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The Adoption, Implementation and Sustainability of Minority Protection Rules in the Context of EU Conditionality

A Comparative Analysis of Ten New Member States in Central and Eastern Europe

Research proposal submitted to the SNSF

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Table of Contents

1.	Project Summary and Relevance of Research.....	1
2.	Research Plan.....	2
2.1	State of the Art.....	2
2.2	Own Research.....	4
2.3.	Detailed Research Plan.....	4
2.3.1	Theory.....	4
2.3.2	Methods.....	6
2.3.3	Case Selection.....	6
2.3.4	Operationalization of the Dependent Variable.....	7
	2.3.4.1 Formal Rule Adoption.....	7
	2.3.4.2 Implementation.....	10
2.3.5	Operationalization of the Independent Variables.....	11
2.3.6	Data and Sources.....	16
2.4	Milestones and Timing.....	17
2.4.1	Expected Output.....	17
2.4.2	Organization and Allocation of Tasks.....	17

1. Project Summary and Relevance of Research

Since its inclusion in the ‘Copenhagen criteria’, the protection of ethnic and national minorities has been an important political condition set by the EU for applicant states. The EU has demanded and monitored compliance with international minority protection rules as a precondition for accession, while at the same time these rules are mostly (with the exception of non-discrimination on the basis of race and ethnicity) not part of the *acquis communautaire*. Two questions follow from this observation: first, to what extent was conditionality a necessary and sufficient factor for the adoption of minority protection rules in the Central and Eastern European (CEE) countries; second, how sustainable are minority protection measures after accession, when EU conditionality has ceased and compliance is not enforced by the internal EU sanctioning mechanism. The proposed research project investigates the sustainability of minority protection rules in the new EU member states in Central and Eastern Europe by analyzing the conditions for the adoption, implementation and maintenance of minority protection in the pre- and post-accession phase. The main research question is:

Under which conditions are minority rights and non-discrimination measures adopted, implemented, maintained or revoked in new member states before and after accession to the EU?

Research on the sustainability of minority protection rules – especially those that were induced by conditionality – has policy, empirical and theoretical relevance. Ensuring minority protection has been a major political goal for the EU (as well as other international organizations) due to the destructive potential of ethnic conflict. It continues to have a high degree of policy relevance, because the EU still applies conditionality with regard to minority protection to new applicants (most significantly in the Balkan region) without being able to incorporate minority rights into the *acquis*. Hence, knowledge regarding the sustainability of conditionality-induced minority protection rules after accession will be important to evaluate the effectiveness of the current and future EU policy towards applicant states in a specifically problematic region with respect to ethnic tensions.

Empirically, the project builds on existing research regarding international norms, conditionality and compliance, which has boomed during the last decade and also addressed the issue of minority protection in the context of EU enlargement. The project improves on the existing literature in several ways. It enhances the analytical depth by concentrating not only on the formal adoption, but also on the implementation of EU conditions, which have so far not been investigated in a systematic and theory-guided manner. It also increases the scope of the research in two ways: first in terms of time by including the post-accession period; second in terms of breadth by offering a systematic comparative perspective on all new CEE member states. The research project thus supplements and puts into perspective research on the effectiveness of conditionality, which has so far mainly stopped with accession and the cessation of conditionality.

Theoretically, the project addresses a puzzle for existing explanations of compliance with EU conditions. Theory-driven research on minority protection in the context of EU enlargement has so far focused on externally-driven rule adoption, i.e. on measures introduced as a reaction to external pressure. The main focus has been on testing rationalist against constructivist explanations of rule adoption. The findings in this area have largely corroborated the rationalist hypothesis that rule adoption in candidate states is predominantly driven by external incentives and cost-benefit calculations, whereas constructivist hypotheses regarding the adoption of legitimate norms through argumentative persuasion and socialization have been disconfirmed, because the conditions for effective persuasion were generally absent. This finding is especially clear in the area of minority protection, where the use of double standards and the highly controversial and politicized character of the norms provide particularly unfavorable conditions for rule adoption on the basis of ‘soft’ normative factors.

Since minority protection is a ‘least likely case’ for persuasion-based rule adoption, this project does not aim to run yet another test of rationalist against constructivist explanations of rule adoption, but instead concentrates on rationalist explanations, but refines them by putting a stronger emphasis on the balance between external and domestic factors. Although domestic conditions are part of the rationalist ‘external incentives model’, the project addresses two major shortcomings of the model in this regard. The first problem is that the model conceptualizes domestic factors as adoption costs, which are assumed to be always larger than zero (i.e. the governments of applicant countries are not assumed to gain positive net-benefits out of rule adoption). The possibility of domestically-driven rule adoption is acknowledged, but generally only in countries where domestic conditions were favorable before the onset of EU conditionality, in which case conditionality is not necessary and therefore also not applied. This might lead to an over-estimation of the effectiveness of conditionality in the cases where it was applied and rule adoption took place, but where domestic change led to conditions with already positive benefits for rule adoption. Second, the measurement of domestic adoption costs has so far been rather unsystematic, invoking all kinds of material and political costs as explanations for non-adoption.

The possible importance of domestic factors is even enhanced after accession, because the rationalist explanation based on external incentives predicts that rules transferred via conditionality should not be sustainable if conditionality is not replaced by other incentives (e.g. EU sanctions such as infringement procedures). The constructivist mechanism of legitimacy- and consensus-driven social learning followed by rule internalization would predict the sustainability of adopted minority protection rules, but as noted, the conditions for this mechanism of rule transfer were mostly not present. Still, preliminary empirical findings for the post-accession phase so far have not shown the revocation of minority protection rules in the CEECs on a large scale. The main question therefore is, whether we can in fact observe sustainable minority protection rules after accession, and whether this at first sight puzzling observation can be accommodated within the external incentives model.

The research project proposes and examines three possible solutions to this puzzle, the first two of which are compatible with the external incentives model, while the last implies at least a partial reformulation of the model towards a greater emphasis on domestically-driven rule adoption. First, the observed pattern of rule adoption can still be reconciled with the external incentives model if we are able to observe stagnation or indeed deterioration in compliance after accession, albeit not necessarily on the formal level of revoking legislation but instead on the level of implementation. Second, sustainability could be explained by favorable domestic conditions in the CEE countries after accession. However, since the external incentives model does not assume learning or other permanent effects on domestic actors, the only compensation for the absence of conditionality fully in line with the assumptions of the external incentives model are domestic 'lock in' effects that prevent a reversal of established rules independent of political determinants (e.g. government composition). If, however, we do not see systematic variation between the pre- and post-accession phases either in terms of rule adoption and implementation, or in terms of domestic conditions, the third possible solution is that domestic conditions determine both the adoption and the implementation and sustainability of minority protection rules irrespective of the existence of conditionality.

This project aims to answer these questions by establishing a systematic overview over the conditions under which minority protection rules are adopted, implemented, upheld or revoked. To do so, the project will collect coded databases of rule adoption and implementation for all new member states from the CEE region in five minority-related issue-areas that have gained considerable attention by international institutions and the EU in particular: non-discrimination, language use, education, citizenship and specific measures for the integration of Roma over a period of at least ten years (1997-2007). This database will form the basis for conducting a fuzzy-set Qualitative Comparative Analysis (fsQCA) in order to establish the conditions of rule adoption and implementation. Independent variables for the analysis are two international (external incentives, external funding) and five domestic factors (government ideology, veto players, capacity for mobilization, norm entrepreneurs, material costs), which are derived from the main factors assumed to determine rule adoption in the theoretical literature. Moreover, the database itself will provide systematic data covering a large number of countries and issues, which may prove valuable for other researchers investigating the adoption and implementation of minority protection rules in the CEE candidate countries before and after accession.

