

Lund University
Department of Political Science

STV004
ht 2005
Supervisor: Anders Sannersted

The European Union and the Fight Against Discrimination

A Case Study of EU Pressure on Romania

Gabrielle Jönsson

I would like to thank the Swedish Institute for the Minor Field Study Scholarship, which made my field studies in Romania possible. I would also like to express my deepest gratitude to the persons interviewed for this study. Finally, my warmest thoughts and thanks to Felix-Emanuel, Adriana, Alex and Sofie for showing me around Romania, making even the coldest day in Bucharest fun and interesting.

Abstract

The Romanian revolution of 1989 ended a communist era of oppressive leadership exercised by Nicolae and Elena Ceausescu. During the 1990s Romania went through a painful transition with increased economic hardship and an unstable political situation. In 1999, the European Union considered the situation of the country stable enough to start membership negotiations. Since the first EU commission report on Romania's application for membership, demands and pressure have continuously been put on the Romanian government to undertake reforms regarding issues of discrimination against Roma, sexual minorities and women. Through an analysis of a chain of events starting with these EU demands, this study explores the phenomenon of EU enlargement effects on the domestic policy-making arena of an accession country. A theoretical framework is applied to conceptually show the causality of EU pressure, the role of civil society, the subsequent response of the Romanian government and finally the outcome of effects on the policy-making structure. Depending on the character of EU demands, the policy-making resources available to the government, the strength of civil society and the extent of changes needed regarding anti-discrimination, the response of the Romanian government has gone from no policy reforms, to defensive radical reforms and finally to offensive radical reforms.

Keywords: EU enlargement, anti-discrimination, civil society, radical reforms, policy-making structure

Characters: 86 506

Table of Contents

1. Introduction	4
1.1 Aim of Study	4
1.2 Research Question	5
1.3 Disposition	5
2. Theoretical Framework	6
2.1 General Overview	6
2.2 From Conditionality to Policy	7
2.3 Adjustment of the Framework	8
3. Methodology	10
3.1 The Case Study Method.....	10
3.2 The Case – Romania and the History of Discrimination	11
3.2.1 Inter-Ethnic Tension	11
3.2.2 Sexual Minorities	12
3.2.3 A Feminist Backlash?	12
3.3 Key Concepts	13
3.3.1 EU Pressure.....	13
3.3.2 Civil Society	14
3.3.3 Anti-Discrimination Policies	15
3.4 Material.....	16
3.5 Implications and Limitations	17
4. The Politics of Pressure.....	19
4.1 The Reports.....	19
4.2 The Phare Program	22
4.3 Carrots and Sticks – Character of Conditionality	23
5. Anti – Discrimination in Romania	24
5.1 Politics during Transition.....	24
5.2 Interviews.....	25
5.2.1 Roma	25
5.2.2 Sexual Minorities	27
5.2.3 Towards Gender Equality?	27
6. Theoretical Application.....	29
6.1 Conditions of EU Pressure.....	29
6.2 Responses.....	30
6.3 Effects	31
6.4 Summary – A Chain of Events	32
7. Conclusions	34
8. References	35

1 Introduction

In Bucharest, European Union flags are placed on government buildings, in front of the infamous House of Parliament, at the entrance of the central train station, in front of the national museum and on various other official buildings. It is an evident sign of the importance of the prospects of union membership, probable to be realized in 2007. Romania is the poorest nation ever to have applied for EU membership and would be the member state with the gravest economic and social conditions. In 2004 every fourth Romanian was living beneath the poverty line of 46 euro/month. Life expectancy rates are lower than in all former Eastern European countries that have joined the union. The first decade after the violent revolution of December 1989, removing the Ceausescu's from power, was characterized by an unstable political arena with sudden outbursts of violence and a poor economic development. First after the turn of the century the political conditions became stable and the economy seems to be moving slowly in the right direction. (Country Guide Romania 2005, Swedish Institute of International Affairs) Romania is the country with the largest number of its citizens who believe that democracy works better in the EU than in their own country, and many Romanians hope that EU membership will further speed up reform and improve living standards. (Eurobarometer 63.4)

The incorporation of the former Eastern bloc into the EU has attracted a large amount of academic interest, mainly from the perspectives of institutional and organizational change for the union itself. Few studies focus on the domestic effects of accession countries when responding to EU demands. When considering the enlargement process as a relatively recent phenomenon, the lack of academic writing on domestic effects might not be surprising. But even though the academia has not yet put the spotlight on the domestic consequences for accession countries due to the enlargement process, the governments, civil society organizations and citizens in candidate and accession countries have already experienced various consequences of the changes that inevitably come with fulfilling EU conditionality.

1.1 Aim of Study

The general aim of this study is to theoretically and conceptually explain one case of EU enlargement effect on the domestic policy-making structure of an EU accession country. Specifically, the accession country to be studied is Romania, and the area of policy-making structure in focus is the sub-sector of anti-discrimination. In the study *Conflicting Logics? Implementing Capacity and EU Adaptation in a Postcommunist Context*, Ulrika Jerre (2005) develops a

theoretical model to explore a similar issue; the implementing capacity regarding the sub-sector of child protection in Romania. This theoretical model will be used as a point of departure to explain “the chain of events” (Jerre *ibid*:11) regarding anti-discrimination issues, starting with EU conditionality for Romanian membership and the following domestic consequences due to this conditionality. Thus, a second aim of this study is to test the applicability of the theoretical framework developed by Jerre (*ibid*). An important part in reaching this second aim will be to adjust the framework to include civil society as an actor on the domestic arena. In the chapter devoted to a theoretical discussion the framework will be presented and elaborated upon more in detail.

1.2 Research Question

This study sets out to answer the question of how and why the EU enlargement process has affected the policy-making structure in the sub-sector of anti-discrimination in Romania. The EU enlargement process and its consequences for candidate and accession countries is a phenomenon not thoroughly theoretically debated. A lack of understanding of an important and wide ranging process that has the power to affect the domestic policy-making structures of nations can be considered to represent an academic blind spot. The research question of this study is formulated with this problem as its forefront and the ambition is to shed light on one case where the process of EU enlargement has had effects on the domestic policy-making structure of an accession country.

1.3 Disposition

Following this introduction presenting aim of study and the research question, the study will be continued with a second chapter where the theoretical framework is presented and elaborated upon. The third chapter will be devoted to a methodological discussion bridging the theoretical part of the study with the empirical material starting with the fourth chapter focused on EU conditionality for Romanian membership. This fourth chapter will be structured as a chronological journey, starting with the Commission Opinion on Romania’s application for membership presented in 1997. The fifth chapter moves on to presenting and evaluating the empirical material collected during two field visits to Romania during winter and spring 2005-2006. In the sixth chapter the theoretical framework is applied in order to fulfill the aims of this study and present valid answers to the research question posed in the introduction. Reflections upon new topics of research generated by the result of the case study conducted will conclude the study in the seventh chapter.

2 Theoretical Framework

The research question in focus for this study contains both a “how” and a “why”. Hence, the research question is twofold with an aim to both describe a chain of events and explain the outcome of those events.

The existence of a theoretical framework developed by Jerre (2005) focusing on a similar issue in a similar context is obviously tempting to work with. As will be shown in this section, giving in to this temptation can be fruitful for reaching answers to the research question of this study. Though, it has to be kept in mind that due to differences in the sub-sectors of child protection and anti-discrimination, pitfalls can be created when applying the same theoretical framework on two different situations. The framework will therefore be adjusted according to the different circumstances that the sub-sectors pose. The following theoretical exercise aims at; firstly to give an overview of the framework developed by Jerre (2005), secondly to argue the benefits and pitfalls when applying the framework on the case study in focus for this study, and thirdly to present a conceptual sketch of how Jerre’s (ibid) framework can be adjusted to better explain the chain of events regarding EU conditionality on anti-discrimination, and as will be argued, also for many other cases of EU enlargement impacts on accession countries.

2.1 General Overview

The overall research question in Jerre’s (ibid:5) study is posed as “[h]ow can we conceptually and theoretically understand the impact of the EU accession process on implementing capacity in a postcommunist context?”. A sketch is presented with a conceptual overview of the theoretical framework from which the research question is approached.

