The EU’s impact on reform in Romania: The case of the civil service

Alexandru-Leonard Ionită

Abstract

Public administration reform in Romania has been inextricably related to the European accession process. This situation is generated by the fact that the reform process was a late one and it accelerated only when it was becoming obvious that without it the accession to the EU was in jeopardy. Politico administrative relations within the civil service have thus, for the most part of the 1990s, continued to be influenced by the patterns of behaviour that existed before prior to the 1989 revolution. By analyzing the central, ministerial level we can see that the reforms appeared mostly in connection and as a response to the accession process of Romania to the European Union. Politico-administrative relations have shifted visibly in the areas most linked to the integration process through creation of new support structures within ministries and agencies, thus connecting on a cross-sectoral basis different levels in public administration. This article investigates the impact of the creation of such structures, which had their origin in the Prime Minister’s cabinet, and the extent of their influence on the already existing patterns of behaviour in the Romanian public administration. It starts to analyze the existing behavioural patterns and the modification that such actions have brought, followed by analyzing the administrative response to European integration and its significance for the shift in the power relations between different levels in public administration. Created by governmental decision and thus closely linked to the Prime Minister’s office the new structures have however enjoyed a relative rate success. Such progress toward greater professionalization and independence of the administration has been uneven and limited. The EU’s responses to the challenges of reform in Romania are found to have a limited effect on changing the relevant power structures and are criticized for not tackling core structural causes of the slow pace of reform which are located in the public administration itself.

1. Introduction

The 1989 revolutions that swept Central and Eastern Europe (CEE), although a common denominator for the CEE countries, generated different effects in terms of their ensuing development. The revolutions themselves differed in how they unfolded and showed that, even though the countries involved had all been nominally communist, there were big discrepancies between their levels of economic and political development. These differences would also be reflected in their subsequent reform processes from centrally planned to market economies and towards democratic organization.

Romania’s bloody revolution shows that the political elite in power here was not eager to step down and follow the peaceful example of the societies of its neighbours, such as Poland, Hungary and former Czechoslovakia.¹ This experience

has created deep divisions within Romanian society, which, from then on, has looked with distrust at its elected politicians. Romania also experienced the formation of a cleavage between the former communists who seized power immediately after the revolution and anti-communists represented by most historical parties that came back to life after 1989. This rift has had an important effect on the reform process in Romania, as it formed the core of a continuing dispute between two ways of life.

Immediately after the revolution Romania needed to undergo substantial reforms in order to open itself to the west and, most importantly, to face a new challenge that lay ahead and on which it embarked soon afterwards: accession to the European Union (EU). The country’s policies were thus shaped by two distinct but related processes: the first was the “double transition”: democratization and economic liberalization; the second was the accession process to the EU. Although largely complementary, these processes each generated their own demands and policy priorities, which did not always converge. Thus, Romania found itself in the difficult situation of mediating between two types of processes of fundamental change: an externally induced one represented by the European integration dynamic and an internally induced one represented by the democratization and economic reform processes.

However difficult the initial situation, and however different from the rest of the countries comprising the former communist block Romania was, it did embark on the course of reform. The country made its bid for EU accession in the early 1990s, to ensure future prosperity and as a quest to join the European family of nations, from which it had been cut off for 50 years. In 1993 Romania signed its Europe Agreement, and in June 1995 it officially applied for membership. Starting from the middle of the 1990s, the desire to join the EU has shaped the country’s reform process as a whole, as the EU’s standards have become the tools to measure the success or failure of reform policies initiated by the Romanian government as part of the Europeanization process.

The main reasons for the slow advancement of the reform process were lack of political will and low administrative capacity to actually implement the reforms officially adopted. While in the first years after the revolution there was a perceived lack of political will, as the new government was reluctant to implement structural reforms, even after the change in power of 1996 the problems still persisted. Although

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2 In fact, Claus Offe and Pierre Adler speak of a triple transition for the Eastern European case, with crucial decisions regarding “identity, citizenship, territorial, social and cultural boundaries of the nation-state […], {with} rules, procedures and rights which together make up the constitution or the institutional framework of the ‘regime’, {and only finally with ‘what is sometimes mistaken for the essence of politics’, namely the allocation of} political power and economic resources” (p. 870). See Claus Offe and Pierre Adler, “Capitalism by Democratic Design? Democratic Theory facing the Triple Transition in East Central Europe”, Social Research, vol. 58, issue 4, winter 1991, pp. 865-92.


Romania then enjoyed a government considered pro-reformist, in-fighting within the ruling coalition led to the stagnation of the reform process. It has, however, become obvious by now that an entire body of civil servants, which has been strongly criticized for inefficiency, lack of transparency and, at times, corruption, has all along seconded the political elite in its unwillingness or inability to pursue reform.

