

**AN ANALYSIS OF THE ROMANIAN PUBLIC AFFAIRS  
MANAGEMENT IN THE ACCESSION PROCESS**

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**I hereby declare that all information in this document has been obtained and presented in accordance with academic rules and ethical conduct. I also declare that, as required by these rules and conduct, I have fully cited and referenced all material and results that are not original to this work.**

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## **ABSTRACT**

### **AN ANALYSIS OF THE ROMANIAN PUBLIC AFFAIRS MANAGEMENT WITHIN THE EU ACCESSION PROCESS**

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This thesis analyzes the lobbying process taking place within the comitology committees of the European Union responsible with the the implementation process of the employment policy. It presents a critical view on the EU decision-making and implementation processes by studing the way these could be influenced by using public affairs management instruments. The European Union accession negotiations of the Romanian case is taken as a case study to exemplify on the professionalism of a lobby group in formation and assess the chances that a new member state has in order to effectively influence the policy formulation and implementation process at the European level.

Keywords: European Union, Comitology, Lobbying, Romania

## ÖZ

### ROMANYA’NIN AVRUPA BİRLİĞİ’NE ÜYELİK SÜRECİNDE KAMUSAL İLİŞKİLERİN İDARE ARAÇLARININ KULLANILMASINA DAİR BİR ANALİZ

Septar, Leila

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Bu tez, Avrupa Birliği’nde istihdam politikasının uygulanmasından sorumlu olan Komitoloji Komitelerinde görülen lobicilik sürecini analiz etmektedir. AB karar alma ve uygulama süreçlerine yönelik kritik bir bakış açısı ortaya koyan bu tez, kamusal ilişkilerin idare araçlarının kullanılarak karar alma ve uygulama süreçlerine nasıl nüfuz edildiğini incelemiştir. Bu bağlamda, oluşum aşamasındaki bir lobi grubunun profesyonelliğini örneklemek ve AB’ye yeni üye olan bir devletin Avrupa düzeyinde politika yapımı ve uygulanması sürecine etkin olarak nüfuz etmesini sağlayan fırsatları değerlendirmek amacıyla, Romanya’nın Avrupa Birliği’ne üyelik müzakereleri örnek çalışma olarak alınmıştır.

Anahtar Kelimeler: Avrupa Birliği, Komiteler, Lobicilik, Romanya

To My Parents

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## ABBREVIATIONS

|      |  |
|------|--|
| CAP  | Common Agricultural Policy                               |
| CEEC | Central Eastern European Countries                       |
| CIIE | Inter-Ministerial Committee for the European Integration |
| EES  | European Employment Strategy                             |
| ELE  | Electronic Labor Exchange System                         |
| EU   | European Union   |
| JAP  | Joint Assessment Paper                                   |
| MEP  | Members of the European Parliament                       |
| MIE  | Ministry of European Integration                         |
| NAPE | National Accession Plan for Employment                   |

## CHAPTER 1

### INTRODUCTION AND A THEORETICAL FRAMEWORK

Since the second half of the 1980s, a proliferation of economic and public interest lobbying of European Union institutions could be seen. Partly due to the changed institutional procedures, there has been an increase in the European-level interest associations with Brussels offices and of direct representation of lobbyists in Brussels.<sup>1</sup> This proliferation has attracted increasing attention from scholars preoccupied by lobbying practices, which resulted in increasing pages of literature. Still, scholars dealing with this subject have proven too much tied to their theoretical roots to be able to look at the issue of lobbying and interest representation from different points of view and to be able to objectively assess the existing real chances a lobby group might have in a real and not theoretical interest representation game.

The proliferation of lobbying practices may be explained not only through arguments relating to dynamic institutional mechanisms but also by using more sensitive reasons connected to the changed nature of acting on the political stage. Considering this, lobbying is widely acknowledged as one of the leading techniques of the new century to influence outcomes in political arenas. Within this context, the European Commission takes leadership as the main arena, or promoter for interest representation through its conferences, working groups and select committees. The thesis takes as point of focus these committees of the European Commission involved in the implementation of legislative pieces, the so-called comitology committees. Since comitology committees are used by the Commission to flesh out and adjust framework legislation, they became one amongst the main targets for lobbying practices. Member States are aware

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<sup>1</sup> David Coen, "The Evolution of the Large Firm as a Political Actor in the European Union" in *Journal of European Public Policy* 1997, 4(1), p. 92

that these committees are the best place for their inputs, given the circumstances, as the Commission is aware that Member States' inputs are needed for ensuring, as called in EU jargon, a win-win game of the comitology proceedings.

Therefore, all Member States work for an efficient placement for their inputs in the Commission comitology committees. Naturally, the states expecting to join in the forthcoming wave of enlargement target the formation of an effective lobby group to work upon accession within these comitology committees.

Every new or potential Member State recognizes the importance of building a strong national representation within these committees which would be responsible to take care of their interest through the ongoing process of fleshing out and implementing measures of legislation taking place at this level. The reasons for which the importance of national representatives in the comitology committees is recognized by every Member State and also acceding states are relatively easier to argue on than the reasons for which the European Union itself encourages this kind of strong representation of national interests. The most obvious one on behalf of the EU is definitely its interest of enabling a more efficient institutional performance. The Union is interested in avoiding legislative locks related to formulation of new legislative pieces or the implementation of the existing ones. By allowing and encouraging an active participation of Member States in these processes at a lower level like that of the working groups and especially comitology committees the Union acquires the argument that it encourages a democratic participation of its members and their representatives in the institutional machinery regardless of the status Members might hold. Upon accession, every new Member State is given the right to place its own national representatives within these committees having no strings attached to any criteria like being a new or old member, a powerful or a relatively less powerful state in any of this word's meanings.

On this background, the thesis asks the major question whether it would be possible to test the validity of these scholarly arguments by applying a theoretical perspective that has not been used before. What would the results of this test be? Could another argument be produced to explain in other type of terms the role and functions of these comitology committees? In the case of lobbying practices, are there equal lobbying opportunities and more importantly is it possible for any lobby group to influence policy outcomes indifferent of the national or social interests they represent? Is the equality in representation rights translated into equality of power of influence? Tackling the problem in this manner, what speculations on the future of lobbying and comitology committees could be attempted?

All these questions originate from a wholly different perspective that may be employed as a looking glass upon the issues of lobbying and comitology. This is based on neo-Gramscian interpretations of Cox and others of European enlargement and integration. This view represents basis of support for the arguments of this thesis. The argument defended throughout this work is centered on the relatively most important concept of the neo-Gramscian perspective, that of the construction of a hegemonic project inherent in the European Union's *raison d'être*. Looking at the process of enlargement and European integration from this point of view enables constructing an argument that the so much discussed EU committees and the comitology committees are part of this hegemonic project and represent agents which enable an ideological formulation implicitly the incorporation of the acceding states in the European historical bloc.

The neo-Gramscian perspective emphasizes the importance of integrating any particular state into the existent regional/ world structures for the completion of its ideological formulation. Transfer of norms, rules and basic institutions of Western capitalism is thus enabled, providing for a thorough neo-liberal restructuring of that state's politics, economy and society. With relation to the European Union in particular, the Union's politics of conditionality can be seen

as a tool for internalizing or legitimizing the neo-liberal organization of the economy. Conditionality has played an important role in the transmission of hegemony by building relationships between power and production embodied within the relations of coercion and consent in historical forms of social organization.

The leading ideas of the neo-liberal restructuring recognize the market forces thus created as main agents for transformation because the rationality for gain of these market forces provide a way to organize their self interest spontaneously leading the way towards liberal capitalism as the successful “other” alternative to the old state socialist system.

The social relations of production existent between these market forces become “the starting point for analyzing the operation and mechanisms of the concept of hegemony”.<sup>2</sup> Production is widely understood as the production and reproduction of knowledge and of social relations, morals and institutions that are the prerequisites to the production of physical goods. Bieler and Morton continue their argument saying that “ by discerning different modes of social relations of production it is possible to consider how changing production relations give rise to particular social forces that become the bases of power within and across states and within a specific world order”.<sup>3</sup>

The thesis’ argument defends the idea that this ideological formulation in neo-Gramscian terms takes shape primarily during the accession negotiations between the EU and every candidate, negotiations seen as the most heightened level for Europeanization of the aspiring candidates. Thus, a study undertaken from the neo-Gramscian perspective on comitology committees and their role played within a hegemonic project dimension should construct a profile beginning with the process of ideological formulation represented by the

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<sup>2</sup> Andreas Bieler and Adam David Morton, “A Critical Theory Route to Hegemony, World Order and Historical Change: Neo-Gramscian Perspectives in International Relations”, *Capital & Class*, No. 82, 2004, p 89

<sup>3</sup> Bieler and Morton, *op.cit.*, p 89

negotiation phase. The manner a candidate state has conducted the accession negotiations provides the basis profile of the subsequent performance of the new member shown within the comitology committees. In other words, the profile of the negotiation team provides insights on the profile of the lobby group expected to emerge upon accession within the European Commission's comitology committees.

On these premises, the thesis takes essentially as case study the shaping of the Romanian lobby group. Even though accession is expected by the Romanian officials to take place in January 2007 at the earliest, it is expected to be proven useful for this study to explore what kind of a lobby group representing Romania may be expected to emerge. As the formation of lobbying practices is imminent as early as the negotiations start, the Romanian lobby shaped during the negotiations will be analyzed. Focusing on a particular policy from among the negotiation chapters enables a more comprehensive study. For this purpose, but not only, the negotiations of the employment policy contained in the Chapter 13 of the *acquis communautaire* between the Romanian National Delegation and the EU will constitute the focus point of the case study. The major question attempted to be answered is to explore from the neo-Gramscian perspective the manner in which the Romanian lobby conducted itself during these negotiations.

Asking the main questions from the point of view neo-Gramscian ideas, the formulation of a theoretical framework introducing the neo-Gramscian theory is essential. The neo-Gramscian arguments will provide a relatively best suited point of view for the study of lobbying and policy formulation practices within the comitology committees because it is the theory that assumes the historicity of integration, the crucial role played by the social forces at the European level, and also because it provides a very objective approach to European integration by emphasizing the formation of a European hegemonic project. The neo-Gramscian perspective will be the main level of theoretical review and the

most comprehensive one, as it will represent a carcass wrapping the rest of literature and the reference point for criticism.

### 1.1 A Neo-Gramscian Rhythm of Thought

The neo-Gramscian perspective as developed by Antonio Gramsci and interpreted by Cox and others brings a new historical materialist insight to the phenomenon of EU integration. Capitalism is looked at historically, the social forces are seen as the most important actors, and the concept and domain of hegemony are broadened. Hegemony becomes more than simply state dominance but an *intellectual and moral leadership*. Within a world order a situation of hegemony may prevail “based on a coherent conjunction or fit between a configuration of material power, the prevalent collective image of world order (including certain norms) and a set of institutions which administer the order with a certain semblance of universality”.<sup>4</sup> Hegemony is therefore not a necessary form of dominance, but it refers more to a consensual order used to wield legitimacy through economic and social forms. The so-called “organic intellectuals” of the leading social class play a crucial role in achieving hegemony through constructing a hegemonic project in which converge the interests of various groups in order to obtain their consent. This hegemonic project revealed by the neo-Gramscian perspective brings into harmony the interests of the social classes by means of certain “organic ideas”. At the EU level, the hegemonic formation presupposes a process of ideological formation and material reasoning that the candidate states have to undergo in order to obtain a convergence of the interests of candidates with the existent organic ideas. This ideological formation aims to homogenize the candidates’ norms of political practices and culture in line with the conceptions of the *European historical bloc*. The transformation is a prolonged process that becomes heightened during the accession negotiations and reaches its peak at the accession of the new candidate.

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<sup>4</sup> Robert W Cox, (1981) “Social Forces, States and World Orders”, *Millennium: Journal of International Studies*, 10(2), p 139



Hegemony within the neo-Gramscian concept of historical structure is constituted on three spheres of activity. Firstly, the social relations of production are the starting point for analyzing the operation and mechanisms of hegemony.<sup>5</sup> Production is here understood in a broad sense and “covers the production and reproduction of knowledge and of the social relations, morals and institutions that are prerequisites to the production of physical goods”.<sup>6</sup> These patterns are referred to as modes of social relations of production, which engender social forces as the most important collective actors. By discerning different modes of social relations of production it is possible to consider how changing production relations give rise to particular social forces that become the bases of power within and across states and within a specific world order.<sup>7</sup> This wider understanding of production ensures that social forces are not reduced to material aspects.

The second sphere of activity is forms of state. State power rests on the underlying configurations of social forces. Therefore, rather than taking the state as a given or pre-constituted institutional category, consideration is given to the historical construction of various forms of state and the social context of political struggle. This is accomplished by drawing upon the concept of an historical bloc and by widening a theory of the state to include relations within civil society. The state is seen as being formed of a political society, meaning the coercive apparatus like ministries and institutions, and the civil society, like political parties, labor unions, employers’ organizations. The concept of state is not totally unimportant within the neo-Gramscian context, but secondary to the social forces because it represents the structure within which social forces operate, class struggle occurs and where the organic ideas are formed. An historical bloc refers to the way in which leading social forces within a specific national or transnational context establish a relationship over contending social

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<sup>5</sup> Robert W Cox, (1987) “Production, Power and World Order: Social Forces in the Making of History”. New York: Columbia University Press, pp. 1-9

<sup>6</sup> *Ibid.*, p. 39

<sup>7</sup> *Ibid.*, p 4

forces. It is more than simply a political alliance between social forces represented by classes or fractions of classes. It indicates the integration of a variety of different class interests that are propagated throughout society “bringing about not only a unison of economic and political aims, but also intellectual and moral unity ... on a "universal plane”.<sup>8</sup> It is argued that the formation of a historical bloc is especially enabled during periods of crisis resulting from contradictions in the production process.

Thirdly, world orders not only represent phases of stability and conflict but also permit scope for thinking about how alternative forms of world order might emerge.<sup>9</sup> The construction of an historical bloc cannot exist without a hegemonic social class and is therefore a national phenomenon.<sup>10</sup> Yet once hegemony has been consolidated domestically it may expand beyond a particular social order to move outward on a world scale through the international expansion of a particular mode of social relations of production.<sup>11</sup>

Finally, within each of the three main spheres it is argued that three further elements reciprocally combine to constitute an historical structure: ideas, understood as inter-subjective meanings as well as collective images of world order; material capabilities, referring to accumulated resources; and institutions, which are amalgams of the previous two elements and are means of stabilizing a particular order.

The neo-Gramscian perspective is probably the best suited theoretical framework for the study of comitology and lobbying in the EU committees because it is the theory that emphasizes the historicity of integration, the crucial role played by the social forces at the European level, and also because it

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<sup>8</sup> Cox, 1981, *op. cit.*, pp. 4-20

<sup>9</sup> *Ibid.*, pp. 135-138

<sup>10</sup> Robert W Cox, (1983) “Gramsci, Hegemony and International Relations”, *Millennium: Journal of International Studies*, 12(2), pp. 168, 174

<sup>11</sup> Cox, 1987, *op. cit.* pp. 149-150

provides a very objective approach to European integration through its idea of hegemonic project. The ideas of Gramsci must be situated beyond their context with regard to the concepts of comitology and lobbying practices. Morton<sup>12</sup> believes that a neo-Gramscian perspective is not formed only of the ideas of Gramsci as interpreted by others, but also might mean ideas that have been obtained through grasping his *rhythm of thought*. The perspective is useful not through a mechanical application of ideas but thinking about the history of the ideas.

## 1.2 A Neo-Gramscian Wrapping Up of the Literature Review

A wide range of readings need to form a strong literature review of the thesis. This literature crucially includes a theoretical analysis of lobby groups that can be termed as “professional”. The analysis is represented by the recognized work of Rinus van Schendelen *Machiavelli in Brussels*, work given as reference in literatures dealing with the management of public affairs and a compulsory reading for civil servants.<sup>13</sup> Secondly, looking at van Schendelen’s argument about professional lobby groups from the neo-Gramscian perspective will be useful to find out to what degree van Schendelen can be applied to case study dealing with the Romanian lobby group. The characteristics of the Romanian lobby group will be projected upon the desired features of a professional lobby group. This will help answer the main question on the profile of the Romanian lobby group that will be active within the comitology committees dealing with the employment policies upon accession. Therefore, a second theoretical focus which will assess van Schendelen’s ideas on professional lobbying practices will enable drawing some conclusions on the explanatory power of the neo-Gramscian perspective on lobbying practices at the European level.

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<sup>12</sup> Adam David Morton- “Historicizing Gramsci: Situating Ideas in and Beyond Their Context”. *Review of International Political Economy* 10:1 February 2003: 118–146, p 139

<sup>13</sup> Rinus van Schendelen, (2003) *Machiavelli in Brussels. The Art of Lobbying the EU*. Amsterdam: Amsterdam University Press

Support for further reference will also be taken from the scholarly arguments on the comitology committees of the European Commission. The arguments will bring light upon two kind of scholarly attitudes towards comitology and implicitly the lobbying process taking place at this level. Scholars that have worked on the subject may be divided between critiques and apologists. Some writers maintain that lobbying contributes to good democratic process by providing information “from the ground” to decision-makers. They argue that lobbying is a sort of free competition between policy proposals, and in general the best proposals will win. Others maintain that to some extent this is true, but that the problem is that lobbying does not happen on a level playing field. Furthermore, they argue that the increasingly dominant role of lobbyists further alienates European citizens from the decision-making process in Brussels and undermines the legitimacy of the EU institutions. The reasons they give are that EU rules on lobbying are absurdly weak and totally insufficient to address the problematic aspects of lobbying at the EU level.

In this manner, the neo-Gramscian perspective will prove useful to formulate the every chapter’s questions and arguments, throughout the thesis. Taken one by one, the revision of scholarly arguments on comitology committees introduces the issue related to the role these committees play in the legislative and employment policy development process. Understanding the work process that takes place within the comitology committees responsible for the employment policies formulation is useful to determine the way Romania will be able to bring influence during the process upon accession. The chapter focusing on the EU decision making process on employment policy has as central aim the assessment of the opportunities Romania may expect to enjoy upon accession. Van Schendelen argues that a lobby group must perform an arena analysis of the playing field besides managing the home front. This chapter will represent the analysis of the playing field, meaning the European Commission’s comitology committees, in this way measuring how welcoming and open for lobbying processes the arena will be.

Assessment from the neo-Gramscian perspective of the comitology rules and channels for lobby inputs will stress relevant points on the issue of the degree of effectiveness a lobby group representing a new and relatively disadvantaged Member State like Romania may display. The analysis will start from the idea defended by the neo-Gramscian perspective that the comitology committees are part of a hegemonic project as defined by the neo-Gramscian scholars and not part of the democratization process of the Commission. This will provide some useful points for criticism for the work of comitology committees. Moreover, the perspective will provide some useful insights on the ability of the Romanian negotiation team and the relevant civil society interest groups to obtain the most advantageous position at the employment policy's formulation process.

By looking from the neo-Gramscian perspective to the issue of management of public affairs in the comitology committees, the question if the lobbying practices are efficient tools to be employed by Member States during the European level policy formulation will be explored. In this manner, the chapter attempts to clarify how efficient lobbying may be in the case of Romania.

The neo-Gramscian perspective also brings relevant explanations on Romania's position during the negotiations of the employment policy, their outcome and the implications for Romania. The question is here what kind of success Romanian negotiation team and Romanian lobby could expect when considering the relatively unequal positions of bargain between the Union and this state eager to please and deliver expectations.

For the benefit of acquiring another point of reference for the image of the Romanian lobby, the challenges Romania faced during the negotiations will continue to provide support for the controversial nature of the employment policy. Taking advantage from the benefit of hindsight, an analysis of the outcome of the negotiations and the expectable degree of success the Romanian team will show in what way the employment policy proved to be a contested

area. Counterarguments to the Romanian position have been brought by Germany and Austria to the negotiation table. On this, the Romanian team had to defend its position and struck a best alternative deal. What Romanians expected and what they were delivered may be two different things. This difference shows that the job of the negotiations team has not been easy at all and brings an insight on the image of the Romanian lobby active during those negotiations. The chapter prior to the concluding chapter of the thesis has especially these challenges that Romania faces at the negotiation table as inner argument. Considering from the neo-Gramscian perspective that the accession negotiations represented the ideological formulation of Romania, the question it attempts to answer emerges from the employment policies Romania had before the negotiations, it takes into account the negotiation strategy Romania guided itself on and finalizes by looking at the challenges met at the negotiations table. Therefore it will be found out the extent to which the Romanian lobby fits into the picture drawn by van Schendelen to a professional lobby group.

By answering these minor questions in each chapter of the thesis, the answer of the major question will be thus constructed. In this way, the concluding chapter will provide answers that will be synthesis of the minor questions. First of all, the Romanian lobby's projection on van Schendelen's professional lobby will find contour and some speculations will be possible on the future of the Romanian lobby and the Commission's comitology committees. Inherent to the answer of this major question is the explanatory power of the neo-Gramscian perspective in the EU employment policy. Such an analysis is inherent because the neo-Gramscian perspective represents the theoretical pillars of all the work undertaken in the thesis and because the major argumentations of the major question's answer will derive strength from this particular perspective.

## CHAPTER 2

### STUDIES ON COMITOLGY AND LOBBYING PRACTICES

#### 2.1 Controversies on comitology committees and lobbying

The nature of the thesis' argument makes it necessary to carry out a literature review on the subjects of comitology committees, lobbying practices and the professionalism of lobbying named here as the management of public affairs.

Starting from the literature on comitology, scholars defend various views regarding the comitology committees in general, but one view accepted by the majority of them is that committees came to represent a very significant part of the European Union's institutional infrastructure. Taking into account numerical values alone, there are some 1,400 committees existing in Brussels at any one time<sup>14</sup> of which about 400 are comitology committees.

The term comitology is specifically employed with regard to the committees which are active in the implementation of EU legislation. The EU machinery's skeleton is formed by the major legislator, the Council, assisted by the Parliament and the Commission. Because of the impossibility of applying the legislation alone, the Council delegated executive competencies to the Commission and decided the creation of the comitology committees formed of representatives of member states to assist and monitor the Commission.

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<sup>14</sup> Mark Rhinard, "Committees in the European Union: An Empirical and Normative Assessment", in *European Union Studies Association (EUSA)*, Biennial Conference: 2003 (8th), March 27-29, 2003, Nashville, TN, p. 3

The workings of these committees are formalized and concentrated upon certain subject areas and have a relatively important rule making authority resulting in a considerable amount of secondary legislation. More detail on the rules governing the working process of the comitology committees will be provided in the chapter on the EU decision making process in the section focusing on the role of these committees in the legislative/ policy development process.

Mark Rhinard argues that in reality, both the Commission and the Member States are interested in consensual decision making as the Commission has remarkable power in easing or strengthening implementation requirements on the one hand and the Member States would perform poorly in implementing undesirable protocols on the other. Thus, both parties work for finding mutually beneficial solutions in “positive-sum” problem solving instead of “zero-sum” bargaining.<sup>15</sup>

Defenders of committee governance in the EU machinery see the qualitative importance of the roles of committees as essential arenas where actors from public, private, national or supranational levels converge to form a practical way for policy formulation or implementation.<sup>16</sup>

Another group of committee analysts make an altogether more sympathetic assessment. Scholars in this camp argue that applying strict democratic principles to the EU committee system is impractical and even unwise. Christiansen and Kirchner, for instance, hold committees up for considerable praise, commending their role as “intrinsic and essential feature of European integration.”<sup>17</sup> Weale takes an equally supportive stance. He is willing to

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<sup>15</sup> *Ibid.* p. 7

<sup>16</sup> Cristian Joerges and Jurgen Neyer - “From Intergovernmental Bargaining to Deliberate Political Processes: The Constitutionalisation Of Comitology”. *European Law Journal* 3/3, 1997, p 297



overlook the democratic defects in committee governance as a result of the key-role the committees play in European governance.<sup>18</sup> The most impressive work from this perspective, however, comes from the research initiated by Joerges and Neyer. These scholars argue that, rather than castigating committees, the novel function of committee governance and its success in resolving the inherent tension between intergovernmental and supranational modes of policy making should be appreciated. In particular comitology is credited with providing an essential arena for “deliberative supranationalism” where inclusive conversation, rational discourse and the downplaying of divisive interests not only accommodates minority interests but also transcends typical models of power negotiation. Committees increase the deliberative and communicative processes that improve societal decision- making and can even bring an element of democratically legitimated politics to the EU.<sup>19</sup> In sum, according to the viewpoint of committee apologists, committees play a crucial role in European governance and may even help to legitimize the EU far into the future.

