

Understanding Governmental Legislative Capacity

Harmonization of EU legislation in Lithuania and Romania

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To Agnes and Livia

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CONTENTS

Figures & Tables

Chapter 1: Introduction	11
1.1 The “return to Europe”	11
1.2 The case of legal harmonization in candidate countries.....	14
1.3 Comparing Lithuania and Romania.....	17
1.4 Time delimitation.....	18
1.5 Selecting national legal measures.....	19
1.6 The scope of generalization.....	19
1.7 Outline of the study	20
Chapter 2: How to define and measure governmental legislative capacity	23
2.1 Performance, capacity and capability	23
2.2 Indicators of capacity.....	26
2.2.1 <i>Potential versus actual ability to perform</i>	26
2.2.2 <i>Goal-based versus “objective” indicators</i>	28
2.2.3 <i>High versus low goal complexity</i>	34
2.2.4 <i>Output- versus outcome-oriented indicators</i>	36
2.3 Conclusions	37
Chapter 3: Governmental legislative capacity in Lithuania and Romania 2000-2002	39
3.1 Method and data	39
3.1.1 <i>Operationalizing governmental legislative capacity</i>	39
3.1.2 <i>How to measure the indicators of governmental legislative capacity</i>	40
3.2 Establishing the legislative capacity in Lithuania and Romania 2000-2002	44
3.2.1 <i>Timeliness</i>	46
3.2.2 <i>Extent of delay</i>	50
3.2.3 <i>Quality</i>	53
3.3 Conclusions	56

Chapter 4: How to explain variations in governmental legislative capacity	59
4.1 Theories on legislative capacity.....	59
4.1.1 <i>The veto player theory</i>	62
4.1.2 <i>Transposition research</i>	63
4.1.3 <i>The veto player theory revisited</i>	70
4.2 Designing an explanatory study on governmental legislative capacity.....	74
4.2.1 <i>Operationalizing constraints</i>	74
4.2.2 <i>The policy process and its three phases</i>	77
4.3 Conclusions.....	78
Chapter 5: Explaining governmental legislative capacity in Lithuania and Romania	79
5.1 Method and data.....	80
5.2 The parliamentary phase.....	83
5.2.1 <i>Constraints in the Lithuanian parliamentary phase</i>	83
5.2.2 <i>Constraints in the Romanian parliamentary phase</i>	90
5.2.3 <i>Comparing the parliamentary phases in Lithuania and Romania</i>	97
5.2.4 <i>Impact of the constraints in the parliamentary phases in Lithuania and Romania</i>	99
5.3 The post-parliamentary phase.....	109
5.3.1 <i>Constraints in the Lithuanian post-parliamentary phase</i>	109
5.3.2 <i>Constraints in the Romanian post-parliamentary phase</i>	112
5.3.3 <i>Comparing the post-parliamentary phases in Lithuania and Romania</i>	115
5.3.4 <i>Impact of the constraints on the post-parliamentary phases in Lithuania and Romania</i>	116
5.4 The pre-parliamentary phase.....	120
5.4.1 <i>The pre-parliamentary phase in Romania</i>	130
5.4.2 <i>The pre-parliamentary phase in Lithuania</i>	132
5.5 Conclusions.....	133
Chapter 6: Conclusions	135
References	143
Appendix 1	158
Appendix 2	173

Figures & Tables

Figure 2.1	Intended and objective goals and their level of attainment	34
Figure 2.2	Attainment of intended goals and level of goal complexity	35
Figure 3.1	Number of laws projected for adoption by year.....	45
Figure 3.2	Number of projected laws adopted by year.....	46
Figure 3.3	Share of projected laws adopted on time, delayed and not adopted (%)	47
Figure 3.4	Share of projected laws adopted on time, delayed and not adopted in Romania, 2000-2002 (%)	48
Figure 3.5	Share of projected laws adopted on time, delayed and not adopted in Lithuania, 2000-2002 (%)	49
Figure 3.6	Governmental legislative capacity in Romania and Lithuania ...	56
Figure 3.7	Governmental legislative capacity in Romania, 2000-2002.....	57
Figure 3.8	Governmental legislative capacity in Lithuania, 2000-2002.....	58
Figure 4.1	Categorization of veto points.....	75
Figure 5.1	Presidential vetoes in Lithuania 1993-2006	118
Figure 5.2	Share of projected draft laws submitted to parliament on time, delayed and not adopted (%).....	121
Figure 5.3	Share of projected laws submitted to parliament after parliamentary deadline expired (%).....	123
Table 3.1	Extent of delays for projected laws	50
Table 3.2	Extent of delays for projected laws in Romania, 2000-2002	51
Table 3.3	Extent of delays for projected laws in Lithuania, 2000-2002	52
Table 3.4	Quality of projected laws in Romania.....	53
Table 3.5	Quality of projected laws in Lithuania.....	54
Table 3.6	Quality of adopted laws projected for adoption 2000-2002 in Romania	55
Table 3.7	Quality of adopted laws projected for adoption 2000-2002 in Lithuania	55
Table 5.1	Votes and seats won in the 1996 and 2000 parliamentary elections in Lithuania.....	87
Table 5.2	Votes and seats won in the 1996 and 2000 parliamentary elections in Romania (Chamber of Deputies)	95
Table 5.3	Constraints in the parliamentary phase.....	98
Table 5.4	Time in parliamentary phase (number of days)	100
Table 5.5	Time spent in parliamentary phase for draft laws initiated 1999-2004 (Average number of days).	102
Table 5.6	The use of urgency procedures and emergency ordinances.....	104

Table 5.7	Extent of contestation of laws initiated by different governments and adopted during different parliamentary situations (% of votes in favour).....	106
Table 5.8	Ratification laws	108
Table 5.9	Constraints in the post-parliamentary phase	115
Table 5.10	Time in post-parliamentary phase (number of days)	116
Table 5.11	Responsibility for delayed laws.....	125
Table 5.12	Responsibility for considerably delayed laws	126
Table 5.13	Legislative capacity by initiating government in submitting and adopting draft laws	127
Table 5.14	Share and extent of delays in submitting the drafts, by initiating government, NPAA and year of planned adoption.....	128

1 INTRODUCTION

1.1 The “return to Europe”

The EU integration process in Central and Eastern Europe, which eventually resulted in the accession of ten former socialist states, was often referred to in a language more commonly reserved for sport activities, implying that there was some sort of competition between the candidate countries.¹ In practice, however, the candidates did not compete, in the sense that the best performing state would be admitted and the rest left out. The adaptation process was rather a struggle *within* each candidate country to meet a number of fixed criteria within a limited period of time and all countries that fulfilled these conditions would be given a green light for membership.

The strong desire to “return to Europe” had urged the newly democratically elected governments in the former communist East bloc countries to take immediate actions to secure closer cooperation with the EU with the aim of future membership. Agreements on trade and economic cooperation were signed and ratified during 1990 and even more ambitious Europe Agreements were signed during the following years (Mayhew, 1998: 21-24). Between 1994 and 1996 ten countries submitted formal applications to become members of the EU and thereby showed their willingness to adapt to the extensive demands of the EU.²

The requirements for admission to the European Union are very tough, in particular for relatively poor countries whose experiences of democracy, the rule of law and market economy are limited at best. According to the so called Copenhagen criteria which were adopted by the European Council in 1993, new member states not only have to establish stable democratic institutions and a functioning market economy prior to accession. They are also required to

¹ See for example The Economist and The Financial Times which ran headlines like “The regatta sets sail” (The Economist, June 26, 2003), “The tortoise and the hare” (The Economist, August 7, 1999) and “Crowded field in race to join EU” (The Financial Times, June 27, 2001).

² Poland and Hungary submitted their applications in 1994, Bulgaria, Estonia, Latvia, Lithuania, Romania and Slovakia in 1995 and the Czech Republic and Slovenia in 1996 (EU internet link 1).

transpose and implement the entire body of the Community legislation,³ called the *Acquis Communautaire*, which comprises some 9 000 legal measures on about 80 000 pages (Kopecky, 2004: 150).⁴ It covers everything from extremely technical matters to fundamental laws, such as minority rights, bankruptcy procedures and criminal law. Naturally, the governments, parliaments and bureaucracies in the candidate countries were put to the utmost test to cope with the membership requirements.

Even though the adaptation processes started already in the early 1990s, membership negotiations only commenced in 1998, with the so called Luxembourg group,⁵ which was considered ahead of the other candidate countries in terms of meeting the membership criteria. In the spring of 2000, negotiations were also opened with the so called Helsinki group which included the remaining five former socialist countries, as well as Malta.⁶ It soon became obvious that this latter group was quickly catching up with the five front runners, with the exception of Bulgaria and Romania, which were considered laggards early in the process (Papadimitriou 2002: 117; Pridham, 2007: 236). Negotiations were closed with eight Central European countries, along with Cyprus and Malta, in December 2002 and they subsequently acceded on May 1 2004, after the accession agreements had been ratified by the EU institutions as well as the candidate countries. Bulgaria and Romania eventually concluded negotiations in 2004 and became members on January 1 2007.⁷

The most central actors in this process and who accordingly were the most responsible for its outcome were arguably the governments in the candidate countries (Sigma, 1999: 25; Lippert et al, 2001; Andeweg, 2003: 40); externally, they headed the negotiations with the EU and domestically they drafted, approved, implemented and monitored the planning documents, which contained the legal measures that had to be adopted, in order to harmonize with the *Acquis*. To be able to comply with these demanding membership conditions within a relatively short period of time, the governments of the candidate countries naturally had to be fully committed to the task and be able to efficiently draft EU-related legislation and get the necessary legal acts through parliament. If official statements are to be believed, the former was a non-existing problem, as all governments put EU membership as their highest

³ Formal transposition has been defined as “the whole of the measures necessary to incorporate European legislation into national law, i.e. the domestic legislative process”, and is considered the first of four stages in the implementation process, the others being practical application, enforcement/control and outcome/results (Bursens, 2002: 175). In this study transposition will only refer to the adoption of legislation, i.e. when the legal measure in question is promulgated.

⁴ For the Copenhagen criteria, see EU internet link 2.

⁵ The Luxembourg group comprised the Czech Republic, Estonia, Hungary, Poland and Slovenia, as well as Cyprus.

⁶ The Helsinki group thus comprised Latvia, Lithuania, Slovakia, Bulgaria, Romania and Malta.

⁷ For a brief account on the fifth and sixth enlargement, see EU internet link 3.

long-term priority (see for example Baum, 2000: xvii; Schimmelfennig & Sedelmeier, 2004: 671). The latter, however, the lack of capacity, has been regarded as the reason why not all candidate countries managed to become members at the same time (see for example the European Commission's annual Regular Reports on the progress towards accession and Pridham, 2007: 233).

This study is about governmental legislative capacity in the context of legal harmonization in countries that were granted candidate status by the EU. The first objective of this study is to *measure the variations of governmental legislative capacity* in two former candidate countries: Lithuania, which was considered very successful in the adoption process and Romania, which throughout the process was criticized for being too slow in meeting the membership criteria. The second objective is to *explain the variations in governmental legislative capacity* between the two countries as well as over time. The study covers the most intense and critical phase of the legal approximation process, i.e. from 2000 when membership negotiations started until 2002, when the Commission recommended that Lithuania should be admitted.

As the study is on governmental legislative capacity, it is quite natural to focus on the third Copenhagen criterion which states that membership presupposes the candidate's "ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union".⁸ In contrast to the two other criteria it is much clearer and hence easier to evaluate.⁹ The most obvious indicator of the relative success of meeting this criterion is the extent to which the Acquis has been transposed.

Governmental legislative capacity is defined as the ability of the government to fulfill ambitious goals, by getting their intended pieces of legislation through parliament within the scheduled time frame and with the intended content, i.e. without fundamental amendments. Governmental legislative capacity is thus a crucial ability for any government that wishes to fulfil intended goals. In a political system in which decisions are very hard to make, the representatives will have greater difficulties to deliver the policies that the electorate wants. Political systems that produce weak governments will most likely be characterized by inefficiency and legislative deadlock, which in the long run naturally undermines their viability (Weaver & Rockman, 1993: 1). The lack of capacity to legislate is not only a fundamental democratic problem, it has also been found to have a negative effect on the perceived legitimacy of political systems (Gurr & McClelland, 1971: 48-49; Gilley, 2006: 57). Accordingly, democratic polities which have been perceived by the people as impotent and unable to solve crucial, and basic, tasks have been prone to democratic breakdown in the past (see Bessel, 1997).

⁸ See footnote 4.

⁹ The Copenhagen criteria – in particular the political and economic ones – have been criticized for being too vague to be used as benchmarks for evaluation (Grabbe, 2001).

In contrast to several other types of capacities and capabilities that have been extensively studied during the last decades (see for example Weaver & Rockman, 1993; Painter & Pierre, 2005), the research on governmental legislative capacity has been less well developed (Di Palma, 1977: 8). Although legislative capacity has been acknowledged to be of fundamental importance for other types of capacities, such as state capacity and administrative capacity, it has at best been regarded as a necessary precondition, or a stepping stone, for achieving more far-reaching goals at the implementation stage or in terms of policy outcomes (see for example Weaver & Rockman, 1993; Painter & Pierre, 2005; Knill, 2005: 53). Precisely because governmental legislative capacity is a necessary precondition for attaining other desirable goals, it deserves more scholarly attention.

1.2 The case of legal harmonization in candidate countries

Apart from the obvious relevance of analyzing the legal harmonization process as such, which has profound consequences for the parties involved and from which, lessons for the present and future candidate countries may also be drawn, the case also offers exceptional opportunities for comparative studies in general and for studies on governmental legislative capacity in particular.

The fall of the Berlin Wall in 1989 and the subsequent reform process in the Central and East European countries created extraordinary good opportunities for social scientists to study these changes under more or less laboratory-like conditions. The EU-integration process in general and the legal harmonization in particular are even more suitable for comparative studies due to the uniformity of the task and the determination by the governments of the candidate countries to fulfil it during more or less the same period of time. Firstly, exactly the same set of legal measures have to be transposed in all candidate countries in order to become a member of the club, which makes this task in absolute terms equally demanding for all countries. At the outset of this process in the early 1990s, none of the former East bloc countries had quite naturally done anything in that respect, which also implies that the starting conditions were rather similar in terms of legal alignment. Second, there is little ambiguity concerning what needs to be done as all candidate countries had complete information about the content of the legal measures to transpose. The transposition process is thus much more straightforward compared with, for example, the implementation process.¹⁰ As the drafting and adoption of EU legislation may be complicated enough for newly de-

¹⁰ In the literature it has continuously been pointed out that the real challenge is the implementation of the legislation, thereby indirectly suggesting that the law adoption process is a fairly trivial one, which merely requires the passage of draft laws through parliament (interview Nicholas Cendrowicz, 2005; see also Hille & Knill, 2006: 532-533). If it really was the case that the law adoption process was unproblematic and that all countries fulfilled

mocratized countries, the EU has from an early point in the accession process assisted the candidate countries with, among other things, legal expertise. The assistance offered by the EU has been available to all the candidate countries and there are hence, finally, good reasons to believe that the EU has pursued more or less the same approach towards all the candidate countries, in terms of demands and assistance.¹¹

The case of legal harmonization is also unusually appropriate for studying governmental legislative capacity. This field of research has been continuously criticized for shortcomings in a number of respects such as a common understanding of how this phenomenon should be conceptualized, what indicators that should be used to operationalize it validly and how to measure these indicators reliably (Eckstein, 1971: 5; Di Palma, 1977: 6-7; Bowman & Kearney, 1988: 342; Stan, 2002: 80; Arter, 2006: 250). Needless to say, without such key building blocks, it will be very difficult to measure the extent of governmental legislative capacity, let alone find the determinants behind its variations. Some of these deficiencies also arise because most policy processes that are studied generally lack the type of detailed information which facilitates studies in this field.

Luckily, at least for scientific reasons, such information is available in the legal harmonization process, as the Commission requires the candidate countries to draw up detailed legislative plans, which contain all legislative measures that have to be adopted, the deadline for their adoption and what EU directives and regulations they intend to transpose.¹² It thus allows us to take the actors' more detailed intentions into account.

their intentions in that respect, I would agree, but as there also are a lot of indications – not least from the EU itself – that the transposition process has been far from smooth in all countries, I think it is relevant to study it (see the European Commission's annual Regular Reports on the progress towards accession, EU internet link 3). Moreover, without the legislation adopted, there is nothing to implement.

¹¹ In order to be able to meet the extraordinarily tough demands, the EU has over the years developed several assistance programmes (for an overview, see EU internet link 4 and for a brief account, Bågenholm, 2006: 18-27). The Twinning process that was launched by the EU in 1998 came to play the most important role in terms of assistance with transposition. The aim was to provide both long-term assistance in the form of secondment of civil servants from member states' administrations as well as short-term expert exchanges and training. The assistance was directed at the weak spots and areas where progress had to be made, with tailor-made solutions for each country's specific problems and needs (European Commission 2001c: 6). Both Lithuania and Romania made use of the support offered. Between 1998 and 2006 there were 85 finished twinning projects in Lithuania and 207 in Romania (Sigma, 2006: 7). While there seems to be a consensus on the benefits of twinning as an instrument for enhancing the legislative capacity (Cooper & Johansen, 2003: 4-5), it is very difficult to estimate and compare the effects of the twinning assistance among the candidate countries, as the evaluations have focused on the instrument as such and not on differences between the recipients.

¹² The EU legal measures to be transposed are regulations, which are binding to the member states as soon as they are passed and directives which contain certain goals to be achieved. The member states are, however, free to choose the means to meet the stated goals. There is also a deadline within which the directives should be transposed (EU internet link 5).

As a part of the so called pre-accession process, the EU-commission, in agreement with the candidate country in question, issued Accession Partnerships, which presents priorities in both a short and a medium-term perspective. Their function was to be used as a checklist of fulfilled and unfulfilled promises in coming evaluations (European Commission, 1999: 6). The Accession Partnerships in turn were used as the main tool for the governments in the candidate countries to draw up more detailed plans, called National Plans for the Adoption of the Acquis (NPAA), which very concretely spelled out what national legal measures were to be used to transpose the required EU-legislation.¹³ Attached was an appendix which contained a list of all the directives and regulations to be transposed in the coming years and with deadlines specified for every single piece of legislation and what national measure to use. The NPAAs became one of the main instruments for monitoring whether the candidate countries were fulfilling their commitments and were keeping up the pace in the legal harmonization process (Baun 2000: 101). It is thus possible to evaluate not only the extent to which the EU-legislation was transposed, but also if there were serious delays in this process.

The other advantage of the NPAAs is that they also allow for the inclusion of the quality of the legislation produced. Quality is normally very difficult to establish, as there is usually no clear benchmark, with which to compare the passed legislation. In the case of transposing EU legislation, there is such a benchmark: the extent to which the EU directives and regulations are actually transposed in the national legislation, or to put it differently, how well the legal measures proposed by the governments in the candidate countries actually incorporate all the relevant aspects of the directives in question.

It is thus fairly easy to measure the extent to which these legislative plans are fulfilled, i.e. the essence of governmental legislative capacity. The fact that failure to fulfil the intentions may result in the postponement of the EU accession also makes it highly reasonable to believe that the governments in the candidate countries are really taking these intentions seriously.

By studying the legal harmonization process in candidate countries, we not only add to the research field on governmental legislative capacity, we also contribute to the research on transposition, which has so far more or less exclusively focused on the old member states and why the compliance with EU legislation varies between them. By studying the candidate countries, we hold constant one of the factors that is most likely to influence the outcome, but which is very difficult to measure in the old member states, and that is to what extent the governments are actually willing to comply. As conditionality is one of the basic elements of the enlargement process, the incentives for the

¹³ In the EU integration process the agenda setting is naturally a “joint venture” between the candidate countries and the Commission. The latter suggest how to prioritize and the former draw up the more detailed plans, such as the NPAA (EU link 6).

candidate countries to comply are very strong, whereas they are very weak for the old member states. There is no risk that an existing member will be asked to leave the Union due to slowness in transposing legislation, but a candidate country's aspirations may be put on hold for the same reasons. The prospects for finding the determinants for the performance in transposing EU legislation other than the lack of willingness are thus much greater in candidate states than in member states. By exposing their policy making and administrative systems to this enormous challenge, the opportunities for testing the limit of the countries' legislative capacity are moreover far greater than in the old member states, in which the amount of EU legislation to transpose annually is much smaller.

Two bodies of research may thus benefit from studying legal harmonization in the candidate countries: the research on governmental legislative capacity, which benefits from the unusually detailed information and comparability of the cases as well as the scope and complexity of the task and the transposition research which benefits from different incentive structures for compliance in the candidate countries.

To sum up the basics of the EU-enlargement process, the choice to commence the EU-integration process was fully voluntary from the Central and Eastern European governments, which reflected their strong wish to become members as quickly as possible. After that decision was made, strict conditionality, in terms of transposing the whole *Acquis Communautaire*, applied immediately, which left little room for real negotiations. The EU commission made suggestions about how to prioritize and sequence the harmonization of legislation based on annual evaluations. Working out the concrete schedules for the adoption of EU-related legislation was, however, left to the governments of the candidate countries. Non-compliance is a possible strategy, but with potentially fatal consequences for the prospects of becoming members.

1.3 Comparing Lithuania and Romania

This study is about legal harmonization in the former candidate countries from Central and Eastern Europe, which in terms of selection of countries leaves us with ten states, five which started membership negotiations in 1998 (Estonia, the Czech Republic, Hungary, Slovenia and Poland) and the rest, Latvia, Lithuania, Slovakia, Bulgaria and Romania, which commenced negotiation talks in 2000.

As measuring the legislative capacity turned out to be extremely time consuming, I had to limit myself to compare only two countries. In order to have as comparable cases as possible, I have chosen among the countries that started membership negotiations at the same time. Moreover, for the explanatory part, it will be beneficial to find two countries that differ the most on the dependent variable, governmental legislative capacity, but which are similar

in as many other respects as possible, i.e. a most similar system design. The apparent problem is that no reliable indicators of the dependent variable are readily available, which is why the first part aims to establish these indicators. That implies that the precise variation in governmental legislative capacity between countries and over time is not known.

We are not left with pure guessing, however. As mentioned above, during the entire process, Romania has been considered not only to lag behind the other candidate countries, but also to be slower in the legal harmonization process. The other assumed laggard, Bulgaria, has been regarded as performing slightly better (see the European Commission's annual Regular Reports). Romania could thus, on good grounds be assumed to have the lowest governmental legislative capacity of all the candidate countries and is therefore selected as one of my two candidate countries. The other countries in the Helsinki group, Latvia, Lithuania and Slovakia all managed to catch up, and in some instances even overtake, candidates from the Luxembourg group. They may thus be assumed to have the highest legislative capacity. At the time of accession in May 2004, however, there was a big variation in terms of transposition of EU directives between the three candidates, with Lithuania turning out to be the most successful of all member states, having transposed 99.76 percent of all EU directives in force, whereas Latvia and Slovakia came in on a distant 21st and 23rd place respectively with transposition scores of 94.86 and 92.21 percent.¹⁴ Lithuania may thus reasonably be assumed to have been the quickest "transposer" among the candidate countries and is therefore chosen as my second candidate country.

1.4 Time delimitation

To avoid contingent fluctuations that are not representative in a longer time perspective, it would naturally have been preferable to study as many years as possible of the legal harmonization process. Two factors, however, severely constrain that possibility; the availability and quality of the early equivalents of NPAAAs¹⁵ and the time needed to analyze these programs. The legal harmo-

¹⁴ See EU link 7. It should be noted that even though this data is used extensively in the research on transposition, it has nevertheless been severely criticized for being unreliable (Börzel, 2001). In the absence of more reliable and yet easily accessible data and given the fact that one of the aims of this study is to establish – in great detail – the extent to which Lithuania and Romania adjusted to EU's legal framework, these objections are of minor concern.

¹⁵ The so called White Paper, issued by the European Commission in 1995 aimed at facilitating the legal harmonization process, by listing the legal measures to be transposed and the optimal sequence of their adoption. It was, however, not until 1997, when the Commission decided which applicant countries that were ready to start membership negotiations that actual evaluations on the extent of transposition took place (see Bågenholm, 2006: 18-21).

nization process started already in the mid-1990s, but only in the last years of that decade was the transposition of the Acquis systematically evaluated and monitored by the EU and particularly after membership negotiations commenced in February 2000. I have thus chosen to study the Lithuanian and Romanian NPAAAs from 1999 to 2002, i.e. from the date when the decision to start membership negotiations with the Helsinki group was taken, to the date when Lithuania closed membership negotiations, which is the most crucial and intense period.

1.5 Selecting national legal measures

The vast majority of the EU directives are technical in nature and are accordingly transposed through secondary legislation, i.e. government decisions, ministerial orders etc., which is not subject to parliamentary approval.¹⁶ The extent to which these numerous directives are transposed in a timely and correct manner would of course say something about the government's legislative capacity, above all about the administrative resources and the competence of the staff who works in the ministries and departments. As it would have been impossible to include all legal measures planned for adoption in the NPAAAs, I chose to select only the EU legislation that is scheduled to be transposed through primary legislation, which implies that they need parliamentary approval. These legal measures are more complex in scope and more important politically and economically and put the governments in the candidate countries on a tougher test than if secondary legislation would have been included. Thus, all legal measures that need parliamentary approval and scheduled for adoption between 2000 and 2002 are included in this study and they are usually referred to as laws or draft laws in the NPAAAs.

1.6 The scope of generalization

Overall, the EU-integration process is undeniably an extraordinary process, which will happen only once to just a few countries within a relatively limited time. The empirical results in this study may therefore only be generalized to similar processes, i.e. the previous, current and perhaps future legal harmonization processes. In other words, what on the one hand makes the case exceptionally good in terms of accurately measuring and explaining governmental legislative capacity is what on the other hand makes it very difficult to generalize. The study will thus not be able to produce a standardized measure on governmental legislative capacity, which may be used as a benchmark with

¹⁶ In the Netherlands for example, 87 percent of the directives are transposed by secondary legislation and in Spain the figure is about 80 percent (Steunenberg, 2007: 24).

which one might match a completely different legislative process in, let say, Sweden. This would require similar legislative processes.

One should not exaggerate the exceptionality of the case however. Even though the EU-integration process is a one time event, its components – i.e. drafting and adopting pieces of legislation that are considered important by the government to achieve certain goals – do not differ fundamentally from law making processes in general, apart from the instances which involve foreign experts. The amount of legislation and the deadlines for its adoptions, however, do. This is again what makes it such a suitable case for studying legislative capacity. There is thus a potential trade off. While we would like the decision making process to be as regular and ordinary as possible, for the sake of comparison, the process also needs to be quite demanding to allow us examine the limits of governmental legislative capacity. Choosing the legal harmonization process allows us to determine how the governmental legislative capacity varies as well as its limits, which might be more difficult with a more limited level of goal complexity.

1.7 Outline of the study

This study is divided into two separate, but closely related parts: The first part of the study, chapter 2 and 3, deals with the issue of measuring governmental legislative capacity and the second part which includes chapter 4 and 5, explains its variation between Lithuania and Romania as well as over time. In other words, the first part deals with the dependent variable and the second with the independent variables. Each part consists of one theoretical section (chapter 2 and 4), which elaborates on the previous research related to the particular subject matter and one empirical section, which measures the level of governmental legislative capacity in Lithuania and Romania (chapter 3) and analyzes the determinants behind the variation (chapter 5).

The reason for having two theoretical chapters is mainly clarity. I find it logical to start with an elaboration on the concept of governmental legislative capacity and how to operationalize and measure it and then proceed to measure it empirically in Lithuania and Romania, before including theories that aim at explaining variations. In my view, that discussion is better placed after the dependent variable has been established and in direct connection with the empirical explanatory part. In the following section, I will briefly comment on the content in the five remaining chapters of this study.

To measure governmental legislative capacity, we first need to conceptualize the phenomenon properly and derive operational indicators which in turn can be measured. Chapter 2 reviews the literature on governmental legislative capacity critically. I start by elaborating on the concept and how it has been defined, operationalized and measured in previous research. I argue that there are problems with the ways in which scholars have addressed the

concept, which as mentioned above, is partly due to the lack of adequate information, but partly to a deliberate choice. As the validity of these studies may be questioned, there is clearly a need for a thorough discussion on the concept. Based on what previously has been done and on my understanding of the concept of governmental legislative capacity, I make four suggestions for how these kinds of studies ideally should be conducted, even though I am well aware of the limited number of cases that match these recommendations. The case of legal harmonization is a rare but welcome exception. The recommendations are to focus on the actual rather than the potential ability to perform; to use the actors' own intentions and goals as a benchmark for evaluation rather than "objective" criteria set by the scholars; to focus on cases in which the policy goals are demanding rather than easy to attain and finally to use indicators over which the actor in question has a great rather than small influence.

Chapter 3 compares the governmental legislative capacities in Lithuania and Romania between 2000 and 2002. The results show that while almost all scheduled laws are eventually adopted in both countries – i.e. very few laws were rejected by the parliaments – many were adopted with considerable delays. As could be expected, the Lithuanian governments have performed better than their Romanian counterparts on all the measured indicators of capacity: the share of the scheduled laws that are delayed, the extent of delay and the quality of the adopted legislation. There are, however, great variations over time in both countries. Substantial increases in governmental legislative capacity occurred between 2000 and 2001, albeit from different levels.

Chapter 4 reviews the literature on how to explain governmental legislative capacity. Based on those studies and the research on transposition delays in the EU member states, it is argued that constraints in the policy process are crucial for trying to explain the variation in governmental legislative capacity. The most elaborated and parsimonious theory in this respect is George Tsebelis' veto player theory (2002), which simply states that the more veto players that are included in a decision making process, the harder it is to make decisions. Based on the critique towards assumptions of the veto player theory, which are considered unrealistic, I modify its analytical framework somewhat to make it applicable and more relevant to this study.

In chapter 5 the modified framework of the veto player theory is applied to the cases of Lithuania and Romania. I analyze the extent to which their decision making systems are constrained, by mapping their respective veto structure in three different phases of the decision making process – the pre-parliamentary, the parliamentary and the post-parliamentary – in terms of veto points, which are institutional barriers in the decision making process; veto procedures, which are the rules for activating and passing the veto points; and finally veto players, which are the actors who can activate the veto points. Thereafter I analyze whether these constraints actually matter

in terms of preventing the governments from fulfilling their legislative plans within the given deadlines.

The empirical analysis shows that the differences between Lithuania and Romania in terms of governmental legislative capacity primarily may be explained by the differences in the number of veto points, which is higher in the Romanian decision making system. Above all the bicameral system is severely slowing down the decision making process. In contrast, the impact of the veto players is much less pronounced. Almost all influential actors agree that EU membership is highly desirable and they therefore tend not to use their potential veto powers, even on issues that normally are ideologically controversial. This phenomenon has been called “issue linkage” and in this particular case it has apparently made the veto players to disappear. The third striking finding is that it is in the pre-parliamentary phase rather than in the parliamentary phase that the problems occur, which imply that it is the governments, rather than the parliaments, that are to be held responsible for the delays. In surprisingly many instances they tend to submit their legislative proposals to parliament after their deadlines for adoption have already expired. The parliaments, on the other hand, in particular Lithuania’s have, in most cases, been able to process the proposals from the government within reasonable time, without being reduced to rubber-stamp assemblies.

In chapter 6, finally, I make some more general conclusions about the case of legal harmonization and how well my suggested approach to studying governmental legislative capacity worked in practice.

2 HOW TO DEFINE AND MEASURE GOVERNMENTAL LEGISLATIVE CAPACITY

Scholars have been interested in empirically analyzing various kinds of political performances for a long time (Eckstein, 1971: 5; Bowman & Kearney, 1988: 341). The purpose of these studies has been to examine under what institutional conditions and actor configurations that states, parliaments, governments and implementing agencies successfully achieve certain objectives and under which circumstances they do not (e.g. Pressman & Wildavsky, 1973; Putnam, 1993; Weaver & Rockman, 1993; Lijphart, 1999).

Studies of governmental legislative capacity are clearly situated within this field of research, which has received much criticism. The main objection seems to concern the way in which performance is operationalized, i.e. what indicators are the most appropriate for measuring performance and in particular the fact that previous studies are often judged to lack clear, non-arbitrary and measurable indicators (Eckstein, 1971: 5-10; Di Palma, 1977: 6-7; Bowman & Kearney, 1988: 342; Stan, 2002: 80; Arter, 2006: 250).¹⁷ This section first elaborates on the main concepts used in this field of research: performance, capacity and capability. I then proceed to discuss different options regarding the types of indicators that have been used to operationalize these concepts. The discussions concern whether to use indicators on governmental legislative capacity that i) focus on the potential or the actual ability to perform; ii) are based on the actors' own intentions or on goals selected by the scholars; iii) imply high or low goal complexity and finally iv) the actors under study have or do not have influence over.

2.1 Performance, capacity and capability

What types of indicators to use naturally depend on the type of performance or capacity we are interested in studying. There is a substantial body of re-

¹⁷ Eckstein, for instance, goes as far as claiming that most scholars in the field do not bother to establish clear criteria of political performance. Stability, adaptability and effectiveness, are examples of indicators he finds to be too fuzzy (1971: 10).

search, using different concepts to denote performance and a vast plethora of adjectives preceding them which refer to which institutions, actors or activities that are studied.¹⁸ Although governmental legislative capacity or decision making in general, is only rarely the primary research object (Di Palma, 1977: 8), aspects of decision making capacity are often included as one of many components of performance or as an explicit or implicit prerequisite for the more over-arching capacity that is studied (Stan, 2002: 96; see also Bowman & Kearney, 1988). Harry Eckstein for instance, studies how polities perform with respect to cabinet durability, legitimacy, retaining civil order *and* decisional efficacy (1971: 20; See also Stan, 2002: 87 and Bowman & Kearney, 1988). The last indicator is operationalized as “the extent to which polities make and carry out prompt and relevant decisions in response to political challenges” (1971: 65). Concerning the relation to other types of capacities, Knill (2005: 53) claims that decision making capacity is a necessary, but not a sufficient, condition for effective regulation. In contrast to other scholars who seem to consider the adoption of legislation more or less a formality, Knill argues that it certainly is not, which implies that it is worth studying in itself.¹⁹

The one strand within this field of research that does focus on legislative capacity is the one that deals with the role of parliaments. Scholars use the concept to refer to the parliaments’ legislative strengths, as opposed to the governments’, i.e. to what extent legislation that was not initiated by the government is successfully passed and to what extent the parliament is able to scrutinize and influence the bills that are sponsored by the government (see Arter, 2006). Governmental legislative capacity in this study denotes the complete opposite however, namely the extent to which the government gets its proposals through parliament without delays and with the intended content.

Governmental legislative capacity may at first seem to be a misnomer, as the task to legislate is usually the prerogative of the parliament. In practice, however, in most countries the bulk of all legislative initiatives, usually as much as 80-90 percent of the total number, originate from the governments (Arter, 2006: 250). In addition, in case of primary legislation, which has to

¹⁸ For example Cummings & Nørgaard (2004) study implementational, technical, political and ideational capacity as components of state capacity. Painter & Pierre (2005) on the other hand define state capacity together with administrative and policy capacity as components of governing capacity. Weaver & Rockman (1993) use governmental capability and policy-making capacity among a number of other similar concepts. Legislative capacity (Arter, 2006) and institutional capacity (Bowman & Kearney, 1988) are another two variants in use.

¹⁹ Cummings & Nørgaard (2004) for instance, measure state capacity in Kazakhstan and Kyrgyzstan on four dimensions – implementational, technical, political and ideational capacity – none of which refer to the capacity to pass legislation. Weaver & Rockman (1993) who study effective governance and policy-making capacity on the basis of ten different capabilities, strangely enough, also avoid to explicitly address legislative capacity.

be adopted by parliament, the governments also have the greatest influence over its contents, although the parliaments formally have the final say. Considering the actual importance of the government in the law making process, which is perhaps the most important governing function, I believe that it is appropriate also to include the governments' ability to get their proposals through parliament by adding "governmental" to "legislative capacity". In this study, legislative capacity will *only* denote the governments' ability to legislate and the extent to which they get their intended pieces of legislation through parliament.

It should also be mentioned that there is another strand of research that deals with the legislative process and legal output without explicitly referring to the concepts of performance, capacity or capability (see for example Binder, 1999; Tsebelis, 2002; Becker & Saalfeld, 2004). These studies are reviewed in sub-section 2.2.2.

Performance, capacity and capability are the three main concepts and they are often related to concepts such as efficiency, effectiveness and efficacy (see Nørgaard & Hersted Hansen, 2000 for an elaboration on how they are related. See also Weaver & Rockman, 1993 & Stan, 2002). These concepts are usually not used uniformly and it has been argued that there is no point in even trying to reach consensus on this matter as the various usages demand different definitions (Honadle, 1981: 575; Bowman & Kearney, 1988: 343). However, the way in which we choose to define the concepts has consequences for the choice of indicators, with which the concepts are operationalized.

The concept of performance is fairly clear-cut and generally relates to output or outcome-oriented activities, which implies that it is the results that count and accordingly it is what is actually achieved that is measured (see for example Di Palma, 1977: 7; Arter, 2006: 248).²⁰ To be able to perform well, certain capacities or capabilities are needed. There is no uniform definition of these concepts either. Sometimes they are explicitly stated to be interchangeable (e.g. Bowman & Kearney, 1988), sometimes they are defined as clearly separate concepts (e.g. Nørgaard & Hersted Hansen, 2000) and at times there is no explicit elaboration on the differences between them at all (e.g. Weaver & Rockman, 1993).

Even if the definitions differ between the scholars in the field, it seems that capability more often than capacity denotes the *potential* to achieve things. It focuses more on the prerequisites for reaching certain goals and less on whether or not they are achieved in practice (see for example Weaver & Rockman, 1993). Capacity, on the other hand, is sometimes used in the performance-oriented sense and is hence measured in terms of output or

²⁰ Arter makes a clear distinction between legislative capacity, which denotes the potential to "exert influence in the policy process" and legislative performance which denotes the actual legislative output (2006: 249-50).

outcome (Kjaer & Hersted Hansen, 2002: 7; Jayasuriya, 2005: 19), sometimes in a more capability-oriented manner (Bowman & Kearney, 1988) and sometimes as both (see Painter & Pierre, 2005: 3-4). This study uses the term capacity, which lexically has been defined as “the potential or actual ability to perform”²¹, thus leaving us with two quite different options in terms of how to operationalize capacity.

2.2 Indicators of capacity

2.2.1 Potential versus actual ability to perform

The appropriateness of using indicators that operationalize capacity in terms of the *potential* or *actual* ability to perform naturally depends on the purpose of the study in question. It has been claimed that most studies – at least in some sub-fields – have focused on potential rather than actual abilities and this neglect of the latter approach has been regretted (Arter, 2006, concerning parliamentary legislative capacity and Goetz, 2003: 85 concerning evaluations of governmental performance in general). The main reason is that studies that look at the potential ability to perform are unable to determine whether or not the institutions or actors in question actually are performing well. At best, they are able to make a qualified assessment about the likelihood that the institution will be successful in achieving certain goals. In order to be able to know for sure, the actual achievements have to be studied, which means that output-oriented or outcome-oriented indicators have to be used (Eckstein, 1971: 9-10; Di Palma, 1977: 7; Arter, 2006: 248-249). For example, Bowman & Kearney (1988) study the governmental capacities of states in the US, by looking primarily at the resources that are available to the state administrations, in terms of staffing and spending and the extent to which the decision making system is centralized (1988: 348). Moreover they study reforms that have been implemented and which aimed at enhancing the decision making system. They state clearly, however, that they are not looking at the actual effects of these reforms nor to what extent the resources and the features of the decision making system actually have an effect, as “[o]ur objective is to measure capability – not performance” (1988: 346). As they define capacity in terms of effective response to change, efficient decision making, and conflict management, the choice of operationalizing indicators seems somewhat odd. While these studies allow us to formulate some hypotheses about why some states should perform better than others, the question is how useful such research is, if it stops short of testing the hypotheses empirically.

Considering the discussion above, one may wonder what the arguments for not studying the actual output or outcome are. One argument is that merely

²¹ See, www.infoplease.com/dictionary/capacity

focusing on actual achievements is insufficient, as actors or institutions may harbor potential capacity that is rarely used in practice (see for example Painter & Pierre, 2005: 3-4). It is thus used as a strategy to get around the problem of inaction.

One may ask if it is reasonable to claim that a country with the largest military in the world, equipped with the most advanced weaponry lacks capacity, only because the military is kept in the barracks. Or whether it may be accurate to argue that a one-party majority government to which power is highly concentrated lacks capacity to achieve things, only because it did not accomplish anything memorable during its term in office? Would it not, to the contrary, be more accurate to say that the country and the government in question have high capacity and will perform well, based on their respective military and systemic features? My answer to all these questions would be no.

The real problem with inaction is the unavoidable uncertainty of what will happen once it is abandoned, i.e. when action is desired. More than one super power have been unable to defeat enemies, despite overwhelming military power,²² and the efficiency of British governments has also “(...) long been widely accepted without adequate empirical examination, perhaps because its logic appears to be so strong that no test was thought to be needed” (Lijphart, 1999: 258-59). Despite its strong majoritarian elements, Di Palma also claims that it sometimes leads to “...decisional strategies of avoidance and postponement” (Di Palma, 1977: 94). In real life, potential performance is thus for a number of reasons sometimes not matched by actual performance (see Arter, 2006: 248).

The point is not to say that a passive state or government, which presumably is highly efficient once it chooses to use its “resources”, should be considered as lacking capacity; neither should it be considered as having high capacity. The point is that deliberate inaction makes it impossible for us to determine whether the capacity to actually perform in such a situation is high or low, unless we know about the intentions of the government in question. Only by its action is it possible to measure the capacity of a state or a government in the example above.

Weaver & Rockman (1993) take an intermediary approach, in the sense that they on the one hand use indicators, ten different capabilities, which an efficient government by definition must have regardless of its goals.²³ In that

²² The American and Soviet experiences in Vietnam and Afghanistan respectively are two examples.

²³ These capabilities are: (i) To set and maintain priorities among conflicting demands; (ii) to target resources where they are most effective; (iii) to innovate when old policies have failed; (iv) to coordinate conflicting objectives into a coherent whole; (v) to be able to impose losses on powerful groups; (vi) to represent diffuse, unorganized interests in addition to organized ones; (vii) to ensure effective implementation; (viii) to ensure policy stability so that policies have time to work; (ix) to make and maintain international commitments; (x) to manage political cleavages to avoid civil war (Weaver & Rockman, 1993: 6).

respect, they thus focus on the prerequisites for efficient governance. In order to tell whether governments have these capabilities, the governments' actual performance with regard to these capabilities must, on the other hand, be empirically studied, which is done in a number of country, policy, and capability specific chapters of the book.

The reason for not explicitly examining the extent, to which the governments achieve certain goals, has been claimed to be the difficulties to establish exactly what the goals are and compare different goals with each other (see Eckstein, 1971: 16 & Bovens & 't Hart, 1996: 40-41). When studying governmental legislative capacity, I argue that there is no alternative but to use either output-oriented indicators, such as what decisions are made, or outcome-oriented indicators, i.e. the effects of the decisions. For the aforementioned reasons, little would be gained from analyzing some assumed potential to legislate effectively, as we would still be left without evidence of whether the potential capacity worked in practice. This study is accordingly using indicators that focus on the actual ability to perform, i.e. on real legislative output in Lithuania and Romania.

2.2.2 Goal-based versus “objective” indicators

How may we select the preferred types of indicators? The literature proposes two ways to operationalize the indicators: either by what the actors themselves say they want to achieve, i.e. their goals, or by a set of tasks that the scholar thinks that the actors reasonably should strive to achieve (Bovens & 't Hart, 1996: 39). It should, however, be pointed out that both approaches are goal-based in principle, as the objectively set tasks are perceived as goals that any government, at least any democratic government, would agree upon, such as legitimacy and civil order. The difference between the two approaches is therefore rather about whose goals the evaluation should be based upon; the actors' or the scholars'.

The choice between a goal-based evaluation and one based on criteria chosen by the scholars themselves has been perceived as a trade-off (see for example Eckstein, 1971: 16; Bovens & 't Hart, 1996: 39-41). On the one hand, it is very difficult to evaluate a performance, which we do not know whether the actor in question had any intention to achieve. For example, how should we interpret a failure? However, one may ask if there are certain tasks that any high performing government must necessarily accomplish, such as the ones mentioned above. On the other hand, intentions are very difficult to establish and may also be equally difficult to interpret, even if they seem to be clear enough. In addition, comparing goals that different actors set at different times is naturally also very problematic.

The main arguments for not using goal-based indicators are not any perceived problems with goals per se, but rather the great difficulties to establish them properly (Eckstein, 1971: 16; Bovens & 't Hart, 1996). It has been argued

that the publicly stated goals often are vague, overly optimistic or pessimistic, contradicting other stated goals or continuously changing (Bovens & 't Hart, 1996: 40-41). According to Bovens & 't Hart, using these goals as indicators leads to “analytically coherent but politically naive and bureaucratically irrelevant assessments of past policies” (1996: 40). In addition, the stated goals can also stretch beyond the government’s influence, which implies that an apparent failure “may not be political failures at all, but results of conditions and limits over which the polities have no control” (Eckstein, 1971: 16). Moreover, the goals may vary between different polities, which make comparisons very difficult (Eckstein, 1971: 16).

As mentioned in the sub-section above, there are a number of different criteria by which performance has been “objectively” measured. Cabinet durability, legitimacy and retaining civil order are all examples of indicators that the scholars set. It is, however, reasonable to assume that most governments would agree on these priorities, even if they are not explicitly articulated. Lijphart examines the effects of majoritarian and consensus-oriented decision making systems in 36 countries on macro economic management, such as inflation and unemployment, welfare system, sustainability of the democratic system (Lijphart, 1999: 258), which again are indicators that would seem to be reasonable priorities for most governments. Still, if a government does not prioritize reducing unemployment, it is difficult to claim that it has been unsuccessful in achieving it. There are also numerous examples of governments that rather resign than remain in power if they are unable to muster a working majority in the parliament. A government might even hypothetically aim to replace democratic rule with a more authoritarian system and its success should accordingly be judged according to what extent that goal is achieved.

When studying legislative output, it should be even more relevant to consider the actors’ intention. These types of studies include those which focus on the amount of legislation produced and/or the amount of time legislation spend at different stages in the policy process. As the actors’ intentions are not considered, however, interpreting the results is fairly complicated. To study the number of laws adopted during a specific period (Tsebelis, 1999; Binder, 1999) or the speed of the legislative process (Becker & Saalfeld, 2004), regardless of whether or not the legislative output corresponds with the governments’ intentions, are two examples of studies whose results are difficult to interpret. On the one hand, it seems fair to claim that a system that is unable to process a large amount of legislation within a reasonable amount of time, cannot be considered efficient. The sheer amount of legislation, however, gives us very little evidence of the capacity, as long as we do not know the size and the scope of the laws and most importantly, whether the laws turned out the way the government intended (Eckstein, 1971: 13).²⁴ The same argument holds

²⁴ Although governments do not have monopoly on initiating legislation, a system’s capacity must reasonably be related to the government’s ability to govern.

when it comes to the speed of the legislative process. Without any information about deadlines for specific pieces of legislation, it is very difficult to estimate the capacity of the system by looking at the time elapsed. Being slow may be a deliberate choice and "...we cannot evaluate decisions for what *we* think they should produce but for what *politicians* want them to produce" (Di Palma, 1977:12). While the government only has a capacity problem if it is unable to accelerate the process if necessary, these types of studies do not tell us whether or not that is the case.

