SOCIAL POLICY REFORM IN POST-COMMUNIST ROMANIA: FACING THE EU CHANGES

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Abstract

This paper elaborates on the context of social policy reform in East European countries. The research question addressed by this paper is through which path of development the Romanian welfare state is facing post-communist challenges, particularly the accession to EU. What are the implications of adopting the acquis communautaire for the configuration of Romanian social policy? The research hypothesis is that the negotiation process in the social field is shaping the development of Romanian social policy, particularly as regards the institutional design. The first part of the paper outlines Romanian social policy during the communist period and the social achievements during the transition period. The second part takes a closer look at social Europe and the impact of the negotiation process on Romanian social policy. The paper concludes that the EU has played an important role in shaping Romanian social policy during the post-communist period.

Introduction

The accession of ten countries on the 1st of May 2004 has represented the first stage of the fifth EU enlargement, a complex process set to be finished by the forthcoming accession of Romania and Bulgaria. The negotiation process with the 12 candidate countries was officially opened in two consecutive approval sessions in 1998 and 2000. The second wave countries (including Romania and Bulgaria) were expected to catch up with the first wave countries and join the EU at once. Due to delays in the negotiation process, the accession of Bulgaria and Romania was postponed until 2007, but it was considered to be part of the same “inclusive and irreversible enlargement process”.

The EU enlargement has a direct impact on the political, economic, and social configuration of Europe today. The
greater stability of the region is a strategic condition to maintain peace and avoid conflicts such as the Yugoslavian war. With more than 460 million people, the EU 25 is the largest international market with a focus on achieving Lisbon’s goal of becoming the “most competitive and dynamic knowledge-based economy in the world” by 2010. January 2007 will represent a historical unification of the East and West part of Europe oriented towards commonly agreed-upon goals such as the Economic and Monetary Union.

Beside advantages, the coexistence of all member states poses many problems in terms of adjusting the mechanisms of EU 15 to the needs of EU 25, and the compatibility of various national structures. In the social area, one of the main challenges of EU enlargement is the implementation of acquis related to compatibility of social insurance schemes at the European level. More precisely all member states have to assure the institutional and administrative support necessary to successfully implement Council Regulation 1408/1971 modified by version 118/1997 for applying social security systems to employees, self-employed, and their family members moving in the European Union.

While compatibility within the EU 15 has a history, efforts are required for new members. In this context, the analysis of the status of affairs in the new member states and the candidate countries is highly relevant. The social policy reform in East European countries, in particular the Romanian case, represents the context of this study. It explores the impact of the transition period on the development of post-communist social policy. The research question addressed by this paper is through which path of development the Romanian welfare state is facing post-communist challenges, particularly the accession to EU. As a candidate country, Romania has to completely adopt the acquis communautaire, which represents the minimum set of common legal regulations all member states must share. The institutional and administrative capacities necessary to implement all legal provisions represent a key condition to be fulfilled by candidate countries.

The goal of the paper is to explore the impact of EU enlargement on Romanian social policy from the institutional and legislative point of view. What are the implications of adopting the acquis communautaire for the configuration of Romanian social policy framework? The research hypothesis is that the negotiation process in the social field is shaping the development of Romanian social policy, particularly the institutional design.

In terms of methodology, Romanian social policy is analyzed as a case study. Primary research was concentrated on an overview of the legislation and institutional design. The sources of information were national and European legislation in the social area, research reports, publications, and official reports related to the negotiation process. The reports on monitoring the
progress of Romania were also analyzed, as their main purpose was to assess the achievements made towards accession. The progress relative to chapter 13 ‘Employment and social policy’ were selected due to relevance for this paper.

The concept use in this paper is ‘social policy’ interlinked with the ‘welfare state’. Christoffer Green-Pedersen distinguishes two sets of definition for the ‘welfare state’. In a wider sense, the welfare state refers to the space between state and labor, and it is focused on specific areas such as social policy, macroeconomic policy, industrial policy, tax policy, and industrial relations. In a narrower sense, the welfare state is synonymous with social security including transfers such as unemployment benefits, pensions, social assistance, social services and health services, childcare, and education. In this paper, the welfare state is approached in the narrow sense because of the interest in exploring the impact of EU accession on national social policy from the point of view of compatibility with other European systems, especially in terms of institutional design and legislation.

