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# **Romania**

## **2005 Comprehensive Monitoring Report**

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## EXECUTIVE SUMMARY

Romania, in light of its geopolitical situation in Europe and with its 22 million inhabitants, plays the role of an interface between the European Union (EU) and the Balkans as well as Black Sea regions. After the fall of the Berlin wall and the emergence of a democratic regime, Romania very soon established in 1990 diplomatic relations with the EU. The same year, Romania signed a Trade and Co-operation Agreement with it. In 1993, a far-reaching Association Agreement called "Europe Agreement" which already recognised Romania's goal of becoming a member of the EU. This agreement, which created a free trade zone between Romania and the Member States, was already part of the strategy of the EU to prepare Romania for accession, which also included substantial financial and technical assistance.

In 1993 in Copenhagen, the Member States decided that associated countries in Central and Eastern Europe that so desired could become Members of the Europe Union once they met the necessary economic and political conditions. This led Romania to submit, in 1995, its application for membership and accession negotiations were opened in February 2000 together with Bulgaria and with other countries which joined the Union in 2004. This is why Romania is part of the fifth enlargement process that successfully brought ten countries into the EU in May 2004. Romania's accession process contributes to secure democracy, stability and economic development in Europe. This is in line with the fundamental aims of the European project to make Europe a haven of peace and prosperity and to overcome the divisions of the past.

Accession negotiations were closed in 2004 with the objective of welcoming Romania as a Member State in January 2007. The Accession treaty was signed by the 25 Member States and Romania and Bulgaria in April 2005. The ratification process by the Member States is on-going. Romania has already ratified it.

The Commission, as guardian of the Treaties, is now monitoring Romania's preparations for accession in order to ensure that this country can meet all duties and requirements of a full-fledged Member State by accession, in the interest of both current Member States and Romania. This Comprehensive Monitoring Report presents the results of the Commission's assessment on Romania's preparations for accession. It covers the political and economic reforms undertaken by Romania to meet EU requirements as well as its implementation of the EU legal order which is to be respected by each and every Member State, the so-called *acquis communautaire*. The Report assesses the situation up to the end of September 2005.

The findings of this Report can be summarized as follows:

As regards the political requirements for membership, Romania continues to meet them. Romania has taken decisive steps to further reform the judiciary system towards more independence and to improve the situation on media freedom, property restitution, minorities and child protection. However, a number of shortcomings still exist: significant efforts are needed to pursue the reform of public administration, effectively implement the reform of the justice system and ensure effective enforcement of the fight against corruption, including high level corruption. In the area of human rights and the protection of minorities, further efforts are needed in particular to improve the situation of disabled and mentally ill people.

Concerning the economic requirements for membership, Romania continues to comply with the criterion of being a functioning market economy. Vigorously implementing its structural

reform programme should enable it to cope with competitive pressure and market forces within the Union. Romania has broadly maintained macroeconomic stability, even though the policy has widened macroeconomic imbalances. Furthermore, the legal and administrative business environment, including enforcement of decisions on bankruptcy, still requires improvement.

Romania has made very significant progress in aligning its legislation with the EU legal order. Romania should be able to assume the obligations of membership at the envisaged date of accession, provided that it accelerates its efforts to that end in a number of areas and that it focuses on strengthening its overall administrative capacity. The Report identifies three stages of preparations for accession:

- First, areas where Romania is ready or where preparations are ongoing and which should be resolved by accession if the current pace of preparations is maintained. These include for example transport, the anti-trust enforcement record or the mutual recognition of professional qualifications in the area of free movement of persons, which is one of the fundamental freedoms the Union guarantees.
- Secondly, areas where increased efforts are needed; here the Romanian authorities are encouraged to better target their reform efforts to harmonize with EU requirements in the period leading up to accession. This includes the need to attain a satisfactory enforcement record on state aid control building on the good progress recently made; the implementation of customs rules, or the need to ensure proper financial control.
- Finally, a number of areas of serious concern requiring immediate action from Romania so that it may reap the benefit from EU accession but also in order to preserve the balance of the Union. These areas include the structures and mechanisms for participation in European structural funds. They also include the control of industrial pollution, the fight against corruption and the need to ensure a high level of food safety, in the interest of both citizens of current Member States and Romania. The Romanian authorities are strongly encouraged to spare no efforts to remedy the existing gaps without further delay.

The exact conclusions of the Report can be found in sections B.3, C.3 and D.3.

The Commission is supporting Romania financially in its preparations for accession and will focus on measures to tackle the shortcomings identified in the Report. The total volume of pre-accession assistance available to Romania is substantial. The EU budget for Romania is EUR 1 155 million in 2006. It will be used for the pre-accession programs.

The Accession Treaty envisages the accession of Romania on 1 January 2007. It includes a number of provisions under which the Union may take action to prevent serious breaches of the functioning of the internal market or to deal with shortcomings in the field of cooperation in civil and criminal matters caused by Romania. Other safeguards exist in the EU legal order. If there is clear evidence that the state of preparations for adoption and implementation of the legal order Romania is such that there is a serious risk of Romania being manifestly unprepared to meet the requirements of membership in a number of important areas or eleven issues in the area of Justice and Home Affairs and Competition, then accession of Romania may be postponed by one year.

The Commission will continue to monitor Romania's preparations and to encourage the country in its reform path in the period leading up to accession in order to ensure a smooth integration of this country in the EU.

## A. INTRODUCTION

The accession negotiations with Romania were successfully concluded on 14 December 2004. After the Commission's favourable opinion, the European Parliament's assent and the Council decision on the admission of Romania, the Accession Treaty was signed on 25 April 2005. The ratification process by all 25 Member States, is underway. Romania ratified the Treaty in May 2005. The Treaty envisages accession on 1 January 2007.

In the 2004 Strategy Paper on progress in the enlargement process, the Commission stated it would continue to closely monitor Romania's preparations for membership. This monitoring, which has intensified after the closure of negotiations, will continue until accession.

In December 2004, the European Council concluded on Romania that the European Union will continue to monitor closely Romania's preparations and achievements, including the effective implementation of the commitments undertaken in all areas of the *acquis*, and in particular in the areas of Justice and Home Affairs, Competition and Environment. To this end the Commission will continue to submit annual reports on Romania's progress towards accession, together with recommendations if appropriate.

This report assesses Romania's preparations for membership. It identifies the remaining gaps in policies, legislation and its implementation and identifies the steps to be taken. The report contains three main parts.

- The *first part* briefly describes political developments and assesses the state of affairs as regards the political issues which were identified as in need of further improvement in the 2004 report.
- The *second part* briefly describes economic developments and assesses the economic issues which were identified as in need of further improvements in the 2004 report.
- The *third part* gives an overview of where Romania stands in implementing all commitments and requirements arising from the accession negotiations for each *acquis* chapter, both in terms of legislation and implementation. In Annex 1 an appreciation is given of the specific commitments undertaken and requirements accepted by Romania at the conclusion of the accession negotiations on 14 December 2004 in the field of competition policy.

This report reflects the situation as of 30 September 2005.

Numerous sources of information have been used to compile this report. Romania was invited to provide information on its state of preparedness. The Report also draws on information provided by Romania within the framework of the Association Agreement and the accession negotiations, as well as on peer reviews that have taken place to assess its administrative capacity in specific areas. Council deliberations and European Parliament reports<sup>1</sup> and resolutions have been taken into account in drafting it. Where relevant, the Commission has also drawn on assessments made by various international organisations, the international financial institutions, and by non-governmental organisations.

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<sup>1</sup> The European Parliament rapporteur for Romania is Mr Pierre Moscovici.

## **B. POLITICAL CRITERIA**

The 2004 Report confirmed the conclusions of previous reports noted that Romania fulfilled the political criteria. However, the following areas were identified in the conclusions of the 2004 Report as requiring further improvements: public administration reform (all aspects, in particular local and regional administration, civil service reform, decentralisation, policy coordination, the parliamentary process, freedom of information, and transparency); justice reform (including management of court cases and quality of judgements); anti-corruption measures; trafficking in human beings; ill-treatment in custody and prison conditions; freedom of expression; child protection; property restitution; disabled and mentally ill people; protection of minorities and integration of the Roma minority.

The principal purpose of this chapter is to assess the state of play on the issues identified last year as requiring further improvements.

### **1. Political developments**

2004 was an electoral year in Romania: following the Parliamentary elections of November 2004, the PD/PNL Alliance leader, Traian Băsescu, won the second round of the presidential elections of December 2004 with 51% of the votes. He announced that Romania's accession to the EU and the fight against corruption were his main priorities. The elections were observed by the OSCE Office for Democratic Institutions and Human Rights, which noted that, overall, they appeared to be run in an efficient and professional manner, although there was some concern over possible multiple voting in the November polls.

Subsequently, the PNL (National Liberal Party) leader, Călin Pospescu Tăriceanu, was nominated as Prime Minister and the new coalition Government was approved by the Parliament by 265 votes to 200 in December 2004. The governing coalition comprises four parties (PNL, PD, UDMR and PUR) and the political distribution of cabinet posts is as follows: the PNL provides the Prime Minister and eight ministers, the PD (Democratic Party) one Minister of State and seven ministers, the PUR (Humanist Party of Romania) one Minister of State and two ministers, and the UDMR (Hungarian Democratic Union of Romania) one Minister of State and three ministers. The Government was reshuffled on 22 August with a view to speeding up Romania's preparations for accession: four ministers - two from each Alliance party - holding the portfolios of coordination of economic activities, finance, European integration and health respectively were dismissed. The responsibility of Ministers of State is to coordinate other ministries in the fields of economics, culture, education, SMEs and European integration. Relations within the coalition are subject to a Governmental Coalition Protocol which provides the framework for legislative and governmental stability as it contains provisions related to the method of decision-making. Preparations of the government's agenda have improved but internal coherence should be further strengthened and accompanied by a clear political drive.

### **2. Implementation of recommendations for improvements**

#### *Public administration*

The new government formed following the November 2004 elections has adopted a number of measures intended to improve **policy-making and co-ordination**. In January 2005, the Law on the Methodology for the Preparation of Normative Acts was amended, making it compulsory for all Ministries to associate the Ministry of Justice (and all other Ministries

concerned by a text) from the very beginning of the process. This has resulted in better co-operation between Ministries, helped by a decrease in the number of inter-ministerial committees.

The quality of legislation needs to be improved. Political advisors, rather than professional civil servants, usually develop legislation, policies, strategies and administrative action plans. Proposed legislation is often sent to Parliament without taking into account the economic implications, compliance possibilities, or the public administration's capacity to enforce it. Impact assessment, in general, is weak; consultation with stakeholders, whilst improving, needs to be made more systematic. Nevertheless, particular importance is given to the political leadership of the European integration process, under the direct supervision of the Prime Minister, with specific structures in place for co-ordinating these activities and delivering on commitments made during the preparations for accession. These structures will need to be improved in preparation for a new context after accession.

Increased emphasis is being given to the implementation of legislative acts once they have been adopted. This is important, although the norms for implementing legislation are not always published. In practice this tends to provide civil servants and public servants with the power to interpret regulations as they see fit, in particular concerning legal requirements and administrative procedures for licenses and permits as well as in the area of taxation, creating greater opportunity for bribery and corruption.

As a consequence of an increased emphasis on implementation, there is a slowdown in the legislative process. Nevertheless, the recourse to "emergency ordinances" is still high: 119 during the period January to mid-August 2005. There are mitigating circumstances for this exceptionally high figure (which compares with 142 during the whole of 2004), relating mainly to the particular political circumstances in Romania since the new government was sworn in. However, the recourse to emergency ordinances has continued the tendency of strengthening the power of government to the detriment of the Parliament and to reducing the transparency of the law-making process.

The division of labour between the various players (Chancellery of the Prime Minister, General Secretariat of the Government, Public Policy Unit) responsible for policy co-ordination continues to be unclear, despite attempts to establish which body does what. The Chancellery undertakes a role that goes beyond mere oversight and co-ordination and enters into the realm of policy-making.

Whilst there is a clear determination on the part of the Government to speed up the process of **decentralisation** (as suggested by some important legislative initiatives), there is still a lack of clarity as concerns the allocation of responsibilities and financial resources between the various levels of government.

Strengthening local autonomy and developing administrative and financial decentralisation are stated government policy aims, as laid down in a July 2004 Framework Law on decentralisation and continued by the new government. The process of transferring powers to lower levels is far from finalised: the competencies of different levels of government have not been adequately clarified and have not been matched with corresponding transfers of property and fiscal resources or, at local level, decision-making rights. Local financial autonomy is limited by local government's inadequate capacity to generate its own revenues, and local authorities are unable to manage their employees as they have to count on the authorisation from central government to recruit or to promote public servants or to increase



salaries. The law on decentralisation, on prefects and on local finances is being revised. The draft revised laws will be open for public debates before being presented to the Parliament.

There has been little progress with regard to the concept, pace of implementation and effectiveness of the **reform of the civil service**. There is still a lack of coherence and clarity in the activities of major players. The slow pace of reform is mainly generated by a lack of real political commitment, determination and support beyond the declarations of support for the concept of the reform of public service. Limited progress can be observed, in practice, with regard to the reform of civil service, including with regard to remuneration or its ability to prevent and resist corruption.

In February 2005, the Government adopted an Emergency Ordinance regarding the creation of a civil servant with a special status, the public manager, who is expected to provide support as regard reform policies. A Government Ordinance adopted in February on the organisation of the cabinet of officials in the central public administration redefined the categories of high-level officials as public dignitaries.

The basic principles of the February 2004 Code of Ethics for Civil Servants (priority of the public interest over personal or private ones and loyalty to the public authority, professionalism, openness and transparency in all public activities), while excellent, are not fully observed, and monitoring of their implementation remains weak. In spite of legal improvements, and provisions of the public administration strategy on the separation of political and administrative roles, on open recruitment, on occupational development and on increased mobility, the civil service has some way to go before it can be described as apolitical and professional.

In April 2005 a Law on the salaries, pay scales and other rights of civil servants for 2005 was adopted. It approved (with minor changes) the temporary measures enforced at the end of November 2004 to increase the salaries of civil servants. According to new methodological norms, which entered into force in September 2005, across the country some 600 experts directly involved in the administration of European funds were to be granted a 75% wage increase in order to ensure stability, appropriate administrative capacity and adequate motivation for personnel dealing with European funds. Furthermore, in the context of on-going negotiations with the IMF, a budgetary revision at the end of June 2005 froze the budget of all public authorities. In some cases, this even resulted in a reduction of the credit lines for salaries. Plans to establish a unitary pay system have not progressed beyond establishing an Inter-ministerial Commission on the subject. Entry-level salaries are still low, so university graduates entering the civil service tend to leave the administration after gaining a measure of experience and professional knowledge.

No progress can be noted as concerns career structure, promotion and assessment procedures: while procedures, guides and legislation do exist, there is still a lack of clarity and transparency regarding safeguards for reducing the discretionary nature of the entire process and it remains an area of concern. Civil servants' mobility remains an unresolved issue: there is little mobility across institutions and across levels of government.

There is a lack of clarity and understanding about the responsibility of the Government on public employment as a whole, not just on salaries. The National Agency of Civil Servants still has limited powers to manage properly the human resources of the public service and the National Institute of Administration needs further strengthening. However, in April 2005 the Government approved an updated strategy regarding the institutional Reform of the Ministry

of Administration and Interior for 2005-2006, and co-ordination has improved between the Central Unit for Public Administration Reform, the National Agency for Civil Servants and the National Institute of Administration.

The main provider of continuous training for civil servants remains the National Institute of Administration. The Institute attempts to co-ordinate its training activities for civil servants with a number of other bodies, such as the School of Public Finances and the European Institute of Romania. However, there is, in practice, little linkage, planning or co-ordination between training providers (institutions or consultants working under donor programmes) and Romanian beneficiaries, leading on occasion to duplication or overlap of activities.

### *Justice system*

In March 2005 the new Government adopted an ambitious revised Strategy and Action Plan 2005-2007 to reform the justice system. These documents represent a significant step forward in the plans to create an independent, professional and effective justice system and now need to be internalised by the relevant actors. The Action Plan is being implemented according to schedule, with comprehensive monitoring mechanisms consisting of an inter-institutional commission co-ordinated by the Ministry of Justice and a series of working groups within the Superior Council of the Magistracy. The full and effective implementation of the Action Plan should continue without delay. The availability of financial and human resources and comprehensive training as well as accurate and standardised management statistics will largely determine the success of this operation.

Following consultation with stakeholders a revision of the so-called three-law package on justice reform (Laws on the Superior Council of the Magistracy, on the Organisation of the Judiciary and on the Statute of Magistrates) was submitted by the Government to Parliament in June 2005 and adopted after a vote of confidence. In early July the Constitutional Court issued a majority ruling that 4 articles were unconstitutional. These articles were subsequently revised and the package was promulgated in mid-July. The package contains many positive elements, and the legal framework now offers sufficient guarantees for magistrates' personal and institutional independence. It also seeks to put individual and managerial accountability and responsibility at the centre of the system. Whenever management positions in courts and prosecutors' offices become vacant in the future, competitive examinations will be held to fill them. The General Prosecutors and the General Prosecutor of the National Anti-Corruption Prosecution Office (PNA) will become personally responsible for the results of their institutions, and after the Superior Council has issued an advisory opinion the Minister of Justice can dismiss either of them should their performance as measured against clear and objective criteria become unsatisfactory. This provision was subsequently applied to the PNA senior management as well as parts of the General Prosecutor's Office and will also cover the new National Anti-Corruption Directorate.

The plan to re-introduce the principle of collegiality in first instance cases was abandoned and the plan to establish specialised courts was also significantly scaled back. The specialisation needed within the justice system will now be provided by expanding the existing specialised court sections and panels so that knowledge of child and family issues, labour and social welfare, commercial, administrative and tax issues is available at every level of jurisdiction. The system of youth courts is also being expanded as scheduled and it is now planned to establish youth tribunals and specialised youth sections in courts of appeal.

In order to ensure coherence with the Criminal Procedure Code being drafted currently it is now planned for the Criminal Code adopted in June 2004 to enter into force in September 2006. In December 2004 the General Prosecutor lost the power to launch extraordinary appeals in criminal matters, thus bringing additional legal certainty to the justice system.

The system for the random allocation of cases to judges has been implemented successfully and in accordance with the stated deadline. The leading boards within a court and not court presidents will now decide on the basis of well defined criteria which panel and section a judge will sit on. The law states that Chief Prosecutors can only allocate cases to prosecutors on the basis of clear and objective criteria such as workload and specialisation and can no longer intervene in the activity of prosecutors subordinated to them. A new survey of magistrates' independence was conducted in September 2005 by a non-governmental organisation.

The Superior Council of the Magistracy (CSM) is now the sole body responsible for magistrates' careers and the practical organisation of the courts and prosecution offices. The magistrate members of the CSM were elected in December 2004 for non-renewable 6-year mandates and in February 2005 the formal transfer of powers from the Ministry of Justice was completed. The CSM secretariat has continued to strengthen its administrative capacity: 130 of the 139 administrative posts and 21 out of 23 management posts have now been filled. Further training and the accumulation of practical experience will be required for the CSM to be able to perform all of its important responsibilities effectively. Budgetary powers for the court system remain with the Ministry of Justice but it is proposed to transfer these to the High Court of Cassation and Justice in 2008. Given the CSM's responsibility for safeguarding judicial independence and the importance of financial independence, combined with the fact that the High Court is a working court with a heavy workload, it would seem a logical solution for budgetary powers to be transferred to the CSM in due time. In 2005 the operating budget for the justice system increased by about 45% to €443.5m. The CSM moved to larger temporary accommodation in September 2005. It is essential that the CSM continues to play a full and constructive role now and in the future with the Ministry and other stakeholders in implementing the Strategy so that the ambitious reforms can be implemented on schedule. The revised three-law package makes it possible for all elected CSM positions to be full-time ones. Elected members with dual mandates must now decide if it is in the best interest of the magistrates they represent to perform their crucial duties in the CSM only on a part-time basis. If dual mandates as court presidents or heads of prosecutor's offices are kept it may not only be detrimental to the quality of the CSM's work but it is also possible that conflict of interests will arise, especially in disciplinary matters.

Efforts to reduce the number of pending cases at the High Court of Cassation and Justice have continued. The High Court no longer has to rule on second appeals on judicial distribution of assets and family matters. Following legal amendments which made courts other than the High Court competent in almost 10 000 cases, the total backlog of pending cases at the High Court in September 2005 stood at 8569, down from over 15 000 at the beginning of 2005.

The human resources situation in the justice system has shown some improvement, but the workload remains very high. Competitive examinations aimed at filling the vacancies for magistrates have not been very successful, though contests held in May and August 2005 have resulted in economic managers being recruited in 56 courts. There are currently 439 vacancies for judges, 588 for prosecutors and 326 for court clerks. The Government's Action Plan proposes a range of measures to reduce workloads and solutions involving better use of

auxiliary staff such as clerks would dramatically reduce the administrative burden on magistrates. Further improved access by judges to court jurisprudence and new legislation in the Official Gazette would also improve the quality of judgements.

Poorly justified adjournments for reasons such as non-attendance by lawyers of one of the parties remain a major cause of the delays in obtaining court judgements. Revisions to the Civil Procedure Code were introduced in June 2005 and amendments to the Criminal Procedure Code were approved by the government in September 2005. They now need to be implemented to try and make the lengthy and cumbersome court proceedings more effective. The problem is particularly acute in civil and commercial cases, thus limiting the emergence of a stable and predictable business climate. The proportion of first and second instance judgements that are successfully overturned on appeal remains about 30% in the case of Tribunals and 20% in the case of Courts of Appeal.

The general material conditions in courts have only improved slowly as the past prioritisation of resources did not follow clear criteria based on objective need. There has been some improvement in the level of IT equipment but the national networking of courts and prosecutors' offices has still not been achieved and regular access by magistrates to computers remains limited. Magistrates' salaries have not increased besides the 3% index linked increase all civil servants received in January, but the introduction of the 16% flat rate income tax has meant a significant increase in real terms given their already relatively high level compared to the rest of the public administration.

No progress can be reported as regards the enforcement of judgments in civil cases, though an evaluation of bailiffs' activities was completed in October 2005 and will serve as the basis for legislation that will reduce the length and complexity of enforcement proceedings. The Strategy also covers the effective implementation of the legal aid system, an important issue as in many cases lawyers are not paid.

In March 2005 the Superior Council confirmed the appointment of the reform-orientated management team of the National Institute of the Magistracy for a 3-year period. A new supervisory board of the National Institute was established at the end of 2004 and significant numbers of tutors and trainers have been recruited. The initial training curriculum, teaching methods and distribution of materials have all been improved, which has enhanced knowledge of subjects relevant to accession such as EU law, human rights, and judicial co-operation. Some challenges remain in the area of continuous training for serving magistrates, particularly as regards financial and tax crime. The premises of the National Institute have been extended. Positive progress has also been seen in the National School of Clerks and, given the increased need for well-trained court clerks to lessen the administrative burden on judges, this institution should continue to be strengthened as a matter of priority. The 2005 budgets for the National Institute and the National School are €3.1m and €840,000 respectively and neither has all of the resources needed to fulfil their mandate, meaning they remain overly dependent on international funding.

In March and April 2005 the Director and all three Deputy Directors of the Directorate-General for Protection and Anti-Corruption (DGPA) were dismissed following the discovery of activities incompatible with the institution's legal base. A new Director was appointed in April 2005 and there is now considerably more openness and transparency about the DGPA. There are no new reports of DGPA acting outside the prison system, where it has a legal mandate to ensure public safety. Given the abuses that continued until March

2005, questions remain about the rationale for the existence of a partly militarised security service within the Ministry of Justice.

### *Anti-corruption measures*

Surveys and assessments conducted by both national and international organisations confirm that corruption remains a serious and widespread problem that affects many aspects of society. The impact to date of Romania's fight against corruption has been limited, there has been no significant reduction in perceived levels of corruption and the number of successful prosecutions remains low, particularly for high-level political corruption. Nevertheless, there has been an increase in the political will to tackle corruption and several steps were taken that could have a positive impact if implemented fully.

The new Government declared the fight against corruption would be one of its highest priorities together with the preparations for EU accession, and even described corruption as a threat to national security. In January 2005 an international non-governmental organisation was contracted to audit the results of the old National Anti-Corruption Strategy 2001-2004. This report was published in March and its recommendations were reflected in the new Strategy and Action Plan 2005-2007. These new documents are clear, well structured and operationally focused with deadlines, benchmarks, guaranteed budgetary resources and clear institutional responsibilities for the various activities. The Strategy and Action Plan proposes new legislation and administrative actions to enhance the capacity of the responsible authorities and to clarify the existing legal framework. This would make a positive contribution to overall anti-corruption policy if implemented fully. In April 2005 a high-level inter-Ministerial Council was established to monitor the implementation of the strategy. In addition sector action plans have been developed in those institutions particularly at risk from corruption such as the police, the National Customs Authority and the Financial Guard.

Nevertheless, it is widely acknowledged that Romania's legislation already broadly complies with the relevant EU *acquis* and that what is urgently required is to implement the existing legislation more rigorously rather than proposing new laws. The Action Plan also focuses heavily on corruption within the judiciary, an institution that must have a central role in fighting corruption but in which integrity problems continue to be reported and which suffers from low public confidence. A number of measures designed to fight high-level corruption entered into force, including the removal of the *de facto* immunity of former Ministers in April 2005 and the adoption of new templates for wealth declarations in May 2005. These declarations will be accessible to the public, though an effective mechanism for overseeing this process remains to be established. There has not yet been any progress on making the financing of political parties more transparent. Additional efforts are also required to address the problem of weak inter-institutional co-operation in fighting corruption and the proliferation of structures with overlapping competences, which remains a major obstacle to effective and timely investigations.

In March 2005 the competences of the National Anti-Corruption Prosecution Office (PNA) were redefined so as to restrict the range of individuals that can be investigated and raise the financial threshold. In May the Constitutional Court issued a majority ruling that only the General Prosecutor can investigate Members of Parliament. As a result the 8 PNA files dealing with Senators and Deputies were passed to the General Prosecutor's Office. The PNA received further staff increases (28 prosecutors, 35 judiciary police officers, 6 experts and 24 support staff) and its equipment and training programme were also improved.

The PNA's April 2005 activity report shows a significant increase in the number of cases dealt with. Some successful prosecutions are occurring against low-to-medium ranking public officials from, for example, law enforcement agencies or the judiciary. Very few cases were reported, however, against civil servants from the state ministries and in most such cases defendants held only middle management positions. The majority of those prosecuted by PNA were instead private business people and in most cases only isolated acts of bribery have been identified rather than complex networks of institutionalised corruption involving high-ranking public officials at national and local level. Weaknesses in enforcing the current legislation are partly caused by a passive attitude on the part of prosecutors (i.e. a reluctance to conduct serious and thorough investigations) even when there are strong suspicions of corruption, in the frequency with which competence for cases is declined when the suspects are high-level figures, and in the lack of experience and training of those prosecuting complex financial cases.

In August 2005 the Head of the PNA resigned and the rest of the PNA senior management team were either dismissed, took early retirement or resigned. A new Head was selected by the Minister of Justice and a hearing of the Superior Council of the Magistracy issued a favourable advisory opinion. In September 2005 the decision was taken to rename the National Anti-Corruption Prosecution Office the National Anti-Corruption Department (DNA) and for it to become a department in the General Prosecutor's Office attached to the High Court. The DNA will be independent in terms of its operations, human resources and budget and will resume responsibility for the investigation of corruption cases involving Members of Parliament. The competences of DNA have been narrowed to only the very highest corruption cases where the bribe is over EUR 10 000 or the material damage exceeds EUR 200 000. The DNA will also be responsible for investigating certain customs-related offences and tax evasion where the damage exceeds EUR 1 million as well as offences against the European Union's financial interests. As DNA is now part of the General Prosecutor's Office, which is the leading agency for fight organised crime, it is hoped that corruption cases linked to organised crime will be investigated more effectively. It is too early to assess the impact that these personnel and organisational changes will have on Romania's ability to deliver a credible track record in fighting corruption and in particular high-level corruption.

While the new DNA is the leading institution in investigating and prosecuting corruption cases, many other institutions have some form of responsibilities in this area. In this context, a Law was adopted in May 2005 on the creation of a new anti-corruption structure within the Ministry of Administration and Interior called the Directorate General for Anti-Corruption (DGA). DGA will report exclusively and directly to the Minister of Interior and Administration and ambitious plans foresee over 400 DGA staff working in central and regional structures to replace the existing internal affairs units in the Ministry, notably within the police, border police and gendarmerie. A large part of DGA's work will consist in testing the integrity of law enforcement personnel. DGA will also be able to investigate cases, which represents a potential duplication of investigative powers as the DNA's judicial police are also competent in such cases. DGA is still in the process of recruiting its staff and cannot be expected to deliver concrete results in the fight against corruption before the beginning of 2006 at the earliest. This is a cause for concern as the integrity of law enforcement agencies is a key factor both in enabling Romania to reach a sufficiently high standard in the fighting corruption and in building public confidence in state institutions.

Romania remains involved in the Stability Pact Anti-Corruption Initiative sponsored by the OECD Secretariat, and participates in the Council of Europe's Group of States against

Corruption (GRECO). In April 2005 Romania abolished the criminal immunity of former government ministers, public notaries and bailiffs as recommended in the July 2004 First Round Compliance Report of GRECO. In February 2005 a GRECO Evaluation Team also conducted a Second Evaluation Round and it is planned for their report to be adopted in mid-October 2005.

### *Trafficking in human beings*

Romania remains a country of origin, transit and destination for victims of trafficking in human beings, the majority of whom are young women and children who are sexually exploited. There are also children and disabled persons trafficked for use as street beggars. The National Action Plan on trafficking of human beings has had only a limited impact. An inter-agency team of experts from the police, NGOs and the National Authority for the Protection of Children's Rights is currently working on a National Anti-Trafficking Response at the strategic and operational level. In July 2005 a Law was adopted on the freedom of movement abroad of Romanian citizens which reinforced the strict controls on unaccompanied minors leaving the country.

