**Conditionality and reform reversal:**

**The case of the Romanian civil service[[1]](#footnote-1)**

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***- draft -***

**Abstract:** This paper deals with the problem of civil service politicization in Romania before and after the European accession. We employ a hybrid theoretical approach, that of compliance by conditionality and social learning. Explaining European compliance in this framework means that international actors comply with an external norm of behavior through a costs-benefits mechanism and through social learning. We argue that in the process of gaining the European membership, CEE states were subjected to a “sticks and carrots” mechanism and they responded to it by a (usually high enough) degree of compliance with the EU (European Union) norm. Once this mechanism was gone (with the EU membership granted) if the background social learning process was unsuccessful, it is to be expected to observe a regress of reform or a reform reversal. We call this conditional regress hypothesis and argue that in the case of the Romanian civil service reform we have a case where this hypothesis holds. With an ineffective process of social learning, after the European accession, Romania experienced a case of re-politicization of its public administration. To test this hypothesis we use an improved form of our (2010) politicization index. This index deals only with what we call formal politicization and measures only the compliance to the European “letters”.

**Key Words:** conditionality, conditional regress hypothesis, Europeanization, politicization, civil service.

**Introduction**

In (2008) Falkner and Treib argued that the new Member States from Central and Eastern Europe (CEE) (and two older Member States) could be labeled as “a world of dead letters”. In this matter and about these states, one may face the presence of a formal adoption and in the same time the absence of the behavioral adoption. This idea, though, seems to imply that the formal rules adopted by the new Member States through the European acquis represent “the whole truth and nothing but the truth” of the “European world of living letters”. Starting from what in the scholarly literature received the name of regress hypothesis or reform reversal hypothesis, it could be argued that this implication is false. The reform reversal hypothesis is that after gaining the membership status, CEE states faced no incentive (no conditionality) for continuing the reforms. From this it is to be expected that the formal/behavioral compliance to the European rule of the game will not only stop, but it will reverse. But if the reform reversal hypothesis is true then we are not only dealing with a world of dead letters (the lack of behavioral compliance), but also with a world of no letters (the lack of formal compliance). So what we should expect to observe is a democratic regress and an anti-Europeanization process on both dimensions, behavioral and formal. In applying this hypothesis to the problem of civil service reform (the problem we deal with in this paper), we expect to observe a process of behavioral and formal reform reversal from depoliticization (before accession) to re-politicization (after accession). As highlighted in this paper’s abstract, our theoretical framework builds on the regress hypothesis literature, but it also allows a place for social learning. However, for the scope of this paper, we focus only on the formal, as we chose a case of ineffective social learning. As shown above, we analyze the problem of politicization of Romanian public administration before and after the European accession. Our hypothesis belongs to the class of conditional regress hypotheses: after the 2007 accession, in the absence of the European conditionality and with an ineffective background process of social learning, the Romanian civil service reverted to its formal state of a politicized system of public administration. The hypothesis implies the expectation to find a formal (the ‘no letters’) and a behavioral (the ‘dead letters’) de-alignment from the European standard. Our method to test this hypothesis is a formal politicization index. This is a form of a codified documentary analysis and it will develop the index proposed by Ungureanu and Iancu in (2009), (2010), (2011). In addition it will cover a longer period from 2007 to 2013. The structure of our paper is the following: first we discuss the problem of Europeanization and that of European compliance; second we deal with the problem of conditionality and conditional regress hypothesis, third we describe the formal politicization index, and finally, fourth, we present the results of our testing of the conditional regress hypothesis for the Romanian case of public administration politicization.