2. Research Plan

2.1 State of the Art

The study of minority protection in the context of EU enlargement can be related to three different strands of theoretically informed literature from the fields of International Relations (IR) and European Integration (EI): compliance with international norms, Europeanization, and enlargement. In the IR literature, scholars analyzing the role of international norms and institutions have long investigated human rights (Chayes and Chayes 1993, 1995; Donnelly 2003; Finnemore 1993, 1996; Keck and Sikkink 1998; Klotz 1995; Moravcsik 2000; Risse, Ropp and Sikkink 1999; Sikkink 1993), and some IR scholars have explicitly focused on minority issues from a perspective of international norms, institutions or regimes (Bartsch 1995; Jackson-Preece 1998; Krasner 1999).

In the field of EI, the Europeanization literature, which concerns the domestic impact of EU rules in member states (Börzel and Risse 2000; Cowles, Caporaso and Risse 2001; Knill and Lehmkuhl 2000; Radaelli 2000), has so far addressed the issue of minority protection mainly in one area where EU rules do exist, namely the transposition of the EU non-discrimination directives (Bell 2003; Dimitrova and Rhinard 2005), because special minority rights are not (yet) part of the *acquis communautaire*. The role of minority rights in the EU context has therefore mainly been addressed either normatively as a case of 'double standards' and a desideratum for the Union (De Witte 2000, 2004; De Witte and Toggenburg 2004; Pentassuglia 2001; Toggenburg 2000, 2003, 2005) or empirically as a negative case for the institutionalization of human rights within the EU (Schimmelfennig et al. 2006; Schweltnus 2001, 2006b).

Finally, the enlargement literature, which initially mainly addressed the question of ‘why enlarge?’ (Moravcsik and Vachudova 2003; Schimmelfennig 2000, 2001; Schimmelfennig and Sedelmeier 2002; Sjusen 2003), has turned towards studying the effects of EU conditionality (Schimmelfennig and Sedelmeier 2005). In this literature, minority rights as a political condition for accession to the EU have taken a prominent place (Hughes and Sasse 2003; Vermeersch 2003, 2007; Kelley 2004a, 2004b; Ram 2001, 2003; Sasse 2006; Schimmelfennig, Engert and Knobel 2003, 2006; Schweltnus 2005a).

Within all three strands of literature, the main theoretical debate is between rationalist and constructivist explanations of rule adoption, which focus on two different mechanisms for compliance with international norms. From a rationalist perspective, compliance is driven by rational actors calculating the costs and benefits of rule adoption in the light of external incentives as provided by conditionality (Grabbe 2001, 2002; Pridham 1999; Schimmelfennig and Sedelmeier 2004, 2005, 2007; Vachudova 2001, 2005). Moderate constructivists, on the other hand, argue that ‘soft’ mechanisms such as persuasion, argumentation or social learning lead to socialization and internalization, and hence compliance with international norms (Checkel 1997, 1998, 1999a, 1999b, 2000, 2001a, 2001b, 2003; Checkel and Moravcsik 2001; Cortell and Davis 1996, 2000; Johnston 2001; Koh 1997; Risse 2000). A third theoretical perspective is added by critical constructivists, who argue that the lack of a principled justification of the EU’s insistence on minority rights in the CEECs as well as the use of double standards will lead to ‘contested compliance’ (Wiener 2004), i.e. only formal compliance with EU demands without a stable consensus being forged in favor of the adopted rules.

From the perspective of this theoretical debate, minority protection in applicant countries is a particularly interesting case, because it leads to different expectations for the effectiveness of either mechanism. While conditionality should work as long as conditions are clear and the link to membership credible, attempts aimed at persuasion should only be successful if normative pressure or argumentation rests on legitimate norms. The application of ‘double standards’ should therefore severely impair the success of persuasion attempts. Also, the highly controversial and politicized nature of minority protection usually prevents rule adoption via the mechanism of argumentative persuasion (Checkel 2005: 10). Hence, all three theoretical perspectives point towards one expectation: that in the case of minority protection, rule adoption should mainly be driven by conditionality, and short-term compliance as a result of effective EU conditionality should not lead to sustainable implementation and internalization. It should remain a highly contested issue prone to implementation failures and perhaps even formal revocation of minority protection rules after accession (cf. Hughes and Sasse 2003; Sasse 2006; Vermeersch 2003, 2007). While conditionality may change government policies and state institutions during the accession phase, full implementation is much harder to achieve and rule adoption can come to a halt or even relapse once the ultimate incentive for compliance – accession – is achieved (Schimmelfennig and Sedelmeier 2004: 675).

Empirical research on the pre-accession phase so far corroborates the expectations of the abovementioned theoretical literature with regard to conditionality as the predominant mechanism of rule adoption in the case of minority rights. Whereas the apparent lack of legitimacy has not significantly inhibited the success of EU conditionality in the short run, persuasion-based efforts often proved unsuccessful in cases with strong domestic opposition. ‘Soft’ mechanisms only seem to work in cases where external influence is hardly needed, i.e. when domestic opposition is low and domestically driven rule adoption is likely to occur (Checkel 2000). Hence, conditionality has been found to be both necessary and sufficient to induce policy change in applicant countries in most of the cases relevant for this study (see e.g. Kelley 2004a, 2004b; Schimmelfennig, Engert and Knobel 2003, 2006).

With regard to the second prediction regarding the danger of non-compliance once membership is achieved, preliminary empirical findings for the post-accession phase so far have not shown the revocation of minority protection rules in the CEECs on a large scale (Schimmelfennig and Schweltnus 2007). Moreover, while Europeanization research has turned towards studying systematically the causes of non-compliance with and non-implementation of EU rules (Falkner et al. 2005; Börzel 2003; Börzel, Hofmann and Sprungk 2003; Börzel et al. 2006), theoretically informed conditionality studies have so far mainly focused on the formal adoption of EU conditions before accession, so that knowledge regarding the causal conditions for the post-accession implementation and sustainability of measures adopted under conditionality is limited so far.

The majority of empirically oriented research constitutes country-specific case-studies studies (e.g. Nastaša-Kovacs and Levente 2000; Lauristin and Heidmets 2002; Smith, 2002; Polzer, Kalcina and Zagar 2002; Dobre 2002; Topidi 2003), or is even confined to single policy areas within the field of minority protection (e.g. Walsh 2000; Krizsán 2000 on minority self-government in Hungary; Jurado 2003 on education in Estonia; Morris 2003 on citizenship in Latvia) or the situation of a single minority in one country (e.g. Belitser 2001 on Rusyns in Hungary). Comparative studies on several countries generally include no more than three countries (e.g. Barrington 1995; Tsilevich 2001; Van Elsuwege 2004; Friedman, 2002; Vermeersch 2003; Ram 2003; Meijknecht, 2004; Skovgaard, 2007).

2.2 Own Research

Frank Schimmelfennig co-directed a series of international workshops on the ‘Europeanization of Central and Eastern Europe’ (with Ulrich Sedelmeier) that resulted in an edited volume with Cornell University Press (Schimmelfennig and Sedelmeier 2005; for articles summarizing the findings, see Schimmelfennig and Sedelmeier 2004 and 2007). This project proposed, and found strong evidence for, the external incentives model of Europeanization during the accession period. In addition, he has worked on the EU’s promotion of democracy and human rights (including minority rights) in Central and Eastern Europe. This research has covered numerous CEE countries as well as Cyprus and Turkey. It has used QCA as well as process-tracing analysis and recently a panel regression for the entire ‘European neighborhood’. The findings emphasize the relevance of a credible accession perspective and low domestic political costs as necessary conditions of EU influence (Schimmelfennig 2005; Schimmelfennig, Engert and Knobel 2003 and 2006; Schimmelfennig and Scholtz 2008).

Guido Schweltnus has collaborated in the abovementioned book project on the ‘Europeanization of Central and Eastern Europe’ both in terms of theory development and with an empirical chapter on minority rights. Empirically, he specializes in the field of minority rights in the EU and the CEE new member states and has analyzed the development of minority rights and non-discrimination rules within the EU (Schimmelfennig et al. 2006; Schweltnus 2001; 2006b), its use as a condition for EU membership (Lerch and Schweltnus 2006; Schweltnus 2006c), and the impact of EU conditionality in this issue area on CEE candidate countries in a comparative perspective (Schweltnus 2005a; 2006a; Wiener and Schweltnus 2004). In his dissertation, he has analyzed in-depth the development of minority protection in Poland (Schweltnus 2006d). Methodologically, he also has experience with using QCA (Schimmelfennig et al. 2006). Schimmelfennig and Schweltnus have investigated post-accession sustainability of conditionality-transferred rules in the in the field of minority rights and non-discrimination. Their preliminary findings have not shown the revocation of minority protection rules in the CEECs on a large scale, thus establishing the initial puzzle for this research project (Schimmelfennig and Schweltnus 2007).