The effects of neglecting the actors' intentions become obvious in the field of research that focuses on the harmonization of EU-legislation in the member states, the so called transposition research, which is discussed further in chapter 4. The main objective of these studies is to find the determinants behind the varying level of compliance with EU-legislation in the member countries. Several studies, particularly the early ones, either simply presuppose that all the governments have the will to comply with the EU directives or use it as an ad hoc explanation, without actually examining the intentions of the government (see for example Maastenbroek, 2003). The usefulness of the results produced by this research appears dubious at best, as we have good reasons to believe that the extent to which the governments actually desire to transpose certain directives is a crucial, perhaps even the most crucial, factor. Not surprisingly, the studies that have tried to consider the will of the government have found that it matters to quite an extent (see for example, Treib, 2003).

In most cases when we study various kinds of capacity I would thus argue that we need to consider the intentions of the governments or the actor whose capacity we would like to study, despite the aforementioned problems. Naturally some types of studies make these problems more acute and less easy to overcome, but without paying attention to this issue the question about whether or not the objectively stated goals were desired will always be a question begging for an answer, thereby putting the results in doubt.

In a goal-based approach, the problems presented above must be adequately addressed. The goals should preferably be clear, realistic, not conflicting, and not influenced by other actors, as well as stable and comparable. Studying governmental legislative capacity generally makes some of these recommendations less problematic, than for example when analyzing an implementation process, which Bovens & 't Hart do. However, the characteristics and features of the cases selected determine whether or not there is a goal-based problem.

To establish an actor's genuine intentions is of course always very difficult. We usually have to rely on what the actors themselves claim to be their intentions in combination with what is reasonable to assume, considering his or her previous actions.

There is no reason to doubt the genuine desire to become members of the European Union, which the governments in the candidate countries repeated continuously. However, it is somewhat more problematic to go from the overall enthusiasm for membership, to claim that the governments were equally

eager to implement whatever measure would be necessary to reach that goal. Still, there are good reasons to actually trust the government in this respect as well. As discussed in chapter 1, EU-membership is tightly conditioned and candidates that do not fulfil expectations take a great risk and jeopardize their future membership. There is thus a strong incentive not to deliberately avoid transposing the necessary pieces of legislation. Moreover, the analysis is based on the schedules that the governments themselves have adopted and which explicitly and in great detail list the legal measures to be adopted and within what time frame.

Some caveats about the estimation of the government's intention in relation to the NPAA's are, however, in order. Even though the NPAA's were drafted and adopted by the candidate countries, the EU also had quite a strong, albeit indirect, influence over their contents. In fact, they were based on the European Commission's annual opinions on the progress of the integration process, which included recommended priorities in the short and medium terms respectively. One may therefore question to what extent the NPAA's actually represent the intentions of the governments in the candidate countries. The candidate countries were put under severe pressure from the EU and it cannot be excluded that the governments themselves considered the NPAA's unrealistically optimistic, which were nevertheless necessary as proofs of commitment and to please the EU. The candidates were not left with much choice in terms of following the recommendations, however, unless they wanted to risk being left out from the next enlargement round. It should also be remembered that the details of the NPAA's were left to the discretion of the candidate countries and it would not be too farfetched to assume that the governments anticipated the risk of backfire if they adopted overly optimistic plans, which had no chance of being implemented. Romanian and Lithuanian officials in Brussels, claim that the NPAA's were important documents which were taken seriously by the governments' (Interviews, Viorel Serbanescu & Rytis Martekonis, September 2005). In addition, there were strong incentives to keep the promises made. According to a Brussels official the ministers and the civil servants in Romania were:

quite afraid of having a bad assessment from the Commission. A bad assessment [...] could lead to the sacking of the secretary of state. It is hard to underestimate how serious that is. The efforts to avoid [...] a kick in the backside have been remarkable.

(Nicholas Cendrowicz, September 2005)

To avoid the embarrassment of being far from implementing what had been promised, we may therefore assume that the governments actually did not purposely overestimate their capacity and that the NPAA's thus are representing the governments' realistic intentions.

By exploiting the case of legal harmonization in the candidate countries we thus avoid the problems of the goal-based approach or at least we get as far in the preferable direction as possible. The following section discusses studies on legislative capacity which do consider the actors' intention.

A common indicator of legislative capacity in the literature is the success rate of initiated laws, which consider the intentions of the actors (to get a particular piece of legislation through parliament without major amendments) and which make it relatively easy to determine whether the output matches the intention (whether or not that piece of legislation went unchanged through parliament). That approach also has the advantage of being able to handle big samples and has a relatively high validity, i.e. what is proposed one could reasonably assume is what was intended (Di Palma, 1977: 26).

Despite its obvious advantages the approach is not unproblematic.²⁵ Above all, it provides a rather superficial estimate of an actor's intention in a rather short-sighted perspective. It is superficial first because the ratio of adoption of initiated laws does not tell us whether the adopted laws were considered the most important by the actors. To get a high ratio of legislation of minor importance through parliament, while the important pieces of legislation are rejected or amended beyond recognition could not reasonably be argued to be an indicator of high capacity. A lower success rate and having the most important proposals adopted would be preferable. In short, all pieces of legislation are treated as equally important which in reality is not the case.

The literature offers a number of strategies for overcoming this specific problem, including estimating how many people will be affected by the legislation, the resource distribution, counting the number of articles or the numbers of pages in the initiated laws or allowing legal experts to select a sample of important pieces of legislation (see for example Tsebelis, 2004). None of these strategies considers the actor's intention, in terms of whether the initiator perceived the laws as the most important. We are thus basically back to square one.

Secondly, this approach is superficial, as it only provides us with information about whether the law is adopted or rejected and possibly amended during the parliamentary procedure. However, legislative capacity is not only about eventually getting an intended piece of legislation through parliament, but also about whether it is done within a reasonable time and that its quality is such that the intentions are actually fulfilled. Timeliness is thus an important indicator of capacity, as delays in the legislative process could be as damaging to the achievement of the actor's goals as outright rejection of the proposal. In a parliamentary democracy, the majority is usually able to get its will eventually, but if the opposition has many opportunities to slow down and

²⁵ Di Palma readily admits that "[m]y choice of laws (...) is dictated only by the need to have easy outputs with which to assess performance." (1977: 27).

delay the process, urgent measures may be passed by parliament when it is too late. One may make a crude estimate on what is reasonable in terms of timeliness, but the sheer amount of time that a specific piece of legislation spends in parliament is again too crude an indicator, which does not consider differences between laws. Without the information about the actors' perception of the importance of the legislation and when it has to be adopted, it is very difficult to determine whether something that looks like an excessive amount of time spent in parliament is a real problem. There is an obvious risk that a government will be perceived as low performing simply because the scholar unilaterally set a deadline that was too tight (Eckstein, 1971: 16).

The quality aspect of the legislation produced is considered a very difficult issue when dealing with capacity and performance studies (Di Palma, 1977: 18). It goes without saying that the content of the legislation should address what is intended, but with the approach discussed above there is no way to separate quality from intention, i.e. the content of the draft law that is initiated is by definition what is intended. That is a highly problematic consequence, as there may be various reasons for why an initiated law does not correspond to the actors' intention. This is where short-sightedness enters into the picture. The proposals could be of an ad-hoc nature, where the actors take the present situation in the parliament into account when suggesting laws, rather than following a more principled plan with more long-term goals in sight. Moreover, we cannot judge whether the proposed law actually was ideal from the actors' point of view or if it was adjusted as mentioned above or drafted very quickly just to give the impression of action. In order to put the capacity to a somewhat more difficult test, it would be preferable to use the actors' more principled goals, which have been outlined in advance. In short, it is difficult to relate the laws studied with this approach to what the actors want, beyond the trivial point of just taking that particular law through parliament. If we, however, expand the chain one additional step to include the actors' declared goals in combination with information about when and how they will be achieved, most of the aforementioned problems would be remedied. Again, the NPAA provides us with just that type of information.

In summary, we can use the types of studies discussed above to follow the pieces of legislation that are approved and rejected respectively and try to find the reasons, but there are difficulties in establishing a valid variation across time and above all across countries, unless we have more exact information of the intentions in terms of timeliness and quality. While we are able to see if the ratio of passed laws increases or decreases over time, that could just as well be due to the level of goal complexity, i.e. many small and simple laws being passed during one period of time, while few but complex ones are passed during the other. To repeat my point: the more precise and detailed data in terms of intentions we collect, i.e. the closer we come to the intentions of the actors, the more accurate our attempts will be to explain variation over time, and more importantly, across countries.

There are, however, other types of studies that come closer to my ideal point, namely those that focus on the budgetary process. The budget is arguably the single most important law in most countries, upon which most other activities depend (Eckstein, 1971: 74; Stan, 2002). There is also a clear deadline for the adoption of the budget, which allows us to study the timeliness of the process as well. The only caveat about using the budgetary process is to what extent the process is representative for the passage of laws and the functioning of the decision making system in general. As it is the most important piece of legislation it may also be the most contested and some delay in its adoption would not necessarily mean a low overall legislative capacity. Moreover, as the budget is only presented once or twice a year, there won't be many cases, which is a problem if we are to estimate how a system actually performs (Di Palma, 1977: 24). Figure 2.1 below attempts to summarize my point in this section.

Figure 2.1 Intended and objective goals and their level of attainment

	Level of goal attainment	
	High	Low
Actors' own intended goals established	1	2
Objectively set goals	3	4

My argument is that we should focus on box 1 and 2, i.e. where the actors' intended goals could be established. Box 3, where objectively set goals are fulfilled, is quite problematic unless we can ensure that the actor actually strived to achieve them. If the actor does not, the results produced in that box have nothing to do with capacity, as goals that are fulfilled unintentionally are due to good luck or to external factors, not high capacity. Box 4, i.e. failure to attain the "objectively" set goals, is also problematic to handle empirically. To quote Eckstein: "Certain activities may not be performed because they are not desired not because capacity is lacking" (1971: 13). In short, it is difficult to use objective criteria, as we do not know whether they are shared by the actor in question and if they are not, speaking about capacity becomes irrelevant.

2.2.3 High versus low goal complexity

The previous two sections discussed the characteristics of the indicators and it was suggested that they should preferably focus on the actual ability to

perform and be based on the actors' own intentions. To have the attainment of intended goals as the only criterion of capacity is insufficient, however, as the intended goals may be very modest. To fulfil such goals does not reasonably equal high capacity. The level of goal complexity must therefore also be taken into account, which is the topic in this sub-section.

Figure 2.2 Attainment of intended goals and level of goal complexity

		Goal complexity	
		High	Low
Attainment of intended goals	Yes	1	2
	No	3	4

Figure 2.2 shows the four possible combinations of the two defining components of governmental legislative capacity: attainment of intended goals and level of goal complexity. In terms of interpretation, boxes 1 and 4 are unproblematic, whereas 2 and 3 are more difficult. By fulfilling a very ambitious set of goals one, quite naturally, comes to the conclusion that the legislative capacity is high (box 1). The reverse scenario is as simple: Not fulfilling unambitious and simple sets of goals are clear evidence of low legislative capacity (box 4).

As low ambitions by definition do not put the capacity to a very challenging test, box 2 and to some extent box 4 seem empirically less relevant. In box 2 we may at best establish a baseline for capacity, but we cannot establish how much more capacity there is. A government which promises to legislate and interfere as little as possible and sticks to its promises cannot be judged in terms of capacity. It can only be judged in terms of the extent to which it actually lives up to its promises. That is not to say that keeping the status quo is simple, as there may be powerful pressure groups in society that demand changes. It is nevertheless very complicated, as discussed above, to establish the level of capacity by inaction. Box 4 could be of greater interest, but only if we are to study very dysfunctional systems, which barely manage to handle the simplest things. If we think that the legislative capacity is very low, it may be reasonable to put it to such an easy test. Consolidated democratic systems may, however, be expected to pass this type of test quite easily; capacity would hence just be evaluated in its most minimal sense (Eckstein, 1971: 12).

Box 3 finally, in which highly ambitious goals are not fulfilled, is perhaps the most difficult to address, as it is difficult to determine whether the results should be interpreted as high or low. Moreover, it seems reasonable to assume that this category is the most common, as 100 percent goal fulfilment

is supposedly rare. As there is no given level over which capacity should be interpreted as high, it is rather difficult to estimate the level of capacity in a case study. Analyzing several cases, however, allows us to rank the examined countries or governments in terms of legislative capacity and based on many such studies we may eventually arrive at some fixed criteria for what constitutes high and low capacity.

As mentioned above, the level of goal complexity is very difficult to establish under reasonably normal political conditions. The literature often stresses that extraordinary situations, such as crises, are ideal for studying capacity, because the system is put under strong pressure which requires an immediate and efficient response from the actors (Eckstein, 1971: 14; Di Palma, 1977: 16-17). Under normal conditions it is much more difficult to determine whether the capacity is fully used. I strongly agree that we should select cases where the intended goal is of such a character that its successful achievement pushes the legislative capacity to its limits. I do, however, also tend to agree with the critics of the crisis management approach, who claim that such situations are not sufficiently representative to allow any far reaching generalizations (Eckstein, 1971: 15). We would thus optimally need to look for cases that put the legislative capacity to a tough test under as normal conditions as possible. The solution suggested in the literature is again the budgetary process, which follows regular procedures and recurs annually, but which is yet qualitatively different from the regular law making process. As was discussed above this approach has caveats which will not be repeated.

The legal harmonization process is extremely ambitious, thus satisfying the criteria of high goal complexity. However, the process is in many respects unique and the conditions under which the goals are to be achieved are extraordinary which makes generalizations difficult. However, for the purpose of this study, which is to compare two countries undergoing the same process, the problems with broader generalizations are of minor importance.

2.2.4 Output- versus outcome-oriented indicators

The final issue to be discussed here is the extent to which the actor under study has control over the goal attainment. One objection against the goal-based approach was that actors sometimes set goals that are highly influenced by external factors and hence beyond their control. In output-oriented policy research, capacities are all related to the political system in one way or another, but they do differ with regard to the extent to which the government might be assumed to influence the outcome. The concept of state capacity, for example, is according to most definitions, broader than legislative capacity. It is thus more difficult for the government to be in control of the former.

When analyzing legislative capacity, one should focus on a policy outcome over which the government wields extensive influence, in order to reduce the

number of competing variables. The more influence a government has on the policy outcomes, the better the measurement of its capacity. A government can, however, set goals relating to different stages in the policy process. For example, a government's ultimate goal may be to reduce inequality in society, which is a very complex task and which is also affected by a number of external factors. In order to do so, the government may prioritize fighting unemployment, which is more concrete, but still not something over which the government has full control. To fight unemployment, the government in question may further suggest a number of legal initiatives. While the government at this stage is more in control, it ultimately still has to rely on the parliament. At the final stage, where the government is in almost total control, the goal is to draft the suggested laws and submit them to parliament. In each of these stages the government increases its control over the results and external factors become less and less important. Increased proximity to the government thus makes it easier to evaluate its performance. That is not to say that it would be impossible to examine a government's capacity in terms of fighting unemployment, but scholars need to be more careful and take more control variables into account when they get closer to the ultimate goal.

By analyzing the extent to which the laws scheduled by the government are adopted and with what content, the dependent variable is clearly first and foremost influenced by the government, even though it needs the consent of the parliament. While the government has less control and influence of the outcome in a minority situation, it should have complete control in majority situations.

2.3 Conclusions

This chapter reviewed the literature that deals with how to define, operationalize and measure governmental legislative capacity. I addressed four issues that I found particularly problematic in the previous research and which had implications for the validity of the studies discussed. The characteristics of the available cases have often been a reason for why scholars have had to choose insufficient approaches when studying governmental legislative capacity. However, the EU integration process in the candidate countries in general and the legal harmonization process in particular have made it possible to overcome the most pressing problems.²⁶ We thus have a unique opportunity

²⁶ The case of the legal harmonization process also fulfils Eckstein's (1971: 74) four criteria for studying performance. According to him the case under study should: i) focus on decisional processes that occur with some regularity and frequency in all polities (legislative processes); ii) involve challenges (transposition of the entire *Acquis*); iii) reveal factors affecting the efficacy (timeliness) and iv) make the use of simple output-oriented evaluation criteria possible (the timeliness and quality of adopted laws).

to study governmental legislative capacity. The legal harmonization process involves countries whose governments intend to achieve very ambitious goals, which puts a great strain on their legislative capacities. The means to reach these goals are also spelled out clearly and there is information on the time frames and content of the measures involved. Moreover, the criteria for estimating the level of attainment are set in terms of output, over which the government has strong influence. In addition, the tasks to be achieved are similar across all the candidate countries, which make the cases suitable for comparative research.

3 GOVERNMENTAL LEGISLATIVE CAPACITY IN LITHUANIA AND ROMANIA 2000-2002

This chapter measures the variation in legislative capacity in Lithuania and Romania between 2000 and 2002. First, I elaborate on how the empirical study is carried out and what sources that are used. The analysis is based on 126 laws in Lithuania and 162 laws in Romania, included in the National Programmes for the Adoption of the Acquis (NPAA) from 1999 to 2002 and scheduled for adoption between 2000 and 2002 (see appendices).

3.1 Method and data

3.1.1 Operationalizing governmental legislative capacity

Governmental legislative capacity is defined as a government's ability to get its planned laws adopted on time and with a content that complies with the corresponding EU directives. Four aspects are thus relevant: whether or not the planned law is adopted at all; whether or not it is adopted on time; if it is not adopted on time, how long it has been delayed; and finally to what extent it complies with the relevant EU-legislation. I will discuss these aspects in turn.

There may be several reasons why a planned law is not adopted. One is that the government's proposal is rejected by the parliament, which is easily checked. It is more difficult to determine if a law has become irrelevant, which may be due to changes in the corresponding EU directives and therefore withdrawn by the government. A third scenario is also difficult to detect, namely when provisions of the planned law are included in another law. Planned laws that have not been adopted are included in the analysis, but due to the reasons discussed above it will be difficult to establish why some of the laws were never adopted. I simply label this category of legislation as "not adopted".

Timeliness is about adopting the scheduled laws according to their attached deadlines. The share of the planned laws that are delayed, i.e. adopted after

their deadlines are due, is the indicator of the timeliness aspect of governmental legislative capacity.

Laws delayed by a few days are naturally not a problem at all in practice, whereas more extensive delays could be politically devastating. Therefore I also analyze the extent to which the laws adopted after their deadlines had expired have been delayed.

It is totally pointless to keep deadlines if the quality of the legislation produced is poor. I therefore also analyze the extent to which the adopted laws are in line, i.e. fulfil the provisions of the directives in question while not contradicting any of them, which is the quality aspect of governmental legislative capacity.

The level of legislative capacity will thus be based on the value of each of these indicators. Comparisons are made both between the two countries as well as over time. In the following sub-section I discuss how they are measured in practice.

3.1.2 How to measure the indicators of governmental legislative capacity

The National Programmes for the Adoption of the Acquis (NPAA) contain information about which legal measures are planned to be transposed through laws and when the laws are to be adopted. The NPAAs are voluminous documents, divided into two major parts. The first part is divided into the 29 negotiating chapters and includes information about the current state of legal approximation, and more importantly, what needs to be done in the short and long term perspectives and finally how and within what time frames the goals are to be achieved. The second part is more like an appendix, which presents the EU legislation that is planned to be transposed usually within the next three years, together with the national legal measure and the deadline for its adoption by parliament. In the Lithuanian case, deadlines are also given as to when the government is to approve the draft laws that subsequently will be submitted to the parliament. The Romanian NPAA's contain no similar systematic information. Moreover, the specificity of the deadlines varies between the countries, between policy areas and over time. The Lithuanian deadlines are generally more specific, usually indicating both by which quarter and year a legal measure is to be adopted, while the early Romanian NPAAs just indicated a year. More recent Romanian NPAAs include deadlines for both month and year.

As far as laws are concerned, the deadlines refer to the parliamentary adoption and when it comes to draft laws, they indicate the approval of the government. All EU legislation that are planned to be transposed by laws and scheduled for parliamentary adoption between 2000 and 2002 have thus been extracted from the NPAAs adopted in 1999, 2000 and 2001 and in the case

of Romania, also the NPAA adopted in 2002.²⁷ From the NPAA's adopted in 1999, the laws scheduled for adoption for 2000 and 2001 were selected; from the NPAA's adopted in 2000, I selected laws to be adopted between 2000 and 2002; from the 2001 edition, laws to be adopted in 2001 and 2002 and finally from the NPAA 2002, laws that are to be adopted in 2002 were included in the analysis. The reason for not including the laws that are scheduled farther ahead in time is to control for the realistic aspect of planning. The farther ahead that a law is scheduled, the less certain is the estimate which increases the likelihood that the plans will change. Several laws that are not adopted on time reappear in subsequent NPAA's, with rescheduled deadlines, which mean that all legal measures are eventually adopted according to the deadlines. I have therefore only included each measure once and that is the first time they appear in an NPAA.

Reversely I also omitted legal measures that were scheduled to be adopted very shortly, or sometimes even before, the relevant NPAA was published. Such measures were usually already adopted or were very close to be adopted when the NPAA was published and therefore rather represent what has already been done, than what is to be done in the future.

Even though the information of the governments' intention in terms of transposition is generally good, a few projected laws in both Lithuania and Romania lack clear deadlines. If information about deadlines is also lacking in the first part of the NPAA's and it was impossible to make a realistic estimate about the deadlines, these laws are left out of the analysis, since a given deadline is a prerequisite for measuring governmental legislative capacity. In addition, I have omitted laws that involve the participation of other countries. For example, I have left out several bilateral agreements that have to be ratified, as the failure to reach an agreement could be caused by the other party, in which case it says nothing about the candidate countries' legislative capacity.

Moreover, there are a few instances in which the legal measures are unclear, i.e. whether the directive in question is planned to be transposed by primary or secondary legislation. I have checked up all those cases and included those in which laws actually were used as transposition measure. Reversely, I excluded the measures scheduled as laws, but where the government used secondary legislation in practice. To sum up, I extracted all the legal measures scheduled for adoption 2000 to 2002, transposed by laws and on which there was reliable information about the deadline.

To extract the relevant laws and drafts from the NPAA's is not very difficult. The next step – to match the laws and draft laws scheduled for adoption with the actual adopted pieces of legislation – is however extremely time consuming and difficult in many respects: Differences in translations from one NPAA to

²⁷ The Lithuanian government did not adopt NPAA's after 2001.

another as well as between the NPAAAs and the legal databases have sometimes complicated the search for the correct legal measure. Moreover, in some instances two or more projected laws are merged and adopted as one piece of legislation. Finally, laws that were continuously updated were sometimes difficult to attach to the right scheduled measure, as some of the amendments of the laws had nothing at all to do with the EU integration progress, whereas other amendments had. The sources for finding the relevant pieces of legislation were primarily the annual and quarterly Government's Reports on the Progress to Prepare for the Accession, which provide detailed information of the latest progress in the legal harmonization in general and on transposition in particular. In case the laws have not been mentioned in these reports, the legal databases held by the Romanian and Lithuanian parliaments were used as a complement.

The matching procedure described above resulted in 215 projected measures in Romania, of which 162 are scheduled as laws and 53 as draft laws, and 151 in Lithuania (126 laws and 23 draft laws), which are included in this study.

On the basis of these 366 entities, a database was built containing as much relevant information as possible on each legal measure, in order both to estimate the level of legislative capacity in the two countries and across time, but also to facilitate finding the determinants behind the fluctuations, which is the subject of the second part of this study. Here, I only discuss the variables that are relevant for the analysis in this chapter.

As governmental legislative capacity has been defined in terms of timeliness, extent of delay and quality, information on these three aspects is naturally the most important to collect.²⁸

To start with timeliness, the important components for establishing it are the deadlines on the one hand and the adoption of the legal measure on the other. The deadlines are provided in the NPAAAs and information of the fate of the legal measures in parliament, from their submission by the government to the final promulgation of the law is recorded in the parliamentary databases mentioned above. It is thus relatively easy to establish the extent to which legal measures are adopted on time, delayed, i.e. adopted after the deadline expired or not adopted at all and how this may have changed over time.²⁹ The relationship between the deadline and the date of promulgation determines whether or not a law is adopted on time.

The extent of delay therefore has logically been measured in terms of the amount of time that elapsed between the deadline and the time of promulgation. I have chosen to count the total number of days, workdays as well as

²⁸ Naturally, there is not much information to collect on the projected laws that never were adopted.

²⁹ It should be noted that 'not adopted' does not equal rejection. Not adopted only denotes laws which so far have not been adopted. They could have been rejected, but they could also be somewhere in the policy process, or included in other laws.

holidays, which in one respect is unfair, as longer breaks, for example between two parliamentary sessions, may make the delay longer than it actually is. On the other hand, what counts in practice is when the law is adopted, regardless of whether or not there are good reasons for the delay. It has also been made for practical reasons, as it would be extraordinarily difficult and time consuming to take into account all days when the parliament is not in session. Moreover, I have chosen to present the figures on the extent of delay in a number of intervals, in order to show the distribution of laws in the different categories. The important dividing line, however, is the six months mark, after which legislation is considered severely delayed.³⁰

In contrast to timeliness and extent of delay, quality is very difficult to measure, especially when dealing with large datasets, which make it impossible to scrutinize the legal texts as such.³¹ The biggest problem concerning quality is that the information in this regard is provided more or less exclusively by the governments of the candidate countries themselves. They report frequently to the EU which legal measures have been transposed and to what extent they correspond with the relevant directives. Another problem is that it is fairly difficult to determine the exact extent to which a law corresponds to the relevant *Acquis*. The Technical Assistance and Information Exchange Unit (TAIEX) collects this information. In the Romanian case I managed to obtain a copy of the database held by the Ministry for European Integration. Unfortunately the same information was not provided by the corresponding ministry in Lithuania. Information about the quality of the Lithuanian legal measures was collected from different sources, such as the aforementioned Governments' reports and sometimes, albeit rarely, from the explanatory notes that accompanies the draft laws submitted to the parliaments.³² All scheduled laws, on which there is information regarding the quality, are coded as either partially or fully in line with the *Acquis Communautaire*. There are however quite a few laws, in particular in Lithuania, on which information is lacking. As quality of legislation is not systematically included in the Government reports it is very difficult to find out the reason for the omissions. The quality aspect of governmental legislative capacity is therefore the weakest of the

³⁰ A delay up to six months has been considered "reasonable" by EU officials (Käding, 2006: 234). Haverland & Romeijn categorize delays up to two years as modest and over two years as serious (2005: 10). It should however be kept in mind that these studies deal with the member states. As discussed elsewhere, the candidate countries are in a very different situation and they put their membership in jeopardy by delaying the adoption of legislation. It is of course very difficult to estimate exactly where the "risk threshold" lies in terms of delay and it has been suggested that it also varies from one law to the other (Interview, Rytis Martekonis, September, 2005). As there is no way to check the risk threshold on every single law, I find the six month mark a reasonable division line.

³¹ Not even the Commission has the adequate resources to check whether the member states transpose the EU legislation correctly. Rather they have to rely on the information given by the governments themselves (Steunenberg, 2007: 29).

³² Since they are only in Lithuania they have been consulted only as a last resort.

three. We should therefore treat the share of laws reported as being fully in line with some caution. When deficiencies are reported there is however little reason to distrust the information.

There are two kinds of comparative analyses: One is concerned with the similarities and differences between the two countries, which allow us to rank Lithuania and Romania according to the outcome on the indicators discussed above. The second one compares the indicators over time in each country in turn. I have based that particular analysis on the fate of the laws to be adopted a certain year and I have hence been able to establish the level of governmental legislative capacity over time.³³

Finally, there is the question of how to estimate what constitutes high and low legislative capacity. As this study to my knowledge is the only one that analyzes this particular process in the candidate countries, there are no established benchmarks in terms of level of estimations and it is thus very difficult to establish any fixed criteria in these respects in advance. This is perhaps not that important however, as the variations between the countries and over time matter more. In the empirical analyses I nevertheless allow myself to elaborate on whether the results could be regarded as high or low, but the caveat just mentioned should be kept in mind.

3.2 Establishing the legislative capacity in Lithuania and Romania 2000-2002

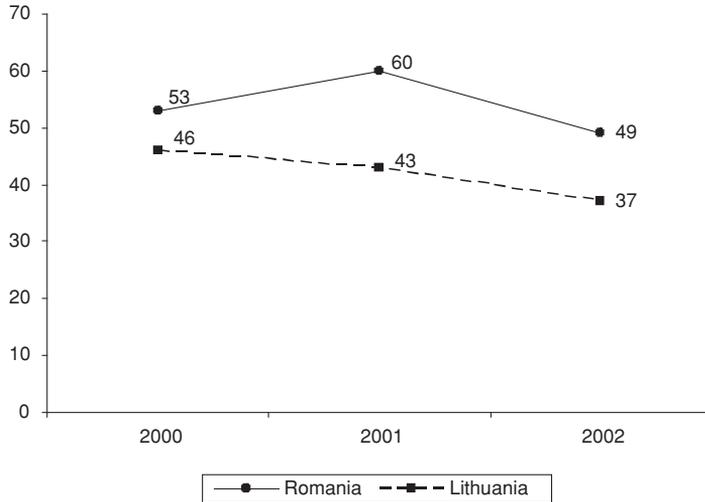
In this section, the first empirical analysis is conducted. It aims at establishing the level of governmental legislative capacity in Lithuania and Romania between 2000 and 2002. As shown in figure 3.1, the number of projected laws included in the NPAs between 1999 and 2002 differs somewhat between Lithuania and Romania. In Lithuania, 126 laws were scheduled for adoption during the period in question compared to 162 in Romania.

The Romanian legislative agenda is thus 29 percent larger in terms of the sheer number of laws. The biggest difference in terms of planned laws is found in 2001 for which Romania scheduled almost 50 percent more laws than Lithuania. One may assume that the more laws a country has to adopt the greater the likelihood of delays. On the other hand, laws may differ immensely in scope and complexity, which makes the number less relevant. As

³³ When analyzing the legislative capacity over time, however, one should be aware of the problems that the often quite protracted processes create in terms of our ability to accurately match the level of capacity with the correct time period. As mentioned above, the laws in the figures and tables in the chapter are at this point attached to the year in which they were planned to be adopted, not the actual year of adoption or the year they were submitted to parliament by the government. In chapter 5, I resume this discussion and examine in more detail to what extent the patterns concerning variation over time do or do not hold.

both countries have the same legislative standards to which they have to adjust, my assumption is that the overall agenda is quite similar in Lithuania and Romania, regardless of the differences in the number of projected laws.³⁴

Figure 3.1 Number of laws projected for adoption by year



Source: Romanian and Lithuanian National Programmes for the Adoption of the Acquis 1999-2002.

Comment: The total number of scheduled laws is 126 in Lithuania and 162 in Romania. Laws that have been scheduled for adoption on several occasions have only been counted once, in the first document in which they were mentioned.

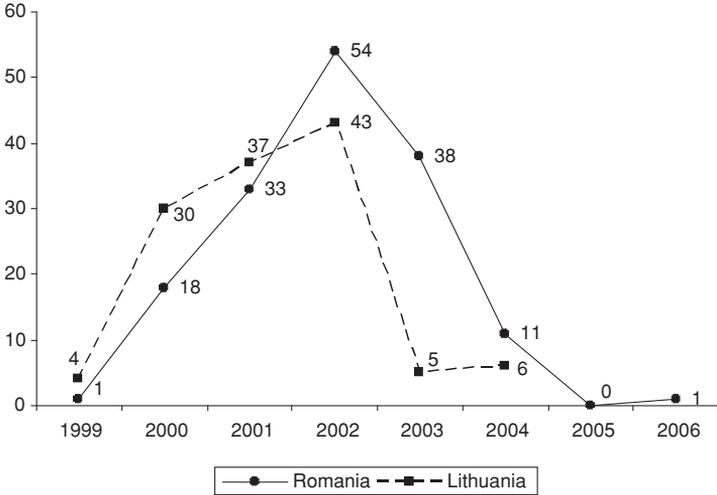
If we trace the scheduled laws presented in figure 3.1, we find that almost all were eventually adopted. In Romania 156 of the scheduled 162 laws were adopted, the last one as late as in 2006 and in Lithuania all but one of the scheduled laws was eventually not adopted. Figure 3.2 shows that Lithuania adopted more laws earlier in the process compared to Romania, which adopted a sizable share of their scheduled laws after 2002. That in turn, indicates that Romania has been more lacking in governmental legislative capacity than Lithuania.

Despite the fact that Romania had significantly more laws scheduled for adoption in 2000 and 2001, Lithuania outnumbers Romania in terms of

³⁴ It could of course also be argued that Lithuania was much ahead of Romania in terms of transposition and therefore had less pieces of legislation left to adopt. It is extremely difficult to empirically check the differences in the initial conditions between the two countries, but it has been suggested that none of the countries in the Helsinki group were very advanced in this respect (Toshkov, 2005).

adopted laws during this period. As the number of not adopted laws is so small, I will concentrate on the other three indicators of legislative capacity, starting with timeliness.

Figure 3.2 Number of projected laws adopted by year



Source: Author’s compilation, based mainly on the Romanian and Lithuanian governments’ annual and quarterly Reports on the Progress of Accession to the EU between 1999 and 2003.

Comment: The total number of adopted laws is 125 in Lithuania and 156 in Romania.

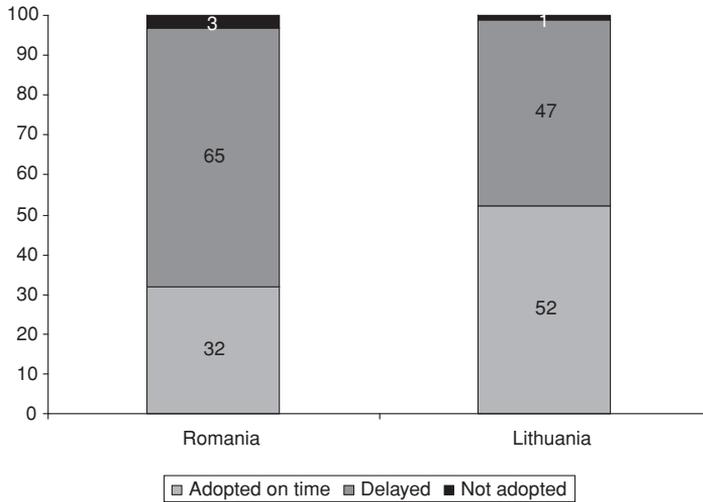
3.2.1 Timeliness

This sub-section analyzes the ratio between laws adopted on time and laws that are delayed. Figure 3.3 below shows the share of the projected laws that are adopted on time, delayed and not adopted at all and it reveals what was hinted in figure 3.2: the share of delayed laws is far greater in Romania than in Lithuania. Almost two thirds of the 162 projected laws were delayed in Romania. As only six of the scheduled laws were not adopted at all, one third of the projected laws were adopted on time.³⁵ In Lithuania by contrast, 52 percent of the laws, which equals 66 laws, were adopted on time. Although Lithuania’s legislative capacity in this regard is much higher than Romania’s, it is still worth pointing out that almost half of the projected laws were delayed. Only one of the projected laws was not adopted at all. In terms of keeping the deadlines, Lithuania was thus clearly more efficient than Romania. We

³⁵ See footnote 29.

should keep in mind that the extent of the delays has not yet been analyzed, which makes it risky to draw any firm conclusions at this point.

Figure 3.3 Share of projected laws adopted on time, delayed and not adopted (%)



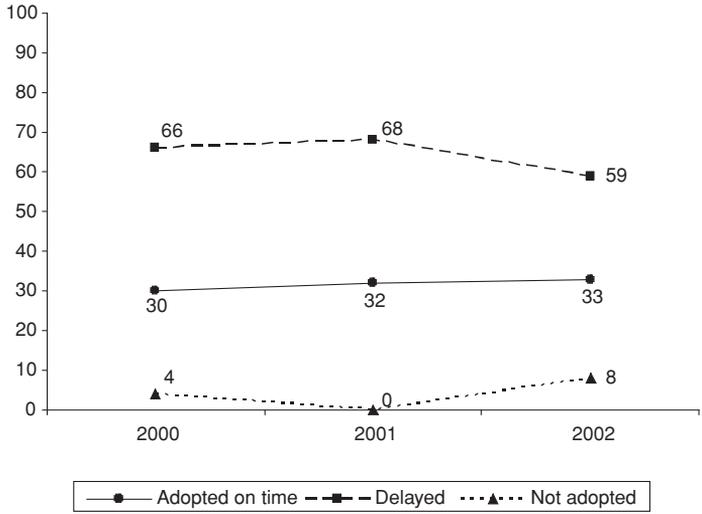
Source: Author's compilation based on Romania's and Lithuania's National Programmes for the Adoption of the Acquis 1999-2002 and Governmental reports 1999-2003, the TAIEX database and the Lithuanian and Romanian parliamentary databases.

Comment: The total number of scheduled laws is 126 in Lithuania and 162 in Romania. Laws that have been scheduled for adoption on several occasions have only been counted once, in the first document in which they were mentioned.

In addition to comparing Lithuania and Romania, the variation in meeting the deadlines over time in the two countries is also studied. The following figure shows the share of laws that were adopted on time, delayed and not adopted at all in Romania between 2000 and 2002.

As shown in figure 3.4, the Romanian case displays a fairly even pattern in terms of keeping – or rather missing – the deadlines. No major changes took place during the period under study. A slight successive improvement is noticeable, with the exception of the increase in the category of not adopted laws. Only around one third of the laws are consistently adopted on time whereas there are twice as many delays. 2002 however, shows a marked decrease in the share of delayed laws, but at the same time, the increase in the share of not adopted laws reduces the impression of capacity improvement.

Figure 3.4 Share of projected laws adopted on time, delayed and not adopted in Romania, 2000-2002 (%)



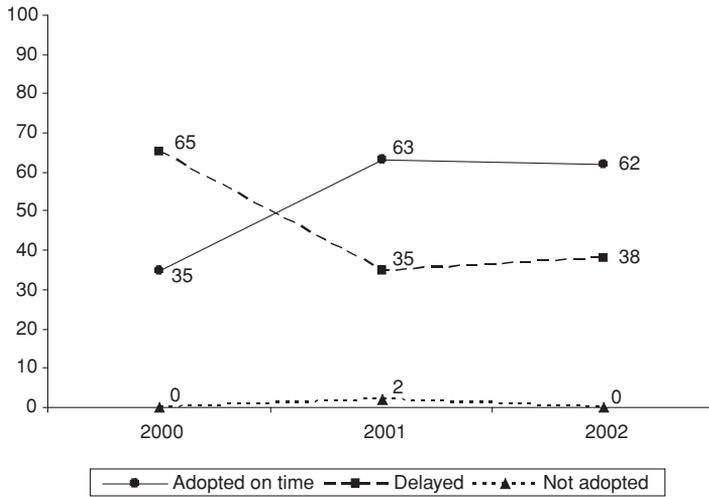
Source: Author’s compilation, based on Romania’s National Programmes for the Adoption of the Acquis 1999-2002 and Governmental reports 1999-2003, the TAIEX database and the Romanian parliamentary database.

Comment: The figures are based on the deadlines and the time of promulgation. The number of projected laws is 53 for 2000, 60 for 2001 and 49 for 2002.

However difficult it is to interpret these figures without anything with which to compare them, it is at least clear that the legislative capacity in terms of keeping the deadlines has not decreased over time. The main impression is, however, that the overall picture is bleak. There is a big gap between what is intended and what is achieved every year. Now we turn our attention to Lithuania.

The ability to meet the deadlines apparently varies much more over time in Lithuania than in Romania. The most striking feature of figure 3.5 is the considerable improvement between 2000 and 2001. The drop in capacity the following year is quite modest in comparison. Concerning the overall level, much of Lithuania’s success in the transposition process may apparently be attributed to 2001 when 63 percent of the scheduled laws, or 27 in total, were adopted on time. This contrasts sharply with the previous year when only 35 percent of the projected laws were adopted on time and as much as 65 percent were delayed. In 2002 by comparison, the share of delayed laws is markedly lower and the share of laws adopted on time is higher, which indicates that the year 2000 was an exception. The share and the number of not adopted laws are negligible throughout the period under study.

Figure 3.5 Share of projected laws adopted on time, delayed and not adopted in Lithuania, 2000-2002 (%)



Source: Author’s compilation, based on Lithuania’s National Programmes for the Adoption of the Acquis 1999-2001 and Governmental reports 1999-2003, the TAIEX database and the Lithuanian parliamentary database.

Comment: The figures are based on the deadlines and the time of promulgation. The number of projected laws for 2000 is 46, 43 for 2001 and 37 for 2002.

Although Lithuania improved considerably between 2000 and 2001, roughly one third of the scheduled laws were delayed during the “good” years, which implies that there is still room for considerable improvements.

If we compare the two cases, Lithuania outperforms Romania every year. In fact every single figure is to Lithuania’s advantage, with the exception of when we compare the share of delayed laws in Romania in 2002 (59 percent) with Lithuania’s figure for 2000 (65 percent). Romania’s peak performance thus barely reaches the level of Lithuania’s worst level of legislative capacity. One should bear in mind that it is too early to claim that Lithuania’s legislative capacity is much higher than Romania’s, as the analysis has not yet considered either the extent of the delays or the quality of the laws. It could be the case that Lithuania’s delays, however fewer, may be much more severe than Romania’s.

We have now established some basic facts concerning the laws scheduled for adoption in Romania and Lithuania. The next step of the analysis addresses only the delayed laws. In Lithuania 59 of the 126 scheduled laws were adopted after the deadline expired (47 percent) and 105 out of 162 in Romanian (65 percent).

As argued above, the sheer number of delayed laws does not necessarily tell us the accurate level of legislative capacity. In the figures above, all delayed laws were included regardless of whether they were delayed for one day or for several years. To get a more complete picture regarding the timeliness aspects of legislative capacity, the following sub-section presents the extent to which the laws adopted after their deadlines expired were delayed.

3.2.2 Extent of delay

Table 3.1 shows the distribution of the extent to which the projected laws in Romania and Lithuania were delayed. The intervals are arbitrarily chosen, with cut off points at three, six, twelve and 24 months respectively. The six months' mark, however, is considered the point that separates insignificant delays from significant delays.³⁶ The table reveals that the pattern from the previous section is quite similar. Not only is a much larger share of the projected laws in Romania delayed compared with Lithuania, they are also much more severely delayed. In Romania the average number of days of delay was 365, i.e. exactly one year, while Lithuania's average is 268 days i.e. a difference of about three months. The median values, however, are substantially lower – 200 and 179 – and much closer to each other, which is the consequence of a few laws being quite considerably delayed, as shown in the second last row in the table.

Table 3.1 Extent of delays for projected laws

Delay (number of days)	Romania			Lithuania		
	n	%	Cumulative percent	n	%	Cumulative percent
1-90	17	16	16	15	25	25
91-183	24	23	39	15	25	50
184-365	23	22	61	11	19	69
366-730	26	25	86	14	24	93
731-	15	14	100	4	7	100
N	105	100	100	59	100	100

Source: Author's compilation based on Romania's and Lithuania's National Programmes for the Adoption of the Acquis 1999-2002 and Governmental reports 1999-2003, the TAIEX database and the Lithuanian and Romanian parliamentary databases.

Comment: Delays have been calculated on all days, workdays as well as holidays, passed between the deadline and adoption. The minimum and maximum for Romania is 11 and 1 429 days respectively and for Lithuania 4 and 893 days respectively. The intervals in the table are up to 3 months, between 3 and 6 months, between 6 months and a year, between one and two years and finally more than two years.

³⁶ See footnote 30.

In Lithuania, half of the delayed laws were adopted within six months after the deadline expired, leaving 29 laws that may be considered seriously delayed. It should again be pointed out that it is very difficult to determine both what constitutes a serious delay and whether a certain percentage of the laws in a certain category should be considered high or low. However, when as in Lithuania, more than 30 percent of the laws are delayed by more than a year it intuitively gives the impression that there is quite a bit left to be desired.

In Romania, 39 percent of the delays may be dismissed as insignificant (up to six months), while the same number, 39 percent or 41 laws in total, were delayed more than a year. Although Lithuania's record does not look overwhelmingly impressive, the country still outperforms Romania on this point as well. It should, however, be noted that the differences are not particularly large. I will now turn to the extent to which the delays varied over time.

When looking at Romania's record in terms of keeping the deadlines over time, the overall picture showed only minor improvements at best. The share of projected laws that were delayed each year remained relatively constant. Table 3.2, however, reveals a very different picture. The most striking feature is the sharp decrease in the average number of days the Romanian laws were delayed, from 536 in 2000 to 256 in 2002, which constitutes an improvement of about nine months. In 2000, 61 percent of the projected laws were adopted more than a year after the deadline expired, compared to only 21 percent of the cases in 2002. While 2001 takes an intermediate position, it is clearly closer to the performance of 2002 than that of 2000.

Table 3.2 Extent of delays for projected laws in Romania, 2000-2002

Delay (days)	2000			2001			2002		
	n	%	Cumulative percent	n	%	Cumulative percent	n	%	Cumulative percent
1-90	4	11	11	6	14	14	7	24	24
91-183	4	11	22	13	32	46	7	24	48
184-365	6	17	39	8	20	66	9	31	79
366-730	10	29	68	11	27	93	5	17	96
731-	11	32	100	3	7	100	1	4	100
N	35	100	100	41	100	100	29	100	100
Average	536			298			256		
Median	507			192			185		

Source: Author's compilation based on Romania's National Programmes for the Adoption of the Acquis 1999-2002 and Governmental reports 1999-2003, the TAIEX database and the Romanian parliamentary database.

Comment: Delays have been calculated on all days, workdays as well as holidays, passed between the deadline and adoption. The intervals in the table are up to 3 months, between 3 and 6 months, between 6 months and a year, between one and two years and finally more than two years.

In summary, the legislative capacity in Romania has so far showed considerable improvements over time, even if the share of delayed laws remained at the same level. The year 2000 stands out as the worst, with only 30 percent of the scheduled laws adopted on time and with an average delay of close to a year and a half. Both 2001 and 2002 are much more favourable, as the share of severely delayed laws became progressively smaller.

Lithuania's pattern does not change as much. It rather confirms the picture given above, which showed that, as in Romania, the year 2000 stands out as the worst, after which there is a significant improvement. The average delay decreased from 310 days in 2000 to 228 in 2002, which equals approximately three months. In 2001, as much as 73 percent of the delayed laws were adopted within six months after the deadline expired and only three laws were delayed more than a year, compared to eleven in 2000 and four in 2002. The results for 2001 and 2002 contradict the previous findings. In addition, when looking at the extent of delays, 2001 emerges as the best year. The overall picture, thus, is one of major improvements after 2000.

Table 3.3 Extent of delays for projected laws in Lithuania, 2000-2002

Delay (days)	2000			2001			2002		
	n	%	Cumulative percent	n	%	Cumulative percent	n	%	Cumulative percent
1-90	7	23	23	4	27	27	4	29	29
91-183	4	14	37	7	46	73	4	29	58
184-365	8	26	63	1	7	80	2	14	72
366-730	9	30	93	1	7	87	4	28	100
731-	2	7	100	2	13	100	0	0	100
N	30	100	100	15	100	100	14	100	100
Average	310			222			228		
Median	248			132			165		

Source: Author's compilation based on Lithuania's National Programmes of the Adoption of the Acquis 1999-2001 and Governmental reports 1999-2003, the TAIEX database and the Lithuanian parliamentary database.