1. **Europeanization and international compliance**

After the fall of the communist regimes, CEE countries experienced a process of democratization by Europeanization. A few definitions of Europeanization are needed here. Ladrech (1994), for instance, defined Europeanization as “an incremental process reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making” (Ladrech, 1994, p.69). Börzel (1999) offered a similar definition: “Europeanization is a process by which domestic policy areas become increasingly subject to European policy-making.” (Börzel, 1999, p.574). Olsen (2002, pp.923-924) described Europeanization as: a) a change in external boundaries, b) developing institution at the European level, c) central penetration of national systems of governance, d) exporting forms of political organization, e) a political unification project. These are only a few of the large amount of definitions which Europeanization received in the literature. Drawing partly from them, we use Europeanization to designate an incremental process of import-export of norms and practices between EU and candidate countries (and potentially between candidate countries themselves) with a focus on the exporting process from EU to the candidate states – therefore a process in which EU mainly exports norms and candidate states (mainly) comply with them. This brings forward the problem of compliance.

Why comply? The process of compliance of an actor to an external rule or norm was studied in various ways. Checkel (2001) identified two main strategies of assessing the compliance of national actors to international norms: a rationalist one which emphasized “cost-benefit calculations and material incentives”[[4]](#footnote-4) (Checkel, 2001, p.553) and a constructivist one which emphasized “social learning, socialization and social norms” (Checkel, 2001, p.553). The rationalistic approach is in fact the old rational choice approach to politics applied this time to international compliance. Checkel (2001) described it as a “neo-utilitarian, contractualist, and interest-based approach” (Checkel, 2001, p.556). So its tenets are based on methodological individualism, the utility maximizing paradigm, (mainly) the homo economicus principle and on preferences treated as exogenous (for this qualification see for example March, Olsen, 1984, p.737). In this approach rational actors behave instrumentally and the compliance is stated only in cost-benefit terms. In other words, an agent will comply with the norm of an external agent if that is the lowest opportunity cost available action. On the other part, as Checkel (2001) noted, constructivists traditionally focused not on the “why`s” of the compliance but rather on its later stage where norm internalization would be almost complete. “The result was a somewhat static portrayal of social interaction” (Checkel, 2001, p.557). The new constructivists though, focused on the dynamics of compliance and identified “two causal mechanisms through which social actors comply with norms: social protest/mobilization and social learning” (Checkel, 2001, p.557). This approach could be described as institutional or in its extreme version, methodologically holistic and preferences would be taken usually as endogenous – they are nested by social and formal institutions (March, Olsen, 1984, p.739). So what one has here is a picture of two apparently methodologically incompatible views of social research and scientific explanation both carrying a claim of universality. This claim was challenged amongst others by Checkel (2001), Kelley (2004) or Schimmelfennig (2005). They all talked about a third (hybrid) alternative, but only Checkel seemed to assumed it explicitly. “For elites […] norms are not internalized, they merely constrain behavior. Rationalist models easily explain elites’ compliance […] Deriving systematic explanations for compliance at the grass-roots, activist, and NGO-levels is more problematic. In some cases, norms genuinely constitute agents in the sense meant by constructivists, providing them with new understandings of interest/identity.” (Checkel, 2001, p.558) From this, one needs both “eye glasses” to view the entire social phenomena. Building on this argument and turning back to the initial problem, compliance to the European norm, we could identify four patterns of Europeanization (Table 1).

Table 1: Patterns of Europeanization (Iancu 2013)

|  |  |
| --- | --- |
| **Conditionality** | **Social learning** |
| Effective | Ineffective |
| Present | **Type 1**: High level of compliance, Fair changes | **Type 2**: Fair level of compliance, Pretense changes |
| Absent | **Type 3**: Fair level of compliance, Internalized changes | **Type 4**: Low level of compliance, Reversed changes |

First, if social learning is effective at the grass-roots level, and an external mechanism of sticks and carrots is in action, they will both act as external constraints on politicians[[5]](#footnote-5) and one should observe a compliance of national actors to the European norm. Second, if social learning is ineffective but external conditionality is present, one should expect an effective compliance to the external norm. Third, if the external conditionality is absent (or almost absent) and social learning is ineffective then one should observe a lack of compliance to the European norm. And finally, if the external conditional is absent, but social learning is effective, then one could observe compliance to the European norm.