2. Impact of administrative traditions and institutions and patterns of behaviour

The role of the civil service in Romania since 1989 has been, in general terms, to implement the reforms decided upon by the ruling political elite. The deep divisions that have affected Romanian society have not left the civil service untouched. A distrust of political elites has remained in place there as well, even as civil servants and elected elites together form the public administration. Many critics of Romania’s reform process stop at blaming the civil service for hampering and delaying reforms through its slow and inefficient procedures and corruption. However, it is important to recognize that the body that had to implement the reforms needed first to be itself reformed. This happened at a very slow pace and very late in the overall process. A law establishing the “New status for civil servants” was passed only in 1999. As late as it came, this legislation concerning the improvement of the civil servants’ status as well as organizational procedures within the bureaucracy still left some major issues unaddressed which were generally seen as the roots of the problems encountered. Among these were the improvement of the transparency of the decision making process and measures for combating corruption, areas which began to be legally addressed only in 2003.

The question arises as to why the Romanian civil service still has not undergone a thorough reform process even today, thus crippling the pace of reforms in all other policy areas. The answer lies in large part in the lack of political will of the ruling political elite, both before and after 1996, as it has seen a weak administration better suited to its own intentions of micro-managing the pace and the

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6 Let us cite three such statements: “At this point in time, it is the weak administration and judiciary capabilities, as well as the underperforming economies of the two countries that slow down the effective and sustainable convergence with the Union’s political and economic life.” (Aneta Spendzharova, “Bringing Europe Back In! The Impact of EU Conditionality on Bulgarian and Romanian Politics, Southeast European Politics vol. 4, no. 2, 2003, p. 144). “The positive tendencies of strengthening the institutions, consolidating the party system, separating the powers, decentralising certain aspects of governance have co-existed with the negative ones of political clientelism, criminalization of the economy and society, partisan control of the administration and, quite often, of the judiciary.” (R. Kolarova, “Democratisation in Bulgaria: Recent Trends,” in M. Kaldor and I. Vejvoda (eds.), Democratisation in Central and Eastern Europe (London: Pinter, 1999), pp. 151–160). “A huge stumbling block for reforms has been the continuation of former communists in political power in the first years of transition, which has sidelined pertinent issues of democratisation and liberalisation.” (Venelin I. Ganev, “The Separation of Party and State as a Logistical Problem: A Glance at the Causes of State Weakness in Postcommunism,” East European Politics and Societies, vol. 15, no. 2, 2001, pp. 389–420). See also Victor D. Bojkov, “Neither Here Nor There: Bulgaria and Romania in Current European Politics”, Communist and Postcommunist Studies, vol. 37, no. 4, 2004, pp. 509-522.
results of reform. In other words, not facing a more independent and more highly qualified civil service has allowed political elites a free hand in deciding the direction of the reforms and almost total control in their implementation. It has enabled them to re-direct and even highjack reforms in order to consolidate their own status as political elites; in the process they have become infamous for using public money for either their own personal benefit or for financing the party which put them in their high positions in the first place.7 Sadly, no government since 1989 can safely claim to have had no members who fit this picture.8

This must not, however, lead to the conclusion that the civil service was a stranger to such elite strategizing or merely a victim of the delayed transition process, as it has not shown any visible signs of resistance to the practices employed by the ruling elite. Fifty years of secrecy, manipulation, and generalized corruption have taken its toll on the public administration, especially on the bureaucracy, which even in developed democracies seems often sluggish when it comes to fundamental change and unwilling to reform itself. The civil service in Romania has proven to be predictably defensive and resistant to change, and it entered a symbiotic relationship with similarly minded elected elites. In the process, it has become a tool in the hands of the political elite rather than playing an active role in the reform process. This has led not only to a poor performance in terms of realized reforms but also transformed the civil service into a subsidiary of the political class rather than granting it a greater extent of independence, which might have helped stimulate the reform process.

2. Europeanization, conditionality, and public administration in Romania

Europeanization has been defined by Ladrech as “a process reorienting the direction and shape of politics to the degree that the EC political and economic dynamics become part of the organizational logic of national politics and policy making.”9 The Europeanization process is especially significant for the central and eastern European countries as it includes the infusion of norms and practices into the national arena at the level of domestic policy making and political discourse, while the European integration process is focused more narrowly on institution-building and assuring compatibility with similar institutions and policy coherence in the European arena, both at the member state and at the supranational level.

Building on Ladrech, Radaelli has broadened the definition of Europeanization to include “processes of a) construction, b) diffusion and c) institutionalization of

7Aurelian Crăițiu’s label for the pattern of relations that developed during the first presidential term of Iliescu is “perverse institutionalisation”; thus, he refers to the broad and ill-defined powers of the executive, to the existence of policy domains exempt from the control of elected officials, and to the emergence of widespread clientelism: Aurelian Crăițiu, “Light at the end of the Tunnel: Romania 1989-1999”, in Geoffrey Pridham and Tom Gallagher (eds.), Experimenting with Democracy: Regime Change in the Balkans (London: Routledge, 2000). See also Florin CIORNEI, “Modificarea componenței structurilor centrale de conducere ale PDSR/PSD”, Studia Politica. Romanian Political Science Review, vol. IV, no. 1, January 2004, pp. 105-158. The author discusses in great detail the changes in the leadership structures of the PSD and its previous avatars, contextualizing these amidst the accusations of corruption or at least dubious legality that have led to this party’s subtitle as the “party of businessmen with state-related interests” (p. 116).


formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’, and shared beliefs and norms which are first defined and consolidated in the making of EU public policy and politics and then integrated in the logic of domestic discourse, identities, political structures and public policies.”

