



Sveučilište u Zagrebu

Fakultet političkih znanosti

Nikolina Herceg Kolman

**UTJECAJ DOMAĆIH AKTERA NA
EUROPEIZACIJU POLITIKE PRAVA
SEKSUALNIH MANJINA U HRVATSKOJ**

DOKTORSKI RAD

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Mentor:

izv. prof. dr. sc. Dario Čepo

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**THE IMPACT OF DOMESTIC ACTORS ON
THE EUROPEANIZATION OF LGBT*
RIGHTS POLICY IN CROATIA**

DOCTORAL DISSERTATION

Supervisor:

Assoc. Prof. Dario Čepo

Zagreb, 2026

Sažetak na hrvatskom jeziku

Cilj doktorskog rada je objasniti kako su domaći akteri u Hrvatskoj koristili mogućnosti koje je otvorio proces europeizacije da bi utjecali na politiku prava seksualnih manjina. Istraživanje kombinira postavke sociologijskog institucionalizma i teorije racionalnog izbora te koristi teorijske postavke o korištenju europske integracije (Jacquot i Woll, 2003, 2010) i koncepte socijalnog učenja i vanjskih poticaja (Schimmelfennig i Sedelmeier, 2005). Europeizacija se konceptualizira unutar višesmjernog pristupa istraživanju (Radaelli, 2000, 2003, 2004), koji kombinira *bottom-up* i *top-down* pristupe. U disertaciji su postavljene dvije hipoteze: 1. udruge za promoviranje prava seksualnih manjina mogućnosti u okviru procesa europeizacije koristile su strateški, legitimacijski i kognitivno; 2. političke stranke koje podržavaju prava seksualnih manjina mogućnosti u okviru procesa europeizacije koristile su kognitivno i legitimacijski. Strateško korištenje pretpostavlja korištenje institucija, instrumenata i financijskih resursa EU s ciljem jačanja utjecaja i sposobnosti za djelovanje u zagovaranju prava seksualnih manjina, kognitivno korištenje odnosi se na idejno povezivanje politike prava seksualnih manjina s Europom s ciljem uvjeravanja i pozicioniranja politike prema javnosti i prema drugim akterima, dok legitimacijsko korištenje obuhvaća diskurzivne reference na Europu s ciljem opravdavanja odluke o donošenju politike. Hipoteze su testirane unutar dizajna studije slučaja, metodom praćenja tijeka procesa te kvalitativnom analizom sadržaja, u dvije vremenske jedinice. Prva vremenska jedinica obuhvaćala je razdoblje pretpristupnog procesa, a druga razdoblje nakon ulaska Republike Hrvatske u Europsku uniju. Istraživanje je djelomično potvrdilo prvu hipotezu (udruge su mogućnosti u okviru europeizacije legitimacijski koristile samo u drugoj vremenskoj jedinici) te potvrdilo drugu hipotezu. Na temelju rezultata, doktorski rad postavlja tri skupine zaključaka: o načinima na koje su akteri koristili mogućnosti u okviru europeizacije da bi utjecali na politiku prava seksualnih manjina; o dugoročnim učincima korištenja na djelovanje aktera i paradigmu politike prava seksualnih manjina; o utjecaju koji je korištenje imalo na transformaciju politike prava seksualnih manjina.

Doprinos istraživanja dosadašnjoj literaturi dvojak je. Prvi je doprinos povezan s unapređenjem znanja o ovoj temi u Hrvatskoj, a drugi s teorijskim doprinosom. Naime, ovdje se radi o prvoj studiji slučaja koja istražuje utjecaj domaćih aktera na europeizaciju politike prava seksualnih manjina u Hrvatskoj od samog početka procesa europske integracije, uključujući i razdoblje nakon ulaska u Europsku uniju. Također, osim što je potvrdilo teoriju Jacquot i Woll (2003, 2010) o načinima na koje akteri koriste mogućnosti u okviru procesa

europeizacije, istraživanje je i nadogradilo njihovu tipologiju korištenja, uvodeći nevladine organizacije u kategoriju strateškog korištenja, a političke stranke u kategoriju kognitivnog. Rezultati istraživanja produbili su i prethodne spoznaje o važnosti domaće razine u kontekstu europeizacije te potvrdili da se europeizacija ne može istraživati unutar jednodimenzionalnog pristupa „utjecaj (pritisak) - reakcija - ishod”. S obzirom na navedeno, ovo je istraživanje unaprijedilo dosadašnja saznanja i okvire promatranja procesa europeizacije.