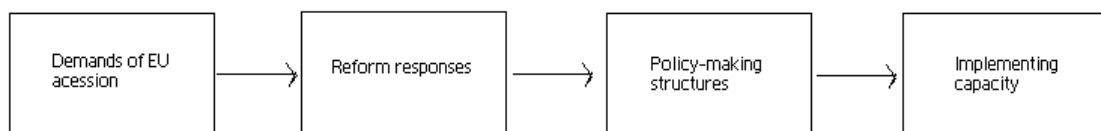


Figure 1 (Jerre 2005:16): Theoretical framework

Of central interest for Jerre (ibid) is state capacity. She conducts a case study where Romania and the sub-sector of child protection is regarded as a critical case, where demands of EU accession should have an impact on implementing capacity of the state. The large amount of attention and pressure on Romania to improve the conditions for children living in orphanages and to make drastic policy reforms regarding how the state manages the circumstances around these children

and their families have been high up on the list of priorities for the EU when discussing possibilities for Romania to join the union. Jerre (ibid) follows a chronological path starting with these EU demands, moving on to the reform response of the Romanian government, then evaluating changes in policy-making structures and finally looking at the effects on implementing capacity. From the findings of the case study, Jerre (ibid) draws the conclusion that Romanian adaptation to EU demands on the issue of child protection indeed has had a large impact on the transformation of the state. In 1997, Romania started to respond to EU pressure through radical reforms that resulted in a transformed policy-making structure. But not until 2001, when increased membership incentives were combined with harsh criticism and EU demands for rapid implementation, those radical reforms resulted in offensive strategies which gave possibilities for an improved environment for implementation (Jerre ibid:137-139). Depending on the timing and character of EU conditionality and pressure for membership, Jerre (ibid) observes that the outcome of radical reforms and changes in the policy-making structure in the accession country can either be a strengthened or weakened implementing capacity. If the enlargement process and EU demands come at a time and in a way as to enable both mobilization of resources and genuine commitment of stakeholders, conditions are created for a strengthening of implementation capacity. If, on the other hand, the government of the accession country instead mainly is concerned with displaying an image of change and action in accordance with EU demands due to issues such as lack of ability or willingness, EU conditionality may lead to changes that will actually weaken the implementing capacity. (ibid: 170-171)

2.2 From Conditionality to Policy

In this study of the effects of the EU enlargement process on the Romanian sub-sector of anti-discrimination the theoretical framework developed by Jerre (2005) will be used as a point of departure. The study will be structured in a similar fashion as the study by Jerre (2005), conceptualizing a chain of event starting with EU conditionality on anti-discrimination issues, the response of the Romanian government to these demands, the subsequent changes in policy-making structure and finally the effects on implementing capacity in the sub-sector.

The first conceptual box of the framework is EU conditionality. This box will be opened up through the study of official documents, primarily progress reports and regular reports regarding Romania's road towards EU membership, and through interviews with people with insight and knowledge about the accession process and its consequences for anti-discrimination issues in Romania. The second conceptual box representing the response of the government will be discussed in terms of offensive and defensive approaches to the EU demands for radical reforms. Further the dualistic operationalization by Jerre (ibid:95), displayed in figure 2, will be used when discussing both government response and effects on the policy-making structure.

Conditions	Responses	Effects
Character of EU conditionality	Defensive /Offensive	Increasing / Decreasing congruence between task interdependence and policy-making structure
Policy-making resources that can be mobilized by the government	Concentration / Deconcentration	Increasing / Decreasing institutional uncertainty
Extent of changes needed in subsector to fulfill EU requirements	Exclusion / Inclusion	Increasing / Decreasing commitment to policy-making ends
	Strengthening / Weakening of channels of interaction	

Figure 2 (Jerre 2005:95): From Conditionality to policy

The aim of this study is to answer questions of changes in policy-making structure. Thus, the question of implementing capacity is focused upon to a lesser degree since it might be more difficult to draw definite conclusions about state capacity within the limited scope of this study. Hence, the theoretical framework will be used to focus mainly on the three conceptual boxes of EU conditionality, government responses and changes in policy-making structures. The factors shown in the figure above are crucial for understanding the chain of events that will answer the research question of how and why the EU enlargement process has affected the policy-making structure in the sub-sector of anti-discrimination in Romania.

2.3 Adjustment of the Framework

Within the sub-sector of anti-discrimination three groups or categories of the Romanian population will be discussed; ethnic minorities (focus on the Roma population), women and sexual minorities. The reason for this categorization will be discussed more in detail when the case study is presented more thoroughly in the methodological chapter.

Key differences in the sub-sector of child protection and the sub-sector of anti-discrimination demand considerations that will lead to necessary adjustments of the theoretical framework. The situation of children living in orphanages is closely linked with the communist past of Romania. Harsh population policies with a strict ban on abortion led many families to abandon their children when they simply could not afford to raise them. The appalling conditions of children living in orphanages that were displayed for the world after the fall of Ceausescu resulted in enormous pressure for change from the outside world.

When it comes to discrimination issues the situation is somewhat different. Discrimination seems to be an inherent part of every society. Ethnic minorities, women and sexual minorities are commonly victims of discrimination throughout the world, Romania being no exception. To answer the research question posed in

this study it is necessary to take into consideration the resistance that inherently is connected to discrimination issues. In contrast to child protection issues, resistance towards the rights of ethnic and sexual minorities and towards gender equality is a definite fact in Romania. Another key difference with significant impact for the theoretical framework is the role played by civil society. Children can not stand up for themselves and few resist improvements of children's well-being in general. In comparison, NGOs working with issues of anti-discrimination all claim to represent their own group, and they meet resistance from both the government and the public. If given financial aid and support these NGOs can grow both in number and strength, and be an influencing factor both on government decisions and on public opinion.

As will be shown more in detail later, the EU seems to have incorporated ideals about the importance of civil society as a part of its dealing with discrimination issues in Romania. Civil society groups working with anti-discrimination issues receive financial aid primarily through the Phare program, and NGOs are in this way encouraged to put pressure on the Romanian government and to change the public opinion in questions regarding discrimination against Roma, gender equality and the acceptance of homosexuality. With the help of EU financial support combined with EU pressure, civil society groups in Romania are playing an important role in changing the policy-making structure of the sub-sector of anti-discrimination.

Taking into consideration the circumstances discussed in this section of the role of civil society, together with the EU strategy to support them to impact the policy-making structure, demand an adjustment of the theoretical framework.

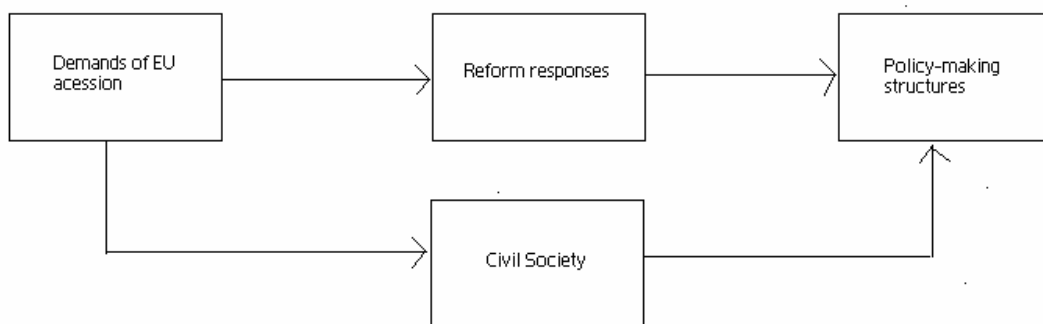


Figure 3: Conceptual sketch of chain of events

The above model shows a conceptual sketch of the chain of events starting with EU conditionality. The following two parallel boxes represent the response of the Romanian government and the role of civil society groups. The last box in the theoretical framework used in this study represents the change of the policy-making structure. Jerre (2005:174) suggests that her “theoretical framework has the potential to structure also other case studies”. The adjustment presented in this section in figure 3 is the first step in the direction of testing the applicability of the theoretical framework.

3 Methodology

To explore and attempt to answer specific questions regarding a complex process such as EU enlargement with many actors involved might seem hard to achieve within the limited scope of this study, and it has indeed been a challenge. But, as will be argued in this chapter, with the help of a theoretical framework developed and adopted to the specific circumstances of the selected case study it is possible not only to reach satisfactory answers to the research question in focus for this study, but also to achieve the aim of theoretically and conceptually explaining one case of EU enlargement effect on the domestic policy-making structure of an EU accession country. In this section the methodological considerations of the study will be discussed. Firstly, the case of EU pressure on Romania regarding anti-discrimination issues will be presented as a case study. Secondly, key concepts will be defined and operationalized. Thirdly, the material used in the study is presented and discussed, and finally the implications and limitations of the study are elaborated upon.

3.1 The Case Study Method

Romania is considered to be the accession country with the most disadvantaged position and with the largest extent of changes needed to be able to fulfill EU demands. In the case study conducted by Jerre (2005) it could be expected that the effects of EU demands on the sub-sector of child protection would be visible, due to the large extent of pressure and international attention onto the issue of Romanian children living in orphanages. The case study was chosen as Romania and the sub-sector of child protection could be regarded as a crucial case; if it would not be possible to establish a chain of events and causal links between EU pressure and demands in this case, the theoretical approach would have been cast in serious doubt. (Jerre 2005:10-12) The theoretical framework is successfully applied on the selected case study and Jerre (*ibid*) reaches credible and valid conclusions.

The study to be presented here has to a certain extent similar characteristics as the case study conducted by Jerre (2005). The difference lies in the choice of sub-sector, and this poses new challenges in the collection of material, the conduction of interviews and the adjustment of the framework. But the considerations regarding the choice of method strongly resemble the argument presented by Jerre (*ibid*). Pressure and international attention have been large on Romania regarding anti-discrimination issues. If the theoretical framework, with the adjustment of including the role of civil society, manages to explain also the case study of EU

pressure on the sub-sector of anti-discrimination in Romania, the explanatory power of the framework must be said to have been strengthened.

In general, results from case studies may not be directly generalized to apply to other cases. (Lundquist 1993:113) The main argument regarding the choice of method in this study is that the adjustment and confirmation of the applicability of the theoretical framework developed by Jerre (ibid) is an important conclusion from a research point of view. Future studies might cast light on the possibility to use the theoretical framework as presented here to conduct so called typical case studies (Esaission m fl 2003:183), then suggesting that the conclusions drawn from case studies of EU pressure on Romania would be valid also in other contexts.