For a better understanding of the ‘social policy’ concept, it should be mentioned that it is organized as a public system and is considered the “main preoccupation of modern public policy”. Social policy refers to the state’s actions concerned with welfare provision to all citizens. This state intervention follows social directions established by political actors, taking into consideration inputs from all relevant social actors: trade unions, civil society, representatives of communities, and citizens. Social policy can be defined as activities of the Government and other actors which modify the free play of labor forces in the form of social redistribution, social regularization, and social rights.

The paper is structured in two parts. The first part of the paper gives an overview of Romanian social policy during the communist period and the social achievements made during the transition period. The second part takes a closer look at social Europe and the impact of the negotiations process on Romanian social policy.

**PART I: Social policy in Romania during the communist period**

This part examines the developments of institutional design and analyzes the configuration of the social protection scheme. During the communist period, one could identify two taboos in discussion on social policy: unemployment and social expenditures. Unemployment was not recognized by

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7 Catalin Zamfir, “Directii ale reformei statului bunastarii” (Directions of welfare state reform) in “Politici sociale în Romania în context european” (Social policies in Romania within European context), Catalin Zamfir and Elena Zamfir, eds., (Bucharest: Alternative Publishing House, 1995): 12
authorities despite the large proportion of people affected in the 1980s. The lack of unemployment was considered to be an effect of the complete use of the labor force. The social expenditure taboo was connected to the fear of admitting the excessive costs of maintaining the social design of socialist societies. If they cut social benefits, political elites would lose the political support of workers not willing to accept social benefits decrease.  

The core of social policy was oriented towards work and the protection of workers. The institutional design developed slowly during the communist regime mainly because of the lack of a coherent strategy in the context of ideological constraints. At the central level, the institution in charge of regulating the social field was the Ministry of Labor, a public body established in 1920, and oriented towards labor organization and protection. The Ministry was reorganized several times under different names: the Ministry of Labor, Public Health, and Social Care; the Ministry of Labor, Cooperation, and Social Insurances; the Ministry of Labor, Health, and Social Care; and the State Committee for Labor Issues, and Salaries. During this time, other areas of responsibility under the umbrella of work protection were taken into consideration such as labor legislation, work repartition, and labor education. In 1943 the State Department of Labor was set up inside the Ministry of Labor, Health and Social Care. In 1944 the ministry was separated into three institutions. During 1960-1967, the State Committee for Labor Issues and Salaries was fully responsible for labor. The Ministry of Labor was re-established in 1968 and functioned until 1990, when specific responsibilities and areas of concern were reorganized.

Other institutions involved in social policy provision were politically controlled. In collaboration with institutions at the central level, enterprises and trade unions were formally involved in managing the distribution of social services or family allowances depending on political decisions, but access to welfare was conditioned by access to the labor market, as the state was assuring jobs for all.  

The development of legislation in the social field followed the same ideological preference for work. First, laws adopted were focused primarily on work protection. The Law on Organization of Labor Repartition adopted in 1921 was followed by other regulations in the field of employment such as the Law for Professional Training and Jobs (1936), the Law Regulating Minimal Salaries in
Private, Commercial, and Transport Enterprises (1939), and the Labor Code (1950). No references to unemployment benefits or means-tested benefits were stipulated in the law. The configuration of social policy was more focused on the protection of workers than the provision of welfare for all citizens. The main characteristics of the social policy were: wide coverage of social insurance schemes covering a broad set of risks related to income loss situations; work-based universal social benefits (in money or in kind); generous social benefits focused on children; preferences for providing social services rather than direct transfers of money; a non-discriminatory ethnic policy; and social housing support. The goal was to guarantee a relatively homogenous collective welfare in terms of complete eradication of poverty and promotion of an active policy to compensate differences between needs and resources through social benefits (applicable especially in the case of families with many children). Social policies promoted during the communist period were ideologically based, and unsustainable in a long term perspective mainly due to the high costs involved.

In conclusion, the social protection scheme in communist Romania was a comprehensive one designed for workers.

In line with the ideological-based full use of the labor force, the social institutions were focused on issues related to work protection rather than social protection. Social legislation developed during the communist regime was ideologically focused on labor protection, not including means tested benefits or unemployment benefits.

