candidate) and in 2007 (as a member), although the effect is expected to be weaker after 2007.

⁵ The positional power approach refers to elites as all holders of important institutional positions with legal possibilities to influence formal decisions; for this point of discussion it refers to state executives members.

Conflict Structure

Authors argue both for less and more conflict as a result of Europeanization. In the first camp are those scholars (see for example Katzenstein 1985 on internationalization, Grote and Schmitter 1999) who claim that the adoption of ‘imposed’ legislation from a superior body as EU, is likely to favor domestic consensus, in the sense that policies that would be controversial in a domestic setting are more likely to be accepted under European pressure. Furthermore, actors favoring change are less likely to be blamed by opponents for possible negative effects brought by that change in legislation, as the reform was made under the EU demand. Another branch of authors (see for example Hug and Sciarini 1995) argue that, on the contrary, it is precisely the ‘take-it-or-leave-it’ character of EU decisions – that significantly alters the established national order and weakens national elites’ power over the political agenda – that would lead to a higher level of conflict in decision-making processes that are under EU influence, compared to those that are not. In a similar vein, Lindstrom (forthcoming, p.2) argues that EU critical public opinion makers in Estonia and Slovenia oppose EU pressure on the grounds that it “adversely affects their particular⁶ political-economic national development paths”. More precisely, applying a varieties of capitalism framework to the aforementioned case, the author claims that depending whether the EU is perceived to fall to the left or right of the national status quo, it has a significant impact on support for EU integration.

In Romania, party politics and civil society activity point to a pro-EU discourse. Even the ultra nationalist party, the Greater Romania Party, changed its platform, advocating for European integration. There was no sign of contestation in any of the social spheres, at least until 2007, of what EU was demanding. Adding the fact that legislation in meeting the EU conditionality has a relative closed character, in the sense that it is mainly decided by

⁶ Emphasis in original.

governmental bodies and there is little room for maneuver in domestic legislatures it further pave the way to consent in adopting EU requirements (see Ilie 2005). Put otherwise, the adoption and implementation of the *acquis* is generally conducted at the executive level, therefore it further restricts other actors' access to debate and hence the possibility for conflict (OECD 2005).

The effects of Europeanization might lead to different consequences in terms of conflict in the decision-making process when Romania had the candidate status and in the current period, as an EU MS. On the one hand, in 2005 the level of conflict among domestic elites is likely to be low, as legislation in meeting the *acquis* had to be adopted as rapidly as possible, without too much consultation. On the other hand, after 2007 the level of conflict may increase compared to the previous phase (although it is still expected to be lower than in a 'classical' legislative process), as at this stage the EU adaptational pressure is weaker, leaving more room for debate and exposition of conflicting interests in domestic legislation.

Hypothesis 5: The EU pressure for change together with the general willingness to integrate translates into a lower level of conflict among elites in the decision-making process.

Hypothesis 6: Europeanization leads to a low level of conflict in decision-making process in 2005 and would have a weaker impact from 2007 onward, however still maintaining a low conflictual level.

In sum, the main hypotheses this research proposal will test are:

- Europeanization leads to a less inclusive decision-making process
- The EU domestic impact empowers state executives
- Europeanization decreases the level of conflict among domestic elites
- All these EU domestic consequences are expected to be higher before integration (here year 2005) than after (from 2007 onwards)

Methodological Aspects

This part will first discuss aspects related to the country and policy sectors case selection, with the accent on the immigration and asylum policies, domain that is analyzed in this paper. It is followed by an argumentation of the methods employed. Finally, an overview of the techniques of data-collection and analysis is presented.