Comment: Delays have been calculated on all days, workdays as well as holidays, passed between the deadline and adoption. The intervals in the table are up to 3 months, between 3 and 6 months, between 6 months and a year, between one and two years and finally more than two years.

When comparing the averages of Lithuania and Romania, it seems that Romania is not doing much worse during 2001 and 2002. While the year 2000 is still exceptional, Romania's performance in 2001 is actually better than Lithuania's in 2000 (298 versus 310 days delay on average) and the difference in 2002 is only about a month. It thus seems fair to say that over time Romania got closer to Lithuania in terms of extent of delay, but nevertheless remained behind. It is now time to turn to the contents of the legislation adopted, i.e. the quality aspect of legislative capacity.

3.2.3 Quality

The third aspect of governmental legislative capacity is the quality of legislation, which in this study is operationalized as the extent to which the adopted legislation transposes the corresponding EU directives. It is of little help to be timely in the legal harmonization process, if the legislation produced is of poor quality and in need of continuous revisions. To obtain a high level of legislative capacity, both the timeliness and quality aspects therefore have to be met satisfactorily. The question is whether there is a trade off between quality and timeliness, i.e. if high quality legislation necessarily demands a more protracted legislative process and thus risks being delayed.

The table below shows the number and share of the projected laws adopted in Romania that is considered to be fully and partially in line with the corresponding EU-legislation that was intended to be transposed. It should be noted however, that information is lacking on several laws: 37 of 156 adopted laws (24 percent), which are subsequently omitted from the analysis. The table below shows the quality of the 119 adopted laws in Romania, for which I have obtained information.

As is shown, the quality of the Romanian legislation seems to be high. 76 percent of all laws scheduled for adoption, for which information was available, are fully in line with the Acquis, whereas only 24 percent of the laws were partly in line. The previous assumption about a potential contradiction between quality and timeliness proved to be mainly wrong. There is a small difference in quality in favor of the delayed laws, of which 79 percent were fully in line, whereas 71 percent of the timely laws were fully in line with the Acquis. The difference, however, seems to be too small to validate that claim. In other words, the government does not seem to lose anything in terms of timeliness by ensuring a high quality of the legislation.

Table 3.4 Quality of projected laws in Romania

Projected laws	Fully in line		Partly in line		Total	
	n	%	n	%	n	%
On time	30	71	12	29	42	100
Delayed	61	79	16	21	77	100
Total	91	76	28	24	119	100

Source: Progress Editor database (Ministry of European Integration).

Comment: The information is based on the Romanian governments' own estimation on the level of legal alignment.

In Lithuania the lack of information is even worse. Data is missing on 47 of the 125 adopted laws, i.e. 38 percent. The reported quality of the remaining 79 adopted laws in Lithuania is presented in table 3.5 and shows that the quality of the Lithuanian legislation is even more impressive: 93 percent of

all scheduled laws, for which information is available, are fully in line with the corresponding EU legislation. Only five laws are considered to be partly in line. In terms of quality, the Lithuanian government, thus, displays a very high level of legislative capacity.

Table 3.5 Quality of projected laws in Lithuania

Projected laws	Fully in line		Partly in line		Total	
	n	%	n	%	n	%
On time	45	96	2	4	47	100
Delayed	29	91	3	9	32	100
Total	74	93	5	7	79	100

Source: Lithuanian governments’ annual and quarterly Reports on the Progress of Accession to the EU, 1999, 2000, 2002 and 2003.

Comment: The information is based on the Lithuanian governments’ own estimation on the level of legal alignment.

The reason why information is missing on such a great number of laws may of course be that they are not considered to be fully in line with the *Acquis* and therefore not mentioned in the Government’s reports. There is, however, nothing to suggest that this would be the case. I still believe that it is reasonable to base the analysis on the laws for which there is information, which after all, comprises almost two thirds of the adopted laws.

Like in the case of Romania, there are only minor quality differences between the laws that were adopted on time and delayed laws, which is sufficient evidence that there is no contradiction between careful and competent drafting and timeliness.

Given that the Romanian and the Lithuanian governments have adopted a similar approach to reporting the quality of their legislation, we may now conclude that Lithuania outperforms Romania on this aspect of legislative capacity as well. In the following, the distribution of the quality of the adopted laws over time is presented.

Romania’s pattern that was found in the previous analysis is strengthened in table 3.6, when it comes to the quality of the legislation. There is a marked improvement from 2000 to 2001 and a subsequent decline in 2002. In 2000, only 62 percent of the projected laws were eventually adopted completely in line with the EU-legislation, while 89 percent of the projected laws for 2001 and 77 percent for 2002 were fully in line. It should be noted that the table does not contain any information on when a projected law was submitted to the parliament. In several instances one government may project the law, another may draft it and a third may get it through parliament. I address these measurement problems in more detail in chapter 5. Suffice to say, laws that were projected for adoption during the year 2000 had a bigger share of delays, were more severely delayed, and were eventually adopted with worse

quality, than the laws that were scheduled for 2001 and 2002. It is also worth noting, that there is a quite sharp decrease in quality between the laws projected for 2001 and those scheduled for adoption in 2002. In conclusion, the Romanian government thus seems to have been at its best in 2001 and at its worst the year before.

Table 3.6 Quality of adopted laws projected for adoption 2000-2002 in Romania

Projected laws	2000		2001		2002	
	n	%	n	%	n	%
Fully in line	24	62	40	89	27	77
Partly in line	15	38	5	11	8	23
Total	39	100	45	100	35	100

Source: Progress Editor database (Ministry of European Integration).

Comment: The information is based on the Romanian governments' own estimation on the level of legal alignment.

Not surprisingly, the quality of the Lithuanian legislation is kept on a constant high level throughout the period under study. There are differences however, which seem to reconfirm the pattern found in other aspects of the governmental legislative capacity. There is a sharp increase in quality between the laws scheduled for 2000 and 2001 respectively (86 percent in line against 100 percent), which is followed by a drop to 95 percent. As in Romania the laws projected for adoption during 2000 fared much worse than the rest of the scheduled laws, which implies that the legislative capacity increased from a quite unimpressive level in 2000 to seemingly more acceptable levels in 2001 and 2002.

Table 3.7 Quality of adopted laws projected for adoption 2000-2002 in Lithuania

Projected laws	2000		2001		2002	
	n	%	n	%	n	%
Fully in line	25	86	30	100	19	95
Partly in line	4	14	0	0	1	5
Total	29	100	30	100	20	100

Source: Lithuanian governments' annual and quarterly Reports on the Progress of Accession to the EU, 1999, 2000, 2002 and 2003.

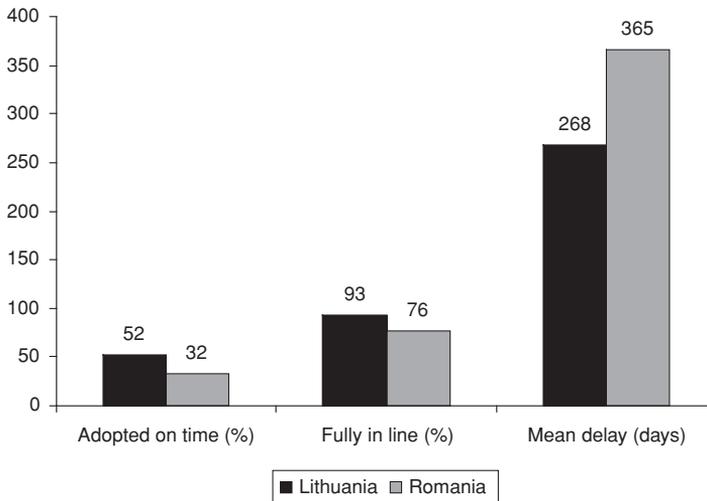
Comment: The information is based on the Lithuanian governments' own estimation on the level of legal alignment.

3.3 Conclusions

Chapter 3 was devoted to measure the level of legislative capacity in Romania and Lithuania between 2000 and 2002. The results are fairly clear and in line with expectations: Lithuania's legislative capacity was much higher than Romania's on all the three indicators that were used, as shown in the figure below. The most interesting finding is perhaps that almost all planned laws were eventually adopted in both countries, which has to do with the forceful logic of EU-integration, i.e. the whole Acquis has to be transposed. That is not to say that the process was free from problems. The laws were extensively delayed in both countries and in many instances for long periods of time.

Without any additional points of reference, it is difficult to determine whether the two countries' legislative capacity is high or low and how important the differences between them are. It seems reasonable however, to suggest that quality is the only aspect of legislative capacity in which Lithuania and Romania display a decent level of performance. To miss the deadlines in one half and one third of the cases respectively can hardly be considered satisfactory, particularly when considering the fact that the average number of days which these laws are delayed is far beyond what has been determined to count as severe delay.

Figure 3.6 Governmental legislative capacity in Romania and Lithuania



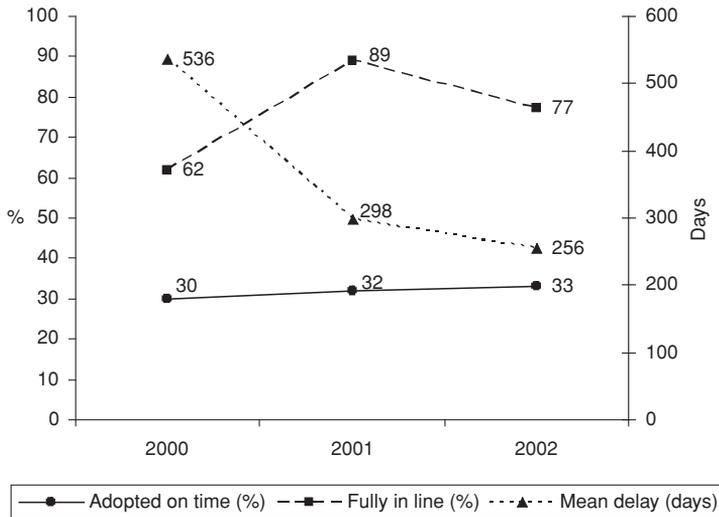
Source: Author's compilation based on Romania's and Lithuania's National Programmes for the Adoption of the Acquis 1999-2002 and Governmental reports 1999-2003, the TAIEX database and the Lithuanian and Romanian parliamentary databases.

Comment: The figures on "Adopted on time" and "Fully in line" are in percent, whereas "Mean delay" refers to the average number of days. The total number of adopted laws is 125 in Lithuania and 156 in Romania.

It also seems reasonable to argue that the differences between the countries are quite substantial. There is a 20-percentage point gap in terms of the share of laws delayed and approximately three months difference in terms of the extent of delay. Moreover, although both countries perform quite well with regard to quality, a quarter of the laws in Romania are deficient in relation to the *Acquis Communautaire*, whereas Lithuania's figure is much lower. Both countries are therefore considered lacking in legislative capacity to a significant extent and the differences between them are considered substantial. I will now turn to the development over time in the two countries.

As shown in figure 3.7, the legislative capacity has improved considerably over time in Romania, primarily between 2000 and 2001. The two most dramatic changes are the huge decrease in the number of days that the Romanian laws were delayed and the parallel increase in quality between 2000 and 2001. In 2002, two of the three indicators point in the right direction, while the quality of the legislation decreased somewhat. It is thus difficult to determine when Romania peaks in terms of legislative capacity, but the ranking order between 2001 and 2002 is perhaps after all, of minor importance.

Figure 3.7 Governmental legislative capacity in Romania, 2000-2002



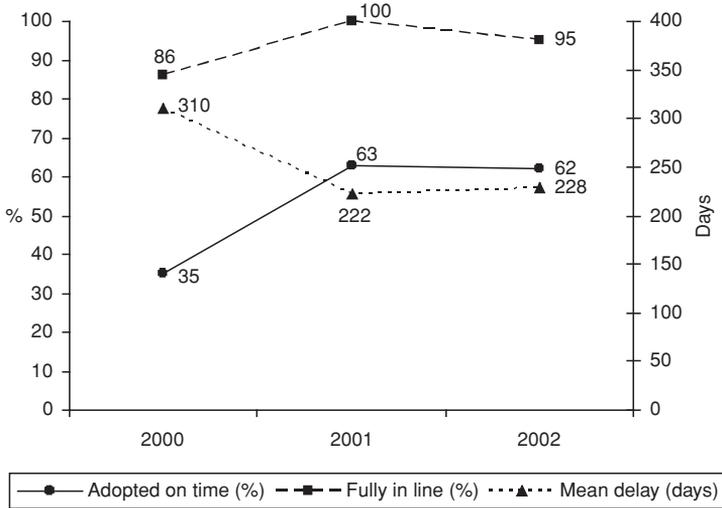
Source: Author's compilation based on Romania's National Programme for the Adoption of the *Acquis* 1999-2002 and Governmental reports 1999-2003, the TAIEX database and the Romanian parliamentary database.

Comment: The number of projected laws for 2000 which eventually were adopted is 51, 60 for 2001 and 45 for 2002.

The pattern is similar in Lithuania where a considerable increase in all indicators took place between 2000 and 2001, after which the level remains more or less constant during 2002. 2001 is, however, considered to be Lithuania's

best year, as the only indicator that declined the following year, the share of laws adopted on time, only declined with one percentage point.

Figure 3.8 Governmental legislative capacity in Lithuania, 2000-2002



Source: Author’s compilation based on Lithuania’s National programmes for the Adoption of the Acquis 1999-2001 and Governmental reports 1999-2003, the TAIEX database and the Lithuanian parliamentary database.

Comment: The number of projected laws for 2000 which eventually were adopted is 46, 42 for 2001 and 37 for 2002.

The first part of this study focused on the concept of governmental legislative capacity and how to ideally measure it. By selecting a case which included several of the features that I suggest are highly desirable for establishing the level of governmental legislative capacity, I argue that the empirical findings in this chapter are very solid and accurately show the level of legislative capacity and its variation between the two countries as well as over time. A reliable dependent variable is naturally a prerequisite for explaining variations, which is the topic of the second part of this study.

4 HOW TO EXPLAIN VARIATIONS IN GOVERNMENTAL LEGISLATIVE CAPACITY

We have now established the level of legislative capacity of Romania and Lithuania and it is time to look for ways to explain the patterns. The purpose of the second part of this study is to develop a framework or analytical scheme with which we may find the determinants behind the variations found in the first part. In this chapter I review the research on the determinants of efficient decision making and legislative capacity and outline a framework for an explanatory analysis based on the veto player theory and in chapter 5, I apply the framework to Lithuania and Romania to see to what extent constraints in the decision making system account for the variations found in chapter 3.

This chapter is thus organized into two sections. The first reviews the literature on how to explain efficient law production in general and on transposing EU legislation in particular. I argue that the decision making process is the most fruitful place in which to look for differences in legislative capacity between Romania and Lithuania and in particular, constraining factors within these systems. Therefore, the veto player theory, which is the most elaborated and parsimonious theory on the effects of constraints in the decision making system, and which has been applied to both the general strand of research on decision making as well as to the field of transposition, is elaborated in more detail.

The second section deals with how to design an explanatory study on governmental legislative capacity. Based on the critique towards some of the assumptions of the veto player theory, I suggest a slightly different way of applying the framework of the veto player theory. A modified version of the veto player theory will thus serve as a basis for explaining the differences in legislative capacity between Lithuania and Romania.

4.1 Theories on legislative capacity

As mentioned in chapter 2, there is abundant research on different aspects of capacity and performance, which relate to different institutions, actors, stages

in the policy process, and particular abilities etc. Naturally, these studies also differ in terms of their dependent variables. Considering these differences, it is not surprising that the independent variables that are considered important for explaining variation also differ according to what type of capacity that is studied. One set of factors, however, appears in nearly all types of capacity-related studies: the level of concentration of power in the decision making system, or to put it differently, a focus on enabling and constraining factors in the policy process (see discussion in Hille & Knill 2006: 536-38).

The prevailing and intuitively the most reasonable view seems to be that concentration of power in the decision making process – i.e. few actors and institutions involved – tends to promote efficiency and capacity in general, which facilitates whatever is to be achieved, compared to systems based on power sharing and consensus (Haggard & Kaufman, 1995; Heller et al., 1998; Tsebelis, 1999; Brusis & Dimitrov, 2001; Evans & Evans, 2001; Zubek, 2001: 921; Dimitrova & Maniokas, 2004: 11). Accordingly, countries with parliamentary systems are assumed to be more efficient than presidential or semi-presidential systems, in which power is shared between presidents and assemblies and which are more likely to cause deadlock (Moe & Caldwell, 1994: 171-172). Moreover, majoritarian electoral systems, which tend to produce powerful majority governments, are assumed to produce higher performance than proportional representation. These lead to multi-party systems and usually to coalition governments, whose participants have to bargain and compromise on their intended goals (Heller et al., 1998: 154). Unicameralism and unitary states are, furthermore, more likely to be conducive to policy change than bicameralism and federalism (Tsebelis & Money, 1997) and weak judicial review is assumed to facilitate decision making (Heller et al., 1998: 156). In addition, concentration of power has been found to be conducive to successful political reform processes and the efficient adoption of laws not only in the parliaments, but also within the governments (Haggard & Kaufman, 1995; Tsebelis, 1999; Brusis & Dimitrov, 2001; Evans & Evans, 2001; Zubek, 2001). In short, according to this perspective, the fewer actors and institutions – i.e. veto players and veto points – involved in the policy process, the higher the capacity and the better the performance.

The view that concentration of power in a political system enhances capacity and performance has, however, not been unchallenged. Weaver and Rockman (1993), in their seminal work on what accounts for governmental capacity in ten different aspects, found no clear-cut correlation between political and electoral systems and policy making capacity. They found instead that different combinations of political and electoral systems, along with a large number of other factors had different effects on different types of capacities.³⁷

³⁷ See footnote 23 for Weaver & Rockman's ten capacities.

Another critic of the view presented above is Arend Lijphart who is the main advocate for consociational democracy, i.e. systems in which decision making is based on compromise and consensus and thus the complete opposite to power concentration. Consociational systems are, among other things, based on bicameralism, proportional representation and minority veto. Lijphart has spent most of his professional career demonstrating that countries with more consensus-oriented systems perform better in many vital aspects such as quality of democracy and keeping inflation down. In addition, they very rarely perform worse than majoritarian democracies, whose defining feature is concentration of power. On other macro-economic indicators Lijphart finds no evidence that majoritarian democracies would be any better, which is usually claimed (Lijphart, 1984; 1999). He thus concludes that dispersal of power, rather than concentration of power leads to more desirable outcomes.

So far, the debate about whether power concentration leads to better or worse performance has been discussed from the perspective of general capacity and with different dependent variables. For example, Lijphart, focuses on policy effects at the very end of the policy process, which makes his conclusions less surprising. Systems in which more actors are involved might be more efficient in the long run, as most decisions are preceded by extensive bargaining and compromises, thus making the agreement more solid than if decisions are made unilaterally by one party (Stark & Bruszt, 1998; Hille & Knill, 2006: 536; see also Schimmelfennig & Sedelmeier, 2004: 676 and for the benefit of many veto players for successful economic reforms, Hellman, 1998). These types of decisions obviously risk being overturned once the opposition comes to power. Moreover, in one of the few studies on the legal adaptation process in the candidate countries of Central and Eastern Europe, Hille & Knill (2006) studied the transposition and implementation of EU directives. They found that the number of veto players was *positively* correlated with the aggregated progress made in the candidate countries between 1999 and 2003. When it comes to implementing capacity, which is conceptually close to legislative capacity, there is thus also evidence that concentration of power is not beneficial.³⁸

Turning to the more specific aspect of legislative capacity, the empirical results with regard to concentrated decision making are also mixed. The literature basically consists of two categories. One is more general and studies the amount, pace and quality of legal output in individual countries as well as comparatively. The other is much more specific and looks at the transposition of EU legislation in the member states. The former relates to the most elaborated theory in the field, the veto player theory. In the latter, veto constellations, is just one of many factors studied. As the origin of law making

³⁸ Their study is very different from this one, however. Above all it could be criticized for using quite crude indicators when measuring legislative and administrative capacity.

differs between the two fields, the national versus the supra-national level, it is not surprising that the more general strand has focused primarily on national decision making structures, while transposition scholars have used a broader approach. In the following section, I briefly summarize the most basic assumptions in the veto player theory and then elaborate on the empirical findings in the general law production research. Thereafter I review the literature on transposition in greater detail and finally I get back to the veto player theory and discuss its weaknesses and how they can be remedied.

4.1.1 The veto player theory

The veto player theory is closely connected to George Tsebelis, who subscribes to the basic view that concentration in decision making has a facilitating effect on policy change, but dismisses the traditional parliamentary-presidential divide. He argues that the traditional categorization of political systems cannot be regarded as coherent in terms of their effects. He claims instead that all systems combine features, some of which are conducive to policy change and some of which facilitate the maintaining of the status quo (Tsebelis, 2002). According to Tsebelis, the only thing that matters in relation to the ability to achieve policy change is the number of veto players defined as actors whose consent is necessary for a policy change to occur, the ideological distance between them and their internal cohesion. Tsebelis even goes as far as to claim that “significant departures of the status quo are *impossible* when (...) veto players are many – when they have significant ideological distances among them, and when they are internally cohesive” (2002: 2, emphasis added). Everything else being equal, adding a veto player increases the policy stability and thus reduces the possibility to legislate.

According to Tsebelis, there are two types of veto players: institutional and partisan. The former refers to the chambers of parliament, the president, the Constitutional Court and the federal subjects. In short, it includes the institutions that mainly define a country’s political system. A partisan veto player refers to the parties in government. The US, for example, has three veto-players: The President, the Senate and the House of Representatives, while the UK has one – the House of Commons. These are all defined as institutional veto players, whereas political parties in coalition governments are called partisan veto players (2002: 2). The UK, for example, lacks partisan veto players due to their electoral systems which produce one party majority governments.

The effects of veto players on decision making are not clear-cut, however. Law production has been studied in various political settings, although the US and Italy seem to appear more frequently than other countries. Looking at the partisan veto players first, Kreppel (1997), in her analysis of law production in Italy, finds a negative correlation between the number of parties in

government and the number of laws adopted, which supports the veto player theory. Becker and Saalfeld (2004) on the other hand, find no evidence that the number of governmental parties and the ideological distance between them affect the speed of passing legislation, i.e. how long it takes for the parliaments in 17 Western European countries to pass a draft law. There was no discussion about the governments' intentions to pass legislation within a specific time frame, which makes it difficult to claim that the number of parties within the government has no effect on legislative capacity, at least as it is defined in this study.

Concerning institutional veto players, bicameralism has been found to be an important factor in explaining legislative stalemates in the US (Binder, 1999) and in Europe (Tsebelis & Money, 1997). In addition, federalism has been found to be both detrimental (Haverland, 1999) and conducive (see Hille & Knill, 2006: 536) to legislative capacity. However, both Tsebelis (1999; 2002: 185) and Döring (2001) have found that contrary to the theory, the number of veto players correlates positively with the overall amount of legislation produced, which they call law inflation, and negatively only when it comes to important pieces of legislation. The veto player theory could thus be said to be valid only when it comes to important pieces of legislation, which are difficult to define and separate from less important ones. The empirical findings are thus all but clear. I now turn to the literature on transposition, in which the veto player theory has been extensively tested.

4.1.2 Transposition research

Studies on legal harmonization of EU legislation could be viewed as part of the broader research field of Europeanization, which has grown dramatically over the last decade (Featherstone, 2003). Minimally, Europeanization has been defined as the “response to the policies of the European Union” (Featherstone, 2003: 3) and covers a vast array of political, economic and social aspects of the member states as well as of neighboring countries and beyond. A substantial part of the research on Europeanization has dealt with different types of adaptations to EU standards: legal, administrative, policy and norms as well as more precisely what explains different adaptation patterns between countries. This study is primarily interested in the explanations for the differences in the legal adaptation to the *Acquis Communautaire*, since that process is about the core concept of this study, namely governmental legislative capacity, even though that term is very rarely used by scholars in this field.

Like Europeanization research in general, the study on legal harmonization was, until very recently, a peripheral research area. Since the end of the 1990s, this subfield has seen a rapid increase in scholarly interest and there are several ongoing research projects that focus on the transposition of EU

legislation and how to explain differences between the EU member states (Mastenbroek, 2003: 375).³⁹ So far, the scholarly attention has almost exclusively focused on the older member states, i.e. EU15,⁴⁰ which on the one hand, is quite natural given the fact that the Central and East European countries only recently became members and that information on the harmonization process is much more difficult to obtain. On the other hand however, their accession process started much earlier and the harmonization of EU legislation actually commenced at least ten years before they finally were admitted as members, which would have made it possible to study the efforts of the former applicant states to adapt to the required legal framework. When it comes to the new member states, theoretically driven comparative research has mainly focused on the issue of conditionality, i.e. the ways in which the pressure and conditions set by the EU have affected the adaptation process in different fields, but mainly concerning democracy and human rights (see for example Sharman, 2004; Schimmelfennig & Sedelmeier, 2004; Bojkov, 2004; Pridham, 2007). In short, the knowledge of what accounts for differences in legal adaptation to the Community legislation is based on the experiences of established member states. In the following sections, I present and discuss the factors that have been considered important for understanding differences in timely and correct transposition of the *Acquis Communautaire*.

The starting point in the transposition research is a phenomenon called the “transposition deficit”, which refers to the substantial amount of directives adopted by the EU that are either not being transposed correctly and/or with considerable delay by the member states.⁴¹ The EU member states are obliged by the EC treaty (article 249) to transpose directives within the stipulated time frame and to ensure that their intended goals are achieved. The member states are thus free to choose how to transpose the directive, as long as the stated objectives are fulfilled.⁴² If directives are not transposed in a timely or correct way, the European Commission may start a process against the country, which may eventually result in a judicial verdict by the European Court of Justice (ECJ). As a final step, the member state in question may be fined (Börzel, 2001: 806-808). While the Commission therefore has the possibility to sanction non-compliance and the resources to track down states that fail to

³⁹ See for example the transposition homepage at Leiden University.

⁴⁰ The few exceptions are Zubek (2005); Toshkov (2005), Dimitrova & Rhinard (2005) and Hille & Knill (2006).

⁴¹ Some scholars have criticized the figures on transposition deficit published continuously by the Commission as unreliable and some have even questioned that transposition failure really constitutes a problem for the EU as claimed by the Commission (see for example Börzel, 2001; Mastenbroek, 2003: 373-74; Käding, 2006: 231). Recently, transposition scholars have built up their own databases, independent of the Commission and they do find that directives to a quite large extent are transposed late or incorrectly by the member states (see for example Mastenbroek, 2003; Käding, 2006).

⁴² EU Internet link 8.

comply, most problems of incorrect transposition are resolved long before it reaches the ECJ (Falkner et al, 2004: 467; Tallberg, 2002: 620). In addition, penalizing member states financially is extremely rare (Falkner et al 2005: 209; Tallberg, 2002: 619).

Scholars in the field have suggested that a great number of factors impact the transposition performance of the member states.⁴³ Depending on what member states and what directives or policy areas are studied, different factors seem to account for the differences found and there is thus little consensus about what factors may generally be claimed to determine transposition performance (see discussion in Falkner et al. 2005: 277). The factors may be categorized in several ways; one is to look at factors at the EU level and the national level respectively.

Factors at the EU level are generally unable to explain differences between candidate countries as the process and treatment from the EU, in terms of pressure and assistance, have been similar across the applicant countries (Maresceau, 2003: 34; Hille & Knill, 2006: 531). As was discussed at some length in the first part of this study, the EU has certainly played an important role in supporting and assisting the legal harmonization process of the candidate countries. Although the amount and priorities of EU assistance have differed somewhat between the candidate countries, nothing suggests that some countries have been systematically favored by the EU.

Other EU level factors in the literature, such as the level of detail of the directives, whether the directive is new or an amendment, how long the deadline is etc. (Käding, 2006: 236) are unable to explain differences between countries, but rather why specific types of directives are delayed, which is a different question.

Overall, I believe that it is fair to assume that the EU has not been the cause of a decisive difference in governmental legislative capacity between the candidate countries, which implies that the determinants behind the variations in legislative capacity in the candidate countries are rather to be sought at the domestic level. This assumption is also in line with the most recent transposition research on the old member states and in particular the focus on the preferences of the main domestic actors involved in the transposition process (Steunenberg, 2007: 41; Mastenbroek, 2005: 1103, Falkner et al., 2005).

At the domestic level, several factors are irrelevant as they simply do not vary in my data set, as my approach is slightly different from the transposition scholars'. For example, the legal measure used to transpose a directive (e.g. laws, government regulations, ministerial orders etc.), which has been found to have some impact on timeliness and extent of delay (Käding, 2006: 244; Mastenbroek, 2003: 385-87), is not a relevant factor in my case, as all

⁴³ See for example Mastenbroek, 2005: 1105-1107, for a detailed overview of the research field.

measures that are included are laws that are to be adopted by the parliament. This difference stems from the fact that transposition research is based on the directives, whereas mine is founded on the candidate countries' national legal measures. That is not to say that the factors just mentioned are irrelevant in general, but I nevertheless stick to factors that have the potential to explain the variations between Lithuania and Romania.

Transposition performance has been said to depend basically on two key domestically derived variables: the willingness to transpose (intentional) on the one hand and the ability or capacity to do so (unintentional) on the other (see for example Lampinen & Uusikylä, 1998: 238; Dimitrakopoulos & Richardson, 2001: 347-48; Falkner et al., 2005: 324-25; see also the discussion in Tallberg, 2002: 611-14). The former is naturally a prerequisite for the latter, i.e. willingness is a necessary condition for successful transposition, although not a sufficient one. In the literature, all opposition regardless from whom, is put in the willingness category. I find it reasonable to treat only opposition from the government as unwillingness. Opposition from other actors, such as the political opposition, interest groups etc. should instead belong in the capacity/ability category, as they denote constraints that are beyond the influence of the government that is in charge of the transposition process. Revised in this way, the ability/capacity aspect has been thoroughly explored in several studies, whereas the willingness aspect regrettably has received much less attention (Mastenbroek, 2005: 1116). The reason for this sorry state is said to be the difficulties in measuring willingness (Falkner, et al., 2005: 278; Dimitrakopoulos & Richardson, 2001: 347). In recent studies, this aspect has been addressed more seriously, but most of them either make the explicit or implicit assumption that the governments of the member states have the intention to transpose the directives in a timely and correct way, or measure the intention of the governments in a very indirect way.

Naturally, scholars who want to explain differences in transposition performance, face a fundamental problem if they completely disregard the possibility that there may be many reasons for why governments may be reluctant to transpose a certain directive on time. On the contrary, a lack of willingness intuitively appears to be the most obvious factor to consider, which implies that results from studies that fail to do so should not be taken seriously.⁴⁴

Other scholars use proxies to control for the government's willingness although some proxies are indirect, such as the popular support for the European Union or the voting rules in the Council of Ministers (Käding, 2006: 240-41; Haverland & Romeijn, 2005: 1). In the first case, a Euro-sceptic population may make it more difficult for the government to be overly compliant and in the second, it is easier for governments to transpose directives that need to be approved with unanimity than those which require qualified majority voting

⁴⁴ See for example Mastenbroek's self criticism for omitting that variable (2003: 390).

as some governments *may* be outvoted. Whether that is actually the case is not checked however. Other proxies are more relevant, such as the governments' positions and how they *actually* vote on specific directives (Falkner et al., 2005). A government which is defeated in the Council of Ministers is assumed to be less than eager to transpose the directive at home. Lastly, there are studies that seriously address the question of willingness and actually analyze whether the government is trying to adjust on time or deliberately postpone the transposition. Interestingly enough, but not very surprisingly, the lack of willingness has a considerable explanatory power when it comes to transposition failure (Treib, 2003; Mastebroek & van Keulen, 2005, referred to in Mastebroek, 2005: 1110; Tallberg, 2002: 626). It would thus be beneficial for studies in this field not only to check whether lack of willingness plays an important role, but rather choose cases of which the willingness is known to be high.

In contrast to “deliberate failure” to transpose (Dimitrakopoulos & Richardson, 2001: 347) or “intentional non-compliance” (Falkner et al., 2005) discussed above, a member state may have difficulties transposing a directive even if the government has the intention to do so, i.e. it lacks the capacity to fulfil its intentions because it is constrained by factors beyond its immediate control. Which are those constraints?

The second wave of transposition research (Mastebroek, 2003) brought forward the so called “Goodness of fit” hypothesis, which basically claims that the more aligned the national legislation is to a certain directive, the easier it will be to transpose and implement it (Duina, 1999: 6; Risse et al., 2001). According to this hypothesis, it is costlier to adapt to a legal framework that is very different from the existing one. The required changes will trigger opposition from various parties, such as the bureaucracy and interest groups etc., which in turn will make it more difficult for the governments to act. In addition, if the adaptation also requires changes in administrative routines etc., it will be even more difficult for member states to comply. This theory thus maintains that the problems with transposing EU legislation mainly depend on the legislative and administrative conditions in the members states.

While this “goodness of fit” hypothesis has found support in several empirical analyses (Bailey, 2002; Mastebroek, 2003: 389), it has lately been refuted (Falkner, et al., 2005: 280; Käding, 2006: 249) and criticized for being “neither a sufficient nor necessary condition for smooth transposition” (Mastebroek, 2005: 1109). In several cases, member states with a large misfit have still been able to transpose quickly, whereas countries with very small misfits have failed to do so (Mastebroek, 2005: 1110; Falkner et al., 2005: 280). Moreover, Haverland (1999) finds that the extent of misfit does have an impact on the extent of domestic opposition, but that the “institutional opportunity structures ultimately tend to shape the pace and quality, regardless of the goodness of fit” (1999: 34). In other words, the extent to which the government is willing

to comply is more important than the extent of alignment with Community legislation. As a consequence scholars have instead turned their attention to the interests and preferences of the central actors in the transposition process (Falkner et al., 2005: 309; Steunenberg, 2007).

The “goodness of fit” hypothesis seems to be even less relevant when analyzing the legal adaptation of the candidate countries. The EU membership is never at stake for older member states even if they perform poorly. Due to the difficulty of detecting flaws in the transposed legal measures (Steunenberg, 2007: 29) and the prolonged process before any economic sanctions would be imposed as discussed above, the member states seem to have an incentive to procrastinate when the costs for correct transposition are high (Tallberg, 2002: 628). The candidate countries were obviously in a very different situation. They were not in a position to be deliberately slow in harmonizing their legislation, even if major changes were required, unless they were prepared to risk being excluded from the next enlargement round. The incentives for the governments to overcome potential resistance to change were much higher, which is not to say that they would be successful. It has also been suggested albeit without too clear empirical evidence, that the speed with which many of the former applicant countries transposed their legislation, was due to the fact that they did not have any legislation in the field to reconsider. It is argued that this *tabula rasa* situation was beneficial rather than detrimental to the candidate countries (Toshkov, 2005: 31).

Administrative constraints are another set of factors that is highlighted in the transposition literature. Hille & Knill’s (2006) main finding was that the quality and efficiency of the bureaucracy in the candidate countries had the greatest impact on their transposition and implementation performance. Falkner et al. pointed at insufficient administrative resources (2004: 459) and administrative overload (2005: 302) as important factors. Moreover, while some studies have highlighted problems with inter-ministerial coordination (Zubek, 2005; Mastenbroek, 2003: 389; Haverland & Romeijn, 2005), other studies found it not to matter (Falkner et al., 2005: 298).

Regardless of whether the clean slate was beneficial or not, the applicant states’ starting points were arguably quite similar in terms of how closely they were to meeting the legal standards of the EU (Hille & Knill, 2006: 540). When it comes to administrative preparedness, however, there could have been significant differences between the countries. The initial conditions at the time of the demise of the communist regimes have in other areas been regarded as crucial for the subsequent development (see Bågenholm, 2005). When it comes to transposition, however, it seems reasonable to assume that when the governments planned the sequence and deadlines of the legal harmonization they considered the administrative, legal and financial situation as well as the human resources available (Interview, Rytis Martekonis, September, 2005). Differences in terms of administrative preparedness may thus account for the

ranking order between the countries and the pace of the legal approximation process, but hardly for the failure to achieve the government's own intentions. It should also be noted that implementation is the dependent variable in several of the studies mentioned above, which arguably makes the case stronger than when looking merely at the adoption.

Falkner et al. (2005: 313-14), found another interesting factor that accounted for delays in the transposition process to quite a high extent, and which they labelled issue linkage. Issue linkage refers to whether certain legal measures to be transposed can be linked to other policy issues. Issue linkage was found to work in both directions: it had positive effects in some cases and negative in others, depending on with which issues the legal measure was linked. The issue linkage factor is very interesting for this study as all the scheduled laws in my sample may be linked to the broader, and arguably much more important, issue of EU membership. For the candidate countries in Central and Eastern Europe, whose elites and populations were all highly in favor of joining the EU, linking potential unpopular policies with accession, is expected to facilitate the governments' efforts to swiftly transpose these pieces of legislation.

The veto player theory, or variations of it, is probably the most commonly tested in the field of transposition research. As with the other factors discussed, it has been supported by some studies and refuted by others. Käding finds that the number of veto players is the most important factor when it comes to explaining very long transposition delays in the member states (2006: 249). Guiliani found the same impact of veto points on the level of legal adaptation (2003: 152) and Haverland pointed at federalism as an obstacle to timely transposition of EU-related legislation (1999). As mentioned above, Hille & Knill found the opposite correlation, i.e. that the more veto players, the better transposition and implementation performance (2006: 547).

In line with the new actor and interest based approach that was discussed above, the number of veto players is considered less important for explaining transposition performance, compared to their preferences (Steunenberg, 2007: 41). In particular, the preferences of the political parties and their strength in government and in parliament, i.e. their veto potential is considered to be the most fruitful way to understand why member states fail to comply (Falkner et al., 2005: 309-10; Treib, 2003). As preferences are closely connected to willingness or intention, we are back to square one of my critique: the extent of willingness has to be established before any meaningful studies can be conducted.

Even though the European Commission continuously expresses its concern with the number of directives that are not transposed and tries to put pressure on the member states to comply, the lack of resources, both to find the worst sinners and punish them accordingly, will ultimately give the national governments an incentive to wait as long as possible with transposing legislation that

is not regarded to be in the country's best interest (Bursens, 2002: 173-174). As the incentives were very different for the candidate countries compared to the old member states, this is why we may add important knowledge to the transposition research by adding cases of states that are not yet members and which we can reasonably assume to have a very high level of willingness to quickly adopt to EU legislation (Schimmelfennig & Sedelmeier, 2004: 661). Transposition deficits thus occur for other reasons. In short, by studying the candidate countries we are able to control for a potentially very important factor – the willingness to transpose – which previous research to a large extent has neglected to take into account.

In summary, in contrast to the factors included in the “goodness of fit” hypothesis that was discussed above, a government's ability to anticipate the constraints in the policy process is much more difficult, not least since the veto player situation may, and most likely will, change to some extent, such as after an election. Intuitively, it seems reasonable to assume that differences on the national level in terms of veto constellations and changes thereof over time may be the reason why the level of legislative capacity differs both between Lithuania and Romania on an aggregate level, but also why changes occur over time within the countries. The following section discusses the veto player theory in more detail and provides suggestions for how it may be refined to fit studies on legislative capacity. The aim is thus to suggest an analytical framework that will enable us to explain variations in legislative capacity.

4.1.3 The veto player theory revisited

In this sub-section, I elaborate on the content and the applicability of the veto player theory in relation to governmental legislative capacity. It should be kept in mind that the aim of the veto player theory is to predict the possibility for policy change in a given political system. It thus does not claim to predict or explain variations in legislative capacity as defined in this study. However, it seems reasonable to suggest that a theory that aims at predicting policy change should also be applicable to the study of legislative capacity, as that is all about changing policies.

To reiterate the basic argument of the veto player theory: policy change is determined by the number of veto players, defined as an actor whose consent is necessary for changing the status quo, the ideological distance between them and their internal cohesion.

Everything else being equal, adding veto players to the decision making process reduces the possibility to change policies, i.e. to legislate, thereby preserving the status quo. However, if the veto players have the same preferences on a particular issue, the number of veto players is reduced to just one, as a change in policy may be expected to occur if there is a consensus among the actors involved. Moreover, if the veto players are divided internally, the

likelihood for change is greater than if they act as a cohesive body. According to these assumptions, we would assume legislative capacity to be about veto players. The differences between Lithuania and Romania as well as over time in those countries are therefore related to differences and changes in the veto player constellation. To put it differently, the veto player theory predicts variations in terms of policy change between two countries which have different veto player constellations and the number of important pieces of legislation is the indicator of these variations. The number of rejected drafts is accordingly also an indicator.

The empirical results, however, showed that only few laws were not adopted. They rather indicated that policy change eventually occurred in both countries, albeit with differences in terms of timeliness in relation to the governments' timetables and with somewhat varying quality in the laws produced. Yet, almost all scheduled laws were eventually adopted and very few were rejected. It thus seems that the veto player theory, which only distinguishes between approval and rejection, should be adjusted to consider other outcomes, which could be just as harmful to the legislative capacity as outright rejection (Steunenberg, 2007: 42). According to Tsebelis, a veto player is someone who says "no" and not someone who says "wait".⁴⁵ There is a scholarly discussion on who should count as veto player and it seems that there is an understanding that the theory would benefit from being more permissive and also include actors with an effective veto, not just a formal one (Ganghof, 2003: 11; Steunenberg, 2007: 28).⁴⁶ Moreover, the empirical results so far in this study show that delays in the legislative process are the important aspect of governmental legislative capacity and to explain why delays occur we need to remodel the veto player theory to enable us to analyze this phenomenon as well. This brings me to the second deficiency in the veto player theory: the exclusive focus on actors and not institutions.

The veto player theory pays little attention to the structures of the decision making system. In reality though, veto players do not act independently of the institutional framework. On the contrary, the decision making structures create the opportunity for certain actors to interfere in the policy process and some have the power to halt legislation. The occasions in which actors may influence the fate of a draft law, are usually called veto points or veto gates and have famously been defined as "points of strategic uncertainties where decisions may be overturned" (Immergut, 1992: 27-28). Even if Tsebelis' in-

⁴⁵ The term veto player could to some extent then be regarded as a misnomer, but an actor who in effect becomes a veto player by being able to postpone the adoption of legislation still seems reasonable to include in the theory.

⁴⁶ As Ganghof points out, however, by expanding the concept of veto players too far one runs the risk that everything can get a veto player explanation (2003: 3-4). If that is a problem or not is of course determined by the specific purpose of applying the veto player framework/theory.

stitutional veto players are closer to what this study refers to as veto points, the focus is nevertheless on the collective actors that constitute the institution. Admittedly, some studies use both concepts, but they rarely elaborate on the interaction between the actors and the institution, i.e. how, and to what extent, veto players take advantage of different veto points (see for example Steunenberg, 2007: 28). By adding veto points to the theory, makes it possible to analyze and understand why delays and not only rejection may occur in a decision making process.

The veto player theory omits not only the institutions, but also lacks a more detailed discussion about what it takes for the veto players to really make use of their power. A second chamber may be an institutional veto player in the sense that its approval is necessary for drafts to become laws, but the rules for passing legislation may differ extensively both between similar institutions in different countries, but also within the same institution depending on the issue.⁴⁷ The procedures also tell us whether or not it is reasonable to treat a specific actor as a veto player. The president of the United States, for example, has a veto that may be overridden by a qualified majority in the Congress and many parliamentary systems also require more than just simple majority to overrule the president. In effect, a presidential veto in the US kills the draft law as it is very difficult to muster the necessary majority to defeat it. The point, however, is first that it may be overruled, which does not make the president an absolute veto player in the real sense, and second that the different procedures for overruling affect the likelihood that the presidents get what they want. To get a more complete picture of the veto situation in a given country, it may thus be necessary also to include the procedural rules that establish what it takes to activate the veto point. I label these rules veto procedures.

The previous discussion highlights yet another deficiency of the veto player theory: all veto players are generally considered equally important (Ganghof, 2003: 15-16) and have the same impact throughout the whole policy process (Orenstein, 2002: 11). The number of veto players is what counts and there is little distinction between two systems that have the same number of veto players, even if they are very different.⁴⁸ Merely counting the number of veto players does not tell us anything about which veto players that matter and why. While they may all matter to some extent, a fair guess would be that the impact of veto players differs depending on a number of factors. For example, a president who is very reluctant to use the veto may not be affecting the policy stability at all, while the second chambers may be very

⁴⁷ For example, the majority required for the parliaments to overrule a presidential veto may differ between countries and constitutional issues require in general a much broader consensus than ordinary legislation to get passed.

⁴⁸ See Ganghof's critique of Huber et al. (2003: 5-6).

active. The veto player theory does not allow us to discover patterns, which might be of crucial importance for policy makers who are trying to reform a system that is performing poorly. It is of little help to know that the number of veto players matters, unless we know who the important players are and under what conditions they matter. By studying veto players and veto points more closely we may evaluate their actual impact on the policy process and the legislative capacity.

Finally, the veto player theory rests on the somewhat dubious assumption that all veto players' preferences are fixed and that they are trying to get the policy outcome as close to their own view as possible on every issue (Ganghof, 2003: 8, Orenstein, 2002: 5). That assumption excludes political bargaining – or what Ganghof calls the parties' sacrifice ratio (2003: 16) – where a veto player agrees on a policy that is very distant from their own standpoint, in return for 100 percent influence over another. If the veto player assumption was true, one would expect the transposition process to be extremely difficult, as a substantial part of the legislation concerns issues that are usually ideologically divisive. According to Ganghof, the actors' preferences on a specific issue come from their more long-term goals, rather than from their preferences on that particular issue (2003: 8), which implies that it is similar to issue linkage that was discussed earlier. It does not seem too farfetched to assume that the opinion about membership in the European Union has a greater impact on a particular actor's standpoint on an EU-related piece of legislation, than his or her opinion on the issue as such. In that case we would expect a greater consensus among the veto players when it comes to EU-related matters, compared to other issues. But it still remains an open question whether the veto players' common standpoint on EU membership prevails over their more divided opinion on the specific issues that need to be resolved in order to obtain membership. In short, it is too early to count the veto players out altogether.

As was discussed above, the veto player theory has been criticized and questioned. Ganghof, although positive in general, concludes that the "VP theory might better be considered a very coherent theoretical framework rather than an empirically testable theory" (2003: 11). In the following section I suggest an analytical framework, which considers the aforementioned deficiencies, to make the veto player theory more applicable to explaining legislative capacity. I start by elaborating on the constraints in the decision making process, i.e. the veto points, veto players and veto procedures.

4.2 Designing an explanatory study on governmental legislative capacity

4.2.1 Operationalizing constraints

A *veto point* is defined as an instance in the policy process, in which a piece of legislation may be rejected or delayed by the decisions made at that point.⁴⁹ It is important, however, to separate final rejections, i.e. decisions that cannot be overruled elsewhere in the policy process, such as the final voting in the parliament from rejections that are merely advisory, such as the opinion of parliamentary committees. In the latter case, the veto point is not absolute in the sense that the draft will be killed unless it receives support from the committee. The decision may nevertheless be very influential for the subsequent vote in the parliament. Moreover, a parliamentary committee may use its power to delay legislation, both by suggesting amendments, which would need to be discussed in parliament, but also by being slow in processing the draft law under consideration. When studying veto points in a policy process it is thus necessary to consider all instances in which draft laws might also be delayed.