For the case of CEE states, that brings forward an argument of “before and after accession”. Before accession the CEE states mainly complied with the European norm. This is a fact acknowledged by almost any scholar of Europeanization and it is backed up by EU Regular Reports and the final stage of the accession process - the EU membership. After the accession, though, the conditionality[[6]](#footnote-6) mechanism of the EU is no longer in place (at least not for most of the CEE countries[[7]](#footnote-7)). Compliance by rewards and sanctions is not available anymore. Starting from this factual observation, the rationalistic Europeanization literature argued that one should observe a reform regress or a reform reversal from the part of the new Member States. This is the regress hypothesis or reform reversal hypothesis. This hypothesis was formulated, amongst other, by Schimmelfennig and Sedelmeier (2004), Schimmelfennig (2005), (2008), Epstein and Sedelmeier (2008), Meyer-Sahling (2009), (2011), Pridham (2008), Iancu and Ungureanu (2010). In the light of the typology described in table 1, though, the simple absence of conditionality would not imply the regress of reforms. This is why it would be more theoretically accurate to state the regress hypothesis conditionally: Once EU conditionality gone, the compliance of CEE states to EU norm should regress *if* social learning was ineffective. In other words: compliance to EU norms was costly to the national CEE elites, but the price of EU membership was big enough to be worth assuming it. Once gone, if there is no domestic (popular) pressure to maintain it, CEE elites would change the rules and one will witness a reform reversal. This argument is useful for a large class of phenomena and its domain is large enough to explain almost any aspects of reform and de-form in CEE states. We will use it here only for the case of the Romanian public administration reform and de-form or reform reversal for the politicization dimension.

**2. Conditionality and the conditional regress hypothesis**

The Wilsonian – Weberian tradition favored the civil service as the most advanced form of public administration. In other words, bureaucratic production was considered to be superior to its counterparts. Wilson (1892) and Weber (1922) argued that bureaucracy has (unlike other forms as spoils system or the older system of class and privilege) two of the most important characteristics: it is neutral or impartial and it is efficient or effective. In this paper we deal only with the problem of neutrality[[8]](#footnote-8). The systematic study of neutrality of modern public administration began rather recently. Starting with the nineties though, more scholars manifested scientific interest in it. Rauch (1995), Rauch, Evans (1999), (2000), Goetz, Margetts (1999), Goetz, Wollmann (2001), Meyer-Sahling (2001), (2004), (2008), (2009), Peters, Pierre (2004), Gajduschek (2007), Eichbaum, Shaw (2008) are some examples of this kind of studies. These authors were mostly focused on the ways in which CEE countries imported formally and behaviorally the bureaucratic EU norm. Explicitly stated, non-neutrality or politicization on the public administration was the status quo of these states. By conditionality, EU guided these states through a long, difficult and sometimes not fully successful process towards an impartial public administration. Nunberg (1999) and Meyer-Sahling (2004) argued that “more than one decade after the change of regime, the record of civil service reform in post-communist Europe suggests that civil service developments are characterized by reform delays, failures to implement legislation and the continuing politicization of personnel policy processes” (Nunberg in Meyer-Sahling, 2004, p.72). Further, Meyer-Sahling described this situation arguing that Poland, Lithuania and Latvia adopted civil service laws but they were ineffective in implementing it. This failure was patch by revised laws in 1998, 1999 and 2000. Estonia adopted such a law in 1995, Bulgaria and Romania in 1999, Slovakia in 2001 and Czech Republic in 2002 (another failure case because the 2002 law was never implemented). The only CEE country which was an exception from the slow progress rule was Hungary which adopted a civil service law in 1990 and 1992 and which deepened its reforms by 1997, 2001 and 2002 laws (Meyer-Sahling, 2004). The Nunberg/Meyer-Sahling argument has at least two important implications: first, the existence of a zero point – an over-politicized communist type public administration (Goetz, Wollman, 2001, p.864) is presumed. Second, the process of de-politicization actually took place. It was slow but it existed. Absent (or not strong enough) were, however, - as Meyer Sahling (2009), (2011) argues - the mechanisms to ensure the durability of these reforms. “EU failed to address the issue of post-accession durability, as it devised virtually no instruments to prevent post-accession reform backsliding in the area of civil service governance.” (Meyer-Sahling, 2011, p.235). Indeed, Slovakia, Czech Republic, Poland and Slovenia are, as Meyer-Sahling (2011) showed, cases of reform reversal after accession. In the Baltic countries case the regress hypothesis was not confirmed and for the Hungarian case the evidences were not conclusive (Meyer-Sahling, 2011, p.251).

