

ASSESSING REGIME CHANGE THROUGH POLICY CHANGE: THE ROMANIAN CASE

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Abstract

The article addresses the issue of the policy-making process during the postcommunist transition and democratic consolidation in Romania, the legislative output of the Parliament being used as an account of the public policies adopted until this country has started accession negotiations with the European Union (2000)¹. It aims at assessing both regime change through outlining the main policy areas that were designed by the Romanian state while building (itself) a democratic and free market system, as well as the role of the Parliament in this process. The selected time span offers the advantage of assessing regime change and analyzing the above mentioned issues from two perspectives: the postcommunist transformations combined with the influence exercised by the EU accession process.

The relevance of such an endeavor is multilayered, but perhaps one of the main arguments could be that this research uses a less explored path of assessing the “transition and consolidation” processes that took place after the fall of the communist regime in 1989, namely by looking at the *outcome of the political system* rather than at its features (constitutional framework, institutions, party system, civil society, etc.). Such an approach is relevant precisely because it is the system’s performance that has been and still is constantly challenged ever since the new regime appeared, rather than its ability to become formally compatible to Western European political and economic models (and especially with EU requirements). The fulfillment of a series of policy targets in order to comply with foreign requirements does not constitute a satisfactory basis for analyzing system performance in terms of policy making; it only grasps a small part of scattered governmental achievements. Therefore, one needs to be acquainted with the entire policy framework in order to find explanatory factors that could shed light on the intricate processes that accompanied regime change in Romania and that constitute the background (framework) for current performance of the Romanian political and economic system.

¹ Romania was invited to start accession negotiations in December 1999 at Helsinki, but negotiations began the next year (2000), in spring.

In order to better understand the approach (and the rationale behind this research) at least three elements should be taken into account. First and foremost, it is the “backwardness” label that keeps characterizing the Romanian political and economic system and all the analyses dedicated to its evolution after the fall of the communist regime. While it is *not* the purpose of this article to challenge such a thesis, it strives to identify new ways to understand such a slow evolution towards Western / EU standards, as compared to countries such as Hungary, Poland, etc. In this sense, the thesis of this article is that while the constitutional and party politics framework, as well as the communist and pre-communist legacies, have been analyzed extensively in order to explain this country’s performance during the postcommunist period, one should look more carefully to policy decisions made by the new regime (state, government) in order to complete the explanatory design. In this context, the relevance of the present research lies precisely on this new set of data that it provides and analyzes, namely the policy outcome of the new regime. What characterizes the outcome of policy-making process in postcommunist Romania? What are the features of such outcome that could shed some new light on the relatively poor capacity of this country to develop and, for example, fulfill EU expectations (even ten years after the beginning of the transition process)?

Second, an overview of the policy output of the Romanian governments during transition and consolidation provides an additional analytical tool and framework for identifying the main features of regime change (seen as process) and, what is more, of its consequences (seen as system output). Such a research strategy offers additional insight concerning the *direction and the pace of the changes* that the whole system (political, economic, social, etc.).

Third, at a lower level of analysis, focused on the internal functioning of the political system, such a research design is a good starting point for an examination of the relationship between the political actors in power the first ten years after the fall of communism and the policy outcome of the system – a classical research objective for the “politics does matter” school². What is the correlation between the political parties that have held office during three legislative terms and seven cabinets and the main policy areas that dominate the policy making process of the time? In this case, specific elements of the political history of Romania further increase the relevance of such research. For example, the length of the dominance of former communist leaders over the executive and legislative powers (until 1996) creates incentives for a comparison between the policy output before and after this moment – especially when taking into account the “gradual” approach to transition that such political actors have chosen to impose on the system. Similarly, EU influence can be assessed. Then, it is

² A detailed presentation of this topic can be found in Kurt Richard Luther, Ferdinand Muller-Rommel, eds. *Political Parties in the New Europe. Political and Analytical Challenges* (Oxford: Oxford University Press, 2002).

the confused constitutional framework, in particular the legislative – executive relationship, which has been constantly criticized for its negative impact on the performance of the system and also on the policy performance of the government. In this context, the article also indirectly offers supplementary data concerning the role played by the legislative branch of government in the policy-making process during the first postcommunist decade.

As stated from the beginning, the research is based on an analysis of the legislative output of the Parliament, which is considered to be the best substitute for describing and analyzing the framework of public policies, given the position of laws at the top of the hierarchy of legal act. The data is extracted from a complex database of all the laws adopted by the Parliament (1700) between 1990 and 2000 (covering the first three freely elected legislative terms). They are coded according to three main criteria – the content of different policy areas, the dynamics of the legislative / policy-making process (including policy change indicators), and the identity of and the relationship between the main veto players involved in this process.

In order to describe the *content of the policy outcome*, laws are coded in 30 policy areas, based on a coding scheme intended to reproduce the policy areas covered by the parliamentary committees in Romania. Nevertheless, those initial categories have been progressively diversified in order to refine the analysis and increase its accuracy. Furthermore, two additional variables are used, namely the “degree of (policy) relevance”³ of each law and its “foreign vs. domestic” character. Differentiating between the degrees of relevance of laws is necessary in order to refine the analysis of the legislative output. Actually, it is this variable that best emphasizes the real weight of different policy areas for the various cabinets and parliamentary majorities that existed during this period. This weight seems to be also the best predictor for the actual performances of Romania in different policy areas – looking at the European Commission’s yearly reports during the accession process. The second variable differentiates between laws that are the consequence of international agreements signed by the Romanian state and laws that are solely the product of domestic politics. It shows the openness of the state and the degree of compatibility between Romanian and international public policies. During the transition and democratization process, this variable also measures the speed, the weight and the directions of the harmonization between Romanian and international legislation (see EU and NATO accession processes).