This expansion on Ladrech’s definition is significant since it places the emphasis on norms and shared beliefs rather than formal institutional dialogue between two political entities. This broadens the research spectrum but also makes the process more diffuse and more difficult to assess. This problem also affects the present analysis. While there are certainly “European” norms and values guiding the process of public administration reform in Romania, there is no specific institutional model prescribed by the EU, making it difficult to assess any direct causal linkage between adaptation pressures and actual changes in domestic policy in the field of public administration. Although institution-building in Central and Eastern Europe has been both a priority and a challenge, especially early on in the post-communist period, it is not difficult to trace this process as part of the overall process of post-communist reform. However, doing so leads only to partial results, as institution building is only part of the overall reform process. The other part consists in propagating the values and “ways of doing things” that can actually render the new or reformed institutions effective and efficient. The case of Romania is significant in this respect, as the country has a long history - dating back to the reform process in the interwar period - of institutions that mimicked their western counterparts but were devoid of the relevant values, meaning that they lacked both the spirit and the internal mechanisms that rendered the original institutions functional and efficient.11

This article focuses on the domestic level, analyzing the evolving balance of power between political elites and the civil service in Romania and the ways in which the European accession process has affected the internal dynamic of this relationship.

3. “The wolf sheds its fur but not its habits”12: Impact of administrative traditions and patterns of behaviour

The transition from the “communist” regime that dominated Romania for half a century to a democratic, market-oriented society has not been a smooth one. Reforms were difficult to introduce, as the communist legacy, formally or informally, lingered on. The pervasiveness of the old regime was enhanced by its peculiarity, which set it aside also from the rest of the regimes east of the Iron Curtain.

One unique feature of Romania’s pre-89 regime was that the “one party” rule of the communist countries was taken a few steps further here to become one man’s rule, the personalized regime of Nicolae Ceaușescu. The concentration of power in the hands of one man meant that, unlike in other communist countries in the region, in Romania there were no checks and balances even within the communist party, which became more and more the instrument of not just one political elite but just one family, the Ceaușescu family. This feature led to Romania becoming an enclave

11 Romanians are well-aware of this phenomenon, which is commonly labelled “forme fără fond” – “forms without substance”.
12 This is a well-known Romanian proverb, in the original “Lupul își schimbă părul, dar năravul ba”.
separated from not only the world at large but even from the “communist block”. The effect of such a peculiarity on Romania’s development, even during communism, was immense. Spill-over reforms, stemming either from the need to cope with the larger problem of enforcing state ideology or from influences from elsewhere within the communist block, where different policies were being tested, hardly affected Romania. While the administrative apparatus (including the number, attributes, and prerogatives of the ministries and agencies) was frequently reshuffled, changes did not accumulate to form a consistent trajectory of reform or progress. The political elites were either against reform altogether or interpreted it to require no more than mere reshuffling, a characteristic that seemed to linger on even after the demise of the communist regime.

Another relevant feature of the Ceauşescu regime was the personalization of office. The total domination of politics by one man was re-enacted on smaller scales down to the lowest ranks of the political-administrative apparatus. There seemed to be a considerable amount of inertia in the relationship between offices and their holders, unless of course change was commanded from the top. Once appointed, officials in top positions would seek to prolong their stay in office for as long as they could. This would generally happen at the expense of the productivity and/or efficiency of the institutions they were in charge of, since, having to constantly prove their loyalty to the communist party, they would become hardliners in party ideology and policy, refusing to implement any type of reform that might even remotely jeopardize their positions.

The reform progress after 1989 with respect to the civil service must be monitored against the background of the communist legacy, as its impact is still clearly visible in today’s Romanian public administration. The accession process to the European Union, through the reforms needed to bring Romania to EU standards, would also need to affect the balance of power between the political elite and the civil service. The policies employed by the successive post-communist governments would, however, address this issue only partly, as the lack of an EU model for public administration would allow decision-makers a rather free hand in determining the types and pace of reforms aimed at developing a politically independent, qualified and motivated civil service corps. Generally speaking, the problems that were present during communist times did not disappear; some of them were not even openly addressed, leaving also political-administrative relations largely unreformed. Positions in the upper levels of the civil service continued to be distributed based on party loyalty, a practice known as “political clientelism”.13

A related weakness of post communist political-administrative relations has been the exclusion of the civil servants from the policy development process. The potential role of civil servants as professional advisors on policy matters has been disregarded, as politicians have relied heavily on political advisers from outside the civil service when it came to policy development. Although the communist period has had a negative effect on the civil service’s ability to produce coherent policies

