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# WELCOMING EUROPE'S YOUNGEST

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HOW THE EU ACCESSION PROCESS  
TRANSFORMED  
CHILD PROTECTION IN ROMANIA

&

LESSONS FOR CURRENT EU ENLARGEMENT AND  
NEIGHBOURHOOD POLICIES  
TO INCREASE THE IMPACT OF  
CHILD PROTECTION REFORM IN THE REGION

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## ACRONYMS

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DCP	Department of Child Protection
EC	European Commission
ENP	European Neighbourhood Policy
EP	European Parliament
EU	European Union
FDSN	Democratic National Salvation Front
ILO	International Labour Organisation
MEP	Member of the European Parliament
NAP	National Action Plan
NAPCR	National Agency for the Protection of Child Rights
NATO	North Atlantic Treaty Organization
NCCP	National Committee for Child Protection
NGO	Nongovernmental Organisation
ODA	Overseas Development Assistance
PSD	Social Democratic Party
UNCRC	United Nations Convention on the Rights of the Child

## EXECUTIVE SUMMARY

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There are lessons from European Union (EU) and Government of Romania engagement during the accession process that could apply to current EU policy on Enlargement and Neighbourhood Policies today. Such lessons could increase the impact of child protection reform across the Central and Eastern European and Commonwealth of Independent States region. Fundamentally, Romania's story of child protection reform is an aspiration of what is possible when multiple stakeholders from all levels of policy engagement come together to change the lives of children. Romania's story is also a vehicle of reflection. Because Romania's accession process established a new paradigm of engagement for the EU's human rights agenda, the elements of the story can help EU program and policy makers reframe Enlargement and Neighbourhood Policy to better respond to the needs of vulnerable children throughout partner countries.

This paper argues that Romania's EU accession process significantly and positively impacted child protection reform in Romania. It does not, however, attribute all or attempt to quantitatively or qualitatively measure the impact of Romania's accession process on child protection reform in Romania. Instead, it maps out elements of influence and suggests several fundamental aspects of EU engagement that provide lessons for today's EU engagement with partner countries.

Fundamentally, the EU accession process significantly and positively impacted child protection reform in Romania. International relations theories provide the framework for this discussion. Academic scholars argue that EU accession provides incentives for reform in candidate countries; in essence, they argue that the accession process is one cause of reform. The reason that accession leads to reform is articulated in three often-cited theories. First, reform occurs because candidate countries see the cost of reforms as less than the reward of EU membership (external incentives). Second, candidate countries work towards reforms because they are influenced to appreciate the appropriateness of such changes (social learning). Third, candidate countries themselves see reforms as solutions to problems (lesson-drawing). Other intervening causes within the accession process also play a part in candidate country reform, but are contextual per country.

### Romania's Reform Landscape

Romania's journey through the accession process is best categorized by the first theory: the costs of reform were worth the benefits of EU membership. Under this theory, child protection reform as a noted political condition to EU membership was worth the cost.

The landscape of child protection reform at the start of Romania's accession process in 1997 provides the starting point for analysis. Leading up to the start of Romania's accession process in 1997, there was an abundance of



both financial assistance from abroad and the political will from Romania's Government to do something about the some 100,000 children living in institutions. Yet, substantial reform remained elusive. Two indicators of success that encapsulated the entire reform movement included: 1) the reduction of the number of children in public care, and 2) the decrease in the number of residential institutions or their restructuring into family-type modules. In both cases, Romania appeared not to have made much progress by 1997.

The turning point of reform came in 1997 at the onset of official EU engagement. The period of accession, namely 2000-2006, coinciding with major investments in de-institutionalisation by the EU, registered the most significant percentage of change in the two indicators of success: during this period almost two thirds of the total decrease in overall number of children in care was registered during this period. The number of institutions decreased by 341 and only 180 of these were not yet organized into family-type modules.

Scholars in the context of accession argue that the external incentives model best describes the transformation of Romania's child protection system; in other words, Romania saw the costs of reform and change as less significant in the long run if compared to the benefits of membership. Although the legal basis of human rights conditionality at the time of Romania's accession process did not have a strong foundation, the EU attributed child protection reform as part of the accession criteria using international human rights norms as a basis. **Both EU stakeholders and their Romanian counterparts accepted child protection reform as a human rights conditionality to EU membership.** With this foundation, Romania validated child protection reform as an element of conditionality for accession; this validation came in the form of political acknowledgment, policy creation and policy implementation.

Not only did the EU's influence increase over child protection reform due to its status as an element of conditionality, but again, the nature of the conditionality itself proved to be influential. In the case of child protection reform, conditionality did not have firm benchmarks. Instead, EU stakeholders infused content and meaning into the process as time progressed. It also allowed the EU to establish more and more benchmarks as time went by. **Given Romania's eagerness to achieve membership and the lack of substantial veto players against accession, this 'sliding scale' of conditionality continued to push child protection reforms forward in substantial ways;** because the Romanians never knew the final benchmark of reform, continued efforts had to be made.

A number of key intervening variables associated with the accession process also played a significant role in the reform process. One such intervening variable that cannot be described within the model of external incentives or other notable models is **the EU's unified institutional positioning on child protection; highly coordinated messaging from the European Commission (EC) and European Parliament (EP)** (with the consistent help of the EC Delegation in Bucharest) to the Romanian Government provided a clear understanding that the EU valued child protection reforms. Coordinated messaging also kept both EC and EP stakeholders as credible voices. The EC and EP also divided up the responsibilities; although the EC managed the accession process, the EP's statements of progress on child protection, namely by the EP's Special Rapporteur for Romania, were most visible and often critical and thus noted by Romanian authorities. The EC tempered such open criticism by the EP with firm but substantially less politicised statements.

**The overarching politicalisation of child protection was another intervening variable within Romania's accession process.** This is best represented by the EP's Special Rapporteur. Such involvement helped create the unique placement of child protection within EU conditionality rules and to maintain public awareness and thus pressure for ongoing reforms.

**Third, throughout most of the intense periods of reform, there was stability of leadership on both sides.** The stability of leadership and the personalities of leaders throughout most of Romania's accession negotiations period enabled the development and consolidation both of personal and professional relations between these actors which shaped their actions beyond the mandate granted by their institutions.

### **Romania's Reform Successes**

The effects of EU engagement can be documented as highlights of Romania's reform successes; part of the formula for successful child protection reform during Romania's process of accession included the introduction of solutions by the Romanian Government and the EU's willingness to fund them and celebrate them. The EU funded and/or supported some of Romania's most significant actions toward reform, namely:

- 1) a central child protection agency charged with the reform process and reporting directly to the Prime Minister;
- 2) the decentralisation of child protection services;
- 3) a plan to close each residential institution and not just to deinstitutionalize individual children;
- 4) building human capacity to ensure capability to create and run alternative child protection services, and

5) encouraging a cultural mind shift away from state sanctioned care through the largest social campaigns at the time.

### Lessons to Replicate in EU Engagement

There are lessons from EU and Government of Romania engagement during the accession process that could apply to current EU policy on Enlargement and Neighbourhood Policies today. There are, however, caveats to Romania's story; there are lessons and variables that are not replicable. Time has elapsed since this period such that a new geopolitical context exists. The context that produced enthusiastic post-Communist transformation coupled with Europeanisation ushered in a unique phase of influence and incentive between Romania and the EU that no longer applies to current candidate countries.

Thus, today's effects of accession in new candidate countries are not holistically explained by the external incentives model. Instead, EU stakeholders acknowledge that the social learning model provides another significant platform for reform in candidate countries. Further, child protection reform is important in partner countries within the Eastern Partnership that are not on a path towards accession. These countries do not access the benefits that flow from the process of accession. Finally, the visibility of Romania's institutionalised children also became an important factor to spur reform and increase EU engagement. Without mass media's attention and global significance, reform is more difficult to achieve because there is a lack of external monitoring, ongoing political will to prioritize child welfare over other socio-economic competing priorities and at times, insufficient funding from ODA (Overseas Development Assistance) donors.

At the same time, Romania's experience during its accession period offers very tangible lessons for today. Not only does the telling of Romania's narrative provide necessary inspiration that demonstrates the power of EU and partner country engagement for sustainable change – as a testament to what is possible – but contextually, lessons can be drawn from Romania's narrative because similar classes of children exist throughout the region and partner countries are working towards the same child protection reform goals that Romania once pursued. **Applicable lessons fall within two categories: tools of engagement and substantive themes.**

The EU's tools of engagement used in Romania's case offer a successful roadmap to encourage political will today. It is certainly true that all countries in the region express the political will to care for their children. However, like Romania, the number of competing reform priorities and

other more acute political pressures can easily sideline vulnerable children, a demographic class of the population who do not have a democratic voice.

The EU provided encouragement through three different avenues. **First, the EU maintained a unified voice about Romania's child protection reform efforts. It coordinated its messaging and used the strengths of each main EU stakeholder institution to keep the issue current (in this case, the EC and EP).** A unified, coordinated voice allowed for credibility of message, consistency of engagement (sharing the burden of engagement between multiple EU stakeholders) and in turn, the ongoing presence of Romania's political will to respond in kind. The EU's ability to provide a unified and coordinated voice on child protection reform in partner countries is more audible today than during Romania's accession period; the EU's External Action Service created under the Lisbon Treaty provides the very platform to champion a unified voice for child protection and child protection around the region, and even throughout the world.

**Second, central to EU engagement on Romania's reform efforts was the role of the EP Special Rapporteur to Romania.** The Special Rapporteur created and maintained a political space for child protection reform. Her vocal messages and longevity within the position did indeed encourage Romania's continued political will on an issue that required a marathon response. A similar role in today's EU structure would be a welcome element to encourage partner country efforts from a perspective of knowledge and longevity (stability of leadership).

**At the same time, the EU's support of specific substantive reform themes that were once vital for Romania's reform achievements is relevant to build political capacity for reform efforts today.** Such themes are still present today. These are:

- 1) the decentralisation of child protection services,
- 2) one central agency on child protection charged with the reform process and politically authorised to direct changes for various government bodies,
- 3) successful service models brought to scale for nationwide coverage, and
- 4) coordinated funding mechanisms created through a national strategy for reform.

Today, the EU can also encourage new efforts for child protection reform in partner countries using these tools and themes. In 2014, the EU will enter a new paradigm of engagement with partner countries. Under new Pre-Accession Assistance and the revised European Neighbourhood and Partnership Instrument planned for





2014-2020, the EU can provide substantial support to partner countries to overcome many of the key barriers to child protection reform and strategically focus next phase reform efforts.

Within this construct, the effects of EU engagement are not necessarily based on the external incentives model, but have also taken on the valuable models of social learning and lesson drawing; governments choose to reform and align their domestic agenda because EU influence verifies the appropriateness of such reforms and because partner countries seek solutions to domestic problems. Both models provide a symbiotic strategy for child protection reform. **Given the experience of Romania and other new Member States in child protection reform, the EU's wealth of experience and its normative framework on child rights provides new strength in the social learning model to influence child protection reform efforts across partner countries.** At the same time, the social learning model is not sufficient to explain partner country reforms. Instead, **expanded influence is possible under the lesson drawing model because EU engagement invites reciprocity; partner countries also look to the EU to find solutions to policy problems.**

Two key factors, if present, can positively increase success under this model. First, the presence of epistemic communities promoting EU rules can emerge as a factor. In this case, Romania and other new Member States represent this community; their wealth of learning and experience in similar environments provide incentives for partner countries to seek answers from the EU. Second, there is often an element of domestic dissatisfaction about current policy or its implementation. **Within democracies, these elements are often best displayed and examined by civil society. In this way, civil society becomes a key stakeholder for the success of EU engagement effects within child protection reform.**

The symbiotic relationship between new Member States and partner countries, best evidenced as a combination of the social learning model and lesson drawing model, can be harnessed by the EU for substantial gains in child protection reform throughout the region. With the tools or methods that increase political will (unified voice, special rapporteur), the EU can help countries build the political capacity to significantly change the lives of vulnerable children throughout the region.

## INTRODUCTION

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On 1 January 2007, the day Romania became a member of the EU, the most vulnerable of its citizens – the infants housed in residential institutions from 1989 – had come of age. An eighteen-year journey had come to an end. This paper documents the entwined journey of children found in state-sponsored institutional residences at the fall of Ceausescu's regime in 1989 and Romania's accession to EU membership.