In August 2004 a national Action Plan to prevent and fight the trafficking of children was approved and in January 2005 new legislation to ensure the protection of the victims of crime came into force. In September 2004 a National Office for Trafficking Prevention and Victim Monitoring was established, as well as a trafficking research centre for strategic analysis within the Directorate-General for Combating Organised Crime and Drugs. In March 2005 a new standardised form for recording trafficking crimes was introduced for use by every police force, thereby allowing the Directorate-General to produce a more accurate strategic assessment. It should now be possible to develop better-focused actions by law enforcement agencies to disrupt the activities of the criminal gangs involved, to arrest and prosecute the traffickers, and to assist the victims. In July 2005 a Government Decision was adopted that included a provision allowing foreign nationals believed to be victims of trafficking to remain in Romania under certain circumstances for up to 90 days in order to recover, free themselves of the influence of the traffickers and decide whether to co-operate with the Romanian authorities.

The National Office reports that the number of victims assisted was 164 in 2004 and 202 in the first quarter of 2005. Nevertheless, the National Office still lacks the human and financial resources and IT database software to ensure that returned victims are registered and assisted immediately on their return when they are at their most vulnerable. No trafficking victims have yet been included in the national witness protection programme. Since January 2005 72 trafficking cases have been discovered and during the same period the courts dealt with 163 persons accused of trafficking crimes, convicting 140 of them. This represents a considerable increase over the 49 convictions during the whole of 2004.

Romania has actively participated in seminars and training programmes involving many international actors but enhanced inter-agency co-operation at the national level is still needed.

### *Ill-treatment in custody and prison conditions*

There are still reports of ill-treatment by law enforcement personnel, including excessive use of force and use of lethal force in non-compliance with EU and international standards. As in

the past, many of the victims were Roma. Judicial review of such complaints is rare and few disciplinary sanctions have been handed down in such cases. The legal maximum length of pre-trial detention appears to be respected, though there are still instances of pre-trial detainees being put in police cells with convicted criminals, which violates both domestic law and Romania's international treaty obligations. This situation should now be resolved urgently. Police cell facilities should also be upgraded.

The structure of the prison system was reorganised in October 2004, as a result of which the National Prison Administration (ANP) now comprises 35 prisons (including 25 maximum security prisons, 1 prison for women and 2 prisons for minors), 6 prison hospitals and 3 corrective training centres for minors. The ANP has continued to make progress in its demilitarisation programme and the new working culture has helped it recruit over 4 000 new staff. Nevertheless, understaffing remains a problem with 20% of the ANP's 15 411 positions vacant. The prison population has fallen from 41 929 in June 2004 to 38 805 in July 2005, thus approaching the official maximum capacity of 37 635 places. The decrease in average prison overcrowding to 103% is due mainly to the effective use of alternatives to prison sentences. Nevertheless, the picture in individual prisons can vary from 50% capacity to 200%, due to the practice of detaining prisoners in the prisons closest to the court dealing with their case. In July 2005 a total of 2 874 people were held in preventive custody in the prison system. The ANP has been under-funded for many years and, while considerable efforts have brought about improvements in areas such as meals, visits, parcels and access to media sources, the living conditions for prisoners remain very cramped: about 1 in 6 are without their own bed. Sanitation and hygiene facilities are particular problems. Little provision is made for educational activities, and medical care is often inadequate. The situation of minors in prisons needs to be addressed as a matter of urgency so that appropriate solutions in line with fundamental rights are found. About 5 000 complaints alleging ill-treatment in prison are made to the courts each year. Lack of security, surveillance, intervention and alarm equipment makes the task of dealing with dangerous prisoners an extremely challenging one, and transport shortages give rise to problems as regards the movement of detainees to court and transfers between prisons. While not part of the ANP the 41 probation centres play an essential role in supervising the social reintegration of prisoners; such centres are, however, understaffed and under-funded.

### *Freedom of expression*

Positive developments can be noted in the area of freedom of expression as general pressure on media has fallen and newspapers are becoming further de-politicised. This trend is in particular noticeable in the management of public radio and television: a Parliamentary Investigation Committee established in early 2005 concluded that the management teams had not complied with editorial and professional standards. Their 2003 annual activity report was subsequently rejected in June and the boards were dismissed. New heads were appointed in June while the political leadership refrained from exercising its power to appoint presidency representatives.

Good progress is also to be reported as regards the economic viability of the media. An Emergency Ordinance was adopted in May which amends the law on public procurement by providing for more transparent and objective criteria for the acquisition of advertising space by public institutions; its effective implementation should be ensured. The Ordinance provides that all contracts above EUR 2 000 must be preceded by calls for expression of interest published on a specialised governmental website. This is the result of the proceedings



of a working group on state advertising comprising representatives of the Government and NGOs. However, further efforts are still needed in this area in order to: improve the situation of investigative journalists, ensure transparency of media ownership and strengthen the professional and ethical standards of the profession. It should be also noted that the repeal of the crime of slander is still not in force, due to delays in the entry into force of the Criminal Code adopted in June 2004.

### *Child protection*

Continued progress has been made with the reform of child protection through the closure of large old-style institutions and the creation of modern child protection alternatives. Special attention has been given to the closure of large institutions for very young children and for children with special needs, and to replacing them with alternative child care. Most of the 85 large institutions have now been closed. The remaining larger homes deal mainly with disabled children or provide special residential education. The total number of children in residential care has decreased from 37 000 to 32 654. Living conditions have been substantially improved and are generally adequate. Moreover, the social assistance system has been reorganised and improved to provide better family support.

New legislation on children's rights and adoption entered into force in January 2005. This legislation brings Romania in line with the UN Convention on the Rights of the Child and the European Convention on Human Rights and completes the reform of child protection. Intercountry adoption, which is strictly limited to relatives, is no longer foreseen as a child protection measure. This represents a firm reaction to past irregularities and distortions and a measure conducive to developing intra-country alternatives in the best interests of each child. An action plan for the implementation of the new legislation has been drawn up. As regard petitions for intercountry adoption registered before the entry into force of this new law, responses should be given without delay based on the best interest of the child and in accordance with the relevant legal provisions. The already existing working party established with the task to screen pending cases should inform the families concerned of its decisions. The main outstanding issues concern the raising of awareness of the new legislation and training among stakeholders such as judges, staff of maternity hospitals and social workers in general. Cooperation between these actors should be enhanced and an inspection body should be developed at central level.

The decentralisation of social assistance, begun last year, also links social assistance and child protection at local level. From 1 January 2005 the structures with social assistance responsibilities at county level, namely the Specialised Public Service for Social Assistance and the Direction for Child Protection, have been integrated into a single new structure, the Directorate-General for Social Assistance and Child Protection. This could be considered a positive development at local level but, in order to be sustainable, this step should be followed by a merger at central level of the different authorities with responsibilities in the sector (National Authority for Child Protection and Adoption, National Authority for Family Protection and National Authority for Disabled Persons) or at least by clear strategic approaches. This is necessary to give coherence to the system and look at the family from a global perspective in terms both of services and benefits to be granted.

In general, the progress achieved in the field of child protection has been widely acknowledged by the Independent Panel of Experts on Family Law of EU Member States in May 2005 and is regarded as satisfactory in relation to Member States' best practices.

Sufficient financial resources should now be ensured in order to maintain an adequate level of child protection.

### *The disabled and mental health care system*

Despite positive developments, the situation in homes for disabled adults, psychiatric clinics and homes for mentally disabled requires continuous improvement.

Romania has started to tackle reform for the disabled as part of a larger social sector reform. The main focus is now on developing an inclusive strategy that aims at closing and restructuring large residential institutions by developing alternative community-based services, support to families and smaller residential units (*see also Chapter 13 - Social Policy and Employment*). One of the main pillars of the reform has been an administrative overhaul of the system: residential institutions have been transferred from local to county level, something which will result in a more coherent reform and provide better financing. The directorates for social protection have now under their responsibility the social services for disabled people. A public campaign is under way with a view to raising awareness of the rights of the disabled. Although reform in the sector is still very much in its early stages, it is on the right track.

As for the psychiatric care, living conditions for inmates are poor and budgetary resources allocated are limited. Although staffing levels have increased, they remain insufficient. Serious overcrowding and lack of activities or medical services can be noted. Reports of violence and ill-treatment continue to be quite common. The 2002 Law on Mental Health and Protection of People with Psychological Disorders is still not being implemented because of the failure to adopt the regulations necessary for its enforcement. However, the government has begun to tackle this issue, and a structural reform has begun with a view to remedying the lack of strategy at national level, improving living standards in the institutions, and providing appropriate budgeting and specialised training.

### *Restitution of property*

The Romanian authorities devoted special attention to the return of property, especially real estate, confiscated under the communist regime, although the pace of restitution needs to be stepped up. The legislative and institutional framework was thoroughly revised in June 2005: the National Authority for the Restitution of Properties was set up, under the Chancellery of the Government, to assist the territorial commissions responsible for the return of unjustly confiscated real estate and to monitor the process of restitution in kind or, alternatively, financial compensation when restitution in kind is considered impossible. These provisions also cover belongings of national minorities and religious entities. New legislation dealing with restitution and financial compensations was subsequently adopted covering real estate not yet returned or sold, and compensation will consist of participation in an investment property fund with the initially foreseen duration of 10 years. It is however not yet operational and sufficient budgetary and staff resources should be earmarked to ensure the success and the equity of such a fund. Furthermore these provisions do not appear to address the issue of compensation for property seized unlawfully or the criteria for concluding that restitution in kind would be impossible and that only compensation could be given.

### *Protection and integration of minorities*

As regards minority rights and the protection of minorities, a draft law on the statute of national minorities providing for forms of cultural autonomy of national minorities and setting up the principles of equality and non-discrimination was adopted by the Government in May 2005 but still needs to be approved by Parliament. The situation of the Hungarian minority has continued to improve, all the more so since the Democratic Alliance of Hungarians from Romania (UMDR) is part of the governing coalition. The enforcement of the legislation providing for access by the national minorities in one's mother tongue to administrative and judicial procedures is satisfactory in the case of the Hungarian minority, but more progress could still be made regarding the police. As regards education, the number of pre-university educational units remained roughly constant and a private Hungarian university continued to function with several branches throughout Transylvania. While there is no state Hungarian university, access to higher education is provided by Hungarian sections in Romanian universities.

Concerning the Roma minority, very limited progress was registered in the functioning of the structures - in particular the National Agency for Roma in its capacity as the reorganised Office for Roma issues - involved in the implementation of the 2001 Roma Strategy. The Joint Committee for Implementation and Monitoring remains very weak in terms of activity. Staffing should be further strengthened and, together with improved inter-sectoral coordination, budgetary resources should be significantly enhanced at central and local levels. The appointment, in July 2005, of a new head for the National Agency, coming from the Roma community and without political affiliation, is an encouraging sign of the government's willingness to begin integrating Roma organisations in the implementation and monitoring of the strategy.

Positive developments have been made in improving access of Roma to education and health sectors. The number of reported cases of police violence against Roma has begun to decrease. There have been reports of cases of traffic accidents involving Roma victims being closed without a full investigation being carried out. The National Council for Combating Discrimination has imposed sanctions in cases of discrimination but, de facto discrimination against the Roma minority, especially at local level, continues to be widespread, in particular as regards housing and access to social services and the labour market (*see also Chapter 13 - Social Policy and Employment*). The Romanian authorities should demonstrate, at all levels, that the country applies a zero-tolerance policy on racism against Roma or against any other minority or group and that this policy is effectively implemented.

Romania is participating in the "Decade of Roma Inclusion 2005-2015" that was launched in Sofia in February 2005. It took over responsibility for the Secretariat of the Decade in mid-2005. A long-term action plan in line with the Decade has been drawn up and contains objectives in the areas of education, healthcare, housing, culture and discrimination. Romania needs to ensure that this action plan is properly resourced and implemented.

### **3. General evaluation**

Romania, as in previous years, continues to fulfil the **political criteria** for membership. Overall, it has reached a satisfactory level of compliance with EU requirements. In addition, Romania has taken significant steps to address some of the issues within the political criteria which were highlighted in the 2004 report as requiring further improvements, such as the reform and independence of the judiciary, ensuring greater media freedom, new legislation

on property restitution, an overall improvement of the situation of minorities and child protection.

However, further efforts are still needed to continue to reform the public administration, in particular the further professionalisation of the civil service and the adequate staffing and funding of the administrations required to apply and enforce EU rules. Reforms in the justice system are broadly on track but should be effectively implemented in accordance with the timetable in the adopted strategy and action plan.

The fight against corruption should receive high priority. Efforts should focus on the effective enforcement of anti-corruption legislation and on preventive measures, fighting high-level corruption and corruption within law enforcement bodies.

In the area of human rights and the protection of minorities further efforts are needed to combat ill-treatment in custody, strengthen the administrative capacity of the national office for preventing trafficking in human beings, continue efforts to improve the situation of disabled and mentally ill people, raise awareness on new legislation on children's rights, and ensure the effective integration of the Roma minority in particular as regards access to housing, social services and the labour market.

## **C. ECONOMIC CRITERIA**

In its 2004 Report the Commission concluded that Romania complies with the criterion of being a functioning market economy. Vigorous implementation of its structural reform programme should enable Romania to cope with competitive pressure and market forces within the Union.

The principal purpose of this chapter of the Comprehensive Monitoring Report is to assess the implementation of recommendations for improvements in the areas identified in last year's Report.

### **1. Economic developments**

Romania's economy exhibited strong economic growth, a widening current account deficit and a slowdown of disinflation. Pro-cyclical fiscal policy, combined with slippage in overall public sector wage policy, widened existing macroeconomic imbalances. Real GDP grew by 8.3% in 2004 and eased to 4.9% in the first half of 2005 due to a negative impact of floods and slowing export growth. 2004 GDP per capita in purchasing power standards increased to 31.3% of the EU-25 average. Growth was helped by strong household consumption of 10.8% in 2004 and 11.7% in the first half of 2005. Gross fixed capital formation grew by 10.1% in 2004, but slowed to 7.6% in the first half of 2005, which confirmed an increasingly unbalanced growth. With a real growth of 4.6% in 2004, which continued at an unchanged level in the first half of 2005, government consumption expanded considerably more than targeted.

Exports expanded by 14.1% in 2004, but continued to be outpaced by rapid import growth of 17.8%. Since the last quarter of 2004 export growth slowed, and fell to 5.9% in the first half of 2005, while import growth remained above 17% due to higher demand for both consumer and investment goods. This could be the first sign that rapid appreciation of the exchange rate is having a negative effect on the trade balance. The high economic activity remained broad based, although the strong growth trend of industrial production, agricultural output and construction activity subsided somewhat in 2005. A vast harvest gave a strong impetus to growth in 2004, while widespread floods caused damage to agricultural output in 2005. The buoyant domestic demand led to a considerable widening of the trade deficit, which increased to 9.0% of GDP in 2004, and widened further in the first seven months of 2005. The current account deficit widened to 7.5% of GDP in 2004, as compared to 6.1% in 2003, and has deteriorated further in 2005. Net inflows of foreign direct investment more than doubled and amounted to 7.1% of the 2004 GDP, due in particular to the completion of a number of major privatisation sales to foreign investors.

**Romania - Main economic trends** (as of 7 October 2005)

		2000	2001	2002	2003	2004	2005	
Gross domestic product	ann. % ch	2,0	5,7	5,0	5,2	8,3	4,9	1st half
Private consumption	ann. % ch	0,2	6,8	4,8	7,2	10,8	11,2	1st half
Gross fixed capital formation	ann. % ch	5,5	10,1	8,2	9,1	10,1	7,6	1st half
Unemployment <sup>1</sup>	%	7,2	6,7	N.A.	7,1	8,1	8,5	1st qu.
Employment <sup>1</sup>	ann. % ch	2,5	-0,8	N.A.	-2,6	0,4	2,6	1st qu.
Wages	ann. % ch	39,8	40,5	27,1	25,4	22,5	23,9	Jan-Aug
Current account balance	% of GDP	-3,7	-5,5	-3,3	-6,0	-7,5	-9,0	1st half
Direct investment (FDI, net)	% of GDP	2,9	2,9	2,5	3,8	7,0	4,9	1st half
Interim HICP	ann. % ch	46,3	34,8	22,8	15,3	11,9	9,5	incl. Aug
Interest rate (3 months)	% p.a.	50,9	40,9	27,3	17,7	19,1	9,4	Jan-Sep
Bond yield	% p.a.	49,6	34,7	22,3	14,2	12,8	7,6	Jan-Sep
Stock markets	Index	538	661	1274	1851	3208	5359	Jan-Sep
Exchange rate ROL/EUR	Value	1,99	2,60	3,12	3,75	4,05	3,62	Jan-Sep
Nominal eff. exchange rate	Index	80,5	63,8	54,5	47,3	44,3	49,3	Jan-Jul
General government balance <sup>2</sup>	% of GDP	-4,4	-3,5	-2,0	-2,0	-1,4	N.A.	
General government debt <sup>2</sup>	% of GDP	23,9	23,2	23,3	21,3	18,1	N.A.	

1: LFS data; 2: ESA 95 data.

Source: Eurostat, ECOWIN, national sources

End-year inflation declined to 9.3% in 2004 on the back of a rapid appreciation of the currency but stalled in 2005 due partly to the increase in administered prices, international energy price hikes and high real wage growth of more than 13%. Pre-election hikes in public sector wages occurred in 2004 and continued uncorrected in 2005, while wage growth in the corporate sector generally matched productivity growth. Working-age employment rose by 0.4% in 2004 and the employment rate remained stable at 57.7%. The unemployment rate increased to 7.1% in 2004 from 6.8% in 2003, but a gradual decline was observed over the course of 2004, and it fell further to 5.6% in the first quarter of 2005.

Monetary policy continued to contribute to further disinflation. In November 2004, the central bank gave more flexibility to the exchange rate, and the currency has since appreciated by around 12% against the EUR, which has partly controlled inflationary pressures. Monetary policy rates were cut significantly since June 2004, which mitigated the risk of sudden capital inflows when further opening the capital account in April 2005. Following the implementation of measures in the banking system aimed, overall private sector credit growth moderated, but remains high with rapid growth of credits denominated in foreign currency continuing to pose macroeconomic and prudential concerns. Fiscal policy continued to benefit from favourable cyclical conditions and improved tax collection, and the general government deficit fell to 1.4% of GDP in 2004 while general government debt declined to 18.5% of GDP. At the same time, the pro-cyclical impact of public sector wage slippage and major tax cuts, which risk causing a lasting decline of tax revenues, was a matter of serious concern.

The implementation of the government's structural reform agenda continued, although the privatisation process slowed down, insufficient financial discipline persisted and the functioning of the judiciary remained an obstacle for an enabling business environment. The privatisation process continued, but at lower pace. For the companies in the portfolio of the privatisation agency (AVAS), the divestiture slowed down due to the difficulties of many of the remaining enterprises, the bounce back to state ownership of some enterprises for which

privatisation contracts were previously signed, as well as the limited success in selling the state's minority stakes in enterprises. For the companies owned by various ministries, further privatisations were gradually advanced in the energy and banking sector, while little progress took place in the defence, transport and agricultural sectors. Some progress could be observed in further restructuring the energy, mining and transport sectors in preparation for speeding up the privatisation of some of the companies in these sectors, but large parts of the sectors continue to make losses and rely on direct subsidies and debt cancellations. Efforts to strengthen financial discipline were upheld, but results were mixed. Although the surveillance of wage developments in state-owned enterprises supported their financial performance, many of the companies remained unprofitable and continued to accumulate arrears. Energy prices were raised gradually, thereby limiting the implicit subsidies to enterprises and consumers, but non-payment of energy bills remained pervasive. Liberalisation of the energy and telecommunications sectors advanced, and the adjustment in administered prices continued. In spite of substantial efforts to enhance the efficiency of the judiciary, cumbersome and protracted court procedures continued to hamper the business environment. Although some progress can be noted with regard to the willingness to launch bankruptcy procedures against non-viable enterprises, the proceedings lagged behind and were not yet effectively applied to foster market exit. Further progress was made in developing the legal framework and institutions necessary for a well-functioning market economy, and the public administration gradually improved its support for the business environment, although lack of good governance is still perceived as widespread. Overall, the implementation of the structural reform agenda supported Romania's convergence with key objectives of the Lisbon strategy, although progress was uneven across areas and further efforts in reforming the functioning of product and labour markets are needed to close progressively the gap to the average EU position.

## **2. Implementation of recommendations for improvements**

In its 2004 Regular Report the Commission noted that priority should be given to preserve the momentum in **disinflation** and **safeguard the sustainability of the external position by maintaining a prudent policy mix** and by further reducing the deficit of the broader public sector. To achieve this, significant improvements in enforcing **financial discipline, continuous adjustments of energy prices towards cost recovery levels** and improved **financial performance of public enterprises are vital**.

*The overall policy mix turned less prudent, notably due to pro-cyclical tax cuts and strong wage growth.* Gradual disinflation continued, albeit at lower pace. Strong economic activity, driven by domestic demand, caused the current account deficit to widen further. In 2004, robust GDP growth and progress in tax compliance and collection led to higher than expected revenues. The initial general government deficit target of 3.0% of GDP was therefore revised downwards, and the deficit ended at 1.4% of GDP. Total expenditures overran the original 2004 budget, in particular due to wage and other current expenditures that were higher than budgeted. Extra pre-election spending took the form of considerable increases of pensions and public sector wages, which together with a considerable rise in the minimum wage added to already high wage growth. Real wages grew by more than 10% in 2004 and by 13.4% in the first eight months of 2005. A major tax reform was implemented in January 2005, built around a significant reduction in the profit tax rate from 25% to 16% and the introduction of a 16% flat rate income tax. Improved tax collection, a broader tax base and a restrictive expenditure policy are intended to compensate the revenue loss caused by these substantial tax cuts. The reform can contribute to higher private investment and help raise employment in the formal sector over the medium term. However, it also raises concern by being pro-

cyclical, thereby exacerbating existing economic imbalances, and risks causing a persistent decline in the already low revenue-to-GDP ratio. Revenue raising measures and expenditure cuts decided in May and June 2005 were intended to limit these adverse effects, but prudence in public sector wage and expenditure policy were not implemented as announced. Very limited budgetary consolidation has taken place in spite of continued strong growth, and Romania's public finances are therefore fragile to slowing growth. In conjunction with the possible adverse effect of the tax reform on the level of revenues, this leads to concern over Romania's fiscal position by the date of accession. The considerable budgetary financing needed to support the real convergence process and prepare for EU accession also accentuates the need to strengthen permanently revenues, for example by improving collection, broadening the tax base or increasing indirect taxes, and to prioritise expenditures better in order to ensure Romania's economic preparedness for EU membership. Romania's lack of willingness to ensure fiscal consolidation has led to disruption of its IMF arrangement and caused uncertainty over the continued embedding of Romania's economic policy in an IMF programme framework. Monetary policy continued to contribute to further disinflation at a time where both demand-pull and cost-push factors posed challenges and other policies did not fully contribute to dampening domestic demand and limiting the external deficit. The 2004 inflation target of 9% was broadly met with the help of a rapid appreciation of the currency, while upwards adjustment of administered prices, strong wage growth and buoyant domestic demand have delayed disinflation in 2005 and forced the central bank to raise the inflation target for 2005 from 6 percent to 7.5 percent. Going hand in hand with the envisaged switch to inflation targeting as of August 2005, the central bank opted in November 2004 for a more flexible exchange rate policy by limiting forex market interventions and abandoning the pre-announced target for the annual real exchange rate appreciation. This change caused a distinct appreciation of the currency against the euro, which helped to keep inflation in check. In April 2005, non-residents were granted access to deposit accounts denominated in the national currency. The liberalisation was successfully undertaken, and confirms a welcome return to the agreed timetable for dismantling remaining capital movement restrictions. To limit the risk of triggering unmanageably large inflows, the liberalisation was preceded by a gradual lowering of the interest rate level and safeguard measures were prepared, which can be resorted to in case of excess short-term capital flows. The current account deficit widened from 6.1% in 2003 to 7.5% of GDP in 2004, and continued to increase in the first seven months of 2005. The more negative balance in trade of goods and services is the main reason for the wider deficit. Increasing remittances from abroad helped to mitigate the adverse impact on the deficit. Due to exceptionally high net FDI of 7.1% of GDP in 2004, a very limited resort to international financial markets was needed to finance the growing current account deficit. In 2005, net FDI has returned to a more moderate level while the external financing need remains high.

*There was some progress in strengthening financial discipline, and wage growth in state-owned enterprises was in general under control, although many of these enterprises remain unprofitable. Energy prices were raised gradually, but non-payment of energy bills remains pervasive.* In 2004, the overall stock of arrears in the economy fell markedly to 27% of GDP, mainly due to arrears to general government falling below 10% of GDP for the first time and due to arrears to energy suppliers being limited to 1.2% of GDP. In the case of the major state-owned enterprises undergoing restructuring and privatisation, the continued reduction in the stock of arrears to general government was not only due to debt rescheduling and cancellation but also to better payment discipline. Monitoring of wage developments in these enterprises generally functioned well, which had a positive influence on the companies' financial performance. However, the debts owed by these enterprises to others did not



decline, which demonstrates that for some perennial non-payers it is very difficult to end the non-payment culture, in particular if their financial record does not allow them to obtain market financing. The totality of enterprises in which the state holds majority or minority shares still suffer from low profitability. Out of 1950 such companies, more than half posted net losses. With the aim of setting energy prices to reflect short and long-term costs and limiting the implicit subsidies to enterprises and consumers through energy prices that are below costs, regulated end-user prices were raised stepwise in line with inflation for electricity and above inflation for natural gas. However, some delay occurred in raising the domestic gas producer price for the regulated market. Together with the hike in international energy prices, this led to a rising gap between domestic producer prices and import prices. For heating, an announced 20% increase in the regulated consumer price was not implemented, and the average production price remained well above the regulated consumer price, which underscores the challenge of increasing the efficiency of heating production and scaling down producer subsidies. Collection rates for electricity have not improved much, and in the natural gas sector some divergence was noted between the ability of the major suppliers to enforce their claims. Non-payment is particular endemic for district heating where collection suffered a set back.

In its 2004 Report the Commission noted that **fiscal sustainability** needs to be strengthened by advancing expenditure reform and further improving tax compliance.

*There has been progress in tax compliance, but the accumulation of new arrears was not brought to a standstill.* Tax revenue collection turned out higher than originally budgeted and revenues from VAT, corporate profit tax, customs and excise duties fared particularly well due to rapid consumption growth and rising imports, which eased the shortfall of revenue caused by the tax reform. Strong economic activity explains a large part of the revenue gains, but legal and administrative improvements also paid off by raising collection. Unpaid obligations to general government declined in nominal terms, although the extent to which this is due to an actual improvement in compliance or to the use of debt rescheduling and write-off schemes is not clear. On the one hand, the use of administrative measures to strengthen collection, such as payment notices and sequester of bank accounts and assets, were stepped up considerably in 2005. On the other hand, continued use in 2004 of debt cancellation for individual companies created an adverse incentive in the enterprise sector at large for non-payment of tax and social security obligations. In this light of, the decision in March 2005 to end new debt cancellations is an important step forward. New legislation aiming at fighting tax evasion by imposing heavier sanctions could also become helpful in improving compliance if applied in a consistent manner. If properly implemented, this could improve financial discipline and would eventually oblige the state to launch bankruptcy procedures against non-payers.

*No particular success in reforming expenditures can be noted.* As part of the continuous effort to strengthen the budgetary framework, the modernised Public Finance Law was applied to elaborate indicative multi-annual budgets, set expenditure ceilings for budgetary agents and make use of budgetary reserve funds. This was complemented by further fiscal decentralisation, which increased the fiscal autonomy of local authorities in terms of the allocation of revenues and expenditures, but without at the same time strengthening control mechanisms for local public finances. Romania has not yet established a clear medium-term expenditure framework to support the reallocation of public expenditure towards human capital, infrastructure and administrative capacity. Public investments grew to 3.5% of GDP in 2004, but investment expenditure was restrained in 2005 in an attempt to counterbalance the negative impact on the budget from overall slippage in public sector wages. Against the

background of EU transfers falling short of expected, continued efforts were made to improve the capacity to absorb increasing EU funds, including the use of wage incentives to retain and attract qualified staff. Education was an expenditure priority for which additional budgetary funding was also provided. Challenged by a financially fragile public pension system, which is also undermined by the considerable increase in the real level of pension in 2004 for many pensioners, Romania decided to move forward the implementation of a second pension pillar, while limited action was taken to offset the increasing expenditure pressure arising from the health system. To improve time consistency and ensure that public finances increasingly contribute to enhancing the growth potential of the economy, a better link between the budget execution and an overall strategy for reallocating public spending is needed, including a more prominent role for the multi-annual budgetary framework.

In its 2004 Report the Commission noted that the **privatisation process** should be accomplished, **post-privatisation disputes be settled and non-viable enterprises more actively dismantled**.

*The privatisation process continued, but slowed down.* **The total number of companies in state ownership decreased from 1187 in mid-2004 to 1180 in mid-2005, of which close to 90% belonged to the AVAS. Privatisation of the companies owned by various ministries** proceeded broadly in line with the government's timetable with the completion of the sales of the national oil company, Petrom, two major gas distributors and two out of eight electricity distributors. Privatisation contracts were signed for two more electricity distributors. In the banking sector, the sales of majority shares in the largest commercial bank (BCR) and in the Savings Bank (CEC) to a strategic investor were launched and letters of interest were submitted. The overall privatisation process under AVAS continued, but slowed down in terms of the number of enterprises sold and the state-owned share capital divested. **The divestitures also fall short of the target set in Romania's privatisation programme. Out of 153 majority state-owned companies deemed fit for privatisation in June 2004, privatisation contracts were signed for 46 companies, while 34 companies undergo liquidation. In June 2005, AVAS' portfolio also included 544 companies considered unfit for privatisation,** and it monitored close to 6500 companies in the process of reorganisation or bankruptcy. **Companies continued to bounce back** to state ownership due to unresolved disputes between government and investor over the privatisation contract, and **problems were encountered in divesting such** companies again. The number of minority stakes held by AVAS was not brought down substantially. In the defence sector, little progress was noted in privatising the subsidiaries of the largest defence company, which were put on sale in 2004, and privatisation of other companies in this sector remain at an early stage. In agriculture, no further privatisations of state-owned farms took place and nearly half of the companies were lingering in protracted bankruptcy procedures.