Everything else being equal, the number of veto points is assumed to have an impact on legislative capacity. If there is consensus among the political actors, i.e. the veto players, on a specific piece of legislation, the likelihood that it will be rejected is very small. However, if the process includes many veto points before the draft can be approved, the process may be very slow and delay the government's schedule. Given the fact that the veto points differ in character, it is necessary to distinguish between them to estimate their impact on the legislative capacity. It should be noted, however, that the impact of the veto point is ultimately determined by the veto procedure and the veto players involved.

I therefore divide the veto points into four categories, two of which refer to whether or not a draft law has to pass a certain veto point which I call mandatory and optional veto points respectively. These two categories may in turn be divided into two depending on what option the veto player chooses to use; reject or delay the piece of legislation under consideration.

Figure 4.1 shows the different types of veto points that are analyzed in this study. The mandatory veto points refer to instances that a draft law must pass. A draft law generally must be treated in parliamentary committees and be subject to a final vote in the parliament and in some countries the law to be enacted has to be signed by the president. Mandatory veto points are instances that cannot be circumvented by the government regardless of

⁴⁹ A third option would be to amend legislation, but I do not deal with that separately, but rather treat it as part of the delay category.

the parliamentary situation. Optional veto points refer to instances where a veto player actively must activate the veto point, which implies that if the veto player remains passive the draft will be considered approved by the veto player in question. The Constitutional Court is one example of an instance that usually has the formal power to abrogate laws that are considered not to be in accordance with the constitution, but whose ruling is not obligatory for every single piece of legislation.⁵⁰ The Constitutional Court has the power to reject if their rulings are final. A presidential veto can be put in all four boxes, depending on the rules that govern the promulgation of laws. It is mandatory in cases where the president has to sign the law before it is enacted and it is optional if the law is enacted regardless. It should be noted here, that this definition implies that even a president without a formal veto, i.e. the power to send a law back to parliament, nevertheless counts as a veto player if he can deliberately postpone the signing and thereby delay the law.⁵¹ The president has the power to reject in case his veto cannot be overruled and the power to delay if it may be overridden. As discussed above, depending on the overrule majority required, a presidential veto could effectively mean rejection.⁵² As long as there is a formal possibility to overrule, however, I still put it in the delay rather than in the rejection box. In democratic polities, box 3 and 4 are the most common, i.e. the parliament has at least a theoretical chance to overrule the president. Moreover, a veto point can cease to exist if the government or a parliamentary majority has the power to circumvent it, for example by applying extraordinary or urgency procedures in passing of the law.

Figure 4.1 Categorization of veto points

	Mandatory	Optional
Reject	E.g. final vote in parliament	E.g. ruling of the Constitutional Court
Delay	E.g. proceedings in parliamentary committees	E.g. presidential veto (if possible to overrule)

⁵⁰ It could also be added that the constitutional courts in general lack the power to initiate proceedings. It is often the prerogative of the president or a certain amount of the members of parliament to refer cases to the courts.

⁵¹ The example is not just hypothetical. In India, the president lacks the right to send laws back to parliament, but since the constitution does not stipulate a timeframe within which the law must be signed, the president can withhold his signature if he dislikes a law, in which case the whole parliamentary procedure has to start all over again (Mitra, 2004: 662).

⁵² In the US, the Congress has overridden 110 out of a total of 2 562 presidential vetoes between 1789 and 2007, i.e. about four percent (Kosar, 2008: 1).

A veto point should be regarded as a necessary, but not a sufficient condition for the ability to constrain the policy process and affect the legislative capacity. A veto point has to be activated to have any effect and in the following I address the conditions for doing so.

The procedural rule for activating veto points is a neglected, or at least poorly elaborated, aspect of the “veto literature”. As was argued above it is, however, necessary to consider these rules when studying governmental legislative capacity. I label these procedural rules *veto procedures*. They are defined as the rules that govern the passing, rejection and the possibilities to delay legislation at every single veto point. In other words, they tell us what is needed to use a specific veto point, i.e. what it takes for the veto players to stop or delay a certain piece of legislation. Examples of veto procedures include what kind of majority that is needed to pass, reject or delay a piece of legislation or whether there are any quorum rules for deliberations to take place or when decisions are made. A high rate of absenteeism – paradoxically a passive way to make use of veto power – could be as devastating to the legislative capacity as any powerful veto player. The veto procedure thus determines the potential impact of a specific veto point. The more demanding the procedures are for rejecting or delaying legislation, the greater is the potential for high legislative capacity.

In this study, what Tsebelis calls institutional veto players – the chamber(s) of the parliaments – are treated as veto points, or more correctly, as consisting of a number of veto points. Veto players are here defined as the actors in the policy process who have the power to activate the veto points, thereby either rejecting or delaying legislation. Members of parliament are typical veto players, as are members of the government and the president. Members of parliament are not treated as individual veto players, as they are expected to vote as the rest of the party faction to which they belong on most issues. Therefore, I regard each party faction in parliament as one veto player. As discussed earlier, the impact of the veto players is not only determined by their number and their ideological distance, but ultimately by the opportunity structures – veto points and veto procedures – within which they are able to act.

In conclusion, none of the three components discussed in this section is in itself sufficient for analyzing the constraints in the policy process or for explaining the legislative capacity. Explaining the legislative capacity requires an analysis of the interaction between them. A number of hostile veto players do therefore not necessarily constitute a threat to the legislative capacity, as long as the veto points are few and, more importantly, the veto procedures are very demanding or if they allow the government to circumvent veto points and thereby sidestep the veto players.

4.2.2 The policy process and its three phases

As discussed in the previous sub-section, this study focuses on the constraints in the decision making system. To be able to find the determinants of governmental legislative capacity, it is naturally important also to find out *where* in the decision making process problems occur and hence whether they can be linked to the constraints in that particular phase of the policy process. In short, to find the determinants behind the variations in governmental legislative capacity require more precision in terms of potential differences between the different phases of the policy process as well as shifts in veto constellations. While chapter 3 addressed the policy process as one unit, the analysis in this chapter is based on a division into three distinct phases: the pre-parliamentary phase, the parliamentary phase and the post-parliamentary phase. They will be analyzed separately to examine whether any particular part of the policy process differs in terms of governmental legislative capacity. Moreover, it also permits a more systematic examination of the effects of the specific veto points and veto players, which may differ from one phase to another. For example, the drafting procedures within the government may be highly efficient and the majority of the draft laws may hence be submitted to parliament on schedule. The parliament may, however, be slow in its treatment of the draft and potential delays therefore largely depend on the parliament's decision making system. It may just as well be the other way around: The parliament may be extremely quick to process the governmental draft laws, which are submitted to parliament very close to the adoption deadline or even after the deadline, in which case the government lacks in legislative capacity. Furthermore, both the government and the parliament may display high capacity, but problems may occur in the post-parliamentary phase, i.e. when the law is supposed to be promulgated by the president. If a president frequently chooses to veto EU-related legislation, that will most likely cause serious delays in the transposition process. In order to obtain high legislative capacity, all policy phases have to be characterized by high capacity. A system will never be stronger than its weakest link.

The *pre-parliamentary phase* begins with an initiative to start working on a particular draft within the government and ends when the draft law is submitted to the parliament after being approved by the government. This phase is by far the most difficult to study. A large number of actors and institutions are involved at this stage, which means that there is an equally large number of rules that regulate the decision making process in each of these institutions. These rules, such as the regulations of a certain ministry, also tend to change very frequently, which makes it very difficult to analyze the veto situation over time. In addition, the information about the drafting proceedings within the ministries is very limited and would require extensive studies of archives. As will be explained in more detail in chapter 5, I deal with this phase a little differently than the other two.

The *parliamentary phase* starts when the draft is submitted to the parliament and ends when the draft is approved and is to be sent to the president for promulgation. In contrast to the pre-parliamentary phase, it is easier to study, as there are fewer actors and institutions involved, and fewer rules and regulations need to be analyzed. Moreover, the data on the different stages is much more accessible in the parliamentary phase.

Finally, the *post-parliamentary phase* is the simplest and most likely the shortest of the three. It starts with the submission of the adopted law for promulgation by the president and ends when the law is enacted.

4.3 Conclusions

In this chapter the literature on efficient decision making has been elaborated and based on the empirical findings and the characteristics of the case of legal harmonization in candidate countries, I firstly argued that constraints in the decision making process is the most fruitful approach to find the determinants behind governmental legislative capacity. Secondly, I argued that while the veto player theory certainly has a lot to offer in terms of how to frame an explanatory study on governmental legislative capacity, it makes some highly unrealistic assumptions, which in turn made it necessary to modify the analytical framework somewhat.

5 EXPLAINING GOVERNMENTAL LEGISLATIVE CAPACITY IN LITHUANIA AND ROMANIA

In this chapter, I apply the analytical framework presented in the previous chapter empirically, to find out to what extent constraints in the decision making system account for variations in governmental legislative capacity. The decision making processes in Lithuania and Romania are thoroughly examined and the effects of the veto points and veto player constellations are analyzed, with the aim to determine which, and under what conditions, veto points matter as well as the impact of the veto procedures and the veto players involved. By actually examining every veto point that may be assumed to have an impact on governmental legislative capacity and not only assume that they all have the same effect, this study will hopefully take the veto player theory one step further and increase our understanding of the dynamics of decision making.

This chapter starts with a brief discussion on methods and data. Thereafter the three sections, related to the three phases of the policy process discussed in the previous chapter follows: the parliamentary, the post-parliamentary and the pre-parliamentary phase. The phases are not presented in chronological order, however. As capacity problems may be expected to be more likely in the phases of the policy process over which the government has less influence, i.e. the parliamentary and post-parliamentary ones, I analyze them first. In addition, the veto player approach is more applicable to these phases compared to the pre-parliamentary phase, which follows a slightly different decision making logic and is much less well structured. For example, problems in this phase are more likely to occur due to administrative and coordination problems, rather than as the result of outright resistance. The presentation will be clearer as a result of this sequencing.

The sections on the parliamentary and the post-parliamentary phases are divided into four sub-sections. The first and second maps the veto points, veto procedures and the veto players that are relevant for the phase in question in Lithuania and Romania respectively and analyzes their potential impact on the legislative capacity. The third sub-section briefly compares the two countries

and the fourth sub-section analyzes the impact of the veto points, veto procedures and veto players on the legislative capacity in the phase in question. Moreover, this section discusses the extent to which the parliamentary and post-parliamentary phases respectively affect the legislative capacity in the two countries. The pre-parliamentary phase is analyzed in the adverse order compared to the previous two phases; the performance of the governments related to this phase and its relative impact compared to the parliamentary phase is examined first. Explanations for the variations are then sought in the decision making structure and veto player constellation.

To find out whether the constraints have different effects under different conditions, I compare the veto player constellation over time and between the two countries. The following section includes a more in-depth discussion about the ways in which these different analyses are carried out in practice and what sources are used.

5.1 Method and data

The first two phases (i.e. the parliamentary and the post-parliamentary phases) are analyzed in terms of the number and characteristics of the veto points, the veto procedure and the veto players involved. The structure of these analyses is quite similar. First, all veto points are traced in the documents that govern the decision making process within the limits of the two phases. To each veto point, a veto procedure is attached to determine what it takes to activate it. The veto player constellation during the period under study is then analyzed by looking at the parliamentary composition. The parties are examined in terms of their opinion on EU membership as well as their ideological position and what type of governments that have been in office.

More precisely I ask: (1) what type of veto is possible (reject or delay the draft), (2) under what conditions the veto point may be activated (mandatory/optional), (3) what it takes to succeed (the veto procedures) and (4) whether there are any possibilities for the governments to circumvent veto points and if so, examine the conditions for doing so. In addition, I also examine, albeit somewhat more superficially, whether there are specific time limits for how long a draft law may be considered in the different stages in the parliamentary and post-parliamentary proceedings. The number and type of veto points and veto procedures constitutes the framework for the governments' legislative capacity, as they regulate the opportunity structure that allows potential opponents to interfere and influence the process. The actual outcome in this respect is determined by the properties of these opponents, i.e. the veto players.

The main sources for mapping the veto points and the veto procedures in Lithuania and Romania, were the Seimas of the Republic of Lithuania Statute and the Standing Orders of the Chamber of Deputies, the Standing Orders of the Senate and the Regulation of the Chamber of Deputy's and the Senate's

joint sessions in Romania. The constitutions and other legal documents were also examined when relevant.

When analyzing the veto players, I focus on the party factions in the parliament and the parties in government as well as the president and the Constitutional Court. The number of parties in the parliaments, their respective strength, their relation to the government as well as their opinions on EU-membership, and their ideological positions are examined. The least constraining and thus potentially the most efficient parliamentary situation is a cohesive one-party majority government while the most constrained situation is when a multi-party minority government, including EU-sceptics, holds office. Election results have naturally been the main source of information on the veto player constellation and their strength. On EU membership, both primary sources, such as written and oral statements from the parties and governments, and secondary sources were used, but only secondary sources were used for the ideological positions.

Establishing their position on EU membership is relatively easy because all governments have taken a very clear position on this issue. In addition, Taggart & Szczerbiak (2002) have examined all parliamentary parties in the candidate countries in terms of whether they support EU membership unconditionally or whether they support it in principle but have objections to certain means to reach the goal. In the latter case the parties are considered as soft EU-sceptics and may therefore be more reluctant to approve on some of the laws required to be transposed. Also the Romanian and Lithuanian presidents' positions of EU membership are fairly easy to establish, as they all have supported the governments' efforts in that respect. For this analysis I have used secondary sources, such as studies on Romania's and Lithuania's political development.

It is much more difficult to exactly position the political parties ideologically, i.e. on a left-right scale. Some use the parties' self-placement, others rely on expert surveys (for a discussion how they correlate, see Whitefield et al., 2007) and recently attempts have been made to use electoral manifestoes to plot the distance between the parliamentary parties on a left-right scale (Klingeman et al., 2006). While there is a good correlation between the two former approaches, the latter deviates quite substantially and moreover in a direction that makes the validity of that study highly doubtful.⁵³ I therefore chose not to use the assessments derived from the manifesto data. For the purpose of this study it is however of minor interest to establish the exact distance between the parties, which I think is a futile project anyway. Based

⁵³ For example, the Bulgarian Socialist Party (BSP) which is commonly described as a semi-restructured former communist party is placed to the right of the market liberal SDS in the 1997 elections (Klingeman et al., 2006: 20). Moreover, in Romania, the main challenger to the post-communist PDSR, was coded as the by far most left-wing party in Romania in the 1996 elections (Klingeman et al., 2006: 21).

on the more reliable expert/self-placements surveys, I elaborate a little more freely on the Romanian and Lithuanian parliamentary parties' ideological position. The types of governments are categorized in terms of the number of parties and whether or not they command a majority.

The ideological positions of the presidents are easy to establish in the cases where he belongs to a parliamentary party. The Lithuanian president however did not, and it is therefore difficult to exactly position him in relation to the parties. I have used electoral analyses in order to see to what extent the parties supported his bid for the presidency or whether they supported his rivals and from these accounts I make an assessment of the ideological distance between the president and the parties.

In the second stage of the analysis, I systematically examine to what extent the veto points that were found actually had the expected effect according to the veto theory logic. We can thus establish which veto points that matter and to what extent they affect the law making in the country in question.

I examine the amount of time the draft laws in my sample spend in each phase and when relevant, in different institutions of the parliament, such as the first and second chamber. I do not measure the time spent in parliamentary committees, however. The results give us a first crude indication of whether there are any particular problems with the proceedings of that particular phase and thus to what extent the veto points matter in terms of governmental legislative capacity.

To measure the impact of the veto players in the parliamentary phase, I use an index of contestation, which is based on the voting results in the parliament. The final votes for all the adopted laws in the sample have been collected. In the Romanian case, I have only used the voting record in the Senate, i.e. the upper chamber, because these figures were more readily available. As the chambers may be expected not to differ much from each other, due to identical party compositions, limiting the analysis to the Senate should not be a problem. The level of contestation has been calculated by extracting the vote against and those who abstain from voting from the votes in favor. The figure I present in the analysis is the percentage of votes in favor cast by the members present. To some extent, this particular analysis tests the issue linkage hypothesis discussed in the previous chapter. If the desire to join the EU takes the upper hand, we should only see very limited resistance towards the EU-related legislation and if the left-right division prevails we would expect more contestation.

The impact of the veto players in the post-parliamentary phase is analyzed by looking at the number of presidential vetoes and the number of interventions from the Constitutional Courts as well as the time it took the parliament to reach a new decision.

The pre-parliamentary phase is, for the aforementioned reasons, addressed with a slightly different approach. In addition to these arguments, this phase is

less structured in terms of the decision making procedures. There are naturally rules that govern how laws are supposed to be drafted, but it is very difficult to analyze these rules from a “veto perspective”, at least on the ministerial and agency level, where most of the drafting takes place in practice.

The pre-parliamentary phase is therefore examined the other way around, starting with a look at the extent to which the governments have delivered according to their plans. In order to find out which veto players that matter I also examine whether the government or the parliaments are responsible for the delay of the legislation. The way in which this is carried out in practice is discussed in connection with that specific analysis. The aim is to find out where in the policy process the problems occur. I then examine whether changes in the governmental decision making structure can be held accountable for the variations found between the two countries. This analysis is not as thorough as the other two, due to the reasons given above.

The data used for the analysis of the second stage in the two first phases has been collected from Lithuania’s and Romania’s parliamentary databases, which contain detailed information on all laws that were ever initiated in their parliaments. In addition, information from the NPAA’s, the Government’s Reports and the Ministries of European Integration was used. As there are no calculations on the topic that were relevant to this study available for download, I thus made all the calculations. The data used for the pre-parliamentary phase is mainly collected from secondary sources, primarily from the European Commission which annually submits reports in which assessments and information about how the decision making system is working. The level of detail is, alas, not great, however.

In summary, the point of the empirical analysis in this chapter is to evaluate the impact of the constraints, in order to see which factors that matter and which do not, as well as to find out which part of the policy process that has the greatest impact in terms of legislative capacity and under what conditions.

5.2 The parliamentary phase

The parliamentary phase starts when a draft law is submitted by the government to the parliament and ends when the parliament adopts the law for the first time. I thus consider the cases where adopted laws are referred back to parliament for reconsideration to be part of the post-parliamentary, rather than the parliamentary phase.

5.2.1 Constraints in the Lithuanian parliamentary phase

Lithuania has a unicameral parliament, the Seimas, with 141 seats and its activities are regulated in the Seimas of the Republic of Lithuania Statutes.

This document has been amended several times since it was first adopted in 1994. The version that is analyzed in this study was adopted in November 1999 (Law No I-399, as amended 1999-11-11).⁵⁴

Passing a law in the Lithuanian parliament appears to be a very difficult process judging from the Seimas' homepage, which shows all the existing possibilities for rejection and, above all, for delay. However, as in most parliamentary systems a unified majority government will meet relatively few obstacles to getting their proposals through parliament. In contrast, minority governments may face considerably greater difficulties.

Two instances in the Seimas have the power to reject a draft law: the Legal Affairs Committee (LAC) and the Seimas in plenum. The Legal Affairs Committee is only an optional veto point, however, as the Chairman of the Seimas decides whether or not a draft law – immediately after being submitted to parliament – shall be referred to the LAC for consideration (Art. 138.1).⁵⁵ If the LAC finds that a legislative initiative violates the constitution or that formal procedures were violated when the draft law was submitted to the Seimas, the draft law shall not be presented to the Seimas and is therefore rejected (Art 139.1). The Legal Affairs Committee, like all other committees, has the same composition as the Seimas (Art. 44.3) and decisions are taken with the majority of the members present (Art. 55 & 113), which implies that a majority government also commands a majority in the LAC. It is also worth pointing out that the LAC's function is to make sure that the legal requirements are respected and not make political considerations or try to stop draft laws that the majority does not like. The members of the LAC, should thus not be seen as a hostile veto player, but rather as an instance in which mistakes are detected and corrected.

The Chairman of the Seimas is the most powerful official in the parliament and he or she gets elected at the first session after a new election, which implies that the ideological distance in relation to the government should be quite small (Art. 83.3).

The Seimas offers several opportunities for rejecting a draft law during its deliberations, three of which are mandatory veto points. The Seimas must take a vote on the proposal on at least three occasions (Art. 143.1 (3); 153 (6) & 159.1) and may reject the draft law with a simple majority of the votes on each of these occasions. There is also a fourth, optional, possibility for rejection, in the event that the principle committee, i.e. the committee in charge of scrutinizing and discussing the draft law, reaches the conclusion that the draft law should be rejected. In that case, the Seimas must take a vote on whether

⁵⁴ Between 2000 and 2002 the Statutes have been subject to seven amendments, none of which affect the veto-structure of the parliamentary proceedings, relevant for this study.

⁵⁵ All articles refer to the above mentioned version of the Seimas Statutes, unless otherwise indicated.

or not to follow the recommendation of the committee (Art. 151.3 (2)). In all of these four instances, the same actors are involved in the decision making and a unified majority government will thus eventually get their proposal through parliament. For a minority government, however, the passage of the draft is much less certain.

The possibilities for delaying the policy process are not significantly greater because decisions to send a draft back to the initiator such as the principal committee or to the public for consideration, are made by a majority vote of the deputies present in the Seimas. These measures can be taken during the first (Art. 143.1) and second reading (Art. 153), but not during the third and final one. There is only one instance in which the Seimas cannot prevent a delay; in the principal committee, which may decide either to reconsider the draft one more time, to refer it to the public, to send it back to the initiator or to reject it (Art. 151.1). In the first two cases, the committee's decision is final, but in the latter two cases, the Seimas has to vote on whether or not to follow the committee's recommendations. However, even if the Seimas decides not to reject the draft or send it back to the initiator, the draft needs to be prepared by a new principal committee or a special commission, in which case the passage of the draft will nevertheless be delayed (Art. 151.3 (8)).

The Seimas's Statutes offer several possibilities to propose amendments to the draft law under consideration, by all actors who have the right to initiate legislation, i.e. the government, the deputies, the committees and the president (Art. 152 & 155). All proposals to amend a draft law need to be voted on and if the principal committee has not been able to consider the proposals for amendment, it has to be reconvened to do so (Art. 152). In addition, if several amendments have been made to the draft law, a decision may be taken to let the principal committee reconsider the amended draft law, which may only be done once (Art. 154 & 158).

Finally, the Ethics Committee may, upon the request of the government, 1/5 of the Seimas' deputies or the courts, recommend the Seimas to reconsider a passed draft law, if there have been irregularities in the Seimas's proceedings (Art 160). The Seimas, however, decides whether or not to pass the draft anyway or chooses to send it back to the instance where the irregularities began.

We may thus conclude that even if there are many veto points, they are mostly made up by the same veto players, which decreases the chances for a minority to seriously delay the passage of legislation. The restrictive veto procedures naturally also contribute to the ability of the majority to get what it wants. All decisions, both in the chamber and in the committees, are taken by simple majority and in the case of the Seimas there are no quorum rules to consider, whereas the committee meetings must be attended by at least half of its members (Art. 53.4), which is still not enough to prevent a majority government from imposing its will.

Two additional features in the decision making process may make the procedures even less protracted. Firstly, there are strict time limits for how long the deliberations are allowed to take in most instances. While there are no fixed limits for the principal committee, they must decide on a deadline for a conclusion during their first session. The deadline may be postponed, however. The other facilitating feature is the possibility for the Seimas to apply the Procedure of Urgency (Art. 163), which shortens the amount of time the draft may be addressed in each instance or the Procedure of Special Urgency (Art. 164), which allows the draft law, at the Seimas's first sittings to be sent straight to the final reading, without having to be considered by any committee. The possibilities to propose amendments are also much more limited in this procedure. A majority government can thus circumvent most of the veto points and secure a very rapid passage of its proposals. To what extent that particular possibility has been used will be analyzed in section 5.1.4. Whether we should expect difficulties in terms of legislative capacity in the parliamentary phase therefore depends on the veto player situation in the chamber, which is addressed in the following paragraphs.

Lithuania's electoral system is mixed: half of the deputies in the Seimas are elected by a first-past-the-post system in single member districts and the other half is elected by proportional representation from party lists to which a five percent threshold is applied. This generally means that the biggest party gets a somewhat greater share of the seats than in purely proportional systems, but also that the smaller parties still have good opportunities to be represented. In addition it also allows independent candidates to be elected to parliament.

As shown in table 5.1 there has been no shortage of parties represented in the Seimas. However, only a handful of them managed to win more than a few seats in the parliamentary elections in 1996 and 2000. In 1996, five larger parties won 87 percent of the seats, while an additional nine parties and seven non-affiliated candidates shared the remaining 13 percent. In 2000, the small parties won exactly the same share of the seats and only four large parties secured more than four seats, although it should be noted that the Lithuanian Democratic Workers Party, cooperated with a number of smaller left wing parties.

Table 5.1 Votes and seats won in the 1996 and 2000 parliamentary elections in Lithuania

Election year	1996			2000		
	Percent of votes	Seats	Percent of seats	Percent of votes	Seats	Percent of seats
Lithuanian Democratic Workers Party (LDDP)	9,5	12	8,5	31,1*	51*	36,2*
Lithuanian Social Democratic Party (LSDP)	6,6	12	8,5	*	*	*
Homeland Union – Lithuanian Conservatives (TS)	29,8	70	49,6	8,6	9	6,4
Lithuanian Centre Union (LCS)	8,2	13	9,2	2,9	2	1,4
Lithuanian Christian Democratic Party (LKDP)	9,9	16	11,4	3,1	2	1,4
New Union – Social Liberals (NS)				19,6	29	20,6
Lithuanian Liberal Union (LLS)	1,8	1	0,7	17,3	34	24,1
Lithuanian Peasant Party (LVP)	1,7	1	0,7	4,1	4	2,8
Others	32,5	16**	11,4	13,3	10***	7,1
Total	100	141	100	100	141	100

Source: Krupavicius, 1997: 547; Fitzmaurice, 2003: 165.

*LDDP formed the Social Coalition together with the Lithuanian Social Democratic Party (LSDP), the New Democracy Party and the Union of the Russians in Lithuania.

** Two parties took two seats each and another five parties won one seat each. Four deputies declared themselves non-partisans and three deputies did not declare their party affiliation.

*** One party got two seats and another five parties won one seat each. Three deputies declared themselves as not belonging to any party.

Until the parliamentary elections in 2000, the Lithuanian party system was in effect a two-bloc system. It revolved around the left-wing Lithuanian Democratic Labour Party (LDDP), which succeeded the Lithuanian Communist Party, and the right-wing Homeland Union – Conservatives of Lithuania (TS), which was the successor to the anti-communist Popular Front, Sajudis (Krupavicius, 2002: 1015). Sajudis was in power during the last year of the Soviet period, but lost the first post-independence election in 1992 to the LDDP, which secured an absolute majority of the seats in the Seimas. In 1996,

the TS reversed the situation and was only one seat from winning an absolute majority. In the autumn of 2000, the LDDP, together with a number of smaller parties of which the Social Democrats were the most prominent, again became the largest party faction in the Seimas, winning 51 seats.⁵⁶ Two liberal parties – the New Union-Social Liberals and the Liberal Union, which were ideologically located between the LDDP and the TS, won 63 seats, however. They formed a minority government, which only managed to stay in power for a couple of months. In July 2001, the LSDP (i.e. the renamed LDDP) and the New Union – Social Liberals (NS) formed a new government, which lasted until the parliamentary elections in 2004.

As discussed above, the party factions and not every individual MP will be considered veto players. If a veto player or a combination of veto players, i.e. more than one party faction, are to have any negative impact on the legislative capacity, they need first to have objections to the proposed draft law. Second, they need to be sufficiently powerful to actually stop or delay the proposal under consideration. As argued above, when the government controls a majority of the seats and internally agrees on which policies need to be pursued, there is little opportunity for potential opponents to affect the legislative capacity. We shall therefore look more closely at the composition of the governments during the years that are relevant for this study.

Lithuania had three governments between 2000 and 2002 which were headed by three prime ministers and which involved all the major parties in parliament. The Homeland Union (TS), together with the Lithuanian Christian Democratic Party (LKDP) and the Center Union of Lithuania (LCS) formed a majority government after the parliamentary elections in 1996. Due to continuous defections from the TS during its last two years in office, the government had lost its majority, by mid-spring 2000 controlling only 64 seats in the parliament. Prime Minister Andrius Kubilius did, however, still enjoy some support from his former allies (East European Constitutional Review, 2000: 23).

In the parliamentary elections in October 2000, the incumbent government was defeated, winning only 13 seats in all. Due to the success of two liberal parties, the parliamentary situation was more confused, as none of the three blocks commanded a majority in the Seimas. On October 26, the former TS Prime Minister, Rolandas Paksas, who now represented the Lithuanian Liberal Union (LLS), was eventually able to form a minority government with the other liberal party, the New Union – Social Liberals (NS). Together they controlled 63 seats in the Seimas. The government only lasted for eight months. In June 2001, the NS left the government and sided with the biggest party in the Sei-

⁵⁶ In January 2001 the LDDP and the LSDP merged under the name of the latter party (Krupavicius, 2002: 1024-1025).

mas, the LSDP. Under the LSDP leader and former president, Brazauskas, the two parties formed a coalition government, which barely managed to secure the support of a majority of the Seimas's deputies. When it was sworn into office, the LSDP controlled 48 seats and the NS 26, leaving the coalition with a majority of only three seats (Krupavicius, 2002: 1019). Despite these defections, the government managed to retain a majority throughout the period under study and even increased their number of seats somewhat during 2002, reaching 76 by December 1 of that year (Krupavicius, 2003: 1012). By then, a new party had emerged in the Seimas, led by Rolandas Paksas, who after a power struggle with the LLS leader founded the Liberal Democratic Party with 12 deputies from the Liberal Union (Krupavicius, 2003: 1014). As the government still controlled a majority in the Seimas, these changes did not affect its ability to govern effectively.

We may thus conclude that while Lithuania was ruled by majority governments during most of the period under study, 21 out of 36 months, minority governments held office for a substantial part of the period, 15 months, from April 2000 until July 2001. We now turn to the political parties' opinion on Lithuania's EU-membership and their position on a left-right scale.

All the major parties in the Seimas believe that Lithuania should become an EU-member as quickly as possible (Jurkynas, 2005: 25). In 2001 and 2002 all the parliamentary parties agreed on a joint statement about the merits of EU-membership (Government of the Republic of Lithuania, 2000: 5; 2001: 5; 2002: 4). Moreover, in the Programmes of the Governments, harmonization with the EU rules and legislation is a recurrent theme (Seimas Resolution No. VIII-1221, 1999). There are, however, policy areas in which the EU is not mentioned, and we may not rule out that these omissions may be due to disagreements among the coalition partners. The Centre Union (LCS), which was part of the right-wing government that held office between 1996 and 2000, has been considered a soft Euro-sceptic, implying a principled support for membership, but with objections on particular parts of the *Acquis* (Taggart & Szczerbiak, 2002). Suffice to say, despite the fact that minority governments held office for more than a year, there is little to suggest that they would meet much resistance in the Seimas on EU-related matters, as long as the EU linkage takes precedence over potential ideologically divisive provisions in the draft laws.

As discussed in the previous section, it is not easy to make an accurate assessment of the parties' position on a left-right scale. According to the expert survey, the ideological distances between the Lithuanian parties are quite small (Jurkynas, 2005: 25).⁵⁷ Of the parties participating in governments, the largest

⁵⁷ On a 20-point scale the most left-wing party score about nine and the most right-wing 13 (Jurkynas, 2005: 25).

ideological distance is between LDSP on the one hand, and the LCS on the other, with the NS close to LDSP, the LLS somewhat further right and the TS and LKDP close to the LCS (Jurkynas, 2003: 27; 2005: 25).

To sum up the part of the veto players, we may conclude that as long as the opinion decisively favors EU membership, there should be very little resistance, regardless of the extent of the support for the government. If, on the other hand, more ideologically divisive issues take precedence, the period of minority governments might be less efficient. That is particularly applicable to the Paksas government, which did not have any ideologically close associates outside government on whom they were able to rely, which was the case for the Kubilius government from April to October 2000. It is difficult to determine whether or not the minority status or the ideological distance to both the right and the left was the decisive factor, but it has been suggested that the Paksas government had major difficulties “to secure the required number of votes in Parliament on *almost every issue*” (Krupavicius, 2002: 1020, emphasis added).

After analyzing the parliamentary phase in Lithuania, one may conclude that while the decision making structure of the Seimas includes several veto points, the opportunities for rejecting legislation are quite limited. In addition, the veto procedure makes it quite difficult for the veto players to use the veto points. There are few occasions in which a majority government may be affected negatively and there are also opportunities for the majority to circumvent most of the veto points by applying the procedure of special urgency. It should be noted however, that there is a democratic price to be paid for frequently sidestepping the parliament, which might be held against the government in the elections. While there are many veto players, i.e. political parties, only a few hold enough seats in the Seimas to be able to influence the decision making. Although the parties are distributed along the left-right scale, they all state EU membership as an important goal thus making the likelihood for opposition in EU related matters less plausible. In short, according to the veto analysis, there is little to suggest that the parliamentary phase will affect the legislative capacity negatively, rather the opposite.

The veto point and veto procedure situation during the entire period under study has remained unchanged, whereas the veto player situation has shifted between majority and minority governments. We would thus expect that variations in legislative capacity may rather be attributed to the latter phenomenon.

5.2.2 Constraints in the Romanian parliamentary phase

In contrast to Lithuania, Romania has a bicameral parliament consisting of the Chamber of Deputies and the Senate. The number of contested seats has varied in both chambers during the post-communist period. In the two

elections that are relevant for this study, which were held in 1996 and 2000 respectively, 343 and 345 deputies were elected to the lower chamber, whereas the Senate contained 143 and 140 seats (Chiva, 2007: 5). The decision making procedure is regulated by three documents, the Standing Orders of the Chamber of Deputies, the Standing Orders of the Senate and the Regulation of the Chamber of Deputies and the Senate's joint sessions. The following analysis is based on the versions adopted in 1995 (Official Journal 112/June 2, 1995), 1993 (Official Journal 178/July 27, 1993) and in April 1992 (Decision No. 4, April 3, 1992) respectively.

As in Lithuania, these regulations have been amended several times. Most of the changes have been minor adjustments with no impact on the veto analysis. In January 2001, however, considerable amendments were made concerning the Standing Orders of the Chamber of Deputies (Government Decision no. 5, January 12, 2001, republished in the Official Journal No. 51/January 31, 2001) and the Standing Order of the Senate (Government Decision No. 5, January 17, 2001, republished in the Official Journal No. 58/February 2, 2001). The aim of the amendments was to speed up the legislative process, by reducing the possibilities to suggest amendments to the draft laws under consideration (East European Constitutional Review, 2001: 32). Unlike Lithuania, the number of veto points as well as some veto procedures has thus changed during the period under study. The cut-off point is early 2001. The following analysis is based on the Standing Orders after the changes of 2001 and if relevant, I refer to the previous versions as well.

Romania's decision making system is quite complicated and involves several instances as well as many opportunities particularly for delaying legislation. One peculiarity of the Romanian system is that the two chambers have exactly the same functions and prerogatives (Popescu, 2003: 325-26). These rules were changed in 2003, but until then both chambers successively had to deliberate a draft law and eventually adopt it, before it could become law.

A draft law may be initiated in either of the chambers. An immediate rejection of the draft law in that chamber is final and the process is suspended (Art. 123).⁵⁸ If adopted by the initiating chamber, the draft law is sent to the "second" chamber,⁵⁹ which after the same procedures – including deliberations in parliamentary committees – has the following options: It may either approve or reject the same text as was adopted by the "first" chamber, or adopt a different, amended, version of the draft. If the draft is approved, the parliamentary phase is over and the adopted law is sent to the president for promulgation, which is discussed in the section on the post-parliamentary phase. If the draft law is rejected, it is sent back to the "first" chamber for a

⁵⁸ All articles referred to in this section are from the Standing Order of the Chamber of Deputies after the 2001 revision unless otherwise indicated.

⁵⁹ By the second chamber one normally means the Chamber of Deputies, but in this section "first" and "second" refer to which chamber the draft law is submitted to first.

new debate, after which the “second” chamber takes a new vote. A second rejection there is final (Art. 123).

If the “second” chamber adopts a text that differs from the one adopted in the “first” chamber, the draft is sent to a mediation committee, consisting of seven deputies from each chamber, where a compromise is sought (Art. 74). If the mediation committee reaches an agreement, the draft law is sent back to both chambers for approval. If, however, the mediation committee fails to reach an agreement, the draft law is referred to debate and voting in a joint session of the two chambers. This also happens if the Chamber of Deputies or the Senate rejects the report from the mediation committee (Art. 77). The vote in the joint session is final; if approved, the draft law is sent to the president for promulgation and if not, the draft law is rejected.

The parliamentary phase is then concluded unless the Constitutional Court strikes down the draft law or if the president chooses to send it back to parliament for reconsideration, in which case the two chambers again have to reach an agreement on how to deal with the objections.

Given the parliamentary structure and the decision making procedures described above, it comes as no surprise that the number of veto points is higher than in Lithuania. However while adding more veto points to the policy process does not necessarily mean an increased risk for rejection of draft laws, it appears unavoidable that the parliamentary phase in Romania should be more protracted.

In this phase, there are few instances where a draft law could be rejected. As mentioned above, the chamber in which a draft law is initiated has two possibilities to reject it; either in the final voting, which is a mandatory veto point or if the parliamentary committee has proposed a rejection of the draft law, in which case the chamber has to vote on whether or not to follow the committee’s recommendation (Art. 98). Decisions in the parliamentary committee are taken by majority vote of the MPs present, with a 50 percent quorum requirement (Art. 53). In contrast to Lithuania, a draft law to which no amendments have been proposed during the deliberation in the parliamentary committee is referred directly to a final vote in the plenary session (Art. 104) and there are thus no further readings. A rejection is also final the second time one of the chambers rejects a draft law. Last, the vote in the joint session of the two chambers is also final, but it only takes place if there have been additional disagreements between the chambers, thus making it an optional veto point.

While ordinary laws are decided by a majority of the deputies or senators present, an absolute majority is required for organic laws (Art. 119). Unlike in Lithuania, there is a quorum rule for both the Senate and the Chamber of Deputies as well as for the joint sessions, which requires the presence of at least 50 percent of the deputies or senators (Art. 134 & Art. 12 & 39 in Regulation of the Chamber of Deputies and the Senates meetings in joint session). The quorum rules were relaxed in 2001. They are now applicable

only in the final vote of the entire draft law, not on the voting on each article as before. Moreover, a quorum check could be demanded at any time during the plenary proceedings, but from 2001 that was only possible immediately before the final voting (Art. 134). The risk that a lack of quorum might delay the procedures is thus somewhat reduced by these amendments. As we expected, a government that commands a solid majority in the parliament should therefore face only limited difficulties to eventually get their draft laws through parliament.

While it is rather difficult to reject a draft law in the Romanian parliament, there are many more opportunities to delay it. It should be noted, however, that all the important decisions to prolong the parliamentary proceedings, such as referring the draft law to the mediation committee and joint session, may not be determined by a parliamentary minority. In addition, a number of provisions aim at facilitating and accelerating the proceedings, such as limitations for how long deliberations in most instances are allowed to take and the reduced possibilities to propose amendments to a draft law after the conclusion of the parliamentary committees' reports.

Like in Lithuania, the parliamentary committees have the same composition as the parliament in general, which means that the majority government also commands a majority in the committees. There are also quorum rules for the parliamentary committees in Romania. For their sessions to be legal at least 50 percent of its members have to be present (Art. 53) and it is mandatory for both senators and deputies to attend committee sessions (Art. 48 & 201). The same goes for attendance during voting in the parliament (Art. 131 & 201).

During the committee stage, there are opportunities to suggest amendments and in case considerable changes to the content of the draft law in question is proposed, the chambers may send the draft back to the committees for further elaboration on the suggested amendments (Art. 68 & 102). Before 2001, that was also possible after the committee's report was completed, but since then, amendments generally have to be presented before the committee's conclusion (Art. 101). The Standing Bureau sets the deadline for the committees to submit their reports and the time as a rule should range between 14 and 60 days (Art. 67).

Evaluating the possibilities to reject and delay legislation, a cohesive majority government should have few problems and should be able to avoid the optional veto points that may cause the longest protraction of the decision making process. In contrast, the draft laws of a minority government or a divisive majority government obviously risk being stuck in parliament for a much longer time.

The Romanian governments, however, also have possibilities to accelerate the legislative process by applying an urgency procedure, which primarily shortens the amount of time a law spends in the relevant instances. In particular, the parliamentary committees have to submit their reports within three days (Art. 108), compared to 14-60 days during normal procedures. It does,

however, not reduce the number of veto points. Before 2001, the chamber decided whether or not the government's request to apply urgency procedures should be granted. That power now rests with the Agenda Committee. Moreover, the 2001 amendments to the Standing Orders refer explicitly to the legal harmonization to the European Union as a case in which the urgency procedure should be applicable (Art. 107). The Romanian government should, at least from 2001, be able to get their EU-related drafts through each chamber rather quickly.

The governmental emergency ordinances (GEO) are an even stronger legislative weapon for the government. The Constitution (Art. 114.4) allows the government, upon the approval of the parliament, to adopt emergency ordinances, "which shall come into force only after their submission for Parliament for approval", which means that the parliament decides the provisions of the GEO after it has taken effect. While the parliament may still reject or amend the GEO, it is unlikely to do so if the order corresponds to the EU legislation. In summary, by using the emergency ordinances, the government can in effect sidestep the entire parliamentary phase, which naturally accelerates the process significantly, but which reduces, or even erases, the democratic control. In sub-section 5.1.4 I discuss further the frequency by which the emergency ordinances are used and their implication for Romania's legislative capacity.

I now turn to the veto player situation in Romania's parliamentary phase, which arguably has been much more fragmented than in Lithuania. The Senate and the Chamber of Deputies are elected by proportional representation in simultaneous elections, which produce almost identical returns in the two chambers. Moreover, the president is also elected at the same time thereby reducing the risk of having a president whose ideological standpoint differs from the government's. The threshold for parties to enter parliament was raised from three percent in 1996 to five percent in 2000. The latter election also introduced an eight percent threshold for two-party cooperation and an additional percentage point for each additional party in cooperation (Popescu, 2003: 326). A relatively high number of seats (18) are reserved for deputies from minority groups.

Romania's transition to democracy has been more difficult and protracted than Lithuania's. The first two elections after the fall of the Ceausescu regime in late 1989, held in 1990 and 1992 respectively, were not regarded as free and fair (Carey, 1995; Goodwin-Gill, 2006: 147-155).⁶⁰ On both occasions, the successor to the Communist Party, the National Salvation Front, which was renamed the Democratic National Salvation Front (DNSR) in 1992, easily won the elections and its leader Ion Iliescu was even more comfortably elected and re-elected president. Romania was not considered having met

⁶⁰ For a detailed account, see International Republican Institute's report "Report on Romania's Democratic Transition".

adequate democratic standards in terms of elections until 1996.⁶¹ That year the Democratic Convention, a broad coalition established with the primary aim to bring down the incumbent government, won the elections and formed a majority government. Despite much infighting which led to several changes of prime ministers, the government, managed to hold on to power for the full four-year period. In 2000, the DFSN, now under yet another name, the Party of Social Democracy in Romania (PDSR) returned to power, forming a minority, one-party government, with the support of several other parties.⁶² In 2004, they were voted out of office and a center-right coalition took over.

Table 5.2 Votes and seats won in the 1996 and 2000 parliamentary elections in Romania (Chamber of Deputies)

Election year	1996			2000		
	Percent of votes	Seats	Percent of seats	Percent of votes	Seats	Percent of seats
Democratic Convention of Romania (CDR)	30,2	122	35,5	5,0	-	-
Democratic Party (PD)	*	*	*	7,0	31	9,0
National Liberal Party (PNL)	**	**	**	6,9	30	8,7
Party of Social Democracy in Romania (PDSR)	21,5	91	26,5	36,6***	155	44,9***
Social Democratic Union (USD)	12,9	53	15,5			
Hungarian Democratic Alliance of Romania (UDMR)	6,6	25	7,3	6,8	27	7,8
Greater Romania Party (PRM)	4,5	19	5,5	19,5	84	24,4
Party of Romanian National Unity (PUNR)	4,4	18	5,3	1,4	-	-
Minority deputies		15	4,4		18	5,2
Others	19,9	-	-	16,8	-	-
Total	100	343	100	100	345	100

Source: Crowther, 1998: 328; Popescu, 2003: 331.

* Part of the USD. ** Part of CDR *** Together with two smaller parties, PSDR and PC.

⁶¹ Freedom House for example does not consider Romania Free until 1996/97 (www.freedomhouse.org).

⁶² In 2001 they merged with some smaller parties under the name Social Democratic Party (PSD).

Table 5.2 shows the distribution of seats in the Chamber of Deputies after the 1996 and 2000 parliamentary elections respectively. In 1996, six parties or coalitions managed to cross the threshold, compared to only five in the subsequent election four years later. The parliamentary situation in 1996 was, however, much messier than the table suggests. The Democratic Convention of Romania comprised some 15 parties, and although some could be considered reasonably big, the CDR lacked a dominant leader.⁶³ Its coalition partners were the Social Democratic Union, which consisted of two parties, namely the Democratic Party (PD) and the Social Democratic Party of Romania (PSDR)⁶⁴ as well as the Hungarian Democratic Alliance of Romania. As its name suggests, the latter mainly attracts the country's Hungarian minority. Even if the government controlled a safe majority of the seats during the whole period, the CDR started to disintegrate quite early and the government was reported to have major problems to get their proposals through parliament (Stan, 2002). To remedy this situation the government frequently used emergency ordinances, which as discussed above, are immediately effective without the endorsement of the parliament.

In the elections in November 2000, the left-wing Party of Social Democracy in Romania (PDSR) won 155 of the Chamber of Deputies' 345 seats. They formed a one-party minority government, with Adrian Nastase as prime minister, with informal support from all other parties and a more formalized support from the UDMR, which won 27 seats. The PDSR minority government was still in office at the end of 2002 and managed to remain in power until the following elections which were held in 2004. During the period under study, Romania was thus governed by a multi-party majority government for twelve months and a minority one-party government for the remaining 24 months.

All parties in parliament during the period in question embraced the idea of a Romanian EU-membership (Popescu, 2003: 328). Some scholars, however, consider the Greater Romania Party (PRM), which won 4.5 percent of the votes in the 1996 election and 19.5 percent in 2000 to be a soft Euro-sceptic (Taggart & Szczerbiak, 2002: 14). The PRM was never part of any government during the period in question, however, and was moreover never in a position to influence the decision making process by themselves. There is thus nothing to suggest that Romania's decision making process would be more constrained than Lithuania's, if EU-membership is considered to take precedence over left-right issues by the veto players.

⁶³ Between 1996 and 2000, Romania had three prime ministers: Victor Ciorbea (1996-98), Radu Vasile (1998-99) and the politically non-affiliated Murgut Isarescu between December 1999 and December 2000.

⁶⁴ Not to be confused with the much bigger PDSR.