For some writers, revelations of committee influence confirmed their worst fears: like the broader EU, the committee system is seen as an opaque, exclusive and an unaccountable entity and that it contradicts fundamental principles of democratic governance. Other writers take a different stance: committees provide the necessary conditions for rational, accommodative and deliberative decision-making and thus hold the potential to enhance the democratic credentials of EU.

Scholars such as Schaefer, while acknowledging the importance of committees from an empirical perspective, conclude that committees represent a “serious

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<sup>17</sup> Thomas Christiansen and Emil Kirchner. “Introduction in Committee Governance in the European Union”, edited by T. Christiansen and E. Kirchner. Manchester: Manchester University Press, 2000, p 8

<sup>18</sup> Albert Weale. “Government by Committee. Three Principles of Evaluation”. In *Committee Governance in the European Union*. Edited by T. Christiansen And E. Kirchner. Manchester; Manchester University Press, 2000

<sup>19</sup> Joerges and Neyer, *op. cit.* p.8

defect” in the EU’s institutional architecture.<sup>20</sup> Weiler described in 1999 the accepted growth of committee governance as a normative disaster.<sup>21</sup> He criticizes the elitist nature of committee participation and demonstrates how the informal procedures and operation of committees marginalize the accountability and obscure the rule making process.

Ballman, Epstein and O’Halloran<sup>22</sup> justify the existence of committees with evidence supported by Egeberg, Schaefer and Trondal.<sup>23</sup> Interviews with Commission officials dealing with comitology committees, however, indicate that this conclusion might be premature: most of those interviewed perceive that the committees have a considerable impact on the Commission’s decisions. Moreover, about thirty-five percent of non-amending secondary legislation adopted since 1987 contained some form of comitology procedures.

The formal model of comitology constructed by Ballman, Epstein and O’Halloran showed that the process has a significant impact on policy outcomes by forcing the Commission to modify its proposals.<sup>24</sup> They concluded that the Commission members rationally anticipate the actions of the committee and strategically scale back to avoid being overturned. Another conclusion that has been drawn is relative to a situation where a Commission proposal is referred directly to the Council and it showed that the comitology

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<sup>20</sup> Guanter F Schaefer, “Committeeing in The EC Policy Process: A First Step Towards Developing a Conceptual Framework”. In *Shaping European Law and Policy. The Role of Committees and Comitology in the Political Process*, Edited By R. H. Pedler and G. F. Schaefer, Maastricht, The Netherlands: European Institute of Public Administration, 1996, p 23

<sup>21</sup> Joseph Weiler and H.H Epilogue: “Comitology as Revolution – Infrationalism, Constitutionalism and Democracy”. In *European Committees: Social Regulation, Law and Politics*, edited by C. Joerges and E. Vos. Oxford: Has Publishing, 1999, p 346

<sup>22</sup> Alexander Ballmann, David Epstein, and Sharyn O’Halloran- “Delegation, Comitology, and the Separation of Powers in the European Union”-Cambridge Journals online. *International Organization*, Volume 56, Issue 03. August 2002. p 556

<sup>23</sup> Morten Egeberg, Guenther F. Schaefer and Jarle Trondal, “The Many Facets of EU Committee Governance”, in *Arena Working Papers*, WP 03/2. p 19

<sup>24</sup> For a detailed account of this conclusion see Alexander Ballmann, David Epstein, and Sharyn O’Halloran, *op. cit.* p. 560-571

committees move closer to the Commission's (integrationist) preferences rather than the Council's, in this way, the committees being an instrument for integration in the EU.

When reviewing the literature on lobbying, some writers maintain that lobbying contributes to good democratic process by providing information "from the ground" to decision-makers. They argue that lobbying is a sort of free competition between policy proposals, and in general the best proposals will win. Others maintain that to some extent this is true, but that the problem is that lobbying does not happen on a level playing field. Furthermore, they argue that the increasingly dominant role of lobbyists further alienates European citizens from the decision-making process in Brussels and undermines the legitimacy of the EU institutions. The reasons they give are that EU rules on lobbying are absurdly weak and totally insufficient to address the problematic aspects of lobbying at the EU level. Without a radical improvement of the registration and reporting obligations for lobbyists at the European institutions, there can be no effective democratic scrutiny of corporate influence over EU policy-making.

David Coen supports this line of thought by arguing that a core of insiders has been established within the European Commission. He believes that there exists a pluralist system in the form of fora to which "access is generally restricted to a few policy players, for whom membership is competitive and strategically advisable".<sup>25</sup> Coen also believes that particularly useful to study lobbying in the EU is the informational approach because the key of successful lobbying in Brussels is the provision of information. But lobbying is costly so, in order to develop expertise, lobbyists have to expect sufficient access benefits; if there are already too many lobbyists with which to share access, it is not worth developing expertise. That is why numbers look like the following. In a report *Lobbying in the European Union: Current Rules and Practices* published in 2004, the European Parliament said more than 70 percent of EU

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<sup>25</sup> Coen, *op. cit.* p. 95

lobbyists work for corporate interests, and only 20 percent represent non-governmental organizations (NGOs) such as trade unions, public health organizations and environmental groups. The remaining 10 percent are sectoral lobby groups promoting the interests of regions, cities and international institutions. Social and environmental groups, although also increasingly represented in Brussels, fear they cannot match the financial and organizational power mobilized by industry lobby groups which offer expertise and advice to an overworked and increasingly pressured European Commission.<sup>26</sup>

All these arguments on comitology and lobbying practices seek primarily to understand how power is expressed at the EU level, taking as basis organization and distribution of power and try to explain the effects of a given set of power relations for legitimacy and democracy in the Union. These views focus upon power relations subordinated to a higher power, therefore failing to grasp the notion of power organized structurally and able to determine dominant social forces. The arguments deal with comitology and influencing policy outcomes either from a positive or a negative premise. They mostly consider whether these concepts are good or bad; beneficial or not; democratic or not; legitimate or not. They focus on pros and cons. In this way they fail to understand the differences inherent in these power struggles, the premises and the relative positions of the social forces involved in this power struggle. On the other hand, a neo-Gramscian line of thought is able to explain simply why some social forces are more powerful than other, why the power struggle should not be seen in simple terms of being victorious or not. The neo-Gramscian perspective is rich enough as to be able to understand the importance of historicism and dynamics of civil society.

## **2.2 Overview of Rinus van Schendelen's Work *Machiavelli in Brussels***

A leading study on lobbying practices that is taken as a basis for theoretical reference is the work of the renowned Rinus van Schendelen titled *Machiavelli*

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<sup>26</sup> Stefania Bianchi-“ Lobbying: Corporate Lobbying Grows in EU”, posted on *Inter Press Service News Agency* on December, 28<sup>th</sup>, 2004

*in Brussels*. The decision making machinery of the European Union is the focus of van Schendelen's book. He undertook a comprehensive attempt of studying the fine turning of this machinery taken as a variable dependent upon the influence coming from different lobby groups. Van Schendelen claims that it is possible to manipulate this machinery in flesh and blood terms from outside. His work is considered to be a compulsory reading for managers of public affairs as lobbyists have been renamed the players of a broader game of exercising influence and getting things done on political arenas.<sup>27</sup>

Public Affairs Management surpasses the old practice of lobbying as the former implies a very thorough homework of studying the playing field, the home front and the right buttons to push prior to the explicit action.

Van Schendelen's argument is that any public affairs manager has chances to obtain positive outcomes out of his actions provided he carefully prepares the aforementioned homework. He defends the idea that the new generation lobbyists have under their control or reach many factors which are linked to the probability of success.<sup>28</sup>

Thus, a public affairs manager is claimed to have chances of success directly proportional to the professionalism which characterizes his conduct of preliminary preparations for action. The explicit action is put by van Schendelen on a secondary level, his accent being put on a careful preparation of the respective action. His work represents an analysis of the factors that should be studied and included in the equation by a public affairs manager in order to perform professionally and have maximum chances for success.

His study begins by naming the European Union the most appropriate place for action on the part of public affairs managers.<sup>29</sup> The old technique of lobbying

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<sup>27</sup> Schendelen, *op. cit.* p. 5

<sup>28</sup> *Ibid.* p. 20

<sup>29</sup> *Ibid.* p. 46

proves most times of limited efficiency. The EU mechanism allows to a large extent inputs to be made by pressure groups pursuing a specific outcome. Van Schendelen gives great importance to certain factors that the public affairs manager has to take into account for best chances of success.

Amongst the first factors, the author defends the importance of knowing the workings of the decision making process at the EU level. Obviously, while trying to influence policy outcomes, one must know the process through which policies go from the proposal stage to the final decision stage. In this respect it is known that the majority of EU legislation falls under the secondary law category. The Commission has exclusive drafting powers of common decisions, being assisted by its Directorates General and expert committees. The draft proposals are then referred to the Council and the EP. It is expectable that the heaviest lobbying process takes place therefore in the Commission.

Still, the bulk of the legislative acts come under the so-called delegated legislation, in which case formal legislative powers are transferred upon the Commission and its comitology committees

In this manner, the Commission remains the body that drafts proposals for binding decision-making by either the Council or the comitology committees<sup>30</sup>, the latter being the focus here.

Van Schendelen also advocates awareness of the changes of the decision making process on the part of the professional lobbyist. The dynamic policy regime and legislative power balance among the bodies should be kept under surveillance.

The analysis of van Schendelen regarding the items on the agenda of a professional manager of public affairs that must be fulfilled continues by

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<sup>30</sup>*Ibid.*, p. 56

referring to the *flesh and blood* of the EU machinery.<sup>31</sup> It is underlined that the Commission is the place where *the blank A4 format paper* gets filled, this making the Commission the most appropriate place for lobbyists to act. It is said that the Commission holds the reins in the field of legislation: it has drafting powers for the secondary legislation; it is the maker of discretionary legislation and the producer of soft legislation.

In this particular aspect, the Commission benefits from the inputs coming from the lobbyists and monitors the represented lobby groups. The situation also pleases the bearers of interest as the comitology committees represent a channel for influencing other lobbyists, the Commission or the Official Journal.

Van Schendelen shows that case studies support the idea that comitology committees can be highly influential<sup>32</sup> through their solutions and formulation of desired outcomes.

Following the knowledge of the *skeleton* and the *flesh and blood* of the EU decision making machinery, van Schendelen advocates knowledge of the right buttons of Brussels to push.<sup>33</sup>

The professional lobbyist willing to maximize the chances for obtaining the desired outcome has to know which relevant actors to approach, which factors to use and what kind of vectors to create. This means that the lobbyist has to keep an eye not only on policy friends, but also on other stakeholders that might be policy enemies. Factors that might be employed range greatly from cultural factors like policy concepts and regime values, to formal factors, operational factors (friendship, language) and decisional factors (tendencies).

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<sup>31</sup> *Ibid.* p. 61

<sup>32</sup> *Ibid.* p. 68

<sup>33</sup> *Ibid.* p. 91

As regarding the vectors, these are variables controlled by the stakeholder as to influence an easier outcome.

All these are gathered up by van Schendelen under what it is called the *Triple P game*. It represents a game in which a player, the stakeholder places the friendliest *persons* in the best *positions* in the most beneficial *procedures*.<sup>34</sup> Something which is very relevant for the professionalism of the lobbyist is the manner to play the game. In recent years, there is an increasing tendency to employ a more *tailor made action* rather than a *ready made move*. The manner the lobbyist plays his game represents how well he prepared his homework about the playing arena. Prior to the explicit action, a professional would perform an arena analysis by going *window-out*<sup>35</sup> obtaining a satisfactory description of the other stakeholders, the issue target, the arena boundaries and the time for action. A professional would not do mistakes like being biased with regard to other stakeholders, being naïve or arrogant about the issue, nonchalant about the time or unaware of the arena boundaries. The success of the desired outcome depends on the accuracy of the arena analysis.

Depending on the results of the arena analysis the stakeholder proceeds to the action of arena management. Mixing the possible moves in the most appropriate proportions again reflects the professionalism of a public affairs manager. Nonetheless, it is specified that there are some factors that are not controllable through preparation and which may influence outcomes: the degree of uncertainty, bad luck, and the chance of winning and insufficient internal organization.

Another item on van Schendelen's list regards the management of the home front and involves knowledge of the questions like who is acting, for what reason and with what result. The stakeholder should also give importance to the development of his public affairs at home to start with. The indicators

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<sup>34</sup> *Ibid.* p. 106

<sup>35</sup> *Ibid.* p. 135



distinguishing between amateurish and professional lobby organizations are: sufficient cohesion, useful knowledge, an optimal mix of resources and skills, and a good image. Sufficient cohesion refers to convergence of preferences of all group members and coordination of actions. Any organization contains to a certain degree a plurality, a variety of role expectations and a division of tasks and duties. It is crucial that the organization exploits this richness of internal divisions in an optimized manner. For this purpose, the preparatory homework for the internal fieldwork includes the research on other stakeholders and building up cohesion through internal lobbying. The term useful knowledge refers to both the arena knowledge and self knowledge. The resources that must be used in an optimal mix are the expertise on technical aspects, networks of involved stakeholders, external positions linking to other networks and to the EU machinery and finally financial means for research and development. The good image side is also crucial; the lobby group needs to be seen as important, prestigious, respect worthy and capable of rendering supply. Van Schendelen underlines the necessity of having set a certain target toward which to act. All these form into the action plan which represents simply the outcome of all this homework. The action plan contains the actual managing of the fieldwork, meaning that it contains the explicit steps for lobbying. The author differentiates between orthodox actions like a request for consultation by the Commission or the Parliament hearing or some national coordination procedure and unorthodox actions like lobbying. Regarding the EU fieldwork there are also some dilemmas regarding factors and vectors which might affect indirectly the outcomes.<sup>36</sup> These dilemmas occur with respect to the majority of factors mentioned throughout his analysis and they result in a surplus of possible actions. The professional assesses this surplus as a blessing rather than a problem because it offers the possibility to avoid a stalemate or a setback.<sup>37</sup>

The professional might be expected to know the answers to the questions which would make out the best course of action. Firstly, having done the

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<sup>36</sup> *Ibid.* p. 207

<sup>37</sup> *Ibid.* p. 213

homework on the arena analysis, the professional would know whom to lobby. Secondly, he would now where to lobby. Moreover, the homework on the issue management would offer one answer to the question on lobby with regard to what the most popular question is about how to lobby. Van Schendelen claims that the homework might again provide answers rationally to this question.

Up to this point, van Schendelen's picture was all optimistic. The EU machinery is presented as full of variables which can be manipulated. Still, he does not fail to present also another facet of the lobbying game. The discussion includes an analysis of the limits that may be encountered by the public affairs manager. These limits refer in the first place to the lobby group itself being the sender side that might be affected by mental limits like emotions or might be disabled because of organizational limits like dissent, scarcity of resources and lack of leadership. Moreover, the channel through which supplied and demanded information is sent might be limited in terms of power, quality and configuration. Thirdly, limits might arise from the side of the arena, in terms of pluralism, complexity and dynamics, these endangering an accurate assessment of the arena homework. The receivers' side might give rise to other kind of limitations for the achievement of the aimed outcome. The receivers might be either inattentive, or satisfied or under influence from enemy stakeholders.

Regarding these limits, a distinction is again made by the author between the amateur and the professional group. While the amateur is vulnerable to being setback by these limits, the professional would be aware and prepared as to avoid them or make up the least loss because of them. The professional would seek understanding the limits because it may be employed as useful information either to avoid his own limits, or to take advantage of the one of rival stakeholders.

No doubt that much of what van Schendelen supported is applicable and feasible at the EU level. His comprehensive study of the EU machinery represents a good reference for any work on the subject. His insights on the

technical issues in lobbying actions are useful advice. The description of the dependant variables, channels, various factors and even possible home front situations offers a relatively objective view on a subjective concept as lobbying can be. At the same time, testing van Schendelen's arguments from a theoretical perspective should also be undertaken, consequently performing a final evaluation of the soundness of his work.

### **2.3 The validity of van Schendelen's arguments from a neo-Gramscian perspective**

Van Schendelen has to be accredited for his ideas on the role of the civil society and on the importance given to the process of lobbying. Van Schendelen should be assessed from a different point of view instead of the classical conceptual frameworks like neo-functionalism and neo-realism because these are strictly confined in explaining matters of forms of governance their narrow focus not including the concept of *social* power deriving from *social forces*.<sup>38</sup> Thus, these theories conflict with the inherent motive of lobbying from the start. In the neo-functionalist perspective, the dynamics of the interest groups are bound to being only a functionalist response for further integration. Socioeconomic actors thus become only instruments for the self expansive process which will eventually result in a European supranational state. Therefore, neo-functionalism can provide no explanation to support van Schendelen's arguments. Moreover, even though Andrew Moravcsik's concept of *liberal inter-governmentalism* allows the idea of aggregation of interests of social actors to be formulated, he does not even allude to the relative power imbalance given by the structural inequalities among groups. Also, the concept of social relations constructed historically which shape identity and interests is overlooked. On the other hand, the neo-Gramscian perspective may prove its explanatory power in terms of social relations, shaping of interests, and historicity of social conflicts. In neo-

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<sup>38</sup> Appeldoorn, Bastiaan van, Henk Overbeek and Magnus Ryner(2003) "Theorizing European Integration: The Case for a Transnational Critical Approach" in *A Ruined Fortress? Neoliberal Hegemony and Transformation in Europe*, Lanham, Md: Rowman & Littlefield. p20

Gramscian terms, lobbying may be recognized as the interactions within and between social classes leading to class struggle. Thus, by advocating knowledge of the EU machinery, van Schendelen in fact supports the neo-Gramscian concept of state as being the structure within which the political society meets the civil society.

In this way, these social forces aim to undertake an important role in the decision making process in the Union, starting at the European Commission level and its comitology committees. From this point of view, the function of these committees is to offer a convergence point for these social forces, and an arena where they could act. The comitology committees are regarded by the neo-Gramscian perspective as being part of a whole, a part of the hegemonic project. Van Schendelen loses on this ground for his claim that comitology committees are instruments contributing to the democratization process of the EU, contrary to the neo-Gramscian argument.

It was mentioned in a previous section that both Member States and the Commission are interested in and work for a positive-sum problem solving relating to the workings within the comitology committees. This may lead to the idea that van Schendelen's social forces might have a chance to obtain a serious deviation in the hegemony's organic ideas. But, relying on neo-Gramscian arguments, it is more probable that the deviation that social class may obtain through lobbying will be only minor, relative to certain limits actually shaped by the leading organic intellectuals, and allowed to occur only within these limits. The reason is that the leading intellectuals are interested in accommodating subordinate classes' interests but without endangering their hegemony. This line of reasoning somewhat contradicts the conviction contained in van Schendelen's argument that chances for successful outcomes are high provided that the interest groups behaves professionally and fulfill necessary homework preparation prerequisites. Chances of success are actually relative to the degree of the deviation in the convergence of interests intended by these groups.

Furthermore, the neo-Gramscian perspective makes the differentiation between the hegemonic class, the winner of the class struggle and the shaper of organic ideas, and the subordinate classes. Van Schendelen disregards this difference and ignores the origins of classes as important factor of the lobbying game.

One of the core arguments of the neo-Gramscian perspective is the idea that the Eastern enlargement represents taking in the CEECs under the European hegemonic project. Accordingly, the period prior to the accession, the candidates undergo the process of ideological formulation. Thus, the classes that originate from the candidate countries get involved in the game from a lower position relative to the ones originating from the hegemonic players.

Coming to the three fundamental elements contained in the neo-Gramscian perspective, ideas, material capabilities and the institutions, their interpretation in concrete EU terms would be useful. In this respect it can be said that the ideas are part of the ideological formation of the candidate states; the material capabilities show the unequal position any candidate in general and Romania in special possessed at the table of the accession negotiation in comparison to the European Union; the institutions are the arenas where the hegemonic game is played. This hegemonic game started with the 1993 European Council summit in Copenhagen where the promise of membership was made. It systematically pushed CEECs towards adopting the neo-liberal economic-political model of the EU.

Therefore, these are the outcomes of a critical examination performed on van Schendelen's work from a neo-Gramscian perspective. These are not the only controversies. Many other debates on lobbying and also comitology show the contentious nature of subject in question, which are further examined in the following chapters.

## CHAPTER 3

### EUROPEAN UNION DECISION MAKING PROCESS ON EMPLOYMENT POLICY

This chapter aims to analyze the employment policy formulation and implementation process in the European Union and place Romania within this process by assessing this candidate's chances to influence this process and drawing an objective conclusion relying on a neo-Gramscian rhythm of thought about the difference between theoretical and practical chances for an effective policy determination. The focus will be thus on the decision making *skeleton* of the European Union and for this matter the relevant decision making procedure for the employment policy- the co-decision procedure- will be presented. As the majority of the Council decisions need to undergo a process of implementation to take place at the level of the European Commission and its comitology committees, the implementation game needs also to be cast a look upon. The procedures that are employed for this matter will be presented, with special emphasis on the implementation process of the employment policy legislative pieces in particular. Another section will deal with the controversial nature of the EU employment policy, aiming to underline the diversity of opinions within the Union and to display the problematic the Union faces during these crucial times of newly undergone extensive enlargement and the expectations of adding up to 27 Member States starting January 2007. The overall aim of this chapter is to present the *legislative skeleton* of the European Union, therefore placing Romania as a decision maker in this *skeleton* and assessing its theoretical chances to affect policy formulation and implementation. The last section is crucial for the major argument of the thesis. It represents an assessment from a neo-Gramscian rhythm of thought of the place Romania will occupy within the decision-making machinery and its real chances to have an effective influence upon policy outcomes. It will be seen

whether a gap will exist and the extent of it when it comes to the ability of a medium sized new Member State like Romania of having a word to say in the shaping of the Union's legislative body in real terms.

### **3.1 Comitology Committees and Their Role in the Legislative/Policy Development Process**

The origins of comitology date back to the beginning of the 1960s. What the early stages of the Common Agricultural Policy (CAP) already required at that time – i.e. extensive and detailed technical regulation – became a necessity as the single internal market continued to develop. The Community institutions lacked not only the relevant insight, but also the resources to respond to the needs of day-to-day policy management. Moreover, Member States did not wish to fully delegate the implementation of Community acts to a supra-national institution. They therefore retained some form of control over the European Commission by introducing what has been called the ‘comitology procedure’. In their essence, committees have therefore been conceived to safeguard the interests of Member States with respect to the exercise of the powers of the Commission.<sup>39</sup>

Comitology committees are a crucial part of the implementation phase of the European policy process as they represent arenas for power struggle in a multi-level system of governance. They are the level where the legislative meets the executive and the member states altogether. Comitology has been claimed to represent more and more a fusion of powers, whereby the Member States enforce their wishes on the Commission.<sup>40</sup> The Council and, since Maastricht, the Parliament are the major legislators of the Union but they can not enact detailed rules or apply and/or adjust them to changing conditions. Therefore, the Council delegates executive competencies to the Commission. But

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<sup>39</sup> Mark Rhinard, “Committees in the European Union: An Empirical and Normative Assessment”, in *European Union Studies Association (EUSA)*, Biennial Conference: 2003 (8th), March 27-29, 2003, Nashville, TN, p. 6

<sup>40</sup> Simon Hix *The Political System of the European Union*, 2005, p 52

respecting the principle of *checks and balances*, to prevent the Commission's abuse of the executive power and to retain some control over the implementation process, the Council has established these comitology committees composed of national officials to monitor and assist the Commission. These committees are formed around certain subject policy areas, are made up of member experts in these respective areas and therefore have considerable rule making authority. Council acts which require implementation stipulate expressly which committee is to oversee the implementation process. Since these committees are used by the Council and Commission for the policy implementation process, they become thus one among main targets for national and corporative interest lobbying practices in the Union. The Commission sends a delegation to chair each committee, calls the meeting, sets the agenda, submits proposals for enabling legislation and writes the protocols. Member State officials make up the membership and each representative is expected to defend the national interests.<sup>41</sup> As the EU policies target a wide array of actors, public and private at supranational, national and regional levels, these committees provide arguably the most practical way to accommodate the inputs coming from these actors into the policy formulation and implementation process.

