

# 2004

## Regular Report

### on

## Romania's

# progress towards accession

<b>A.</b>	<b>A. INTRODUCTION.....</b>	<b>3</b>
1.	PREFACE .....	3
2.	RELATIONS BETWEEN THE EU AND ROMANIA.....	5
	Recent developments in bilateral relations .....	5
	Community assistance .....	6
	Twinning .....	10
	Negotiations .....	11
<b>B.</b>	<b>CRITERIA FOR MEMBERSHIP.....</b>	<b>12</b>
1.	POLITICAL CRITERIA.....	12
1.1	<i>Democracy and the rule of law</i> .....	14
	The parliament.....	14
	The executive .....	14
	The judicial system.....	18
	Anti-corruption measures .....	20
1.2	<i>Human rights and the protection of minorities</i> .....	22
	Civil and political rights .....	23
	Economic, social and cultural rights.....	27
	Minority rights and the protection of minorities.....	29
1.3	<i>General evaluation</i> .....	30
2.	ECONOMIC CRITERIA .....	32
2.1	<i>Introduction</i> .....	32
2.2	<i>Summary of economic developments since 1997</i> .....	32
2.3	<i>Assessment in terms of the Copenhagen criteria</i> .....	34
2.4	<i>General evaluation</i> .....	46
3.	ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP.....	48
3.1	<i>Chapters of the acquis</i> .....	50
	Chapter 1: Free movement of goods.....	51
	Chapter 2: Free movement of persons .....	55
	Chapter 3: Freedom to provide services .....	58
	Chapter 4: Free movement of capital.....	61
	Chapter 5: Company law .....	64
	Chapter 6: Competition policy.....	67
	Chapter 7: Agriculture .....	69
	Chapter 8: Fisheries .....	78
	Chapter 9: Transport policy .....	81
	Chapter 10: Taxation .....	83
	Chapter 11: Economic and Monetary Union .....	86
	Chapter 12: Statistics .....	88
	Chapter 13: Social policy and employment .....	90
	Chapter 14: Energy.....	95
	Chapter 15: Industrial policy .....	100
	Chapter 16: Small and medium-sized enterprises.....	102
	Chapter 17: Science and research .....	105
	Chapter 18: Education and training .....	106
	Chapter 19: Telecommunications and information technologies.....	108
	Chapter 20: Culture and audiovisual policy.....	111
	Chapter 21: Regional policy and co-ordination of structural instruments .....	112
	Chapter 22: Environment.....	116
	Chapter 23: Consumers and health protection .....	120
	Chapter 24: Co-operation in the field of justice and home affairs .....	122

Chapter 25: Customs union.....	130
Chapter 26: External relations .....	133
Chapter 27: Common foreign and security policy .....	135
Chapter 28: Financial control .....	137
Chapter 29: Financial and budgetary provisions.....	140
3.2 <i>Translation of the acquis into Romanian</i> .....	142
3.3 <i>General evaluation</i> .....	142
<b>C. CONCLUSION .....</b>	<b>146</b>
<b>D. ACCESSION PARTNERSHIP: GLOBAL ASSESSMENT .....</b>	<b>151</b>
HUMAN RIGHTS CONVENTIONS RATIFIED BY THE CANDIDATE COUNTRIES .....	154
STATISTICAL ANNEX .....	155
<b>METHODOLOGICAL NOTES.....</b>	<b>158</b>
<b><i>AGRICULTURAL PRODUCTION VOLUME INDICES OF AGRICULTURAL GOODS AND SERVICES. INDICES BASED ON VALUATION OF ALL INDIVIDUAL PRODUCTS AND AGRICULTURAL SERVICES ACCORDING TO THE EUROSTAT METHODOLOGY ON “AGRICULTURE ECONOMIC ACCOUNTS”, IN CONSTANT PRICES OF THE YEAR PRECEDING THE EXAMINED ONE.....</i></b>	<b>161</b>
<b>SOURCES .....</b>	<b>162</b>

## A. A.INTRODUCTION

### 1. Preface

In Agenda 2000, the Commission said it would report regularly to the European Council on progress made by each of the candidate countries of Central and Eastern Europe with preparations for membership, and that it would submit its first Report at the end of 1998.

The Luxembourg European Council in December 1997 decided that:

*“From the end of 1998, the Commission will make Regular Reports to the Council, together with any necessary recommendations for opening bilateral intergovernmental conferences, reviewing the progress of each Central and Eastern European applicant State towards accession in the light of the Copenhagen criteria, in particular the rate at which it is adopting the Union acquis [...] The Commission’s reports will serve as the basis for taking, in the Council context, the necessary decisions on the conduct of the accession negotiations or their extension to other applicants. In that context, the Commission will continue to follow the method adopted by Agenda 2000 in evaluating applicant States’ ability to meet the economic criteria and fulfil the obligations deriving from accession.”*

Consequently, the Commission has published a series of yearly Regular Reports on Romania covering the years 1998 to 2003.

The Brussels European Council in June 2004 reiterated the Union’s common objective to welcome Bulgaria and Romania as members of the Union in January 2007 if they are ready, and concluded that:

*“The European Council looks forward to the Commission 2004 Regular Report, which will assess the two countries’ ability to assume all the obligations of membership by accession.”*

The Commission has prepared this Regular Report with a view to the Brussels European Council in December 2004.

The structure followed for this Regular Report is largely the same as that used in previous years. The Report:

- describes the relations between Romania and the Union, in particular in the framework of the Association Agreement;
- analyses the situation in respect of the political criteria set by the 1993 Copenhagen European Council (democracy, rule of law, human rights, protection of minorities);
- assesses Romania’s situation and prospects in respect of the economic criteria defined by the Copenhagen European Council (a functioning market economy and the capacity to cope with competitive pressures and market forces within the Union);
- addresses the question of Romania’s capacity to assume the obligations of membership, that is, the *acquis* as expressed in the Treaties, the secondary legislation, and the policies of the Union. In this part, special attention is paid to nuclear safety standards, which were emphasised by the Cologne and Helsinki European Councils. This part includes not only

the alignment of legislation, but also the development of the judicial and administrative capacity necessary to implement and enforce the *acquis*. The European Council stressed the importance of this latter aspect at its meeting in Madrid in 1995 and on a number of subsequent occasions, most recently in Brussels in June 2004. At Madrid, the European Council stressed that the candidate countries must adjust their administrative structures, so as to create the conditions for the harmonious integration of these States. The Brussels European Council underlined that particular attention should be paid by Bulgaria and Romania of to improving their judicial and administrative capacity, in order to be ready for membership by January 2007.

This Report takes into consideration progress since the 2003 Regular Report. It covers the period until 31 August 2004. In some particular cases, however, measures taken after that date are mentioned. It looks at whether planned reforms referred to in the 2003 Regular Report have been carried out, and examines new initiatives. In addition, this Report provides an overall assessment of the situation for each of the aspects under consideration, setting out for each of them the main steps still to be taken by Romania in preparing for accession.

Furthermore, in view of the fact that the Regular Report will provide the basis on which the Commission assesses Romania's readiness for membership criteria by its expected date of accession, this Report includes an evaluation of Romania's track record since the 1997 Opinion. As regards the economic criteria, the report also provides a dynamic, forward-looking evaluation of Romania's economic performance.

For each of the negotiating chapters, this Report provides a summary evaluation of the extent to which commitments made in the negotiations have been implemented, as well as an overview of transitional arrangements that have been granted. Where Romania has committed itself to completing specific measures by the time of accession, the Commission assesses the relevant preparatory processes. Depending on further progress in complying with the membership criteria, the objective is to welcome Romania as a member in January 2007. The time scale for the implementation of commitments made by Romania takes account of this perspective.

The Report contains a separate section examining briefly the extent to which Romania has addressed the Accession Partnership priorities.

As in previous Reports, "progress" has been measured on the basis of decisions actually taken, legislation actually adopted, international conventions actually ratified (with due attention being given to implementation), and measures actually implemented. As a rule, legislation or measures which are in various stages of either preparation or Parliamentary approval have not been taken into account. This approach ensures equal treatment for all the candidate countries and permits an objective assessment of each country in terms of its concrete progress in preparing for accession.

The Report draws on numerous sources of information. Romania has been invited to provide information on progress made in preparations for membership since the publication of the last Regular Report. The information it has provided within the framework of the Association Agreement and the negotiations, and various peer reviews that have taken place to assess its administrative capacity in a number of areas, have served as additional sources. Council deliberations and European Parliament reports and

resolutions have been taken into account in the preparations.<sup>1</sup> The Commission has also drawn on assessments made by various international organisations, in particular the contributions of the Council of Europe, the OSCE, the international financial institutions, and non-governmental organisations.

## **2. Relations between the EU and Romania**

### *Recent developments in bilateral relations*

Romania has continued to implement the Europe Agreement and has contributed to the smooth functioning of the various joint institutions.

The Association Council met in June 2004. An Association Committee meeting was held in November 2003. The system of sub-committees continues to function as a forum for technical discussions.

The Joint Parliamentary Committee comprising representatives of the Romanian and the European Parliament met in November 2003 and in April 2004. The Joint Consultative Committee with the Economic and Social Committee met in November 2003. Procedures have been launched in order to establish a Joint Consultative Committee with the Committee of the Regions.

A revised Accession Partnership was adopted by the Council in May 2003. More details on this instrument can be found in Part D of this Report.

The share of the European Community in Romania's foreign trade stabilised at a high level. Turnover in trade with the EU-15 in 2003 was 9.8% up on 2002 and accounted for 61.9% of Romania's overall trade. In 2003, exports to the EU-15 were 8.0% up on 2002, accounting for 67.7% (€11.2 billion) of Romania's total export sales. While the trend in the growth of EU exports to Romania continued in 2003, the year also saw a significant growth in Romania's agricultural exports to the Community which has contributed to a noteworthy reduction in its trade deficit in the sector. Romania's main industrial exports to the EU-15 were textiles, machinery, footwear and steel products. Romania's main agricultural exports to the EU-15 were live animals, vegetables and oilseeds. In 2003, imports from the EU-15 were up by 11.5% on 2002, accounting for 57.6% (€12.8 billion) of Romania's total imports. Its main industrial imports were machinery, textiles, vehicles, plastics and chemicals as well as steel products. Its main agricultural imports were cereals, meat, edible preparations and tobacco.

In May 2004, negotiations under the Europe Agreement were concluded on further agricultural trade liberalisation, which incorporated a technical adaptation exercise to take account of the preferential agreements, which existed between Romania and certain new Member States under CEFTA. Overall, the package concluded acknowledges existing traditional trade flows between Romania and the new Member States and opens up new trade opportunities for both partners. A new Additional Protocol to the Europe

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<sup>1</sup> For the European Parliament the rapporteur, for the reporting period, was Baroness Nicholson of Winterbourne.

Agreement implementing these new concessions is likely to be adopted by the Council in late autumn 2004.

While the trend in the growth of EU exports to Romania continued in 2003, the year also saw a significant growth in Romania's agricultural exports to the Community, which as contributed to a notable reduction in its trade deficit in the sector. As regards processed agricultural products, an agreement at technical level was signed in May 2004 whereby Romanian exports would have duty-free access to the EU market, except for some sensitive products, in exchange for the immediate or gradual liberalisation of the duties on EU exports to Romania. The new trade concessions, which also provide for the elimination of the exports refunds on processed agricultural products, will be implemented via an Association Council Decision.

Currently there are three trade defence measures in place against imports originating in Romania: an anti-dumping measure on imports of seamless pipes and tubes (under review), an anti-dumping measure on imports of steel quarto plates and an anti-dumping measure on imports of urea. No new anti-dumping or anti-subsidy measures have been imposed or investigations initiated against Romania during the reporting period. In April 2004, the EU adopted definitive safeguard measures on imports of preserved citrus fruits and in August 2004, provisional safeguard measures were imposed on imports of farmed salmon.

On the basis of a Council Decision of May 1997, modified by a Council Decision of September 2002, the Commission opened formal negotiations with Romania on a PECA (Protocol on European Conformity Assessment) in October 2003. Negotiations are ongoing.

#### *Community assistance*

Three **pre-accession instruments** have been financed by the European Community to assist the applicant countries of Central and Eastern Europe with their pre-accession preparations: the **Phare** programme; **SAPARD**, which provides aid for agricultural and rural development; and **ISPA**, which finances infrastructure projects in the fields of environment and transport. The support provided by these programmes is focused on the Accession Partnership priorities, which are intended to help the candidate countries meet the criteria for membership.

The total financial assistance to Romania for 2004 amounts to €405.3 million for the PHARE National Programme, €158.7 million from SAPARD and between €289 and €343 million from ISPA.

The total volume of pre-accession assistance available to Romania for 2004 (around €825 million) is substantial and increasing: this represents a very important financial resource for Romania, equal to around 1.4% of GDP, 5.25% of consolidated budget revenues, or 38% of investment expenditure from the national budget.

Phare provides support for institution building, investment to strengthen the regulatory infrastructure needed to ensure compliance with the *acquis*, and investment in economic and social cohesion. Phare also helps the candidate countries develop the mechanisms and institutions that will be needed to implement the Structural Funds after accession; it

is supported by a limited number of measures (investment and grant schemes) with a regional or thematic focus.

The Phare programme allocated about €2,100 million to Romania during the 1992-2003 period, including €283 million in 2003.<sup>2</sup> The Economic and Social Cohesion sub-programme of the 2004 National Phare programme will use about €160 million or about 40% of the total Phare budget in 2004. This is an increase in relation to the 2003 allocation of €48 million.

The absorption rate of funds in terms of commitments has been stable at 97% since the year 2000. However, the implementation of projects is quite often delayed compared to the deadlines fixed in the Financing Memoranda. These delays appear mainly due to the fact that more than 70% of the contracts each year are only concluded in the last two months of the contracting period, allowing only about one year for implementation, which is insufficient for many projects. Numerous requests for extensions of deadlines become inevitable every year.

The 2004 Phare programme focuses on the following priorities:

Political criteria: emphasis is put on multi-annual programmes to strengthen administrative and judicial capacity, support minorities and civil society, the fight corruption and fraud, improve prison conditions and strengthen police cooperation (€50 million).

Economic criteria: substantial further assistance is provided for the functioning of a unified, efficient and adequate cadastre and land register as the basis for Community support e.g. in agriculture and also for ensuring the safety of investments (€4.5 million).

Meeting the obligations of membership: twinning<sup>3</sup>, technical assistance and investment is provided principally in four priority areas, namely public finance, agriculture, environment and border management, also subject to multi-annual programming. Further areas will be covered specifically under the 2004 budget, such as internal market, competition, statistics, social policy and employment, energy, transport, consumer protection, justice and home affairs and the audiovisual sector (€155.4 million).

Economic and social cohesion: support is provided in close conjunction with the three-year National Development Plan (NDP) adopted by the Romanian Government in December 2003 (€160.1 million).

In addition, €28 million of the programme will be devoted to cross-border cooperation programmes on Romania's borders with Hungary (€5 million), Bulgaria (€8 million), Moldova (€5 million), Serbia & Montenegro (€4 million) and Ukraine (€6 million).

Romania also participates in and benefits from Phare-funded multi-country and horizontal programmes, such as TAIEX, the Small and Medium-sized Enterprises Facility, SIGMA and the nuclear safety programme.

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□ This figure includes an allocation for Cross-Border Cooperation (CBC) Programmes of €17 million in 2003.

<sup>3</sup> Technical support provided by experts from the public administrations of the EU Member States.

Furthermore, Romania currently participates in the following Community programmes and agencies: Civil Protection Mechanism, Combating Discrimination, Combating Social Exclusion, Community Action in the field of Public Health, Culture 2000, Customs, e-Content, Enterprise and Entrepreneurship, European Environment Agency, Fiscalis, FP 6 for RTD and Euratom, Gender Equality, IDA II, Incentive measures in the field of employment, Leonardo da Vinci II, Life, Socrates II, and Youth. Phare helps meet part of the costs of participation in these programmes and agencies. In order to streamline Community legal procedures and thereby facilitate future participation by Romania in Community programmes, numerous Memoranda of Understanding were signed between the Commission and Romania.

Overall, the impact of Phare continues to be positive. Effective transfer of know-how, equipment and financial resources has taken place in a number of particularly important fields such as:

Romanian administration: strengthening the administrative capacity of the public administration at central and local level (€27 million). Projects aimed at supporting the public administration reform process in Romania, strengthening the administrative capacity of the Romanian Parliament, and developing the capacity within the Romanian administration to manage and monitor EU pre-accession funds in an adequate and efficient way.

Justice and home affairs: projects (€23 million) aimed at strengthening border management and the management of migration through twinning projects for the Border police management and supporting the prevention and control of money laundering. Other projects aimed at ensuring compliance with the *acquis* on police cooperation and the fight against organised crime and further strengthen the institutional capacity to fight against corruption.

Institution building for National Development Plan (NDP) implementation: this Phare 2000 project of €7 million involved nine correlated twinning projects at national and local level for preparation of the NDP and the institutions for the management of structural funds. This was an important and very successful action for supporting Romania's efforts in the context of chapter 21 (Regional policy).

Grant support scheme for business start-ups, young enterprises and micro-enterprises: this Phare 2000 project of €9 million (and €8 million from national co-financing) enabled to support the development of more than 400 micro or small enterprises, more than 400 companies were equipped with new technologies and specific equipment which led to the creation of more than 3,000 new jobs.

The Phare programme permits extended decentralisation of management, which entails waiving the requirement for *ex ante* approval by Commission Delegations for tendering and contracting. For this to be possible strict pre-conditions covering programme management, financial control and structures regarding public finance must be met. An extended decentralised implementation system (EDIS) should be put in place as soon as possible before the date of accession, provided that the Commission's assessment of Romania's EDIS application is positive.

The 2004 programming exercise, which for the first time included multi-annual programming, indicated that Romania's administration had made a major step forward towards adequate quality and control in programming. A gap analysis concerning

Romania's Phare management system had already been performed in 2002. An update became necessary to take into account the major reshuffling of the relevant Romanian administration, most recently in early 2004, where the National Aid Coordinator function was transferred to the Ministry of Finance. The update and measures to fill these gaps were contracted only in the first half of 2004. Further staff requirements have been identified and the Romanian government is conducting a major recruitment exercise between now and the end of the year in order to meet these staff requirements. However, the Romanian government has not been able to submit procurement documents of sufficient quality so far. Here major investments in staff, training and quality control are required before a positive track record on procurement processing and the application of the coordination regulation (1266/1999) and the Financial Regulation (Article 164) will lead the Commission to accredit Romania's implementing agencies for EDIS. At present Romania envisages applying for EDIS accreditation in 2005.

The Commission approved the Romanian **SAPARD** programme in November 2000. The financial allocation from the Community for SAPARD in Romania for 2004 is €158.7 million. The financial allocation for 2003 was €16.3 million.

The main focus of the 2004 SAPARD programme is to increase the absorption and especially the use of the 2000 financial allocations under which any unused funds are due to be decommitted by the end of 2004. Substantial efforts have been made to shorten the delay for processing (application forms and payments claims), simplify the procedures and decentralize the evaluation process.

The Multi-annual Financing Agreement, which sets out the rules for implementing SAPARD, was signed in February 2001. The Annual Financing Agreement for the year 2003 was signed in July 2003.

In December 2003 the SAPARD Agency was accredited for the implementation of the following three additional measures: "Investments in agricultural holdings", "Development and diversification of economic activities, multiple activities and alternative income" and "Improving vocational training". With this accreditation the Agency will manage 80% of the amount available for Romania under the programme.

Romania has submitted to the Commission up to August 2004 two declarations of expenditure up to end 2003 (€0.56 and €4 million respectively) and two for the first and quarter 2004 for €29.6 million. The first reimbursement of expenditure declared by Romania was made at the beginning of July 2004 when the necessary re-performance checks were completed for the first measure.

By the end of August 2004, 912 projects were contracted with beneficiaries representing €559.44 million of public expenditure, of which €419.64 million from the EC contribution, while an amount of €73.1 million of aid had been paid to the beneficiaries.

A monitoring Committee has been established by the Managing Authority and has met six times. Up to June 2004 the programme was modified four times. The Commission approved the last modification in September 2004.

Romania faced a number of administrative problems during the first 18 months of implementation of the programme which substantially delayed the process of project selection and contracting. These problems appear to a large extent to have been

overcome during 2004 and absorption of funds has been increasing rapidly since the fourth quarter of 2003.

**ISPA** programming is governed by the national strategy papers for transport and the environment, which the Romanian authorities finalised in 2000. The strategies for the environment and transport sectors are currently under revision.

The strategic objectives in the field of transport are intended to address serious weaknesses in the network of roads and railways and are focused on the modernisation of the trans-European corridors crossing the country. Other priorities are dealing with increased traffic levels around urban areas and developing the use of waterways.

In the environment sector, Romania faces acute problems concerning air, water and soil pollution — all of which require large-scale investments from both the public and the private sectors. The major environmental impact is the poor quality of water, which results from the discharge of untreated or only partially treated waste water. Another major cause of environmental damage and related health hazards is the uncontrolled disposal of (mainly urban) waste.

In 2003 a total commitment of €272.3 million was approved, in support of both transport (€149.6 million) and environmental projects (€122.7 million). Strategic objectives in the field of transport focus on improving the conditions of the Romanian network of roads and railways and inland waterways. In the field of environment, priority has been given to assisting Romania resolve the acute problems it faces concerning water pollution (wastewater treatment) and waste management (collection and land filling of waste). Romania needs to strengthen considerably capacity to define strategies, to programme and to manage the large volume of ISPA projects in order to speed up decisions and disbursements related to individual projects. Romania should pay particular attention to the timely and effective implementation of projects funded under Phare and ISPA. Particularly close attention will be given to the management of pre-accession funds in the remaining period before accession.

### *Twinning*

One of the main challenges facing the candidate countries is the need to strengthen their administrative and judicial capacity to implement and enforce the *acquis*. As of 1998, the European Commission began to mobilise significant human and financial resources to help them with this process, using the mechanism of twinning administrations and agencies.

The twinning process, funded under Phare, makes the vast body of Member States' public sector expertise available to the candidate countries through the long-term secondment of civil servants and accompanying short-term expert missions and training.

Furthermore, the candidate countries can draw on Member States' expertise through "Twinning light", an exchange of expertise mechanism to support projects of limited scope.

For Romania, 132 projects have been delivered over the period 1998–2003. Twinning will again be an important element under the 2004 programme, contributing to the results of around 44 projects. These span a broad range of sectors including justice and home affairs, the internal market, environment, public administration reform, social affairs and

employment, agriculture (IACS), support for the management of the structural funds and research.

### *Negotiations*

Negotiations were opened with Romania in February 2000. Negotiations continue on the basis of the same principles that have guided the accession negotiations until now, whereby each country is judged on its own merits. All 31 negotiating chapters have been opened. Of these, 27 have been provisionally closed. The following chapters remain to be concluded: Competition policy, Environment, Cooperation in the field of justice and home affairs and chapter "Other".

## **B. CRITERIA FOR MEMBERSHIP**

### **1. Political criteria**

The political criteria for accession to be met by the candidate countries, as laid down by the Copenhagen European Council in June 1993, stipulate that these countries must have achieved “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.”<sup>4</sup>

In its 1997 Opinion on Romania's application for EU membership, the Commission concluded:

*“Romania’s new institutions are democratic and their stability now seems guaranteed. They do, however, need to be anchored by greater respect for the primacy of law at all levels of the apparatus of State. Elections are free and fair; they led to a genuine change-over in November 1996.*

*There remain a number of shortcomings with regard to respect for fundamental rights, even if the measures adopted and the undertakings given by the Romanian authorities since November 1996 are steps in the right direction. For instance, much still remains to be done in rooting out corruption, improving the working of the courts and protecting individual liberties from the activities of the police and secret service campaign or in the course of criminal proceedings.*

*By the same token, even if the Hungarian minority seems well integrated (given the recent improvement in its situation), the same cannot be said for the Roma (gypsies), who constitute a sizeable minority in the country.*

*Lastly, the reforms concerning the protection of children in orphanages are a major step forward but have still to bear fruit.*

*The improvement now under way since the new government came to power suggest that Romania is on the way to meeting the political conditions laid down by the Copenhagen European Council.”*

In its 2003 Regular Report, the Commission found that:

*“Romania continues to fulfil the political criteria.*

*The political will to address administrative and judicial reform exists and a number of positive initiatives have been launched over the last year to reform the public administration and the judiciary. For example, the Civil Servant Statute was revised*

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<sup>4</sup> In the meantime, through the entry into force of the Treaty of Amsterdam in May 1999, the political criteria defined at Copenhagen have been essentially enshrined as a constitutional principle in the Treaty on European Union. Article 6(1) of the consolidated Treaty on European Union reads: "The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law." Accordingly, Article 49 of the consolidated Treaty stipulates that "Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union." These principles were emphasised in the Charter of Fundamental Rights of the European Union, that was proclaimed at the Nice European Council in December 2000.

*and a major reorganisation of the court system was launched. However, the reform process is at an early stage. The Romanian civil service remains characterised by cumbersome procedures, limited transparency and a limited capacity for policy execution. The judicial system needs to improve the management of cases and the consistency of judgements as well as to increase the independence of the judiciary. These key issues must be urgently addressed.*

*Romania still needs to develop a strategy to address reform of the policy and legislative process. Progress was made with the restriction of the use of emergency ordinances. Laws on the freedom of information and transparency in the legislative process are also positive developments but have only been partially implemented. Constitutional reform of the parliamentary system should be accompanied by measures to increase parliamentary capacity to effectively scrutinise draft legislation.*

*Corruption in Romania continues to be widespread and affects all aspects of society. A number of high-profile measures were launched over the reporting period - but the implementation of anti-corruption policy as a whole has been limited. The measures taken have yet to have an impact and substantially increased efforts are needed.*

*Romania continues to respect human rights and fundamental freedoms, and has made good progress in a number of important areas.*

*Structures have been established to implement anti-discrimination legislation and a number of cases of discrimination were sanctioned. The capacity of the Ombudsman's office was strengthened. The good progress noted in last year's report in reforming the system of child protection has continued and further initiatives have been taken to enhance the rights of national minorities. The implementation of the Roma Strategy has continued although a lack of resources has meant that the results have been somewhat limited. Similarly, the process of property restitution has continued, but remains far from complete.*

*Reforms have been launched in a number of other areas: modernisation of the police, improving care for the disabled, reducing social exclusion, improving the social dialogue. To date, the main work in these fields has consisted of developing strategies and preparing framework legislation. The challenge for the future will be the effective implementation of these initiatives. While the proposals to reform the Penal Code are positive developments, further efforts are needed to strengthen the freedom of expression. Additional measures are also needed to further reduce prison overcrowding."*

The section below provides an assessment of developments in Romania, seen from the perspective of the Copenhagen political criteria, including the overall functioning of the country's executive and its judicial system. Such developments are in many ways closely linked to developments regarding its ability to implement the *acquis*, in particular in the domain of justice and home affairs. Specific information on the development of Romania's ability to implement the *acquis* in the field of justice and home affairs can be found in the relevant section (*Chapter 24 - Co-operation in the field of justice and home affairs*) of part 0 of this Report.

## 1.1 Democracy and the rule of law

Romania has achieved stability of institutions guaranteeing democracy and the rule of law. This was the conclusion of the 1997 Opinion and the subsequent Regular Reports, and has been confirmed by developments over the past year. This section focuses on the most significant developments since the last Regular Report.

Local elections were held in June 2004. These were the first national level elections since 2000 and were generally considered as both free and fair. Parliamentary and Presidential elections will be held in November 2004.

### *The parliament*

The political situation remained stable and the ruling Social Democratic Party maintained its protocol of co-operation with the Democratic Union of Hungarians in Romania. This arrangement has provided a secure majority in both houses of Parliament.

The revision of the Constitution in October 2003 introduced a number of important changes to the functioning of Parliament. Both chambers were given primary responsibility for different types of legislation depending on the substance of the draft law. This allowed the elimination of the mediation procedure as well as the need to hold joint meetings of the two chambers, which had previously been used to resolve differences between the Senate and Chamber of Deputies. These new arrangements should streamline the parliamentary process. In contrast to announced intentions, the revised Constitution did not reduce the number of Members of Parliament.

Over the reporting period the number of legislative acts processed by Parliament decreased slightly, which – given Parliament’s limited resources – might improve its ability to effectively scrutinise legislation. Nonetheless, there is still a shortage of qualified support staff - both for the chambers themselves and for political groups. Human resource policies, including modern tools for the selection, assessment, and promotion of personnel, need to be introduced and there have been delays in adopting a statute of the parliamentary staff.

The use of emergency ordinances has continued, limiting Parliament’s position in the legislative process (*see below section on the executive*). External oversight of the work of Parliamentary Committees by civil society remains limited.

### *The executive*

Following a major reorganisation in June 2003, a further **restructuring of the government** took place in March 2004. The main innovations were the establishment of three Ministers of State (effectively Deputy Prime Ministers) responsible for coordinating the work of other ministries, and the creation of a new institution: the Chancellery of the Prime Minister. The Chancellery has taken over responsibility for the departments which were under the Prime Minister’s direct authority as well as controlling the implementation of internationally financed programmes (except EU programmes) and monitoring the implementation of the EU *acquis*. The Ministry of Environment and Water Management was also re-established (it had been dissolved as part of the June 2003 changes). In July 2004, following the local election results, five Ministers were replaced.

This could lead to an increase of the efficiency of the executive that has yet to be demonstrated. The establishment of a coordinating body, the Chancellery of the Prime Minister, is a generally positive development.

Previous Regular Reports concluded that the ability of the Executive to legislate through emergency ordinances has reduced the transparency of the **legislative process**, has limited the opportunity for adequate consultation on draft laws and has contributed to a situation of legislative instability.

The Constitutional revision of October 2003 redefined the circumstances under which emergency ordinances can be used – under old provisions they could be used in “exceptional circumstances” while under the new Constitution they can be used in “extraordinary circumstances”. Immediately following the adoption of the Constitution there was a notable drop in the use of these procedures (41 were adopted between October and December 2003 compared to 87 between October and December 2002). However, in the first half of 2004 this trend was reversed and 58 were adopted between February and June 2004 (compared to 65 in the same 2003 period). In the absence of a clear definition of what can be covered by “extraordinary circumstances”, the constitutional revision may have little practical effect. Moreover, a provision has been introduced in the Constitution whereby an Emergency Ordinance, tabled by the Government, if not approved by the Parliament within 30 days, is deemed to have been adopted by first chamber.

Weaknesses in the process of legislative preparation have largely persisted: laws are often prepared hastily, without a sufficient assessment of feasibility, impact and budgetary implications. The consequent need for amendment increases legislative instability. The limited participation of the Ministry of Finance in the formulation of policies which have significant financial implications (for example major infrastructure investments, or the financing of local government) remains a particular concern.

At the working level, formal consultation rules are generally observed but inter-ministerial co-ordination remains limited in terms of substance. A major review carried out during the reporting period also concluded that this often led to low-quality legislative output, entailing difficulties in implementation and enforcement.

The Romanian authorities have recognised the need to address these weaknesses. In March 2004, meetings at the level of State Secretaries and General Secretaries from the ministries were initiated in order to prepare the weekly Government meetings. This measure allowed the executive to focus on political issues – instead of technical details – and facilitated arbitration between competing interests. It should improve the quality of government decisions.

A Public Policy Unit was set up within the General Secretariat of the Government to strengthen the Government’s capacity to formulate, implement and monitor public policies at the central level. This is a welcome development provided that adequate staff and competencies are attributed to it so that the Unit will have a significant impact on the ground. The definition of tasks between the Unit and the Chancellery of the Prime Minister as regards policy co-ordination and implementation remains unclear.

Awareness of the public and the administration has increased as concerns the rights and obligation provided by the Law on access to information and the Law on transparency of the decision-making process– the so-called “sunshine law”. However, implementation

remains uneven, in particular at the level of local administration. The Law on transparency of the decision-making process which provides for the early publication of draft legislation in order to allow for consultation and comments from stakeholders will significantly increase transparency when fully implemented.

On economic issues and legislation related to the business environment, the government has held meaningful consultations with the business community. Consultation procedures were also launched with civil society on a number of other legislative initiatives (e.g. judicial reform) – although participants' consultation remained procedural and not substantial.

Romania has begun to address the findings of previous Regular Reports that the **public administration** is characterised by cumbersome procedures, a lack of professionalism, inadequate remuneration and poor management of human resources. A public administration reform strategy was launched in May 2004. The strategy covers the areas of civil service reform, decentralisation and deconcentration, and policy coordination. It represents a good basis for future reform and priority should now be given to its implementation.

The reform of the civil service is aimed at its professionalisation: recruitment and promotion based on merit and decided by open competition, adequate remuneration levels, a transparent and predictable salary scheme, improved management of human resources and better training.

As regards the implementation of these objectives, some progress has taken place in the field of promotion and career structure. Following the adoption of the Civil Service Statute in March 2003, further secondary legislation was adopted during the reporting period (career structure and development, structure and functioning of the discipline and parity commissions within public institutions, manpower plan for 2004, etc). Provided the capacity of the National Agency for Civil Service is substantially strengthened to ensure effective application, this new legislation represents progress. The principle of promotion through open competition has been established and implementing legislation exists. At the same time, implementing procedures need to be clarified and made more transparent.

In the area of remuneration, a two-step pay reform has been agreed by the Government: a short-term interim reform, which provides for a salary increase as from 2005, and a medium-term comprehensive review of the pay and grading structure, aimed at ensuring a transparent, equitable and reliable remuneration system, which should be in place by 2006. This is an important step forward to attract and retain competent civil servants. A Code of Ethics for civil servants was adopted in February 2004. Together with the revised Statute of civil servants it provides the legal framework to improve also in practice the accountability of civil servants. A framework agreement was signed between the public service trade unions and the Ministry of Administration and Interior in August 2004.

The Central Unit for Public Administration Reform has continued to work with other ministries to promote the modernisation of the public administration. The Unit has become a general directorate and its staff allocation has been increased to strengthen its operational capacities. It has also launched, in collaboration with the National Institute for Administration and the Civil Servants Agency, a scheme for young professionals that will prepare a cadre of middle managers for the public administration. The position of

public manager has been introduced and the framework for a fast track promotion system within the civil service has been defined.

An in-service training strategy has been elaborated and the National Institute for Administration is responsible for its implementation. The Institute has increased the provision of short-term courses in public administration management, public finance, management of EU funds and information technology training and has launched a one-year training course for existing civil servants. The organisation and functioning of the Institute and the Regional Training centers have been regulated through a Government ordinance in July 2004. The Institute's own capacity needs to be further developed

In the area of **decentralisation and local government** the concerns raised in last year's Regular Report remain valid. The transfer of responsibilities to local authorities has not been matched with an adequate transfer of resources. The ability to raise local revenues remains limited and legislation governing financial transfers to local government lacks transparency giving a strong controlling function to county councils at the expense of local councils. Additional sources of funding for local investments (particularly roads and heating) are the "special funds" granted by central government. Institutions in charge of controlling public funds are weak at the local level and there have been credible reports of public resources being misappropriated for the interests of specific political groups. This is a particular concern at a time when the country is preparing for the management of EU structural funds.

Most local authorities suffer from a limited administrative capacity and the turnover of local civil servants is high. Systems for managing human resources are underdeveloped, remuneration is low, and training is limited. Given this situation local authorities find it difficult to implement newly decentralised responsibilities. Major efforts are still needed to improve financial management (including the collection of reliable data) and to remedy shortages of information-technology equipment and skills.

The scale of "political migration", i.e. changing party affiliation during office, is relatively high and has been noted as a concern by international observers. At the local election of June 2000, 30% of mayors belonged to what is now the ruling party. By the end of 2003, over 65% of mayors belonged to this party. A number of independent reports have noted a correlation between the migration of mayors and the allocation of domestic and EU funds.

The revision of the constitution clarified the legal framework by introducing the concept of deconcentration and by specifying that local authorities are not subordinate to the centrally appointed prefects. A framework law on decentralisation was adopted in July 2004. A law regarding the prefect institution, establishing the statute of the corps of prefects, was also adopted in July 2004. A plan for implementation of these two laws has been elaborated. These are positive developments. In addition, in October 2003, the Government created an Inter-ministerial Committee for relations with local public administration – although there have only been two informal meetings held since its establishment.

Most importantly, the Romanian authorities have made considerable efforts to develop a strategy for managing the process of decentralisation in a transparent and stable manner. The strategy was adopted in May 2004 and identifies clear priorities for future reform. Importantly, the strategy was prepared following the input of an extensive public debate with all main stakeholders (in the National Forum). However, the proposed reforms are

still at the design stage and implementation should be ensured. Effective cooperation between the Ministry of Administration and Interior and the Ministry of Public Finance should be considerably improved to secure reform efforts.

The legal framework on the **demilitarisation of the police**, as revised in 2002, was enforced during the reporting period.

### *The judicial system*

The Romanian judicial system has four levels of courts: local courts, tribunals (at the county level), courts of appeal, and the High Court of Cassation and Justice. Courts at each of these levels have prosecutors' offices attached to them. In general, cases enjoy a judgment in substance in the court of first instance and two degrees of judicial redress: appeal on facts and appeal on law. There is also a Constitutional Court in Romania which has a two-fold jurisdiction: the examination of laws before their promulgation by the President, and the examination of laws already in force when their constitutionality is challenged before ordinary courts.

The Romanian justice system underwent a number of structural changes during the reporting period. The 2003 revision of the Constitution transformed the Supreme Court of Justice in the High Court of Cassation and Justice, provided its newly appointed members with life-long tenure and also declared the judiciary a separate and equal state power. The High Court was (temporarily) given responsibility for ruling on all second degree appeals. An Order issued by the Minister of Justice in June 2004 required all courts of appeal to publish their annual jurisprudence bulletins, which is intended to create a more consistent application of the law across Romania. In June 2004 the Laws on the Superior Council of the Magistracy, on the Organisation of the Judiciary and on the Statute of Magistrates were adopted, i.e. the three-law package. It contains major proposals but no update has yet occurred to the Judicial System Reform Strategy or associated Action Plan meant to implement the reform process.