When it comes to the left-right divide, it has been suggested that the Romanian party system was quite polarized, at least until the 2000 elections (Pop-Eleches, 2001: 157). Before then, the main dividing line ran between the left-wing PDSR, which only reluctantly endorsed political and economic reforms and which was considered responsible for the democratic deficit during their term in office 1990-1996, and the right of center CDR and its allies which advocated political and economic reforms. In contrast to Lithuania, the Romanian party system also contained an extreme right-wing party, the PRM, which however, became an isolated force after having cooperated with the PDSR government 1995 to 1996 (Pop-Eleches, 2001: 162-63). After 2000, the PDSR revised its policies quite radically, thereby closing the ideological gap between them and the right of center parties (Pop-Eleches, 201: 162). Among the relevant parties, the PDSR and CDR and its constituent parties are considered to be furthest apart, with USD closer to PDSR and UDMR closer to the CDR coalition. The system's main feature is perhaps not so much the ideological distance between the parties, at least not during the period under study, as the vast number of different political forces.

To sum up Romania's veto player situation: it is not expected to have any noticeable effect on the governments' abilities to get their intended pieces of legislation through parliament, and in particular during the first year, when the majority government was in office. While the fact that the CDR coalition comprised several parties, which continuously drifted apart, may have had an effect on the pre-parliamentary phase, it is not expected to influence this phase. The fact that the Nastase minority government was supported by several other parties makes resistance towards its initiatives concerning EU-adaptation a rather unlikely scenario.

To conclude the parliamentary phase in Romania, we would expect a somewhat protracted parliamentary process, due to the number of veto points, but few major obstacles in terms of veto player interventions. The fact that the Standing Orders of the parliamentary chambers which aimed at facilitating the decision making process, were amended in early 2001 further reinforces the expectations of an increasingly speedy process through the Romanian parliament.

5.2.3 Comparing the parliamentary phases in Lithuania and Romania

In the previous sub-section I pointed out several similarities and differences between Lithuania and Romania and I therefore keep the comparisons in this sub-section rather brief. Table 5.3 summarizes the main finding concerning veto points and the possibility to circumvent them in Lithuania and Romania.

Table 5.3 Constraints in the parliamentary phase

	Mandatory		Optional	
	Lithuania	Romania	Lithuania	Romania
Reject	2. Seimas 1 st reading 5. Seimas 2 nd reading 7. Seimas 3 rd reading	3. Vote in 1 st instance	1. LAC (if law is not in line with constitution) 4. Seimas 2 nd reading (if PC rejects the draft).	2. Vote in 1 st instance if SC rejects. 5. Vote in 2 nd instance if SC rejects. 7. A 2 nd vote in 2 nd instance if 2 nd instance rejects at VP 6. 10. Final vote in joint session if mediation fails or if rejected at VP 8 or 9.
Delay	2. Seimas 1 st reading 3. Principal Committee decision 5. Seimas 2 nd reading 7. Seimas 3 rd reading	1. Standing Committee report in 1 st instance 4. SC report in 2 nd instance 6. Vote in 2 nd instance	6. Seimas 2 nd reading (if many amendments are made) 8. Seimas vote if Ethics commission has objections	2. Vote in 1 st instance if many amendments in SC are proposed. 5. Vote in 2 nd instance if many amendments in SC are proposed. 7. Mediation (if 2 nd instance at VP 6 adopts different version). 8. Final vote in 1 st instance if mediation succeeds. 9. Final vote in 2 nd instance if mediation succeeds.
Circum-vention	Yes, except for veto point 7	No. Only speed up procedures.	Yes, except for veto points 1 and 8	No. Only speed up procedures.

Source: Seimas Statues, Standing Orders of the Chamber of Deputies and the Senate and the Regulation for the sittings in joint session.

Comment: SC = Standing Committee; PC = Principled Committee; LAC = Legal Affairs Committee; VP = Veto Points. The numbers indicate the chronological order in which the veto points appear in the policy process. Sometimes there are two options available.

The table shows that Romania offers a considerably larger number of opportunities to reject and delay draft laws. It also shows, however, that the majority of these possibilities are optional rather than mandatory. Moreover, in Lithuania many of the veto points are identical in terms of the veto players involved, compared to Romania's more varied situation. Romania's parliamentary phase is therefore expected to be more protracted than Lithuania's.

In terms of veto players, Romania has had two different types of governments: first a majority multi-party coalition led by the CDR and headed by Isarescu, which lasted for twelve months followed by a minority PDSR government, led by Adrian Nastase. Lithuania has had more types of governments. First a majority three-party coalition under Prime Minister Andrius Kubilius, which after only three months lost its majority position in parliament. Between April and October 2000, Kubilius thus headed a minority coalition which contained the same three parties. That government was replaced by another minority coalition under Rolandas Paksas, which lasted for eight months. The fourth type of government, which held office for the final 18 months, was a majority coalition with Algirdas Brazauskas as prime minister. As all parties agree on the desirability of EU-membership, we do not expect the veto players to have a major effect on the legislative capacity. We may, however, not rule out that even minor differences between the parties may become points of contention and lead to some protractions, in particular during periods of minority governments. As has already been shown in chapter 3, the amount of legislation rejected is so small that we can dismiss the hypothesis that minority governments would have lower legislative capacity in that respect.

In conclusion, we would overall expect the parliamentary phase to be quite efficient, given the veto points that need to be overcome. In Lithuania, the parliamentary phase may be assumed to have a negative impact on governmental legislative capacity only in exceptional cases. Romania's somewhat more complicated decision making structure makes delays more likely due to long parliamentary proceedings, thereby also extending the delay.

5.2.4 Impact of the constraints in the parliamentary phases in Lithuania and Romania

This sub-section analyzes the actual impact of the constraints in the parliamentary phase. I start by looking at the veto points and how long it takes for the scheduled laws to pass through parliaments and their different instances and whether there are any changes in this respect over time. I then examine to what extent the urgency procedures have been used and what effects they have had on the speed of passing legislation. Finally, I examine the veto players and to what extent they have been active and posed a threat to the governments' intentions, by studying the level of contestation in the final voting on each draft law. I also examine the legislative capacity of each government to check whether or not the veto player theory provisions hold.

By examining the average amount of time draft laws spend in the parliament and its different instances, we will be able to detect whether any particular instance in the parliament has been especially slow and thereby also discover the effect in terms of extra time that is caused by the veto points. Table 5.4 shows the average amount of time the draft laws from my sample spent in the parliamentary phase. In the Romanian case this also includes the time spent in the two chambers separately, in mediation and in joint sessions. The upper row shows the total number of days in the parliamentary and post-parliamentary phases combined.

Table 5.4 Time in parliamentary phase (number of days)

	N		Minimum		Maximum		Mean		Median	
	Romania	Lithuania								
Total number of days	156	125	13	21	1868	545	314	128	202	95
Parliamentary phase	156	125	5	3	1842	467	286	103	176	71
Days in the first instance	151*	-	6	-	1115	-	154	-	86	-
Days in the Senate	151*	-	2	-	933	-	109	-	52	-
Days in the Chamber of Deputies	151*	-	7	-	1115	-	160	-	83	-
Days in mediation	84	-	1	-	175	-	37	-	28	-
Days in joint session	12	-	1	-	273	-	34	-	14	-

Source: Own compilation based on data from the Lithuanian and Romanian parliamentary databases and the NPAAAs.

Comment: Only laws, which were eventually adopted by the parliaments, are included. Non-adopted laws are accordingly omitted. Total number of days refers to the whole process from the submission of a draft law to parliament until its promulgation, i.e. the parliamentary and post-parliamentary phases. The parliamentary phase has the same starting point, but ends when the law is first adopted by the parliament, i.e. before it is sent to promulgation. Days in first instance is calculated by the dates draft laws are initiated and adopted by the initiating chamber in Romania. Days in the Senate, Chamber of Deputies, mediation and joint session, are all calculated by the dates of initiation and adoption in the instance in question. All days are counted, work days as well as holidays.

* Five laws were only dealt with in Joint Session.

Given the large differences between Lithuania's and Romania's parliamentary structures, it comes as no surprise that the parliamentary procedures are much quicker in Lithuania, where a scheduled draft law on average took 103 days.

The Romanian parliament by contrast needed almost three times as many days – 286 – to process an EU-related draft law. The considerably lower median values, 176 and 71 respectively, indicate however, that the major part of the laws spent fewer days in the parliament and that a minor number of laws are subject to substantially longer procedures. For example, Romania’s maximum time exceeded five years.

When looking at the distribution of time spent in the various Romanian instances, it becomes obvious that the bicameral system and therefore the number of veto points, severely slows the process down. However, not even when the chambers are analyzed separately are the Romanian chambers as quick as their Lithuanian counterparts. A draft law spent on average 154 days in the first instance, i.e. almost a month longer than in the Seimas. Moreover, in more than half of the cases that were analyzed the mediation committee had to convene to resolve the differences between the two chambers, which on average took an additional month before the draft could be adopted. Substantially fewer draft laws had to go through all instances. On seven⁶⁵ occasions, however, the parliamentary joint sessions was required to pass the draft law, resulting in yet additional months of parliamentary deliberations.⁶⁶ In addition, not only do the various instances take long, time is also lost between each of the instances, which further increase the difference in time between the two countries.

The parliamentary system thus clearly has an effect on the speed of processing legislation and Romania’s sluggish pace of transposition is at least partly a product of its bicameral system. The fact that both chambers individually use more or less the same amount of time, which cannot be said to be excessive and moreover does not greatly exceed Lithuania’s indicates that no particular instance of the parliament is particularly slow. The overall slow pace is rather caused by the ‘double command’. That is not to say that this type of system is doomed to be inefficient and marred with missed deadlines. As long as the government submits its drafts reasonably well ahead of the deadlines, there should be no problems keeping the deadlines. Conversely, it is not at all certain that an efficient parliamentary system results in a fast and timely transposition.

The fact that as many as 84 draft laws in Romania, or 54 percent, were referred to the mediation committee is somewhat surprising given the almost identical compositions of the two chambers. This may imply a high level of

⁶⁵ In five instances the parliamentary proceedings were, at the governments’ request, reduced to just deliberations in joint sessions. The proceedings in these instances were very swift.

⁶⁶ The median time a draft spend in Western European legislative process (concerning working hours and social security benefits) varies between 32 days in Ireland and 620 days in Italy. Only Italy, Switzerland, the Netherlands and Portugal have more protracted legislative processes than Romania. Lithuania in contrast is ‘beaten’ by seven countries (De Winter, 2004: 58).

contestation which requires compromises to get the draft law through each chamber, which in turn may easily result in the adoption of slightly different versions of the drafts. It may also indicate that although the government commands a majority in both chambers its coordinating powers are too weak to ensure that the same version is adopted in both instances. The extent of contestation is addressed later in this chapter. First, the parliamentary proceedings over time is examined.

As was discussed above, the Romanian Standing Orders of the Senate and the Chamber of Deputies were substantially changed in early 2001, resulting in a reduced number of optional veto points and shorter time allowed for deliberations in many instances. In contrast to Lithuania, where the Seimas Statute remained unchanged in all relevant aspects during the period under study, the average amount of time needed to get a draft law through the Romanian parliament is expected to be lower in 2001 and 2002, compared to 2000, whereas no such improvements are expected in Lithuania. Table 5.5 shows the average number of days a draft law spent in parliament according to the year during which it was submitted to parliament.

Table 5.5 Time spent in parliamentary phase for draft laws initiated 1999-2004 (Average number of days).

	Romania		Lithuania	
	n	Days in parliament	n	Days in parliament
1999	18	553	10	172
2000	26	345	28	68
2001	28	222	53	122
2002	47	168	26	74
2003	22	139	7	114
2004	5	42	1	79
N	146		125	

Source: Author’s calculation, based on data from the Lithuanian and Romanian parliamentary databases.

Comment: The laws are distributed according to what year they were initiated in parliament.

The decreasing number of days in the Romanian parliament over time confirms the expectations discussed above. It thus seems that the changes in the Standing Orders have had an effect on the time needed to pass a draft law in parliament. Moreover, while it is not discussed further as it is beyond the scope of this study, it is worth noting that the more profound changes made in 2003, which meant that the two chambers deliberated simultaneously rather

than successively, have had an additional effect with a continued decrease in the average number of days. The trend might of course be caused by other factors that have varied over time such as the type of government. Concerning Lithuania, the table shows that the amount of time needed to pass a law in the parliament has varied considerably from one year to the next. It is worth pointing out that laws that are initiated late in the year are usually dealt with the following year, which may somewhat skew this indicator. Moreover, it does not take into account which government initiated the draft laws and under which parliamentary situation they were processed.

As noticed above, the mediation committees' services are needed in surprisingly many cases. That the proceeding in question prolongs the parliamentary proceedings as a whole follows logically, but that is not to say that the use of the mediation has caused any delays. All laws that went through mediation may have been adopted on time anyway. To what extent has the inability to adopt the same version of a draft law in the two chambers had a negative impact on the legislative capacity in Romania?

Of the 84 laws that went through mediation, 70 percent or 59 laws were delayed and 30 percent were adopted on time. They thus make up more than half of the 105 delayed laws in Romania. In addition, these 59 laws were on average delayed for 398 days which is about a month longer than the average delay for all laws in the sample. It thus seems that the mediation process has had a negative impact on governmental legislative capacity. How many of the 59 laws would instead have been adopted on time if the two chambers had reached an agreement in the first place?

The answer is three and the delays were rather brief in two of the cases, 16 and 74 days respectively. In the third case the mediation took 175 days which caused a delay of 156 days. If we also examine the five cases in which the draft laws had to be adopted by the joint sessions an additional two laws would have been adopted on time if the two chambers had agreed before mediation. In one case the delay is insignificant, just 31 days, and in the other it is somewhat more serious, 92 days, which is still far below the six months threshold. In several cases, however, the mediation procedures account for a considerable share of the number of days the laws were delayed, which implies that fewer laws would have been severely delayed if the differences had been resolved before mediation. We may thus conclude that while agreement between the two chambers in these cases would have had a negligible effect on the share of delayed laws, in 16 cases the mediation procedures added more than a month to already severely delayed laws. In short, Romania's legislative capacity would have been a lot better off if the governments would have had better control and coordination instruments during the parliamentary procedures. When analyzing the veto player constellation, I examine whether the different parliamentary situations differed in terms of number of laws referred to the mediation committee.

Both the Seimas Statute and the Standing Orders for the Chamber of Deputies and the Senate, provide for urgency procedures to be applied on the request of the governments. To what extent have the Romanian and Lithuanian governments used this prerogative and to what extent has this instrument affected the speed in the parliamentary proceedings?

Table 5.6 The use of urgency procedures and emergency ordinances

	Romania			Lithuania	
	All laws	Urgency	GEO	All laws	Urgency
Time in parliament (days)	286	244	347	103	40
Share of delayed laws (%)	65	81	59	47	50
Extent of delay (days)	365	270	408	268	168
N	112	47	29	125	14

Source: Author’s calculations, based on data from the Lithuanian and Romanian parliamentary databases.

Comment: The number of laws on which there was information about urgency procedure in Romania was 112 out of 156 in the whole sample. The 47 draft laws in Romania in the table also include 38 cases in which only one of the two chambers applied the urgency procedures. In the remaining nine cases, both chambers accordingly applied the urgency procedures. In Lithuania, the urgency and the special urgency procedures (3 and 11 cases respectively) have been collapsed.

Table 5.6 shows that the Romanian governments have been much more inclined to use urgency procedures when dealing with EU related legislation. In 42 percent of the cases urgency procedures were applied in one or both chambers, whereas the Lithuanian governments only opted for this strategy in 11 percent of the cases. There is no information about urgency procedures for several Romanian laws, which implies that the real usage of the fast track option ranges somewhere between 30 and 60 percent.

As intended, the urgency procedures reduce the number of days a draft law spends in the parliament. In Lithuania the reduction is quite drastic; from an average of 103 days to just 40, and in Romania the parliamentary proceedings are reduced by 42 days, from 286 to 244. In Romania, the laws under urgency procedures are subject to much longer delays than the average laws in the sample, which indicates that the governments use this strategy when a draft law has been submitted late to parliament and needs speedy passage. Delays are also considerably shorter for the urgency draft laws, than for averages. In Lithuania, the urgency laws are almost equally likely to be delayed as the rest of the sample, but as in Romania, delays are substantially shorter for this category of laws. By applying the urgency procedures, the legislative capacity may thus be substantially enhanced, mainly by reducing the extent of delay, but of course at some democratic cost. In contrast to the discussion on

mediation above, it is however impossible to determine how many laws that would have been delayed if the urgency procedures had not been applied.

Considering the emergency ordinances (GEOs) discussed above, the Romanian governments have been criticized for using this instrument too frequently, thereby sidestepping the parliament. In this sample, however, the GEOs are moderately used. While they constitute only 29 of the 156 scheduled laws that were eventually adopted (18 percent), they differ considerably compared with the averages for all laws in the sample. They spend an extra two months in parliament and are on average delayed by an additional month. On the other hand, the number of delayed laws is a somewhat lower share of all laws delayed.

Interpreting these figures is, however, not simple. The most immediate reaction is that the GEOs have a markedly negative impact on the legislative capacity, as they tend to spend much longer time in parliament, thereby extending the delay. On the other hand, one has to remember that the provisions of the GEOs are already in force when the parliament commences its deliberations and it could therefore be assumed that these pieces of legislation – which do not differ from other initiatives – have a low priority, as the parliamentary proceedings primarily serve to confirm what has already been decided elsewhere. From this perspective, when the Romanian government approves the GEO it would already consider the EU provisions fulfilled and the parliamentary passage a mere formality. Officials at the Romanian delegation in Brussels, however, claim that the directive or regulation is considered fulfilled only when a GEO is approved by the parliament (Interview, Viorel Serbanescu, September, 2005). Moreover, the deadlines in the NPAA refer to the parliamentary adoption not the adoption of the GEO. The GEO might therefore hypothetically also be rejected or amended by parliament. At this point we may at least conclude that GEOs do not shorten the parliamentary proceedings, quite the contrary, nor does the usage of them reduce the delay.

I now turn to the veto players and examine to what extent they attempt to use their veto power, i.e. try to reject or delay pieces of legislation by not supporting the government. We expect the level of contestation to be lower when the government commands a majority in parliament and higher when a minority government is in office or when a draft law initiated by the preceding government is put to vote in a new parliamentary situation.

The most striking feature in terms of contestation is that there was none. The vast majority of all draft laws are passed by the parliaments in both countries with overwhelming majorities. In 18 percent of the cases in Lithuania and in 14 percent of the cases in Romania, the laws were adopted unanimously, i.e. 100 percent of the present MPs voted in favor. The average share of votes in favor on the 149 Romanian laws for which information is available, is 94 percent and the corresponding Lithuanian number is 89 percent (124 laws). It should be pointed out however, that the absence during votes in the 141-

member Seimas and the 143-145 member Romanian Senate is quite high. It is unusual that more than 2/3 of the MPs participate and the number is frequently close to the 50 percent quorum requirement in the Senate. For the Seimas, which lacks a quorum rule, the presence sometimes dropped below 50 percent. Being absent could naturally be a way of withholding support for the government's proposal, but to be an "efficient" veto player more active participation is required to have an impact. In almost all cases the number of active opponents was extremely low. This might be explained either by the fact that there is a genuine consensus on the draft laws that are presented and that the common ambition to become EU members eliminates opposition in all matters related to that process or by the fact that the draft laws are subject to so many changes during the parliamentary deliberation that most MPs eventually are satisfied with the final result. The fact that such a high share of the adopted laws are considered fully in line with the corresponding EU directive or regulation, however, indicates that the governments' original proposals in most relevant aspects remain intact during the parliamentary proceedings.

The figures discussed above are averages of all the laws adopted during quite different parliamentary circumstances. In order to find out the significance of the type of government, the following table focuses on the initiatives by each government in the two countries and examines whether the level of contestation varies depending on the parliamentary situation when the draft laws eventually are adopted.

Table 5.7 Extent of contestation of laws initiated by different governments and adopted during different parliamentary situations (% of votes in favour)

Drafts submitted by	Own majority government		Own minority government		Subsequent government		N
	n	Contestation	n	Contestation	n	Contestation	
Kubilius	6	86	24	90	3	99	33
Paksas			14	94	18	89	32
Brazauskas	59	87					59
CDR	18	88			31	94	49
PDSR			95	93	4	97	99

Source: Author's calculations, based on data from the Lithuanian and Romanian parliamentary databases.

Comment: The figures are based on the final voting in the Seimas and the Senate and denote the share of votes in favour of the draft among those present at the time of voting.

Table 5.7 clearly shows that the parliamentary situation has no effect on the level of contestation in Lithuania and Romania. For both the Kubilius' and the PDSR governments, the level of support for the drafts is actually higher under the less favorable circumstances. Moreover, the average level of contestation is higher (i.e. lower percentages) in all cases in which adoption took place during the initiating majority governments' term in office. The differences are so small and show such a high level of support that no firm conclusion can be made regarding this counter-intuitive result. Suffice to say, there seems to be a consensus among the veto players in both countries on the desirability to adopt the pieces of legislation related to the EU integration process.

From the discussion above, we concluded that there were never any serious challenges to the draft laws. We still know that in several cases the two chambers in the Romanian parliament failed to agree, which resulted in a mediation procedure. In the following I examine under what conditions draft laws are referred to mediation.

Of the 84 cases nine went to mediation under the CDR and 74 under the PDSR governments respectively (and one during the following government). Conditions during the multi-party majority government appear to have been more favorable, than during the minority PDSR government. However, if we consider the initiator, we find that 30 out of the 51 bills sponsored by the CDR went to mediation, which means that 21 of them were not adopted during their term in office and were hence left to the new parliament to process.

The PDSR initiated 99 laws, of which 52, or 53 percent went to mediation during their time in government. In addition, another 21 laws initiated by the CDR were referred to mediation by the parliament dominated by the PDSR. We may thus conclude that there are very small differences between the two types of government. The CDR needed mediation in 47 percent of the cases during their time in office, whereas the PDSR had to use it in 53 percent of the cases. About half of the laws initiated seem to go to mediation, regardless of whether the government commands a majority in parliament. One reasonable conclusion may thus be that a failure of the two chambers to agree has little to do with opposing wills, and more with a lack of coordination between the chambers and the government.

One type of legislation in the sample needs additional comments. Several of the scheduled laws are international treaties that have to be ratified by the parliament. While the presidents of the two countries sign the treaties, they have to be ratified by the parliaments as well. As the content of the treaties is fixed, there is little to debate in the parliament, except for whether to approve it or not. We can thus expect this type of legislation to be handled quickly. In the following I examine to what extent the ratification laws differ from the total sample and whether there are differences between the countries in terms of the number of laws in the sample.

Table 5.8 Ratification laws

	Romania		Lithuania	
	All laws	Treaty	All laws	Treaty
Time in parliament (days)	286	119	103	50
Share of delayed laws (%)	65	57	47	38
Extent of delay (days)	365	356	268	239
N	156	32	125	21

Source: Author’s calculations, based on data from the Lithuanian and Romanian parliamentary databases.

Comment: Ratification laws refer to international treaties and conventions signed by the presidents and approved by the parliaments.

Treaties are exceptional in two ways: Firstly, as is shown in table 5.8, the parliaments need less than half the average amount of time to pass a ratification law. In Romania, the difference is even greater. Secondly, they are in most cases approved unanimously. All but one ratification law in Romania were approved by at least 94 percent. Moreover, the quality of these laws is naturally by definition as good as it can get. For the two other indicators in the table, the ratification laws do not differ much, which implies that they were generally initiated late in parliament. Finally, it should be noted that the share of ratification laws in the samples is quite similar, 21 percent of Romania’s laws and 17 percent of Lithuania’s. In conclusion, including the ratification laws in the samples enhances the average quality of the laws and the parliamentary proceedings look quicker than they are during more normal circumstances. However, they do not change anything in terms of the relationships between the countries and not in terms of the share and extent of delays.

To conclude the analysis of the parliamentary phase, the results were largely according to expectations given the veto situation in the two countries; Lithuania’s parliamentary procedures have been very smooth and swift, whereas Romania’s have been much more protracted, due to the number and character of the veto points. There is no evidence in the data that the type of government matters. It has been as easy for minority governments to get their intended pieces of legislation through parliament as it has for majority governments, as the resistance in terms of no votes on EU-related legislation in the parliaments was negligible, which shows that the consensus on the desirability of EU-membership takes precedence over ideological differences in the different policy issues.

5.3 The post-parliamentary phase

The post-parliamentary phase is the shortest. It starts when the parliament has passed a law and ends when it is promulgated. If veto players in this phase force the parliaments to reconsider the laws, these proceedings are also counted as part of the post-parliamentary phase. As in the previous phase, the documents relevant for analyzing these procedures are primarily the Seimas Statute and the Standing Order of the Chamber of Deputies and the Senate as well as the Constitutions and the two countries' respective laws on the Constitutional Court. No amendments have been made to any of these documents that are relevant for the veto analysis in this phase.

This section is organized very similarly to the previous. I examine the veto points in turn, the veto procedures and who the veto players are, as well as whether and in what way these constraints have changed during the years under study. I conclude by comparing the constraints in the two countries and estimate their expected impact on the legislative capacity. The final part of this section analyzes the actual impact of the constraints on the legislative capacity in Lithuania and Romania.

5.3.1 Constraints in the Lithuanian post-parliamentary phase

In Lithuania, only one veto point has to be passed after a law is adopted by the parliament.⁶⁷ According to the Seimas Statute, the chairman of the Seimas shall within ten days after a law is adopted, sign it and send it to the president for promulgation (Art. 29.2). If the president does not decide to send it back to parliament for reconsideration within ten days (Art. 71, Constitution), it is considered adopted and should be signed again by the chairman of the Seimas within three days and sent to be published in the Official Gazette. A law that is not challenged by the president will thus be promulgated within a maximum of 10 + 10 + 3 workdays, i.e. about a month. It might of course be done quicker, in case the laws are sent to the president immediately after their adoption and swiftly signed.

The president may return a law to the parliament for reconsideration together with a proposal for changes in the text. The Seimas shall vote on whether to reconsider the draft law or reject it as early as the following day (Art. 165, Seimas Statute). The Seimas thus cannot approve the original ver-

⁶⁷ A final possible veto-point in this phase is the referral of a contested issue to the people in a referendum. That scenario is considered so hypothetical, however, that it is not analysed in the main text. Needless to say, this veto-point has not played any role whatsoever, since no referenda were held during the period under study. There have been ten referenda in Lithuania since 1991, of which the first eight were held up till 1996. The ninth was the approval of joining the European Union in May 2003 (www.answers.com/topic/referenda-in-lithuania).

sion without new deliberations. These must take place within a week (Art. 165 (4)) and include the opinions of the Committees that dealt with the draft law during the original proceedings (Art. 166). The Seimas then votes, first on the original unamended version of the draft law, which passes if a majority of all the members in the Seimas supports it (Art. 167, Seimas Statute). The president is then overruled. If the necessary majority cannot be mustered, the parliament votes on the president's proposal, which is considered adopted if a majority of the members present in the Seimas vote in favor of it (Art. 167 (3 & 4). The president's veto is only suspensive and may quite easily be overridden and the rules for the reconsideration procedures, effectively limit the scope of protraction. A weak minority government may, however, encounter some difficulties.

Who the president is might thus be of crucial importance. Lithuania's president is elected directly by the people for a five-year term and is thus not elected at the same time as the Seimas. That implies first that the president may have a different ideological position and a different opinion on EU-membership than the government. There may be a cohabitation situation, in which the government's policies may be frequently contested. Second, the president's power position is completely independent from the parliament and the government, and is rather based on the popular opinion at the time of the election. The power that the popular mandate brings naturally enhances the presidents' room for manoeuvre and may make them more assertive and willing to use their quite limited formal powers.

Lithuania has had only one president during the period under study. Valdas Adamkus was elected president in 1998 and left office in 2003. Adamkus campaigned as an independent candidate in the 1997/98 elections,⁶⁸ but he was considered to be clearly right of center and was supported by the Centre Union (LCS). His candidacy was contested by the two other incumbent right-wing parties, Homeland Union, Lithuania's Conservatives (TS), and the Christian Democratic Party (LKDP), on the grounds that Adamkus had not spent enough time in Lithuania to be eligible (Krupavicius & Eitutyte, 1999: 130).⁶⁹ Adamkus won very narrowly in the second round by a margin of 14 000 votes, defeating Arturas Pauluaskas, who also ran as an independent (Krupavicius & Eitutyte, 1999: 136).

Although Adamkus was considered right of center, his relationship with the right-wing government, which held office until October 2000, was relatively strained. In 1999, he publicly stated that the country was in need of new politics, carried out by new political forces. This eventually led to the formation

⁶⁸ The presidential elections are held in two rounds, unless no candidate gets more than 50 percent of the votes in the first round. The first round was held on December 21, 1997 and the runoff on January 4, 1998.

⁶⁹ Adamkus had spent most of his life in the United States, where he was Chief of Environmental Protection Agency (Krupavicius & Eitutyte, 1999: 130).

of a new liberal center bloc consisting of the Liberal Union (LLS), the New Union (NS) and the LCS. The established parties on the right as well as the left took a critical stance towards these new contenders (Fitzmaurice, 2003: 162-163). As noted in the section on the parliamentary phase, the two former parties formed a minority government after the elections, but were unable to keep it together for more than eight months. The New Union, together with the Social Democrats, agreed to establish a majority coalition government in July 2001, with Algirdas Brazauskas as prime minister, which lasted for the rest of Adamkus's first term in office.

It is rather difficult to relate Adamkus's ideological position more precisely to the three different governments in office during his term, mainly because they consisted of many parties, which were not particularly ideologically cohesive. Concerning the first government (the three-party coalition with Kubilius as prime minister), Adamkus on the one hand had a very good relationship with the junior coalition partner (LCS), which supported his bid for president, but a very strained one with the other two. The second government (the NS & LLS government under Rolandas Paksas), was based on parties that had heeded the president's call for change and should thus be expected to be fairly close to him. The third government seems to have been the most ideologically distant from Adamkus. We might expect more interventions during the last year and a half, than during the first 18 months of the period under study. One should also keep in mind that Adamkus actually campaigned as an independent, thereby making his loyalty to any particular party less certain.

Concerning the opinion on EU-membership, Adamkus's views differed little from either government during the period under study. As has been discussed above, there was solid support for Lithuania's membership among the political elite and Adamkus was an outspoken advocate for European integration (President of the Republic of Lithuania). Given the shared ambition to join the EU, and the extremely low level of contestation in the parliamentary phase, we would not expect the Lithuanian president to slow down that process by frequent interventions.

The Constitutional Court does not count as a veto point in this analysis, because it lacks the prerogative to invalidate laws before they are promulgated. On the petition of the government, one fifth of the members of the Seimas and the courts, the Constitutional Court may declare laws to violate the constitution and subsequently abrogate them (Art. 102, of the Constitution and Art. 65 & 72 of the Law on the Constitutional Court),⁷⁰ but again only after they were adopted. I have chosen not to include the Constitutional Court as a veto point since all the laws in my sample could possibly be referred to the court and be invalidated, which makes it difficult to know whether they should be considered valid. It is not a great problem however, as the court

⁷⁰ Law I-67, 1993-02-03, available in English at www.lrkt.lt

only received between 15 and 21 petitions annually between 2000 and 2003 and in the majority of cases it has dismissed the petition and upheld the challenged legal act.⁷¹ The probability that the court would have any impact on the legislative capacity is therefore considered minimal.

In conclusion, there are no changes in terms of veto points and veto procedures during the period under study. That is the case however, when it comes to veto player constellations, because of the different governments during president Adamkus's term in office. Considering the veto procedures that apply and the joint goal to become EU members, this phase is expected to be rather problem free, with a minimum negative impact in terms of governmental legislative capacity.

5.3.2 Constraints in the Romanian post-parliamentary phase

In Romania, the post-parliamentary phase includes two veto points, the president and the Constitutional Court,⁷² whose prerogatives are governed by the Constitution, the regulation of the Constitutional Court (Law 47/1992, republished in the Official Journal Part I, no. 187, August 7, 1992)⁷³ and the Standing Orders of the Senate and the Chamber of Deputies. None of these documents have been changed in any important way regarding the veto provisions during the period under study.

When a draft law is adopted by the parliament, it is sent to the president for promulgation. Within five days (two when urgency procedure is applied) before a law is submitted to the president, the president, the presidents of the two chambers, the government, the Supreme Court, at least 50 deputies or 25 senators may refer it to the Constitutional Court, to ensure that it is in accordance with the constitution (Art. 123, Standing Order & Art. 144, Constitution). The court normally has 60 days to reach a verdict and the decision is taken by a majority of at least 2/3 of the nine judges (Art. 5 & 13 of the Law on the Constitutional Court). If the court considers a law to be unconstitutional, the draft is sent back to the committee for legal matters, discipline and immunities, which shall propose whether the chambers should approve or reject the court's rulings. The chambers then vote and overrule the court if at least 2/3 of all the deputies and senators uphold the original version of the law (Art. 124, Standing Orders). The adopted law is then sent to the president for promulgation within ten days, with no possibility to send

⁷¹ http://www.lrkt.lt/Documents1_e.html (2008-08-25)

⁷² Unlike Lithuania, it is not even an option to hold a referendum on EU-related legislation, since matters for the people to decide on has to be of national importance. Although the Law on Referenda explicitly refers to EU-integration in such terms, it is obviously questions like joining the EU that are implied by these wordings (Law 3/22 February 2000, Official Journal no. 84/24 Feb. 2000, Art. 12 f).

⁷³ Available in English at www.ccr.ro

it back to the parliament for reconsideration (Art. 77 (3), Constitution). If the chambers disagree about how to handle the committee's proposal, the mediation procedure and possibly deliberation in joint sessions follows (Art. 126-128). Romania's Constitutional Court is thus an optional veto player, with the power to delay. Even if their ruling is not final, it could be difficult for any government to muster the required majority to get its way. On the other hand, the conditions for petitioning the court are quite strict, which makes it unlikely that this option is used frequently.

The president, the Senate and the Chamber of Deputies appoint three members each to the Constitutional Court for a term of nine years and the court is renewed by one third every three years (Art. 140, Constitution). As the court, at least in theory, should be impartial and not make political considerations, the majorities that appointed the judges in office during the period under study should not matter greatly. In addition, the number of referrals to the court is expected to be very limited, making further deliberation on its composition irrelevant.

Unlike in Lithuania, the Romanian president has to promulgate the law passed by the parliament within 20 days (Art. 77 (1), Constitution). While the president has the power to send the law back to parliament for reconsideration, he can only do so once, but not if the court has already made a decision (Art. 77 (2)). The re-examination by the parliament shall take place within 30 days and involves a proposal from the standing committee whether or not to accept the objections from the president after which the two chambers vote. To overrule the president requires a simple majority of those present in both chambers (Art. 125, Standing Orders). When the president receives the law after the parliamentary reconsideration, he must promulgate it within ten days (Art. 77 (3), Constitution). The president's impact is thus not expected to have a great effect on the legislative capacity neither in terms of rejection nor delay, which is limited to 20 + 30 + 10 work days.

During the period under study, the Romanian president was directly elected by the people for a 4-year term.⁷⁴ The fact that the elections were held at the same time as the parliamentary elections increases the likelihood that the ideological preferences of the government and the president will coincide, which in turn implies that the risk for a cohabitation situation and hence obstructive behavior from the president is considerably diminished.

Romania has had two presidents during the period under study. In the 1996 elections, the leader of the right of center Romanian Democratic Convention (CDR), Emil Constantinescu, beat the incumbent president Ion Iliescu (PDSR) in the second round. As the CDR and its associates at the same time defeated the PDSR in the parliamentary elections, the ideological positions of the president and the government were close between 1996 and 2000.

⁷⁴ Since 2003 the term is five years.

The 2000 elections resulted in a similar situation. The PDSR reversed the outcome and Iliescu managed to win a third term as president, easily defeating the extreme right candidate Vadim Tudor (PRM) in the runoff (Popescu, 2003: 330-32).⁷⁵ From 2000 to 2004, Romania's two centers of power were occupied by left of center forces: a PDSR minority government, supported by several other parliamentary factions and with their former leader Iliescu as president.⁷⁶ The ideological divide may accordingly be considered negligible during this period.

One should however, keep in mind that the CDR-lead government contained several parties and that the umbrella organization CDR disintegrated into several distinct political forces soon after the elections (Popescu, 2003: 327; see also, Roper, 1998). Even if the overall ideological affinity still applied, the tensions within the government could therefore just as well be paralleled by tensions between the president and the government. Also, during the Iliescu incumbency we cannot assume complete harmony between the government and the president. Between 1990 and 1996, the PDSR and its de facto leader Iliescu, were considered rather hesitant towards economic and political reforms. In 1994 and 1995, the PDSR government cooperated with several extremist forces to the right and to the left, with serious implications mainly for members of the country's Hungarian minority. At the time of the elections in 2000, the PDSR was headed by a more reform-minded leadership and as a consequence had greatly overhauled the policy priorities (Pop-Eleches, 2001: 160-62). Ion Iliescu, however, was still viewed as a representative of the party's more traditional faction and thus less inclined to political and economic reforms in general (*ibid.*: 162).

Constantinescu was clearly in favor of EU-membership, thus sharing the government's strong ambition to join. Iliescu, on the other hand, had in practice been quite reluctant to adhere to the changes required by the EU during his previous incumbency, but like the PDSR government he took a positive stance in 2000. In contrast to the PDSR leadership in government, he was still considered to be less enthusiastic (Pop-Eleches, 2001: 162). Nevertheless, given the close ideological positions of the presidents and the governments during the period under study and their shared opinions on EU-membership, very little interference is expected.

In conclusion, the post-parliamentary phase is not expected to cause any major problems for the Romanian governments during the period under study. The fact that there is a compulsory promulgation may, however, add to the protraction of the decision making process, but presidential and judicial interferences are expected to have only a negligible impact on the governmental legislative capacity.

⁷⁵ Constantinescu did not run for re-election in 2000.

⁷⁶ Upon assuming the presidency, the candidate has to renounce his or her party affiliation.

5.3.3 Comparing the post-parliamentary phases in Lithuania and Romania

From the discussion above, summarized in table 5.9, we may conclude that Lithuania and Romania's post-parliamentary phases are quite similar.

Table 5.9 Constraints in the post-parliamentary phase

	Mandatory		Optional	
	Lithuania	Romania	Lithuania	Romania
Reject				
Delay		Promulgation by the president (within 20 days)	Presidential veto within ten days, otherwise the law is considered adopted. (absolute majority overrules)	Constitutional court (2/3 majority overrules) Presidential veto (simple majority overrules)

Source: Seimas Statutes, Standing Orders of the Chamber of Deputies and the Senate, the Regulation for the sittings in joint session, the Law on the Constitutional Court in Romania and the Romanian and Lithuanian constitutions.

In terms of veto points and veto procedures, the main difference between the countries is Romania's mandatory promulgation and that it allows the Constitutional Court to preview legislation. It seems quite unlikely that as much as 2/3 of both the Senate and the Chamber of Deputies would go against a verdict by the Constitutional Court, thereby making its ruling in effect decisive. As discussed above, the Constitutional Court is still expected to play a negligible role in the transposition process. In addition, the rules for overriding the presidential vetoes are more similar than different, even if more is required of the Lithuanian government. On the other hand, in Romania two instances must agree to win over the president.

More relevant than the majority that is required to overrule the president, however, is the way in which a presidential veto may delay a particular law. Both countries have strict rules for how long it may take to reconsider the draft law. After just a few days, a new vote takes place, which means that in the event the Lithuanian and Romanian parliaments stick to the law they passed originally, a presidential intervention can be addressed fairly swiftly. In case the presidential veto changes the preferences of the parliamentarians, however, the Romanian process is expected to be more prolonged, due to the involvement of the mediation committee and joint sessions described above.

Regardless of their importance, the rules by themselves cannot cause much trouble. The decisive factor is whether, and to what extent, the presidents are likely to use their veto powers. In Romania, both presidents in office during this period were supported by a party that assumed power at the same time,

thus decreasing the ideological distance between them. While Lithuania had only one president, three different governments were in power during his term in office, of which the first two could be considered ideologically close to the president. The last government from July 2001 is considered somewhat more distant. Although only the first government actually included the party that supported Adamkus’s bid in 1997/98, the Paksas’s government from October 2000 until July 2001 is also considered to be close. It was made up of two parties that did not exist in 1998 and which were established as a result of the president’s quest for new politics. In the following section, the actual impact of the constraints on the post-parliamentary phase is analyzed.

5.3.4 Impact of the constraints on the post-parliamentary phases in Lithuania and Romania

The features that are of interest in terms of governmental legislative capacity are naturally the average time draft laws spent in the post-parliamentary phase and to what extent the veto points and the veto players discussed above affected the decision making process.

Table 5.10 Time in post-parliamentary phase (number of days)

	N		Minimum		Maximum		Mean		Median	
	Romania	Lithuania								
Total	156	125	13	21	1868	545	314	128	202	95
Promulgation phase	156	125	4	1	294	104	28	25	21	20
Presidential veto	3	8	102	21	246	89	165	42	147	35
Constitutional Court	4	-	13	-	61	-	32	-	27	-

Source: Author’s calculations based on data extracted from the Lithuanian and Romanian parliamentary databases.

Table 5.10 mainly confirms the aforementioned expectations. First, the post-parliamentary, or promulgation, phase is on average rather short in both countries: 28 days in Romania and 25 days in Lithuania. The even lower median value also indicates that the bulk of the scheduled draft laws spent only a limited amount of time in this phase, which implies that this process is only occasionally extremely protracted. Secondly, the two veto points have been very sparsely activated, which naturally explains the rather smooth proceedings in this phase.

The Romanian president only sent back a law for reconsideration on three occasions and the Constitutional Court was asked four times to rule on the constitutionality of an adopted law pending promulgation. Only seven out of the 156 adopted laws (4 percent) were thus affected by the constraints in this phase. In contrast to the deliberation in the Constitutional Court, it is worth noticing that a presidential veto seems to actually prolong the decision making process quite extensively, but it should of course also be kept in mind that only three such cases were analyzed. On all three occasions the parliament eventually complied with the president's objections. The Constitutional Court was as expected even less of an actual constraint. In three of its four rulings, it swiftly decided against the petitioners' objections. On one occasion it did find that the adopted law was violating the constitution and accordingly sent it back to parliament, which again complied and made all the amendments suggested by the court. The entire proceedings – from the day the court was petitioned to the day the parliament passed the new law – took two months.

The Lithuanian president was more active during the period under study. On eight occasions, he asked the parliament to re-examine an adopted law. These procedures, however, lasted only for 42 days on average, and in all cases the president's proposal was adopted, despite the fact that an overwhelming majority had supported the original proposal. As in the Romanian case, this shows, that little prestige appears to be involved and that the governments try to reach a consensus if possible. Again, while it should be noted that the cases are too few to make a more general claim, in all cases analyzed, there seems to be little hostility between the president and the government.

Even if the veto players only rarely use their powers, it could still be of interest to see under what circumstances it happens and also to examine to what extent the transposition process differs from the normal law making process.

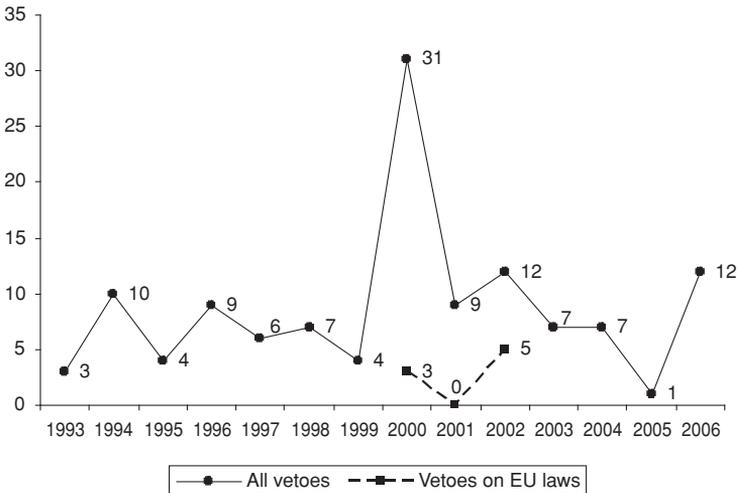
When looking at the timing and circumstances of the three vetoes in Romania, we find a situation that was not anticipated in the previous sub-section: in all cases the president vetoed laws that were drafted by the previous government, but adopted by the following one. President Iliescu sent back two laws in 2001, which were both submitted to parliament by the Isarescu government in September the year before. Traian Basescu, who won the 2004 presidential election as a candidate for the right of center Democratic Party (PD) asked the parliament to reconsider a law in July 2005, which had been initiated by the PDSR government as early as December 2002. On no occasion has the president used his veto on a law that the party to which he previously belonged was responsible for drafting. It would indeed have been interesting to see to what extent this pattern is valid generally, but that information is unfortunately not easily obtainable.

The Constitutional Court was petitioned three times during the PDSR government's time in office, but in all instances it ruled in favor of the adopted

law. The only time the court struck down a law was in February 2000, during the preceding CDR-led government. Between 1992 and 2006 the Romanian Constitutional Court received 139 petitions. It ruled on 107 cases⁷⁷ of which 69 rejected the petition. During the years that are relevant for this study (1999-2003) the court received 29 requests and made 23 rulings of which 17 were rejected (www.ccr.ro).⁷⁸ It thus seems that EU-related legislation is treated the same way as ordinary legislation, both in terms of rejection rate (around 75 percent) and the share of the total number of laws that are challenged.

As mentioned above Adamkus used his veto powers on eight occasions during the period under study; three times in 2000, during the Kubilius government, which was considered to be rather close to the president. In addition, he used it five times in 2002, of which three laws were initiated during the Paksas government and two during the Brazauskas government. The vetoes were thus evenly distributed among the three governments thus implying that the ideological distance has little or no effect. To what extent are these numbers generally valid for all legislation in Lithuania? Figure 5.3 shows the number of vetoes from 1993 to 2006.

Figure 5.1 Presidential vetoes in Lithuania 1993-2006



Source: Seimas legislative database.

Comment: The figures are based on the year the presidential decrees to send the law back were issued.

⁷⁷ The Constitutional Court can refuse to rule if it does not consider the petition to be within their competence.

⁷⁸ In 1999 there were seven rulings, in 2000 two in 2001 six, in 2002 four and in 2003 there were four.

The number of vetoes is relatively evenly distributed also when looking at the whole post-Soviet period in Lithuania, with the exception of the year 2000 during which the number of presidential interventions increased sharply. In relation to all adopted laws each year, the share of vetoed laws ranges from less than 0.5 percent to 6 percent in 2000. In nine of the 14 years shown in the figure, the share ranges from 1 to 2 percent. The veto power in general is thus quite sparsely used by the Lithuanian presidents. The share of vetoes is actually somewhat higher in the sample of laws in this study, reaching just above 6 percent of all scheduled laws.

Adamkus has by far been the most active president. He used his veto power on 63 occasions or on about 3 percent of the adopted laws during his first term in office. 41 of these were directed at laws initiated by the three-party right-wing coalition which held office between 1996 and 2000 (on average 14 per year), 10 at Paksas's minority coalition (15 per year) and 12 at the left of center Brazauskas government (eight per year). Brazauskas used the veto 32 times during his presidency, 24 times towards his "own" party (six per year) and eight times during the cohabitation period in 1996 and 1997 (four per year). It is thus clear that the hypothesis that ideological distance would make presidents more likely to intervene, does not hold in the Lithuanian case. The government farthest away from both presidents received the lowest number of returned laws per year.