1989 marked the fall of the Communist regime in Romania. Publicly condemned by mass protests and fuelled by similar revolts in Hungary, East Germany, Bulgaria and Czechoslovakia, Romania transitioned to a democratically elected government. The "iron curtain" fell and worldwide media attention turned to Romania's most vulnerable class of children: thousands of children living in residential orphanages or institutions who faced severe conditions. These children suffered from abandonment, neglect, abuse and for some, exploitation. Their story is well known.

What is not well known are the efforts of the Romanian people who were willing to face the challenge of reform. Many Romanians led the charge to rescue, deliver services and significantly change the lives of this most vulnerable class of children. This paper does not pursue this story, but affirms it through the telling of another.

The narrative uncovered here connects Romania's most significant steps in the child protection reform efforts to its EU accession process. This paper argues that Romania's EU accession process significantly and positively impacted child protection reform in Romania. It does not, however, attribute all or attempt to quantitatively or qualitatively measure the impact of Romania's accession process on child protection reform in Romania. Instead, it maps out elements of influence from reform trends over time, an examination of reform successes, academic analysis on the subject, child protection practitioner opinions based on the gift of hindsight, former EU stakeholders who acknowledged their role in Romania's reform landscape and media's explanation at the time of crucial reforms.

The elements of accession-impact offer lessons for today's EU policies on Enlargement and Neighbourhood. Although this research shows that Romania's reform context was unique and intimately linked with a specific geopolitical context, there are several fundamental aspects of EU engagement with Romania that provide common ground for inspiring sustained child protection reforms in other countries within the region; Romania's common heritage rooted in the socialist past and the (post) transition present give this narrative a strong foothold on which to build support for other countries in the current Enlargement and Neighbourhood region, especially the Balkan countries and countries in the Eastern Partnership.



Not only are key lessons from this period worthy of documentation, but key voices from the reform are still accessible and should be tapped for regional engagement on child protection reforms. New Member States, like Romania, have a crucial role to play in this. Heralding their own successes and challenges, new Member States offer good solutions to policy dilemmas. Partner countries within the region are actively seeking answers. The historical narrative of Romania and the rest of new Member States that also struggled through child protection reforms is a story worth telling; Romania's child protection reformers are experienced leaders who understand Romania's reform successes and challenges, giving them credibility to speak about parallel classes of children and child protection reforms in partner countries throughout the region. This research paper offers advice to EU policy makers and new Member States that work with partner countries on similar child protection reform efforts.

The account of EU accession-impact on child protection reform in Romania is important to relay because it reveals a way to make child rights tangible. Child protection reform is the embodiment of a normative child rights framework because without community based care and protection, children do not often receive the right to autonomy, food, education, health care and life in all its fullness. For the purpose of this study, child protection reform refers to all efforts to deinstitutionalise children, prevent further institutionalisation and provide alternative community based services for vulnerable children.

# I. THE EU ACCESSION PROCESS SIGNIFICANTLY AND POSITIVELY IMPACTED CHILD PROTECTION REFORM IN ROMANIA

## A. EU ACCESSION PROCESS PROVIDES INCENTIVES FOR REFORM IN CANDIDATE COUNTRIES

Academic scholars argue that EU accession provides incentives for reform in candidate countries. These arguments propose that candidate countries reform their own law and policy to EU standards for various reasons. These reasons suggest attribution between EU accession and candidate country reforms. Within International Relations theory, candidate countries adopt EU rules for three reasons: 1) external incentives, 2) social learning and 3) lesson drawing.

The external incentives model describes a sanctions-reward dynamic and follows the logic of consequence; certain benefits act as incentives for new rule adoption. In this model, candidate countries work towards EU norms because the benefits of EU engagement exceed the costs of domestic adoption (Moravcsik and Vachudova, 2003), (Schimmelfennig, 2005). In most cases, the ultimate benefit is EU membership. There are rewards within the accession process itself however that also spurs the process of reform. For example, upgraded status, positive progress reports, increased diplomatic exchange, and new funding opportunities are part of a package of 'rewards' that the EU can offer to encourage reform in candidate countries. Known as conditionality, this approach is 'reinforcement by reward' (Schimmelfennig, 2000) and is EU-driven (Kriszan, 2010).

The social learning model constitutes the most prominent alternative to conditionality (Checkel, 1999), (Manners, 2002) and follows the logic of appropriateness (March and Olsen, 1998); candidate countries work towards EU norms because they are persuaded of their appropriateness (Schimmelfennig, 2005). Instead of rewards, the accession process provides a platform for imitation, argumentation and influence (Checkel, 1999) that enable candidate countries to acquire new policy preferences. On its own, scholars argue that this model is not sufficient to explain candidate country reforms (Sasse, 2011) as 'socialisation without the leverage of membership conditionality fails to overcome domestic opposition' (Kelley, 2006). This model is still EU-driven as it is based on EU influence towards

candidate countries<sup>1</sup>.

The lesson-drawing model is based on a candidate country's own initiative to integrate EU norms into practice because they provide good solutions to policy dilemmas at home; it follows the logic of problem solving (Schimmelfennig and Sedelmeier, 2005). In this model, the accession process provides opportunities to transfer successful policy and ideas from the EU to candidate countries on their behalf. Candidate countries elect and pursue these ideas and thus determine the effects under this model.<sup>2</sup> In this case, non-member states adopt EU norms without EU incentives or persuasion (Schimmelfennig and Sedelmeier, 2004). Lesson drawing is a response to domestic dissatisfaction with the status quo (Rose 1991); the general proposition is that a state adopts EU rules if it expects them to solve domestic policy problems effectively (Schimmelfennig and Sedelmeier, 2004).

These three models do not, however, describe all the effects of the accession process. Other intervening causes within the accession process also play a part in candidate country reform (Pridham, 2007). Intervening variables could include, for example, the role of political will and political capacity to implement reforms (Pridham, 2006), the preferences of Member States for one candidate or another that encourage specific reforms (Moravcsik and Vachudova, 2003) or the role of Europeanisation<sup>3</sup> on domestic actors (Putnam, 1988), (Spendzharova, 2003),

<sup>1</sup> As a corollary, the 'more for more' principle is the key aspect of the renewed Neighbourhood Policy. It provides for greater differentiation among partners, in line with their commitment to the jointly agreed values and objectives. As stated by the EC, "[f]inancial incentives for the most ambitious reformers are an important aspect of the new approach." European Commission, "Proposal for a Regulation of the European Parliament and of the Council establishing a European Neighbourhood Instrument" {SEC(2011) 1466 final} {SEC(2011) 1467 final} Brussels, 7.12.2011 COM(2011) 839 final 2011/0405 (COD).

<sup>2</sup> Many attempts have been made to bridge the gap between these competitive explanations. 'Rational and normative behaviour are two sides of the same coin: rationality is socially constructed in the same way that norms have to be strategically deployed.' (Jenson and Merand, 2010) A sequentialist approach has also been used to explain change through the process of adaptation. (Checkel, 2000), (Schimmelfennig, 2003)

<sup>3</sup> There is an extensive body of scholarly work related to Europeanisation. Europeanisation has been defined as the process by which 'states adopt EU rules' (Schimmelfennig and Sedelmeier, 2005) and is 'concerned with the effects of the enlargement process' (Grabbe, 2002). Europeanisation has also been conceptualised as 'the construction, diffusion, and institutionalisation of formal and informal rules, creation of shared beliefs, and ways of political practice in Europe' (Subotic, 2011).

(Noutcheva and Bechev, 2008)<sup>4</sup>.

The accession process itself cannot take credit for all successful reforms that occurred within the same time period. The relationship between cause and effect is not so easily defined. For example, one study demonstrated that 'accession countries progressed in absolute terms less than Albania in the same interval' and that 'their most important achievements date from before the start of the negotiations with the EU' (Mungiu-Pippidi, 2005).

Nevertheless, the promise of full EU membership has been a much coveted reward for difficult reforms in Eastern European countries. With such a reward, the accession process provided opportunities to trigger reforms. The litmus test for all EU candidates is the fulfilment of the Copenhagen political criteria (Copenhagen European Council, 1993), namely: stability of institutions guaranteeing democracy, the rule of law, human rights, respect and protection of minorities, existence of a functioning market economy as well as the capacity to cope with competitive pressures within the Union in addition to the harmonisation of national legislation with the *acquis communautaire*. Reforms become necessary to ensure that candidate countries meet the criteria of the Copenhagen Agreement and the *acquis communautaire*.

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## B. THE LANDSCAPE OF ROMANIA'S CANDIDACY

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Romania's journey towards EU membership began formally in 1993, with the signing of the Europe Agreement. The process of accession lasted until 2007. Scholars analyze Romania's accession process as predominantly influenced by the external incentives model (conditionality) (Krysko, 2008); in Romania's case, there was a high probability that accession was possible while at the same time, a low cost of norm adoption. Further, veto players both in political and public venues were largely absent to object to the costs of norm adoption (Risse and Borzel, 2003). This meant that reform costs were worth the rewards of EU membership. The lack of veto players also verifies a pro-accession viewpoint by many Romanians; the model of social learning is therefore also relevant to explain the effects of accession (Krysko, 2008) because Romania, speaking generally, believed in Europeanisation. EU membership resonated with Romania's political elites and the public alike.

A number of intervening variables also explain the effects of the accession process in Romania. First, the process of

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<sup>4</sup> Also, the difficulty to separate exogenous and endogenous factors when explaining transformation in the East (Grabbe, 2002); for example, differentiating Europeanisation, modernisation and post-communist reform.

accession in Romania did not evidence consistency in terms of clear benchmarks or expectations. Like all political processes, a cocktail of geopolitical circumstances, member states' interests and domestic elite opportunism at times enabled Romania to be 'upgraded' to the next level on the accession ladder (Pridham, 2007). At the same time, because clear benchmarks did not exist, EU stakeholders could set new reform requirements or applaud success at the right political moments to encourage enhanced activities and policy creation.

Second, in the case of Romania, some EU stakeholders tended to be interventionist in how Romania pursued its political conditions. To a significant degree, political agendas, including child protection reform, were 'reactions to what Bucharest was told from abroad'<sup>5</sup> (Pridham, 2007), (Interview, 2012). Such input helped shape domestic political will and imprinted various reform efforts higher on the agenda than others.

Third, the stability of leadership and the personalities of leaders (both at the Romanian Government level: President Iliescu, Prime Minister Nastase; Child Protection Authority level: Gabriela Coman) and among EU institutions (EC Delegation in Bucharest: Jonathan Scheele; European Commissioner for Enlargement: Günter Verheugen; European Parliament Rapporteur: Baroness Emma Nicholson of Winterbourne) throughout most of Romania's accession negotiations period enabled the development and consolidation both of personal and professional relations between these actors which shaped their actions beyond the mandate granted by their institutions, especially in the case of child protection reform.

Fourth, Romania's population was generally and significantly in favour of accession; not even media outlets provided a balanced perspective on the accession process<sup>6</sup>. Scholars highlight the short-term response generated by the Commission's progress reports and the emotional reaction to the general evaluation without intense scrutiny of the substance. A messianic expectation hovered over the arrival of the reports: a negative appraisal being taken as a national tragedy, an unfair hand, while a positive appraisal

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<sup>5</sup> For example, in 2000 the EC together with international financial institutions had worked out Romania's medium-term economic strategy; in 2004, the EC helped draw up the major package of judicial reforms while the Child Protection Act of 2004 benefited from a wide array of inputs from the EC and Member States for nearly three years up to the moment of publication in 2004 (Pridham, 2007). Furthermore, EP Special Rapporteur, Baroness Nicholson, drafted the child protection passages of the inaugural speeches of President Iliescu and Prime Minister Nastase in 2000 (Interview, 2012).

<sup>6</sup> Content analysis of the national dailies reveals that that by and large, the media's response lacked depth of analysis (Pridham, 2005).

was painted to be a glorious political victory that anointed Romania's European calling. (Pridham, 2007) Public encouragement of the accession process strengthened the hand of conditionality in such a way as to identify it as an intervening effect because the Romanian Government had little opportunity to analyse the necessary costs of reform in light of a carte blanche public approval of EU membership.

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### C. CHILD PROTECTION REFORM AS AN ELEMENT OF THE ACCESSION PROCESS

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#### *Child Protection Landscape in 1997, the Eve of the Accession Process*

It is largely assumed that two elements are fundamental for advancing a child protection reform agenda: financial assistance and political will. Leading up to the start of Romania's accession process in 1997, there was an abundance of both financial assistance from abroad and political will from the Romanian Government to do something about the some 100,000 children living in institutions. Yet, substantial reform remained elusive.