This three-law package, which entered into force on 30 September, and is not yet effectively implemented, is intended to improve significantly the independence and effectiveness of the judiciary. The Superior Council is to assume full responsibility for the recruitment, career development and sanction of judges and prosecutors. The laws create major structural change in the judiciary by establishing specialised courts in place of the current specialised sections and panels within courts and re-establish the principle of collegiality in first instance cases whereby judges sit in panels of at least two. Three of the specialised commercial courts and one specialised court for juvenile and family law should be functioning by the end of 2004 and the rest of the process of creating specialised courts should be finished by the end of 2007. By the end of 2006 cases should also be allocated to judges on a random basis by means of an IT system.

The Minister of Justice may no longer appoint judges directly or promote magistrates to higher courts and prosecutors' offices or into management position in the Superior Council, which is a positive development in terms of creating an independent judiciary. The Minister has, however, been made responsible for appointing judicial assistants, an important and influential position within courts that was created to replace the former consulting magistrates. Court Presidents are able to decide which panel and section a judge will sit on. The Minister continues to attend the sessions of the two sections of the

Superior Council, either with full voting rights or the de facto ability to influence decisions.

A recent official survey found that a majority of judges had come under political pressure while exercising their official duties. It is common practice for the executive to propose individuals for key decision-making positions within the judiciary: in July 2004, a candidate with no practical experience as a judge but who had worked as a political advisor at the highest level for many years was appointed President of the High Court. In addition to formal changes such as legislation and organisational structures, an environment should be created in which senior judges can develop a working culture corresponding to their new responsibilities for defending the independence of the judiciary in practice, for guaranteeing the efficient application of the rule of law and for ensuring high professional standards across the system.

The Superior Council will work as a permanent institution but except for its President and Vice-President, its Council members will also need to continue with their other full-time positions. The Ministry of Public Finance must endorse the proposal from the Superior Council as regards its operating budget and staffing proposals. Except for its own operating budget the Superior Council does not have the right to make a budgetary proposal for the judicial system but the Ministry of Justice will need to obtain the Council's formal assent to its proposals in this area.

The August 2003 changes to the Civil Procedure Code had a number of negative consequences for the functioning of the justice system. The High Court was given responsibility for ruling on all second appeals, which created an unprecedented backlog of appeals (up from 3 175 in 2002 to 35 800 by the end of April 2004). This seriously restricted the ability of litigants to obtain a final judgment within a reasonable time. This situation became untenable and in May 2004 the responsibility for second appeals was returned to tribunals and courts of appeal. The possibility for appeal on what were said to be minor issues and the filtering function of the High Court to verify the admissibility of cases were both eliminated. Transitional measures were also put into place to reattribute the remaining backlog to lower courts, though the backlog of files at the High Court is far from cleared as a total of approximately 24 000 remain. The application of the revised Criminal Procedure Code that entered into force in January 2004 was in some respects insufficiently prepared. Future revisions of the legal framework should be thoroughly planned and include a full consultation of practitioners in the justice system. In June 2004, a new Criminal Code and Law on Criminal Liability of Legal Persons for the Counterfeiting of Currencies were adopted.

There is a significant shortage of judges with 480 vacancies among the declared 4 312 positions. These shortages are particularly significant in local courts and tribunals. As the planned reform of the judiciary, notably collegiality and court specialisation will also require an increase in the total number of judges, recruitment and training needs remain high. Large-scale competitive recruitment examinations have been conducted during the reporting period. Those recruited are not required to follow the normal two-year specific judicial training as provided by the National Institute of the Magistracy, which may undermine the Institute's role as the guardian of the professional standards of those entering the profession. While there was a small reduction in the workload of judges during 2003 (in the case of local courts down to an average of 581 cases per year per judge from an average of 659 in 2002) this case load increased again during the first quarter of 2004. Differences in terms of workload vary considerably from court to court, the situation remaining particularly difficult in big cities. As regards court proceedings,

initial judgments can be appealed twice and in most individual cases judgments takes less than six months.

The quality of judgments also remains a problem and although the proportion of cases that were overturned on appeal was down in 2003 compared to 2002, errors made by lower courts continue to be discovered in approximately 30% of the civil judgments that are taken to appeal. The heavy workload of judges, their limited access to case law, a lack of information about new legislation, poor circulation of information within the judicial system and a lack of training and specialisation explain this situation.

The National Institute of the Magistracy has suffered from a prolonged period of instability in its senior management, which limited the progress of reform. In June 2004, a new director was appointed for a two-month mandate that was reconfirmed in August for a further six months. The recruitment of trainers with a background in the judicial profession would help to improve the overall quality of both the initial training and continuous training courses provided by focusing on practical elements, including the implementation of the European Convention of Human Rights in Romania as well as EU law. The Training Centre for Clerks continues to provide both initial and continuous training but its facilities are inadequate given its responsibilities.

The quality of equipment and infrastructure varies considerably from court to court but is often inadequate. The case document and management system is now operational in some courts, but it needs to be introduced countrywide. Further modernisation is needed, in particular to accelerate the computerisation of the court system.

The General Prosecutor retains the power to launch extraordinary appeals in criminal matters. A Government Decision in April 2004 was passed that renamed the Independent Protection and Anti-Corruption Service (SIPA) the Directorate General for Protection and Anti-Corruption (DGPA) and for the first time established the obligation for it to report on its activities to Parliament. The establishment of a formal legal base for DGPA and the appointment of a new leadership in December 2003 are positive developments as SIPA lacked transparency and accountability, and was reported to have been involved in human rights abuses in prisons and in exerting influence over the judiciary. There is no reference in the Decision to DGPA's co-operation and division of responsibilities with the National Anti-Corruption Prosecution Office, the lead anti-corruption agency, and no report on the DGPA's activities has yet been submitted to the specialised parliamentary committee. The rationale for the existence of a militarised security service within the Ministry of Justice remains to be demonstrated.

No progress can be reported as regards the enforcement of judgments in civil cases.

#### *Anti-corruption measures*

Surveys and assessments conducted by both national and international organisations confirm that corruption remains a serious and widespread problem in Romania which affects almost all aspects of society. There has been no reduction in perceived levels of corruption and the number of successful prosecutions remains low, particularly for high-level corruption. The fight against corruption is hampered by integrity problems even within institutions that are involved in law enforcement and the fight against corruption.

In November 2003 the Council of Europe's Civil and Criminal Law Conventions on Corruption entered into force. Significant changes to the framework of anti-corruption legislation were introduced in an April 2004 Emergency Ordinance that decreased the financial threshold for wealth declarations, decreased the value of gifts/hospitality that may be received by public officials and introduced stricter controls on share and property ownership for those covered by the legislation. In general, Romanian anti-corruption legislation is well developed and is broadly in line with relevant EU *acquis*. Romania is not yet party to the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. There is however, still room for improvement to make it possible in practice to monitor declarations on conflict of interest, by aligning the conflict of interest legislation with EU best practices, introducing sanctions for incorrect or incomplete declarations of interests, addressing the transfer of assets to relatives and lowering the burden of proof before an investigation can be launched into whether assets were obtained illegally.

The priority for the Romanian government must be to ensure the rigorous enforcement of existing legislation. Measures contained in the National Corruption Strategy and associated Action Plan have so far had a limited impact. Despite the suspensions from party duties of a number of high-profile regional and local politicians, none of these cases has yet led to criminal sanctions during the reporting period.

The April Emergency Ordinance also increased the staffing levels of the National Anti-Corruption Prosecution Office (PNA) with the number of positions for prosecutors up from 98 to 130. At the same time the Emergency Ordinance lowered the financial threshold for cases that the central PNA structure can investigate. This may lead to an increased workload and a shift of PNA activity towards petty corruption. The number of convictions stemming from PNA investigations remains rather modest. Of the 2 300 cases registered with the PNA during the period September 2003 to July 2004, competence was declined in 348 cases, 867 are still being investigated, while in 925 cases no criminal charges were brought and in 160 cases prosecutions were launched in the courts. Since becoming operational PNA investigations have led to 86 prison sentences, though few of these could be regarded as being for high-level corruption. The PNA should ensure that it remains focussed on its core mandate of investigating high-level corruption instead of processing a large number of petty corruption cases. The PNA's obligation to report to Parliament was removed in May 2004 following repeated claims by the head of PNA that this would safeguard its political independence. This move, however, limits transparency, the public accountability of the PNA and parliamentary oversight.

Other agencies also have some degree of competence for investigating corruption but inter-agency co-operation is generally weak. This is detrimental to the effectiveness of the law enforcement process and reduces transparency in the handling of corruption cases.

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). The PNA has designated a prosecutor under GRECO for the 2002-2005 Second Evaluation group of experts. A First Round Compliance Report on Romania was adopted by GRECO in July 2004. The GRECO Plenary concluded that Romania had satisfactorily implemented almost all of its recommendations from the March 2002 First Round Evaluation Report. Among the positive developments described by the Compliance Report were increases in salaries for police officers and certain

prosecutors as well as the elaboration of a code of conduct for customs officials. The recommendation on removing of former ministers' immunity from criminal prosecution had, however, not yet been addressed. The Romanian authorities are committed under the July 2004 IMF stand-by agreement to remove the immunity of former ministers by January 2005. GRECO still needs to assess Romania's capacity to implement the anti-corruption laws in practice.

## 1.2 Human rights and the protection of minorities

Romania continues to respect human rights and freedoms. This was the conclusion of the 1997 Opinion and the subsequent Regular Reports, and has been confirmed over the past year. The following section focuses on the most significant developments since the last Regular Report.

Romania has ratified the main human rights **conventions** (*see annex I*). Romania has still not ratified Additional Protocol No. 12 to the European Convention on Human Rights (ECHR) prohibiting discrimination on any grounds. In May 2004, Romania signed the Protocol No.14 to the ECHR to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention.

The National Council for Combating Discrimination (NCCD) has continued its policy to prevent discriminatory actions. New legal provisions adopted in February 2004 represented further progress with the transposition of the **anti-discrimination acquis**. However, despite several legislative improvements, some elements of an efficient anti-discrimination mechanism, such as the shift of the burden of proof or acceptance of statistical data as evidence of indirect discrimination, are still lacking. (*See also Chapter 13 – Social policy and employment*)

The NCCD has continued its work of processing complaints and sanctioning discrimination acts. During the reporting period, the NCCD received 367 complaints, resolved 203 and applied 14 sanctions. The highest number of complaints referred to discrimination based on ethnicity, followed by retirement rights. In general, the NCCD has experienced delays in processing the petitions. This is largely explained by internal constraints such as staff limitations, lack of proper staff training and improper infrastructure. Difficult collaboration with other public institutions when requesting information is also partly to blame. Nevertheless, the NCCD proved its capacity to get support for its decisions: court decisions have usually confirmed the existence of discrimination in the cases contested - although the fines applied by NCCD have been invalidated in several cases. The capacity of investigating, recording the relevant information and making timely decisions on petitions should therefore be enhanced. Recent staff and restructuring increases may contribute positively. An appropriate budgetary allocation should also be ensured.

The NCCD has continued to conduct public awareness campaigns and has issued a number of publications on anti-discrimination. However, in general, greater transparency is needed in the way in which the institution carries out its activities. Its visibility is low and only a fraction of the population is aware of its functioning. At present, the NCCD's jurisprudence is not publicly available. NCCD's research on discrimination and the promotion of affirmative actions could also be publicised better.

The Romanian **Ombudsman** deals with complaints lodged by persons whose civil rights and freedoms have been infringed by the public administration. The amendment of the constitution in October 2003 gave the Ombudsman the possibility of commenting on the constitutionality of legislation prior to its entry into force.

The staff of the Ombudsman's office has increased. The Ombudsman is accountable to Parliament. Between September 2003 and August 2004, the Ombudsman received 5 143 petitions - 658 more than during the previous reporting period. Ministries should be more responsive to the Ombudsman's requests.

### *Civil and political rights*

As regards the fight against **ill-treatment** in custody, in April 2004, the Romanian Government withdrew its reservations concerning Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This allowed the alignment of national legislation with the practice of the European Court of Human Rights in the field of preventive measures of deprivation of liberty. In May 2004, Romania signed Protocol 14 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, which amends the system of control provided for in the Convention.

Despite positive legislative developments, cases have still been reported of ill-treatment in police stations, prisons and psychiatric hospitals. A particular concern is the occasional excessive use of violence by law enforcement officers, including the unlawful use of firearms. Reports of violence have been most common in the case of disadvantaged categories such as Roma.

In April 2004, Romania authorised the publication of a report of the Council of Europe Committee for Prevention of Torture (CPT). The report concerns two visits carried out in September 2002 and February 2003 to police stations, prisons and mental hospitals. The CPT finds that efforts have been made to combat ill-treatment by the police, although the authorities must remain vigilant in this area.

Romania remains a country of origin, transit and destination for victims of **trafficking in human beings**. The main targets of traffickers are young women and girls who are sexually exploited in destination countries. There are also children and disabled persons who are trafficked in order to be used as street beggars. There has been an increase in the number of convictions. However, enhanced inter-agency co-operation and the issuance of reliable statistics are needed.

In addition to the positive legislative developments between 2001 and 2003, further measures need to be taken to improve the effectiveness of the fight against trafficking. The number of victims reporting to the police and acting as a witness remains low - partly due to their fear of being punished for illegally crossing the Romanian border. The implementation of a witness protection scheme is of key importance for an efficient policy against trafficking. Its nationwide implementation should be considered and the National Office for Witness Protection should be equipped with the necessary resources. The introduction of a non-punishment clause for illegal border crossing in the case of the victims of trafficking would have a positive effect.

The Romanian authorities were active in the fight against trafficking within the framework of regional co-operation initiatives. In December 2003 Romania signed the 'Statement for Protection of the Witnesses and Trafficking of Children', a Stability Pact Task Force initiative. Co-operation with law enforcement agencies from transit and destination countries was developed and included the setting up of joint task forces.

The Romanian authorities have set up a hotline for the victims of the trafficking as well as a resource centre on the problem. A manual for police officers was launched at the regional level and 42 additional posts were created at the county level to be filled by female police officers. The impact of the above measures has so far been rather modest.

Approximately 2,600 **prison** detainees are held in pre-trial detention (7% of the total prison population). Due to overcrowding it is not always possible to separate pre-trial detainees from convicted criminals, as is required by both domestic Romanian legislation and international treaties ratified by Romania. Amendments to the Criminal Procedure Code in May 2004 confirmed the limit of 180 days pre-trial detention. However, there were a number of reported cases of preventive arrests exceeding 12 months.

Overcrowding remains a major problem in Romanian prisons, although the present population fell from 47 070 in June 2003 to 41 929 in June 2004. The overall official prison capacity has remained the same. Living conditions for inmates are poor and budgetary resources allocated to General Directorate of Penitentiaries to improve the situation are limited. Although staffing levels have increased in absolute numbers they remain insufficient. Shortages are particularly apparent in the social and education sectors and the 41 centres for social reinsertion and supervision, created in August 2000, remain understaffed.

The new Penal Code, adopted in June 2004, introduced the possibility of open and semi-open imprisonment for less serious offences. It also provides alternatives to imprisonment when sentencing minors.

The revised Constitution enshrines the right to legal representation and **legal aid**. In criminal cases legal assistance is mandatory for a limited number of categories of defendants. Legal aid is also provided if a defendant is judged by the court as being unable to make his own defence. In civil cases, there is no obligation to provide legal assistance although litigants can request legal aid, either directly from the court or from the Bar Association.

There are shortcomings in the implementation of the legal aid system and effective defence for the accused is not systematically guaranteed. The lack of precise definitions of the criteria for receiving assistance may lead to arbitrary and non-uniform application of the rules. Better remuneration of lawyers providing legal aid should be ensured to encourage the lawyers to provide such assistance.

In January 2004, a Government Ordinance on the status and legal regime of **refugees** in Romania was adopted. A further legislative development covered the social reinsertion of aliens who have acquired a form of protection in Romania. The number of asylum seekers in Romania remains relatively low.

The Refugees Office has continued to perform effectively and collaboration with the immigration authorities has improved. The Refugees Office co-operated with a number of NGOs and organised public awareness campaigns in spring 2004. During 2004 two

new refugee centres were opened in Timișoara and in Galați, each of them having a capacity of 250 places.

**Freedom of expression** is guaranteed in the Constitution. In June 2004 the Criminal Code was amended to repeal the crime of “insult”, removing the possibility of a prison sentence for slander, and aligning requirements on the burden of proof with those of the ECHR. These are positive developments and should enable journalists to report more freely.

The Romanian Convent of Media Organisations adopted in July 2004 the Statute of the journalist and the Code of press conduct. This is a welcome development since the Convent represents a large number of trade unions and professional organisations. Both the statute and the code now need to be adopted widely and enforced in all media organisations.

Despite this progress, certain structural problems may affect the practical realisation of the freedom of expression. Many media organisations are not economically viable and their continued existence can depend on the support of political or business interests. External studies have concluded that journalists’ reporting can often be influenced by financial inducements leading to self-censorship. Against this background, the state has tolerated the accumulation of significant arrears by a number of the largest media companies, including most major private TV stations. Such a situation may compromise editorial independence and media monitoring studies have observed that the TV news is notably less critical of the government than the written press. There are also credible reports of locally elected officials using public office to influence the editorial policy of local newspapers, radio and TV stations, e.g. through the selective award of public advertising contracts. A recently published independent report suggests that the same policy prevails at the national level.

Over the reporting period, cases of serious physical attacks against journalists have increased. Investigative journalists for local papers have been a particular target. This is a disturbing trend and, to date, investigations have had limited success.

The Romanian legislation on the free access to public information, adopted in 2001 proves to be an important mechanism promoting public accountability. However, in the absence of an institution specifically responsible for ensuring the effective implementation of this law, its application remains uneven.

**Freedom of religion** is guaranteed by the Constitution and is observed in practice. There are 16 recognised religions in Romania, including the Jehovah's Witnesses and the Romanian Evangelical Church who were formally recognised during the reporting period. The Government registers religious groups that it does not formally recognize either as religious and charitable foundations or as cultural associations. These non-recognised faiths are able to operate without restriction but do not benefit from the same legal and financial advantages as recognised religions. The communist-era Decree from 1948 remains the basic law governing religious denominations. It allows considerable state control over religious life and should therefore be amended.

With regard to **freedom of association**, legislation was adopted on the organisation of local elections in March 2004 that placed considerable administrative obstacles on the registration of alternative political organisations of the national minorities for the elections. As a consequence, the Hungarian Civic Alliance was unable to participate in

the elections. When taken together with the 2002 Law on Political Parties, which set very high thresholds for the registration of political parties, it is becoming increasingly difficult for new or regionally based parties to participate in the political process. The role of NGOs in public life remains weak.

There are no restrictions on the freedom of assembly.

The restitution of **properties** confiscated under the communist regime has continued and the authority responsible for enforcing restitution is now fully functional. However, as noted in previous Reports, the success with actual restitution has been mixed – depending on the type of good concerned.

Restitution of agricultural lands is almost completed. A deadline was set for completing the restitution process by July 2004: as of end August 2004, 96.1% of the area claimed (11.1 million hectares) had been given back.

A total of 210 000 claims have been filed for the restitution of buildings. At the end of the reporting period 15 000 properties had been returned – this figure remains low compared to the previous reporting period. This process was supported by the government's decision not to extend contracts of sitting tenants for a further five years in properties that had already been legally restituted. Romania estimates that it will be able to return a further 35 000 properties by the end of 2005. However, the legislation still needs to be adopted to establish the criteria for calculation and payment of compensation. The restitution process should be speeded up and carried out in a more open and transparent way.

Following the adoption of legislation on the restitution of religious properties (excluding actual churches) a total of 7 568 restitution applications were filed. Of these, 2 500 were deemed admissible and by the end of August 2004 a total of 548 properties had been returned. The restitution of goods belonging to organisations of national minorities is only just starting and at the end of August 2004 applications were still in the process of being collected.

There is still no legislation in place to deal with the restitution of churches. As noted in previous Regular Reports, this is a particularly important issue for the Greek Catholic Church which had over 2 600 of its churches confiscated by the communist regime and handed over to the Orthodox Church. Since 1989 less than 300 of these churches have been returned. The joint Orthodox and Greek Catholic committee set up to address this issue has proved ineffective. In addition, the courts have generally refused to consider legal cases seeking restitution as long as the Joint Committee has existed. A Governmental Order of 13 August 2004 provides for free access to justice as regards the restitution of the Greek Catholic Churches. Its effective implementation and impact on the restitution process will have to be followed up.

The **European Court of Human Rights** issued 12 judgments on Romania between 1 October 2003 and 10 July 2004, which represents a considerable reduction compared to the previous reporting period. Most of these judgments arise from the cancellation by the Supreme Court of final judgments on the restitution of goods confiscated during communism. Another issue reflected in a number of the judgments is the non-enforcement, mainly by local administrations and the police, of final judgments that have been delivered by the courts. A number of other cases were resolved before the delivery of a final judgment following settlements between the Romanian authorities and the

plaintiffs. There are still a number of reforms that are required for Romania to comply with the ECHR including: changes to the use of classified information gathered by former security and intelligence agencies under the Communist regime (Rotaru case); ensuring the right of accused persons in criminal trials to be heard by the appeal court before being convicted for the first time (Constantinescu case); and a review of the system for enforcing custody and visiting rights for parents (Ignaccolo-Zenide case).

### *Economic, social and cultural rights*

The implementation of the National Action Plan for **Equal Opportunities** has continued during the reporting period. In this respect, a Governmental Decision was adopted in March 2004 setting up specific structures for equal opportunities within the administrative bodies represented in CODES (the inter-ministerial consultative commission in the field of equal opportunities). These structures will have the task of monitoring the implementation of the relevant legislation within the public administration, making proposals in order to remove elements of legislation generating discrimination, contributing to the drafting of new legislation, elaborating annual reports, and developing information activities and training programmes. Since September 2003, two committees on equal opportunities - chaired by a woman - have been established in the Romanian Senate to promote the integration of gender equality in the laws, policies and programmes affecting both women and men. Preparatory work to establish the National Agency for Equal Opportunities is under way and should be completed by autumn 2004. *(See also Chapter 13 – Social policy and employment.)*

The law on preventing and combating domestic violence was amended at the end of 2003 in order to establish the National Agency for Family Protection, a specialised body under the Ministry of Labour, Social Solidarity and Family. The amendment also covers the organisation and functioning of new structures that will be required for the effective implementation of the new legislation, namely shelters for victims of violence and specialised centres for preventing and combating domestic violence. The 40 posts allocated to the Agency will be transferred from the Labour Inspectorate, and the recruitment process is ongoing.

Women remain underrepresented in political life, with 11% of deputies and 9% of senators. In the Government, only one out of 25 cabinet ministers is a woman. The revised Constitution guarantees equal opportunities for men and women in filling of public functions.

As regards **children's rights**, continued progress has been made with the reform of child protection through the closure of large old-style institutions and the creation of alternatives. The total number of children in residential care is 37 000. Some 85 large institutions remain, most of which are providers of residential special education. In general living conditions are appropriate. Due attention should be given to the exercise of parental rights and to facilitating contact between children in public care and their parents where this is in the interest of the child.

Regional differences in standards of child protection are being addressed through training, sharing of experience and good practices. National standards for child protection services have been adopted. At the local level, the process of integrating the Departments for Child Protection into the Social Assistance Departments is ongoing.

This should lead to improved coordination and cooperation as well as better targeted social assistance to families and children.

In 2003, 503 exceptions were made to the moratorium on inter-country adoptions, including children who were already in adequate care in Romania. New legislation on Children's Rights and Adoption approved in June 2004 now limits inter-country adoption to extreme exceptions. These rules appear to meet the requirements of the UN Convention on the Rights of the Child as well as the practices of EU Member States. The priority is now the development of the administrative capacity to implement correctly the new rules.

The State Secretariat for Persons with a Handicap has been restructured and responsibility now lies with the National Authority for Persons with a Handicap (NAPH). National policies now stipulate the need for social dialogue, collaboration and an integrated approach towards disability issues. Romanian legislation allows disabled people to benefit from certain rights and facilities. However, **disabled people** continue to experience difficulties in accessing their new rights.

Conditions in residential care for disabled persons vary considerably from relatively good to very poor. The National Authority for Persons with a Handicap is responsible for coordinating the decentralised implementation of the national strategy to replace large old-style institutions with small scale facilities and social services.

Most of the large residential institutions for persons with intellectual disabilities and psychiatric wards of hospitals, which are under the responsibility of the Ministry of Health, provide inadequate living conditions and are overcrowded.

As regards **social rights**, the right to strike is enshrined in the Romanian Constitution although there are a number of exceptions for certain categories of workers. The number of strikes decreased significantly during the reporting period. The Social Stability Pact between the government, trade unions and employers' confederations was renewed in April 2004.

Trade unions are involved in a number of joint committees with the government and with representatives from employers' confederations except in the consultative committee for development of SMEs. This tripartite co-operation mainly focuses on labour conditions and on the improvement of the business environment. At the level of bipartite co-operation, trade unions and employer organisations participate in the Social Dialogue Commission which was responsible for the collective labour agreement for 2004-2005. At the same time, the effectiveness of the bipartite co-operation is severely limited by the fragmentation of the trade unions (five) and the employers' confederations (twelve). The social partners suffer from a low rate of coverage of their agreements.

Fighting social exclusion and poverty remains a government priority and further legislative progress was made during the reporting period. The legal framework for the provision of social assistance is now in place, and was completed with secondary legislation to regulate the delivery of social services by non-profit organisations.

Romania is a party to the revised European Social Charter.

### *Minority rights and the protection of minorities*

Romania is a party to the Framework Convention for the Protection of National Minorities since 1995.

Romania has a large **Roma** population, estimated at between 1 800 000 and 2 500 000<sup>5</sup>. De facto discrimination against the Roma minority continues to be widespread and the social inequalities to which the Roma community is exposed remain considerable. Living conditions are poor and access to social services is limited.

Implementation of the Roma Strategy adopted in 2001 continued in the sectors of education, health, employment and relations with the police. While positive in themselves, these efforts run the risk of remaining isolated and unsustainable if national and local co-ordination remains weak. Limited progress was registered in the functioning of the Joint Committee for the Implementation and Monitoring. At the local level working groups made up of representatives of public institutions (school inspectorate, Public health Directorate, Police, Employment Offices) have been formally established in almost all counties. However, the Roma Office still lacks the capacity to initiate and coordinate actions in favour of the Roma among the different ministries involved.

Positive developments were particularly notable in the education sector. In order to support a non-discriminatory and inclusive approach, an increased number of teachers specialised in supporting the educational needs of the Roma children, where active participation of parents was encouraged, and where improved school curricula were developed. Moreover, in the context of the National Strategy to Improve the Situation of the Roma, local development plans have been drawn up and the problem of segregated education is being tackled. The measures related to health, employment and the police represent a positive basis for future activities. The health mediators hired and trained during the last reporting period are increasingly becoming involved in addressing a wide range of health issues, including access to health insurance. The organisation of job fairs for Roma by county employment offices in collaboration with Roma NGO offices has continued.

As noted in last year's report, the government's reliance on the Roma Party to implement and monitor the strategy is a matter for concern, as it has led to the effective exclusion of other Roma organisations.

Relations with **other minorities** did not present major problems during the reporting period. The law providing for bilingual signs has been applied, including in localities where the minority population is less than 20% (the threshold indicated in the law). After the constitutional revision introducing the right for citizens to use their mother tongue in civil court cases, Hungarian is extensively used in certain areas. The law on the statute of police officers allows the recruitment of officers speaking minority languages, but the number of police officers with this skill remains relatively low.

As regards pre-university teaching in minority languages, there was a slight decrease in the number of educational units and in the number of students being educated in their

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<sup>5</sup> Estimate published by Minority Rights Group. According to the 2002 census, the official figure for the Roma population was 535 000. The difference is at least partly explained by the reluctance of some Roma to identify themselves as such.

mother tongue during the 2003-2004 school year. The decrease could be due to demographic trends as there was no change in education policy. A private Hungarian university continued to function in Cluj, with branches in Miercurea Ciuc, Oradea and Târgu Mureş. A protocol to establish two Hungarian faculties within Cluj state university was agreed at governmental level, but it has not yet been implemented. Treatment of the Csango minority has further improved and Hungarian is taught as an optional subject in 10 communes.

### **1.3 General evaluation**

Since the Commission concluded in its 1997 Opinion that Romania fulfilled the political criteria, the country has further consolidated and deepened the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. This trend has accelerated over the past year. Romania continues to fulfil the political criteria.

Progress was made to address the need for administrative and judicial reforms. A public administration reform strategy was launched in May 2004, covering the area of civil service reform, decentralisation and deconcentration, and policy co-ordination. A positive start was made to the reform of the civil service. The establishment of the Chancellery of the Prime Minister should help to improve policy coordination and consistency. The use of emergency ordinances was restricted to “extraordinary circumstances”, but this has not yet led to a decrease of their use. The laws on the freedom of information and transparency in the legislative process should still be fully implemented. The revision of the Constitution in October 2003 contributed to streamlining the parliamentary process by giving both chambers primary responsibility for different types of legislation. Efforts to improve the policy-making and legislative process should continue. Further efforts are also needed to strengthen local and regional governance with a view to ensuring proper implementation of the *acquis* at those levels.

The management of court cases and the quality of judgments needs to improve. Official surveys confirm the possibility for the executive to influence the outcome of judicial proceedings. However, organisational and legislative changes introduced in Romania’s judicial system should help to make it more independent and efficient. Their implementation on the ground is a matter of priority.

Corruption in Romania continues to be serious and widespread. Romania’s anti-corruption legislation is generally well developed, but its ability to curb corruption will depend on the effective implementation of the law. In particular, additional efforts are required to ensure the independence, effectiveness and accountability of the National Anti-Corruption Prosecution Office. It should concentrate its resources on investigating high-level corruption.

Romania continues to respect human rights and fundamental freedoms and has made further progress in several areas. The introduction of national standards for child protection services and of strict rules on inter-country adoption, which appear to be in line with the UN Convention on the rights of the child, should further improve the protection of children’s rights. As regards freedom of expression, the legal situation of journalists has improved but the economic situation of many mass media organisations remains precarious and further efforts are necessary to guarantee media independence. Although the restitution of agricultural land is almost completed, a more speedy and

transparent approach is needed to further the restitution of buildings and religious property. Efforts to address the problems of ill-treatment in custody, trafficking in human beings and prison overcrowding should be sustained.

The Roma Strategy, which is explicitly aimed at addressing discrimination, is being implemented but de facto discrimination against the Roma minority remains widespread. The support for an inclusive approach to education is a positive development. The same encouraging trend has been noted in health care and employment.

## **2. Economic criteria**

### **2.1 Introduction**

In its 1997 Opinion on Romania's application for EU membership, the Commission concluded:

*“Romania has made considerable progress in the creation of a market economy”; it “would face serious difficulties coping with the competitive pressure and market forces within the Union in the medium term”.*

In its 2003 Regular Report, the Commission found that:

*“Romania can be considered as a functioning market economy once the good progress made has continued decisively. In addition, a vigorous and sustained implementation of its structural reform programme is required in order for Romania to be able to cope with competitive pressure and market forces within the Union in the near term.”*

In examining economic developments in Romania since the Opinion, the Commission's approach has been guided by the June 1993 conclusions of the Copenhagen European Council, which stated that membership of the Union requires:

- the existence of a functioning market economy;
- the capacity to cope with competitive pressure and market forces within the Union.

In the analysis below, the Commission has followed the methodology applied in the Opinion and the previous annual Regular Reports. The analysis in this year's Regular Report takes stock of developments since the Opinion was drafted.

### **2.2 Summary of economic developments since 1997**

Romania's macroeconomic performance has been mixed, but increasingly successful stabilisation has contributed to sustained economic recovery and a significant decline in inflation. The second half of the 1990s were turbulent times for Romania, characterised by failure to stabilise the economy, a lukewarm attitude to the liberalisation of prices and markets and a protracted transitional recession. For the period as a whole, this contributed to low average growth, high inflation and a volatile situation in external accounts. However, since mid-2000, macroeconomic trends have improved distinctly, building upon the cumulative impact of successive rounds of structural reform attempts, increased openness and competition in the economy and the adoption of a more balanced and responsive policy mix. Despite a less favourable international environment since 2001, economic growth remained robust, inflation declined steadily and, although current account developments remained at times a source of concern, external vulnerability decreased over the period. Since 1999, the unemployment rate has been fairly low and stable, reflecting partly the need for further and deeper economic restructuring.

The completion of the authorities' reform agenda has gained momentum, but efforts to strengthen financial discipline and improve the business environment need to be

<b>Romania - Main Economic Trends</b> (as of 1 September 2004)									
		1997	1998	1999	2000	2001	2002	2003	2004 latest
Real GDP growth rate	%	-6.1	-4.8	-1.2	2.1	5.7	5	4.9	6.1 1st qu.
Inflation rate									
- annual average	%	154.9	59.1	45.8	45.7	34.5	22.5	15.3	13.7 Jan-July
- Dec.-on-Dec.	%	151.6	40.6	54.8	40.7	30.3	17.8	14.1	12.1 July
Unemployment rate (LFS definition)	%	5.3	5.4	6.2	6.8	6.6	7.5	6.6	:
General government budget balance	% of GDP	-4.5	-3.2	-4.5	-4.4	-3.5	-2	-2	:
Current account balance	% of GDP	-6.7	-7.8	-4.3	-3.7	-5.5	-3.4	-5.8	:
	million ECU/Euro	-2104	-2917	-1437	-1494	-2488	-1623	-2877	-1617 Jan.- June b
Gross foreign debt of the whole economy	% of exports of goods and services	82.6	91.6	81.7	67.3	71.9	64.8	:	:
	million ECU/Euro	7513B	7754	7646	8931	10757	11115	:	:
Foreign direct investment inflow (balance of payments data)	% of GDP	:	5.4	3.1	2.6	2.6	2.3	3.2p	:
	million ECU/Euro	1224	2040	1025	1048	1174	1130	1591p	1156 Jan.- June b

Source: Eurostat, if not indicated otherwise; a Moving 12 months average rate of change. b Source: Website of the National Bank.  
p= provisional figures. B= break in series.

sustained. Romania was a late starter in the reform process, with key measures in the area of liberalisation and enterprise reform only coming on stream in 1997. Considerable progress has been achieved since then. Price and trade liberalisation has progressively taken place and the adjustment in administered prices has resumed. Reform of the enterprise sector has gradually advanced. The banking sector was overhauled in the late 1990s and the regulatory framework considerably strengthened, resulting today in a well-capitalised and liquid banking system. More recently, the industrial sector has been undergoing reform, with the privatisation of larger state-owned enterprises advancing at an increasing pace. The weight of the private sector has increased gradually due to privatisation and entrepreneurship. In the energy sector, progress has been slow and uneven, but step by step the integrated companies were split up, markets opened and prices adjusted towards cost recovery levels. This has paved the way for initial privatisations, which represent important milestones for restructuring and reduced government control. Restructuring of the mining and transport sectors gained ground although considerable progress is needed to reduce losses and subsidies. For a long time, the economy has been hampered by weak financial discipline, characterised by continued provision of energy at a price below costs, ineffective bankruptcy procedures and poor payment records among enterprises, households and public institutions. Serious problems remain, but the authorities' efforts since 2002 in raising energy prices, stepping up efforts to enforce payment of obligations, carrying out measures to improve the performance of

<b>Romania - Main Indicators of Economic Structure (2003)</b>		
Population (average)	Million	21.73
GDP per head	€ PPS	6300
	% of EU-25 average	29.8
Share of agriculture in:		
- gross value added	% of total	12.9
- employment	% of total	34.1
Gross fixed capital formation	% of GDP	22.5
Gross foreign debt of the whole economy	% of GDP	23.0
Exports of goods and services	% of GDP	36.2
Stock of foreign direct investment	Million € € per head	: :
Employment rate	% of 25-64 age group	57.6
Long-term unemployment rate	% of labour force	4.1

Source: Eurostat

state-owned enterprises and attempting to deal with the large stock of entangled debts in the economy have started to yield results. Progress has been made in establishing the legal framework and institutions for a market economy, but complex procedures and uncertainty in the application of law by the public administration and the judiciary continued to impede an enabling business environment.

*Despite solid economic growth, Romania has only recently made progress in real convergence with EU per capita income levels.* GDP per capita in purchasing power parity increased to 30% of the EU-25 average in 2003, up from 27% in 1998. Regional income disparities are moderate but increasing. At 46% of the EU average over the period 1999-2001, per capita income in the Bucharest region was nearly twice the national average and some 140% above the level in the poorest region. The economic activity rate was 63% on average and the employment rate 56%, but both have declined since 1997. Unemployment accounted for 6.3% of the active population on average and was increasingly of a long-term nature and considerably higher among the young.

### **2.3 Assessment in terms of the Copenhagen criteria**

#### *The existence of a functioning market economy*

The existence of a functioning market economy requires prices, and trade, to be liberalised and an enforceable legal system, including property rights, to be in place. Macroeconomic stability and consensus about economic policy enhance the performance of a market economy. A well-developed financial sector and the absence of any significant barriers to market entry and exit improve the efficiency of the economy.

The consensus about the fundamental aims of economic policy has progressively broadened, driven forward by a stronger pledge to implement reform policies. Fear of political and social costs often deterred resolute implementation of macroeconomic stabilisation and structural reform, and lack of ownership has at times entailed a large gap between policy goals and results. However, the authorities' commitment to achieving macroeconomic stabilisation and bringing forward structural reforms has become more enduring and consensus about the objectives of economic policy has gradually emerged. In 2000, a Medium-Term Economic Strategy was broadly endorsed by all political parties, and a later change of government did not lead to any fundamental change in the ultimate goals of economic policy, which have since been pursued through various action plans. Romania's Pre-Accession Economic Programmes, prepared in consultation with the social partners and non-governmental organisations, have also consistently re-stated their commitment to reform. Importantly, the IMF arrangement concluded in 2001 was, as the first out of six such programmes, successfully completed in October 2003. A two-year successor arrangement with the IMF was agreed in July 2004, embedding the authorities' reform strategy and balanced policy mix in a programme framework under comprehensive monitoring of policies. Ownership and strict adherence to the arrangement's objectives and instruments are imperative in order to keep up progress.