Social policy in Romania during the transition period

After the revolution in 1989, social problems have constantly amplified and started to affect a higher number of people. The emergence and rapid increase of unemployment in Romania after 1989 has forced the authorities to officially recognize it and adopt necessary social measures to cope with the problem. The first step was the adoption of the Law 1/1991 on the social protection and professional reinsertion of unemployed persons. Little political attention was paid to the social field and it lasted more than 10 years, until an improved version was adopted. The Law 76/2002 on unemployment insurances and employment stimulation referred to active measures to increase employment. The negotiation process was opened at that time.

One element of change for Romanian social policy during transition was the establishment of a non-contributive system in Romania. The contributory scheme during communist period was a comprehensive one focused exclusively on workers. During the transition period, both contributive and non-contributive assistance systems in Romania kept the

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same path of development and have only slowly progressed further.\textsuperscript{15} Developments in the 1990s in these two areas were not part of a comprehensive national social policy approach.\textsuperscript{16} The non-contributive assistance system was slow to react to social problems like children (especially adopted ones) and persons with disabilities. The care and constant involvement of NGOs has partially supplied social services provisions to those in need. The results, especially in the field of child care and youth protection, are remarkable and more visible than in any other area.

Social policies implemented during the transition period could have been characterized as a “governmental culture of poverty”\textsuperscript{17}, with poor diagnosis of social problems and a lack of development and implementation of more appropriate social policies. Impact evaluations showed the low political interest, attention, and understanding of social issues in Romania. Social costs of transition included increased unemployment rates, a decreased number of paid jobs, a decreased level of medium and small incomes, an explosion of the informal economy as an employment alternative, a decreased value of social benefits, increased social polarization, and social segregation.\textsuperscript{18} Major social problems during the transition from a planned to market economy in Romanian were explosive rates of poverty, the spread of social exclusion, an increased informal economy, unemployment, lack of access to social services, and low education. Highly vulnerable groups exposed to social exclusion were children, young people, the elderly, long-term unemployed, the homeless, and the Roma population.

Political attention paid to social issues has increased considerably in the last several years mainly because of the assumed responsibilities towards accession into the EU. One area of visible developments is institution building in the social field. The Ministry of Labor and Social Care was established in 1920. As presented in the above section, the institution was reorganized several times under various names. The Ministry of Labor was reestablished in 1968 and functioned under this name till the decree on 5.01.1990 which changed the name to the Ministry of Labor and Social Care. By Governmental Decision 185/1990, representatives of the Ministry at the local level were established in each county residence and Bucharest. In 1992 the

\begin{itemize}
\item \textsuperscript{15} Simona Ilie and Simona Vonica Radutiu, “Romanian Minimum Income Provision as a Mechanism to Promote Social Inclusion”, \textit{NISPAcee Occasional papers in Public Administration and Public Policy}, (no. 1, Winter 2004): 4
\item \textsuperscript{16} Catalin Zamfir, ed. \textit{Poverty in Romania: causes, anti-poverty policies, recommendations for action}, (Bucharest: Creative ID Publishing House, 2001)
\item \textsuperscript{17} Marian Preda, (2000) “The results of social policy in post-communist Romania: An increasing underclass and extensive social exclusion”, presented at the Conference on Social Security “Social security in the global village”, (Helsinki, 2000) : 17
\item \textsuperscript{18} Catalin. Zamfir, \textit{O analiza critica a tranzitiei – ce va fi ‘dupa’} (A critical analyse of transition – what will be ‘after’) (Iasi: Polirom Publishing House, 2004): 141 - 142
\end{itemize}
ministry was reorganized and the name changed to the Ministry of Labor and Social Protection, which again was transformed by reorganization in 2001 into the Ministry of Labor and Social Solidarity. Finally, the 2003 reorganization changed the name to the Ministry of Labor, Social Solidarity and Family\textsuperscript{19}. Despite these name changes, the structure of the central institution followed the same major interest in work and workers as during the communist regime. Despite structures formally adopted in each county in the early ‘90s, the provision of social benefits remained centralized. In the text of monitoring reports, it should be noted that the implementation of a decentralization process in Romania was the only element of constant criticism on behalf of the Commission.