³ The laws are coded into three categories of relevance: low, medium and high. The evaluation of each law is based on the weight of its subject matter for the policy area to which they belong. For instance, laws that constitute the legal background of an area, such those for the organization and functioning of key institutions (Presidential Administration, National Bank, various governmental agencies) or laws that involve high financial costs / investments are coded as highly relevant. On the contrary, laws such as those that serve for changing the administrative status of a village, although relevant as a policy decision, are of minor relevance. It should also be mentioned that the coding is based only on the title of the law.

Two main types of variables are used in order to measure and assess the *direct involvement of the Parliament in the policy-making process*, namely the MPs' legislative proposals (number, political identity of MPs, policy area, etc.) and the governmental ordinances amended and rejected by the Parliament (amount, policy area, etc.). Several other indicators relevant for the content analysis of the policy output (such as the degree of relevance of these laws) are used to refine the assessment. It should be emphasized here that the analysis is restricted to the legislative output, the data gathered for this research does not cover yet the whole policy making process on the parliamentary level.

The data used is extracted mainly from the Romanian Parliament legislative database and from the records available on its website concerning the stages of the legislative process. This second type of data has proven to be particularly scarce for the period analyzed, especially before 1996. The timing of the legislative process, the parliamentary commissions' activity and the political identity of initiators of legislative proposals are not available for the public⁴, which hinders the analysis concerning the policy making process. Therefore, it is difficult to assess accurately the Parliament's role in the policy making process in Romania prior to that year. Meanwhile, the reliability of the data concerning the policy output is more than satisfactory, providing a high quality background for the analysis.

Theoretical Framework and Considerations for the Romanian Case

The theoretical approach combines the literature concerning the policy-making role of legislatures (special attention being paid to the thesis of the centrality of Parliaments during the postcommunist period) with studies about the political, institutional and policy challenges that CEECs have faced before becoming mature enough to be part of the EU.

Providing a clear-cut analytical framework is quite challenging given the complexity of the nature of the research questions and objectives. There is a significant amount of theoretical considerations that bear upon each element of this research, the background of which cannot be extensively addressed in this article. Consequently, the aim of this section is to point to the main research areas that are considered essential to an analysis of the policy output during post-communism. It is important to notice that, in this context, *regime change* is seen as a continuous and long process that has only started in 1989, the magnitude of which fades away progressively until the present, without ending suddenly at a certain moment. The most significant cornerstone was, indeed, the moment Romania acquired full membership to the

⁴ It is highly possible that the quality of records themselves is extremely poor for that period, taking into account the quality of verbatim records of plenary meetings of the two chambers, available in the Official Gazette. Nevertheless, accounts of executive involvement in this process are even nowadays scarce, leaving the parliamentary activity the main source of information for such research.

European Union, without really ending the process but acknowledging the progress achieved.

The literature concerning the policy-making role of legislatures offers one of the most comprehensive theoretical frameworks for scrutinizing and assessing regime change through policy change - given the multilayered nature of factors influencing the policy-making and regime change processes as well as the parliamentary involvement. Moreover, since the data employed by this research refers strictly to legislative output, the relevance and the adequacy of such a framework is further enhanced. In this respect, the works of Michael Mezey, Philip Norton⁵ and David M. Olson represent the starting point of the theoretical framework. They have designed an extremely comprehensive tool that takes into account general political system traits (the environment in which public policies are created and parliaments function), the traits of the legislature (which, irrespective of its actual strength in a system, is the only actor that validates/ legitimizes the legal basis of public policies) and the traits of the public policies themselves (which influence heavily the quality of the system's performance). Furthermore, this framework has already been applied to the CEECs during the first five years of transition⁶, providing a more accurate basis for the analysis of a postcommunist country. Reviewing all the factors they include in the research design offers the opportunity of evaluating the weight of several variables considered relevant to the present study and making specific comments about the Romanian case.

The first type of factors refers to the *external environment*. In legislative studies, it represents the sum of factors that create the setting in which the policy making process takes place and the Parliament operates. Such factors are the ones that influence the policy making process in general and, what is more, they constitute the key elements that also participate in regime change. According to Mezey, Olson and Norton, there are four major categories of such "environmental" factors: the constitutional setting / type of regime, the administrative structure (decentralized vs. centralized), party system and electoral system and, fourth, the interest groups (civil society). The discussion will focus on the first two factors given their higher relevance for the present research endeavor. Every one of these factors bears heavily on the way a country endures the transition and consolidation processes and on the performance of the system from the point of view of regime change. The communist regime has had a tremendous impact on each of them and the democratization process they underwent covers almost everything that can be included under the concept of "regime change".

⁵ David M. Olson, Michael L. Mezey, eds., *Legislatures in the Policy Process: The Dilemmas of Economic Policy* (Cambridge: Cambridge University Press, 2004).

⁶ David M. Olson, Philip Norton, *The New Parliaments of Central and Eastern Europe* (London: Frank Cass, 1996).