After a severe real contraction in the economy, GDP growth resumed in 2000 and the economy is going through its fifth consecutive year of economic recovery on the back of rising domestic and external demand. Recording average period growth of 0.8%, the economy has recovered from the recession of 1997-1999, when real GDP contracted by a cumulative 11.7% and investment fell by nearly 9%. After a modest rebound in 2000, GDP grew by around 5% annually in 2001-03 on account of three main factors.

Household consumption expanded considerably due to high real wage growth and rose sharply by 7.1% in 2003 on the back of surging consumer credit. Investment rose by 9.2% in 2003, reflecting the ongoing replacement of Romania's capital stock. Exports have performed well and weathered the economic slowdown in the EU with continued expansion at double-digit annual rates, although strong domestic demand has in general led to a negative contribution from net exports to growth. On the supply side, growth since 2000 has been driven by the industrial sector and vivid construction activity, while agricultural production has fluctuated sharply. From mid-2003 growth was increasingly unbalanced and driven mainly by domestic demand, which led to a considerable deterioration of the trade balance due to imports picking up and exports decelerating. Economic activity, however, remained buoyant, and GDP grew by 6.6% in the first half of 2004 on the back of strong household consumption, high investment growth and improved export performance.

The current account deficit has been high and its sustainability at times a source of concern, but external vulnerability diminished over the period. The current account deficit has fluctuated around a period average of 5.2% of GDP. External financing was called into question in 1998-99 when the current account deficit peaked at more than 7% of GDP and foreign exchange reserves decreased sharply. In order to stave off a full-blown external crisis, the authorities tightened policies and accepted a large depreciation of the currency. Following two years of successful external consolidation, the current account deficit widened in 2001, but dropped sharply in 2002 to 3.4% of GDP. Against the background of buoyant private consumption fuelled by strong credit growth, and underpinned by strong investment, the current account deficit widened again significantly in 2003 to 5.8% of GDP. Due to a further widening of the trade deficit, a continuously high current account deficit was reported for the first six months of 2004. Financing the external deficit has, however, gradually become easier due to improving borrowing conditions and a steady inflow of foreign direct investment (FDI), averaging 2.9% of GDP over the period. Romania has also successfully tapped the international financial markets, most recently in July 2003 with a 7-year €700 million bond issue, reaping the benefits of a better standing on international capital markets. International reserves excluding gold have been on a rising trend, and import coverage reached 4.1 months by the end of May 2004. After weakening towards the end of 2003, the international reserves of the central bank have swelled in 2004 and amounted to €9.7 billion by the end of July. The total foreign debt-to-GDP ratio remains low at around 34% of GDP and the risk premium on Romanian sovereign debt has diminished distinctly..

*Unemployment remained fairly low, owing partly to the limited progress in economic restructuring.* The unemployment rate (harmonised rate, yearly average) averaged 6.3%, and after rising moderately during the recession, it has, since 1999, been fairly stable. It declined moderately to 6.6% in 2003, and continued to fall in the first quarter of 2004. Registered unemployment stood at 6.5% in June 2004, and has been declining since 1999. Unemployment has been contained due to growth in private sector employment, which has mitigated the effect from lay-offs caused by the restructuring of state-owned enterprises. The fairly low unemployment rate may, however, also reflect the fact that economic restructuring is not yet accomplished and that labour market participation has declined. Moreover, hidden unemployment may be high, in particular in the agricultural sector and in rural areas. Since 1997, employment has decreased together with a decline in both the economic activity rate and the employment rate, which averaged 67% and 62% respectively. However, actual employment, including those working in the large

informal economy, is difficult to assess. Unemployment was increasingly of a long-term nature. In 2003, 62% of unemployed had been out of work for more than a year. Unemployment was considerably higher among the young, while being lower for those with the lowest and highest educational attainments. This reflects the stage of restructuring of the economy. Although regional disparities in unemployment have been small, inefficient agricultural activities and specialised state-owned enterprises accounted for a significant share of employment in certain areas.

*Inflation has been gradually reduced from high levels, but continues to be threatened by high wage growth.* Inflation has been one of the most visible symptoms of the economy's structural weaknesses and macroeconomic imbalances, as the failure to implement an effective incomes policy and soft budget constraints in the enterprise sector caused excess demand, which at times was exacerbated by disorderly corrections of the overvalued currency. Even excluding the 1997 spike caused by price and exchange rate liberalisation, the annual inflation rate has been high at 37.2% on average. After declining more than targeted in 2002, inflation remained on a downward path in 2003 although it was hampered by a sizeable minimum wage adjustment early in the year and strong domestic demand. The year-end inflation rate declined to 14.1%. For the first seven months of 2004, prices were on average up 12.8% compared to Jan-July 2003, which is in line with the authorities' year-end inflation target of 9%. This improved record indicates that inflationary expectations have moderated in the economy, and that a more coherent policy stance has strengthened the credibility of the disinflation process. However, wage developments remain periodically a threat to inflation. In January 2004, the minimum wage was increased considerably less than in previous years, but this achievement was threatened in the following negotiations of the national collective labour market agreement. Real wage growth of 8.9% in the first six months of 2004 may cause excess demand in the economy. Owing to a 3% cut in social security contributions, labour costs are, however, growing broadly in line with productivity.

*The conduct of monetary policy has contributed to lower inflation and increased macroeconomic stability.* Before 1999, an environment characterised by a fragile external position, a weak financial sector, a pervasive lack of financial discipline, and unsupportive fiscal and income policies, implied that other policy objectives than price stability routinely determined monetary and exchange rate policies. Progress on these fronts has allowed the monetary authorities to increasingly focus on disinflation. In 1999, a managed float regime was adopted in which the exchange rate was used as the main anti-inflationary instrument. Within this framework, the central bank intervenes to keep the exchange rate on a path consistent with the authorities' inflation target while allowing for moderate real appreciation against a basket composed of 75% EUR and 25% USD. This monetary policy stance has been appropriate and contributed to both gradual disinflation and a real exchange rate development compatible with a sustainable current account position. However, new challenges are emerging with strong capital inflows caused by the relatively high Romanian interest rates. These inflows have necessitated sterilisation operations by the central bank in order to neutralise the effect on inflation. Given the already rapid credit growth, the widening of the current account deficit and continued inflationary pressure, the authorities decided to delay the liberalisation of non-residents' access to domestic deposit accounts denominated in *leu*, which was originally foreseen for the begin of 2004, in order not to spur further credit growth and add to the potential volatility of the balance of payments. The situation illustrates that the attainment of a higher degree of macroeconomic stability remains an important objective for Romania as it would allow liberalisation to move forward as planned without raising concerns that such a step could have adverse economic effects

and could limit the effectiveness of monetary policy. Furthermore, the channel from policy interest rate changes to deposits and credits remains uneven, meaning that the effectiveness of monetary policy in steering inflation and economic activity should be further developed. The process of re-monetising the economy has continued, reflecting the high economic activity as well as rising confidence in both the banking sector and the Romanian economy at large. Broad money stood at 24.4% of GDP at the end of 2003 and continued to grow in 2004. However, growth in household deposits has been low, partly explained by low deposit rates in real terms. In 2003, real deposit growth turned negative, but the tighter monetary policy and falling inflation has in 2004 led to increasing real deposit rates and an ensuing strong growth in *leu* deposits. Credit to companies and households has expanded sharply in recent years and rose by nearly 50% in real terms in 2003. As a response, the central bank raised its reference interest rate on several occasions and implemented prudential measures by 1 February 2004 aimed at slowing the credit growth and limiting banks' risks relating to consumer and mortgage loans. Credit growth to the non-government sector has since moderated considerably, and since June 2004 the central bank cut its reference rate four times. In order to limit the risks stemming from a rapid growth of credit denominated in foreign currency, minimum reserve ratios for foreign currency deposits were also raised.

The authorities have adopted an increasingly responsible fiscal stance, although the quasi-fiscal deficit remains high, a primary deficit re-occurred and a pro-cyclical expenditure policy disrupted further fiscal consolidation in 2003. At 3.4% of GDP on average,<sup>6</sup> the general government deficit has remained manageable despite direct banking sector restructuring costs of some 4.5% of GDP over 1999 and 2000. From 2001 fiscal policy was tightened, and this led in 2003 to a deficit of 2.0% of GDP according to Romania's fiscal notification and 2.3% in cash balance terms. In spite of higher government expenditure than foreseen, strong growth in tax revenue and additional savings on interest payments allowed the deficit goal to be reached for the fourth consecutive year. However, the policy stance was relaxed towards the end of 2003 as revenue gains were largely spent. For the first six months of 2004, the deficit of the general consolidated budget was contained at around 0.6% of GDP, and supplementary budgets were adopted in July and August resulting in a planned deficit of 1.6% of GDP for 2004. After a surplus in 2002 for the first time since 1999, the primary balance returned to a deficit position in 2003. The budget adopted for 2004 expected a considerable primary deficit of 1.4% of GDP, but the supplementary budgets aim at limiting the primary deficit to approximately 0.1% of GDP. After rising sharply from very low levels, the gross government debt ratio has declined since 2000 and reached 21.8% at the end of 2003. Based on a broadening of the tax base and improved collection, GFS-based data indicate that, at 30% of GDP, revenues have increased by close to 1.5 percentage points relative to 1997. On the expenditure side, stable development in the expenditure ratio was observed, increasing from 31.9% of GDP in 1997 to 32.3% of GDP in 2003. In spite of progress, a substantial quasi-fiscal deficit remains a serious impediment for a responsive and transparent fiscal policy. With a financing requirement of 2.8% of GDP in 2003 compared to 3.1% of GDP in 2000, the weak financial performance of state-owned enterprises continued to weigh on the broad public sector balance. The implicit subsidies to enterprises and households via the

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<sup>6</sup> All general government deficit and debt data used were notified by the Romanian authorities to the European Commission in March 2004. Data are, however, only partially compliant with EU standards (ESA 95). Figures based on the IMF Government Finance Statistics (GFS) show similar trends.

provision of energy below costs and non-collection of bills decreased from 4.7% of GDP in 2000, but still amounted to 2.9% of GDP in 2003. Tax arrears were also persistent, and although the overall stock of arrears to general government decreased from 2002 to 2003, it has remained broadly unchanged at around 12-13% of GDP since 2000. For the major enterprises undergoing restructuring and privatisation, the stock of arrears to general government also remained unchanged throughout 2003, but started declining in 2004. Importantly, as accrued penalties and interest represented an increasing share of total debts, the accumulation of new arrears appeared less pronounced than in the past. Moreover, in 2004 the authorities have stepped up their efforts to combat non-payment, which led to a considerable increase in the recovery of taxes due.

Despite recent progress, fiscal consolidation is imperative in order to support macroeconomic stability and counteract risks to medium-term sustainability. As the substantial reduction in interest payments in recent years, due mainly to a decline in market refinancing rates and improved debt management, was not fully used to consolidate public finances, the primary balance has returned to deficit. Care should be taken to ensure that recent policy initiatives, such as the planned reductions in income and profit tax, do not engender a significant primary deficit over a prolonged period, which could threaten the sustainability of public finances. On the expenditure side, the authorities have initiated a very costly motorway programme and increased expenditures on subsidies and transfers in order to finance one-off costs of structural reforms, such as compensation packages for laid-off workers. Less emphasis seemed to be put on a clear medium-term expenditure strategy needed for redirecting public expenditure towards human capital, infrastructure and administrative capacity and for ensuring the sustainability of public finances against the backdrop of increasingly unbalanced public pension and health systems. Moreover, as demonstrated by the relaxed fiscal stance towards the end of 2003, there is ample room for strengthening expenditure control. A continued reduction in the broad public sector deficit by stricter enforcement of tax claims, reduction of losses in state-owned enterprises and higher energy prices also remains instrumental for improving medium-term fiscal prospects. Revenue collection improved considerably as further measures were taken to strengthen the budgetary framework and tax administration. A new Public Finance Law was adopted. The new Fiscal Code contributes to ensuring greater transparency and stability of tax legislation. The VAT system was further reformed, among other things by abolishing exemptions and developing a new risk-based reimbursement system, which however needs to be improved and extended in order to reduce delays and combat fraud. A few reduced VAT rates were introduced. The reduced rate of taxation on profits made from exports was abandoned, which was conducive to simplifying the tax system and reducing distortions. Various administrative measures were also pursued, such as the establishment of the National Agency for Fiscal Administration, which is responsible for the unified collection, audit and enforcement of social security contributions. These steps have largely helped to improve medium-term fiscal prospects, but particular attention has to be paid to further strengthening revenue collection, controls and audit as well as to bring activities in the black economy into the open.

*Romania has, with increasing success, implemented a policy mix aimed at achieving lasting economic stability.* By often failing to adopt the most appropriate macroeconomic policy mix and holding back the structural reforms needed to support stabilisation, the authorities have in the past contributed to the boom-and-bust nature of Romania's economic performance. Wage pressure has repeatedly undermined permanent stabilisation of the economy, and real wage developments have at times been out of line

with productivity gains. This phenomenon related both to insufficient financial discipline in state-owned enterprises and to the predominant role of the minimum wage in the wage-setting mechanism, which did not allow differences in productivity to be properly reflected. The multilayered system of collective contracts tended to drive up wages and benefits and remained a barrier for labour market flexibility, including in state-owned enterprises. This necessitated a strict income policy, which with difficulty but increasing success has controlled the total wage bill in the broad public sector. In recent years, increasing energy prices, improved bill collection and stronger efforts to enforce tax claims have contained the sizeable quasi-fiscal deficits emanating from high implicit subsidies to the enterprise sector, but the maintenance of a prudent fiscal stance is still highly dependent on these factors. A more responsible policy mix emerged most notably from Romania's efforts in the context of the latest IMF stand-by arrangement, which was successfully completed in October 2003. After resuming in 2001 from a low base, the accelerating credit growth posed a challenge to monetary policy in 2003. Prudential measures combined with halting the gradual reduction in interest rates brought the situation under control, in terms of both macroeconomic and financial impact. With disinflation on track, the central bank could re-engage in a gradual lowering of interest rates. In July 2004, a coherent policy-mix was embedded in a two-year precautionary stand-by arrangement with the IMF, aiming at containing the current account deficit and supporting disinflation through tightened fiscal policy, prudent monetary policy and continued structural reforms.

*Most prices are liberalised and further adjustments of energy tariffs have taken place.* Weak payment discipline among enterprises, households and public institutions continues to affect the workings of the price mechanism, but there are signs of progress where action is taken. Currently, price regulations apply to eighteen goods, ten of which are included in the consumption basket, accounting for a share of close to 23%. Administered prices have often lagged behind inflation, most notably for energy prices, which have been kept below cost recovery level in order to indirectly subsidise consumers and the enterprise sector. A stop-go policy has delayed the establishment of energy prices that appropriately reflect short and long-term costs. This has hindered the proper functioning of the price mechanism. However, Romania has over the last year increased prices over and above inflation for both electricity and natural gas. Following these adjustments, coverage of operational costs as well as most financial costs, long-term investment and environmental costs is attained. Gas prices remain, however, well below import parity. The consumer price for heating increased by 12% in August 2004, but this was less than inflation since the last adjustment, and bill collection remained weak. The phenomenon of non-payment remained pervasive and continued to affect the functioning of the price system. In the energy sector, losses from non-collection of bills have been halved since 2000, but still amounted to around 0.4% of GDP in 2003. The improved collection reflects stepped up enforcement of payment obligations and stricter disconnection of companies in default. Recent legislation has also instituted a less tolerant approach to energy arrears. These measures have started to yield results, and collection rates have improved, although they are still low for heating, in particular in the winter season. The overall stock of arrears to energy suppliers declined slightly from 2002 to 2003.

*The private sector has continued to grow, even if the weight of large public enterprises remains high.* Averaging 65.2% over the period, the share of the private sector in GDP has steadily increased, climbing 8.5 percentage points to 69.1% in 2003. The state-owned sector's contribution to GDP has declined partly because of privatisation and partly because many of the companies are loss-making and therefore subtracted rather than

added value. In 2002, the share of privately-owned capital in the economy rose above that held by the public sector for the first time since the beginning of the transition. By mid-2003 the share of (majority) private capital represented 56.4% of total capital. Private sector employment grew from 57% of total employment in 1997 to 76.3% in 2003, reflecting the fact that in that period employment in the state-owned corporate sector and public administration was reduced from 4.8 to 2.2 million people. Private majority-owned companies accounted for 81.6% of turnover in 2002. In 2003, **public companies still accounted for 67.8% of enterprises' tangible assets, but only 32.4% of investments.** The continuing influence of public ownership largely rested upon its predominant role within the energy sector, which accounts for 33% of industrial turnover. In the agricultural sector, private entities stood for nearly 99% of value added, and 96.3% of all land was privately owned. The process of land restitution continued. Property titles have been issued for 94.2% of land returned. This has helped to increase land sales and allowed a concentration of smaller plots by leasing.

*The privatisation of companies accelerated considerably, but the authorities' agenda remains unfinished.* The sluggish pace of privatisation until 2001 reflected the limited attractiveness of many enterprises and the failure to overcome political and social resistance to privatisation. Initially, privatisation efforts therefore focused on smaller and medium-sized enterprises. Since 2001, the privatisation of larger enterprises has advanced at increasing pace, in terms of both the number of enterprises and share capital sold. The total number of companies in state ownership decreased from 1 673 at the end of 2001 to 1 187 in mid-2004, of which close to 90% belonged to the privatisation agency and the remaining to various ministries. From July 2003 to the end of June 2004, the privatisation agency sold 296 companies, representing around 30% of the total share capital sold since 1992. This was mainly due to the divestiture of 65 large companies. The agency ceased its activity in April 2004 and transferred its residual company portfolio to the authority responsible for recovery of state assets (AVAS), which kept up the good progress. The privatisation process has, however, not come to an end. As at the end of June 2004, AVAS' portfolio consisted of close to 550 companies considered fit for privatisation and more than 500 companies considered unfit. In total, AVAS monitored more than 900 companies under judicial reorganisation or bankruptcy. Post-privatisation disputes have been common, which prompted numerous enterprises to bounce back to state ownership. This was partly caused by less than fully transparent privatisation methods, such as the recurrent use of debt-rescheduling schemes at often unclear terms. Privatisation of the companies owned by various ministries proceeded slowly, but in 2004 the first energy privatisations moved forward decisively, representing important milestones for restructuring and improved competition in the sector. The privatisation in July of the national oil company, Petrom, was an important step in reducing the state's control over the energy sector. Two major electricity distributors were privatised in June, and investors were pre-selected for two other electricity distributors. For two large gas distributors, the investors were selected in August and the purchase agreements are under negotiation. In the transport sector, divestiture of non-core assets in railway companies and offering of lines to private investors continued. In the defence sector, half of the companies have been privatised, but the two dominant enterprises remain in state hands. In agriculture, 289 out of 739 state-owned farms were privatised, while more than 50% were still undergoing bankruptcy or judicial reorganisation.

*Administrative improvements have enhanced market entry, and efforts to strengthen exit mechanisms have continued, although bankruptcy procedures are still applied with some*

*reticence*. Despite a partly difficult business environment, the economy has witnessed a dynamic growth rate of new enterprises. From 1997 to 2003, the number of economic units recorded in the Trade Register increased on average by 6.6% annually. Many enterprises did, on the other hand, survive the transition to a market economy. Therefore, the number of active enterprises declined steeply until 2000 and has increased since. To facilitate market entry, administrative measures have been pursued to reduce lengthy bureaucratic procedures and red tape, such as one-stop offices for registering and authorising firms and a silent approval procedure for the issuance of public licences. As a result of these and the ongoing economic recovery, the share of newly registered companies in the trade register rose from 8.1% in 2000 to 14.2% in 2003 and the total number of active enterprises has increased since 2000. The authorities also continued to improve the legal and institutional framework for market exit. This is much needed as the judicial system has so far been unable to provide an effective exit mechanism from the market, in particular due to the legislation's weak creditor protection. Furthermore, complex procedures, insufficient administrative capacity and uneven application of the law remain impediments to effective competition. After having increased noticeably since 2000, both the number of new bankruptcy cases and the overall rate of case resolution declined in 2003. The rate of cases solved within one year has decreased since 2000. This illustrates that important challenges remain and underscores the importance of a successful implementation of recent amendments to the bankruptcy framework for financial and non-financial enterprises. The number of judicial reorganisations increased by 50% in 2003, while the number of liquidations nearly halved. This is a sign of a continued preference to seek reorganisation of companies over bankruptcy, which is also shared by the government. As the magnitude of unpaid tax and energy bills in the economy illustrates, the lack of a credible exit mechanism also weakens financial discipline. Of 38 ongoing cases against major non-payers, with tax arrears amounting to 0.6% of GDP, eight companies are so far slated for bankruptcy. Of 549 other large debtors to the state budget, with tax arrears of more than 5% of GDP, 6% of the companies were undergoing bankruptcy, while 37% were granted debt rescheduling schemes and 8% were largely shielded against bankruptcy by being placed under special administration. Yet, bankruptcy procedures against major debtors and voluntary liquidation of 16 large state-owned companies were recently initiated as the companies were deemed unviable. Notwithstanding this progress, more active use of bankruptcy or other forms of liquidation remains a prerequisite for effectively reallocating resources to more productive uses.

*The legal framework for a market economy has strengthened, but a better business environment remains dependent on improvements in the judiciary and the public administration.* Efforts to enhance the investment climate were made, for instance, by cutting red tape, consolidating contradictory legislation, increasing the openness of the public administration to the views of interested parties, enhancing dialogue on the investment climate with local authorities and social partners and establishing the Romanian Agency for Foreign Investment in 2002. In the field of taxation, a new Fiscal Code, which came into force in January 2004, was an important step forward in improving the business environment and the National Agency for Fiscal Administration a welcome simplification. A system potentially capable of speeding up VAT reimbursements has also been developed, albeit at present hampered by IT problems and lack of practical experience. The challenge is to pursue these efforts and ensure that the difficulty of introducing multiple new regulations is superseded by a lasting positive impact on the business environment. Other remaining impediments to the investment climate, such as excessively restrictive provisions in the new labour code, have not yet

been addressed. In general, the success of ongoing efforts to improve the investment climate depends crucially on increased effectiveness, predictability and objectivity of the judicial system and the administration.

*The banking sector has developed considerably from low levels.* Early in the period, development of the banking system was seriously hampered by the slow pace of reform and the misuse of public banks for subsidising the enterprise sector. In the aftermath of a creeping banking crisis, which forced the authorities to close, clean up and privatise banks, the authorities embarked in 1999 on a restructuring of the financial sector and strengthened the regulatory framework. This resulted in the gradual development of the sector in the direction of privatisation, concentration and foreign participation. In 1997, seven state-owned banks held nearly 80% of all loans. Following the sale in November 2003 of one fourth of the largest state-owned bank (BCR) to the EBRD and the IFC, two banks are left in state ownership. They accounted in April 2004 for 7.7% of total assets. Mergers and license revocations have reduced the number of banks to 38. 29 of the banking institutions were majority foreign-owned and accounted for 59.7% of assets and 55.4% of non-bank deposits. Financial intermediation still remains underdeveloped, partly due to the use of arrears as financing, but continued nevertheless to grow, with total banking assets rising from 29% of GDP at the end of 2000 to 32% of GDP at the end of 2003. Bank profitability has increased since 2001, but still depends on a large spread between deposits and lending rates. The high credit growth to the non-government sector reaching a rate of 42% in July 2004 compared to one year earlier, runs the risk of outpacing improvements both in intermediation expertise and in the legal and supervisory framework, and the National Bank of Romania passed regulations tightening the eligibility for consumer and mortgage credit in order to stem the risks from rapid credit expansion. The banking system was generally sufficiently capitalised, liquid and prudently supervised. Vulnerability indicators have improved significantly. The capital-adequacy ratio increased from 14.5% at the end of 1997 to 20.5% in March 2004, and the share of non-performing loans fell from 71.7% at the end of 1998 to 4.2%.

*The non-banking financial sector is still in its infancy.* The equity markets remain small, with capitalisation of the Bucharest Stock Exchange (BSE) and the over-the-counter exchange (RASDAQ) amounting to 12.2% of GDP at the end of 2003. Annual turnover is also quite low at 7.8% of total capitalisation. Since mid-2003, a positive market trend has resulted in a sizeable increase in both turnover and capitalisation. Emission and trade in municipal and corporate bonds emerged as a new activity, but the slow reform of the pension system held back the deepening of markets. The consolidation continued with an important number of companies being delisted, and preparations for the merger of the exchanges were pursued. Privatisation of the insurance sector was completed in 2002. Since then the sector has grown and consolidated, but remains underdeveloped with gross insurance premiums representing 1.3% of GDP in 2003.

*Supervision of the financial sector has been tightened.* In banking, the regulatory framework is broadly compliant with the Basle principles. The supervisory framework has improved substantially and been adjusted in tandem with credit market developments, but supervision on a consolidated basis has to be fully accomplished and the coverage of credit registers should widen. In order to support the development of the non-banking financial sector, the authorities have tightened the regulatory and supervisory framework. In the insurance sector, minimum capital requirements were increased and the regulatory framework improved by establishing a supervisory body responsible for issuing secondary legislation. In the capital market, IAS-compatible financial statements for listed companies have increased transparency, but compliance

with IAS-standards needs to be fully implemented for all companies. Supervision needs to be further developed in line with international best practices and EU recommendations. Moreover, the administrative capacity of the implementing bodies should be further improved.

*The capacity to cope with competitive pressure and market forces within the Union*

The ability to fulfil this criterion depends on the existence of a market economy and a stable macroeconomic framework, allowing economic agents to make decisions in a climate of predictability. It also requires a sufficient amount of human and physical capital, including infrastructure. State enterprises need to be restructured and enterprises need to invest to improve their efficiency. Furthermore, the more access enterprises have to outside finance and the more successful they are at restructuring and innovating, the greater will be their capacity to adapt. Overall, an economy will be better able to take on the obligations of membership the higher the degree of economic integration it achieves with the Union before accession. Both the volume and the range of products traded with EU Member States provide evidence of such integration.

The increasing macroeconomic stability and more steadfast structural reforms have supported the reallocation of resources towards more productive uses. Until recently, a volatile macroeconomic environment and delays in crucial structural reforms, such as strengthening financial discipline and abandoning quasi-fiscal subsidies, hindered the restructuring of the economy. With advancement on these points as well as the increasing availability of credit and the reduction in bureaucratic obstacles, a more predictable and competitive market environment is emerging. Continued strong domestic and foreign investment growth bears witness to the improvement in the investment climate and helps to keep up the reallocation of resources in the economy. Supporting this progress requires further efforts to bring forward structural reforms and ensure lasting macroeconomic stability.

Romania is extending its knowledge base from a low level and adapting the education system to the needs of the labour market constitutes a major challenge. At 3.4% of GDP on average, public spending on education has remained low but stable. Improved access to quality education in terms of education material, staff qualifications and adequate schooling premises is a challenge, which will require a shift in the use of public resources. Compulsory schooling has been extended to ten years and school expectancy has progressively gone up. The participation rate for 18 year-olds increased from 37.1% in 1997 to 59.2% in 2002, but the rate of early school-leavers remains high. A good level of youth educational attainment was maintained, with 74% of 20-24 year-olds completing at least upper secondary education, and the share of students enrolled in post-secondary and tertiary education increasing markedly. As a result, the average education level has risen, although it remains relatively low at 9.7% of the labour force having completed tertiary education in 2003. Romanian R&D expenditures dropped below 0.4% of GDP in 2001 against the background of a diminishing public share of R&D. In 2001, nearly half of R&D was financed by business, and the share of R&D financed from abroad has increased strongly. National data for 2003 confirm this picture. Although passive measures still represent the bulk of labour-market policies, an increasing array of active measures have been implemented. Training measures are, however, still a secondary instrument and although the level of life-long learning has increased since 1997 it remains low.

*The renewal of Romania's capital stock is gradually progressing.* After declining during the 1997-1999 recession, improved economic prospects underpinned the investment ratio, which rose from 2000 on, reaching 22.5% of GDP in 2003. An average of 20% of GDP over the period points to the ongoing renewal and expansion of the capital stock. State-owned companies' share of business investments declined sharply. Taking into account the need for infrastructure investment, gross fixed capital formation by the general government rose from 1.6% of GDP in 1997 to 3.2% in 2003. FDI inflows also played an important role, but in spite of a pick-up in FDI inflows to 3.2% of GDP in 2003, the stock of FDI remained low on a per capita basis.

*The quality of infrastructure is on the rise, but there is a large need for further investment.* Following years of underinvestment, the transport, energy and irrigation networks have depreciated. Transport infrastructure remains inadequate, although public roads were upgraded and significant investment was made in motorway construction. To ensure financing and quality for money, there is a need to carefully consider the priorities in the field of motorway construction and to respect open and transparent procurement procedures, which are instrumental for cost-efficient public investment. Forced for a long time to provide quasi-subsidies to the rest of the economy, energy companies were unable to make sufficient investments, but recent price adjustments and privatisations have prepared the ground for much needed investments. A recently adopted strategy for the district heating network includes energy saving investments. Irrigation networks are gradually being reconstituted, but further investments would improve the protection of the agricultural sector against adverse climatic conditions and support the transformation of the agricultural production structures towards higher productivity and competitiveness. The fixed telephone network is progressively being digitalised and penetration in households has increased. The mobile phone network covered roughly one third of the population.

*Restructuring has gradually broadened to affect sensitive sectors also, but it is far from complete.* The extent of enterprise restructuring has been uneven, and the fact that some large loss-making enterprises have survived without fundamental restructuring underscores the fact that restructuring is not yet complete. Significant progress was achieved in restructuring the banking sector, and in some manufacturing sectors, such as clothing, furniture and electrical machinery, continued strong export performance demonstrates that a more thorough restructuring had been accomplished. In steel, measures to further reduce employment and increase capacity utilisation were pursued in the context of privatising the sector, but restricting the use of state aid in order to gradually make the sector economically viable remains critical. In the mining sector, pits were closed, employment scaled down and other restructuring measures carried out in order to improve weak financial performance. A further restructuring and closure programme for the period 2004-10 was adopted, which contains extensive mine closures, lay-offs and gradual abolishment of subsidies. In the railway sector, considerable reduction in employment, privatisation of some subsidiaries and higher tariffs were introduced in order to limit the significant losses and arrears. At present, however, large parts of the mining and railway sectors continue to make losses and accumulate tax arrears in spite of sizeable direct subsidies, which underscores the need for vigilant implementation of further restructuring measures. Despite further advances, progress in energy sector reform remained slow and uneven, but higher tariffs, better enforcement of payment obligations and improved pricing methods were stepping stones laid for deeper restructuring. A comprehensive medium-term strategy for the sector was formulated, including for reform of the district heating sector. Its successful implementation will be a major challenge and will require close attention from the government. Serious economic

weaknesses continue to hamper rural and agricultural development. Despite the reduction in agricultural employment since 2000, the sector is characterised by a high degree of hidden unemployment and a sparse endowment of modern equipment and production facilities. This results in low productivity, low earnings and an insufficient investment level. Agricultural policy has not been very successful in achieving efficiency, illustrated both by the slow plot consolidation and the belated privatisation or liquidation of state farms. Given that the agricultural sector has also functioned as a retreat for many unemployed, elderly and poor people who supplement low incomes with subsistence agriculture, agricultural policy has sought to reach economic, social and rural development objectives simultaneously. This has held back the necessary economic restructuring of the sector and implied that Romania is today far from exploiting its potential for competitive agricultural production and food processing.

*Reflecting the overall pace of the transition process, structural change is under way in the economy.* The sectoral structure of gross value added evolved over the period, but as regards the employment structure, the ongoing change had only a limited impact at aggregate level. The shift towards higher value-added sectors implied a diminishing share of agriculture, although it remains significant with a share of 34% in employment in 2003, which produces only 13% of gross value added. After a decline during the recession earlier in the period, since 2000 the industrial sector has expanded its share of both value added and employment, representing 38% and 31% respectively in 2003. The service sector grew and accounts for 49% of gross value added, while the employment share expanded progressively to 35% in 2003.

*Expanding the role played by SMEs depends on an improved business environment and easier access to financing.* The number of newly registered companies increased rapidly during the period. The large majority of these are SMEs, which play an increasingly important role in the economy, with a share of 56% of gross value added in 2002. SMEs have traditionally been micro-enterprises operating in retail, wholesale and tourism, but they are progressively expanding into construction and industry also, where they contribute to a dynamic export performance and stimulate the local economy. From 1997 to 2002, SMEs accounted on average for more than half of total turnover and well above 25% of exports and investments carried out by all enterprises. Their share of total employees increased from 33% in 1997 to more than 50% in 2002. Business conditions for SMEs remain, however, difficult, notably due to uneven implementation of legislation, red tape and limited access to finance. In line with the SMEs' growing economic weight, the authorities have launched several targeted initiatives to support the development of the SMEs. The new fiscal code, simplified procedures for tax controls [and facilitated company registration and authorisation] are helpful for SMEs. The ongoing development of the banking sector also supported SME growth by providing easier access to financial resources, but credible financial records of companies via improved accounting and auditing, plus better functioning of the markets underpinning the value of loan collateral, are of paramount importance.

*Government intervention has decreased markedly over the period, but discriminatory interference has not yet vanished.* Building upon the advances in liberalisation coupled with the progress in privatisation recorded in recent years, the state has continued to reduce its influence over enterprises' operations. However, successive governments were inclined to shelter a slowly diminishing number of sectors and enterprises from the full exposure to market discipline through the provision of explicit budgetary subsidies and less transparent and more pervasive forms of support. Price control on key production inputs diminished, most importantly by adjusting energy tariffs upwards. A less lenient

attitude to non-payment of energy bills also contributed to improving the competitive environment. Discriminatory trade and fiscal measures were to a large extent abolished. The granting of borrowing guarantees at non-market terms was still significant. Privatisation played a positive role, but was counterweighted by significant state aid packages often accompanying the more complex sales. Writing off or rescheduling tax arrears remained common, not only in preparation for privatisation, but also for state-owned entities not intended to be privatised. An *acquis*-compatible system for state aid to enterprises was largely established, but the state aid enforcement record was clearly insufficient (see chapter 6 – Competition). In a few cases, *ad hoc* government decisions in favour of certain enterprises by derogation from existing legislation demonstrated the continued interference with the free interplay of market forces. A lack of good governance is still perceived as widespread and is considered an obstacle to doing business.

*Romania's economy has become increasingly open, the EU being its main trading partner.* In 2003, the openness of the economy continued to increase as the value of exports of goods and services rose to 36.2% of GDP from 29.2% in 1997, while imports of goods and services rose to 44.1% of GDP in 2003 from 36.2% of GDP in 1997. Already Romania's main trading partner in 1997, the EU has further increased its predominant role. By 2003, the EU-15 accounted for 67.7% of the total value of Romania's merchandise exports, against 56.6% in 1997. At 57.7%, the share of the EU-15 in imports increased from 52.5% in 1997. The enlargement of the EU meant that the share of EU in Romania's exports increased by 5.9% and the share in imports by 9.6%. Romania's foreign trade protection, as measured by the simple average of the most-favoured nation (MFN) tariff rate, amounted in 2004 to 14.8% on imports from MFN countries and 5.5% on imports from the EU.

*Increased trade integration has been accompanied by a gradual shift in the trade pattern towards higher value-added activities.* Although low valued-added goods continue to represent the core of Romanian exports, the share of higher value-added exports increased markedly. The share of metals, minerals and chemical products in the total value of merchandise exports decreased, and although clothing and footwear remain important, their share in exports has fallen since 2001. On the other hand, the share of machinery and electrical equipment nearly doubled. These trends reflect the dismantling of pre-transition trade specialisation as well as more product diversification and higher processing. A wide subcontracting network with foreign firms underpinned the growth of some of the most dynamic export industries, which appeared well entrenched in EU value chains. Characterised by a substantial increase in the import of machinery and means of transport, the import structure was proof of the ongoing industrial restructuring. The real effective exchange rate based on consumer price inflation has been broadly stable since 1998, in line with the exchange rate policy objective of preserving competitiveness. In terms of unit labour costs, the real effective exchange rate was volatile during the turbulent period in the late 1990s but has been stable since 2001, indicating a still strong comparative advantage in labour intensive production.

## **2.4 General evaluation**

The 1997 Opinion already acknowledged the substantial reform efforts undertaken by the Romanian authorities to transform their economy. Since the Opinion economic structure and performance have significantly improved. Macroeconomic stability has been achieved, profound economic reforms have been carried out while the Romanian

authorities' commitment to the economic requirements of EU accession has been sustained.

Hence, it is 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.

Improvements can be made in sustaining macroeconomic stability and in deepening structural reforms. 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. Fiscal sustainability needs to be strengthened by advancing expenditure reform and further improving tax compliance. The privatisation process should be accomplished, post-privatisation disputes be settled and non-viable enterprises more actively dismantled. In key sectors, such as energy, mining and transport, perseverance in restructuring and a more manifest strive for privatisation should go hand in hand. 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.

### 3. Ability to assume the obligations of membership

This section addresses the question of Romania's ability to assume the obligations of membership – that is, the legal and institutional framework, known as the *acquis*<sup>7</sup>, by means of which the Union implements its objectives. Alongside an evaluation of relevant developments since the 2003 Regular Report, this section seeks to provide an overall assessment of Romania's ability to assume the obligations of membership, and of what remains to be done. It also provides, for each of the negotiating chapters, a summary evaluation of the extent to which commitments made in the negotiations have been implemented, as well as an overview of transitional arrangements that have been granted.

This section is structured in accordance with the list of 29 negotiating chapters, and incorporates an assessment of Romania's administrative capacity to implement the *acquis* in its various aspects. Romania's progress in translating the *acquis* into its official language is assessed in a separate section.

In December 1995, the Madrid European Council remarked on the need to create the conditions for the gradual, harmonious integration of the candidate countries, particularly through the adjustment of their administrative structures. Taking up this theme, in Agenda 2000 the Commission underlined the importance of effectively incorporating Community legislation into national legislation, and the even greater importance of implementing it properly in the field, via the appropriate administrative and judicial structures. This is an essential precondition for creating the mutual trust indispensable for future membership.

The Brussels European Council in June 2004 underlined that particular attention should be paid by Bulgaria and Romania of to improving their judicial and administrative capacity, in order to be ready for membership by January 2007. Building on the assessment of Romania's administrative capacity provided in the 2003 Regular Report, the present Report seeks to add further depth and detail, focusing on the main administrative structures required for implementing the various aspects of the *acquis*.