Several legislative measures were initiated in the 2000s, especially under the framework of negotiation to EU. One major step was represented by the adoption of the Law 705/2001 on the national social assistance system. The law was followed by numerous secondary measures regulating the provision of family allowances, indemnities, and social services. It was adopted more than a decade after the change of political regime but it represents one of the first indicators of a coherent vision and strategy on social policy in Romania.

In line with the negotiation process, the Law 47/ 2006 on the organizing, functioning, and finance of the national social assistance system was adopted.\textsuperscript{20} The establishment of the National Agency for Payment is envisaged in line with other efforts to assure the exportability of social security rights for workers. Other institutions to be created are Social Inspection, and the Social Observatory.\textsuperscript{21} These institutions are set up with the support of EU technical assistance and are to be functional soon after accession to EU.

During the transition period, social policy remained concentrated mainly on wage class protection and it has confronted difficulties in reacting to the reality of transition. Little political attention was paid to social policy. In the early 1990s, social legislation was adopted as a proactive measure to crisis situations, rather than as part of a coherent social policy with clearly established priorities. The slow development of unemployment and means-tested benefits exposed vulnerable groups to social exclusion. The path-dependencies of Romanian social policy during the transition period followed the communist heritage in terms of workers protection. However, the negotiation process has shifted to a more integrated vision. The next part will take a closer look at the progress achieved in this field.

\section*{PART II}
\textbf{The European social dimension}


\textsuperscript{20}www.mmssf.ro (accessed 10.11.2006)

\textsuperscript{21}Law 47/ 2006, art. 28-30
This part is composed of two sections. The first one takes into account the characteristics of social Europe. The second one is more oriented towards progress in negotiating chapter 13 of the *acquis*: “Employment and social policy”.

When referring to social Europe, two aspects should be taken into consideration: the ‘European social model’ and *acquis communautaire*. The European social model does not represent a unique set of social measures imposed on member states. The essence of the European social model is a set of values commonly shared by all member states. Common ideas are economic competitiveness, social cohesion, solidarity and responsibility of all actors involved, social dialogue, non-discrimination principle, and gender equality. Other aspects relate to education, culture, and environment protection.

According to recommendations of the Lisbon summit (2000), the *European social model* would support a knowledge-based society. Conclusions of the Nice summit (2000) and the Barcelona summit (2002) referred to modernization, improvement, and the role played by the *European social model*. EU social policy agenda 2000 – 2005 emphasized that the *European social model* would support the Lisbon Agenda by promoting “full employment, economic dynamism and a higher social cohesion and equity in EU”. Even if the ‘European social model’ is frequently mentioned in official documents, there is no definition in the Commission Glossary, a symptom of what the critics claimed was the Commission’s low interest in the social field.

References to the European Social Model converge on social cohesion as the common goal achievable by implementing national social policies that are able to assure opportunities for all EU citizens. The concept of European citizenship implies that the responsibility is on member states to assure equal rights and full access to social services and social assistance according to legal instruments agreed at the European level and taking into consideration national social regulations under the subsidiarity principle. The first step was represented by the Treaty of Rome guaranteeing the free movement of workers within the EU. The next step was the elaboration and implementation of the Council Regulation 1408/71 modified by version 118 / 1997 and 574/1972 on the exportability of social and family allowances within member states. Concretely a worker moving within the EU can receive social rights no matter the member state where she/he is located. General principles of EU regulations respected by member states are the exportability principle, the legislative principle, the non-


discrimination principle, and the summing up principle. Family allowances are provided depending on residence (if the working place is in the country of residence), the excepted countries being Belgium, Spain, Italy and Greece where allocations are granted depending on access to the labor market (e.g. Children allowances for employees). If the working country does not correspond to the residence country, the right is granted in favor of selecting the bigger amount without accumulation.²⁵

The negotiation with candidate countries implies three elements: the accomplishment of the Copenhagen criteria, adoption of *acquis communautaire*, and European status by geographical, economical, and cultural affiliation. As established at the Copenhagen Council (1993) the member state has to accomplish political and economic conditions and ensure the capacity to assume the obligations of member state. This involves the adherence to EU political, economical, and monetary goals. According to the Madrid European Council (1995) a candidate country must also assure the “conditions for a harmonious integration by adapting the administrative structures”.²⁶ The *acquis communautaire* includes:

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²⁵ Yves Jorens, “*EU regulations and fammiliy allowances*”, Training session for the Ministry of Labour, Social Solidarity and Family on the implementation of regulation 1408 / 1971 (09.09.2005) : 3, 7-12

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The *acquis* is organized into 31 chapters that correspond to common areas of interest for member states. The adoption of the *acquis* means integration in the national law and implementation. According to conclusions of the 1997 Luxemburg Council, the adoption of *acquis* equally means effective implementation by appropriate functioning institutions and allocated resources. Pre-adherence funds are available for a candidate country: PHARE, ISPA and SAPARD.