The underlying theory here is that politicians are interested in having bureaucracy in their grasp to use it as a power instrument. As a result of external pressure (EU conditionality) they slowly reform the public administration. Since after accession the compliance external incentives were gone, one should expect that the CEE politicians seek to reinstate the politicized status quo. This explanation seems to be invalid for the Baltic States cases and therefore one should add either the possibility of a methodological failure from Meyer-Sahling (2011) or a case of successful social learning. Since the methodological problem is rather improbable, the latter case seems to be more appropriate. We should, then, rewrite the regress hypothesis in the case of public administration politicization as the absence of both conditionality and social learning. In other terms, it is not the case of a true disjunction of the conditionality term and the social learning term or of a conjunction of both. This theory and its fully rationalistic cousin (the unconditional regress hypothesis) should, of course, be tested. In this respect, Rauch and Evans (1999) used a Webberianess Scale to assess the degree in which central agencies are characterized by meritocratic recruitment and the degree in which they provide a predictable long term career for civil servants. Gajduschek (2007) addressed the Hungarian case using an imaginary merit-patronage scale, while Eichbaum and Shaw (2008) used a similar index of “administrative politicization” (Eichbaum and Shaw, 2008, p.337). The politicization literature is scarce for the Romanian cases (Ungureanu and Iancu, 2010; Andrei et al., 2012), and this is to be addressed in the following section.

**3. The formal politicization index**

As briefly suggested above, our politicization index belongs to the class of formal indexes. This means that it measures the possibility of politicization. The question to be answered here is: “does a specific aspect of the laws of a country allow politicization?” If the answer is positive, the index will count that aspect as actual politicization. Suppose that a governmental agency wants to hire a new civil servant for one of its departments. Suppose further, that the laws which governs this action allows that the examination committee to be formed by the head of the agency and some of his/her subordinates. Our index will count such situations as instances of politicization of recruitment. The underlying intuition here is that the form of institutions is not randomly selected. In fact, they exhibit the underlying interests of the politicians. If this is true, then it is reasonable to think that if an institution allows politicians to politicize public organizations, then this is actually the intended effect of that institution and the actual politicization is an immediate consequence. This almost rationalistic story (it theoretically allows voters’ social learning) implies that politicians behave strategically and institutions are instruments to further their interests. Starting from these ideas the index is actually a documentary research which will take any possible politicization as actual. Of course this is an objectionable methodological choice, but it seems reasonable enough to assume that politicians as self-interested and cost-reactive. Therefore, building the politicization index on these assumptions seems to be justified. The main documents taken into consideration are comprised in the following table:

Table 2: Romanian legislation on selection of bureaucrats

|  |  |  |  |
| --- | --- | --- | --- |
| **Time frame** | **Year** | **Area of the regulation**(provided by the official text) | **Official data** (about publication) |
| 1990-1992 | 1990 | Employment based on competence criteria | Law no. 30/15.11.1990, Official Gazette of Romania no. 125/16.11.1990. |
| 1991 | Organization of job confirmation for employees of state administration | Government Decision no. 76/ 26.01.1991, Official Gazette of Romania no. 20/ 28.01.1991. |
| 1992 | Payment of employees from budgetary units | Government Decision no. 307/25.04.1991, Official Gazette of Romania no. 32/09.02.1991, republished in 1992, in the Official Gazette of Romania no.08.07.1992 |
| 1993-2006 | 1993 | Payment of employees of the budgetary systems | Government Decision no. 281/1993, Official Gazette of Romania no. 135/25.06.1993 |
| 1999 | Statute of Civil Servants | Law no.188/08.12.1999, Official Gazette of Romania no. 600/08.12.1999. |
| 2003 | Measures for ensuring transparency in exercising public offices and public functions | Law no.161/19.04.2003, Official Gazette of Romania no. 279/21.04.2003 |
| 2003 | Organization and development of civil servants’ career | Governmental Decision no.1209/14.10.2003, Official Gazette of Romania no. 757/29.10.2003. |
| 2004 | Code of conduct for civil servants | Law no.7/18.02.2004, Official Gazette of Romania no. 157/23.02.2004, republished in the Official Gazette of Romania no. 525/02.08.2007. |
| 2004 | Institution of prefect | Law no.340/12.07.2004, Official Gazette of Romania no.658/21.07.2004 |
| 2004 | Civil Servants Statute  | Law no.188/08.12.1999 as republished in the Official Gazette of Romania no. 251/22.03.2004 |
| 2005 | Guidelines for creating the public managers | Government Decision no.783/14.07.2005, Official Gazette of Romania no.717/09.08.2005 |
| 2006 | Law amending the Civil Servant Statute | Law no. 251/23.06.2003, Official Gazette of Romania no. 574/04.07.2006. |
| 2007-2013 | 2007 | Recruitment of high-level civil servants, their career management and mobility | Governmental Decision no.341/2007, Official Gazette of Romania no. 247/12.04.2007. |
| 2008 | Law on the institution of prefect | Republished after two major amendments brought by Emergency Ordinances, Official Gazette of Romania no.225/24.03.2008 |
| 2008 | New Statute of public managers | Emergency Ordinance no.92/24.06.2008, Official Gazette of Romania no.484/30.06.2008 |
| 2008 | Norms for organization and development of the civil servants’ career | Governmental Decision no. 611/2008, Official Gazette of Romania no. 530/14.07.2008, amended by Governmental Decision no.1173/24.09.2008, Official Gazette of Romania no. 677/02.10.2008. |
| 2009 | Measures for improving the public administration activity | Governmental Decision no.37/22.04.2009, Official Gazette of Romania no. 264/22.04.2009 |
| 2009 | Civil Servants Statute  | Law no.188/08.12.1999 – consolidated version (up to 22.04.2009), after second republication in the Official Gazette of Romania no. 365/29.05.2007 |
| 2009 | Measures for strengthening the managerial capacity of the public administration  | Emergency Ordinance no.105/06.10.2009, Official Gazette of Romania no.668/06.10.2009 |
| 2009 | Measures for dismissing the unconstitutionality of the measures strengthening the managerial capacity of the public administration | Decision of the Romanian Constitutional Court no.1629/03.12.2009, Official Gazette of Romania no.28/14.01.2010 |
| 2010 | Law amending the Civil Service Statute | Law no.140/07.07.2010, Official Gazette of Romania no.471/08.07.2010 |
| 2011 | New guidelines for the statute of public managers | Government Decision no.78/26.01.2011, Official Gazette of Romania no.186/17.03.2011 |
| 2012 | Law establishing new measures for reorganizing the central public administration | Law no.132/18.07.2012, Official Gazette of Romania no.498/19.07.2012 |
| 2012 | New guidelines for the statute of public managers | Government Decision no.1242/12.12.2012, Official Gazette of Romania no.868/20.12.2012 |

In order to analyze these documents, we used a dimensional perspective[[9]](#footnote-9), *i.e.* we listed a series of attributes which a politicized system of selecting civil servants should exhibit. These attributes were grouped into four classes (table 3).