The country case selection is relevant for several reasons. First, it provides the opportunity to investigate whether the Europeanization concepts developed for Western states can also be applied to the CEE region (see Grabbe 2003, Schimmelfennig and Sedelmeier 2005), thus adding a substantial contribution to this field of study. Secondly, research on decision-making in general and Europeanization in particular is lacking in Romania. In order to grasp the changes brought about by EU in terms of policy making, an initial inquiry (i.e. a field study, interviewing policy makers) of the Romanian decision-making process had to be conducted. Firstly, this preliminary research offered the possibility to learn how policies are being elaborated and secondly, paved the way towards further investigation into the effects of EU pressure on the structures of decision-making.

For Romania, Europeanization is present both in a hard state (e.g. domestic reforms in the immigration and asylum sector, competition policies – all policies that are part of the *acquis*) and in a soft face (reforms in health care, pension system – the social policies in general where the EU pressure has rather a moderate effect). Furthermore, the EU domestic impact is likely to produce effects from (at least) 2000 onwards, when Romania started the official EU integration negotiations.

This paper presents the case of hard Europeanization (i.e. the immigration and asylum policies), both before and after accession and assesses the changes in the national policy networks for this sector, however the PhD thesis investigates the effect of EU pressure also for the soft Europeanization case (i.e. social policies) and contrasts them with a control

case, a policy domain that is sheltered to a certain extent from the EU pressure (i.e. culture policies), thus proposing a cross-sector and longitudinal research design.

Immigration and asylum policies

The sector identified as being affected by a strong EU pressure (hard Europeanization) is immigration and asylum policies. On the one hand, the *acquis* has clear requirements that member states have to adopt and implement (see below). On the other hand, in Romania, migration became a serious political debate with the deepening of the labor shortages given massive labor migration (since the fall of communism in 1989 an estimated 10 to 15 per cent of the population has left the country, see IOM 2008). Specifically, the debate focused on how to handle this deficit and also the influx of immigrants, both the current and the estimated one. According to the UN population division, in 2005 the percentage of immigrants was 0.6 out of the total population⁷, a relatively low amount, however the numbers are foreseen to increase in the upcoming years. For instance, the National Commission of Forecast estimates that by 2013-2015, approximately 200,000–300,000 foreign workers will enter the Romanian labor market⁸, i.e. approximately 10 to 14% of the current population.

Migration has become a core topic within EU with the Tampere Council (1999) when the EU MS have agreed on the creation of a common policy on asylum and immigration (including integrated border management, measures to combat illegal migration and trafficking in persons) and originating in the fundamental principle of the free movement of people (for example the regulations on labour market, the mutual recognition of diplomas and

⁷ United Nations Secretariat, Department of Economic and Social Affairs, Population Division (2005) *Trends in Total Migrant Stock: The 2005 Revision*. The number of international migrants generally represents the number of persons born in a country other than that in which they live. The statistics show the estimated stock of international migrants (both sexes) at mid year.

⁸ Ministry of Interior and Administrative Reform (2007) *Immigration and Asylum in Romania. Year 2006*. Bucharest (*Imigrația și Azilul în România. Anul 2006*)

professional qualifications among member states). The *acquis* chapters that affect these migration issues are chapter 2 on the Freedom of Movement of Persons and chapter 24 on Justice and Home Affairs. However, there are links between these chapters and the ones dealing with the other freedoms (goods, capital and services), as well as with the social policy and employment regulations. In 2005 member states adopted a programmatic document, the Hague Program, for further improvement of liberties, security, and justice within EU for the period 2005-2010. Special attention is paid to immigrants, asylum seekers and their social inclusion (i.e. of those legally residing on the territory of one of the MS). Furthermore, in 2006 it was elaborated the program for solidarity and management of migration flows for period 2007-20013 and also the strategy for cooperation with third countries regarding migration and asylum policies.

One of the most important EU requirements is the need to ensure that candidate countries are institutionally and administratively equipped to meet adequate and acceptable standards of implementation of these policies. In this sense, building and capacitating institutions is a must for EU newcomers. For Romania, policy implementation was always seen as a problem and the Commission has constantly (for example through the country monitoring reports) highlighted this administrative shortcoming and urged the Government to find viable solutions, namely by forming institutions capable of implementing and enforcing public policies (see for example Monitoring Report 2005, 2006).