In its 1997 Opinion on Romania's application for EU membership, the Commission concluded:

*“Despite the progress that has been made, Romania has neither transposed nor taken on the essential elements of the acquis, particularly as regards the internal market. It is therefore uncertain whether Romania will be in a position to assume the obligations of membership in the medium term. In addition, considerable efforts will be needed in the areas of environment, transport, employment and social affairs, justice and home affairs as well as agriculture. More generally, substantial administrative reform will be indispensable if Romania is to have the structures to apply and enforce the acquis effectively.”*

In the 2003 Regular Report, the Commission found that:

*“Romania has made steady progress with the adoption of the acquis and is on track to transpose the required legislation before the planned date of accession provided*

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<sup>7</sup> A description of the *acquis* for each chapter can be found in the Commission's 1997 Opinion on Romania's application for EU membership.

*the current pace of progress is maintained. Weaknesses in the legislative process mean that the quality of legislation transposed is uneven and in some cases revisions will be needed before laws can be implemented.*

*In the area of the internal market, Romania has continued to make progress with the transposition of sector specific legislation on the free movement of goods and public procurement. Particular attention must be paid to developing the ability to administer the public procurement, the foodstuffs and food safety acquis. Romania should also continue the screening for measures that may be incompatible with the principle of free movement of goods. Progress on the free movement of persons has been limited and additional efforts should now be focused on preparations for implementing the acquis on mutual recognition of professional qualifications. Work to identify barriers to the free movement of services has continued - although only a few restrictions have been removed. While alignment with the acquis on free movement of capital is steadily improving greater efforts are needed to improve payments systems and the fight against money laundering.*

*Romania has made progress in the field of company law as such. Implementation of new accountancy and auditing rules should be prioritised. Greater efforts to protect industrial and intellectual property rights are needed. While the Romanian competition legislation is broadly in line with EC anti-trust rules, in the area of state aid there is not yet sufficient control. In the steel sector, Romania's obligations for transparency with regard to direct and indirect state aid should continue to be respected.*

*Further progress has been made in transposing the agricultural acquis and in the restructuring of the agricultural sector. Enforcement of legislation is hampered by limited management and administrative capacity. Particular attention should therefore be paid to reinforcing the administrative capacity to implement and enforce the acquis, in particular in the veterinary and phytosanitary fields. Only limited progress has taken place in the fisheries sector and delays have occurred with regards to the transposition of the acquis, in particular on the Fishing Vessel Register. The administrative capacity needs to be considerably reinforced.*

*Romania has continued to make good progress with the transposition of the transport acquis and with the establishment of the required administrative structures but maritime safety remains a concern. Priority should be given to developing institutions to enforce the new legislation and securing the funding needed to make the heavy investments required.*

*Romania has made some progress in aligning with the acquis on taxation and particular attention should now be paid to the modernisation of the tax administration and improvement of IT systems. The adoption of the Labour Code was a major step forward in the transposition of the acquis on social policy and employment. The main focus of future efforts should be ensuring the implementation of the various initiatives that have been taken and to strengthen the administrative capacity. Legislative progress in the energy sector needs to be matched by establishing effective implementation structures, carrying through with structural reforms and improving the functioning of the internal energy market.*

*The building blocks for a modern industrial policy are now in place, but the key challenge is its implementation as structural weaknesses limit the capacity for*

*enforcement. Considerable efforts have been made to improve the business environment although the situation facing Small and medium-sized enterprises, remains difficult. Romania has made significant progress in the area of telecommunications with the establishment of a regulatory body, the liberalisation of the telecommunications market and the transposition of the new telecommunication acquis.*

*The institutional framework for regional policy and co-ordination of structural instruments is still not clearly defined and specific arrangements for financial management and control have still to be made. Considerable further efforts are needed to bring the administrative capacity up to the level required. In the area of the environment, although Romania has transposed a considerable amount of legislation, administrative capacity and financial resources dedicated to the sector remain inadequate.*

*Legislative alignment on consumer and health protection has continued and Romania has made some progress as regards market surveillance activities and the co-ordination of control activities between competent ministries and authorities.*

*Legislative progress has been made in most areas of justice and home affairs and especially so in migration, organised crime, fight against money laundering, and judicial co-operation in civil matters. However, implementation capacity remains weak in almost all areas and Romania should increase its efforts to develop administrative capacity and inter-agency co-operation.*

*Progress has also been made in the area of customs although additional efforts should address corruption within the Customs Administration and prepare in advance for the application of measures that will be introduced at the time of accession. Considerable progress has been made in the financial control area. Further efforts should concentrate on implementing sound financial control systems, completing legislative alignment, and strengthening the administrative capacities.*

*Steady progress is being made in the other chapters of the acquis.*

*In a number of important sectors, there has been a continued gap between progress in legal transposition and the limited overall capacity of the public administration to implement and enforce the newly adopted legislation. This represents a major constraint on Romania's accession preparations and to address this issue will require a comprehensive, structural reform of both the public administration and the judicial system. These concerns extend beyond adoption of the acquis and also apply to the management of EU financial assistance. Progress in establishing the new institutional structures required by the acquis has continued although results to date have been uneven.*

*In the accession negotiations, 20 chapters have been provisionally closed. The commitments made in the negotiations are with a view to accession in 2007. They are generally being met, although delays have been noted in certain specific areas."*

### **3.1 Chapters of the acquis**

As indicated, the following review of Romania's ability to assume the obligations of membership has been structured in accordance with the list of 29 negotiating chapters.

Accordingly, this section opens with an assessment of progress relating to the cornerstones of the internal market which are known as the “four freedoms”, and continues with a systematic review of progress on 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.

#### *Progress since the last Regular Report*

Since the last Regular Report, Romania has made further progress in this domain, with the notable exception of enforcement of rules in the area of public procurement.

In the area of **horizontal and procedural measures**, Romania has adopted additional legislation to transpose the *principles of the New and Global Approach*.

Good progress can be reported in the adoption of legislation on *accreditation and conformity assessment* and *metrology*. Amendments were made to the Law on product conformity assessment in December 2003 and August 2004 and to the Ordinance on accreditation in January 2004. Also in December 2003, implementing rules were adopted establishing the procedures used for product conformity assessment and laying down the rules for the application and utilisation of the CE marking. Additional implementing legislation for the designation and notification of conformity assessment bodies was adopted in March 2004. In the field of metrology, Romania amended in April 2004 the Government Ordinance on metrological activity and implementing legislation relating to units of measurement was issued in May 2004.

In June 2004, new Government Decisions were adopted regarding the information exchange in the field of the technical regulations and standards between Romania and the EU, regarding the electronic interchange of data between administrations and regarding the market surveillance and product safety of goods falling under the New Approach principles.

Efforts to improve Romania’s administrative capacity for the implementation of horizontal and procedural measures and sector-specific legislation have continued. The Romanian accreditation body RENAR is a member of European Cooperation for Accreditation (EA). In June 2004, RENAR signed multilateral agreements with EA concerning accreditation of test laboratories, certification bodies for quality management systems and product certification bodies.

Up to June 2004, RENAR accredited 275 test laboratories, 2 calibration laboratories, 18 certification bodies for quality management systems, 5 certification bodies for environment management systems, 1 certification body for HACCP (Hazard Analysis and Critical Control Points), 17 product certification bodies, 2 personnel certification bodies and 8 inspection bodies.

The Romanian standardisation institution (ASRO) has continued to transpose European standards, having so far transposed more than 80% of them. ASRO has been a member of the European Telecommunication Standards Institute (ETSI) since 1991, but is not yet a member of the European Committee for Standardisation (CEN) or the European Committee for Electrotechnical Standardisation (CENELEC).

Good progress in adopting **sector-specific legislation** has continued in the areas covered by *New Approach Directives*. Legislation transposing the *acquis* on *low voltage electrical equipment, electromagnetic compatibility, lifts, radio and telecommunications terminal equipment, legal metrology* (non-automatic weighing instruments), *toys, gas appliances, simple pressure vessels* and *machinery* was adopted. Legislation transposing partially the *acquis* was also adopted as regards *personal protective equipment and recreational craft*. Concerning Romania's transposition of the *acquis* on *equipment and protective systems for use in potentially explosive atmospheres, medical devices, active, implantable medical devices, cableways, construction products, pressure equipment and energy labelling of household electric refrigerators*, legislation aiming at alignment was adopted.

As regards sectors covered by *Old Approach Directives*, further progress has been made in the transposition of the *acquis* on *legal metrology, pre-packaging, motor vehicles, cosmetics, chemicals* and *pharmaceuticals* for human and veterinary use. Alignment with the *acquis* remains to be confirmed. Changes will still be needed as regards the transposition concerning *crystal glass*. Legislation concerning *textiles, footwear* and *wood* is in line with the *acquis*.

Legislation on *dangerous substances* has been further transposed, but the entry into force of a Government Decision on the notification of such substances has been postponed to the date of accession, as the notification procedure cannot be applied before then.

In the field of food safety and foodstuffs legislation (*see also Chapter 7 – Agriculture*), several pieces of implementing legislation were adopted to reflect recent development of the *acquis* concerning vertical and horizontal foodstuff regulations. New legislation was also adopted regarding novel food and novel food ingredients, materials in contact with foods and the import of pistachios, figs and hazelnuts.

At the beginning of 2004, following some legislative changes, the “National Sanitary Veterinary and Food Safety Authority” started to become operational. It is responsible for risk assessment, risk management and risk communication for food and feed and is the contact point for the European Food Safety Agency. The new institution has taken over all laboratory infrastructure as well as the Border Inspection Posts (BIPs) for the control of food and feed of animal origin. It is also in charge of the Rapid Alert System for Food and Feed (RASFF), which has started to operate and notifications have already been sent to the Commission.

Training for control officials on inspections and on HACCP has continued over the reporting period. However HACCP implementation by food operators remains slow.

Accreditation of food control laboratories has continued according to the timetable agreed with RENAR.

As concerns *other sectoral legislation*, in June 2004 Romania adopted new laws to transpose the *acquis* on *firearms* and on *cultural goods*.

In the **non-harmonised area**, from 2004 the Ministry of Economy and Commerce took over the coordination of the inter-ministerial working group for the screening of legislation for elements in conflict with the free movement of goods. A number of automatic import licences were revoked in December 2003 and January 2004. Other barriers to the free movement of goods were eliminated regarding the marking of cigarettes, tobacco products and alcoholic beverages and regarding the production, content, packing, labelling and quality of wheat flour intended for human consumption. Mutual recognition clauses have been inserted into the law on metrology and into implementing rules in various areas.

As regards **public procurement**, in August 2004 the Government adopted an ordinance to renounce the domestic preference clause currently still foreseen in Romania's public procurement legislation. The modification will enter into force in January 2005. Other legislative developments have been confined to the adoption of implementing measures relating to review procedures, the reduction of preferential treatment of SMEs, electronic procurement and defence procurement.

There have been several cases in which the Romanian Government has adopted *ad hoc* decisions derogating from the national public procurement rules. The most serious case concerns the use of a derogation from public procurement legislation to award a contract of €2.241 billion without public tender (Bors-Cluj-Brasov motorway). Conformity with procurement rules concerning the award without public tender of a €650 million contract for an integrated border surveillance system remains to be demonstrated by the Romanian Government. Other contracts, worth up to €2.023 billion in aggregate, are currently being negotiated on the basis of Romania's public/private partnership law, which excludes certain types of contracts falling within the scope of the *acquis* from the scope of Romania's public procurement legislation.

### *Overall assessment*

The Community legislation in the field of the New Approach is aligned to a large extent, with the exception of the *acquis* on explosives for civil use and some parts of the *acquis* on medical devices. Horizontal and procedural measures are largely in place and the Romanian standardisation and accreditation bodies continue to function appropriately. However, as regards the conformity assessment infrastructure there are still institutional weaknesses with respect to the Romanian Bureau of Legal Metrology (BRML) and the State Inspection for Control of Boilers, Vessels and Hoisting Devices (ISCIR), which act both as market surveillance authorities and conformity assessment bodies for certain products. As regards standardisation, good progress has been made in adopting European standards to meet the requirements for membership of CEN and CENELEC.

Concerning sector-specific legislation for areas covered by Old Approach Directives, further steps are required in some sectors to complete alignment with the *acquis*, in particular as regards chemicals, cosmetics, crystal glass, aerosol dispensers and gas cylinders. Romanian legislation on low voltage electrical equipment, electromagnetic compatibility, lifts, radio and telecommunications terminal equipment, legal metrology

(non-automatic weighing instruments), toys, gas appliances, simple pressure vessels and machinery is in line with the *acquis*. Changes will still be needed as regards personal protective equipment and recreational craft.

The overall administrative capacity to implement the *acquis* on industrial products has continued to improve over the course of the last year, but progress is still uneven. Further efforts are required. Particular attention should be paid to extending market surveillance activities also to industrial products used in workplaces as well as to efficient coordination of market surveillance activities among the different authorities involved in this task.

With respect to foodstuffs legislation, efforts should continue to transpose and implement the *acquis*, in particular that adopted since 2003. Sanitary certificates and other forms of pre-market approval need to be abolished. Special attention will have to be paid to the implementation of HACCP requirements by all food operators (processors, caterers and retailers) and to the new EU legal provisions concerning food hygiene and food and feed controls adopted by the European Parliament and the Council on 29 April 2004.

In the area related to food safety controls, Romania should work towards a clearer delineation of responsibilities between the Ministries, the National Authority for Consumer Protection and the recently established National Sanitary Veterinary and Food Safety Authority. Particular attention should be paid to the reorganisation, upgrading and accreditation of laboratories, as well as to the training of all personnel involved in food safety control and analysis.

Despite recent amendments to Romania's legislation in this area, transposition of the *acquis* on cultural goods is still not complete. The provisions concerning the definition of cultural assets and the task of the national authorities in the meaning of the directive still need to be entirely implemented. Alignment with the firearms *acquis* remains to be confirmed.

As regards the non-harmonised area, Romania has only recently started to abolish identified barriers to the free movement of goods and to introduce mutual recognition clauses into national legislation. Romania is planning to keep automatic import licensing for the following goods until accession: essential chemical substances and precursors, various types of guns and ammunition, explosive materials used in the economy (other than strategic ones) and recreational devices which function with pyrotechnic mixtures. Before compatibility of these measures with the *acquis* can be assessed, more precise justification should be given.

The review procedure concerning disputes about the award of tenders will only be enforced upon Romania's accession to the EU and no similar venue for dispute resolution is thus envisaged before then. Romanian public procurement legislation is otherwise generally aligned with the *acquis*. Significant *ad hoc* derogations from Romania's public procurement legislation and the award of large contracts without open tenders have, however, raised serious concerns about the Government's commitment to open and transparent procurement rules. Romania should discontinue such practices and align those parts of the public/private partnership legislation falling within the scope of the public procurement *acquis*.

## *Conclusion*

In its 1997 Opinion, the Commission noted that Romania would have to make considerable efforts before the situation developed to a point where it could fully and effectively implement the *acquis*. The Commission also stated that Romania would have to make very intensive efforts to align with Community rules concerning public procurement.

Since the Opinion, legislative alignment has been steadily improving and considerable progress has been made in the establishment of the bodies needed to administer the *acquis*, particularly over the past few years. Good levels of alignment have been reached in many areas but the level of administrative capacity and enforcement has not kept pace with this.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements in this area. It is meeting the majority of commitments and requirements arising from the accession negotiations under this chapter. However, important derogations from Romanian public procurement legislation have raised serious concerns and questions as to Romania's commitment to implement the *acquis* in this field.

In order to complete preparations for membership, Romania's efforts should now focus on intensifying the process of alignment. Attention should also be paid to developing the necessary administrative capacity to implement the *acquis*, including the foodstuffs and food safety *acquis*. In the non-harmonised area, additional efforts are required with regard to the screening for measures possibly incompatible with the principle of free movement of goods and their removal. Efforts should also focus on the introduction of mutual recognition clauses in the national legislation and on completing the transposition of the firearms and cultural goods *acquis*. As a matter of priority, particular attention should be given to the correct enforcement of public procurement rules and to the elimination of inconsistencies with the *acquis*, especially in relation to Romania's public/private partnership legislation.

## ***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.

### *Progress since the last Regular Report*

Further progress has been made in the field of free movement of persons during the reporting period.

Concerning **mutual recognition of professional qualifications**, there has been significant legislative progress aimed at transposing the relevant *acquis* as regards both general systems and sectoral directives. Legislation was adopted in May 2004 with a

view to establishing the general framework for mutual recognition of professional qualifications. Legislation has also been adopted with the aim of lifting barriers for the exercise of medical professions, as well as the professions of architect, veterinarian and lawyer. Furthermore, legislation on dental practitioners has been adopted, but provisions on professional title do not appear in conformity with the *acquis*. The *acquis* on commercial agents has been transposed. The competent authorities entrusted with processing an application by an EU national have been designated. An integrated Internet portal on national legislation in this field is operational.

In the area of **citizens' rights**, Romania amended its Constitution in October 2003 and established the legal basis for legislation granting the right of EU citizens to participate in local elections and elections to the European Parliament.

As regards **free movement of workers**, further progress can be reported, mainly thanks to the adoption of new measures which specify the requirements for the recognition of professional qualifications of persons, including EU citizens, who wish to undertake self-employed activities in Romania. Another important development concerns the revision of the provisions on work permits and the conditions for foreigners to take up jobs in Romania. The controversial provision that foreign workers can only be employed if a vacancy cannot be filled by a Romanian has been repealed in respect of EU and EEA nationals. Also a law on occupational pensions was adopted in June 2004 aiming at safeguarding the supplementary pension rights of employers and self-employed persons moving within the Community.

In contrast, little progress has been achieved in the future participation of Romania in the European Employment Services (EURES) network. Preparations have reportedly continued through the implementation of training modules to improve foreign language proficiency and increase awareness of information technologies among staff.

With regard to the future **co-ordination of social security systems**, steady progress is being made. The administrative capacity of the relevant institutions is being enhanced, institutional responsibilities have been clarified and training is ongoing. Negotiations on bilateral social security agreements with Member States have continued. Romania has submitted its proposals for entries to the Annexes of Regulations 1408/71 and 574/52 which were agreed with the Member States in June 2004.

### *Overall assessment*

As regards mutual recognition of professional qualifications, significant legislative progress has been achieved. However, some legal adjustments will still be needed, and effective enforcement of the legislation should now be ensured. Administrative capacity should also be further enhanced, 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.

Notwithstanding last year's constitutional amendments, more detailed transposing legislation is still required in the field of citizens' rights. By accession, it has to be ensured that all Romania's legislation is aligned with Community rules, in particular with respect to nationality, residence and language requirements, as well as electoral rights.

By then Romanian and non-Romanian EU nationals should also receive the same treatment concerning access to education, including tuition fees.

In the area of free movement of workers, new legislation on work permits and self-employed persons has further clarified the regime applicable to foreigners in Romania. As regards future participation in the EURES network, along with increased efforts to improve the language skills of potential EURES advisers, preparations should be made 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.

Important steps have been taken in the preparation of the institutions which will ensure the co-ordination of social security systems. Tangible progress is required for the existing Information and Documentation Centre, which should become the backbone of the future information system on migrant workers, particularly as regards the capacity for collecting and providing data on social security-related issues. Major decisions are also still needed to ensure the necessary financial stability in order to meet the additional costs arising from the application of EU provisions, in particular in the health care field. Furthermore, Romania is encouraged to conclude further bilateral social security agreements. Necessary preparatory measures are also required for the introduction of the European Health Insurance Card as from the date of accession.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that, without a major effort to harmonise legislation and set up and strengthen implementing structures in this field, it would not be possible to achieve recognition for Romanian diplomas and qualifications in the Community in the medium term. The Commission noted that the *acquis* had not been transposed, and that the situation was further exacerbated by the fact that institutions had not been set up to certify diplomas and implement the *acquis*.

Since the Opinion, good progress has been made. Legislative alignment has moved forward, relevant institutions have been put in place and their administrative capacity is being enhanced.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements in this field. Romania has agreed to a transitional arrangement in respect of the free movement of workers put forward by the EU. Restrictions on the movement of workers from Romania to the EU will apply for a minimum two-year period as from the date of accession and may remain in force for a maximum of seven years. Romania is generally meeting the commitments and requirements arising from the accession negotiations under this chapter.

In order to complete preparations for membership, Romania's efforts should now focus on transposing the remaining legislation in the field of citizens' rights and ensuring the enforcement of the legislation in the field of mutual recognition of professional qualifications. The development of sufficient administrative structures, in particular training and reinforcement of staff, should continue in order to ensure correct enforcement of the *acquis* in this field.

### ***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.

#### *Progress since the last Regular Report*

Since last year's Regular Report, Romania has made substantial progress, notably as regards financial services.

In the year under review, Romania has continued to update the list of barriers against the **right of establishment and the freedom to provide non-financial services** and took steps to ensure that draft legislation formulated by the government or the parliament is in line with the *acquis*. The list of identified obstacles has risen to 43 discriminatory measures of which 20 have so far been removed. To minimise the risk of introducing new barriers, government initiatives are reviewed by the Ministry of European Integration before their approval. As regards initiatives by the parliament, such bills are now scrutinised by its European Integration Commission, which may request the assistance of the government in assessing compatibility with the *acquis*.

In April 2004, amendments to the Law on work permits were adopted that will facilitate freedom of establishment by revoking the obligation on nationals from the EU and EEA member states to apply for such permits. Additional measures to improve conditions for the establishment and provision of services are foreseen in the Law on free movement of nationals of EU member states, which was adopted in July 2004. Both pieces of legislation will only enter into force upon accession. Concerning self-employed commercial agents, a new law on the authorisation of such businesses was adopted in June 2004. In addition, the Minister of Labour, Social Solidarity and Family issued an order in January 2004, which provides for a mechanism for recognising documents proving qualifications obtained abroad and outside the domestic education system by Romanian nationals, EU citizens and nationals of EEA member states seeking to practise economic activities on an independent basis, either as part of a family association or as self-employed persons.

In the area of **financial services** good progress has been made in the *banking sector* with the adoption of significant amendments to the banking law in December 2003 and the subsequent issuing of implementing legislation in areas such as consolidated supervision, authorisation of co-operative credit institutions, annual accounts and consolidated accounts of banks and other financial institutions, legal requirements for credit institutions to properly manage interest rate risks and operational risks, capital adequacy, solvency and large exposures. Additional legislation was adopted in May and June 2004 to align the following with the *acquis*: credit cooperatives, the reorganisation and winding up of credit institutions and deposit guarantee schemes.

The National Bank of Romania (NBR) is the supervisory authority for banking. It is responsible for licensing credit institutions, subsidiaries and branches of foreign banks, issuing banking regulations and carrying out prudential supervision. Over the reporting

period, staffing levels at the NBR have been slightly increased, in order to reinforce its supervisory activities. Cooperation agreements have so far been signed with the Republic of Moldova, Cyprus, Turkey, Italy, Greece and Germany, to organise the supervision of cross-border operations and facilitate information exchange.

As regards the *insurance sector*, certain amendments to law on insurance companies and insurance supervision entered into force in May 2004, which represents a positive but only partial step towards alignment with the *acquis*. The revised legislation extends the scope of prudential supervision, defines the minimum solvency margin, eliminates restrictions regarding the obligation on insurers to keep their assets in Romania and includes specific provisions on the establishment and authorisation of insurance companies. In July 2004 legislation concerning the activities and supervision of institutions for the provision of occupational requirement was adopted, which will enter into force in January 2005. To streamline the existing framework, the Insurance Supervisory Commission (ISC), the regulatory authority for the insurance sector, continued to revise its implementing legislation. During the reported period ISC staff numbers increased to 106. The ISC has signed cooperation agreements with similar authorities in Germany and Bulgaria.

With regard to *investment services and securities markets*, in June 2004 an important step was taken with the adoption of a consolidated law on capital markets, which aims at further alignment with the *acquis* on investment services, market abuse and undertakings for collective investments in transferable securities (UCITS). The new law also refers to the investor compensation scheme, which will be financed by annual contributions from its members. Additional legislation was adopted on financial collateral arrangements.

The National Securities Commission (CNVM) is the supervisory body in charge of securities market supervision. During the first quarter of 2004, CNVM has been undergoing a reorganisation, to increase staff numbers to 198 employees, improve coordination between the various departments responsible for supervising financial intermediaries and consolidate its control functions. CNVM has now signed 11 memoranda of understanding, nine with European Countries and two with other supervisory authorities outside Europe.

There are no legislative developments to report concerning the **protection of personal data**. As regards enforcement and administrative capacity, contrary to the announcement of June 2003 that the number of positions in the Directorate for the Protection of Individuals' Rights as regards Personal Data Processing (part of the office of the Romanian Ombudsman) would be increased to 20, the actual staffing level remained at 14 employees. The Directorate has organised a number of information activities to improve awareness of rights and obligations under the 2001 Romanian data protection act. According to the Ombudsman, it has registered 379 notifications of personal data processing during the year under review and 44 notifications of such data abroad. In the same period 808 personal data operators have been registered.

As regards **information society regulations**, in January 2004 the Romanian Government adopted a decision on conditional access services which is largely aligned with the *acquis* in this field, as well as further implementing legislation to supplement the Romanian electronic public procurement system.

### *Overall assessment*

The screening of legislation to identify barriers to the right of establishment and the freedom to provide services continues to produce satisfactory results and identified obstacles, which are being removed in accordance with an action plan provided by the Government. Further efforts should be made to cover indistinctly applied measures such as language requirements, horizontal licensing or registration regimes. The screening exercise should now be extended to include legislation under the responsibility of regional or local authorities. The effectiveness of new procedures in intercepting draft texts containing provisions incompatible with free provision of services before their adoption by Parliament remains to be demonstrated in practice.

In the banking sector, Romania's legislation had reached already a high degree of alignment with the *acquis* before the recent adoption of significant legislation. The new banking law and subsequent implementing legislation have improved the legislative framework for banking supervision even further and will allow the NBR to strengthen its supervisory functions. There is indication that supervision is steadily moving from merely checking compliance with the rules towards a more risk-oriented approach. The number of staff at the NBR seems adequate. However, its technical skills need to be further strengthened, in particular in the fields of accounting and market risk.

As regards insurance, the new law on insurance companies and insurance supervision has strengthened the regulatory framework. However, additional changes are necessary to reach full alignment and the ISC will need to follow up this achievement by adopting implementing legislation. Further consolidation of the insurance market will be required through an increase of minimum capital requirements, the implementation of solvency rules and reinforcement of prudential rules on assets and liabilities. Further strengthening of insurance supervision is necessary. To improve its supervisory activities, the ISC will need better staffing and increased expertise as well as sufficient actuarial resources, and more risk-oriented methods of supervision should be pursued.

In the field of investment services and securities markets, the new law on capital markets provides a framework which will have to be completed by numerous implementing measures. Further efforts will also be required to transpose new *acquis* in this sector. Although the number of on-site and off-site inspections has increased following the re-organisation of the supervisory authority, staffing levels and technical skills should be further strengthened. Financial analysts should be hired to carry out proper supervision of intermediaries and asset managers. Furthermore, to improve on-site activities, additional training should be given to relevant staff on accounting and financial analysis, securities transactions and controls on listed issuers.

As regards the protection of personal data, the major pieces of legislation are already in place. However, progress in implementing personal data protection rules has only been limited. There are grounds for concern regarding the enforcement of these rules: enforcement activities are far below levels in current Member States and additional posts have not been filled during the reporting period.

Romania has further advanced preparations for the transposition of information society regulations but further amendments will still be necessary to improve the alignment of the 2002 law on e-commerce, in particular as regards liability and the country of origin principle.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that the key decisions for the effective restructuring of the banking sector had been taken. However, with the sector then overwhelmingly still in state hands, the Opinion pointed out that prudential rules would have to be enforced and, above all, the National Bank's supervisory capacities reinforced in order to guarantee the soundness of the sector. As consolidation was bound to be a lengthy process, the Opinion stated that there was no prospect of integrating the Romanian banking system into the internal market in the medium term. As regards securities and investment services, the Commission remarked that the market was still embryonic, supervision was inadequate and there were grounds for doubting its efficiency. In the field of insurance, the Opinion stated that Romania seemed to have a long way to go in terms both of the adoption and implementation of legislation and of the elimination of barriers to access to its market.

Since the Opinion, considerable efforts have been made to reform the financial sector. In particular over the last three years, Romania has made significant progress towards aligning its legislation with the *acquis* and the supervisory framework has been strengthened, especially in the banking sector. Significant steps have recently been taken to align legislation in the securities and investment sectors, although extensive implementing measures are required to give effect to this new legislation. Alignment of the legislative framework in the insurance sector remains incomplete and subject to rapid developments.

Negotiations on this chapter have been provisionally closed. Romania has requested and obtained a transition period until 1 January 2012, to reach the minimum level of coverage provided for in the Investor Compensation Directive. Romania is meeting the majority of the commitments and requirements arising from the accession negotiations for this chapter.

In order to be ready for membership, particular attention should be paid to completing legislative alignment concerning financial services, strengthening administrative capacity and establishing a track record of efficient supervision, especially for the insurance and securities sectors. As regards the right of establishment and the freedom to provide non-financial services, Romania should pay particular attention to avoid introducing new barriers. In addition, the review of administrative and legal obstacles should be seen as continuous process and extended to cover also indistinctly applied measures and legislation under the responsibility of regional and local authorities. The Romanian Data Protection Act should be fully aligned with the *acquis* and efforts should increase to create the necessary administrative capacity, to strengthen enforcement and to raise the level of public awareness in this area. Several pieces of draft legislation are currently being discussed in Parliament to increase alignment with the *acquis*, including amendments to the banking law and the law on insurance companies and insurance supervision. Substantive changes are also being prepared to further align the Romanian Data Protection Act with the *acquis*. Their full and timely adoption will be important to create the necessary legal conditions for a proper and efficient enforcement of Community rules covered by this chapter.

#### ***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.

### *Progress since the last Regular Report*

Since the last Regular Report, Romania has made further progress in this area.

As regards **capital movements and payments**, the National Bank's timetable for the liberalisation of certain transactions as from 1 January 2004 (physical import/export of cash and admission of foreign securities to the Romanian capital market) was implemented according to schedule with the exception of one measure (access of non-residents to ROL-denominated deposit accounts). In January 2004, the National Bank of Romania (NBR) adopted a new regulation governing foreign exchange transactions that entered into force in April 2004. This confirms the significant liberalisation of the capital account achieved so far but keeps restrictions on operations with securities routinely traded on the money market and operations in current and deposit accounts opened by residents abroad. It also sets a new deadline - no later than a year from the entry into force of the regulation, e.g. by 10 April 2005 - for removing the restrictions on the opening of ROL-denominated deposit accounts by non-residents.

A Law published in June 2004 provides for the removal, by the date of accession, of the restrictions on the types of securities that can be invested in the Bank Deposit Guarantee Fund.

As regards foreign direct investment, the Petroleum Law was abrogated in June 2004, repealing sector-specific obligations on licence holders to give priority to the use of local workers. While several restrictions linked to citizenship requirements, notably in the field of insurance, were removed over the reporting period, others remain (Lease Law, security sector). In June 2004 a new Law on public debt, abolishing the restrictions concerning the authorization procedures, was enacted and will enter into force in January 2005. Further progress can be reported in the field of **payment systems**, with the adoption of the Government Ordinance on cross-border credit transfers and electronic payment systems. This aligns the Romanian legislation with the EU *acquis* on cross-border credit transfer and empowers the NBR to settle disputes related to cross-border credit transfers. Legislation was adopted aiming at further alignment in the field of settlement finality in payment and securities settlement systems. The out-of-court redress procedure for the settlement of disputes between banks and customers has been improved through the National Bank's regulation on mediation procedures. It sets up mediation commissions within the NBR consisting of 3 persons to address mediation requests.

In the area of **money laundering**, limited progress can be reported. The National Office for the Prevention and Control of Money Laundering is now under the direct control of the Prime Minister. It consists of 84 positions, of which 72 have been filled. The Office currently has no president. As regards the enforcement record in this area, from September 2003 to mid April 2004 a total of 907,596 cash operations exceeding €10,000 were reported and 350 Suspicious Transactions Reports filed. However, the number of notifications sent to the Prosecutor's Office attached to the High Court of Cassation and

Justice and the number of court notification remains low. The Office has reported just 21 convictions in money laundering cases since 2001. To strengthen inter-institutional cooperation, 8 memoranda of understanding were signed with the institutions responsible for providing the data and information needed for the daily work of the Office. Memoranda of understanding on the exchange of information were concluded with the Republic of Korea, the Czech Republic and Ukraine (*see also Chapter 24 – Co-operation in the field of justice and home affairs*).

### *Overall assessment*

Progress has been made on schedule as regards capital movements and payments but the liberalisation of capital-account flows needs to be completed and Romania needs to focus on progressing on schedule. As regards foreign investment, the freedom of investors to set up businesses remains uncertain since the principle of freedom of establishment is not explicitly enshrined in the current legislation. The establishment of a foreign-owned company is still conditional on establishing physical residence in Romania. Moreover, the provisions in the privatisation legislation allowing the State to retain so-called “nominative control shares” are still in place and have been used in July to establish special rights in a privatisation case. Current legislation remains ambiguous as to the restrictions on inward investment. As for securities transactions, the entry into force of the legal stipulations allowing foreign securities to be admitted to the domestic capital market and the trading of Romanian securities on foreign capital markets is still pending.

Further progress has been made regarding payment systems. However, as regards the out-of court redress procedure for settling disputes between banks and customers, the recommendations of the mediation commissions are not binding.

The main legislation is in place as regards the *acquis* on anti-money laundering but needs some fine-tuning to ensure full alignment. Furthermore, legislation has to be effectively implemented and the effectiveness of the anti-money laundering system and terrorist financing in terms of freezing, confiscations and convictions should be further strengthened. The National Office for the Prevention and Control of Money Laundering has strengthened its administrative capacity but still has to improve its compliance with its legal obligation to train representatives of the reporting institutions. A certain reduction in the activity of the National Office for the Prevention and Control of Money Laundering was even noticed compared with the previous year, mainly due to poor management. The entire institutional network involved needs improving, and competition between institutions will have to be replaced by a culture of institutional cooperation. The Office’s enforcement record remains poor and its criminal investigation department should be further re-organised and more staff recruited.

### *Conclusion*

In its Opinion in 1997, the Commission concluded that the trend in Romanian law was towards opening up the market to foreign direct investment. The very low level of investment was mainly attributable to administrative practices, which were often cited by investors and which substantially limited legal certainty and transactions. The Commission therefore pointed out that significant improvement in the administrative and judicial framework was a prerequisite for increasing investment. The Commission also remarked that free movement of capital had been established on paper, but constraints on the development of a competitive market needed to be eliminated in practice. Romania

had introduced limited liberalisation of capital movements. The liberalised transactions, notably direct investment, concerned inward capital flows only.

Since the Opinion, alignment with the *acquis* has steadily improved and the process of liberalisation is progressing. Romania respected its commitments to abolish certain restrictions but efforts in this area need to be sustained.

Negotiations on this chapter have been provisionally closed. Romania was granted transitional arrangements concerning the acquisition of land for secondary residences by EU citizens (for a period of five years following accession) and the acquisition of agricultural land, forests and forestry land (for seven years following accession). It has accepted the condition that self-employed farmers who want to establish themselves and reside in Romania are excluded from the scope of the transitional period. Romania is meeting the majority of commitments and requirements arising from the accession negotiations under this chapter. Delays have occurred in the area of capital movements and payments.

In order to be ready for membership, particular attention should be paid to the timely removal of outstanding restrictions on capital movements and payments, namely concerning access by non-residents to ROL-denominated deposit accounts and State nominative control shares. Liberalisation of transactions in securities remains to be completed. The enforcement record of the National Office for the Prevention and Control of Money Laundering needs to be improved, notably as regards prosecution and conviction in money laundering cases. Romania has committed to remove restrictions on the opening of ROL-denominated deposit accounts by non-residents by April 2005.

### ***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.

#### *Progress since the last Regular Report*

Further progress has been made in the area of company law and the protection of intellectual and industrial property over the reporting period.

In the area of **company law** as such, considerable progress was made with respect to streamlining and simplifying the registration of companies. New legislation has been adopted to improve the organisation of the National Office of the Register of Commerce, a body subordinate to the Ministry of Justice. New standard forms have been developed to separate the registration from the authorisation of companies and tighter deadlines were set for the processing of applications. The Law on the Trade Registry was amended in November 2003 to reinforce these efforts by extending the silent approval procedure to certain tasks related to the registration of companies. In addition, foreign citizens are now exempt from the obligation to provide a fiscal record and Romanian citizens will benefit from a simplified procedure to obtain such a record, taking advantage of better cooperation between the Ministry of Finance and the Trade Register through the

introduction of electronic data transmission between these institutions. New registration fees and a guide to explain the registration procedures were published in July 2004.

As regards administrative capacity, the total staffing of the Register of Commerce's offices (attached to courthouses) and the National Office of the Register of Commerce has increased to 1,462. The average time-scale between the submission of the application and the effective registration of a company has been reduced to four working days, in cases where no additional authorisations by other public authorities are required. Public access to registers is provided in the offices of the Register of Commerce or directly via electronic access to the central database of the trade registers.

On **accounting and auditing**, no significant legislative developments can be reported apart from the extension in December 2003 of the scope of application of Romanian accounting legislation to medium-sized companies and the adoption of a few amendments to the 2002 Law on Audit in April and to the Accounting Law in August 2004. In July 2004, a Government Decision was adopted revising the statute of the Chamber of Financial Auditors. The number of financial auditors has increased during the reporting period from 1,854 in 2003 to 2,076 in 2004, of which 525 are legal persons. Training courses for accountants and auditors were organised by the School of Public Finance and the Chamber of Financial Auditors.

In the field of **intellectual and industrial property rights**, the main legislative development consisted in the adoption of amendments to the Romanian Law on Copyright and Related Rights in June 2004. In December 2003, a "National Strategy for Intellectual Property (2003-2007)" was approved, which comprises the Government's intentions for further alignment and better protection of intellectual property rights. As regards enforcement, the Romanian Copyright Office (ORDA) signed further cooperation protocols with the Romanian Standardisation Association, the National Agency for Small and Medium-Sized Enterprises, the Gendarmerie, the National Institute for Criminology and the Business Software Alliance. ORDA also received 20 additional posts in 2003, of which 12 could be filled up to now.