Table 3: Attributes for explaining politicization of a civil servants’ selection system

|  |  |  |
| --- | --- | --- |
| **Class of the selection attributes:** | **[…] describing the processes and procedures public institutions use in order to:** | **[…] contains specific references to:** |
| C1: Recruitment |  identify and attract candidates to apply to a civil service position  | 1. content of the conditions raised before recruitment (e.g. seniority, citizenship, political experience)2. author of the conditions (e.g. general law, specific institutional regulation, discretionary power)3. recruitment body (e.g. national agency, public institution, private entity)4. rules on transparency (e.g. compulsory or discretionary publication of the contest adverts) |
| C2: Assessment | pre-select and select candidates enrolled in a recruitment or promotion competition | 1. examination committee (e.g. politicians, civil servants, representatives of the civil society)2. organizing body (e.g. central authority, public institution having a vacancy, external public or private body)3. content of the exam (e.g. dossier selection, interview, written proofs)4. control of the exam (e.g. right to contest results or members of the committee) |
| C3: Promotion | assess the individual and overall performance of the civil servant once he/she is in function | 1. author of the assessment (e.g. politician, superior civil servant, external body)2. rules of assessment (e.g. seniority, performance indicators)3. time of assessment (e.g. annually, upon request) |
| C4: Mobility | transfer, delegate or dismiss a civil servant | 1. author of the decision to (re)move the civil servant (e.g. politician, superior civil servant, external body)2. control of mobility (e.g. right to contest decision) |

The attributes from the third column of Table 3 (**contains specific references to)** are operationalized into 239 items and a scale of politicization of maximum 198 points score, we will not fully present here. We will only give an example for C1.2: author of the conditions.

Table 4: Operationalization of the attributes

|  |  |  |
| --- | --- | --- |
| **Class of the selection attributes:** | **[…] contains specific references to:** | **Items** |
| C1: Recruitment | Authorship for recruitment conditions  | General law |
| Exceptions to the law (enacted by the Parliament) |
| Direct superior of the open position |
| Head of the employing organization |

Each of the items received a score between 0 and 3 points where 0 stands for no politicization and three for full politicization. In table 4 we considered, for example, that recruitment conditions established by general law allows for less politicization than recruitment conditions established by the head of the employing organization. The underlying intuition here is built on the Weberian depersonalization requirement: if personalization is possible then politicization should be high. Using this kind of scaling we are able to test our conditional regress hypothesis. Applying the index before and after European accession should generate differences in the politicization scores (with higher values for the after accession period).

**4. Politicization of Romanian public administration**

As mentioned in one of the above sections, the literature on public administration politicization in Romania is rather scarce. Besides our (2010) paper only several others could be cited. A recent study relevant to civil service and thus to the scope of this paper, is Andrei et al. (2012). Their general argument was that civil servants were highly vulnerable to legislative changes, as top politicians usually altered the rules of recruitment so as to better fit their appointees into management positions (Andrei et al. 2012, p.7). Following a survey conducted on 550 employees from public administration, the authors operationalize politicization as: changes in top management and executive positions based on political reasons and membership of public administrators in political parties. As results are presented, one reads that abruptly 36% of the respondents opted for a “I do not know” answer when asked “Were there any changes in personnel based on political criteria in your institution during the last year?”. Such a behavior, as argued by Andrei at al. (2012, p.10), could be seen as fear for acknowledging the politicization of the system. Furthermore, regarding the political membership variable, 57.1% of the top management civil servants working for the central administration and 42.9% of those employed by local administrations declared their political affiliation to a party (Andrei et al., 2012, p.12). That led the authors into concluding that between 2007 and 2010 the neutrality of civil service in Romania could be questioned (Andrei at al., 2012, p.19).