In postcommunist countries, each factor undergoes a process of re-shaping, which directly influences the policy making process and the quality of the outcome. First and foremost, it is the constitutional setting that is completely renewed, and during the first years of transition it has been subject to important reassessments and challenges. In Romania, the new constitution was adopted only at the end of 1991, one year and a half after the first freely elected parliament started work. The lack of clarity concerning the definition of the constitutional powers of the legislative and of the executive as well as their mutual relationship was constantly the object of criticism⁷. Even after the 2003 constitutional amendment it is still considered one important cause of the poor performance of the system – including the policy-making process and its outcome. The status of the Parliament within the system has never been a significant one, arguments in favor of its strength being difficult to trace even during the first years of transition, when the “centrality” thesis was crafted in East Central Europe⁸. The Romanian Parliament could be considered a relatively weak one, constantly submitted to the executive, be it in the name of democratization reforms or accession to EU⁹. It is difficult to consider the Parliament a true veto player¹⁰ in the system, although, formally, it has enough scrutinizing and initiating power to dominate the policy-making system. Political parties that have represented, since the beginning, the real “engine” of the policy-making process and they have never made use of the Parliament’s formal prerogatives in order to allow it to play a significant part in this process.

The traits of political parties and the party system in general are usually considered the key factor in the policy making process¹¹: not only do they influence the relationship between the legislative and the executive, but they provide the input that lies at the center of policy-making process and of its output. Furthermore, given the central position they occupy in each modern government and their involvement in

⁷ Giovanni Sartori, “Sul sistema costituzionale romeno”, *Studia Politica. Romanian Political Science review* 1 (2002): 9-12.

⁸ Attila Agh, “The Parliamentarisation Of The East Central European Parties”, in Susan Bowler, David M. Farrell, Richard S. Katz eds., *Party Discipline And Parliamentary Government* (Ohio: Ohio State University Press, 1999), 180; Attila Agh ed., *The Emergence Of East Central European Parliaments. The First Steps*. (Budapest: Hungarian Centre Of Democracy Studies, 1994), 291-306; Attila Agh, “Parliaments as Policy-making Bodies in East Central Europe: The Case of Hungary”, *International Political Science Review* 18 (1997): 417-432.

⁹ Jean Michel De Waele, Sorina Soare, Petia Gueorguieva, “Parlamentele din Europa Centrala si de Est”, *Studia Politica. Romanian Political Science Review* 1 (2003): 141-161

¹⁰ Veto players theory is described by George Tsebelis in various books and articles. George Tsebelis, “Veto players and institutional analysis”, *Governance: An International Journal of Policy and Administration* 4 (october 2000): 441- 474; George Tsebelis, *Veto Players: How political institutions work?* (Princeton: Princeton University Press, 2002).

¹¹ Hans Dieter Klingemann, Richard I. Hoferbert, Ian Budge eds., *Parties, Policies and Democracy* (Colorado: Westview Press, 1994); Michael J., Laver, Ian Budge, *Party Policy and Government Coalitions* (London: Macmillan Press Ltd., 1992); Ian Budge, Hans Keman, *Parties and Democracy: Coalition Formation and Government Functioning in Twenty States* (Oxford: Oxford University Press, 1990); Michael J. Laver, Kenneth A. Shepsle, *Making and Breaking Governments. Cabinets and Legislatures in Parliamentary Democracies* (Cambridge: Cambridge University Press, 1996).

every level of the decision-making process, the features of political parties and the party system are considered crucial for a successful regime change and for good system performance.

In postcommunist countries, there is equally an extensive literature dedicated to the importance of political parties for the transformations that these countries underwent, especially in what concerned democratization¹². Romania is no exception to the rule, the impact of political parties' development being more obvious since the pace and the quality of their maturity and institutionalization has been relatively slow and poor. If the issue of fragmentation and fluidity could be considered progressively solved, the clarification of identity and the capacity to participate to programmatic competition represents the biggest problem even nowadays. It is precisely this incapacity to define a clear identity and sustain stable patterns of political and policy preferences¹³ that most hindered the democratization process in Romania (and, consequently, regime change).

The changes in the partisan landscape at the parliamentary level are illustrative in understanding / explaining some developments on the Romanian political scene, even at a systemic level. The first legislative term saw 15 political parties entering the legislative arena. However, it was the so-called democratic movement National Salvation Front, run by former communists, which dominated the legislative and the executive. Three small historical parties played the part of the opposition and a large amount of political factions gravitated around the National Salvation Front without influencing in any way the decision making process. It is only during the second legislative term that the balance of power between the power and opposition as well as between the former communists and the anti-communists becomes more equilibrated; the number of parties also decreases. Nevertheless, the former communists remain in power¹⁴, although this time they can only form a minority government. Four nationalist small parties grouped around other representatives of the former regime sustain the parliamentary majority for the new cabinet. It is only after 1996 that the democratic opposition (Democratic Convention of Romania) wins the election and forms the government. However, their eagerness to promote the democratic and free market reforms is not matched by an authentic political and administrative capacity to govern the country. If the parties formerly in power illustrated the system's resistance to change (not only at a policy level but also at a political one), the performance of the democratic opposition parties while in

¹² One example of the many works dedicated to this topic, Paul G. Lewis ed., *Party development and democratic change in post-communist Europe. The first decade* (London: Frank Cass, 2001).

¹³ Herbert Kitschelt, Zdenka Mansfeldova, Radoslaw Markowski, Gabor Toka eds., *Post-communist party systems. Competition, Representation and Inter-party Cooperation* (Cambridge: Cambridge University Press, 1999.)