The references to European social model reflect a set of common visions in the social field at the European level. The negotiation process with a candidate country is achieved in line with theses social goals and by use of specific tools such as the *acquis* and the pre-accession funds.

**Negotiation of social *acquis communautaire***

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This part more closely analyzes the progress of Romania in negotiating chapter 13, with a special focus on social protection and institution building. The negotiation of chapter 13 was considered by Romanian authorities to be a success due to the relatively short time allocated. It was opened in the second semester of 2001 during the Belgian presidency and provisionally closed in the first semester of 2002 during the Spanish presidency. The negotiation of chapter 13 was officially closed in December 2004.

The 1997 Opinion of the European Commission and 1998 – 2000 reports on the progress towards accession assessed the Romanian social area as not in line with EU regulations mainly due to slow progress registered in the areas concerned (labor law, equal treatment, health and safety at work, public health, social assistance) and low institutional capacity in terms of unclearly established responsibilities, inappropriately allocated resources, and weak inter-institutional cooperation. The 1998 Romanian government was criticized for the “lack of commitment to structural reforms”. It was also criticized for the pace of strengthening the capacity of the Romanian public administration. As regards institutions yet to be established, the formal adoption of a legal framework without any real interest in allocating the necessary resources was criticized. Institutionally, it was expected that the Economic and Social Council would work efficiently in cooperation with social partners. Despite the slow progress registered, the Romanian legislation was considered still not in line with the acquis, especially in areas such as health and safety at work, equal treatment, public health, and labor. The situation of Romanian legislation remained unchanged in 1999 despite slow progress in the field of equal opportunities. The opening of negotiation was affected by the capacity to implement structural reform of child care institutions, as it was assessed that the situation of institutionalized child care had deteriorated in Romania. The 2000 report of the Commission mentioned limited progress in adopting the acquis and refers to further efforts needed in the field of legal and institutional frameworks.

The 2001 report is the first one that mentions mixed progress in labor law and social protection areas but next steps were needed, especially as the 2001 Gothenburg European Council recommended to candidate states to incorporate the promotion of social

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28 Reports on progress toward accession by each of the candidate countries, Composite paper, (European Commission, Brussels, 1998): 16
29 Regular report from the Commission on Romania’s progress towards accession, (European Commission, Brussels, 1998): 37-38
30 Regular report from the Commission on Romania’s progress towards accession, (European Commission, Brussels, 1999): 50-51
31 Reports on progress toward accession by each of the candidate countries, Composite paper 1999, (European Commission, Brussels,1999): 15, 39
32 Regular report from the Commission on Romania’s progress towards accession, (European Commission, Brussels, 2000): 58 – 60
inclusion in national policies. In 2002 good progress was made in implementing the acquis in equal treatment, social assistance, social inclusion, and anti-discrimination, but further developments were required. Institutional progress is still slow, especially in the area of decentralization and clarification of responsibilities. After provisional closure of chapter 13, recommendations were made on respecting the responsibilities outlined by the acquis by taking new legislative initiatives in line with the acquis and strengthening inter-institutional capacity through a decentralization process. The 2003 monitoring report noticed the achievement of progress especially through the adoption of the new Labor code. The commitments and requirements are generally considered to be achieved but further adjustments are to be made in the areas of health and safety at work, the health sector, and social protection. The negotiation was provisionally closed in 2002 and no transitional arrangements were asked of Romania. Development of secondary legislation was recommended, especially for implementing the Law 705/ 2001 on the national social assistance system. Institutionally, recommendations were made to set up monitoring and control systems of social assistance as well as to improve inter-ministerial cooperation and assure the provision of resources necessary for the decentralization process. Progress was continued in 2004 and successful key conditions of implementing the decentralization process in the social protection area were mentioned. Access to social assistance especially for the Roma population was recommended. No significant achievements were noted in implementing the decentralization process and access to social assistance, as these two aspects were mentioned in the 2005 report. According to 2006 EU reports, Romania will join the EU in January 2007, but further efforts are still needed related to chapter 13, especially in implementing the legislation and strengthening the administrative capacity.