I conclude the post-parliamentary phase by examining the impact of the presidents in Lithuania and Romania and the Constitutional Court in Romania on delayed laws and to what extent they are responsible for the delays.

In Lithuania, only three of the nine laws that Adamkus sent back for re-examination were eventually delayed. In all the other cases, there was enough time for an additional round of parliamentary deliberations. The three laws were delayed by 81, 155 and 901 days respectively, which means that only one law was severely delayed. The extra time it took to pass these laws was also very modest in the first two cases, 21 and 26 days respectively, which implies that the presidential intervention hardly had any impact. In the third case, the re-examination procedure was rather lengthy, 70 days, but considering the fact that the law was delayed by more than 900 days, the effects were quite limited in this case as well. We may thus conclude that the Lithuanian president in one case could be considered co-responsible for the delay.

In Romania all three vetoed laws and four of the five laws that were referred to the Constitutional Court were delayed. Of the four delayed laws referred to the court only one was severely delayed (478 days), but only 34 additional days were needed to resolve the intervention, which clears the court from responsibility. In one case however, the procedures due to the court's intervention actually accounted for the entire delay, but as the law was merely delayed by 24 days, it is of marginal importance. In contrast, the Romanian president was responsible or co-responsible in all the three cases in which he

used his veto. However, in two of the cases the delay was less than the critical 183 days, which makes the interference less relevant and in the third case, in which the law was delayed by a hefty 1285 days, the presidential interference only accounted for the last 260. The Romanian president was thus only responsible for severe delay in one instance.

Even if extensive opposition has been absent from the post-parliamentary phase in Romania, one may nevertheless conclude that the extra veto point that the compulsory presidential promulgation adds, is further slowing down the Romanian decision making system. However, veto players have posed very little threat to the governments in both countries and have had an extremely limited impact in practice.

5.4 The pre-parliamentary phase

The analyses in the two previous sections showed that the veto points rather than the veto players seemed to affect Lithuania's and Romania's governmental legislative capacity and that the problems did not occur in the post-parliamentary phase. The question is then to what extent the preceding phase, which is the one over which the governments in one respect has the most control, has performed in relation to the parliamentary phase. On the other hand, it is the most complex phase in which things can easily go wrong, even without any hostile veto players.

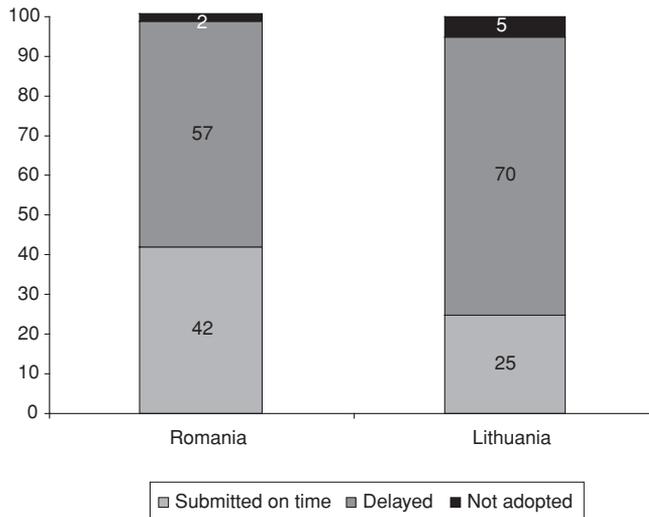
In contrast to the two previous sections in this chapter, this one begins by examining to what extent the pre-parliamentary phase is actually where the problems occur, i.e. the phase which has had the most negative impact on the governmental legislative capacity in Lithuania and Romania. Naturally, the focus is on the governments in office and their responsibility for the country's overall performance in terms of efficiently harmonizing the national legislation with the *Acquis Communautaire*. After the impact analysis, I examine changes in the decision making procedures in the pre-parliamentary phase, but not strictly based on constraints, but also in terms of coordination between the core executive and the ministries, as this has been suggested to be an important factor in the preparatory phase (see for example Nakrosis, 2000; Zubek, 2001 and Dimitrova & Toshkov, 2007). As has been discussed elsewhere, the reason is that the logic behind decision making in this phase is quite different from the other two, and therefore less suitable for a veto approach. In short, the aim of this section is to establish which phase of the policy process causes the most problems in terms of legislative capacity and attempt to explain the patterns found, by analyzing the different governments.

As mentioned in the previous chapter, not only laws are scheduled for adoption in the NPAs, but also draft laws, whose deadlines refer to the approval by the government and its subsequent submission to parliament. Moreover, in

the Lithuanian NPAA's almost all scheduled laws have two deadlines, one for when it is to be submitted to parliament and one when it is to be adopted by parliament. In Romania, by contrast the scheduled laws only have one deadline, which either refers to the approval of the government or the adoption by parliament. In the case of Lithuania, the same sample of laws as in chapter 3 is analyzed, although with different deadlines, whereas the Romanian sample differs from that used in chapter 3. The number of scheduled draft laws to be adopted by the government is 139 in Lithuania and 53 in Romania.

As there are few hostile forces outside the government which have the power to affect the legislative capacity, we may assume that it would be easier for the governments to keep the deadlines in this phase compared to the other two. Naturally, according to veto player logic, multi-party governments would, however, face more problems than a single-party government. First, I examine to what extent the draft laws are delayed, adopted on time and not adopted.

Figure 5.2 Share of projected draft laws submitted to parliament on time, delayed and not adopted (%)



Source: Author's compilation based on Romania's and Lithuania's NPAA and Governmental reports 1999-2003, the TAIEX database and the Lithuanian and Romanian parliamentary databases.

Comment: The number of legal measured scheduled as draft laws in Romanian is 53 and 139 in Lithuania.

The figure shows that the assumption is valid for Romania, but not for Lithuania. The Romanian government managed to submit about 42 percent

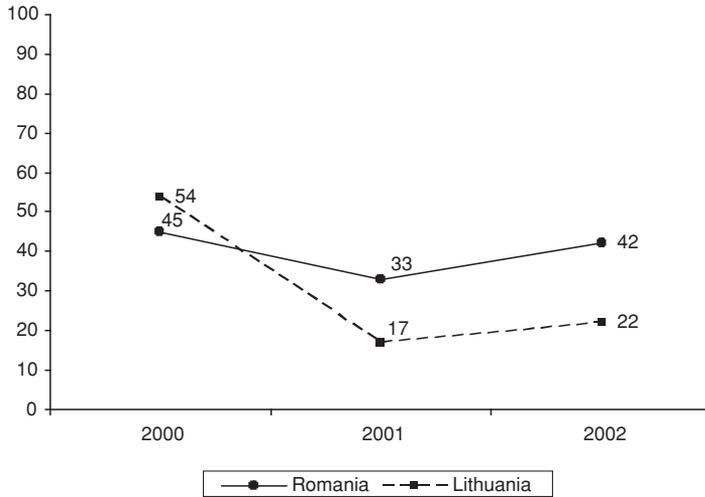
of their scheduled drafts on time, which may be compared with the 32 percent of the laws that were eventually adopted on time. Considering what we might expect from the government in this respect, the performance is not exactly impressive, however, as more than half of the laws miss the deadlines. An even more striking feature in the figure is that an overwhelming majority of the draft laws submitted to the Lithuanian parliament are delayed. Considering the fact that 52 percent of the laws eventually are adopted on time, it is remarkable that only 25 percent of the drafts are submitted on time and that as many as 70 percent are delayed. Do the Seimas's swift procedures save the Lithuanian government from a humiliatingly low performance? The extent of delay gives us an indication in this respect.

The delay is considerable concerning the Lithuanian draft laws, on average 308 days. Unless the deadlines for submission to parliament are put well in advance of the more important final deadline for when the law is supposed to be adopted by the parliament, the Seimas would have little chance to pass the law on time. As we already know that most laws eventually are adopted on time and that delay is relatively moderate in Lithuania, a preliminary answer to the question posed above would be yes. For the 30 draft laws delayed in Romania, the average delay is 362 days, or close to a year.

Neither of the governments seems to fare very well in the analysis above. When comparing the two countries, this preliminary analysis indicates that the Romanian government is actually outperforming its Lithuanian counterpart. On the other hand, it should be noted that what counts is whether or not the laws are eventually adopted on time by the parliaments. If Lithuanian deadlines are put very far in advance, to ensure that the Seimas has enough time to pass the law on time, it does not seem to be too much of a problem as far as the Lithuanian government is concerned. In order to find out whether the governmental performances, or lack thereof, have any relevant effect on the legislative capacity, I elaborate on who should be held responsible for the delays that do occur: the governments, the parliaments or both.

First, I check the share of all the scheduled laws that were submitted to the parliaments after the deadline for the final adoption had already expired. All these laws are by definition delayed and it would be difficult for the government to plead not guilty to causing these delays. The calculations in the figure below are thus based on the projected laws that eventually were adopted by the parliaments. The total number of such laws in Romania is 156 (2000 – 51; 2001 – 60; 2002 – 45) and in Lithuania 125 (46 – 42 – 37). Figure 5.4 shows the share of the projected laws that were submitted to the parliaments *after* the deadline for parliamentary adoption had expired.

Figure 5.3 Share of projected laws submitted to parliament after parliamentary deadline expired (%)



Source: Author's compilation based on Romania's and Lithuania's NPAA and Governmental reports 1999-2003, the TAIEX database and the Lithuanian and Romanian parliamentary databases.

Comment: The Romanian N is 156, of which 51 were projected for adoption in 2000, 60 in 2001 and 45 in 2002. The Lithuanian equivalent is 125 (46 – 42 – 37).

In Lithuania, 32 percent of all scheduled laws were submitted after the deadline for adoption by the parliament had expired and in Romania the figure is 40 percent. As shown in figure 5.4, the Romanian government was slightly more efficient than its Lithuanian counterpart in 2000, during which both governments were performing rather badly. During the two following years, both countries made considerable improvements, particularly Lithuania's government which overtook its Romanian counterpart. In 2001, Lithuania's governmental legislative capacity increased dramatically, submitting as many as 83 percent of the projected laws ahead of the deadline.

To submit a projected draft law before the parliamentary deadline expires is not enough for the governments to be considered efficient in their dealing with transposition, however. The drafts must be submitted with sufficient margins that the parliaments have a reasonable chance to adopt it on time. The date of submission of draft laws to the parliament is a good indicator of the chances the parliaments have of passing the draft law on time. If draft laws are submitted after the deadline for adoption expires, the parliaments cannot adopt the law on time no matter how quick they are. The governments then at least share responsibility for the delay, even though slow parliamentary proceedings might make things worse, in which case the blame is shared. The latter scenario is addressed shortly.

Neither the Romanian nor the Lithuanian governments, however, give any guidelines as to how they assess the time needed for the parliamentary proceedings. According to a Lithuanian official in Brussels, the governments attached individual deadlines to every law, depending on how long time they thought it would spend in parliament (Interview, Rytis Martekonis, September, 2005). I therefore base the analysis on the average amount of time from submission to promulgation in the two countries. These figures are 128 days in the Seimas and 314 days in the Romanian parliament and the median values are 202 and 95 respectively. To have at least a 50 percent chance of getting the law adopted on time, the governments should logically submit their proposals with approximately these margins. In order not to treat the governments unfairly harshly and make sure that their share of the blame is not exaggerated, I put the bar at a much lower level: 30 days for Lithuania and 100 days for Romania. That is, if the government submits its proposal more than 30 or 100 days ahead of the final deadline, I do not hold the governments responsible for any delays that may occur later. If, however, they submit their proposal closer to the deadline than the mentioned number of days, the governments are considered responsible, alone or together with the parliament. While these divisions are admittedly quite arbitrary, I think it is safe to claim that the governments are treated very favorably – and perhaps unfairly so – and the results therefore show the governments' maximum level of capacity. As it takes two to tango the parliaments can of course also have a part in delays. If laws spend an unreasonably long time in parliaments, they are considered responsible or co-responsible for the delays.

Again there is obviously no fixed parameter for how much time the respective parliaments normally would need and I therefore again turn to the average amount of time EU-related draft laws spend in parliament to get an approximate indication. As the government was treated favorably before, the parliaments will as well. I base the assessment of excessive parliamentary and post-parliamentary procedures, on the average amount of time, not on the lower median value. Laws that spend more than 128 days in the Seimas and 314 days in the Romanian parliament are thus considered to have been processed too slowly and the blame will be placed on the parliament.

By combining the two indicators the blame may be distributed between the parliament and the government.

- The government bears the sole responsibility for the delay in cases where the draft laws are submitted to parliament later than 30 days (in Lithuania) and 100 days (in Romania) before the deadline for adoption expires and when these drafts spent less than 128 days in the Lithuanian parliament and less than 314 days in the Romanian parliament.
- The parliament bears the sole responsibility for the delay when drafts are submitted to the parliaments more than 30 and 100 days respectively

before the deadline and when they spend more than 128 and 314 days in the respective parliaments.

- The government and the parliament share the responsibility for delays when draft laws are submitted to parliament less than 30 and 100 days respectively before deadline and also spend more than 128 and 314 days in parliament.
- Neither the government nor the parliament is responsible for delays when drafts are submitted on time and spend less than the average amount of time in parliament.

Table 5.11 Responsibility for delayed laws

Responsibility	Romania		Lithuania	
	n	%	n	%
Government	61	58	32	53
Parliament	17	16	12	20
Both	14	13	10	17
Neither	13	13	6	10
Total	105	100	60	100

Source: Author’s calculation based on data from the Lithuanian and Romanian parliamentary databases.

Comment: Only laws that were eventually delayed are included in the table.

Looking at table 5.11, the similarities between Romania and Lithuania in terms of the distribution of the percentages are striking. The findings indicate that the governments are much more responsible for the delays in the transposition process in both countries. The governments alone are responsible for more than half of the delayed laws, while the parliaments may be blamed in between one sixth and one fifth of the cases. In 13 and 17 percent of the delays respectively, the two institutions share responsibility. The ‘neither category’ consists of laws that both institutions have handled according to expectations, even though the laws were eventually adopted with slight delays.

We have now distributed the responsibility for delays in transposing the scheduled laws. In several of these cases, the laws are only marginally delayed, making their practical impact on the prospects for EU-membership negligible. It may then be more interesting to examine, whether the same pattern emerges when narrowing the analysis down to laws that were severely delayed, i.e. more than six months. In the following analysis, the data is thus limited to laws that were delayed more than half a year.

Table 5.12 Responsibility for considerably delayed laws

Responsibility	Romania		Lithuania	
	n	%	n	%
Government	43	67	20	69
Parliament	7	11	0	0
Both	14	22	9	31
Neither	0	0	0	0
Total	64	100	29	100

Source: Author’s calculation based on data from the Lithuanian and Romanian parliamentary databases.

Comment: Only laws that were eventually delayed more than 183 days are included in the table.

The similarities in terms of distribution of responsibility between the countries are again greater than the differences and the pattern from the previous table is even more pronounced. In Romania 64 laws (61 percent of the delayed laws and 41 percent of all projected laws) were delayed for more than six months. Lithuania again displays a substantially lower number and share than Romania, with only 29 laws considerably delayed (48 percent of the delayed laws and 23 percent of all laws). The governments’ share of the blame increases by more than ten percentage points compared to the previous figures, thereby reducing the parliaments’ responsibility to almost nothing in Lithuania and quite negligent in Romania. Of all the 125 adopted Lithuanian laws in the sample, the parliament is only responsible for considerable delay in nine cases and in all of these they share the blame with the government. In Romania, the parliament has played a bigger part in the failure to adopt the laws on time, but they are still only involved in 21 of the 105 delayed laws.

For laws that were delayed by more than a year, 41 in Romania and 19 in Lithuania, the governments’ share of the blame decreases as a considerably higher share are delayed due to both institutions: 37 percent in Romania and 47 percent in Lithuania.

We can thus end this section, by concluding that the main reason for why the two countries have failed to fulfil their intention to transpose EU legislation is because the governments are submitting their proposals to the parliaments far too late for them to adopt the laws on time. The Seimas has arguably had a very limited negative influence on the transposition process. With just a few exceptions, the laws that fall under its responsibility have been handled only marginally longer than could be expected and the delays have also in most cases been limited. It is no exaggeration to say that the Seimas has a big part in Lithuania’s successful approximation to community standards. The Romanian parliament in contrast, has had a much more negative impact on the transposition process. The laws, for which the parliament bears the

responsibility, are in general processed sluggishly in parliament and are also often severely delayed. It should be remembered, however, that the parliament still outperforms the government in these respects.

We have now concluded that the governments in both countries are mainly to blame for the shortcomings in legislative capacity. The next question is whether all governments have performed equally badly or if some have been more successful than others. To put it in more theoretical terms: Are there any capacity differences between different types of governments and if so, to what extent is a veto explanation applicable to the variations?

Table 5.13 Legislative capacity by initiating government in submitting and adopting draft laws

	N		Delayed (%)		Extent of delay (days)		Fully in line (%)
	Drafts	Laws	Submission	Adoption	Submission	Adoption	
Kubilius	34	33	56	30	168	101	92
Paksas	33	33	67	48	321	270	95
Brazauskas	69	59	81	56	350	318	94
All laws Lithuania	139	125	70	47	308	268	93
CDR	13	51	0	37	0	173	69
PDSR	38	99	76	82	348	412	78
All laws Romania	53	156	57	65	362	365	76

Source: Author's compilation based on Romania's and Lithuania's NPAA and Governmental reports 1999-2003, the TAIEX database and the Lithuanian and Romanian parliamentary databases.

Comment: In the first three columns (N, Delayed and extent of delay) the figures to the left relate to the submission of draft laws, implying that delays are calculated on the basis on the deadlines for submission to parliament. The figures on the right denote the final adoption, with deadlines related to the promulgation of the laws. The figures concerning the quality presented in the last column are the same at the stage of submission and that of adoption.

The figures in table 5.13 seem to contradict the figures in chapter 3, which showed a steady progress over time. Here, the figures point in the opposite direction. The share of delayed draft laws initiated by consecutive governments, increases as does the extent of the delay regardless of whether we base the analysis on the deadline concerning submission to parliament or the deadline for the final adoption. Of the 33 draft laws initiated by the Kubilius government, only 30 percent were adopted late and on average just 101 days. The Brazauskas government in contrast, delayed a staggering 81 percent of its draft laws for submission to parliament and 56 percent were eventually

adopted late, with a mean of 318 days. Romania’s figures are even more varied. The CDR managed to submit all of their – admittedly small number, 13 laws to parliament on time and only 37 percent were delayed when adopted by parliament, which is a very low figure by Romanian standards. About eight of ten laws initiated by the PDSR were adopted late at both stages and the delay is extremely long. Considering the results in chapter 3, it seems reasonable to ask if governmental performances can actually decrease to such an extent.

Table 5.5 showed that the draft laws’ time in parliament decreased considerably in Romania over time, whereas the pattern in Lithuania fluctuated more. The only reasonable explanation for these seemingly contradictory figures must be the fact that successive governments ‘inherit’ draft projects, i.e. draft laws which had been intended to be addressed by a previous government, but who for some reasons did not finish – or even begin – the project. These original deadlines will of course be impossible to meet, and it is very likely that the draft law is already severely delayed when it is put on the new government’s table. In the following, I thus examine whether the planners and the initiators are the same, in order not to blame someone who just has to repair what has been damaged elsewhere.

Table 5.14 Share and extent of delays in submitting the drafts, by initiating government, NPAA and year of planned adoption.

Planned by	N		Delayed (%)		Extent of delay (days)	
	Submission	Adoption	Submission	Adoption	Submission	Adoption
Kubilius	29	46	66	65	168	310
Paksas	6	12	0	50	0	152
Brazauskas	20	15*	90	47	138	194
CDR	13	51	0	69	0	536
PDSR	24	69	75	67	250	254

Source: Author’s compilation based on Romania’s and Lithuania’s NPAA and Governmental reports 1999-2003, the TAIEX database and the Lithuanian and Romanian parliamentary databases.

Comment: The figures to the left in the three main columns (N, Delayed and extent of delay) relate to the submission of draft laws, implying that delays are calculated on the basis on the deadlines for the submission to parliament. The figures on the right denote the final adoption, with deadlines related to the promulgation of the laws. For Kubilius, the figures are based on the NPAA adopted in 1999 and 2000 and the draft laws planned for submission to the government and adoption in 2000. For Paksas it is the laws planned for 2001 contained in the NPAA adopted in 2001 and for Brazauskas it is the laws in the NPAA 2001, with laws scheduled for submission and adoption in 2002. For CDR it is the NPAA from 1999 and 2000 with deadlines for 2000 and for PDSR it is the 2001 and 2002 versions with deadlines for adoption in 2001 and 2002.

* The Brazauskas’ government was not in office when the NPAA 2001 was adopted, but since his government retained one of the previous incumbents, the NS, it seems reasonable that the new government agreed on the terms set by the previous one.

Table 5.14 contains the most specific information so far on each government's intention. Only laws that are scheduled to be submitted to, or adopted by, the parliament by the same government that planned the laws are included in the table. The sample here is thus narrowed down to laws over which the initiating government should have full control and hence be able to submit on time and have adopted on time. The responsibility in case of failure in these respects can only be attributed to the government in question.

The figures in table 5.14 obviously confirm the results in chapter 3 rather than in the table presented above, which means that there actually was a progressive improvement over time in both countries. The figures relating to submission is perhaps of minor interest compared to the ones related to the final adoption, but it is worth noticing the high share of laws that are submitted late for three of the five governments. For the two successful governments there are too few laws to draw any firm conclusions, but it does seem that the Paksas government and, surprisingly, the CDR government kept their own deadlines to 100 percent.

The picture changes quite drastically when we look at the figures concerning adoption. The pattern found in chapter 3 is confirmed, which implies that the Kubilius and the CDR governments have the highest number of delayed laws and the length of the delay is even more pronounced. The latter figure indicates that these governments did not even start working on several of the laws that they had scheduled for adoption in the near future, but left it for the following one. There is thus a clear improvement over time, but it is still worth pointing out that approximately half of the laws initiated by the Paksas and Brazauskas governments were delayed, and in the case of Brazauskas, severely delayed on average. In Romania, the legislative capacity is generally lower and none of the governments performs well even under these favorable circumstances. The big difference between the two governments is the extent of delay, which is more than twice as long for the CDR government.

To conclude the pre-parliamentary phase, we may argue with great certainty that the governments are to blame primarily for the delays in the transposition process. The governments were responsible or co-responsible for 89 percent of the laws delayed more than six months in Romania and on all occasions in Lithuania. Both the Romanian and Lithuanian governments are bad at submitting their proposals to the parliament in a reasonable time. A hefty 70 percent of the Lithuanian drafts were submitted late, according to my estimation, and as many as one third also after the deadline for adoption by the parliament had expired. The Romanian government seemed a little better, at least in the first respect, but as many as 40 percent of the drafts were submitted to parliament after deadline for parliamentary adoption had expired. As was established already in chapter 3, there is considerable improvement over time, but the level of legislative capacity cannot be considered to be high during any of the governments, not even when the laws which they

had planned to adopt during their own term in government are considered. There are moreover substantial differences between the governments, which is discussed more at the end of this chapter.

How may these differences between the governments be explained? As discussed above, the pre-parliamentary phase involves many actors and institutions, such as all the ministries and a number of governmental agencies who take part in the preparation of EU-related legislation, in addition to the core executives of the government, such as the prime minister's office etc. Most of the ministries' regulations have been amended at least four or five times, some of them even more, which makes it very difficult to get a comprehensive picture of the constraints in this part of the policy process. Instead of mapping all changes according to the regulations, I mainly use the Regular Reports on Lithuania's and Romania's progress towards accession, which are issued annually by the European Commission, as the source for whether or not relevant changes have been made. The decision making structure is not described in great detail. The purpose is rather to see whether major reform initiatives concerning the ways in which the government and the institutions related to it work, in order to see whether these changes could be related to the variation in the legislative capacity in Romania and Lithuania as well as over time. First I very briefly elaborate on what effect the type of government may have on the level of legislative capacity.

A comparison of Lithuania and Romania reveals an apparent pattern. The two governments that fared the worst by far in terms of legislative capacity, the Kubilius government in Lithuania and the CDR government in Romania, were both majority governments consisting of at least three parties, which by the time this study begins, had started to disintegrate due to internal differences. While they were both followed by minority governments (Paksas and PDSR) and majority governments (Brazauskas), they did above all consist of fewer parties and are thus considered to be more coherent.

It thus seems that in the absence of any stark differences between the government and opposition in terms of the desirability to transpose the EU related legislation, which reduces the effects of being in majority to nothing, internal cohesion accounts for successful drafting of legislation, i.e. it is the number of parties in government that matter, not whether the government command a majority in the parliament or not. The following sub-section examines whether any reforms within the government during the period under study took place, which may further explain the improvements over time.

5.4.1 The pre-parliamentary phase in Romania

In the opinion released in November 1999, the European Commission was critical of how the decision making process worked and doubted that the reforms undertaken in December 1998 would be of much benefit (1999: 62).

The Commission was primarily concerned with the lack of inter-ministerial coordination in practice. Too many agencies reported directly to the prime minister and the agenda of the government's meetings, which is the main instrument for policy coordination, was considered too crowded to promote governmental legislative efficiency (1999: 62). As a result, the process of checking the conformity with the Acquis of the drafts adopted was hampered (1999: 63). Given the government's weak coordination functions in combination with inefficient governmental meetings, its legislative capacity might be expected to be quite limited.

The incorporation of the European Integration Department into the structures of the Ministry of Foreign Affairs was the major institutional change in Romania before the parliamentary election in November 2000. According to the European Commission, the new structure enhanced the inter-ministerial coordination in matters related to European integration, but it also stressed that coordination problems still prevailed, as the line ministries were still acting on their own when drafting legislation within their competences (2000: 15).

When the PDSR came to power following the parliamentary elections in November 2000 they immediately launched major reform initiatives which took effect in early 2001.

In terms of coordination, the establishment of the Ministry for European Integration (MIE) was one of the main changes in the EU-integration structure. MIE was given coordinated functions and a mandate to screen all EU-related legislation's conformity with the Acquis (Popescu, 2001: 136). At the ministerial level, moreover, a State Secretary was established in each line ministry to head departments of European integration. A new forum for inter-ministerial coordination was also created, where these secretaries met regularly. At the center of government the General Secretariat was given the task to coordinate the activities of the line ministries and monitor their legislative procedures.

The fact that all ministers belonged to the same party reduced the number of veto players within the government and thus increased the scope for legislative capacity. Its minority status, which might complicate the passing of governmental proposals, was a potential drawback compared to the previous government.

According to the Commission, the reforms had a positive effect in terms of inter-ministerial coordination, legislative efficiency and quality of the drafts adopted (2001: 17). The claim that the governmental legislative capacity markedly increased in Romania after 2000, is verified by this study.

In addition to the reforms in the governmental and ministerial structures, the regulations of the Chamber of Deputies and the Senate were adopted, with the aim to speed up the legislative process (2001: 16). Moreover, there were attempts to improve the relationship between the legislature and the executive. A Minister for Relations with Parliament was appointed, as were State

Secretaries responsible for parliamentary relations in all line ministries. This resulted in an enormous increase in the number of adopted laws compared to the previous period.⁷⁹

No major reforms concerning the executive or the parliament were adopted in 2002. The Regular Report from November of that year states that the gains made in 2001 continue to have a positive impact, although some problems still remain, e.g. the parliament's limited possibilities to scrutinize legislation.

In summary, almost all relevant reforms were adopted in early 2001 and a new, more cohesive government took office almost at the same time. It is naturally very difficult to say anything about the effects of these reforms on such a short notice and also to tell whether the reforms or the new cohesive government was the main determinant behind this process. It is, however, not unreasonable to claim that the changes may have had a positive effect.

5.4.2 The pre-parliamentary phase in Lithuania

When Lithuania entered the new millennium, most of the reforms undertaken in Romania in 2001 were already in place and few major reforms were launched during the period under study. As early as in the 1998 Regular Report the executive was considered to continue to function satisfactorily (European Commission, 1998: 7), which was reiterated every year.

In 1997 and 1998, the management of the integration process was strengthened, not least by the establishment of the European Committee under the government, which assumed responsibility for the coordination of the integration process. Moreover, the European Integration Commission, chaired by the prime minister, was reorganized, and subsequently included the line ministers' dealing with integration (European Commission, 1998: 7). Lithuania also moved towards a more centralized system, with an emphasis on the role of the prime minister between 1998 and 2000 (Dimitrova & Maniokas, 2004: 11). The functions of the committee for strategic policy-making effectively resembled that of an inner cabinet (Müller-Rommel & Hersted Hansen, 2001: 49), which was missing in Romania at the same time (Blondel & Penescu, 2001: 119).

The parliament was also considered to operate satisfactorily and the Seimas annually adopted a resolution, supported by all party factions, on the importance of a quick accession and the support for prioritizing EU-related legislation in parliament (Government of the Republic of Lithuania, 2000: 5; 2001: 5).

⁷⁹ From 1996 to 2000 between 142 and 261 laws were adopted annually by the parliament. In 2001 that amount increased threefold to 796 and in 2002 and 2003 more than 600 laws were adopted annually. The number of drafts submitted to the parliament, however, was kept at a constant level during this period (Chamber of Deputies's legislative database).

In contrast to Romania we would not expect any great improvements in Lithuania, but rather an initially high degree of legislative capacity, which would persist throughout the period under study. The fact that the changes in Lithuania still left the country with a relatively bad record in 2000, which only improved the year after, may indicate that the effects of the reforms were not extensive and that other factors, such as the coherence of the government, are more important.

5.5 Conclusions

This chapter includes several different types of analyses, which naturally results in several conclusions. One of the most important findings is that the problems in terms of legislative capacity primarily occur in the pre-parliamentary phase and the governments' late submission of their proposals to parliament accounts for the delays in transposing EU related legislation. The post-parliamentary phase played a negligible role, as the veto points were very rarely activated by the veto players. In the few cases when they did, their interventions were very seldom affecting the extent of delays. The parliamentary phase played a somewhat greater role, especially in Romania, where as expected, the great number of veto points, made the parliamentary process quite protracted. None of the specific veto points were more important than the other however.

Another interesting finding is the fact that the veto players did not matter much, at least not in the parliamentary and post-parliamentary phases. Most laws were adopted with overwhelming margins and with only a handful of opponents present in the assembly during the vote. It thus seems that the issue linkage is very strong, as the parties in the parliaments differ quite extensively in terms of ideology and as the governments from time to time did not command a majority. It should also be remembered that the legislation in many instances concern fundamental issues, such as social and tax policies. Even if the desire to become a member of the EU takes precedence over the normal divisions between the parties its complete disappearance remains surprising. Using a veto player language one would claim that the veto players collapsed due to their ideological proximity. While this may serve as a good explanation for the patterns that were found, it could not have been anticipated. As mentioned above, both Romanian and Lithuanian governments were reported to have difficulties with getting their proposals through parliaments. From this analysis we can conclude that EU related legislation was an exception to this pattern. As mentioned in the previous paragraph, the veto players in the post-parliamentary phase also remained quite passive during the period under study.

Given the overwhelming consensus in the final voting, it was somewhat surprising to find that over half of the laws in the Romanian sample went through the mediation committee, which implies disagreement between the

two chambers. There is little to suggest that it was due to any concrete differences on the issues on the agenda as such, but rather a lack of coordinating functions of the government.

The situation differs somewhat in the pre-parliamentary phase, which indicates that the number of parties in government, rather than reforms within the governments, had an impact on the ability to draft legislation on time. The evidence is not very strong, but the facts that the Lithuanian governments increased their legislative capacity in 2001, without any major reforms during the previous two years and that they were outpaced by its Romanian counterpart on some indicators in 2000, even though Lithuania and not Romania had undertaken fundamental changes in its decision making system, point in that direction.

There is also a quite intuitively reasonable explanation: the coordination problems between ministries and agencies and the government persist as ministers from different parties are in charge over different ministries. The problems are thus not a result of resistance as the veto player theory would suggest, but rather one of lack of central coordination from the prime ministers office or similar institutions.

To answer the basic question relating to the specific case that was analyzed, i.e. why Lithuania's legislative capacity was higher and why it increased substantially around the beginning of 2001 in both countries, I would say that it was due to the fact that the Romanian parliamentary system contained more veto points which made the process more protracted and logically added to the delay caused by the governments' late submission to parliament. In Lithuania by contrast, the Seimas rather saved the government, thanks to its quick proceedings, reducing the share and the extent of delay that would otherwise have occurred. The improvements over time are most likely due to changes in the veto player constellation discussed above and in the Romanian case combined with changes in the parliamentary proceedings as well as changes in the administrative routines of the government's treatment of EU related legislation. There are also general effects of learning processes in all instances involved (Interviews, Viorel Serbanescu & Rytis Martekonis, September, 2005).

6 CONCLUSIONS

The aim of this study has been to measure and explain the variation in governmental legislative capacity in Lithuania and Romania between 2000 and 2002. I argued that the EU-integration process in general and the legal harmonization process of EU related legislation in the Central and Eastern European countries in particular opened a unique possibility to study this phenomenon comparatively. This window of opportunity is most welcome, as the previous research in this field has been hampered by a shortage of appropriate cases to accurately study and compare governmental legislative capacity, which in turn has resulted in studies with dubious validity. The main asset of the case of legal harmonization in candidate countries is that it remedies most of the shortcomings encountered in the previous research.

In chapter 2 I brought forward four issues that I found highly problematic in the previous research: the use of capacity as a potential and not as an actual ability to perform; the difficulty to take the actors' own intentions and goals into account; the difficulty to find cases with comparable high goal complexity and finally the use of outcome-oriented indicators over which the actors under study have limited control. Above all it is the second point, the difficulty – and sometimes neglect – to take the actors' intentions into consideration, that I found most pressing and accordingly where the case of legal harmonization contributes the most.

The main objection to use the actors' own intentions as an indicator of general capacity is that it is extremely difficult to assess accurately. How may we know for sure what the actors actually want? In most instances that is very difficult to determine indeed, because of all the reasons mentioned by the scholars in the field, including vagueness of the goals or that they are deliberately optimistic or pessimistic. It would be arrogant to claim that these problems do not exist in this study. Most likely, the National Programmes for the Adoption of the Acquis contained at least some deadlines that were set to please the Commission, but which the governments had no real intention to keep. However, to promise things that the actors know cannot be delivered is a self-destructive strategy in the long run and it is thus very unlikely that the governments in the candidate countries were systematically producing unrealistically optimistic legislative programs. On the contrary, officials from the Lithuanian and Romanian EU delegations in Brussels have verified that

they were indeed taken seriously. In short, the incentives for the governments to take the NPAA seriously were thus high, both in terms of the relationships with the EU and with the voters, of whom an overwhelming majority were impatient to join the Union. I was thus able to conclude that one of the major difficulties with getting a valid measurement of governmental legislative capacity was remedied, thanks to the detailed schedules for adoption of EU related legislation.

In addition, exploiting the case of legal harmonization made it possible to resolve another of the major problems within this field of research, namely comparing countries. It is rather unusual to have so many similarities between several countries, not least in terms of the input, i.e. the fact that all countries had to implement almost exactly the same program within more or less the same time, and under the same conditions. The policy processes in the candidate countries are arguably as similar as such processes can possibly be. Many potential independent variables are thus held constant when analyzing the candidate countries.

As the legal harmonization process produced rare information on the candidate countries that very closely related to governmental legislative capacity, the accuracy and validity of the first empirical study, which aimed to measure the level of governmental legislative capacity in Lithuania and Romania, are considered to be high. It came as no surprise that Lithuania outperformed Romania every year on all three indicators of governmental legislative capacity – share of laws delayed, extent of delay and quality of the adopted legislation. More surprising was the big variation over time in both countries, with major improvements taking place between 2000 and 2001.

Even though there is a limited number of cases to which the recommendations I suggested can be applied, the first part of this study has contributed to the research on governmental legislative capacity by showing in practice how a study in this field ideally may be conducted.

This brings me to the other aim of the study, namely that of explaining the variations in governmental legislative capacity. Quite naturally, an accurate measurement of a phenomenon we want to explain is a necessary precondition. Dubious validity will certainly call into question any explanations. As argued above, validity is a major asset in this study, which implies that the empirical results found in chapter 3 safely can be used as the basis for an explanatory study.

In chapter 4 the research on efficient decision making in general and transposition in particular was reviewed. Both strands of research suffer from not being able or not caring to establish the intentions of the actors. Although it has been ten years since the candidate countries from Central and Eastern Europe started membership negotiations and thereby committed themselves to align their legislation with the Acquis, there are still surprisingly few studies reaching beyond EU15. As the focus has been put on the willingness aspect,

in contrast to the ability aspect, it is even more surprising that cases in which the incentives to comply is extremely high have been neglected. Moreover, the latest findings in the field suggest that deliberate non-compliance (Dimi-trakopoulos & Richardson, 2001; Falkner et al., 2005) has great explanatory power as to why member states fail to transpose directives on time (Treib, 2003; Mastenbroek & van Keulen, 2005). As the incentives for swift compliance with EU legislation is lacking in the members states (Tallberg, 2002; Steunenberg, 2007) analysing the candidate countries implies that the willingness aspect is kept constant, due to the harsh conditionality for accession in combination with a strong desire to join. That means, that by analysing Lithuania and Romania we can on very good grounds assume that failure to comply, is caused by other factors than willingness of the government in contrast to the old member states. That in turn implies that we are able to focus on less trivial factors that obviously constrain the candidate countries' ability to comply. In addition, the validity of the results found in studies in which the willingness is held constant is arguably higher.

By excluding the willingness aspect of the explanatory equation, we can instead focus on factors that work beyond the immediate influence of the actors involved. Considering that governmental legislative capacity was defined as the ability of the government to get its intended pieces of legislation through parliament before the deadline expired and with the indented content, it was argued that the most reasonable place to look for variation over time as well as between the two countries, would be in their decision making structures. As the question of the extent of concentration in the decision making is at the core of this strand of research, it was moreover logical to use the veto player theory, which has been developed by George Tsebelis and which precisely aims at explaining policy change and stability, i.e. ultimately what governmental legislative capacity is all about.

The veto player theory has however been criticized for being too abstract and for making highly unrealistic assumptions about how policies are made (Orenstein, 2002; Ganghof, 2003; Steunenberg, 2007). Based on the critique, I refined and modified the theoretical framework, expanding the focus beyond the actors, by also including institutional and procedural constraints. Moreover the concept of veto is stretched to also denote delay and not only rejection, as it could be argued that by [ab]using the ability to delay, one could get the same effects as outright rejection. The purpose of modifying the veto player theory should first and foremost be seen as a strategy to be able to explain the particular case under study and not as a general recommendation to change its admittedly elegant and parsimonious features. But for the purpose of this and similar studies, it is arguably beneficial to use the slightly modified version of the theory.

One of the most stunning results in chapter 5 was the negligible influence of the veto players. That is to be expected when the ideological distance

between them is zero or very close to zero (Tsebelis, 2002: 2). The ideological differences between the parties, however, were substantial and persisted during the period under study. All political parties rather happened to agree on a particular issue, namely the merits of EU membership, which resulted in very limited contestation on EU-related issues, regardless of their contents. The EU integration process is thus a very clear case of the so called issue linkage discussed in chapter 4, by which differences between the political parties either get bigger or smaller depending on the actors' position on the issue to which the proposals are linked (Falkner et al. 2005). This study shows under what conditions veto players cease to have an impact, namely when there is a strong issue linkage to a highly desirable goal, on which all actors agree. That result was, however, not possible to fully anticipate. It could just as well have been the case that ideological differences took precedence, leading to more protracted parliamentary deliberations and perhaps even a much more frequent rate of rejections.

This particular outcome moreover, points out the great difficulties with estimating the veto players' policy position, as other related issues may affect their actual behavior. It particularly refutes the general but implicit assumption of the veto player theory which states that actors do not seek compromises that deviate from their preference on each particular issue. If that were true the issue linkage would not exist, which it obviously does. From a traditional veto player analysis we would expect much more contestation and possibly much more rejection of legislation than was actually the case.

The mechanisms behind governmental legislative capacity in the parliamentary and post-parliamentary phases were the number of veto points that "activated" themselves by their mandatory character, whereas the veto player did not matter much regardless of the circumstances. The two chambers in the Romanian parliament are the main sources of protraction in the legislative process, while the optional mediation institution adds somewhat and the joint sessions considerably less. The reforms concerning the parliamentary proceedings implemented in early 2001 aiming at speeding up the decision-making process seem to have been effective as the governmental legislative capacity improved considerably from 2001 on. In majority and minority situations alike, the level of contestation was very low. The frequent usage of the mediation was of course an effect of the actions of the veto players, but it was hardly a deliberate attempt to prolong the process more than necessary. In contrast, the optional veto points related to the presidential veto and the referral to the Constitutional Court were seldom activated. In short, while the veto players did have some effect on the level of governmental legislative capacity, it was not in the sense anticipated by a traditional veto player theory approach.

It was thus the veto points and not the veto players that explain the differences in terms of governmental legislative capacity between the two countries.

The empirical study in chapter 5 however showed that it was the pre-parliamentary phases in both countries which were primarily accountable for why delays occurred as well as for the extent of delays. The analyses of the pre-parliamentary phase did not result in any conclusive explanation. Both countries made considerable and similar changes in the decision making structure but at different points in time, but whereas the Romanian governmental legislative capacity improved considerably following those changes, they had seemingly no immediate effect in Lithuania.

The changes in the governmental decision making structures can thus hardly explain the general improvement in the two countries between 2000 and 2001. The veto player analysis showed however, that the number of parties in government could have been decisive for efficient drafting of legislation. It was the one-party governments which were the most successful in that respect, even though they did not command parliamentary majorities. In contrast, the multi-party majority governments were in general much less successful. Paradoxically, the veto players seemed to play a bigger role for the governmental legislative capacity within the governments, than in the relation between the government and the opposition.

The veto players played a similar role in the Romanian parliamentary phase. However, that result is only partly consistent with the traditional veto player theory, which holds that additional veto players do not affect the process if they have the same ideological position (Tsebelis, 2002: 2). As the two Romanian chambers have exactly the same party composition, the veto players collapse, which implies that the additional chamber is not assumed to make a difference. The veto player theory is correct in the sense that the passage of laws was not affected, i.e. there is no variation in the extent of rejection due to the second chamber. The traditional veto player theory is not concerned with the delay of legislation, however, and in this respect, a second chamber plays a significant role, both in terms of increasing the share of scheduled laws that are adopted late and also in terms of exacerbating the extent of delay. Moreover, and following the logic above, the veto player theory would predict that two identical chambers would agree on the content of legislation fairly easily. That turned out to be false, however. In around half of the cases differences between the two chambers had to be resolved in the mediation committee, most likely due to lack of coordination and firm government management and not to differences in substance between the two chambers.

Turning to the indicators of governmental legislative capacity, the veto player theory is only concerned with the extent of policy change, i.e. whether or not a specific proposal is rejected (Steunenberg, 2007). In addition, it neither considers when the policy change is to occur nor the scope of change. A strict veto player approach would expect very good conditions for policy change to occur, i.e. few rejections of the proposed laws, at least during periods of majority governments, which also happened to be the case. This type of analysis, however, would miss the great deficiencies that both countries displayed

in terms of delay, which as was argued in chapter 3, could be as devastating as outright rejection. The inclusion of the veto points, which mainly had the expected effect, made it possible to consider that aspect of governmental legislative capacity.

Another consequence of the modified veto player approach is that we have been able to determine which veto points have affected the policy process. On the one hand, the veto player theory would be able to predict the outcome between the two countries with much less effort. Romania had more veto points than Lithuania and should accordingly have greater difficulties to adjust quickly. Such a result is not very satisfying if we also would like to know more specifically which veto point that matters, which could be of great value for a government that wishes to enhance its legislative capacity. In contrast to the traditional veto player theory, the modified version made it possible to differentiate between the veto points in terms of impact. For example, the speed of the Romanian decision making process would hardly change if the presidential veto was removed, but would be considerably enhanced if the Senate was abolished.

Another finding in relation to the number of veto points, which were briefly addressed above, was the fact that the Romanian government did not frequently attempt to circumvent the parliament by using emergency ordinances, despite the fact that the proceedings severely decreased the government's legislative capacity. From a veto player theory perspective, we would expect the government to use all the available means to get its way, as it is implicitly assumed not to compromise on its policy positions (Orenstein, 2002: 5; Ganghof, 2003: 8). Again, the political reality is more complex than the veto player theory assumes and there are naturally good reasons, not least from a democratic perspective, to stick to the ordinary procedures as far as possible and not try to sidestep the parliamentary proceedings.

The modified veto player approach thus served the purpose well in terms of finding the important difference between the countries and over time and also in pointing out in which part of the policy process the problems mainly occurred. It certainly worked better in the parliamentary and post-parliamentary phases, whereas the pre-parliamentary phase was much more difficult, due to a different logic of decision making. But as was discussed above, it was still possible to suggest a plausible explanation for the variation over time on the basis of the number of parties in government.

To get a more complete picture would have required a more detailed study of the workings of the central governmental institutions in relation to the ministries and agencies, however. Future studies on the adaptation to EU legislation in candidate countries could therefore take a shortcut and start in the pre-parliamentary phase, as it could be expected to be the crucial factor according to the issue linkage logic. As discussed above, this of course depends on the character of the candidate country under study.

If we look at the parliamentary and post-parliamentary processes, to which the veto player approach is most easily applied, we may conclude that we are able to understand more of what is happening than if we would have used the original, inflexible and politically unrealistic version of the theory. While it naturally comes at the cost of being less parsimonious, it is a necessary sacrifice, given that we would be unable to explain the case without those modifications. The modified veto player approach is not only suitable for this particular case, however, but can be applied on any similar process, but preferably to one in which the willingness aspect is known.

To what extent is it possible to draw general conclusions from the empirical analysis? It is one thing to say that the EU-integration process is exceptional in terms of accurately establishing the dependent variable. It is quite another to claim that the empirical results may be generalized. What makes the case so suitable in terms of the former is to some extent a disadvantage when looking for general determinants behind the variation in governmental legislative capacity.

To start with the level of governmental legislative capacity, the results found in chapter 3 may thus not be compared with results derived in a similar fashion but from completely different policy processes. Whether a 65 percent share of delays is much or little may only be determined in relation to countries undergoing a similar process, such as the other candidate countries that negotiated at the same time. Even the countries involved in the next round of enlargement face different conditions, which either facilitate or complicate the legal harmonization process. In short, the established levels of governmental legislative capacity are thus only immediately comparable with the fellow candidates at the time and possibly with future candidates depending on the amount of changes in the conditions for future enlargements. When comparing levels of governmental legislative capacity with other policy processes in other countries, the complexity and scope of the task thus have to be considered.

To generalize from the findings in the explanatory analysis is equally difficult. As discussed above, the veto players' negligible impact must be viewed as the result of the particularities of the EU-integration process and may not be expected to be equally applicable in more normal policy processes. Accordingly, while it would be absurd to claim that veto players do not matter in decision making processes in general, it would be less surprising if that turned out to be the case in future processes of legal harmonization.

The finding that the number of veto points mattered was less surprising, whereas the fact that the governments were to blame for most of the delays could be an interesting topic for future research. Again, the lessons to be learned are probably most relevant for future member states and the EU, in terms of how to handle future integration processes as efficiently as possible.