The **Regulation replacing the Brussels Convention** on 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 (*see also Chapter 24 – Co-operation in the field of justice and home affairs*).

### *Overall assessment*

Romania has already transposed the company law *acquis* to a large extent. However, further amendments are needed to remove outstanding incompatibilities with the First, Second, Third, Sixth, Eleventh and Twelfth Company Law Directives. While efforts to streamline and simplify the registration of companies have shown positive results and the period for the handling of applications has been reduced, more energetic steps should be taken to put an end to a situation in which 70-80% of the companies that were registered in 2002 do not comply with the obligation to deposit their financial statements with the National Register of Commerce.

Romania's accounting and auditing legislation is not yet fully aligned with the *acquis*. Further efforts are needed, in particular as regards International Accounting Standards and International Standards on Auditing. Although the number of auditors has been

increased during the reporting period, the limited availability of suitably qualified accountants and auditors remains a source of concern. Romania should therefore continue to develop resources and reinforce the training of professionals.

As regards industrial property rights, legislative alignment needs to be completed by adopting legislation on supplementary protection certificates for pharmaceutical products and plant protection. Concerning copyright, recent amendments to the Law on Copyright and Related Rights have further aligned Romania's legislation. However, it appears that certain provisions introduce a statutory limit to the remuneration for cable retransmission, which is contrary to the *acquis*. Concerning enforcement, piracy and counterfeit is still pervasive in Romania. Despite recent attempts to strengthen administrative structures and to improve cooperation between general law enforcement agencies, this remains a serious problem and the enforcement of intellectual and industrial property rights is a particular concern.

Romania has already incorporated into national legislation the provision of the Regulation replacing the Brussels Convention on jurisdiction and enforcement of judgments in civil and commercial matters. Romania has indicated that it would be able to apply, by accession, the rules of the Rome Convention on contractual obligations without any further amendments to the Romanian private international law.

### *Conclusion*

In its Opinion in 1997, the Commission concluded that the legislative effort made with regard to intellectual property rights attested to Romania's desire to conform to the *acquis*. The Commission added that the implementation would have to be watched closely. As regards company law as such, Romania's assimilation of the *acquis* would present no major problems.

Since the Opinion, Romania has made steady progress in aligning its legislation with the *acquis* on company law. Some progress has been achieved as concerns the protection of industrial and intellectual property rights.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements in this area. Special transitional rules will apply in relation to pharmaceutical product patents, involving the non-applicability of Community exhaustion to certain exports from Romania, as regards the granting of supplementary protection certificates for medicinal and plant protection products, as well as in relation to the extension of registered or pending Community trademarks to the territory of Romania. Romania is generally meeting the commitments and requirements arising from accession negotiations for this chapter.

In order to be ready for membership, particular attention should be paid to the effective enforcement of industrial and intellectual property rights by reducing the level of piracy and counterfeiting, in particular through strengthening border controls and improving coordination between competent authorities, including customs, police and judiciary. Staffing levels and administrative capacity to ensure effective enforcement of intellectual property rights legislation should be reinforced. To address these issues, Romania has developed a "National Strategy for Intellectual Property (2003-2007)". Measures foreseen in that strategy should be actively pursued, in order to remedy the situation. Further transposition of the *acquis* is necessary as concerns accounting and auditing legislation.

## ***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.

### *Progress since the last Regular Report*

Since last year's Regular Report, Romania has made further progress in this area.

In the area of **anti-trust**, Romania adopted substantial amendments to the Romanian Competition Law in May 2004. The new legislation abolishes the requirement for individual notifications under its "block exemptions" and eliminates the possibility of granting exemptions for anti-competitive practices consisting of the abuse of a dominant position. It also increases the turnover threshold triggering the obligation to notify mergers. In order to refocus resources, the new law also puts an end to overlapping competences by creating a single competition authority.

The Competition Council, which is the national decision-making body, carried on significant regulatory activity by issuing implementing legislation and continued to develop its antitrust enforcement record. Over the reporting period, the Competition Council adopted a total of 226 decisions, including 18 decisions taken in the field of restrictive agreements, 9 decisions on abuse of dominant position, 199 decisions on mergers. Following investigations in the cigarette and the insurance sectors, the Competition Council imposed some significant fines. The Competition Council has also continued its training activities and its work in the field of competition advocacy.

In the area of **state aid**, important changes have been introduced to Romania's state Aid Law in December 2003 and August 2004. The new version of the Law abandons the old classification of state aids in favour of an approach similar to the one existing in Community legislation. The Law also stipulates that state aid provided for in draft normative or administrative instruments must be notified and may be granted only after authorisation by the Competition Council. Following the adoption of the new state Aid Law, substantial activity has been carried on for the purpose of issuing or amending a large number of implementing rules. Amendments to Romania's legislation concerning free zones and disadvantaged areas were adopted in June and August 2004, aiming at alignment of fiscal aid measures in these areas.

As regards the enforcement activities, the Competition Council approved 92 decisions of which 43 were aid approvals, 14 conditional and 33 where no aid measures were found. 2 negative decisions were taken over the reporting period.

Administrative capacity has been further developed due to the merger of the former two competition authorities: the Competition Council is now the sole state aid authority. Following the reorganisation, the Competition Council has been granted 350 posts and will also be present at the level of the 41 counties and in Bucharest. Its territorial offices will monitor state aids granted from local budgets, where funds are administered autonomously.

The annual state aid Report for 2003 was submitted by Romania in September 2004. Measures have continued over the reporting period in order to ensure greater respect for the *ex-ante* notification obligation. The Competition Council initiated an inter-ministerial working group on state aid issues, which met twice during the reporting period. It is attended by representatives of state aid granting authorities and other interested parties and focuses on the exchange of information and professional dialogue. Training activities were organised for the staff of the Competition Council, the aid granting authorities and judges.

As regards the steel sector, Romania has updated and approved the National Steel Restructuring Strategy in April 2004.

### *Overall assessment*

The level of alignment of legislation as well as the Romanian enforcement record in anti-trust matters are largely satisfactory. The Romanian Competition Law contains the main principles of Community anti-trust rules as regards restrictive agreements, abuse of dominant position and merger control. Nevertheless, further improvement of Romanian legislation is still necessary, in particular in view of the EU's new procedural Regulation (EC) No 1/2003 and in order to ensure more efficient enforcement. Additional efforts should be made to follow a more deterrent sanctions policy and to place more emphasis on preventing serious distortions of competition. The Competition Council needs to take a more proactive role, both as regards enforcement activities and competition advocacy, in order to ensure the continued liberalisation of the economy and the opening-up of markets. To strengthen its enforcement activities, Romania's competition authority should make better use of investigative tools, including surprise inspections.

The new State Aid Law lays the foundations for proper control of state aid. Final adoption of implementing legislation should be urgently confirmed. Romania also needs to ensure that all state aid projects, including those in sensitive areas concerning privatisations and large state-owned companies, become subject to a strict state aid control by the Competition Council.

The Competition Council's state aid enforcement record still needs to be considerably improved. It has to become more pro-active in its enforcement efforts and improve its assessment of aid measures. To date, the legislation is not accurately applied and the analysis in the state aid decisions should be significantly improved. In addition, fiscal aid measures still do not appear to be the subject of sufficient state aid control. The Competition Council needs to finalise the assessment of all existing aid measures and to ensure that these measures are in line with the law, in particular in the field of fiscal aid. Major efforts are needed to ensure *ex-ante* notification of all new aid measures, proper cumulation control and full enforcement of state aid rules in relation to restructuring cases, payment deferrals and measures in connection with privatisation. A pro-active follow-up of the actual implementation of decisions is also important.

The decision to establish a single competition authority will facilitate further strengthening of the administrative framework for the application of anti-trust and state aid rules. However, as regards staffing only a few new posts created in 2003 have been filled. The Competitions Council's expertise in state aid and antitrust should be upgraded and efforts regarding cooperation within the administration, awareness-raising activities and training of the judiciary should be enhanced.

In the steel sector, transparency with regard state aid, as set out in Protocol 2 to the Europe Agreement, must be respected. Although a step forward has been taken with the adoption of a revised restructuring strategy, additional clarifications are needed, in particular with respect to the amount and intensity of state aid to be granted to individual companies in order to restore their viability.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that notable progress had been made towards the approximation of legislation in the field of anti-trust. However, the Commission also concluded that, as regards state aid, not much progress had been achieved so far and a considerable effort would be necessary to fulfil the requirements in the field of state aid control over the medium term, in particular as regards the establishment of transparency through a credible aid inventory and the adoption of the necessary rules for the credible monitoring of state aid.

Since the Opinion, good progress has been made with the transposition of the *acquis* in respect of both state aid and anti-trust, but the level of enforcement has not kept pace with this as regards state aid and, to date, remains weak. Knowledge and respect of state aid rules remain very limited among the authorities granting state aid.

Negotiations on this chapter continue. Romania has not requested any transitional arrangements in this area.

In order to be ready for membership, particular attention should be paid to completing alignment with the *acquis*, enhancing administrative capacity and improving enforcement of the anti-trust and, in particular, the state aid rules. Concerning anti-trust, the Competition Council should concentrate on preventing serious distortions of competition. As regards state aid, major efforts should be made to resolve the problem of alignment of incompatible state aid schemes and to enforce state aid rules. The quality of state aid decisions needs to be considerably improved. Awareness of the main state aid principles should be strengthened among the authorities granting state aid. With respect to Romania's plans for the granting of state aid to companies in the steel sector, further adjustments to the national restructuring strategy will be needed in order to ensure compliance with Protocol 2 to the Europe Agreement. The necessary legislation to complete alignment with the *acquis* in the field of state aid is currently being prepared. In addition, first steps have been taken to develop the Competition Council's enforcement record in state aid matters. These efforts need to be strengthened in order to reach a satisfactory level of enforcement.

### *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.

### *Progress since the last Regular Report*

Romania has made good progress overall both in terms of alignment and administrative capacity.

In 2003 the gross added value generated by the agriculture sector accounted for 12.9%<sup>1</sup> of Romania's GDP. The share of agriculture in employment remains excessively high with negative consequences for farm productivity and rural incomes. The majority of the rural population in Romania depends on income from subsistence and semi-subsistence farms. The chief part of the agricultural area is used by this type of farm.

Bad weather conditions in 2003 seriously affected the domestic cereals supply and consequently increased Romania's trade deficit. Cereal production dropped from 14.4 million tonnes in 2002 to 11.08 million tonnes in 2003. The wheat harvest only reached 2.4 million tonnes compared to an average of 5 million tonnes in normal weather conditions. The Government national livestock recovery programme's continued growth was maintained in 2004 and growth in bovine livestock, sheep, goats and pigs can be reported.

In 2003, whilst overall agricultural trade between Romania and the EU 15 increased, this was accounted for by a shift in growth of Romanian exports – EU exports to Romania also increased. As a result, the trade balance in favour of the Community amounted to €217 million (reduced from €246 million in 2002). EU imports were again dominated by live animals, vegetables and oilseeds. Meat, cereals, edible preparations and tobacco were the main goods exported from the EU.

2003 also saw an increase in Romania's agricultural trade with the new Member States. New Member States' exports to Romania were up by €110 million to €336 million with Romanian exports to the new Member States staying somewhat constant at around €60 million. It is expected that this trade with the new Member States will continue and improve following enlargement and the further trade liberalisation package concluded during 2004<sup>8</sup>.

State support to the farming sector has increased and widened in scope in 2004. The 2004 State budget allocated to agriculture and forestry is ROL 20.1 thousand billion (€504 million), representing an increase of 42% in nominal terms compared to 2003. Additional ROL 850 billion (€20.7 million), were allocated in July 2004 mainly to supplement the budget for direct payments for small farmers. External aid of ROL 17 thousand billion (€425 million) complemented domestic support, the major share from SAPARD.

Domestic support to agriculture is made up of 21 support schemes. Of the total budget, ROL 15 thousand billion (€366 million) is allocated to subsidise the crop sector (mainly

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<sup>1</sup> 2003 provisional data provided by the National Institute of Statistics.

<sup>8</sup> Source of trade figures : WTO definition of agricultural products, figures from EUROSTAT COMEXT (see U.E. 12.15 : Commerce des produits agricoles 1998-2000, 1 Partie D.G. AGRI/G.2 Analyses quantitatives, prévisions, statistiques, études, 2001, pp. 10-57 et 86-89)

the small farmers scheme) and ROL 4.6 thousand billion (€113 million) to subsidise the animal sector (notably the milk premium scheme).

In April 2004, the Government drew up a Strategy for the sustainable development of agriculture and the food industry in Romania for 2004-2025. It sets targets and objectives to be achieved up to 2005 but only marginally targets the key issue of Romanian agriculture and rural development, namely excessive employment and fragmentation of farm structures. One of the dominant features of the newly-adopted strategy is the sustained growth of agricultural outputs for all crops and animal spaces.

Restitution of both agricultural and forestry land has further progressed. By the end of May 2004 land restitution was almost completed, covering 93.5% of the area claimed (11.1 million hectares).

Over the reporting period the privatisation of state-owned farms was almost completed in legal terms since there are no more companies to be sold. Of the total of 739 such state-owned companies held in the State Domain Agency portfolio, 281 were privatised, eight are in the final stage of privatisation (signing of contracts), 360 were declared bankrupt and are under liquidation and for 90 privatisations failed twice and are now under restructuring.

Over the reporting period the structure and mandate of the Ministry of Agriculture have changed. The Ministry is now in charge, with agriculture, forestry, fisheries and for the first time, rural development. This department is staffed and operational. Another important change is the creation of the National Sanitary Veterinary and Food Safety Authority (NSVFSA). This separate and autonomous institution is under the direct authority of the Prime Minister Chancellery. Overall, the administrative capacity of the Ministry of Agriculture, Forestry and Rural Development was increased with 90 new posts in the central office and 326 in the county offices.

### **Horizontal issues**

As regards the European Agricultural Guidance and Guarantee Fund (EAGGF), further progress has been made through the adoption of the law setting up, by the end of 2004, the paying agency within the Ministry of Agriculture, Forestry and Rural Development. It will manage the domestic support schemes and then the EAGGF Guidance and Guarantee Section as well as the Financial Instrument for Fisheries Guidance. The paying agency will have 260 staff in 2004, increasing gradually to 1 079 in 2007. Recruitment has not yet started. Romania has developed the outline for the organisational structure of the paying agency.

Further steps have been taken to establish, under the responsibility of the Ministry of Agriculture, the Integrated Administration and Control System (IACS). IACS elements and terminology were approved and 60 additional posts (seven in the central office and 53 in the county offices) were formally allocated for IACS development, bringing the total number of staff to 68. However, the recruitment of additional staff has not started yet. Good progress has been made to secure a fully functional identification and registration system for bovine animals, notably through the setting up of the computer network (WAN). The action plan for starting effective tagging and recording of animals in the database was approved and training of staff is ongoing. The legal framework for identification and registration of other species (pigs, sheep and goats) was approved and the relevant implementing plans were elaborated but some delays have occurred as

regards identification and registration of horses. The model for the register designated to identify the holdings applying for financial support was approved and in March 2004, 169 336 agricultural holdings were already registered. Romania has decided to create the Land Parcel Identification System (LPIS) with agricultural blocks based on orthophoto.

As regards trade mechanisms, no particular developments can be reported concerning the setting up of a security system for agricultural products.

On quality policy, legislation has been further aligned through the adoption in May 2004 of rules on the protection of geographical indications and designations of origin. The Ministry of Agriculture is the authority responsible for applications which private certifying bodies assess. No major developments can be reported as regards the development of administrative capacity.

Further progress has been made in aligning legislation on organic farming, improving its enforcement and establishing the institutional framework for certification and control. The legislation provides for all the elements for registration of producers, certification, inspection and control, import and export of organic products. Rules for setting up the inspection system and certification of organic products were also adopted. Romanian legislation closely follows the *acquis*. Furthermore, the Romanian inspection and certification organisation “Ecoinspect” was accredited in March 2004. The administrative organisation for organic farming in Romania is in place to implement the *acquis*.

Efforts to strengthen and further extend the Farm Accountancy Data Network (FADN), both in terms of alignment and effective implementation, have continued. Models of confidentiality engagement for agricultural holdings were established. The National Committee for the FADN was set up to coordinate the activity of the network. The FADN service of the Ministry of Agriculture, which centralises all the data and issues reports, received two additional posts, increasing its staff from four to six. The Ministry of Agriculture has become the central FADN authority. Training of central and local staff is ongoing.

### **Common Market Organisations**

The government has decided to set up a market information system; the Ministry of Agriculture is responsible for setting up this system, which should be fully operational in January 2007. In July 2004 the government transposed the main elements of the EU market organisation for cereals.

For sugar, the legal framework and the quality criteria have been improved through the recognition of the inter-professional agreement for sugarbeet which lays down conditions for the production, delivery, transport and reception of sugarbeet. No progress can be reported in setting up mechanisms for control of production and stocks or in monitoring trade flows with third countries and ensuring statistical communication.

Good progress has been made in regulating the fruit and vegetables sector: 32 marketing standards for fruit and vegetables have been transposed into Romanian legislation. Romania has created the supervisory authority and has specified the controls regarding fruit and vegetables in national legislation which is largely inspired by the *acquis*. The Ministry of Agriculture, Forestry and Rural Development (MAFRD) has specified the framework for producer groups/organisations which establishes recognition criteria

compatible with the EU framework. A ministerial order regulates the creation and recognition of producer organisations and subsequently, three fruit and vegetable marketing associations were registered as well as a federation of fruit and vegetable marketing associations. Preparations for marketing standards are proceeding well. New regulations were adopted and entered into force in the wine sector. Good progress was made regarding the vineyard register since Romania has finished registering (and updates continuously) the vineyard parcels in a central vineyard register on the basis of declarations by the vineyard holders. The vineyard register should be compatible with the geographic information system which should be implemented from 2007 on. Progress has been made as regards quality control of hops with the designation of the Cluj research centre as a certification and control organisation.

Legislation on animal products has been further aligned, notably in the field of marketing standards for eggs, pork meat, milk, dairy products and for the setting up of a classification system for bovine, porcine and ovine classification using a carcass classification commission. Processors have to report prices for bovine carcasses market to the National Institute of Statistics but prices are not yet in compliance with EU classification. The regulation on the carcass classification commission has been adopted and staff given further training.

### **Rural development and forestry**

In April 2004 a second directorate was created within the rural development section of the MAFRD, in parallel to the existing rural development directorate and was designated as a Structural Funds managing authority. The process to recruit 50 staff for this directorate is underway.

The rural area was redefined in a recently approved Government decision which reclassifies as rural some NUTS level 5 localities, including small towns in rural areas and some suburbs, which were previously not included in the definition of rural areas. In December 2003, Romania received the second conferral of management of aid to the SAPARD agency for the implementation of three new measures. So far, six of the 11 measures (representing 80% of the funds allocated) in the national plan for agriculture and rural development have been conferred. However, delays have occurred in preparing the accreditation of the remaining five measures.

The absorption capacity for the SAPARD Community funds has improved but still remains low (at the end of August 2004 the Commission had received payment applications for only 31.2% of the 2000 allocation, which represents disbursements to final beneficiaries amounting to €47.8 million). A total amount of Community funds of €77.7 million (including payments on account of €75 million) out of a total amount of €153.2 million allocated for the year 2000 has been disbursed to Romania. The National Authorising officer has informed the Commission that the National Fund has received additional requests for payments to final beneficiaries by 1 September 2004 of an additional amount for August of €30.8 million which should bring the total of reimbursements up to an amount of €78.6 million. Furthermore some steps have been taken to improve absorption: the programme has been adapted and new procedures elaborated though not yet implemented, and the SAPARD agency launched an additional public information campaign in February 2004. *(See also part A.2 of this report – Relations between the EU and Romania.)*

Major administrative changes occurred over the reporting period. The former General Director of the SAPARD agency resigned and was replaced in March 2004 by an interim General Director. Staff have increased to 315 (147 at headquarters and 168 in the eight regional offices) but not all positions are filled. The level of salaries has also increased but not significantly enough to reduce the high turnover. After the last Government reshuffle the managing authority was transferred from the Ministry of European Integration to the Ministry of Public Finance. It should comprise of 12 persons but no position is occupied yet. Staff was given further training on monitoring the SAPARD programme. The SAPARD Agency is preparing a consolidated version of the manuals.

The MAFRD is beginning preparations for the post-2007 rural development programmes, including the national agri-environment programme and the establishment of a database to facilitate the designation of less-favoured areas.

Further progress has been made in transposing the forestry *acquis*, notably on the marketing of forest reproductive material. The reorganisation of the Ministry of Agriculture also entailed a reorganisation of the forestry sector and the creation of eight territorial directorates for forestry and hunting.

### **Veterinary and phytosanitary issues, including food safety**

Good progress was made in transposing the EC **veterinary** *acquis*, notably in the field of animal identification, regime for imports from third countries and animal nutrition. The legal framework on animal identification was completed with the approval of legislation for compulsory identification (ear tags) of bovines, pigs, sheep and goats; the registration of the livestock in a database and the keeping of the farm registers. The National Sanitary Veterinary and Food Safety Authority is in charge of identification and registration. A detailed timetable for setting up a system in full conformity with EU rules, in particular for ear tags, passports and databases, was adopted. It envisages the setting up of the system by the end of 2004 for bovines and June 2006 for sheep, goats and pigs. The legal framework was adopted for developing the ANIMO system (to be adapted to the TRACES system by Accession, replacing ANIMO) and its inter-connection with the EU system.

Furthermore, the Law on the organisation of veterinary and food safety activity replaced the old veterinary framework law of 1974 and created the National Sanitary Veterinary and Food Safety Authority, Romania's central veterinary authority. Enforcement of the newly-adopted legislation is gradually starting but still depends very much on increasing the administrative capacity of the competent authority.

Administrative capacity has been enhanced with the creation of the National Sanitary Veterinary and Food Safety Authority. The new institution is an independent and autonomous institution subject to the Prime Minister Chancellery. It took over the infrastructures as well as the central and local staff from the Ministry of Agriculture but its overall staff numbers have been increased by 714 additional posts (84 for the central office and 630 for the counties). Recruitment of the additional staff is ongoing but the new authority is not fully operational as many of the middle management positions and technical posts are not yet filled. In total, the Authority will count 296 staff at central office and 3765 in regional offices and subordinated institutions. Training of staff has continued over the reporting period.

Laboratory capacity has also improved: a bio-safety containment unit was inaugurated at the Institute of Diagnosis and Animal Health to carry out tests on infectious animal diseases with high risks for both people and the environment. Eight regional animal health and diagnostic laboratories were equipped with new testing equipment for transmissible diseases and a network of five county laboratories is equipped to allow the diagnosis and confirmation of BSE (bovine spongiform encephalopathy). A rapid test for transmissible spongiform encephalopathies (TSE) has been obtained and used over the reporting period. A specific laboratory for residue control was set up at Calarasi in the southern part of the country. Training of staff has been successfully completed.

In relation to general *animal health*, a complete national programme for surveillance, prophylaxis and eradication of major diseases is implemented. Some problems remain as regards classical swine fever, equine infectious anaemia and in general for compensation to farmers and the trade of life animal, specifically equidae. Progress can be reported on TSE. However, measures still need to be taken to upgrade rendering plants in order to fulfil Community hygiene requirements for animal waste processing plants.

Romania has decided to keep eight border inspection points (BIPs) after accession: Siret, Sculeni, Albita, Halmeu, Moravita, Contanta North, Contanta South, Otopeni. The evaluation of current agri-food establishments has been carried out in Romania during the reporting period, the conclusion being that there were still a considerable number of non-compliant establishments. A large number of establishments have not introduced an upgrading plan. An action programme for improving the quality and sanitation of raw milk was reviewed, bringing forward the completion date. Progress can be reported as regards animal welfare with the adoption in May 2004 of the law on animal protection.

In the **phytosanitary field**, Romania continues to make good progress in transposing the *acquis*, notably on prevention and control of *harmful organisms*, plant protection products and control of pesticide residues. New legislation was adopted for sampling procedures for the control of pesticide residues in plant and plant products and the old legislation setting out maximum residue levels for pesticide was updated. Progress has been made in setting up a system for the assessment, homologation and registration of pesticides. Enforcement has also progressed in the field of harmful organisms with the adoption of monitoring programmes on potato quarantine organisms, nurseries and orchards.

In the field of phytosanitary border inspection, new sampling procedures were elaborated, eliminating the systematic sampling procedure previously used. The BIPs have been equipped with new communication, IT and laboratory testing equipment and inspectors have been trained to apply the newly adopted control procedure in line with EU requirements procedures.

As for administrative capacity, important investments were made to modernise and equip the Central Phytosanitary Quarantine Laboratory and its county units. The modernisation programme is well advanced and the procedure for accreditation of the central laboratory was launched. Fifty-six additional posts were allocated to the phytosanitary services; recruitment is ongoing. The central residue control laboratory was extended and equipping completed. Its staff was increased to 16.

Progress has also been made as regards the alignment and enforcement of the *acquis* in the field of control and certification of seeds and planting materials. New legislation was adopted in the fields of forest reproductive material and of vine propagating material and

on the registration of varieties of agricultural plant species. So far 18 laboratories have been accredited and 12 are in the process of accreditation. The Central Laboratory for Seeds and Propagating Material was accredited by the International Seed Testing Association – ISTA. The staffing of the territorial inspectorates for seed and planting materials quality was increased by 30 new posts. As regards food safety (*see also Chapter 1 – Free movement of goods*), further progress was made with the establishment of the National Sanitary Veterinary and Food Safety Authority.

### *Overall assessment*

Romania's agriculture still remains an important sector in terms of utilised agricultural area, contribution to GDP, and in particular, share of total employment. Two of the most difficult and longest-lasting agricultural reforms, land restitution and privatisation of state farms, have almost reached completion.

While the domestic support policy has widened in scope and more resources were allocated to achieving them, these objectives are not yet close to those of the Common Agricultural Policy. So far, except for the SAPARD accredited measures, no public support is provided to tackle the excessive labour force and fragmentation of farms.

As far as SAPARD is concerned, although significant progress was made over the previous reporting period, the delay in implementing the SAPARD Programme remains worrying and still Romania risks losing a share of the 2000 financial allocation by the end of 2004. Staff involved in the SAPARD exercise should be strengthened.

Overall, Romania has made significant progress in further transposing legislation and strengthening its administrative capacity. A large number of staff have been allocated to the key institutions involved in preparing accession in the agricultural field. Numerous implementing plans were also designed. However, the turnover of staff still needs to be addressed. Furthermore, practical implementation of the paying agency in good time must be ensured, in particular development and running of the IT systems and checklists and procedures for data processing. Substantial efforts are needed for Romania to build up an operational Land Parcel Development System (LPIS) by accession. A clear budget for LPIS building should be defined, progress made with orthophoto coverage and distribution of responsibilities between the Ministry of Agriculture and National Agency for the cadastre precisely defined.

Concerning Trade Mechanisms development of the administrative structures needs to continue in close co-operation with all bodies involved.

Labelling of organic products will need to conform to EU requirements. Particular attention should be paid to ensuring that EU legislation on organic farming is not only transposed but also implemented correctly.

Implementation of the *acquis* regarding the EU marketing standards for fresh fruit and vegetables and producer organisations is underway but still at an early stage. Increased and concerted efforts are required to speed up the emergence of producer groups/organisations.

The Romanian legislation enabling the setting up of a classification system for bovine, porcine and ovine carcasses using a carcass classification commission constitutes the general legal framework and is a good step towards operating carcass classification

properly. Romania has to make further progress with the training of classifiers and trainers.

Some important changes occurred in the veterinary field with the creation of the National Sanitary Veterinary and Food Safety Authority. Its new mandate is rather broad in scope and quite demanding in terms of transposition, implementation and enforcement. However, the level of financing of veterinary services has increased but is still insufficient compared with needs. Important efforts are required to ensure that the newly created institution can perform its mandate effectively and guarantee proper coordination with the other government structures.

A significant effort has been made by the competent authorities to improve the assessment of establishments prior to upgrading. However, the considerable number of non-compliant establishments which have not yet introduced upgrading plans is a source of serious concern. The same applies to the upgrading of the rendering plants.

Substantial efforts are required in the field of animal welfare and particular attention must be paid to the implementation of Community legislation on animal health and welfare. Significant and systematic shortcomings and failures exist as regards animal health and welfare conditions. This concerns in particular horses prepared for long-distance transport to slaughterhouses in Member States. An improvement of this situation would require substantial changes in the work, organisation, and financing of the local and central veterinary administration and will be a key indicator for progress in that area.

### *Conclusion*

In its 1997 Opinion, the Commission noted that limited progress had been made in adapting to the Community *acquis*. The Commission added that particular efforts were needed on: implementation and enforcement of veterinary and plant-health requirements and upgrading of establishments to meet EC standards (in particular with regard to the inspection and control arrangements for protecting the EU external borders); strengthening of the administrative structures to ensure the necessary capacity to implement and enforce the policy instruments of the CAP; and restructuring the agricultural and agri-food sector to improve its competitive capacity. The Commission's conclusion was that fundamental reforms were necessary before Romania would be able to meet the obligations of membership.

Since the Opinion, Romania has made good progress towards alignment with the agricultural *acquis*, in particular over the last year. Legislative developments have not yet been entirely matched by the development of administrative structures able to effectively implement the *acquis* but the situation from the point of view of enforcement has further improved. The privatisation and restitutions processes are almost completed but the agriculture share in Romania's economy still remains high. In the agricultural field, the level of alignment is good but need to be accelerated. Steps have been taken to strengthen the administrative capacity but these efforts have to be sustained until accession.

Negotiations on this chapter have been provisionally closed. Romania has been granted the following transitional arrangements: a) in the wine sector a transition period of 8 years until 31 December 2014, for removing the prohibited hybrid varieties cultivated on an area of 30,000 hectares and for replanting with *vitis vinifera*; b) in the field of rural

development measures eligible for Community support, a number of temporary derogations and amendments to the *acquis* for the period 2007 – 2009.; c) a period for 28 meat processing establishments in accordance with individual development plans and 28 milk processing establishments until 31 December 2009 at the latest and d) a transitional period up to 31 December 2009 for the use of four active substances contained in plant protection products and for the use of one active substance, 2.4-D, in plant protection products up to 31 December 2008. Romania is meeting the majority of the commitments and requirements arising from the accession negotiations for this chapter. However, delays have occurred in enforcing the legislation and accrediting the SAPARD funds.

In order to be ready for membership, particular attention should be paid to improving the overall administrative capacity, attracting and retaining highly qualified staff and increasing the overall level of enforcement. Particular attention should be paid to strengthening the SAPARD Agency, both to improve the utilisation of SAPARD funds and to prepare the Agency for implementation of the post-accession rural development programme. A master plan for IACS is being prepared and the absorption rate of SAPARD funds is accelerating, but efforts need to be substantially stepped up. Important efforts are needed to put in place the necessary mechanisms required for the management of the common market organisations, in particular the timely establishment of the milk quota system, and to secure adequate administrative capacity for effective enforcement of the *acquis*. The legislation on fruit and vegetables Common Market Organisations, once entered into force, will represent a significant improvement, which should serve as an example for all Common Market Organisations. In the veterinary sector, attention must be paid to the necessity of reliable veterinary certification. In the framework of the national programme for the upgrading of establishments, a strategy must be set up without delay, as regards the future of non-compliant establishments without upgrading plans. The recent amendments to the veterinary legislation, when fully implemented, should further align Romanian legislation with the *acquis*. Special attention must be paid to animal health and welfare requirements especially as regards trade in horses.

### ***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.

#### *Progress since the last Regular Report*

Since the last Regular Report, Romania has made good progress in terms of alignment and administrative capacity. However, sustained efforts are needed to staff the Fisheries Inspectorate and provide it with adequate inspection tools.

As regards **resource and fleet management** and **inspection and control** of activities in the fishery and aquaculture sector, significant progress has been made in adopting legislation: the Romanian authorities, following last year's practice, continued to adopt yearly a ministerial order on the prohibition of fisheries. This Order contributes to preserving fisheries resources. The law for the fishery and aquaculture sector was amended, giving the sole institution responsible for inspections and controls in the

fisheries sector to the Fisheries Inspectorate. It can control all fishery vessels, fisheries farms, means of transportation, processing, marketing units and registers. Legislation on the Fishing Vessel Register was further aligned and models for inspection registers have been established. The Ministry of Transport (the Romanian naval authority) is responsible for the measurement of all fishing vessels. Legislation on the setting-up of the satellite-based vessel monitoring system was adopted and should enter into force on 1 January 2005. The Order regarding the setting-up and functioning of the monitoring system for fisheries product prices was adopted in December 2003.

Major developments have occurred as regards administrative capacity in the fisheries sector: the Office for Fisheries and Aquaculture within the Ministry of Agriculture became the Department of Fishing and Aquaculture (DAP) with its staff numbers increasing from 6 to 17. However, only 7 have actually been hired. The DAP consists of the Fishing Vessel Register Office, which issues fishing licences, and the Statistical Office with a view to setting up a database. In spite of new staff and the purchase of IT equipment, the organisation of the Fisheries Inspectorate is delayed since only 60 employees out of 148 have been hired. The Border Police and Romanian Naval Authority are obliged to participate in these controls upon the Inspectorate request.

The National Company for the Management of the Fishery Fund, which implements the national strategy in the field of fisheries and aquaculture, plays an important role in relation to the concession system, the collection of landing and price data. It is already established in the Danube river, except for the Danube delta. The Ministry of Water and Environmental Protection has instructed the Danube Delta Reservation Biosphere to administer the Delta fishery fund. Landing points are being established along the Black Sea coast.

No major improvements were made in the statistical system within the fisheries sector.

In the field of **structural actions**, no progress can be reported. Six out of 11 measures have been accredited so far under the SAPARD programme.

Concerning **market policy**, no major legislative development in the marketing and the organisation of the market for fishery and aquaculture products is to be reported except for the entry into force of the ministerial order on price monitoring. No new professional organisation within the fisheries and aquaculture sector was set up. Only one out of 11 professional organisations submitted the necessary documents for recognition as a producer organisation.

As regards **state aid to the fisheries sector**, the support for preserving the animal genetic heritage, including freshwater fish, is still in place. The allocation for 2004 amounted to ROL 2 billion (€50,000). Furthermore, the measure providing for the reimbursement of 55% of the purchase of locally-produced equipment by fishermen and their organisations located in the Danube Delta was not extended for 2004. Exemption from VAT and excise duties for fuel used by Black Sea vessels was not extended after 2004.

As regards **international fisheries agreements**, Romania concluded a five-year-agreement with Moldova on fisheries resources cooperation and settlement of the fishery in the Prut river and Stanca-Costesti water storage-dam. Cooperation covers sustainable development, exploitation of the fishery resources in the above areas, aquaculture development and scientific cooperation.

### *Overall assessment*

The fisheries administration is still divided into a multitude of administrative bodies. It therefore needs to be streamlined. Coordination between the institutions involved in that field should be enhanced as a matter of priority. Furthermore, the overall administrative structure, the system of collection of fish market information on landing spots and prices should be significantly improved.

A fair amount of *acquis* has been transposed but fine-tuning is still needed to complete alignment. The upgrading of the legislative framework and the elaboration of new legislation on the implementation of the *acquis* on fishery and aquaculture must be accelerated.

As regards the management of resources, inspection and controls, organisation and enforcement of the Fisheries Inspectorate are very much delayed. It still lacks staff, important inspection tools and means of transportation. Furthermore, the border police is not allowed to penalise those who have broken the law if representative of the Fisheries Inspectorate are absent.

As far as structural actions are concerned, the newly established management authority for the operational programme for agriculture, rural development and fisheries should start working with no delay. Access to the future European Fund for Fisheries (replacing FIFG from 2007) requires a preliminary structural policy on fisheries, including a sector development strategy and enhanced administrative capacity. Rules providing for the use and implementation of structural measures still need to be established.

### *Conclusion*

In its 1997 Opinion the Commission concluded that significant efforts were needed in order to adapt the sector for accession. At the same time the Commission noted that the integration of the Romanian fishing industry into the Common Fisheries Policy would not cause major problems. The Commission also remarked that the industry in Romania was outdated and required modernising.

Since the Opinion, Romania has adopted the necessary framework legislation, but progress in establishing the administrative structures has been slow.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements. Romania is meeting the majority of the commitments it has made during the accession negotiations in this field. However, delays have occurred in operating the Fisheries Inspectorate and updating the Fishing Vessel Register.

In order to be ready for membership, particular attention should be paid to ensuring the effective implementation of the *acquis* transposed so far, to completing alignment and to strengthening its overall administrative capacity to conduct fisheries control effectively. The defining of responsibilities of all the institutions involved in this sector should be addressed without delay and to that extent, the amendment of the law for the fisheries and aquaculture sector, when fully implemented, should represent a positive development. The legislation on the vessels monitoring system, once entered into force, should also contribute to improve inspection and control while staffing of the Fisheries Inspectorate should be accelerated. Work in progress on the fisheries database should be completed without delay.

## ***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.

### *Progress since the last Regular Report*

Romania has continued to make progress with the transposition of the transport *acquis* and with the strengthening of the administrative structures.

Regarding the **Trans-European transport network**, the rehabilitation of Romania's national infrastructure is ongoing, but substantial delays appear. In December 2003, the Romanian authorities signed a contract for the construction of the Bors-Cluj-Brasov motorway, of which the Cluj-Brasov section is not on the agreed trans-European road transport network.

Further progress has been achieved in harmonising Romanian legislation on **land transport** with the *acquis*. Romania continued to complete its legislative alignment with the *road transport acquis* by adopting secondary legislation regarding the transport of dangerous goods, driving licences, roadworthiness tests, speed limitation devices and tachographs. Good progress has been made in enforcing driving times and rest periods, road worthiness and dangerous goods legislation: improved procedures have been set up and the number of checks has increased. In general, training of enforcement personnel has been intensified.

On *railways*, legislative alignment was further completed; legal acts were adopted on licensing of railway undertakings, allocation of capacity, infrastructure charges and safety certification. A Governmental Decision transposed the provisions on the interoperability of the high-speed railway transport system. The restructuring of the railway companies, in particular the infrastructure company, has continued. Progress has been made in addressing the financial situation of the passenger company, insofar as a long-term business plan has been adopted.