The implementation of the acquis in the social field is not completely achieved and continuous efforts are still required, especially for effective application, monitoring, and consolidation of the

33 Regular report from the Commission on Romania’s progress towards accession., (European Commission, Brussels, 2001): 66-68
34 Regular report from the Commission on Romania’s progress towards accession. (European Commission, Brussels, 2002): 82-86
36 Regular report from the Commission on Romania’s progress towards accession, (European Commission, Brussels, 2003): 76-80
38 Regular report from the Commission on Romania’s progress towards accession, (European Commission, Brussels, 2004): 90 - 95
39 Regular report from the Commission on Romania’s progress towards accession, (European Commission, Brussels, 2005): 52 - 57
40 Monitoring report on the state of preparedness for EU membership of Bulgaria and Romania, (European Commission, Brussels, 2006): 49
necessary institutional frameworks. In the ‘Memorandum regarding administrative reform in the social assistance field’, Romania has proposed to establish three institutions within the 2005 – 2007 period - the Social Observatory, Social Inspection, and the National Agency for Social Benefits - in order to create more efficient and modern institutional building. Continuous improvement of inter-institutional arrangements is to be taken into consideration. Identified risks include various overlaps of tasks and responsibilities at the central level, insufficient coordination between the central and local level, and insufficient financial and human resources allocated at the local level despite the constant preoccupation with the decentralization process. Strengthening administrative capacity is conditioned by successful decentralization. Without strengthening the administrative capacity, the main risk is that Romania will lack the functional structures necessary at the date of accession to the EU.

Successful continuation of the on-going reforms depends on some key conditions such as further articulation of social legislation, effective implementation of primary and secondary legislation, successful inter-ministerial coordination, and appropriate allocation of resources for the decentralization process.

Conclusions


This paper has analyzed the path of development for the Romanian welfare state, including post-communist challenges and particularly the accession to the EU. The first part analyzed the configuration of social policy during the communist and transition periods. It concluded that during the communist regime social policy in general was ideologically supported. The establishment of institutional design and legislative initiatives adopted were focused on the protection of workers. The Romanian institutional framework in the social field slowly developed during the communist period and the early transitional period. The system has lacked unemployment and means tested benefits. In the early ‘90s, social protection coverage remained focused on workers’ protection. The slow development of non-contributory schemes, unemployment, and means-tested benefits has exposed many people to irreversible social exclusion.

The development of social policy during the transition period followed different rhythms: a slow one during early ‘90s which sped up after the negotiation process with the EU was opened. Because little attention had been paid to social policy in Romania and there was no coherent vision and strategy, the shift registered during the transition was clearly an effect of the negotiation with European Union.

The second part of this paper analyzed social Europe and the implications of negotiation of the social acquis communautaire. The main implications of adopting the acquis are reflected in
institution building and social legislation. At the beginning of the negotiation process, both areas were not in compliance with the regulations included in the *acquis* and Romania made serious efforts in order to catch up.

The negotiation process in the social field represents for Romania a continuous effort to adjust the national mechanisms and structures to EU requirements. In many cases, structures are to be created in order to respond to EU demands. Progress has been made in this direction but according to conclusions of the monitoring reports, the compatibility with EU structures must be improved, especially through further implementation of the social *acquis*.

With regard to the research hypothesis stated in the beginning, it stands without doubt that the development of social policy in Romania is mainly influenced by the EU. As has been shown above, the scope and focus of social policy as well as institution building reflect the points that have been stressed by Romania’s European counterparts in the accession negotiations, much more so than they reflect an internal national idea about what Romanian social policy should consist of. The negotiation process with an actor such as the EU is an experience in terms of designing the social policy. The shaping of a national vision of the social policy in Romania is more related to the negotiation process than to an internal awareness of the particularities of the nation. Because Romania lacks a strong national vision on social policy and because its social policy is so heavily influenced by the *acquis communautaire*, the sustainability of social policy in the long term cannot be guaranteed. For this, Romania will have to develop a social vision of its own and not only carry out changes that are required by the EU.

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