Efficiency, however, threatens to come with a high democratic cost. Critics may argue that there is not much room left for normal legislative procedures,

but rather a process reminding more of the old rubber stamp days in the Supreme Soviets, than of new and vital parliamentary proceedings.

The empirical findings refuted the assumption about rubber stamp procedures, however. The problem for Romania was hardly the quick passage of laws, but rather the protraction of the process, i.e. not too little, but perhaps too much deliberation, despite the fact that there was a general agreement on the draft laws in question. Even if the Lithuanian parliamentary deliberation is speedier, one does not get the impression that the draft laws have been adopted without debate. Moreover, there were no excessive attempts either to use urgency procedures to step up the pace in the parliaments and although Romania has been criticized for frequently sidestepping parliament with emergency ordinances, the governments have used them fairly modestly. In summary, the impression is not one of rushing proposals through parliament, not even systematic attempts to do so, rather the opposite. The reason was mainly due to the parliamentary structure, i.e. the number of the mandatory veto points, which “forced” the deputies to continuously debate the proposals in different instances before the final decision.

In this chapter I have tried to discuss the ways governmental legislative capacity is better understood by this study, both analytically and empirically. As discussed above the results are perhaps most applicable to the current and future candidate countries. The finding that the issue linkage could have such a strong effect on the policy positions of the veto players is naturally an important finding in general, e.g. in terms of the strategies to be chosen in order for a government to get their opponents to accept contested legislation, but even more important for the prospects of the current and future EU integration processes. As long as there is consensus among the political parties that EU membership is of utmost importance for the country, no specific issue, no matter how politically sensitive and ideologically divisive, seems to have the potential to bring the process to a halt. The results also showed that fewer parties in government are better, regardless whether they command a parliamentary majority or not. On the other hand, if such a consensus on the merits of EU membership is lacking, which seems to be the case in several of the current and potential candidate countries, the issue linkage trick will not work and the full force of the veto players will most likely be felt.

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Appendix 1: Legal measures scheduled for adoption in Lithuania 2000-2002 and the extent of accomplishment

LAW APPROXIMATION ACTION PLAN 1999¹

National measure to be adopted ²	Adopted measure ³	Delay/ quality ⁴
Draft Company Law, p. 13. 1999-06-30; 2000-06-30	Law on Companies P-2300: 13.01.2000 VIII-1835: 13.07.2000	Delay 1: 31 Delay 2: 197 Quality: F (GR01:69)
Draft Law on the amendments to the law on trade marks and service marks, p. 15. 1999-09-30; 2000-06-30	Law on Trade Marks P-2800: 31.07.2000 VIII-1981: 10.10.2000	Delay 1: 305 Delay 2: 123 Quality: D1 (GR01:71)
Draft Law on ratification of WIPO Agreement of intellectual property rights; 1996, p. 16. 1999-12-31; 2000-03-31	Law on ratification of WIPO Agreement of intellectual property rights IXP-235; 20.12.2000 IX-212: 13.03.2001	Delay 1: 355 Delay 2: 378 Quality: F (GR01:69)
Draft Law on ratification of WIPO performances and performances Treaty, p. 16. 1999-12-31; 2000-03-31	Law on ratification of WIPO performances and performances P-2765: 17.07.2000 VIII-1956: 26.09.2000	Delay 1: 199 Delay 2: 222 Quality: F (GR01:69)
Draft Law on the amendments to the Law on legal protection of personal data, p. 22. 1999-09-30; 2000-03-31	Law Amending the Law on Legal Protection of Personal Data P-2517: 09.05.2000 VIII-1852: 17.07.2000	Delay 1: 222 Delay 2: 122 Quality: F (GR01:64)
Draft Law on the National data protection inspectorate, p. 23. 2000-06-30; 2000-12-31		
Draft law on control of dangerous substances, p. 33. 2000-12-31	Law on Chemical Substances and Preparations P-2346: 11.02.2000 VIII-1641: 18.04.2000	Delay 1: 0 Delay 2: 0 Quality: F (GR00:45)
Draft law on the amendment. Law on the pharmacy activities; p. 37. 2000-06-30	Law on the pharmacy activities P-2705: 01.07.2000 VIII-1802: 04.07.2000	Delay 1: 1 Delay 2: 26 Quality: F (GR00:56)
Draft Law on payments, p. 51. 1999-06-30; 2000-12-31	Law on payments P-1927: 25.06.1999 VIII-1370: 28.10.1999	Delay 1: 0 Delay 2: 0 Quality: P (GR00:21)
Draft law on financial institutions, p. 53. 1999-12-31; 2000-03-31	Law on financial institutions IXP-514; 22.03.2001 IX-1068; 10.09.2002	Delay 1: 447 Delay 2: 901 Quality: -

National measure to be adopted ²	Adopted measure ³	Delay/ quality ⁴
Draft law on the amendments to the Law on insurance, p. 54. 1999-06-30; 2000-03-31	Law on insurance P-2210: 07.12.1999 VIII-1587: 23.03.2000	Delay 1: 160 Delay 2: 28 Quality: P (GR00:65)
Draft law on the public health care, p. 57. 1999-06-30; 2000-06-30	Law on the public health care IXP-760: 08.06.2001 IX-886: 16.05.2002	Delay 1: 709 Delay 2: 707 Quality: F (GR02:128)
Draft Law on state aid, p. 66. 1999-12-31; 2000-06-30	Law on Monitoring of State Aid to Undertakings P-2445: 31.03.2000 VIII-1689: 18.05.2000	Delay 1: 91 Delay 2: 0 Quality: -
Draft Law on electronic document, p. 71. 1999-12-31; 2000-12-31	Law on Electronic Signature P-2567: 26.05.2000 VIII-1822: 11.07.2000	Delay 1: 147 Delay 2: 0 Quality: -
Draft Law on Higher Education, p. 71. 1999-12-31; 2000-12-31	Law on Higher Education P-1789: 14.05.1999 VIII-1586: 21.03.2000	Delay 1: 0 Delay 2: 0 Quality: -
Draft Law on the Amendments to the Law on the Bank of Lithuania, p. 78. 1999-12-31; 2000-12-31	Law on the Amendments to the Law on the Bank of Lithuania IXP-299: 19.01.2001 IX-205: 13.03.2001	Delay 1: 385 Delay 2: 89 Quality: P (GR01:119)
Draft Law on the Amendments to the Law on the Credibility of Litas, p. 78. 1999-12-31; 2000-12-31	Law on the Amendments to the Law on the Credibility of Litas IXP-403: 23.02.2001 IX-236: 05.04.2001	Delay 1: 420 Delay 2: 110 Quality: -
New Revision of the Draft Law on the Structure of the Budget, p. 78. 1999-12-31; 2000-12-31	Law on the Budget Structure P-2471: 14.04.2000 VIII-1821: 11.07.2000	Delay 1: 105 Delay 2: 0 Quality: -
Draft Law on Agriculture, p. 93. 2000-03-31; 2000-12-31	Law on Agricultural and Rural Development IXP-1458: 13.03.2002 IX-987: 25.06.2002	Delay 1: 712 Delay 2: 563 Quality: F (GR02:81)
Draft Amendment to the Law on Fisheries, p. 126. 1999-06-30; 2000-12-31	Law on Fisheries P-2216: 09.12.2000 VIII-1756: 27.06.2000	Delay 1: 162 Delay 2: 0 Quality: F (GR00:95)
Draft Law on Safe Shipping, p. 132. 2000-12-31	Law on Safe Navigation P-2360: 18.02.2000 VIII-1897: 26.09.2000	Delay 1: 0 Delay 2: 0 Quality: -

National measure to be adopted ²	Adopted measure ³	Delay/ quality ⁴
Draft Law on the ratification of International Convention on Civil Liability for Oil Pollution damage (CLC 92) and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND 92), p. 135. 1999-12-31; 2000-12-31	Law on the ratification of International Convention on Civil Liability for Oil Pollution damage and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage P-2378: 28.02.2000 VIII-1624: 13.04.2000	Delay 1: 59 Delay 2: 0 Quality: F (Q1-00:26)
Draft Law on the amendments to the Code on Railway Transport, p. 139. 2000-12-31	Law on the amendments to the Code on Railway Transport IXP-1706: 14.06.2002 IX-1054: 05.07.2002	Delay 1: 530 Delay 2: 570 Quality: -
Draft Law on the Restructuring of Company of Special Designation Lithuanian Railways, p. 139. 2000-12-31	Law on Special Purpose Companies IXP-480: 13.03.2001 IX-313: 08.05.2001	Delay 1: 72 Delay 2: 143 Quality: -
Draft Law on the Amendments to Law No I-1323 of 5 May 1996 on Civil Aviation, p. 140. 1999-06-30; 2000-12-31	Aviation Law P-2919: 21.09.2000 VIII-2066: 17.10.2000	Delay 1: 0 Delay 2: 0 Quality: -
Draft Law on Transport Activities, p. 142. 1999-12-31; 2000-12-31	Law on the Basics of Transportation Activity IXP-433: 01.03.2001 IX-747: 28.02.2002	Delay 1: 426 Delay 2: 444 Quality: -
Draft Law on the Amendments to the Law on the Development of Small and Medium Business, p. 143. 1999-12-31; 2000-12-31	Law on the Amendment to the Law on Small and Medium-Sized Business Development IXP-1734: 25.06.2002 IX-1142: 22.10.2002	Delay 1: 907 Delay 2: 675 Quality: F (GR02:148)
Draft Law on the Amendments to the Law on Employment Contract, p. 145. 1999-12-31; 2000-12-31	Law on Employment Contract P-2576: 29.05.2000 VIII-1823: 11.07.2000	Delay 1: 150 Delay 2: 26 Quality: -
Draft Labour Code of the Republic of Lithuania, p. 145. 1999-12-31; 2000-12-31	Labour Code IXP-1268 & 1269: 10.12.2001 IX-926: 04.06.2002	Delay 1: 710 Delay 2: 742 Quality: P (GR02:123)
Draft Law on the Fundamentals of Social Security, Only as draft, p. 146. 1999-06-30; 2000-06-30	Law on the Fundamentals of Social Security IXP-2024: 29.10.2002	Delay 1: 851 Quality: -
Draft Law on State Social Insurance, p. 146. 1999-06-30; 2000-12-31	Law on State Social Insurance P-2212: 08.12.1999 VIII-1508: 23.12.1999	Delay 1: 161 Delay 2: 0 Quality: F (Q1-00:29)
Draft Law on Social Insurance in Case of Sickness and Maternity, p. 146. 1999-06-30; 2000-12-31	Law on Social Insurance in Case of Sickness and Maternity IXP-146: 06.12.2000 IX-110: 21.12.2000	Delay 1: 525 Delay 2: 0 Quality: F (Q1-00:29)

National measure to be adopted ²	Adopted measure ³	Delay/ quality ⁴
Draft Law on Social Insurance in Case of Accidents at Work and Occupational Diseases, p. 146. 1999-06-30; 2000-12-31	Law on Social Insurance of Occupational Accidents and Occupational Diseases P-2196: 06.12.1999 VIII-1509: 23.12.1999	Delay 1: 159 Delay 2: 0 Quality: F (Q1-00:29)
Draft Law on the Amendments to the Law on the Support of Unemployed, p. 146. 1999-12-31; 2000-12-31	Law on the Amendments to the Law on the Support of Unemployed IXP-1226: 29.11.2001 IX-687: 21.12.2001	Delay 1: 699 Delay 2: 374 Quality: F (GR02:124)
Draft Law on the Assessment of the Effects of Planned Business Activities on the Environment, p. 148. 1999-09-30; 2000-12-31	Law on the Assessment of the Effects of Planned Business Activities on the Environment, P-2003: 21.09.1999 VIII-1636: 18.04.2000	Delay 1: 0 Delay 2: 0 Quality: F (GR00:39)
Draft Law on the Amendments to the Law on Protected Areas, p. 153. 1999-09-30; 2000-12-31	Law on Protected Areas IXP-762: 08.06.2001 IX-628: 04.12.2001	Delay 1: 617 Delay 2: 362 Quality: -
Draft Law on the Amendments to the Law on Protected Species and Communities of Fauna, Flora and Fungi, p. 153. 1999-12-31; 2000-12-31	Law on the Amendments to the Law on Protected Species and Communities of Fauna, Flora and Fungi IXP-1136: 06.11.2001 IX-637: 11.12.2001	Delay 1: 676 Delay 2: 363 Quality: -
Draft Law on the Amendments to the Law on Wild Fauna, p. 153. 1999-12-31; 2000-12-31	Law on the Amendments to the Law on Wild Fauna IXP-1137: 06.11.2001 IX-638: 11.12.2001	Delay 1: 676 Delay 2: 363 Quality: -
Draft law on Genetically modified Organisms, p. 158. Only as draft. 2000-12-31	Law on Genetically modified Organisms IXP: 537: 02.04.2001	Delay 1: 92 Quality: F (GR01:83)
Draft Law on consumer protection, p. 162. 1999-09-30; 2000-03-31	Law on the Amendment of the Law on Consumer Protection P-2722: 03.07.2000 VIII-1946: 19.09.2000	Delay 1: 277 Delay 2: 194 Quality: F (GR01:177)
Draft law on food. Only as law. p. 162. 1999-01.21; 2000-03-31	Law on food P-2327: 04.02.2000 VIII-1608: 04.04.2000	Delay 2: 19 Quality: F (Q1-00:29)
Draft law on refugee status, p. 165. 1999-12-31; 2000-12-31	Law on the Amendment of the Law on Refugee Status P-2386: 08.03.2000 VIII-1784: 26.06.2000	Delay 1: 68 Delay 2: 0 Quality: F (GR00:40)

National measure to be adopted ²	Adopted measure ³	Delay/ quality ⁴
Draft Law on ratification of Convention, p. 168. 2000-03-31; 2000-12-31	Law on the Agreement on Illicit Traffic by Sea, Implementing Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances IXP-1739: 25.06.2002 IX-1025:04.07.2002	Delay 1: 541 Delay 2: 605 Quality: F (GR02:192)
Draft law on the Protection of intellectual property in import and export of goods, p. 174. 1999-09-30; 2000-03-31	Law on the Protection of Intellectual Property in the Field of Import and Export of Goods IXP-67: 08.11.2000 IX-117: 21.12.2000	Delay 1: 405 Delay 2: 274 Quality: F (GR01:70)
Draft law on the Ratification of the Convention, p. 188. 1999-09-30; 2000-03-31	Law on ratification of the international convention on mutual assistance in prevention, investigation and persecution of infringements of customs law P-2784: 19.07.2000 VIII-1955 :26.09.2000	Delay 1: 293 Delay 2: 217 Quality: F (GR01:191)
Draft Law on Accountancy, p. 14. 1999-12-31; 2001-12-31	Accounting Law IXP-818: 21.06.2001 IX-574: 06.11.2001	Delay 1: 538 Delay 2: 0 Quality: F (GR02:70)
Draft law on procedure for drawing up consolidated accounts in enterprises having legal personality, p. 14. 1999-12-31; 2001-12-31	Law on Consolidated Accounts of Entities IXP-820: 21.06.2001 IX-576: 06.11.2001	Delay 1: 538 Delay 2: 0 Quality: F (GR02:70)
Draft Law on the amendments to the Law on patents, p. 15. 1999-12-31; 2001-06-30	Patent Law IXP-910: 30.07.2001 IX-568: 30.10.2001	Delay 1: 577 Delay 2: 132 Quality: F (GR02:74)
Draft Law on the Ratification of Geneva Convention for the protection of new varieties of plants, p. 16. Only as draft. 2000-12-31	Law on the Ratification of Geneva Convention for the protection of new varieties of plants. IXP-1869: 10.09.2002	Delay 1: 618 Quality: F
Draft Law on the ratification of the Convention for the protection of individuals with regard to automatic processing of personal data, p. 23. 2000-09-30; 2001-06-30	Law on the Ratification of Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data P-2875: 13.09.2000 IX-189: 20.02.2001	Delay 1: 0 Delay 2: 0 Quality: F (GR01:64)
Draft law on the amendments to the law on industrial design, p. 15. Only as draft. 2001-09-30	Law on industrial design IXP-1895: 20.09.2002	Delay 1: 355 Quality: F (GR02:74)
Draft Law on the control of precursors, p. 43. Only as draft. 2000-12-31	Law on the Control of Precursors of Narcotic Drugs and Psychotropic Substances IXP-1782: 15.07.2002	Delay 1: 561 Quality: -

National measure to be adopted ²	Adopted measure ³	Delay/ quality ⁴
Draft Law on the amendments to the law on public trading in securities, p. 51. 2000-12-31; 2001-03-31	Law on the amendments to the law on public trading in securities IXP-803: 21.06.2001 IX-655: 17.12.2001	Delay 1: 172 Delay 2: 0 Quality: F (GR02:59)
Amendments to Law on Education, p. 72. Only as draft. 2001-09-30	Law on the amendments on the Law on Education IXP-1740: 25.05.2002	Delay 1: 268 Quality: F (GR02:155)
Law on Value Added Tax, p. 79. 2000-12-31; 2001-12-31	Law on Value Added Tax IXP-1203: 20.11.2001 IX-751: 05.03.2002	Delay 1: 324 Delay 2: 95 Quality: F (GR02:106)
Law on Excise Duties, p. 79. 2000-06-30; 2001-12-31	Law on Excise Duties IXP-948: 29.08.2001 IX-569: 30.10.2001	Delay 1: 425 Delay 2: 0 Quality: F (GR02:106)
Draft Law on Phytosanitary, p. 97. 1999-06-30; 2001-09-30	Law on Phytosanitary P-2119: 03.11.1999 VIII-1481: 16.12.1999	Delay 1: 126 Delay 2: 0 Quality: F (GR00:87)
Draft law on the amendments to the law on protection of plant variety rights and seed cultivation, p. 99. Only as draft. 2001-12-31	Law on protection of plant varieties IXP-817: 21.06.2001	Delay 1: 0 Quality: F (GR01:86)
Draft law on the amendments to the law on protection of plant variety rights and seed growing, p. 99. Only as draft. 2001-12-31	Law on Seed Cultivation IXP-865: 03.07.2001	Delay 1: 0 Quality: F (GR01:86)
Draft Law on Electricity, p. 130. 2000-12-31; 2001-12-31	Law on Electricity P-2587: 05.06.2000 VIII-1881: 20.07.2000	Delay 1: 0 Delay 2: 0 Quality: F (GR02:131)
Draft Law on Gas, p. 130. 2000-12-31; 2001-12-31	Natural Gas Law P-2779: 19.07.2000 VIII-1973: 10.10.2000	Delay 1: 0 Delay 2: 0 Quality: F (GR01:139)
Draft Law on the Amendments to the Law on Energy, p. 130. 2000-12-31; 2001-12-31	Law on Energy IXP-1195: 16.11.2001 IX-884: 16.05.2002	Delay 1: 320 Delay 2: 158 Quality: F (Q1-02:79)
Draft Law on Road Traffic, p. 138. Only as draft. 2001-12-31	Law on Road Traffic Safety P-2794: 28.07.2000	Delay 1: 0 Quality: -
Draft Law on the amendments to the Law on Road Fund, p. 138. Only as draft. 2001-12-31	Law on the Financing of Road Maintenance and Development Programme IXP-1214: 26.11.2001	Delay 1: 0 Quality: F (GR02:100)

National measure to be adopted ²	Adopted measure ³	Delay/ quality ⁴
Draft Law on the Transportation of Dangerous Goods by Rail, p. 139. Only as draft. 2001-12-31	Law on Carriage of Dangerous Goods by Car, Rail and Inland Waterway IXP-1106: 26.10.2001	Delay 1: 0 Quality: F (GR01:106)
Draft Law on the Transportation of Dangerous Goods, p. 142. Only as draft. 2001-12-31	Road transport code IXP-1273: 12.12.2001	Delay 1: 0 Quality: -
Draft Amendments to the Code on Road Transport, p. 142. Only as draft. 2001-12-31	Amendments to the code on transport by inland waterways IXP-1951: 08.10.2002	Delay 1: 281 Quality: -
Draft amendments to the code on transport by inland waterways, p. 139. Only as draft. 2001-12-31	Law on Unemployment Insurance IXP-2939: 20.10.2003 IX-1904: 16.12.2003	Delay 1: 1573 Delay 2: 797 Quality: -
Draft Law on Unemployment Insurance, p. 146. 1999-06-30; 2001-12-31	Criminal Code P-2143: 15.11.1999 VIII-1968: 26.09.2000	Delay 2: 0 Quality: -
Draft Criminal Code, p. 172. Only as law. 2001-12-31	Code of Criminal Procedure IXP-959: 31.08.2001 IX-785: 14.03.2002	Delay 1: 609 Delay 2: 128 Quality: -
Draft Code of Criminal Procedure, p. 172. 1999-12-31; 2001-12-31	Civil Code P-1877: 10.06.1999 VIII-1864: 18.07.2000	Delay 2: 0 Quality: F (GR02:75)
Draft Civil Code, p. 172. Only as law. 2001-12-31	Code of Civil Procedure IXP-926: 13.08.2001 IX-743: 28.02.2002	Delay 1: 591 Delay 2: 114 Quality: -
Draft Code of Civil Procedure, p. 170. 1999-12-31; 2001-12-31	Law on Penal System IXP-1526: 15.04.2002 IX-994: 27.06.2002	Delay 2: 200 Quality: F (GR02:9)
Draft Penal Code, p. 172. Only as law. 2001-12-31	Law on the free warehouses P-2795: 28.07.2000 VIII-1949: 26.09.2000	Delay 1: 302 Delay 2: 0 Quality: -
Draft Law on the free warehouses, p. 187. 1999-09-30; 2001-03-31	Law on the ratification of the convention of the simplification and harmonisation of customs procedures IXP-2017: 25.10.2002	Delay 1: 390 Quality: F

LAW APPROXIMATION ACTION PLAN 2000 FOR THE YEAR 2000⁵

National measure to be adopted	Adopted measure	Delay/ quality
RL Draft Law on the Amendments to the Law on the Register of Enterprises, p. 11. 2000-09-30; 2001-03-31	Law on the Amendments to the Law on the Register of Enterprises IXP-181: 08.12.2000 IX-206: 13.03.2001	Delay 1: 69 Delay 2: 0 Quality: -
Control of dangerous substances, p. 17. 2000-06-30; 2000-12-31	Law on the Control of dangerous substances IXP-521: 27.03.2001 IX-456: 12.07.2001	Delay 1: 270 Delay 2: 206 Quality: -
Draft Law on the Amendments to Articles 54 and 55 of the RL Law on Insurance, p. 28. 2000-12-31; 2001-06-30	Law on the Amendments to the Law on Insurance IXP-439: 10.04.2001 IX-333: 22.05.2001	Delay 1: 0 Delay 2: 0 Quality: F (GR01:62)
Draft Law on Protection of Plant Varieties, p. 50. Only as law. 2001-12-31	Law on Protection of Plant Varieties IXP-817: 21.06.2001 IX-618: 22.11.2001	Delay 1: 172 Delay 2: 0 Quality: F (GR01:86)
Draft law on seed cultivation, p. 51. Only as law. 2001-12-31	Law on seed cultivation IXP-865: 03.07.2001 IX-602: 15.11.2001	Delay 1: 184 Delay 2: 0 Quality: F (GR01:86)
Draft Law on the Ratification of International Convention on Maritime Search and Rescue (SAR 79), p. 73. 2000-06-30; 2000-12-31	Law on the Ratification of International Convention on Maritime Search and Rescue (SAR 79) IXP-37: 31.10.2000 IX-76: 12.12.2000	Delay 1: 123 Delay 2: 12 Quality: F (GR01:103)
Law on collective agreements and contracts, p. 81. 2000-06-30; 2000-09-30	Law on collective agreements and contracts IXP-772: 12.06.2001 IX-562: 18.10.2001	Delay 1: 347 Delay 2: 403 Quality: -
Draft Law on the Ratification of the European Social Charter, p. 82. 2000-12-31; 2001-12-31	Law on the Ratification of the European Social Charter IXP-538: 03.04.2001 IX-317: 15.05.2001	Delay 1: 93 Delay 2: 0 Quality: F (GR01:13)
Draft Law on the Genetically Modified Organisms, p. 88. Only as law. 2002-12-31	Law on the Genetically Modified Organisms IXP-537: 02.04.2001 IX-375: 12.06.2001	Delay 1: 92 Delay 2: 0 Quality: F (GR01:83)
Draft law on the amendments and supplements to the Law on product safety, p. 91. 2000-09-30; 2001-12-31	Law on the amendments to the Law on product safety IXP-726: 31.05.2001 IX-427: 05.07.2001	Delay 1: 243 Delay 2: 0 Quality: F (Q1:01:25)

National measure to be adopted	Adopted measure	Delay/ quality
Draft Law on the Ratification of the 15 November 1965 Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, p. 93. 2000-03-31; 2000-12-31	Law on the Ratification of the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters P-2423: 23.03.2000 VIII-1670: 09.05.2000	Delay 1: 0 Delay 2: 0 Quality: F (GR00:186)

LAW APPROXIMATION ACTION PLAN 2000 FOR 2001- 2003⁶

National measure to be adopted	Adopted measure	Delay/ quality
Draft new version of the Law on Industrial Design, p. 7. 2002-06-30; 2002-12-31	Law on Industrial Design IXP-1895: 20.09.2002 IX-1181: 07.11.2002	Delay 1: 82 Delay 2: 0 Quality: F (GR02:74)
Ratification of Geneva convention on the protection of varieties of plants, p. 7. Only as law. 2002-12-31	Law on the ratification of Geneva convention on the protection of varieties of plants IXP-1869: 10.09.2002 IX-1128: 10.10.2002	Delay 1: 253 Delay 2: 0 Quality: F
Draft Law on the Amendments to the Law on Public Procurement, p. 8. 2002-12-31	Law on Public Procurement IXP-1716: 19.06.2002 IX-1217: 03.12.2002	Delay 1: 0 Delay 2: 0 Quality: F (GR02:52)
Draft law on cross-border credit transfers, p. 31. Only as draft. 2002-12-31	Law on payment IXP-2440: 20.03.2003	Delay 1: 79 Quality: F (GR01:68)
Draft law on insurance activities, p. 32. Only as draft. 2002-06-30	Law on insurance IXP-2652: 12.06.2003	Delay 1: 347 Quality: -
Draft law on insurance contract, p. 35. Only as draft. 2002-06-30	Law on the Amendments to the Law on Trade Unions IXP-2858: 11.09.2003 IX-1803: 03.11.2003	Delay 1: 438 Delay 2: 323 Quality: F (GR02:57)
RL Draft Law on the Amendments to the Law on Legal Status of Foreigners, p. 39. 2002-03-31; 2002-12-31	Law on the Legal Status of Aliens IXP-536: 02.04.2001 IX-372: 12.06.2001	Delay 1: 0 Delay 2: 0 Quality: -
Amendments to the law on education, p. 42. Only as law. 2002-12-31	Law on the Amendment of the Law on Education IXP-1740: 25.06.2002 IX-1630: 17.06.2003	Delay 1: 268 Delay 2: 179 Quality: F

National measure to be adopted	Adopted measure	Delay/ quality
Draft law on the Amendments to the Law on Post, p. 44. 2001-12-31	Law on the Amendment to the Republic of Lithuania Postal Law IXP-864: 03.07.2001 IX-563: 18.01.2001	Delay 1: 0 Delay 2: 0 Quality: F (GR02:157)
RL Draft Law on the Amendments to the Law on Value Added Tax, p. 46. 2001-12-31	Law on Value Added Tax IXP-3021: 17.11.2003 IX-1960: 15.01.2004	Delay 1: 321 Delay 2: 396 Quality: -
RL Draft Law on the Amendments to the Law on Excise Duties, p. 48. 2002-09-30; 2002-12-31	Law on the Amendments to the Law on Excise Duties IXP-3087: 05.02.2003 IX-1986: 29.01.2004	Delay 1: 431 Delay 2: 410 Quality: -
Draft Law on the Amendments to Articles 1, 6, 7, 8, 17 of the Law on Alcohol, p. 81. 2001-06-30; 2002-06-30	Law on Alcohol Control IXP-1267: 10.12.2001 IX-964: 20.06.2002	Delay 1: 163 Delay 2: 0 Quality: F (Gr02:87)
Draft law on state reserves, p. 99. Only as draft. 2002-06-30	Law on State Stocks of Petroleum Products and Crude Oil IXP-1233: 03.12.2001	Delay 1: 0 Quality: F (GR02:140)
RL Draft Law on the Amendments to the Code of Inland Waterway Transport, p. 100. 2001-12-31; 2002-12-31	Law on the Amendments to the Code of Inland Waterway Transport IXP-1951: 08.10.2002 IX-1214: 03.12.2002	Delay 1: 281 Delay 2: 0 Quality: -
Draft law on amending the law on shipping, p. 101. Only as draft. 2002-12-31	Not adopted	
Draft law on road traffic, p. 104. Only as law. 2002-12-31	Law on road traffic safety IXP-1998: 17.10.2002 IX-1256: 10.12.2002	Delay 2: 0 Quality: -
Amendments to the law on road funds, p. 104. Only as law. 2001-12-31	Law on the Financing of Road Maintenance and Development Programme IXP-1214: 26.11.2001 IX-682: 21.12.2001	Delay 2: Quality: F (GR02:100)
Amendments to the Code on road transport, p. 105. Only as law. 2002-12-31	Road Transport Code IXP-1273: 12.12.2001 IX-790: 19.03.2002	Delay 2: 0 Quality: -
RL Draft Law on the Amendments to the Law on Enterprises, p. 105. 2001-12-31	Not adopted	
RL Draft Law on Railway Traffic Safety, p. 106. Only as draft. 2002-12-31	Law on Railway Traffic Safety IXP-3006: 12.11.03	Delay 1: 316 Quality: -

National measure to be adopted	Adopted measure	Delay/ quality
Law on the transportation of dangerous goods, 106. Only as law. 2002-12-31	Law on the transportation of dangerous goods IXP-1106: 10.26.2001 IX-636: 11.12.2001	Delay 2: 0 Quality: F (GR01:106)
Draft Law on the Amendments to the Law on Water, p. 114. 2002-06-30; 2002-12-31	Law on Water IXP-2175: 12.12.2002 IX-1388: 25.03.2003	Delay 1: 165 Delay 2: 106 Quality: -
Draft on the Lithuanian drinking water law, p. 116. 2001-03-31; 2001-12-31	Law on drinking water IXP-695: 22.05.2001 IX-433: 10.07.2001	Delay 1: 52 Delay 2: 0 Quality: F (GR02:171)
RL Draft Law on Packaging and Packaging Waste Management, p. 119. 2001-06-30; 2001-09-30	Law on the Management of Packaging and Packaging Waste IXP-756: 06.06.2001 IX-517: 25.09.2001	Delay 1: 0 Delay 2: 5 Quality: F (GR02:172)
Draft Law on the Amendments to Article 3 of the Law on Tourism, p. 130. Only as draft. 2002-09-30	Law on the Amendments to Article 3 of the Law on Tourism IXP-1653: 28.05.2002	Delay 1: 0 Quality: F (GR02:179)
Draft law on ratification, p. 130. Only as draft. 2002-12-31	Law on the ratification of Paris convention on the liability of hotel keepers IXP-2184: 23.12.2002	Delay 1: 0 Quality: F
Draft Law on the Ratification of the Hague Convention of 1980 on the Civil Aspects of International Child Abductions, p. 131. 2001-12-31; 2002-12-31	Law on the Ratification of the Hague Convention of 1980 on the Civil Aspects of International Child Abductions IXP-1372: 08.02.2002 IX-793: 19.03.2002	Delay 1: 39 Delay 2: 0 Quality: F (GR02:192)
Draft Law on the Ratification of the Hague Convention of 1973 on Recognition and Enforcement of Decisions Concerning Alimony Obligations, p. 131. 2002-09-30; 2002-12-31	Law on the Ratification of the Hague Convention of 1973 on Recognition and Enforcement of Decisions Concerning Alimony Obligations IXP-1382: 15.02.2002 IX-831: 02.04.2002	Delay 1: 0 Delay 2: 0 Quality: F (GR02:192)
Draft Law on the Ratification of the Hague Convention of 1973 on Law Applicable to Alimony Obligations, p. 131. 2002-09-30; 2002-12-31	Law on the Ratification of the Hague Convention of 1973 on Law Applicable to Alimony Obligations IXP-334: 25.01.2001 IX-229: 23.03.2001	Delay 1: 0 Delay 2: 0 Quality: F (GR01:166)
Draft Law on the Ratification of European Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (Luxembourg, 20 May 1980), p. 131. 2002-12-31	Law on the Ratification of European Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children IXP-1977: 15.10.2002 IX-1194: 12.11.2002	Delay 1: 0 Delay 2: 0 Quality: F (GR02:193)

National measure to be adopted	Adopted measure	Delay/ quality
Draft Law on the Ratification of The Hague Convention of 1954 on Civil Procedure, p. 131. 2002-09-30; 2002-12-31	Law on the Ratification of The Hague Convention on Civil Procedure IXP-1795: 23.07.2002 IX-1082: 19.09.2002	Delay 1: 0 Delay 2: 0 Quality: F
Draft Law on the Ratification of the Additional Protocol to Convention on the Transfer of Sentenced Persons, p. 132. 2001-03-31; 2001-12-31	Law on the Ratification of the Additional Protocol to Convention on the Transfer of Sentenced Persons P-2973: 05.10.2000 IX-31: 21.11.2000	Delay 1: 0 Delay 2: 0 Quality: F (GR01:186)
Draft Law on the Ratification of the Convention of Simplification and Harmonisation of Customs Procedures, p. 139. 2001-09-30; 2002-03-31	Law on the Ratification of the Convention of Simplification and Harmonisation of Customs Procedures IXP-2017: 25.10.2002 IX-1204: 19.11.2002	Delay 1: 390 Delay 2: 275 Quality: F (Talex)
RL Draft Law on Ratification of this Agreement, p. 141. 2001-12-31; 2002-03-31	Law on the ratification of the Agreement on the temporary importation, free of duty, of medical, surgical and laboratory equipment. IXP-1711: 18.06.2002 IX-1024: 04.07.2002	Delay 1: 169 Delay 2: 150 Quality: F

LAW APPROXIMATION ACTION PLAN 2001 FOR THE YEAR 2001⁷

National measure to be adopted	Adopted measure	Delay/ quality
RL Draft Law on the Rules Governing Control of Weapons and Explosives. 2001-06-30; 2002-12-31	Law on the Control of Arms and Ammunition IXP-1155: 10.11.2001 IX-705: 15.01.2002	Delay 1: 133 Delay 2: 0 Quality: F (GR02:52)
Amending Law on pharmacy activities. 2001-06-30; 2001-12-31	Law amending the Law on pharmacy activities IXP-823: 06.21.2001 IX-922: 09.05.2002	Delay 1: 0 Delay 2: 168 Quality: -
Draft Law Amending the RL Law on Advocacy, 2001-06-30; 2001-12-31	Law Amending the Law on Advocacy IXP-939: 22.08.2001 IX-630: 06.12.2001	Delay 1: 53 Delay 2: 0 Quality: -
RL Draft Law on Nursing Practice. 2001-06-30; 2001-12-31	Law on Nursing Practice IXP-577: 12.04.2001 IX-413: 28.06.2001	Delay 1: 0 Delay 2: 0 Quality: F (GR02:56)

National measure to be adopted	Adopted measure	Delay/ quality
LR Draft Law on Investor Insurance Benefits. 2001-06-30; 2001-12-31	Law on Insurance Obligations of Commercial Banks and Investment Firms IXP-801: 21.06.2001 IX-654: 17.12.2001	Delay 1: 0 Delay 2: 0 Quality: F (GR02:59)
LR Draft new version of Law on Agricultural Entities. 2001-12-31	Law amending the Law on Agricultural Entities IXP-2273: 28.01.2003 IX-1513: 17.04.2003	Delay 1: 393 Delay 2: 486 Quality: F (GR02)
Draft Amendment to the LR Law on Cooperatives. 2001-12-31	Law amending the Law on Cooperative societies XP-1459: 14.03.2002 IX-903: 28.05.2002	Delay 1: 73 Delay 2: 163 Quality: F (GR02)
Draft Law on the Amendments to the Law on Foreign Currency in the Republic of Lithuania. 2001-12-31; 2002-06-30	Law on Amending the Law on Foreign Currency IXP-1771: 04.07.2002 IX-1140: 22.10.2002	Delay 1: 185 Delay 2: 129 Quality: -
RL Draft Law on the Realisation of Sugar that Exceeds Quotas in Local Market. 2001-09-30; 2002-03-31	Law on Charges in Respect of White Sugar in Excess of the Quota IXP-1249: 06.12.2001 IX-729: 24.01.2001	Delay 1: 67 Delay 2: 0 Quality: -
RL Draft Law amending the Law on the Equal Opportunities for Men and Women. 2001-12-31; 2002-12-31	Law amending the Law on the Equal Opportunities for Men and Women IXP-1582: 07.05.2002 IX-956: 18.06.2002	Delay 1: 127 Delay 2: 0 Quality: -
RL Draft Law amending the Law on the Prevention and Control of Communicable Diseases. 2001-09-30; 2001-12-31	Law amending the Law on the Prevention and Control of Communicable Diseases in humans IXP-1080: 17.10.2001 IX-649: 13.12.2001	Delay 1: 17 Delay 2: 0 Quality: F (GR02:128)
RL Draft Law on the Maintenance of Oil Products Supplies and their Management. Only as law. 2002-06-30	Law on State Stocks of Petroleum Products and Crude Oil IXP-1233: 03.12.2001 IX-986: 25.06.2002	Delay 2: 17 Quality: F (GR02:140)
Law on cinematographic film. 2001-06-30; 2002-12-31	Law on cinematographic film IXP-1217: 27.11.2001 IX-752: 05.03.2002	Delay 1: 150 Delay 2: 0 Quality: -
RL Draft Law amending the Law on Regional Development. 2001-09-30; 2002-12-31	Law amending the Law on Regional Development IXP-2034: 31.10.2002 IX-1285: 10.12.2002	Delay 1: 396 Delay 2: 0 Quality: -
Amending the Law on environment. 2001-09-30; 2001-12-31	Amending the Law on environmental protection IXP-1202: 11.20.2001 IX-677: 20.12.2001	Delay 1: 51 Delay 2: 9 Quality: F (GR02:168)

National measure to be adopted	Adopted measure	Delay/ quality
RL Draft Law on the Amendments to the Law on the Status of Refugees in the Republic of Lithuania. 2001-06-30; 2001-12-31	Law on the Amendments to the Law on the Status of Refugees IXP-700: 23.05.2001 IX-704: 15.01.2002	Delay 1: 0 Delay 2: 37 Quality: -
RL Draft Law on the Ratification of the Hague Convention of 1961-06-30; 2001-09-30	Law on the Ratification of the Hague Convention of 1961 IXP-770: 11.06.2001 IX-484: 02.08.2001	Delay 1: 0 Delay 2: 0 Quality: F (GR02:192)
Draft Law on the Ratification of the Hague Convention of 1971. 2001-06-30; 2001-12-31	Law on the Ratification of the Hague Convention of 1971 IXP-767: 11.06.2001 IX-483: 02.08.2001	Delay 1: 0 Delay 2: 0 Quality: F (GR02:192)
Draft Law on the Amendments to the Law on Customs Code. 2001-12-31; 2002-03-31	Law on the Amendments to the Law on Customs Code IXP-1079: 17.10.2001 IX-624: 04.12.2001	Delay 1: 0 Delay 2: 0 Quality: -
Draft Law on the Ratification of the Convention on Customs Containers. 2001-09-30; 2001-12-31	Law on the Ratification of the Convention on Customs Containers IXP-1129: 31.10.2001 IX-620: 27.11.2001	Delay 1: 31 Delay 2: 53 Quality: F (GR02:194)

LAW APPROXIMATION ACTION PLAN 2001 FOR THE YEAR 2002⁸

National measure to be adopted	Adopted measure	Delay/ quality
Draft Law Amending the Law on Insurance. 2002-03-31; 2002-06-30	Law Amending the Law on Insurance IXP-1524: 11.04.2002 IX-898: 23.05.2002	Delay 1: 11 Delay 2: 0 Quality: P (GR02:62)
Draft Law Amending Copyright and Related Rights Law. 2002-03-31; 2002-12-31	Law on Copyright and Related Rights Law IXP-1791: 2207.2002 IX-1355: 05.03.2003	Delay 1: 113 Delay 2: 80 Quality: -
Law on the establishment of the European works council. 2002-06-30; 2002-09-30	Law on the European works council IXP-2716: 25.06.2003 IX-2031: 19.02.2004	Delay 1: 360 Delay 2: 530 Quality: -
Draft Law on the Amendments to the Law on Telecommunications. 2002-03-31; 2002-06-30	Law on Telecommunications IXP-1707: 17.06.2002 IX-1053: 05.07.2002	Delay 1: 78 Delay 2: 26 Quality: -

National measure to be adopted	Adopted measure	Delay/ quality
Draft Law on the Amendments to the Law on Advertising. 2002-09-30; 2002-12-31	Law on the Amendments to the Law on Advertising IXP-2004: 18.10.2002 IX-2112: 03.11.2.2002	Delay 1: 18 Delay 2: 0 Quality: F (GR02:180)
Ratification law. Only as draft. 2002-12-31	Law ratifying the Dublin Convention IXP-2238: 21.01.2003 IX-2155: 22.04.2004	Delay 1: 21 Quality: F
Draft Law Amending the Law on the Legal Status of Foreigners. 2002-12-31	Law on the Legal Status of Aliens IXP-2784: 14.08.2003 IX-2206: 29.04.2004	Delay 1: 226 Delay 2: 486 Quality: P
Draft Law on the Ratification of Criminal Law Convention against Corruption. Only as draft. 2002-12-31	Law on the Ratification of Criminal Law Convention against Corruption IXP-1319: 03.01.2002 IX-736: 25.01.2002	Delay 1: 0 Quality: F (Q1-02:8)
Ratification Law. Only as draft. 2002-12-31	Not adopted	
Draft new version of the Law on Operational Activities. 2002-03-31	Law on Operational Activities IXP-813: 21.06.2001 IX-965: 20.06.2002	Delay 1: 0 Delay 2: 89 Quality: -
Ratification law. Only as draft. 2002-12-31	Ratification of the Convention on EUROPOPOL IXP-3123: 12.12.2003	Delay 1: 346 Quality: F

¹ Annex 1 of Lithuania's EU Accession Programme (National Programme for the Adoption of the Acquis) 1999. Governmental European Integration Commission, May 1999 (<http://www.euro.lt/old/showmenuitems.php?TopMenuID=43&MenuID=66&LangID=2>).

² The column includes information on the legal measure to be transposed, the related page in the NPAA, and the deadline for submission and adoption by parliament.

³ The column includes the name, number and date of the adopted measures. Measures beginning with P or IXP denote the date of submission to parliament. Measures beginning with Roman numbers denote laws and the date of promulgation.

⁴ Delay 1 refers to the number of days draft laws submitted to parliament are delayed. Delay 2 refers to the number of days promulgated laws are delayed. Quality refers to whether the legal measures are fully (F) or partially (P) in line with the Acquis. In brackets the reference to the relevant Government Report is indicated. GR denotes the annual Government report and the number denotes what year it was published and the page. Q denotes Quarterly Government Reports and the following number which quarter of the year the Report covers.

⁵ Annex 1 of Lithuania's EU Accession Programme (National Programme for the Adoption of the Acquis) 2000. Governmental European Integration Commission, May 2000 (<http://www.euro.lt/old/showmenuitems.php?TopMenuID=43&MenuID=66&LangID=2>).

⁶ See footnote 5.

⁷ Annex 1 of Lithuania's EU Accession Programme (National Programme for the Adoption of the Acquis) 2001. Committee under the Government of the Republic of Lithuania, May 2001 (<http://www.euro.lt/lpnp/ENG/index.htm>).

⁸ See footnote 7.