Liudmila Mikalayeva has been working as an assistant at the Chair for European Studies since December 2006. She holds a Diploma in Political Science and European Studies from the European Humanities University (EHU) in Minsk and a Master degree of research in Public Policy from the Institute for Political Science in Paris. Her Master thesis analyzes the dialogue between Estonia and Council of Europe on the issue of national minorities. She has recently successfully submitted her PhD research proposal to ETH, which builds on her previous research. Schweltnus and Mikalayeva have already begun with the data collection, systematization, and preliminary coding of the dependent variable in the country cases allocated to them (see below 2.4.2 Organization and Allocation of Tasks).

2.3 Detailed Research Plan

2.3.1 Theory

The theoretical starting point of the project is a rationalist *external incentives model* of externally-driven rule adoption (Schimmelfennig and Sedelmeier 2004, 2005, 2007), which assumes actors to be rational utility maximizers calculating the material as well as political costs and benefits of rule adoption and implementation. From the perspective of the external incentives model, the main driving force of rule adoption is membership conditionality. ‘The dominant logic underpinning EU conditionality is a bargaining strategy of reinforcement by reward, under which the EU provides external incentives for a target government to comply with its conditions’ (Schimmelfennig and Sedelmeier, 2004: 662). The basic prediction of the external incentives model is that a candidate state ‘adopts EU rules if the benefits of EU rewards exceed the domestic adoption costs’ (Schimmelfennig and Sedelmeier 2005: 12). External incentives alone are therefore not sufficient to induce rule adoption – they also have to surpass domestic adoption costs. If adoption costs are prohibitively high, rule adoption is not likely. However, the conceptualization of domestic factors in the external incentives model has two major shortcomings.

First, domestic factors are conceptualized as adoption costs, which are assumed to be always larger than zero. While high political costs prevent rule adoption and moderate costs lead the model to expect compliance as a result of effective conditionality if the ‘supply-side’ conditions are fulfilled, governments of applicant countries are not assumed to gain positive benefits out of rule adoption in the absence of external incentives. The possibility of domestically-driven rule adoption is acknowledged, but generally only in countries where domestic conditions were favorable before the onset of EU conditionality. In such cases, conditionality is not necessary and therefore also not applied. If conditionality is used, however, it is assumed that candidate countries incur at least moderate costs for compliance. This might lead to an over-estimation of the effectiveness of conditionality in the cases where it was applied and rule adoption took place, but where domestic change led to conditions with

already positive benefits for rule adoption. With regard to minority protection, positive political benefits might arise for governments that represent minorities, view them as an important electorate, or are ideologically leaning towards a pro-minority position.

Second, the measurement of domestic adoption costs has so far been rather unsystematic, invoking all kinds of material and political costs as explanations for non-compliance with external demands. On the most basic level, we can distinguish two different kinds of adoption costs: material and political costs. Material costs refer to the resources necessary to adopt and implement rules, which can be assumed to be generally larger than zero. Material costs gain importance in the implementation phase. Whereas the formal adoption of legislation is mostly not very cost-intensive, the implementation of legislation can imply more or less need for resources in terms of institutions to be established and maintained, personnel to be recruited and funding to be provided. Political costs refer to the consequences that political actors have to expect in case of compliance. The political costs of rule adoption can be disaggregated into several different factors: government ideology, veto players, mobilization, and norm entrepreneurs. Moreover, while some of these factors (veto players) only represent costs of changing the status quo, others can be both an obstacle and a supporting factor for rule adoption (government ideology), while still others by definition have a facilitating function (norm entrepreneurs, mobilization). To account for this and specifically grasp the possibility of domestically-driven rule adoption as a function of favorable domestic conditions we include the direction (positive or negative towards rule adoption) into the variables, with a medium coding representing a neutral value.

The importance of domestic factors is even enhanced after accession. If external incentives are necessary to induce rule adoption in the candidate states, the prediction for a successful implementation and the sustainability (let alone further development) of already adopted minority protection rules is rather pessimistic if conditionality is not replaced by other incentives, e.g. EU sanctions such as infringement procedures. To be sure, the external incentives model would not under all circumstances predict the complete formal reversal of externally induced minority protection measures. First, the revocation as well as the initial adoption of rules is strongly dependent on the domestic political constellation, i.e. the threat of a policy reversal would be imminent only in the case of political forces opposed to minority protection forming a post-accession government. Second, conditionality may have induced institutional changes (e.g. constitutional provisions) that cannot be reversed by simple majorities and are upheld by domestic control mechanisms (e.g. a constitutional court) acting as veto players. Third, it may be less costly to uphold formal legislation or to keep institutions in place that are costly to set up or change, but undermine implementation through cuts in funding or restrictive regulations.

Still, under certain political conditions we would expect formal rule adoption to stagnate and implementation to stay shallow or even decrease, and in extreme circumstances even formal legislation to be reversed. Because external incentives are expected to only temporarily upset the domestic equilibrium and the calculations of political actors, the external incentives model would not predict the establishment of a stable pro-minority consensus in the cases where the introduction of minority protection rules was initially contested and only achieved in reaction to conditionality. Once the incentives disappear or the reward is delivered, the domestic situation should revert to the status quo ante, because conditionality is not expected to induce preference change, socialization or internalization. Elections do of course change actor constellations and majorities and may bring more or less minority-friendly governments into power, but we should not see the emergence of a stable equilibrium in favor of minority rights, if it did not exist prior to accession and only external incentives triggered domestic change.

With some modifications the assumptions for rule adoption can also be applied to implementation. First, if we assume that implementation is in general more costly in terms of material resources and also more difficult to monitor than the formal adoption of legislation and policy programs, the overall perspectives for implementation are worse than for formal rule adoption. First, governments with a strong nationalist and anti-minority ideology may be as opposed to upholding formal rule adoption as to implementation, but may find it easier to issue restrictive implementation regulations or cut funding than to officially revoke existing minority legislation, especially in the presence of veto players on the political level. Second, not only governments taking a strong anti-minority position but also those that are indifferent or incur only moderate political costs for adoption may be inclined to opt for a merely declaratory adoption of 'empty letters' in order to formally comply with external demands but evade adoption costs (Jacoby 1999; Schimmelfennig and Sedelmeier 2005: 17). A third assumption derived from the managerial school of compliance predicts involuntary non-compliance as a result of lacking capacity (Chayes and Chayes 1993, 1995). If material or human resources to implement costly rules are not available, implementation is impossible even when political actors are willing to do so.

2.3.2 Methods

The main method applied in the project is Qualitative Comparative Analysis (QCA) as developed by Charles Ragin (1987; 2000), which is an extension of classical comparative analysis and focuses on the configuration of conditions that are necessary or sufficient to bring about a specific outcome. It is specifically designed to rigorously handle and analyze a larger number of cases than usual case studies – without, however, applying statistical, regression-based techniques. QCA is capable of examining complex patterns of interactions between variables and contains procedures to minimize these patterns in order to achieve parsimony (Ragin 1987: 121-123). The data for QCA is arranged as a ‘truth table’. That is, each conditional configuration (combination of values of the independent variables) present in the dataset is represented as one row together with the associated value of the dependent variable. Finally, the truth table is analyzed and reduced with procedures of combinatorial logic to arrive at a solution specifying a parsimonious combination of necessary and sufficient causes for the presence or the absence of the outcome to be explained (Ragin 1987: 86-99).