In the same vein, but arguing on the dead letters[[10]](#footnote-10) of the civil servants’ code of conduct in Romania stands the work of Bryane (2012). As his argument unfolds, he comes to the very interesting conclusion that “no sane civil servant in Estonia, Romania or another Central European country would reasonably disobey their bosses’ orders because they believe their own decisions would better serve the public interest or the economise on government resources. No sane civil servant would rely on an administrative court, tribunal or arbiter to rule in their favor in such a circumstance. As civil servants cannot rely on these codes of conduct in their daily work, they fail to provide substantive rights for these civil servants” (Bryane, 2012, p.297). Giving that the Romanian Code of Conduct (Law 7/2004 with amendments) speaks quite clearly of impartiality and political independence (article 3), Bryane’s work (2012) provides an excellent opportunity for consolidating the view that Romanian civil servants as well as politicians exhibit an instrumental behavior: the first do not attempt to disobey their political leaders, and the latter dissimulate political impartiality for the eyes of monitoring agents, while altering the rules according to their discretionary agendas.

Nuţu and Ioniţă (2012) provide, at their turn, another proof for the existence of a deeply politicized administration in Romania. Their “clientelism index”, built on the frequency of discretionary transfers from central budget to local administrations serving the ruling party shows a peek between 2007 and 2008. Amounting to almost 80% of the total own revenues of local governments in 2008, such transfers were made based on power affiliation “with a twist” – money were targeted not only to mayors of the political color of the ruling coalition, but also to the independent officials (who usually denounced the opposition parties and became independent after election) (Nuțu, Ioniţă, 2012). Giving that according to the law, mayors are actively involved in recruiting civil servants, one could infer at this point that politicization of the recruitment system might be worth testing.

Our scrutiny of the legislation on selection of bureaucrats in Romania presents similar results: using general laws (on the statute of civil servants or about necessary measures to ensure transparency in exercising public offices and functions) politicians opted to support formal meritocracy up to 2006 (during the EU accession). After 2007 and with the EU Membership granted, formal re-politicization appeared, mostly with the help of Governmental decisions and Emergency Ordinances (issued also by the Government). We systematized the index data in two patterns of re/de-forming the civil service:

1. *Conditional reforming* *before Accession* – on our politicization scale seems to have happened between 1999 and 2006. Romania was officially a candidate country to the EU and the conditionality mechanisms was very much present. It was during that time that almost all regulations on meritocratic recruitment of personnel were enacted. As Ungureanu, Iancu (2010), (2011) presented it, the Statute of Civil Servants of (1999) spoke of merit base selection, stability and a civil service free of political pressure. It also proclaimed the obligation of all civil servants to restrain themselves from expressing their political beliefs while on duty and announced free public competitions to be monitored by a National Agency for Civil Servants. The Statute failed yet to include any pieces of information on how recruitment committees were to be formed or how the competition was to be organized. Such a situation made the European Commission give a rather blunt comment on the success of the reform, as it stated in 2002 that “little substantial progress could be reported” (Regular Report 2002, p.28). In the following two years the Civil Servants Statute undergone major revision: new (more merit-base) recruitment procedures were put in place, a new rank of civil servants was introduced and formerly political appointees (the prefects) were transformed into career officials; still, recruitment commissions for top management positions (high rank civil servants) would have been formed out of people nominated by the Prime Minister at the proposal of the Ministry of Internal Affairs and Administration. While the National Agency seemed to have consolidated its powers, it remained under the political supervision of the Government. At the time, the European Commission had already advocated in favor of signing the accession treaty, and by 2004, Romania closed all the negotiation chapters. As EU’s Monitoring reports (issued in 2005 and 2006) were still quite scrupulous in advocating against corruption in the system and more transparency in the public administration, by 2006, a peak in civil service reform was reached.