*Bankruptcy and other liquidation procedures are not yet effectively applied to foster market exit.* Bankruptcy or liquidation procedures remained cumbersome and have not yet become an effective way to foster competition and deter continued accumulation of debts. In view of the continued weaknesses of the bankruptcy framework, the authorities suggested to amend the legal and institutional framework with the objective of simpler and speedier procedures and a higher degree of creditor protection. This is much needed as the judicial system has so far been unable to provide an effective exit mechanism from the market, which has hampered effective competition. Of 21 bankruptcy cases launched since 1 July 2004 by the state against major tax debtors, only 5 have been successfully concluded. Of a total of 68 such cases initiated since 2003, involving accumulated tax arrears of close to 1% of GDP, 19 companies have been declared bankrupt. Of 549 large debtors to the state budget, having tax arrears of

close to 2.5% of GDP, 13% of these companies were either declared bankrupt or undergoing bankruptcy procedures, while 20% were granted debt rescheduling schemes and 6% were largely shielded against bankruptcy by being placed under special administration. At the same time, however, the tax authorities more systematically surveyed the tax record of enterprises, which led to an increase in the number of bankruptcy cases launched.

In its 2004 Report the Commission noted that in key **sectors, such as energy, mining and transport, perseverance in restructuring** and a more manifest strive for **privatisation** should go hand in hand.

*Some progress in restructuring the energy and mining sectors took place in order to speed up the privatisation process. Large parts of the sectors remain loss-making and continue to rely on direct subsidies and debt cancellations.* In the energy sector progress in privatisation and upwards adjustment of energy prices was accompanied by further opening of the gas market to close to 50% from January 2005 and of the electricity market to 83.5% from July 2005. Improved pricing systems came into force in January 2005 for electricity and in April 2005 for gas. For the regulated gas market, the improved system of distribution tariffs and end-user prices reduced cross-subsidisation by taking better into account the cost structure in the price setting, even if the independent regulator decided to revisit parts of the pricing methodology. The restructuring of the thermal energy sector moved forward only slowly. The various heating companies, in particular Termoelectrica, continued to suffer from high-cost production facilities, ailing distribution facilities and widespread non-payment of bills. In most cases, production costs surpass the regulated consumer price, and the accumulation of debts between consumers and suppliers continued. To keep production running, further debt rescheduling as well as sizeable producer subsidies were resorted to. Given Romania's ambition to align fully consumer and production price for heating in 2007, a deeper restructuring of the heating sector is imperative. In the mining sector, the restructuring and closure programme for 2004-10 was pursued in a broadly satisfactory way. Facilitated by severance payments for dismissed personnel, employment was scaled down by about 8000 posts in 2004 and close to 5500 people in the first six months of 2005. Mine closures continued in line with the programme, and investment activity was halted in a number of non-viable mines. Some progress was made in improving payments by mines to utilities. For the mining sector as a whole the amount of arrears to general government and to private entities has been stable over 2004 and the first quarter of 2005 when disregarding the impact of debt write-offs, which may be explained by the more credible threat of cutting off energy supplies and extra direct subsidies in 2004 to some large loss-making mines to augment their payment of tax and social security obligations. Overall, arrears remain substantial and large parts of the mining sector remain unprofitable in spite of considerable subsidies.

*In the transport sector, some efforts were made to limit the significant losses and arrears within the railway companies.* Two subsidiaries of the freight and passenger companies were privatised and legal changes were undertaken to offer more successfully some railway lines to private investors. Since August 2004, employment in the three railway companies (passenger transport, freight transport and railway infrastructure) was reduced by around 6500 employees via service outsourcing and lay offs, but the process of further reducing the staff slowed down considerably in 2005. The accumulated tax and social security arrears of the three railway companies remained broadly unchanged when disregarding the impact of debt cancellation, which once again was used to improve the face situation of the balance sheets. While the freight company could report profits, and the infrastructure company was increasingly obliged to run a balanced budget, the financial state of the passenger transport company remained precarious. The total subsidies for railway transport in Romania were

broadly unchanged at around 0.7% of GDP. Restructuring of the national airline, TAROM, continued with the aim of turning the company around from its loss-making position. Discontinuing some long-haul operations and 8% downsizing of the staff helped to limit the losses in the company.

In its 2004 Report the Commission noted that substantial progress in the **functioning of the judiciary** and the **public administration**, including an even and predictable application of law, is required to create an enabling **business environment with a level playing field**.

*Cumbersome and protracted court procedures continue to hamper the business environment. Some progress is noted with regard to using the option of liquidation, although reorganisation is still very often the likely outcome of a bankruptcy case. The public administration made gradual progress in supporting the business environment, although lack of good governance is still perceived as widespread.* Although a range of new initiatives are ongoing, such as attempts to increase staffing, substantial IT investments and specialised bodies for commercial rulings, overall progress with reforming complex procedures and increasing administrative capacity in the judiciary was limited. Contract enforcement via the judicial system was still hampered by a large number of procedures from the beginning of a lawsuit until actual resolution. The number of new bankruptcy cases increased by almost 50% in 2004, after having declined in 2003, and the share of bankruptcy cases solved by liquidation increased moderately in 2004, which could be a first sign of a shift in the traditional preference for reorganisation rather than bankruptcy. However, the overall rate of case resolution, the number of completed liquidations and the rate of cases solved between six months and two years from their initiation declined in 2004, which points to the important delays in expediting court cases, despite amendments to the bankruptcy legislation undertaken in May 2004. The time and cost required to resolve bankruptcy cases remained unfavourable with the recovery rate as low as 6.9% in 2004<sup>2</sup>, and resorting to the judiciary in insolvency cases is often not an effective remedy. Furthermore, the judiciary is not in all cases perceived as sufficiently qualified and objective. The inability of the state to ensure liquidation of the RAFO refinery, which had accumulated tax arrears of more than 0.2% of GDP and represents a legacy of bad corporate governance, demonstrates the persistent deficiencies of Romania's bankruptcy framework and the low degree of creditor protection, which continue to influence negatively the business environment.

Efforts to enhance the public administration continued, for instance by simplifying company registration and by applying the new Fiscal Procedures Code, which is a step forward towards more transparency and accountability. VAT reimbursement procedures were accelerated, notably for large taxpayers and for taxpayers not belonging to sectors where VAT fraud is widespread and who have a laudable fiscal record. Nonetheless, VAT administration is still perceived as an obstacle by many businesses, particularly as regards reimbursement delays. The amendment of the Labour Code in June 2005, following close consultation with social partners, was a step forward towards relaxing restrictive legal provisions considered a main impediment to an enabling investment climate. The modified conditions for fixed-term contracts, collective dismissals and redistribution of working hours are intended to lower existing barriers to hiring new employees. Nonetheless, the functioning of the labour market is still not considered flexible and continues to be hampered by the centralised wage bargaining system, the benchmark role of the minimum wage and the

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<sup>2</sup> This figure expresses the percentage of claims recovered from insolvent firms

compulsory extension of collective agreements to non-signing parties, which to some extent inhibits wages from reflecting productivity differences across regions and skill profiles.

### **3. General evaluation**

In terms of the **economic criteria**, Romania continues to comply with the criterion of being a functioning market economy. Vigorously implementing its structural reform programme should enable it to cope with competitive pressure and market forces within the Union. Romania has broadly maintained macroeconomic stability, even if the policy mix turned less prudent and raised concerns about the sustainability of recent stabilisation achievements. It continued implementing its structural reform programme, although not vigorously in all fields.

As regards the areas where last year's report emphasised the need for further improvements, some progress – although uneven – has been made on the majority of these issues. However, disinflation has slowed down, external imbalances have widened and growth was increasingly unbalanced due to buoyant household consumption and slowing export growth. The pro-cyclical effect of the tax reform and slippage in the public sector wage policy are responsible for this and are not in line with last year's call for a prudent policy mix. Priority should be given to re-establishing a prudent fiscal policy, notably by implementing additional measures to permanently strengthen the revenue base, and by a cautious public sector wage policy within the framework of a clear medium-term expenditure strategy aimed at strengthening the economy's growth potential and preparing for EU accession. Continuation of the privatisation programme, active dismantling of non-viable enterprises, further improvement in enforcing financial discipline and substantial progress in the functioning of the judiciary are required to establish a positive business environment and free the economy from mis-allocated resources.

## **D. COMMITMENTS AND REQUIREMENTS ARISING FROM THE ACCESSION NEGOTIATIONS**

This chapter gives an overview of where Romania stands in implementing all commitments and requirements arising from the accession negotiations for each of the 29 chapters of the *acquis*. Each chapter contains one or several areas. Each area is assessed, both in terms of legislation and from the perspective of implementing structures, including administrative capacity and enforcement. In cases where transitional arrangements have been agreed, their effect on Romania's obligations is duly reflected in the assessment.

For each chapter, a conclusion is provided, structured in the following way.

Firstly, it identifies those areas where Romania is generally meeting the commitments and requirements arising from the accession negotiations and is expected to be, or is already, in a position to implement the *acquis* from accession. This does not exclude the possibility that certain actions are still to be taken, but these are not likely to pose serious difficulties.

In a second paragraph, the assessment identifies any areas where increased efforts are needed in order to ensure that Romania completes preparations for membership in time. These are issues which can still be remedied taking into account the envisaged accession date of 1 January 2007 but which require the special attention of the authorities.

Thirdly, where relevant, the assessment also identifies issues that are of serious concern. These are areas where serious shortcomings exist which are likely to persist after accession unless immediate remedial action is taken. These issues require the urgent attention and action by the authorities.

### **1. Chapters of the *acquis***

The following review of Romania's ability to assume the obligations of membership has been structured in accordance with the list of 29 *acquis* chapters. In accordance, this section opens with an assessment of the *acquis* relating to the cornerstones of the internal market which are known as the "four freedoms", and continues with a systematic review of each of the chapters, covering all aspects of the *acquis*, including sectoral policies, economic and fiscal affairs, regional policy, environment, justice and home affairs, external policies, and financial questions.

#### ***Chapter 1: Free movement of goods***

The principle of the free movement of goods implies that products must be traded freely from one part of the Union to another. In a number of sectors this general principle is complemented by a harmonised regulatory framework, following the "old approach" (imposing precise product specifications) or the "new approach" (imposing general product requirements). The transposition of harmonised European product legislation represents the largest part of the *acquis* under this chapter. In addition, sufficient administrative capacity to apply horizontal and procedural measures in areas such as standardisation, certification and market surveillance is essential. This chapter also covers detailed EU rules on public procurement, requiring specialised implementing bodies.

Framework legislation for the **horizontal and procedural measures** necessary for the *acquis* in the new approach sector is in place, as is the implementing infrastructure in the fields of standardisation, certification, accreditation, metrology and conformity assessment.

Most of the administrative structures are functioning adequately. The Romanian standardisation body ASRO is a member of the European Telecommunications Standards Institute ETSI and is affiliated to the standardisation bodies CEN and CENELEC, but is not yet a full member. Particular attention should be paid to strengthening the administrative capacity of the Romanian accreditation body RENAR, which has been temporarily suspended from its Multilateral Agreement signatory status in the European Cooperation for Accreditation due to major administrative weaknesses. Market surveillance structures are in place, but require further strengthening and improved co-ordination.

Romania has transposed most of the **sectoral legislation** under the **new approach** and alignment has generally been found to be acceptable. Further efforts are needed for the legislation relating to cableway installations, equipment and protective systems intended for use in potentially explosive atmospheres, explosives for civil use, aerosol dispensers, medical devices and recreational craft. Legislation on gas cylinders and construction products is still to be assessed. For a number of sectors, conformity assessment bodies are still to be accredited and the relevant assessments carried out.

As regards the **old approach** sector directives, Romania has transposed most of the *acquis* into national legislation. Full alignment still has to be achieved in the areas of good laboratory practice and cosmetics. Further efforts are needed in the fields of fertilisers, drug precursors, pharmaceuticals, veterinary medicinal products and motor vehicles. Legislation on legal metrology, dangerous chemical preparations and substances and price transparency for medicinal products is still to be assessed. Administrative structures are in place and functioning. Particular attention has to be paid to the completion of the revision of marketing authorisations for pharmaceuticals for human use by the end of 2005. Since the beginning of 2005 only about 200 products have been re-authorised, while 600 are still to be reviewed.

In the area of foodstuffs, the *acquis* has largely been transposed. Legislative alignment still has to be achieved in the fields of genetically modified organisms (GMO), hygiene rules, in particular the system of Hazard Analysis Critical Control Points (HACCP) as well as mineral waters and the import control of dried fruits. The implementation of the food safety *acquis* requires enhanced efforts. Areas which require particular attention are: strengthening (staffing, office and logistic facilities) of the National Sanitary Veterinary and Food Safety Authority as the main body for food safety under the coordination of the Ministry of Agriculture, improved coordination and cooperation mechanisms and clear tasks and competences of all institutions involved, in particular in quality and safety control functions, enhanced enforcement of the hygiene *acquis* including the HACCP system and voluntary Good Hygiene Practice for the entire food chain, stronger enforcement and control of GMO legislation and preparations for the Rapid Alert System for Food and Feed. Aspects of food safety are also covered under Chapter 7 - Agriculture.

As regards public procurement, the legislative efforts to achieve full alignment with the *acquis* need to be continued. This relates to the transposition of the 2004 public procurement directives as well as to the elaboration of a fully coherent and comprehensive legal framework for public procurement including harmonised rules on concessions and public-private partnerships, a fully aligned framework for e-procurement as well as an independent and efficient remedies mechanism. The reform strategy for the public procurement system for 2005-2007 and the related action plan are meant to complete the legislative harmonization process and to generally increase legislative coherence, clarity and effectiveness in a solid legal framework.

Implementation of public procurement legislation remains an area of serious concern. Romania has to demonstrate continued commitment to fully respecting and enforcing competitive and transparent public procurement procedures. A number of cases in the past showed misuse of public-private partnership forms and a disregard of procurement rules: this must cease. Significant efforts are needed to strengthen administrative capacities both at central and operational levels in the relevant procuring entities. Administrative procedures and systems for the monitoring and controlling of procurement activities should be substantially upgraded. The reform strategy adopted in August 2005, as completed by an action plan with concrete measures for its implementation can be considered a step in the right direction, once it is launched and put into practice. In July 2005, the decision was taken to establish a National Authority for the Regulation and Monitoring of Public Procurement as a separate and independent central procurement agency with specified tasks and responsibilities. Romania must ensure both the necessary resources for a proper functioning of this institution and the effective implementation of the current and future public procurement legislation by this new authority from the beginning of its operations in autumn 2005. The new authority should also improve coordination between different ministries involved in public procurement, provide better and coherent assistance to contracting authorities and oversee the implementation of the public procurement reform as matters of high priority.

In the **non-harmonised area**, Romania has completed a screening of its national legislation possibly in contradiction with the principle of the free movement of goods. An inter-ministerial committee is meeting regularly to oversee the process in view of the elimination of trade barriers and the introduction of mutual recognition clauses into the existing legislation. Romania should continue to identify and remove barriers to trade and to include the principle of mutual recognition in its internal legal order. Some amendments are needed to complete the transposition on cultural goods, whereas the transposition of the weapons directive is still to be assessed.

### *Conclusion*

Romania is generally meeting the requirements for membership in the field of **new approach sectoral legislation** and in the **non-harmonised area** and is expected to be able to apply this *acquis* from accession. Attention should be paid to ensuring that legislative alignment is completed in the near future and that administrative preparations continue. In the non-harmonised area Romania should continue to remove barriers to trade and implement the mutual recognition principle in its legislation.

Increased efforts are needed as regards **horizontal and procedural measures** and **old approach sectoral legislation**. In order to complete accession preparations, Romania must considerably upgrade its administrative capacities in the field of accreditation. Enhanced efforts are still needed to complete transposition of the old approach *acquis* and to revise marketing authorisations for pharmaceuticals. Particular attention must be paid to completing the alignment and implementation of legislation in the area of foodstuffs. Additional efforts are required to strengthen the administrative capacity of all institutions involved in food safety issues.

**Public procurement** continues to be an area of serious concern. While legislative alignment needs to be completed, substantial shortcomings remain in the implementation and enforcement of legislation. Administrative capacities at all levels need to be urgently



strengthened; coordination improved and staff continuity, recruitment and training ensured. Unless legislation is fully aligned, coherent and implemented correctly, there is a serious risk that Romania would not have a functioning public procurement system in place in time.

## ***Chapter 2: Free movement of persons***

The *acquis* under this chapter provides for non-discriminatory treatment of workers who are legally employed in a country other than their country of origin. This includes the possibility of cumulating or transferring social security rights, which requires administrative cooperation between Member States. In order to facilitate the practice of certain professions, the *acquis* also includes specific rules concerning mutual recognition of qualifications and diplomas; for certain professions a harmonised training curriculum must be followed in order to be able to have the qualification automatically recognised in an EU Member State. Furthermore, this area also covers the residence and voting rights of EU citizens in any Member State.

Legislation on the **mutual recognition of professional qualifications** has been transposed and is largely in line with the *acquis*. Effective enforcement of the legislation should now be ensured. Administrative capacity should be further strengthened, and training should continue in order to guarantee the level of competence among qualified professionals required in this field. Moreover, Romania should take measures to ensure that its professionals can meet the requirements laid down by the *acquis* and can benefit from professional recognition throughout the EU as from accession, in line with the procedures applied in previous accessions.

In the area of **citizens' rights**, full and correct transposition of the new *acquis* on the right of Union citizens and their family members to move and reside freely within the territory of the Member States still remains to be confirmed. Concerning electoral rights, notwithstanding the constitutional amendments of 2003, more detailed implementing legislation remains to be adopted. Existing legislation also remains to be amended to ensure that all Romanian and non-Romanian EU nationals receive equal treatment on access to education and education fees.

As for the **free movement of workers**, a transitional arrangement has been agreed. For the first two years following accession, current Member States will apply national measures, or bilateral agreements, to regulate the access of workers from Romania to their labour markets. These arrangements may continue up to a maximum of seven years. Romania may apply equivalent measures to any current Member State applying restrictions, but must have legislation in place to apply the *acquis* from the moment of accession. As regards access to employment in the public sector in Romania, the Romanian legislation must make it clear that this access will not be denied for EU/EEA nationals except when (in accordance with the ECJ case law) such posts “involve direct or indirect participation in the exercise of powers conferred by public law and duties designed to safeguard the general interests of the state or of other public authorities”.

Concerning the future participation in the EURES network, along with increased efforts to improve the language skills of potential EURES advisers, preparations should continue for connection to the European Job Mobility Portal to ensure that all job vacancies displayed on the Public Employment Services website will be available upon accession.

Administrative capacity in the field of **coordination of social security systems** should be further strengthened and consolidated, and in particular staff training should be ensured.

Measures should be taken to ensure financial stability in order to meet the additional costs arising from the application of EU provisions, in particular in the healthcare field. Furthermore, Romania is encouraged to continue to conclude bilateral social security agreements, and preparations should continue for the introduction of the European Health Insurance Card as from accession.

### *Conclusion*

Romania is generally meeting the commitments and requirements arising from the accession negotiations in the areas of **mutual recognition of professional qualifications**, **free movement of workers** and **coordination of social security systems**, and is expected to be in a position to implement this *acquis* from accession. However, the administrative capacity still needs to be further developed. In the area of free movement of workers, Romania needs to ensure that its legislation fully complies with the case law of the Court of Justice regarding access to public sector posts in Romania. Preparations also need to be completed for the introduction of the European Health Insurance Card as from accession.

Romania needs to increase efforts to meet the requirements for membership in the area of **citizens' rights**. In order to complete preparations for membership, legislative alignment needs to be completed on electoral rights and access to education.

### *Chapter 3: Freedom to provide services*

Under this chapter, Member States must ensure that the right of establishment and the freedom to provide services anywhere in the EU is not hampered by national legislation. In some sectors, the *acquis* prescribes harmonised rules which must be respected if the internal market is to function; this concerns mainly the financial sector (banking, insurance, investment services and securities markets) but also some specific professions (craftsmen, traders, farmers, commercial agents). Harmonised rules concerning personal data protection and certain information society services must also be respected.

In the field of the **right of establishment and the freedom to provide non-financial services**, Romania has partially adjusted its legislation to the *acquis*. A number of legal acts as well as decisions of local public authorities are still to be modified within the timeframe set out in the negotiations in order to eliminate restrictions against the right of establishment and freedom to provide services. Also horizontal restrictions such as the requirement to obtain an authorisation even for temporary provision of services have to be removed by the time of accession. Romania will, on the basis of reciprocity, have to have in place legislation which allows EU/EEA nationals access to the labour market on the same terms as Romanian nationals, including in the public sector, except when (in accordance with the ECJ case law) such posts “involve direct or indirect participation in the exercise of powers conferred by public law and duties designed to safeguard the general interests of the state or of other public authorities”. Any restrictions, such as the requirement to obtain an authorisation for self-employed economic activities provided in a temporary manner in Romanian territory, have to be removed by accession. Romania should also ensure both at central and at regional and local level that no new legal and administrative restrictions arise in the future. The administrative and enforcement capacity of the relevant services have to be strengthened.

As regards financial services, Romania has largely transposed the *acquis* in the **banking sector**. Prior to accession the new capital requirements framework - known as “Basel II”- needs to be incorporated in the respective legislation. The *acquis* on financial conglomerates

still needs to be transposed before accession, and guarantee ceilings have to be gradually aligned with the requirements of the directive on deposit guarantee schemes. For the credit-cooperative organisations the minimum levels of capital and own funds have to be gradually increased. The administrative structures are in place and function adequately. Staff training should be considered as an ongoing process. The National Bank of Romania should continue to improve procedures for moving towards risk-based supervision.

Concerning the **insurance sector**, legislative fine-tuning is still needed to ensure full compliance and is to be tackled mainly through amendments to the Act on Insurance and its secondary legislation. Additional efforts are needed to reach full alignment as far as the transposition of the directives on insurance mediation and the activities and supervision of institutions for occupational retirement provision are concerned. The Insurance Supervisory Commission has been established, but its supervisory function should focus on implementing risk based supervision. Its cooperation and consultation with the insurance companies need to be enhanced and continued staff training should remain a priority. Concerns remain to exist regarding the enforcement of the rules on motor vehicle insurance (a considerable percentage of vehicles is not insured against third party liability). Particular attention should be paid to the creation of a centralised data base for a better exchange of data between the police and insurance companies. The procedure for signing the ‘green card’ Multilateral Guarantee Agreement needs to be finalized and preparations to cope with the obligations as a member of this agreement should be carried out without delay to ensure that Romania is ready in this area by the time of accession.

In the area of **investment services and securities markets**, transposition is largely completed. Further alignment is required as regards implementing measures preventing market abuse and newly adopted securities *acquis*. Implementing legislation on capital markets has to be completed. The National Securities Commission is in place but needs to strengthen its capacity and improve its organisational structure. Attention should be paid to the creation of a fully functioning securities market with the required trading infrastructure. As regards the investor compensation scheme, Romania has been granted a transitional arrangement until the end of 2011 to reach gradually the minimum level of compensation.

In the field of the **protection of personal data** and the free movement of such data, Romania’s legislation is in line with the *acquis*. Further efforts are needed to implement the legislation (see Chapter 24 – Justice and home affairs).

As regards **information-society regulations**, the electronic commerce directive has been transposed, but further amendments are still needed to fully comply with the *acquis*. The building-up of the necessary administrative capacity for the implementation of the e-commerce rules and the implementation of information technology in the Romanian public administration need to continue. As regards the protection of conditional Access services, the transposition is being assessed by the Commission.

### *Conclusion*

Romania is generally meeting the requirements for membership in terms of transposition of the *acquis* in the area of **banking, investment services and securities markets and information-society regulations**. Subject to steady progress being maintained both in completing the transposition, implementation of the legislation and administrative capacity, Romania should have functioning systems in place by accession. Particular attention should be paid to the strengthening of the Insurance Supervisory Commission.

Increased efforts are needed to meet the commitments and requirements for accession in the areas of the **right of establishment and the freedom to provide non-financial services** and the **protection of personal data**. Work must be accelerated to complete the alignment in those areas, as well as to eliminate legal and administrative restrictions to establishment and freedom to provide services. Significant efforts are needed to ensure that the newly established Authority for Personal Data Processing becomes fully operational and is effectively implementing the data protection acquis (see Chapter 24 – Justice and home affairs). As regards the **insurance** sector, weak enforcement of rules on third party liability on motor insurance remains problematic. Increased efforts to enforce motor insurance legislation are now needed in order to ensure that Romania will be ready in this area by the time of accession.

#### ***Chapter 4: Free movement of capital***

Member States must remove all restrictions in national law on the movement of capital between themselves, but also with third countries (with some exceptions), and adopt EU rules to guarantee the proper functioning of cross-border payments and transfers of all forms of capital. The *acquis* also includes harmonised rules on payment systems. The money laundering directives establish money laundering as a criminal offence. They require financial institutions to identify and know their customers, keep appropriate records and report any suspicions of money laundering. The directives also address the activities of auditors, external accountants, notaries and lawyers, casinos, real estate agents and certain dealers in high-value items involving large cash transactions. Adequate enforcement capacity is required.

Legislative alignment in the field of **capital movements and payments** has further advanced and is now almost complete. Operations in current and deposit accounts in the local currency carried out by non-residents with domestic financial institutions were liberalised in April 2005. The ceiling for current or capital account foreign exchange operations was abolished in January 2005. Romania completed the abrogation of the legal requirements regarding branches' minimum endowment capital for EU companies, due to take effect as of accession, as well as the removal of all citizenship requirements concerning security services. A law adopted in June 2005 abolished the possibility of the state to retain golden shares in privatised companies; its implementation will have to focus on transforming residual normative control shares (which has been achieved for 101 out of 110 companies identified in the AVAS portfolio), and specific arrangements predating the June 2005 law. The administrative structures are already in place and are functioning adequately.

In accordance with the transitional arrangement granted, Romania is committed to remove restrictions on the acquisition of secondary residences by EU nationals not resident in Romania before the fifth year after the accession at the latest. Similarly, in accordance with the transitional arrangement, Romania is committed to remove restrictions on the acquisition of agricultural land and forests by EU nationals before the seventh year after the accession at the latest.

In the domain of **payment systems**, Romania has completed alignment with the *acquis*, although it has to ensure the proper functioning of the out-of-court redress scheme for the settlement of disputes between banks and customers. With regard to the Regulation on cross-border payments in euro, effective sanctions for non-compliance need to be applied.

With the adoption in September 2005 of the amendments to the Law on preventing and sanctioning **money laundering**, Romania has fully aligned with the Second Anti-Money Laundering Directive.

Romania has not fully aligned with the revised recommendations of the Financial Action Task Force although progress has been made. Attention should also focus on the effective implementation of the existing legislation; enforcement records need to be vigorously improved. Supervision concentrates primarily on the financial sector and especially on banks. In this respect, the first controls in a number of years took place in casinos in August 2005 and a number of sanctions were imposed. These controls are a positive first step but need to be made in a regular basis and also cover other entities with reporting obligations. Sanctions against infringements of the law need to be dissuasive and effective cooperation between the entities in the enforcement chain needs to be further improved. Finally, it is also noticed that the effectiveness of anti-money laundering defences is seriously hampered by corruption, by organised crime and by the large informal economy (see also chapter 24 – Justice and home affairs).

### *Conclusion*

Romania is generally meeting the commitments and requirements arising from the accession negotiations in the field of **capital movements and payments** and is expected to be in a position to implement the *acquis* as from accession. It is also meeting the commitments and requirements arising from the accession negotiations in the field of **payment systems**.

Increased efforts are needed in the area of **money laundering**, where alignment to the Financial Action Task Force standards has still to be completed and enforcement needs substantial improvement.

### **Chapter 5: Company law**

Under this chapter, Member States must adopt and apply harmonised rules required for the proper operation of companies in the internal market. They concern five legislative fields: company law in the strict sense, accounting law, intellectual property rights, industrial property rights, and the recognition and enforcement of judgments in civil and commercial matters and of contractual obligations.

In the field of **company law** as such, Romania has largely aligned its legislation, while the implementing structures are in place and function adequately. Amendments to the Law on Trading Companies have been adopted to ensure alignment with the EU minimum capital requirements for public limited liability companies. Romania still has to remove few other identified incompatibilities within the months to come. Romania did not start yet with transposing new company law directives whose transposition deadline expires next year (Takeover bids directive and Amendments to Disclosure - 1st Company Law - directive. The Register of Commerce should ensure its staff continuity and prepare itself for registration of EU legal forms. Efforts to improve both the financial reporting of Romanian companies and the efficient follow-up with respect to non-complying companies should be enhanced.

Concerning **accounting** and **auditing**, the transposition process is close to completion. With regard to accounting and, in particular, the transposition of the 4<sup>th</sup> and 7<sup>th</sup> directive, a number of issues still have to be corrected in the Romanian legislation. On auditing, the alignment with the 8<sup>th</sup> directive seems to be achieved. The administrative structures are in place.

In the area of **protection of intellectual and industrial property rights (IPR)**, the Romanian legislation is generally in line with the *acquis*.