Before making an assessment according to the neo-Gramscian rhythm of thought described in the previous chapter, it is crucial to cast a look over the arguments of various theoretical perspectives regarding the role that the comitology committees play in the policy implementation process.

These comitology committees are certainly a crucial part of the European multi level system of governance which was born out of the effort to achieve an institutional balance within the Union.<sup>42</sup>

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<sup>41</sup> Egeberg, Morten, (1999) "Transcending Intergovernmentalism? Identity and Role Perceptions of National Officials in EU Decision-Making", in *Journal of European Public Policy* 6:3, p.467

<sup>42</sup> Wolfgang Wessels, "Comitology: Fusion in Action. Politico-administrative Trends in the EU System". *Journal of European Public Policy* 5:2 June 1998.pp 209-234



The realist view Wessels describes is summarized by naming the committees *watchdogs of the masters of the Treaty*.<sup>43</sup> Committees are viewed from this perspective as being products of desire on national administrations to access and exert influence and their main role is to ensure that Member States remain in control in keeping the decisions acceptable nationally by controlling the activities of the Commission.<sup>44</sup> The comitology committees are thus arena where national interests clash and zero-sum games prevail giving birth to highly formalized intra-group interactions where voting and legal forms are important. Conflictual voting may be expected to occur frequently, which will shift responsibility to the higher level of the Council, where the propensity to defend national interests is even more intense.<sup>45</sup> From the realist point of view, a trend towards a typology which would guarantee the highest degree of influence for national civil servants is predicted. Taking into account the in-built conflict potential and the defensive national attitudes expected to be displayed in these committees, the immediate productivity would be low, but nevertheless, their existence would be seen as highly legitimate as they are “mandated by the ultimate holders of (national) sovereignty.”<sup>46</sup>

The federalists criticize the committees as being instruments controlled by powerful civil servants for national purposes and thus becoming an obstacle towards an effective federal institutional balance which alone could guarantee legitimate European policies.<sup>47</sup> The maze of the national bureaucracies is perceived as reducing democracy and eroding the legitimate powers and functions of the Commission. Again, the committees are not expected to be able to solve problems due to the tendencies to defend separate national interests. From this point of view, the federalist perspective argues for either an

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<sup>43</sup> Wessels, *op.cit.* p 211

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.* p 212

<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.* p 213

total abolishment of the comitology system or for a radical reformation in the best scenario case, especially focusing on addressing the core problem of legitimacy.<sup>48</sup>

The neo-functional perspective sees the committees as nothing more than result of the spill-over process and foretells that the loyalties of the civil servants will shift from the national interests towards European interests, thus advocating an increase of the number of committees proportionally to the extension of policy fields.<sup>49</sup> In terms of legitimacy, these committees might serve to extend at least the *de jure* legitimacy of the nation state, though the locus of the *de facto* decision-making, having been already shifted to the bodies outside the national control. That is why this perspective expects that national civil servants will be replaced in time by EC administration and its officials, this tendency eventually giving rise to an abandonment of the comitology committees.<sup>50</sup>

The functionalist view emphasizes that the committees are functional necessities where problem solving games rather than political bargaining interactions prevail.<sup>51</sup> They are accordingly necessary for the Commission as places for inputs coming from national experts.<sup>52</sup> The legitimacy of these committees stems from their efficiency and effectiveness in solving common problems and from being ultimately to the use of the Commission, serving its need for the opinion of the national experts.

According to the perspective named by Wessels as “the erosion school of thought”, the committees can be seen as being a mega-bureaucracy or a *comitocratie* employed by national bureaucrats to “pool” own interests in this

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<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.* p 213

<sup>50</sup> *Ibid.*

<sup>51</sup> Scharpf, 1988, as cited by Wessels, *op. cit.*, p 214

<sup>52</sup> *Ibid.* p 214

impenetrable network.<sup>53</sup> Comitology committees become thus significant indicators for the strengthening of the administrative hold of any government, and they are used as means to escape both the parliamentary review and the judicial control to which national administrations are normally subjected. Such bureaucracies are perceived as lacking legitimacy and come to portray the lack of a European identity.<sup>54</sup>

The multilevel governance approach defends an altogether new stance. Committees are seen as indicators of a new model of governance, model displaying a dynamic pattern matching the change within European society of states and the European civil society.<sup>55</sup>

Wolfgang Wessels personally supports the fusion view which defends the comitology committees as being indicators of a merging process in which national and subnational governments and the public and private actors combine resources from several levels of state. In this way, comitology come to represent some sort of a partnership of all relevant levels of the Member States' administrations.<sup>56</sup>

### ***3.1.1 The Decision-making Process of the Employment Policy***

The introductory remarks emphasized the argument of this particular chapter and described the outline to be followed for supporting this argument. It is needed to examine firstly the decision making process used for the employment policy, namely the co-decision procedure.

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<sup>53</sup> *Ibid.* p 215

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.* p 216

<sup>56</sup> *Ibid.* pp 216-229

The following is a simplified description of the co-decision procedure.<sup>57</sup>

First reading: Here again, the starting point is a Commission proposal that is sent to the Council, Parliament and any committees to be consulted. Parliament takes its first reading and sends its opinion to the Council. The Economic and Social Committee and the Committee of the Regions are also given an opportunity to set out their position at this stage.

If the Parliament does not make any amendments to the Commission's proposal, or the Commission accepts all amendments proposed by Parliament, the instrument may be adopted at this stage of the procedure. Otherwise, a second reading before Parliament is required.

Second reading: On the basis of the Commission's proposal and Parliament's and the committees' opinions and its own deliberations, the Council adopts a common position by a qualified majority. The common position is then sent to Parliament for its second reading. Parliament now has three months in which to do one of three things.

If it accepts the Council's common position or gives no response within three months, the instrument is deemed to have been adopted as set out in the common position.

If it rejects the common position outright (for which an absolute majority of MEPs would be required), the legislative process is at an end. The Council no longer has the option of convening the Conciliation Committee.

If it makes amendments to the Council's common position, the following procedure is then used. The Council first of all has the opportunity to adopt the common position as amended by Parliament, in which case all the proposed

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<sup>57</sup> The simplified chart of the co-decision procedure is given in Appendix A. The source is the official webpage of the European Union, available at [http://ec.europa.eu/codecision/stepbystep/diagram\\_en.htm](http://ec.europa.eu/codecision/stepbystep/diagram_en.htm) Last accessed on 2.07.06

changes must be accepted. If, however, the Council rejects certain amendments or the majority needed for their adoption cannot be obtained (e.g. unanimity in the event that the Commission rejects Parliament's proposed amendments), then the President of the Council, acting in consultation with the President of the Parliament, must within six weeks convene a Conciliation Committee consisting of 15 representatives each from the Council and Parliament to consider the Council's common position in the light of Parliament's proposed amendments. The aim is to achieve a workable compromise which can be adopted by the required majorities in the Council and Parliament.

Third reading: If the Conciliation Committee accepts a joint draft of the legal instrument, the Council and Parliament must confirm its acceptance in a third reading within six weeks. Irrespective of the Commission's position regarding the draft compromise, a qualified majority in the Council is sufficient for its adoption (unless unanimity is required under the Treaties). Adoption by Parliament requires an absolute majority of the votes cast. The instrument is then deemed accepted by Parliament and the Council, which is also clearly indicated in its title (e.g. Parliament and Council regulation).

If the conciliation procedure fails, the instrument is deemed not to have been accepted. The legislative process is then at an end. Failure of the procedure thus leads to the same result as rejection of the common position by the Council and Parliament at the third reading. This arrangement does away with the procedure applying prior to the Treaty of Amsterdam whereby the Council was able to adopt its common position if the conciliation procedure ended in failure and Parliament could only prevent this by means of a blocking resolution which required an absolute majority of its members.

The co-decision procedure represents both a challenge and an opportunity for Parliament. If the procedure is to operate successfully, there must be an agreement in the Conciliation Committee, but there are the beginnings of a radically new relationship between Parliament and the Council. For the first

time, the two institutions are placed on an equal footing in the legislative process. It will now be up to Parliament and the Council to demonstrate their capacity for compromise and to direct their energies in the Conciliation Committee towards coming to an agreement.

Christophe Crombez has performed a very useful analysis of the co-decision procedure assessing the chances for a proposal to be adopted depending on the Council's and the Parliament's preferences.<sup>58</sup> His results show that the Parliament becomes a genuine legislator under this procedure, having an equally important role as the Council's role. The author demonstrates that a Commission proposal can be adopted only if both the Parliament and a qualified majority in the Council prefer it to the status quo and also if there is no other policy preferred by the Council in qualified majority and the Parliament together.<sup>59</sup>

After accession, Romania will be accommodated within the decision making mechanism of the European Union through the number of seats this candidate will occupy in the Parliament, the weighted votes it will have the right to cast in the Council and the commissioner active on its behalf. Specifically, Romania will have 35 seats in the Parliament out of the total of 732. It will cast 14 weighted votes in the Council out of the total number of 345, the qualified majority being given by a number of 255 votes counting for almost 74 % of the total and cast by at least two thirds of the Member States; a minority of 91 votes is required to block a Commission proposal.

### ***3.1.2 Comitology Committee Procedures***

Before turning to a formal analysis of comitology and the role of the comitology committees in the legislative/ policy development process, a

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<sup>58</sup> Christophe Crombez, (1997) "The Co-decision Procedure in the European Union", in *Legislative Studies Quarterly*, vol. 22, no. 1, pp. 97-119

<sup>59</sup> *Ibid.* p 112

summary of the various procedures under which these committees can operate is needed. This analysis follows the outline of the decision-making process on the employment policy in the European Union and it is useful in order to describe a complete picture of all the stages a proposal goes through until it becomes a policy readily applicable by the Member States.

Although comitology committees have existed since the mid-1960s, the rules governing their use were only formalized in 1987.<sup>60</sup> The 1987 Decision specified three different types of comitology committee procedures: advisory, management, and regulatory committees, with two variants each for the management and regulatory committee procedures.<sup>61</sup> The three categories provide the Council with an increasing level of control over the implementation process, from the advisory committee procedure (representing the lowest) to the regulatory committee procedure (representing the highest).

The 1999 Comitology Decision revised these procedures.<sup>62</sup> The revision of committee procedures was prompted by the Parliament's complaints that, as co-legislator with the Council, it should have an equal role in policy implementation. But the Parliament's role in implementation decisions was not significantly altered. However, the revisions attempted to strengthen the Commission's hand relative to the Council. To the extent that the Parliament and the Commission, as fellow supranational institutions, are more often than

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<sup>60</sup> The first comitology committees were established in the early 1960s when the Council recognized that it lacked the resources to implement a number of regulations to organize the Common Agricultural Policy. However, it did not want to delegate the implementation power to the Commission without keeping some control. Since this initiative, the total number of comitology committees, with different structures and procedures, has grown exponentially. The Council officially defined the procedures in Council Decision 87/373/EEC of 13 July 1987 (OJ L 197, 18.7.1987, 33–35), which set forth the various means by which the Council can impose restrictions on the Commission's exercise of delegated powers. See also *Modus Vivendi* between the Parliament, the Council, and the Commission of December 1994 (OJ C 43 20.2.1995, 37)

<sup>61</sup> A fourth variation, the safeguard procedure, also exists. But because it does not require the use of comitology committees, it is not analyzed here.

<sup>62</sup> The Council Decision 1999/468/EC of 28 June 1999 (OJ L 184, 17.7.1999, 23–26)

not allies against the Council, these reforms could also be seen as strengthening the Parliament's hand in the policymaking process.

#### *Advisory Committees*<sup>63</sup>

For these committees, under a procedure left unchanged in the 1999 revisions, the Commission submits a draft proposal for an implementing measure to the committee. The committee must then deliver its opinion within a certain time, set by the chair, voting by simple majority. The opinion is then recorded in the minutes. Additionally, each government can ask to report its position in the minutes. The Commission is required to "take the utmost account" of the opinion delivered by the committee, but it is not forced to follow the committee's advice. Nor is there any formal mechanism to refer any disagreement to the Council. But the Commission is required to inform the committee of the manner in which its opinion has been taken into account.

#### *Management Committees*<sup>64</sup>

Under this procedure, the Commission submits a proposal to implement an EU law. The committee must then deliver its opinion (positive, negative, or no opinion) within a certain time limit, set by the chair according to the urgency of the matter. Qualified majority voting, according to weighted voting as provided in Art. 205, para. 2 (ex. Art. 148, para.2) delivers the opinion. If the committee's opinion is in favor of the Commission's proposal or there is no opinion, the Commission can adopt and apply its measure. If the committee delivers a negative opinion, however, the proposal is referred to the Council. The 1987 version of this procedure had two variants, (a) and (b). Under the former, the Council could adopt a different measure with a qualified majority

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<sup>63</sup> A thorough analysis is made by Alexander Ballmann, David Epstein, and Sharyn O'Halloran, (2002) in "Delegation, Comitology, and the Separation of Powers in the European Union" in *International Organization*, Volume 56, Issue 03. pp. 557-560

<sup>64</sup> The charts of the management and regulatory committees procedure is given in Appendix B. Source: Alexander Ballmann, "Delegation, Comitology, and the Separation of Powers in the European Union" in *International Organization*, Volume 56, Issue 03. August 2002. p 563



within a one-month period, during which time the Commission could implement its own measure. If the Council did not adopt a different measure within this period, the Commission could continue implementing its own measure. Under variant (b), the Council had three months to adopt a different measure with a qualified majority, during which time the Commission was required to defer application of the measure. If the Council did not adopt a different measure within this period, the Commission could implement its original measure. The basic differences between variants (a) and (b) are the period of time the Council had to adopt a different measure and the effect of the reference to the Council upon the application of the measure: under variant (a) the Commission could voluntarily defer application, while it was required to do so under variant (b). In 1999, these two variants were combined into a single procedure, in which the Commission may immediately implement its version, and the Council has three months to act, thus strengthening the Commission's prerogatives vis-à-vis the Council.

#### *Regulatory Committees*

Under this procedure, the Commission must submit the proposal for an implementing measure. The committee delivers its opinion by a qualified majority vote within a certain period of time, set by the chair according to the urgency of the matter. If the committee's opinion supports the Commission's proposal, the Commission may adopt and apply the measure immediately. If the committee delivers a negative opinion or no opinion, the Commission must send its proposal to the Council, and the Commission can not apply the measure at this stage. Under variant (a) in the 1987 rules (the so-called "filet-procedure" or "safety net"), the Council had three months to adopt a different measure with a qualified majority; if it did not do so, the Commission could adopt and implement its proposal after these three months. Under variant (b) (the so-called "contre filet-procedure," or "double safety net"), the Council had the additional option of rejecting the Commission's proposal with a simple majority, which would force the Commission to prepare a new proposal and

start the ratification process again. As with the management procedures, the 1999 Decision collapsed these two variants into one. Under the new system, if the comitology committee does not approve of the measure, then the Council can only veto the measure by qualified majority vote, or it can adopt its own version of the measure with a unanimous vote. Although this seems to represent a significant step in the direction of protecting the Commission from Council control, our game-theoretic analysis will show that matters are far from clear in this regard.

The basic difference between the 1987 and 1999 versions, then, is that the process has now been streamlined. With the two variants of the regulatory and management committees collapsed into one, and the Council's ability to delay policy implementation— or, in the case of the regulatory committee, enact its own policy over the Commission's objection—was severely hampered.

Interestingly, the 1999 Decision also specified the policy areas appropriate for each type of procedure. Management measures, such as those relating to the application of the common agricultural and common fisheries policies, or to the implementation of programs with substantial budgetary implications, should use the management procedure. Measures of general scope, including measures concerning the protection of the health or safety of humans, animals or plants, should be adopted by use of the regulatory procedure. Where a law stipulates that certain of its non-essential provisions may be adapted or updated by way of implementing procedures, such measures should be adopted by use of the regulatory procedure; Finally, the advisory procedure should be followed in any case in which it is considered to be the most appropriate procedure; it will be used in those cases where it currently applies.

Similar to the legislative process, EU policy implementation procedures mix the roles of the Commission and Council, blurring the lines of responsibility and moving the process further from a system of separate powers. For a variety of reasons, the Commission and the Parliament have always strongly opposed

the Council's practice of setting up comitology committees. They argue that the committee procedures are contrary to the institutional balance of power originally envisaged in the treaties, not only concerning the relation between Council and Commission but also as to the role of the Parliament<sup>65</sup>. Since the Parliament's main supervisory powers exist vis-à-vis the Commission, any infringement of the Commission's responsibilities would at the same time violate the Parliament's right to control. One crucial question raised by Ballmann and others is the extent of the influence exercised by comitology committees over decision making. They all agreed that neither the Commission nor the Parliament disputes the establishment of committees with a purely advisory function. As a matter of fact, what they opposed are committee procedures that, they assume, give committees direct influence on policy outcomes. The Council denied this assumption, arguing that according to the design of the procedures—which provide that the issue must be referred to the Council if a committee does not support a Commission proposal—it is exclusively the Council that could directly change or veto the Commission's implementation measures.

If the Council is right, the entire comitology debate would be academic, especially in light of empirical findings showing that only in two percent of all cases involving comitology committees is a Commission proposal referred to the Council.<sup>66</sup> Interviews as done by Egeberg with Commission officials dealing with comitology committees, however, indicate that this conclusion might be premature: most of those interviewed perceive that the committees have a considerable impact on the Commission's decisions.<sup>67</sup> Moreover, thirty-five percent of non-amending secondary legislation adopted since 1987 contained some form of comitology procedures.<sup>68</sup>

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<sup>65</sup> *Ibid.* p 557

<sup>66</sup> See also Nugent, 2005, p. 112.

<sup>67</sup> Morten Egeberg, "The Many Faces of EU Committee Governance", in Arena Working Papers, WP 03/2, p. 19

<sup>68</sup> Ballmann, *op. cit.*, p 12

The central conclusion drawn by Morten Egeberg, Guenther Schaefer and Jarle Trondal is striking: relative to Council oversight alone, the committee procedures, if they have any effect at all, *move outcomes closer to the Commission's ideal point*. If the Council were directly overseeing the Commission, then implementation proposals would have to appease the Council's preferences, lest they be struck down or modified. But the comitology committee can prevent the Council from ever acting directly on the proposal, thus allowing for the possibility of the committee and Commission jointly agreeing on an implementation measure that the Council would never approve, given the chance.

#### *The Impact of the 1999 Reforms*

Relative to these results, what changes should the 1999 reforms (known as "Comitology II") have on outcomes? Whose hand would be strengthened? Recall that these reforms came at the behest of Parliament, which was agitating for a more direct role in the policy process or, at the least, more insulation for the Commission from outside interference. The advisory committee procedures were left basically unchanged in the 1999 reforms; as before, no body has a real check on the Commission's implementing powers. And the management committee procedures were changed only to allow immediate Commission implementation and give the Council three months to formulate a counterproposal should a qualified majority of the committee vote against the proffered implementing procedures. Although these changes may work to the Commission's advantage, since the sequence of proposals and votes remains the same as before, they apparently have no impact on the results. This leaves the regulatory committees, in which the rules were changed from a qualified majority override and simple majority veto, to unanimous override and qualified majority veto. Both possible Council actions became harder to implement; surely this should work to the Commission's advantage.<sup>69</sup>

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<sup>69</sup> Ballman, *op. cit.*, p. 571

Recent comitology debates have highlighted a shift in the role of committees in the EU policy making. Initially designed as a control device whose primary task was to supervise the executive tasks conferred upon the Commission, recent discussions on the role of comitology committees focused on the transformations which have taken place regarding their place within the policy formulation process in the Union.<sup>70</sup>

According to Commission data, there were some 244 comitology committees in 2003, i.e. committees overseeing the execution of EU rules by the Commission, as opposed to consultative or scientific committees. Their activity covers the whole range of EU policies, with peaks in core areas, such as agriculture (367 meetings in 2000), health and consumer protection (122 meetings), taxation and customs unions (110 meetings). The figures also indicate that a relative majority of committees (109 out of 244) consists of regulatory committees, the primary task of which is to assist the Commission in the drafting of measures of general scope, according to the latest framework decision on comitology. On this background, Dehousse presents data to demonstrate that during last years comitology has moved closer to the European Commission and further from being committees of national representatives holding the Commission in some sort of a leash. Out of thousands of cases referred to these committees, in only approximately 0.2 percent of the total the necessary majority was failed to be obtained by the Commission.<sup>71</sup> Therefore, the evidence presented by Dehousse suggests that consensus is widely regarded as a value within committees, and that the Commission enjoys considerable influence over their daily work. Still, the author makes it clear that this does not rule out the possibility for national governments to defend their domestic interests.<sup>72</sup>

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<sup>70</sup> Renaud Dehousse, (2003) "Comitology: who watches the watchmen?", in *Journal of European Public Policy*, 10:5, p. 798

<sup>71</sup> *Ibid.* pp.799- 802

<sup>72</sup> *Ibid.* p. 809

Egeberg, Schaefer and Trondal have shown that committee members express more allegiance to their own national government institutions and tend to consider other colleagues as mainly as government representatives. Therefore supranational loyalties come only secondly and also interest groups from their own countries are considered much more important than EU level interest groups. The authors also argue that the officials attending comitology committees are highly likely to participate in committee meeting with clearly coordinated positions from their respective national governments.<sup>73</sup>

Morten Egeberg also defends this argument after undertaking a theoretical discussion on loyalties of national officials in the EU, coming up with the conclusion that the officials can not be expected to shift loyalties from the national to the supranational level as claimed by the neo-functionalists. He shows that most obligations, expectations, information networks, incentives and sanctions are connected to the institutions that employ them nationally. Supranational orientations can only be expected to *complement* national allegiances.<sup>74</sup>

Moreover, Egeberg underlines that comitology committees represent a continuation of the formal decision-making process taking place in the Council in the sense that details, often highly technical ones, are worked out regarding how Council policies are to be practiced. This aspect of comitology is reflected in the fact that participants attend formally in their capacity as government representatives. Then the literature convenes on the strong character of national allegiances of comitology committees members, this providing an explanation on why it is useful to expand the literature on lobbying practices by offering special attention to the discussions of lobbying at this level. However, since it is the responsibility of the Commission to implement

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<sup>73</sup> Egeberg, *op. cit.* pp. 14-23

<sup>74</sup> Morten Egeberg (1999) "Transcending Intergovernmentalism? Identity and Role Perceptions of National Officials in EU Decision-Making", in *Journal of European Public Policy* 6:3, p.461

Council decisions, or to monitor national administrations in doing so, the meetings are chaired by Commission officials and convened in the locations of the Commission.<sup>75</sup>

### 3.2 Comitology Committees on Employment

*Table 1: List of Comitology Committees on Employment*

| <b>EMPLOYMENT AND SOCIAL AFFAIRS</b>  |          |                                    |   |
|---|----------|------------------------------------|---|
| Committee on the decision on Community activities concerned with analysis, research and cooperation in the field of employment and the labour market (1998-2000)          | I / II b | 31998 D 0171                       | OJ L 63, 4.3.1998, p. 26                                  |
| Committee of the European Social Fund (ESF)   | I *      | Art. 147 EC Treaty<br>31999 R 1260 | OJ C 340, 10.11.1997, p. 173<br>OJ L 161, 26.6.1999, p. 1 |
| Committee on exceptional financial support in favour of Greece in the social field  | II b     | 31984 R 0815                       | OJ L 88, 31.3.1984, p. 1                                  |
| Committee for implementation of a medium-term Community action programme on equal opportunities for men and women (1996 to 2000)  | II b     | 31995 D 0593                       | OJ L 335, 30.12.1995, p. 37                               |
| Committee for the technical adaptation of legislation on the introduction of measures to encourage improvements in the safety and health of workers at work               | III a    | 31989 L 0391                       | OJ L 183, 29.6.1989, p. 1                                 |
| Committee for the technical adaptation of legislation on the minimum safety and health requirements for improved medical treatment on board vessels                       | III a    | 31992 L 0029                       | OJ L 113, 30.4.1992, p. 19                                |
| Committee for the technical adaptation of legislation on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work | III a    | 31980 L 1107                       | OJ L 327, 3.12.1980, p. 8                                 |
| Restricted Committee of the Safety and Health Commission for the Mining and other Extractive Industries   | III a    | 41957 D 0831<br>31982 L 0130       | OJ 28, 31.8.1957, p. 487/57<br>OJ L 59, 2.3.1982, p. 10   |

Source: List of Committees Which Assist the Commission in the Exercise of Its Implementing Powers (2000/C 225/02), Official Journal of the European Communities, C 225/2 8.8.2000.<sup>76</sup>

<sup>75</sup> *Ibid.* pp 462-463

<sup>76</sup> Article 7(4) of Council Decision 1999/468/EC of 28 June 1999 'laying down the procedures for the exercise of implementing powers conferred on the Commission- stipulates the publication by the Commission of a list of all the committees which assist the Commission in the exercise of its implementing powers, specifying - for each committee - the basic

### 3.3 A Contested Area: Employment

#### 3.3.1 *The Contested Nature of the Employment Policy*

The employment policy has not earned a status as crucial issue worthy of intense political debate until the 1990s when the recession and its effects on the mass unemployment forced the issue up on the European political agenda.