Ključne riječi: europeizacija, politika prava seksualnih manjina, Hrvatska, korištenje mogućnosti u okviru procesa europeizacije, udruge za prava seksualnih manjina, političke stranke

Summary

The European Union has limited competence in the field of human rights, with its greatest influence being exercised during the accession process. This is the time when candidate countries incorporate the *Acquis Communautaire* into domestic legislation, including regulation on human rights policy. With each round of enlargement, this influence is getting stronger as the negotiation framework gets more sophisticated. At the same time, the narrative on “European values”, in which human rights have a prominent role, is widespread and influential, and it is often taken for granted that certain standards in the protection of human rights are a direct consequence of Europeanization. LGBT* rights, as a subcategory of human rights, are most strongly linked to the EU, especially in recent times, and it is commonly considered that LGBT* rights have improved in countries that are in the process of EU accession directly as a result of Europeanization. In the process of EU accession, Croatia negotiated according to a set of rules that had not been applied during any previous rounds of enlargement. The process of EU accession, especially the introduction of Chapter 23 - Judiciary and Fundamental Rights - into the negotiating frame brought about new opportunities for domestic actors to influence policies on human rights and minority rights.

This dissertation aimed to explain how domestic actors in Croatia used these new opportunities of Europeanization to influence LGBT* rights policy. Designed as a case study with an approach combining sociological perspective and rational choice theory, the dissertation used the multi-directional concept of Europeanization by Claudio Radaelli (2000, 2003, 2004), the theory of usage of European integration by Sophie Jacquot and Cornelia Woll (2003, 2010), and concepts of social learning and external incentives to explain the above-mentioned phenomena.

The dissertation analysed actors’ interactions during the adoption process of laws affecting minority rights in two temporal units (January 3, 2000 - June 30, 2013, and July 1, 2013 - December 31, 2018) and then compared the results. Analysis included interactions during the process of adopting the following acts: Same Sex Unions Act (2003), Registered Partnership Bill (2006), the Criminal Code Amendment Act (2006), Anti-Discrimination Act (2008), Criminal Code (2011), Same-sex Life Partnership Act (2014), and Foster Care Act (2018). In addition to the aforementioned acts, in the second temporal unit, the utilisation of opportunities within the Europeanization framework was also analysed during the campaign for the

referendum proposing the constitutional definition of marriage as a union between a man and a woman (2013).

Actors whose activities were analysed included LGBT* organisations (Kontra, Iskorak, Zagreb Pride, LORI, Dugine obitelji) and political parties supporting those rights (SDP, HNS, ORaH, GLAS, and to a lesser extent LIBRA, LS and HSLS). As an exception to the criterion for sampling political parties, analysis included right-wing HDZ, as a relevant actor for adoption of Anti-Discrimination Act (2008), Criminal Code (2006, 2011) and Foster Care Act (2018).

Based on the theoretical postulates of Jacquot and Woll (2003) on the usage of the European integration process, two theses were set within this research: 1. LGBT* organisations used the opportunities within the Europeanization process strategically, cognitively and as legitimation; 2. Political parties that supported LGBT* rights used the opportunities within the Europeanization process cognitively and as legitimation. The hypotheses were tested by using the method of qualitative content analysis. The method combined the strategy of a theory-based coding frame for three main categories, while sub-categories within each main category were formed by combining theory and research material. Within the coding frame, three main categories were analysed: strategic, cognitive and usage as legitimation. Within each main category, research material was analysed through two additional sub-categories.

The introductory chapters outline the development of LGBT* rights policy in the EU with a brief overview of LGBT* rights in Croatia from 1990 to 2000. The main part of the research is divided into two time periods: the period from January 3, 2000 to June 30, 2013, and the period from July 1 2013 until December 31 2018. Within every temporal unit, first I described the process of adopting the laws included in the research, and then I analysed how actors used the opportunities within the Europeanization process in a comparative perspective. The final chapters of the dissertation discuss long-term implications of usage on actors' positioning, cognitive frame, and scope and direction of Europeanization of LGBT* policy.

The dissertation partially confirmed the first hypothesis, which claims that LGBT* organisations used the opportunities within the Europeanisation process strategically, cognitively and as legitimation, because they used opportunities as legitimation only in the second temporal unit. During the first phase of the LGBT* rights policy development, from 2002 to 2005, organisations very rarely used the opportunities within the Europeanization process strategically, similar to the period after Croatia joined the EU. This supports the thesis that strategic use was in direct relation to the accession negotiations, when EU actors were

most present in the context of both human rights in general and LGBT* rights specifically. On the other hand, they used financial opportunities in both temporal units.