¹⁴ After serious quarrels concerning the pace and the direction of reforms, the NSF splits and it is the hardcore communists that take the power in the next elections. The more democratic wing joins the historical parties in order to create a stronger opposition.

government illustrated the lack of skills and knowledge of the new political elites concerning government processes and requirements.¹⁵

The second type of factors refers to the *internal environment* (in this case, that of the legislature), namely MPs (professional and political experience), parliamentary parties (party system in the legislature, decision making process and relationships with the party-outside-the parliament), committees (strength, quality of staff), chamber organization (standing orders, resources, autonomy in setting the agenda) and constituency relations. During post-communism, each type of factor is characterized by serious shortcomings: MPs lack political experience and the necessary skills to participate in government, parliamentary party groups lack the discipline necessary to act as real actors in the parliamentary arena (either in power or in opposition), committees lack the expertise to fulfill their advisory and scrutinizing tasks, procedural regulations are incomplete and confusing and MPs' relation with their constituency is quasi-inexistent¹⁶.

The relevance of parliamentary institutionalization and maturation for regime change processes rests on the central place occupied by parliaments in transitional and democratizing systems, the socializing function they perform leading to political parties and political elite maturation¹⁷, and the central place they formally occupy in the policy-making process through their legislative function.

In Romania, all those assertions are applicable for longer or shorter periods of time. If most of them could be considered solved until 2000, constituency relations are still extremely weak, diminishing the quality of the policy input. The major democratic breakthrough in parliamentary life/practice occurs after 1992, when both chamber organization and parliamentary party life stabilize significantly. It is only after 1992 (following the adoption of the first constitution in 1991) that the Parliament starts to make full use of its initiating and scrutinizing powers. During this second legislative term, MPs begin to make extensive use of motions. It is interesting that only between 1992 and 1996 can one identify simple motions adopted by the Parliament¹⁸. Furthermore, it is only during the third legislative term that the executive starts asking for a vote of confidence from the Parliament (which will never fail to grant it to it, until nowadays). In the meantime, the legislative function seems to be used extensively and such use increases year by year. Nevertheless, such high level of

¹⁵ Lewis, *Party development and democratic change in post-communist Europe*

¹⁶ David M. Olson, "Party Formation And Consolidation In The New Democracies Of Central Europe", *Political Studies*, XLVI (1998): 432-464; Attila Agh, Gabriella Ilonski eds., *Parliaments and Organized Interests: The Second Steps* (Budapest: Hungarian Center for Democracy Studies, 1996).

¹⁷ Jean Michel de Waele, *L'émergence des partis politiques en Europe Centrale* (Bruxelles : Editions de l'Université de Bruxelles, 1999).

¹⁸ After that legislative term, only in 2005 is a new simple motion adopted by the Parliament. What is more, a censorship motion has never been adopted by the Romanian Parliament after 1989.

activity never seems to have been accompanied by an increase in strength or efficiency.¹⁹

Form this point of view, and given the object of analysis of this article, one final aspect needs to be pointed out in this section – namely this paradoxical connection between the extensive usage of the legislative function which places the parliament at the core of the governmental process and the marginal position it occupies in the system given the dominance of the executive over the policy making process. On the one hand, legislation seems to be the very essence of government since governing equals legislating.²⁰ But, on the other hand, the logic of contemporary government in modern democracies coupled with the adoption of western models by postcommunist countries²¹ leads to a situation where parliamentary institutions are dominated by the executive.²²

The third type of factors refers to the public policies themselves, namely to what the authors call “policy attributes”: *policy content and dynamics of public policies*, the different stages of the policy making process, as well as the circumstances under which policies are considered. Form this perspective, there are policy areas that are more susceptible to undergo extensive bargaining processes than others²³, at least at the parliamentary level, leading to a broader variety of choices available for the main veto players. Furthermore, new and highly salient issues provide the same incentives/opportunities, in this case the postcommunist context being of particular importance since most of the issues are new and salient. The postcommunist context also imposes a specific list of topics that need to be addressed, given the inevitability of simultaneous reforms in almost all policy areas.²⁴ On the one hand it is the economy (including free market, property rights, and competitiveness) accompanied by the welfare system (needing in-depth reform and new institutional formulas after the communist regime). On the other hand, it is the constitution making / institution building and adoption of new rules of the political game²⁵. Furthermore, it is expected that the policy-making process is influence by the stance of different veto players toward the old regime.²⁶

¹⁹ De Waele, “Parlamentele din Europa Centrala si de Est”.

²⁰ Giovanni Sartori, *The Theory of Democracy Revisited* (Chatham, New Jersey: Chatham House Publishers Inc., 1987), chap. 12.

²¹ Agh and Ilonski., *Parliaments and Organized Interests*.

²² One of the earliest accounts of this executive dominance can be found in Ghita Ionescu, Isabel De Madariaga, *Opozitia*, Translated by Valeriu Mihaila (București: Humanitas, 1992).

²³ Areas such as domestic rather than foreign policy, or welfare rather than narrow economic issues.

²⁴ Claus Offe, “Capitalism by Democratic Design? Democratic Theory Facing the Triple Transition in East Central Europe”, pp. 29-49 in Claus Offe, *Varieties of transition. The East European and East German Experience* (Cambridge Mass.: MIT Press, 1997).

²⁵ Claus Offe, Jon Elster, Ulrich K. Preuss, *Institutional Design in Post-communist Societies. Rebuilding the Ship at Sea* (Cambridge: Cambridge University Press, 1998.)