Concerning *inland waterways*, the only development to be reported is the fact that the register of inland waterway vessels flying the Romanian flag has been updated.

As concerns **air transport**, legislative alignment was further completed by adopting legislation on noise-related operating restrictions and the steady implementation of Joint Aviation requirements. The national air carrier TAROM has continued to implement its restructuring plan.

Good progress has been achieved in the **maritime transport** sector regarding the enforcement of safety legislation. Stricter rules were introduced at the beginning of 2004 for vessels older than 20 years and for vessels detained more than twice in a year. The number of inspectors increased to 13. The "cleaning up" of the national shipping registry continued, so that presently only 19 vessels are flying the Romanian flag. According to statistics for 2003, under the Paris Memorandum of Understanding the percentage of Romanian flag vessels detained following port State control was 11.11%, representing an important decrease compared with two previous years (21.8% in 2002 and 23.5% in

2001). This compares with an average for EU-flagged vessels of 2.76% in 2003. There are also indications that the situation is improving further, in that the number of Romanian flag vessels being detained is falling. Romania remains on the black list (category ‘very high risk’).

### *Overall assessment*

As regards the trans-European transport network, there is an inconsistency between the outline of the road network agreed during the negotiations and the decision to build the Bors-Cluj-Brasov motorway. Moreover, there is a great danger that the investment in this new motorway limits the availability of national co-financing of Cohesion and Structural Funds after accession. Since there was no tendering for the contract, the Commission will not be able to provide financial support for this project. In view of the construction of the new Danube bridge in Vidin-Calafat, Romania has to upgrade to an appropriate level the road section Drobeta-Calafat, which reduces the distance between Sofia and Budapest considerably. Furthermore, Romania needs to ensure the timely publication of ministerial orders defining the upgraded network so that vehicles respecting Community norms but in excess of national axle-load limits are not charged on sections already upgraded. Romania must address the issue of how to maintain and ensure the quality of its (main) road network in order to be able to meet the obligations upon its accession. Increasing administrative capacity to plan and coordinate the large number of projects and investments must also remain a priority.

On road transport, legislative alignment is advanced. Some implementing legislation especially in the technical field remains to be adopted, most notably as regards registration documents for vehicles and digital tachographs. Enforcement of social and technical legislation has clearly improved and the training of personnel should continue. The enforcement of the legislation on maximum weights and dimensions needs further improvement. As regards the criteria for access to the profession applicable to road transport operators, Romania needs to ensure transparent implementation of the “good repute” criterion. Transparency needs to be ensured as well in the distribution of authorisations from the EU-Romania transit agreement.

On railways, legislative alignment is nearly completed. However, a regulatory body should urgently be established. Network access rights for foreign railway undertakings and the rail licensing regime need to be brought in line with Community legislation by the date of accession. Romania needs a reinforced plan setting out a long-term strategy for the rail sector to restore the financial equilibrium of the infrastructure manager and to renew and modernise the infrastructure. Currently, insufficient administrative capacity to manage large-scale investment projects is a cause for concern.

In the inland waterways sector, the technical state of the fleet remains an issue for concern and it remains unclear how operators will be able to comply with the EU technical requirements for inland waterway vessels by accession. Administrative procedures for vessel inspections need to be improved. The Inland Waterway Fund remains to be established.

In air transport, legislative alignment is nearly completed. Further transposition is needed with regard to security legislation. Strengthening of administrative capacity should be pursued. In order to maintain the high standards which in general apply in the air transport sector, the continued capacity to hire qualified staff will need to be ensured.

As regards maritime safety, most of the maritime *acquis* (including the Erika I and II packages) has been transposed. Further transposition is needed as regards safety rules and standards for passenger ships, maritime equipment and the Prestige package. Romania also needs to improve administrative capacity related to Flag State Control and, although to a lesser extent, Port State Control. The positive impact of the 2003 action plan, which tackles the problem of high detention rates, has been confirmed. Romania now appears to be in a position to fulfil its self-assigned objective of having less than 10% of vessels detained in 2004. Efforts should be sustained to ensure that Romania meets its objective of removing the Romanian flag from the black list of the Paris Memorandum of Understanding.

### *Conclusion*

In its 1997 Opinion, the Commission noted that Romania had made progress in the adoption of the *acquis* in the transport sector. However, its entry into the internal transport market would remain subject to rapid alignment with the *acquis* (particularly with regard to safety in the shipping and road haulage sectors). The Commission also concluded that Romania would need to make resources available to improve transport infrastructure and to lay the foundations for the future trans-European transport network, and that Romania's administrative structures, and in particular those bodies supervising areas such as safety, needed to be rapidly and substantially reinforced.

Since the Opinion, Romania has made good progress in *acquis* alignment and in establishing the necessary administrative structures, in particular in the area of road, rail and aviation transport; some progress can also be reported in the area of maritime transport, while only limited progress can be reported in the area of inland waterways.

Negotiations on this chapter have been provisionally closed. Romania was granted transitional arrangements concerning maximum authorised weight in international traffic for certain road vehicles (but agreed to fully open its primary road network as of accession) and concerning minimum tax rates to be paid by vehicles involved in domestic traffic. Romania accepted a transitional arrangement concerning road haulage cabotage operations. Romania is generally meeting the commitments and requirements arising from accession negotiations for this chapter.

In order to be ready for membership, particular attention should be paid to the implementation of the legislation and the strengthening of administrative capacity. Romania still has to undertake serious efforts in ensuring consistent medium- and long-term planning capability in the transport sector. Also further transposition and implementation of the *acquis* in the land transport sectors, aviation and in the maritime sector needs to be ensured. Particular attention needs to be paid to improving the technical state of the inland waterway fleet. Positive impacts can be expected from the full implementation of the long-term business plan for the rail sector and of the action plan in the area of maritime safety.

### *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.

### *Progress since the last Regular Report*

Further progress has taken place since the last Regular Report, notably as far as legislative alignment on indirect taxation is concerned.

Romania has consolidated its existing laws into a single Fiscal Code, which entered into force as of 1 January 2004, and which provided for further alignment in various areas. The Code for Fiscal Procedure also entered into force on 1 January 2004.

In the area of **indirect taxation**, with regard to *VAT*, the Code introduced a reduced rate of 9%, as allowed under the *acquis*. A number of VAT exemptions contrary to EU legislation and previously applied on an extensive range of goods and services have been abolished and replaced by the application of the reduced rate. VAT exemptions were introduced for the supply of goods in the context of diplomatic and consular relations, imports made by international organisations and goods placed under duty-suspension arrangements, as required by the *acquis*. Finally, barter transactions have been included within the scope of VAT, thus aligning this provision with the *acquis*.

With regard to *excise duties*, the major change introduced by the Fiscal Code is the introduction of the duty-suspension movement regime and the definition of tax warehouses. This constitutes a major step towards alignment with the *acquis*. The Code also aligned mandatory exemptions with those stipulated in the *acquis*, as well as the exemptions for alcoholic products. Moreover, the structure of the duty on wines, fermented beverages and intermediate products has been brought into line with the *acquis*. The duty on intermediate products has been increased to the minimum level set in the *acquis*. The duty on beer produced by small independent breweries has been unified and brought into line with the *acquis*.

With regard to **direct taxation**, no progress can be reported on the transposition of the relevant EU directives.

No substantial progress can be reported in the field of **administrative cooperation and mutual assistance**. With regard to IT and interconnectivity, an important IT modernisation programme is ongoing to address both the IT operational capacity and interconnectivity issues.

A National Agency for Fiscal Administration has been set up and became operational in January 2004. An Action Plan for 2004 for the Agency was approved in February. With regard to tax collection capacity, an IT-based database of taxpayers has been developed, containing for each taxpayer all obligations and outstanding dues. The use of a single form to file all taxes due has been implemented for large taxpayers. Large taxpayers can also file their returns electronically. The Code of Ethics for tax inspectors was approved and published. A new system has been put in place for VAT refund, by means of which non-risk taxpayers are reimbursed without an *ex-ante* control, whereas for the others a risk-based assessment is performed.

### *Overall assessment*

While the newly introduced Fiscal Code represents a step forward as concerns approximation to the EU *acquis* in the area of indirect taxation, alignment needs to be completed. On VAT, efforts should be made in particular with regard to exempted activities, taxable persons, and special schemes. The VAT exemption and registration threshold for small and medium-sized enterprises should be reduced to the level agreed during negotiations. Provisions on intra-Community transactions also need to be prepared.

Concerning excise duties, significant efforts are still required, in particular with regard to the level of the rates applied to the harmonised product categories, and the scope of exemptions for mineral oils. Romania should also further amend its excise legislation to take into account the limits of the transitional period agreed during negotiations on spirits produced from fruits and grapes for own consumption.

Concerning direct taxation, Romania still needs to transpose the directives on Interest and Royalty payments and Savings and complete transposition of the Parent-Subsidiary directive. Romania should also only introduce new tax measures which are in line with the principles of the Code of Conduct for business taxation, and will have to remove, at the latest upon accession, all harmful tax measures, so as to comply with the Code of Conduct to the same extent as current Member States.

As regards administrative capacity, Romania has made some progress. Nevertheless, its administrative capacity remains weak. Particular attention has to be paid to strengthening the revenue collection, control and audit functions. Although a new system for risk-based controls at refund has been introduced, delays in VAT refund continue to occur. The system needs to be improved and extended in order to reduce delays and combat fraud, which remain significant problems. Romania should address as a matter of urgency tax evasion, most notably in the area of excise duties and with specific regard to alcoholic products, by strengthening control mechanisms and structures. Adequate plans should also be developed for the shift in VAT controls from import to domestic and intra-EU transactions after accession. With regard to IT and interconnectivity, Romania has started to make progress in this area but efforts should be sustained with high momentum, as the time frame is already tight.

### *Conclusion*

In its 1997 Opinion, the Commission stressed that the *acquis* in respect to direct taxation should present no significant problems. As regards indirect taxation, the Commission pointed out that, although a start had been made, a sustained effort was required to comply with the EU *acquis* concerning VAT and excise duties.

Since the Opinion, Romania has progressed, though at a slow pace and not consistently. An important effort was made with the adoption of the consolidated Tax Code, which brought significant legislative alignment in a number of areas.

Negotiations on this chapter have been provisionally closed. Romania has been granted specific arrangements to continue exempting international passenger transport from VAT with right of deduction, to apply a registration and exemption threshold of €35,000 to small and medium-sized enterprises and a derogation to apply a reduced excise duty (not lower than 50% of the standard rate) to spirits produced from fruits and grapes for own

consumption with a limit of 50 litres of fruit spirit of 40% vol. per year per household. Romania has also been granted a transitional period until December 2009 to continue applying an excise duty rate lower than the EU minimum on cigarettes. Romania is generally meeting the commitments and requirements arising from the accession negotiations.

In order to complete preparations for membership, Romania's efforts should now focus on further alignment, especially with regard to VAT refunds and excise duty rates. Several issues are still open and additional and sustained efforts will be required, both in terms of legislation and of administrative capacity.

### ***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.

#### ***Progress since the last Regular Report***

Since the last Regular Report, Romania has made major progress as regards the Economic and Monetary Union *acquis*.

The revised Law on Public Debt, which has been adopted in June 2004 is designed to further align national legislation with the *acquis* and removes all provisions previously identified as conflicting with the **prohibition of direct public sector financing by the central bank**.

The new law designed to amend the statutes of the National Bank of Romania (NBR), of June 2004, eliminates the **privileged access of the public sector to financial institutions**. It bars the National Bank from purchasing government bonds on the primary market. The NBR is also called on to charge commission fees for transactions it executes for the general account of the Treasury. The law also provides for extending the scope of the assets that can be used to guarantee loans granted by the central bank and the removal of the indirect obligation to provide government securities. Furthermore, the June 2004 law on the establishment and operation of the Bank Deposit Guarantee Fund repeals the provisions under which the Fund was able to borrow from the National Bank to supplement or meet large claims on its resources.

The new Law on the Statutes of the National Bank of Romania includes provisions aimed at strengthening the **independence of the central bank**. It refers to price stability as NBR's fundamental goal. A provision was also introduced whereby the NBR and the Members of its management structures will neither seek nor receive instructions from public authorities or any other institution or authority.

### *Overall assessment*

Overall, Romania has achieved a fair level of alignment. However, it will need to implement the necessary changes to its institutional and legal framework.

Romania has amended its Public Debt Law, so as to make it compatible with the EMU *acquis* as regards the prohibition of direct public sector financing by the central bank. Regarding the Law on the Statute of the National Bank of Romania, certain safeguards might be needed in respect of possible “lending of last resort” operations by the Central Bank in order to ensure their full compliance with Article 101 of the Treaty. Further alignment is required on capital market legislation in order to prohibit privileged access of the public sector to financial institutions.

Romania has amended its legislation on the functioning of the Deposit Guarantee Fund in the banking system. However, consideration should be given to broadening the scope of eligible assets in which the Fund’s available resources may be invested.

Romania has amended the Law on the Central Bank Statute in 2003. This law should ensure that, following Romania’s EU-accession, decisions regarding the dismissal of the NBR’s Governor should be exclusively be referred to the European Court of Justice.

The necessary administrative structures are in place and are functioning effectively as regards existing legislation.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that it was premature to judge if Romania would be in a position, by the time of accession, to participate in the euro area; that would depend on a successful structural transformation permitting it to attain and adhere permanently to the convergence criteria, though these were not a condition of accession. The Commission also pointed out that Romania's legislation was not fully compatible with EC rules and that monetary and exchange rate policies still had to show a significant stability oriented record.

Since the Opinion, while overall policy has stabilised, legislative alignment has developed particularly since the previous Regular Report. However, further work is necessary to prohibit privileged access and monetary financing, as well as to clarify the possibility of judicial review for the NBR’s Governor.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements. Romania is generally meeting the commitments and requirements arising from accession negotiations and is on track in its preparations for membership in the field of economic and monetary union.

In order to complete preparation for membership, Romania’s efforts should now focus on the swift entry into force of the legislation adopted so far, in particular as regards the provisions on the independence of the central bank. Further work is also necessary to prohibit privileged access and monetary financing, as well as to clarify the possibility of judicial review for the NBR’s Governor.

## ***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.

### *Progress since the last Regular Report*

Romania has continued to make good progress over the past year.

As regards **statistical infrastructure**, the organisation for official statistics in Romania has been regulated through a new Government decision, issued in January 2004, clarifying the role and tasks of the National Institute of Statistics (NIS), the obligations of respondents and the new organisational structure of the institution. The 2004 Programme for Statistical Research was adopted in January and the 2004-2006 Strategy for the development of the statistical system and the activity of the NIS was adopted in May 2004. It aims at full adoption and compatibility with the *acquis*. Further attention has been paid to ensuring the confidentiality principle since the decision also regulates the implementation of fundamental principles and data confidentiality. This decision also supports the decentralisation process by granting the regional and county statistical offices the legal status of public services. As far as administrative capacity is concerned, the staff number has been increased by 150 (90 at the headquarters and 60 at local/regional level). 105 out of these 150 positions were filled by 1 July 2004.

As regards **classifications**, no new developments can be reported.

As regards the different **sector statistics**, good progress can be reported as follows:

Concerning *demographic and social statistics*, a good level of compliance, overall, can be reported. Further detailed data from the population and housing census in 2002 were published. Many surveys such as the labour force survey and ad-hoc modules, the structure of earning survey and the labour cost survey are in place. Activities to collect social protection statistics are performed on a regular basis and the European System of Integrated Social Protection Statistics manual is applied. Questionnaires were tested for the survey on income and living conditions.

As regards *regional statistics*, surveys on living conditions, small and medium enterprises and road transport of goods enabled data to be provided at regional level in these areas. An inventory of representative statistical indicators for regional development was made. The staff of the territorial directorates was further trained.

On *macro-economic statistics*, the revision of time series for the period 1997-1999 was launched to transform available data in accordance with the ESA 95. An experimental Input-Output-Table for 2001 was drawn up. Together with the Ministry of Finance first steps were taken to define the methodology and data sources for the VAT resource calculation. The regional accounts for 2001 were finalised in December 2003.

For *business statistics*, further improvements can be reported as regards the quality and the timeliness of the statistics. As for short-term statistics, the base year of indices was modified. Some work to improve the quality of the Statistical Business Register was done in the course of 2003 and 2004.

Concerning *external trade statistics*, responsibilities for implementing INTRASTAT, the system measuring trade between Member States, were finally defined in May 2004, giving more responsibilities to the National Institute of Statistics.

As regards *agriculture statistics*, final results from the General Agriculture Census are now partly available. In October 2003, a protocol of cooperation was signed between the NIS and the Ministry of Agriculture, laying down the principles and responsibilities for the functioning of agriculture statistics system in Romania.

### *Overall assessment*

Romania has reached a good level of alignment as far as statistics are concerned. The legal basis and organisational structure of the NIS are appropriate for fulfilling its current tasks. IT infrastructure has been significantly improved over the past year and the efficiency of the staff has been increased both at central and local level. However, the high turnover of highly qualified staff is posing a problem for the NIS in facing the challenges and requirements of upcoming and newly enforced parts of the *acquis*. Romania needs to retain highly qualified people and to increase the NIS staff overall. The National Centre of Training in Statistics continues to operate in excellent conditions.

Major national classifications, providing direct implementation of European classifications and nomenclatures are in place.

As regards sectoral statistics, Romania has achieved a good level of compliance. However, in demographic and social statistics, statistics on income and living conditions – including poverty – need to be further developed. Statistics at regional level are available and have been brought into line with the regional organisation of the country.

Macro-economic statistics are produced on the basis of the European System of Accounts (ESA 95) methodology with a good level of compliance but further efforts are needed to improve the quality and timeliness of data. Romania is a member of the European comparison programme, which supplies data for the compilation of purchasing power standards. Monetary, financial and balance of payment statistics are compiled by the Romanian National Bank following the requirements of the European Central Bank to a large extent. Government finance statistics needs to be brought into line with the ESA 95 concepts.

Structural business statistics and production statistics are produced at a reasonable level of compliance. Short-term business statistics are developed and data available. Attention should be paid to improving the quality and accuracy of business statistics in general.

When the final results of the 2003 agriculture census will be available, by the end of the year, agriculture statistics should be improved, in terms of scope and quality.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that, provided that progress continued to be made, Romania should be able to comply with EC requirements for official statistics within the next few years.

Since the Opinion, Romania has made good progress in the area of statistics. Overall, Romania has achieved a fair level of compliance. Major developments have taken place in increasing the level of alignment in all statistical fields, enhancing administrative capacity and designing adequate methodologies. The commitment of staff and the well developed system of planning and monitoring compliance constitute a good basis for implementing the *acquis*. Provisions required by the *acquis* are now in place, including protection of confidentiality.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements in this area. Romania is generally meeting the commitments and requirements arising from the accession negotiations for this chapter.

In order to complete preparations for membership, Romania's efforts should now focus on further methodology development and improving the quality and completeness of data especially in the areas of national accounts, business statistics and agriculture statistics. Continuous efforts are needed to improve inter-institutional cooperation with other data producers and better use of administrative data sources. Romania should allocate sufficient resources in this area, both in terms of budget and staff. Highly qualified staff remains a priority. The full operation of INTRASTAT at the date of accession requires further efforts, including the set-up of cooperation among the institutions involved in it.

### ***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.

#### ***Progress since the last Regular Report***

Some progress has been made in the field of social policy and employment since the last Regular Report.

On **labour law**, some developments can be reported, in particular in the area of transfer of undertakings. Information campaigns have been organised during the reporting period in order to make the new Labour Code better known to the public. Administrative capacity of the Labour Inspectorate to ensure effective implementation of the labour regulations has improved somewhat.

Some progress can also be noted in the field of **equal treatment of women and men**. A Government Ordinance amending and completing the law on equal opportunities (including questions such as direct and indirect discrimination and sexual harassment) was approved in August 2004. The Ordinance also stipulates the setting up of the National Agency for Equal Opportunities as of January 2005. Furthermore, legislation aiming at transposing the *acquis* in the area of maternity protection at the workplace has been adopted, and an important amendment of the law for preventing and combating domestic violence was adopted at the end of 2003, providing for the setting-up of a National Agency for Family Protection. The implementation of the National Action Plan for Equal Opportunities has continued, and public awareness-raising campaigns have been conducted in this field. However, as regards administrative capacity, after the recent reorganisation of the Ministry of Labour, Social Solidarity and Family (MoLSSF), the Service for equal opportunities of the Ministry has practically ceased to exist.

On **health and safety at work**, positive developments can be noted with regard to reinforcement of cooperation between the MoLSSF and the Ministry of Health (MoH) to ensure further progress in the implementation of the *acquis* in this field. The two ministries have jointly drafted the “Policy and strategy for Romania in the field of health and safety for the period 2004–2007”. Further positive developments can be noted with regard to labour inspectorate control measures. In addition, the national training programme for labour inspectors and nation-wide awareness campaigns drawing the attention of key economic players to the regulations in the field of health and safety have continued.

In the area of **social dialogue**, the revised text of the Constitution adopted in October 2003 strengthens the role of the tripartite Economic and Social Council as a consultative body. A Social Stability Pact for 2004 was signed in April 2004, setting up areas for common action in the field of tripartite social dialogue, and a one-year national collective agreement was signed in May 2004. In general, however, a slowdown of progress can be noted in respect of the social partners’ capacity to play a stronger role in the implementation of the *acquis*.

Good progress can be reported on alignment with the *acquis* on **public health** after the adoption by the Parliament of legislation aimed at transposing the tobacco *acquis*. Romania signed also the Framework Convention on Tobacco Control in June 2004. In the field of communicable diseases, case definitions, as required by the *acquis*, have been introduced in the Romanian legislation. A National Action Plan for strengthening the national surveillance system for communicable diseases has been adopted, and a national public health strategy has been elaborated addressing several priority areas in the area of health. In order to ensure a better allocation of resources in the health sector, an extensive audit was also undertaken last year by the Romanian authorities with the aim of putting an end to the financial crisis in this field.

In the area of **employment policy**, the unemployment rate in Romania was 6.6% in 2003 according to ILO criteria, being relatively stable and lower as compared to 2002. However, youth unemployment continues to be a serious problem, and the average duration of unemployment has been increasing. The second Romanian National Action Plan for Employment was adopted at the beginning of 2004, covering the period 2004–2005, and a National Employment Strategy 2004–2006 was approved in August 2004. The employment stimulation law has been modified in order to extend the scope of active labour market measures; their share of the budget has also been increased. Emphasis has been put on direct subsidies to employment and 2% of the budget for the active labour

market measures was allocated to training and retraining. Romania and the European Commission have continued the work on the Employment Policy Review. A first progress report on the implementation of the employment policy priorities identified in the Joint Assessment Paper was submitted to the Commission in April 2004. The report was, however, considered unsatisfactory on account of a lack of analysis and of EU-comparable labour market indicators.

The legal and institutional framework for managing and implementing the **European Social Fund** has been largely set up.

In general, to promote **social inclusion**, progress has been made in underlining the major challenges: children leaving public care, young people who cannot get a foothold on the labour market, farmers' families, retired people, homeless and Roma. Several studies have been undertaken on poverty and social exclusion. Poverty levels remain high, but are slightly decreasing compared to previous years. The Commission and Romania are finalising the Joint Memorandum on Social Inclusion (JIM) to identify key challenges and relevant policy responses to promote social inclusion.

As regards **social protection**, a considerable amount of legislation has been adopted during the reporting period, *inter alia* on the organisation of the social services system. In addition, a social programme for 2003–2004, which aims at consolidating the Government's social policy as well as at promoting social solidarity, has been adopted. In the last four years, social public expenditure, including education and housing, has been increased. Decentralisation of the social assistance system has continued and is on a good track.

Concerning pension reform, the most significant development was the adoption of the law on occupational pensions in June 2004. Other developments related mainly to decrease of some contributions to the social insurance budget, introduction of measures for preventing unemployment and completion of the statute of the National House for Pensions. A campaign to inform and promote the pension reform has also been launched. In July 2004, a bilateral seminar took place between the Commission and Romanian authorities and stakeholders with a view to preparing the participation of Romania in the open method of coordination in the field of pensions.

**Anti-discrimination** legislation has been amended in order to introduce, in particular, definitions of indirect discrimination, multiple discrimination and victimisation, as well as to improve the assistance available to victims of discrimination. Discrimination on grounds of age and disability are now covered, and a National Authority for Disabled Persons has been set up. National campaigns have taken place in this field and a National Plan to Combat Discrimination has been drawn up.

### *Overall assessment*

In the field of labour law, adjustments will still be needed in some areas in order to achieve full alignment with the *acquis*. New legislation is also required to transpose the parts of the *acquis* not covered by the current Labour Code, among other things with regard to working time, collective redundancies, posting of workers and European Works Councils. Complementary legislation is required for the organisation, financing and operation of the Guarantee Fund. Romania also needs to prepare for the adoption of the recent *acquis* (namely the Directive supplementing the statute of the European Company and the European Cooperative Society as well as the Information and Consultation

Directive). More efforts are required in order to increase awareness of the national and Community provisions among labour inspectors.

On equal treatment, notwithstanding the good legislative progress, few tangible improvements have been made over the reporting period in the effective promotion of equal opportunities between women and men. Efforts should continue to increase general awareness of gender equality issues. It still has to be verified whether retirement of civil servants needs to be equalised according to the principle of equal pay laid down by the Treaty. Further progress must be achieved in the implementation of the National Action Plan for Equal Opportunities. The administrative capacity of the MoLSSF needs to be enhanced in this respect.

On health and safety at work, further progress in the implementation of the *acquis* is expected through the enhanced cooperation between the MoLSSF and the MoH. Legislative alignment needs to be completed in the fields of minimum safety and health requirements at temporary or mobile construction sites, as well as on more recently adopted *acquis* on asbestos and physical agents: vibrations, noise and electromagnetic fields. The administrative capacity of the Labour Inspectorate should be further enhanced, especially considering the magnitude of the tasks to be performed and the new responsibilities stemming from the necessity to implement a growing number of *acquis*-related provisions. There is also a clear need to continue to increase awareness of and training on health and safety requirements among employers, especially in SMEs.

As regards social dialogue, notwithstanding the numerous measures taken, it seems that bipartite and tripartite consultative bodies are in general, if operational, far from efficient. Concerns remain regarding the method of consulting the social partners at tripartite level and regarding the very low number of bipartite collective agreements. The law on the organisation and functioning of the trade unions has been partially revised: on the one hand, it might allow some progress in the representation of trade unions in SMEs; on the other hand, certain categories of public servants (the highest ranks) are not entitled to belong to or to create trade unions. The web forum which encouraged consultation and debates on social partnership is no longer operational either. The effective functioning of the Economic and Social Council should therefore be ensured. Also, although trade unions have reportedly strengthened their presence in the counties, efforts must continue in order to promote autonomous bipartite social dialogue, particularly at branch and industry level, and to improve the social partners' capacity to implement the *acquis*.

In the area of public health, concrete results of the restructuring of the national network of surveillance and control of communicable diseases remain to be seen. Romania should continue efforts to implement and enforce existing legislative measures to develop an EU-compatible national surveillance system for communicable diseases with a view to becoming a member of the Community network for epidemiological surveillance and control of communicable diseases. The *acquis* in the area of blood and blood products, tissues and cells remains to be transposed and substantial capacity building efforts must be undertaken to ensure proper implementation of legislation. Concerning health care, despite an increase in overall resources, further attention should be paid to primary care instead of an overuse of hospital care. Immediate measures should be taken for improving the health status of the population, which remains well below the EU average notwithstanding numerous health promotion activities. An increase of resources, their more effective allocation and further improvement of the management of the health sector remain necessary. Equity of access to health care also remains a major concern.

Regarding employment, the important share of employment in the informal sector as well as emigration of part of the working population, should be taken into consideration when looking at the low unemployment figures in Romania compared to other economies in the region. At the same time, both employment and activity rates continue to decrease in Romania. The proportion of part-time work is relatively low. Also disparities between counties continued to be significant in 2003. In the future, considerable efforts are still needed to reinforce the policy design, programming and monitoring of the employment policies. It is notably important to ensure effective implementation of the policies included in the Joint Assessment Paper: only a strategic approach to employment in line with the JAP and in particular an integrated strategy for developing human resources, combining education policies and lifelong learning, will help Romania to align with the European Employment Strategy. The performance of the National Agency for Employment has improved mainly as regards active labour market measures, but there is a strong need to focus on employability (through training) and not just on direct subsidies to employment. Improvements are still needed with regard to both labour market analysis and unemployment registration. There is also a need to use comparable EU labour market indicators.

The legal and institutional framework for the future management of the European Social Fund is not yet complete. Clarification of internal structures, responsibilities, tasks and human resources requirements remains necessary. Interministerial cooperation should also be reinforced.

In the field of social inclusion, high priority should be given to driving working age population out of subsistence economy, reducing informal economy, improving school attendance, securing access for all to health services, improving the situation of vulnerable groups and tackling the discriminatory behaviours against the Roma minority. On the basis of the JIM, an integrated strategy and a National Action Plan on Social Inclusion will have to be developed. 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.

As regards social protection, the successful implementation of the decentralisation process will depend on the provision of a sufficient budget at both local and national level and the availability of well-trained staff, in particular social workers. Moreover, access to social assistance needs to be improved, in particular for the Roma minority.

On anti-discrimination, although the current legislation is very comprehensive, some elements of an efficient anti-discrimination mechanism, such as the shift of the burden of proof, are still missing (*see also Section B.1.2 – Human rights and the protection of minorities*). Notwithstanding the progress made, the capacity of the National Council for Combating Discrimination could also be enhanced.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that Romania would need to make very considerable progress in all areas of social policy, with regard to both the approximation of laws and the strengthening of enforcement structures. Specific issues requiring attention included health and safety at work, public health, and labour market and employment policy.

Since the Opinion, Romania has made considerable progress in aligning with the *acquis*. Legislative progress has been particularly good with regard to equal treatment, health and safety at work, social protection and anti-discrimination. Institutional mechanisms for enforcement of the *acquis* are being reinforced.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements. Romania is generally meeting the commitments and requirements arising from the accession negotiations in the field of social policy and employment.

In order to complete preparations for membership, Romania's efforts should now focus on completing legislative alignment in the area of labour law, especially in order to establish the Guarantee Fund. Further strengthening of the Labour Inspectorate in terms of human resources and training is needed, namely to ensure proper implementation in the area of health and safety at work. Efforts should continue to increase awareness of gender equality issues and to promote social dialogue in general. Progress is needed to improve the health status of the population, which is well below the EU average, and financial resources devoted to health need to be increased. Permanent efforts are required in order to strengthen the administrative capacity with regard to ESF management and implementation at central, regional and local levels.

#### ***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 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.

#### ***Progress since the last Regular Report***

Over the reporting period, Romania has continued to make progress with alignment with the energy *acquis* and with restructuring its energy markets, including privatisation.

As regards **security of supply**, Romania continued to build up its oil stocks according to a progressive timetable. By the end of 2003, the level of oil stocks represented 56 days of annual consumption. The level to be reached by the end of 2004 is approximately 60 days. Administrative capacity for oil stocks consists of 12 persons working in the Ministry of Economy and Commerce and the National Administration of State Reserves.

With a view to improving security of energy supply, Romania continued preparations regarding the Constanta-Omisalj oil pipeline (on the Adriatic coast) and the 'Nabucco' gas pipeline (Turkey-Bulgaria-Romania-Hungary-Austria).

In December 2003, Romania signed the Athens Memorandum aiming at the creation of regional electricity and gas markets in South East Europe on the basis of the internal energy market principles. Partner countries are currently developing this Memorandum into a legally binding Energy Community in South East Europe.

Further progress can be reported in the areas of **competitiveness and the internal energy market**. The ongoing restructuring of Romania's generation and distribution markets and the planned privatisation of a number of companies are changing the energy market structure, especially for electricity. The privatisation of the *electricity* distributors Electrica Banat and Dobrogea has finally been concluded. For two other distribution companies, Electrica Oltenia and Moldova, the privatisation process has progressed considerably. The privatisation of a number of power/heat producers and small hydropower plants is under preparation. In the *gas sector*, the privatisation of two distributors has been concluded.

The legal and regulatory framework has been further adapted to the requirements of the *acquis*. A package of implementing legislation was adopted for the electricity and gas sectors during the reference period, while a new Gas Law was adopted and published in July 2004. Both the electricity and gas regulators (ANRE and ANRGN) have been further strengthened. They are legally, administratively and financially independent (financed from own income). The Prime Minister appoints the presidents. ANRE currently employs 78 persons and ANRGN has 85 employees.

Further progress has been made towards the goal of eliminating energy price distortions. The methodologies for regulated tariffs have been amended, while prices have been increased steadily. Romania has further improved the difficult situation regarding bill collection rates and arrears. In this respect measures to disconnect bad payers were taken and an emergency government ordinance was enacted regarding measures to reduce arrears in the economy.

The opening of the gas and electricity markets has further progressed and reached 40% and as regards district heating, the Government has recently adopted a district heating strategy.

In the area of *solid fuels*, restructuring continued, entailing the closure of 8 economically non-viable coal mines. In April 2004, the Government adopted the strategy for the mining industry for the period 2004–2010, aiming at rehabilitating, upgrading and privatising viable mines, promoting environmental protection standards and mitigating the social consequences of the closure of non-viable mines. Solid fuels, accounting for 40% of electricity production, will remain a key (domestic) energy source for Romania. The National Agency for Development and Rehabilitation Programmes for the Mining Areas continued to underpin the social aspects of the solid fuels restructuring programme.

Concerning **energy efficiency and the use of renewable energy sources**, the Government has approved the strategy for promoting renewable energy sources and for energy efficiency, including a related action plan for 2004-2015. According to the strategy the share of renewable energy sources in national energy generation should reach 30% by 2010, compared with 28% at present. ARCE (the Romanian Agency for Energy Conservation) has increased its staff from 35 to 50 employees and has set up 5 new local branches.

As regards **nuclear energy**, Romania's legislation is in line with the present *acquis*, including on Euratom safeguards. Romania operates, at Cernavoda nuclear power plant (NPP), a Canadian-designed CANDU 6 type reactor with a net capacity of 655 MW. Cernavoda provides approximately 10% of country's electricity. Around 70% of physical works at Unit 2 of Cernavoda have been completed. In March 2004, the

European Commission, on behalf of Euratom, approved a €223.5 million loan to the Romanian National Nuclear Power Company (SNN) for the completion and safety upgrade of Unit 2 of Cernavoda, which is expected to be operational in 2007. In addition to Cernavoda NPP the Romanian nuclear sector includes two research reactors, one of which has been shut down and is in the process of being decommissioned.

In the field of nuclear safety, Romania has continued to implement all the recommendations for safety improvement contained in the 2001 Council Report in the Context of Enlargement and its subsequent Peer Review Status Report of June 2002.

In order to strengthen the resources and capabilities of the nuclear authorities, the taxes and tariffs charged for nuclear activities and contributions from licence holders to CNCAN (the Nuclear Regulatory Authority) and ANDRAD (the Agency for Radioactive Waste) were increased.

CNCAN was reorganised to better reflect the new requirements in the nuclear field, such as the increasing number of licence applicants and the commissioning-related activities for Unit 2 of Cernavoda NPP. The new organisational structure was increased from 80 to 171 employees. However, at present, there are still 68 vacancies at CNCAN.

The July 2003 Law on the Use of Nuclear Energy Exclusively for Peaceful Purposes set up a Nuclear Agency, whose internal rules were approved in December 2003. The Nuclear Agency has been set up as a specialised body to provide the Government with technical assistance in developing policy in the nuclear sector and to promote and monitor nuclear activities in Romania.

### *Overall assessment*

As regards security of supply, legislation regarding emergency oil stocks is generally in place. Further alignment is needed with the oil supply crisis management *acquis*, while monitoring of the oil stocks system should be strengthened. Romania must gradually increase oil stocks to 90 days by the end of 2011 and ensure sufficient funding to that effect.

Concerning the internal energy market, Romania has achieved a measure of preparedness through restructuring including privatisation, price developments, alignment and strengthening of institutional capacity. However, further substantial efforts need to be undertaken. The ongoing restructuring of the gas and electricity sectors, including privatisation, should be completed. Investment in improving the efficiency and environmental impact of the production sector must continue. Remaining price distortions in the energy sector must be removed. Romania should continue to address the recovery of due claims as a priority, and to implement, without delay, measures to reverse the accumulation of arrears in the energy sector. Bill collection rates should be further improved. The correct implementation of the Electricity and Gas Directives should be fully addressed. Further market-opening steps should continue to be taken, also with a view to the market-opening schedules envisaged for the creation of an Energy Community in South East Europe for electricity and gas. The regulators, ANRE and ANRGN, need to be further strengthened in line with the Electricity and Gas Directives.

Romania is strengthening its position as an energy transit country, including through the development of projects of common interest the guidelines for Trans European energy Networks. It is increasing its role as transit country for gas from Russian, the Caspian sea

region and the Middle-East, including through the development of the Nabucco gas pipeline, and for electricity through improving the interconnection with its neighbouring countries. Romania is encouraged to continue its efforts to improve its gas and electricity interconnections, which are essential in order to meet the needs of the internal market, to strengthen the security of supply and also the future Energy Community in South East Europe.

Following the increasing awareness in the EU on the need to protect energy infrastructures from malicious acts, Romania will be expected to actively participate in all initiatives that the EU may take in view of a stronger security in the energy sector.

As concerns district heating, efforts should be increased to improve both the efficiency of heating systems and the quality of services, and to develop further measures to implement energy saving options for customers. Decommissioning of inefficient heating power plants and delays in the adoption of a credible modernisation programme remain issues to which the Government must pay urgent attention.

In the coal sector, in recent years Romania has undertaken extensive and difficult restructuring. Romania should complete the process. In this context, ensuring sufficient funds for closing-down non-viable mines, measures to alleviate the social impact of downsizing the mining sector and the reduction of subsidies to the mining sector remain key challenges. State aid should be brought in line with *acquis* requirements.