2. *Unconditional de-forming after Accession* – on our politicization scale seems to have happened as of 2007. From the peak of depoliticization reached in 2006, after accession the politicization score increased. Other instruments like CVM reports were in this light, ineffective. While fully aware of the role such instruments might present for the overall image of the Romanian reforms, there are two reasons for which they are of lesser importance for the conditionality argument. First refers to the scope of the CVM: in the case of Romania, EU seemed interested in how the fight against corruption went within the judicial system. Surely, when question on whether there was a rule of law present appeared in the summer of 2012, political neutrality became an indirect subject of concern. Still, no direct references in that regard were being made. Second, what could Romanian politicians lose should EU got suddenly upset by their behavior in recruiting civil servants? Such a question (and not really its possible answers), together with the results of our politicization index, made us think twice on considering EU’s conditionality present after 2007. Under these limits it is safe to assume that after gaining the EU membership, Romania faced no real conditionality in terms of merit-based recruitment of civil servants. In such context, the amendments to the Civil Servants Statute that followed suggest an increase in re-politicization - just as argued by Andrei et al. (2012), and Iancu and Ungureanu (2010) and as measured by our updated index of politicization. For example, in 2009, former high rank civil servants (as of 2003, the prefects) were re-conversed into political appointees; recruitment commission were reformed so as to comprise three members from the institution where the job opening is present, and only two delegates from the National Agency; no unanimity vote was required. And giving that with the start of the financial crisis, almost all new public recruitments were blocked, it comes as no surprise that no legal substantial changes were further reported as of 2009. However in 2009 new and softer conditions for recruitment of civil servants were added by means of an Emergency ordinance (e.g. local administrations were allowed to keep their civil servants with no bachelor diploma in law or public administration for an additional year – the previous regulation asked for termination of employment; or employ new stuff with only a baccalaureate, should no candidates with bachelor diploma were registered in contest). By 2011, public managers (a specific and highly appreciated rank of civil servants) were no longer recruited by a commission formed out of members of academia, civil society and government representatives, but by one designed ad-hoc by the President of the National Agency of Civil Servants, with at least one governmental representative.

Summarizing, applying the index to Romania suggests that while EU conditionality was present (1999-2006), politicization of the civil service (and recruitment procedures) was at its lowest levels; however, with the conditionality gone (2007-present), politicization re-appeared. That might suggest that social learning effectiveness were quite low, and therefore that Romania actually experienced a de-Europeanization after EU accession, as the theory predicted.

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1. This paper draws from two early works: Ungureanu, Iancu (2010), Iancu (2013). [↑](#footnote-ref-1)
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3. Faculty of Political Sciences, National School of Political Studies and Public Administration, Romania. Email: mihai.ungureanu@snspa.ro. [↑](#footnote-ref-3)
4. This is similar to what March and Olsen (1998) called *logic of anticipated consequences* *and logic of appropriateness*. Here, the first stands for the rationalistic strategy of research while the second for the constructivist – socio-historical one. As noted elsewhere (Iancu, 2013, p.74), these descriptions are referential for what Borzel and Risse (2000) and Schimmelfennig and Sedelmeier (2002) acknowledged as the (classical) rationalist and sociological institutionalism. [↑](#footnote-ref-4)
5. The hidden assumption here is the classic rationalistic (public choice) assumption that politicians seek re-election and they will be sensible to the median voter’s ideal point. Here, internalization by social learning changes the position of the median voter and a change in policy position it is expected to occur. [↑](#footnote-ref-5)
6. By european conditionality we mean a system of positive and/or negative stimuli used as a central strategy by the EU to induce non-member state harmonization with its own standards. This definition draws from Kelley (2004, p. 428) and Schimmelfennig, Engert and Knobel (2003, p. 495). [↑](#footnote-ref-6)
7. Romania and Bulgaria remained under scrutiny due to the Cooperation and Verification Mechanism (CVM). [↑](#footnote-ref-7)
8. It is though reasonable to argue that a politically biased public administration will produce other goods than those wanted by the citizens and therefore it will be inefficient with respect to their demands. [↑](#footnote-ref-8)
9. For empirical researches using the same type of approaches, please see Udy Jr. (1959) and Hall (1963). [↑](#footnote-ref-9)
10. See Falkner and Treib (2008). They argue that the new member (and two other old member states) states appear to fall within a group that could be dubbed the ”world of dead letters” (Falkner, Treib, 2008, p.293). This label refers to the inconsistent behavior of the mentioned states in regard to European norm. [↑](#footnote-ref-10)