²⁶ Oslon and Norton, *The New Parliaments of Central and Eastern Europe*, 239.

After a number of years it is the accession to EU that drives and shapes the policy-making process imposing new objectives and constraints²⁷. In Romania, the pace of postcommunist reforms is characterized by gradualism which generated a certain dynamic of the policy making process in the economic and welfare policy areas. A difficult break from the communist past has also slowed the pace of democratic reforms (inclusively at a formal level). The EU accession process also starts quite late, although Romania becomes an associate member of the EU in 1994 and submits its application for EU membership in 1995. Nevertheless, the slow pace of reforms delays the official start of the accession negotiations from 1997 to 1999/2000. The main areas in which Romania has received criticism are the economy (lack of working economy) and administration (lack of proper administrative capacity), but also areas such as human rights (children rights) and justice (anticorruption). EU evaluation of various problematic policy areas could be considered to bear heavily on the course of the policy making process during the whole accession process.

All in all, the multi-layered nature of the factors that need to be taken into account when looking at a map of the main public policies becomes, hopefully, clearer after reviewing all those aspects that shape policy making and, at least indirectly, regime change.

The map of policy-relevant legislation adopted by the Romanian Parliament between 1990 and 2000

One way of providing a comprehensive account of the policy output of the Romanian state is by looking at the legislative output adopted by the Parliament. This strategy can be considered valid given the position of laws at the top of the hierarchy of legal acts in Romania, which means that the most important and legally binding decisions concerning public policies need to be approved by the Parliament (in the form of laws). It should be emphasized here that the role played by the executive in the policy-making process is irrelevant in this particular case, since the purpose of the analysis is not to identify the relative weight of different veto players in the process. In order to “draw the map” of public policies, it is necessary to choose from among all policy decisions (acts) issued by the Romanian state a set of data that is not only comprehensive enough but also reasonably manageable.

This quantitative analysis of public policies is useful in order to provide a snapshot of the policy output, which offers an image of the areas that have received the most attention from the government/state after 1989, during an intensive process of regime change. The limits of a quantitative analysis of the policy / legislative output (one possible critique concerning the relevance of such an endeavor for capturing an image

²⁷ Gergana Noutcheva, Dimitar Bechev, “The Successful Laggards: Bulgaria and Romania’s Accession to the EU”, *East European Politics and Societies*, 22 (2008): 114-144; David R. Cameron, “Challenges of Accession”, *East European Politics and Societies*, 17 (2004): 24-41.

of the public policies) can be overcome by pointing out that two corrections are applied: first, by differentiating between three degrees of relevance of laws (policies) and second, by taking into account every modification of the legislation (which measures the amount of “attention” paid by the government to various policy areas). This way, even a simple quantitative account of the policy / legislative output offers relevant data for analysis, even if the content of public policies is not examined.

The total number of laws adopted during the first three legislative terms is 1701, out of which only 1645 (96.7%) can be considered relevant for the policy making process of the postcommunist Romanian state. The rest of the laws (56) refer to various national holidays, national symbols or commemorative events.

Two policy areas dominate the policy making process and the parliamentary activity form a quantitative point of view, namely financial (16.4%) and fiscal (9.3%) policies. Economic policies represent the second major category of policies enacted before 2000: 12.8 % of all laws adopted in ten years refer to commerce, privatization or to industry. The case of privatization is particularly interesting, from a regime change point of view, since the weight of this policy area is rather insignificant (not only as compared to other policy areas but also to the percentages it reaches after 2000).

Social welfare and labor-related policies occupy only the third place in this hierarchy (10%). Furthermore, it should be emphasized that labor policies (employment policies) have retained more often the government’s attention than pure welfare policies (unemployment, state aids, etc.), in spite of the “welfare-centered” image of the Romanian state / government. This percentage tends to contradict the general opinion concerning the “energy” spent by the Romanian state in the welfare area during transition and especially by the ex-communist / social-democratic government that ruled the country during the first six years after the fall of the old regime, seriously hindering free market reforms.

Justice and human rights policies cover 8.5 % of the legislative output and occupy the fourth place on the public policies map. One interesting aspect is that, during the period under scrutiny, anticorruption legislation is extremely scarce (compared to the rhetorical attention paid by various political actors to this topic and, most of all, to the huge emphasis put on such policies during the EU accession process) – only 6 laws (0.4%) being counted in this area. Meanwhile, human rights²⁸, including property rights – an area that has a special relevance during postcommunist transition, receive a considerable amount of attention and represent no less than 3.6% of all laws.

Institution building and public administration matters represent only the fifth largest policy area, 6.8 % of all laws belonging to this category. This percentage could be

²⁸ Most of those laws referred to child protection and adoption issues.

interpreted as being quite low, taking into account that this period of postcommunist transition and democratic consolidation is supposed to be dedicated to such purposes – building the new democratic state and, indirectly, a democratic society. In this sense, this figure could also be considered an interesting tool for measuring regime change, together with property rights or privatization.