Basic or ‘crisp set’ QCA requires the researcher to conceptualize independent and dependent variables dichotomously, i.e. the presence of a condition or outcome is coded as ‘1’, their absence as ‘0’, ‘fuzzy set’ or fsQCA (Ragin 2000) allows the assignment of continuous ‘membership scores’ between ‘0’ and ‘1’ to be used in the coding and thus allows for a more fine-grained and information-rich analysis. Although empirical studies employing fsQCA predominantly use continuous data, the most basic form of a crisp set is a three-value scale that includes full non-membership (0), full membership (1), and a ‘breakpoint’ (0.5) that is set for cases that are neither fully in nor fully out of the set. A more information-rich variation uses five values, i.e. in addition to the three values mentioned above, intermediate values are introduced to account for cases that are ‘more in than out’ (0.75) or ‘more out than in’ (0.25).

It has to be stressed that fuzzy set analysis requires careful calibration of the data (Ragin 2007). This means that neither continuous nor ordinal scales are easily translated into fuzzy sets, because the researcher needs to define theoretically meaningful qualitative thresholds of what counts as full membership (1) and full non-membership (0) as well as the ‘breakpoint’ (0.5) understood as a ‘neutral’ value constituting a case that is neither in nor out of the set. It is important that these three points do not necessarily correspond to the lowest, highest, and mean value of a continuous dataset. Using the relatively simple and basically ordinal ranking of the five-value scheme makes it easier to define these steps qualitatively, but still the calibration of measurements beyond a simple ordering has to be kept in mind when operationalizing the independent and dependent variables.

Ragin notes that ‘[t]he five-value scheme is especially useful in situations where researchers have a substantial amount of information about cases, but the evidence is not systematic or strictly comparable from case to case’ (Ragin 2000: 155-157). As this seems to describe well the character of our data, we have opted for using it as the initial measurement scheme for our dependent and independent variables in order to achieve the inclusion of maximum possible information. Variables are coded with bidirectional orientation, i.e. including both negative and positive values with the ‘neutral’ value calibrated as the ‘breakpoint’. This means that some values for the independent variables will be missing, namely in case of variables that only work in one direction of the permissive value.

It is possible, however, to easily derive simpler coding schemes for analysis, if necessary. Three options are available. First, a bidirectional three-value fuzzy set would simply eliminate the intermediate levels (0.25/0.75), which of course loses some information. Second, a unidirectional three-value fuzzy set retains the level of information but splits the coding at the ‘breakpoint’. Third, a dichotomous crisp set coding – which is by definition unidirectional – would again simplify the data at the cost of losing some fine-grained information. The unidirectional coding in the latter two cases requires the dataset for formal rule adoption to be split up in three separate datasets: rule adoption (positive change), maintenance (status quo), and revocation (negative change), respectively. This does not mean selecting on the actual occurrence of a value in the dependent variable, but redefining ‘full membership’ as either positive, no, or negative change.

2.3.3 Case Selection

In correspondence with the combinatorial logic of QCA, a case for the use in this project is a specific combination of conditions, which can vary across countries, over time, and across issues. As *countries* we selected all ten new member states from the CEE region: the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia that acceded in 2004, and Bulgaria and Romania that joined in 2007. Excluded are countries that have not yet gained membership or do not belong to the region (e.g. Croatia, Cyprus, Malta, or Turkey).

The study will cover a *time-period* starting in 1997, when the European Commission’s Opinions on the candidature of all countries in the dataset were issued and the accession negotiations with the first five candidates started, and ending as recently as data are available, so that at least a ten-year period is covered.

Whenever the value of a variable changes for one country in one issue area, this new combination constitutes a new case.

Five *issues* are under investigation: non-discrimination, language use, education, citizenship, and the integration of Roma. The inclusion of non-discrimination has the additional advantage of introducing variation in the external incentive after accession, since the adoption of anti-discrimination legislation is part of the EU *acquis* and therefore backed by EU sanctions against non-compliance. Issues were selected inductively according to the importance and emphasis that international organizations (and the EU in particular) put on them. Not all of the five issues are relevant for every country or at every point in time. To avoid including irrelevant cases (e.g. instances of no change despite favorable conditions and a low standard of protection simply because there is no demand), we code only issues that are considered ‘problematic’, i.e. that are addressed by at least one of the actors involved (international institutions, NGOs, minority organizations, government or opposition parties). However, only one issue (citizenship) should be systematically missing in a large number of cases, because in most of the countries already the highest possible level of rule adoption (minorities are citizens) is provided from the outset.

A first estimation, based on the assumption that the most obvious instances of variation over time relevant for the independent variables are government change and the end of conditionality with accession, leads to an expected number of 200 cases.¹ Compared with the possible combinations of causal conditions (2^k with k = number of independent variables), this leads to the conclusion that the number of independent variables for the project should not exceed seven ($2^7=128$). Still, as the empirical evidence will most likely show limited diversity and not cover all logically possible combinations, a final decision on the number of variables can be made only after the actual coding is finished.

2.3.4 Operationalization of the Dependent Variable

The principal dependent variable of the project is rule adoption, which corresponds to the dependent variable used in Europeanization, compliance, and international socialization research (cf. Schimmelfennig and Sedelmeier 2005: 7). However, in order to be able to test one of the possible solutions to the puzzle of sustainable rule adoption after the end of conditionality, namely that deterioration in compliance after accession might take place not on the level of revoking legislation but instead on the level of implementation, we code *formal rule adoption* separately from the *implementation* of formally adopted rules. Hence at least two different datasets will be created: a formal adoption dataset and an implementation dataset, which necessarily includes only cases where formal rules have been adopted and can be implemented. As already mentioned in the methodological part, the formal adoption dataset might be split up in three separate datasets (adoption, maintenance, revocation) in case a unidirectional fuzzy set or a crisp set coding is used instead of the bidirectional five-value fuzzy set coding.

2.3.4.1 Formal Rule Adoption

The first dependent variable of the research project is change (positive or negative) in formal rule adoption compared to the previous status quo at any given point in time. Formal rule adoption as we define it ‘consists in the transposition of EU rules into national law or the establishment of formal institutions and procedures in line with EU rules’ (Schimmelfennig and Sedelmeier 2005: 8). Formal rule adoption is a decision taken at the political level and most often consists in the passing of legislation. However, in some issue areas related to minority protection (specifically the integration of Roma) measures are not generally of a legal nature but instead consist in policy programs. Since these programs are also formally adopted by a government – a decision which can be separated from their implementation – we have included them into our definition of formal rule adoption as well.

We have opted for a relative (change) instead of an absolute (level) coding of this dependent variable for several reasons. First, the research question is mainly concerned about the conditions under which changes in rule adoption occur, not so much the actual level of protection achieved. Second, while it would be possible to assume that favorable conditions should lead to the expectation not only of positive change but to an overall high level of protection, and unfavorable conditions conversely to a low level, the same is not true for neutral or

¹ $4*(2*5+8*4)+(2*4+8*3)=200$. We analyze ten countries; all five issues are relevant in two of them (Estonia and Latvia), whereas in the remaining eight countries four issues apply (exception: citizenship). The average number of governments between 1997 and 2007 is four, one further time-point is added by accession (which generally does not coincide with a government change) in four issues (exception: non-discrimination).

permissive values in the independent variables; here, the expectation is not a medium level of protection but the preservation of the status quo irrespective of the level of rule adoption. In addition, coding absolute levels of rule adoption would not allow for any simplification of the coding scheme (three-value fuzzy set or even dichotomous crisp set), as this would directly interfere with the measurement of the dependent variable. Still, the absolute level of protection is used for the measurement of change. Hence, we first define absolute levels of rule adoption for each issue area.