By 1997, the European Community alone had spent approximately 70 million Euros on child protection in Romania (European Commission, 1997). Disaggregated, the EU provided 48.5 million Euros in humanitarian assistance to children in institutions after 1989 (European Commission Delegation, 2004). The bulk of the funding provided food, heating, medicines and building repairs. By 1991, funding also included pilot projects for alternative care and staff training programmes to support policy development, including national strategies and action plans and the promotion of child rights (Phare Child Protection 1992, Phare Cooperation 1996, Phase LEN 1993-1999, Phare Democracy 1993-1999).

There was also political will to reform Romania's child protection system prior to 1997. Largely attributable to the scale of the need and the visible plight of children in institutions, the Romanian authorities accepted the need for reform. For example, as early as 1992, the Romanian Prime Minister's opening address to the first country-wide meeting among child-focused NGOs (funded by the Romanian Government, UNICEF, USAID and the European Community) highlighted the importance of moving beyond emergency child care and replacing it with a policy of long-term assistance within a well-defined legal network. The primary need to integrate children into the family, with foster homes as an alternative and, only when these options fail, into governmental institutions was stressed (Swartz, 1994).

Yet, progress on child protection reform leading up to the start of Romania's accession process in 1997 did not evidence significant change. Two indicators of success that encapsulated the entire reform movement included: 1) the reduction of the number of children in public care, and 2) the decrease in the number of residential institutions or their restructuring into family-type modules (European Commission, 2003). In both cases, Romania appeared not to have made substantial progress by 1997. Although the numbers of children living in institutions prior to 1997 are only projections and cannot be substantiated to show a baseline of the reform process leading up to 1997, the government's comprehensive census in 1997 found 98,872 children living in 653 institutions<sup>7</sup>. (1.7% of the total population under 18). Of these children, the census determined that 98.2% of the children had at least one surviving parent.

This census data indicated that families continued to believe that the state could provide better care for their children than themselves. Physical facts seemed to verify this at times: after seven years of continuous investment in refurbishing institutions and improving living conditions for such children, many institutions were physically better off than most family homes; instead of deinstitutionalisation, the trend showed that children continued to enter institutional care. Even as some children left the institutions, others took their places due to increasing poverty within vulnerable families. By 1997, only one institution out of the total 653 institutions had closed its doors<sup>8</sup>. At the same time, Romania continued to uncover new evidence and narratives about the lives of children living in institutions. Children affected by the hospitalism syndrome<sup>9</sup>, high numbers of paediatric HIV/AIDS cases<sup>10</sup> and other developmental disorder issues demanded urgent solutions that had not yet received acute attention.

A variety of reasons contributed to slow reform up to this date. First, the sheer numbers of vulnerable children who required acute care and attention minimized the amount of energy and resources spent on systemic reform. Instead, most funding focused on a humanitarian response within institutions and then worked at refurbishment of the institutions. Second, pre-1997 was characterised by massive, uncoordinated funding, largely overlapping and contributing to widening gaps in development among

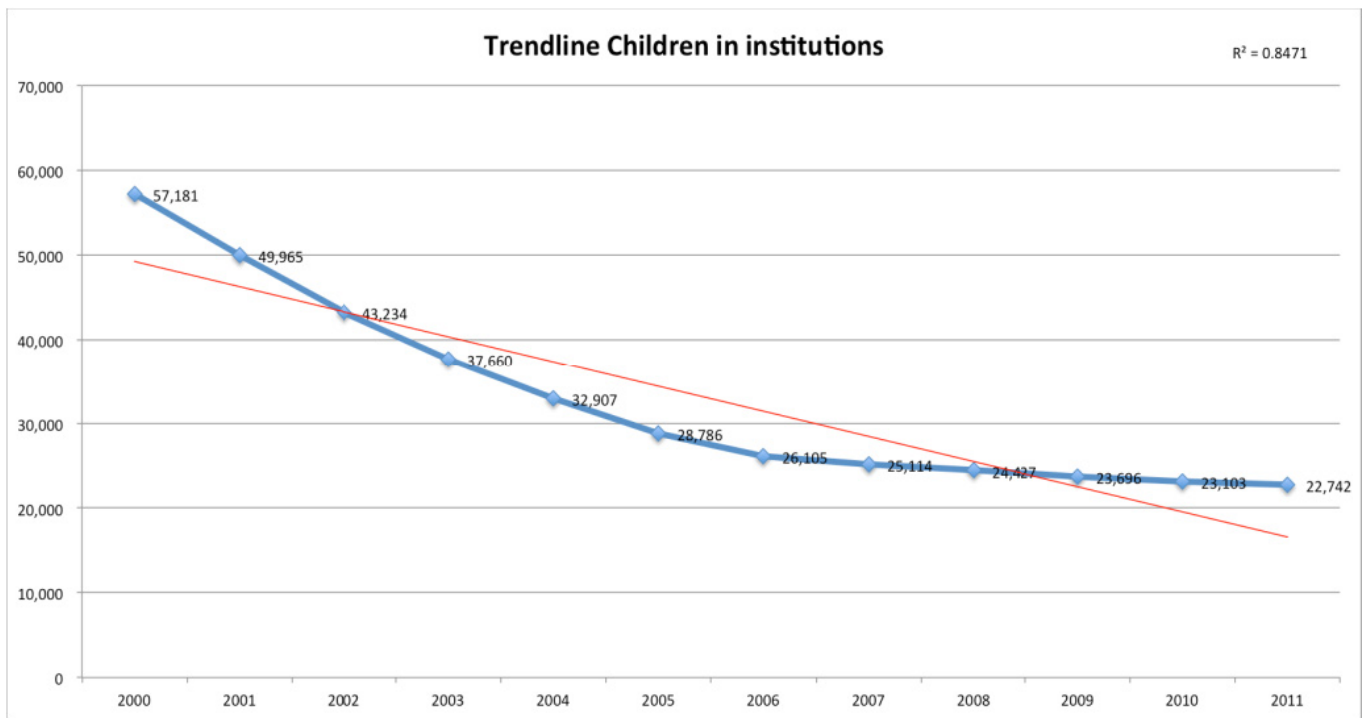
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<sup>7</sup>The number of classic institutions being those with more than 100 children.

<sup>8</sup>One of two residential institutions in Bacau closed with NGO (Pentru Copiii Nostrii) support (Interview, 2012).

<sup>9</sup>A complex disorder displayed by children as a result of long-term institutionalisation, which causes a severe decrease of child's functionality.

<sup>10</sup>This was due to unsafe medical practices that involved children in institutions.



institutions in different regions. A large share of the overall funding was in kind, mostly coming overland from Western Europe but also from overseas. Third, a strategic template of reform did not yet exist for Romania; until 1997, the vision of a child protection reform agenda had not captured the attention of reformers and politicians in a way to harness political capacity. Because the system was highly centralised and yet fragmented between different Ministries (Health, Education, Labour and Social Protection, Justice), competing priorities took precedent over child protection reform. Although both foreign and domestic NGOs continued to develop specific models for deinstitutionalisation and building alternative services that may have been helpful to build a strategic template for reform, many worked in silos, at a small scale and lacked cost effective models that could be replicated by government for greater impact. The lack of harmonisation slowed down both a national vision and a coordinated approach to get there.

The turning point of reform came in 1997 at the onset of official EU engagement. After 1997, the Romanian Government began to harness aid towards systemic reforms, coordinate foreign assistance, policy and implementation<sup>11</sup> through a national structure, create

standards for service alignment<sup>12</sup> and develop a strategy for reform (decentralisation) that included the methodology for deinstitutionalisation<sup>13</sup> and create alternative community based care structures.

The period of accession, namely 2000-2006, coinciding with major investments in deinstitutionalisation by the EU, UNICEF, the World Bank and USAID, registered the most significant percentage of change in the two indicators of success; almost two thirds of the total decrease in overall number of children in care was registered during this period. The number of institutions decreased by 341 and only 180 of these were not yet organised into family-type modules.<sup>14</sup>

<sup>12</sup> Poor coordination in the development of alternative services resulted in a multitude of models and inconsistent use of concepts in alternative child care. By 2000 it became clear that "realignment" was needed to ensure that the child protection system remained unitary and capable to provide the same level of care and protection to children, regardless of the provider or the location of delivery. The Government held several meetings with the donors and decided to start developing minimum child protection service standards and methodological guides.

<sup>13</sup> Romania's experience of simultaneous deinstitutionalisation and decentralisation has been achieved over an extraordinary short period of time, as compared with other countries that have gone through the same process.

<sup>14</sup> In December 2006 there were 180 classic institutions and 132 re-profiled institutions (Ministerul Muncii, Familiei și Protecției Sociale, [http://www.copii.ro/alte\\_categorii.html](http://www.copii.ro/alte_categorii.html)). Currently there are 99 residential institutions remaining (*Children's Rights Protection*, <http://www.mmuncii.ro/pub/imagemanager/images/file/Statistica/Buletin%20statistic/2011/Copii%202011.pdf>).

<sup>11</sup> Government Decision 625/2000 to approve the National Strategy for Child Protection 2000-2003.

Although there are many factors that contributed to the substantial improvement in the reform effort, this paper will discuss only the elements of EU influence within the accession process that contributed to such successes. Those elements can be categorized within the frameworks of the external incentives model, the social learning model and other intervening variables associated with the accession process.

### *External Incentives: Child Protection Reform (CPR) as Human Rights Conditionality*

Scholars in the context of accession argue that the external incentives model best describes the transformation of Romania's child protection system (Lataianu, 2003), (Lusmen, 2008), (Negoita, 2010). Romania saw the costs of reform and change as less significant in the long run if compared to the benefits of membership (Lusmen, 2008). This was possible because the EU deemed child protection reform as a key element of conditionality.

The story of conditionality as applied to child protection reform in Romania is unique. Because child protection reform constituted human rights conditionality, the legal basis at the time of Romania's accession process did not have a strong foundation.<sup>15</sup> Scholars note that unlike the *acquis* conditionality, human rights conditionality did not include a contractual binding commitment on the part of the Union (Muller-Graff, 1997), (Lusmen, 2009). At the same time, the Copenhagen criteria for human rights conditionality was broad and ambiguous and 'left room for manoeuvre for a subjective and political judgement' on the part of the Commission (Smith K., 1999). Therefore, the EU attributed child protection reform as part of the accession criteria through the following rationale:<sup>16</sup> '[t]he values of the European Union have been expressed in the *acquis communautaire* (Chapter on Home Affairs), which incorporates key United Nations conventions as the foundation stone of the European Union value system, such as the Declaration of Human Rights, the International Labour Organisation Convention and the United Nations Convention on the Rights of the Child (UNCRC). The importance of the presence of the UNCRC in the *acquis*

*communautaire* is exemplified by the 1998 statement of the Council of Ministers that Member States' failure to implement the UNCRC would place them in breach of the Treaty of Rome' (MEP, Baroness Nicholson of Winterbourne, 2007). The EU applied this rationale only to Romania.<sup>17</sup> Such language made child protection reform a key indicator of progress towards accession. The reasons for this exceptional approach are largely attributed to the higher visibility of children in care in Romania and the strong emotional impact it had on public opinion abroad.

With this legal basis, both EU stakeholders and their Romanian counterparts accepted child protection reform as a human rights conditionality to EU membership<sup>18</sup> (Gaetan Kennelly, 2005). As evidence of this conditionality, the EC commented on child protection reform through progress reports and external statements every single year during Romania's accession process.<sup>19</sup> The consistency of the message helped build an ongoing case for conditionality. Further, the EC continued to set new benchmarks for needed progress that correlated with the EC's attentive eye towards the reform progress;<sup>20</sup> this again signalled the EC's commitment to the reform process. Finally, EC reports confirmed child protection as an element of conditionality.



<sup>15</sup> The Charter of Fundamental Rights of the European Union was approved during the December 2000 European Council in Nice, France but it did not have full legal effect until the Treaty of Lisbon came into force on 1 December 2009 after Romania's accession in 2007.

<sup>16</sup> At the time, the EU had no overarching human rights policy. In the words of EP Special Rapporteur, Baroness Nicholson, '[t]here was no legal basis from which the EU could decline Romania, or any other applicant, membership for non-implementation of the rights of the child. Once the EU, Council of Ministers and EP had passed a country as fulfilling the Copenhagen criteria, rights faded and hard-edged topics emerged by which the countries would be judged' (Interview, 2012).

<sup>17</sup> While the situation of children in state care in Bulgaria was arguably as serious as that of Romania, political conditionality with respect to child protection applied only to Romania (Interview, 2012).