As regards copyright and related rights, further alignment has been taken place, in particular the provision which caps the share of royalties that can be collected from certain users (mainly cable operators and commercial users) has been repealed. However, some limited improvements are still needed. The directives on the artist's resale right and on the enforcement of intellectual property rights should be fully implemented before accession. Furthermore, the Romanian authorities should ensure that an effective system of collective rights management is in place and working. Enforcement of the copyright legislation remains a serious shortcoming which needs to be addressed as a matter of urgency.

In the area of industrial property rights, Romania has ratified the two 1996 Treaties of the World Intellectual Property Organisation and has acceded to the European Patent Convention.

Specific transitional rules will apply in relation to pharmaceutical products patents, involving the non-application of Community exhaustion to certain exports from Romania, as regards the granting of supplementary protection certificates for medicinal and plant protection products, and in relation to the extension of registered and pending Community trademarks and Community designs to the territory of Romania.

In terms of the enforcement of IPR, administrative structures are in place, but the overall enforcement capacity remains weak. Urgent measures to strengthen the administrative capacity and the enforcement of legislation are needed at all levels of the administration, including the judiciary and law enforcement agencies. In order to cope with the persistent high level of counterfeiting and piracy, full co-ordination and improved cooperation between all relevant Ministries, the General Prosecutor's Office, the Copyright Office, the Patent Office and the relevant law enforcement agencies should be ensured. Staff recruitment should continue and training, in particular of judges, prosecutors, customs, police and border control staff should be intensified. The Romanian authorities need to ensure a practical and effective implementation of the new IPR strategy and action plan, which was adopted in September 2005.

The **regulation replacing the Brussels Convention** on the mutual recognition and enforcement of foreign judgments in civil and commercial matters will be directly applicable upon accession, and accession to the **Rome Convention** will only be possible upon accession. Preparations to ensure a sound implementation of the regulation as of accession should continue.

### *Conclusion*

Romania is generally meeting the requirements for membership and is expected to be in a position to implement the *acquis* in the areas of **company law, accounting** and auditing, and the **regulation replacing the Brussels Convention** and the **Rome Convention**. Further legislative adjustment is still needed for the company law *acquis*. Some amendments are necessary in the field of accounting.

The enforcement of the **protection of intellectual and industrial property rights** remains an area of serious concern. While from the legislation point of view a limited number of legislative adjustments are still needed, enforcement of IPR continues to cause significant problems which have to be addressed as a matter of high priority. Urgent attention should be given to step up the fight against piracy and counterfeiting, to improve the cooperation between law enforcement agencies, the general prosecutor and the judiciary, to strengthen the border control capacity and to intensify staff training.

### ***Chapter 6: Competition policy***

The competition *acquis* covers both anti-trust and state aid control policies. It includes rules and procedures to combat anti-competitive behaviour by companies (restrictive agreements between undertakings and abuse of dominant position), and to prevent governments from granting state aid which distorts competition in the internal market. Generally, the competition rules are directly applicable in the whole Union, and Member States must cooperate fully with the Commission in enforcing these rules.

The Treaty of Accession requires the Commission to report in the autumn of 2005 on the progress made by Romania in the area of competition policy. This more detailed assessment is contained in Annex [ ] to this report.

The administrative capacity of the Competition Council, which is the national enforcement authority, has been further developed. Its budget for 2005 has been increased by 30%. Salary increases have greatly reduced staff fluctuation. Out of the 350 posts in the Council, 272 are currently occupied and further recruitment is underway.

In the area of **anti-trust**, legislative alignment is complete and Romanian legislation now contains the main principles of Community anti-trust rules. Amendments were made to the Competition Law abolishing the discrimination between state-owned and other enterprises. The Competition Council continued to develop its anti-trust enforcement record, increasing the number of decisions adopted and imposing a significantly increased volume of fines, including record fines in the cement sector. While a more deterrent sanctioning policy has been put in place, the Competition Council must continue its active role, both as regards enforcement activities and competition advocacy, to ensure the continued liberalisation of the economy and the opening up of markets.

In the area of **state aid**, legislative alignment is also complete. Romania's State Aid Law was further amended, clarifying the definition of state aid in line with the Community concept and reinforcing the provisions on the obligatory recovery of incompatible aid. Furthermore, many implementing rules have been issued or amended, notably including the December 2004 regulation on state aid for rescuing and restructuring firms in difficulty.

As regards enforcement activities, in order to improve continuously the quality of the Competition Council's state aid enforcement record, a pre-consultation mechanism was established in September 2004, whereby the European Commission offers advice on draft decisions before their final adoption. This has resulted in a noticeable improvement in the quality of these decisions. Further improvement in the quality of the Competition Council's assessment of aid measures and their analysis is necessary. Furthermore, attention needs to be given to following up the actual implementation of decisions.

Measures have been taken to ensure greater respect for the ex-ante notification obligation. The Competition Council initiated an inter-ministerial working group on state aid issues, and the Romanian Government set up a high level inter-ministerial task force to support the work of the Competition Council by ensuring that all state aid plans of all Ministries are notified and that existing schemes are also scrutinised. Continued efforts are required to ensure ex-ante notification of all new aid measures in particular in relation to restructuring cases, payment deferrals and measures in connection with privatisation. Knowledge and respect of state aid rules among aid granting authorities need to be further developed.

As regards state aid to the steel industry, in September 2005 Romania submitted its second monitoring report on the implementation of the National Steel Restructuring Strategy. During 2004, significant progress has been achieved in this area of State aids, and the Romanian government shows a strong commitment to respect State aid rules. Nevertheless, further and continued efforts must be focused on implementing the commitment not to grant any further state aid to the sector as well as implementing the other restructuring conditions and obligations.

### *Conclusion*

Romania is generally meeting the commitments and requirements arising from the accession negotiations in the **anti-trust** area and is expected to be in a position to implement the *acquis* in this area as of accession. In completing preparations for membership, Romania must continue to develop a track record of enforcement of the anti-trust legislation.

Romania must increase efforts to meet the commitments and requirements arising from the accession negotiations in the **state aid** area. In order to complete preparations for membership, Romania must maintain continued efforts to develop the Competition Council's enforcement record and to improve the quality of state aid decisions, notably with regard to the proper assessment of aid measures. In order to reach a satisfactory enforcement level, it is furthermore crucial that the Competition Council continues with the assessment of existing aid measures. Finally, Romania has to ensure that all state aid projects become subject to a strict state aid control by the Competition Council. Major continued efforts are therefore required to ensure ex-ante notification of all new aid measures in relation to restructuring cases, payment deferrals and measures in connection with privatisation.

### *Chapter 7: Agriculture*

The agricultural chapter covers a large number of binding rules, many of which are directly applicable. The proper application of these rules and their effective enforcement by an efficient public administration are essential for the functioning of the Common Agricultural Policy. This includes the setting up of management systems such as a paying agency and the Integrated Administration and Control System, and also the capacity to implement rural development actions. EU membership requires integration into the common market organisations for a range of agricultural products, including arable crops, sugar, animal products and specialised crops. Lastly, this chapter covers detailed rules in the veterinary field, which are essential for safeguarding animal health and food safety in the internal market, as well as in the phytosanitary field, including issues such as the quality of seed, plant protection material and harmful organisms.

### **Horizontal issues**



Limited progress can be reported regarding the setting up of the paying agency.

Romania has decided to establish two **Paying Agencies**: one responsible for rural development measures, built on the existing agency from the Special Accession Programme for Agriculture and Rural Development, and another responsible for market measures and direct payments. The competent authority for the accreditation of the paying agencies has been designated within the Ministry of Agriculture as well as the coordination body for the activities of the two paying agencies within the Sapard Agency. Romania has made good progress with the adoption of the broad institutional structure. However, establishment of the required administrative capacity is still at a planning stage. Considerable work is required to build and strengthen the administrative capacity if Romania is to have functioning paying agencies by the date of accession. Furthermore, information campaigns on EU schemes for farmers and operators should be accelerated.

Over the last six months Romania has accelerated its preparations concerning the **Integrated Administration and Control System (IACS)**. However, despite the progress made, most of the implementation work is still to be accomplished. The timescale for completing the Land Parcel Identification System remains critical, as does realisation of the master plan for the development of IACS submitted in August 2005. Work on establishment of ortho-photos is not yet completed. There is a serious risk that a fully functional IACS system will not be in place by the date of accession; substantial work remains to be done.

Some good progress has been made as regards **trade mechanisms** with the adoption at governmental level of the implementing legislation. The whole system for managing trade was redesigned as it was decided to transfer the responsibility for the administration of export and import licences to the Paying Agency before accession. However, preparations and staffing within the Paying Agency are at an early stage and need to be accelerated if Romania is to be ready to apply the *acquis* by the date of accession. Further work is required on agreements between different bodies and on the links with traders.

The Ministry of Agriculture and its local offices will be responsible for applying the *acquis* on **quality policy**. Implementing legislation as well as the relevant administrative capacity, in particular for the inspection system, need to be put in place. Workshops are being organised to explain product specification drafting to producers.

Administrative structures for **organic farming** are in place but lack manpower. The inspection system needs further strengthening, especially at regional level where supervision by the authorities is insufficient.

The framework legislation on a **Farm Accountancy Data Network** was adopted in November 2004. Implementing legislation is broadly in place; the administrative capacity has to be further strengthened. The network collection of data from farms is gradually being expanded but the sample size and definition of regions are still to be established.

**State aid** measures in the field of agriculture must be brought in line with the *acquis* by the time of accession. The department responsible for implementing state aid rules was created in March 2005 but is not operational.

As concerns direct payments to farmers, Romania has decided, by government memorandum, to apply the Single Area Payment Scheme in the first years after accession and has fixed the

minimum holding size and parcel size at 1 and 0.3 hectares respectively. The relevant administrative capacity is not in place.

#### Common market organisations (CMO)

Romania has designated the paying agency which will be the paying and implementing agency for the various CMO, but the co-operation between this agency and the various competent authorities to be designated and/or established under the CMO and the establishment of the latter authorities themselves has not yet taken place.

Further progress has been made in the field of **arable crops** with the adoption of the general framework law in August 2005. There is no price reporting system.

Further progress can be reported also as regards **sugar** with the adoption of legal measures on statistical communication and the signature of an inter-professional agreement. The Paying Agency will be responsible for applying the *acquis*, in particular management of the quota system and associated levies. Administrative capacity is still to be established.

Romania has made progress in relation to the control system for marketing standards for **fruit and vegetables**. However, mechanisms for the reporting of entry prices and producers organisations are still to be set up and the supervisory authority is understaffed. Registration of traders is at an embryonic stage and the setting up of producers' organisations should be encouraged.

In the area of **wine and alcohol**, Romania has made good progress with the establishment of the vineyard register and with the basis of a real ban on new plantings but the CMO for wine is still to be fully set up, in particular as regards market mechanisms and the register of grapevine varieties.

Implementing legislation for the main mechanisms of the common market organisation for **milk** and milk products has been adopted but is still to be enforced. Some progress has been made as regards the administrative capacity in this sector. The national agency for improvement and reproduction of livestock is in charge of quota management. Furthermore, additional staff, training and resources have not been allocated to the agency to perform this function. Significant work is still required to complete the setting up of a database for quota allocation, on approving dairies and/or collection centres, on the national reference laboratory and on developing a milk quota management IT system. Overall, progress in this area needs to be accelerated significantly, particularly given the huge challenge posed by the large number of small producers.

As regards **beefmeat, sheepmeat and pigmeat**, legislation is broadly in line while administrative structures dealing with carcass classification and price reporting remain to be adopted.

As far as **eggs and poultry** are concerned, transposition of the *acquis* is adopted but the administrative structures for implementing the *acquis*, in particular marketing standards and price reporting, need to be established.

#### Rural development

A general directorate of rural development has been set up in the Ministry of Agriculture that will be the managing authority for the Special Accession Programme for Agriculture and

Rural Development (SAPARD) and the national plan for rural development 2007-2013. A large proportion of the staff has experience with SAPARD. Additional staff is being recruited. Initial studies to support the development of the rural development programme are underway. The future paying agencies (built around the SAPARD agency) will be responsible for the implementation of the post-accession rural development programme, and need to be further strengthened for this purpose. Romania has been granted a transitional period of three years after accession allowing the use of special measures for rural development.

#### Veterinary and phytosanitary issues

As regards veterinary issues, a special effort needs to be made to ensure correct legislative alignment in the area of the internal market and import controls. Although significant legislative progress has been noted, certain horizontal rules, impeding correct transposition, have to be overcome. The overall level of implementation remains insufficient. An action plan was drawn up in February 2005 to ensure full transposition by accession. The National Sanitary Veterinary and Food Safety Authority is in charge of all food chain controls including import control for third countries. It is coordinated by the Minister of Agriculture but is financially and organisationally autonomous vis-à-vis the Ministry. A new protocol on the distribution of roles and responsibilities between different institutions has been adopted but coordination remains problematic. The staff resources of the authority and logistic facilities at the central level should be further strengthened. The recruitment of staff is restricted by a lack of office space. The situation is however better at regional level.

Transposition of legislation on Transmissible Spongiform Encephalopathy (**TSE**) and **animal by-products** is almost completed. The feed ban entered into force on 1 August 2005 and an inspection plan and monitoring system for enforcement of the feed ban was adopted. TSE testing is not yet sufficient as the identification and registration system is not fully operational and therefore the TSE epidemio-surveillance can not be considered fully in line with the EU rule. An action plan for the effective implementation of the feed ban has been adopted. Furthermore, Romania does not yet have appropriate rendering collection and treatment facilities for high risk material. A strategy has been adopted at governmental level. However, given the time necessary to implement this strategy, there is a serious risk that the system will not be operational by the date of accession.

As regards the establishment of the **veterinary control system in the internal market**, transposition has further progressed with the adoption of a national programme on animal health and food safety as well as a strategic programme for controls. Preparations for enforcement are on-going. The TRACES system should be established for the proposed date of accession to the system on 1 January 2006. This implies that adequate financial and human resources have to be secured by that date.

Romania has completed the transposition of the *acquis* in the field of the identification and registration of animals and their movements: 62% of the bovine livestock was identified and recorded in the database. However, implementation of the system is not yet secure. The operability of the non-bovine database is delayed by a legal dispute over the validity of the contract with a private operator concerning the identification and registration of movements of sheep, goats and pigs. This might have a negative impact on the entire animal identification system, bovine and non-bovine.

Transposition of the *acquis* on the financing of veterinary inspections and controls is completed but the level of fees provided for by the *acquis* is not yet applied.

As regards veterinary checks on third country imports and rules for imports, the transposition of the legislation and its enforcement is not yet corrected. None of the eight long-term Border Inspection Posts (BIP) on the future EU-external border is complete as construction works are required. Equipment for administrative and control purposes is widely available and the funding of the BIPs is secured: five BIPs will be financed by the state budget and three by the World Bank. If Romania is to have operational and reliable BIP by the date of accession, considerable and demanding work is needed to build up all the BIP facilities, to ensure that implementing structures are in place and sufficient financial and human resources are provided for.

The establishment of an animal health fund to operate expenditure in the veterinary field is a key component for carrying out a successful EU policy regarding animal health. Romania has not yet adopted nor implemented the relevant legal provisions.

As regards **animal disease control**, legislation aiming at phasing out Classical Swine Fever was adopted as well as a plan in four phases for stopping vaccination against classical swine fever. It has been enforced since 15 September 2003 except for pigs kept in industrial farms and wild boars (this exception being limited to the end of December 2005). The definition and implementation of a new strategy is therefore urgently required. The implementing structure is already in place and the staff of the veterinary services is well trained and motivated. Romania still needs to join the Animal Disease Notification System.

Legal alignment on trade in live animals and animal products is on-going.

Legislation on veterinary **public health** regarding upgrading or ceasing activity by non-compliant food of animal origin establishments is in place. Legislation has been aligned with the new EU Hygiene Package. Romania has been granted a transitional arrangement until 31 December 2009 for 28 meat processing establishments in accordance with individual development plans and 28 milk processing establishments. Products from these establishments will be restricted to the national market. Romania has given a commitment that all establishments continuing to be in operation after accession will be in compliance with the *acquis*. There is a high probability that a considerable number of agri-food establishments will not be in compliance with the relevant EU requirements at the date of accession. No progress report was submitted for 2004, but monthly reports have been submitted since January 2005. Romania has not yet established detailed implementing rules to ensure the smooth operation of the transition regime. The considerable number of non-compliant establishments without an upgrading plan remains a major source of concern: in the absence of progress, Romania will have to close all non-compliant establishments by the date of accession. Legislation to introduce the Hazard Analysis and Critical Control Point System in food-processing establishments is in place but its current pace of introduction is insufficient. Overall administrative capacity at central and local levels should be strengthened.

Transposition of the *acquis* on **common measures** (including zoonoses) is ongoing and the implementing structure is in place. Further efforts are still needed as regards control on veterinary medicinal products availability and distribution, control of residues in particular, in the field of equipment of laboratories, capacity of analysis or sampling.

The *acquis* on **animal welfare** has been largely transposed. The implementing structures are still however to be set up as the Animal Health Directorates within the National Sanitary Veterinary and Food Safety Authority are understaffed. Protection of the welfare of animals in transport needs to be reinforced.

As regards **zootechnics**, legal alignment is well advanced and the National Agency for improvement and reproduction of livestock (ANARZ) is in charge of implementing the legislation. Its staff has however not been reinforced to perform this task.

The transposition of the **phytosanitary legislation** is rather well advanced as regards plant hygiene, quality of seeds and propagating material, harmful organisms, pesticides (Romania was granted a transitional period up to December 2009 for the provision of information on the use of four active substances contained in plant protection products and up to December 2008 for the use of plant protection products containing 2.4-D). Further amendments are still needed to complete transposition of the overall *acquis*. As regards the administrative capacity, the Phytosanitary Department was reorganised in April 2005 and benefits from a good staffing level. Laboratory capacities should continue to be further strengthened while plant passports are in place.

Legislation on **animal nutrition** is partly transposed and a centralised system of controls exists and operates. However, efficiency of those controls according to a risk based inspection and sampling which cover all stages of the food chain requires improvement.

The inventory of the existing international veterinary and phytosanitary agreements has been carried out and is being assessed.

### *Conclusion*

Romania is generally meeting the commitments and requirements arising from the accession negotiations, among the horizontal issues as regards the **Farm Accountancy Data Network, organic farming** and **state aid, rural development**; in the veterinary field, **common measures**; and as regards **phytosanitary issues**. Subject to good progress being maintained in these areas, Romania should be in a position to implement this *acquis* from accession.

Increased efforts are needed in the areas of **quality policy, trade mechanisms**, and all of the relevant **common market organisations (CMO)**; in the veterinary field as regards **animal welfare, zootechnics, animal nutrition** and **trade in live animals and animal products**. Unless efforts are accelerated in these areas, there is a risk that functioning systems will not be in place at accession.

Serious concerns exist in relation to Romania's preparations to set up its **Paying Agencies** and to implement the **Integrated Administration and Control System (IACS)**. Serious concerns exist also in relation to the identification and registration of animals and the establishment of functioning border inspection posts in the field of **veterinary control system in the internal market**. Furthermore in the veterinary area, similar serious concerns remain regarding **TSE and animal by-products** (concerning the collection system of cadavers, the absence of rendering plants), **animal disease control measures** (for Classical Swine Fever) and veterinary **public health** (the upgrading of agri-food establishments). Unless immediate action is taken, Romania will not be in a position to implement the *acquis* in these areas by the date of accession.

## **Chapter 8: Fisheries**

The *acquis* on fisheries consists of regulations, which do not require transposition into national legislation. However, it requires the introduction of measures to prepare the administration and the operators for participation in the Common Fisheries Policy (in the areas of market policy, resource and fleet management, inspection and control, structural actions and state aid). In some cases, existing fisheries agreements or conventions with third countries or international organisations need to be adapted.

In the field of **resource and fleet management and inspection and control**, legislation on fishery resources, fisheries and aquaculture was adopted. This law was complemented in May 2005 to strengthen the National Agency for Fisheries and Aquaculture (NAFA) thus becoming the single administrator of fishery resources. NAFA was reorganised in August 2005 and has 118 employees. It is responsible for the elaboration of the strategies and the plans for the fishery and aquaculture sectors, the Fishery Inspectorate and the coordination of all institutions involved. Romania has thus created the necessary institutions in the field of resource and fleet management and inspection and control. However, their operational capacities still need to be reinforced. Alignment with regard to the setting up of the Fishing Vessel Monitoring System should be completed and fishery inspectors (65) should be further trained.

Romania has set up its Fishing Fleet Register including all its fishing vessels, but progress needs to be made in order to collect all the data required by Community law as well as to make significant progress as the re-measurement of its fleet in gross tonnage is concerned.

In relation to fleet management issues (development of harmonised parameters at EU levels to measure the vessel capacity, concrete understanding and implementation of entry/exit regime) a series of bilateral contacts should be established at the beginning of next year to make sure that the managing authorities fully understand their obligations and rights under Community law and that their fleet management measures are compatible with the Community provisions.

Further work has then to be done to adapt the information systems in order to allow Romania to transmit these data to the Community Fishing Fleet Register in the adequate format and periodicity. This task should start as soon as possible since experience shows that it would take at least one year to have such a system fully compatible and operational.

In the area of **structural actions**, the responsibility and planning of the structural policy in the fishery sector has been transferred from the management authority under the Ministry of Agriculture to the National Agency for Fisheries and Aquaculture. The former remains responsible for payments and financial management. Its operational and administrative capacities for managing the structural policy need to be enhanced significantly.

Regarding **market policy**, a list of commercial denomination of fish species was adopted, but adequate administrative structures need to be established. Legislation on the marketing of fish has been further aligned in the area of marketing standards for fisheries and aquaculture products. NAFA is responsible for issuing the recognition notice for producers' organisations. There are three producer organisations in aquaculture. Landing points as well as first sales centres have been established, primarily for inland fishing.

As regards **state aid** to the fisheries sector, the aid measures must be brought into conformity with the *acquis* by accession.

Concerning **international fisheries agreements**, Romania has attended the 29th Plenary Session of the General Fisheries Commission for the Mediterranean (GFCM), but it should participate actively in GFCM activities, in particular regarding fisheries management (Scientific meetings, management decisions, provision of data on the Black Sea, etc.). Romania should ratify as soon as possible the amendments to the GFCM Basic Agreement related to the new GFCM Autonomous Budget, and the consequent financial contribution to the Organisation.

### *Conclusion*

Romania is generally meeting the commitments and requirements arising from the accession negotiations and is expected to be in a position to implement by accession the *acquis* in the area of **international fisheries agreements** and **state aid**. Subject to good progress being maintained in these areas, Romania should be in a position to implement this *acquis* from accession.

Increased efforts are needed in the areas of **resource and fleet management, inspection and control, structural actions** and **market policy**. Unless efforts are accelerated in areas such as making the Fishing Vessel Register and the Vessel Monitoring System operational, there is a risk that functioning systems will not be in place at accession. In order to complete preparations for membership, the administrative and operational capacities need to be strengthened. In particular Romania must significantly increase efforts to strengthen the institutions responsible for the implementation of structural actions as well as producers' organisations.

### ***Chapter 9: Transport policy***

EU transport legislation aims at improving the functioning of the internal market by promoting efficient environment- and user-friendly transport services. The transport *acquis* covers the sectors of road transport, railways, aviation, maritime transport and inland waterways. It covers technical and safety standards, social standards, and market liberalisation in the context of the European Single Transport Market.

Regarding the **trans-European transport networks**, the administrative capacity to plan, prioritise and manage heavy investments in transport infrastructure needs to be reinforced. Romania should make every effort to implement within the given deadlines the road, rail and inland waterway priority projects contained in Annex III of Decision concerning the guidelines on the trans-European transport networks. The current status of some public-private partnership contracts needs to be clarified, also in relation with the programming of structural and cohesion funds. Public procurement rules have to be strictly enforced as in particular, any misuse of public-private partnership forms has to be avoided.

In the land transport sector, transposition of the **road transport** *acquis* is taking place according to schedule. Framework legislation has been adopted, but the adoption of implementing legislation is still to be completed. Legislation will have to be gradually aligned with the fiscal *acquis*. Further alignment with social and technical *acquis* is also needed in the road safety area, in particular with regard to professional training of drivers and registration documents for vehicles and digital tachographs. More attention should be paid to

the control of the installation and use of seat belts and of alcohol consumption. The administrative capacity of the authorities responsible for road-checks still needs to be strengthened, especially as concerns roadside inspections and the transport of dangerous goods. The practical enforcement of the maximum weights and dimensions legislation still needs to be substantially strengthened. Romania should continue to implement programmes for the phasing-out of discriminatory practices in the overweight charging system. Romania has been granted transitional periods until 31 December 2010 for the introduction of vehicle taxes and until 31 December 2013 for maximum authorised weights of vehicles in international traffic. In relation to the latter transitional period, Romania should pay particular attention to the timely upgrading of its entire road network in order to avoid additional tax burdens for Community vehicles on the non-upgraded parts of its secondary road network.

Transposition of the **rail transport** *acquis* is taking place according to schedule. Further legislative alignment on the rail licensing regime is required. A regulatory body in the rail sector still needs to be established. The administrative capacity of the infrastructure manager is still to be strengthened. The complete network statement of the Romanian railway authority AFER is still to be issued in operational terms.

Legal alignment with the **inland waterway** transport *acquis* is not yet completed, in particular as regards access to cabotage for non-resident carriers and the establishment of the Inland Waterway Fund. Administrative structures are in place and are functioning adequately. Further restructuring of the fleet is still needed in order to comply with the technical standards set by the *acquis*. With regard to newly adopted *acquis*, the exchange of information in relation to the River Information Services between Romania and Bulgaria in relation to the River Information Services for the Danube, as well as on emergency plans and environmental issues should be improved. With regard to **air transport**, legislative alignment has been completed. The administrative capacity of the Civil Aviation Inspectorate needs to be strengthened including training and measures to retain the staff. A European Common Aviation Area Agreement is currently under negotiation with Romania.

In the area of **maritime transport**, Romania has transposed the maritime safety *acquis*. The quality of the new legislation regarding safety rules and standards for passenger ships, maritime equipment and the “Prestige” package remains to be assessed. The percentage of Romanian flag vessels detained following port state control decreased substantially in 2004 compared with the year before (4.2% against 13.6%). This percentage has dropped to 0 in the first 9 months of 2005. Romania remains on the black list of the Paris Memorandum of Understanding (category medium risk), although there are good prospects for a rapid evolution to the grey list. A pending problem is the independence of Romanian Naval Authorities (RNA) officials which is hardly compatible with the possibility for its officials to serve on commercial ships. This is particularly important for RNA officials with inspection functions, who may be hired by private companies upon authorisation by the General Director of the RNA.

With regard to **maritime security**, Romania has fulfilled its international obligations under the SOLAS Convention / Chapter XI/2 and the ISPS Code. By the time of accession, Romania will need to incorporate the *acquis* in the field of maritime security which goes beyond the International Maritime Organisation’s instruments.



## *Conclusion*

Romania is generally meeting the commitments and requirements arising from accession negotiations in the area of **transport policy** and is expected to be ready for membership by the date of accession, provided the current progress is maintained. Romania needs to reinforce administrative capacity regarding trans-European transport networks, in particular as regards planning and management of infrastructure investments. The correct implementation of public procurement legislation should be ensured. Public administration needs further strengthening for all transport modes and legislative alignment has to be completed in the rail, road and inland waterway sectors. In the maritime sector, full independence of RNA officials should be ensured through precluding the possibility of transfer to/incursions in the private sector.

## ***Chapter 10: Taxation***

The *acquis* on taxation covers extensively the area of indirect taxation, as concerns VAT (value-added tax) and excise duties. It lays down definitions and principles of VAT, while excise duties on energy products, tobacco products and alcoholic beverages are subject to EU directives as concerns the structures of the duties, the levels of minimum rates and the holding and movement of excisable goods. As concerns direct taxation, the *acquis* covers some aspects of corporate taxes and aims mainly at removing obstacles to cross-border activities between enterprises. Finally, the Community legislation in the area of administrative cooperation and mutual assistance provides tools to avoid intra-Community tax evasion and tax avoidance for both direct and indirect taxation.

In the domain of **VAT**, legislative alignment is advanced, but further efforts are still required to ensure a full alignment by accession. Some progress towards legislative alignment was made in eliminating certain incompatible VAT exemptions. However, further efforts are still required to ensure alignment of VAT legislation with the *acquis* by accession. In particular, the registration and exemption threshold needs to be brought down to the level set in the Accession Treaty and special schemes need to be introduced. During accession negotiations Romania was granted specific arrangements to continue exempting international passenger transport from VAT with right of deduction on a permanent basis, and to apply a registration and exemption threshold of EUR 35 000 to small and medium-sized enterprises.

In the domain of **excise duties**, progress in adopting the legislative framework can be recorded in the increase of the excise rates on tobacco products, alcoholic products and mineral oils as from April 2005. Romania has already reached the minimum EU rate for certain mineral oils. Efforts are still required to complete alignment in this area, i.e. reaching the minimum excise duty rate levels, transposing the provisions related to intra-community movements for all the harmonised product categories, and adopting the Energy Directive.

Furthermore, Romania has to introduce legislation introducing the reduced excise duty rate (50%) for small fruit growers' for personal consumption, in accordance with the transitional arrangement obtained during accession negotiations. In this respect, Romania will also need to ensure that adequate administrative capacity is in place to enforce effectively the limits of distillation at reduced rates for own consumption, as the enforcement of the relevant legislation will require extensive controls upon a large number of small distilleries. During accession negotiations, Romania was also granted a number of transitional arrangements to

adjust its level of excise duties on various oil products and on electricity (unleaded petrol, gas oil, natural gas, heavy fuel oil and electricity). Romania was also granted a transitional period until December 2009 to continue applying an excise duty rate lower than the EU minimum on cigarettes.