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13 For a discussion of the origins of patronage and clientelism (terms otherwise used interchangeably in the literature), their association with parties and the civil service and the prospects of taming them, see Luis Roniger, “Civil Service, Patronage and Democracy”, ILICS, nos. 3-4, 1994, pp. 207-220. An excellent literature review with a reference to Eastern Europe and new democracies in general is offered by Oleh Protsyk and Andrew Wilson, “Centre Politics in Russia and Ukraine: Patronage, Power and Virtuality”, Party Politics, vol. 9, no. 6, 2003, pp. 703–727. For an illustrative case of how these mechanisms function, including the associated perils, see Carolyn WARNER, “Political Parties and the Opportunity Costs of Patronage”, in Party Politics, vol. 3, no. 4, 1997, pp. 533-548.
appropriate for the new circumstances, the true main cause for keeping the civil servants away from policy formulation was political clientelism. Administrators were granted positions of influence on the basis of their likely future use to a party or interest group powerful enough to maintain them, regardless of their managerial skills or other professional qualifications. A general problem affecting the reform of political-administrative relations throughout the CEE is that of trust. Are new governments willing to work with the same civil service that they find in place once they gain power, or do they feel threatened by it, as they perceive it a Trojan horse of the former government that will systematically undermine their governance? In Romania’s case there was little incentive for the first government to initiate a reform of the civil service, as, although the revolution was a bloody one, the political transition that followed did not reflect the radical impulse for renewal of the revolution. In the mid 1990s, however, while most Central and Eastern European countries were experiencing what Vaclav Havel named “the velvet restoration”, Romania was experiencing the first real change in power, as pro-democratic forces, which came together in a grand coalition, won the 1996 elections.

The relation between political elites and civil servants in Romania can be generally described as belonging to a “regime allowing hidden politicization.” Although a set of norms is in place - mostly inscribed in written laws - that represents the aim of transforming the civil service into a politically independent and professionalized corps, political interference is still present, due either to loopholes in the legislation or to powerful unwritten norms which at times take precedence over the written ones.

Civil service legislation has been a difficult and contested issue in all central and eastern European candidate countries, and all may have taken advantage of the lack of an acquis concerning public administration. Hungary, for example, has been the pioneer in administration reform, with a new civil service law being enacted as early as 1992. However, as Verheijen and Rabrenovic rightly point out, the impact of this civil service reform has been limited and has not produced the “expected spin-off in terms of developing the role of civil servants in policy formulation.” Meanwhile, as Romania was approaching the end of the millennium, a new law for the civil service was still not in place here. Although the ruling elite tried to solve several problems via related pieces of legislation, such as the freedom of information act, this was clearly not enough, as root problems persisted.

Romania finally passed new civil service legislation only in 1999. However, this legislation, modified since then no less than eleven times, only sketched out the principles guiding the civil service and the division among the different classes and types of civil servants. Further reforms were needed, and partly came in the form of the Civil servants’ code of conduct in Law no. 7/2004. The newly set up National Agency for Civil Servants was put in charge of addressing cases of misconduct in the civil service corps. A report published by the Agency regarding cases of misconduct between August 2004 and June 2005 shows that 252 civil servants have been...

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17 The Civil Servant’s Act 188/1999, re-published in the Official Journal 251 of 22 March 2004, after no less than 11 modifications through governmental emergency ordinances and subsequent legislation.
investigated under the law, with only seven cases resulting in the severance of work relations.\(^{18}\)

An odd effect of the civil service act was that it “froze” the moment in which the act was passed and transformed everyone working in the public administration at the time into a civil servant, with an indefinite contract. Thus, the civil service in Romania now comprises a staggering 110,426 civil servants\(^ {19}\), out of which more than half, 64,497, are working in the central administration\(^ {20}\). This is partly a result of the great number of ministries in the post communist period, compared to the average number of ministries in other acceding countries. What is remarkable in terms of reform is that shrinking the number of ministries did not lead to a decrease in the number of civil servants, their number remaining constant.

The government’s influence on the civil service is best seen in personnel policy as, although the legislation in the field regulates the civil service corps per se, its size and remuneration prerogatives are still in the hands of the political elites. Not only the power over wage policy is important here, but also the overall structure of the civil service. Although no government has even attempted a structural reform of the civil service through wage policy, governments have exercised an important influence on shaping the civil service corps. The government has the power to freeze positions within the civil service overall, or targeting a particular ministry or agency. This was considered an important tool due to the endemic distrust of political elites in the civil service. This distrust made elected elites feel the need for civil servants who ideologically approved of their policies, as otherwise they might undermine their implementation, and eventually the government itself. It is due to this fear that all governments have made it clear that an important part of their reform efforts was actually removing people from office, even as, when in opposition, they harshly attacked their rivals for “political cleansing.”\(^ {21}\)

Civil servants’ positions are filled at the discretion of the government through the centralized body of the National Agency for Civil Servants (NACS). The Agency monitors the positions in the public administration and must give its approval on positions to be opened to competition. Thus, all civil servants positions, especially decision making ones, have to be approved by the NACS.\(^ {22}\)

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19 For example the number of Polish civil servants slightly exceeds 117,000 persons for a population of almost double the size of that Romania. For more information see “System of the civil service” issued by the Office of the Civil Service, available at: http://www.usc.gov.pl/gallery/24/249.doc (last accessed on February 14, 2006).