The large volume of legislation that has to be transposed in the immigration field involves the necessity for building effective national institutions that would be able to cope with all migration policies. The EU has clearly specified the type of institutions and respectively the necessary functions national administrative organisms dealing with immigration strategies and programs should have. The most important pieces of legislation,

covering both substance regulations and institutions responsible for implementing immigration and asylum policies adopted in Romania in this field are:

⇒ **Law (L) 122/2006 on Asylum in Romania**

Initiated by the Government, with assistance from EU experts within a Twinning Convention, the law project was submitted to the Senate on November 16, 2005. It is considered an ordinary law that was adopted on April 04, 2006, following an emergency procedure⁹ in the Chamber of Deputies (CD). The short time frame of the entire decision-making process (less than five months) denotes the domestic importance of this policy together with the pressure from the Union on legislators to elaborate and adopt this piece of legislation. The law on asylum in Romania transposes the following EU legislation:

- Council Directive 2001/55/EC on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof
- Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers
- Council Directive 2003/86/EC of 22 September 2003 on family reunification
- Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless

⁹ The legislative emergency procedure represents an accelerated method for law adoption, imposed by the dynamic of the legislative process. The main difference between the emergency procedure and the ordinary one is given by a shorter time frame within which the parliamentary phases of a policy process are conducted. In addition, government emergency ordinances are adopted, *de jure*, in an emergency legislative procedure; also, in the Chamber of Deputies normative acts that transpose EU or Council of Europe legislation are adopted, *de jure*, in the emergency procedure (Boc 2005).

persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

This law displays a high compatibility with all requirements addressed by the EU in this sector and ensures compliance with the terminology used at European level in the field of asylum. It defines specific concepts such as form of protection, asylum seeker, asylum claim, alien, country of origin, asylum procedure, refugee status, subsidiary protection, temporary protection, family members, unaccompanied minor, detached person, mass influx and other related concepts. It also explicitly comprises the principles and procedural warranties applicable to asylum such as: the right to asylum of any alien or stateless person which solicits protection; non-discrimination on any basis, the principle of non-deportation, the right to family reunification, confidentiality of data, priority of child's interests, presumption of good-faith and so on.

⇒ **Government Emergency Ordinance (GEO) 55/2007** for the establishment of the **Romanian Office for Immigration - ROI** (approved by L 347/2007)

The law for approving the government emergency ordinance GEO 55/2007 for the establishment of the Romanian Office for Immigration was initiated by the Government (Ministry of Interior and Administration Reform¹⁰) and entered the policy making process in the emergency procedure (it started in June and ended in December 2007, when the law was promulgated by the President). This administrative body is designated as the national specialized institution for migration management, following the EU practices and regulations

¹⁰The Ministry of Interior and Administrative Reform (MIRA) (<http://www.mira.gov.ro/index.htm>), through the Romanian Office for Immigration, the Border Police, and the General Directorate of Passports, has competencies on immigration (from entry, stay, and working conditions to integration of immigrants) and asylum issues, combating of irregular migration (mostly on illegal border crossings, violations of border regulations, etc.), issuing of passports, and other related functions (e.g., elaborate, conduct, implement, and monitor externally financed projects; elaborate studies; analyze and provide forecasts on immigration; collect relevant data). Furthermore, MIRA, through the National Agency against Trafficking in Human Beings, coordinates and evaluates the activities on preventing trafficking in human beings and monitors the assistance granted to the victims of trafficking.

in the immigration domain. The Romanian Office for Immigration was created by reshuffling the Authority for Aliens and the National Office for Refugees. The new Office has taken over all the prerogatives and territorial structures of the former Office for Refugees. Among the functions of the institution are the issuing of work authorizations for employment based on an individual employment contract, self-employment or transfer of a migrant worker to Romania by his/her company, and all other related working documents, long term visa documents and others.