Concerning the rest of the policy areas, at least five remarks should be made. A special interest seems to have been paid to national defense and public order policies, since no less than 5.9% of all laws were dedicated to such issues, an interest that is quite surprising since Romania did not face significant threats during this period. This percentage could be considered high when compared to areas where serious policy change or state assistance was needed after the fall of communism. It is equally interesting to notice that a similar interest was paid to cultural and educational policies (5.6%) – again, contrary to the general opinion concerning the amount of “energy” spent by the Romanian state in order to legislate in this domain during the first years of transition (until nowadays, as a matter of fact). Retrospectively, this amount of legislation does not seem to have led to high quality performance in those areas since education is one of the most criticized policy areas even nowadays. Another policy area that needs a special emphasis is the one concerning transports, an area that has received an important amount of attention, namely 5.1% of all laws. This case is similar to the one of the education in terms of policy quality. Laws concerning agriculture can be considered equally numerous since they cover 4% of all policies, the poor quality of which generating serious criticism from the EU even 15 years after their enactment. On the contrary, healthcare policies received an extremely low level of attention throughout the whole period, only 1.4 % of the whole legislative output, which is perfectly consistent with the system performance in this area ever since 1990. However, if focusing on policy areas such as transports or agriculture is expected taking into account the challenges (and the needs) that the country faced during the postcommunist period, a percentage of 2.5% for environmental issues is rather surprising. Meanwhile, a very small percentage of all policy output is dedicated to infrastructure (1.9%) an area that would also receive serious criticism from the EU during the accession negotiations.

Given the focus of this article on regime change it is interesting to mention the percentage of the laws grouped in the “transitional justice” category: only 1.5% of all laws are dedicated to it, which could be considered a relatively high percentage since it is so close to an area like infrastructure, or slightly bigger than the amount of healthcare laws.

The Dynamics of the Legislative and Policy-Making Process During the Post-Communist Transition

The dynamics of the policy making process constitutes a valuable account of the quality of the legal framework and, consequently, of the public policies enacted by the

Romanian state after the fall of communism and the beginning of the “transition to democracy and free market”. A high degree of instability characterizes the legal framework because of the high rate of amendments introduced continuously from one year to another to almost all major policies and also because of the rapid abrogation of an impressive number of laws adopted during those years. *Only 60 % of all the laws adopted by the Parliament during its first three legislative terms are still in place, a percentage that emphasizes a very low level of legislative and policy stability in Romania.* The main policy areas with high levels of instability are: fiscal policies (37%), welfare (almost 50%), labor (53%), privatization, electoral laws (63%), “transitional justice laws” (65%), media policies (75%) and public administration (87.5%) – some of them being exactly the policy subjected to the most EU criticism over the years, or at least, areas that clearly displayed low levels of policy performance.

Almost 350 laws adopted before 2000 have already been modified, which represents 21.2% of all policy relevant laws. They are mostly grouped in about five policy areas, but the most interesting are: anticorruption policies (where *all* laws have been modified), electoral laws (where 6 out of 11 laws have been modified), “transitional justice laws”, infrastructure, and property rights. Once again, some of these areas are exactly the ones that have caused most of the problems over the years, in what concerns their implementation as policies. They have also received a significant amount of criticism from the EU and other similar international actors. Another example could be provided in order to sustain such a thesis: the law that underwent the most frequent changes refers to the public pensions and social security system (39 modifications) followed by the law of education (37 modifications) and a law concerning the salaries of judges (28 modifications).

Meanwhile, the number of laws adopted in order to modify existing legislation is quite small since only 17% of the legal acts adopted during a very instable policy setting belong to this category. Nevertheless, a diachronic analysis of the frequency of these laws confirms the assumption that during the first years of each legislature (1993, 1997) their frequency is considerably higher than in other periods (during a legislative term). It is interesting to note the same also applies to the passage from the first to the second legislature, when the same political majority was running the country.

A *diachronic analysis* of the adoption of policy-relevant laws by the Romanian state shows the progressive diversification of the legislation relevant for policy making. The pace of diversification along with the type of policy areas regulated by the state seem mostly correlated to the government’s efforts to comply with foreign requirements²⁹ rather than with the policy priorities of the post-communist transition.

²⁹ In this context, “foreign requirements” refers the series of requirements included into the agreements signed by the Romanian state with international actors such as the EU, the Council of Europe, the IMF,

Given the political and economic transformations that the state targeted after the fall of communism, it could be considered that economic and institutional reforms would be placed at the top of the policy agenda and consequently on the legislative one. However, it is striking to notice the absence of interest in regulating matters such as privatization, institutional building or labor, immediately after 1989. The attention paid to those areas has increased *only* along with various agreements signed by the government with foreign actors such as the European Union or the International Monetary Fund / World Bank, often being highly motivated by direct (financial) assistance. Meanwhile, the results of the diachronic analysis match the actual policy performance of the Romanian state in several policy areas, testifying for the lack of in-depth policy reforms.

During the first years after 1989, only three to five policy areas dominate the policy-making process (according to a comparative analysis for each year). During the last legislative term taken into consideration (1996 – 2000), the legislative process focuses on no less than eight or nine policy areas. This increase in variety could be considered beneficial to public policy development, regime change and overall system performance. The number of laws adopted every year has also visibly increased, which cannot be interpreted so positively when it comes to public policy development, regime change and overall system performance. After a certain level, there seems to be an inverse proportionality between the number of laws and the above mentioned indicators.

The analysis of the frequency rates for all policy areas during the first three legislatures confirms previous statements. Except for foreign policy, an area that receives the Parliament / Government's attention only in 1992, there are 18 important policy areas where the largest amount of legislative work is performed after 1996 – mostly in 1997³⁰ - 1998³¹ and in 2000.³²

Moreover, it should be emphasized that there are important policy areas such as agriculture, welfare, healthcare or industry that seem to be systematically ignored by the government throughout the whole period, but especially during the first years. At first sight, this could be seen as a measure of policy/legislative stability in those areas, and, indirectly, as a proof of the high quality of the policies designed by the Romanian state. Nevertheless, the “policy results” observed over the years by the population and by different types of specialists clearly contradict such an assumption.