21 In mid-2004 the government in power froze the positions in the civil service until the end of the year, meaning not only that no new positions were offered to be filled but also that the restructuring of institutions was impaired (which could have been a method for laying-off people). This was seen as an attempt to stop “political cleansing” in case the government lost the elections in November and to counteract the effects of the opposition having gained ground in the local elections just before.

22 For example, unless it is part of the approved personnel structure, the creation of a new position, must be forwarded to NACS for approval.
During the course of Romania’s accession process, the evident problems with administration reform began to seriously affect the European integration process, since the immense body of European legislation that formed the community acquis needed not only transposition into national legislation but also required a professional body of civil servants, politically unencumbered and accountable, in order to implement the new legislation. The European Union made clear from the beginning that compatibility with EU norms and practices was crucial also in this field and started to monitor the administrative capacity of Romania to adopt and implement the acquis. This made administration reform a de facto central part of the accession process, although there was no European legislation that directly affected public administration, let alone the organization and functioning of the civil service. This particularity of the negotiation process renders the impact of the EU on the relations between the political elites and the civil service in accession countries difficult to assess, as influence is taken less directly than in other areas. The next section will show that some influence is exerted by the EU to the benefit of reform-minded civil servants, although it is difficult to claim that the EU has done all it can to stimulate a modernization of the Romanian public administration and the development of a professional civil service in the country.

4. Impact of the Europeanization process on politico-administrative relations at ministerial levels in Romania:

Romania’s bid for accession to the EU presented the country with one of the most challenging and important processes in its recent history - the European integration process. The pre-accession process is characterized by an adaptation of the economic and political spheres to a common denominator within the European Union in order to allow for a smooth enlargement of the organization. However, the common denominator has not at all been easy to reach for Romania, as either certain standards were set too high or certain societal forces were resistant to change, making the pre-accession period a very difficult one.

The European Union has, from the early 90s onward, become a constant reference in Romania’s politics, as the integration process was considered synonymous with the development and modernization of Romania after the dark ages represented by the communist regime. This is why the accession process was almost unanimously considered a historical chance for Romania. Reforms were needed in any case in order for Romania to function as a credible state in relation to its western democratic neighbours and on the world stage. When the European Union decided to reward these reforms, which many considered necessary and good in and of themselves, with the promise of membership, this was seen as a long hoped for victory against history, which had been so ruthless to Romania in the past ages. There was a catch, however. First, the required reforms needed to be implemented in a very short period of time with tremendous implications for the population. Second, there were conditionalities attached to the reward of membership, in the form of specific types of reforms that needed to be pursued. The path to economic and political reform was broadly sketched by a mélange of institutional designs coming from the EU but also from other international organizations, such as the IMF and the World Bank. In particular, certain macro-economic policies were preferred over others, as the end result needed to resemble the internal dynamics of the European Union as much as possible and as powerful interests within the EU sought to shape the transitions in CEE to their own
advantage. The Union has developed a wide range of mechanisms to be actively present in the reform and decision-making processes at the domestic level, which has generated the perception of the EU as an ever-watchful eye. All these factors combined allow it to exert unprecedented influence on the reform process in Romania, ranging from restructuring domestic institutions to designing entire public policies.

Yet the EU has not dictated every step of the accession process in terms of the methods that needed to be employed to achieve goals, be it through specific pieces of legislation or ministerial reorganizations. While retaining the upper hand in the negotiations and ultimately in the entire reform process, the EU relies on its “soft power” to stimulate change in its candidate countries. Rather than seeking a top-down uniformization of the political-administrative systems of the newly acceding countries, a process the EU does not and cannot enforce even in its own space, the emphasis is strongly placed on the domestic arena in the acceding state which must fulfil the accession conditions.

The European Union policy towards the CEE countries is generally described as a policy of conditionality. EU conditionality has been defined as a “bargaining strategy of reinforcement by reward.” This means that there is a continuous exchange of ideas and reasoning about the reform process between the domestic and EU arena rather than an explicit formula provided at the beginning of the accession process and used as a standard of evaluation at the end. The on-going evaluation of the reform process by the EU often leads to a perceived intrusion of the EU into the domestic arena. Thus at times the EU has been criticized by the Romanian media for what seemed to be overly direct interference in the reform process. Moreover, the EU does not only act as a quasi-internal actor within the policy-making process inside Romania, but its decisions and reports, usually critical in nature, have a definitive impact also on Romania’s relations with other actors, such as international financial institutions, that can seriously affect the pace and even direction of the reform process.