Appendix 2: Legal measures scheduled for adoption in Romania 2000 – 2002 and the extent of accomplishment

PROGRAMME FOR LEGISLATIVE HARMONISATION 1999⁹

National measure to be adopted ¹⁰	Adopted measure ¹¹	Delay/ quality ¹²
Drawing up the Law of the pharmaceutical products, p. 51. Draft. 2000-12-31.	E351/14.10.1999 approving GEO no. 152/1999 on the medicinal products for human use.	Delay: 0 Quality: P
Elaboration on the law regarding restrictions on the marketing and use of certain dangerous substances and preparations, p. 52. Draft. 2000-12-31.	E411/09.11.2000 approving GEO no. 200/00 on the classification, labelling and packaging of dangerous chemical substances and preparations.	Delay: 0 Quality: P
Legislation concerning labour and legislation concerning the entry, remain and departure of the aliens, p. 54. Law. 2000-12-31.	L203/28.12.1999 regarding the work permits	Delay: 0 Quality: P
Draft law on social action, p. 54. Draft. 2000-12-31.	E181/12.07.2001 on fight against social marginalisation	Delay: 193 Quality: -
Draft Law on the public system of pensions and other social insurance rights, p. 54. Law. 2000-12-31.	L19/17.03.2000 on the public system of pensions and other social security benefits	Delay: 0 Quality: F
Draft law regarding international economic holdings, p. 49. Draft. 2000-12-31.	E80/13.03.2003 regarding certain measures assuring the transparency for the exercise of public dignities, public functions and in business environment, the prevention and the sanctioning of corruption.	Delay: 802 Quality: F
Adoption of the draft law regarding the financial bankruptcy with trans-national character, p. 49. Law. 2000-12-31.	L637/17.12.2002 regarding the regulation of private international law matters concerning the insolvency proceedings	Delay: 706 Quality: F
Adoption of the draft law regarding the electronic trade, p. 49. Law. 2000-12-31	L365/07.06.2002 on electronic trade	Delay: 523 Quality: F
Draft law for modification and completion of the Commercial Code, p. 49. Draft. 2000-12-31	E142/11.04.2002 on permanent undertakings	Delay: 466 Quality: F
Amending the Law no. 8/1996 on copyright and related rights, p. 49. Law. 2000-12-31	L285/23.06.2004 amending the Law no. 8/1996 on copyright and related rights.	Delay: 1270 Quality: -
Draft Law on Romanian's accession to the UPOV Convention, p. 49. Draft. 2000-12-31	E94/17.03.2000 on Romanian's accession to the UPOV Convention	Delay: 0 Quality: F
Draft Law on the modification and completion of Patent Law 64/91, p. 49. Draft. 2000-12-31	E235/03.07.2000 amending and supplementing the Law no. 64/1991 on the patents	Delay: 0 Quality: F

National measure to be adopted ¹⁰	Adopted measure ¹¹	Delay/ quality ¹²
Draft Law on the modification and completion of Industrial Designs Law 129/92, p. 50. Draft. 2000-12-31	E14/28.01.2000 for the amendment and completion of Law no. 129 of 1992 regarding the protection of industrial models and designs	Delay: 0 Quality: F
Draft – Law on the market organisation in agricultural products, p. 62. Draft. 2000-12-31	E69/27.02.2003 on producing and marketing of field vegetables.	Delay: 788 Quality: P
Will be drafted a national reference, which will adopt completely the provisions of Directive 62/806 & 792/94, p. 65. Law. 2000-12-31	L105/27.06.2000 for the approval of GO 44/1997 concerning the road transport and rejecting of GO 73/1998	Delay: 0 Quality: P
Will be drafted a national reference, which will adopt completely the provisions of Regulation 684/92, p. 65. Draft. 2000-12-31	E124/28.03.2002 for the ratification of the Agreement on the international charter transport of persons by bus	Delay: 452 Quality: F
Will be drafted a national reference, which will adopt completely the provisions of Directive 95/19, p. 65. Draft. 2000-12-31	E310/01.09.2000 for the approval of the GO no. 133/2000 regarding the allocation of the railway infrastructure capacities.	Delay: 0 Quality: F
Will be drafted a national reference, which will adopt completely the provisions of Directive 94/55, p. 66. Draft. 2000-12-31	E234/27.08.1999 for the approval of the Government Ordinance no. 48/1999 on road transport of dangerous goods	Delay: 0 Quality: F
Will be drafted a national reference, which will adopt completely the provisions of Regulation 2158/93, p. 67. Draft. 2000-12-31	E243/30.08.1999 for the approval of GO 53/99 concerning the accession to certain protocols and the acceptance of certain amendments of SOLAS, Load Lines and MARPOL	Delay: 0 Quality: F
Will be drafted a national reference, which will adopt completely the provisions of Regulation 2978/94, p. 67. Draft. 2000-12-31	E253/01.09.2000 for the approval of GO 76/2000 for the acceptance of IMO Resolution A.747(18) on the application of tonnage measurement of ballast spaces in segregated ballast oil tankers	Delay: 0 Quality: F
Statistical Law on organisation & functioning of the public statistics in Romania (to be modified as against the current Statistical Law no. 11/1994.), p. 62. Law. 2000-12-31	L311/22.05.2002 on the approval of the Urgency Government Ordinance no. 75/2001 amending Government Ordinance no. 9/1992 on the organisation of official statistics	Delay: 507 Quality: F
Law on the setting up and functioning of the National Council of the Elderly Persons, p. 70. Law. 2000-12-31	L16/06.03.2000 concerning the setting up, organising and functioning of the National Council for elderly persons	Delay: 0 Quality: F
Law regarding prevention and fight against use of tobacco product, p. 73. Law. 2000-12-31	L349/06.06.2002 on the preventing and combating the effects of tobacco's products consuming	Delay: 522 Quality: F
Amend the Education Law (1995) in order to strengthen the Romanian education system with an emphasis on the vocational training as an alternative to the school drop out [...] continue the reform of higher education [...] to reinforce the quality of education. The rural education receives attention too. Amend and modify the Status of Academic Staff, p. 61. Law. 2000-12-31	L98/26.03.2001 approving GEO 130/2000 on amending and completing the Education Law, no. 84/1995.	Delay: 85 Quality: -
Code for information technologies development and use, p. 60. Law. 2000-12-31	L677/21.11.2001 on the protection of individuals with regard to the processing of personal data and on the free movement of such data	Delay: 325 Quality: F
Elaboration of the draft law regarding the introduction of a single emergency call number, p. 61. Draft. 2000-12-31	E28/30.01.2002 approving GO no. 18/2002 on the functioning of the national system of a single emergency call number	Delay: 395 Quality: F

National measure to be adopted ¹⁰	Adopted measure ¹¹	Delay/ quality ¹²
Draft Law on the protection of the atmosphere, p. 71. Draft. 2000-12-31	E455/30.11.2000 for the approval of the GEO no 243/2000 regarding atmosphere protection	Delay: 0 Quality: F
Amending and supplementing the Law no. 15/1996 on the status and the regime of refugees in Romania, p. 73. Law. 2000-12-31	L323/27.06.2001 approving GO no. 102/2000 on the status and the regime of refugees in Romania	Delay: 178 Quality: P
Amending the Law no. 26/1994 on the organisation and functioning of the Romanian Police, p. 73. Law. 2000-12-31	L218/23.04.2002 on the organisation and functioning of the Romanian Police	Delay: 478 Quality: P
Amending the Law no. 116/1998 on the organisation and functioning of the Romanian Gendarmerie, p. 73. Law. 2000-12-31	L550/29.11.2004 on the organisation and functioning of the Romanian Gendarmerie	Delay: 1429 Quality: -
Amending the Law no. 40/1990 on organisation and functioning of the Ministry of Interior, p. 73. Law. 2000-12-31	L630/16.11.2001 approving GEO no. 218/2000 on amending the Law no. 40/1990 on organisation and functioning of the Ministry of Interior.	Delay: 320 Quality: -
Creating the legislative framework for enhancing the capacity for fighting organised crime and drug trafficking, p. 73. Law. 2000-12-31	L143/26.07.2000 on combating illicit drugs trafficking and use	Delay: 0 Quality: F
Law for the modification and completion of the Criminal Code, p. 73. Law. 2000-12-31	L456/18.07.2001 approving GEO no. 207/00 on the modification and completion of the Criminal Code and the Criminal procedure Code.	Delay: 199 Quality: -
Law for the modification and completion of the Criminal Procedure Code, p. 74. Law. 2000-12-31	L281/24.06.2003 modifying and supplementing the Penal procedure Code and other special laws	Delay: 905 Quality: -
Extradition Law, p. 74. Law. 2000-12-31	L296/07.06.2001 concerning the extradition	Delay: 158 Quality: P
Ratification law, p. 74. Law. 2000-12-31	L124/11.04.2003 for the accession of Romania to the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters	Delay: 831 Quality: F
Ratification law, p. 74. Law. 2000-12-31	L175/09.05.2003 for the accession of Romania to the Hague Convention of 18 March 1970 on the taking of evidence abroad in civil or commercial matters	Delay: 859 Quality: F
Ratification law, p. 74. Law. 2000-12-31	L216/22.05.2003 for the accession of Romania to the European Convention on recognition and enforcement of decisions concerning custody of children and on restoration of custody of children	Delay: 872 Quality: F
Ratification law, p. 74. Law. 2000-12-31	L215/22.05.2003 for the accession of Romania to the Hague Convention of 25 October 1980 on international access to justice	Delay: 872 Quality: F
Ratification law (European Convention on the supervision of the sentenced or conditionally freed persons), p. 74. Law. 2000-12-31	Not adopted	
Ratification law, p. 74. Law. 2000-12-31	L111/13.03.2002 for the ratification of the Statute of International Criminal Court	Delay: 437 Quality: F

National measure to be adopted ¹⁰	Adopted measure ¹¹	Delay/ quality ¹²
Ratification law, p. 74. Law. 2000-12-31	L34/12.04.2000 the ratification of the European Convention on the Transfer of Proceedings in Criminal Matters	Delay: 0 Quality: F
Draft Normative Act referring to the accepting on behalf of the Community the resolution of the Inland Transport Committee of the Economic Commission for Europe concerning technical assistance measures for the implementation of the International Convention on the Harmonisation of Frontier Controls of goods, p. 75. Law. 2000-12-31	L103/19.06.2000 for the accession of Romania to the International Convention on the Harmonisation of Frontier Controls of goods	Delay: 0 Quality: F
Draft Normative Act referring to the accepting on behalf of the Community the resolution of the Inland Transport Committee of the Economic Commission for Europe concerning technical assistance measures for the implementation of the International Convention on the Harmonisation of Frontier Controls of goods, p. 75. Draft. 2000-12-31	E02/12.01.2000 for the accession of Romania to the International Convention on the Harmonisation of Frontier Controls of goods	Delay: 0 Quality: F
Law on foodstuffs, p. 78. Law. 2001-12-31	L57/16.01.2002 approving GEO no. 97/01 regulating the production, circulation and marketing of foodstuff	Delay: 16 Quality: F
Implementing the draft Law on social action, p. 82. Law. 2001-12-31	L116/15.03.2002 on preventing and combating the social exclusion	Delay: 74 Quality: -
Law no. 21/1924 concerning associations in agriculture, p. 63. Law. 2001-12-31	L566/09.12.2004 associations in agriculture	Delay: 1074 Quality: -
Law no. 36/1991 concerning agricultural companies and other forms of association in agriculture, p. 63. Law. 2001-12-31		
Law on the social assistance of the elderly persons, p. 82. Law. 2001-12-31	L17/06.03.2000 on social assistance for elderly persons	Delay: 0 Quality: F
Law on the establishing the National Fund for Guaranteeing payment of the social insurance contributions in the situation of employer's incapacity for paying, p. 83. Law. 2001-12-31	L53/24.01.2003 Labour Code	Delay: 754 Quality: P

PROGRAMME FOR LEGISLATIVE HARMONISATION 2000¹³

National measure to be adopted	Adopted measure	Delay/ quality
Law on metrology activity amending Law no. 11/1994, p. 10. Law. 2001-12-31	L178/09.05.2003 approving GO no.104/1999 modifying and completing provisions of GO no. 20/1992 concerning metrology activities	Delay: 494 Quality: F
Law of cosmetic products, p. 23. Law. 2000-12-31	L178/18.10.2000 on cosmetic products	Delay: 0 Quality: F
Law on the regime of foreigners in Romania, p. 25. Law. 2000-12-31	L123/02.04.2001 regarding the foreigners' regime in Romania	Delay: 92 Quality: P
Law on social protection of Romanian workers working abroad, p. 25. Law. 2000-12-31	L156/26.07.2000 on the protection of Romanian citizens working abroad	Delay: 0 Quality: F
Law on setting up the Centre for information and documentation on rights and obligations of migrant workers, p. 26. Law. 2002-12-31	Not adopted	
Law on employment and protection of job-seekers, p. 26. Law. 2001-12-31	L76/16.01.2002 on the unemployment insurance system and employment stimulation	Delay: 16 Quality: F
Elaboration of the draft law regarding the credit cooperatives, p. 32-33. Law. 2001-12-31	L200/16.04.2002 approving the Government Emergency Ordinance no. 97/2000 on the cooperative credit institutions	Delay: 106 Quality: F
The Law on securities and regulated markets, p.34-35. Law. 2000-12-31	L513/12.07.2002 approving Government Emergency Ordinance no. 26 on undertakings for collective investment in transferable securities	Delay: 558 Quality: P
Law modifying Law 26/1990 on the trade register, p. 36. Law. 2000-12-31	L525/17.07.2002 approving GEO no.28 on securities, financial investments services and regulated markets	Delay: 563 Quality: P
Law modifying the Civil Procedure Code, p. 37. Law. 2000-12-31	L505/26.11.2003 approving GEO no. 129/2002 amending Law no. 26/1990 on trade registry and GEO no. 76/2001	Delay: 1060 Quality: F
Law regarding the organisation of judicial executors' activity, p. 37. Law. 2000-12-31	L32/05.03.2001. approving GEO no. 290/2000 on modifying art. IX in GEO 138/2000 on modifying and completing Civil Procedure Code.	Delay: 64 Quality: -
Law regarding the liability for the damages produced by defective products p. 37. Law. 2001-12-31	L188/01.11.2000 regarding the organisation of judicial executors' activity	Delay: 0 Quality: -
Law on the modification and completion of Patent Law no.64/91, p. 38. Law. 2001-12-31	L37/16.01.2002 approving GO no. 58/2000 that modifies and completes GO no. 21/1992 on consumer protection	Delay: 16 Quality: F
	L203/19.04.2002 amending and supplementing the Law no. 64/1991 on the patents	Delay: 109 Quality: F

National measure to be adopted	Adopted measure	Delay/ quality
Law on the modification and completion of Law concerning the industrial designs no.129/92 p. 38. Law. 2001-12-31	L585/29.10.2002 for the amendment and completion of Law no. 129 of 1992 regarding the protection of industrial models and designs	Delay: 302 Quality: F
Law on the creation of supplementary certificate of protection for medicines and phyto-pharmaceutical products, p. 38. Law. 2001-12-31	L581/14.12.2004 on supplementary certificate of protection for medicines and phyto-pharmaceutical products	Delay: 1079 Quality: F
Law for the ratification of the New Act of Geneva 1989 of the Hague Agreement concerning the international deposit of industrial designs, p. 39. Law. 2001-12-31	L1522/02.2001 for the ratification of the Geneva Act of the Hague Arrangement concerning the international register of industrial models and technical drawings	Delay: 0 Quality: F
Law on the accession of Romania to the International Convention regarding the protection of new varieties of plants (UPOV) – the Act of 1999 p. Law. 2001-12-31	L186/27.10.2000 on the accession of Romania to the International Convention regarding the protection of new varieties of plants (UPOV)	Delay: 0 Quality: F
Law on the accession of Romania to the European Patent Convention, p. 39. Law. 2002-12-31	L611/13.11.2002 on the Romania's accession to the Convention on the issuing of European patents, as well as to the its Revision Act.	Delay: 0 Quality: F
Law proposal for creating or designating the inspection body for fresh fruit and vegetable quality standards, p. 55. Draft. 2000-12-31	E69/27.02.2003 on producing and marketing of field vegetables.	Delay: 788 Quality: -
Draft Law on protective measures against the introduction and spreading into Romania of harmful organisms of plants and plant products, p. 73. Draft. 2000-12-31	E313/01.09.2000, approving GO no. 136/00 on protective measures against the introduction and spreading into Romania of harmful organisms of plants and plant products	Delay: 0 Quality: F
Draft Law on the fixing of maximum levels for pesticide residues in and on certain products of plant origin, p. 74. Draft. 2001-12-31	E480/13.12.2000 approving GEO no. 262/07.12.2000 relating to procedures fixing maximum levels for pesticide residues in plants and plant products	Delay: = Quality: F
Draft Law regarding the organisation and carry out of the inspection body of the quality standards, p. 76. Draft. 2000-12-31	E338/27.09.2000 approving GEO 142/2000 regarding the establishment, organising and functioning of the SAPARD Agency for the technical and financial implementation of the special pre-accession instrument for agriculture and rural development	Delay: 0 Quality: F
Draft Law regarding agricultural cooperatist bodies products, p. 77. Draft. 2000-12-31	PL329/05.06.2001 agricultural cooperatist bodies	Delay: 0 Quality: -
Draft Law regarding the harmonisation of the state aids for farmers which applied methods and agricultural technologies, which have reduce impact of the soil, p. 77. Draft. 2001-12-31	PL484/23.11.1999 regarding the harmonisation of the state aids for farmers which applied methods and agricultural technologies, which have reduce impact of the soil.	Rejected
Law as for to the support of the young farmers, p. 77. Law. 2000-12-31	L646/07.12.2002 concerning the state support for the young farmers	Delay: 0 Quality: F
Amending and harmonisation of Law 36/1991 with regulation (EC) 2200/1996 and acknowledge of the agricultural producers, p. 77. Law. 2000-12-13	PL103/02.03.2000 on amending and completing Law 36/1991	Rejected
Law regarding the increasing and amelioration of the animals, p. 77. Law. 2000-12-31	L72/16.01.2002 on animal breeding regime	Delay: 381 Quality: -

National measure to be adopted	Adopted measure	Delay/ quality
Law for continue professional formation of the adults, p. 77. Law. 2001-12-31	L375/02 approving the Government Ordinance no. 129/2000 on the adults training	Delay: 162 Quality: F
Law of fisheries and aquaculture, p. 78. Law. 2000-12-31	L192/19.04.2001 on the piscicultural resources, fishing and aquaculture	Delay: 109 Quality: P
Law regarding the acceptance by Romania of the amendments to the GFCM agreement- Rules of procedure of the General Fisheries Commission for the Mediterranean, p. 80. Law. 2001-12-31	L288/27.06.2003 on acceptance by Romania of the amendments to the GFCM agreement.	Delay: 543 Quality: F
A national reference transposing the provisions of Regulation 3916/90 will be drafted, p. 84. Draft. 2001-12-31	E260/22.08.2002 for the approval of GO no. 56/2002 regarding the monitoring of the road transport market and the measures that are to be taken in crisis situations in the field of road transport of goods	Delay: 234 Quality: F
A national reference, partial adopting the provisions of this Directive, will be drafted, through the ratification of STCW '95 Convention, p. 86. Law. 2000-12-31	L20/22.02.2001 approving Government Ordinance 122 for the acceptance of STCW 1978, STCW Code	Delay: 53 Quality: F
This Regulation will be applicable for Romania on the date of entry into force of Montreal Convention (1999), p. 88. Law. 2001-12-31	L355/10.07.2003 regarding the responsibility of aerial transporters and civil aircraft operators executing civil aerial operations within national air space	Delay: 556 Quality: F
Legislative act for amending the Government Ordinance no.70/1994 approved by Law no.73/1996, p. Law. 2001-12-31	L189/17.04.2001 approving EGO 217/99 amending the Government Ordinance no.70/1994	Delay: 0 Quality: P
Law of public debt No.81 /Official Journal no.215 to 17.05.1999, Art. 14, p. Law. 2002-12-31	L313/28.06.2004 on public debt	Delay: 545 Quality: -
Draft law on equal opportunities between men and Women, p. 90. Draft. 2000-12-31	E297/06.11.2001 regarding the equal opportunities between men and women	Delay: 249 Quality: F
Draft law on the maternal protection, p. 90. Draft. 2000-12-31	E316/14.10.2003 for the approval of Government Emergency Ordinance no 96/2003 on maternity protection at workplaces	Delay: 652 Quality: F
Draft law on organization and functioning of the pensions universal funds p. 91. Law. 2000-12-31	249/09.06.2004 provisions regarding occupational pension system.	Delay: 1256 Quality: F
Draft law concerning the voluntarism in social assistance, p. 91. Law. 2000-12-31	L195/20.04.2001 on Volunteering	Delay: 0 Quality: F
Draft law of the Social Assistance, p. 91. Draft. 2001-12-31	E96/25.04.2001 on the national system for social assistance	Delay: 0 Quality: F
Publicity Law Project, p. Law. 2000-12-31	L151/26.07.2000 approving Emergency Government Ordinance no. 55/1999 concerning the interdiction of advertising tobacco	Delay: 0 Quality: P

National measure to be adopted	Adopted measure	Delay/ quality
Law on ratification of Protocol Additional to the Safeguards Agreement in connection with the Non- Proliferation Nuclear Weapons Treaty, p. 82. Law. 2000-12-31	L100/19.06.2000 on ratification of Protocol Additional to the Safeguards Agreement in connection with the Non- Proliferation Nuclear Weapons Treaty	Delay: 0 Quality: F
The project Law on Civil Liability on Nuclear Damages p. 83. Law. 2000-12-31	L703/03.12.2001 on civil liability for nuclear damages	Delay: 337 Quality: -
Amendment to Telecommunications Law 74/1996; p. 44. Law. 2002-12-31	L527/17.07.2002 approving GO 34/02 on the access to the electronic communications networks and to the associated infrastructure, as well as their interconnection	Delay: 0 Quality: F
Amendment to Telecommunications Law 74/1996; p. 44	L304/04.07.2003 on the universal service and user's rights relating to electronic communications networks and services	Delay: 185 Quality: F
Draft law "Code for information technologies development and use" – Title V Completion regarding electronic signature, p. 46. Law. 2000-12-31	L455/18.07.2001 regarding the electronic signature	Delay: 199 Quality: F
Draft law "Code for information technologies development and use" – Supplementary Title, proposed by Legislative Council p. 46. Law. 2000-12-31	L676/21.11.2001 on processing of personal data and protection of private life in the field of telecommunications	Delay: 325 Quality: P
Promulgation of the Audio-visual Law for the amendment of Law no.48/92 p. 46. Law. 2000-12-31	L504/11.07.2002 on the audio-visual	Delay: 557 Quality: F
Ratification of EC Television Without Frontiers Convention and of the Amending protocole p. 46. Law. 2001-12-31	L56/13.02.2003 for the ratification of CE Television Without Frontiers Convention.	Delay: 409 Quality: F
Draft Law for amendment of Environmental Protection Law no 137/95 – Annex II p. 94. Law. 2000-12-31	L294/27.06.2003 approving the Government Emergency Ordinance no. 91/2002 concerning amending and supplementing the Law no. 137/1995 on environmental protection	Delay: 908 Quality: P
Draft Law on the ratification of the Aarhus Convention regarding the free information access and public participation in decision making, and justice access for environmental issues p. 94. Law. 2000-12-31	L86/10.05.2000 on the ratification of the Aarhus Convention regarding the free information access and public participation in decision making, and justice access for environmental issues	Delay: 0 Quality: F
Draft Law on the ratification of The Espoo Convention regarding the environmental transboundary impact assessment. p. 94. Law. 2000-12-31	L22/22.02.2001 for ratifying the Convention on the assessment of impact on the environment in the cross border context.	Delay: 53 Quality: F
Draft Law on the protection of the atmosphere p. 94. Law. 2001-12-31	L655/20.11.2001 approving Emergency Ordinance no. 243/2000 regarding atmosphere protection	Delay: 0 Quality: P
Draft Law on the conservation of natural habitats, and of wild fauna and flora. P. 97. Law. 2001-12-31.	L462/18.07.2001 for the approval of GEO no. 236/2000 regarding the protected natural area regime, conservation of natural habitats, and of wild fauna and flora.	Delay: 0 Quality: F
Law on the aderation of the Agreement on the Conservation of bats in Europe. p. 97. Law. 2000-12-31	L90/10.05.2000 on the ratification of the International Agreement of the conservation of bats in Europe	Delay: 0 Quality: P

National measure to be adopted	Adopted measure	Delay/ quality
Law on the ratification of the International Agreement on the Conservation of Cetacean in the Black Sea, Mediterranean Sea and Contiguous Atlantic Area p. 97. Law. 2000-12-31	L91/10.05.2000 on the ratification of the International Agreement of the Conservation of Cetacean in The Black Sea, Mediterranean Sea and Contiguous Atlantic Area	Delay: 0 Quality: P
Law for the ratification of the International Agreement on the Protection of the Migratory Species of African-Eurasia Birds p. 97. Law. 2000-12-31	L89/10.05.2000 on the ratification of the International Agreement on the Protection of the Migratory Species of African-Eurasia Birds	Delay: 0 Quality: P
Law on the protection of animals used for experimental and other scientific purposes – draft. p. 98. Law. 2001-12-31	L471/09.07.2002 approving GO 37/2002 regarding the protection of animals used for experimental and other scientific purposes	Delay: 190 Quality: F
Draft Law on the Romanian accession at the Kyoto Protocol p. 98. Law. 2001-12-31	L3/02.02.2001 ratification of the Kyoto Protocol	Delay: 0 Quality: F
Draft Law for amending the Convention on the control of transboundary movements of hazardous wastes and their disposal (Basle Convention), as laid down in Decision III/1 of the Conference of the Parties p. 99. Law. 2001-12-31	L265/15.05.2002 accepting the Basel Convention's amendments on the control of the dangerous waste cross-border transport, as well as its elimination	Delay: 135 Quality: F
The project law on Law regarding the establishment of Fund for the Management of Radioactive Waste and Decommissioning; p. 100. Law. 2001-12-31	L320/08.07.2003 regarding the management of the spent fuel and radioactive waste, including the final disposal	Delay: 554 Quality: -
Draft Law regarding the regime of state border in Romania p. 102. Law. 2001-12-31	L243/29.04.2002 approving Ego 105/01 regarding the regime of state border in Romania	Delay: 119 Quality: -
Draft Criminal Code, p. 104. Draft. 2000-12-31	E139/21.05.2003 Criminal Code	Delay: 880 Quality:-
Draft Criminal Procedure Code, p. 104. Draft. 2000-12-31	E143/11.04.2002 modifying and supplementing the Penal procedure Code and other special laws	Delay: 880 Quality:-
Adopt criminal convention on corruption p. Law. 2001-12-31	L27/16.01.2002 for the ratification of the Europe Criminal Law Convention on Corruption	Delay:16 Quality: F
Adopt law on combating offences committed by means of the computer to be harmonised with the European legislation p. Law. 2001-12-31	L213/19.04.2002 approving GO no. 124/00 or the completion of the legal framework on copyright and related rights by adopting some measures to combat piracy in the audiovisual field and also computer programs	Delay: 109 Quality: F
Adopt the law on counteracting organised crime p. Law. 2001-12-31	L39/21.01.2003 for the prevention and fight against organized crime	Delay: 386 Quality: -
Draft "Law concerning certain measures for the ensurance of the observance of intellectual property rights within customs clearance operations" p. 105. Law. 2000-12-31	L202/13.11.2000 concerning certain measures to ensure the observance of intellectual property rights within customs clearance operations	Delay: 0 Quality: F
Draft Law for the adhesion to the Convention relating to temporary admission, p. 109. Law 2001-12-31	L395/14.06.2002 on the accession of Romania at the Convention on the temporary admission, adopted in Istanbul on 26 June 1990	Delay:165 Quality: F

PROGRAMME FOR LEGISLATIVE HARMONISATION 2001¹⁴

National measure to be adopted	Adopted measure	Delay/ quality
Law on the approval of the GEO No. 152/1999 on the medicinal products for human use, p. 23. Law. 2002-12-31	L336/31.05.2002 approving the Government Emergency Ordinance no. 152/1999 on the medicinal products for human use	Delay: 0 Quality: P
Law on the assessment of conformity, NPAA, Vol. I. Law. 2002-12-31	L608/31.10.2001 regarding the evaluation of products conformity	Delay: 0 Quality: -
Draft Law related to the recognition of postsecondary study diplomas with a duration less than 3 years for professional purposes of the European citizens, p. 40. Draft. 2001-12-31	E353/04.11.2003 on the recognition of diploma and professional qualifications for regulated professions	Delay: 673 Quality: F
Draft Law related to the diplomas' recognition of higher education of at least three years' duration for professional purposes for the citizens of EU Member States, p. 40. Draft. 2001-12-31		
Draft law concerning the medical assistant profession practice, setting up, organizing and functioning of Romanian College of Medical Assistants, p. 41. Draft. 2001-12-31	PL205/16.04.2002 for amending and completing of the L461/2001 on the outcarrying of nurse profession, setting up, organization and functioning of the Romanian Nurses Order	Delay: 106 Quality: F
Adoption of the deontological Code of generalist doctors, dentist and chemist, p. 41. Law. 2001-12-31	L495/11.07.2002 for the amendment and completing of the L74/1995 regarding the out-carry of the doctor profession, setting up, organization and functioning of the Romanian Doctors College	Delay: 192 Quality: F
Draft law on the modification and completion of the Law No. 51/1995 on the organisation and practice of the lawyer's job, republished, p. 42. Draft. 2001-06-30	L498/11.07.2002 for the amendment and completing of the L81/1997 regarding the out-carry of the chemist profession, setting up, organization an functioning of the Romanian Chemists College	Delay: 192 Quality: P
Law on the organisation and pursuit of economic activities by natural persons, p.43. Law. 2001-12-31	E133/04.04.2002 for the amendment and completing of the Law no.51/1995 for the organization and practice of the lawyer profession	Delay: 278 Quality: F
Law on securities and regulated markets, p.55. Draft. 2001-10-31	L507/12.07.2002 regarding the organization and practice of some economical activities by natural persons	Delay: 193 Quality: F
Amendment of Law No. 241/1998 regarding direct investments, p. 59. Law. 2001-12-31	E102/13.03.2002 approving GEO no.28 on securities, financial investments services and regulated markets	Delay: 133 Quality: P
	E100/13.03.2002 approving GEO no. 26 on undertakings for collective investment in transferable securities	
	L332/29.06.2001 on promoting the direct investments having a significant economic effect	Delay: 0 Quality: F

National measure to be adopted	Adopted measure	Delay/ quality
Normative act regarding self employed commercial agents, p. 58. Law. 2001-12-31	L509/12.07.2002 on permanent undertakings	Delay: 193 Quality: F
Amendments to Law No. 21/1999 on the prevention and sanctioning of money laundering, p. 60. Law. 2002-12-31	L656/07.12.2002 for the prevention and sanctioning of money laundering	Delay: 0 Quality: F
Law amending Law No. 31/1990 on companies, p.62. Law. 2001-12-31	L314/18.06.2001 regulating the situation of certain companies	Delay: 0 Quality: -
Law for modifying and completing the Accountancy Law No. 82/1999, p. 63. Draft. 2001-12-31	E255/30.08.2001 approving GO 61/2001 modifying and completing the Accountancy Law	Delay: 0 Quality: -
Law on the European Economic Interest Grouping, p. 62. Law. 2002-12-31	L161/19.04.2003 regarding certain measures assuring the transparency for the exercise of public dignities, public functions and in business environment, the prevention and the sanctioning of corruption	Delay: 109 Quality: F
Law of ratification of patent convention, p. 64. Law. 2002-12-31	L611/13.11.2002 on the Romania's accession to the Convention on the issuing of European patents.	Delay: 0 Quality: F
Law for the modification and completion of Law No. 16/1995 concerning the legal protection of topographies of semi-conductors, p. 64. Law. 2002-12-31	Not adopted	
Draft Law amending the Law No. 75/1995 regarding production, quality control, marketing and use of seeds and planting material, as well as the registration of agricultural varieties, to ensure full harmonisation, p. 73. Draft. 2001-12-31	E350/25.10.2001 on the producing, manufacturing, control and quality certification, seeds and propagating material commercialisation, as well as registering of plants varieties	Delay: 0 Quality: F
Draft law will be initiated (Regulation No 1517/777 of 6 July 1977 fixing the list of various groups of hop varieties cultivated in the Community), p. 80. Draft. 2001-12-31	E181/30.05.2002 on producing and trade in hops	Delay: 150 Quality: F
Draft Law of Vine and Wine (replacing Law No. 67/1997 of Vine and Wine), p. 85. Draft. 2001-12-31	E173/06.07.2001 of the vineyard and vine setting up the wine-viticulture common market	Delay: 0 Quality: P
Adoption of the Law regarding the accreditation of the Court of Accounts as Certifying Body for SAPARD Programme, p. 99. Law. 2001-06-30.	L309/07.06.2001 approving GEO no. 42/2000 regarding the accreditation of the Court of Accounts as Certifying Body for SAPARD Programme	Delay: 0 Quality: F
Ratification of the Multi-annual Financing Agreement and the Annual Financing Agreement for SAPARD Programme, p. 99. Law. 2001-06-30	L316/18.06.2001 on the Ratification of the Multi-annual Financing Agreement and the Annual Financing Agreement for SAPARD Programme	Delay: 0 Quality: F
A draft law transposing the principles of this Decision was drawn up and will approve the TINA Final Report – 1999, p. 105. Law. 2001-08-31	L203/16.05.2003 on the achievement, development and modernization of transport network of national and European interest	Delay: 685 Quality: F
A national measure transposing the applicable provisions of this Directive will be drafted, p. 106. Draft. 2001-08-31	E274/30.08.2001 approving GO79/01 on Legal regime on roads	Delay: 0 Quality: F

National measure to be adopted	Adopted measure	Delay/ quality
On the date of entry into force of Montreal Convention for Romania, most of the provisions of this Regulation will be transposed into national legislation and implemented. A draft national measure fully implementing the applicable provisions of this Regulation will be drafted, p. 111. Draft. 2002-12-31	E119/27.05.2003 regarding the responsibility of aerial transporters and civil aircraft operators executing civil aerial operations within national air space	Delay: 147 Quality: F
A national measure transposing the applicable provisions of this Regulation will be drafted, p. 111. Draft. 2001-12-31	E27/30.01.2002 on the approval of the GO17/2002 establishing the driving and rest schedule for the national transport vehicles' drivers	Delay: 30 Quality: F
Draft law with regard to revise exempted operations and those operations outside the scope of VAT, p. 113.	E363/21.11.2001 on value added tax	Delay: 113 Quality: P
Draft law with regard to the reconsideration of conditions, for agreement and justification of VAT zero quota, p. 113.		
Draft law with regard to revise of conditions for repayment of VAT, p. 113.		
Draft. 2001-07-31		
Draft law regarding excise duties will be adopted, p.113. Draft. 2001-12-31	E374/27.11.2001 for the approval of the GEO no.158/2001 on excise duties statute	Delay: 0 Quality: -
Draft law on Insurance to Work Accidents and occupational Diseases, p. 132. Law. 2001-12-31	L346/05.06.2002 on insurance to work accidents and occupational diseases	Delay: 156 Quality: F
Modification of the Law No. 130/1999 on certain protection measures of the employed persons, p. 132. Law. 2001-06-30	L322/26.06.2001 for the approval of GEO no.136/1999 amending and supplementing the L130/1999 on certain protection measures of the employed persons	Delay: 0 Quality: -
Adoption of the law on employers' organization, p. 133. Law. 2001-12-31	L356/10.07.2001 on employers' organization	Delay: 0 Quality: F
Modification of the Law No. 54/1991 regarding the trade unions, p. 133. Law. 2001-12-31	L54/24.01.2003 on trade unions	Delay: 389 Quality: F
Amend L92/92, NPAA, Vol. I. Law. 2002-12-31	L653/07.12.2002 on the adoption of EGO 20/2000 on the amendment of Law no. 92/1992 on Judicial authority functioning	Delay: 0 Quality: -
Law on equal opportunities between women and men, p. 134. Law. 2001-12-31	L202/19.04.2002 regarding the equal opportunities between men and women	Delay: 109 Quality: F
Adoption of the Law approving the Government Ordinance No. 137/2000 on preventing and punishing all forms of discrimination, p. 135. Law. 2001-06-30	L48/16.01.2002 approving Government Ordinance no. 137/2000 on preventing and punishing all forms of discrimination	Delay: 200 Quality: F
Law concerning social assistance national system, p. 138. Law. 2001-12-31	L705/03.12.2001 on national system for social assistance	Delay: 0 Quality: F

National measure to be adopted	Adopted measure	Delay/ quality
Law concerning the minimum guaranteed income, p. 138. Law. 2001-12-31	L416/18.07.2001 concerning the minimum guaranteed income	Delay: 0 Quality: F
Amending L.130/96, 131. Law. 2001-09-01	L53/24.01.2003 Labour Code	Delay: 481 Quality: F
The new draft Labour Code, p. 131. Law. 2002-12-31	L53/24.01.2003 Labour Code	Delay: 24 Quality: F
Modification of the Law No. 109/1997 on the organisation and functioning of the European Social Council, p. 133. Law. 2002-12-31	L58/28.02.2003 on the modification of the Law No. 109/1997 on the organisation and functioning of the European Social Council	Delay: 59 Quality: F
Law on protection of maternity, family and child, p. 134. Law. 2002-12-31	L25/05.03.2004 for the approval of Government Emergency Ordinance no 96/2003 on maternity protection at workplaces	Delay: 430 Quality: F
Amendments to the Law No. 83/1996, of postal services, p. 149. Law. 2001-09-30	L642/07.12.2002 on the approval of the Government Ordinance no.31/2002 regarding the postal services	Delay: 433 Quality: P
Act on the introduction of a single European emergency call number, p. 149. Law. 2001-12-31	L398/14.06.2002 approving GO no. 18/2002 regarding the National System for emergency calls	Delay: 165 Quality: F
Amendments to the Law No. 74/1996, of telecommunications, p. 149. Law. 2002-12-31	L591/29.10.2002 for the approval of the GEO no.79/2002 on the general regulatory framework for communications	Delay: 0 Quality: F
Law on zoo, p. 159. Law. 2001-11-30	L191/16.04.2002 on the zoos and public aquariums	Delay: 137 Quality: F
Law for the approval of Emergency Ordinance No. 78/2000 on waste management, p. 156. Law. 2001-09-30	L426/18.07.2001 for the approval of the Government Emergency Ordinance no. 78/2000 regarding the waste management	Delay: 0 Quality: F
Law on dangerous chemical substances regime, p. 163. Law. 2002-12-31	L360/02.09.2003 on dangerous substances and preparations	Delay: 245 Quality: -
Legal act on sale of consumer goods and associated guarantees, p. 167. Draft. 2002-12-31	E109/10.04.2003 on sale of consumer goods and associated guarantees	Delay: 100 Quality: F
Draft Law regarding on the organisation and operation of the Romanian Border Police, p. 170. Law. 2002-12-31	L81/26.02.2002 regarding on the organisation and operation of the Romanian Border Police	Delay: 0 Quality: -
Draft Law regarding the co-operation Romania – Europol, p. 170. Draft. 2001-12-31	E111/01.04.2004 regarding the co-operation between Romania and Europol	Delay: 822 Quality: -
Law for the community police with financing from the local budget, Vol. I. Draft, 2002-12-21	E168/05.05.2004 on the organization and functioning of the local police	Delay: 491 Quality: -
Law concerning torture and other punishments or cruel, inhuman and degrading treatment, Vol. I. Draft. 2002-12-31	E178/25.06.2003 approving GEO no. 56 regarding certain rights of persons undergoing freedom depriving penalties.	Delay: 176 Quality: -

National measure to be adopted	Adopted measure	Delay/ quality
Amend L82/99, Vol. I. Draft. 2002-12-31	E259/22.08.2002 approving the GO no. 55/2002 on the legal treatment of sanctions by community service and contravention imprisonment	Delay: 0 Quality: -
Law concerning the legal status of firearms and ammunition. Vol. I. Draft. 2002-12-31	E101/23.03.2004 on the legal status of firearms and ammunition	Delay: 448 Quality: F
Draft Law on legal regime of precursors and essential chemical substances, p. 163. Draft. 2001-06-30	E379/27.11.2001 on the legal status of precursors, used to illegal drug production	Delay: 150 Quality: -
Draft Law for the ratification of the European Agreement on illicit traffic by sea, implementing Article 17 of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances, p. 171. Draft. 2001-08-31	E90/28.02.2002 on the ratification of the Agreement on the illicit maritime traffic on the application of the article 17 of the UN Convention against illicit drugs traffic and psychotropic substances.	Delay: 181 Quality: F
Law regarding Mutual Assistance in Criminal Matters, p. 171. Law. 2001-06-30	L704/03.12.2001 on mutual assistance in criminal matters	Delay: 156 Quality: F
Law on the Transfer of Sentenced Persons, p. 171. Law. 2001-06-30	L756/27.12.2001 concerning the transfer of sentenced persons	Delay: 180 Quality: P
Law for the ratification of Council of Europe Civil Law convention on Corruption, p. 171. Law. 2001-06-30	L147/01.04.2002 for the ratification of the European Civil Law Convention on corruption, adopted at Strasbourg, on November 4, 1999	Delay: 275 Quality: F
Law on Mutual Assistance in Civil Matters, p. 171. Law. 2001-12-31	L189/13.05.2003 regarding the international judicial assistance in civil and commercial matters	Delay: 489 Quality: F
Law for combating trafficking in human beings, p. 171. Law. 2001-12-31	L678/21.11.2001 combating trafficking in human beings	Delay: 0 Quality: -
Adoption of draft laws regarding Criminal Code and Criminal Procedure Code, p. 173. Law. 2001-12-31	L301/28.06.2004 Criminal Code	Delay: 910 Quality: -
Law for ratification of OECD Convention of 17 December 1997 on combating bribery of foreign public officials in international business transactions, p. 173. Law. 2002-12-31	Not adopted	
Promote draft law on witness protection. Vol. I. Law. 2002-12-31	L682/19.12.2002 for witnesses protection	Delay: 0 Quality: -
Amending the regulations on the jurisdiction and enforcement of judgements in civil and commercial matters, p. 173. Law. 2002-12-31	L187/09.05.2003 regarding the jurisdiction, recognition and enforcement in Romania of decisions concerning civil and commercial matters	Delay: 129 Quality: -
Law on victims protection, p. 173. Law. 2002-12-31	L211/27.05.2004 concerning some measures for approval the victims' protection of crimes	Delay: 513 Quality: -
Amend and supplement L94/92. Vol. I. Law. 2001-12-31	L77/31.01.2002 amending and supplementing Law no. 94/1992 on organization and operation of the Romanian Court of Accounts	Delay: 31 Quality: -

PROGRAMME FOR LEGISLATIVE HARMONISATION 2002¹⁵

National measure to be adopted	Adopted measure	Delay/ quality
Law for amending and completion of Law 178/2000 on cosmetic products, p. 16. Law. 2002-12-31	Law No. 508/12.07.2002 for the amendment and completing of the Law no.1778/2000 on cosmetic products	Delay: 0 Quality: F
Legal act amending Law 184/2001 on the organisation and practice of the profession of architect, p. 34. Law. 2002-12-31	L43/17.03.2004 for the amendment and completion of Law no. 184/2001 regarding the organizing and the exercise of the profession of architect	Delay:442 Quality: F
The amending of the Law no. 32/2000 on insurance undertakings and insurance supervision, p. 39. Law. 2002-12-31	L76/12.03.2003 amending and completing the Law no. 32/2000 on insurance companies and insurance supervision.	Delay:71 Quality: P
Amendment of Law No. 58/1998 – The Banking Law, as further amended, p. 42. Law. 2002-11-30	L485/18.11.2003 modifying and completing Banking Law no. 58/1998	Delay: 153 Quality: P
Amendment of banking bankruptcy legislation, p. 42. Law. 2002-12-31	L82/13.03.2003 for the approval of Government Ordinance no.38/2002 modifying and completing the Law no.64/1995 on bankruptcy	Delay: 72 Quality: -
Law on production and marketing of hops, in compliance with EU principles, p. 61. Law. 2002-06-30	L627/19.11.2002 on producing and trade in hops	Delay: 0 Quality: F
Law on market organization for floriculture products – fresh cut flowers and fresh ornamental foliage- in compliance with the EU principles, p. 62. Law. 2002-12-31	L305/08.07.2003 on market organization for ornamental plants and floriculture products in compliance with the EU principles	Delay: 189 Quality: P
Law for market organization for raw tobacco in compliance with EU principles, p. 62. Law. 2002-06-30	L236/02.06.2003 on market organization for raw tobacco	Delay: 337 Quality: F
Road Law and its application Rules, p. 97. Law. 2002-08-31	L49/08.03.2006 approving GEO 195/2002 on road traffic and Regulation for its application	Delay: 1285 Quality: F
Law on Public Finance, Vol. I. Law. 2002-06-30	L500/11.07.2002 on the public finances	Delay: 11 Quality: P
Law on pension funds, p. 128. Law. 2002-12-31	L577/ 22.12.2003 on the approval of the Emergency Ordinance No. 9/2003 on the modification and completion of Law No. 19/2000	Delay:356 Quality: -
Amending and supplementing the legal acts which regulate the elderly persons' protection; p. 130. Law. 2002-12-31	Not adopted	
Amending and supplementing the legal act which regulate the disabled persons' protection (Adoption of a draft law for the approval of the GEO no 102/1999 concerning the special protection and employment of disabled people) p. 131. Law. 2002-09-30	L519/12.07.2002 on the approval of the GEO no.102/1999 on the special protection and on the employment of disabled persons	Delay: 0 Quality: F
Draft law establishing a legislative framework to allow the information exchange between the Ministry of Health and Family and other ministries, institutions and organisations regarding the health determinant, p. 132. Law. 2002-12-31	L462/09.07.2002 amending GEO no. 50/2000 on collaboration measures between the Ministry of Health and the local public administration authorities in the application of the regulations in the field of public health	Delay: 0 Quality: P

National measure to be adopted	Adopted measure	Delay/ quality
Law on ratification European Convention on promotion a transnational long-term voluntary service for young people, p. 136. Law. 2002-12-31	L213/22.05.2003 on ratification the European Convention on promotion a transnational long-term voluntary service for young people.	Delay: 142 Quality: F
Normative act modifying and completing the Volunteering Law no. 195/2001, p. 136. Law. 2002-06-30	L629/19.11.2002 approving the Government Ordinance no. 58/2002 modifying and completing the Volunteering Law no. 195/2001	Delay: 142 Quality: F
Draft law on integrated administration of the sea-coast areas, p. 143. Law. 2002-12-31	L280/24.06.2003 approving GEO no. 202/2002 on the integrated management of the shore area	Delay: 175 Quality: P
Law for the amendment of Water Law 107/1996, p. 143. Law. 2002-12-31	L310/28.06.2004 on the amendment of Water Law	Delay: 545 Quality: F
Law for the ratification of the trans-boundary effects of the industrial accidents (Helsinki), p. 143. Law. 2002-08-31	L92/18.03.2003 on the Romania accession to the Convention regarding the transboundary effects of the industrial accidents.	Delay: 199 Quality: F
Framework Law on chemicals, p. 145. Draft. 2002-12-31	E105/10.04.2003 on dangerous substances and preparations	Delay: 100 Quality: F
Law for the ratification of Rotterdam Convention on prior informed consent procedure for certain hazardous chemicals and pesticides international trade, p. 146. Law. 2002-12-31	L91/18.03.2003 for the ratification of Rotterdam Convention on prior informed consent procedure for certain hazardous chemicals and pesticides international trade.	Delay: 77 Quality: F
Legal act amending Law nr. 148/2000 on advertising, p. 148. Law. 2002-09-30	L219/22.05.2003 amending Law nr. 148/2000 on advertising	Delay: 234 Quality: F
Amendment of the Law no. 123/2001 regarding regime of aliens in Romania; p. 151. Law. 2002-12-31	L357/11.07.2003 (GEO194/02) for the approval of GEO no. 194/2002 regarding the aliens' status in Romania	Delay: 192 Quality: F
Normative act for modifying the Law no 203/1999 on working permits, p. 153. Law. 2002-12-31	L274/23.06.2003 approving GO32/03 on the modification and completion of the Law no 203/1999 on working permits	Delay: 174 Quality: F
Law for ratification of the UN Convention against trans-national organised crime, p. 160. Law. 2002-06-30	L565/16.10.2002 ratifying UN Convention against organized transnational crime, the Protocol on prevention, repression and sanction of trafficking in human beings, especially women and children, annexed to the UN Convention against organized transnational crime, and the Protocol against illegal terrestrial, air and sea trafficking of migrants, annexed to the UN Convention against organized transnational crime.	Delay: 108 Quality: F
Draft Law regarding the internal public audit, p. 175. Law. 2002-12-31	L672/19.12.2002 regarding internal public audit	Delay: 146 Quality: P
Draft Law regarding the organization and functioning of the Financial Guard p. 175. Draft. 2002-12-31	E307/02.10.2003 approving the Government's Emergency Ordinance no. 91/2003 on the organization of the Financial Guard	Delay: 275 Quality: P
Amending and supplementing the Law No. 301/2002 approving the Government Ordinance no. 119/1999 regarding the internal audit and preventive financial control in line with the strategic document on public internal financial control (Policy Paper), p. 175. Law. 2002-12-31	L84/18.03.2003 modifying and completing Government Ordinance no. 119/1999 related to the internal public audit and preventive financial control	Delay: 77 Quality: -

⁹ Volume II of the National Programme for Accession to the European Union 1999 (NPAA). Government of Romania.

¹⁰ The column includes information on the legal measure to be transposed, the related page in the NPAA, whether the measure is scheduled as a law or a draft and finally the deadline for submission to or adoption by parliament.

¹¹ The column includes the number, date and name of the adopted measures. Measures beginning with an E denote government initiatives and the date of submission to parliament, measures beginning with an L denote laws and the date of promulgation and measures beginning with PL denote non-governmental initiatives and the date of registration in parliament. GEO denotes Government Emergency Ordinance and GO denotes Government Ordinance.

¹² The column shows the number of days the legal measures are delayed and whether they are fully (F) or partially (P) in line with the Acquis.

¹³ Volume II of the National Programme for Accession to the European Union 2000 (NPAA). Government of Romania.

¹⁴ Volume II of the National Programme for Accession to the European Union 2001 (NPAA). Government of Romania.

¹⁵ Volume II of the National Programme for Accession to the European Union 2002 (NPAA). Government of Romania.