⇒ **GEO 194/2002 on aliens in Romania (L357/2003)**

The most important modifications that also lead to republication of the initial law on aliens, GEO 194/2002, are those introduced by **L482/2004** and **Law 56/2007**. **L482/2004** is an organic law initiated by the Government and followed an ordinary legislative procedure, the entire policy process spreading for a period of four months. The law is based on the changes occurred in the EU corresponding legislation and it specifically transposes the following EU directives:

- Council Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third-country nationals
- Council Directive 2003/110/EC from 25 November 2003 on assistance in cases of transit for the purposes of removal by air
- Council Directive 2003/86/EC from 22 September 2003 on the right to family reunification
- Council Directive 2003/109/EC from 25 November 2003 concerning the status of third-country nationals who are long-term residents

Law 56/2007 brings another set of amendments to the Government Emergency Ordinance 194/2002 on aliens in Romania. It was initiated by the Government in an

emergency legislative procedure (it starts in October 2006 and ends in March 2007). The law is based on the following EU documents:

- Council Directive 86/2003 on family reunification
- Council Directive 109/2003 on the status of third member states who are residents on a long term
- Council Directive 110/2003 on air transit
- Council Directive 114/2004 on the conditions for third member states to study, student exchange, voluntary work

In addition, the regulations of the European Parliament Statute and the principles for the free movement of persons that are stipulated in the Border Schengen Code were followed in drafting this law.

There are two pieces of legislation that were adopted before integration, Law 482/2004 on aliens and Law 122/2006 on Asylum in Romania, respectively two that were adopted after 2007, i.e. Law 56/2007 on aliens and Law 347/2007 for the establishment of the Romanian Office for Immigration, that corresponds to the longitudinal element of the analysis, thus allowing for a before/after comparison of the Europeanization of polity and politics in this policy sector.

Social Network Analysis

To test the hypotheses formulated by this paper, in terms of inclusiveness of the decision-making, power configuration of state and non-state actors, and level of conflict among domestic elites, network analysis provides the appropriate methodological tools (see Wassermann and Faust 1999). The structural network analysis is regularly employed by researchers in the field of policy analysis studies to learn about the structures and power configuration that are formed in decision-making processes, i.e. policy networks (Laumann

and Knoke 1987, Knoke and Pappi 1989, Knoke 1990, Schneider 1992, Scott 1997). The concept of policy networks is understood as “clusters of relatively autonomous, but interdependent actors that are incorporated into the process of public policy making” (Schneider 1992, p. 1). In other words, policy networks describe and explain the complex relationship between actors in politics and society in general.

Furthermore, in policy analysis, networks lay the basis for “a structural analysis of private and public actor configurations in the formulation and implementation of public policies” (1992, p.1). The basic assumptions of the social network method are that actors are interdependent and their relational ties constitute channels for transfer or flow of resources, providing opportunities or constraints on actors’ actions.

Data Collection

For data collection, face-to-face, semi-structured interviews with domestic elites were conducted. In this sense, a comprehensive list of the elites from the Parliamentary Committees, Ministries, other governmental agencies, and relevant stakeholders involved in the policy making processes in different sectors was elaborated.

To identify the relevant actors, a combination of three schools – positional, reputational and decisional – was employed (see Kriesi 1982). This approach emerged as a solution to a long debate on how to identify elites and measure the power relations among them, i.e. community power controversy (elitists vs. pluralist scholars – see for example Truman 1951, Hunter 1953, Schattschneider 1960, Dahl 1961).

Positional Method: assumes that the power to affect community decisions rests in the important, formal positions in key institutions in the community. The position of an actor in the system is a good proxy for determining his institutional power in the network.

Reputational Method: implies that power is present in all social relationships and that the power to affect community decisions is a result of individuals’ reputations. Certain

actors have the reputation to be important within a certain policy domain and this is also an important indication on their capacity power.