The decision of the European Commission to monitor the progress towards accession beginning with 1998 on a yearly basis, by means of regular reports, has propelled the EU to the status of an active player in the domestic arena of accession countries, able to influence the domestic policy-making process significantly. European guidelines, comments and opinions have often been regarded as providing the standards against which governmental performance could be rated or by which certain policies could be considered successful or not. Opposition forces have always used the EU’s monitoring instruments to show the inability or unwillingness of the government in office at the time to pursue structural reform (usually considered due to poor policy formulation and lack of expertise of the decision makers). This was partly justified, as reforms were generally delayed, or even backfired. We must also keep in mind that the EU’s reports were consistently rather critical in nature and, ironically, whenever opposition forces managed to win the elections and replace the government in power, the reports kept their critical tone, unveiling an endemic inability of the

23 Tom GALLAGHER, Romania after Ceaușescu (Edinburgh, Edinburgh University Press, 1995).
24 The concept of “soft power” has been pioneered by Joseph Nye. See his article “Soft Power,” Foreign Policy, Vol. 80, Fall 1990, pp. 153-172.
entire political class to address and pursue structural reform in line with the EU’s expectations.

Thus, paradoxically, the European Union has displayed an impressive leverage on guiding the reform process while at the same time it has proven unable to impose reform. This apparent contradiction stems from the fact that, as stated earlier, EU policy towards the CEE countries favoured reinforcement by reward rather than penalizing unwillingness to pursue reform. Thus, “carrots” were favoured over “sticks” - the EU relies heavily on luring governments into pursuing reform by the huge incentives ahead, i.e. membership of the EU, while having few means at its disposal for punishing non-compliance. This is why we can consider Europeanization as mainly an internally driven process. It also helps explain not only the differences in the pace of reforms and ultimately the level of development achieved between the accession countries but also the wide range of policies employed across central and eastern European space that led to different EU-compatible results.

The mechanisms by which the EU offers incentives for compliance with European norms and regulations and ultimately meeting the Copenhagen criteria far exceed the mechanisms for correction of unwanted or unproductive behaviour that could highjack the reform process in both scope and frequency of deployment. Both types of mechanisms are employed simultaneously, giving the EU the power to directly or indirectly shape the course of the reform process. They range from the most deterrent and difficult to put into practice, which is the control of progress through the stages of accession, to the most alluring to the poorer countries of the CEE, which is control of access to EU funds. Control of progress through the stages of accession ranging from Europe agreements to opening negotiations and later actual membership, also called gate-keeping, is difficult to put into practice since, although a post-communist country in CEE may experience internal problems and prove a laggard in the reform process, it would take a gross violation of democratic principles to deny it progress to the further steps in the integration process. By means of the pre-accession funds, on the other hand, the EU has become actively involved in the reforms as a financier of the integration process. Among intermediate mechanisms of influence we can find benchmarking and monitoring, providing legislative models and institutional templates, and giving advice and twinning. Through these mechanisms the EU has successfully bypassed the highest level of negotiation between independent and sovereign states, which was traditionally associated with signing treaties. Being a non-traditional and multi-level actor, it has managed to be present at different levels in the process of policy formulation as well as implementation, directly impacting on a wide range of societal actors albeit at different paces.

Although in the different reports on Romania’s progress toward accession, the European Commission has identified the core problems of the Romanian public administration that support its inefficiency and openness to corruption, such as “cumbersome procedures, a lack of professionalism, inadequate remuneration and

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27 The methods employed by the European Union in relation to the acceding countries have been categorized by Heather Grabbe in “How Does Europeanization Affect CEE Governance: Conditionality, Diffusion and Diversity”, *Journal of European Public Policy*, vol. 8, no.6, 2001 pp. 1013-1031.
the responses and guidelines provided to address these issues are more than lax. They range from the harsh but apparently inconsequential – “limited progress has taken place” – to the more optimistic “implementing procedures need to be clarified and made more transparent.” Thus, although the EU is very critical of the progress made by Romania, its recommendations to address the issues are very general in nature. The discrepancy between the analysis and the responses of the EU has also contributed to the slow pace of reforms. The EU not only lacks enforcement tools to ensure compliance but also restrains itself in setting out a desired course of action in an area still perceived as a matter of domestic policy. This can also be seen in the response mechanisms the EU has set up in the area of institution-building in public administration, in the context of the PHARE projects.

Of all societal actors the EU has been most closely linked to public administration in general and the civil service in particular, since the greatest challenge of the accession process - the adoption and implementation of the acquis - has been mainly the responsibility of the civil service. The most alluring mechanism to facilitate compliance, money, materialized in the pre-accession funds, PHARE, ISPA and SAPARD. Out of the three, PHARE was by far the most important, focusing on two priorities: institution-building and investment support. While the latter seeks to encourage investment, primarily by helping to bring infrastructure in line with European standards, the former is of particular interest to this research, as it focuses on strengthening the administrative and institutional capacity of the public administration in order to enable it to fully implement the acquis.

PHARE projects have been both designed to assist in and offer expertise on broad policy areas linked with the chapters of the acquis as well as targeted at core ministries or other public institutions with the task of improving performance and expertise within the respective institutions. In the second category, twinning projects are those projects in which Romanian civil servants are seconded by pre-accession advisers (PAAs) from the member states’ civil services for a minimum of one year with the task of importing know-how on the implementation of the acquis to national and local administrations. Other PHARE projects focus on institutional development through which public institutions can benefit from EU expertise in areas ranging from human resources management (often the result is a new organizational chart of the respective institution) to marketing strategy, training on EU-governance related issues, and the highly popular study trips during which Romanian civil servants obtain first hand experience in similar institutions within the EU.