3.2 The Case – Romania and the History of Discrimination

The revolution of 1989 is a dominant theme among publications on Romania. It was the start of the most violent transition of Eastern Europe. Violence has been erupting during strikes and demonstrations throughout the 1990s. As late as in 1999 government troops had to be called in to stop such demonstration of public disappointment and anger. (Roper 2000: 59-84) A central assumption of this study is that to discuss any aspect of Romanian society without taking into consideration the period of Ceausescu rule, would be to omit a central influencing factor of today's developments in realms of social, political or economic change. Due to the extremely oppressive political situation during communism, civil society was weak or practically non-existent. (Gallagher 1995:66 and Nilsson 2002:161-195)

3.2.1 Inter-Ethnic Tension

During the first years of the transition, inter-ethnic tension and violence against Hungarians and the Roma population erupted in different parts of Romania. During the communist period assimilation of minorities was on the government agenda. Ceausescu was determined to create what he called “one working people” and he stated in many of his speeches the importance of discarding family, local and religious loyalties in order to reach the higher necessity of defending the state and its historic mission. In one of his speeches, Ceausescu expressed this to the Romanian public as; “We have to work without pause for the goal of social and national homogenization in our country”. (Gallagher ibid:58-60) The Romanian authorities have on several occasions after the fall of communism been accused of discrimination against Hungarians and Roma (ibid:120). The situation of the Hungarian population received major attention during the first half of the 1990s, when it became an important issue during negotiations for Romanian membership in the Council of Europe. A final compromise, including e.g. the right of the Hungarian population to have schools where Hungarian was the teaching language,

was reached in 1996. Hungary was a member of the Council of Europe and lobbied hard for an agreement to be reached. (Roper *ibid*:114-119) No such similar agreement was made concerning the Roma population. This might depend on the fact that the Roma population did not have a powerful outside voice to put their issue on the international agenda. But in a similar fashion as Hungary advocated rights for the Hungarian minority in Romania, the Roma population has been able to get the attention of European Union and put their situation on the forefront for demands that has to be fulfilled before EU membership can become a reality for Romania. The Roma population is the first category of the Romanian population that will be discussed from the perspective of EU demands on anti-discrimination in this study.

3.2.2 Sexual minorities

In general, acceptance and tolerance of minority groups are low in Romanian society, one clear example being discrimination against sexual minorities. In 1968, the communist government drastically increased penalties for homosexual relations through article 200 of the penal code. The new law was just another example, together with for example a total ban on abortions, of tightening social control over the population. After the revolution when the ban on abortion was lifted, Article 200 was not removed. Instead, the persecution of homosexuals continued with prison sentences of up to five years, and widespread harassment and torture against people suspected of committing the crime of homosexual activities. Homosexuals had virtually no rights to claim in the judicial system. Not until the European Council in 1993 put pressure on Romania to change the discriminatory law against sexual minorities, an amendment was added after three years of intense debate within Romania. The amendment caused outrage among some groups within parliament and also among religious groups. The mass media published articles stating connections between violent crime and homosexuality. Even after the amendment to article 200, homosexual acts were still prohibited and could lead to prison sentences of up to five years if they caused a “public scandal”. A clear definition of the phrase “public scandal” was not given and has been interpreted very broadly by courts sentencing people to prison terms for having consensual sex if known by hearsay. (Public Scandals: Sexual Orientation and Criminal Law in Romania, Human Rights Report 1998) Not until 2002, with more EU pressure followed by intense debate in the Romanian Parliament, Article 200 was repealed and sexual minorities became incorporated under the anti-discrimination law 137/2000. (Gay Romania News and Reports 2000-2005)

3.2.3 A Feminist Backlash?

The third and final group to be included in this study of anti-discrimination in Romania is women. During the communist period women’s bodies were under constant surveillance by the state. A socialist reinterpretation of traditional gender

norms included censorship of movies in order not to show even a kiss or bare skin, girls were brought up learning to fear men and sex was accepted only as a means of having children. Abortion was restricted only to women with four or more children or women who had reached the age of 45, divorce became severely restricted and imports of contraceptives were prohibited. Taxation was imposed on both men and women who did not have children at the age of 25. Despite all these efforts by the regime, the birth rate rose very modestly. Illegal abortions were widespread and by 1989 Romania had the highest maternal and child mortality rates ever recorded in Europe. (David and Baban 1995:235-245) According to the communist government, giving birth was a patriotic duty. (Gallagher *ibid*:62) Simultaneously as giving birth and raising children, women in Romania during communism were expected to fully take part in the labour market. This double role of Romanian women as “heroine workers and heroine mothers” is discussed by Magyari-Vincze (2003:1). Roman (2001:55) discusses the same issue; “the communist legacy of the double, triple or quadruple burden for women: public job, household, bearing children, and coping with backward technology at home.” Due to experiences of this heavy burden, women today often express a wish to be able to live their lives differently than their mothers, being able to raise their children without also having to manage paid work and political duties to the Party. (Occhipinti 1996:13-18) During the communist era women held 34% of the seats in parliament. After 1989 the figure fell to 4%. Nilsson (2002:313) argues that this drastic drop in female political representation should be seen as a symbolic loss of power only, since political active women during communism were mostly puppets for a fake gender equality in parliament.

Reports of increased violence against women during transition (National Research on Domestic Violence and Violence in the Workplace 2003:67-78), together with research showing that women suffer more from the economic restructuring of the country than men (Domanski 2002:383-394), have led some observers to talk about a feminist backlash in Romania and other Eastern European countries. Trafficking of women and children is an increasing problem in Romania and according to Matei (Speech at Conference against Trafficking, 2006) beautiful laws are in place, but not implemented.

3.3 Key Concepts

In the following section key concepts are presented and briefly elaborated upon to create clarity when these same concepts are referred to throughout the study.

3.3.1 EU Pressure

Romania submitted its application for EU membership in 1995. This same year an opinion poll showed that 97% of Romanians would vote in favor of EU membership. (Roper 2000:114-116) In this study, EU pressure is defined to a large extent in relation to what is expressed in the European Commission

documents concerning Romania's road towards EU membership. The Commission can be viewed as an engine of European integration. (Pollack 1998:217-218) Pressure from the European Union is also identified through the financial aid offered by the union.

3.3.2 Civil Society

There seem to be as many definitions of civil society as there are political scientists and social anthropologists working with the term. When defining the concept it is of importance to make a distinction between two main strands; civil society as an analytic tool for discussing various forms of organizations within a society, and civil society as a normative ideal as a component of a democracy. (Boussard: 1998:149) It is important to "keep analysis separate from hope, to conceptualize social processes in their own terms rather than in those of mere political desire." (Hall 1996:3) Hann (1996:179) presents a definition of civil society that is repeated by many; "a space or arena between the household and the state, other than the market, which affords possibilities of concentrated action and social self-organization." Walzer (2002:35) presents a wider definition when he, in the liberal theoretical tradition, extends civil society to include activities on both the marketplace and on the political arena. Yet another strand within the field of civil society excludes church-related organizations because of their religious mission and nationalist groups when they do not respect human rights and might advocate violence. (Sampson 1996:129)

The organizations included in this study are neither connected to churches or nationalism. The research question posed in this study does not demand an attempt to value civil society in Romania in relation to a normative ideal. The NGOs chosen in this study that represent Roma, sexual minorities and women are all fairly easy to place within most definitions of civil society.

Boussard (1998:151) distinguishes between institutionalized groups and action groups within civil society. Action groups often consist of groups in society that has in one way or another been excluded from society such as women, ethnic minorities and the poor, while institutionalized groups for example consist of labor unions. Action groups often perform a specific fight for issues in their own interest, but are also engaged in a broader fight for a more just and democratic society. (ibid) This broader fight is in this study defined as falling within the field of anti-discrimination and all three groups selected fit the description of action groups.

As mentioned in the case study section, all secret opposition in Romania against communist rule was virtually impossible because of the strict surveillance of all aspects of life. Informants placed in apartment complexes and villages created an environment where everyone was in danger of getting caught by the secret police if sign of political or other kind of organization not approved by the state was observed. (Nilsson 2002:317) But soon after the fall of Ceausescu many reacted to the sudden change through joining various NGOs. Many of these only lasted for short periods of time and soon disappeared. (ibid:307) The sudden

uprising in NGO activity has not only received attention from scholars interested in political activity and mobilization, but also from the European Union. In various EU documents civil society is pointed out as an important force and driving factor behind vital and functioning democracies. In a communication published in 2002 the European Commission states the “specific role of civil society organizations in modern democracies is closely linked to the fundamental right of citizens to form associations in order to pursue a common purpose, as highlighted in Article 12 of the European Charter of Fundamental Rights.” (*General principle and minimum standards for consultation of interest parties by the Commission*, December 2002)

Depending on whether civil society is regarded as an analytical tool or as a normative ideal, the term can be transformed to serve different purposes. In this study civil society is used as an analytical tool when choosing NGOs suitable for study in the context of anti-discrimination. Many of the organizations included in this study receive support or have participated in activities sponsored by the European Union. To be able to get financial support a NGO must fit the normative ideal set up by the financing organization. (Sampson 1996: 121-142) It is important to be aware of these two different usages of the term civil society, as an analytical tool and a normative ideal, and be observant on the dual role the term plays in this study.