Non-discrimination in the context of EU enlargement predominantly relates to the transposition of the EU *acquis communautaire* represented by the ‘Framework Directive on equal treatment in employment and occupation’,² and the ‘Directive on equal treatment between persons irrespective of racial or ethnic origin’ (the so-called ‘Race Equality Directive’).³ The coding of the level of rule adoption therefore mainly follows the degree of transposition of these directives, although it is formulated in a way that it can also be applied to the time before the directives were adopted. The lowest level (--) is the complete absence of any non-discrimination rules, followed by general provisions such as an equality clause in the constitution, but without any specific codification in simple legislation (-). A medium level (=) is reached, if non-discrimination clauses are inserted in specific laws (e.g. the labor code), which amounts to a partial (but not complete) transposition of the EU Directives. A high level of rule adoption (+) corresponds to comprehensive anti-discrimination legislation constituting a full transposition of the EU’s anti-discrimination *acquis*. The highest level (++) is achieved, if non-discrimination laws exceed the minimum requirements of the directives, especially by allowing for positive measures to support or compensate discriminated groups (‘affirmative action’).

--	no non-discrimination provisions
-	general equality clause in the constitution
=	non-discrimination clauses in specific laws
+	comprehensive anti-discrimination legislation
++	comprehensive anti-discrimination legislation including affirmative action

Language use refers to the use of minority languages in different aspects of private and public life (cf. Pan and Pfeil 2002: XXV). On the lowest level of rule adoption the use of minority languages is generally prohibited (--). The right to speak the minority language in private is coded as a higher, yet still low level of protection (-). A medium or high level of protection is reached if one (=) or both (+) of the following two elements of language use are permitted at least in areas with considerable minority population: first, whether the minority language may be used for personal names, streets and topographical signs; second, whether it can be used in official documents and before state authorities. The highest level (++) is achieved, if the minority language is recognized as an official language next to the state language. Implementation is measured according to the extent to which formally granted rights to language use are available in practice.

--	not allowed
-	private use
=	personal names, streets and topographical signs
+	use in official documents and before state authorities
++	minority language is official language

Education for minorities includes two elements: education *of* and *in* the minority language (cf. Pan and Pfeil 2002: XXV). As a third element, the provision of own educational institutions for minorities as part of a system of cultural autonomy (not – as is sometimes the case with regard to Roma children – the *de facto* placement in special schools, e.g. for retarded children) can be added. These elements can be represented in a hierarchy from basic to more comprehensive levels of educational rights. The most fundamental educational provision (-) is that children belonging to minorities have the right to learn their mother tongue in school. A medium level (=) of educational rights is that at least parts of the curriculum (e.g. history or religion) are taught in the minority language. A high level of protection (+) is achieved when minorities have the right to educate their children

² Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation: Dir. 2000/78, OJ 2000 L303, 16-22.

³ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin: Dir. 2000/43, OJ 2000 L180, 22-26.

completely in the mother tongue, either in state schools with a complete syllabus taught in the minority language or in specific minority schools. The highest level (++) is reached, when minorities even have their own universities. Since the implementation of educational rights is costly and often restricted and made dependent on thresholds of minority population within certain areas or sufficient demand, the coding in this respect measures to what degree the provisions are actually available for children belonging to minorities.

--	no education of or in a minority language
-	minority language part of the curriculum
=	part of the curriculum taught in minority languages
+	own schools or complete curriculum taught in minority languages
++	own universities for minorities

Citizenship refers to the question whether persons belonging to minorities possess citizenship of their country of residence, or if not, how difficult the naturalization process is. The lowest level of rule adoption (--) corresponds to a situation where minorities (or large parts thereof) are excluded from citizenship. The following levels are coded according to different naturalization procedures, which are necessary if minorities are not citizen by default but need to apply for citizenship. A low level (-) is assumed, if the naturalization procedure places formal restrictions on applications (e.g. in a 'window system') or sets excessively high standards for granting citizenship in order to keep the naturalization rate low. A medium level (=) is represented by the application of standard rules (e.g. language or other tests), which makes citizenship in principle accessible to all minority members, however without offering any specific support. At a high level of rule adoption (+) the state offers support and/or incentives for a quick naturalization. Supportive measures could be to provide and finance training courses for language or other exams, to create easier conditions for certain groups of the minority population, or to start advertisement campaigns inviting people to apply for citizenship. The highest level (++) is reached if the members of minority groups are generally citizens of the respective state, so that no naturalization procedures are necessary. Implementation is coded according to the level and rate of naturalization, i.e. to which extent the naturalization rules actually influence the proportion of persons successfully applying for citizenship.

--	minorities are generally excluded from citizenship
-	restricted naturalization procedure / low naturalization rates
=	moderate naturalization procedure / medium naturalization rates
+	easy naturalization procedure / high naturalization rates
++	minorities are citizens by default

Integration of Roma is an issue area that is not addressed via general legislation but is usually the focus of specific policy programs and action plans. The absence of any specific Roma program is coded as the lowest level of rule adoption (--). As there is no clear hierarchy of measures readily available, higher levels are represented by how many of the following areas are addressed: housing, health and social security, education and training, dissemination of information and awareness-raising. The highest level (++) is reached, if all these aspects are incorporated into a comprehensive program for the integration of Roma.

--	no special policy programs for the integration of Roma
+1	housing
+1	health and social security
+1	education and training
+1	dissemination of information and awareness raising

On the basis of this information about the level of protection in each issue, change in the formal rule adoption is coded in a five-value fuzzy set with bidirectional orientation, i.e. it includes both negative and positive change with the status quo as 'breakpoint' (=). For the intermediate values we also distinguish between small and significant changes. Hence, we code whether the outcome of a case constitutes a significant (++) or small (+) improvement, no change (=), or a small (-) or significant (--) restriction of minority rights compared to the previous time period. To operationalize the dependent variable, the levels of rule adoption define above are taken into account as an indicator for the degree of change that has taken place. If a change constitutes a difference of one level, it is coded as small; significant change includes a jump of more than one level in either direction.

++	significant improvement (more than one level)
+	small improvement (one level)
=	no change
-	small restriction (one level)
--	significant restriction (more than one level)

In order to control for a systematic influence that the already achieved level of protection might exert on the likelihood of further improvements or revocation, it is possible insert the absolute level of rule adoption in the issue area as a further independent variable into the analysis. The assumption is that a low absolute level makes it comparatively easy to improve on the status quo and impossible to revoke (non-)existing rules, whereas conversely an already high level of rule adoption sets high hurdles for further improvements and offers more opportunities for revocation or non-implementation. In terms of calibration for the use as fuzzy-set variables, the thresholds for full membership (++) and full non-membership (--) are not defined by a normatively desirable minimal or sufficient, but by the lowest and highest possible level of protection. A medium level is defined as the 'neutral' value, because it leaves room for both positive and negative developments and should therefore not influence the result, although it should be noted that the calibration of this medium level as the 'breakpoint' is not as well defined as the other two thresholds and leaves some uncertainty. Also, the problem of increasing the number of possible combinations by adding a further independent variable needs to be observed.

2.3.4.2 Implementation

Whereas formal rule adoption defined as legislation or the adoption of policy programs is clearly situated on the political level, the implementation of formally adopted rules is a much more complex matter involving a wider range of actors on the political, administrative and societal level (cf. Falkner et al. 2005 :6). On the political level, perhaps the most important issue regarding implementation is the allocation of financial means for formally adopted policies or institutions through budgetary decisions. On the level of administration, state authorities must apply rules, and courts must enforce rights in order to implement them. On the level of society, the question is whether rights or formally granted provisions (e.g. minority schools) are claimed by the beneficiaries. The political level can influence both other levels, e.g. via decisions regarding recruitment and training (administration) or information and awareness-raising (both administration and society).

However, since we are mainly interested not in the causes of non-implementation such but in the link between rules transferred via conditionality and lack of implementation as a way to reconcile the formal upholding of these rules with the expectation of non-compliance after accession, we concentrate on the political level in this case as well. In other words, we do not seek to explain involuntary non-implementation through administrative inertia or lack of societal support, but instead look for voluntary non-implementation as a result of political opposition or stalemate (cf. Falkner et al. 2005: 24). This narrow focus also has the practical benefit that in this case the relevant actors for the independent variables are the same ones as for formal adoption and the explanatory mechanisms supposedly work in the same way.