PHARE projects have enabled EU experts to establish a direct link with lower echelons of the Romanian civil service, with implications for the power relations between political elites and the civil servants benefiting. However, they have had quite mixed results, as initial expectations did not usually match the situation on the ground. The Romanian “way of doing things” has proved a threat to the success of these projects even from the beginning, as over-bureaucratization, cumbersome


procedures and lack of expertise have delayed even the start of the projects. Many EU experts have complained that the period between the selection of a project and its actual commencement sometimes exceeded 12 months, a time during which the initial situation changed drastically, so that the project had to be revised. As soon as they arrived, they stumbled upon a major problem inherent to Romanian public administration: a rigid hierarchical structure, which deterred any junior staff from taking initiatives. With a salary of roughly 100 euro per month many civil servants also did not find it worthwhile to get involved with the workload that the reform process entailed. Politically connected civil servants knew that they would pursue a career that would not really be based on performance in the office, while the civil servants who wanted to pursue a performance-based career saw their chances diminished by the informal rules of the system and started migrating to the private sector, where both salary and working conditions were better.

PHARE projects in general became important in this context because they could alter the internal dynamics of the civil service to the benefit of its more reform-minded elements. Many of the young, highly qualified staff, frustrated by the habits of the dinosaur-like senior officials operating on the basis of political patronage and personal friendships, saw in these projects a chance for rapid affirmation and promotion. Close working relations formed between the young and pro-reformist elements in the Romanian public administration and pre-accession advisers mainly because the former were the only public administration officials who did not mind the workload entailed by the integration process and were among the few for whom the language barrier was not a problem. Another reason was that the higher echelons of the civil service did not feel threatened by the newly created partnership as they still retained the decision making power. The close working relationships between the PAAs and the reform-minded civil servants could not by themselves guarantee the implementation of the projects’ objectives. Ultimately, successful implementation depended on the efficiency of the entire bureaucracy and the reform commitment of its political leadership. This is how the mixed results of the PHARE projects, and especially the twinning programs, can be explained and what justifies the suggestion that “an achievement rate of 10-15 percent of the projects’ stated objectives should be considered a success”.

This relative failure of the PHARE projects stems also from the original design of the projects. The European Union originally conceived these projects as “demand driven”. This meant that although the framework and procedures had been established at the EU level, the express intent and application for the aid had to be formulated within the national administration. Even if later PHARE aid was concentrated exclusively on priorities for accession, as defined by the Council in the Accession Partnerships, the problem still remained. The procedure for accessing funds was generally seen as over-bureaucratized and required thorough knowledge by the Romanian civil servants of the “modus operandi” at the EU level. Instead of simplifying the procedure the EU chose to run training programs, funded by PHARE

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as well, aimed at training the civil servants in the procedures employed by the EU. Still, given the fact that the Terms of Reference for the respective projects were still being written in the country, the lack of overall expertise in identifying the core problems and in “talking the talk” of the EU funding machine led to a series of badly written projects. Some lacked correspondence between project activities and objectives, while others were simply too ambitious, usually underestimating the real bases of the problems they faced.35

The fact that the projects have had to be designed in Romania has contributed to the infamously low absorption capacity for PHARE funds that the country experienced. To human resources constraints were added financial constraints, as the projects require co-financing from the state of up to 25 percent of the allocated sum.36 Romania has so far succeeded in spending only 19 per cent of the PHARE funds allocated to it. The main reasons for such a low figure, in short, reside in insufficient expertise in writing projects, important personnel fluctuations, bad management of the tendering process, lack of a complete legal framework, co-financing requirements, and corruption.37

PHARE projects have not had a generalized effect on the relations of the civil service with the political elites in Romania. Of course they were not designed with such an effect in mind in the first place. However, there have been indirect and punctual effects through the constant exposure to the EU of civil servants working directly with PHARE. Thus, a by-product of project activities was creating “islands of expertise” in the public administration in which civil servants, generally young and open to reform, acquired expertise in their respective fields as well as solid knowledge on European affairs. Because such expertise was needed, they were also empowered in their respective institutions. Unfortunately for reform efforts, their influence could not spread, as persistent traditional norms within the public administration hampered the spill-over effect that the PHARE projects could have had. The frustration thus experienced has also led talented civil servants, upon completion of the projects, to leave the public sector, as their chances of advancement remained fairly slim while their qualifications had improved.38 Thus, even as EU institutions have repeatedly recognized the crucial role of modernizing public administrations for the entire process of pre-accession reform, it has done little to ensure that its influence on the reform process would extend to this sector and thereby support implementation and make reform sustainable.