3.3.3 Anti-Discrimination Policies

Anti-discrimination policies are defined in this study as measures intended to protect groups in society that face various forms of discrimination. Specifically, when anti-discrimination is discussed it is from the perspective of Roma, women and sexual minorities. The minority groups of Romania not included in this study are the Hungarians, the Jewish population and the Germans. The agreement mentioned earlier reached in 1996 has not totally exempted Hungarians from various kinds of discrimination, such as in the labour market and educational system, but it seems as if the agreement actually managed to contribute to increasingly good relations between Hungarians and the ethnic Romanians. (Roper 2000:114-116) Before the Second World War Romania had a Jewish population of approximately 800 000. Many of them became victims of the war and today only a small community of about 10 000 still lives in Romania. (Kuler and Benjamin 2002:1-59) Most Germans living in Romania moved to Germany after the fall of the Eastern bloc, as all persons that could show German decent were welcome to get their citizenship in Germany where the economic and social situation was much more promising and stable than in Romania. (Brochmann 1996:34) Disabled people and the elderly are two other categories of the population that often face discrimination, also in Romania. Elderly men and women who not had the chance to adapt to the rapid economic and social changes during transition can be seen begging on the streets of many Romanian cities and villages.

3.4 Material

To conceptually construct a chain of events influencing actors, the system in which the actors act and how the acts relates to the observable outcomes, are important variables. In order to reach satisfactory levels of reliability and validity it is of importance to identify the suitable sources for the kind of information that will reveal the important actors, the existing systems and the relevant outcomes. Further, it is of great importance to avoid weak congruence between theoretical definitions and the empirical instruments when searching for adequate information.

The collection of material for this study can be described in accordance with the theoretical framework. The first box representing EU demands will be opened up by looking mainly at selected EU documents. The first relevant document is the *Agenda 2000 – Commission Opinion on Romania’s Application for Membership of the European Union*, published in 1997. In 1998 and 1999 the two published *Progress Reports* will be in focus. From 2000 until 2004 the yearly *Regular Reports* will be examined. An additional document published in 2002, the so called *Roadmap*, will also be included. These are the main documents where the EU, through the Commission, states how they view the situation in Romania in connection with its prospects for union membership. Other EU documents such as information about the Phare program will be referred to when exploring EU demands on Romania regarding anti-discrimination. An interview with two task managers working at the EU office in Bucharest will also be used as a source of information when opening up the first box.

The next stop on the chronological journey will be twofold, with the response of the Romanian government and the response of civil society groups working for or representing the groups in focus for this study. Government documents regarding anti-discrimination are published most often only in Romanian, hence these documents have not been accessible for the author of this study. In some cases interviewees working for the government or with insight in the particular issues have been able to translate relevant parts of important documents. During the two field visits interviews were conducted with representatives from three Roma organizations, two women’s organizations and one organization working for the rights of sexual minorities. All organizations represented in this study are among the largest and most influential within their respective field. Interviews that will be included in this study have also been conducted with a young woman engaged in women’s issues in party politics, a UNDP representative responsible for issues concerning the Roma population and a university professor of sociology. Many of the interviewees requested anonymity and hence all interviewees are referred to as state interviewee, NGO interviewee, Government interviewee, UNDP interviewee, EU interviewee and university interviewee. The names of the interviewees are presented among the references, except in five cases when total anonymity were requested. Published material from NGOs will also be included when discussing the role of the government and civil society in relation to anti-discrimination issues. The interviews were conducted as conversations and the interviewees were asked to talk about their organization (when it started and why,

if it received support from any donors, what kind of work it was doing, the relationship with the government etc) and how they viewed the situation of discrimination and policies of anti-discrimination pursued by the government. No explicit questions were asked about the role of the European Union as the interviewees themselves touched upon the topic several times. The interview method, letting the interview resemble a normal and only slightly steered conversation is common when the aim of the researcher is a better understanding of a process or context of the phenomenon under study. (Holme and Solvang 1997:99) All interviews have been conducted in Bucharest, but it is important to point out that even though most NGO activity affecting the government takes place in the capital, other areas such as Transylvania has many active NGOs. (Badescu and Sum 2005:130)

When opening up the fourth and final box of policy-making structures many of the above sources will be referred to again, but this time with the aim of answering the research question of how and why the EU enlargement process has affected the policy-making structure in the sub-sector of anti-discrimination in Romania.

3.5 Implications and Limitations

The most obvious implication, and also the most obvious limitation, of this study lies in the complexity of the EU enlargement process. This complexity makes it difficult to study and present clear cut answers of causality between factors such as EU demands and changing policy-making structures of an accession country such as Romania. This being said, it is argued in this study that with the help of a theoretical framework that manages to leave room for the complexity of processes and actors, while still being helpful in structuring these factors into a chain of events, case studies of EU enlargement effects on accession countries help bring clarity and understanding to a complex process that so far has been left largely neglected in studies of European integration.

The field study conducted in Romania clearly implicates that civil society plays an important role in shaping the responses of the government and the outcomes in policy-making structures, demanded by the European Union. It is argued here that the role of civil society in the EU enlargement process and its effects on the domestic policy-making structure of accession countries should not be neglected since civil society is an important influencing factor. This observation would probably hold true also in likely future accession countries such as Turkey and Serbia and Montenegro.

The case study method unfortunately not only brings clarity to complex processes and gives way to new and interesting research questions, every case study naturally has its own borders. In the case of this study, one major limitation has such an earthly dimension as time. The limited amount of time for interviews and field research leave room for uncertainties that might have been removed if more government officials and civil society representatives had been interviewed. But it is argued here that the interviews and the material collected are enough to

lay out at least the contours of a chain of events. Further, a second limitation lies in the difficulties of drawing general conclusions based on the study of a single case. The conclusion of this study is written with this limitation in mind, hence generalizations are avoided in favor of a focused discussion on the results drawn from the empirical material, and suggestions are made for new areas and aspects of study to further increase the knowledge about the process of EU enlargement and its effects on domestic policy-making structures.

4 The Politics of Pressure

“Romania’s accession is to be seen as part of a historic process in which the countries of Central and Eastern Europe overcome the division of the continent, which lasted for more than 40 years, and join the area of peace, stability and prosperity created by the union”

The above can be read in the introduction of the *Agenda 2000 – Commission Opinion on Romania’s Application for Membership of the European Union*, published two years after Romania submitted its application for membership in June 1995. The European Commission is the EU body that publishes official reports regarding the enlargement process where the EU opinion regarding accession countries progress and setbacks are made public. Hence, the reports reflect the demands for change crucial if the accession country will fulfill the conditions for membership. In the *Agenda 2000* report, and in subsequent reports published on a regular basis, the Commission evaluates the progress on the Copenhagen criteria laid down by the European Council in 1993. Anti-discrimination issues fall under the political criteria requiring “that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities”. (*Agenda 2000* report) This chapter presents how the Commission reports on Romania’s accession process regarding anti-discrimination issues. Further, in a second section the Phare program, a financial assistance program of the EU, will be discussed. Thirdly, the chapter will be concluded with a summary of the important aspects of the character of EU conditionality.

4.1 The Reports

The *Agenda 2000* report is written as an assessment of the situation of Romania in June 1997. In the chapter of the political criteria the structures and functioning of the parliament, the legislative powers, the executive and the judiciary are analyzed. The conclusion is drawn that all of these fundamental state institutions are working to a satisfactory degree. The report moves on to declare that Romania has ratified all vital human rights conventions needed for EU membership. But critique is also raised on several issues such as the “extremely limited liability of the police”, and interference of the government in the management of state-run radio and TV. Penal Code 200 is described as standing in opposition to equality before the law as it exposes homosexuals to discrimination and abuse. A section of the report is devoted to the situation of the Roma population described as “the victims of discrimination in many areas of everyday life”. The report continues with a demand that “the Government step up the integration measures recently

announced to take full account of the difficulties encountered by this section of the population.” The situation of Roma is compared with the improved situation of the Hungarian minority. The chapter on the political criteria is concluded with a pointing out of shortcomings such as lacking respect for fundamental rights and an abusive police force. The Commission still draws the conclusion that the improvements made by the new government elected in 1996 show that Romania “is on the way to meeting the political conditions laid down by the Copenhagen European Council.” Comments on the situation of Romanian women are made in the chapter on economic and social cohesion. The Commission argues that Romanian legislation covers the basics of EU non-discrimination law between men and women, but that these laws “are not always applied in practice, and the material situation of women appears to have deteriorated.” It is concluded that Romania needs to pursue radical changes of their social policy before it is possible for the country to fulfill the conditions for EU membership. The Commission concludes that Romania will not be one of the countries to join the union in the first eastward enlargement round.

In 1998 the first regular report on Romania’s progress towards accession was published. A large part of the chapter on the political criteria discusses the measures taken within the judiciary. Examples are the removing of unsuitable judges and an announced reorganization of the police. The increasing role of civil society in Romania is mentioned, and the Commission states that the government seems to be increasing its relations with civil society organizations. But the Commission also points out that “the situation in the field of civil and political rights in most key areas has not improved significantly” since the *Agenda 2000* report. A comprehensive reform of Penal Code 200 was rejected by the parliament and sent back to government, and the Commission acknowledges that the police are continuously treating Roma and homosexuals in a degrading and inhumane way. Positive change is observed through the first meeting of a sub-committee of a newly formed inter-ministerial Committee for National Minorities, who started discussions on a strategy for the integration of Roma. The Ministry of Education granted Roma students privileged treatment in access to certain fields of higher education. Despite these positive changes, the Commission demands that issues of discrimination against Roma “need to be addressed comprehensively”. Regarding the situation of women it is observed that no new legislation has been formulated, but substantial efforts have been made to create structures to monitor the situation of equal rights. Despite areas of criticism, in the 1998 report the Commission states that Romania fulfills the Copenhagen political criteria as significant efforts have been made by the government to address areas receiving critique.