<sup>18</sup> In April 1997, the EC President, Jacques Santer, visited Bucharest. One of the topics of bilateral talks with Romanian leaders was the EC's decision to include progress in child protection as part of the political criteria for accession (Gaetan Kennelly, 2005).

<sup>19</sup> See, European Commission Progress Reports for Romania in 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005 and 2006 which noted both positive and negative aspects of child protection.

<sup>20</sup> For example, the need to address inclusive education was mentioned in the 2002 EC regular report, but not the 2003 EC progress report (European Commission, 2002), (European Commission, 2003).



EP statements also highlighted that child protection reform was an element of conditionality. Although the EP did not have the legal authority to approve or suspend negotiations (and thus did not 'control' conditionality), the weight of such political statements did in fact stir reactions in Romania and indeed enhance the understanding that child protection reform was key to Romania's accession. The EP's resolve to persuade the EC to invoke conditionality on the issue of child protection reform was publically evident.<sup>21</sup>

In return, Romania's own response validated child protection reform as an element of conditionality for accession; this validation came in the form of political acknowledgment, policy creation and policy implementation.<sup>22</sup> The Romanian Government politically acknowledged<sup>23</sup> the significance of child protection reform in public forums and envisioned the reform movement as a symbolic break from the past. In this way, it accepted child protection reform as an element of conditionality because it signified a journey towards Europeanisation and break with the Communist past. It also validated child protection reform as an element of conditionality through its cycles of policy creation that aligned with key moments of EU engagement on accession.

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<sup>21</sup> For example, on one particular occasion during a difficult time period in Romania's reform, Chairman of the EP Foreign Affairs Committee, Elmar Brok, stated that, '[if] the facts on the institutionalised children presented in the report prove to be true, there are reasons to ask for the suspension of EU negotiations with Romania.' (Nine O'Clock, 31 May 2001). The EP Special Rapporteur for Romania also commented that '[t]he problem of the institutionalised children represents a violation of human rights and, consequently, this means that Romania doesn't fulfil the first condition of the negotiation process, the political one.' (Nine o'clock, 31 May 2001). Later in 2001, the EP Special Rapporteur informed the members of the Foreign Policy Commission of the EP that Romania has made 'remarkable progress regarding institutionalised children' and that she had discarded the recommendation to suspend negotiations.

<sup>22</sup> Most notably, the Government was clear in admitting that child protection reform in Romania was a governmental priority and that achieving reform objectives was a condition for the EU accession: "Ensuring and the observance of children's rights and placing them as a matter of special interest is a national priority [...] Moreover, in the case of Romania, the complex EU accession process is inexorably related to the observance of the Copenhagen political criteria regarding human rights, particularly regarding the rights of the child", Government Decision 539/2001 for the approval of Governmental Strategy for the Protection of Children in Difficulty and the Operational Implementation Plan of Governmental Strategy for the Protection of Children in Difficulty 2001-2004, approved in June 2001.

<sup>23</sup> For example, throughout 1997, Romanian President Constantinescu made frequent visits to projects related to children in care; he cut ribbons at the openings of family-type care homes and invited children to the Presidential Palace on International Children's Day. He had his picture taken holding HIV+ children, which was a powerful statement against stigma. Such activities showed to the outside world and more specifically, to the EU, that Romania had clear political will towards solving salient child protection issues.

To respond to the cycles of EU engagement, the Government used 'emergency ordinances'<sup>24</sup> as a rapid way to effect policy changes. Special emergency orders were passed by the executive body of Romania's Government and served to bypass the delays that could have been generated by the Parliamentary debates, as Romania needed to demonstrate that it was taking urgent action. It also sparked quicker implementation timeframes that could acknowledge the EU's decision making timelines and show immediate progress.<sup>25</sup> This trend continued throughout the accession process. The ebb and flow of government action on child protection reform shows a link between the EU's protracted monitoring process and actual reform progress. As the EC, EP and their Romanian counterparts accepted child protection reform as a human rights conditionality to EU Membership, the EU's ability to influence the process increased.

Not only did the EU's influence increase over child protection reform due to its status as an element of conditionality, but again, the nature of the conditionality itself proved to be influential. Conditionality denotes that there are certain prerequisite tasks or reforms that must be achieved before EU accession. These benchmarks provide the path towards success. In the case of child protection reform, conditionality did not have firm benchmarks. Instead, EU stakeholders infused content and meaning into the process as time progressed.<sup>26</sup> Within this construct, scholars note that the EU acted as a policy entrepreneur, injecting meaning into the human rights framework (Grabbe, 2003), (Jora, 2006). It also allowed the EU to establish more and more benchmarks as time went by.<sup>27</sup> Through its monitoring process, the EC learned about the institutional structure and legal basis of reforms and thus

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<sup>24</sup> Emergency ordinances were elaborated and passed by the government with speed; they produce effects on the date of publishing in the Romanian Official Monitor rather than after Parliament assent.

<sup>25</sup> For example, one month before the 1997 EC Avis was to be published, the Romanian Government introduced a series of Emergency Ordinances on child protection (number 25/1997 on adoption, and number 26/1997 on the protection of children in difficulty). Parliament's ratification occurred more than a year later in 1998 as 192/1998 and 139/1998). (Dickens, 1999) This trend continued throughout the Accession process. In February of 2000, one week before Romania started negotiations for EU membership (Brussels summit), the Romanian government created another series of emergency ordinances related to child protection (Interview, 2012).

<sup>26</sup> In addition, 'the EU has no specific test to determine whether or to what extent these conditions have been met', thus giving the EU 'a licence to involve itself in domestic policy-making to a degree unprecedented in the current Member States (Grabbe, 2002).

<sup>27</sup> For example, the need to address inclusive education was mentioned in the 2002 EC regular report, but not the 2003 EC progress report (European Commission, 2002), (European Commission, 2003).

noted more deficiencies (Noutcheva and Bechev, 2008).<sup>28</sup> Given Romania's eagerness to achieve membership and the lack of substantial veto players against accession, this 'sliding scale' of conditionality continued to push child protection reforms forward in substantial ways; because the Romanians never knew the final benchmark of reform, continued efforts had to be made.

Both due to the status of child protection reform as an element of conditionality and the sliding scale nature of the prerequisite tasks/goals under conditionality, the EU accession process provided an incentive for real reforms; child protection reform became one of the ongoing 'costs' to be paid for the overall reward of membership.

### *Intervening Variables*

A number of key intervening variables associated with the accession process also played a significant role in the reform process. For purposes of this paper, the variables described below relate exclusively to the EU as a primary stakeholder in Romania's reform process. Other variables will not be discussed here.

One such intervening variable that cannot be described within the model of external incentives is the EU's unified institutional positioning on child protection; highly coordinated messaging from the EC and EP (with the consistent help of the EC Delegation in Bucharest) to the Romanian Government provided a clear understanding that the EU valued child protection reforms (Interview, 2012). Coordinated messaging also kept both EC and EP stakeholders as credible voices. The EC and EP also divided up the responsibilities; although the EC managed the accession process, the EP's statements of progress on child protection, namely by the EP's Special Rapporteur for Romania, were most visible and often critical and thus noted by Romanian authorities. The EC tempered such open criticism by the EP with firm but substantially less politicised statements.<sup>29</sup> In a way, this relationship could be summarised as 'friend and foe', taking opposing approaches

<sup>28</sup> For example, according to some child protection professionals, the Romanian Government had made tremendous efforts for reform by 1999, yet received little recognition from the EC and the EP Special Rapporteur. Instead, the 1999 and 2000 EC and EP reports largely identified negative aspects of the reform, albeit urgent and tremendously important (European Commission, 1999), (European Commission, 2000).

<sup>29</sup> For example, according to the Financial Times in 2001 as stated in the title of the article, [the] 'European Parliament's Foreign Affairs Committee might recommend the suspension of accession negotiations with Romania, citing the draft report submitted to the committee by its rapporteur for Romania, Baroness Emma Nicholson,' <http://www.hri.org/news/balkans/rferl/2001/01-05-31.rferl.html#26>.

to the subject to encourage change.<sup>30</sup>

Another intervening variable within Romania's accession process was the overarching politicalisation of child protection, best represented by the EP's Special Rapporteur. It is noted that personal involvement of the EP Special Rapporteur beyond the mandate of the position and through well-targeted engagement at the highest political and stakeholder level generated unprecedented political will to solve the situation of children in state care. Such involvement helped create the unique placement of child protection within EU conditionality rules and to maintain public awareness and thus pressure for ongoing reforms (Interview, 2012).

Third, throughout most of the intense periods of reform, there was stability of leadership on both sides. The stability of leadership and the personalities of leaders both at the Romanian Government level and among EU institutions throughout most of Romania's accession negotiations period enabled the development and consolidation both of personal and professional relations between these actors which shaped their actions beyond the mandate granted by their institutions.

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## D. ROMANIA'S REFORM SUCCESSES

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Part of the formula for successful child protection reform during Romania's process of accession included the introduction of solutions by the Romanian Government and the EU's willingness to fund them and celebrate them. By early 2000, the European Community had become the largest ODA provider to Romania. According to the European Commission Delegation in 2004, between 1990 and 2000, the EU contributed 100 million Euros to child protection (60 million Euros as emergency aid and 40 million Euros directly to child protection reform).

To achieve the numbers of deinstitutionalised children and close down institutions, Romania focused on the critical elements of systemic reform: legislation and regulatory frameworks, capacity building, the sustainable deinstitutionalisation of children through the creation of alternative care and protection services and information/awareness campaigns directed at parents and the public to encourage a cultural mind shift away from state sanctioned care. Some of the most significant reform elements

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<sup>30</sup> The inconsistency between the EP and EC's positions (on the one hand), and the opposing signals and pressures coming from the Member States (on the other hand) have been noted (Jora, 2006). Inconsistencies between Member states and EP and EC positions are not the focus of this study.

included<sup>31</sup>:

1) A central child protection agency charged with the reform process and reporting directly to the Prime Minister.<sup>32</sup> Association with the Prime Minister provided the political cover and direct authority to issue legislation and coordinate the activities of other Ministries that administered aspects of the child protection system, including residential units (Ministry of Health, Ministry of Education, Ministry of Justice, Ministry of Labour and Social Protection). Moreover, the exceptional position of this agency sent a consistent message both to international stakeholders (EU, bilateral donors, UN) and to local authorities that child protection reform was a national priority (as stated in official Government of Romania documents).

2) The decentralisation of child protection services<sup>33</sup> that assigned the responsibility to deinstitutionalise and set up alternative community based services to local authorities.<sup>34</sup> Decentralisation proved strategic to create and contextualize services within communities where families of institutionalized children lived. The national government adequately funded the decentralisation of services through the National Interest Programmes and through the coordination of international funding.

3) A plan to close each residential institution and not just to deinstitutionalize individual children. The plans included objectives related to the strengthening of an alternative child protection services network<sup>35</sup> at the local level. This helped focus resources to the creation of needed services for deinstitutionalised children, while at the same time stopped children from entering institutions.

4) Building human capacity to ensure the capability to create and run alternative child protection services<sup>36</sup> – done through formal education of specialists (Social Work Faculty created in 1990), exchange programs supported by international and bilateral funding and technical assistance missions and consultants made available to Romania. As foreign child protection specialists who brought expertise in the 1990s where leaving and local authorities created new services, Romania needed a cadre of specialists to run these services in a professional manner. In the absence of professional knowledge, the entire construction of the reform could have been jeopardized due to ineffective or inadequate interventions, thus endangering children and reducing public trust in the advantages of reform.

5) Encouraging a cultural mind shift away from state sanctioned care through the largest social campaigns to date. The Romanian population's awareness of the importance of a family environment for children, the effects of child abuse and institutionalisation and the existing support and services available to families facing difficulties in bringing up their children was fundamental to reform.<sup>37</sup>

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<sup>31</sup> This paper does not suggest that the EU provided funding or support from the inception of all of these actions, but that its support during critical moments after 1997 contributed to these successes.

<sup>32</sup> Funded by Phare 1999 programme under the following objective: Technical assistance will also be provided at central level in direct support of programme implementation.

<sup>33</sup> For example, the overall objective of the 25-million Euro 1999 Phare programme was to develop and reform the child protection system in Romania through supporting the activities of the Romanian authorities, mainly decentralisation.

<sup>34</sup> Funded by Phare 1999 programme under the following objective: Strengthening and diversifying services at local level through grant assisted projects.