Except for the year 1990, financial and fiscal policies dominate the policy making process each year. Commerce and labor occupy the second place in this hierarchy of

etc., be it during accession negotiations, or through the substantial financial assistance granted to former communist countries by such actors.

³⁰ Fiscal policy, Finances, Public order, Economy, Labor, Agriculture.

³¹ Welfare, Education, Commerce, Culture, Healthcare, Property rights.

³² Public administration, “Transitional justice” laws, Environment, Defense, Justice, Industry.

annual frequencies. Since 1995 the state seems to have paid a special attention to the economic policy and between 1996 and 2000 transports accompany it. The rest of policy areas are unevenly distributed on the policy map of the Romanian postcommunist state. If the focus on public administration is observable only in 1990 and 2000, in what concerns justice most of the laws were adopted by the Parliament in 1992-1993 and in 2000. Policies concerning education had remarkably high scores between 1998 and 2000. Meanwhile, welfare policies had extremely low frequencies before 2000, only in 1992 and 1998 has the Parliament / Government shown a certain interest in this field. The same applies to agricultural policies which reach high frequencies within the legislative output only in 1997 and 1998. Although policy areas such as healthcare or culture have never reached high frequencies, other policy areas – defense, foreign policy and even public order have received enough attention in order to be placed in different years (at least two) among “the leaders”.

This extremely uneven distribution of the attention paid by the authorities to various policy areas, as well as the absence of any clear pattern in this respect, makes it very difficult to identify possible correlations with the postcommunist transition requirements or with the EU accession process. Except for a certain emphasis on economic issues perceptible since 1995, accompanied by the progressive diversification of the issues addressed by the state ever since in several policy areas (such as commerce, labor, agriculture or education), it is not possible to observe a clear pattern in any of the fields analyzed. This emphasis on the above mentioned policies could be further correlated to the entering into force of the Accession Partnerships with EU in 1998, which were focusing precisely on agriculture (SAPARD), infrastructure and environment (ISPA), administrative and institutional consolidation (PHARE).

In what concerns post-communist “classical” reforms, there are very few policy areas that could be considered truly relevant, most of the main areas that needed serious reforms never appear among the “frequency leaders” in the quantitative hierarchy of policy areas. Not only that, but, as mentioned previously, some of them are completely absent.

In the end, what is interesting to notice is that during each “electoral year” (1992, 1996, 2000) the amount of attention given by the Parliament (and by the government in general) to policy areas that are highly susceptible to generate “electoral support” for the incumbent parties was especially low – or, at least, lower than one could expect. The only exception could be considered 1992, since labor and welfare policies are quite well represented within the whole legislative output (of that year and of the entire period). Meanwhile, the general pattern of the distribution of policies does not sustain the assumption concerning the legislative output that could provide “electoral benefits”. Moreover, the analysis of the diachronic distribution of legislation concerning exemptions or various kind aids for the population is not correlated to electoral years.

The Role Played by the Romanian Parliament in the Policy Making Process

Parliamentary involvement in the policy-making process, seen as a substitute measurement for the role played in the larger process of regime change, is interesting to analyze given the thesis of the centrality of parliaments on the political scene of post-communist systems. Although the central role attached to parliamentary institutions is far from limited to their policy involvement, the complexity of the policy-making process offers a relatively comprehensive view in this respect. Nevertheless, the data gathered concerning the activity of the Romanian Parliament does not provide enough arguments in order to sustain the centrality thesis. This conclusion is consistent with the public perception concerning the Parliament's overall performance after 1989 as well with expert analyses.

The legislative initiative represents the most important tool available to MPs and to the parliamentary institution in general to actively involve themselves in the policy making process. Meanwhile, the Romanian Parliament has initiated only 7.7% (127) of all policy-relevant laws. Such a contribution is extremely meager given the legislative initiative is the one tool that allows the Parliament to participate *directly* in policy-making by imposing its will on the process, rather than indirectly through amendments or its scrutinizing function. The deputies have initiated 72 laws that represent 4.37 % of the total amount of laws and 56.6% of all the MPs legislative proposals. The senators have initiated 72 laws that represent 2.85 % of the total amount of laws and 37% of all the MPs legislative proposals. Only eight laws have been initiated by both senators and deputies.

The main policy areas the laws drafted by MPs cover are: public administration, labor, institution building / state functioning, agriculture and "transitional justice" laws. Most of the deputies' initiatives belong to the first two policy areas, while the ones drafted by the senators refer mainly to justice and media, beside the "omnipresent one" of public administration. Common legislative proposals are oriented towards institution building / state functioning. One interesting aspect is that parliamentary legislative proposals suffer much less (six times less) changes than those belonging to the government.

During the first legislative term, no law has been initiated by the MPs, but there is one law that has been adopted following a citizen initiative, of moderate importance (the law no. 9/ 1990, imposed a temporary injunction on land property exchange between individuals.).

During the second legislative term, only 9.66% of laws are initiated by MPs, covering 18 policy areas: public administration (the most numerous), "transitional justice" laws, labor, agriculture and justice. Some laws from the juridical field have a high degree of relevance, pertaining to issues like the Supreme Court of Justice, lawyers,

and amendments to the Criminal Code. In the first two policy areas most of the laws that were adopted were drafted by MPs. It should also be mentioned that, irrespective of their policy relevance, most of the laws have been already abrogated.