Starting in 1999 the yearly regular reports are accompanied by the *Accession Partnership* reports published every second year. These reports list short term objectives to be reached until the next year and medium term objectives without a specific date when fulfillment of the objective is specified. Regarding anti-discrimination issues the Commission continues to put pressure on the Romanian government regarding the Roma issue, both on short and medium term. The situation of women and homosexuals is not mentioned in this report, but continues to be an issue of concern in the regular reports. Equality of men and women has

been moved to the chapter of the political criteria. It is observed that basic law on equal opportunities is in place and that the government continues to make efforts to create an administrative structure for these issues but that the implementation of equal opportunities legislation will be a challenge. A new area of pressure put on the Romanian government introduced in the 1999 regular report is the phenomenon of “trafficking in women and girls for the purpose of forced prostitution”. This is an issue of concern for the Commission in following yearly reports. At the Helsinki European Council in December 1999 it was decided that in 2000 negotiations should begin regarding Romania’s application for EU membership.

In the regular reports of 2000 and 2001 the Commission continues to put pressure on Romania regarding the rights of sexual minorities, Roma and the need for implementation of the improved legislation concerning equal opportunities. It is observed that the government approved a national plan regarding equal opportunities for men and women, but the Commission states that even though this is a welcomed move, “there has been no concrete actions taken in order to implement it and the resources allocated for implementation are insufficient.”

In 2002 the Penal Code 200 making homosexual acts illegal has been removed and in following reports the Commission no longer expresses pressure on the Romanian government on the issue of discrimination against sexual minorities. In 2002 the Commission notes that the government seldom consults with civil society organizations. Again the authorities are demanded to focus on the problem of trafficking, the situation of Roma and women. It is noted that after the latest national election only 11% of deputies and 9% of senators are women. In 2002 a roadmap for Romania and Bulgaria is presented. No new critique regarding anti-discrimination issues are put forward in the roadmap since Romania already has been said to fulfill the political criteria. Instead focus is put on the criteria connected to the creation of a functioning market economy.

In the following regular report of 2003 much of the same criticisms remain, but progress in areas of anti-discrimination is being acknowledged. Especially the setting up of a National Council for Combating Discrimination (NCCD) the previous year is mentioned as a step in the right direction. The new law, no. 137/2000 adopted in August 2002 stating that all discrimination based on race, nationality, ethnic group, language, religion, social category, beliefs, sex or sexual orientation, is also seen as a positive step by the Commission. The *Accession Partnership* reports of 2001 and 2003 summarize the critique of the regular reports. Also in the following report of 2004, the important role on the NCCD is lifted, but the council is also facing critique when it comes to issues such as the burden of proof in discrimination cases, the weak transparency of its activities and its low visibility resulting in that “only a fraction of the population is aware of its functioning”. In the conclusion of the regular report 2004 it is stated that Romania fulfills not only the political criteria, but also that a functioning market economy has been created. The progress since the opinion published in 1997 has been substantial and the Commission expects Romania to assume the obligations of membership in order with the set timeframe, and thus the accession negotiations

are closed. In April of 2005 the Treaty of Accession of Bulgaria and Romania was signed by the two countries and the 25 member states.

In October of 2005 the latest report on the enlargement process, *Communication from the Commission. Comprehensive monitoring report on the state of preparedness for EU membership of Bulgaria and Romania*, was published by the Commission. The main criticism that remains in this last report regarding anti-discrimination issues in Romania considers the integration of Roma and the reform of the justice system. Equality between men and women is not mentioned, and neither is the situation of sexual minorities. The monitoring report forcefully states that “it is the responsibility of the authorities of both countries to take all necessary corrective measures to address the shortcomings identified in this Report, so as to ensure that they will be fully prepared for membership in 2007. All energy and efforts should now be geared towards that goal.”

4.2 The Phare Programme

At a G-7 summit in 1989 the foundation for the Phare program was laid down. It was a program sponsored by the European Commission and the initial target countries were Poland and Hungary. After the fall of communist rule of the Eastern bloc the program was extended to include also former Czechoslovakia, Bulgaria, former Yugoslavia and Romania. The priority areas were agriculture, investment, training, environmental protection, industry and services. This program of financial aid was planned to last only until 1992, but was subsequently prolonged. (Bideleux 1996:239-240) In the Romanian context, the Phare program has gradually moved toward a clear focus on the support of civil society. In the last version of the Phare program in Romania this is clearly stated in the foreword of a brochure on the program written by Jonathan Scheele, head of the EC Delegation in Romania; “Civil Society is best placed to watch over the good functioning of state institutions and to signal any malfunctions of society. Aware of this dimension, the EU has continuously supported the consolidation of Romania’s civil society through its Phare program “Civil Society 2001”. This programme was aimed at strengthening the credibility of the non-governmental sector and of its activities in the areas of democracy, human rights and the rule of law, in the social sector, and in the harmonization of Romania’s legislation with that of the EU, as well as its effective enforcement.” In the same brochure it is stated that the Phare program 2001 has a budget of 9.090.014 Euros, and it stretches during the period from November 2002 until April 2005.

The importance of the Phare program is generally acknowledged. Sampson (1996:126) describes the program as the undoubtedly most important of all efforts of foreign donors when formulating, financing and implementing various projects in the Central and east European countries. Many of the representatives of the organizations interviewed for this study refer to the Phare program as of great importance for the development and influence capability of civil society organizations in Romania.

4.3 Carrots and Sticks – Character of EU Conditionality

In the Commission reports demands and pressure are put on the Romanian government regarding anti-discrimination issues. Already in the 1998 regular report it is stated that Romania fulfills the political criteria, in which anti-discrimination has been included. This effectively made issues that had fallen under this heading into issues of so called “soft law”. Since exact and quantitative measures are hard to define regarding issues of anti-discrimination it is instead the political will of the Romanian government that decides what is being done in the area. But pressure for change can still be made through “soft law”, even though the details of policies and institutional structures on how to combat discrimination are decided by the accession government. (EU interviewee A and B)

In a recent article by Simhandle (2006), the discourse of Roma in the Commission reports is critically assessed. It is argued that “boundaries have been drawn around human beings to turn them into political objects.” (ibid:110) Even though discourse analysis is not the aim of this study, it is of importance to keep in mind the negative consequences when classifying people into sub-groups, this regarding both Roma, sexual minorities and women.

The Commission does not only report on the changes needed to be taken by the accession country, the reports consist of both carrots and sticks. Starting with the *Agenda 2000* report, pressure and demands were expressed regarding the situation of women, Roma and homosexuals. Membership in the first round of enlargement was not approved. Already in the following regular report of 1998, the Commission praised the Romanian government for having good relations with civil society organizations, and for taking steps in the right direction. When radical reforms were enforced in 2002 it was acknowledged in the regular report published in 2003. In the subsequent report published in 2004 critique was again raised, this time against the capacity of the NCCD and the decreasing cooperation with civil society. In the monitoring report of 2005, the issues of discrimination against women and homosexuals were no longer considered as necessary to comment, but the Roma issue was still included.

5 Anti-Discrimination in Romania

This section will be started off with a brief background of the political landscape of Romania from the revolution and onwards. This short historic expose is of importance for understanding the responses and reforms of the government and civil society in specific sub-sectors, such as anti-discrimination. In the second part of this section the interviews with representatives and key persons involved in civil society groups representing women, Roma and sexual minorities will be presented. The aim is to present sufficient information about how the government and civil society has responded to EU demands of anti-discrimination measures to enable an application of the theoretical framework.

5.1 Politics during Transition

During the 1990s, the economic conditions of Romania worsened. From a bad starting point, due to the rule of Ceausescu that included a strategy for Romania to pay off all foreign debt through the closing of imports and exports of most goods produced within the country, unemployment grew and incomes continued to fall. Former communist party members ruled the country in new political constellations with Ion Iliescu, a former close political ally to Ceausescu, in power until 1996. The political arena was characterized by personal interests of a powerful former communist elite who managed to get rich during the fast changes that took place shortly after the revolution. When the EU dismissed Romania as a possible member in the enlargement round that would take place in 2004, disappointment was widespread both among the public and within the political elite. The economic condition continued to worsen and in 1999 demonstrations and strikes were a common scene throughout the country. IMF demanded tighter fiscal control in order to approve much needed loans. The Romanian government responded with an increase of the price of gas and electricity, while at the same time firing 20 000 state employees. The consequences were immediately felt by the government in the 2000 elections. Only 56.5% participated in the elections, compared to 78% in the 1996 election. About 20% voted for a right-wing, nationalist party promising quick-fix solutions to all the economic and social problems that Romanians were facing. The party had clear anti-Semitic and anti-Hungarian sentiments, even though the rhetoric was milder during the election period than earlier. Other political parties decided to publicly recommend that people vote for the least bad alternative, and once again Ion Iliescu was elected as president of Romania. During the turbulence of 1999, the European Union gave the green light for membership negotiations. For the first time since the revolution the economic conditions now started to improve and political stability was

achieved. In 2003, 90% of Romanian voters voted in favor of extensive changes of the state constitution in order for Romania to be in compliance with demands of EU membership. The overwhelmingly support shown in the poll made yet another vote unnecessary on whether or not Romania should proceed with its membership ambition. In the end of 2003 and beginning of 2004 four ministers, among them the minister of justice, were fired. This surprising action should probably be seen as a response to EU critique of corruption within the state bureaucracy and within the legal system. It seemed like the ruling party with Iliescu as president and Adrian Nastase as Prime Minister would win the elections of 2004. But the low living standards that still dominate most Romanians lives and rumors of growing tension within the ruling party opened a window of opportunity for the opposition to create a minority government, who managed to take power. In October the same year the EU confirmed that Romania now had good prospects for membership in 2007. In April of 2005 the EU and Romania signed the accession treaty that will have to be ratified by all 25 members and the European parliament before membership is granted. But only a few months later the EU warned Romania that unless more rapid changes are made, membership might have to be postponed until 2008. (Country Guide Romania 2005, Swedish Institute of International Affairs)

5.2 Interviews

In the following section interviews with representatives from NGOs, the government and UNDP, working with issues of anti-discrimination, are presented.