<sup>35</sup> Funded by Phare 1999 programme under the following objective: Monitoring and evaluating the implementation of local projects to determine their appropriateness to national and local strategic requirements, and assessing the sustainability of services developed through the programme.

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<sup>36</sup> Funded by Phare 1999 programme under the following objective: Improving effectiveness and quality of care at local level through technical assistance at local level supporting the preparation and implementation of the grant assisted projects.

<sup>37</sup> Standard Summary Project Fiche as presented on [http://ec.europa.eu/enlargement/fiche\\_projet/document/ro9905-02-dev\\_of\\_child.pdf](http://ec.europa.eu/enlargement/fiche_projet/document/ro9905-02-dev_of_child.pdf); For example, the EU funded "A children's home is not at home" Campaign which exposed the effects of institutionalization and the importance of raising children in permanent families. This campaign addressed a critical barrier in the implementation of child welfare reform: people's mentality that the state could provide better care for the vulnerable children than the family, which resulted in the continuous pressure on maintaining the institutions.

## II. LESSONS FROM ROMANIA'S ACCESSION PROCESS COULD APPLY TO CURRENT EU ENLARGEMENT AND NEIGHBOURHOOD POLICIES TO INCREASE THE IMPACT OF CHILD PROTECTION REFORM IN THE REGION

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### A. THE VALUE OF ROMANIA'S LESSONS FOR THE REGION

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Romania's story is a vehicle of reflection. Because Romania's accession process established a new paradigm of engagement for the EU's human rights agenda, the elements of the story can help EU program and policy makers reframe Enlargement and Neighbourhood Policy to better respond to the needs of vulnerable children throughout partner countries. Romania's story provides guidance for the process and outcome of EU support. Procedurally, Romania's story offers a patchwork of successful engagement practices that if applied today could generate increased political will for reform. Substantively, the new Pre-Accession Assistance and revised European Neighbourhood and Partnership Instrument planned for 2014-2020 can provide support to partner countries to overcome many of the key barriers to child protection reform. Some of those barriers to reform are similar across the region, and solutions exist within Romania's story.

Romania's story of child protection reform is also an aspiration of what is possible when multiple stakeholders from all levels of policy engagement come together to change the lives of children. In recognition that a government's response to all social protection issues, including child protection, is influenced by local, national, regional and international stakeholders, the work of the EU is a key element for change in the region. Namely, EU policy and political leverage are effective tools for real impact on the lives of children within partner countries.

### B. CAVEAT: SOME LESSONS AND VARIABLES ARE NOT REPLICABLE

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This research offers a snapshot of Romania's accession process. Time has elapsed since this period such that a new geopolitical context exists. The context that produced enthusiastic post-Communist transformation coupled with Europeanisation ushered in a unique phase of influence and incentive between Romania and the EU that no longer applies to current candidate countries. Thus, today's effects of accession in new candidate countries are not holistically explained by the external incentives model. The level of public and political determination to achieve closer ties to the EU is not parallel to Romania's highly enthusiastic response to potential EU membership. Veto players against EU membership or various reform efforts also exist within

the domestic context that minimizes potential influence. Furthermore, conditionality as defined in Romania's narrative is no longer the same. Scholars argue that conditionality itself is a political process where a candidate country's self interest ultimately decides what reforms will be implemented (Scheele, 2010).

Instead, EU stakeholders acknowledge that the social learning model provides another significant platform for reform in candidate countries; EU expert delegations visit and provide responsive assistance to candidate countries on a variety of issues relative to accession as a way to encourage reforms. Funding, programmes and twinning are significant parts to EU-driven engagement with candidate countries. The principle of 'joint ownership' is a key element for this engagement (Meloni, 2007).

Further, child protection reform is important in partner countries within the Eastern Partnership that are not on a path towards accession. These countries do not access the benefits that flow from the process of accession. Conditionality attached to membership is not an option to create incentives for child protection reform. Instead, the EU's 'more for more' policy is one such example of today's modern form of 'conditionality' which offers new benefits for progress made. Again, this methodology encourages the social learning model as partner countries decide the depth and breadth of their reform efforts.

The visibility of Romania's institutionalised children also became an important factor to spur reform and increase EU engagement. EU constituents and worldwide concern encouraged Romania's reform efforts and EU action. Although common classes of vulnerable children exist throughout the region, such children are less visible within the media and general public and thus do not register on the global public agenda in the same way. Without mass media's attention and global significance, reform is more difficult to achieve because there is a lack of external monitoring, ongoing political will to respond and at times, insufficient funding from ODA donors.

### C. LESSONS AND VARIABLES THAT ARE REPLICABLE

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At the same time, Romania's experience during its accession period offers very tangible lessons for today. Not only does the telling of Romania's narrative provide

necessary inspiration that demonstrates the power of EU and partner country engagement for sustainable change – as a testament to what is possible – but contextually, lessons can be drawn from Romania's narrative because similar classes of children exist throughout the region and partner countries are working towards the same child protection reform goals that Romania once pursued. Countries in post-transition from Communist regimes must still deinstitutionalise children and/or create systems that care and protect children within family structures and communities. Furthermore, partner countries within the region face some of the same challenges to reform that once existed in Romania; namely, incomplete decentralisation, a lack of political and administrative capacity, isolated service implementation and funding shortages that hamper the transition from old to new structures and systems.

With this similar landscape, the EU can apply lessons from Romania's accession period to partner countries within the Central and Eastern European and South Caucasus region. Applicable lessons fall within two categories. First, the EU's 'methods' or tools of engagement with Romania offer a successful roadmap to encourage political will. Second, the EU's support of specific reform themes that were once vital for Romania's reform achievements is relevant to build political capacity for reform.

### *Tools of Engagement*

The EU's methods of engagement with Romania offer a successful roadmap to encourage political will. It is certainly true that all countries in the region express the political will to care for their children. However, like Romania, the number of competing reform priorities and other more acute political pressures can easily sideline vulnerable children, a demographic class of the population who do not have a democratic voice. During Romania's accession period, the EU played an important role to encourage political will and increase the visibility of child protection reform. The EU provided this encouragement through three different avenues.

First, the EU maintained a unified voice about Romania's child protection reform efforts. It coordinated its messaging and used the strengths of each main EU stakeholder institution to keep the issue current (in this case, the EC and EP). A unified, coordinated voice allowed for credibility of message, consistency of engagement (sharing the burden of engagement between multiple EU stakeholders) and in turn, the ongoing presence of Romania's political will to respond in kind. Today, the EU's ability to provide a unified and coordinated voice on child protection reform in partner countries is more audible today than during

Romania's accession period; the EU's External Action Service created under the Lisbon Treaty provides the very platform to coordinate a unified voice on child protection around the region, and even throughout the world.<sup>38</sup> Efforts to harmonise the EU's voice for child protection reform are also made easier due to child rights norms articulated in *The EU Guidelines for the Promotion and Protection of the Rights of the Child* (2007), *Towards an EU Strategy on the Rights of the Child* (2006), *A Special Place for Children in EU External Action* (2008) and *An EU Agenda for the Rights of the Child* (2011). As the EU External Action Service has also adopted child rights as one of the three main cross-cutting human rights priorities for the next three years, there is even more energy and opportunity to create a unified voice for children.

Second, central to EU engagement on Romania's reform efforts was the role of the EP Special Rapporteur to Romania. The Special Rapporteur created and maintained a political space for child protection reform. In essence, due to the targeted focus on child protection issues, the Special Rapporteur adopted this issue as one of the mainstays of her involvement in Romania. Crucial to the job, the EP Special Rapporteur developed intimate knowledge of the reform process and helped coordinate EU messaging and involvement in the reform. Her vocal messages and longevity within the position did indeed encourage Romania's continued political will on an issue that required a marathon response. A similar role in today's EU structure would be a welcome element to encourage partner country efforts from a perspective of knowledge and longevity (stability of leadership). There are clear methods of engagement for EU action that worked in the case of Romania and are replicable within today's context of reform.

### *Specific Reform Themes*

At the same time, the EU's support of specific reform themes that were once vital for Romania's reform achievements is relevant to build political capacity for reform efforts today. Such themes are still present today, and are:

1) **The decentralisation of child protection services.** Romania's reform strategy systemically decentralised child protection services, assigning responsibility to deinstitutionalise and set up alternative community based services to local authorities. Decentralisation proved strategic to create and contextualize services within

<sup>38</sup> 'From now on, the EU can speak and act as one, increasing its impact by bringing together traditional foreign policy instruments with the whole range of other tools such as financial assistance and trade.' (Füle, 2010).



communities where families of institutionalized children lived. The national government adequately funded the decentralisation of services to maintain responsibility with resource allocation. The EU worked in strategic coordination with other donors to handle the costs of parallel systems: a very expensive system based on institutional care and one, nascent, based on the models piloted and demonstrated by previous donor programmes<sup>39</sup> or NGO initiatives. Today, central authorities with partner countries have transferred the responsibility for service delivery without at the same time building the organisational capacity of local authorities to undertake this task. Additionally, the local tax base and transfers from central budgets are not always sufficient to adequately fund service delivery.

**2) One central agency on child protection.** The creation of a central child protection agency charged with the reform process and reporting directly to the Prime Minister changed the reform landscape in Romania. Romania's central authority made the reform process more simple, transparent and coordinated; political manoeuvres and veto reduced while holistic strategic action increased. The EU targeted funding for the government's central authority and also sponsored the drafting of a national action plan to coincide with the central authority's mandate. Today, partner countries host child protection mandates, functions and budgets within and between various horizontal domains in government. A central and political leadership on child protection offers new emphasis on strategic decision making and budgetary allocations.

**3) Successful service models brought to scale for nationwide coverage.** Key to Romania's reforms and completed in a relatively short period of time, the use and scale up of successful alternative service pilots, such as foster care or services for children with disabilities, created

a network of nationwide service coverage. The EU and other donors financed the replication of service delivery. Instead of funding isolated models, the donors agreed to coordinate (via government) specific types of interventions based on their strengths and strategic priorities and even coordinated their geographic targeting. Today, partner countries and NGOs working within the countries have already created single, successful services that directly impact the lives of children. The next step is to scale up these models for nationwide coverage.

**4) Strategic, coordinated and monitored funding.** Romania's successful reform efforts increased once the government operationalised a strategy for reform and coordinated donor funding to coincide with the strategy. Prior to 1997, the massive amounts of funding and the government's political will to see reforms through did not yield progress. At the same time, the EU held local and national actors' accountable for the agreed-upon objectives while providing funding to facilitate the implementation of the objectives. Today, partner countries have developed National Action Plans (NAPs) and also receive donor funding from various governments and institutions worldwide. Coalesced funding, technical expertise and monitoring to support the implementation of NAPs offer a strategic course to leverage of capacity and funding.

<sup>39</sup> Phare Child Protection 1992 allocated 12 million Euro to support the Romanian Government in implementing the National Action Plan for Children. The programme included policy development, staff training, prevention of institutionalization and development of alternative care.

### III. EFFECTS OF EU ENGAGEMENT FOR TODAY

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In 2014, the EU will enter a new paradigm of engagement with partner countries. Under new Pre-Accession Assistance and the revised European Neighbourhood and Partnership Instrument planned for 2014-2020, the European Union can provide substantial support to partner countries to overcome many of the key barriers to child protection reform and strategically focus next phase reform efforts. The EU's view of the Enlargement process and the 'more for more' approach emphasised in the Neighbourhood policy give unique incentives for such reforms.

Within this construct, the effects of EU engagement are not necessarily based on the external incentives model, but have also taken on the valuable models of social learning and lesson drawing; governments choose to reform and align their domestic agenda because EU influence verifies the appropriateness of such reforms and because partner countries seek solutions to domestic problems.<sup>40</sup> Both models provide a symbiotic strategy for child protection reform.

Given the experience of Romania and other new Member States in child protection reform, the EU holds a treasure chest of experience to influence reform directions.<sup>41</sup> These new Member States have a crucial role to play in child protection reform across the region. Heralding their own successes and challenges, new Member States offer tried

<sup>40</sup> Furthermore, while all three models – external incentives, social learning and lesson drawing – can explain *successful* transfer of norms, *effective* transfer is more likely in the social learning and lesson-drawing models (Schimmelfennig and Sedelmeier, 2004). Rules that are transferred through social learning or lesson-drawing are much less contested domestically due to the growth of reception and buy-in. Implementation of such rules is more likely to result in behavioural rule adoption and sustained adherence; for example, the central banking independence in Poland, which was adopted as the result of a social learning process enjoyed wide acceptance and was successfully defended against governmental attacks by a broad coalition of societal actors. By contrast, the coercive process that led to the adoption of agricultural policy in Poland resulted in widespread domestic resistance and contestation (Schimmelfennig and Sedelmeier, 2004).