The Romanian economy continues to suffer from low energy efficiency levels. Results in recent years have been limited. Legal alignment has reached a high level, although Directives on energy efficiency in buildings and on the promotion of the use of biofuels and other renewable fuels for transport remain to be transposed. Romania should vigorously improve energy efficiency and promote the use of renewable energy sources, inter alia, by fully implementing the directive on electricity from renewable energies. In this respect among other measures, financial means should be substantially increased and more ambitious targets for the use of renewable energy sources should be set. The capacities of ARCE should be further strengthened.

In the field of nuclear safety, Romania should continue to implement the recommendations included in the Council Report on Nuclear Safety in the Context of Enlargement (2001) and its subsequent Peer Review Status Report (2002) with due regard to the priorities assigned in the reports. The division of tasks between CNCAN (and also ANDRAD) and the newly created Nuclear Agency should be clarified. Implementation measures related to radioactive waste management should continue in order to improve the management of institutional radioactive waste. Romania has to fulfil the conditions laid down in the Euratom loan for completion and safety upgrade of Unit 2 of Cernavoda NPP including the reporting system established. .

Romania will need to ensure compliance with Euratom treaty requirements and procedures. In this respect, due attention will need to be given 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 material. This includes small holders like universities, hospitals and medical practices.

It is recalled that Romania has signed a safeguards agreement with the IAEA which entered into force in 1972 and that it has also ratified an Additional Protocol to the Agreement, which entered into force on 7 July 2000.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that Romania had to step up considerably its efforts in the energy sector in order to prepare for integration. The following areas were identified as requiring particularly close attention: the adjustment of monopolies; energy pricing; emergency preparedness, including the building-up of mandatory oil stocks; State interventions in the solid fuels sector and development of energy efficiency. The Commission added that, although no major difficulties were foreseen for compliance with the Euratom Treaty, Romania should implement some international nuclear norms. Nuclear safety standards, especially those related to plant operation, should be handled appropriately and longer-term solutions needed to be found for radioactive waste.

Since the Opinion, Romania has made progress, although not consistently. Progress is to be noted with regard to oil stocks, the internal energy market (electricity and gas) including restructuring of the energy sector/privatisation, development of trans-European Energy Networks, solid fuels and the nuclear sector. Progress has been slower regarding price distortions, bill collection rates, arrears and energy efficiency.

Negotiations on this chapter have been provisionally closed. Romania has been granted one transitional arrangement for the building-up of oil stocks (until end of 2011). Romania is generally meeting the commitments and requirements arising from the accession negotiations in this field, and is on track in its preparations for membership in the energy field.

In order to be ready for membership, Romania's efforts should now focus on ensuring full and timely adoption and implementation of legislation in this area, in particular with regard to the internal energy market and on strengthening administrative capacity. Oil stocks should be further built up progressively, which entails ensuring financial means to that effect.

Particular attention should be paid to completing the sector restructuring process, which entails ensuring long-term sustainable investments. Particular attention is also required to the elimination of remaining price distortions, the recovery of due claims, the implementation without delay of measures to reverse the accumulation of arrears in the energy sector and the further improvement of bill collection rates. Energy efficiency and renewable energies equally need particular continued attention. Regarding nuclear safety, Romania is encouraged to maintain its efforts to improve the safety of nuclear installations following the recommendations of the Council reports; Romania should further strengthen the administrative capacity of its nuclear regulatory authority including staff training. On-going restructuring and privatisation efforts should lead to more competition, liberalisation and a functioning energy market. Further progress on the ground should be achievable as soon as the strategies on renewable energy and energy efficiency including the related measures from the action plan for 2004-2015 are launched and put in place.

## ***Chapter 15: Industrial policy***<sup>9</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. An important element of any industrial policy is controlling state aid and ensuring the compatibility of support schemes with EU rules (*see also Chapter 6 – Competition*).

### *Progress since the last Regular Report*

Romania made steady progress in the areas covered by the chapter on industrial policy.

No particular progress can be reported as regards **industrial strategy** but generally all the measures listed below contributed to the implementation of the Industrial Policy Action Plan.

Over the reporting period the Ministry of Economy and Commerce (MEC) has organised a successful dialogue with representatives of the business community. A number of positive steps have been taken to improve the business environment (*see also Chapter 16 – Small and medium-sized enterprises*). The MEC has also been responsible for managing a small government-funded programme to improve the competitiveness of industrial products.

Levels of Foreign Direct Investment (FDI) increased substantially during the reporting period, totalling €1,591 million in 2003, which was above government estimates and represented an increase of 39% over 2002. Indications are that this positive trend has continued over the first half of 2004.

The body responsible for promoting investment in Romania, ARIS, carried out a large number of promotional activities in the reporting period, including the development of strategic cooperation with foreign partners. ARIS has cooperated with representatives of the business community through a variety of fora including the Consultation Forum and the Strategy Council.

As regards **privatisation and restructuring**, in April 2004 the Authority for Privatisation and Management of State Ownership (APAPS) was formally dissolved and its remaining functions transferred to the Authority for Valorisation of Banking Assets (AVAB). The new body established is the Authority for State Assets Recovery (AVAS). The major remaining privatisations fall under the responsibility of a different institution - the Office for State Ownership and Privatisation in Industry (OPSPI) - which operates within the Ministry of Economy and Commerce. This body is responsible for privatisation in the following sectors: mining, oil, gas, power and thermal energy, and the defence industry. Notwithstanding the recent conclusion of a number of important privatisations, only 6 of the companies in the OPSPI portfolio have been privatised.

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<sup>9</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*).

Restructuring has continued in the steel industry: the two remaining state-owned integrated steel companies were privatised at the end of 2003 and beginning of 2004, completing the privatisation of this sector. In April 2004 the Government approved an updated version of the Strategy for Restructuring in the Steel Sector. The new updated strategy included viability plans for the major steel producers. Compared to the original 2001 strategy, it envisages increased production, sales and exports of steel products, increased utilisation of existing capacity and a reduction in employee numbers (*see also Chapter 6 – Competition policy*).

Following a major reorganisation in 2003, there were no further administrative changes within the Ministry of Economy and Commerce during the reporting period.

### *Overall assessment*

Romania's Industrial Policy Document and the corresponding Action Plan are in line with the requirements of this chapter although they need to be updated. The key challenge for Romania is that implementation and progress in this area has so far been limited because of the relatively weak capacity of the Directorate-General for Industrial Policy within the MEC. Improved inter-departmental coordination is needed within the Ministry of Economy and Commerce. Progress has been made in developing a dialogue between policy makers and industry – although there is still scope for further progress. The regional implementation of industrial policies still needs to be improved.

With regard to investment promotion, the positive performance over the last year is a welcome development and relations between the government and investors are generally good. Nevertheless, when assessed on a *per capita* basis, levels of FDI in Romania are still low compared to other countries in the region. To remedy this situation it will be necessary to look beyond investment promotion *per se* and address the structural obstacles to investment that include corruption, excessive bureaucracy and an unstable legislative climate.

In the area of privatisation, APAPS, established in December 2000, proved an effective manager of the privatisation process. Although the number of companies in the APAPS portfolio has continuously changed, an indication of its success is that when it started its activities there were 8,479 companies on its books and when it was transferred to AVAS this had been reduced to 1,080 companies. However, in a number of high-profile privatisations concluded during the year, the privatisation process has not been fully transparent. Overall progress has been steady as far as privatisations are concerned but the performance of the OPSPI has been disappointing when compared to AVAS. The legal framework remains complicated and the privatisation process has suffered from being divided among various government entities.

Romania is well advanced with the restructuring of its steel industry. However, provisions on state aid will need to be revised to fulfil Romania's obligations under Protocol 2 of the Europe Agreement. It should be noted that an important element of any industrial policy is controlling state aid and ensuring the compatibility of support schemes with EC rules, both of which remain to be assessed.

In terms of overall administrative capacity, qualified staff able to formulate and monitor the implementation of industrial policies still need to be recruited and trained. Overall ability to formulate and implement policy remains weak. Considerable work is needed to increase the administrative capacity of the Ministry of Economy and Commerce and, in

particular, its Industrial Policy Directorate, and to ensure better coordination between all the bodies involved in implementing the industrial policy. International support could be a key asset in this sector.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that Romanian industry was not well advanced in the process of adapting to a market-based economy. The need to end state monopolies and reduce excessive state involvement in enterprises was noted, as was the need for far-reaching restructuring in individual sectors.

Since the Opinion, Romania has developed a policy towards industry that generally complies with the principles of EC industrial policy - it is market-based, stable and predictable.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements. It is generally meeting the commitments and requirements arising from the accession negotiations in this chapter.

In order to complete preparations for accession, Romania's efforts should now focus on reinforcing its overall administrative capacity and improving capacity to develop and implement industrial policy measures. Underlying structural weaknesses (economic, administrative and legal) limit the effectiveness of industrial policy and its various instruments. Further efforts are needed to conclude the privatisation process in a fully transparent way. Work is also necessary to attract additional foreign investment and to make the enterprise sector more competitive. Attention should be paid to restructuring the steel sector in line with the competition and state aid *acquis*.

### ***Chapter 16: Small and medium-sized enterprises<sup>10</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.

#### *Progress since the last Regular Report*

Romania has continued to make progress in this area, notably as far as SME policy is concerned.

As regards **SME policy**, the Strategy for SME development was updated for the period 2004-2008 and adopted by the Government in August 2004. It contains five priorities: creation of a favourable business environment, development of SMEs' competitiveness, improving SMEs' access to finance, improving access to foreign markets, and promoting entrepreneurship and strengthening management performance.

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<sup>10</sup> Developments concerning SME policy should be seen in relation to the overall enterprise policy, including Industrial policy chapter (*See Chapter 15 – Industrial policy*).

As regards the implementation of the European Charter for Small Enterprises, although further progress needs to be made, Romania has been commended for best practices in various fields, including: introduction of entrepreneurial education into Arts and Crafts schools, electronic access to documents needed for permits and licences, and exemption from VAT for micro-enterprises.

Access to finance continues to be a major problem for SMEs. Although banks are becoming more open towards SME financing in general, start-ups and micro-enterprises still have problems raising capital from the commercial banking system. At the same time, there is a relative abundance of external credit lines addressed to SMEs and these do provide additional financing opportunities. Micro-credit is expanding and three guarantee funds exist – although their capital is still low and their total capacity is limited compared to needs. The legislation in force is not favourable to such instruments as double provisions are required whereby both banks and guarantee funds are obliged to make provisions to cover the amount of the loan granted.

The Ministry of Economy and Commerce has established a directorate for improvement and monitoring of the business environment. Its main tasks are monitoring and reporting on the implementation of the Action Plan for Improving the Business Environment and the coordination of the Task Force established for this purpose. Six out of the nineteen measures of the Action Plan still remain to be achieved. Most of the measures fall under “simplification and improvement of administrative procedures”.

Some horizontal measures were taken to improve the **business environment**. The law on the insolvency and bankruptcy procedure was amended in May 2004. The law simplifies the procedures regarding judicial liquidation of insolvent companies. It also establishes precise obligations regarding the registration of bankruptcy-related acts in the Trade Register and establishes the Bulletin of Judicial Reorganisation and Bankruptcy procedures, as published under the authority of the National Trade Register. Significant steps towards restructuring and simplification of the legal framework are the new Tax Code and the Fiscal Procedure Code, which entered into force in January 2004. They aim to simplify procedures and consolidate legislation. This is particularly important for SMEs, which often have only limited resources to spend on tax expertise. A law to complete legislation on the approval through silent procedure was adopted in November 2003.

Two consultative structures were put in place in 2003 to ensure the coordination of, and participation of the public in, the design and implementation of SME policy: the Working Group for the implementation of the European Charter for Small Enterprises and the Consultative Committee for SME Development. The Consultative Social Dialogue Commission promotes collaboration with social partners.

The National Agency for SMEs concluded memoranda of understanding with a number of other government institutions - which should improve inter-ministerial communication and clarify the roles of the different bodies working with SME policy. The National Agency for SMEs has also been open to dialogue with NGOs and several cooperation agreements were concluded.

The law on incentives for the establishment and development of SMEs was adopted in July 2004 and includes an **SME definition**.

### *Overall assessment*

SME policy is broadly in line with the principles and objectives of EU enterprise policy. Progress was made during the reporting period – although overall limited resources prevent the full implementation of the SME strategy. The new law aims to bring the SME definition in line with the recommendations of the Commission.

Important steps were taken with the implementation of the European Charter for Small Enterprises and its monitoring mechanism has operated successfully. Although there are still some areas of overlapping responsibility, there has been a noticeable improvement in inter-ministerial cooperation. The dialogue between Government, the business community and the social partners has also developed significantly – although further strengthening of this dialogue and more efficient use of the established consultation structures is necessary. Attention should be paid in particular to the involvement of all private stakeholders from the beginning of legislative processes.

Implementation of the Action Plan for Improving the Business Environment has continued. Horizontal measures designed to simplify the legislative framework in taxation and bankruptcy procedures were taken although it is too early to fully assess the practical impact of these measures. The silent approval procedure is welcomed but improving knowledge for implementation at local level is necessary. Petty corruption is a constraint in the business environment. Overall, significant efforts are still needed to improve the business environment. Access to finance, red tape and uneven implementation of the legislation continue to be major obstacles to SME development and despite considerable efforts these remain issues that need to be effectively addressed.

The main body responsible for the SME sector is the National Agency for SMEs and Cooperatives. New management structures and newly recruited staff have helped the National Agency to improve its policy-making capacity. However, considerable work is still needed before the National Agency can be considered a mature and stable government body. Its capacity to implement, monitor and evaluate the impact of – as opposed to simply design - SME policy needs further development.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that there was a clear need for greater coherence in SME policy, and that it would be necessary to strengthen the existing support structures, to simplify the legal and administrative environment, to increase SMEs' access to financing and to ensure an even implementation of legislation.

Since the Opinion, Romania has taken a number of initiatives to support SMEs and their importance in the overall economy has increased substantially. Romania has prioritised the development of the SME sector, and important efforts to improve the legal and administrative environment have been taken.

Negotiations of this chapter have been provisionally closed. Romania has not requested any transitional arrangements in this field. Romania is generally meeting the commitments and requirements arising from accession negotiations in the field of small and medium-sized enterprises.

In order to complete preparations for accession, Romania's efforts should now focus on ensuring full and efficient implementation of the SME strategy, in particular through institution building. Implementation of the European Charter for Small Enterprises should be pursued further, building on the progress so far. Further improvement of the

business environment is necessary. Ensuring the stability of the legislative environment and guaranteeing effective enforcement of legislation are priorities. Continued development of an entrepreneurial culture should also be encouraged.

### ***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 Programmes' activities.

#### *Progress since the last Regular Report*

Some progress has been made in this area since the last Regular Report.

Romania continued to be associated with the **Sixth EC Framework Programme for Research and Technological development** and the **Sixth Euratom Framework Programme**. To improve participation to the Sixth framework programme, a reorganisation and extension of the network of national as well as regional contact points has started.

In June 2004 a new law has been issued on good conduct in scientific research, technological development and innovation. It establishes a new institution (the national council of ethics for research, development and innovation) in charge with coordination and monitoring on how norms are applied.

In December 2003, the Romanian government adopted the National Strategy in the field of Intellectual Property for the period 2003-2007. The National Plan for Research, Technological Development and Innovation was updated and its duration extended until 2006. The structure and the objectives of the Plan were modified in line with the EU Accession Plan. The new objectives refer to industrial and urban pollution, nuclear safety and protection against radiation, the Danube-Black Sea system management, European integration of towns and regions in Romania and of the transport infrastructure, energy and fuel system.

In order to stop the brain drain, efforts have been made to motivate young people with a research profile to stay in Romania. In 2004, legislation was adopted which clarifies standards, procedures and criteria for the assessment of research capacity. The increase in the state budget for research is now included in current legislation, and Romania wants to achieve the target of 1% of GDP for research in 2007 and 3% by 2010. The Ministry of Education and Research has received 16 supplementary posts of European integration counsellors from the Ministry of European Integration. Four positions are already occupied by young people, following four successive competitions between June and October 2003.

### *Overall assessment*

The framework for cooperation in the field of science and research, including National Contact Points, continues to be well established. Representatives from Romania continue to participate as observers in programme committee meetings under the Sixth Framework Programme. Currently nineteen Romanian partner institutions co-operate with thirteen research networks of the Joint Research Centre of the European Commission.

To ensure Romania's successful association with the relevant Framework Programmes as well as effective participation in the European Research Area, research-related administrative capacity and infrastructure should be further reinforced. Cooperation between research and industry needs to continue. Although an increase in budgetary means allocated to research is envisaged, current allocations are still limited and need to be enhanced in view of the target of three per cent of GDP by 2010 set by the Barcelona European Council.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that making Romanian research competitive at the international level would need greater efforts, but that no major problems should be expected.

Since the Opinion, Romania has made continuous progress and stepped up its cooperation with the EU in this field.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements and is generally meeting the commitments and requirements arising from the accession negotiations.

In order to complete preparations for membership, Romania's efforts should now focus on reinforcing research-related administrative capacity and infrastructures in order to derive greater benefit from association with the relevant Community Framework Programmes.

### *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 necessary implementing capacity in place to participate effectively in the Community programmes related to this chapter (Leonardo da Vinci, Socrates and Youth).

### *Progress since the last Regular Report*

Romania has made some progress since the last Regular Report.

Romania continues to participate in the second generation of **Community programmes**, Leonardo da Vinci, Socrates and Youth.

In December 2003, under the Law on public internal audit, the Minister of Education adopted implementing legislation setting up internal audit units in the Ministry of Education and Research and its subordinate units, including the three agencies dealing with the Community programmes.

Implementing legislation concerning the **Directive on the education of the children of migrant workers** was adopted in March 2004.

As far as **reforms in the field of education and training system** are concerned; important changes took place in the reference period.

Amendments to the Education Bill and to the Law on the Statute of Teaching Staff aim at enhancing decentralisation in education and to improve the funding mechanism. Schools are to be led by an administration council chaired by the director and consisting of limited representation of the local community. Investment in education is to gradually increase until 2007 to 6% of the GDP. Legislation will be gradually applied from September 2004.

Legislation of June 2004 envisages the reorganisation of university studies through three cycles (Bachelor, Master, and Doctor). With a view to more efficient use of resources, universities will have the possibility to voluntarily set up consortia, on the basis of a partnership agreement.

The number of schools has increased considerably, with positive repercussions on the enrolment figures (particularly in upper secondary education). The legislative framework for adult training was consolidated in November 2003 by the regulation on the authorisation of training providers and on the methodology for the certification of adult training. A National Qualification Agency including social partners has been established, paving the way for closer integration of initial and continuing vocational training. Planning for Technical and Vocational Education (VET) is no longer done at central level but by the Regional Consortia at regional level which have developed Regional Educational Action Plans with a mid-term perspective.

In March 2004 responsibility for youth policy was given to an independent authority under the coordination of the Prime Minister, while the National Agency for Supporting Youth Initiatives, which is managing the Youth programme, remains under the Ministry of Education and Research.

### *Overall assessment*

Difficulties related to financial management of Community programmes have been encountered, in particular for Leonardo da Vinci and Youth. In addition, staff shortages, inadequate remuneration and unsatisfactory working conditions in the National Agencies are an obstacle to the management of the three programmes.

Attention should be given to the coordination of the Youth programme with the national Youth policies to avoid possible difficulties due to the new institutional set-up.

Romanian legislation is in line with the Directive on the education of the children of migrant workers.

Access to education and lifelong learning remains a main concern. In 2003 the early school leaving rate in Romania was well above the EU-25 average following a deteriorating trend in recent years. Budgetary resources allocated to education remain low in comparison with the EU average but also in comparison with most other candidate countries and limit the impact of reforms (*see also section B.2. - Economic criteria*). Without additional national resources, the quality of education in rural areas cannot be substantially raised and participation will remain relatively low hampering the fulfilment of the Lisbon criteria. In particular, participation rates in secondary and tertiary education and in adult learning do not yet show a significant improvement in rural areas and for disadvantage groups, particularly Roma. Although compulsory education has been extended to ten years, starting with the 2003-2004 school year, this measure does not seem to have a major impact on the participation of groups at risk.

The role of the social partners is slowly increasing at the school, regional and national level, but the links between vocational education and training schools and enterprises need to be further developed to take a central place in the reform process. The priority for training and retraining of teachers and trainers is acknowledged and embedded in law, but implementation is lagging behind.

Cooperation between relevant Ministries has improved, including in the area of adult training. The impact of the new authorisation process of training providers in the field of adult training will need to be monitored closely.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that no major problems should be expected in this field.

Since the Opinion, Romania has achieved steady progress, and has continued to reform its education system. Romania participates in the relevant Community programmes.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements and is generally meeting the commitments and requirements arising from the accession negotiations in this chapter.

In order to complete preparations for membership, Romania's efforts now need to focus on further developing its administrative capacity in this domain. In particular, measures are required to improve the administrative and working framework of the three national agencies implementing the Community programmes, and to significantly improve the financial management of the Leonardo da Vinci and Youth programmes. For the Leonardo da Vinci programme, the improvement of the management of the National Agency and of Community funds remains a condition to resume the normal implementation of the programme in Romania.

### ***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. A new 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.

### *Progress since the last Regular Report*

Romania has continued to make progress with liberalising the telecommunications market and with completing the alignment with the *acquis*, including implementing legislation.

With regard to the liberalisation of the **telecommunications** market, further development can be registered and despite initial delays due to the late availability of implementing measures, competition between different market players has started. Four new operators launched their services on the local market with fixed networks in several cities. The number of providers of electronic communications services and networks notified under general licences has almost doubled and reached in total 2,051 companies in 2004, of which 1,167 wish to provide public electronic communications networks, 191 to provide telephony services and 693 to provide other services (i.e. internet access, data transmission). Electronic communications have become a reality in Romania with the increase in alternative voice telephone service providers over public networks. However, the penetration of telephones remains well below the EU average for both fixed and mobile telephony.

With regard to the regulatory framework, further implementing legislation has been issued and applied. In particular, issues such as interconnection, licensing, numbering, tariffs, dispute resolution mechanisms, frequency allocation and data protection have been addressed. Concerning the Universal Service, the Ministry of Communications and Information Technologies adopted a strategy which aims at the countrywide installation of 'telecentres' allowing for increased access to the public telephone network and to other modern services. Market analyses both for the wholesale and the retail markets have been carried out. The general authorisation regime for the provision of electronic communications networks and services has been simplified and the authorisation procedure has been adjusted in line with the Universal Service law.

In June 2004, Romania signed a memorandum with the Commission which lays the ground for the participation of Romania in the eTEN programme aiming at the development of trans-European IT services.

The Ministry of Communications and Information Technology, which carries out regulatory functions in issuing radio licences and in issuing decrees with potential effects for the whole market, continues to be, at the same time, shareholder in a number of telecom companies. The organisational and functional structure of the Ministry remained in essence the same.

The National Regulatory Authority for Communications (ANRC) published a detailed action plan for 2004 and an annual activity report for 2003. A new counsellor for European and Euro-Atlantic integration was appointed under the direct subordination of the ANRC President.

In February 2004, Romania became a full member of the Independent Regulators Group (IRG) and an observer of the European Regulators Group. Romania will be represented in these organisations by the ANRC.

Some legislative progress can be reported in the transposition of the **postal services acquis**. Alignment with the *acquis* requirements on weight and tariff limits in the field of postal services has been achieved. Competition on the postal market seems to be increasing with a total of 132 companies authorised to provide postal services in 2004 compared with the 12 companies authorised in 2003. Since April 2004, the state-owned Posta Romana is the only company authorised as the universal service provider for postal services.

### *Overall assessment*

With the *de jure* liberalisation of the sector as of 1 January 2003 and the subsequent adoption and application of implementing legislation, the telecommunication market in Romania has been opened up and competition among providers is gradually being developed, despite initial delays.

While notifications for the general authorisation have almost doubled during the reporting period, there has not been such quick development in actual market entry by newcomers. However, four alternative network operators launched their operations on the newly opened market for fixed telephony and more companies are likely to enter into the market soon. The incumbent's low and unbalanced price structure remains an obstacle to new fixed network entrants and vital facilities such as carrier selection, carrier pre-selection and number portability are not widely available or not available at all. The operation of the present national numbering plan is also a hindrance.

The National Regulatory Authority for Communication has started the process of defining significant markets and identifying a significant market power undertaking with the incumbent fixed and mobile network operator in their respective sector.

It must be ensured that all pre-conditions set by the 2002 Framework Directive, namely the transitional provisions, inter alia on cost-oriented retail and wholesale prices, are fully implemented. The ANRC's ongoing control of the incumbent's retail prices has not allowed a sufficient alignment of prices with costs as required by the *acquis*. As regards the universal service obligation, while the Romanian approach of introducing 'telecentres' does not appear, in the short term, to meet the requirements of the *acquis*, the general approach is considered the most effective way of achieving the 'availability of telephony services at a fixed location' in the medium to long term.

Attention must be given to the strict separation of regulatory responsibilities from those of ownership. The present arrangements where the Ministry of Communications and Information Technology exercises the state's property rights in several operating companies and, at the same time, carries out important regulatory functions, is not in line with the telecommunications *acquis* and the EC competition rules. This aspect of the regulatory regime needs to be urgently addressed in order to achieve full *acquis* compliance.

Concerning postal services, further alignment with the *acquis* is needed.

### *Conclusion*

In its 1997 Opinion the Commission remarked that Romania could have some difficulty in adopting the EC model of telecommunications liberalisation, because of slow sector

development and delays in liberalisation. However, the Commission expressed the view that with the implementation of new legislation during the next few years, Romania could be expected to fully achieve the approximation to EC regulations in the medium term. The Commission concluded that the competitiveness of the sector would crucially depend on the acceleration of the modernisation programme for networks and services, on the increase in foreign investment, as well as on market-oriented and flexible management of the public network operator.

Since the Opinion, Romania after some hesitation made sudden progress in aligning with the *acquis* and liberalising its market. The regulatory framework now in place is close to full *acquis* alignment and the telecommunications and postal markets are largely liberalised and open for competition.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangement in this field and is meeting the majority of its commitments and requirements arising from the accession negotiations in this chapter.

In order to be ready for membership, Romania's efforts should now focus on full market liberalisation and on the clear separation of regulation from ownership functions taking care to limit regulatory impositions to the minimum necessary. Particular attention should be paid to complete alignment and implementation of the 2002 Framework Directive and ensuring that unjustified obstacles faced by new market entrants are removed, especially through the effective implementation of interconnection and the promotion of pro-competitive pricing policies by the large operators. The situation as regards universal service should be kept under review in the run-up to accession so that any necessary incompatibility with the *acquis* can be remedied in good time. Further progress in this area can be expected with the full implementation of the universal service strategy. As Romania has chosen to implement the 2002 *acquis* before accession (while not being a formal participant in the Article 7 procedure of the Framework Directive) it should consult the Commission informally about such cases as they arise. In the postal sector, further liberalisation alignment and implementation of the legislation should be ensured.

## ***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.

### *Progress since the last Regular Report*

Romania has made progress since last year in its alignment with the *acquis* in the **audio-visual** sector.

Romania's Framework Law in this area was revised in October 2003. Implementing legislation continued to be adopted as appropriate.

The National Audiovisual Council (NAC) is the independent national regulatory authority. Its position has been further strengthened by the revised Framework Law which extended the mandate of NAC members from 4 to 6 years to increase its political independence, clarified sanctioning procedures and introduced the possibility of more nuanced and proportional actions. The NAC's administrative capacity has been increased through training on European legislation and on technical skills for monitoring.

The Ministry of Culture and Religious Affairs has also participated in training with the NAC. An additional staff member has been recruited to work on the audiovisual sector, which should improve the Ministry's capacity to deal with audiovisual policies.

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

### *Overall assessment*

The adoption of modifications to Romania's Framework Law has further enhanced alignment with the *acquis*. A combination of these technical adjustments, clearer provisions on sanctioning and the continued adoption of implementing measures mean that Romania continues to be well advanced in its transposition of the *acquis*. Minor adjustments in relation to the fine-tuning of subsidiary jurisdiction criteria and retransmission are needed to reach full alignment. Elements of the legislation will come fully into force on accession, taking into account Romania's international obligations.

Romania should continue to reinforce its administrative capacity and provide further training to the personnel involved.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that in addition to necessary structural adaptations of the audiovisual industry, sustained efforts as regards legislative changes would have to be followed through in order for Romania to meet EC requirements in the audiovisual sector in the medium term.

Since the Opinion, Romania has made significant progress, the audiovisual industry has continued to evolve and legislation is now largely in line with the *acquis* with only minor changes required.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements and is generally meeting the commitments and requirements arising from the accession negotiations in this chapter.

In order to complete preparations for membership, Romania's efforts should now focus on the remaining minor legislative adjustments and on ensuring predictable, transparent and effective implementation of the regulatory framework.

### ***Chapter 21: Regional policy and co-ordination 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 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.

### *Progress since the last Regular Report*

Since the last Regular Report good progress has been made in preparing for the implementation of structural policies.

Regarding **territorial organisation**, the law on regional development amended in June 2004 formalises the NUTS II regions by providing the list of counties forming the respective regions.

On the **legislative framework**, while some legislation has been adopted in the field of the environment and equality between men and women, the majority of developments are linked to the **institutional framework**. With regard to the institutional structures, the key development was the designation of the Ministry of Public Finance as the managing authority for the Community Support Framework and for the Cohesion Fund at the end of March 2004. The Government Decision on the setting up of the institutional framework for coordination, implementation and management of structural instruments was amended accordingly in April 2004 by formally designating the managing authority for the Community Support Framework. It also designates all managing authorities for Operational Programmes as well as two paying authorities, one to cover the European Regional Development Fund, the European Social Fund and the Cohesion Fund and one to cover the European Agricultural Guidance and Guarantee Fund and the Financial Instrument for Fisheries Guidance. The main responsibilities and tasks of the managing and paying authorities were clearly established. A government decision was issued in July 2004 establishing the legal basis for the designation of intermediate bodies. The National Coordinating Committee for Structural Instruments was established in July 2004, under the chairmanship of the Ministry of Public Finance. It will ensure the overall inter-ministerial coordination in the preparation process for the implementation of structural policies.

In preparation for the Structural Funds **programming** the National Development Plan (NDP) 2004-2006 was finalised through a consultative process in partnership and adopted by the Government in December 2003. It will be implemented through the pre-accession instruments, national budget and IFI financing. A government decision was adopted in July to take account of institutional changes with regard to the programming process. The elaboration of the 2007-2013 NDP started in May 2004 by launching the drawing up of socio-economic analyses.

The Government Decision of April 2004 on the designation of the institutional framework also sets the responsibilities for **monitoring and evaluation**, including the setting up of Monitoring Committees. Monitoring units are being set up in all managing authorities of Operational Programmes. A monitoring system at regional level for the pre-accession programmes has been established.

No major development can be recorded on issues related to co-financing or budgetary mechanisms. On **financial management and control**, the Government Decision of April 2004 establishes the responsibilities of managing authorities. Following the Decision, the Ministry of Public Finance has established principles for financial management and control systems according to the Structural Funds requirements, including on-the-spot checks, verification of samples of operations, and certification of expenditure.

No major progress can be recorded in the field of regional **statistics**.

### *Overall assessment*

On territorial organisation, Romania has agreed on a provisional NUTS level 2 classification of regions with the Commission.

As regards compatibility of Structural and Cohesion Funds operations with Community policies and legislation, Romania needs to implement planned measures to ensure efficient verification in both programming and implementation phases throughout the system both at central and in particular at regional level. Romania must give particular attention to compliance with other Community policies as required by the Structural Funds Regulations, especially in the field of public procurement, environment and competition.

All managing authorities (MA) have been designated but they are at very different stages of preparation for their future tasks. Preparation at all levels of administration now requires full attention, given the limited timeframe available. In particular the Ministry of Economy and Trade as the MA for the Sectoral Operational Programme (OP) for Competitiveness and the Ministry of Labour, Social Solidarity and the Family as the MA for the Human Resources Development OP will need immediate attention. The designation of intermediate bodies needs to be completed as quickly as possible so that sufficient time is available to bring the capacity of these bodies up to the required level. In addition, the transfer of expertise from the management of pre-accession funds to the future management of Structural Funds should be designed with a view to avoiding any overlapping of structures and to allow a smooth and efficient transition. There is a need to establish effective inter-institutional co-ordination and cooperation mechanisms between the two Paying Authorities.

Regarding administrative capacity, the credibility of the recruitment and retention schemes delivered by the managing authorities and intermediate bodies may be hampered by the low attractiveness of the civil servant status. In this respect legislation to improve the civil service's status and to ensure adequate remuneration needs to be put in place.

The National Development Plan (NDP) 2004-2006 forms a starting point for the plan required under the Structural Funds. However, the NDP for 2007-2013 will require a more profound analysis regarding the conception of Romania's cohesion policy (notably as regards the overall development strategy, the SWOT analysis and a clear demarcation between regional and sectoral programmes and the combination of national, regional and EU priorities) and a wider and more efficient consultation process. The partnership structure established in 2002 should be further developed to ensure full participation of relevant players and accordingly not only to ensure the ownership of programmes and efficient consensus building but also to meet the rather tight schedule for preparing the

2007-2013 NDP and operational programmes. At the same time, the development of a high quality project pipeline needs to be given priority.

Multi-annuality of the budget is enshrined in the Law on Public Finance but as regards co-financing of structural programmes Romania needs to ensure that the budgetary system provides sufficient flexibility and that the quarterly allocation mechanism does not become an obstacle to the smooth co-financing of major operations. Co-financing capacity at local level is a serious concern because of the limitation of the debt ratio of local authorities which is already constraining their capacity to co-finance pre-accession funds.

Budgetary commitments taken for the current pipeline of transport projects should be carefully assessed at national level as they could hinder the capacity of the Romanian state budget to co-finance EU-funded projects in the future.

The principles for financial management and control according to the Structural Funds requirements have been established but their implementation will have to be proved in practice. Evaluation activities will need to be designed as an integrated and constructive part of the implementation of the future Structural Funds.

Statistics at regional level are available but the definition and compilation of further reliable regional indicators should be envisaged.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that Romania showed an increasing political awareness of the need for a regional policy. Romania's administrative capacity to manage EC funds and conduct an integrated regional development policy clearly needed to be improved. The Opinion pointed out that significant work was still required in defining a legal basis, identifying and clarifying the respective roles and responsibilities of existing authorities and strengthening an adequate administrative structure before Romania would be able to apply Community rules and channel the funds from the EC structural policies.

Since the Opinion, Romania has made progress in legislative terms and taken important steps to define its administrative structures and the overall framework for managing Structural Funds.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements and is generally meeting the commitments it has made in the accession negotiations in this field.

In order to complete preparations for membership, Romania's efforts should now focus on making the structures at central, regional and local level fully functional in order to enable Romania to reap the full benefits from the future instruments. Romania needs to focus on administrative capacity and preparing the whole system from the managing authorities and intermediate bodies through to the final beneficiaries for efficient management of the Structural Funds. Flexibility and capacity for co-financing, mechanisms for monitoring and evaluation, programming and project identification as well as project preparation capacity, in particular at local level, need to be improved. Romanian should make best use of the pre-accession instruments in the preparation to Structural and Cohesion Funds.

## ***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 level is imperative for the application and enforcement of the environment *acquis*.

### *Progress since the last Regular Report*

Since the last Regular Report, Romania has continued to make progress in terms of transposition and has taken some steps with regard to implementation and enforcement. Romania has, in particular, taken measures to plan and enhance its administrative capacity in this area.

As regards **integration of environmental issues into other policies**, no particular developments can be reported. The inter-ministerial committee set up to coordinate and approve sectoral policies and strategies met once during the reporting period.

In the field of **horizontal legislation**, progress can be registered. Legislation was adopted on procedures relating to environmental impact assessment and strategic environmental impact assessment. A communication procedure for public consultation was established, together with a guide for implementation.

As regards **air quality**, some progress can be reported, in particular the adoption of implementing legislation on sulphur content of liquid fuels, designation of inspection bodies, volatile organic compound emissions, and conditions for placing gasoline and diesel fuels on the market. Zones for air quality assessment and management were defined. A preliminary assessment of air was carried out and an air quality monitoring network for agglomerations designed. Procedures for drawing up and implementing air quality management plans and programmes were published and a national strategy and action plan for atmosphere protection approved.

In the area of **waste management**, some progress was made. Legal acts were adopted on shipments of waste and technical norms on the use of sewage sludge in agriculture. Revisions of the national waste management strategy and the national waste management plan are underway. The inventory of non-hazardous landfills for municipal waste was updated. The Ministry of Environment and Water Management was designated as the competent authority for shipments of waste. Closing and reconstruction of existing landfills and the establishment of new ones is ongoing.

In the field of **water quality**, progress can be reported. The water law was amended in order to align with the water framework Directive and legislation regarding drinking water was amended. Legislation was adopted on an integrated monitoring system for nitrate pollution and on the approval of programmes for monitoring pollutants from agricultural sources. Regulations were also adopted on the monitoring of water quality

with regard to certain dangerous substances, and on the hygiene norms of bottled water. Romania has taken steps to declare the entire territory as a sensitive area for the purposes of urban waste water treatment. Action plans for agglomerations have been prepared, together with an assessment of the current waste water infrastructure. A methodology was developed for the designation of vulnerable zones that drain into waters affected by nitrate pollution.

As regards **nature protection**, progress continues to be registered in activities relating to preparation of the Natura 2000 network, and in the transposition of legal acts in this field.

As regards **industrial pollution control and risk management**, some developments can be reported, as several pieces of implementing legislation were adopted, including on issuing integrated permits. The inventory of installations falling under integrated pollution prevention and control has been revised and an assessment of these installations has been performed. A first exercise to compile a pollutant emissions register was completed.

In the field of **chemicals and genetically modified organisms**, limited progress can be registered. Legislation was adopted on ozone-depleting substances and on approving the updated national programme for their phasing out. Some developments can be reported in the **noise** sector. An assessment of environmental noise was performed and relevant urban agglomerations, highways, railways and airports were identified.

As regards **nuclear safety and radiation protection**, further progress was made with the publication of new norms on safety and radiation protection. An inventory relating to the practices involving the risk of ionising radiation was drawn up. A database on licence applications and licences issued for shipments of radioactive materials was set up. Three applications for shipments were registered, for which licences were also issued (*see also Chapter 14 – Energy*).