In the field of **direct taxation**, Romania still needs to complete transposition of the Directives concerning indirect taxes on the raising of capital, parent-subsidiary, interest and royalties and savings. The amendments regarding the Merger Directive have also to be taken into account. In addition, Romania needs to ensure that existing and future legislation complies by accession with the principles of the Code of conduct for business taxation. Romania should undertake the necessary preparations to ensure effective exchange of information under Directive 2003/48/EC by accession. During accession negotiations, Romania was granted a transitional period until 1 January 2011 concerning the taxation applicable to interest and royalty payments.

As regards **administrative cooperation and mutual assistance**, Romania should complete legislative alignment and undertake the necessary preparations to be able effectively to exchange information with EU Member States as of accession. The Central Liaison Office now consists of 13 employees.

Preparations for the VAT Information Exchange System, VAT on e-services and the System for Exchange of Excise Data (SEED) database only began in 2004. Although some progress can be reported as of recently, significant delays have occurred in setting up both systems and their development calendar is now extremely tight. Romania needs to step up significantly its efforts if it is to ensure that it will be able to meet its tax IT interoperability requirements upon accession.

As regards administrative capacity, the National Agency for Fiscal Administration (NAFA) now has overall responsibility for the collection of all revenues to the consolidated state budget, except VAT for imports and excise duties paid in customs offices, which are collected by the National Customs Authority (currently under NAFA). The administrative capacity of the entire Romanian tax administration needs to be improved significantly. Whilst a number of actions have been undertaken to improve the collection rate and this is rising, the level of tax collection in Romania is still unacceptably low, and the control capacity of the administration very weak, in particular as concerns VAT. VAT collection rates are highest from large taxpayers, while a significant proportion of small and medium-sized enterprises escape taxation. As concerns excise duties, the capacity of the administration to collect and control them is very weak, most notably in the area of alcoholic products. It would appear that around 50% of alcohol consumption is currently escaping all taxation; this situation is likely to worsen after accession.

### *Conclusion*

Romania is generally meeting the commitments and requirements arising from the accession negotiations in the field of **VAT, excise duties and direct taxation** (except for IT aspects) and, as far as legal alignment is concerned, it is expected to be in a position to implement the *acquis* in these areas as of accession. In completing preparations for membership, Romania should complete legal alignment in a number of areas (adapting VAT registration and exemption threshold, adopting the legislative framework for transitional arrangements granted as regards excise rates on certain energy products, completing transposition of the

Directives concerning indirect taxes on the raising of capital, parent-Subsidiary, the amendment of the merger directive, interest and royalties and savings).

There are serious concerns in relation to **administrative co-operation and mutual assistance**, where urgent attention is required to address the slow pace of implementation of the tax IT interoperability systems. Although some progress has been made recently, the development calendar is now extremely tight and action is needed to ensure completion in time for accession. Increased efforts need to be made with regard to implementation structures, in particular increasing the current low level of collection rates of VAT and excise duties. To this end, Romania should carry out a reform and modernisation of the tax administration with a view to ensuring integrity and tackling the lack of resources and conflicts of interest currently hampering the capacity to ensure taxpayer compliance and collection of dues.

### ***Chapter 11: Economic and Monetary Union***

EU legislation on Economic and Monetary Union (EMU) contains specific rules requiring the independence of central banks in Member States, prohibiting direct financing of the public sector by the central banks and prohibiting privileged access to financial institutions by the public sector. These rules must have been implemented by the date of accession. Upon accession, new Member States will be expected to coordinate their economic policies and will be subject to the provisions of the Stability and Growth Pact and the Statute of the European System of Central Banks. They are also committed to work towards compliance with the criteria laid down in the Treaty for adopting the euro. Until they adopt the euro, they will participate in Economic and Monetary Union as a Member State with a derogation and shall treat the exchange rate of their currency as a matter of common concern.

With regard to the **prohibition of monetary financing of the public sector**, Romania has largely aligned its legislation with the *acquis*. However, Article 26 of the Law on Public Debt provides for “lending of last resort” operations. Romania needs to establish the necessary safeguards to avoid that the national bank bears financial commitments of the state sector through monetary financing.

With regard to the **prohibition of privileged access by the public sector to financial institutions**, alignment is almost completed. Certain provisions of the legislation on the establishment and operation of the Bank Deposit Guarantee Fund should be strengthened, so as to widen further the scope of eligible assets, since these are still significantly composed of government securities.

As regards **the independence of the national central bank**, the National Bank of Romania Statute is fully compatible with the *acquis*. However, the Romanian Law on Public Debt contains an article on the right for the government to contract loans to support the balance of payments and the hard currency reserves of the State. This right should be clarified (e.g. in the context of possible borrowings under IMF programmes) as it could conflict with the exclusive responsibility of the National Bank for holding and managing foreign exchange reserves.

### ***Conclusion***

Romania is generally meeting the commitments and requirements arising from the accession negotiations in the area of **economic and monetary union**. Some adjustments in the

legislation are still needed. Romania will be in a position to implement the relevant *acquis* as from accession, and its administrative capacity is in place and functioning effectively for this chapter.

### ***Chapter 12: Statistics***

The *acquis* in the field of statistics requires the adoption of basic principles such as impartiality, reliability, transparency, confidentiality of individual data and dissemination of official statistics. It also covers methodology, classifications and procedures for data compilation in various areas such as macro-economic and price statistics, business statistics, transport statistics, external trade statistics, demographic and social statistics, agricultural statistics, environment statistics, science and technology statistics and regional statistics. The focal point of the statistical system of a country is the National Statistical Institute, which acts as the reference point for the methodology, production and dissemination of statistical information.

Given the development since the opinion and the level of compliance reached, Romania should be able to implement the *acquis* in statistics as from accession provided that enhanced efforts are deployed.

In order to close the remaining gaps Romania needs to improve the coverage, and the exhaustiveness of data in certain domains such as national accounts and regional statistics. Sustainable and enhanced efforts, notably in terms of human resources, are equally necessary for the timely implementation of Intrastat. Further fine-tuning is needed for the areas of agricultural statistics, business register and business statistics and cooperation between institutions.

### ***Conclusion***

Romania is generally meeting the commitments and requirements arising from the accession negotiations in the area of **statistics** and is expected to be in a position to implement the *acquis* as from accession. Romania should pay attention to further methodological development and to improving the quality, timeliness and completeness of data in certain domains such as national accounts, business statistics and agricultural statistics.

### ***Chapter 13: Social policy and employment***

The *acquis* in the social field includes minimum standards in areas such as labour law, equal treatment of women and men in employment and social security, and health and safety at work. Specific binding rules have also been developed in public health (on tobacco control and surveillance and control of communicable diseases) and recently also with respect to non-discrimination on grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation. The European Social Fund (ESF) is the main financial instrument through which the EU supports the implementation of its Employment Strategy and contributes to social inclusion efforts (implementation rules are covered under Chapter 21, which deals with all structural instruments). The Member States participate in social dialogue at European level and in EU policy processes in the areas of employment policy, social inclusion and social protection.

As regards **labour law**, the Labour Code has been modified in June 2005. Further alignment with the *acquis* has been reached with the adoption of new legislation, in particular in the

field of European Works Councils. Transposition needs to be further completed, in particular in areas not yet covered by the Labour Code (such as employer insolvency, posting of workers and the sectoral working time). Recent *acquis* (namely the Directives supplementing the statutes of the European Company and the European Cooperative Society as well as the Information and Consultation Directive) is still to be transposed. Furthermore, several shortcomings need to be addressed in several fields, such as European Works Councils, collective redundancies, transfers of undertakings, part-time work, fixed-term work, etc. Improvement of the administrative capacity of the Labour Inspectorate should be maintained in order to guarantee good application of the *acquis* on the ground.

Most of the *acquis* in the area of **equal treatment of women and men** has been transposed. Adjustments are still needed in the field of occupational pensions. It still has to be verified whether retirement age of civil servants needs to be equalised according to the principle of equal pay laid down by the Treaty. The due functioning of the recently established National Agency for Equal Opportunities should be ensured. Adequate financial resources should be provided in order to ensure its sustainability in the long term. The necessary legal adaptations should be made in order to ensure its full independence. Its responsibilities and attributions should also be clarified as compared to the National Council for Combating Discrimination. Furthermore, the institutional set-up of the National Agency for Family Protection should be improved, and the recently adopted national strategy for preventing and combating domestic violence should be implemented soon, in particular through the creation of related local networks.

Legislative alignment is still to be completed in the area of **health and safety at work**. Recent *acquis* on risks related to exposure of workers to vibration, noise and asbestos still needs to be transposed. Administrative capacity of the Labour Inspectorate should be further enhanced, and awareness-raising of and training on health and safety requirements among employers, especially in SMEs, should continue.

The administrative framework regarding **social dialogue** is in place, but the structures need to be further improved, as it seems in reality that bipartite and tripartite consultative bodies are in general, if operational, far from efficient. The method used for consulting social partners at tripartite level should be improved, particularly as concerns communication between social partners and the Government in the framework of the Economic and Social Council and financial autonomy of the ESC. The participation of employers' associations in the Economic and Social Council should be improved. The absence of trade union representatives in the tripartite Consultative Committee for the Development of SMEs is another shortcoming that needs to be tackled. In general, excessive fragmentation of social partners and lack of representativeness, especially amongst employers' representatives, may affect the collective bargaining process and should be remedied. Strengthening the administrative capacity and know-how of the federations is also an issue. As regards bipartite social dialogue, the number of bipartite collective agreements should be increased. In general, efforts must continue in order to promote both tripartite and autonomous bipartite social dialogue, particularly at branch and industry level, and to improve social partners' capacity to implement the *acquis*, in particular from the employers' side.

In the field of **public health**, the transposition of the *acquis* in the area of blood and blood components, tissues and cells needs to be completed and substantial capacity building efforts must be undertaken to ensure proper implementation of legislation. Combating trade in human egg cells requires particular attention in order to ensure the principle of voluntary and unpaid donations of tissues and cells. Further efforts are needed in the implementation of the

National Plan of Action for the surveillance and control of communicable diseases, including strengthening the capacity of the National Centre for Communicable Diseases. The coverage of the surveillance system should be improved to reach out to the most vulnerable groups, such as the Roma minority. Access to health care, including preventive services, should be ensured for all citizens in order to improve the health status of the population. The health system is in need of reform to improve the efficiency and effectiveness. The persistent problem of ill-treatment in psychiatric hospitals needs to be addressed immediately.

Concerning **employment policy**, further efforts are necessary to effectively implement the priorities identified in the Joint Assessment Paper of Employment Policy Priorities in a more coherent and effective way, including the integration of ethnic minority groups, in particular Roma, on the labour market. There is a need to improve the effectiveness and efficiency of the Romanian public employment services and to effectively activate labour market measures.

Preparations for managing the **European Social Fund (ESF)** should be stepped up. In particular, attention must be given to the strengthening of administrative capacity of relevant bodies at central, regional and local level (*see also Chapter 21 – Regional policy and coordination of structural instruments*).

The Commission and Romania have finalised the Joint Inclusion Memorandum which identifies key challenges and policy orientations for promoting **social inclusion**. The Joint Inclusion Memorandum and its follow-up process represent an important step to prepare Romania for the open method of coordination in the area of social inclusion and sustained efforts are needed to ensure its full implementation. Administrative capacity of the Ministry of Labour, Social Solidarity and Family should be strengthened in order to coordinate the future measures in this field and to ensure enhanced coordination among relevant ministries and other stakeholders, including a clearer definition of responsibilities as well as adequate financial support of numerous strategies and action plans envisaged at national and decentralised level. Analytical work and development of social statistics on poverty and social exclusion should be continued in line with the EU's commonly agreed indicators on social inclusion. Moreover, further efforts are needed to improve the situation of vulnerable groups and promote their full integration into society, such as Roma community, who faces extremely high risks of poverty, exclusion and isolation across the country, or the persons with disabilities, by improving access to public areas, buildings and transport as well as to education and the labour market. The efforts to develop an inclusive strategy that aims at closing and restructuring large residential institutions by developing alternative community-based services, support to families and smaller residential units have to be continued and reinforced.

Concerning **social protection**, sufficient funding at both local and national level should be ensured for the implementation of the decentralisation process which is on track. Moreover, access to social assistance needs to be improved, in particular for the Roma minority. A major challenge of the Romanian pension system resides in the ways to ensure at the same time its adequacy and its long-term financial sustainability, which raises in particular the question of the ratio between the number of contributors and that of beneficiaries. In that respect an increase of older workers' employment would contribute to the search for a better balance.

Legislative alignment in the field of **anti-discrimination** is still to be completed especially as regards the shift of the burden of proof in order to have in place an efficient anti-

discrimination mechanism in Romania. The overall administrative capacity of the National Council for Combating Discrimination should be enhanced, including funding, transparency and general awareness of its activities, and its independence should be guaranteed. Its relationship with the National Agency for Equal Opportunities also needs to be further clarified. Effective implementation of the legislation on the ground is still to be ensured. Despite promising efforts, the situation of the Roma minority still requires fundamental improvements. Public expression of racism against vulnerable groups, such as Roma, should be brought to an end. Due attention should be paid to awareness-raising activities in order to eradicate prejudices and stereotypes in society.

### *Conclusion*

Romania is generally meeting the commitments and requirements arising from the accession negotiations in the areas of **equal treatment of women and men, health and safety at work, employment policy, social protection** and **anti-discrimination** and is expected to be in a position to implement this *acquis* from accession. However, some legal adjustments are still needed. As regards employment policy, the effective implementation of the priorities identified in the Joint Assessment Paper is necessary to prepare for full participation in the European Employment Strategy.

Romania must increase efforts in the areas of **labour law, social dialogue, public health, European Social Fund** and **social inclusion**. With regard to the European Social Fund, particular attention must be given to the strengthening of administrative capacity of relevant bodies at central, regional and local level (*see also Chapter 21 – Regional policy and coordination of structural instruments*). In order to complete preparations for accession, regarding social dialogue, the correct participation of social partners in tripartite structures must be ensured, and bipartite social dialogue needs to be further promoted. Capacity building of the social partners should also be significantly improved. Access to health services, particularly for the Roma minority, needs to be enhanced, and immediate attention should be paid to the improvement of the health status of the population and to health expenditure. Improvement of the treatment of inmates in psychiatric hospitals and of the living conditions of the Roma minority must be prioritised. Unless significant additional efforts are made in the fields of public health, European Social Fund and social inclusion, there is a serious risk that Romania will not have duly functioning structures in place by the date of accession. In general terms, increased efforts are needed to strengthen the administrative capacity.

### *Chapter 14: Energy*

EU energy policy objectives include the improvement of competitiveness, security of energy supplies and protection of the environment. The energy *acquis* consists of rules and policies, notably regarding competition and state aid (including in the coal sector), the internal energy market (for example the opening up of the electricity and gas markets, promotion of renewable energy sources, crisis management and oil stock security obligations), energy efficiency and nuclear energy.

As regards **security of supply**, and in particular oil stocks, framework legislation is in place and in line with the *acquis*. Implementing legislation for the further building-up of oil stocks is still to be adopted. The administrative capacity required in the Ministry of Economy and Trade and the Administration of State Reserves is in place but needs further strengthening.

Oil stocks are progressively being built up and reported to the Commission according to schedule, namely to reach the *acquis*-required equivalent of 90 days' consumption by the end of 2011 as granted to Romania in a transitional arrangement.

In the field of **competitiveness and the internal energy market** (electricity and gas sectors), transposition of the *acquis* is proceeding well. The framework legislation including implementing legislation in the electricity sector is largely in place, but needs to be completed and further aligned with the *acquis*. In the gas sector, framework legislation is in line with the *acquis*, but implementing legislation needs to be completed. Further market opening is taking place in the electricity and gas sectors and should continue according to negotiation commitments. The electricity market has already been opened in July 2005 for all non-household consumers, ahead of Romania's commitments.

The restructuring process is advancing in both sectors but needs to be completed, including unbundling. Price distortions have been removed in the electricity sector, whereas similar effects in the gas sector continue to be seen after the introduction of a new pricing methodology on 1 April 2005. Further efforts are required to increase bill collection rates, to reduce arrears and to recover current bills in order to render both the electricity and the gas sector more competitive. Two regulatory bodies, the national authority for energy regulation ANRE and the national gas regulatory authority ANRGN have been established, but their administrative capacity and independence should be further strengthened, inter alia by ensuring full terms in office for senior management. Given the current high prices on the world market for natural gas, it is unlikely that Romania will reach the objective of achieving import parity for the price of its domestic gas by 2007.

In the gas sector, the construction of the Nabucco gas pipeline project is among the priority projects of the European Union and has received support from the programme for trans-European energy networks. The Nabucco Company Pipeline Study GmbH was established in late 2004. Special attention should be paid to the protection (security) of the pipeline infrastructure, taking into account its important role in the security of supply of the European Union.

In the solid fuels sector the number of mining activities and accordingly, employment in the coal industry, was reduced. Further restructuring is needed. A strategy for the mining industry for the period 2004-2010 is being implemented. State aid to the coal sector decreased significantly in the 2005 budget. Romania still has to transpose and apply the *acquis* on hard coal imports.

Concerning **energy efficiency and renewable energy**, legislation is mainly in place, with the exception of the directives on energy efficiency in buildings and on biofuels. A target for the share of consumption of electricity from renewable energy sources of overall electricity consumption of 33% for 2010 has been set. However, it is important that sufficient and effective support mechanisms are put in place to achieve this target. For renewable energies, a regulation on organising and operating a green certificates market was approved in March 2005. However, it is necessary to be aware that efficient and effective support mechanisms are needed, which create a stable environment for investors, in order to achieve such a market. The Romanian agency for energy conservation ARCE as the main institution in this area has been established but needs to significantly strengthen its capacities and resources in order to make better use of the large potential for more energy efficiency in Romania. With a view to energy efficiency, but also market functioning, the national district heating strategy



and action programme should be implemented with much more vigour and coherence, together with international donors.

In the area of **nuclear energy and nuclear safety**, the regulatory framework including the necessary implementing legislation is in place. Romania has accepted and addressed all recommendations contained in the June 2001 Council Report on Nuclear Safety in the Context of Enlargement, and completed most of its implementing measures. All administrative structures are in place (the nuclear regulatory authority CNCAN, the national agency for radioactive waste ANDRAD and a newly created Nuclear Agency for the promotion of nuclear energy), but all need to continue efforts to strengthen their capabilities and independence. In particular, CNCAN should increase its efforts to recruit additional staff and fill the vacant posts. Attention should be paid to the clear separation of responsibilities between the different institutions. Romania should further reinforce its efforts to improve the management of institutional radioactive waste, and generally ensure a high level of nuclear safety, in particular in the commissioning process for unit 2 of the Cernavoda nuclear power plant. The absence of a dedicated fund for decommissioning and waste management is a concern and the requirement for national legislation in this area should be addressed.

Romania will need to ensure compliance with the Euratom Treaty requirements and procedures. In this respect, due attention will need to be paid to preparing the implementation of Euratom safeguards, in particular regarding the reporting of nuclear material flows and inventories directly by the persons or undertakings operating nuclear installations or storing nuclear materials. This includes small holders like universities and medical facilities.

### *Conclusion*

Romania is generally meeting the commitments and requirements arising from accession negotiations in all areas of the **energy** sector, and is expected to be in a position to implement the *acquis* as of accession. Romania should complete its preparations for the building up of oil stocks. It has to adopt outstanding implementing legislation for the internal energy market, continue the opening-up of the electricity and gas markets, increase bill collection rates, reduce arrears and strengthen the regulatory authorities. Preparations for the full application of state aid rules in the coal sector have to be completed. In the area of energy efficiency and renewable energy Romania needs to complete the transposition of the *acquis* (directives on buildings and biofuels) and strengthen its implementation. In the field of nuclear energy and safety, Romania should continue to pay attention to further strengthening its relevant administrative structures.

### ***Chapter 15: Industrial policy***<sup>3</sup>

EU industrial policy seeks to enhance industrial competitiveness and rates of employment, whilst operating in markets open to international competition. Its aim is to speed up adjustment to structural change, encouraging an environment favourable to initiative and to the development of businesses throughout the Community. EU industrial policy mainly consists of policy principles and horizontal and sectoral industrial policy communications.

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<sup>3</sup> Developments concerning industrial policy should be seen in relation to overall enterprise policy, including SME policy (see also Chapter 16 - Small and medium-sized enterprises).

An important element of any industrial policy is controlling state aid and ensuring support schemes are in line with EU rules (*see Chapter 6 – Competition policy*).

Romania's **industrial strategy** essentially complies with the concepts and principles of EU industrial policy, i.e. it is market-based, stable and predictable. However, the 2002 strategy would benefit from the adoption and implementation of the envisaged update. The administrative structures and capacity in this area are in place, but are still to be strengthened. Further efforts to improve investment promotion and the business environment have to be made.

In the area of **privatisation and restructuring**, despite some progress, the privatisation needs to be further actively pursued. Full transparency of the process needs to be continuously ensured. The litigations related to non-achievement of contractual obligations in the post-privatisation period remain a problem, which occasionally leads to the bounce back to state ownership of some enterprises for which privatisation contracts were previously signed. As regards steel restructuring and privatisation, Romania has adopted a restructuring strategy for the steel sector and individual viability plans for the steel plants. Continuous attention is needed to ensure that no state aid is given to the sector outside the provisions of Protocol 2 of the Europe Agreement and the Accession Treaty (*see also Chapter 6 – Competition policy and the economic chapter*) and to implement the conditions and obligations for restructuring this sector.

### *Conclusion*

Romania is essentially meeting the commitments and requirements arising from the accession negotiations as regards **industrial strategy** and is expected to be able to implement the *acquis* as of accession. Romania should continue to strengthen administrative capacities in relevant Ministries and Agencies.

Increased efforts are needed in the area of **privatisation and restructuring**. Romania needs to fully implement its privatisation strategy including resolving post-privatisation litigations. Romania also needs to continue the restructuring of key industries including the timely and efficient implementation of the steel restructuring strategy.

### ***Chapter 16: Small and medium-sized enterprises<sup>4</sup>***

EU SME policy aims to improve the formulation and coordination of enterprise policy across the internal market with a view to supporting the development of SMEs. In doing so, it seeks to improve the overall business environment in which SMEs operate. SME policy consists largely of consultation forums and Community programmes, as well as communications, recommendations and exchanges of best practices.

Romania is generally meeting the commitments and requirements arising from the accession negotiations in the chapter **small and medium-sized enterprises**. The implementation of SME policy needs to be further pursued and institutional structures reinforced. Efforts to improve the business environment, including the effective and rapid implementation of the

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<sup>4</sup> Developments concerning SME policy should be seen in relation to overall enterprise policy, including industrial policy (*see Chapter 15 - Industrial policy*).

adopted Action Plan, need to continue, i.e. the removal of bureaucratic barriers and the creation of a stable and predictable legal framework. Romania needs to ensure full alignment with the EU SME definition. The implementation of the principles of the European Charter for Small Enterprises should be continued.

### ***Chapter 17: Science and research***

Due to its specificity, the *acquis* in the field of science and research does not require any transposition into national legislation. Implementation capacity does not relate to the application and enforcement of legal provisions but rather to the existence of the necessary conditions for effective participation in the Framework Programmes. In order to ensure the successful implementation of the *acquis* in this domain, and in particular successful association with the Framework Programmes, Romania will need to create the necessary implementing capacities in the field of research and technological development, including an increase in personnel related to Framework Programme activities.

Romania has met the commitments and requirements arising from the accession negotiations in the area of **science and research** and is expected to be in a position to implement the *acquis* as from accession.

### ***Chapter 18: Education and training***

Education, training and youth are primarily the responsibility of the Member States. The EC Treaty provides that the Community will contribute to the development of quality education and implement a vocational training policy that supports and supplements the action of Member States. The *acquis* consists of a Directive on the education of children of migrant workers, and action programmes and recommendations. Member States need to have the legal, administrative and financial framework and also the necessary implementing capacity in place to ensure sound financial management of the Community programmes related to this chapter (Leonardo da Vinci, Socrates and Youth).

As regards **Community programmes**, Romania's participation in the Socrates programme is basically satisfactory. Efforts made to improve the financial management of the Leonardo da Vinci programme by the National Agency and monitoring by the Ministry of Education should be consolidated. The work of the youth national agency needs to be substantially improved. In view of Romania's participation in the future programmes, this implementing capacity of the national agencies will need to be scaled up to deal with the increased volume of activity following accession.

In the area of the **education of children of migrant workers**, Romania has adopted the legislation which transposes the *acquis* and should now complete its preparation to implement this legislation upon accession.

### ***Conclusion***

Romania is generally meeting the commitments and requirements arising from the accession negotiations in the area of **education and training** and is expected to be in a position to implement the *acquis* from accession. Further efforts should be made to ensure sound financial management of the Community programmes and monitoring by the relevant Ministries. The operational capacity of the national agencies managing the programmes should continue to be upgraded.

## ***Chapter 19: Telecommunications and information technologies***

The *acquis* in the field of telecommunications is aimed at the elimination of obstacles to the effective operation of the Single Market in telecommunications services and networks, and the achievement of universally available modern services. The last regulatory framework on electronic communications was adopted by the EU in 2002. As regards postal services, the objective is to implement the Single Market by opening up the sector to competition in a gradual and controlled way, within a regulatory framework which assures a universal service.

With regard to **electronic communications and information technologies**, continued progress has been made with liberalising the telecommunications market and with completing the alignment with the 2002 *acquis*, including implementing legislation.

The transitional measures which maintain obligations on operators having significant market power have been well implemented as regards interconnection in the fixed and mobile networks, carrier selection, local loop unbundling and the cost orientation of retail tariffs (tariff rebalancing). Measures on carrier pre-selection, number portability and minimum set of leased lines are being implemented. However, the current national numbering plan could raise obstacles to competition and should be addressed as a matter of priority. The universal service implementation mechanism has been poorly supported by operators, but is being reviewed to ensure compliance with the universal service law taking into consideration the economic context of the country.

The National Regulatory Authority for Communications (NRA) has been operational since September 2002. It is an independent entity with regard to structure, operations and financing, but is subordinated to the government. Spectrum management and regulation is entrusted to the Inspectorate General for Communications and Information Technology. Since November 2004, the Inspectorate has run as an autonomous institution, under the subordination of the Romanian government. Both organisations, together with the competition authority need to work in full and effective cooperation. In addition, since the state remains a large shareholder in several operators (Romtelecom, SNR, PostTelecom) effective structural separation of the regulatory function from activities associated with ownership or control needs to be fully secured. This means in particular that, beyond establishing a regulatory organisation as a separate legal entity, the security of tenure that NRA officers are given during their term of office should not be jeopardised by changes in government.

Further legislative progress can be reported in transposing the postal services *acquis* as the legislation on licensing and authorisation of **postal services** has been implemented.

### ***Conclusion***

Romania is generally meeting the commitments and requirements arising from the accession negotiations in the area of **telecommunications and information technologies**. Attention should be devoted to the universal service implementation arrangements in accordance with the provisions of the universal service law, and to harmonisation with EU practices in the identification of relevant markets, including on public mobile networks. Finally, full independence of regulatory bodies needs to be enforced, taking full account of the separation of regulatory and operational functions required by the *acquis*, since the government represents the state as shareholder in several operating companies.

## ***Chapter 20: Culture and audiovisual policy***

This chapter requires legislative alignment with the Television without Frontiers Directive, which creates the conditions for the free movement of television broadcasts within the EU. It includes basic common requirements concerning jurisdiction, advertising, major events, the promotion of European works, the protection of minors and public order, and the right of reply. The chapter also includes the Community programmes Culture 2000, Media Plus and Media Training.

Romania has aligned its legislation to a large extent with the *acquis* in the field of **audiovisual policy** by adopting the two remaining modifications to the audiovisual law concerning jurisdiction and freedom of reception. However, the recently adopted Law on Cinematography includes an obligation for all television broadcasters in Romania to reserve a minimum of 5% of broadcasting time for Romanian feature films, which contradicts the principle of non-discrimination on the grounds of nationality.

Romania should bring its legislation in line with the EU *acquis* and continue to strengthen its administrative capacity in order to ensure a transparent and effective implementation of the regulatory framework.

In the field of **culture**, Romania continues to participate in the Culture 2000 programme.

### *Conclusion*

Romania is meeting the commitments and requirements arising from accession negotiations in the field of **culture**.

Increased efforts are needed to bring the Romanian legislation in the area of **audiovisual policy** in line with the EU *acquis*. Romania also needs to complete its preparations to ensure predictable, transparent and effective implementation of the regulatory framework.

## ***Chapter 21: Regional policy and coordination of structural instruments***

The *acquis* under this chapter consists mostly of framework and implementing regulations, which do not require transposition into national legislation. They define the rules for drawing up, approving and implementing Structural Funds programmes and Cohesion Fund actions. These programmes are negotiated and agreed with the Commission, but implementation is the responsibility of the Member States. It should be noted that the Structural Funds regulations will be revised by the end of 2006 at the latest. It is essential that Member States respect Community legislation in general, for example in the areas of public procurement, competition and the environment, when selecting and implementing projects, and have the necessary institutional structures in place to ensure implementation in a sound and cost-effective manner from the point of view of both management and financial control.

Romania has agreed with the Commission on a NUTS classification of its **territorial organisation**.

The **legislative framework** necessary to ensure full compatibility of operations financed by the Structural Funds with Community policies and legislation is largely in place. However, some budgetary legislation and instruments still need to be revised and completed to ensure full multi-annual budget programming and budgetary flexibility.

The legislation related to Public Private Partnership and concessions as well as secondary legislation and methodological norms need to be further harmonized. A reliable ex-ante procurement control system needs to be set up and become fully operational on all relevant levels (for more detailed information on public procurement refer to *Chapter 1- Free movement of goods*).