5.2.1 Roma

The Roma population in Romania has been a victim of discrimination long back in history, but not until the beginning of the 1990s Roma realized the need of organizing to be able to fight for their rights. During the attempts of total assimilation during communism Roma lost their right to hold ID documents. Still today, many from the Roma population do not trust the government and do not register. They are unaware of their rights and it is hard to reach them. Without identity cards you are put outside the official system and do not benefit from health insurances and pensions. Another major problem that still has not been dealt with is the police force. Even though new anti-discrimination legislation has been put in place, much because of EU pressure, nothing has been done to change a police structure characterized by lack of transparency and accountability. (NGO Interviewee A) ¹

Due to EU pressure, in 1998 the first move by the government towards approaching the issue of discrimination against Roma was taken. With support through the Phare programme a coalition of Roma organizations was created to

¹ The interviewee recommended the book *Bury Me Standing – The Gypsies and their Journey* written by Isabel Fonseca, a documentary story of the lives of Roma in Eastern Europe.

take part in this work. But nothing happened until after the elections of 2000, and in May of 2001 the government strategy for improving the situation of Roma was published. This strategy is still in place and includes ten so called directions, such as improving the housing situation, health and child protection. Implementation structures are supposedly put in place and are called the Joint Committee of Implementation and Monitoring, Ministerial Commissions for Roma, County Offices for Roma and Local Joint Commissions. The main problem with the strategy's ten directions is that the government only focuses on the social aspects such as the poverty, analphabetism and poor health conditions of the Roma population. Instead they should also focus on the issue as a human rights problem. Both these perspectives are needed and should be complimentary, but today the government focuses almost exclusively on the social aspect. (NGO Interviewee B)

The changes of the government structure that took place in 2003 resulted in the Roma issue being moved to the Secretary General of the Government. This was firstly seen as a positive change putting the Roma issue higher up on the government agenda, but the organizational changes seem to have led to persistent delay in allocation of funds. The NCCD started off working rather well with discrimination issues against Roma. The first year it received approximately 450 petitions, and about 40 of these led to some kind of fine being paid by the accused discriminator. When work was done in preparation for the government strategy for improving the conditions for Roma and when the NCCD was being set up, many Roma organizations were involved in meetings and on different bodies giving advice during the different stages of the work. But in 2003 something changed in the government strategy toward civil society. The government decided to consult with only one Roma organization, suddenly and without warning excluding all others. The excluded organizations have tried to regain influence by discussing this publicly, but without change in the last years. It is suspected that this behavior by the government is a result of the desire to meet EU deadlines, the government might hope to speed up processes if fewer groups are being consulted. (NGO Interviewee C)

The UNDP is funding programmes targeting the Roma population. Together with Western European aid organizations and the EU, UNDP support health clinics and educational centers. Funds are also available for local governments to approve the situation of Roma in their own county. Relatively few local governments have shown interest. When Romania join the European Union much of today's funding that is channeled from EU via UNDP will be stopped. Instead money will come directly from the EU structural funds into the hands of the Romanian government. Approximately one third of this money will come from the Social European Fund. The UNDP is in constant dialogue with the government on issues concerning the Roma population and can only hope that some of the future EU funds will be channeled through the UNDP, so that projects can be continued to be carried out with our expertise of development issues. In the future the Romanian government, and not so much the EU, will have the say over projects supported through the UNDP. Hopefully anti-discrimination projects will be recognized as important then. (UNDP Interviewee)

5.2.2 Sexual Minorities

In 1996 ACCEPT was registered as an NGO. Because of the law the organization was disguised as a general human rights organization. It was not possible to clearly state that it was working against homophobia and for the rights of gay people. With support through the Phare program and the legal texts provided by the European Union, the organization managed to influence the government regarding penal code 200. When the article finally was removed ACCEPT celebrated their biggest victory. Unfortunately harassment of homosexuals continues, especially by the police and in prisons. Romania is a very homophobic society in general. A survey conducted in 2004 showed that about 40% of the Romanian population thinks that homosexuals should be eradicated from the surface of the Romanian state. With EU support ACCEPT has been able to create a head office in Bucharest and publish a quarterly magazine. Even though the NCCD on paper should also work for people who are discriminated against because of their sexuality, the knowledge of the sentiments against homosexuals in courts and within the police system prevents people from contacting them. ACCEPT has EU funded projects, one called Access to Justice was started in December 2004 and will continue until November 2006. Through workshops, seminars and book releases ACCEPT tries to create a better knowledge about the rights of homosexuals, both among the general public and within the institutional structures of the police, judiciary and the government. The organization has been able to organize the first Gay Pride in Romania, it took place in May of 2005. It stirred media debate and the city of Bucharest actually denied the permit to arrange the parade, claiming that the police would not have the possibility to guarantee the security of participants as there was a soccer game in town that same day. But then the president of Romania actually stepped in and criticized the city decision, and permission was given. (NGO Interviewee D)

5.2.3 Towards Gender Equality?

In 2000 anti-discrimination was first beginning to be integrated into the state apparatus. The main focus was put on ethnic minority issues, but there is little evidence that much was done at all. In 2002 the NCCD was set up within the government under the Ministry of Labor. The council is supposed to work with discrimination issues concerning all groups mentioned in law 137/2000. The council has been headed by an ethnic Hungarian and much of the council's work has been focused on minority issues. The NCCD works mainly with petition receiving and most of the petitions received concern Roma issues, while few concern women and probably none so far has been received that concern discrimination against homosexuals. The few petitions that do concern women most often has to do with women who have lost their jobs due to pregnancies. According to current legislation the NCCD can only apply a fine to the employer that discriminates, to be paid to the state. There is a possibility for women who consider themselves victims of gender discrimination to go to court. But this is not

heard of in such cases and the courts have little or no knowledge about gender discrimination NGOs trying to work with issues of special concern for women such as sexual harassment or domestic violence are in need of funding. When they do get funding, as many have via the Phare programme, they get professionalized very fast and start research projects without grass root support. (State interviewee A)

The most successful lobbying concerning women in Romania has been projects regarding domestic violence. With the help of funding from the Phare programme a kind of women's movement has been created with 31 organizations forming a common platform, producing material on the subject. But the organizations would not call themselves feminist organizations, most of them frame their work with the family as the unit of their prime concern. There is still no real women's grass roots movement since there is no solid voice that manages to establish gender equality in the public discourse. As long as Romania is facing many problems due to the widespread poverty, gender issues are likely to continue to exist in the shadow. Especially after Romania joins the EU and pressure is no longer available to the same extent as now. A national agency for equal opportunities has been set up within the NCCD in 2005. The people working there still use their personal yahoo e-mail addresses and the woman heading the agency shows up at meetings sometimes, but never say anything. The agency was set up through a twinning programme with Spain.² (NGO interviewee E)

Many actions taken in Romania regarding issues of gender equality do not bear fruit. Before the election of 2004 there was a campaign to increase the number of women on the lists of the parties. But it really had no effect. The creation of a national agency for equal opportunities in the summer of 2005 is probably just another showcase for the government. (University interviewee A and B)

In 1996 a center for assistance and protection of victims of domestic violence was opened up under the Ministry of Labour. But not until 2003 the law that acknowledged domestic violence was approved, after pressure by the European Union. Since the law is felt by some members of government as being imposed on them from the outside they don't pay much attention to the subject. The police notoriously accept bribes in cases where they have been called due to domestic violence. The woman is discriminated against in a triple way; first her husband beats her, secondly the justice system shows total neglect, and thirdly the money that goes to the bribe is taken from the household finances. Only seven people are working at the centre for assistance and protection of domestic violence victims, sharing two rooms. No offer of social assistance can be offered women who call the center, there are no financial resources given to the center to cover that kind of expenses. (State Interviewee B)

² For information about reconciliation policies and gender equality in Spain see *Reconciliation policies in Spain* in "Gender Policies in Europe" (Valiente 2000:143-159)

6 Theoretical Application

The previous chapter looked into the situation as perceived by civil society and members of government working with issues of anti-discrimination in Romania. In this section the empirical information given through the interviews together with the information from the EU reports presented in chapter four will be systematized with the help of the theoretical framework. Firstly, the conditions of EU demands as discussed in chapter four are briefly summarized. In this section the policy-making resources available to the Romanian government and the extent of changes needed will also be included. Secondly, the next two sections discuss responses and effects on the domestic policy-making arena. The aim of this chapter is to open up the conceptual boxes of the theoretical framework in order to present a sketch of a likely chain of events of EU demands and consequent changes in anti-discrimination policies in Romania.

6.1 Conditions of EU Pressure

The character of EU pressure on Romania regarding anti-discrimination has changed from its beginning in the early 1990s. As described more in detail in chapter four, anti-discrimination has been treated as “soft law”. It seems like the character of pressure has been more or less stable since the beginning of Commission reports after Romania submitted its application for membership in 1995. The major change has been the urgency of compliance, the latest expressed in fall of 2005 when the EU announced that if Romania did not speed up reforms membership might be postponed for at least another year.