Decisional Method: points to the fact that the power to make decisions comes from strong participation in the decision-making process. Adjoining the decisional approach, creating a list of the most important decision-making processes (for example, selected by relying on experts' opinion) of a legislative period together with the identification of the stages of these policy processes will lead to the detection of those actors that constantly participated in these processes, and this further reveals information about the power configuration among policy actors.

By combining these three approaches the possibility of exclusion of potentially powerful actors is likely to diminish (see Koeser in Fischer 2005, p. 54). The accent is on organizational, collective actors (e.g. committees, ministries, national agencies), as scholars argue that organizations rather than individuals occupy the most noticeable positions in nowadays politics (see Knoke et al 1996, Schneider 1992).

Having elaborated the list with the relevant actors, face-to-face interviews were conducted¹¹ (see for example Kriesi 1980, Fischer et al 2002, Sciarini et al 2004). The questionnaire contains socio-metric and qualitative questions about:

- phases/institutions of the decision-making process (e.g. from a list with all the stages of the decision-making process considered, interviewees were asked to identify, in their view, the most important ones – this allows assessing whether a change of the institutions of the decision-making occurred as a result of EU impact or not; in addition interviewees were asked to indicate the stages of a policy process where they have the possibility to participate, both formally and informally)

¹¹ The list of interviewed organizations is listed in Appendix 1.

- reputational power (e.g. from a list comprising all the actors that participated in that decision-making phases, interview partners were asked to identify, according to their opinion, the most important actor and also to rank the three most important ones)
- network of cooperation and conflict (e.g. With whom did you have disagreements? Which actors share your point of view? How often did you find yourself in a conflict situation?).

In addition, when determining power configuration, an indicator based on the position of an actor in the network, betweenness centrality, is computed. The analysis of the primary data collected was done using the UCINET¹² software, which allows for complex structural measures calculations.

Preliminary Results

The Impact of EU Pressure on Institutions of Decision-making

The questionnaire included a section on the perceived importance of the various stages of the decision-making. Each policy process was broken down in three main phase/stages, the pre-parliamentary, parliamentary and final stage of the approval of the law in the Government Secretariat. Furthermore, given the importance attributed to the pre-parliamentary stage, this was divided in other two main parts: drafting of the legislative act within working groups and committees at the ministerial level and consultation of other government bodies. The Parliamentary stage also consists of two sub-parts, the committee work and final vote in Plenum.

¹²For further details see <http://www.analytictech.com/downloaduc6.htm>

Table 1 Importance of the phases of the decision-making processes

Phases of the decision-making	2004-2006 Law 482/2004 on Aliens and Law 122/2006 on Asylum in Romania (% based on respondents' answers who see the corresponding phase as one of the three most important)	2007-2008 Law 56/2007 on Aliens and Law 347/2007 for the establishment of the Romanian Office for Immigration (% based on respondents' answers who see the corresponding phase as one of the three most important)
Pre-parliamentary phase		
Drafting	42.77	24.08
Consultation	22.77	30.08
Sub-total	65.54	54.16
Parliamentary phase		
Committee work	17.92	25
Plenum	5.4	8.3
Sub-total	23.32	33.3
Approval		
Government Secretariat	11.11	12.5
Total	100	100

The pre-parliamentary phase is the most important stage of a policy process, both before and after integration, as more than half of the respondents indicated. However, the significant difference between the two periods consists in the type of actors involved in the decision-making process and their role at this stage. For the period before integration, the pre-parliamentary stage was almost entirely closed for non-state actors, the drafting phase being handled by public servants, within ministerial working groups. As the interviewees pointed out, none of the political parties, labor, or business organizations were involved, as there were clear guidelines from the Union with regard to the substance of these policies and also technical assistance from EU experts, that were monitoring the entire process. Only two social partners, the United Nation High Commissioner for Refugees (UNHCR) representation in Romania and the Romanian National Council for Refugees (CNRR) were involved in the consultation procedure, however this took place after the legislation drafts were elaborated in

the Ministry of Interior. Furthermore, the role of these actors had rather a formal character, acknowledging the text of the drafts, rather than contributing with substantial, content-related propositions for amendment. In addition, in the parliamentary stage there were no interventions from political party members on the articles of the laws, the decision-making process following just the procedural aspects involved at this stage.