<sup>41</sup> Key reform stakeholders in Romania acknowledged from the beginning that Romania's experience should be seen as a case study for the region. Fokion Fotiadis, the Head of the EU Delegation to Romania between 1998 and 2001 stated in a public speech before the end of his tenure, 'Our ambition was for the reform to be a success in Romania, so that we can use it as a model for other countries.' See The Department for Institutional and Social Analysis, 2001, interview on Radio Romania Actualitati; in 2003, Jonathan Scheele, Head of the EU Delegation to Romania between 2001 and 2006 later declared that 'Romania may become a model for other countries, given the progress achieved during the past years; This reform is among the most dynamic and challenging and the pace must be kept up.'

and tested solutions to solve policy dilemmas. The body of knowledge and lessons learned during EU accession processes throughout the region, to include countries where child protection reform occurred but lacked the element of conditionality, is an indisputable resource to be tapped. Further, Romania's child protection reformers are experienced leaders who understand and can speak about Romania's journey; this provides necessary credibility with partner countries to walk alongside of them throughout reform. New Member States, having been through the reform period, are in a position to combine and harness their 'existing comparative advantages in the eastern dimension' (Lovitt and Rybková, 2007). At the same time, the EU has since developed a normative framework on child rights that sets the legal basis for engagement and influence. Given the EU's treasure chest of experience and its normative framework on child rights, there is new strength in the social learning model to influence child protection reform efforts across partner countries.

However, as scholars acknowledge that the social learning model is not sufficient to explain partner country reforms (Kelley, 2006), (Sasse, 2011), successful child protection reform demands further EU engagement. Such engagement is possible under the lesson drawing model because EU engagement invites reciprocity; partner countries also look to the EU to find solutions to policy problems. EU engagement provides opportunities to transfer successful policy and ideas from the EU to partner countries on their behest.

Partner countries around the region who face similar child protection reform challenges seek policy solutions to surmount identifiable barriers to reform to include: insufficient funding dedicated to reform efforts, the process of decentralisation (which divides responsibility from capacity and resources), a lack of political and administrative capacity to enact reforms and isolated, embryonic implementation of community based services. Two key factors, if present, can positively increase success under this model. First, the presence of epistemic communities promoting EU rules can emerge as a factor.<sup>42</sup> In this case, Romania and other new Member States represent this community; their treasure chest of learning and experience provide incentives for partner countries to seek answers from the EU. Second, there is often an element of domestic dissatisfaction about current policy

<sup>42</sup> The presence of EU-centred networks of experts and officials was an important condition, for example, for the import of EU rules for clear air policies in the Czech Republic (Schimmelfennig and Sedelmeier, 2004).

or its implementation (Rose 1991). Such dissatisfaction, although expressed by government, are often rooted in the outcry of need, visibility of issues and problems, and availability of evidence that pertains to the issue. Within democracies, these elements are often best displayed and examined by civil society. In this way, civil society becomes a key stakeholder for the success of EU engagement effects within child protection reform.<sup>43</sup>

The symbiotic relationship between new Member States and partner countries, best evidenced as a combination of the social learning model and lesson drawing model, can be harnessed by the EU for substantial gains in child protection reform throughout the region. With the tools or methods that increase political will (unified voice, special rapporteur), the EU can help countries build the political capacity to significantly change the lives of vulnerable children throughout the region.



<sup>43</sup> Societal strength is a necessary prerequisite of transnational reinforcement and since civil society is weak in post-communist countries, the downloading of EU values might be superficial and therefore inefficient in the long-term (Schimmelfennig et al., 2003), (Krysko, 2008). And thus, laws will be changed and leaders will display excellent appropriation of Western values but unless society is empowered to hold accountable its leaders, to mobilise for issues that are of shared concern and train leaders to practice accountability, the transfer of values is likely to remain on a superficial level.



## CONCLUSION

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Romania's story of child protection reform is a powerful testament of one nation's ability to change countless lives in a fundamental way. All too often, the history of human rights abuse is a story of missed opportunity, of nonfeasance, of failed efforts.

By contrast, Romania's reform narrative celebrates the ability to improve the lives of its most vulnerable children. Despite the several remaining challenges, the triumph of this systemic change is epic in the history of social reform. Romania made child rights tangible in a concerted way in a short period of time through an orchestrated collaboration.

The EU is at the threshold of another epic opportunity to broaden children's human rights in a tangible and lasting way. Children in partner countries continue to be among the most socially and economically vulnerable groups region wide. Increasing numbers of children are exposed to violence, abuse and neglect. Children reside in residential institutions; children are marginalised due to disabilities and special needs; children are 'home alone' as a result of migrant parents; children suffer domestic violence; children are trafficked and exploited.

Each one of these young citizens deserves the opportunity and choices promised by democracy. Change is possible as the Romania story proves.

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## ANNEX A.

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### CHRONOLOGY OF EVENTS

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This chronology highlights key events on Romania's path to EU accession and key milestones in child protection reform, set against the backdrop of geo-political, political and economic contexts between 1989 and 2007. This period marked the beginning of Romania's break from Communism and the reform of large scale residential institutions, and marked the end of Romania's accession journey to EU membership.

The chronological framework builds on the division of the child protection reform period as proposed by (Greenwell, 2003), (Rus, 2011):

- 1) 1989-1996
- 2) 1997-2000
- 3) 2001-2004
- 4) 2005-2007

#### 1989-1996

Between 1989 and 1996 there were several new beginnings in Romania: the end of Communism, embarking on child protection reform and starting bilateral engagement with the EU.

Residential institutions were a component of social policy during the Communist government of Nicolae Ceaușescu, who ruled Romania until 1989. Generally, there were three main types of children living in residential orphanages: children with special education needs, attending boarding school; socially vulnerable children whose parents were unable to care for them (some, but not all, of these children were orphans); and children with physical or mental disabilities. At the time, social policy deemed that children aged 0 to 3 were placed in institutions run by the Ministry of Health, children aged 3 to 6 were placed in institutions for preschool children, while children aged 7 to 18 were placed in institutions for school age children. The Ministry of Education was overseeing institutions for preschool and school aged children, as well as the boarding schools for children with special education needs. Social policy deemed that children with disabilities should be separated from those that did not (Madison, 1968). Conditions in residential institutions were characterised by overcrowding, abuse, limited and inadequate staffing, and poor education, health and other services (Tobis, 2000).

In 1989, the Romanian Revolution overthrew Ceaușescu's regime. Shortly afterwards, international media shed light on the state and plight of children living in residential institutions. The exact number of children in state care in

1989 is unknown; estimates range from 90,000-100,000 (Roth, 1998) to 140,000-150,000 (Binder, 1991), (Sorelle, 1997), (Gaetan Kennelly, 2005) and up to 200,000 (Roth, 1999). The media exposé had an immediate and significant emotional impact on people from all around the world.

During the 1990s, hundreds of humanitarian, donor, international and other organisations came to Romania to provide assistance, mostly in the form of emergency care to children living in residential orphanages. Estimates of the number of these organisations range from 300 to 800 (cf. Kligman, 1998; Roth, 1999; and DPC, 1998, in Greenwell, 2003). The level of financial assistance in the first decade after 1989 is estimated at US \$1 billion (Interview, 2012).

As from 1990, the new democratically elected government, formed by the Democratic National Salvation Front (FDSN), took a range of child protection measures in line with international norms. The United Nations Convention on the Rights of the Child (UNCRC) was signed in 1990 and adopted into domestic law.<sup>44</sup>

The elections in 1992 reconfirmed President Iliescu and a majority of FDSN (which then became the Social Democratic Party). The new government approved the establishment of the National Committee for Child Protection (NCCP),<sup>45</sup> with responsibility for developing and implementing strategies for child protection, including monitoring implementation of the UNCRC as part of a multi-ministerial team; and the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption (Hague Convention) was ratified in 1994. The NCCP could not deliver on those expectations because its relationship with the other governmental entities was one of 'acceptance'. In addition, the ministries that had institutions under their jurisdiction such as the Ministry of Health, Ministry of Labour and Social Protection and Ministry of Education, largely opposed reform.

The FDSN Government formally kick-started Romania's journey towards EU membership: in 1993 the Europe Agreement was signed and in 1995 Romania's application for EU membership was submitted.

In 1996 the centre-right coalition, Democratic Convention Alliance, came to power. President Constantinescu was pro-reformist and pro-West, with a view to both EU and NATO membership, and his policies reflected this stance.

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<sup>44</sup> Law 18/1990.

<sup>45</sup> Ordinance 103/1993.

## 1997-2000

During 1997-2000, Romania and the EU began bilateral talks regarding Romania's accession and further child protection reforms unfolded, against the backdrop of geo-political interests and economic crises in the region.

The Balkan region was boiling with economic and security tensions in the latter 1990s: Romania and other countries were on the brink of economic collapse; and escalating tensions between Serbia and Kosovo eventually broke out into war. NATO was the key player in this conflict and became interested in expanding its membership into the Eastern Europe region. Between 1997 and 2000, Romania took several steps to demonstrate its commitment to join NATO: inter alia President Constantinescu applied twice for membership, accepted an invitation to participate in multinational peacekeeping, and allowed NATO forces access to the country's air space and territory.

Between 1997 and 2000, Romania also began bilateral engagement with the EU for accession. One of the topics of early bilateral discussions in 1997 was the EC's decision to include child protection as part of the political Copenhagen criteria (Gaetan Kennelly, 2005).

The first comprehensive census of residential institutions was conducted in 1997, documenting 98,872 children in 653 residential institutions<sup>46</sup> (1.7% of the child population). With neo-liberal policies, President Constantinescu favoured structural reforms and put child protection on the political agenda; "decentralisation" and "deinstitutionalisation" were buzz words of the time and he proclaimed 1997 "National Year of the Child".

Shortly before the EU Avis 1997, the government introduced several key child protection reforms. In January, an Emergency Ordinance adopted by the new Cabinet spelled out one of the most important first steps towards fundamental reform in this sector: the reorganisation of the NCCP into the Department of Child Protection (DCP). The newly created DCP was responsible for developing the national strategy for the protection of children and their rights. In June, the DCP proposed and the Government approved emergency ordinances for the juridical regime of adoption in accordance with international law,<sup>47</sup> the protection of children in difficulty and transferring the responsibility for state child care to the county level.<sup>48</sup>

Other measures taken during this time included inter alia

<sup>46</sup> The number of classic institutions, being those with more than 100 children.

<sup>47</sup> Emergency Ordinance 25/1997.

<sup>48</sup> Emergency Ordinance 26/1997.

abolishing Law 3/1970 which favoured placing a child in a residential institution, creating a foster care profession, establishing Directorates for Child Protection at the county level<sup>49</sup> (Dickens and Groza, 2004), and creating a new ministerial post, State Secretary for Child Protection, with a direct reporting line to the Prime Minister (Dickens, 1999) and thus high visibility in the government. The DCP was also tasked to coordinate the activity of the Romanian Adoption Committee. The first State Secretary for Child Protection was Dr Cristian Tabacaru, who promoted the decentralisation of services, and the deinstitutionalisation of children, by the creation of alternative services to residential institutions, and the scale up of NGO pilots in the state system.

According to (Greenwell, 2003), the package of reform measures during this time brought about several fundamental changes in child protection reform in Romania: 1) a commitment to preventing abandonment of children by encouraging local communities and civil society to create alternatives to institutions, 2) a larger and more experienced social work force to encourage family placement over residential institutions, and 3) decentralised decision-making and delegation of responsibilities in the sector.

There was enthusiasm among NGOs and donors alike for these reforms (Gaetan Kennelly, 2005) as well as from the EC.

In the 1997 Opinion on Romania's application for EU membership, the EC noted both positive and negative aspects of Romania's child protection situation. On the one hand, the EU declared that the state of more than 100,000 children living in residential institutions breached Romania's UNCRC obligations. On the other hand, the EC hailed that the situation may improve in light of the Government's 1997 reforms. The EC concluded that the "improvement in Romania, following the arrival in power of a new government, indicates that Romania is on its way to satisfy the political criteria" (European Commission, 1997).