Romania has a lot of challenges ahead in creating a functioning market economy providing a good living standard for its citizens. The relative poverty of the country, from a European perspective, affects the amount of policy-making resources that can be mobilized by the government. The years of communist rule resulted in economic disaster, but still many remember the Ceausescu era as a time when everybody had a job and a house or apartment. Unemployment was not a problem and even if there were few goods available for consumption, most people had little but some food on the table. Today the situation has changed, with rampant unemployment figures and low pensions. The resources available for the government to put into the fight against discrimination are scarce, hampering the establishment of an effective institutional structure. The interviewees working within the government with anti-discrimination issues confirm this talking about understaffed offices, no possibility to offer social assistance and small working areas. The policy-making resources to be mobilized by the government are few due to these financial constraints. Further, the issue of anti-discrimination in

general being imposed from the outside can also be a factor limiting the available resources, as people working within the courts, the police and the government agencies do not give the issue high priority.

The extent of changes needed in the sub-sector of anti-discrimination has been large throughout the years of transition. Domestic violence, the persecution of homosexuals and harassment and denial of rights of the Roma population has all been aspects of Romania both before and after the revolution.

6.2 Responses

During the early 1990s pressure on Romania from the European Union was canalized mainly through the European Council. The amendment to article 200 concerning homosexuality was largely a result of this pressure. The agreement with Hungary mentioned earlier in this study is yet another example of how desired membership of EU institutions effected decisions taken by the Romanian government. When Romania submitted its application for EU membership in 1995, a thorough evaluation of the country was started. The process of enlargement made it possible for the European Union to increase its support of civil society through the Phare programme discussed in chapter four. The efforts by the civil society and the demands of the EU had large impact on Romania, creating responses of the Romanian government.

According to Jerre (2005:137), during the period between 1990-1996 there was a lack of clear EU membership incentives in Romania. Civil society groups working for the rights of Roma, women and sexual minorities were in the process of building up their organizations. As pointed out earlier the policy-making resources available to the government were weak and the extent of changes needed in the sub-sector of anti-discrimination to fulfill EU standards were large. Hence, during this period no radical reforms were taken by the Romanian government.

The decision from the EU in 1997 not to let Romania be part of the first eastward enlargement created disappointment, and membership incentives were still kept low. Due to the difficult economic situation of the country policy-making resources were still very weak and the extent of the changes that needed to be done was still large. But around 1997, civil society groups had started to establish themselves as actors on the domestic arena. With the help of EU support and pressure they managed to create platforms for putting their issues on the agenda of the government. This might have impacted the government in 1998 to start working on a strategy to improve the situation of Roma. According to interviewees from Roma organizations they were invited to participate in this process. The Human Rights Report and continued EU pressure and support of ACCEPT helped in starting discussions within several political parties to totally repeal article 200 of the penal code. Women organizations held workshops and published material sent to government officials. Radical reforms were then taken around the year of 1997 and the following years, but the reforms were most often in the shape of defensive strategies as a response to increased pressure. Issues of

anti-discrimination were still concentrated within the government and transparency was low. Civil society organizations were being acknowledged, but still not to a large extent included in the process of change. There was only gradual strengthening of the channels of interaction between the government and civil society, even though interaction and cooperation between different NGOs working with similar issues seemed to have increased.

After the elections of 2000 the radical reforms continued, and around 2002 it is evident that this was done with offensive strategies. In December of 1999 the EU gave Romania the green light for membership discussions, hence membership incentives rose sharply. An improved economic development might have slightly increased the policy-making resources available for the anti-discrimination sub-sector, but the extent of changes needed in the sub-sector was still large. Civil society organizations had managed to further increase their knowledge of how to push their agendas. They were increasingly invited to consultations with the government. The channels of interaction between different government agencies and between the government and civil society were strengthened. The strategy for the improvement of the situation of Roma was presented in 2001 and the following year article 200 was repealed from the penal code. In 2002 the NCCD was created and anti-discrimination law 137/2000 was put in force. In 2005 the center for Equal Opportunities was created within the Ministry of Labor as a part of the NCCD. All of these changes were part of the radical offensive reforms.

Interviewees from Roma organizations state that in the end of 2003 and after the elections of 2004 they have been excluded from the continued work together with the government on anti-discrimination issues, even though discrimination against Roma is still widespread throughout Romanian society. Interviewees working with discrimination against women both within the government and civil society argued that even though many good changes took place after the elections of 2000, many changes are still needed and it is difficult to get the government to take further actions. Money is needed to support victims of domestic violence and the public needs to acknowledge discrimination based on gender and issues such as prostitution and trafficking. The interviewee from ACCEPT also expressed concern over the current situation where the general public and the police still do not respect homosexuals. Hate crimes and police brutality are still common phenomenon in Romania.

6.3 Effects

The above discussion shows a chain of events starting with EU pressure through the European Council in the beginning of the 1990s on issues of minority rights of Hungarians and attention put in the discriminatory law against homosexuals. Not until the later part of the 1990s, after Romania submitted its application for EU membership, did the Romanian government start to pursue radical reforms in the sub-sector of anti-discrimination, due to increased pressure through the reports of the European Commission and increased pressure from a strengthened civil society. The low membership incentives after the EU declared that membership

was not to be expected in the first round of eastward enlargement, in combination with few resources available and a large extent of changes needed to be done, resulted in few effects on the policy-making structure. Not until about year 2000 when the membership incentives rose, radical reforms were pursued in an offensive manner with affects on the policy-making structure.

The creation of the NCCD, the strategy for improvement of the conditions of the Roma population, the repeal of article 200, the anti-discrimination law 137/2000 and the creation of the Agency for Equal Opportunities are events clearly increasing the congruence between task interdependence and the policy-making structure. Another effect has been decreased institutional uncertainty. The institutional structure with the NCCD has made it easier for civil society organizations in their relations with the government since they now know who they should target with their lobbying activities. Further, civil society organizations working with anti-discrimination issues can advise their clients on where they should take their legal complaints.

Problems still persist in the policy-making area of anti-discrimination. It is difficult to draw conclusions on whether or not the commitment to policy-making ends has increased since radical reforms were pursued with offensive strategies after the elections of 2000. The signs of exclusion and weakening channels of interaction between the government and actors within civil society in the last couple of years, as expressed by several of the interviewees, are worrisome. The concentration of anti-discrimination issues in the NCCD might also create troublesome effects in the long run. It is possible that EU pressure on the Romanian government to build up a policy-making structure to deal with issues of anti-discrimination resulted in many positive changes such as the ones described above, but when the demands on rapid success in adjusting to EU demands and standards have been speeded up as the date of accession draws closer, it has become increasingly important for Romania to show success. The involvement of many actors in policy-making procedures, especially when these actors want to see more rapid change, might be perceived as a problem that hampers process of fulfilling EU demands. The Romanian government might have a feeling that the policy-making structure of the sub-sector of anti-discrimination has been reformed in a way as to fulfill EU demands, and that the commitment to policy-making ends has decreased as a result. But civil society groups are not likely to stop their lobbying towards the government and their activities to raise public awareness. They will also continue to spread the word about the rights of ethnic minorities, women and sexual minorities that has been won during the last five years, and continue to pressure for further reforms by the government.

6.4 Summary - A Chain of Events

The following figure summarizes the above discussion and shows the chain of events of EU demands and the response of the Romanian government, the role of civil society and the result on the policy-making structure.

	1990-1996	1997-2000	2001-2004	2005-
Character of EU conditionality	Lack of membership incentives (but pressure from the European Council)	Low membership incentives after EU rejection, but increasing criticism and pressure	Rising membership incentives combined with continued criticism and pressure	Very high membership incentives
Policy-making resources of the government	Weak	Weak	Weak, but slightly improving	Weak, but slightly improving if the economy continues in a positive direction
Extent of changes needed in sub-sector to fulfill EU demands	Large	Large	Large	Large, but decreasing compared with earlier periods
Government response	No radical reform	Defensive radical reform	Offensive radical reform	?
Role of civil society	Weak, starting to take shape	Established, starting to form platforms	Important and influential actor, efficient lobbying	Important actor influencing the future government responses regarding anti-discrimination issues
Effect on the policy-making structure of the sub-sector	No effects	No effects	Creation of NCCD. Decreasing institutional uncertainty and increasing congruence	?

Figure 4 : Chain of events regarding anti-discrimination policies in Romania

The fulfillment of the aim to theoretically and conceptually explain one case of EU enlargement effect on the domestic policy-making structure of an EU accession country is displayed in the figure above. Using the theoretical framework developed by Jerre (2005) as a starting point, and adjusting it to the specific case, the research question of how and why the EU enlargement process has affected the policy-making structure in the sub-sector of anti-discrimination in Romania can be answered. The European Union has been able, by putting pressure on the government through the Commission reports and by supporting civil society organizations, to influence the Romanian government to finally respond through offensive radical reforms. The reason why the demands were taken seriously and resulted in change of the policy-making structure seems to be closely linked with high membership incentives and an active civil society. Regarding how government response and anti-discrimination policies will develop in Romania, conflicting factors leave room for uncertainties. The creation of the NCCD has developed a policy-making structure and anti-discrimination laws have been approved. A strengthened civil society will most probably continue fighting for further reforms. There is a risk though, that when the Romanian government fulfills the aim of full EU membership, reforms concerning issues earlier pursued due to outside pressure and demands, might now be neglected.