The controversial nature of the creation of a European employment policy has been derived even from its beginnings because the formulation of a common employment policy contradicted the neo-liberal project inherent to the Single European Act and its philosophy on the Single Market.<sup>77</sup> This philosophy was essentially based on the creed that systemic deregulation and increased competitiveness would guarantee sufficient growth as to ensure automatic decrease of mass unemployment.

The 1970s experienced a dramatic increase in the debates on the rise of the unemployment rates all throughout Europe but never translated into concrete and binding actions, but only in declaratory politics. Regarding that period,

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instrument(s) pursuant to which the Committee is established. The Commission is publishing this list in accordance with that stipulation and for the purposes of transparency, indicating for each committee:

1. The committee's official name or the designation given to it.

2. The procedure(s) which apply, using the following abbreviations:

- I = advisory procedure; II = management procedure; III = regulatory procedure;

Some procedures are not exactly in line with the provisions of Decisions 87/373/EEC and 1999/468/EC; this is indicated by an asterisk in the list.

This list contains a number of committees which, while being given the task in some cases of assisting the Commission in the exercise of its implementing powers, may also fulfill other tasks, which sometimes constitute their main function.

3. The basic instrument(s) pursuant to which a committee has been set up and those stipulating for the first time the procedures governing it; the list does not set out all the legislative instruments pursuant to which each of the committees listed operates. The legal instruments cited follow the nomenclature contained in the Directory of Community legislation in force and in the Celex base, in the form of a document number consisting of a combination of digits and letters indicating the following: sector of secondary law in Celex system, the year of adoption or publication of legal instrument, the legal form of instrument (D = Decision; L = Directive; R = Regulation) and the serial number of legal instrument.

<sup>77</sup> Stefan Tidow, "The Emergence of European Employment Policy as a Transnational Political Arena", in Henk Overbeek, (ed.), (2003), *The Political Economy of European Employment*. London: Routledge. p 77



Tidow<sup>78</sup> argues that the European employment policy could at best be characterized as fragmented and partial. The record mass unemployment experienced in the 1990s raised the awareness in the post- Maastricht era on the crisis existent between the governing and the governed, meaning a diminishing ability of the national governments to act in this sphere.

The beginning was represented by the European Commission's White Paper *Growth, Competitiveness, Employment* (1993). The Paper represented a qualitative innovation of the old policies, a special place being reserved for the development of human resources through investments in education, vocational training and a shift from passive income supports to more active incentives. The Paper remained only to represent an optimistic attempt, as it never translated into concrete common policies. The Essen Summit (1994) following the Paper decided that the responsibility of the employment policies was to remain at the national levels.

The issue came back on the European agenda once more during the intergovernmental conference from 1996 but the outcomes were somewhat indefinite and limited to an agreement that there should be some non-binding coordination measures. The debate at the IGC was led by Austria who argued for full employment as an explicit objective of macro-economic coordination in contrast with the opposite side led by Sweden who pressed for subordination of employment policy to the wider objective of macro-economic stability. Despite increased controversy and discussions the IGC has not achieved much in terms of certain steps towards a formulation of an Employment Chapter.

A major shift has been brought by the 1997 Amsterdam Summit which resulted in a new Treaty providing for coordination in the field of employment, following the structure of macro-economic coordination but except any clause for sanctions. The Commission was to formulate guidelines that national governments were to follow and ultimately to provide annual reports which

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<sup>78</sup> *Ibid.* p. 79

finally were to be taken as starting points for a joint report for future Council conclusions. Very important to emphasize is the creation of the Economic and Policy Committee seconding to the Council which was to monitor and assess the national developments as well as coordinate cooperation with the Council of Economics and Finance Ministers. The Amsterdam Treaty introduced also a provision crucial for the present subject of study: the social partners to the coordination in the employment field. Crucially, the employers' organizations and the trade unions were to be consulted with regard to the guidelines to be drawn up. Tidow<sup>79</sup> brings emphasis on the fact that following this provision a widespread and differentiated network of relations has been formed over the time. He also argues that the advances that came with the Amsterdam Treaty represented only a codification of the Essen decisions and the existent practice. His claim is that the discussions on the employment policy at that time were actually discussions on the "labor market policy".<sup>80</sup> Despite all these, the codification of the employment policy at Amsterdam represented a detachment of the employment issues from the general social policy that contained them. It was only an incremental development but which showed that there was a conflict between the continuity of the integration project and the societal transformation.

The anti-regulation rhetoric became even louder with the Luxemburg process. The achievements contained, apart from the classical management by objectives, which typifies the coordination process, the so-called "benchmarking" or labor market practices.<sup>81</sup> These developments aimed to and restructure labor-market regulation in the member states without transcending the boundaries of the hegemonic project outright. Benchmarking proved a very valuable tool because it prepared the way for the convergence of the means and thus of the formulation and implementation of concrete policies. In which background the European Round Table of Industrialists proved to be a

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<sup>79</sup> *Ibid.* p. 86

<sup>80</sup> *Ibid.* p. 88

<sup>81</sup> *Ibid.* p. 91

successful agenda setter.<sup>82</sup> Benchmarking achieved a substantial target: it proved compatible with the hegemonic orientation of the European project by managing to insert element of competition in the sphere of policy formulation. The biggest success of the Luxemburg process was to disengage the employment policy from the context of the social policy.

Amsterdam and Luxemburg achieved much except a new elaboration of the macro-economic dimension of the integration project. For which, the opportunity presented itself at the Council meeting from Cologne. Domestically, the core of the employment policy had shifted towards the regulation of the labor market, so labor market and structural policy remained the central sphere of action at the European level.

Specifically, following the entry into force of the Amsterdam Treaty, the promotion of employment has been added to the list of Community objectives, becoming a "matter of common concern" (Article 2 of the EC Treaty). The new objective consisted in reaching a "high level of employment" without undermining competitiveness. In order to attain this objective, the Community was given a new area of responsibility to complement the activities of the Member States, involving the development of a "coordinated strategy" for employment. The main element of this strategy was formed by common guidelines, modeled on those which were adopted by the Essen European Council. The new Title VIII on employment (new Articles 125 to 130), which took effect immediately following a decision of the Amsterdam European Council, specified what the objectives are and how to attain them. It also provided for the establishment of an Employment Committee.

Article 136 (formerly Article 117) confirmed that social policy falls under the joint responsibility of the European Community and the Member States. The objectives of social policy were set out, following the example of the European Social Charter signed at Turin on 18 October 1961 and of the Community

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<sup>82</sup> *Ibid.* p. 92

Charter of the fundamental social rights of workers of 1989. These objectives were the promotion of employment, improved living and working conditions, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion (formerly Article 1 of the Agreement).

Article 137 (ex-Article 118 and ex-Article 2 of the Agreement) provided that the Council may first of all, by adopting directives by qualified majority in co-decision with Parliament and after consulting the Economic and Social Committee and the Committee of the Regions, act or reinforce its action in areas like workers' health and safety, working conditions, the integration of persons excluded from the labor market, the information and consultation of workers and the equality between men and women with regard to labor market opportunities and treatment at work.

Under the same procedure, the Council may also adopt measures designed to encourage the combating of social exclusion. However, unanimity in the Council remained the norm in the following areas: social security and social protection of workers; protection of workers where their employment contract is terminated; representation and collective defence of the interests of workers and employers, including co-determination subject to paragraph 6; conditions of employment for third country nationals legally residing in Community territory; financial contributions for promotion of employment and job creation. As for pay, the right of association, the right to strike and the right to impose lockouts, they were excluded from Community competence (paragraph 6).

The Treaty of Amsterdam confirmed the recognition, already introduced by the Single Act, of the key role of the social partners. This recognition took effect at two levels. The first is at the national level, since Member States may entrust management and labor with the implementation of the aforementioned directives (Article 137(4) of the EC Treaty). The second is at the Community

level, since the Commission has the task of promoting the consultation of management and labor and taking any relevant measure to facilitate their dialogue by ensuring balanced support for the parties (Article 138(1), formerly Article 3(1) of the Agreement).

The Amsterdam Treaty has added equality between men and women to the list of Community objectives (Article 2 of the EC Treaty), explicitly providing that in all its activities the Community must aim to eliminate inequalities, and to promote equality, between men and women (Article 3(2) of the EC Treaty).

The new Article 141 of the EC Treaty lent greater support to equal treatment of men and women and to equal opportunities, where Article 119, as it was, was confined to issues of equal pay for the two sexes for the same work.

The new provisions allowed the Council, after consulting the Economic and Social Committee and in accordance with the co-decision procedure, to take active measures to ensure that the principle of equal treatment is applied. Moreover, Member States may maintain or adopt measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

In conclusion, at least since the mid-1990s, the employment policy has stood in the center of the European debates. Tidow argues that the changing balance of social and political forces has been inscribed in the orientation of the policy.<sup>83</sup> Most importantly he argues that "...if we look beyond the political conjuncture we see also that the hegemonic orientation of the integration project was never seriously challenged".<sup>84</sup>

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<sup>83</sup> *Ibid.* p. 96

<sup>84</sup> *Ibid.* p 97

### ***3.3.2 The Acquis on the Employment and Social Policy Chapter***

The acquis<sup>85</sup> covers areas where there is already a substantial body of secondary legislation such as health and safety, labor law and equality of treatment, as well as other areas such as social dialogue, employment and social protection, where convergent policies are being developed on the basis of the EC Treaty.

In the area of labor law directives exist in the field of collective redundancies, safeguarding employment rights in case of transfer of an undertaking, obligation on employers to inform workers of the conditions applicable to employment contracts, guarantee for employees in the even of the insolvency of the employer, posting of workers and organization of working time.

In relation to equal treatment, the Amsterdam Treaty added equality between men and women to the list of EC objectives. New Article 141 EC is particularly important in this context. The practical implementation of gender mainstreaming is spelt out in the Community Framework Strategy on Gender Equality 2001-2005. Legislation is also used to achieve equality, in particular in the fields of equal treatment in employment and occupation, social security, occupational social security schemes, parental leave, protection of pregnant women, women who have recently given birth and women who are breastfeeding.

In the issue of the fight against discrimination, the Community has the power to combat discrimination on a wider range of grounds in the employment context and in other areas under new Article 13 EC. Two recent directives prohibit discrimination on grounds of race, ethnicity, religion, disability, age and sexual orientation.

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<sup>85</sup> Information largely drawn from the European Commission, DG Enlargement, <http://europa.eu.int/comm/enlargement/negotiations/chapters/index.htm> Last accessed on 01.03.05

Regarding health and safety in work conditions, the Single European Act gave impetus to social policy in this field. The *acquis* includes directives fixing minimum standards for working conditions. Timely and complete transposition of the legislation must be backed up by the effective operation of the relevant inspectorates.

In the area of social protection the funding and organization of social protection systems is a matter for the Member States, but the EC requires that these systems are able to develop and operate sustainable and universally applicable social protection standards in line with the Treaty objectives.

Moreover, the Treaty requires that social dialogue be promoted and gives the social partners additional powers. The candidates are invited to confirm that they accord the importance required to social dialogue and that social partners are sufficiently developed to discharge their responsibilities, and to indicate that they are consulted on the relevant legislation.

Concretely on employment, the candidate countries are required to cooperate with the EU on the follow-up to the employment policy review.

On the title on public health, article 152 EC stipulates that a high level of health protection shall be ensured in all Community policies and activities. There are also several specific directives in the area of tobacco production and advertising.

Lastly, regarding the institutional framework, the candidate countries are requested to enforce the *acquis* effectively through national judicial and administrative systems similar to those of the existing Member States. The *acquis* also covers the European Social Fund, public health programmes, ECSC measures, the Council regulation on the European Monitoring Centre on Racism and Xenophobia and measures concerning the European Foundation for the Improvement of Living and Working Conditions.

### 3.4 Assessment in a Neo-Gramscian Rhythm of Thought

#### *Opportunities for influencing the decision making and implementation process and their translation into real terms*

A change felt needed in the integration project, a somewhat contradictory issue that may be more easily grasped if consider Gramsci's concept of passive revolution. The Amsterdam Treaty strengthened those forces that insisted on a partial modification of the integration project. This is what Tidow refers to as a "passive revolution".<sup>86</sup> First of all, Gramsci saw the "passive revolution" as the introduction of change that is neither supported by a political base nor expresses a new formation of political forces. From this point of view, Tidow makes an analogy with Gramsci<sup>87</sup> and concludes that the process through which the employment policy has been through can be seen as "molecular changes which in fact progressively modify the pre-existing composition of forces, and hence become the matrix of new changes".<sup>88</sup> The balance of forces in the formulation of the employment policy had already shifted with the European Council in Essen. The coordination mechanism agreed served national actors, as a point of entry for their demands. The coordination of the employment policy gave rise to further points of entry, which the Commission condensed into a benchmarking process. The political discussions between the member states represented just a first level of policy-making. It is important to express that for an understanding of the European employment policy it is necessary to detail its instruments and principles of operation. These did not take the form of the observance of the Amsterdam Treaty obligations; nor did they mean a return to the classical modes of regulation. New forms of regulation were eventually developed in the shape of benchmarking characteristic to the Luxemburg process.

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<sup>86</sup>Tidow, *op. cit.* p. 88

<sup>87</sup> *Ibid.* p. 89

<sup>88</sup> *Ibid.* p. 90



In a work on the transnational class strategy on the European unemployment, Bastiaan van Apeldoorn argues that the (un)employment question has to be understood as the outcome of transnational political and ideological struggles over the new European order emerging out of the new form of integration process.<sup>89</sup> He also underlines that an important role in the emerging transnational capitalist class is the one played by the European Round Table of Industrialists as an elite forum mediating the interests and power of the most transnationalized segments of the European capital.

The chapter represents an in-depth analysis of the decision making process at the EU level and more precisely at the comitology committees level. Emphasis has been placed on the decision making process used for the formulation of the employment policy. The controversial character of this policy in particular arises from the idea inherent to the neo-Gramscian thinkers, that of the employment policy not being originally part of the hegemonic project. The matters on employment have changed character with time, and they necessitated a re-thinking of the original neo-liberal philosophy. Once with the formulation of what could be called an “EU employment policy”, these ideas were encompassed into the ideological formulation of the hegemonic project, and thus employment became part of the strategy of the neo-Gramscian organic intellectuals. Together with this transformation process, the role of the comitology committees has also changed and evaluated from their original role of being consultation organs to becoming organs where further ideological formation of civil societies of member states continued. This transformed role kept the shape of ensuring consultation of civil societies during the decision making process, but in essence providing the possibility for the new civil society groups to feel as parts of this process, but in core eluding their power for effectively affecting this decision making process. The Romanian example provides proof for this idea, as the analysis of the decision-making process at the EU level and at the comitology committees level shows that Romania after becoming a new member state of the Union will not be able to affect changes

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<sup>89</sup> Bastiaan van Appeldoorn, (2002), *Transnational Capitalism and the Struggle over European Enlargement*. London: Routledge, p. 114

in the decision making process. Further proof for this conclusion will be put forward in the following chapter analyzing the accession negotiations that took place between the Union and Romanian authorities, because the manner these negotiations were conducted and especially the outcomes of these negotiations will emphasize the ideological formulation character of the accession negotiations. For simplicity, focus on the employment policy will be kept in the following chapter. The conduct of the Romanian lobby group during the negotiations and the comparison of what has been asked from the Romanian part and what has been offered on the EU part and what has been eventually accepted on behalf of the Romanian part will provide with better insights in real terms on the expected future role the Romanian team will play within the Union upon accession.

## CHAPTER 4

### THE EVOLVING EMPLOYMENT POLICY FRAMEWORK IN ROMANIA

The present chapter aims to reveal the Romanian strategy used during the accession negotiations on the 13<sup>th</sup> chapter of the EU acquis in order to present a clear image on the issue of how the Romanian negotiation team has organized, performed and what outcomes it obtained. This final chapter will complete the work of the thesis centered on the argument that the way a negotiation team performs during negotiations might shed light on the way that state will perform within the Union after accession. As the thesis has as center of the study lobbying practices in the comitology committees and examines levels of professionalism in the management of public affairs, this chapter will prove useful to conclude on whether the Romanian negotiation team succeeded in acting in a professional manner during the negotiations. As presented in a previous chapter, van Schendelen argued that the chances of success are proportional to the level of professionalism displayed during the process of managing of the public affairs. Romania is taken as the case study for bringing support for the argument, so it is thus considered that Romania gives importance to building a strong national representation within the Union after becoming a member.<sup>90</sup> The aim of the present chapter is to analyze the Romanian negotiation team and attempt a projection of a Romanian lobby group which will be active in these committees following accession. The theoretical framework provided by the neo-Gramscian ideas will again provide a perspective through which analysis of the conduct of the accession negotiations between Romania and the Union would be possible. Furthermore,

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<sup>90</sup> Romanian Ministry for European Integration, "Elaborarea Documentelor de Poziție pentru Procesul de Negociere a Aderării României la Uniunea Europeană". Available in electronic format on the MIE official webpage at [http://www.mie.ro/documente/negocieri/metodologie\\_documente\\_pozitie.pdf](http://www.mie.ro/documente/negocieri/metodologie_documente_pozitie.pdf) Last accessed on 10.07.06

it will provide a perspective to reassess the ideas put forward by van Schendelen, on the basis of clear examples deriving from the Romanian case study.

Thus, the chapter will be composed by a first section that will shed light on the Romanian national strategy on employment, encompassing outlines of the Romanian pre-negotiation policies and of the Romanian negotiation strategy of the chapter 13 of the EU acquis. A following section aims to highlight the outcomes of these negotiations and the implications for the Romanian case. At the end, a general assessment discussing the professionalism of the manner the Romanian team conducted negotiations from both van Schendelen's arguments and also from a neo-Gramscian perspective will be given.

#### **4.1 Romanian National Strategy on Employment**

##### ***4.1.1 The Pre-negotiation Policies***

The aim of presenting an outline of the employment policies existent prior to the accession negotiations is to create a well defined legal framework characterizing the Romanian legislature at that time. In this way, the outcomes of the negotiations will be more easily projected and, in comparison with the pre-negotiation legal framework, the impact of the negotiations will be more easily defined. It should be highlighted at this point the fact that the analysis of the Romanian legal framework prior to and following the negotiations is of interest for the present work only to the extent that it will help in the assessment of the conduct of the Romanian negotiation team during the negotiations.

Regarding primarily the period prior to the accession negotiations on the Chapter 13 of the EU acquis, on 1 February 2000, the first stage of the European Agreement (EA), establishing an association between Romania and

the European Communities and the Member States was completed.<sup>91</sup> The Association Council began the evaluation of the fulfillment of obligations assumed for the first stage, intending to propose possible changes of the provisions governing the second stage. In this respect, an exchange of points of view took place between the EC and the Romanian authorities, Romania being requested to prove the accomplishment of the obligations assumed by the agreement in all areas, especially regarding: free movement of workers, the right to practice certain regulated professions, the right to establish the banking and financial services and the free movement of capital.<sup>92</sup>

With regard to the free movement of workers in particular, the European Agreement encouraged the Member States and the candidate countries of the European Union to conclude bilateral agreements with Romania on the access of the Romanian workers to their national labor markets. In this way the Union had requested that Romania creates a certain legal framework made up by bilateral agreements concluded with both member states of the European Union and also with the candidate states at that time. Romania was thus required to undergo a neo-liberal restructuring of its legal framework by concluding bilateral agreements declaring its benevolence for relations of good neighborhood. This section mentions only the bi-lateral agreements relevant for the aim of study, explicitly the agreements that came under the neo-liberal restructuring of the Romanian legal framework on employment. On this background, Romania had implemented three inter-governmental agreements for the employment of Romanian workers in Germany. Negotiations have been initiated in order to conclude, in 2001, bilateral agreements with Spain, Italy, France, Slovak Republic, Cyprus, Greece and Luxembourg for the access of the Romanian workers on the European Labor Market.<sup>93</sup>

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<sup>91</sup> MIE, *cited document*

<sup>92</sup> Romanian Ministry for European Integration, "Raport despre Reuniunea Subcomitetului nr. 7 UE – România 'Dezvoltare regională, ocuparea forței de muncă și politică socială'. Available online on the Ministry for European Integration official website, [www.mie.ro](http://www.mie.ro) Last accessed on 10.07.06

<sup>93</sup> Information taken from the MIE official website [www.mie.ro](http://www.mie.ro) Last accessed on 10.07.06

Moreover, the Romania – Hungary inter-governmental Agreement on employment of seasonal workers and exchange of trainees were signed at Budapest on 9 May 1999 and entered into force in 2001.<sup>94</sup>

In order to protect the Romanian employees working in the states with which Romania did not conclude bilateral agreements, Law no. 156/2000<sup>95</sup> on the protection of Romanian workers working abroad has been adopted. The law provides that the mediation of employment of Romanian citizens abroad is to be developed only by authorized agents, accredited by the Ministry of Labor and Social Solidarity in order to guarantee the validity of the labor contracts.

Law no. 123/2001 on the status of foreign persons<sup>96</sup> has established the conditions that a foreigner should comply with in order to get entry visa for Romania. The foreign nationals may pursue, alone or in association, economic, social, cultural and sport as well as trade activities; they may be employed by Romanian or foreign legal persons, in accordance with the agreements concluded by Romania with other countries regarding the labor market. Employment is allowed on the basis of work permits (issued according to the provisions of Emergency Ordinance no. 172/2000 completing Law no. 203/1999 on work permits)<sup>97</sup> by the Ministry of Labor and Social Solidarity or by Romanian diplomatic missions and consular offices abroad.

Besides the conclusion of certain bi-lateral agreements of good neighborly relations, Romania has also taken steps to comply with the provisions

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<sup>94</sup> *Ibid.*

<sup>95</sup> Romanian Ministry for European Integration, “Aspecte Procedurale ale Negocierilor de Aderare a României la Uniunea Europeană”, Available in electronic format on the MIE official webpage at [http://www.mie.ro/documente/negocieri/aspecte\\_procedurale.pdf](http://www.mie.ro/documente/negocieri/aspecte_procedurale.pdf) Last accessed on 10.07.06

<sup>96</sup> *Ibid.*

<sup>97</sup> Information taken from the MIE website [www.mie.ro](http://www.mie.ro). Last accessed on 13.07.06

requested by the European Agreement and the Association Council. Thus, on 1 April 2001, Law no. 19/2000 on the public pension schemes and other social insurance benefits<sup>98</sup> (modified by Emergency Ordinance no. 49/2001) entered into force; it eliminated some of the discriminations related to the granting of social security benefits to foreign nationals. The law stipulates that the social security benefits received from the Romanian social security system could be transferred in the countries where the insured person have their residence or domicile, according to the provisions of the international agreements and conventions concluded by Romania.