In 1998 Romania's accession process was 'formally launched' (European Commission, 1998). The Accession Partnership was adopted, in which the "continuation of child protection reform" was included. In addition to increased Phare assistance, including for child protection, the EC began undertaking annual reviews of Romania's progress in preparations for EU membership. In the same year, a new EU Head of Delegation in Bucharest was appointed, Fokion Fotiadis, and the EC presented its first

<sup>49</sup> Government decision 205/June 1997.

report on Romania's progress towards the fulfilment of accession criteria. The EC noted both improvements and gaps in child protection reform. On the one hand, the EC praised overall positive change in government policy, and specifically applauded the new legislative protection for children and the decentralisation of responsibility to the local level. On the other hand, the EU highlighted gaps in policy implementation for the reintegration of children into their families (European Commission, 2008).

In parallel with restructuring the child protection system, the Government embarked on a process of administrative decentralisation, through implementation of the Law on Local Public Administration<sup>50</sup> and the Law on Local Public Finance.<sup>51</sup> As a result, a share of funding for child protection activities was to be covered by the local community. However local administrations did not allocate sufficient funds to the child protection departments and an unprecedented financial crisis started in 1998, which got progressively worse in 1999. This crisis shattered the morale of the Romanian reformers. In 1999, Dr Cristian Tabacaru, the first State Secretary for Child Protection, resigned.

The 1999 EC Progress Report for Romania warned that the assessment of its overall progress could change if the government failed to prioritise the crisis of children in state care (European Commission, 1999). In the same year, the EC gave a conditional recommendation for Romania to start accession negotiations in 2000. Negotiations were subject to an improved situation of children in residential institutions and the drafting of a medium-term economic strategy (European Commission, 1999).

Key EU officials in Brussels continued to support Romania's accession to the EU in the three-year period before official negotiations started. In 1999 the new EC President, Romano Prodi, and the new Commissioner for Enlargement, Günter Verheugen, were advocating for a stronger commitment to Enlargement and proclaimed their support for Romania's accession. As Verheugen stated, 'the EU wants to be sure Romania will go on with the process of accession no matter what.' (Phinnemore, 2001).

In 2000, Romania started negotiations for EU membership. Less than one week before the 2000 Brussels summit, the Government passed a series of emergency ordinances in child protection, including inter alia legislating the structure and function of the new National Agency for the Protection of Children's Rights<sup>52</sup> (NAPCR), mandating

that organisations dealing with adoptions were to function in alignment with international conventions<sup>53</sup> and adopting the National Strategy on Child Protection 2000-2003, which focused on preventative measures (to decrease the number of children at risk of being sent to residential institutions) and deinstitutionalisation (to decrease the number of children living in residential institutions) (Iusmen, 2008).

At this time, residential institutions for children with disabilities and special needs were still under the coordination of the national level Agency for People with Handicap. The Ministry of Education became the subject of a new wave of reform. These institutions were not progressing with reforms. Thus in April the Government decided to reorganise these structures and an additional 23,825 children in residential care were transferred under the authority of Directorates for Child Protection at the county level (and the technical coordination of the NAPCR).

In line with its dual reporting mode, the EC noted both progress and hindrances in child protection in 2000. According to the EC, Romania had adopted legislative, administrative and financial measures with Phare support to address the issue of child care institutions, but that the living conditions of over 100,000 children had not improved and the problem of street children needed to be addressed (European Commission, 2000).

In 2000 the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy confirmed Baroness Emma Nicholson of Winterborne as the EP Special Rapporteur. At the initiative of the new EP Special Rapporteur, the Children's High Level Group was created as a consultative structure to the Prime Minister. With the EP Special Rapporteur and Prime Minister as co-chairs, this group brought together donors, diplomatic representatives, government representatives and NGOs.

The November elections of 2000 again brought to power the centre-left government, PSD, with President Iliescu and Prime Minister Nastase – both of whom stayed in power throughout the negotiation period until 2004.

After 2000, the EC (via the Romanian government) became the main funder of child protection in the country.

## 2001-2004

The period between 2001 and 2004 was the height of bilateral negotiations between Romania and the EU for

<sup>50</sup> Law 24/1996.

<sup>51</sup> Law 189/1998.

<sup>52</sup> Government Decision 96/2000.

<sup>53</sup> Decision 1.315 on 7 December 2000.

Romania's accession. The Government made substantial efforts both to move the child protection reform process along and keep the issue high on the political agenda. The EC continued to publish its annual progress reports, noting inter alia Romania's progress, gaps and suggested next steps with respect to child protection reform. The EP also published reports, which tended to criticise the child protection situation more heavily than the EC.

In terms of geo-political issues, the events that unfolded on 11 September 2001 in the US changed the foreign policy landscape of the region. Foreign policy came into focus through the lens of terrorism. In 2002, the Romanian Minister of Foreign Affairs, Mircea Geoana, acknowledged the role of September as key for Romania's NATO bid. Authorities provided diplomatic and political support to the US, including troops in Afghanistan and alignment with the US position on Iraq (Gallagher, 2006) after which the support for Romania's accession from Italy, Spain and the UK increased (Gallagher T., 2005). In 2004 Romania joined NATO.

For the first six months of 2001, Sweden held the EU Presidency and put child rights on the agenda at the European level.

In January 2001, a new Emergency Ordinance created the National Authority for Child Protection and Adoption, including a new funding mechanism in support of the continuation of the child welfare reforms at the local level, or as a "safety net" for emergency funding of the child protection services in case of substantial risk (such as the financial crisis in 1999) that could jeopardise the reform efforts.<sup>54</sup> The National Interest Programs were competitive funding, with specific objectives approved every year by Government Decision, and opened to both the county public child protection structures (Directorates for Child Protection) and NGOs.

On 15 March 2001 the Romanian Committee for Adoptions suspended the system through which organisations obtained access to children for national and international adoptions.<sup>55</sup> The decision was taken following criticisms to the system and accusations that Romanian legislation encouraged the 'baby trade'.

In April the draft EP report on Romania was leaked, which had raised the question of interrupting negotiations for EU membership on the grounds of child protection, specifically the issue of international adoptions (Krysko, 2008). The EP

had no decision-making power on the matter of suspending negotiations (Pridham, 2007).

Romanian politicians reacted quickly and in defensive unison against the threat to suspend negotiations. Prime Minister Nastase claimed that the child abandonment problem had been turned into one serving different political games, woven abroad (Adevarul, 31 May 2011); others questioned the validity of the EP report's data and singled out the EP Special Rapporteur in this regard.<sup>56</sup> Romanian officials publicly aligned themselves with other key EU stakeholders who were pro-Enlargement and attempted to quell domestic public concern. As President Iliescu stated, "Parliamentarians are free to say what they want. Our partners in talks are Messrs Verheugen [Commissioner for EU Enlargement], Prodi [European Commission President] and others from the European Commission." (Rompres, 1 June 2001).

At the same time, the EP and EC maintained their own unified position on the issue. Chairman of the EP Foreign Affairs Committee, Elmar Brok, said: "[if] the facts on the institutionalised children presented in the report proved to be true, there are reasons to ask for the suspension of EU negotiations with Romania." (Nine O'Clock, 31 May 2001).

In the preceding months relationships between Romanian and Brussels officials began to heal in a cyclic manner. Child protection reforms were on the rise. After several political meetings and discourse between officials on both sides of the Enlargement coin, the EP Special Rapporteur agreed to modify the EP report but maintained that the Romanian government had to take concrete steps to solve the issue of institutionalised children (Mediafax, 12 June 2001). Following this, Prime Minister Nastase announced a moratorium on international adoptions. The Government approved the Strategy on the Protection of Children in Need 2001-2004<sup>57</sup> which focused on deinstitutionalisation, the closure of residential institutions and the creation of alternative services (Iusmen, 2008). The EP Special Rapporteur had helped draft the 2001-2004 strategy, and she praised the child protection reform actions of Nastase and the path of Romania's Euro-Atlantic journey: "[t]he Romanian Government under Adrian Nastase has marked the beginning of a real transformation in the situation of children in difficulty...we look forward to Romania becoming...a member of the EU and NATO." (Rompres, 2001). When the 2001 EP report was officially published for public release, the harsh light on child protection was toned down.

<sup>54</sup> Emergency Ordinance 12/2001.

<sup>55</sup> The system was introduced by Emergency Ordinance 25/1997; see also, <http://www.cdep.ro/interpel/2001/r100B.pdf>.

<sup>56</sup> See <http://www.ce-review.org/01/20/romanianews20.html>.

<sup>57</sup> Decision 539/7 June 2001.

The EP's criticisms of child protection in 2001 were one of two occasions during the negotiation period where Romania's lack of progress in meeting political conditions was linked with interrupting membership negotiations.<sup>58</sup>

The EC report of November 2001 again highlighted Romania's progress but at the same time noted what it saw as disappointing implementation of reforms: "[t]he reforms made mean that Romania has met the 1999 Accession Partnership priority related to child protection. However, and despite these developments, the demand for state-supported care remained constant in 2001." The EC suggested a better-targeted social allowance scheme for families to prevent child abandonment and institutionalisation, and inter alia noted gaps in the 2001-2004 Strategy on the Protection of Children in Need (European Commission, 2001). In response, the adoption moratorium was extended by the government.<sup>59</sup>

Also in November 2001, a major public awareness campaign, "A Children's Home is Not At Home", funded by the EU, was launched. This campaign was successful; it had a great impact in terms of visibility (70% of the population recognised the brand) and mentality shift. The campaign evaluation showed that 85% of the respondents considered that single mothers should not abandon their babies, and over 50% of the population considered that the best environment for a child without parental care is a substitute family. These responses were in line with the strategic direction for child protection reform.

In terms of child protection, 2002 was much quieter than 2001. The main feature was an ongoing promise by the Government to finalise the Child Act; however, it was not finalised until 2004.

In 2002, Romania moved yet another step closer to accession. The European Council announced its conditional objective to welcome Romania to the EU in 2007. The EC's 2002 report noted both positive and negative aspects of child protection (European Commission, 2002). The EC published a 'roadmap' to EU membership for Romania. Decision-makers in Romania had insisted on being provided with a roadmap, in order to have proof of the forward path to EU membership and as a check-list for adoption of the acquis (Spendsharova, 2003).

In 2003, the Romanian Parliament approved the establishment of the National Agency for Child and Family Protection, a specialised institution for the prevention and

combat of domestic violence.

In November, the 2003 EC report was published. It signalled progress in child protection as well as issues that needed to be addressed, such as street children and the integration of unaccompanied minors returned from abroad. Other issues highlighted were: the elimination of child labour, professional integration of people with disabilities and the introduction of child and family courts. Shortly afterwards, the standards on foster care services were approved by the Government (Cojocar, 2008), which were the first official standards in the domain of child protection to be legislated.<sup>60</sup>

In February 2004, the EP's report was critical of Romania's record on political conditions (Noutcheva and Bechev, 2008) including child protection, stating that January 2007 was a realistic accession date only if Romania took the necessary measures related to the Copenhagen political criteria. The EP issued a serious warning and asked for severe monitoring of reforms. The result of the EP's criticism was the 'To Do List', conceived by the EC Delegation, of some thirty items to be completed by July 2004 (Pridham, 2007), (Krysko, 2008).

In 2004 after three years of preparation, legislation was crafted on inter alia the protection and promotion of children's rights,<sup>61</sup> adoption,<sup>62</sup> the creation of the Romanian Office for Adoptions,<sup>63</sup> and the purpose, structure and function of the National Authority for the Protection of Children's Rights (NAPCR),<sup>64</sup> which was a specialised child protection body within the central public administration subordinated to the Ministry of Labour, Social Solidarity and Family.<sup>65</sup>

This new legislative package was the first to focus on the rights of children and not just the protection of children in special circumstances (such as when separated from family, subject to abuse or neglect, and disabilities). Furthermore, the primary role and responsibility of the family toward the child was emphasised, followed by the responsibility of the local community to provide support to parents in raising their children (through the County Public Social Assistance Services) and then only in subsidiary, the responsibility of the state. The County Directorates for Child Protection were merged with the County Public Social Assistance Services into the General County Directorates for Social Assistance and Child Protection (GDASPC). In sum, the

<sup>60</sup> Decree 177/2003 published on 22 January 2004.

<sup>61</sup> Law 272.

<sup>62</sup> Law 273.

<sup>63</sup> Law 274.

<sup>64</sup> By Government Decision 1432/2004.

<sup>65</sup> This legislative package entered into force on 1 January 2005.

<sup>58</sup> The second occasion was in 2004 over corruption (Pridham, 2002).