During the third legislative term biggest amount of laws initiated by MPs are adopted, although they represent only 8.8% of all laws passed between 1996 and 2000. Furthermore, the number of policy areas that these proposals cover has increased from 18 to 21. It is also the first legislature when some of the laws are initiated by both senators and deputies.

Some of the laws belonging to “institution building/ state functioning” have a particularly high degree of relevance since they refer to issues like the Constitutional Court, the Ombudsman, the secret services, the Court of Audit, etc. MPs have also drafted laws concerning health social insurance, social security system, unemployment management, insurance firms, foreign investments, referendums, or even the law of the Central Bank of Romania (in this last case it is only a law proposing amendments). Meanwhile, less than half of the laws drafted by MPs are still in effect.

Concerning the political identity of initiators, the limited number of laws available for analysis because of the lack of data does not allow the identification of a correlation between policy preferences and party label. Nevertheless, it must be mentioned that all parliamentary groups (and all the parties forming them) are represented among the initiators of drafts that became laws, although most of them are from the parliamentary majority.

The relationship between the legislative and the executive power and more precisely, the Parliament’s ability to actively participate in the policy making process, can be further assessed through the analysis of its response to the ordinances submitted to its approval. In what concerns the ordinances that the Parliament has only modified, the percentage is considerably higher: 36.3% of all ordinances have been modified during the legislative process that took place in Parliament. They belong to important policy areas such as: privatization (33%), infrastructure (21%), industry, labor, education, healthcare and agriculture. Meanwhile, it should be noted that no governmental ordinance concerning anticorruption or media has been adopted with amendments by the Parliament. The percentage of such laws increases dramatically after 1992: if between 1990 and 1992 it concerns only one law, until 1996 it arrives at no less than 50.46% of ordinances submitted to its approval and during the last legislative term to 32.79%. However, the Parliament rejected only 30 ordinances during its first three legislative terms, which represent 5.6% of all ordinances that were submitted to its approval. They belong to two policy areas – financial and fiscal policies. Actually, except for one ordinance rejected during the second legislative term, all of them were rejected after 1996. It should be mentioned that the degree of relevance of these laws was medium to high, which could diminish somewhat the perceived weakness of the

legislative body in this matter, given the extremely low level of ordinances that it rejected.

Conclusion

Starting from the main objectives of this article and the key points of the theoretical approach, the following conclusions can be drawn.

The map of policy areas is fairly consistent with the general developments observed in Romania in the political, economic or social fields, as well as with the transformations that the rest of the CEECs underwent. Furthermore, they seem to juxtapose very well with the (policy) achievements that characterize the Romanian postcommunist history – representing, in the same time, measures of the pace and direction of regime change. Retrospectively, this map of policy areas has an explanatory power concerning the overall development of the country during the postcommunist years, although it does not provide a full account of the policy performance, given that the focus of the analysis is on the legislative output rather than on pure policy analysis.

On the time dimension a series of interesting observations can be made concerning the pace and direction of regime change – seen as a substitute for “transition to democracy and free market” / “democratic and capitalist oriented reforms”. One of the clearest patterns is the progressive diversification of the policy output, namely the state’s interest in and capacity to address more and more policy areas. Furthermore, the most powerful connection seems to be established between the policy output and the government’s efforts to comply with foreign requirements. From this point of view, the relation with the EU or other European organizations and in particular, the EU accession process seem to be the best indicator for the pace and content of the policy making process and of its output. The separate analysis of the policy output of each legislative term and cabinet provides, however, a better and clearer image of the relationship between the requirements of different stages of the democratic transition and the EU accession process.

At the same time, a comparative analysis of (the policy output of) all three legislative terms and seven cabinets shows that their policy profiles are almost never consistent with their expected “political” attributes, as defined by the ideological and policy claims of the parties in government. There seems to be an almost systematic lack of a clear connection between the parties / coalitions in power and results of the *quantitative* analysis of the policy output. For example, it can be noticed the surprising international openness³³ of the policy output while the former communists

³³ Measured, as stated previously, as the number of policy-relevant international agreements ratified by the Parliament.

were still in power (1996) as compared to the last legislative term when the so called “democratic opposition” came to power. At the same time, considering the diversification of the policy areas addressed by the state after 1996 and the degree of relevance of the respective laws, the increase in the pace of reforms seems quite well connected to the moment the democratic opposition came to power.³⁴

Concerning the role played by the Romanian Parliament in the policy making process during the first ten years after the fall of communism, the available data show that it was relatively weak, although not as weak as it is considered by less systematic researches. However, the results of this policy analysis based on the legislative output do not sustain the thesis of “centrality of parliaments” – not even during the first years of transition. Nevertheless, the validity of the analytical framework presented in the theoretical chapter is sustained by most of the data available - mostly in what concerns the weight of the “internal” and “policy attributes” factors for the Parliament’s role in the system and in the policy process as well as in the regime change process.

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³⁴ This observation does not necessarily contradict the previous statement concerning the existence of a stronger connection between the time dimension and the policy output, as compared to the political dimension. The fact that the new political actors in power were keener to comply with the foreign requirements proves only the existence of an indirect link with the content of the policy output. Based on the results of the quantitative analysis, such content cannot be considered connected with the political identity of those in power.

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