According to the legislation in force, all foreign nationals did not benefit from social security and were not entitled to unemployment benefits. This discrimination was going to be eliminated through the provision of a draft law on the unemployment insurance system and employment incentives.

The right to initiate and carry out economic activities as self-employed persons was ensured by a draft law on organizing and carrying out economic activities by self-employed persons, which modified Decree Law no. 54/1990 with a view to fulfilling the obligations taken by Romania in the European Agreement.<sup>99</sup> The draft law regulates the right for Romanian citizens and foreign nationals, without discrimination, to carry out economic activities as self-employed persons. The draft law established the conditions that natural persons have to fulfill in order to be authorized to pursue independent activities or in family associations. In this context, it also regulated the recognition of the qualification documents of persons that completed their professional education or training abroad, as well as the recognition of the professional competencies and training of persons without qualification documents, but that could prove that they pursued activities for which they are asking the authorization.

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<sup>98</sup> *Ibid.*

<sup>99</sup> Romanian Ministry for European Integration, "Elaborarea Documentelor de Poziție pentru Procesul de Negociere a Aderării României la Uniunea Europeană". Available in electronic format on the MIE official webpage at [http://www.mie.ro/documente/negocieri/metodologie\\_documente\\_pozitie.pdf](http://www.mie.ro/documente/negocieri/metodologie_documente_pozitie.pdf) Last Accessed on 10.07.06

#### *4.1.2 The Institutional Framework for Negotiations*

Regarding the preparations made in Romania especially for the forthcoming accession negotiation process, the present section aims to highlight the fact that Romania took very seriously the required neo-liberal restructuring, which was also applied to its institutional management. The willingness to comply and the seriousness of the Romanian party preparing for negotiations were translated in crucial steps for creating an appropriate institutional structure for the conduct of negotiations. The imperative of speeding up and intensifying the preparations for the accession to the European Union has led to an institutional development regarding the very system of coordinating, at the national level, the activity of European integration, by establishing the Ministry of European Integration and by setting-up of departments responsible, exclusively, with the European integration process, both within the line-ministries and in the local public administration structures (prefectures and county councils).

The Ministry of European Integration (MIE) is organized and operates according to Government Decision no. 14/04.01.2001 (Official Journal no. 16/10.01.2001)<sup>100</sup> and covers, by its structure, the issues related to the process of Romania's preparation for the accession to the European Union, ensuring the needed coherence for the coordination of the preparatory activities for accession in all the fields, by cooperating with all the line ministries and institutions and by coordinating, as well, the activity of negotiations for accession. MIE, as a synthesis minister, has prerogatives like firstly coordinating the relations of ministries and of other bodies of the central administration with the European Union institutions and Member States and monitoring the fulfillment of the European Agreement obligations. The Ministry for European Integration also manages and coordinates the activity of

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<sup>100</sup> Romanian Ministry for European Integration, "Aspecte Procedurale ale Negocierilor de Aderare a României la Uniunea Europeană", Available in electronic format on the MIE official webpage at [http://www.mie.ro/documente/negocieri/aspecte\\_procedurale.pdf](http://www.mie.ro/documente/negocieri/aspecte_procedurale.pdf) Last accessed on 10.07.06



the National Delegation for Romania's Accession to the European Union; it establishes the fundamentals and coordinates the process of accession preparation, by drawing up the strategic programming documents; moreover, it endorses, compulsorily, the draft legislation aimed at harmonizing the Romanian legislation with the Community one; the Ministry is also responsible with the coordination of the non-reimbursable financial assistance, monitoring of the institutional building in order to ensure the implementation of community programmes and last but not least, the coordination of the activity of European Institute in Romania.

Unlike the previous structure, which had the responsibility of national coordinating the European integration process, limited to a department within the Ministry of Foreign Affairs, the Ministry of European Integration has been organized in four departments which ensure the coordination with the important sectors as regards the fulfillment of the economic and political accession criteria, the drawing up of the Position Paper (within the National Delegation for Negotiating Romania's Accession to the EU, made up of four work-groups), the process of the harmonization of the Romanian legislation with the Community regulations and the structured dialogue with the European Union.<sup>101</sup>

The Minister of European Integration coordinates the activity of the Ministry of European Integration. In order to consolidate the Chief-Negotiator institution, the Chief-Negotiator received the rank of Minister-Delegate and he is a member of the Cabinet. He is the deputy of the Minister of European Integration. MIE comprises four departments coordinated by State Secretaries. The Departments have the responsibilities of endorsing the draft legislation aimed at harmonizing Romanian legislation with EC law and coordinating the

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<sup>101</sup> Romanian Government Decision no 272 of February, 22nd, 2001 Regarding the Coordination, Preparation and organization of the Negotiations for the Romanian Accession to the European Union. Published in the Romanian Official Monitor no 120, 9.03. Available in electronic format at [http://www.mie.ro/Negocieri/Romana/Documente\\_pozitie/Delegatie\\_nationala.pdf](http://www.mie.ro/Negocieri/Romana/Documente_pozitie/Delegatie_nationala.pdf) Last accessed on 10.07.06

evaluation of the degree of compliance of the national legislation with the Community legal acts; coordinating the drafting of reporting documents related to the preparation of Romania's accession to the European Union; coordinating the programming and monitoring of the utilization of the financial assistance granted to Romania by the European Union and also managing and coordinating the process of negotiations for Romania's accession, by correlating its specific actions with those of other ministries and state administration authorities.

Besides the creation of a wholly new Ministry for European Integration to replacing the department responsible with integration matter that came under the Ministry of Foreign Affairs, Romania has also institutionalized new Directorates of European Integration and External Relations at the level of each ministry in order to coordinate the technical activity of accession preparation.<sup>102</sup> Each directorate comprises two units, one responsible with the harmonization of the legislation and the other, with the management of programmes granted by EU and other international donors. Special attention is paid to the qualification and professional experience of the staff of the Directorates of European Integration, as a prerequisite for the activity continuity, the permanent accumulation of the specific know-how in each institution and the set up of a relative stable pool of specialists.

The process of the institutional reform at the level of the public central institutions, national agencies, and prefectures concerns the substantial reinforcement of the departments for European integration (or their setting up, according to the case) by establishing the prerogatives of these departments in the process of preparation for accession.

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<sup>102</sup> Romanian Ministry for European Integration, "Aspecte Procedurale ale Negocierilor de Aderare a României la Uniunea Europeană", Available in electronic format on the MIE official webpage at [http://www.mie.ro/documente/negocieri/aspecte\\_procedurale.pdf](http://www.mie.ro/documente/negocieri/aspecte_procedurale.pdf) Last accessed on 10.07.06

With a view to continuing speeding up and increasing the efficiency of the activities regarding the preparation for accession to the EU, special importance was granted to the change of structure and to the duties of the Inter-Ministerial Committee for the European Integration (CIIE) whose presidency is ensured by the Minister of European Integration; the Inter-Ministerial Committee is formed of the State Secretaries for the European integration within each ministry and the presidents of the other institutions with responsibilities in the field. The Inter-Ministerial Committee represents the executive body which coordinates, analyses and debates the documents drawn up by the institutions with responsibilities in accession to the European Union and discusses any other problems concerning the progress of the preparation process for the accession. The Inter-Ministerial Committee for European Integration analyses and settles, step by step, the problems emerged during the preparation activity for the accession to the EU and achieves the current and prospective planning of these activities. At the invitation of the CIIE president, ministries, representatives of social partners, civil society and of other interest groups can attend the meetings.<sup>103</sup>

At the level of the Ministry of European Integration, a Commission of Social Dialogue has been established<sup>104</sup>, a fact which is highly relevant for the argument of the present work as the Commission is formed of representatives appointed by the major national trade unions and employers' associations. The Commission was established in order to develop the dialogue between MIE's representatives and those of the civil society structures, the topics focusing on European integration and its specific legislation.

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<sup>103</sup> Romanian Ministry for European Integration, "Elaborarea Documentelor de Poziție pentru Procesul de Negociere a Aderării României la Uniunea Europeană". Available in electronic format on the MIE official webpage at [http://www.mie.ro/documente/negocieri/metodologie\\_documente\\_pozitie.pdf](http://www.mie.ro/documente/negocieri/metodologie_documente_pozitie.pdf) Last accessed on 10.07.06

<sup>104</sup> Romanian Ministry for European Integration, "Raport despre Intalnirile Comisiei de Dialog Social a MIE", Available on the Ministry for European Integration official webpage at [http://www.mie.ro/fisiere\\_atasate/ro22\\_1143032105Reuniunile%20Comisiei%20de%20Dialog%20Social.doc](http://www.mie.ro/fisiere_atasate/ro22_1143032105Reuniunile%20Comisiei%20de%20Dialog%20Social.doc) Last accessed on 10.07.06

An important role was played by the Inter-Ministerial Council for European Integration, chaired by the Prime Minister, which contributed to the co-ordination of the process of accession preparation and the effectiveness of the national efforts to transpose the *acquis communautaire* and to prepare the negotiations.

Not only the neo-liberal restructuring of the institutional framework necessary for the accession to the European Union had received special attention, but also the institutional framework necessary for the negotiation process has been attentively created with all the prerogatives and responsibilities clearly endorsed by government decisions<sup>105</sup>. A negotiating structure has been established in Romania within the Ministry of European Integration (Governmental decision no. 14 from January 4, 2001)<sup>106</sup> that is responsible for the overall co-ordination of the negotiations. The negotiations mandate is subject to final approval by the Government.

Governmental decision no. 273/22.02.2001<sup>107</sup> set up the National Delegation and established its composition and responsibilities for the delegation's members.

The National Delegation is composed by the Head of National Delegation (Chief-Negotiator), the co-presidents of sectorial delegations, the assistants of the head of National Delegation and the members of the sectorial delegations. The Delegation is mainly responsible with the process of negotiation of

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<sup>105</sup> Appendix 1 provides a clear outline of the Romanian institutional structure for negotiations, which will be referred at throughout the thesis.

<sup>106</sup> Romanian Ministry for European Integration, "Aspecte Procedurale ale Negocierilor de Aderare a României la Uniunea Europeană", Available in electronic format on the MIE official webpage at [http://www.mie.ro/\\_documente/negocieri/aspecte\\_procedurale.pdf](http://www.mie.ro/_documente/negocieri/aspecte_procedurale.pdf) Last accessed on 10.07.06

<sup>107</sup> Romanian Government Decision no 272 of February, 22nd, 2001 Regarding the Coordination, Preparation and organization of the Negotiations for the Romanian Accession to the European Union. Published in the Romanian Official Monitor no 120, 9.03. Available in electronic format at [http://www.mie.ro/Negocieri/Romana/Documente\\_pozitie/Delegatie\\_nationala.pdf](http://www.mie.ro/Negocieri/Romana/Documente_pozitie/Delegatie_nationala.pdf) Last accessed on 10.07.06

Romania's accession to the European Union, the evaluation of the status of Romania's preparation for the opening of each negotiating chapter and with monitoring the fulfillment of commitments that Romania assumed during the negotiations.<sup>108</sup>

In order to ensure continuity, coherence and professionalism of the whole process of negotiation with European Union, a permanent inter-departmental group (Consultative Council for European Integration) was formed by the representatives of Ministry of European Integration, Ministry of Foreign Affairs, Ministry of Public Finance, and Ministry of Justice.

The responsibilities of the Chief-Negotiator include deciding the methodology used for the elaboration of the position papers and fundamental dossiers and the coordination of this elaboration of all the documents necessary for the negotiation process, documents which are in finality subjected to the approval of the Romanian Government. The Chief-Negotiator also provides leadership for the negotiation process by establishing the schedule of activities, institutional responsibilities, and all the other elements that are needed in order for this process to be effective. The Chief-Negotiator is moreover responsible with the coordination of the permanent inter-departmental group and of the process of monitoring the fulfillment of Romania's commitments assumed during negotiation. He also is the co-chairman of the recurrent reunions of sectorial delegations. Other co-chairman of these meetings of the sectorial delegations is either the minister delegate or the State Secretary responsible, from the Ministry of European Integration, along with the Secretary of State responsible with European Integration, from the Ministry that is the "integrator" for the respective chapter of negotiation.

Reports concerning the evolution of the negotiation process, recommending solutions and means to apply their conclusions have to be presented on behalf

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<sup>108</sup> *Ibid.*

of the Chief-Negotiator to the Romanian Government, the Prime Minister and The Council and the Inter-Ministerial Committee for European Integration.

An issue of more interest is the aims that lie underneath the composition of the sectorial delegations. These sectorial delegations are established for every negotiating chapter in particular<sup>109</sup>, and are composed by specialists from ministries, other specialized institutions belonging to central public administration, also public institutions or of public interest. So the institutional framework formed for the accession negotiations of Romania expressly provides for the representation of the public interest at the level of the negotiation team. Moreover, during the working sessions of sectorial delegations there may be invited (by the integrator institution) specialists from Legislative Council, Economic and Social Council, Romanian Academy, European Institute in Romania, and from the academic and research environment.

The responsibilities of the sectorial delegations essentially the elaboration of the position papers drafts, the preparation of periodical reports about the stage of negotiations, the monitoring of the fulfillment of the commitments drawn up during the negotiation process, proposing the appropriate measures. Very importantly, the sectorial delegations have to point out to the Minister Delegate the implications of position papers proposed for adoption in the process of negotiation for the sector they are responsible.

As the case study of the Romanian accession negotiation process focus only on the employment policy, it is useful to outline the composition of the Romanian sectorial delegation responsible for conducting the negotiations of the Chapter 13 of the EU acquis. The chapter integrator is the Ministry of Labor and Social Solidarity, which is to be assisted in its work by the National Agency for Employment, the Ministry of Health and of the Family, the Ministry of Development and Prognosis, the Ministry of Small and Medium-Sized

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<sup>109</sup> See Appendix C

Enterprises and Co-operation, the Economic and Social Council and last but not least, the Council for Occupational Standards, Evaluation and Certification.<sup>110</sup>

Aside from the composition and responsibilities of the sectorial delegations, the composition of the Commission for Social Dialogue which was established “regarding the establishment, organization and the functioning of social dialogue commissions within certain ministries and prefectures”<sup>111</sup> is also highly relevant. The Commission is composed by representatives of trade unions, employers’ associations, and MIE, in order to ensure the transparency of accession process and the co-operation of all subjects concerned.

#### ***4.1.3 The Romanian Negotiation Strategy on Employment***

Romania’s accession to the EU represented a strategic priority of the Governing Programme for the years 2001-2004<sup>112</sup> and was meant to sustain and enhance the efforts Romania made in order to accelerate the process of negotiation and to recuperate the gap vis-à-vis other countries that were more advanced in the process of negotiation. The Government of Romania declared itself firmly committed to observe a very strict schedule of negotiation, both as regards the opening of new chapters, and as regards rapid supplying of supplementary information and clarifications requested during the Conference.<sup>113</sup> The aim of this permanent effort was the provisional conclusion

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<sup>110</sup> Romanian Government Decision no 272 of February, 22nd, 2001 Regarding the Coordination, Preparation and organization of the Negotiations for the Romanian Accession to the European Union. Published in the Romanian Official Monitor no 120, 9.03. Available in electronic format at [http://www.mie.ro/Negocieri/Romana/Documente\\_pozitie/Delegatie\\_nationala.pdf](http://www.mie.ro/Negocieri/Romana/Documente_pozitie/Delegatie_nationala.pdf) Last accessed on 10.07.06

<sup>111</sup> Governmental decision no. 273/22.02.2001, published in the Romanian Official Monitor no. 120 on March, 9th 2001.

<sup>112</sup> Information taken from the MIE official website. Last accessed on 13.07.06

<sup>113</sup> Romanian Ministry for European Integration, “Prezentare Capitale de Aquis”. Available in electronic format on the MIE official webpage at

of as many negotiations as possible chapters during 2001. Until 2004, Romania intended and succeeded to provisionally close all the chapters of negotiation, thus ensuring the technical premises for finalizing the negotiations, taking into account that *Romania assumes the date of 1 January 2007 as the date for Romania's accession to the EU*.<sup>114</sup>

The negotiations for the Chapter 13 have been opened on the 26<sup>th</sup> of October 2001 and have been provisionally closed on the 19<sup>th</sup> of April 2002.<sup>115</sup>

It is crucial to note that the negotiations have taken place on basis of the position documents prepared by Romania and also on basis of an opinion document issued by the European Commission with regard to the level of readiness of the candidate for the opening of negotiations. Romania has examined the *acquis* for each negotiation chapter through the process of screening and prepared a position document for each.

The Romanian strategy for negotiations comprised permanent technical consultations with the European Commission prior to the preparation of the position documents for the aim of ensuring a fluid and efficient negotiation process. Also the sharing of opinions among the Chief Negotiators and the negotiations teams, with the involvement of the workers' unions, employers' associations, the Economic and Social Committee, the political parties and in general the non governmental social organizations has occupied an important place in the Romanian national strategy for negotiation.

The sectorial delegations formed for each chapter of the *acquis* represented the main structure of the internal negotiation and consultation process. The basis of

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[http://www.mie.ro/Negocieri/Romana/Fise\\_capitole\\_%20inchise\\_%202004.pdf](http://www.mie.ro/Negocieri/Romana/Fise_capitole_%20inchise_%202004.pdf) Last accessed on 10.07.06

<sup>114</sup> Information taken from the official MIE website Last accessed on 13.07.06

<sup>115</sup> Romanian Ministry for European Integration, "Raport despre Reuniunea Subcomitetului nr. 7 UE – România 'Dezvoltare regională, ocuparea forței de muncă și politică socială'. Available online on the Ministry for European Integration official website, [www.mie.ro](http://www.mie.ro) Last accessed on 13.07.06



the position documents was represented by a fundamental dossier which had to ensure a realist character of the legislative measures Romania was preparing to undertake. This dossier comprised files prepared for each community legislative act, which detailed the legislative, social and budgetary efforts necessary for each measure taken to bring the Romanian legislation closer to the *acquis communautaire*, without ignoring the analysis of the appropriate conditions to be fulfilled and the expected impacts on the Romanian social, economic and political life.

After the elaboration of the fundamental dossiers and the positions documents, these acts had to be adopted by the Romanian Government. During this process, consultations with the EP commission responsible with the enlargement and the relevant EP commissions relevant for each negotiating chapter took place in conformity with the provisions contained in the Romanian Constitution. The position documents were thus ready to be sent to the EU Council.

The accession negotiations took the form of bilateral intergovernmental conferences in which the participants were the Romanian negotiation team, the member states and the European Commission.<sup>116</sup> The negotiations were in written form, the meetings being in majority at ministerial or chief delegate level and some at deputies of chiefs delegate levels. The procedure prescribed at least one meeting at ministerial level and one at deputies' level in a six months period, with the possibility to increase frequency of meetings according to the necessities.

A short overview of the *acquis* on the employment policy that was on the table at the moment when the negotiations started will prove useful at this point

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<sup>116</sup> Romanian Ministry for European Integration, "Aspecte Procedurale ale Negocierilor de Aderare a României la Uniunea Europeană", Available in electronic format on the MIE official webpage at [http://www.mie.ro/documente/negocieri/aspecte\\_procedurale.pdf](http://www.mie.ro/documente/negocieri/aspecte_procedurale.pdf) Last accessed on 10.07.06

because it will represent concretely the framework on which the negotiations were conducted.

The European Charter on Social Rights, the White Paper on the “European Social Policy” and the Charter on Fundamental Social Rights had established until the starting date of negotiations with Romania that the priority objectives of the social and employment policy are as follows: the promotion of full employment, improvement of living and working conditions, satisfactory social protection, the development of human resources in order to increase the rate of employment, the elimination of social exclusion. Full employment had been declared a priority objective of the EU, while the strategic objectives have been presented for the period 2000-2005 at the Lisbon European Council in 2000. The Union has declared its fundamental objective of becoming until 2010 the most competitive economy based on knowledge.<sup>117</sup> It was recognized that the most important problem of the majority of its Member States is the high unemployment rate, and downsizing this rate was put on the Union’s agenda as another priority objective. The European Social Fund represents the main financial instrument for the Union’s structural actions which provides the means for implementing the objectives of the European strategy for the employment policy. The Community’s priorities in the area of the employment policy regard the establishment of minimum standards of working conditions and the harmonization of the legislative pieces.

In 2002 a new “Community Strategy on Work Safety” which covers the period 2002-2006 has been decided.<sup>118</sup> The Strategy provides for the formulation of a new work culture based on improving the quality of working conditions, elimination of work related risks and the building of partnerships.

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<sup>117</sup> Barbara Lippert and Gaby Umbach, (2005) *The Pressure of Europeanization. From Post-communist State Administrations to Normal Players in the EU System*. Berlin: Auflage. p. 87

<sup>118</sup> *Ibid*, p. 106

In matters of social protection, even though the issue is the competence of each national state, the Commission considered that it could provide for cooperation and for common actions.

One important subject is the social dialogue, which is recognized as the basis for the European social model. Moreover, the gender equality is seen as a basic principle of democracy. The Union has developed a series of multilateral programs militating for the equality of chances for men and women alike, programs that were implemented with the active involvement of the Member States. The Commission prepares periodic reports regarding the integration of the gender equality principle in the Union's practices in which the latest developments and tendencies are presented.

This employment policy's overview was officially published by the Romanian Government on the Delegation of the European Commission in Romania website and was crucially followed up by the official stand point regarding the bilateral accession negotiations of the Chapter 13 on Social and Employment Policy. This official standpoint comprised a short but far reaching statement providing that Romania has accepted the *acquis* on the Chapter 13- Social and Employment Policy *in its integrity*.<sup>119</sup>

At the date of provisional closing of negotiations on the chapter 13, in mid-2002, Romania had asked for *no transitional period* for the transposition and the implementation of the social *acquis*.<sup>120</sup>

## **4.2 Outcomes of Negotiation and Implications for Romania**

### ***4.2.1 Recent developments in Romania in the employment sector***

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<sup>119</sup>Romanian Ministry for European Integration, "Document de Poziție al României Capitolul 13 – Politica Socială și de Ocupare a Forței de Muncă". Available in electronic format on the MIE official webpage at [http://www.mie.ro/Negocieri/Romana/Documente\\_pozitie/Rom/CAP13-DP.pdf](http://www.mie.ro/Negocieri/Romana/Documente_pozitie/Rom/CAP13-DP.pdf) Last accessed on 10.07.06

<sup>120</sup> *Ibid.*

The evolution of employment in Romania has been marked by some contradictory factors. On one hand, the flow of foreign investments generated new jobs. SMEs are also expected to bring about a positive contribution. On the other hand, the further neo-liberal restructuring and privatization process put pressure on employment. Despite the rather high economic growth, the labor market remains relatively tense, mainly because of the structure of the unemployed.<sup>121</sup>

The new legal framework<sup>122</sup> provides a series of active measures for employment stimulation, including: vocational information and counseling, job matching, vocational training, counseling and assistance for business start ups. As far as the disadvantaged categories are concerned, the law stipulates a series of measures for employment stimulation by providing employment subsidies from the Unemployment Insurance Budget, for: disabled persons, graduates of educational institutions, unemployed people over 45 years old, single providers of family income, as well as by providing low-interest credits and grants with a view to creating new jobs. At the same time, job-matching and vocational training services are provided to persons who carry out activities in rural areas and have no income or earn monthly income lower than the level of unemployment benefit, persons who resumed their activity after termination of paid leave for child care or after completing military service, persons who resumed their activity after recovery of working capacity at the end of invalidity pension, persons who have only 9 months left until their release from prison and foreign citizens or stateless persons who, during the period when they have their domicile and residence in Romania, are employed according to the law.