In contrast to formal rule adoption, we opt for a comparatively simple absolute (level) coding of implementation, utilizing at most an unidirectional three-value fuzzy set (or alternatively even a dichotomous yes/no coding) ranging from no implementation (-) to full implementation (+). This has two main reasons. First, implementation aspects such as funding have less of a 'lock-in' effect, so that it can be assumed that changes in the independent variables do not have to overcome the status quo as much as in the case of formal rule adoption. Second, because we are mainly interested not in a fine-grained analysis of different causes for non-implementation but only in the linkage between conditionality and politically motivated non-implementation of formally maintained rules, this coding allows us to keep the coding of the independent variables the same as in the formal adoption dataset – a more fine-grained coding of the dependent variable would make the inclusion of more actors and different variables necessary – and to compare more easily the results between the two datasets.

+	full implementation
=	partial implementation
-	no implementation

2.3.5 Operationalization of the Independent Variables

In accordance with the dependent variable and the requirements of fsQCA, all independent variables will also be coded bidirectionally in a five-value fuzzy set with the neutral value calibrated as the ‘breakpoint’. The general assumption is that variables have no influence on the status quo (dependent variable =) when they assume a neutral value (=), that they contribute to a positive outcome (dependent variable + or ++) when they are higher and to a negative outcome (dependent variable - or --) when they are lower. Not all independent variables, however, can assume all possible values, because some factors, if present, either only contribute positively or only negatively to the outcome. Hence, for these variables the possible values are restricted to one side of the spectrum.

External incentives: Before accession, the EU relies on a strategy of ‘reinforcement by reward’ (Schimmelfennig, Engert und Knobel 2003), i.e. it gives candidate states positive incentives for compliance in the form of conditionality in combination with a membership perspective. According to the external incentives model, rule adoption as a result of conditionality depends on the following external conditions: the *size* of the reward, the *credibility* of delivering or withholding the reward, the *strength* of conditionality, and the *determinacy* of conditions. First, for conditionality to be effective it has to be credible, i.e. the target state must have a realistic chance to gain membership if the conditions are fulfilled, and the EU must be able to exclude any state that does not fulfill the conditions (Schimmelfennig 2003). Given the strong asymmetry between the EU and the candidate countries, and since we investigate only EU accession candidates who were considered eligible for membership and have finally been admitted, and also only cover the period after the commencing of accession negotiations in 1997, we can assume that the credibility of EU conditionality was always high. The size of the most important reward – EU membership – also does not vary over time or across countries. As these two factors can be assumed to be constant over the entire pre-accession phase investigated in the project, they are not included in the coding of external incentives.

This leaves the *strength* of conditionality and the *determinacy* of conditions as the central external factors to determine the likelihood of rule adoption, which we combine into one measure for conditionality. The effectiveness of conditionality firstly rests on whether and to what extent the reward is made dependent on compliance with specific conditions. In addition, it should play a role how much the EU highlights certain conditions and insists on their fulfillment. Conditions, which are repeatedly and prominently stated and serve as indicators for assessing the membership credentials (strong conditionality) clearly signal to the candidate countries that the EU puts a strong emphasis on compliance with these conditions. This gives the target governments an incentive to concentrate on these conditions. Conditions, however, which exist in principle, but which the EU only mentions in general and monitors merely superficially or not at all (weak conditionality), tempt the candidates to avoid costly adaptation processes – based on the expectation that compliance with these conditions does not play a relevant role for the enlargement decisions of the EU. Moreover, the effectiveness of conditionality depends on the determinacy or clarity of the conditions themselves (Franck 1990: 52-83; Legro 1997: 34). A rule is determinate, if it is formulated in an unambiguous and binding way. In this case the target governments know exactly what they must do to fulfill the condition, and which behavior contradicts the condition. It follows that explicit and concrete demands are more likely to be followed than general principles and vaguely formulated occasional critiques (cf. Kelley 2004b).

After accession, conditionality no longer applies as the reward is paid out, but in areas that are part of the *acquis communautaire* the internal sanctioning mechanism of the EU sets in, so that negative incentives (sanction threat) against non-compliance replace positive incentives (membership reward) for compliance. In the domain of minority protection this only applies to non-discrimination on the basis of race and ethnicity, but not to minority rights proper. The same criteria used for conditionality apply to EU sanctions as well, although in addition to credibility also the determinacy of the rules is constant and high, since it relates to the implementation of legally defined rules such as EU Directives. Thus, the most important variation (other than present/absent) is the strength of the sanction threat, which can range from the general demand to fully implement EU law to concrete sanction threats in the form of a Commission decision to start an infringement procedure against a non-compliant member state. We have combined pre-accession conditionality and post-accession sanctions because the rationale for compliance is the same in both cases, and only one of the factors can be present at a given time, since membership conditionality by definition ends with accession and EU sanctions are only applicable to member states. However, the size of the reward (membership) or punishment (infringement), respectively, is not on an equal level, which may necessitate the separate evaluation of pre- and post-accession cases.

H#1: *Positive change is more likely if explicit, repeated and precise demands are linked with sizeable positive incentives, or non-compliance is linked with negative sanctions.*

Although in principle external incentives could work negatively in case the EU demanded the reversal of existing minority protection rules, in practice external incentives – if present – are assumed to contribute positively to the adoption and implementation of minority protection rules. External incentives are coded as strongly positive (++), if in the pre-accession phase measures in the respective issue area are explicitly, repeatedly and clearly demanded, e.g. in the European Commission’s progress reports, or if after accession a specific sanction threat is issued, e.g. in the form of a Commission statement threatening the start of infringement procedures against a member state because of non-compliance with Community law. Incentives are coded as weakly positive (+), if before accession an issue is part of the general Copenhagen criteria or is mentioned in passing in one report, but not specifically and persistently pointed out as a priority for a candidate country, or if after accession the rule in question belongs to the *acquis communautaire*, e.g. the ‘Race Equality Directive’, but no specific sanction threat for non-compliance has been issued. External incentives are absent (=), if the issue in question is before accession not part of EU conditionality in general (which does not apply to any of the cases, because minority protection in general terms is mentioned in the Copenhagen criteria) or after accession not part of the *acquis* (i.e. all issues except non-discrimination). As research has shown that the pressure to adopt EU rules increases sharply during the accession ‘endgame’ (Schimmelfennig, Engert and Knobel 2006), external incentives are coded (++) instead of (+), if accession falls within the time-period in question.

++	strong and determinate external incentives
+	weak or general external incentives
=	no external incentives
-	n.a.
--	n.a.

External funding: An external factor distinct from conditionality or sanction is specifically targeted external funding and aid offered by international organizations to enable the implementation of demanded minority protection measures. While conditionality links conditions that are (at least potentially) undesired by the applicant states with a desired reward to achieve compliance with the condition, and sanction threats link non-compliance to an undesired punishment for member states, external funding simply provides the necessary resources to adopt and implement rules. The availability of funding and technical aid may in fact induce compliance by political actors that are in principle in favor of (or at least indifferent to) the measures in question but lack financial or administrative resources necessary for their implementation. At the same time, it is unlikely that targeted funding would change the behavior of actors that are ideologically opposed to minority protection or face high power costs in the case of compliance. Targeted funding thus appears to be effective only in the case of involuntary non-compliance. Moreover, capacity building is only needed in costly issues that require material resources.

H#2: *Positive change is more likely if external funding is provided in situations where material adoption costs are high and political adoption costs are low.*

As in the case of external incentives, external funding could in theory work negatively if the EU provided funds for the adoption and implementation of restrictive minority policies, which is in practice not the case, so that external funding can either be neutral if it is absent (=), or work positively if it covers the expenses needed to adopt or implement specific minority protection measures partly (+) or in full (++)

++	external funding $\geq 50\%$
+	external funding $< 50\%$
=	no external funding
-	n.a.
--	n.a.