The necessary **institutional structures** for the preparation and implementation of the Structural Funds, with a description of their related organisational charts, are progressively set up. The designation and future role of the Managing Authorities responsible for the two operational programmes on environment and transport, with regard to the future programming of the Cohesion Fund, have been clarified.. Action is needed regarding the strengthening of the administrative capacity across all main ministries and other relevant bodies on central, regional and local level, including in relation to the European Social Fund and especially for some lagging structures such as the management of the future Competitiveness programme. Staffing level and the pace of recruitment needs to be improved in order to reduce the related backlogs. Cooperation between central and regional level must be significantly strengthened. The Single action plan aiming at improving the management of EU funds in Romania needs to be put into effective and rapid implementation. The co-financing mechanisms especially at local level need to be clarified and secured.

An independent associated body to the Romanian Court of Accounts has been appointed for performing external audit functions for ISPA and the future structural funds. Preparatory works need to be pursued for this body to become fully operational. Work on **programming** is proceeding well but efforts should continue at the same pace for all operational programmes. Specific attention should be paid to ensure coordination between the Regional Operational Programme and the Sector Operational Programmes. The partnership principle in programming needs to be fully implemented and the capacity and involvement of regional and local partners further reinforced. Efforts to build up an effective and sustainable project pipeline in all sectors should be pursued, especially for the European Regional Development Fund. Training in project preparation and management for the final beneficiaries of all Operational Programmes, but especially for some key financial beneficiaries in the transport sector, must be enhanced.

In relation to **monitoring and evaluation**, Romania has started to develop a single management information system for monitoring the implementation of the future programmes. All the foreseen managing structures also include monitoring and evaluation units.

The area of **financial management and control** is still characterised by structural weaknesses and needs to be considerably strengthened to avoid risks of irregularities.. Efficient implementation and an early testing of procedures as well as the development of relevant administrative capacity needs to be ensured across all Operational Programmes..

Additionality should be verified before the finalisation of relevant programming documents.

### *Conclusion*

Romania is meeting the commitments and requirements arising from the accession negotiations in relation to **territorial organisation**. The **programming** process is also progressing, at technical level, in accordance with the negotiations requirements.

Increased efforts are needed by Romania as regards preparations on the **legislative framework** and **monitoring and evaluation**. While the legislative framework is largely in place, Romania must bring its legislation on multi-annual budget programming and budgetary flexibility and on public procurement in line with *acquis* requirements. Romania needs to continue its efforts to ensure full participation of local and regional players as well as efficient inter-ministerial and cross-sectoral coordination. Efforts should also continue to establish an adequate project pipeline of well-prepared projects in all sectors. Romania's co-financing capacity and mechanisms should be secured, especially at local and regional levels.

There are serious concerns in relation to the administrative capacity of the **institutional structures**, and in the area of **financial management and control**. Immediate action is required to strengthen administrative capacity across all concerned bodies at national, regional and local level, including in relation to the European Social Fund. The cooperation between the central and regional level needs to be clarified and considerably improved. The ability of Romania to guarantee sound financial management and control should be considerably strengthened to be ready by the date of accession.

## ***Chapter 22: Environment***

Community environment policy aims to promote sustainable development and protect the environment for present and future generations. It is based on the integration of environmental protection into other Community policies, preventive action, the polluter pays principle, fighting environmental damage at source and shared responsibility. The *acquis* comprises over 200 legal acts covering horizontal legislation, water and air pollution, management of waste and chemicals, biotechnology, nature protection, industrial pollution and risk management, noise and radiation protection. Ensuring compliance with the *acquis* requires significant investment, but also brings significant benefits for public health and reduces costly damage to forests, buildings, landscapes and fisheries. A strong and well-equipped administration at national, regional and local levels is imperative for the application and enforcement of the environment *acquis*.

**Horizontal legislation** is largely in place and in line with the *acquis*. Transposition has to be completed with regard to implementing legislation related to the Strategic Environmental Assessment and Access to Information Directives. Administrative capacities are in place, but further strengthening, recruitment and staff training have to take place to ensure the correct implementation of the transposed legislation.

In the field of **air quality**, legislation is in place and in line with the *acquis*. The relevant administrative capacities have been established and are beginning to function. Measures for the improvement of air quality management and monitoring as well as for the development of air quality plans and programmes have to be continued and enhanced. Transitional arrangements, with intermediate targets, have been agreed until the end of 2007 and the end of 2009 for volatile organic compound emissions for a certain number of installations.

As regards **waste management**, legislation is in place and in line with the *acquis*, except for the areas of packaging and packaging waste, shipment of waste and restriction of use of certain hazardous substances in electrical and electronic equipment, where transposition needs to be completed. The necessary implementing legislation on the special regime of the management and control of polychlorinated biphenyls and polychlorinated triphenyls has been taken. Administrative structures are in place and functioning but need further strengthening.

Regional waste management plans still have to be adopted. Recycling and recovery rates for various packaging materials have to be gradually increased according to the agreed schedule. Risk assessments on five tailing ponds in the mining industry are being prepared and will need to be completed. The study on the possibilities to decrease cyanide concentration at Aurul Recea has been completed. Preparations for the closure of 47 non-complying industrial hazardous landfills by end of 2006 have to continue. Delays have been registered in the establishment of collection systems as well as recovery and recycling facilities for electrical and electronic waste. Further efforts are needed as regards implementation measures for the shipment of waste and the end of life vehicles should continue. Transition periods have been granted until 31 December 2011 for certain targets in the field of packaging waste, until 31 December 2009, 31 December 2013 and 16 July 2017 for certain types of landfill of waste, until 31 December 2011 for the shipment of waste and until 31 December 2008 for certain targets in the field of electrical and electronic waste.

In the area of **water quality**, legislation is largely in place and in line with the *acquis*. The *acquis* on urban waste water and discharges of dangerous substances into the aquatic environment has been transposed, but further implementing steps are needed to achieve full compliance. Administrative structures are largely in place and the implementation of the legislation is functioning. As regards investment in water infrastructure, Romania should secure the necessary funds to ensure proper implementation in particular in smaller communities. The register for discharges of dangerous substances needs to be progressively improved, and action plans for vulnerable zones under the nitrates directive will have to be finalised and adopted. The monitoring of water quality requires further enhanced efforts. Transitional arrangements have been agreed until 31 December 2018, with intermediate targets, for urban waste water treatment, until 31 December 2009 for discharges of dangerous substances and until 31 December 2010 and 31 December 2015 for drinking water.

Concerning **nature protection**, legislation is in place, but transposition of certain requirements of the birds directive has to be completed by the date of accession. While administrative capacities have been established, the roles and responsibilities of the various institutions involved should be clearly defined and put into practice. Further staff is needed to fulfil the *acquis* requirements. Preparatory works for the establishment of the Natura 2000 network have advanced, NGOs have been involved in the identification and classification of sites of Community importance, and the focus should now be directed on the next steps to implement the directive including preparations to ensure that relevant protection measures are applied by accession. Attention should be paid to more coordination with the implementation of the water framework directive.

In the field of **industrial pollution**, the necessary legislation is largely in place and in line with the *acquis*. The transposition of the national emission ceiling directive has to be completed. Administrative capacities have been established but need urgent strengthening, especially at regional level. The capacity to issue integrated permits of a sufficient quality by the date of accession for all industrial installations subject to the Integrated Pollution Prevention and Control (IPPC) directive represents a major challenge and requires serious efforts. By September 2005, 13 integrated permits had been issued out of the 716 required by accession. The recruitment of additional experienced staff should be carried out as a matter of priority. Preparations for the implementation of the large combustion plant directive should continue. In a first report on the closure of non-complying installations for thermal treatment of hazardous waste and the quantities of medical waste treated in 2004, Romania indicated that 52 incinerators were closed in 2004 and 14 incinerators were closed in the first five months of 2005. Transitional arrangements have been agreed until between 31



December 2008 and 31 December 2015 for certain numbers of installations under the IPPC directive, until 31 December 2013 and 2017 for certain emissions and certain installations under the large combustion plant directive and until 31 December 2007 and 2008 for certain incinerators under the incineration of waste directive.

The legislation concerning **chemicals and genetically modified organisms** is in place and largely in line with the *acquis*, except for biocides, where transposition has to be completed. Implementation structures have been established and work adequately, but further implementing steps are needed in order to comply with the *acquis*. Inventories of biocide products are being prepared and enforcement activities are proceeding as planned. A proper notification system for new substances including data processing is still to be elaborated. Further staff training should be enhanced.

On **noise**, legislation is largely in place and in line with the *acquis*. Further transposition is needed to ensure full alignment with the directive on noise from outdoor equipment. The transposition of the directive on the assessment and management of environmental noise is still to be assessed. The administrative capacity is still to be considerably reinforced (additional staff and staff training). Implementing measures are proceeding as planned.

As regards **nuclear safety and radiation protection**, the transposition of the relevant legislation is still to be completed, in particular on the supervision of the shipment of radioactive waste. Administrative structures are established and function adequately. Some adjustments and further preparations are needed for the setting up of a supervision system for the shipment of radioactive waste.

### *Conclusion*

Romania is generally meeting the requirements for membership and, subject to good progress being maintained both in the alignment of legislation and administrative capacity, is expected to be in a position to implement the *acquis* in the areas of **air quality, nature protection, chemicals and genetically modified organisms, noise and nuclear safety and radiation protection** by accession. Romania should complete the legal alignment in these areas. Furthermore, Romania should improve air quality management and monitoring and finalise air quality plans and programmes. In the field of nature protection, Romania should ensure that relevant protection measures are applied by accession.

Increased efforts are needed in the areas of **horizontal legislation, waste management and water quality** to finalise the transposition process and to ensure the implementation of the transposed legislation. Waste management plans have to be adopted and recycling and recovery rates have to be increased. The monitoring of water quality requires further improvement and action plans have to be adopted.

Serious concerns exist in relation to **industrial pollution**. Considerable efforts are required to ensure that relevant permits are issued at local and regional level and complied with for all relevant IPPC installations by accession. Romania must also considerably accelerate its efforts to strengthen the administrative capacity of the environmental authorities in this field at all levels. Overall, although Romania has made progress as regards administrative capacity, both in terms of the recruitment and training of personnel, further strengthening is required in particular at regional and local level. Lack of proper co-ordination between national, local and the relatively newly established regional environment authorities remains

an area of serious concern and it must be addressed in order to ensure correct implementation of the environment *acquis*.

### ***Chapter 23: Consumer and health protection***

The *acquis* covers protection of the economic interests of consumers (concerning misleading and comparative advertising, price indication, consumer credit, unfair contract terms, distance and doorstep selling, package travel, timeshare, injunctions for the protection of consumers' interests, certain aspects of the sale of consumer goods and associated guarantees and distance marketing of consumer financial services) as well as the general safety of goods (liability for defective products, dangerous imitations and general product safety). EU Member States need to effectively enforce the *acquis* through appropriate judicial and out-of-court dispute resolution mechanisms and administrative systems, including market surveillance and a role for consumer organisations.

In the area of **safety related measures**, the *acquis* has been transposed. The institutional and administrative framework for **market surveillance** relating to general product safety is in place. However, while staffing of the National Authority for Consumer Protection seems to be adequate, further strengthening of technical facilities is still needed. The division of responsibilities and co-ordination between different bodies, such as the Inter-Ministerial Committee for Market, Products and Services Surveillance and Consumer Protection and the Product Safety Commission, should be improved with a view to enforcing consumer policy. The regular and effective operation of these bodies, as well as of the Consultative Councils that coordinate market surveillance activities at local level, also have to be ensured. In general, market surveillance activities should be further oriented towards the safety aspects of non-food consumer products.

As regards **non-safety related measures**, legislation aiming at transposing the *acquis* has been largely adopted. The administrative capacity is in place, but further strengthening, in terms of technical facilities, is needed.

Concerning **consumer organisations**, further efforts are needed to promote a strong, independent, representative and effective consumer movement in Romania in order to play a key role in the market and to help consumers. Consumer organisations should be involved and consulted by public authorities in all initiatives taken in the area of consumer protection.

### ***Conclusion***

In the area of **consumer and health protection**, Romania is generally meeting the commitments and requirements arising from the accession negotiations. Administrative capacity has to be further strengthened in order to ensure due implementation of market surveillance activities. The commitment of the Romanian government to support consumer organisations should be maintained. Subject to further good progress being maintained in these areas, Romania should be in a position to implement this *acquis* from accession.

### ***Chapter 24: Co-operation in the field of justice and home affairs***

EU policies in the area of justice and home affairs aim to maintain and further develop the Union as an area of freedom, security and justice. On issues such as border control, visas, migration, asylum, drug trafficking and money laundering, combating organised crime, the fight against terrorism, fraud and corruption, police and judicial co-operation, customs co-

operation, data protection and the mutual recognition of court judgements, as well as human rights legal instruments, Member States need to be equipped to ensure they achieve adequate and acceptable standards of implementation. Administrative capacity must be up to these standards by the date of accession. Furthermore, an independent, reliable, and efficient judiciary and police organisation are also of paramount importance. The most developed part of this chapter concerns the Schengen *acquis*, which entails the lifting of internal border controls in the EU. However, substantial parts of this *acquis* do not apply upon accession of a new Member State, but only later, after a separate Council decision.

As regards preparations for applying the **Schengen *acquis* and the management of the future EU external border**, the Schengen procedures are in most cases being implemented, though this should be done in a harmonised and more consistent manner. An updated Schengen Action Plan was adopted in June 2005 and is being implemented broadly in accordance with the deadlines. In October 2005 a Concept for the Implementation of the Integrated Border Security System was adopted and overall this shows good progress has been made in developing a clearer strategic vision on the steps to be taken both before EU accession and before the lifting of internal borders.

Current efforts must continue to modernise equipment and infrastructure along the green and blue borders so that a uniform high level of control is reached. Official figures indicate that the equipment endowment rate is about 75% of the stated need and fixed and mobile communication systems should be given high priority. Preparations for the future participation in the Schengen Information System (SIS II) should be accelerated. Considerable further efforts will be required to put the internal communications infrastructure and managerial and implementation capacity in place that are needed for a successful implementation of SIS II and the Visa Information System (VIS). Serious concerns remain over the financing of Romania's border management needs as there is as yet no final decision on the size or scope of the contract signed in August 2004 with a company to provide an integrated border security solution. Immediate action is required to clarify this matter so that the preparations to implement the Schengen *acquis* can be monitored closely. It is important that sufficient funds are available in the medium and long term to meet the border management needs, including maintenance and running costs.

While additional staff has been hired and some contractual agents have been transformed into professional border agents, progress must continue to implement the plan to fill all remaining vacancies before the end of 2009. There are, however, still large staff shortages in the Border Police with 4 644 vacant posts. When deploying new recruits priority should be given to strengthening the future EU external borders. As regards demilitarisation, conscripts are no longer used in the Border Police but 2 540 contractual agents (formerly known as "military under contract") remain in the Border Police. These contractual agents and the new staff to be recruited all need to be trained as professional border police agents in accordance with the Police Status Law. The current Border Police training facilities should therefore be expanded as a matter of priority to meet this large demand.

While the risk analysis capacity of the border police has improved, operational risk analysis will need to be further strengthened to render more effective the fight against the trafficking of human beings and the smuggling of goods, including weapons. The surveillance capacity along the Black Sea coast and the Danube needs to be enhanced, preferably in close co-ordination with Bulgaria in the latter case as the Danube is an international waterway. **An Agreement signed by Romania and Bulgaria on border co-operation between their competent authorities entered into force in July 2005.** Good international co-operation

exists and all contact centres are operational except Galati. Inter-agency co-operation in Romania has also improved, though the exact delimitation of competencies between the border police and customs should be brought into line with Schengen standards.

On **visa policy**, Romania has to a large extent adopted the provisions and administrative structures needed to ensure effective implementation of the *acquis* upon accession. Moldova remains the only country on the EU negative list with which Romania has not introduced a visa regime, and negotiations are ongoing to align fully the agreements already signed with Russia, Turkey, Ukraine, and Serbia and Montenegro with the Schengen *acquis* before accession. Furthermore, the EU has just concluded an agreement with Russia on visa facilitation which, upon its entry into force, will replace bilateral agreements on short-term visas concluded by Member States. Additional effort will also be needed to ensure abolition of the 12 remaining visa regimes for countries on the EU positive list. The second phase of the roll out of the “visa online” system has been concluded and it is planned that the remaining consular offices be connected by July 2006. Romania needs to start preparing for the implementation of Visa Information System (VIS) in view of lifting the internal borders upon accession to Schengen. Additional efforts are required to install more sophisticated equipment to detect forged and falsified documents in diplomatic and consular posts especially in high-risk countries. New visa stickers with some of the EU security and anti-forgery features started being issued on schedule in September 2004. While visas are issued only at the border in accordance with the Schengen criteria, visa stickers should replace stamps as soon as possible and the latest upon EU accession for security reasons.

In the area of **migration**, the legislative framework is now well aligned with the *acquis* and a new reception centre has opened. Romania has concluded and ratified 30 readmission agreements. Implementation of the National Migration Strategy has continued and in January 2005 a Plan was approved to combat illegal immigration. There are currently 118 vacancies in the Authority for Aliens and a number of its territorial structures are still not connected to the IT network. Practical co-operation with the Border Police on cross-border crime and illegal overstays has improved. Immigration liaison officers are posted in 12 EU Member States and in Bulgaria and Ukraine.

As regards **asylum**, the basic legislative framework and reception capacity for asylum seekers are in place but some further legislative alignment is needed on minimum standards for the reception of asylum seekers, the Dublin II Regulation, international protection and temporary protection. The total number of asylum applicants for 2004 was 662, down from 865 in 2003 and 66 persons were granted refugee status according to the 1951 Geneva Convention and 22 persons were granted conditioned humanitarian protection. No case of refoulement occurred. Additional efforts are needed to implement the social integration legislation fully and to ensure that the National Refugees Office recruits and trains additional staff. Romania is accelerating its preparations for the EURODAC system but still needs to and has formally adopted a Master Plan in July 2005. Efforts should now focus on implementing the Master Plan in accordance with the deadlines. The Automated Fingerprint Identification System (AFIS) workstations at the National Refugees Office and the Institute for Criminology need to be upgraded. In July 2005 439 Uzbek refugees were transferred from Kyrgyzstan to Timisoara following the willingness of the Romanian authorities to contribute to the solution of a difficult crisis situation between Uzbekistan and Kyrgyzstan by hosting them in a reception centre on a temporary basis, pending identification of a permanent resettlement country. All 439 Uzbeks had been recognised by the UNHCR as mandate refugees prior to their arrival. Following extensive verification by two special

UNHCR teams, it is hoped that processing for resettlement in the USA, Canada and Australia can begin in early September.

In the field of **police co-operation and combating organised crime**, a Strategy to fight organised crime was adopted in December 2004 and an Action Plan in September 2005. Serious organised crime threats in Romania include drug smuggling, trafficking in human beings, financial crime and counterfeiting and there are several organised crime groups that operate internationally with links to Romania. While the legal framework for the respective tasks and co-operation between Gendarmerie and Police was established in November 2004, both forces must now receive additional staff equipment and training according to the adopted schedule and funding must be ensured. In March 2005 a Strategy on Public Order and Street Crime was adopted. The capacity to collect statistical data is improving and intelligence analysis should also be enhanced to fight organised crime more effectively. The management of human resources across the whole Ministry of Administration and Interior needs urgent improvement so that career development and merit-based promotions practice is developed. Police at regional and local level need more flexibility in using resources and there should be a decentralisation of decision-making. The witness protection programme and under-cover policing unit are now fully operational and should be used as important tools in the fight against organised crime. Romania has made good efforts to enhance regional co-operation through the Southeast European Cooperation Initiative (SECI). These efforts should continue as well as enhancing co-operation with international law enforcement agencies. Domestic inter-agency co-operation could improve further.

As regards the **fight against money laundering** (see also chapter 4 – Free movement of capital) alignment with the second Money Laundering Directive was completed through legislative amendments in June and September 2005. In order to ensure full implementation in practice further efforts are now needed to improve the institutional framework as well as the operational capacity of law enforcement agencies fighting crime linked to money laundering. Further training is needed for magistrates and a more proactive attitude by investigative and prosecutorial bodies would assist in fighting money laundering effectively.

In the **fight against drugs**, further legislation was passed in December 2004 to align more closely to the *acquis* on controlling synthetic drugs. A new national Strategy was adopted in February 2005 and this was followed in May by an Action Plan. Both documents are in line with the EU Drugs Strategy 2005-2012. Legislation was passed in November 2004 to ensure that coherent national drug seizure statistics are produced; this was followed in February 2005 by agreements signed by the relevant law enforcement agencies to send data to the national anti-drug agency (ANA), which is the sole body able to produce comprehensive national statistics. ANA reports that between September 2004 and June 2005 414 kg of drugs were seized including 58 kg of hard drugs. ANA's budget has been more than doubled and it is negotiating with foreign donors to secure USD 80 million to implement the so-called Great Romanian Anti-Drugs Alliance ("MARA") programme. There is considerable scope for improvement in the fight against drugs. Drug smuggling into and through Romania as well as the domestic production of synthetic drugs remain serious challenges.. Enforcement in all areas remains weak and the border seizure figures are still in many cases low, though some seizures and convictions have occurred. Efforts should be made to improve the administrative capacity of the relations the European Monitoring Centre for Drugs and Drug Addiction, by strengthening the role and mandate of the National Focal Point, providing it with an adequate and separate budget, ensuring it stays fully staffed, and facilitating greater participation by Romanian experts in the European Monitoring Centre's technical meetings.

In the **fight against fraud and corruption** (see also Section on Political Issues), the Directorate General for Anti-Corruption in the Ministry of Administration and Interior began operating in September 2005 and recruitment of staff in its territorial branches is ongoing. It reports exclusively and directly to the Minister. In March 2005 the Additional Protocol to the Council of Europe Criminal Law Convention on Corruption entered into force. Generally the focus of the state's fight against corruption is still on adopting new legislation and changing the institutional landscape. The main challenges do not, however, stem from an inadequate legal framework. Serious concerns remain about the effective implementation of the existing laws in the fight against corruption, and immediate action is needed to increase Romania's capacity to fight it effectively and to efficiently prosecute significant high-level corruption cases. Institutions within the criminal justice system remain affected by corruption. Integrity tests and disciplinary sanctions are still preferred over criminal trials in such cases, and these do not always serve as the most effective deterrents nor increase public confidence in these institutions. Urgent action is also required to ensure full transparency, accountability and strict implementation of all relevant ethical codes, especially in the National Customs Authority. While the old National Anti-Corruption Prosecution Office achieved some success in dealing with cases of corruption, mainly of petty corruption, it will still have to demonstrate its ability fully tackle politically-sensitive cases of high-level corruption in an effective way now that it has been relocated to the General Prosecutor's Office and renamed the National Anti-Corruption Department. Romania should also increase public awareness of the negative consequences of corruption and potential conflicts of interest.

Romania is continuing the process of aligning to Community legislation related to the protection of the financial interests of the European Communities and the protection of the euro against counterfeiting and this legislation should now be implemented. It does not yet fully comply with the 1995 Convention on the Protection of the Community's Financial Interests, in particular as regards the liability of legal persons, although the latest proposals for change to the Criminal Code address this issue.

As regards **customs co-operation**, preparations for accession to the 1997 Convention on Mutual Assistance and Co-operation between Customs Administrations (Naples II) and the 1995 Convention on the Use of Information Technology for Customs Purposes (CIS) are ongoing and should continue. In the customs co-operation field, the 1996 Joint Action concerning cooperation between customs authorities and business organisations in combating drug trafficking still needs to be implemented. Practical inter-agency co-operation needs to become a daily reality and despite the adoption in April 2005 of a new strategy to prevent corruption and clarification of which body within the National Customs Authority is responsible for fighting corruption, this remains an area where enforcement results are needed urgently.

In the **fight against terrorism**, methodological rules for the implementation of the November 2004 Law Preventing and Counteracting Terrorism still need to be finalised. More attention should also be focused on terrorist financing and the capacity to prevent, detect, investigate and especially to prosecute money laundering related to terrorist financing. The timely ratification of the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism would be a further positive step in this regard.

As regards **data protection** (see also under Chapter 3 – Freedom to provide services), Romania signed in July 2005 an Additional Protocol dealing with supervisory authorities and transborder data flows to the 1981 Council of Europe Convention for the Protection of

Individuals with regard to Automatic Processing of Personal Data. In May 2005 a law was adopted that created a new National Supervisory Authority for Personal Data Processing, which is an independent body separate from the Ombudsman's Office. While a President was appointed in September 2005 it is a matter of concern that the Authority is not yet fully operational. Additional staff needs to be recruited, the Authority's budget needs to be ensured and the implementation of data protection legislation needs to be considerably strengthened, particularly as regards citizens' right to access the information that is held on them by data controllers. Romania needs to ensure that it will be prepared to implement the data protection *acquis*. The handover between the Ombudsman's Office and the new Authority needs to be managed very carefully and the data protection activity of the Authority must exceed that of the Ombudsman's Office currently.

In the area of **judicial co-operation in civil and criminal matters** legislative alignment is continuing and upon accession Romania should be ready to accede to all relevant conventions and apply the *acquis*. The capacity to successfully implement the *acquis* in advanced forms of judicial co-operation will depend largely on the ability of the on-going judicial reform to strengthen the administrative capacity of the courts, to provide relevant training to magistrates and to increase the number of direct contacts between judicial authorities in practice. As far as criminal matters are concerned, Romania has nominated a Eurojust contact point. Some concerns remain about the functioning and efficiency of the Romanian justice system, though an ambitious reform programme has begun to be implemented successfully. Implementation according to the stated timetable must continue and it is important that the Superior Council of Magistracy and Ministry of Justice co-operate constructively in this. New legislation guarantees magistrates' personal and institutional independence and emphasises individual and managerial accountability and responsibility. There has been some positive impact in practice such as the full introduction of a system for the random allocation of cases to judges but there are still some long delays in obtaining court rulings, such as in the High Court. The administrative capacity of the Superior Council of the Magistracy needs to be strengthened to allow it to fulfil its central role of safeguarding judicial independence. Many magistrates have extremely heavy workloads and a more rational allocation of human resources including better use of clerks for administrative tasks would improve this situation. Access to IT and other equipment is improving but adequate financial resources need be guaranteed for the long term. Those working in the justice system now need to internalise the reform contained in the new reform strategy.

There have been no developments with regard to **human rights instruments** and Romania has not yet ratified Protocol 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms dealing with the general prohibition of discrimination.

### *Conclusion*

Romania is generally meeting the commitments and requirements arising from the accession negotiations and is expected to be able to implement by accession the *acquis* in the areas of **migration, asylum, the fight against terrorism, customs co-operation, and human rights legal instruments**.

Increased efforts are required if Romania is to meet the requirements for membership in relation to the implementation of the **visa policy, data protection, police co-operation and the fight against organised crime, money laundering, judicial co-operation in civil and criminal matters, and the fight against drugs**. Further attention is needed in several areas

including significantly increasing staff levels, equipment and training for the Police and Gendarmerie; enhancing the fight against drugs; and making the Authority for Personal Data Processing fully operational by increasing its staff, ensuring its budget and considerably strengthening the implementation of data protection legislation, without which there is a risk that Romania may not be ready to implement the *acquis* in this area.

Serious concerns exist in relation to Romania's preparation for implementing the *acquis* in the fields of **Schengen and the EU external border** as well as the **fight against fraud and corruption**. Immediate action is needed to clarify the funding sources to be used to meet the individual border management needs and to increase Romania's capacity to fight corruption. Existing anti-corruption legislation must be enforced rigorously and corruption in law enforcement agencies must be tackled. In addition there should be a fully transparent, accountable and strict implementation of all relevant ethical codes for public servants, and pursuit of criminal sanctions to send a strong deterrent message. Overall, inter-agency co-operation across the justice and home affairs *acquis* needs to be improved considerably and co-ordination structures must be strengthened.

### ***Chapter 25: Customs union***

The Customs union *acquis* consists almost exclusively of legislation which is directly binding on the Member States and does not require transposition into national law. It includes the Community's Customs Code and its implementing provisions; the Combined Nomenclature, Common Customs Tariff and provisions on tariff classification, customs duty relief, duty suspensions and certain tariff quotas; and other provisions such as those on customs control of counterfeit and pirated goods, drugs precursors and cultural goods and on mutual administrative assistance in customs matters, together with Community agreements in the areas concerned, including transit. Member States must ensure that the necessary enforcement capacity, including links to the relevant EU computerised customs systems, is in place.

Romania's **customs legislation** is partially aligned with the *acquis*. Alignment remains to be completed in the areas of rules of origin, free zones, dual-use goods and precursors as well as with regard to details of valuation. By three orders issued in 2005, Romania amended the conditions for operators to apply simplified procedures, simplified the conditions for obtaining the 'authorised consignor' status and established the methodology for waiving the requirement for provision of a guarantee. Furthermore, measures have been taken to decentralise the approval process of simplified procedures for reliable operators. The Romanian Customs Authority (RCA) has also actively promoted the access of operators to simplified procedures, which would allow simplified completion of formalities and procedures.

Strengthening Romania's **customs administrative and operational capacity** is ongoing. The RCA became a part of the National Agency of Fiscal Administration. Human resources and training remain key areas for further developments. Several issues will need to be resolved rapidly, such as plans to redeploy staff after accession, rationalising the training approach and channels, or full use of the School for Public Finance facilities. Despite the RCA revising its Strategy on Development of the Human Resources, training remains limited and inconsistent, mainly relying on local initiatives and on-the-job practices. Furthermore, the RCA relies heavily on outside training, and needs to improve its internal capabilities to train its staff.



The uniform and consistent application of customs procedures in the offices, which represented an area of major concern in 2004, has notably improved, although further efforts are still required.

Post-clearance audits need to be improved significantly, in particular given the increase in “green channel” transactions and in the authorisation of simplified procedures for selected operators. Clear and uniform procedures need to be developed and distributed to all post-clearance control departments at regional level. These post-clearance audit departments need to be granted the necessary human and budgetary resources.