35 Cases of corruption were also found among EU-funded projects, as a very inefficient system of control over the management of the funds was in place. The most notorious case is that involving the former Minister of Integration, Hildegard Puwak. In 2003 BBC Romania reported that some companies owned by her husband and son received non-reimbursable EU funds. The Romanian Government led by Adrian Năstase at the time took her side in the matter as the official stance was that she did not break any law. She was not indicted, but resigned in October of same year.
36 Thus, competition takes place also for domestic funding that can allow access to EU funds.
37 Interview with Erich Unterwurzacher, head of the ISPA Unit of the European Commission, Adevărul, 22 August 2005.
38 Personal experience in a PHARE project of the first author supports this assertion, as more than half of the project’s personnel left upon completion, although a clause for working in the public administration for at least one year afterwards was part of the contract. The lack of opportunities corresponding to personal qualifications was the main reason cited.
Conclusion

The impact of the European Union on the power relations between the political elites and the civil servants’ corps in Romania is difficult to assess, due to the EU’s limited capacity for enforcing reforms coupled with the lack of a European “recipe” for the development of an efficient and qualified democratic public administration. Although present at different levels within the public administration by means of EU-funded projects, EU experts have found it very difficult to achieve initial objectives due to the particular features of the Romanian public administration. They soon found out that, even if a project had been approved, its success relied in most cases not simply on the results it delivered but rather on their effective integration into the reform process, which, in turn, required the support of key decision makers within the public administration, usually senior civil servants who have been working in the system for over 20 years.

This is not to say that the impact of the EU has been negligible, but rather that it has not been uniform across the entire public administration and did not enjoy the same intensity and effectiveness where it occurred. The causes of such limited success must not be sought only in the proverbial inability or unwillingness of the Romanian public administration to reform itself but also in the way the European Union decided to tackle the issue of administrative reform in Romania.

The EU’s response to the challenges of reform in Romania can be characterized by the following: a preference for incentives rather than threats; the absence of an EU model for public administration; and an original design flaw of the EU’s presence in the Romanian public administration. First, only rewarding compliance and refraining from any coercive measures in case of non-compliance has induced a “laid back” approach to integration which continued to be perceived as mainly a political deal. This has been generally true for the entire integration process and across all chapters of negotiations. The fact that even after the signing of the Accession Treaty Romania has been disciplined with a safeguard clause shows that the reform process has been pushed back by Romanian authorities until the last stage possible.

Second, in the particular field of public administration the situation is even more complicated, as the EU has no “European model” that it can ask the accession countries to comply with. Although SIGMA – a joint initiative program of the OECD and the European Union - has outlined European principles for public administration, among these being reliability, predictability, transparency, and a basis in law, there is no methodology for how to put these abstract principles into practice or how to monitor their implementation in the developing public administrations of the central and eastern European countries. The European Union, although it supports the SIGMA program, has not adopted its analysis and recommendations in the official discourse of the negotiation process, which has led to their being mere reference points rather than part of the accession program. This is reflective of the European Union’s general stance on public administration, as there is no acquis in the field that the acceding countries must implement. The European Union itself is characterized by a multitude of public administration traditions that prove too strong so far to bring together under an EU banner. Thus, although the European Commission monitors the administrative capacity of the acceding states and publicly expresses its opinions and,

most of the time, its criticism in the Regular Reports, there is little the organization can do in terms of enforcing reform within the public administration of Romania. It is ironic that the most influential external actor in Romania’s reform process, to which the success or failure of integration can be attributed to a large extent, lacks a developmental model of its own.

Third, the original design flaw in the European Union’s response to the challenges in the field of public administration through EU funded projects has its double origin in an incorrect assessment of the initial situation in Romania and the idea that national administrative traditions in the EU are too strong and too diverse to legitimize any intervention in the acceding countries. For these reasons the EU has failed from the beginning to tackle the root problems of the Romanian public administration, making the emancipation process of the more technically skilled, less politically encumbered, and more reform-minded elements of the public administration a precarious by-product rather than a central objective.

The failure to focus on a transformation of the relations between the political and civil service elements of the public administration has led to a patchy impact of the Europeanization process on these relations. Departments within core ministries dealing with European integration have, generally speaking, attracted the more reform-minded elements of the civil service. This has contributed to the creation of “enclaves” of qualified, more politically independent and mostly young civil servants. Their number is, however, limited and their links to the European arena are still too weak to overcome the persistently anti-reform internal patterns of public administration in Romania.

Unless widespread reform is introduced across the realm of public administration and a situation is created in which civil servants are motivated by a transparent, fair, merit-based, and competitive system of payment and professional advancement, the situation will not change dramatically. There is already a trend of “brain drain,” by which qualified civil servants, once they have acquired expertise in the public sector, leave for better conditions either in the private sector or in international and non-governmental organizations. We can also predict a future trend: With the accession of Romania to the European Union in January 2007 or 2008 the new supranational administration will be a magnet for qualified civil servants. This is not a damaging trend per se, as Romania will be competitively represented at the EU level, but unless steps are being taken to improve the situations of the ones remaining in the country they will not be able to provide the necessary inputs for Brussels, and the future deeper integration of Romania within the European Union will be in jeopardy.

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