Government ideology: According to Kelley (2004a, 2004b), the inclusion of national minority parties on the one hand and nationalist parties on the other in government is an important factor in determining the state policy towards minorities and the reaction to external demands to protect minorities. Coalition governments under the inclusion of parties representing national minorities are likely to be willing to implement minority rights, whereas governments with a strong nationalist influence are likely to resist this. The straight-forward rationale behind this intuitive hypothesis is that political decisions follow directly the policy preferences of the ruling decision-makers. A second possible dimension of government ideology, namely the general identification with Western norms and EU membership (Schimmelfennig, Engert and Knobel 2005, 2006), has been excluded on

the basis of the assumption that on the one hand the vast majority of political parties in the CEE candidate countries are at least rhetorically committed to EU membership, while on the other hand a nationalist political ideology usually combines Euro-skeptical and anti-minority positions, so that no independent variation compared to the coded characteristics exists.

H#3: *Positive change is more likely if pro-minority parties (or even minority parties) are in government, negative change is more likely if nationalist forces are part of the government.*

Government ideology is a directed variable that can assume values to both sides of the neutral ‘breakpoint’. Since the position with regard to minority issues cannot be easily derived from the common left-right schema, we directly code government ideology on the specific issue of minority-related policies ranging from strongly pro-minority to strongly nationalist and anti-minority. In order to code a government’s position independent of rule adoption as the dependent variable, not policy decisions but party programs and election manifestoes will be utilized as basic sources.

The strongest commitment towards minority protection (++) can be expected, if parties representing the minorities themselves are part of a coalition government. As minority parties are extremely unlikely to join a coalition with anti-minority forces, there is only a small risk of cross-cutting coalitions that would upset the fundamentally ordinal coding scale. A government with a moderate pro-minority ideology (+) does not include minority parties, but parties that have minority protection as part of their party programs or election manifestoes. The neutral position (=) applies to parties with an indifferent position to minority issues, i.e. parties that are not positively committed to minority protection, so that they would not be expected to adopt minority-friendly policies out of their own initiative, but that are also not opposed to such policies or incur high political costs when complying with external demands to adopt or implement minority protection rules. Parties that exhibit a moderately nationalist ideology are assigned a moderate anti-minority position (-). Governments including ultra-nationalist parties represent the strongest anti-minority ideology (--), as ultra-nationalists predominantly portray minorities as a threat to national identity and unity.

++	government under inclusion of minorities
+	moderately pro-minority government
=	indifferent government
-	moderately anti-minority government
--	government under inclusion of ultra-nationalists

Veto players: The number of veto players is one important measure of political adoption costs utilized by rationalist approaches. Tsebelis defines veto players as ‘actors whose agreement is required for a change of the status quo’ (Tsebelis 2002: 17). Veto player theory predicts increasing policy stability with a higher number of veto players, because it becomes increasingly likely that a change from the status quo will be blocked. The number of veto players is defined by the institutional setup of the political system (i.e. whether a state has a bicameral system, a president with veto power, a constitutional court, and which kind of majorities are needed, etc.) and the party system (two parties with clear majorities or multi-party systems with the need to form coalitions, degree of party polarization). However, not only the institutional power to block a decision is important, but also the policy preference of the veto player. A player will veto a decision if s/he has not only the capability but also the incentive to veto, the latter of which is not given if the player shares the policy preference of the government that proposes a decision. Therefore, veto players are especially likely to be decisive in cases of divided government (e.g. different party membership of government and president or different majorities in different chambers of the Parliament) or when the government lacks necessary support on the issue (e.g. in case of a minority government or intra-coalitional disagreement).

Hence, instead of assuming a random distribution of policy preferences and conducting a probabilistic veto player analysis on the basis of the number of actors with veto power, we also code the ideological orientation and assume that one actual veto player (i.e. a player with institutional veto power and a policy preference different from the government) is enough to block a decision. Coding follows the strongest veto player (in terms of intensity of preferences) with a policy preference contrary to the government’s preference as coded under ‘government ideology’.

H#4: *Veto players with policy preferences contrary to those of the government reduce the likelihood of change from the status quo, i.e. either hinder rule adoption or block a reversal if rule adoption has already occurred.*

For the purpose of this project, we code for each case the existence of possible veto players (i.e. actors with veto-power) as well as their ideological position towards minority protection. This allows us to incorporate the fact that the impact of veto players ‘switches direction’ after the decision is taken, because our dependent variable is rule adoption, not policy stability. Veto players with strongly negative attitudes towards minority protection decreases the likelihood of rule adoption, whereas after a specific rule is adopted, positively inclined veto players hinder it being reversed even in case of a nationalist government, as it now constitutes the new status quo.

Veto players coded for this variable are the president or a second chamber with a different majority than the first chamber supporting the government (in a parliamentary system). In case of a government lacking a parliamentary majority or when coalition partners strongly disagree on the issue, the first chamber of parliament can also become a veto player blocking government decisions. A special case is the constitutional court, which is supposed to be politically neutral and also cannot act by itself but has to be invoked, usually by political actors who oppose a decision but have no political veto power on their own. However, if they gain the support of the court, the decision can be vetoed. In this case, it is not entirely possible to separate the coding of the veto player variable from the outcome, because only the court’s decision indicates whether it backs the position of the political actor invoking it. It has to be noted that the veto players taken into consideration mainly act on the political level and are most influential when it comes to the formal adoption or revocation of legislation, but exert much less influence in the implementation phase. Actors on the level of bureaucracy, who may well resist or block the implementation of policies and laws, are not taken into account here.

Since veto players can block decisions but not support or initiate them, the variable works slightly differently from the other factors. Also, its expected effect (but not its coding) is dependent on the value of another variable namely government ideology. A neutral coding indicates that veto players are absent or indifferent, so that any decision may be passed. Veto players with a coding above the ‘breakpoint’ are permissive for the adoption and implementation of positive minority protection measures but veto their reversal or the adoption of restrictive rules. Veto players below the threshold, by contrast, are permissive for negative measures or the revocation of positive rules, but block any improvement in terms of minority protection. In accordance with the coding scheme used for government ideology, we distinguish strongly (++) and moderately (+) pro-minority oriented veto players, indifferent or absent veto players (=), and moderately (-) or strongly (--) anti-minority veto players.

++	strongly pro-minority veto player
+	moderately pro-minority veto player
=	no or indifferent veto player
-	moderately anti-minority veto player
--	strongly anti-minority veto player

Capacity for mobilization: Bottom-up mobilization against reluctant governments is a central factor for compliance research in the field of human rights (Keck and Sikkink 1998; Risse, Ropp and Sikkink 1999). Although it has been argued that civil society and therefore the ability to mobilize in favor of societal demands is generally low in CEE countries, so that rule adoption is mainly government-driven (Schimmelfennig, Engert and Knobel 2006), large, concentrated, well organized minority groups can be expected to be much more able to exert pressure on governments than small, dispersed or poorly organized ones. In principle, the group characteristics included in this variable - size, concentration and degree of organization - can show independent variation, but in practice there is a comparatively clear hierarchy with large and concentrated minorities being much more likely to show a high degree of organization and mobilization than large dispersed minorities, and small minorities generally not being able to reach a significant level of mobilization. In the end, however, it is the actual mobilization that is the decisive factor.

H#5: *Positive change is more likely if large, concentrated and well organized minorities are able to mobilize against reluctant governments.*

The mobilization of minorities is another variable that in practice only takes values above the ‘breakpoint’, because minorities cannot be expected to mobilize against their own interest, i.e. for restrictive minority policies. We consider three indicators for minority mobilization: size (percentage of the overall population), territorial concentration, and degree of organization, which do not directly measure mobilization but indicate the capability of a minority group to do so.

A high capacity for mobilization (++) can be expected from large, concentrated and well organized minorities. A minority group is coded as large if it comprises more than five per cent of the population. A moderate value (+) is assigned to large minority groups that are dispersed and/or lack organization. Small minorities are assumed to lack the capacity for effective mobilization, even if they are concentrated and well

organized (=). If a country has more than one minority group, two different scenarios can be distinguished. If an issue applies only to a specific group (e.g. special measures to support the integration of Roma), the characteristics of this group are coded. In case of issues that are generally applicable to all minority groups, coding follows the characteristics of the biggest or most important minority, based on the assumption that smaller or less organized groups will benefit from general rules, even if their adoption or implementation was prompted by mobilization of the bigger or better organized minority.