Cognitive positioning of policy in terms of European values and standards was used by LGBT* organisations continuously, during both time periods and during enactment procedures of all laws included in the research, albeit more intensively in the period before EU membership. LGBT* organisations used opportunities within European mechanism as legitimation very rarely when they were in the position of „informal” policymakers. The results of the research confirmed the second hypothesis, which claims that political parties used the opportunities within the Europeanization process cognitively and as legitimation. Political parties mostly used the opportunities as legitimation, which can be explained by the fact that they spoke on LGBT* rights primarily while defending the policy of their government during debates in the Croatian Parliament. The research demonstrated that political parties also positioned LGBT* policy cognitively and used European references as legitimation even more after Croatia joined the EU. The political parties, furthermore, positioned LGBT* policy cognitively in terms of European values and standards and defended it using European references almost exclusively within the sphere of family policy.

European actors gained relevance in the context of LGBT* rights policy during the period of the accession negotiations for EU membership. However, that was the case only in the later phases, after the Croatia Progress Report for 2009 explicitly mentioned LGBT* rights. During this period two very important laws for LGBT* rights were enacted. The first was the Anti-Discrimination Act, which explicitly prohibited discrimination based on sexual orientation, and the second were amendments to the Criminal Code in 2006, followed by the new Criminal Code in 2011, which first introduced the category of hate crimes and then tightened the sanctioning of these crimes. The Anti-Discrimination Act (2008) and Criminal Code of 2011 were both required conditions in the process of the EU accession of Croatia. But even in those two cases the influence of the EU was limited at best when LGBT* rights were concerned. In both cases, LGBT* organisations played the key role in regard to sanctioning discrimination and hate crimes based on sexual orientation and gender expression. The LGBT* organisations succeeded in lobbying for the first amendments to the Criminal Code with domestic political actors, and the new Criminal Code (2011) also included their proposals from the public consultation process. The LGBT* organisations succeeded in including gender expression into the Anti-Discrimination Act, which was not specifically a condition for Croatian EU accession. Although these laws were enacted as part of the EU accession and harmonisation with the

Acquis Communautaire, the LGBT* organisations, nevertheless, managed to build their own proposals into them, which often exceeded conditions from the accession negotiations. This finding points towards the dominant role of domestic actors in the process of Europeanization of the LGBT* rights policy, even during the period in which the role and importance of the EU was most prominent.

In the period after the EU accession, EU actors were completely absent from LGBT* rights policy, and all the laws (including the constitutional definition of marriage as a union between a man and a woman) were enacted as a result of the interactions of domestic actors. In spite of that, domestic actors continued to use mechanisms of Europeanization cognitively and as legitimation for policy in the field of LGBT* rights, which supports the thesis that there was a shift in the logic of their behaviour and that LGBT* rights started to be perceived as part of European values and standards, independently of strategic gains. In other words, Europe became a cognitive frame for LGBT* rights policy. Based on the results of the research, I offer two groups of conclusions. The first group refers to the research question on how domestic actors used opportunities within the Europeanisation process, and the second group refers to conclusions that have wider implications on the development of LGBT* policy.

The results of the research point to several conclusions on the types of usage of opportunities within the Europeanization mechanism. In relation to temporal unit: 1.) LGBT* organisations used lobbying strategically mostly in the first temporal unit. Considering that the first temporal unit included period of Croatian accession to the European Union, this finding was to be expected. Indeed, LGBT* organisation lobbied with the European actors most intensively during the period of the accession negotiations. An interesting finding is that the LGBT* organisations, nevertheless, attempted to lobby with European actors even after Croatia became a member of the EU, during the campaign for the referendum on the constitutional definition of marriage as a union of a woman and a man; 2.) LGBT* organisations used financial resources in both temporal units. Financial resources from European countries were used early on in the process and also most consistently throughout the researched period, while financing from EU funds started after the opening of negotiation talks; 3.) LGBT* organisations positioned the LGBT* policy in terms of European values and standards more prominently in the second temporal unit; 4.) LGBT* organisations used European references as legitimation of LGBT* policy only in the second temporal unit. Considering that LGBT* organisations do not appear in a policy process typically as actors who propose bills for adoption in the Parliament, this finding was to be expected; 5.) Political parties positioned LGBT* policy in

terms of European values and standards predominantly in the second temporal unit. This finding points to the conclusion that political parties positioned LGBT* policy in those terms, not just as a means of framing policy to gain support, but more cognitively, i.e., because they interpreted that policy as European value and standard; 6.) Political parties defended LGBT* policy using European references more often in the second temporal unit. The most extensive justification of LGBT* policy by political parties was displayed during the adoption of the Act on Same-Sex Partnership in 2014, when Croatia had already acceded to the EU.

Overall conclusions on the usage can be summarised as follows: 1.) LGBT* organisations used opportunities within the Europeanisation process strategically, cognitively and as legitimation; 2.) political parties used opportunities within the Europeanisation process cognitively and as legitimation; 3.) LGBT* organisations used opportunities within Europeanization process predominantly strategically, while political parties used opportunities within Europeanization process predominantly as legitimation.