An IT development strategy up to 2006 has been implemented since the beginning of 2002. The RCA is well on its way to implementing the adaptations and developments necessary to meet interconnectivity requirements. In particular, implementation of the major TARIC and NCTS projects is progressing satisfactorily. With regard to transit, NCTS is fully operational for transit operations in Romania, and the EC-EFTA Joint Committee has invited Romania to join the Common Transit Convention.

Although Romania has shown encouraging progress, efforts in combating corruption at all levels must be sustained and increased. An updated Anti-Corruption Strategy was adopted in April 2005, together with an Action Plan for 2005, which focuses on the development of simplified procedures and the increase in IT usage for clearing of operations. The Plan sets the target of clearing without controls (through simplified procedures) around 40% of transactions by the end of 2005. The Strategy and the Action Plan are consistent and coherent and provide for a sound framework to combat corruption in the RCA. Despite the RCA’s declared commitment to implement the strategy, this nevertheless lacks clear and measurable success indicators to assess actual progress in the fight against corruption. Controls have increased, however, as have disciplinary measures on individual customs officers. Business operators reported significant improvement in the operations of the RCA.

Efforts to improve border control and enforcement and cooperation with other border-related bodies and to reduce the waiting time at borders should continue. Training has focused on combating fraud by increasing use of risk analysis methods and strengthening customs intelligence. A significant increase in the seizures of counterfeit goods (most notably of clothes and cosmetics) was recorded in the first six months of 2005, due in particular to increased controls at the port of Constanta. A protocol of cooperation has been established with the Romanian Office for Copyright and the State Office for Invention and Trademark.

### *Conclusion*

Romania is generally meeting the commitments and requirements arising from accession negotiations as far as aligning its **customs legislation**, and is expected to be in a position to implement this *acquis* from accession. In order to complete preparations for membership, Romania should complete legislative alignment in the areas of rules of origin, free zones, dual-use goods and precursors as well as with regard to details of valuation.

Increased efforts are needed to strengthen the **administrative and operational capacity** of the Romanian Customs Authority. Additional efforts are needed to develop the existing training strategy to cover all officials and all customs rules and procedures, including basic customs procedures, and to guarantee their uniform application. Attention also needs to be paid to improving the practical use of risk-analysis criteria, coupled with post-clearance

controls. Efforts are also needed to continue combating corruption within the customs administration.

### ***Chapter 26: External relations***

The *acquis* in this field consists mainly of directly binding EU legislation which does not require transposition into national law. This EU legislation results from the Community's multilateral and bilateral commercial commitments, as well as from a number of autonomous preferential trade measures. In the area of humanitarian aid and development policy, an applicant country will need to comply with EU legislation and international commitments in this field and ensure capacity to participate in the EU's development and humanitarian policies.

As regards the **common commercial policy**, the administrative structures are essentially in place and satisfactory.

Romania has co-ordinated its positions and policies with the Commission with regard to the Doha Development Agenda (DDA). With regard to GATS, and with a view to being fully in line with the EC **GATS commitments**, Romania should do the necessary harmonisation by taking up EU Most Favoured Nation exemptions and, if need be, by withdrawing certain commitments or taking up certain limitations. This will be done within a procedure of consolidation of Romania's GATS commitments into those of the EC. Developments in the ongoing DDA services negotiations will define key elements in the scope of such consolidation. Therefore, close cooperation and coordination with the Commission in GATS related matters should continue.

As far as dual-use goods are concerned, Romania has reached a high degree of alignment with the *acquis*. However, further alignment needs to be achieved, in particular regarding some trade facilitation with third parties that has not yet been provided to exporters. Furthermore some current legislation still needs to be repealed. Romania should also take into account the planned 2005 update to the Annex 1 list of goods (goods where authorisation is required). Exporters must be made aware which Annex 4 items (list of most sensitive items to be controlled) will not be subject to free movement in the single market and that in the future they can export using Community Export authorisation. The current two-tier system of authorisation should be reconsidered in order to remove incompatibilities with the *acquis*. Procedures also need to be improved for the identification of a dual-use good by customs officials. Administrative structures in this area are in place but co-operation between the National Exports Control Agency and the National Customs Authority should be strengthened, especially on the export of dual-use goods.

As far as export credits are concerned, some legislative alignment is still required and full implementation of the legislation adopted in October 2004 must be ensured. The administrative structures dealing with export credits are generally in place and sufficient but the minimum premium rates for political risk insurance as agreed in the OECD Export Credit Arrangement still have to be applied.

In terms of **bilateral agreements with third countries**, Romania has assessed the compliance of these with the *acquis*. It has started to take steps to denounce all preferential trade agreements with third countries and to modify or terminate non-preferential agreements so as to bring them in line with relevant *acquis* by accession. Romania should continue to keep the Commission informed of steps it takes in this respect.

In **humanitarian aid and development policy**, the administrative capacity of Romania's institutions still needs to be further strengthened so that policies in line with EU principles can be implemented. In June 2005 the EU agreed to commit to new intermediate and global Official Development Assistance (ODA) targets and Romania must make adequate budgetary provisions upon accession. It is also important that the administrative capacity to manage Romania's ODA resources be developed.

### *Conclusion*

Romania is generally meeting the commitments and requirements arising from accession negotiations in this area and is expected to implement the *acquis* on **external relations**. In order to complete preparations, Romania's efforts must continue to focus on bringing all of its outstanding international agreements into line with the *acquis* and its EU membership obligations. It should also pay additional attention to ensuring the necessary administrative capacity in the field of dual-use goods and export credits. Romania needs to make further progress in setting up the institutional framework for the implementation of the EU *acquis* in the area of development.

### *Chapter 27: Common foreign and security policy*

The *acquis* related to the common foreign and security policy (CFSP) is based on legal acts under the second and, indirectly, the first pillar, including legally binding international agreements. It is also based on political declarations and agreements to conduct political dialogue in the framework of the CFSP, to align with EU statements, and to apply sanctions and restrictive measures where required.

Romania continues to participate in the **political dialogue** within the framework of the CFSP and has regularly aligned its positions with those of the Union, including **sanctions and restrictive measures, statements, declarations and démarches**. The relevant administrative capacity in place and functions properly.

Romania has adopted a law allowing the automatic enforcement of international sanctions. This law concerns decisions adopted in the CFSP framework establishing sanctions or restrictive measures on third states or non-state entities. The required legislation and administrative structures in the CFSP area are now in place and attention should focus on full implementation of the Code of Conduct for Arms Exports and the fight against unauthorised weapons transfers.

### *Conclusion*

Romania is generally meeting the commitments and requirements arising from accession negotiations in the field of **Common Foreign and Security Policy** and is expected to be in a position to implement the *acquis* from accession.

### *Chapter 28: Financial control*

The *acquis* under this chapter consists mostly of general internationally agreed and EU compliant principles of public internal financial control that need to be transposed into the control and audit systems of the entire public sector. In particular, the *acquis* requires the existence of effective and transparent financial management and control systems;

functionally independent internal audit systems; central harmonisation units for these two fields, responsible for the co-ordination and harmonisation of methodologies; an independent external audit of public internal financial control systems in the public sector (Supreme Audit Institution); an appropriate financial control mechanism for EU funds; and the administrative capacity to give effective and equivalent protection to EU financial interests.

Romania updated its strategy paper on **public internal financial control** in July 2005 to take account of the new developments in the public internal control systems in the EU. In December 2004 the Ministry of Public Finance established a central harmonisation unit for financial management and control systems in addition to the already functioning one for internal audit. A working group and steering committee for public financial management and control development has also been established to make the central harmonisation unit fully operational. The internal control standards have been adopted and distributed in July 2005. The decentralisation of ex-ante financial control from centralised financial control to budget spending units is following the envisaged timetable. Since 2004 a large number of auditors and financial controllers were trained but this training is still insufficient and training plans still need to be implemented

In the field of **external audit**, the draft organic law on the Court of Audit, that should reflect the constitutional amendments of October 2003, is still to be adopted, including a reference to the financial independence of the Court.

As far as the **control over structural action expenditure** is concerned, the manuals on internal audit for the Phare, ISPA and SAPARD programmes still need to be improved. Through an Emergency Government Ordinance of March 2005, an independent associated body to the Romanian Court of Accounts was established. This body will certify the checking and will perform the external audit function for ISPA and SAPARD funds and for the future structural funds. The specific attributions, tasks and organisation of this body are still being elaborated. Its administrative capacity needs to be strengthened, and its current staff of 18 should be trained in certification and performing audit for ISPA and Structural Funds.

Progress by Romania's implementing agencies has not been sufficient, given the increase in programmed levels of EU support from 2004 onwards. The lack of a corresponding increase in management and control capacity has prevented Romania providing the required degree of assurance on the decentralised authorities' systems. Romania needs to reinforce significantly and urgently speed up measures in order to respect the agreed timetable regarding the gap plugging and the compliance assessment for the Extended Decentralised Implementation System (EDIS) by the end of December 2005 in order to allow the Commission services to carry out a verification audit during the first half of 2006. That would open the possibility for Romania to have accreditation for the Phare programme by the third quarter of 2006.

As far as the **protection of EU financial interests** is concerned, the national anti-fraud strategy and action plan, which include the protection of EU financial interests will need to be fully implemented. In terms of administrative capacity, three texts were recently adopted on the organisation and functioning of a dedicated department attached to the Prime Minister as contact institution with the EU anti-fraud agency OLAF; the regulation of the control and recovery of improperly used EU and national co-financing funds; and implementing regulations. The powers of the anti-fraud co-ordination service regarding investigations have been increased and now it is allowed to develop intelligence activities. An administrative cooperation agreement was signed with OLAF and became operational in October 2004;

within Romania, the anti-fraud co-ordination service has concluded Protocols with the National Anti-Corruption Prosecutor's Office and with the Financial Guard. The Fight Against Fraud Department is now focussing on investigations of fraud cases regarding EU funds. Co-operation with OLAF has become very satisfactory.

### *Conclusion*

Romania must increase its efforts in the field of **financial control**. The overall operational capacity should be considerably enhanced to ensure sound and efficient management of Community funds. The development and harmonisation of these public systems and of the external audit system must be completed. Romania needs to speed up accreditation for the Phare- and ISPA-related Extended Decentralised Implementation System as a matter of urgency by significantly increasing management and control capacity. Substantial efforts are needed to guarantee the protection of EU financial interests and to significantly increase management and control capacity. Whilst progress has been made, co-ordination and legislation should be improved, with priority given to effective administrative anti-fraud investigations and judicial follow-up of anti-fraud investigations. The role and competencies of the anti-fraud co-ordination service within the national institutional framework could be further developed and its independence should be guaranteed.

### ***Chapter 29: Financial and budgetary provisions***

The *acquis* in this field covers the rules concerning the financial resources necessary for the funding of the EU budget ('own resources'). These own resources are made up mainly of contributions from Member States based on traditional own resources from customs and agricultural duties and sugar levies; a resource based on VAT; and a resource based on the level of gross national income (GNI). Member States must put in place the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources and reporting to the EU in order to comply with the own resources rules. The *acquis* in this area is directly binding and does not require transposition into national law.

As regards **traditional own resources**, the administrative infrastructure for collection and recovery of customs duties is in place, although the administrative capacity should be further developed in particular for post-clearance control based on the operator's records. The implementation of the Customs Accounting System needs to be completed and the IT module in the accounting system for managing the A & B accounts and generating the related statements automatically needs to be developed. Working procedures for sending reports on cases of fraud and irregularity to the Commission through the OWNRES system are to be established. Although responsibility for sugar levies has been clearly assigned to the Paying and Intervention Agency, implementing procedures for collecting, controlling and accounting for sugar levies are still to be set up. A department for methodologies and procedures was set up for this purpose within the Agency.

Continued efforts are needed to strengthen administrative capacity for the calculation of the **VAT-based resource**, in particular for the Weighted Average Rate (WAR) of VAT. The capacity to collect and control VAT, including instruments to combat fraud and evasion must be further developed..

As regards the **GNI-based** (gross national income) **resource**, a satisfactory level of compliance with ESA95 has been reached and the conceptual and practical compliance is

being continuously improved, but there is still some way to go before full compliance can be certified, particularly as regards the exhaustiveness of the accounts.

### *Conclusion*

Romania is generally meeting the commitments and requirements arising from the accession negotiations in the field of **financial and budgetary provisions**. Continued attention needs to be paid to the development of an adequate level of administrative capacity so that the own resources to be contributed to the EU budget can be properly calculated.

## **2. Translation of the *acquis* into Romanian**

In accordance with Articles 2 and 58 of the Act of Accession, all acts adopted by the Union's institutions prior to accession become applicable to the new Member States and are to be published in a special edition of the Official Journal of the European Union, also in the new official languages. While the EU institutions take responsibility for the final revision and publication of the translations, it falls to the acceding States to produce the translations and to ensure a thorough legal and linguistic revision. In the framework of the translation of the *acquis*, the Court of Justice has defined a set of key judgements to be translated as a priority (representing about 15 000 pages).

Of the nearly 90 000 pages of *acquis*, Romania has translated almost 60%. However, more than 50% of *this volume* still has to be revised by the national authorities before submission to the EU institutions. The translation and revision capacity in Romania has not yet reached the necessary throughput level of some 6 000 pages per month, largely due to difficulties with recruiting and retaining staff. The Romanian Government has been urged to give this matter the attention it deserves, without which the publication of the *acquis* might not occur in time for accession on 1 January 2007.

## **3. General evaluation**

Romania has reached a **considerable level of alignment with the *acquis*** in most policy areas. Efforts to strengthen overall administrative capacity should continue with a view to properly implementing the adopted legislation.

It is expected to be in a position to implement the *acquis* by the envisaged date of accession as required in the following areas: in the non-harmonised area as well as new approach sectoral legislation in the *free movement of goods* chapter; mutual recognition of professional qualifications, free movement of workers and coordination of social security systems as regards *free movement of persons*; the banking sector, investment services and securities market, and information-society regulations in the field of *freedom to provide services*; capital movement and payments as well as payment systems as regards *free movement of capital*; company law, accounting, auditing and the Regulation replacing the Brussels Convention and the Rome Convention in the *company law* chapter; the anti-trust area in the *competition policy* chapter; in a limited number of issues of the *agriculture*; in relation to international fisheries agreements and state aid in the *fisheries* chapter; in the *transport* sector; legislative alignment on VAT, excise duties and direct taxation in the field of *taxation*; *the economic and monetary union*; *statistics*; equal treatment of women and men, health and safety at work, employment policy, social protection and anti-discrimination policy in the field of *social policy and employment*; *energy*; industrial strategy in the field of *industrial policy*; *small and medium-sized enterprises*; *science and research*; *education and*

*training; telecommunication and information technologies; culture in the area of culture and audiovisual policy; territorial organisations and programming as regards regional policy and coordination of structural instruments; air quality, nature protection, chemicals and genetically modified organisms, noise, nuclear safety and radiation protection in the environment chapter; consumer and health protection; the areas of migration, asylum, the fight against terrorism, customs cooperation and human rights legal instruments in the field of justice and home affairs; customs union legislation; external relations; common foreign and security policy and financial and budgetary provisions.*

Secondly, Romania needs to make **increased efforts** in certain areas in order to complete its preparations for accession.

This includes horizontal and procedural measures and old approach sectoral legislation on the *free movement of goods*; citizens' rights in the field of *free movement of persons*; the area of *freedom to provide services* as regards the right of establishment and the freedom to provide non-financial services and (motor vehicle) insurance and personal data protection; anti-money laundering in the area of *free movement of capital*; *competition policy* as regards in particular the enforcement of state aid rules. In the *agriculture* area, it concerns quality policy, external trade mechanisms and Common Market Organisations; animal welfare, the trade in live animals and animal products, zootechnics and animal nutrition; resource and fleet management, inspection and control, structural actions and market policy in relation to *fisheries* policy.

This also includes the fields of labour law, social dialogue public health, the European Social Fund (though serious concerns exists in relation to the institutional structures needed for implementation – see below under *regional policy and the coordination of structural instruments*), and social inclusion as regards *social policy and employment*; privatisation and restructuring in *industrial policy*; completion of alignment of the audiovisual legislation in the field of *culture and audio-visual policy*; the legislative framework, and monitoring and evaluation as regards *regional policy and co-ordination of structural instruments*; horizontal legislation, waste management, water quality in *environment*; visa policy, data protection, police co-operation and the fight against organised crime, judicial cooperation in civil and criminal matters as well as the fight against drugs and money laundering in the field of *justice and home affairs*; administrative and operational capacities to apply the *customs union* rules; and *financial control*.

Thirdly, Romania must take immediate and decisive action to address issues of **serious concern** if it is to be ready by the envisaged date of accession.

This covers the field of public procurement in *free movement of goods* as well as the protection of intellectual and industrial property rights in *company law*. A significant number of issues still remain to be addressed in the field of *agriculture*, in particular regarding Romania's preparations to set up its paying agencies and implement the integrated administration and control system. Furthermore, this concerns in the area of veterinary issues, measures relating to transmissible spongiform encephalopathies (TSEs) and animal by-products (in particular the collection system of cadavers, the absence of rendering plants, the introduction of the feed ban) but also the veterinary control system in the internal market (identification and registration of animals, the establishment of border inspection posts), animal disease control measures and veterinary public health. Other issues of serious concern the administrative capacity in the *taxation* area, notably the slow pace of achieving IT system interoperability; the urgent need to strengthen institutional structures and financial

management and control mechanisms to deal with *regional policy and coordination of structural instruments* as well as industrial pollution and overall administrative capacity in the field of *environment*. Finally, urgent action is required in the field of *justice and home affairs*, in particular as regards preparations for applying the Schengen *acquis* and for the management of the future EU external border, as well as the fight against fraud and corruption, if Romania is to be ready for membership by the envisaged date.



## *ANNEX I*

### **REPORT ON ROMANIA'S PROGRESS IN THE AREA OF COMPETITION POLICY**

#### **1. Introduction**

The Treaty of Accession of Bulgaria and Romania provides that the Commission should present a written report to the Council in autumn 2005, assessing in detail Romania's progress in the area of Competition Policy. It provides furthermore that the Council may, on the basis of this report and a Commission recommendation, decide that the date of accession of Romania is postponed by one year to 1 January 2008, if serious shortcomings have been observed in the fulfilment by Romania of the obligations undertaken under the Europe Agreement<sup>5</sup> or of one or more of the following commitments and requirements:

- To ensure effective control by the Competition Council (the Romanian Competition Authority) of any potential State aid, including in relation to State aid foreseen by means of deferrals of payments to the State budget of fiscal or social liabilities or deferrals of liabilities related to energy supply.
- To strengthen the State aid enforcement record without delay and to ensure a satisfactory enforcement record in the areas of both anti-trust and State aid thereafter.
- To submit to the Commission by mid-December 2004 a revised steel restructuring plan (including the National Restructuring Programme and the Individual Business Plans) in line with the requirements set out in the Accession Treaty.
- To fully respect the commitment not to grant or pay any State aid to the steel mills covered by the National Restructuring Strategy from 1 January 2005 to 31 December 2008 and to fully respect the State aid amounts and the conditions regarding capacity reductions to be decided in the context of Protocol 2 on ECSC products to the Europe Agreement.
- To continue devoting adequate financial means and sufficient and adequately qualified human resources to the Competition Council.

This Report, like the comprehensive monitoring report to which it is annexed, takes into consideration progress since the publication of the 2004 Regular Report. It covers the development in Romania in the period from 1 September 2004 to 30 September 2005. The report assesses whether the above mentioned requirements and commitments are being met.

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<sup>5</sup> Europe Agreement establishing an association between the European Economic Communities and their Member States, of the one part, and Romania of the other part (OJ L 357, 31.12.1994, p. 2)

## 2. Assistance provided by the Commission and co-operation with the Romanian Competition Authority

The Commission worked continuously and in close co-operation with the Romanian authorities, directly supporting the steps taken by the Romanian authorities to fulfil their obligations under the Treaty of Accession, and providing on-going technical assistance, training, and awareness-raising at all levels. Experts of Member States have also offered various forms of assistance and training for the case handling activity of the Competition Council.

An important tool to assist Romania to improve continuously the decisional practice of the Competition Council is the **pre-consultation mechanism**. The Government of Romania and the Commission agreed to establish this mechanism in September 2004. It provides that any decision the Competition Council intends to take is submitted to the Commission for comments beforehand. Since the beginning of the pre-consultation mechanism, the Competition Council has adopted 90 decisions (28 in 2004 and 62 until August 2005). In this context, the Commission has been in daily informal contact with the Competition Council.

Also in the area of antitrust, an informal consultation mechanism was put in place. The Commission comments on selected decisions after their adoption and occasionally gives advice, before a decision is adopted, on particular questions on the application of antitrust rules and concepts.

The Commission and the Competition Council developed in February 2005 an **action plan** which describes in detail all the steps that need to be taken for Romania to fulfil its commitments made in view of the closure of the accession negotiations. Monitoring reports on the progress made with regard to this action plan have been submitted to the Commission every two months.

In the first half of 2005, several **meetings** of representatives of the Commission and of the Competition Council took place in Bucharest and Brussels, to discuss legal concepts relating to State aid control and antitrust, to monitor the progress made and to discuss and explain how the Competition Council's work could be improved.

On 11 and 12 May 2005 the Commissioner in charge of competition, Mrs. Kroes, visited Romania to discuss the progress made in competition enforcement and to encourage further efforts of all authorities involved in granting and assessing State aid.

Since October 2003 the Commission has financed a Phare **Twinning** project on competition and State aid policy in Romania. Its objective is to develop the capacity of the Romanian Competition Authority to apply correctly the competition and State aid acquis. In June 2005, the team of experts of this project prepared an extensive Manual on State Aid Law in Romania which gives practical guidance on handling State aid investigations to the of the Competition Council staff.

## 3. General observations

Since the closure of negotiations, the Romanian Government has considerably intensified its efforts to improve the enforcement of competition rules and to ensure compliance by all institutions involved. It has to be recognised that Romania has made remarkable progress in

fulfilling its competition policy obligations under the Treaty of Accession. These efforts need to be maintained.

The Romanian Government and the Competition Council, beyond the investigation of antitrust and State aid cases, have developed several other activities to ensure that competition rules are respected by all public institutions concerned and that industry and the public at large are also aware of the need to respect them.

The Competition Council convenes on a monthly basis an inter-ministerial working group on State aid policy which discusses developments of general interest as well as specific problems particular ministries may have in implementing a State aid discipline. The working group is intended to identify at an early stage the compatibility with State aid rules of planned incentives for industry, and the resulting need to notify formally such measures to the Competition Council. The Competition Council also convenes occasionally an inter-ministerial working group on antitrust matters.

It furthermore issues various publications, in particular a monthly review on its activities. Its website publishes all antitrust and State aid decisions and relevant legislation and offers a forum for the public to discuss these questions or to submit complaints. Wide coverage of the authority's activities in the Romanian press increased its reputation in the public eye.

Within the above-mentioned Twinning project, seminars were organised for members of the local public authorities, judges, and the business community. In particular, the Twinning project provided seminars for judges of different levels of the court system. Several proceedings in State aid and antitrust matters are currently pending before these courts. It is therefore not yet possible to assess the quality of the judicial review of the Competition Council's decisions.

In June 2005, the Romanian Government set up a high-level inter-ministerial task force responsible for ensuring that its obligations in the area of competition are fulfilled. This group, which meets bi-monthly, reports directly to the Prime Minister and is chaired by the President of the Authority for the Recovery of State aids, AVAS. Its task is to support the work of the Competition Council by ensuring that all State aid plans of all Ministries are notified and that existing schemes are scrutinised. The Romanian government has furthermore indicated that no new aid measures have been introduced since it took office in December 2004.

#### **4. Effective state aid control**

Effective State aid control means a control of all potential new aid measures, either by ensuring that the notification obligation for all new aid measures is respected by State aid grantors or by detection and ex-officio investigation of non-notified aid. This also includes State aid foreseen by means of deferrals of payments to the State budget of fiscal or social liabilities, or deferrals of liabilities related to energy supply. It further includes the power of the Competition Council to block the adoption or implementation of aid measures it has not assessed and approved. It finally covers the implementation of decisions, namely the effective recovery of non-compatible aid.

The effectiveness of State aid control by the Competition Council depends to a large extent on the co-operation with aid granting authorities. To **ensure ex ante notification of new aid measures** by aid grantors on all levels, and in particular on the local level, the aid granters

must be aware of their duty to notify. The absence of notifications should lead to ex officio investigations. Romania has taken several initiatives to ensure a strict respect of the ex-ante notification obligation. In February 2005 the Competition Council wrote to all State aid grantors to remind them of their obligation to notify the Competition Council of all aid schemes. It issued written guidance for drafting notifications. On 14 June 2005, the Romanian Government published a Decision on measures to accelerate the implementation of State aid legislation. This decision provides for fines if the aid grantors fail to observe the procedural legal requirements imposed on them.

The Competition Council co-operates with granting institutions already at the **pre-notification phase**. To identify at an early stage, and to avoid that the Government adopts legislation or other measures which would entail either incompatible aid elements or otherwise distort or restrict competition, it is involved in the discussions on the government's legislative programme and projects. During bilateral discussions with State aid granting authorities in a pre-notification phase the Competition Council manages to convince them to abandon or modify incompatible projects. A number of notifications have been withdrawn as a result. In this context, the Competition Council has issued numerous formal and informal notices and opinions during the reporting period:

41 notices were issued by the Competition Council on draft normative acts mostly prior to their formal notification. Through its notices, the Competition Council indicates if a draft normative act contains State aid measures. If so, the Competition Council advises how to make the measure compatible with the State aid rules. In all cases, the authorities involved took the Competition Council's notices into consideration when elaborating the final version of the respective normative acts.

20 opinions issued by the Competition Council concern draft normative acts and the interpretation of various acts already adopted.

In addition, the Competition Council issued 161 informal explanations or clarifications on various State aid matters to interested undertakings and to various authorities. These explanations cover aspects such as the compatibility with State aid rules of planned financial incentives for certain companies; information on the required notification procedure to be followed when intending to grant a State aid; as well as advice on the State aid measures from which an investor could legally benefit.

Based on this pre-notification mechanism, incompatible draft normative acts or incompatible notifications are usually withdrawn. In particular the *Government Emergency Ordinance No 101/2004* on the taking over of certain fiscal receivables of the commercial companies RFO SA Onesti and CAROM SA Onesti by the AVAS was repealed in April 2005.

The main State aid grantor, the Ministry of Public Finance, has established an entire directorate for State aid which is in charge of preparing notifications, making an inventory of schemes under the Ministry's responsibility, and monitoring their execution. As the budget authority the Ministry supervises the spending plans and activities of many other public bodies in Romania with a view to identifying and possibly eliminating State aid elements in the drafting stage. To ensure effectiveness of the State aid control by the Competition Council, close and continuous co-operation between these two institutions is necessary.

Also close co-operation with the privatisation agency, AVAS, in the design and execution of its privatisation projects is an important part of the effectiveness of Romanian State aid

control. In May 2005, the Commission was informed that approximately 100 cases of previous privatisations were being reviewed by AVAS. In the meantime, 52 of them have been notified ex post to the Competition Council. This indicates that aid granting authorities, like AVAS, may at least initially not have been able to identify adequately potential State aid cases.

The Competition Council is observing an improvement in the quality of the notifications that it receives. Overall, the number of notifications went up considerably. This may be a sign that aid granting authorities are more committed to notify. It is, however not yet clear for the Commission to what extent aid granting authorities, in particular on local level, respect their procedural obligations.

To **block** the adoption or the implementation of a **State aid measure that the Competition Council has not assessed or approved**, one of its representatives participates in the Government's preparatory meetings and verifies the compatibility of all draft normative acts with the State aid regime. The representatives of the Competition Council also provide expert advice in the working sessions of Romania's Chamber of Deputies and Senate when draft laws including State aid elements are discussed.

Concerning the other important element indicating the effectiveness of State aid control, the **recovery of aid**, the Competition Council has started recovery proceedings with regard to 4 companies. These procedures are currently pending before the courts. So far no effective recovery can be reported.

As regards the State aid foreseen by means of **deferrals of payments** to the State budget of fiscal or social liabilities or deferrals of liabilities related to energy supply, in the past little control existed. Following the closure of the accession negotiations the Competition Council has stepped up such control activities. In this context, the gradual privatisation of many of the energy utilities forced further action in order to clarify the situation of the companies to be privatised. The Competition Council has made an overall analysis of such companies, dividing the beneficiaries in different categories (e.g., recipients benefiting below the *de minimis* threshold, recipients which are not economic operators, operators active in agriculture or fisheries). A sample of decisions has been submitted to the Commission under the pre-consultation procedure.

The Competition Council also took steps to make **inventories of different kinds of aid** already granted in previous years. It reviewed the implementation of regional aid measures in favour of undertakings situated in deprived areas. Also for the free zones, an extensive monitoring exercise has been undertaken. After adoption of rules on the transparency of financial relations between public authorities and public undertakings and within undertakings which enjoy exclusive or special rights or which perform services of general interest, during the first half of 2005 the Competition Council reviewed whether such undertakings respect these rules. Of 68 undertakings reviewed, 16 were identified as not being in conformity and were asked to reorganise their financial relations by the end of 2005. Other inventories of April and August 2005 covered aid for rescue and restructuring of firms in difficulty. This monitoring report shows that in two cases State aid originally approved and granted was annulled because the beneficiaries did not respect the conditions imposed upon them.

Romania made important efforts to increase the effectiveness of State aid control. Although the number of notifications has increased, the extent to which the notification obligation is

respected remains unclear. The inventories are a useful tool to discover illegal aid. There is no case yet of effective recovery of illegal aid. Romania needs to maintain its efforts to identify all potential new aid measures. However, if the current efforts continue, the effectiveness of State aid control is likely to further improve to an extent that this condition may be considered fulfilled.