7 Conclusions

The aim of this study has been twofold. Through the creation of a chain of events conceptualizing and theoretically explaining an EU enlargement effect on the domestic policy-making structure of an accession country, the research question has been answered. The case study of anti-discrimination policies in Romania proved to offer a suitable environment for the second aim of this study, the testing of the applicability of the theoretical framework developed by Jerre (2005). The adjustment of the theoretical framework to include the role of civil society is important to shed light on the phenomenon of EU impact on an accession country. In this concluding section an interesting and somewhat surprising finding of the study will be elaborated upon, and topics of research on EU enlargement and domestic effects on accession countries will be suggested.

During the course of this study a contradiction became clear between how the general public seems to view the groups studied here, and the speed and scope of anti-discrimination policies pursued by the Romanian government affecting these groups. Reports of increased domestic violence, widespread animosity towards the Roma population and hate crimes against homosexuals do not seem to correspond well with policy reforms and law changes that should contribute to a society moving in a radical different direction. The theoretical framework applied in this study does not enable a thorough analysis of this interesting contradiction and the possible consequences of such developments, but hopefully other studies will be able to present more in depth knowledge on this issue.

Finally, another area of research awaiting scholarly attention is that of developments in former accession countries, when the aim of EU membership is fulfilled. Comparative studies of former Eastern European EU member states should be able to give valuable insight in how policy-making structure reforms pursued during outside pressure from the EU are sustained, further reformed or simply neglected when membership is secured.

8 References

Books and Articles

Badescu, Gabriel – Sum, Paul E, 2005. “Historical Legacies, Social Capital and Civil Society: Comparing Romania on a Regional Level”, *Europe – Asia Studies*, Vol. 57, No. 1 January, pages 118-133.

Bideleux, Robert, 1996. *Bringing the East back in*. Pages 225-251 in Bideleux, Robert – Taylor, Richard (red.) *European Integration and Disintegration, east and west*. New York: Routledge.

Boussard, Caroline, 1998. *Civilsamhälle och demokratisering*. Pages 148-169 in Hydén, Göran (red.) *Demokratisering i tredje världen*. Lund: Studentlitteratur.

Brochmann, Grete, 1996. *European Integration and Immigration from Third Countries*. Oslo: Scandinavian University Press.

David, David P – Baban, Adriana, 1996. “Women’s health and reproductive health: Romanian experience”, *Patient Education and Counselling*, Vol 26, 235-145.

Esaiasson, Peter – Gilljam, Mikael – Oscarsson, Henrik – Wägnerud, Lena, 2003. Andra upplagan. *Metodpraktikan. Konsten att studera samhälle, individ och marknad*. Stockholm: Elanders Gotab.

Fonseca, Isabel, 2002. *Bury Me Standing – The Gypsies and their Journey*. Stockholm: Ordfront Förlag.

Gallagher, Tom, 1995. *Romania after Ceausescu*. Edinburgh: Edinburgh University Press Ltd.

Hall, John A, 1995. *In Search of Civil Society*. Pages 1-31 in Hall, John A (red.) *Civil Society. Theory, History, Comparison*. Oxford: Blackwell Publishers Ltd.

Hann, Chris, 1995. *Philosopher’s Models of the Carpathian Lowlands*. Pages 158-182 in Hall, John A (red.) *Civil Society. Theory, History, Comparison*. Oxford: Blackwell Publishers Ltd.

Holme, Idar, Magne – Solvang, Bernt, Krohn, 1997. Second edition. *Forskningsmetodik. Om kvalitativa och kvantitativa metoder*. Lund: Studentlitteratur.

Jerre, Ulrika, 2005. *Conflicting Logics? Implementing Capacity and EU Adaptation in a Postcommunist Context*. Lund: print@soc.

Kuler, Hary – Benjamin, Lya, 2002. *The History Museum of the Romanian Jews*. Bucharest: Hasefer Publishing House.

Lundquist, Lennart, 1993. *Det vetenskapliga studiet av politik*. Lund: Studentlitteratur.

Magyari-Vincze, Eniko, 2003. "Gender (In)Equality in the Post-Socialist Romania", paper presented at Gender and Power in the New Europe, the 5th European Feminist Research Conference, August 20-24, 2003, Lund University, Sweden. http://www.5thfeminist.lu.se/filer/paper_194.pdf

Nilsson, Iréne, 2002. *Rumänien och Demokratins Förutsättningar*. Stockholm: Carlsson Bokförlag.

Occhipinti, Laurie, 1996. "Two steps back? Anti-feminism in Eastern Europe", *Anthropology Today*, Vol 12 No 6, 13-18.

Pollack, Mark A, 1998. *The Engines of Integration? Supranational Autonomy and Influence in the European Union*. Pages 217-249 in Sandholtz, Wayne – Stone, Sweet, Alec (red.) *European Integration and Supranational Governance*. New York: Oxford University Press Inc.

Roper, Steven D, 2000. *Romania. The Unfinished Revolution*. Singapore: Overseas Publishers Association.

Sampson, Steven, 1996. *The social life of projects. Importing civil society to Albania*. Pages 121-142 in Hann, Chris – Dunn, Elizabeth, (red.) *Civil Society. Challenging Western Models*. New York: Routledge.

Simhandl, Katrin, 2006. "Western Gypsies and Travellers – Eastern Roma; The Creation of Political Objects by the Institutions of the European Union", *Nations and Nationalism*, Vol 12 No 1, 97-115

Valiente, Celia, 2000. *Reconciliation policies in Spain*. Pages 143-159 in Hantrais, Linda (red.) *Gendered Policies in Europe*. New York: St. Martin's Press, Inc.

Walzer, Michael, 2002. *Equality and Civil Society*. Pages 34-49 in Chambers, Simone – Kymlicka, Will (red.) *Alternative Conceptions of Civil Society*. Princeton: Princeton University Press.

Reports

Agenda 2000 - Commission Opinion on Romania's Application for Membership of the European Union, July 1997.

Progress Report from the Commission on Romania's Progress Towards Accession, November 1998

Progress Report from the Commission on Romania's Progress Towards Accession, October 13, 1999

Regular Report from the Commission on Romania's Progress Towards Accession, November 8, 2000

Regular Report from the Commission on Romania's Progress Towards Accession, November 13, 2001

Regular Report from the Commission on Romania's Progress Towards Accession, October 9, 2002

Regular Report from the Commission on Romania's Progress Towards Accession, November 5, 2003

Regular Report from the Commission on Romania's Progress Towards Accession, October 6, 2004

Roadmaps for Bulgaria and Romania, November 13, 2002

Romania - Comprehensive Monitoring Report October 25, 2005

Treaty of Accession of Bulgaria and Romania, signed April 25, 2005

All of the above EU Commission reports can be accessed at:
http://europa.eu.int/comm/enlargement/romania/key_documents.htm
Date of access 20 March 2006

Eurobarometer 63.4. Public Opinion in the European Union. Spring 2005. National Report, Executive Summary. Romania.
http://europa.eu.int/comm/public_opinion/archives/eb/eb63/eb63_en.htm
Date of access 17 March 2006

Gay Romania News & Reports 2000-2005. Published in Bucharest by ACCEPT

General principle and minimum standards for consultation of interest parties by the Commission, December 2002
http://europa.eu.int/comm/secretariat_general/sgc/consultation/index_en.htm
Date of access March 15

Programul Phare Societatea Civila 2001, Published by the European Commission in Bucharest, Romania.

Public Scandals: Sexual Orientation and Criminal Law in Romania. A report by Human Rights Watch and the International Gay and Lesbian Human Rights Commission, 1998. New York: Human Rights Watch and IGLHRC
<http://www.hrw.org/reports97/romania/>
Date of access 18 March 2006

Respecting Human Rights in Romania: Roma Citizens of the State of Law. Annual Report 2003. Published in Bucharest by Romani Criss – Roma Centre for Social Intervention and Studies in 2004.

The National Research on Domestic Violence and Violence in the Workplace, 2003. Published in Bucharest by Partnership for Equality Centre.

Women and Civil Society: Directory of Romanian NGOs, 2003. Published in Bucharest by AnA, Societatea de Analize Feministe in 2003.

Interviews and Speeches

Banateanu, Florin. UNDP. Bucharest 30 November 2005

Budai, Alessandro. Task Manager Social Sector, Delegation of the European Commission in Romania. Bucharest 16 November 2005

Costache, Felix-Emanuel. President, Roma Youth Promotion Centre. Bucharest 5 December 2005

Employee. Concil for Combating Discrimination, Government of Romania. Bucharest 20 November 2005

Employee. National Agency for Family Protection, Government of Romania. Bucharest 24 November 2005

Matei, Petre. Legal adviser, Save the Children Romania. Conference against Trafficking at Malmö Högskola. Malmö 24 January 2006

Neagoe, Dolores. Task Manager Civil Society, Delegation of the European Commission in Romania. Bucharest, 16 November 2005

Olteanu, Florentina. Representative, ACCEPT - Bucharest Acceptance Group. Bucharest 5 December.

Representative. AnA, The Romanian Society for Feminist Analyses. Bucharest 20 November 2005

Representative. Roma Center. Bucharest 15 March 2006

Representative. Romanicriss. Bucharest 14 March 2006.

Stefanel, Adriana. Active youth member of PNL. Coalition party, Government of Romania. 19 November 2005

Stefanescu, Poliana. Department of Sociology and Social Work, University of Bucharest. Bucharest, 14 November 2005

Tiesu, Roxana. President, Partnership For Equality Centre. Bucharest 24 November 2005