The picture changes to a certain extent after 2007 moment. For the other two pieces of legislation analyzed, there also existed direction lines and technical expertise from the EU part, however the number of domestic social actors that were co-opted in the pre-parliamentary phase, both in drafting and in the consultation procedure increased. As transpires from the interviews, the most active non-state actors that worked together with executive bodies in the preparation of the legislation were UNHCR Romania, CNRR, International Organization for Migration (OIM) Bucharest, Save the Children (in Romanian *Salvati Copiii*), and the Romanian Forum for Refugees and Migrants (ARCA). In addition, members of the labor and business organizations were informally consulted when drafting the 2007 amendments brought to the law on aliens for the working permits part. Nevertheless, no involvement of political parties was reported. After integration, the policy process tends to open towards non-state actors and their role is more visible compared to the candidacy period, however the overall image shows a less inclusive decision-making process when it comes to policies that pose a high EU pressure on domestic actors. This is in line with the first set of hypotheses that state that Europeanization reduces the importance of consultations with non-state actors in the pre-parliamentary phase and amendments in the parliamentary committees, the policy process being less inclusive before integration than after, but overall maintaining a close character.

The Impact of EU Pressure on Power Configuration

Both the subjective measurement, reputational power (calculated as the percentage of the most important actors and the three most important actors, as indicated by the interviewees) and the indicator based on the position of an actor in the cooperation network¹³, betweenness centrality (score that measures the percentage of actors that need to get in contact with a specific actor in order to reach other actors in the network) point to the fact that state bodies are the most important/powerful actors in the policy making process.

Table 2 Importance of the state and non-state actors: the reputational power

Immigration and asylum policies	The most important actors %		The three most important actors %	
	2004-2006	2007-2008	2004-2006	2007-2008
Public administration (various departments from the ministries that participated in the decision-making process)	82.14	65.89	96.36	75.22
Political parties	0	0	0	0
Trade Unions	0	0	0	0
Business Organizations	0	0	0	0
Social organizations	14.28	31.6	3.36	24.75
EU experts	3.57	2.49	0	0

Table 3 Importance of the state and non-state actors: scores of the betweenness centrality

Betweenness centrality %			
2004-2006		2007-2008	
The National Office for Refugees	81.83	The National Agency for Employment	60
Authority for Aliens	77.43	The General Direction of European Affairs and International Relations	58
The National Agency for Employment	59.96	The Romanian Office for Immigration	54
The General Direction of	46.56	The General Direction for Consular	10

¹³ The question for the collaboration network was formulated as follows: “Based on the list of actors presented, can you please indicate the actors with whom you collaborated closely (frequent, regular contacts in the decision-making process)?”

European Affairs and International Relations		Affairs	
The Office for Labor Migration	6.9	The General Direction for Undergraduate Studies	0.75
The National Agency Against Trafficking in Human Beings	4.5	The Ministry of Public Health	0.75
The General Direction for Consular Affairs	3.9	The General Direction of International Relations and European Affairs	0.75
The Juridical Direction	1.9	United Nation High Commissioner for Refugees	0.75

As the data presented in Table 2 and 3 shows, state actors substantially outweigh non-state actors. This effect is stronger before integration, where state actors were considered the most important ones by more than 80% of the interviewees and were the only actors to play the role of a ‘gatekeeper’ or ‘broker’ for the connection with other actors in the immigration and asylum sector. This indicates a very high control power over the other actors in the decision-making process. After 2007, there is still a powerful public administration body in this policy sector, however non-governmental organizations display a more powerful role as compared to the before integration period, where they were marginalized in the cooperation network. In other words, the strengthening of executive as a result of hard Europeanization is a visible effect both before and after Romania joined the Union, nevertheless at a different level for the two analyzed periods.