## 5. Enforcement record

### 5.1 State aid

A satisfactory enforcement record is constituted by a consistent application of the State aid rules in relation to all aid measures granted in Romania through the adoption and enforcement of fully and correctly reasoned decisions. It also encompasses identifying and assessing new non-notified aid. With regard to the quality of the decisions, the EU expects that Romania ensures that they are clearly based on the criteria laid down in Article 87 (1) and (3) of the EC Treaty; in particular that all decisions should contain a clear description of the measure, with identification of the beneficiary, aid amount, and a proper, well-motivated assessment in line with the *acquis*.

Since the beginning of the pre-consultation procedure in September 2004, which coincides with the beginning of the reporting period, Romania has adopted 94 State aid decisions. On 5 occasions the Competition Council found State aid measures to be incompatible. 2 of these measures had not been notified. Notably in the beginning, most of these decisions concerned services of general economic interest (39). But increasingly aid measures with other objectives were assessed, in particular 33 cases of the potentially very distorting rescue and restructuring aid, 5 regional aid cases, 2 measures in favour of small and medium-sized enterprises, 1 case of aid to a large investment project, and 1 environment aid case. 20 of these decisions followed a formal investigation procedure; a further 16 such investigations are pending, of which 13 regard non notified grants of restructuring aid.

With regard to **identifying new non-notified aid**, the territorial inspectorates could play an important role. So far, no such locally granted and detected aid measures have been reported by the Competition Council to the Commission.

A credible enforcement activity also includes the **assessment of older aid measures which had not been notified at the time of their adoption**. This concerns in particular the backlog of notifications by AVAS on past privatisation measures, which may contain State aid elements and which have not been assessed by the Competition Council at the time the privatisations took place. AVAS is in the process of identifying such measures. The submission of 52 notifications during the reporting period contributes to reducing this backlog.

The need to assess old aid measures also concerns the aid granted in the **Free Trade Zones and Disadvantaged Areas**. Romania has obtained a transitional period for phasing out these regimes. However, an important number of companies in these areas have not carried out the investments required or exceeded the permissible aid intensity.

From the 13 companies who received more than EUR 100,000 excess aid over the permissible regional aid threshold in the disadvantaged areas, no recovery seems possible under Romanian law because the regime applicable to those companies predates the

Romanian State aid law. However, this problem is clearly limited to the past. Changes to the legislation in June 2004 introduced the obligation to observe the regional aid intensity ceilings. The current close monitoring under the new legislation revealed that 31 undertakings benefited from the maximum admissible limit of State aid intensity and another 33 even received aid beyond this limit. The Competition Council took measures to ensure that these undertakings will not receive further regional aid. The Competition Council opened an investigation in August 2005 with regard to the undertakings which received aid in excess of admissible limits. This investigation led to a negative decision, and the Competition Council requested that the companies reimburse this aid. In the meantime, 5 companies have voluntarily reimbursed the excess aid.

A similar problem exists for free zones, where 14 undertakings received more than EUR 100,000 excess aid over the permissible regional aid threshold. The Competition Council took measures to ensure that these undertakings will not receive further aid.

As regards the **full and correct reasoning of decisions**, the Commission notes a considerable improvement. Originally, little distinction was made between the statement of the facts and the legal assessment of the facts. In addition, the assessment was sometimes incorrect or unbalanced. Currently decisions are based on a more appropriate use of the assessment criteria and a clear evaluation of all the relevant issues. Also, all decisions which have gone through the pre-consultation mechanism have an acceptable outcome with a reasoning that can be qualified as reasonably adequate or good.

Nevertheless, some problems still persist. Several cases submitted under the pre-consultation mechanism still call for comments or questions as the initial draft is not reasoned and structured sufficiently clearly. There are still too few draft decisions of an acceptable quality: even if the final decision on the aid quality of a measure and its compatibility is correct, the reasoning to arrive at that result is sometimes still inadequate. Furthermore, in one case the Competition Council had not spotted a manifestly incompatible export aid. The Commission is therefore of the opinion that the enforcement record cannot yet become satisfactory without a continuation of the pre-consultation process.

The Competition Council itself identified the poor quality of notifications as a major problem for the enforcement of State aid law.

The State aid enforcement record is constantly and rapidly improving. The structure and reasoning of the draft decisions has steadily improved. However, one cannot yet conclude that Romania's State aid enforcement record has reached a level which is sufficiently satisfactory to allow the application of the interim procedure under the existing aid mechanism provided for in the Accession Treaty. The pre-consultation process will be continued; Romania has to maintain its efforts to improve the quality of State aid decisions, through the pre-consultation mechanism and through continuous training of the staff involved. But if the positive trend described should continue, the Commission expects Romania to reach a satisfactory level of enforcement during 2006. In this context it is important to focus the resources of the Competition Council to following up new cases while ensuring that appropriate attention is given to the ex post assessment of old measures.

## 5.2 Anti-trust

In order to ensure that the enforcement record in antitrust becomes fully satisfactory, Romania is required to continue its efforts to follow a more deterrent sanctioning policy and to put more emphasis on preventing the most serious distortions of competition, and to make better use of investigative tools, including dawn-raids and substantive fines. Romania needs to ensure that the Competition Council takes a very active role both as regards enforcement activities and in the field of competition advocacy, in order to ensure continued liberalisation of the economy and opening-up of markets.

Antitrust enforcement in Romania is characterised by a **pro-active role of the Competition Council**. In the reporting period the Competition Council adopted 176 decisions. 28 concerned restrictive agreements between undertakings and the abuse of a dominant position, 115 mergers (the others were decisions of an administrative character). A high number of ex officio investigations were opened, mainly following complaints.

In February 2005, the Competition Council identified, and established a list of, **priority sectors** and **focused activities** on most impacting cases. To detect cartels and other restrictive agreements, the Competition Council started to advertise actively its leniency policy which allows the reduction of fines for Cartel members which contribute to the detection and investigation of the restrictive agreement to which they are party. The Competition Council received on 30 August 2005 the first leniency application. On 5 occasions it also made use of the investigative tool of inspections (dawn raids).

The Competition Council increasingly made use of **fines** in order to give its decision a **detering effect**. During the reporting period it imposed in 7 cases fines for restrictive agreements and in 1 case for the abuse of a dominant position. The total amount of these fines is EUR 38,55 million. By comparison, the level of fines was more than 1 000 times higher than from September 2003 to August 2004. Wide press coverage of the recent adoption of decisions imposing high fines for participation in a cartel or restrictive agreements have notably raised industry awareness of the need to observe the competition rules. Several court proceedings are pending due to an appeal by the addressees of these decisions. The quality of the review of these decisions by the courts cannot yet be assessed.

On several occasions the Commission has reviewed decisions taken by the Competition Council and discussed the reasoning applied in these decisions. The Commission also was informally consulted on a few draft decisions and had the opportunity to give advice on the application of certain legal concepts. The decisions largely reflected the legal concepts of antitrust law as applied by the Commission although the legal reasoning still would benefit from improvement with regard to the evaluation of the relevant facts under the applicable law. Upon occasions the Commission observed a tendency to use the rules against an abuse of a dominant position as a tool for price control.

Romania has largely fulfilled the conditions which describe a satisfactory enforcement record in this area. The quality of decisions steadily improved to the point where, if current efforts are maintained, this condition may reasonably be considered fulfilled. The Commission will continue to monitor occasionally individual decisions.



## 6. Steel restructuring

Significant progress was achieved in the field of State aid to the Romanian steel industry. In line with its obligations, Romania submitted on 15 March and 15 September 2005 Monitoring Reports on steel restructuring. The information submitted in March 2005 raised problems related to an exceeding of the State aid ceiling as laid down in the **National Restructuring Programme** and a misapplication of the State aid rules. Following discussions between Romania and the Commission the exceeding State aid was repaid by the company concerned. The conditions of a debt rescheduling were altered in order to comply with the State aid rules and the debts were repaid in August 2005. Romania is further pursuing the recovery of another aid measure which has been incorrectly considered by Romania as not constituting State aid and which exceeds the thresholds laid down in the National Restructuring Programme. It is also pursuing the payment of interests due to the debt rescheduling.

Apart from the companies which are included in the National Restructuring Programme **several other steel companies** appear to have benefited from restructuring aid although these companies were not allowed to receive such aid. The potential restructuring aid results from a write-off of historical debts during privatisation in cases in which only liquidation would have satisfied the market economy operator test. The Commission assumes that these cases were not identified by AVAS as potentially involving State aid because of an insufficient understanding, at the time of privatisation, of the application of this test in its different variations. They were consequently not notified to the Competition Council. Currently, the 7 cases identified are being analysed by the Romanian authorities. Where the existence of restructuring aid can be confirmed, the aid will have to be recovered with interest. The Competition Council has opened formal investigations in three cases and has already taken one decision ordering the recovery of aid. In all three cases the Competition Council showed that it correctly applied the rules, in particular with respect to possible circumventions of the strict prohibition to grant restructuring aid to steel companies which are not included in the National Restructuring Programme.

The Commission has asked Romania to submit detailed information on the **privatisation of steel companies** which are not included in the National Restructuring Programme and which potentially have received restructuring aid. The information submitted by Romania so far in this context is incomplete.

The implementation of the State aid commitments with regards to the six beneficiary companies of the National Restructuring Programme can be described as satisfactory. The problems which were raised following the submission of the monitoring report in March 2005 were addressed by Romania and solutions have been implemented or are in the process of being implemented. In this context continued efforts are required as regards the recovery of the aid measure which is considered not to be in line with the National Restructuring Programme, and the payment of interest related to the debt rescheduling. The Commission will continue to monitor the implementation of the National Restructuring Programme. In order to fulfil its obligations with respect to State aid in the steel sector, Romania should inspect its commitment not to grant any more restructuring aid to the steel sector and must maintain further efforts as regards recovering restructuring aid granted to steel companies outside the National Restructuring Programme. To enable the Commission to assess whether Romania fulfils these obligations, Romania must submit to the Commission the requested information on the privatisation of the steel companies outside the restructuring programme.

## **7. Sufficient financial means and staffing for the Competition Council**

In order to ensure that Romania's administrative capacity becomes fully satisfactory, the EU invited Romania to continue its efforts to strengthen the administrative capacity of the Competition Council and to set a high standard for its independence, objectivity and quality. In particular, the EU insisted on the need to devote adequate financial means, human resources and training to the Competition Council, and to fill as soon as possible the current staff vacancies.

The Competition Council's budget increased by 30% in 2005 compared to 2004. Many staff vacancies have been filled in the meantime, and further recruitment is in progress. Of 350 posts, 272 are currently occupied, 15 of which are State aid case handlers. Thanks to the increase of salaries, working in the Competition Council has become more attractive and fluctuation of staff has been significantly reduced. The Competition Council receives about 10 applications per published vacancy. Office space is sufficient.

The continuous training activities for the staff of the Competition Council on central and regional level have contributed to an increase of knowledge in antitrust and State aid issues. They included, during the reporting period, 14 seminars. Further training was organised by the Competition Council in co-operation with national competition authorities, the OECD, and the European Commission.

Romania has established an adequate administrative capacity for the enforcement of competition rules.

## **8. Conclusion**

The Romanian Government is determined, at all levels, to make progress in the enforcement of competition rules. The awareness of all government institutions of the need to respect State aid rules has increased. The Competition Council made considerable efforts to ensure that new aid measures are notified and that non-notified measures are investigated. The quality of decisions is gradually improving. Recovery of illegal aid hasn't taken place so far.

If Romania continues on the path taken since the autumn of 2004, a fulfilment of the accession treaty obligations is likely with regard to the establishment of an effective State aid control, a satisfactory antitrust enforcement record, and an adequate administrative capacity for the enforcement of competition rules. Romania is expected to maintain further its respective successful efforts.

Although the State aid enforcement record is constantly and quickly improving, the structure and reasoning of the decisions need further improvement and assistance by the Commission. It is therefore too early yet to conclude that Romania's State aid enforcement record has reached a satisfactory level. The Commission will continue to review the draft decisions in the pre-consultation process. Romania is invited to continue in its efforts to improve the decision-making process.

Romania shows a strong commitment to apply fully the State aid rules as regards the steel industry. Nevertheless, Romania must continue to ensure the correct implementation of the National Restructuring Programme. It must maintain further efforts as regards the recovery of restructuring aid granted to steel companies outside the National Restructuring Programme. The Commission will continue to monitor the steps undertaken in this respect.

*STATISTICAL ANNEX*

Romania: statistical data as of 1 September 2005

Basic data	Scale	Unit	Footnote	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Population: total	Thousand	Number		22.684	22.619	22.554	22.507	22.472	22.443	22.408	21.803	21.742	21.685
Total area of the country	Unit (x1)	km <sup>2</sup>		238.391	238.391	238.391	238.391	238.391	238.391	238.391	238.391	238.391	238.391

National accounts	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Gross domestic product	1 000 million	National currency		72.136	108.920	252.926	373.798	545.730	803.773	1.167.687	1.514.751	1 903 354p	2 387 914p
Gross domestic product	Million	EUR		27.433	28.196	31.260	37.420	33.489	40.278	44.865	48.464	50 681p	58 914p
Gross domestic product per capita	Unit (x1)	EUR		1.210	1.247	1.387	1.663	1.491	1.795	2.002	2.224	2 332p	2 718p
SI: Growth rate of Gross domestic product at constant prices (national currency), relative to the previous year	Unit (x1)	%		7,1	3,9	-6,1	-4,8	-1,2	2,1	5,7	5,1	5.2p	8.3p
SI: Employment growth (national accounts), relative to the previous year	Unit (x1)	%		:	:	-3,8	-2,3	-4,5	2,5	-0,8	-9,5	-4,5	:
Labour productivity growth: growth in GDP (constant prices) per person employed, relative to the previous year	Unit (x1)	%	1)	:	:	:	:	3,5	-0,3	6,6	7,9	4,3	:
SI: Unit labour cost growth (national accounts), relative to the previous year	Unit (x1)	%		:	:	:	:	-7,6	21,7	-1,1	:	:	:

GDP per capita at current prices	Unit (x1)	PPS	2)	:	:	:	4.700	4.700	5.000	5.400	6.000	6.300	7 100f
SI: GDP per capita at current prices, PPS, EU-25=100	Unit (x1)	%	2)	:	:	:	26,5	25,6	25,1	26,5	28,5	29,5	31.6f
SI: Labour productivity, PPS (GDP per person employed), EU-25=100	Unit (x1)	%	2)	:	:	:	:	:	28,2	30,2	32,5	33.6f	35.9f
Agriculture (NACE Sections A+B): share of total gross value added	Unit (x1)	%		21,4	20,6	19,6	16,2	15,2	12,5	14,9	12,8	13.3p	14.6p
Industry (excluding construction) (NACE Sections C to E): share of total gross value added	Unit (x1)	%		35,6	35,5	33,5	29,6	28,2	30,9	31,0	31,4	30.9p	30.5p
Construction (NACE Section F): share of total gross value added	Unit (x1)	%		7,1	6,9	5,7	5,8	5,7	5,5	6,0	6,5	6.8p	6.9p
Services (NACE Sections G to P): share of total gross value added	Unit (x1)	%		39,1	39,2	41,8	50,1	52,7	52,3	49,8	50,6	50.5p	49.7p
Final consumption expenditure, as a share of GDP	Unit (x1)	%		81,3	82,6	86,4	90,3	88,7	86,1	85,2	84,0	84.9p	86.3p
Final consumption expenditure: household and NPISH, as a share of GDP	Unit (x1)	%		67,6	69,5	74,1	75,8	74,3	70,0	70,0	69,0	68.9p	70.4p
Final consumption expenditure: General government, as a share of GDP	Unit (x1)	%		13,7	13,1	12,3	14,5	14,4	16,1	15,2	15,0	16.0p	15.9p
—Gross fixed capital formation, as a share of GDP	Unit (x1)	%		21,4	23,0	21,2	18,2	17,7	18,9	20,7	21,3	22.2p	22.3p
—Stock variation, as a share of GDP	Unit (x1)	%		2,9	2,9	-0,6	-0,5	-1,6	0,6	1,9	0,4	0.7p	0.8p
Exports of goods and services, relative to GDP	Unit (x1)	%		27,6	28,1	29,2	22,6	28,0	32,9	33,3	35,4	36.0p	37.1p
Imports of goods and services, relative to GDP	Unit (x1)	%		33,2	36,6	36,2	30,6	32,8	38,5	41,1	41,1	43.8p	46.5p

Inflation rate	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
SI: Consumer price index: total (CPI), growth relative to the previous year	Unit (x1)	%	:		38,8	154,9	59,1	45,8	45,7	34,5	22,5	15,3	11,9

Balance of payments	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Balance of payments: current account total	Million	EUR		-1.368	-2.051	-1.858	-2.575	-1.355	-1.494	-2.488	-1.623	-3 060p	-4 402p
Balance of payments current account: trade balance	Million	EUR		-1.215	-1.973	-1.753	-2.318	-1.187	-1.867	-3.323	-2.752	-3.955	-5 323p
Balance of payments current account: exports of goods	Million	EUR		6.112	6.453	7.469	7.400	7.977	11.273	12.722	14.675	15.614	18 935p
Balance of payments current account: imports of goods	Million	EUR		7.327	8.426	9.222	9.718	9.164	13.140	16.045	17.427	19.569	24 258p
Balance of payments current account: net services	Million	EUR		-253	-305	-336	-530	-370	-260	-129	5	62	-213p
Balance of payments current account: net income	Million	EUR		-185	-246	-283	-391	-388	-304	-315	-488	-1 195p	-1 363p
Balance of payments current account: net current transfers	Million	EUR		285	473	514	664	590	937	1.279	1.612	2.028	2 497p
Balance of payments current account: net current transfers - of which government transfers	Million	EUR		48	38	57	46	54	76	248	290	199	126p
Direct investment (FDI) in the reporting economy	Million	EUR		321	210	1.077	1.763	964	1.147	1.294	1.212	1 946p	4 098p

Public finance	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
General government deficit/surplus, relative to GDP	Unit (x1)	%		:	:	-4,5	-3,2	-4,5	-4,4	-3,5	-2,0	-2,0	-1,4
SI: General government debt, relative to GDP	Unit (x1)	%		:	:	16,5	18,0	24,0	23,9	23,2	23,3	21,8	18,5

Financial indicators	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Gross foreign debt of the whole economy, relative to GDP	Unit (x1)	%		19,3	25,9	29,3	23,4	28,4	29,7	32,7	33,4	35,2	36,7
Gross foreign debt of the whole economy, relative to total exports	Unit (x1)	%		72,7	94,7	104,1	103,3	102,6	90,8	97,9	94,5	97,5	99,1
Money supply: M1	Million	EUR		2.147	2.232	2.113	1.729	1.619	1.921	2.307	2.529	2.755	3.873
Money supply: M2	Million	EUR		5.541	6.061	7.009	7.236	7.317	7.673	9.702	10.702	11.206	16.270
Money supply: M3	Million	EUR		:	:	:	:	:	:	:	:	:	:
Total credit: credit by monetary financial institutions (MFIs) to total residents (consolidated)	Million	EUR		4.982	5.363	4.049	4.620	3.149	3.110	4.241	5.118	7.366	10.540
Interest rates: day-to-day money rate, per annum	Unit (x1)	%		:	:	:	:	:	41,5	37,8	23,4	18,0	18,8
Lending interest rate (one year), per annum	Unit (x1)	%	3)	48,6	55,8	63,7	56,9	65,9	53,5	45,1	35,2	25,4	25,8
Deposit interest rate (one year), per annum	Unit (x1)	%	4)	36,5	38,1	51,6	38,3	45,4	32,7	26,4	18,7	10,8	11,3
EUR exchange rates: average of period - 1 euro= ... national currency	Unit (x1)	Number		2.629,5 1	3.862,9 0	8.090,9 2	9.989,2 5	16.295, 60	19.955, 80	26.026,90	31.255,30	37.555,90	40.532,11
EUR exchange rates: end of period	Unit (x1)	Number		3.299	5.005	8.867	12.788	18.331	24.118	27.881	34.919	41.117	39.663

- 1 euro= ... national currency													
Effective exchange rate index (1999=100)	Unit (x1)	Number		528,0	368,9	182,9	159,0	100,0	80,6	64,0	54,4	47,3	44,3
Value of reserve assets (including gold)	Million	EUR		1.079	1.284	2.770	1.969	2.483	3.644	5.509	7.009	7.492	11.933
Value of reserve assets (excluding gold)	Million	EUR		261	444	1.985	1.177	1.520	2.655	4.445	5.877	6.374	10.848

External trade	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Trade balance: (all goods, all partners)	Million	EUR		:	:	:	:	-1.781	-2.962	-4.386	-4.206	-5.588	-7.346
Value of exports: (all goods, all partners)	Million	EUR		:	:	:	:	7.992	11.273	11.759	14.675	15.614	18.935
Value of imports : (all goods, all partners)	Million	EUR		:	:	:	:	9.774	14.235	16.144	18.881	21.201	26.281
Terms of trade (export price index / import price index), relative to the previous year	Unit (x1)	Number	5)	:	:	:	:	:	105,1	100,9	99,8	101,5	104,3
Share of exports to EU-25 countries in value of total exports	Unit (x1)	%		:	:	:	:	71,3	69,4	73,2	72,6	73,6	72,8
Share of imports from EU-25 countries in value of total imports	Unit (x1)	%		:	:	:	:	68,5	64,6	66,4	67,4	67,2	64,9

Demography	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Natural growth rate : crude rate of natural increase (births minus deaths)	Unit (x1)	per 1000		-1,6	-2,5	-1,9	-1,5	-1,4	-0,9	-1,8	-2,7	-2,5	-1,9

Net migration rate: number of immigrants minus the number of emigrants	Unit (x1)	per 1000		-0,9	-0,9	-0,6	-0,3	-0,1	-0,2	0,0	-0,1	-0,3	-0,5
Infant mortality rate: number of deaths of children under one year of age relative to 1000 live births	Unit (x1)	Number		21,2	22,3	22,0	20,5	18,6	18,6	18,4	17,3	16,7	16,8
Life expectancy at birth: male	Unit (x1)	Years		65,7	65,3	65,2	65,5	66,1	67,0	67,7	67,6	67,4	67,7
Life expectancy at birth: female	Unit (x1)	Years		73,4	73,1	73,0	73,3	73,7	74,2	74,8	74,9	74,8	75,1

Labour market	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Economic activity rate (15 - 64): proportion of the population aged 15-64 that is economically active	Unit (x1)	%	6)	:	:	70,6	69,0	68,7	68,6	67,5	63,6	62,4	63.2p
SI: Employment rate (15-64): proportion of the population aged 15-64 that is in employment	Unit (x1)	%	6)	:	:	65,9	64,3	63,5	63,2	62,6	58,0	57,8	57.9p
SI: Employment rate (15-64), male: proportion of the male population aged 15-64 that is in employment	Unit (x1)	%	6)	:	:	72,8	70,9	69,5	69,1	68,2	64,1	64,1	63.6p
SI: Employment rate (15-64), female: proportion of the female population aged 15-64 that is in employment	Unit (x1)	%	6)	:	:	59,2	57,7	57,5	57,5	57,1	52,0	51,5	52.1p
SI: Employment rate of older workers (55-64): proportion of the population aged 55-64 that is in employment	Unit (x1)	%	6)	:	:	51,9	50,8	49,6	49,5	48,2	37,7	38,1	36.9p
Agriculture, forestry and fishing (NACE Sections A+B) as a share of total employment	Unit (x1)	%	6)	:	:	39,0	40,0	41,8	42,8	42,3	36,4	35,7	31.6p
Industry (NACE Sections C to E) as	Unit (x1)	%	6)	:	:	26,3	25,4	23,9	22,4	22,2	25,0	25,2	26.0p



a share of total employment													
Construction (NACE Sections F) as a share of total employment	Unit (x1)	%	6)	:	:	4,2	4,0	3,7	3,7	4,0	4,5	4,6	5.2p
Services (NACE Sections G to P) as a share of total employment	Unit (x1)	%	6)	:	:	30,5	30,6	30,7	31,0	31,5	34,1	34,5	37.2p
SI: Unemployment rate: proportion of the labour force that is unemployed	Unit (x1)	%	6)	:	:	6,0	6,3	6,8	7,1	6,6	8,4	7,0	8.0p
SI: Unemployment rate, male: proportion of the male labour force that is unemployed	Unit (x1)	%	6)	:	:	5,7	6,5	7,4	7,7	7,1	8,9	7,5	9.0p
SI: Unemployment rate, female: proportion of the female labour force that is unemployed	Unit (x1)	%	6)	:	:	6,4	6,1	6,2	6,4	5,9	7,7	6,4	6.9p
Unemployment rate of persons < 25 years: proportion of the labour force aged <25 that is unemployed	Unit (x1)	%	6)	:	:	18,0	18,3	18,8	18,6	17,5	21,7	18,5	21.0p
SI: Long-term unemployment rate: proportion of the labour force that is long-term unemployed	Unit (x1)	%	6)	:	:	2,9	2,6	3,0	3,6	3,2	4,5	4,3	4.7p

Social cohesion	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
SI: Inequality of income distribution: ratio of top quintile to lowest quintile	Unit (x1)	Number	:	:	:	:	:	:	4,5	4,6	4,7	4,6	4,8
SI: Early school-leavers: proportion of the population aged 18-24 having not completed upper secondary education and who are currently not in any education or training	Unit (x1)	%	:	:	20,2	19,8	22,4	23,1	21,8	22,9	22,7	23,4p	
SI: Children aged 0-17 living in jobless households: share of	Unit (x1)	%	7)	:	:	6,9	7,5	7,3	7,2	6,8	9,8	10,2	11,1

children aged 0-17													
SI: Persons aged 18-59 living in jobless households: share of persons aged 18-59	Unit (x1)	%	7)	:	:	6,8	7,3	7,8	8,4	8,7	11,3	11,1	11,1

Standard of living	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Number of passenger cars / population	Unit (x1)	per 1000		96,9	102,8	108,5	115,3	120,2	123,8	128,6	136,4	142,0	148,7
Number of main telephone lines (fixed) / population	Unit (x1)	per 1000		129,3	137,9	149,6	158,6	164,9	169,9	179,8	193,0	199,2	202,4
Number of subscriptions to cellular mobile telephone services / population	Unit (x1)	per 1000		:	:	9,0	24,5	50,1	90,0	205,1	233,9	324,9	471,1

Infrastructure	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Density of railway network (lines in operation)	Unit (x1)	per 1000 km <sup>2</sup>		46,1	46,1	46,1	46,1	46,1	46,1	46,1	46,1	46,1	46,1
Length of motorways	Unit (x1)	km		113	113	113	113	113	113	113	113	113	228

Industry and agriculture	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Industrial production volume index (2000=100)	Unit (x1)	Number	8)	112,6	119,7	111,0	95,7	93,4	100,0	108,3	113,0	116,5	122,7
Agricultural production volume indices of goods and services (at producer prices) (previous year = 100)	Unit (x1)	Number	9)	:	:	:	:	104,0	85,4	122,1	96,6	107,6	124.1e

Innovation and research	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
SI: Spending on human resources (public expenditure on education) as a share of GDP	Unit (x1)	%		:	:	:	4,38	3,37	2,89	3,28	3,50	:	:
SI: Gross domestic expenditure on research & development, relative to GDP	Unit (x1)	%	10)	0,80	0,71	0,58	0,49	0,40	0,37	0,39	0,38	0,40	:
SI: Percentage of households who have Internet access at home. All forms of Internet use are included. The population considered is aged 16 to 74.	Unit (x1)	%		:	:	:	:	:	:	3,0	4,5	6,0	:

Environment	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
SI: Total greenhouse gases emissions, CO <sub>2</sub> equivalent (1990=100)	Unit (x1)	Number	11)	71,9	74,4	65,8	56,3	49,0	50,3	51,5	54,9	58,4	:
SI: Energy intensity of the economy	Unit (x1)	kg of oil equivalent per EUR 1000 GDP		1.663	1.717	1.648	1.563	1.419	1.455	1.367	1.267	:	:
SI: Share of renewable energy in electricity consumption	Unit (x1)	%		28,0	25,3	30,5	35,0	36,7	28,8	28,4	30,8	24,3	28.5p
SI: Road freight transport as a share of total inland freight transport (Modal split of freight transport)	Unit (x1)	%		42,0	41,4	45,1	43,1	43,5	41,7	48,6	57,4	62,9	:

e estimate

f forecast

p provisional

1  
) Calculated using GDP in euro at constant prices.

2  
) Source: NewCronos.

3  
) Lending rates refer to bank lending to non-governmental customers.

4  
) Deposit rates refer to bank deposits of non-governmental customers.

5  
) Terms of trade are obtained on the basis of unit value indices calculated from values expressed in euro.

6  
) Conscripts are included in the active population; annual data from the Labour Force Survey; 2002 onwards: weighted based upon the results of the Population and Housing Census of 18 March 2002.

7  
) 2002: break in series; up until 2001 data refer to the second quarter from the Labour Force Survey; 2002 onwards: weighted based upon the results of the Population and Housing Census of 18 March 2002.

8  
) Gross series.

9  
) Excluding losses and own consumption.

1  
0  
) 1995-1997: calculated on the GDP based on the ESA 1979 methodology; 1998 onwards: calculated on the GDP based on the ESA 1995 methodology.

1  
1  
) Source: Ministry of the Environment and Water Management.

Note:

The full set of Key indicators is available in [http://europa.eu.int/estatref/info/sdds/en/coop\\_eur/coop\\_eur\\_base.htm](http://europa.eu.int/estatref/info/sdds/en/coop_eur/coop_eur_base.htm).

The definitions of the indicators that countries have been requested to follow can be found (in English) in

[http://europa.eu.int/estatref/info/sdds/en/coop\\_eur\\_definitions.pdf](http://europa.eu.int/estatref/info/sdds/en/coop_eur_definitions.pdf), which also includes the definitions of the few

indicators extracted from Eurostat's database, and from Comext. When countries have indicated divergences

from the definitions requested these are indicated in a list of the footnotes.