The dissertation also offers several broader conclusions, based on the findings on usage and research of the process of Europeanization within a multidirectional concept. In the long-term, usage of Europe shaped the conception of new paradigm for the LGBT* rights policy. The results of the research on different types of usage of Europe point to the conclusion that long-term strategic and cognitive usage led to a new paradigm for the LGBT* rights policy. Strategic usage influenced the social-organisational component of the paradigm, while cognitive usage had impact on changes in the cognitive-normative component (Carson, Burns & Calvo, 2009). Usage of Europe influenced the transformation of the LGBT* rights policy. Usage of Europe influenced the transformation of LGBT* right policy twofold: by influencing the conception of the new policy paradigm, as mentioned previously, and, more directly, by influencing the content of policy.

The research was not focused on determining causal relations in the process of LGBT* rights Europeanization, but rather on answering how domestic actors used the opportunities opened by the process of Europeanization to influence LGBT* rights policy. However, the research was conceptually based on a multi-directional approach to Europeanization, within which the usage was analysed through time sequences and key events, mostly the process of adopting laws that influenced LGBT* rights policy. Based on this concept and findings from the analysis of the usage of opportunities within the Europeanization process, relevant conclusions can be derived on the actors' role in the process of Europeanization of LGBT* rights policy.

Direct influence is most obvious in the case of the Anti-Discrimination Act, which was part of the conditions Croatia had to meet in the process of EU accession. LGBT* organisations influenced both the absorption of EU rules (discrimination on the grounds of sexual orientation) and the transformation of LGBT* rights policy in that process by managing to include discrimination on the grounds of gender identity and expression into the anti-discrimination legislation, which was not a condition set by the EU. This finding supports the claim that domestic actors did not just appear as mediators in the absorption of EU policy but have also influenced the Europeanization of LGBT* policy bottom-up. This dissertation, therefore, claims that the process of European integration created a favourable context for actors advocating LGBT* rights and that those actors, in turn, influenced the direction and scope of the Europeanization of LGBT* rights policy by using the opportunities within this favourable context. The process of European integration, therefore, served as a window of opportunity for LGBT* rights policy (Kingdon, 2011).

The third conclusion refers to the role of political parties. The research showed that political parties supporting LGBT* rights as a part of their value system and political agenda are an important factor for the development of LGBT* rights' policy. All parties that supported LGBT* rights demonstrated strong EU identity, and this could be one possible explanation for their positive view on this issue. However, the parties that were part of governments proposing the laws on LGBT* rights (SDP and HNS, predominantly) considered those rights a part of their political agenda, regardless of the EU accession process. This fact, and the interaction between these political parties and LGBT* organisation, was a crucial factor for adopting those laws. Although all the political parties analysed simultaneously expressed commitment to Croatia's European integration, their positive stance toward LGBT* rights during this process cannot be reduced to their European identity. The research showed that the activity of political parties which advocated LGBT* rights policy can be additionally explained by the model of social learning, while the activity of HDZ is best explained by the model of external incentives (Schimmelfennig & Sedelmeier, 2005).

These results may be relevant for the research on the Europeanization of LGBT* rights in other countries pursuing the EU accession. The research of the usage of opportunities within the Europeanization mechanism might also be extended, in Croatia and countries in the process of the EU accession, to other policy in which EU has limited competency, especially those within the scope of human rights.

However, an important caveat for abovementioned suggestions. The research was designed as a case study, which means it has limited external validity and the conclusions it offers are relevant for the case of Europeanization of LGBT* rights in Croatia. To allow for more viable generalizations, the results of this research should be tested in a comparative study.

The foremost contribution of the research to the existing literature is the fact that it is the first systematic case study of the Europeanization of LGBT* policy in Croatia, which includes both the period before and after Croatia became the member of the European Union. The research has confirmed the theory of Jacquot and Woll (2003) and broadened their typology of usage, by including NGOs in strategic usage and political parties in the category of cognitive usage.

Finally, the research deepened the understanding of the mechanisms of Europeanization and pointed to the significance of the domestic level within a multidirectional approach that views Europeanization as a process. By focusing on domestic actors, the research showed that their actions - as well as their mutual interactions and interactions with European actors - had a significant impact on the process of the Europeanization of LGBT* rights policy. This impact relates both to the shaping of policy content within the process of Europeanization and to the cognitive component, in the sense of policy paradigm. Moreover, the influence of domestic actors was decisive even in the context of direct pressure from the European Union level. The results of the research thus pointed to and confirmed previous findings that Europeanization cannot be studied within a one-dimensional “influence (pressure) - reaction - outcome” approach. Even in the presence of direct influence and pressure from the European Union level, the domestic level is key to explaining the process of Europeanization.

Key words: Europeanization, LGBT* rights policy, Croatia, usage of opportunities within the Europeanization mechanism, LGBT* organisations, political parties