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<sup>121</sup> Information taken from the MIE official website. Last accessed on 13.07.06

<sup>122</sup> The Law No.76/2002 on unemployment insurance system and employment stimulation and its further amendments and complements (the Law No.107/2004).

In order to mediate between employers and jobseekers with a view to establishing working or service relations, the electronic labor exchange system (ELE) was set up in 9 counties in August 2000.<sup>123</sup> During 2001 – 2002, the system was extended to the whole country, becoming one of the more frequently accessed job-matching sites. The electronic labor exchange system provides electronic mediation between demand and supply, according to a series of standard criteria and to national and international classifications. This is a free of charge service, which can be accessed via the Internet.<sup>124</sup>

Following the accession negotiations, the employment policy in Romania has established objectives like ensuring full adoption of the *acquis communautaire* in the national legislation in the employment field and compliance with the European Employment Strategy<sup>125</sup>, increasing the employment level of the active population and implicitly leading to unemployment decrease, raising the active measures weight and strengthening the related implementation capacity with a view to stimulating jobseekers employment, and raising the incomes of the Unemployment Insurance Budget in order to provide the necessary financial resources for supporting active measures.

During 2004, special attention was paid to fighting unemployment among young persons and persons with special needs by implementing measures aiming at stimulating employers to hire graduates of educational institutions, by vocational counseling, vocational training courses, counseling for starting-up small businesses; fighting long-term unemployment by providing subsidies

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<sup>123</sup> Romanian Ministry for European Integration, “Document de Poziție al României Capitolul 13 – Politica Socială și de Ocupare a Forței de Muncă”. Available in electronic format on the MIE official webpage at [http://www.mie.ro/Negocieri/Romana/Documente\\_pozitie/Rom/CAP13-DP.pdf](http://www.mie.ro/Negocieri/Romana/Documente_pozitie/Rom/CAP13-DP.pdf) Last accessed on 10.07.06

<sup>124</sup> Report: “Recent Employment Policies and Labour Market Developments”(2004), European Employment Observatory. Available in electronic format at [http://www.eu-employment-observatory.net/resources/meetings/misep\\_2004\\_11\\_dev\\_RO.doc](http://www.eu-employment-observatory.net/resources/meetings/misep_2004_11_dev_RO.doc) Last accessed on 10.07.06

<sup>125</sup> See Appendix D

for the unemployed who find a job before the end of the period during which they would have been entitled to unemployment benefit, stimulating labor force mobility, subsidizing the labor force employment in temporary employment programs. Bringing the Romanian legal framework on employment also necessitated fighting unemployment among disadvantaged categories of people by stimulating the employers who hire unemployed people over 45 years old, single providers of family income, disabled persons. Developing entrepreneurship by providing counseling and assistance services for starting-up an independent activity or a business as well as by granting low-interest credits in order to create new jobs received place high on the Romanian list for draft laws. Attention was also given to strengthening social cohesion and inclusion by concluding solidarity contracts and identifying ‘insertion’ employers. Increasing labor force quality, promoting and supporting vocational training in accordance with the European labor market requirements by organizing courses for people returning to work to enable them to carry out their professional activities and, on the other hand, diversifying professional competences in order to allow integration into the labor market was also dealt with.<sup>126</sup>

Eliminating regional disparities and implementing special programs for rural areas by increasing the potential for economic growth and job creation at a local level, including by provision of low-interest credits and, after the amendments brought to the Law No.76/2002<sup>127</sup>, of grants intended to develop areas facing poverty or social exclusion phenomena due to high unemployment was continued. Laws providing for extending active ageing, by supporting employers who hire unemployed people who have only 3 years left before partial early retirement, early retirement or receipt of old age pension, increasing the quality of adult vocational training services in order to reach

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<sup>126</sup> *Ibid.*

<sup>127</sup> Center for European Constitutional Law, “National Plan for Accession of Romania”. Available online at <http://www.cecl.gr/RigasNetwork/databank/REPORTS/r25/Tanasescu%201-Annex%203.htm> Last accessed on 10.07.06

higher flexibility in matching new labor market requirements, by authorizing vocational training providers, increasing the capacity to provide vocational training services by extending the network of regional adult training centers and promoting equal opportunities in all activity fields through actions stimulating female employment were drafted and approved by the Romanian government, and thus included in the neo-liberal restructuring of the Romanian legal framework of the employment policies.<sup>128</sup>

On this background, in view of its future accession to the European Union, Romania has complied with the European Employment Strategy (EES), and to a large extent achieved the adoption of the internal legislation of the *acquis communautaire* with respect to labor market, equal opportunities, vocational training and employment-related issues.

Also in this context, the 2004-2005 National Action Plan for Employment (NAPE) was developed, aiming to ensure the coherence of programs and actions implemented in the employment policy field.<sup>129</sup> The 2004-2005 National Action Plan for Employment was elaborated in accordance with the revised EES. At the same time, the objectives of the national policies in the field of employment for the period 2004-2005 were established in accordance with the actions envisaged in the national programmatic papers. The 2004-2005 NAPE was approved by Government Decision.<sup>130</sup>

The 2004-2005 National Action Plan for Employment was coordinated by the Ministry of Labor, Social Solidarity and Family and others institutions with responsibilities in the field. The social partners were also involved. The document was submitted for debate by the National Commission for

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<sup>128</sup> European Employment Observatory Report: “Recent Employment Policies and Labour Market Developments”(2004),. Available in electronic format at [http://www.eu-employment-observatory.net/resources/meetings/misep\\_2004\\_11\\_dev\\_RO.doc](http://www.eu-employment-observatory.net/resources/meetings/misep_2004_11_dev_RO.doc)  
Last accessed on 10.07.06

<sup>129</sup> *Ibid.*

<sup>130</sup> *Ibid.*

Employment Promotion, as well as by the Commission for Social Dialogue of the Ministry of Labor, Social Solidarity and Family, and the resulting comments taken into consideration in the final Plan.

At the same time, the 2004-2005 NAPE took into consideration the recommendations of the Joint Assessment Paper (JAP), signed by Romanian Government in October, 2004.<sup>131</sup>

A crucial outcome was intentionally left to the end for greater impact. The political and practical importance of this area of the acquis and the sensitivities and uncertainties surrounding mobility of workers led the EU to propose a transitional measure - the only such measure, on the EU side, thus far in the negotiations. In considering whether it was appropriate to propose a transition period under this chapter, the EU took into account elements such as forecasted labor movements following accession and the likely destination of these flows. The degree of uncertainty regarding the possible numbers and the likely labor market effects of free movement were also major factors.

Research suggested that the impact on the EU labor market of the freedom of movement of workers after accession should be limited.<sup>132</sup> However, it is expected that the predicted labor migration would be concentrated in certain member states, resulting in disturbances of the labor markets there.<sup>133</sup> Concerns about the impact of the free movement of workers are based on considerations such as geographical proximity, income differentials, unemployment and propensity to migrate. The EU was also worried that this issue threatened to alienate public opinion and to affect overall public support for enlargement.<sup>134</sup>

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<sup>131</sup> *Ibid.*

<sup>132</sup> *Ibid.*

<sup>133</sup> Information taken from the official website of the Delegation of the European Commission in Romania. <http://www.infoeuropa.ro/jsp/default.jsp> Last accessed on 13.07.06

<sup>134</sup> *Ibid.*



The labor migration which is mediated and supported by official channels – either by the responsible institutions inside Ministry of Labor, Social Security and Family or by the accredited private mediating agents – still has a small extent in contrast with the share of Romanians who use informal or even semi-legal means to work and migrate to European Union member states. The risks and complexity associated with irregular migration, determined European Union to propose a transition period after the Romania's accession with regard to the right of free labor. This transition period was proposed in order to avoid the possible labor market disorders and the anticipated public opinion reactions which could endanger the support for accession.

The essential components of the transition arrangement<sup>135</sup> include a two year period during which national measures will be applied by current Member States to new Member States. Depending on how liberal these national measures are, they may result in full labor market access. Moreover, following this period, reviews will be held, one automatic review before the end of the second year and a further review at the request of the new Member State. The procedure includes a report by the Commission, but essentially leaves the decision, on whether to apply the *acquis*, up to the Member States.<sup>136</sup> Lastly, the transition period should come to an end after five years, but it may be prolonged for a further two years in the case if there are serious disturbances of the labor market or a threat of such disruption. Safeguards may be applied by Member States up to the end of the seventh year. The transition arrangement also includes a number of other important aspects, such as a standstill clause, whereby current Member States labor markets cannot be more restricted than at the time of the signature of the Accession Treaty.<sup>137</sup> Romania had to oblige and comply with this prerogative of the Union.

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<sup>135</sup> *Ibid.*

<sup>136</sup> *Ibid.*

<sup>137</sup> *Ibid.*

#### ***4.2.2 Future Strategies***

In addition to the issues regulated and presented in the previous section, Romania has set a list of future strategies to complete its alignment with the EU acquis. Consequently, in order to harmonize employment policies, the Romanian Government approved the National Employment Strategy 2004-2010<sup>138</sup>, which will be necessary for guiding and coordinating appropriate actions.

The document was presented in the meeting of the National Commission for Employment Promotion and discussed during the meeting of the Commission for Social Dialogue. All the comments and additions submitted by the institutions involved, including social partners, were taken into consideration. The strategy was approved by Government Decision.<sup>139</sup>

The priorities of the 2004-2010 National Strategy for Employment included long-term improvement of the adaptability of the labor market, promotion of lifelong learning and continuing vocational training. This objective will be achieved through a set of measures that envisage the training and retraining of employees from state-owned or private companies through: continuing vocational training programs, actions aiming at developing the management skills in human resources field, etc. also, fighting structural unemployment generated by the economic restructuring process is to be achieved through the implementation of a set of preventive and active measures, especially addressed to young people, long-term unemployed persons and persons working in rural areas, with special emphasis on the promotion of vocational training programs according to labor market needs, specialized career

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<sup>138</sup> European Employment Observatory Report: "Recent Employment Policies and Labour Market Developments"(2004),. Available in electronic format at [http://www.eu-employment-observatory.net/resources/meetings/misep\\_2004\\_11\\_dev\\_RO.doc](http://www.eu-employment-observatory.net/resources/meetings/misep_2004_11_dev_RO.doc)  
Last accessed on 10.07.06

<sup>139</sup> *Ibid.*

information and counseling services, entrepreneurship development programs, etc.<sup>140</sup>

The promotion of social cohesion and inclusion for disadvantaged groups (Roma persons, young persons from social care institutions and other institutions providing protection to minors, disabled persons, etc.) is also on the list of priorities of the National Strategy.<sup>141</sup> With a view to preventing and fighting social exclusion, Romania is committed to take actions in order to improve access to labor market active measures.

The implementation of the strategy will represent an important stage in terms of compliance with the EES interdependent strategic objectives.

### **4.3 Assessment of the Romanian Negotiation Strategy**

This section aims to provide a critical insight on the manner the Romanian team has conducted negotiations and tries to assess how much credit can be offered to this team on the professionalism displayed in its role of a public affairs manager group.

The analysis of van Schendelen's work *Machiavelli in Brussels* made in the second chapter of the thesis will be now applied to the Romanian negotiations team, the focus being kept on the negotiations of the Chapter 13 of the EU acquis as described in previous sections of the present work. The study starts from the premise mentioned also in the introductory chapter of the thesis that the process of building a strong national representation within the Union following accession begins during the negotiations.<sup>142</sup> A critical assessment of the conduct of the Romanian Negotiation Team during the negotiations of

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<sup>140</sup> *Ibid.*

<sup>141</sup> *Ibid.*

<sup>142</sup> See Chapter 1

Chapter 13 of the EU acquis from the perspective of the arguments defended by van Schendelen in necessary at this point. The following assessment is based on the overview of van Schendelen's work *Machiavelli in Brussels* as presented in a prior section.<sup>143</sup>

In short, van Schendelen argued that any public affairs manager has real chances of success provided a very thorough homework of studying the playing field, the home front and the right buttons to push is performed. Taking them by turn, the necessity of knowledge of the arena and of the working of the decision making process ruling that arena can not be denied. In this respect, the Romanian team has obviously done its homework on this issue. The preparations of the position document were lengthy and comprehensive. The analysis of the negotiations strategy brings proof for this conclusion, implying the preparation of the fundamental dossiers and the prerequisite preparations made before the formulation of the position document. There is relatively no doubt that the Romanian team was knowledgeable on the EU machinery at the point it sat at the negotiations table.

Critically, the same can not be claimed in relation with the knowledge on the right buttons to push during the negotiations, as to turn to van Schendelen's second point on the agenda. Yes, consultations have taken place between the Romanian team and the relevant EU commissions and delegates, but this can not bring up the conclusion that the team has actually pushed any buttons. The outcomes of these consultations have taken the form of projected plans for actions on behalf of the Romanian team. Basically, the team was guided during these consultations through an analysis of what Romania had and what it lacked in terms aligning itself with the European employment policy.

Lastly, the management of the home front had its own flaws also. The relevant civil society groups were consulted. Meetings of the Commission for Social

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<sup>143</sup> Rinus van Schendelen ,(2003) *Machiavelli in Brussels. The Art of Lobbying the EU*. Amsterdam: Amsterdam University Press

Dialogue have taken place.<sup>144</sup> The Romanian Ministry for European Integration provides data on these meetings, data that can be summarized in a number of no more than 11 meetings of this Commission between years 2002 and 2006.<sup>145</sup> During these meetings, relatively no more than outcomes of negotiations have been discussed.

For example, during 2005, 2 meetings of the Commission for Social Dialogue took place.<sup>146</sup> The information provided by Ministry for European Integration on these meetings outlines the discussion themes, the first being the establishment of a first contact between the members of the Commission and the new leadership of the Ministry for European Integration, and the second being the Phare program for the period 2002-2006 along with the proposals made by the social partners on the issue of the community funds. The number of participants was 17 on behalf of employers' associations and workers' unions and 12 on behalf of the Ministry for the first meeting, and 18 and respectively 6 participants in the second meeting. The report of the Ministry providing the data on these meetings interestingly mentions that the target group displayed an open attitude towards an efficient future collaboration and increased interest for the presented subjects.<sup>147</sup>

Relating the two meetings that took place to the date in the current year (2006), the Ministry specifies that the issues discussed were directive draft regarding services on the EU internal market and respectively the National Development Plan for 2007- 2013.<sup>148</sup> There were 16 participants on behalf of employers' associations and workers' unions and 8 representatives of the Ministry in the

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<sup>144</sup> Romanian Ministry for European Integration, "Raport despre Intalnirile Comisiei de Dialog Social a MIE", Available on the Ministry for European Integration official webpage at [http://www.mie.ro/fisiere\\_atasate/ro22\\_1143032105Reuniunile%20Comisiei%20de%20Dialog%20Social.doc](http://www.mie.ro/fisiere_atasate/ro22_1143032105Reuniunile%20Comisiei%20de%20Dialog%20Social.doc) Last accessed on 10.07.06

<sup>145</sup> *Ibid.*

<sup>146</sup> *Ibid.*

<sup>147</sup> *Ibid.*

<sup>148</sup> *Ibid.*

first meeting, and 11 and respectively 6 participants in the second. It is again mentioned in the report that increased interest for the subjects discussed was shown.<sup>149</sup>

“The public-private partnership and a larger cooperation with the civil society must be developed in our society”<sup>150</sup>, showed Mr. Vasile Puscas, Delegate Minister, Chief Negotiator with the EU at a meeting with the members of the Coresi National Foundation, Cartel Alfa, trade unions and employers’ associations and representatives of the Romanian civil society. The discussions took place on Friday, 27 February 2004 at Hotel Parc, Bucharest.

Mr. Puscas emphasized that the civil society has been of a real help in offering solutions for the negotiation chapters. He showed that it is necessary to achieve some public-private partnerships for the preparation of the accession of Romania to EU, not only at the central level, but especially at the regional level. Mr. Puscas also pointed out the fact that the National Negotiation Delegation has had consultations with the trade unions, the employers’ associations, NGOs since 2001, and now, these consultations will also be intensified in the Social Dialog Commission, but also in the Consultative Council for the Accession of the Romania to the UE. He stressed that Romania had consultations with other candidate states and those consultations will continue in the future.

Concluding on the manner the Romanian team has taken into account the views of the Romanian civil society affected by these outcomes prior to the actual start of the negotiations proves disappointing. Two facts should be highlighted at this point. The first is that the civil society was not enough informed on the importance of the expected impact, due to basic administrative problems

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<sup>149</sup> *Ibid.*

<sup>150</sup> Speech of Mr. Vasile Puscas, the Romanian chief negotiator, at a meeting with the representatives of the Romanian civil society. Romanian Ministry for European Integration, “Raport despre Intalnirea Domnului Vasile Puscas cu Asociatiile Muncitoresti din Romania”. Document available online on the MIE official webpage at <http://www.mie.ro/media/English/2004/febr/270204.htm> Last accessed on 10.07.06

inherent to the Romanian society. Attempts to solve these problems continue even nowadays through systems developed to inform the society on the European Union in general, to address the flawed currents of information that circulate in the society.<sup>151</sup> The second point is that even civil society groups like employers associations and workers' unions that participated in the ongoing consultations were not organized enough as to effectively affect the outcome of the fundamental dossiers and the position documents. The example of the meetings of the Commission for Social Dialogue and of the meetings between the Romanian chief-negotiator and the representatives of relevant civil society groups demonstrate this. Expressing it simply and concretely, Mr. Puscas was talking in 2004 about *the need to develop* in the Romanian society a larger cooperation with the civil society, while the negotiations on employment and social affairs had already provisionally closed in 2002. The basic problem in Romania is a heightened level of eagerness to accede to the European Union and to acquire an inside positions from which they would be able to enjoy the fruits of the European economic garden. This eagerness left little place for a desire to obtain a best possible deal during the negotiations.

One of the arguments exposed in the prior sections of the present work defended the idea that the Romanian team acted in an adaptive manner more than in a professional manner.<sup>152</sup> The outcomes presented in this chapter substantiate the argument. The case study of the Romanian negotiation process on the employment policy proves to be a disappointing example of professionalism.

There is more to be said at this point. The reasons for such a disappointing conclusion should not be attributed to the Romanian side only. Throughout the thesis the argument defending the idea that the negotiation process basically

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<sup>151</sup> Information taken from the official website of MIE. See examples of attempts for informing the Romanian public by accessing the link "Informare Publica" at [www.mie.ro](http://www.mie.ro) Last accessed on 13.07.06

<sup>152</sup> See Chapter 1

representing an ideological formulation prior to the accession to the hegemonic bloc has been a few times recalled.<sup>153</sup>

On this idea, little chance has been given to the Romanian team to deviate the courses of negotiation from what was already expected. The ideological formulation process represented bringing the acceding candidate in line with the organic ideas inherent in the leading group's way of thinking. More concretely put, during the negotiations the EU *acquis* on employment has been placed on the table and the missing items from the Romanian legislative load had been formulated in future plans for legislative acts. This has left relatively no alternatives for the Romanian part.

Van Schendelen argued that the chances of success will be proportional with the professionalism of the lobby group.<sup>154</sup> This is not untrue. But as it is shown in the concluding section of the second chapter, other factors have to be taken into account. The most important factor is the relatively unequal position from which the negotiations were conducted, comparing the position of the European Union as the hegemonic bloc on the one side and Romania, as the relatively poor acceding candidate eager to comply on the other side. The same inequality of positions can be observed even within the Romanian negotiation team. The Romanian civil society represented in the negotiation team through the Commission for Social Dialogue had proven relatively poorly organized and unable to represent its interests within the negotiation team. According to van Schendelen's arguments, its poor organization offered arguably the least chances for success. From the neo-Gramscian perspective, it can only be concluded that the meetings of the Commission for Social Dialogue could have no other outcomes than they had, keeping in mind the unequal position the civil society's representatives had relative to the representatives of the ministerial institutions.

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<sup>153</sup> See Chapter 1 and the last sections of Chapter 2 and 3

<sup>154</sup> Schendelen, *op. cit.* p. 13



On the overall, looking to the Romanian example, the neo-Gramscian perspective proves entitled to argue that outcomes of negotiations held from unequal positions can not be favoring the weaker part, that lobbying techniques have severely decreased chances for proving effective during such process of negotiation having a defined character of enhanced neo-liberal ideological formulation.

This neo-liberal ideological project had been launched at the European level during the mid-1980s.<sup>155</sup> It was presented to be in the general interest of the European society because it would increase global competitiveness of the European countries and materialized concretely with the signatures of the Association Agreement with Romania in October 1990<sup>156</sup> and the formulation of the PHARE aid programme to which there were attached certain conditions like respect for human rights and democratic principles and the principles of market economy. Although the conditionality was vaguely defined, it supported Europe's priority to ensure integration of the states in the region into the capitalist system of production by using the processes of liberalization and harmonization of instruments. This incipient conditional process had highlighted the role of the EU as an agent for transmitting neo-liberal principles and practices. Further developments came with the 1993 Copenhagen European Council which opened the way towards Eastern enlargement as soon as the candidates were "able to assume the obligations of membership by satisfying the economic and political conditions required".<sup>157</sup> Conditions were further formulated in the pre-accession strategies and the Accession Partnerships. With the start of the negotiation processes for

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<sup>155</sup> Hans-Jürgen Bieling and Jochen Steinhilber, "Hegemonic Projects in the Process of European Integration", in *Dimensions of a Critical Theory of European Integration*, edited by Hans-Jürgen Bieling and Jochen Steinhilber, (Marburg: Forschungsgruppe Europäische Gemeinschaften, 2000), p. 40.

<sup>156</sup> Although the Agreement with Romania came into force in 1995, after the ratification of all member states, an interim agreement on trade came into force immediately after signature.

<sup>157</sup> Council of the European Union, *Presidency Conclusions: Copenhagen European Council*, Brussels, 21-22 June 1993, p. 13. Available on the EU official Webpage.

membership the Commission undertook the task to prepare annual regular reports assessing the candidate's progress on the Copenhagen Criteria.

Therefore, the European Union had been long involved in the neo-liberal restructuring of Romania, concretely since the signature of Europe Agreement in 1980 and has materialized in the form of the conditions that Romania had to fulfill, firstly in order to benefit from the PHARE financial aid, and later in order to fulfill the Copenhagen criteria. This development brings proof for the unequal relationship existent between the Union and Romania, relationship which was born with this unequal character, and which had actually become characterized by a deeper gap between the statuses of the two, Romania and the Union. It was on such a background that the negotiations have been conducted, fact which supports drawing the conclusion that Romania, negotiating from a relatively lower position, had little chances of obtaining more favorable outcomes, when in fact it was in the position of being coerced to accept what was on the negotiation table.

The concluding chapter of the thesis will try to speculate on the future possibility of the Romanian part to build an effective lobby within the comitology committees on employment and on the question whether Romania will be able to effectively employ lobbying techniques during the policy formulation process. It will end the present work by answering the major questions of the thesis and bringing the central argument to a conclusive end.

## **CHAPTER 5**

### **CONCLUSION**

The chapter aims to complete the study on the Romanian public affairs management within the EU comitology committees on employment by drawing conclusions on the minor and major questions asked throughout the thesis and attempt speculations on the future of the comitology committees and lobbying practices.

The comitology committees of the European Union were shown as being one of the relatively best suited places for the inputs representing the interests of the member states, therefore amongst the main targets for lobbying practices within the Union.

While the Union itself claims that the formation of these committees is crucial due to their the role of agents where a win-win game is played among the Union member states, the neo-Gramscian perspective's view differs inherently through its arguments on enlargement and integration. Thinking from the neo-Gramscian rhythm of thought, the processes of enlargement and integration are understood as being processes for neo-liberal restructuring of the candidate countries, processes of preparation for an incorporation of the candidates in the European historical bloc. Following the same line of thought, the comitology committees become agents of this process of ideological formulation of the member states, thus their role being critically understood as arenas where the organic intellectuals of the Union are able to provide leadership within the neo-Gramscian concept of hegemony. The committees provide a necessary ground where civil interests converge to form the organic ideas governing the European historical bloc. Based on these premises, the neo-Gramscian

perspective was chosen as the relatively best suited theoretical framework to wrap up the analysis on comitology committees and lobbying practices, also sustained by the fact that this perspective defends the historicity of integration, the crucial role played by the civil society groups and also the hegemonic character of the European integration process from a very objective point of view.