The Impact of EU Pressure on the Level of Conflict

The questionnaire included a question on the convergence and divergence of opinions with the other actors in the network, scores that allow determining how the external EU pressure may modify the level of conflict among the actors involved in the immigration and asylum policy making for the two points in time.

For the 2004-2006 period there is a very high level of convergence of opinion¹⁴ (0.67), indicating that Europeanization reduces significantly the level of conflict among domestic actors. After integration, there is still convergence of opinion in this sector, but the level is lower than in the previous period (0.47). However, this score still indicates a high level of consensus in the decision-making process.

Based on respondents' answers and additional qualitative information gathered during the interview round, it transpires that a wide consensus characterized the decision-making process in the two points in time. Before integration there was a large group of state actors and some non-governmental organizations that cooperated closely in this sector, with only a minor division line between UNHCR and two departments from the ministry of interior (The National Office for Refugees and Authority for Aliens). For the after 2007 period, cooperation also characterized the type of relationships between actors, however a discontent line was identified between two ministries and their designated departments for working on these policies. As the interviewees reported, the disagreement was between the National Agency for Employment, the Office for Labor Migration (Ministry of Labor) and The Romanian Office for Immigration (Ministry of Interior) on aspects concerning the handling of working permits of third countries immigrants. However, given the pressure from the EU in terms of strict deadlines for adoption of these policies, domestic actors had to solve these discrepancies and reach a final agreement. As shown above, the level of conflict among domestic actors in decision-making is significantly reduced both before and after integration.

Final Remarks

The results based on the first round of data collection indicate that Europeanization has an important effect on the decision-making process. In terms of the institutions of

¹⁴ The average level of convergence/divergence was calculated by adding the scores of the convergence/divergence matrix (-1, 0, 1) and divided by the overall number of possible ties.

decision-making, it appears that the pre-parliamentary (more specifically consultation of non-state actors when designing a public policy) together with the parliamentary stage (namely the debates and amendments part in parliamentary committees) lose their importance, the whole policy process becoming less inclusive. The power relationship is also restructured due to the EU pressure on national actors, the executive becoming the most visible and powerful actor in the network. Europeanization significantly reduces the level of conflict, leading to a high level of convergence between the actors involved in these decision-making processes.

This paper has shown not only another inquiry area for the Europeanization studies, pointing to the fact that the polity and politics are affected by the EU pressure, but also it brought an innovative approach to the study of decision-making. It has assessed the policy making process based on the structural relationships of the actors involved in designing public policies, research path that has not been investigated so far for the Romanian context.

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Appendix 1: List of Interviewed Actors

Abbreviation	Name
State Offices and Ministries	
ApS	Authority for Aliens
ONR	The National Office for Refugees
ANITP	The National Agency Against Trafficking in Human Beings
IGPF	The General Inspectorate of Border Police
DGAERI	The General Direction of European Affairs and International Relations
ORI	The Romanian Office for Immigration
DirJur	The Juridical Direction
DGAC	The General Direction for Consular Affairs
ANPOFM	The National Agency for Employment
OPMFM	The Office for Labor Migration
IM	Labor Inspection
ANPPH	The National Authority for Disabled Persons
DGRIAE	The General Direction of International Relations and European Affairs
DGMIP	The General Direction for Undergraduate Studies
MinS	The Ministry of Public Health
DAE	The Department for European Affairs
Non-state actors	
UNHCR	United Nation High Commissioner for Refugees
OIM	International Organization for Migration
CNRR	The Romanian National Council for Refugees
ARCA	The Romanian Refugees and Migrants Forum
JRS	The Jesuit and Refugees Service
PD	The Democrat Party