++	large (>5%), concentrated and well organized minorities
+	large (>5%) but dispersed/loosely organized minorities
=	small (<5%) minorities
-	n.a.
--	n.a.

Norm entrepreneurs: The concept of ‘norm entrepreneurs’ (Finnemore and Sikkink 1998) has been developed by constructivist researchers on international norms to grasp the individual agency of principled actors, who engage in discursive practices such as framing, shaming, argumentation or persuasion to promote norms. Although the concept is predominantly invoked to characterize any kind of actor engaging in pro-norm activism and argumentation, we include it not to highlight a non-rationalist mechanism of rule transfer but to address a distinct type of actor possessing two prominent features of norm entrepreneurs: institutional platform and a purely agenda-setting or discursive role without ‘hard’ decision or veto powers. Still, even from a rationalist standpoint, such actors may be expected to have some influence (if only a comparatively weak one), e.g. as agenda-setters.

H#6: *Positive change is more likely if active norm entrepreneurs with institutional platforms and access to the political process exist.*

For the use of this project, norm entrepreneurs are only those actors that are institutionalized within the political system and have the institutional role to promote minority issues, e.g. a minority ombudsman or council. They are thus clearly distinguished both from institutional veto players, who possess power to veto but not to initiate or decisions, and minority organizations or NGOs, who do not have direct institutional access to the political process but engage in bottom-up mobilization.

In addition to the mere existence and number of institutionalized promoters of minority rights, their activity is also included in the coding. Although it is theoretically possible that such institutional positions could be filled with persons pursuing the promotion of anti-minority policies, in practice the institutional role and orientation of the norm entrepreneurs is almost certainly pro-minority. Therefore, the coding for this variable is neutral if norm entrepreneurs are absent or passive (=), or work positively if one (+) or several (++) active norm entrepreneurs exist in a country at a given time.

++	several active norm entrepreneurs
+	one active norm entrepreneur
=	no norm entrepreneurs
-	n.a.
--	n.a.

Material costs: This variable depicts the direct costs of rule adoption or implementation in terms of material or human resources. As noted, this is generally more important for the implementation of rules than for the formal adoption of legislation. Resources can refer to the establishment or change of institutions, the recruitment of personnel, or funding necessary to provide services.

H#7: *Positive change is more likely if material adoption costs are low or resources to implement costly issues are available. Costly issues are more likely to be adopted if the government ideology favors adoption and external funding is provided (capacity building to prevent involuntary non-compliance).*

Material costs must be differentiated between formal adoption costs and implementation costs, because the implementation phase is coded separately. With regard to formal rule adoption, costs are low if it only requires the passing of a law or regulation but not the creation of any additional institutions (=); costs are medium, if rule adoption requires a moderate change in existing institutions (-); costs are high, if completely new institutions have to be set up (--). In terms of implementation, costs are low if enforcement is predominantly passive, e.g. through existing courts, and does not require any positive state measures; costs are medium, if implementation

can be achieved with moderate or one-off funding; costs are high, if the implementation of a rule involves permanent and significant expenses for the funding of positive measures.

++	n.a.
+	n.a.
=	low costs
-	medium costs
--	high costs

2.3.6 Data and Sources

As there is already a large amount of highly detailed information available and the project’s main aim is a systematic analysis of causal conditions for rule adoption, revocation, and implementation, we rely primarily on already existing sources instead of conducting extensive fieldwork in order to generate new data. The main task with regard to data gathering is to transform the mostly descriptive data into our coded databases and ensure maximum consistency across countries, issues and over time. In addition to the empirically oriented secondary literature discussed in the state-of-the-art section and official state documents, which are mostly available online e.g. on sites such as Minority Electronic Resources (MINELRES), we mainly rely on sources provided by two different kinds of organizations: international organizations with a mandate to monitor compliance with human and minority rights, and non-governmental organizations (NGOs) working in the field.

Several international organizations have developed standards and instruments regarding minority protection and non-discrimination. The most detailed and in fact the only legally binding international treaty specifically devoted to minority protection is the Council of Europe’s Framework Convention for the Protection of National Minorities (FCNM), which features a state report monitoring system. The formal structure of the reports allows a systematic comparison across countries and issues, and although it constitutes a problem that country reports appear only every 3-5 years, and not all countries have been signatories over the entire period covered in our project, they still offer the most comprehensive information of compliance with European minority rights standards.

The UN’s International Covenant on Civil and Political Rights contains an article on minority rights, which is therefore part of the monitoring system, although the reports are necessarily much less detailed than those of a specialized minority protection instrument such as the FCNM. In the field of non-discrimination the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) features a state report system with detailed and regular evaluations. Although the OSCE’s High Commissioner on National Minorities (HCNM) has a security-focused mandate and a more case-by-case oriented approach, his reports and recommendations are important additional sources.

As for the European Union, the Commission’s progress reports during the pre-accession phase provide annual evaluations of all candidate countries, although they are directly linked to the question of EU conditionality and cannot counted as independent information, and in any case they mostly rely on external sources. With regard to the more recent developments in the transposition and implementation of the EU anti-discrimination directives, the EU has mandated the ‘European Network of Legal Experts in the Non-Discrimination Field’ to monitor compliance. This expert group annually issues systematic reports on all EU member states. Also, the European Centre against Racism and Intolerance (ECRI) offers additional information on non-discrimination and Roma issues.

Several international NGOs such as the Helsinki Foundation, The European Roma Rights Centre or the Open Society Institute have devoted themselves to monitoring compliance with minority rights and non-discrimination standards and provide comparative In addition, local NGOs in several countries – e.g. the Legal Information Center for Human Rights in Estonia or the Latvian Centre for Human Rights and Ethnic Studies – issue detailed yearly reports on country-specific minority protection issues.

2.4 Milestones and Timing

We present our milestones in form of a timetable covering the period from after the proposed official start of the project October 2008 to September 2011:

1 st year	<ul style="list-style-type: none">■ Organization of expert conference at ETH■ Continuation of literature review and theory development■ Further elaboration of research design/operationalization■ Data collection and coding■ Visit of summer schools (QCA analysis)■ Conference participations
2 nd year	<ul style="list-style-type: none">■ Completion of datasets■ QCA analysis■ Eventual reformulation of theories■ Conference participation■ Publication of first working papers
3 rd year	<ul style="list-style-type: none">■ Completion of empirical analysis■ Conference participation■ Authors' conference at ETH■ Writing and submitting journal articles■ Summarizing findings in book■ Finalization of the two PhD theses

2.4.1 Expected Output

The expected output of the project consists in two PhD dissertations closely related to the project, an English language book on minority protection in Central and Eastern Europe in the pre- and post accession phase presenting the findings of our research, as well as several articles in leading political science journals. In addition, we will make our datasets available to the scientific community. We plan to organize two conferences at the ETH Zurich: in the first year, we will invite minority rights specialists in order to discuss and refine our research design and find prospective additional contributors to the planned book beyond the core research team. In the final year, we will invite the contributors to an authors' conference in order to discuss and finalize the chapters.

2.4.2 Organization and Allocation of Tasks

The project's core group will consist of four researchers: Guido Schweltnus, Frank Schimmelfennig, Liudmila Mikalayeva and a second PhD student, who has yet to be selected. Schweltnus and Schimmelfennig will be responsible for the coordination of the project. Schweltnus as the principal investigator will broadly be engaged in different parts of the project. He plays a leading role as to theory development as well as the conceptualization of our research and takes responsibility for the organizational aspects of the project. Schimmelfennig will predominantly contribute to the theoretical and methodological development of the project.

The empirical part of collecting, systematizing and coding data on the adoption and implementation of minority protection rules in the ten new CEE member states will be allocated according to the country expertise and also the language abilities of the researchers: Schweltnus will cover two countries (Poland and the Czech Republic), whereas four countries each will be by investigated by two PhD students. Mikalayeva's country cases will be Estonia, Latvia, Lithuania, and Bulgaria. A second PhD position will be specifically filled to cover Hungary, Romania, Slovakia, and Slovenia.

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