For the aim of providing clear proofs to defend the arguments of the thesis, the case study of the Romanian negotiation process has been detailed. The choice of the Romanian example was justified by the idea that the formation of a lobby group representing national interests begins even from the process of negotiation and continues dynamically through the activities within the comitology committees.

For theoretical references on the manner of conduct of lobby groups within the European Union, the work of Rinus van Schendelen *Machiavelli in Brussels* has been used. The second chapter of the present work has provided details on the argument presented by van Schendelen in his work, together with an assessment of his argument from the neo-Gramscian perspective. Using these two theoretical references, analysis of the role of the EU comitology committees and a critical assessment has been provided by the third part of the thesis. A reminder has to be clarified at this point. For easing a critical analysis, a certain EU policy has been considered throughout the thesis, the employment policy. The choice of the employment policy is justified by the existent extensive literature on the issue of employment having become part of the European *hegemonic project of neo-liberal restructuring* of the acceding candidates. Thus, together with providing information on the work and role of the comitology committees in general, focus has been on the comitology committees active in the field of the employment policy. The same focus has been kept for the example of the Romanian case study, therefore, the accession negotiations of the Chapter 13 of the *acquis communautaire* on the Employment and Social policy were taken at hand, and the conduct of the

Romanian negotiation team for these negotiations only has been critically observed.

The fourth chapter of the thesis mainly represents the case study on which the work intended to prove its arguments, that of the Romanian accession negotiations with the European Union of the Chapter 13 of the EU acquis on the employment policy. The case study enabled the picture of the Romanian negotiation team acting as a lobby group defending national interests be drawn for the aim of deriving critical conclusions on the professionalism (the concept governing van Schendelen's arguments) of the conduct of the Romanian negotiation team during the negotiation process.

The outcomes obtained by the thesis throughout its every chapter provided critical answers to the minor and major questions of the work that have been asked in the introductory chapter.

In this way, it was arrived to the conclusion that the comitology committees represent a part of the whole, that they are actually instruments of the European hegemonic project, their contribution to the democratization process of the EU as van Schendelen argued remaining in the background plan. The social forces active in these comitology committees have therefore decreased chances for being able to effectively influence a serious deviation of outcomes away from the *organic ideas*, deviation which would endanger the hegemonic project.

The individuals not belonging to the group of the *organic intellectuals* but to the subordinate classes can not be expected to have a heavy saying on the policy outcomes as van Schendelen claims. The inequality of positions discussed throughout the thesis denies them this chance which van Schendelen argued to be directly proportional to the professional manner of preparing their homework on lobbying. Being in the position to represent the candidate to accession or a fresh member state puts these individuals in the relatively lower position comparatively to the *organic intellectuals* shaping the *organic ideas* of

the neo-liberal project. The neo-Gramscian perspective has enabled this work to make this crucial argument.

As for the role played by the comitology committees, the neo-Gramscian rhythm of thought brought forward the argument on their further contribution to the neo-liberal formation of the new member states through their critical role of being part of the European hegemonic project. It was found out that the equality of representation rights does not necessarily lead to the equality of power of influence.

The employment policy of the European Union has gone through an array of changes until it has come to become part of the neo-liberal restructuring of the European project. The reason is that this project has taken a clear shape in the 1980s, together with the dramatic changes taking place in the Central and Eastern Europe, after the relatively sudden turn of this region to democratic principles and a market economy. The Union had started at that date to become a crucial actor in the region and began focusing on helping these countries transform their political, economical and social life in line with the neo-liberal principles of market economy and democracy. The employment policy was thus added as an important tool for neo-liberal transformation and the shaping of a European employment framework received increased attention. That is the reason why decisions on employment matters are taken through the co-decision procedure at the EU level and implemented by using management comitology committees instead of other procedures, in this way the importance attached to employment becomes obvious at the EU level.

The case study performed on the example of Romania richly illustrates these conclusions. The image of the Romanian negotiations team acting as a lobby group only partially fitted the picture drawn by van Schendelen on the professional public affairs manager group. Furthermore the image of the Romanian civil society group fitted even less van Schendelen's picture. Obviously, the neo-Gramscian argument taking into account the inequality of

positions once more has proven right. All the leverages have belonged to the European side, the Romanian side being only in the position to consent to all the European conditions. The neo-Gramscian terminology actually defines the situation as coercion rather than consent. The politics of conditionality conducted by the Union, its regular monitoring through the preparation of annual progress reports, the do-to lists drawn up and put forward in front of the accession candidates only proves the argument.

The outcomes obtained by the Romanian side during the negotiations richly exemplified by the outcomes on the employment policy therefore reflect the relatively lower position held during the negotiations and their coercive character.

Speculatively, Romania has accepted the conditions of the European Union in the hope that after accession it will have the chance to assert itself as a valuable actor. The country hopes that its relatively large size in terms of area and population, which translates into a relatively large number of representatives at the level of each EU institution, would also translate into better chances of influencing policy outcomes. Despite this fact, the decision-making mechanism of the EU is thus designed as not to allow any single member achieve the necessary majority for an effective influence. This commentary is made disregarding the long discussed inability of effective influence from the part of new comers, which has been discussed at length from the neo-Gramscian rhythm of thought. Because, taking also this argument into account, the chances for Romania to be able to deviate policy outcomes away from the organic ideas of the European project decrease even further. Romania will therefore face a bigger challenge after accession because it can only be expected that the unequal relationship to continue.

Speculations about the real degree of effectiveness the Romanian lobby could achieve after accession in the comitology committees keeping in mind the conclusions above can not be very optimistic ones. The committees will provide

without doubt a necessary ground for making national preferences known, but transnational preferences in line with the organic ideas of the neo-liberal project would have a relatively higher stance. National preferences expressed on behalf of the Romanian public affairs managers would have positive outcomes relatively only in the possibility that they do not diverge from these general hegemonic preferences.

Thus, the future of Romania as a new member state of the European Union would largely depend on the claims made after accession and on the degree these claims would seem acceptable to the Union as a whole. The same speculation would be valid in the case of projecting the future of the Romanian lobby group that will become active after accession. Taking also into account the relative lack of preparedness obvious during the conduct of negotiations despite the imminent target date for accession on the 1<sup>st</sup> of January 2007, the Romanian lobby groups would have relative little chances for making their voice heard in the Union in the situations when their voices would make demands divergent from the European ideas.

Despite the arguments of certain perspectives on the future of comitology committees foreseeing an eventual dissolution of these committees, it can be speculated that their existence will continue, along with certain reforms addressing the claims of lack of transparency, with an inherent role continuing the neo-liberal formulation of the new member states.

Moreover, with the increasing attention accorded to lobbying and lobbying practices and its new definition as a public affairs management technique, the issue may be expected to draw even more attention at the European level, especially after the attempts to formulate rules governing the lobbying procedures. Thus, lobbying may be expected to become an important tool of the European civil society groups with interests to defend at the European level. Of course, as the neo-Gramscian perspective defends, not all the lobbying groups may expect to become effective, their chances having as a



starting prerequisites the professionalism of the lobbying homework in van Schendelian terminology, and most importantly depending on the nature of interests they might be representing, national ones contrasting to transnational ones.

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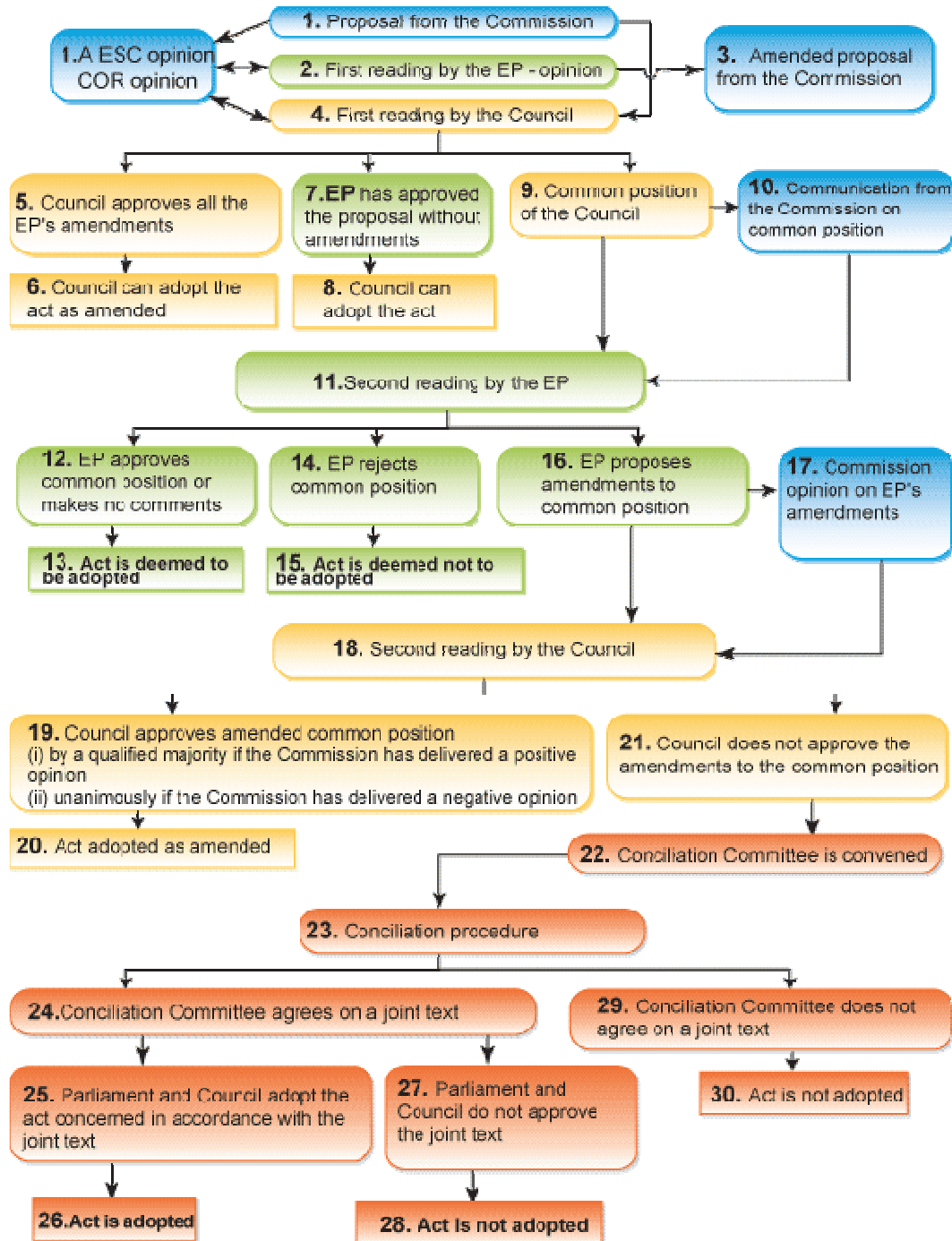
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## APPENDIX A

### The Chart of the Co-decision Procedure of the European Union

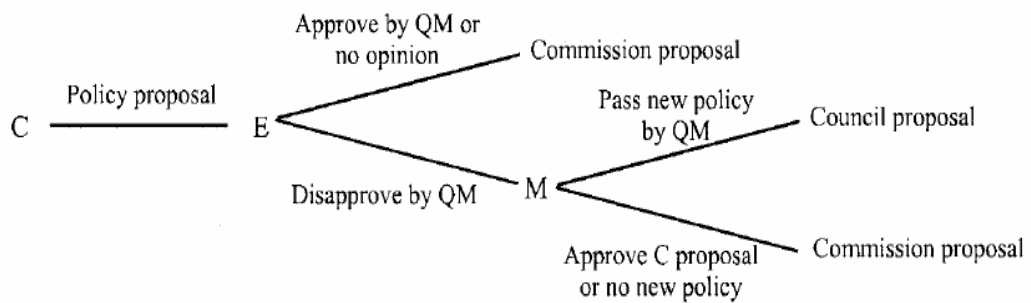


Source: The official webpage of the European Union

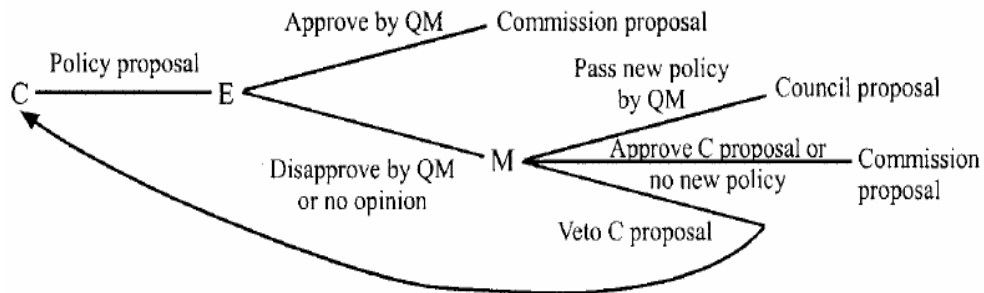
## APPENDIX B

### The Chart of the Management and Regulatory Committee Procedures of the Comitology Committees

#### Management committee procedure



#### Regulatory committee procedure



## APPENDIX C

### **Institutional Structure for Negotiations**

A negotiating structure has been established in Romania within the Ministry of European Integration (Governmental decision no. 14 from January 4, 2001) that is responsible for the overall co-ordination of the negotiations. The negotiations mandate is subject to final approval by the Government.

Governmental decision no. 273/22.02.2001 sets up the National Delegation and establishes its composition and responsibilities for the delegation's members. The National Delegation presents regular reports to the Prime Minister, the Cabinet and the Parliament's Committees, including the Parliamentary Committee on European Integration.

#### *Negotiating Delegation*

Represents the framework for the development and organizing of the evaluation of the status of Romania's preparation for the opening of each negotiating chapter; process of negotiation and monitoring the fulfillment of commitments that Romania assumed during the negotiations with EU;

Gov. Decision 273/2001: National Delegation is composed by the Head of National Delegation, co-presidents of sectorial delegations for negotiating Romania's accession to the European Union (...), and the assistants of the head of National Delegation; members of the sectorial delegations.

The Head of the National Delegation is the Minister Delegate, Chief-Negotiator for accession of Romania to the European Union, member of Romanian Government.

Sectorial delegations, for every negotiating chapter, are composed by specialists from ministries, other specialized institutions belonging to central public administration, also public institutions or of public interest.

#### *The permanent inter-departmental group*

Composed by representatives of Ministry of European Integration, Ministry of Foreign Affairs, Ministry of Public Finance, Ministry of Justice, in order to ensure continuity, coherence, and professionalism of the whole process of negotiation with European Union.

#### *Negotiation Team*

- Head of the National Delegation Minister Delegate, Chief Negotiator with the EU - Vasile Pușcaș;
- 16 Secretaries of State
- 1 Second Secretary of State
- 1 General Director
- 1 Director
- 1 Vice-Governor of the Romanian National Bank
- (1 Presidential Adviser on European Integration matters)

### *Structure for Romania's EU Accession Negotiations*

A negotiating structure has been established in Romania within the Ministry of European Integration (Governmental decision no. 14 from January 4, 2001) that is responsible for the overall co-ordination of the negotiations. The negotiations mandate is subject to final approval by the Government.

Governmental decision no. 273/22.02.2001 sets up the National Delegation and establishes its composition and responsibilities for the delegation's members. The National Delegation presents regular reports to the Prime Minister, the Cabinet and the Parliament's Committees, including the Parliamentary Committee on European Integration.

### *Negotiating Delegation*

Represents the framework for the development and organizing of:

- a) Evaluation of the status of Romania's preparation for the opening of each negotiating chapter;
- b) Process of negotiation of Romania's accession to the European Union;
- c) Monitoring the fulfillment of commitments that Romania assumed during the negotiations with EU;

Gov.Decision 273/2001: Art 1. National Delegation [is] composed by:

- a) Head of National Delegation;
- b) Co-presidents of sectorial delegations for negotiating Romania's accession to the European Union (...), and the assistants of the head of National Delegation;
- c) Members of the sectorial delegations.

The Head of the National Delegation is the Minister Delegate, Chief-Negotiator for accession of Romania to the European Union, member of Romanian Government.

*1. Minister Delegate* has the following responsibilities: (Art.4)

- a) Establishes the methodology for the elaboration of position papers and background files, that are mandatory for all public institutions participant to the negotiations for Romania's accession to the EU;

- b) Co-ordinates the elaboration of position papers, background files, all the other documents that are necessary to efficiently develop the process of negotiations. After the approval of documents by the head managers of participant public institutions (to the preparation), the minister delegate forwards them for debate and approval to Romanian Government;
- c) Leads the negotiation process by establishing the schedule of activities, institutional responsibilities, and all the other elements that are needed in order for this process to be effective; also the Minister Delegate is the co-chairman of the recurrent reunions of sectorial delegations. The recurrent reunions of sectorial delegations have, as a co-chairman, either the minister delegate or the State Secretary responsible, from the Ministry of European Integration, and also the Secretary of State responsible with European Integration, from the Ministry that is the “integrator” for the respective chapter of negotiation;
- d) Submits the composition of participants delegations (at the reunions for technical consultations and the negotiating rounds) and also their mandates, for approval to the Prime Minister;
- e) Presents reports to
- The Romanian Government,
  - Prime Minister,
  - The Council and the Inter-Ministerial Committee for European Integration, concerning the evolution of the negotiation process, recommending solutions and means to apply their conclusions;
- f) Co-ordinates the process of monitoring the fulfillment of Romania’s commitments assumed during negotiation;
- g) Co-ordinates the permanent inter-departmental group

## *2. The Working Groups*

(Art. 5, paragraph 1) Sectorial delegations, for every negotiating chapter, are composed by specialists from ministries, other specialized institutions belonging to central public administration, also public institutions or of public interest, mentioned at the end of this document.

(Art. 5, paragraph 5) During the working sessions of sectorial delegations there may be invited (by the integrator institution) specialists from Legislative Council, Economic and Social Council, Romanian Academy, European Institute in Romania, from academic and research environment.

(Art. 5, paragraph 6) Sectorial delegations have the following responsibilities:

- a) Elaborate and monitor the enforcement of preparation measures, for every sector, in order to begin negotiations;
- b) Elaborate, under the co-ordination of Minister Delegate, position papers drafts (for the negotiation process), those need the approval of the Minister Delegate then afterwards they are discussed and approved by the Romania Government.
- c) Prepare periodical reports about the stage of preparing negotiations for a sector, or the stage of negotiations, in general.

d) They point out to the Minister Delegate the implications of position papers proposed for adoption in the process of negotiation for the sector they are responsible.

e) Monitor the fulfillment of commitments drawn up during the negotiation process, proposing the appropriate measures.

f) They carry out any other activity necessary for the well developing of the negotiation process, for Romania's accession to the European Union.

#### *Consultative Council for European Integration*

Composed by representatives of Ministry of European Integration, Ministry of Foreign Affairs, Ministry of Public Finance, Ministry of Justice, in order to ensure continuity, coherence, and professionalism of the whole process of negotiation with European Union.

#### *Commission for Social Dialogue*

Established by the GD 314/15.03, Off.J. 142/22.03 („Regarding the establishment, organization and the functioning of social dialogue commissions within certain ministries and prefectures”), composed by representatives of trade unions, patronages, and MEI, in order to ensure the transparency of accession process and the co-operation of all subjects concerned.

#### *Final Stage of the Process*

(Art. 11) Requesting and transmission of information necessary for the process of negotiation, by the ministries and the other specialized institutions from central public administration, to the European Union institutions, to member states of EU and also to candidate countries, will be carried out only through the Ministry of European Integration. In co-operation with the Ministry of Foreign Affairs, Ministry of European Integration sends the above-mentioned documents to the diplomatic missions of Romania, accredited in European Union, member states and candidate countries.

#### *Composition sectorial delegations for the negotiation of Romania's accession to EU*

##### (1) Free Movement of Goods

- Ministry of Industry and Resources (as chapter integrator)
- Romanian Bureau for Standard Metrology Bucharest
- State Inspection for Boilers, Recipients under Pressure and Lifting up Installations;
- Ministry of Public Works, Transports and Housing



- State Monopoly “Romanian Vehicle Register”
- Ministry of Agriculture, Alimentation and Forests
- Sanitary Veterinary National Agency
- Ministry of Health and of the Family
- National Agency of Medicines, Bucharest
- Ministry of Public Finance
- General Customs Directorate
- Ministry of Waters and Environment Protection
- Ministry of Labor and Social Solidarity
- Ministry of Education and Research
- Ministry of Communications and Information Technology
- National Authority for Consumers Protection
- Standardization Association in Romania
- Association of National Network of Accrediting in Romania
- Ministry of Foreign Affairs
- National Agency for Strategic Exports Control and Forbidding of Chemical Weapons

(2) Free Movement of Persons

- Ministry of Labor and Social Solidarity (as chapter integrator)
- National Agency for Employment
- Council for Occupational Standards, Evaluation and Certification
- Ministry of Foreign Affairs
- Ministry of the Interior
- Ministry of Education and Research
- National Center for Recognition of Diplomas
- Ministry of Health and of the Family
- Ministry of Public Works, Transports and Housing
- Ministry of Agriculture, Alimentation and Forests
- Sanitary Veterinary National Agency
- Ministry of Justice

(3) Freedom to Provide Services

- Ministry of Public Finance (as chapter integrator for financial services field)
- Office for monitoring insurance and re-insurance activities
- National Bank of Romania
- National Commission for Securities
- Guarantee Fund for Deposits in the Banking System
- Ministry of Small and Medium-Sized Enterprises and Co-operation (chapter integrator for non-financial services field)
- Ministry of Labor and Social Solidarity
- National Agency for Employment

- Ministry of Education and Research
- Council for Occupational Standards, Evaluation and Certification
- Ministry of Health and of the Family
- Ministry of Foreign Affairs
- Ministry of Justice
- Ministry of the Interior
- Ministry of Public Administration
- Ministry of Communications and Information Technology

(4) Free Movement of Capitals

- Ministry of Public Finance (as chapter integrator)
- Office for monitoring insurance and re-insurance activities
- Ministry of Justice
- Ministry of Development and Prognosis
- National Institute for Statistics and Economic Studies
- Ministry of Agriculture, Alimentation and Forests
- Authority for Privatization and Administration of the State Participations
- Ministry Coordinating the General Secretariat of the Government
- Department for the Relation with Foreign Investors
- Ministry of Public Administration
- National Office of Cadastre and Land Registry
- National Bank of Romania
- National Commission for Securities
- National Office for Preventing and Fight Against Money Laundering

(5) Company Law

- Ministry of Justice (as chapter integrator)
- Ministry of Public Finance
- General Customs Directorate
- Ministry of Culture and the Denominations
- Romanian Office for Copy-right
- Ministry of the Interior
- State Office for Inventions and Trade-Marks

(6) Competition and State Aids

- Council for Competition (as chapter integrator)
- Ministry of Public Finance
- Office for Competition
- Ministry of the Interior
- Ministry of Public Works, Transports and Housing
- Ministry of Labor and Social Solidarity
- Ministry of Communications and Information Technology

- Ministry of Small and Medium-Sized Enterprises and Co-operation
- Ministry of Development and Prognosis
- National Institute for Statistics and Economic Studies

(7) Agriculture

- Ministry of Agriculture, Alimentation and Forests (as chapter integrator)
- Sanitary Veterinary National Agency
- Ministry of the Interior
- Ministry of Public Finance
- Ministry of Waters and Environment Protection
- Ministry of Health and of the Family
- Ministry of Development and Prognosis
- National Institute for Statistics and Economic Studies
- Standardization Association in Romania

(8) Fisheries

- Ministry of Agriculture, Alimentation and Forests (as chapter integrator)
- Ministry of Small and Medium-Sized Enterprises and Co-operation
- Ministry of the Interior
- Ministry of Public Finance
- Office for Competition