<sup>59</sup> Emergency Ordinance 121/2001 was modified by Emergency Ordinance 161/2001.

new legislation made the family legally responsible for bringing up the child, the focus was on prevention, family-type care and new community services (Iusmen, 2008).

Throughout the 2001-2004 period generally, the Romanian Government's attention to, and progress in, child protection was presented to the domestic and international arenas on many occasions. In 2001, Romania attended Sweden's international conference entitled "Let's Build a Europe for Children", and signed a proposal to include child rights among the Enlargement criteria along with 19 other EU Member States and candidate countries (Mediafax, 10 May 2001). Following the tension and attention surrounding the EP's 2001 draft report, the Government launched a book called "A Chance for Innocence" to provide information about children's rights and child protection in Romania. In November, the Romanian General Secretary, Șerban Mihailescu, met in Brussels with the Commissioner for Enlargement, Günter Verheugen, to whom he presented Romania's progress in the child protection area including the extension of the moratorium on adoptions until February 2003. Several high-level Romanian officials participated in national and international events, such as ChildNet's 'Best Practice in Child Protection' and the UN Summit for Children.

Likewise, throughout the 2001-2004 negotiation period key EU officials continued to support Romania's accession and the Romanian Government. In April 2001, the outgoing EU Head of Delegation, Fokion Fotiadis, praised "real engagement from the [Romanian] Government" as the guarantee of the reform process, rather than from pressures of the EU (Curentul, 1 March 2001). The EC Commissioner for Enlargement, Günter Verheugen, also gave positive feedback to the Government regarding its accession process on an annual basis. In February 2003, Verheugen visited Romania and reiterated the EU's strategic objectives towards Romania's accession.

In 2004 at the EC Reunion in June, the EU announced the goal of completing negotiations in 2004.

In 2004, elections brought to power a new centre-right government, Truth and Justice Alliance, as the closure of negotiations for EU membership was taking place.

In the latter part of 2004, the EC Report was published. It welcomed the new child protection legislation and deemed it in line with European standards (European Commission, 2004). By December, the Romanian government had provisionally closed *acquis* chapters; accession negotiations were completed. The conditional accession date of 1 January 2007 was confirmed.

## 2005-2007

The period between 2005 and 2007 signifies Romania's final steps towards EU membership and several key child protection reforms.

In February 2005, the EC issued a positive Opinion on Romania's accession and the EP gave its assent formal thereof. The Accession Treaty was signed in April 2005 and subject to ratification and certain conditions, Romania was deemed to enter the EU on 1 January 2007.

The 2004 child protection legislation package entered into force on 1 January 2005. Based on the new legislation, a new transition period started: from a system focused on the protection of the child in difficulty to a system which dealt with both protection and children's rights. The role of parents and families in education and child care was recognised beyond just that of the state, which was a shift in policy and mentality from the former Communist period.

As at 2005, more than 22 standards were approved for as many types of social services offered by the child protection system. By the end of the year, specialised state structures in charge of licensing and auditing were established. All entities operating child protection services were required to obtain a renewable license from the NAPCR as a means of quality control in service delivery. Multi-disciplinary services were created at the local level, after the merger of child protection departments with other social services in County Councils.

The EC Report of 2005 acknowledged Romania's child protection progress and regarded it as satisfactory in relation to Member States' best practices (European Commission, 2005).

In 2006 the NAPCR approved the minimum compulsory standards concerning case management in the field of child protection.<sup>66</sup>

The last EC Progress Report was issued in September 2006 and acknowledged the improvements in child protection, in particular: the significant reduction in the number of institutionalised children and the improvement of the living conditions in the remaining institutions. But at the same time the report requested the further closure of residential institutions for children in public care.

On 1 January 2007, Romania became a member of the EU.

<sup>66</sup> By Order 288/2006.

## ANNEX B.

### TIMELINE OF EVENTS

Date	Geo-political, Political and Economic Events	Child Protection Events <sup>67</sup>
1989	<ul style="list-style-type: none"> <li>Fall of Ceaușescu's regime and Communism</li> </ul>	<ul style="list-style-type: none"> <li>International media broadcasts children living in residential care to the international community</li> </ul>
1990	<ul style="list-style-type: none"> <li>Centre-left PSD democratically elected as the new government</li> </ul>	<ul style="list-style-type: none"> <li>UNCRC signed Humanitarian organisations begin emergency care for children in institutions</li> </ul>
1993	<ul style="list-style-type: none"> <li>Europe Agreement signed</li> </ul>	<ul style="list-style-type: none"> <li>National Committee for Child Protection established</li> </ul>
1994		<ul style="list-style-type: none"> <li>Hague Convention for adoptions ratified</li> </ul>
1995	<ul style="list-style-type: none"> <li>Romania applies for EU membership</li> </ul>	
1996	<ul style="list-style-type: none"> <li>Centre-right Democratic Convention Alliance elected</li> </ul>	
1997	<ul style="list-style-type: none"> <li>Bilateral talks for accession begin</li> <li>EU Opinion on Romania's accession notes that more needs to be done for accession</li> </ul>	<ul style="list-style-type: none"> <li>'Year of the Child'</li> <li>First census of children living in residential institutions undertaken</li> <li>First fundamental reforms in child protection including state coordination, deinstitutionalisation and alternative care</li> </ul>
1998	<ul style="list-style-type: none"> <li>War between Serbia and Kosovo breaks out</li> <li>Romania's accession process formally begins – child protection is included in Accession Partnership</li> <li>Fokion Fotiadis, EU Head of Delegation, appointed</li> <li>First EC report noting positive and negative aspects of child protection</li> </ul>	
1999	<ul style="list-style-type: none"> <li>Romania allows NATO to use its airspace and territory</li> <li>Romano Prodi, EC President, and Günter Verheugan, EC Commissioner for Enlargement, appointed</li> <li>EC progress report calls government to prioritise child protection</li> <li>EC conditional recommendation to start accession negotiations with Romania</li> </ul>	<ul style="list-style-type: none"> <li>National Agency for the Protection of Children's Rights established</li> </ul>
2000	<ul style="list-style-type: none"> <li>Elections bring centre-left PSD government back into power</li> <li>Negotiations for EU accession begin</li> <li>EC report notes positive and negative aspects of child protection reform</li> <li>EP Special Rapporteur, Baroness Nicholson, appointed</li> <li>EU becomes the main funder of child protection</li> </ul>	<ul style="list-style-type: none"> <li>National Strategy on Child Protection 2000-2003 for prevention and deinstitutionalisation adopted</li> <li>Children's High Level Group created and co-chaired by EP Special Rapporteur and Prime Minister</li> </ul>
2001	<ul style="list-style-type: none"> <li>Swedish EU Presidency puts child rights on the EU agenda</li> <li>September 11 attacks</li> <li>EP draft report leaked with possible suspension of negotiations over child protection</li> <li>EC report notes positive and negative aspects of child protection</li> </ul>	<ul style="list-style-type: none"> <li>Romanian officials attend "Let's Build a Europe for Children" and sign proposal to include child protection as Enlargement criteria</li> <li>Government produces a book on child rights and protection in Romania</li> <li>Moratorium imposed on adoptions</li> <li>Child Protection Strategy 2001-2004 adopted</li> </ul>

<sup>67</sup> This timeline *does not* attempt to include *all* child protection reforms developed and/or adopted by the Romanian government during 1989-2007, but merely a few to demonstrate the progression of reforms during this period.



Date	Geo-political, Political and Economic Events	Child Protection Events <sup>67</sup>
2002	<ul style="list-style-type: none"> <li>Romanian Foreign Affairs Minister notes significance of September 11 to Romania's NATO bid</li> <li>European Council announces its conditional objective to welcome Romania into the EU in 2007</li> <li>Roadmap for Romania's accession adopted</li> </ul>	<ul style="list-style-type: none"> <li>Romanian officials attend "Best Principles of Child Protection" event and UN Summit for Children</li> </ul>
2003	<ul style="list-style-type: none"> <li>Romania supports US position on Iraq</li> <li>EC report notes positive and negative aspects of child protection reform</li> </ul>	<ul style="list-style-type: none"> <li>National Agency for Child Protection and Family established</li> <li>Standards on foster care approved</li> </ul>
2004	<ul style="list-style-type: none"> <li>Romania joins NATO</li> <li>Truth and Justice Alliance party elected</li> <li>EP releases its report criticising child protection reform</li> <li>EC report approves child protection reforms</li> </ul>	<ul style="list-style-type: none"> <li>2004 legislative package for child protection adopted promoting child rights and child protection</li> </ul>
2005	<ul style="list-style-type: none"> <li>EC report praises child protection reforms</li> <li>Accession negotiations completed</li> <li>Accession Treaty signed</li> </ul>	<ul style="list-style-type: none"> <li>Standards approved for social services</li> <li>Specialised state structures in charge of licensing and auditing established</li> <li>All entities operating child protection services required to be licensed by NAPCR</li> <li>Multi-disciplinary services were created at the local level</li> <li>County Directorates for Child Protection merged with the general Social Protection services</li> </ul>
2006	<ul style="list-style-type: none"> <li>EC report notes positive and negative aspects of child protection</li> </ul>	<ul style="list-style-type: none"> <li>NAPCR approves compulsory minimum standards for case management</li> </ul>
2007	<ul style="list-style-type: none"> <li>Romania joins the EU</li> </ul>	

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## ANNEX C.

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### METHODOLOGY, SOURCES AND LIMITATIONS OF THE RESEARCH

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#### METHODOLOGY

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The research methodology had a two-pronged approach: 1) an analysis of official statistical and publicly available qualitative data and 2) supported by narrative inquiry.

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#### ANALYSIS OF OFFICIAL STATISTICS AND PUBLICLY AVAILABLE NARRATIVE

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This study aims to build a bridge between research related to child welfare reform generated by national and international organizations, and agencies that tend to focus strictly on the reform process; and academic papers that look at Romanian child welfare reform through the lens of theoretical frameworks, mainly international relations theory.

A wide range of secondary sources were consulted. Non-academic sources were further sub-divided into three categories: official EU-level information, official national-level information and mass-media coverage, as a link between the two. Content analysis was undertaken of the following sources: EU documentation (including European Commission 1997 Opinion, European Commission Regular and Monitoring Reports 1998-2006, European Parliament reports 2000-2004, EU strategic communications related to children's rights, Council of Europe Reports on Human Rights for Romania and Bulgaria), Romanian-based stakeholders (including official documentation produced by the Romanian Government) and various Child Protection authorities, UN agencies and NGOs in Romania (a comprehensive list is provided in the bibliography). A third strand of content analysis included mass-media coverage of relevant EU-accession and child protection reform related information as published in *Adevarul* and other national dailies, with a particular focus on the events of 1997 and 2004, the two bracket years in terms of legislative reform.

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#### NARRATIVE INQUIRY

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The second prong of the research methodology, underpinning and strengthening the official sources, was narrative inquiry. Twenty five professionals involved in child protection reform in various capacities were interviewed in the framework of this study. An oral history method was used, as described by (Chase, 2005) to elicit 'the meanings that events hold for those who lived through them' rather than focus on the historical events themselves.

Some of the professionals interviewed held different

capacities throughout the period of the reform. Broadly, the respondents represented the following categories: donors (including the EC, EC Delegation, DFID, USAID, World Bank), the EP Special Rapporteur, past and present Child Protection Authority members, INGO, UN agency and local NGO staff and academia. The contributions of these key informants have enriched this research.

Some of the interviewees no longer held any official position or had moved on from the initial capacity held during the reform period. Most non-government organisations staff interviewed had been part of the child protection reform since the mid to late 1990s; a few had also been part of the early 1990s emergency interventions. Several respondents wished to express their opinions in a personal capacity rather than a professional one. The INGO and NGO representatives were randomly selected from the member list of the Federation of Child Focused NGOs (FONPC) based on their level of involvement during the child protection reform, according to the following criteria: capacity (one proxy indicator used was the successful implementation of institutional grants during reform), specialisation (for example, deinstitutionalisation, disability, adoption, life skills for institution graduates) and country coverage (county-based NGOs as well as Bucharest-based ones).

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#### RESEARCH LIMITATIONS

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The most important limitations influencing the outcome of the study were related to the time period of research (fifteen years after the start of the reform period and five years after accession), the accuracy of the numerical information available and the range of information that respondents had access to during the reform period. Also, although to every extent possible, interviews were carried out in person. When in person interviews were not possible, they were conducted over the phone. Although this did not seem to influence in most cases the openness of the respondents towards the study, it certainly limited the scope of engagement and observation.

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## ANNEX D.

### REFERENCES

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