(9) Transport Policy

- Ministry of Public Works, Transports and Housing (as chapter integrator)
- Ministry of Waters and Environment Protection
- Ministry of the Interior
- Office for Competition
- Council for Competition

(10) Taxation

- Ministry of Public Finance (as chapter integrator)
- General Customs Directorate

(11) Economic and Monetary Union

- Ministry of Public Finance (as chapter integrator)
- Ministry of Development and Prognosis
- National Institute for Statistics and Economic Studies
- National Bank of Romania

(12) Statistics

- National Institute for Statistics and Economic Studies (as chapter integrator)
- Ministry of Development and Prognosis
- National Bank of Romania
- Ministry of the Interior
- Ministry of Agriculture, Alimentation and Forests
- Ministry of Justice
- Ministry of Public Finance
- Ministry of Labor and Social Solidarity
- Ministry of Education and Research
- Ministry of Health and of the Family
- Ministry of Tourism
- Ministry of Waters and Environment Protection
- Ministry of the Interior
- Ministry of Public Administration

(13) Social Policy and Employment

- Ministry of Labor and Social Solidarity (as chapter integrator)
- National Agency for Employment
- Ministry of Health and of the Family
- Ministry of Development and Prognosis
- Ministry of Small and Medium-Sized Enterprises and Co-operation
- Economic and Social Council
- Council for Occupational Standards, Evaluation and Certification

(14) Energy

- Ministry of the Interior (as chapter integrator)
- Romanian Agency for Preservation of Energy
- National Authority for Regulation in the field of Energy
- National Authority for Regulation in the field of Natural Gases
- National Agency for Mineral Resources
- National Agency for State Reserves
- Ministry of Waters and Environment Protection
- National Commission for the Control of Nuclear Activities
- Ministry of Education and Research
- National Agency for Atomic Energy

(15) Industrial Policy

- Ministry of the Interior (as chapter integrator)
- Ministry of Public Finance
- Office for Competition

- Ministry of Agriculture, Alimentation and Forests
- Ministry of Development and Prognosis
- Ministry of Waters and Environment Protection
- Ministry of Education and Research
- Ministry of Labor and Social Solidarity
- National Agency for Employment
- Ministry of Small and Medium-Sized Enterprises and Co-operation
- Authority for Privatization and Administration of the State Participations
- Council for Competition

(16) Small and Medium Enterprises

- Ministry of Small and Medium-Sized Enterprises and Co-operation (as chapter integrator)
- Ministry of Development and Prognosis
- National Institute for Statistics and Economic Studies
- Ministry of Labor and Social Solidarity
- National Agency for Employment
- Ministry of Tourism
- Ministry of the Interior

(17) Science and Technology

- Ministry of Education and Research (as chapter integrator)
- Ministry of Waters and Environment Protection
- National Commission for the Control of Nuclear Activities
- Ministry of the Interior
- Romanian Academy

(18) Education and Training

- Ministry of Education and Research (as chapter integrator)
- Ministry of Labor and Social Solidarity
- National Agency for Employment
- Ministry of Youth and Sports
- Ministry of Development and Prognosis

(19) Telecommunications and Information Technologies

- Ministry of Communications and Information Technology (as chapter integrator)
- Ministry of Health and of the Family
- Ministry of the Interior
- Ministry of National Defense

(20) Culture and Audio-Visual Policy

- Ministry of Culture and the Denominations (as chapter integrator)
- National Center for cinematography
- Ministry of Communications and Information Technology
- Ministry of Foreign Affairs
- National Council of Audiovisual

(21) Regional Policy and Co-ordination of Structural Instruments

- Ministry of Development and Prognosis (as chapter integrator)
- Ministry of Small and Medium-Sized Enterprises and Co-operation
- Ministry of Public Finance
- Ministry of Public Finance
- Office for Competition
- Ministry of Labor and Social Solidarity
- National Agency for Employment
- Ministry of Agriculture, Alimentation and Forests
- Ministry of Public Works, Transports and Housing
- Ministry of Waters and Environment Protection
- Ministry of the Interior
- Council for Competition

(22) Environment

- Ministry of Waters and Environment Protection (as chapter integrator)
- National Commission for the Control of Nuclear Activities
- Ministry of Agriculture, Alimentation and Forests
- Ministry of the Interior
- Ministry of Health and of the Family
- Ministry of Public Works, Transports and Housing

(23) Consumers and Health Protection

- National Authority for Consumers Protection (as chapter integrator)
- Ministry of Small and Medium-Sized Enterprises and Co-operation
- Ministry of Agriculture, Alimentation and Forests
- Sanitary Veterinary National Agency
- Ministry of Health and of the Family
- National Council of Audiovisual
- Ministry of Justice

(24) Justice and Home Affairs

- Ministry of the Interior (as chapter integrator)
- Ministry of Justice

- Ministry of Public Finance
- General Customs Directorate
- Ministry of Foreign Affairs
- Ministry of Public Administration

(25) Customs Union

- Ministry of Public Finance
- General Customs Directorate (as chapter integrator)
- Ministry of Foreign Affairs
- National Agency for Strategic Exports Control and Forbidding of Chemical Weapons
- Ministry of Health and of the Family
- Ministry of Agriculture, Alimentation and Forests
- Sanitary Veterinary National Agency
- Ministry of Culture and the Denominations
- Romanian Office for Copy-right
- Ministry of Public Works, Transports and Housing
- Ministry of the Interior
- State Office for Inventions and Trade-Marks

(26) External Relations and Development Aid

- Ministry of Foreign Affairs

(27) Common Foreign and Security Policy

- Ministry of Foreign Affairs (as chapter integrator)
- National Agency for Strategic Exports Control and Forbidding of Chemical Weapons
- Ministry of National Defense

(28) Financial Control

- Ministry of Public Finance (as chapter integrator)
- Court of Accounts

(29) Financial and Budgetary Provisions

- Ministry of Public Finance (as chapter integrator)
- National Bank of Romania
- Court of Accounts
- Ministry of Development and Prognosis
- National Institute for Statistics and Economic Studies

## APPENDIX D

### Chapter: 13. Social policy and employment

#### Legislative Programme

| EC MEASURE<br>to be transposed  | NATIONAL MEASURE<br>to be adopted   | Planned<br>date<br>of adoption | Planned date<br>of coming<br>into force |
|---|---|--------------------------------|---|
| <b>01. Labour law</b>   |   |                                |   |
| - Directive <b>96/71/EC</b> of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services                           | - The new draft of the Labour Code  | 2002                           | 2002                                    |
| - Council Directive <b>98/59/EC</b> of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies   | - The new draft of the Labour Code  | 2002                           | 2002                                    |
| - Council Directive <b>80/987/EEC</b> of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer | - The new draft of the Labour Code<br>- Legislative act on the establishment of the Guarantee Fund for the protection of employees in the event of the insolvency or bankruptcy of their employer | 2002<br>2004                   | 2002<br>2004                            |



| EC MEASURE<br>to be transposed  | NATIONAL MEASURE<br>to be adopted  | Planned<br>date<br>of adoption   | Planned date<br>of coming<br>into force  |
|---|--|--|--|
| - Council Directive <b>1999/70/EEC</b> of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP  | - The new draft of the Labour Code   | 2002   | 2002   |
| - <b>Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship</b> | <ul style="list-style-type: none"> <li>- The new draft of the Labour Code</li> <li>- Draft law on Insurance against Accidents at Work and Occupational Diseases</li> <li>- Establishment of the National Fund for Insurance against Accidents at Work and Occupational Diseases</li> </ul> | <ul style="list-style-type: none"> <li>2002</li> <li>2001</li> <li>2002</li> </ul> | <ul style="list-style-type: none"> <li>2002</li> <li>2001</li> <li>2002</li> </ul> |
| - <b>Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and ETUC</b>  | - The new draft of the Labour Code   | 2002   | 2002   |
| - Council Directive <b>91/533/EEC</b> of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship  | - The new draft of the Labour Code   | 2002   | 2002   |

| EC MEASURE<br>to be transposed  | NATIONAL MEASURE<br>to be adopted   | Planned<br>date<br>of adoption   | Planned date<br>of coming<br>into force  |
|---|---|--|--|
| - Council Directive <b>93/104/EC</b> of 23 November 1993 concerning certain aspects of the organization of working time   | - The new draft of the Labour Code  | 2002   | 2002   |
| - Recommendation of the Council <b>74/457/EEC</b> of 22 June 1975 on the principle of 40-hour week and the principle of four weeks' annual paid holiday                         | - The new draft of the Labour Code  | 2002   | 2002   |
| <b>02. Social dialogue</b>  |   |  |  |
| - Commission Decision <b>98/500/EC</b> of 20 May 1998 on the establishment of Sectoral Dialogue Committees promoting the Dialogue between the social partners at European level | <ul style="list-style-type: none"> <li>- Draft law on employers' organization ;</li> <li>- Amendment of Law No 54/1991 regarding trade unions</li> <li>- Amendment of G.D. No 314/2001 regarding the establishment, organization and functioning of the Social Dialogue Advisory Committees within ministries and prefectures</li> <li>- Amendment of Law No 109/1997 on the organisation and functioning of the Economic Social Council</li> </ul> | <ul style="list-style-type: none"> <li>2001</li> <li>2001</li> <li>2002</li> <br/> <li>2002</li> </ul> | <ul style="list-style-type: none"> <li>2001</li> <li>2001</li> <li>2002</li> <br/> <li>2002</li> </ul> |

| <b>EC MEASURE<br/>to be transposed</b>  | <b>NATIONAL MEASURE<br/>to be adopted</b>  | <b>Planned<br/>date<br/>of adoption</b>   | <b>Planned date<br/>of coming<br/>into force</b>                                |
|---|--|---|---|
| <ul style="list-style-type: none"> <li>- Council Decision <b>1999/207/EC</b> of 9 March 1999 on the reform of the Standing Committee on Employment and repealing Decision 70/532/EEC</li> </ul> | <ul style="list-style-type: none"> <li>- The adoption of the law regarding the unemployment insurance system and employment incentives</li> <li>- Establishment of the National Commission for Employment Promotion</li> </ul> | <p style="text-align: center;">2001</p> <p style="text-align: center;">2001</p> | <p style="text-align: center;">2002</p> <p style="text-align: center;">2002</p> |
| <b>03. Equality of treatment for men and women</b>  |  |   |   |

| <b>EC MEASURE<br/>to be transposed</b>   | <b>NATIONAL MEASURE<br/>to be adopted</b>  | <b>Planned<br/>date<br/>of adoption</b>  | <b>Planned date<br/>of coming<br/>into force</b>   |
|--|--|--|--|
| <ul style="list-style-type: none"> <li>- Council Directive <b>75/117/EEC</b> of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women</li> <li>- Council Directive <b>76/207/EEC</b> of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions</li> <li>- Council Directive <b>97/80/EC</b> of 15 December 1997 on the burden of proof in cases of discrimination based on sex Amended by 398L0052</li> </ul> | <ul style="list-style-type: none"> <li>- Law on equal opportunities between women and men</li> <li>- The issue of the Order of the Minister of Labour and Social Solidarity regarding the implementation of measures to inform and make the representatives of employees, employers, and civil servants with responsibilities in the field of labour law implementation aware of the acquis communautaire in the area of equal treatment between men and women</li> <li>- The issue of Minister Orders, at ministry level, on the implementation of the national Programme of concrete actions at sectoral level, drawn up by the inter-ministerial Advisory Committee in the field of equal treatment between men and women (CODES), to implement the National Action Plan in the field of equal treatment between men and women</li> </ul> | <p style="text-align: center;">2001<br/>2001</p> <p style="text-align: center;">2001</p> | <p style="text-align: center;">2001<br/>2001</p> <p style="text-align: center;">2001</p> |

| <b>EC MEASURE<br/>to be transposed</b>  | <b>NATIONAL MEASURE<br/>to be adopted</b>                                      | <b>Planned<br/>date<br/>of adoption</b> | <b>Planned date<br/>of coming<br/>into force</b> |
|---|--|---|--|
| - Council Directive <b>86/378/EEC</b> of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes; Amended by Council Directive 96/97/EC                      | - Draft law on the organisation and functioning of the universal pension funds | 2001                                    | 2002   |
| - Council Directive <b>92/85/EEC</b> of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding | - The new draft Labour Code  | 2002                                    | 2002   |
| - Council Directive <b>96/34/EC</b> of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC   | - Law on protection of maternity , family and child                            | 2002                                    | 2002   |

| EC MEASURE<br>to be transposed   | NATIONAL MEASURE<br>to be adopted  | Planned<br>date<br>of adoption                   | Planned date<br>of coming<br>into force          |
|--|--|--|--|
| <ul style="list-style-type: none"> <li>- Commission Decision <b>82/43/EEC</b> of 9 December 1981 relating to the setting up of an Advisory Committee on Equal Opportunities for Women and Men; Amended by Commission Decision <b>95/420/EC</b></li> </ul>  | <ul style="list-style-type: none"> <li>- Law on equal opportunities between women and men</li> <li>- Government Decision on the setting up of the National Agency for equal opportunities between women and men</li> </ul> | <p style="text-align: center;">2001<br/>2004</p> | <p style="text-align: center;">2001<br/>2004</p> |
| <b>04. Fight against racism</b>  |  |  |  |
| <ul style="list-style-type: none"> <li>- Council Directive <b>2000/43/EC</b> of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin</li> <li>- Council Directive <b>2000/78/EC</b> of 27 November 2000 establishing a general framework for equal treatment in employment and occupation</li> </ul> | <ul style="list-style-type: none"> <li>- Establishment of the National Council for Fighting Against Discrimination</li> </ul>  | <p style="text-align: center;">2001</p>          | <p style="text-align: center;">2001</p>          |
| <b>05. Employment</b>  |  |  |  |

| EC MEASURE<br>to be transposed  | NATIONAL MEASURE<br>to be adopted  | Planned<br>date<br>of adoption | Planned date<br>of coming<br>into force |
|---|--|--------------------------------|---|
| <ul style="list-style-type: none"> <li>- <b>Council Decision 97/16/EC of 20 December 1996 setting up an Employment and Labour Market Committee</b></li> <li>- Council Decision <b>98/171/EC</b> of 23 February 1998 on Community activities concerning analysis, research and cooperation in the field of employment and labour market</li> </ul> | <ul style="list-style-type: none"> <li>- Draft law on unemployment insurance system and stimulation of employment</li> </ul>                                   | 2001                           | 1.01.2002                               |
| <ul style="list-style-type: none"> <li>- Resolution of the Council <b>99/312(01)/EC</b> of 22 February 1999 on the 1999 Employment Guidelines</li> </ul>  | <ul style="list-style-type: none"> <li>- Legislative act on the adoption of the National Action Plan for Employment</li> </ul>                                 | 2002                           | 2002                                    |
| <b>06. European Social Fund</b>   |  |                                |   |
| <ul style="list-style-type: none"> <li>- Council Regulation (EC) No. <b>1260/1999</b> of 21 June 1999 laying down general provisions on the Structural Funds</li> <li>- Regulation (EC) No. <b>1784/1999</b> of the European Parliament and of the Council of 12 July 1999 on the European Social Fund</li> </ul>                                 | <ul style="list-style-type: none"> <li>- Draft legislative act on creating the institutional framework in view of participating to ESF-type actions</li> </ul> | 2001                           | 2001                                    |
| <b>07. Social security, aged people and exclusion</b>   |  |                                |   |

| EC MEASURE<br>to be transposed   | NATIONAL MEASURE<br>to be adopted   | Planned<br>date<br>of adoption | Planned date<br>of coming<br>into force |
|--|---|--------------------------------|---|
| <b>Social assistance</b>   |   |                                |   |
| - Council Recommendation <b>92/442/EEC</b> of 27 July 1992 on the convergence of social protection objectives and policies   | <ul style="list-style-type: none"> <li>- Law concerning the social assistance national system</li> <li>- Law concerning the minimum guaranteed income</li> <li>- Law on combating social marginalisation</li> </ul> | 2001<br>2001<br>2002           | 2001<br>2001<br>2002                    |
| - Council Recommendation <b>92/441/EEC</b> of 24 June 1992 on common criteria concerning sufficient resources and social assistance in the social protection systems | <ul style="list-style-type: none"> <li>- Law concerning the social assistance national system</li> <li>- Law concerning the minimum guaranteed income</li> <li>- Law on combating social marginalisation</li> </ul> | 2001<br>2001<br>2002           | 2001<br>2001<br>2002                    |
| - Resolution <b>89/1031/EEC</b> of the Council and the Ministers for Social Affairs meeting with the Council of 29.09.1989 on combating social exclusion             | <ul style="list-style-type: none"> <li>- Law concerning the social assistance national system</li> <li>- Law concerning the minimum guaranteed income</li> <li>- Law on combating social marginalisation</li> </ul> | 2001<br>2001<br>2002           | 2001<br>2001<br>2002                    |



| EC MEASURE<br>to be transposed  | NATIONAL MEASURE<br>to be adopted   | Planned<br>date<br>of adoption | Planned date<br>of coming<br>into force |
|---|---|--------------------------------|---|
| <b>Social security</b><br>- Council Recommendation <b>92/441/EEC</b> of 24 June 1992 on common criteria concerning sufficient resources and social assistance in the social protection systems<br>- Council Recommendation <b>92/442/EEC</b> of 27 July 1992 on the convergence of social protection objectives and policies    | - Draft law on the organisation and functioning of universal pension funds  | 2001                           | 2002                                    |
| <b>08. Disabled people</b><br>- Council Conclusions <b>89/708/CEE</b> of 12 June 1989 on the employment of the disabled people in the Community<br>- The Council Resolution <b>74/709/EEC</b> dated 27 June 1974 establishing the initial Community action programme for the vocational rehabilitation of persons with handicap | - Draft amending Government Emergency Ordinance No 102/1999 establishing a Community action programme for the vocational rehabilitation of disabled persons | 2002                           | 2002                                    |
| <b>09. Foundation of Dublin</b>   |   |                                |   |
| <b>10. Public Health</b>  |   |                                |   |

| <b>EC MEASURE<br/>to be transposed</b>   | <b>NATIONAL MEASURE<br/>to be adopted</b>  | <b>Planned<br/>date<br/>of adoption</b> | <b>Planned date<br/>of coming<br/>into force</b> |
|--|--|---|--|
| <p>- Decision <b>645/96/EC</b> of the European Parliament and of the Council of 29 March 1996 adopting a programme of Community action on health promotion, information, education and training within the framework for action in the field of public health (1996 to 2000)</p> | <p>- Draft Government Decision regarding the norms for the implementation of the Ordinance regarding the selection criteria for non-governmental organizations concerning financing from the state budget, from the budget of the Health Insurance Fund and from the local budgets of certain activities carried out by non-governmental organizations in the field of public health</p> | <p>2001</p>                             | <p>2001</p>                                      |

| EC MEASURE<br>to be transposed  | NATIONAL MEASURE<br>to be adopted   | Planned<br>date<br>of adoption | Planned date<br>of coming<br>into force |
|---|---|--------------------------------|---|
| <ul style="list-style-type: none"> <li>- Council Directive <b>89/622/EEC</b> (amended by Council Directive 92/41/EEC of 15 May 1992) on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products</li> <li>- Council Directive <b>90/239/EEC</b> on the approximation of the laws, regulations and administrative provisions of the Member States concerning the maximum tar yield of cigarettes</li> <li>- Directive <b>98/43/EEC</b> of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products</li> </ul> | <ul style="list-style-type: none"> <li>- Draft Law regarding tobacco</li> </ul> | 2003                           | 2003                                    |

| EC MEASURE<br>to be transposed  | NATIONAL MEASURE<br>to be adopted  | Planned<br>date<br>of adoption | Planned date<br>of coming<br>into force |
|---|--|--------------------------------|---|
| <ul style="list-style-type: none"> <li>- Decision <b>2119/98/EEC</b> of the European Parliament and of the Council setting up a network for the epidemiological surveillance and control of communicable diseases in the Community</li> <li>- Decision <b>91/317/EEC</b> of the Council and the Ministers for health of the Member States adopting a plan of action in the framework of the "Europe against AIDS" programme and Decision <b>1729/95/EEC</b> on the extensions of the "Europe against AIDS" programme</li> </ul> | <ul style="list-style-type: none"> <li>- Draft Order of the Minister of Health and Family regarding the setting up of a network for the surveillance and control of communicable diseases</li> </ul> | 2001                           | 2001                                    |
| <ul style="list-style-type: none"> <li>- Decision <b>78/618/EEC</b> of the Commission setting up a Scientific Advisory Committee to examine the toxicity and ecotoxicity of chemical compounds amended by the Decision <b>80/1084/EEC</b> of the Commission and by the Decision <b>88/241/EEC</b> of the European Commission</li> </ul>   | <ul style="list-style-type: none"> <li>- Draft legislation on the setting up of an inter-ministerial National Advisory Expert Committee</li> </ul>   | 2002                           | 2002                                    |

| EC MEASURE<br>to be transposed   | NATIONAL MEASURE<br>to be adopted  | Planned<br>date<br>of adoption | Planned date<br>of coming<br>into force |
|--|--|--------------------------------|---|
| - Decision <b>646/96/EEC</b> of the European Parliament and of the Council on the adoption of an action plan to combat cancer within the framework for action in the field of public health                            | - Draft Order of the Minister of Health and Family on the setting up and functioning of local Cancer Registers, the National Cancer Register and the Cancer Care National Network          | 2002                           | 2002                                    |
| - Decision <b>102/97/EEC</b> of the European Parliament and of the Council adopting a programme of Community action on the prevention of drug dependence within the framework for action in the field of public health | - Draft common Order of the Ministry of Health and Family and the Ministry of Justice regarding the medical and educational measures for drug addicts in prisons                           | 2001                           | 2001                                    |
|  | - Draft Order of the Minister of Health and Family regarding the establishment of medical units for the treatment of drug addicts and the criteria and the functioning norm of these units | 2001                           | 2001                                    |
|  | - Draft Order of the Minister of Health and Family regarding card patterns for the persons included in the methadone maintenance treatment   | 2001                           | 2001                                    |
| <b>11. Health and safety at work</b>   |  |                                |   |

| EC MEASURE<br>to be transposed   | NATIONAL MEASURE<br>to be adopted   | Planned<br>date<br>of adoption | Planned date<br>of coming<br>into force |
|--|---|--------------------------------|---|
| <ul style="list-style-type: none"> <li>- Council Directive <b>90/394/EEC</b> on workers protection from risks of exposure to cancerigenous substances, amending by Directive 97/42/EEC</li> <li>- Council Directive <b>80/1107/EEC</b> of 27.11.1980 on the employees' protection from risks of exposure to chemical, physical and biological agents, amending by Directive <b>88/642/EEC</b></li> <li>- Council Directive <b>91/322/EEC</b> establishing indicative limit values for the implementing of the Directive 80/1107/EEC</li> <li>- Council Directive <b>88/364/EEC</b> on the employees' protection by interdicting specific agents or activities</li> <li>- Council Directive <b>86/188/EEC</b> on exposure to noise</li> <li>- Council Directive <b>78/610/EEC</b> on the employees' health protection exposed of the monomer of vinyl chloride</li> </ul> | <ul style="list-style-type: none"> <li>- Amendment of the common Order of the Minister of Labour and Social Solidarity and the Minister of Health and Family on the approval of the General Norms of Labour Protection</li> </ul> | 2002                           | 2002                                    |

| <b>EC MEASURE<br/>to be transposed</b>  | <b>NATIONAL MEASURE<br/>to be adopted</b>  | <b>Planned<br/>date<br/>of adoption</b>          | <b>Planned date<br/>of coming<br/>into force</b> |
|---|--|--|--|
| <ul style="list-style-type: none"> <li>- Council Directive <b>89/391/EEC</b> of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work</li> </ul> | <ul style="list-style-type: none"> <li>- Draft law on Insurance against Accidents at Work and Occupational Diseases</li> <li>- Establishment of the National Fund for Insurance against Accidents at Work and Occupational Diseases</li> </ul> | <p style="text-align: center;">2001<br/>2002</p> | <p style="text-align: center;">2001<br/>2002</p> |