As regards **administrative capacity**, major institutional changes affected the environment sector in the past year. After the merger with the Agriculture Ministry in June 2003, the Ministry of Environment and Water Management was re-created as a separate Ministry in March 2004. The national environmental protection agency and eight regional environmental protection agencies were established and staffing started in spring 2004. Recruitment of further staff in these administrative bodies is ongoing; likewise in the 34 local environmental protection agencies. The national environmental guard, a specialised body for inspection and control, was reorganised in 2004.

As part of a strategy for increasing the number of staff in 2004-2006, 736 new additional posts were approved for the environment administration to be filled in 2004.

### *Overall assessment*

In the field of horizontal legislation, procedures for environmental impact assessments are in place and the quality of the impact assessments carried out seems to be improving. However, the transposition of Community rules on environmental impact assessment needs to be completed. There is a need for further training in this field for the relevant authorities.

As regards air quality, transposition of Community rules on emissions from non-road mobile machinery needs to be completed. Various assessments regarding air quality need to be completed, and action plans and monitoring systems prepared and implemented.

In the field of waste management, legislation needs to be completed, in particular as regards landfill of waste, end of life vehicles and waste electrical and electronic equipment. With regard to enforcement, there is a need to strengthen administrative capacity at regional and municipal level and to ensure coordination between authorities. National and regional waste management plans need to be adopted. Waste collection systems and facilities for recovery and disposal need to be set up and enhanced.

With regard to water quality, transposition remains to be completed, in particular as regards discharges of dangerous substances into surface water. With regard to implementation, preparation of inventories, programmes, permits and monitoring need to be completed.

In the nature protection sector, steps for implementation continue to be undertaken. Work is ongoing with regard to the collection of data for the establishment of special protection areas for birds, and a list of proposed sites of Community importance for the purposes of the Natura 2000 network is being compiled. More efforts are required in relation to awareness raising and the involvement and participation of stakeholders in implementation. Administrative capacity needs to be enhanced with a view to preparing the protection measures to be applied by accession. Training is needed.

As regards industrial pollution control and risk management, transposition remains to be completed, in particular with regard to incineration of waste, large combustion plants and volatile compounds due to the use of organic solvents. Continued efforts are needed to ensure permitting. A national programme for emission ceilings needs to be drawn up.

As regards chemical and genetically modified organisms, rules relating to biocides need to be completed. Continued efforts are needed to ensure implementation of provisions relating to ozone-depleting substances, risk assessment of existing substances and exports and imports of certain dangerous chemicals by accession.

In the field of noise, transposition needs to be completed with regard to the assessment and management of environmental noise.

In the field of nuclear safety and radiation protection, transposition remains to be completed, in particular with regard to the supervision of shipments of radioactive waste. The corresponding administrative capacities need to be strengthened. Implementation needs to be ensured with regard to the *acquis* concerning the health protection of workers.

Romania needs to continue integrating environmental protection requirements into the definition and implementation of all other sectoral policies, and to promote sustainable development.

As regards administrative capacity, the decisions taken over the past year in terms of organisation and recruitment of additional staff amount to positive development. The recruitment of staff needs to be carried out as planned, while ensuring the necessary professional qualifications, and followed through with continued training activities. There is also a need to provide a clear definition of responsibilities and adequate

procedures for cooperation and coordination between the administrative structures at national, regional and local level. Romania needs to make continued efforts to ensure that sufficient budgetary resources are allocated to the environment sector in order to finalise preparations for accession, including the strengthening of administrative capacity. Considerable investments need to be secured, including in the medium term, to ensure implementation of the environment *acquis*.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that Romania would have to place a higher priority on environmental issues, implement focused environmental accession strategies and work programmes, significantly increase financial and other resources and develop its administrative capacity. It was estimated that if such a strategy was followed, full transposition of the *acquis* could be achieved in the medium to long term. The Opinion also noted, however, that compliance with legislation requiring a sustained high level of investment and considerable administrative effort (e.g. urban waste water treatment, drinking water, aspects of waste management and air pollution legislation) could be achieved only in the very long term.

Since the Opinion, Romania has made good progress in aligning its legislation with the *acquis* in most of the environment sectors and in preparing for its implementation. Romania has achieved a generally satisfactory level of legislative alignment and has taken decisions to strengthen its administrative structures. It has started to put strategies into effect for implementing the environment *acquis*, but full implementation still poses a major challenge, including in terms of investment.

Negotiations on this chapter continue. Romania has requested transition periods for ten directives (on the control of volatile organic compound emissions resulting from the storage of petrol, packaging and packaging waste, the landfill of waste, waste electrical and electronic equipment, urban waste water treatment, discharges of dangerous substances into surface water, the quality of water intended for human consumption, integrated pollution prevention and control, emissions of certain pollutants into air from large combustion plants and incineration of waste) and for one regulation (on the supervision and control of shipments of waste).

In order to be ready for membership, particular attention should be paid to the completion of the transposition process concerning certain aspects of horizontal legislation, air quality, waste management, water quality, industrial pollution, chemicals, noise, and nuclear safety and radiation protection. Additional efforts are required in order to fully implement the legislation in key sectors such as air quality, waste management, water quality, nature protection and the issuing of integrated permits, and chemicals. Particular attention also needs to be given to the establishment and completion of the necessary implementing structures, including further strengthening of their administrative capacity at national, regional and local levels as well as the coordination between the different administrative levels and with other relevant authorities. Adequate investment and financing plans must be developed and implemented as a matter of priority. The revised waste management strategy and the waste management plan are currently under preparation; their final adoption and implementation should improve the situation of the waste sector. Recruitment procedures in the environmental administration seem to be well on track and should considerably increase the performance of the public services provided that sufficient budget resources continue to be allocated to the environment sector.

## ***Chapter 23: Consumers 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.

### *Progress since the last Regular Report*

In the field of consumers and health protection, good progress has been made since the last Regular Report.

Regarding **safety-related measures**, considerable legislative progress has been made during the reporting period through the adoption of legislation aimed at transposing the *acquis* in the fields of general product safety and liability of producers for damages generated by defective products.

As regards a functioning **market surveillance** mechanism, the number of staff of the National Authority for Consumer Protection (ANPC) has been increased and recruitment is ongoing. ANPC has organised a series of training courses for officials carrying out market surveillance and other enforcement activities. Additional financial resources have also been allocated to laboratory testing and implementation of market surveillance activities.

ANPC has continued to carry out successful control actions on its own or in cooperation with other market surveillance bodies. These control actions continued at an accelerated pace compared to previous years: from September 2003–June 2004, 92,100 controls were undertaken. During the same period, 41,850 fact-finding statements were concluded, infringements being penalised with fines and either marketing prohibited or products withdrawn from the market. A total of 3,125 companies were temporarily banned from performing marketing activities, while 31 were banned from developing production and trade activities.

Under TRAPEX (Transitional Rapid Exchange of Information System), for which ANPC acts as the Romanian contact point, 14 non-food notifications of dangerous products found on the Romanian market were received.

Membership of the Inter-Ministerial Committee for Market, Products and Services Surveillance and Consumer Protection, which provides the general coordination of market surveillance activities, has been changed to include the Ministry of Labour, Social Solidarity and Family and the Ministry of Communication, together with two other organisations, the non-governmental consumer association and the association of exporters and importers. However, the Committee met only once during the reporting period. It seems that the Consultative Councils coordinating market surveillance activities at local level are more efficient: they met regularly, almost once a month.

Good legislative progress can be reported in the field of **non-safety-related measures** through the adoption of legislation in the area of sales of consumer goods and associated guarantees, on the protection of certain aspects of contracts relating to the purchase of a right to use immovable properties on a timeshare basis, on consumer credit and on consumer code.

As regards the representation of **consumer organisations**, no progress can be reported in the past year. Consumer associations are still not very active. The main problems are the lack of funding and appropriate training. Only two of them managed to set up advisory and information pilot centres and are more active in providing reliable information to the consumers.

At the same time, actions for the information and education of consumers, including information campaigns in schools, continued to raise awareness in Romania of consumer protection issues. The number of consumer complaints has also increased compared to last year.

### *Overall assessment*

Good legislative progress has been made with regard to both safety-related measures and non-safety-related measures. In the latter field, the Directive on injunctions still needs to be transposed. The same applies to the new *acquis* on distance marketing of consumer financial services. The provisions on injunctions will have to be partially adopted by 2004 and entirely by 2007, as some articles provide for procedures that are not available to non-Member States.

ANPC has continued to carry out successful joint controls with other market surveillance bodies. This positive development should be maintained and market surveillance activities should be further oriented towards the safety aspects of non-food consumer products. Market surveillance would be more efficient using methods of risk analysis to target non-compliant products. NGOs should be more actively involved in the process of developing standards on consumer product safety.

As regards the functioning of the Inter-Ministerial Committee for Products, Services, Market Surveillance and Consumer Protection, it is very difficult to assess progress in this area since the Committee met only once during the reporting period. Progress has been made in strengthening the administrative capacity of ANPC through the allocation of additional staff, training, financial resources and control activities. This progress should be maintained.

The commitment of the Romanian government to support consumer organisations needs to continue, as consumers need to learn how to claim their rights. At the same time, Romanian authorities should apply specific criteria for the definition of consumer organisations at national level, as their number remains high. The consumer associations should also play a more important role in developing and implementing a consumer policy, and should be involved and consulted in all initiatives in the area of consumer protection. The recently adopted Consumer Code including specific rules on NGOs active in the field of consumer protection could be a positive step forward in this respect. Particular attention should be paid to consumer information activities.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that Romania had taken the approximation process quite far. Although the Government still needed to put through various amendments or new draft laws, the Romanians were close to meeting EC standards on consumer protection. However, the Commission also noted that problems remained with respect to the effective application of the *acquis*, particularly since the lack of resources made it difficult for Romania to enforce existing legislation.

Since the Opinion, Romania has continued to pursue legislative alignment at a steady pace and managed to carry out an extensive legislative agenda. Implementation structures are in place and administrative capacity is improving constantly.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements and is generally meeting the commitments and requirements arising from the accession negotiations under this chapter.

In order to complete preparations for membership, Romania's efforts should now focus on completing legislative alignment in the field of non-safety-related measures and attention should be paid to ensuring the full transposition of the legislation in the field of safety-related measures. The positive developments as regards improvement of administrative capacity and the general coordination of market surveillance activities should be maintained. Overall, efforts need to continue to develop an independent, representative and effective consumer movement in Romania.

#### ***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.

#### ***Progress since the last Regular Report***

Since the last Regular Report, Romania has continued to make legislative and organisational progress in many Justice and Home Affairs policy areas, particularly in the areas of migration, asylum and judicial co-operation in civil and criminal matters.

In the field of **data protection** a law was adopted in November 2003 establishing the level of notification fees for personal data processing operations. During the reporting period 253 notifications were filed with the Romanian Ombudsman and 622 new data controllers were registered. The number of staff positions filled in the Office dealing with data protection had increased to 14.

As far as **visa policy** is concerned, Romania introduced a visa regime for four countries on the EU's negative list (Russia, Turkey, Ukraine, and Serbia and Montenegro) during the reporting period. The visa obligation was abolished for four countries on the EU's positive list, namely Switzerland, Liechtenstein, Estonia and Lithuania. During 2003 a total of 808 visas were issued at Romania's borders. The first phase of the "visa-on-line" system is now operational and links the Aliens Authority in Romania with diplomatic missions in Russia, Ukraine, Turkey, Serbia and Montenegro, and Egypt. Additional staff working on visa issues has been deployed to the diplomatic missions of most of these countries. The number of staff in the National Visa Centre has doubled from 5 to 10 and the total number working in the General Directorate of Consular Affairs is now 40. The number of Romanians who were not permitted to exit the country almost tripled from 417,969 in 2002 to 1,216,625 in 2003. In 2003 there were 18,138 Romanians returned from the Schengen Area and during the first half of 2004 this trend was again upwards as there were 12,000 returns.

As regards **external borders** and **Schengen**, in December 2003 the Romanian 2004-2006 Border Security Strategy was approved together with a logistics strategy. In January 2004 the Inter-Ministerial Group on Border Management met at the highest level for the first time since its inception in 2001 and an updated National Strategy for the Integrated State Border Management of Romania 2004-2006 was then approved by Government Decision in April. In July 2004 a Feasibility Study for Establishing the Integrated System for Border Security was elaborated. Later that month a Government Decision was passed to secure an external loan for €650 million to implement the Strategy and in August a contract was signed with a company to provide an integrated border security solution. In October 2003, Romania was party to a Protocol on the establishment of an international co-ordination and information centre on the Black Sea. The Agreement with Hungary on the establishment of new border crossing points was ratified in November 2003. An updated Schengen Action Plan was adopted in July 2004. Further equipment, such as mobile surveillance vehicles with thermal imagers, has been acquired to increase the effectiveness of the Border Police. In addition, official information stated that the number of professional Border Police Agents rose significantly from 4,000 to 5,800 during the reporting period.

In the area of **migration**, a national migration strategy was adopted in April 2004 and the Aliens Authority was established as an autonomous body in March 2004. A Head of Authority has been appointed and 430 out of the 611 attributed posts are now filled. The Authority also signed a co-operation protocol with the General Directorate for Consular Affairs and is now connected to the National Visa Centre through the "visa-on-line" project. Readmission agreements were signed with Macedonia, Estonia, Turkey and Lithuania. The Authority is consulted by the National Visa Centre on cases and applications for extension of the right to stay. Official statistics indicate that the Authority was consulted by the National Visa Centre in 4,369 cases (giving negative advice in 1,332 cases) and handled 36,607 applications for extension of the right to stay (rejecting 1,260).

As regards **asylum**, in April 2004 legislation aimed at bringing the Romanian refugee regime more into line with the 1951 Geneva Refugee Convention entered into force. Further modifications to the regime focusing on measures to achieve social integration entered into force in May. The staffing levels within the National Refugee Office have increased during the reporting period and new reception and processing centres in Timisoara and Galati significantly increase the capacity in the Romanian asylum system from 770 to 1,440 places. The total number of asylum applicants for 2003 was 865

(compared to 1,000 applications in 2002). The Office dealt with 96% of applications within the legal deadline of 30 days and had 10% of its decisions overturned by the courts in those cases that were appealed. The initial approval rate remains at about 4% and no case of refolement occurred in the reporting period.

In the field of **police co-operation and combating organised crime**, the Law on the Status of Police Officers was amended in October 2003 so that existing officers seeking promotion to senior posts have to attend training courses and it also detailed the disciplinary procedures to be taken against police officers including their suspension from active duty during criminal investigations. Romania acceded to the UN Protocol against the Illicit Manufacturing of and Illegal Trafficking in Firearms, their Parts and Components and Ammunition in February 2004. In March, codes of ethics and deontology were approved and the Council of Europe Convention on Cybercrime was ratified. Romania concluded a co-operation agreement with Europol in November 2003. At the same time the Crime Prevention and Research Institute within the Romanian Police initiated a programme aimed at preventing and combating trafficking in children. During the reporting period the General Directorate for Combating Organised Crime and Anti-Drugs significantly increased the number of staff working at the regional level.

As regards the **fight against terrorism**, the new headquarters of the Centre for Anti-Terrorist Operative Co-ordination was opened in February 2004 and in April the National System of Anti-Terrorist Warning became operational. A national hotline was also created for the public to provide information that could be of use to the counter-terrorism effort.

In the fight against **fraud and corruption** significant changes to the legal and institutional framework were contained in an April 2004 Emergency Ordinance (*see also Section B.1.1 - Democracy and the rule of law*). In March 2004 codes of ethics and deontology for police officers were approved. A new Anti-Corruption and Professional Standards Directorate was created within the Ministry of Administration and Interior's General Directorate of Intelligence and Internal Protection and should be functional by the end of September 2004. A new Criminal Code was adopted in June 2004 that will introduce a general notion of liability and sanctions for legal persons once it enters into force in July 2005.

Romania is continuing the process of adaptation to Community legislation related to the **protection of the financial interests of the European Communities and the protection of the euro against counterfeiting**. A law providing criminal liability of legal persons for the offence of counterfeiting currency was adopted in June 2004 and a National Central Office for combating counterfeiting was set up in March 2004 (*see also Chapter 28 – Financial control*).

In the field of the **fight against drugs**, an agreement was initialled in April 2004 on Romania's participation as an observer in the European Monitoring Centre for Drugs and Drug Addiction. A first implementation report on the National Drugs Strategy 2003-2004 has been completed and as a result the associated Action Plan has been revised. In July 2004 a Government Decision was passed which proposes to significantly increase the number of National Anti-Drug Agency officials working at the local and regional level.

As regards **money laundering**, in March 2004 the National Office for Prevention and Control of Money Laundering was moved to come first under the co-ordination of the National Control Authority and then under the Prime Minister's Chancellery. In June

2004 a new Board and President of the National Office were appointed and in July a Government Decision stipulated that the Prime Minister would decide on the competences of the National Office and its Board following a proposal by the President of the National Office. During the first nine months of the reporting period 907,596 cash operations exceeding €10,000 were reported to the National Office and 350 suspicious transactions reports were recorded. The National Office sent 365 cases to the General Prosecutor's Office in 2003 (compared to 256 in 2002) and 115 cases in the first five months of 2004 (*see also Chapter 4 – Free movement of capital*).

As regards **customs co-operation**, the inter-departmental working group, created within the Romanian Customs Administration to prepare for accession to the 1995 Convention on the Use of Information Technology for Customs Purposes (CIS), is also working on the 1997 Convention on Mutual Assistance and Co-operation between Customs Administrations (Naples II).

With regard to **judicial co-operation in criminal and civil matters**, in October 2003 a Minister of Justice Order was passed approving the methodology for enforcing the provisions of the Law concerning International Judicial Assistance in Civil and Commercial Cases. In May 2004 the Law for acceding to the 1961 Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents was modified so that competences were transferred from central government to local courts and local government. In March 2004 Orders by the Minister of Justice created Romanian Judicial Networks for both criminal and civil/commercial matters. In July 2004 a Law was passed on the International Judicial Co-operation in Criminal Matters.

There have been no developments with regard to **human rights instruments** since the last Regular Report.

### *Overall assessment*

Administrative capacity in the field of data protection should be further strengthened to ensure effective implementation of the legislation in this area. In addition, the data protection legislation should be further aligned. The institutions involved in data protection should be given the necessary human and financial resources to work independently.

On visa policy, while Moldova is now the only country on the EU negative list with which Romania has not introduced a visa regime, the agreements signed with Russia, Turkey, Ukraine, and Serbia and Montenegro during the reporting period are not fully in line with the Schengen *acquis* and will need to be revised. Additional effort will also be needed to ensure abolition of the 17 remaining visa regimes for countries on the EU positive list and the agreements already negotiated with Bulgaria, the Czech Republic, Croatia, Poland, Slovakia and Singapore need to be brought fully into line with the *acquis*. There should also be an acceleration in the roll out of the “visa-on-line” system in order to ensure full implementation by the end of 2004. Printing facilities have now been secured for the new visa stickers but efforts should be stepped up to ensure that they can be issued as planned in September 2004. The numbers of those attempting to exit Romania without fulfilling the legal requirements again rose sharply over the reporting period. The reinforcement of staff and equipment played a significant role in increasing the numbers of detections, but as the statistics continue to indicate a growing emigration pressure at Romania's borders as well as an increase in the number of Romanians being returned from the Schengen area, additional resources may be required in the future.

As for external borders and Schengen, the surveillance and physical control of Romania's northern and eastern borders with Moldova and Ukraine should be addressed as a matter of priority. The Romanian Border Police continues to make progress both in modernising its structures and working practices and in developing its effectiveness. There are, however, still large staff shortages in the Border Police as there are more than 4,500 posts to be filled. As regards demilitarisation, the number of "military under contract" has fallen significantly but there is still some way to go as 5,400 remain in the Border Police. The remaining "military under contract" as well as the additional staff to be recruited to the Border Police, a total of approximately 10,000 individuals, all need to be trained as professional agents in accordance with the Police Status Law. The current Border Police training facilities should therefore be increased as a matter of priority to meet this large demand. Coherent and realistic action plans for tackling the recruitment and training challenges are also needed. Furthermore, the capacity to perform risk analysis and rational resource allocation for junior managers should be strengthened.

The Schengen Action Plan submitted in July 2004 is the first Romanian strategy document that demonstrated a sound understanding of the two-step implementation mechanism of the Schengen *acquis*. It now remains to be implemented correctly and fully. The updated Integrated Border Management Strategy highlighted the need for improved inter-agency cooperation and structures should be developed to allow for regular technical and working-level meetings. Co-operation with neighbouring states to enhance border security remains uneven with no significant progress having been made with either Ukraine or Moldova, both countries affected by high levels of illegal migration. The planned trilateral contact centre in Galati contains only Romanian officials. No agreement has been reached with Ukraine on the delimitation of the continental shelf or the maritime border. Romania has bilateral or multilateral co-operation agreements with some EU member states on border management issues. Further investment is required to better equip mobile controls, for additional second line equipment, to take fingerprints at border crossing points, for communications equipment, to monitor the new ferry route between Turkey and the port of Constanza, and for surveillance and intervention equipment on the Black Sea coast and on the rivers Danube and Prut.

In the field of migration, the establishment of the Aliens Authority as an autonomous body represents a positive development and its administrative capacity has been enhanced through the creation of additional posts, training with EU Member States and acquiring IT equipment. Additional efforts are required to fill the 30% of posts that still remain vacant, especially as the total number of current staff actually fell during the reporting period from 490 to 430. A significant level of economic migration remains a feature of Romanian society: an estimated 1.7 million Romanians have already migrated in search of work.

As far as asylum policy is concerned, Romania has taken further steps to bring its legislation into line with EU practices and to improve its capacity for receiving asylum applicants. These provisions are in part aimed at addressing the problems with regard to the integration of refugees and asylum seekers but they still need to be implemented fully. The National Refugee Office has continued to promote inter-agency co-operation and also works closely with the Office of the UN High Commissioner for Refugees as well as local non-governmental organisations. Training has also been provided to Moldovan officials. Additional training should be provided to personnel in other Romanian services directly involved in asylum and refugee matters such as the national police, Aliens authority and Border Police and practical inter-agency co-operation at the

working level with these institutions should be further enhanced. The remaining vacancies within the National Refugee Office should be filled and the new staff trained. Romania needs to adopt a EURODAC implementation plan soon and Romania's Automated Fingerprint Identification System (AFIS) workstations need to be upgraded to be EURODAC compliant.

In the field of police co-operation and the fight against organised crime, reform of the national police has continued but is still far from complete and should be accelerated. Particular attention should be paid to effective decentralisation and delegation of responsibilities to the regions, developing a modern human resources policy that provides for career development and merit-based promotions, and increasing staff (there are still 7,000 vacancies) so that sufficient police officers are in service to ensure consistent application of the law across Romania. Various public order responsibilities fall on the Gendarmerie, which is a militarised structure, and this institution also has approximately 18,000 vacancies. Reform of the lengthy and costly 4-year basic training programme for new recruits entering the national police would also be helpful in this regard.

The operational capacity of law enforcement agencies as well as the flow of information between them also needs to be improved and an integrated communication system that is accessible nationwide is urgently required. Co-operation between law enforcement agencies and the court system should also be enhanced. Co-operation between the national police and gendarmerie remains poor. There is an urgent need for a clear strategic decision on whether Romania will retain a dual policing system or adopt a unitary one, together with consistent legislation defining the responsibilities of and co-operation between the national police and the Gendarmerie. The system of detention by the police should be reviewed to ensure better conditions. In terms of international police co-operation, the network of police liaison officers has been expanded and strengthened but the level of other contacts with police services in neighbouring countries is low. More reliable and meaningful statistical measurements of the crime rate are also needed. Romania remains a country of origin, transit and destination for victims of trafficking in human beings. A coherent and comprehensive national anti-crime strategy is still required.

Romania has continued to make further progress in strengthening its institutional capacity to fight organised crime and during the reporting period the General Directorate for Combating Organised Crime and Anti Drugs recruited a significant number of additional posts (though 259 out of 1,178 posts are still vacant) and received additional premises. The undercover policing unit and the National Office for Witness Protection, however, need additional resources to become fully operational.

Romania continues to take appropriate measures in the fight against terrorism and is party to the major international agreements in this area.

In the fight against fraud and corruption, efforts have been focused on legislative measures and sanctions. The main challenges do not, however, stem from an inadequate legal framework and efforts should now be focused on ensuring effective implementation. Institutions within the criminal justice system remain affected by corruption. Integrity tests and disciplinary sanctions are often preferred over criminal trials when dealing with corrupt practices but such approaches do not serve as the most effective deterrent nor increase public confidence in these institutions. The responsibilities, activities and resources allocated to the General Directorate of

Intelligence and Internal Protection within the Ministry of Administration and Interior remain in need of review and the impact of the newly established Anti-Corruption and Professional Standards Directorate will be monitored in this context. While the National Anti-Corruption Prosecution Office has achieved some success in cases of petty corruption, it still has to demonstrate its ability fully to tackle politically-sensitive cases of high-level corruption in an effective way. Romania should also increase public awareness of the negative consequences of corruption and potential conflicts of interest.

Implementation of the recently adopted legislation concerning the protection of the Communities' financial interests and the protection of the euro against counterfeiting should be continued.

As far as the fight against drugs is concerned, the 2003-2004 National Strategy should be followed by a further strategy but this has still to be defined. The National Anti-Drug Agency has been operating effectively and is almost fully staffed but its budget was cut by 50%. Inter-agency co-operation in the fight against drugs remains weak, especially from those agencies that should communicate with the National Focal Point. A clear work programme concerning any such joint activities should be drawn up as a matter of urgency. In addition, the National Focal Point requires more staff and a larger budget to fulfil its role effectively. The Romanian drug seizure statistics should be unified between the various law enforcement agencies. There is considerable scope for improvement in the fight against drugs as drug smuggling into and through Romania remains a serious challenge, as is the domestic production of synthetic drugs. Enforcement in all areas remains weak and the border seizure figures are still in many cases extremely low.

The Romanian legal framework on money laundering is broadly in line with the *acquis* but minor adjustments are needed to align with the June 2001 Council Framework Decision on Money Laundering, the Identification, Tracing, Freezing, Seizing and Confiscation of Instrumentalities and the Proceeds of Crime. In addition, the provisions in the Anti-Money Laundering Law should be brought into line with EU practice in terms of respecting the professional secrecy of lawyers, as well as by not requiring a conviction for the predicate offence before prosecution for money laundering is possible. The National Office for Prevention and Control of Money Laundering reports difficulties in its capacity to conduct timely financial analysis effectively. The practical and functional organisation of the National Financial Intelligence Unit has improved, though 12 vacancies have still to be filled. Co-operation with various entities subject to a reporting obligation, particularly casinos and gambling houses, should be improved.

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. Preparations for adopting the 1995 CIS Convention and the 1997 Naples II Convention should be continued. Inter-agency co-operation needs to be further improved, especially between the Border Police, the Financial Guard, the National Customs Authority and the economic branch of the police specialised in tax crimes. Despite the adoption of an Action Plan in 2002 corruption remains a challenge within Customs and sanctions against individuals have been mainly limited to internal discipline.

As far as judicial co-operation in civil and criminal matters is concerned, legislation has been further aligned with the *acquis* but Romania still needs to comply with some instruments such as the 1980 Hague Convention on the Civil Aspects of International Child Abduction. The transposition of the relevant areas of the *acquis* has continued.

However, the practical capacity for effective and efficient direct contacts between judicial authorities should be increased. The capacity to successfully implement the *acquis* in advanced forms of judicial co-operation – such as the principle of mutual recognition of court decisions – will largely depend on the on-going judicial reform programme and the provision of adequate training to judges. As far as criminal matters are concerned, Romania should second liaison magistrates to EUROJUST.

In the field of human rights instruments covered by the *acquis* Romania has not ratified Protocol 12 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which deals with the general prohibition of discrimination.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that Romania was facing particular challenges in the Justice and Home Affairs area. Romania had only made limited progress towards meeting the necessary conditions of the Justice and Home Affairs *acquis* and it would be difficult to meet the (present and future) *acquis* requirements in the medium term. The Commission went on to say that the necessary progress in this field was dependent on a more general institutional reform which derived from the political process.

Since the Opinion, Romania has made steady progress, especially in the last three years. It has made fundamental reforms in some areas and has aligned itself with most of the major elements of the Justice and Home Affairs *acquis*.

Negotiations on this chapter continue. Romania has not requested any transitional arrangements.

In order to be ready for membership, urgent attention should be paid to completing legal approximation, implementing the revised legal framework and further strengthening administrative capacity. In particular, overall staff number and training capacities need to be increased. There are important areas including the Schengen *acquis* where additional efforts are required in order to deal with the remaining variability of legal alignment. Implementation capacity should also be significantly strengthened, in particular in the fight against corruption, judicial co-operation, fighting various types of organised crime, and border management. In addition, Romania should increase its efforts to develop administrative capacity, particularly in areas such as integrated border management, fighting corruption and preventing the trafficking of human beings, where inter-agency co-operation is essential. Efforts should also focus on improving the practical working-level contacts between institutions from the Romanian criminal system and the corresponding actors in neighbouring states. This is essential if the threats from transnational crime in the region are to be tackled more effectively. Due attention and adequate resources should be given to the full and timely implementation of the main strategies and action plans in order to address the issues of concern. Romania should increase its administrative capacity in the relevant institutions, implements an effective reform of the judicial system, recruits and trains the necessary staff and takes measures that have a significant impact on corruption.

## ***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 EC computerised customs systems, is in place.

### *Progress since the last Regular Report*

Some progress has been made since the last Regular Report.

With regard to the **customs acquis**, limited progress has been recorded in the reporting period with regard to alignment with the *acquis* adopted after 2001. In the field of tariff classification, Romania adopted the 2004 Combined Nomenclature and its explanatory notes in December 2003.

Romania has aligned its legislation on duty relief for certain categories of goods.

In May 2004, Romania has aligned its legislation on customs warehousing, by establishing type E and F warehouses and standardising authorisation procedures. In the field of dual use goods, a law regarding the control regime for dual use goods and technologies was adopted at the end of 2003 thus further aligning the legislation in this area.

In the field of cultural goods, technical norms for the temporary or definitive exportation of movable cultural goods were adopted in April 2004, establishing the conditions for the issue and the form of the export certificate for movable cultural goods.

With regard to **administrative and operational capacity**, a new organisational and functional structure of the Romanian National Customs Authority was adopted in March 2004. This was partly the result of the transfer of responsibility for the Authority from the Ministry of Finance to the National Control Authority. Several departments were set up, notably for Investigations, Information Management, and Products with Special Regime. Within the Customs Procedures and Tariff Directorate, two new departments were set up, namely Customs Laboratories and Management of Customs Clearance for Agricultural Products.

In March 2004, the Government approved the Customs Officers Statute, replacing the 1998 statute. The new statute contains rules on grades, functions, rights, obligations and incompatibilities.

Furthermore, the new Customs Officers Statute contains several provisions for tackling the issue of corruption among customs officers, including rules on the personal responsibility of customs officials for their wrongdoings, incentives for appropriate behaviour and rules on conflicts of interest and incompatibility.

Several thematic and unannounced checks were conducted on customs officials, by the mobile teams operating in the regional directorates. An external anti-corruption counsellor was appointed in February 2004 for two years, attached to the Prime Minister, to provide advice and improve the internal strategy to combat corruption in the Customs Agency. A hot line was set up for the public to report corruption cases and other fraudulent activities.

The mechanism for electronic payment of customs duties was extended from 6 to 79 customs offices. A web application for on-line processing was launched at the end of 2003; however, the use of this facility is still at a very early stage.

A new customs office was opened between Urziceni and Vallaj (Hungary) at the end of 2003. A Nuclear Unit was set up and equipped.

Limited progress can be reported with regard to cooperation with traders. The National Customs Authority has an external web-site available only in Romanian. The National Customs Authority does not provide any training for traders on customs issues.

Cooperation with the border police has improved, and as a result of a joint action, working procedures (such as operational plans, selection criteria and risk profiles) at the border with Bulgaria were harmonised. Cooperation with the National Office for Prevention and Control of Money Laundering takes place in form of joint actions and information exchange on the basis of the Protocol signed in 2003. One-stop controls, set up according to the "Memorandum on one-stop controls performed by border police and customs" are now functioning at 17 border posts. Two Agreements on cooperation and mutual assistance in customs matters were adopted with the Russian Federation and Albania.

The Training Strategy 2002-2006 is being implemented. However, practically no induction training has been provided due to the limited number of newly-hired officers since 2000, nor is there management training for the Customs Agency management. The vast majority of training is still "on-the-job" training, performed mostly by non-specialised trainers and with limited practical benefits for the participants. A laboratory network within the National Customs Authority is still to be set up. The National Customs Authority has concluded conventions with eight accredited external laboratories.

The technical environment and equipment for the implementation of Common Connection Network/Common Systems Interface is operational, including the back-up line and staff training. The major IT inter-connectivity systems are being developed.

### *Overall assessment*

Romania's legislation is only partially aligned with the EU *acquis*, in particular with regard to the *acquis* adopted since 2001. In some cases, (in particular Binding Tariff Information, Binding Origin Information, and simplified procedures) the existing legislation is not applied in practice. Additional efforts are required to complete alignment, most notably with regard to the new *acquis*, the validity of some authorisations, precursors and duty reliefs. A fee of around €8 is charged for electronic processing of customs declarations via the "ASYCUDA" IT system. This represents the vast majority of customs declarations. This fee is a measure having equivalent effect to a customs duty, and is incompatible with the Europe Agreement and the Community

*acquis*. Romania should, as a matter of urgency, abolish it. Moreover, a customs clearance fee of 0.5% *ad valorem* is applied to all imported goods not accompanied by a certificate of preferential origin. This will have to be abolished at the latest by the time of accession. Romania should also start considering the gradual closure of duty free shops at land borders and on trains, in order to ensure their complete closure upon accession.

As regards administrative and operational capacity, although progress has been made, Romania still faces significant weaknesses for which immediate and sustained corrective action is required.

The lack of an effective continuous in-house training system results, in some cases, in insufficient preparation of customs officials and, consequently, in non-uniform implementation of customs rules and procedures within the customs territory. More efficient use of the existing risk-analysis criteria for carrying out checks is needed, and the use of documentary controls should be enhanced compared to physical ones. The lack of binding information for operators and the demanding conditions for granting authorisations for simplified procedures also constitute a hindrance to the facilitation of legitimate trade.

Despite efforts made by the authorities, including the adoption of the new Customs Officers Statute, corruption remains a major problem. Efforts to curb this phenomenon are also hindered by the limited cooperation of the National Customs Authority with the organised trade associations and traders. With regard to IT and interconnectivity, Romania has had a clear strategy in place since 2001. Romania is making a sustained effort to achieve a sufficient level of IT operational capacity upon accession and is progressing at a satisfactory pace. Romania should be in a position to meet its IT interoperability obligations upon accession provided that the current pace is maintained. However, significant delays in adapting business procedures related to IT interconnectivity systems have occurred.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that it would be necessary to align Romania's customs administration to the level of a modern customs organisation, and noted that it seemed unlikely that Romania would be ready to fulfil the responsibilities of an EC customs administration within the next few years.

Since the Opinion, Romania has made progress in aligning its legislation with the *acquis*, although less progress has been made with regard to developing administrative capacity and fighting corruption within the customs administration. Romania has now achieved a good level of harmonisation of its customs legislation but administrative capacity is still weak.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements in this area. Romania is meeting the majority of the commitments and requirements arising from the accession negotiations. However delays have occurred with the transposition of some aspects of the customs legislation.

In order to be ready for membership, particular attention should be paid to completing the approximation of the customs legislation. Additional efforts are also needed to improve the existing training strategy up to 2006, in order to cover in an effective way all officials and all customs rules and procedures and to guarantee their uniform

implementation within the customs territory. The practical use of risk-analysis criteria, coupled with post-clearance controls, should be extended, to maximise the efficiency of documentary and physical checks. Internal coordination among the different levels of the customs administration should also be improved. The relation with operators should be further enhanced, including by providing them with binding information according to the legislation and by facilitating the use of simplified procedures. A strategy on the establishment of a laboratory network within the National Customs Authority and to prepare for the application of measures that will only be introduced at the time of accession should be set up. Romania should also continue its efforts to reduce levels of corruption within the customs administration. All existing customs clearance fees will have to be abolished. Duty free shops at the land borders and on train connections will also have to be closed upon accession. Romania has committed to abolish the Asycuda fee with effect from January 2005.

### ***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.

#### *Progress since the last Regular Report*

Since the last Regular Report, Romania has continued to make progress with alignment with the *acquis* on the common commercial policy and to coordinate positions and policies within the World Trade Organisation with the EU, in particular with regard to the Doha Development agenda negotiations.

As regards the **common commercial policy**, upon accession Romania will be required to align its tariffs with those of the EC. Romania's applied tariffs currently average 18.4% (Most Favoured Nation or MFN) on all products, 29.5% on agricultural products, 21.3% on fishery products and 15.2% on industrial products. By comparison, EC tariffs currently stand at 6.3% on all products, 16.2% on agricultural products, 12.4% on fishery products and 3.6% on industrial products. Romanian departures from the Most Favoured Nation level of import tariffs applicable to industrial imports increased during the reporting period and a similar situation exists for some agricultural goods.

In January 2004 a regulation concerning state aids in the area of short-term export credit insurance was approved. New legislation on the control of exports of dual-use goods and technologies was enacted in September 2003 with implementing rules established in October. Legislation was passed in June 2004 to continue the process of further bringing Romanian into line with the *acquis* on dual use goods and technologies.

As regards bilateral agreements with third countries, Romania signed in September 2003 a Memorandum of Understanding and Additional Protocol with the United States concerning their 1992 bilateral investment treaty. In December 2003 Romania and Serbia and Montenegro signed a free trade agreement which entered into force in July 2004. In October 2003 free trade agreements with three countries in the Western Balkans (former

Yugoslav Republic of Macedonia, Albania and Bosnia and Herzegovina) were ratified and entered into force. Negotiations for similar agreements are now ongoing with Egypt and Morocco.

While Romania remains without a **development policy** and is not an international donor, the Office for Development Assistance established within the Ministry of Foreign Affairs became operational in December 2003. Progress has been made in 2004 to move forward with the setting-up of a political framework. An inter-ministerial working group has recently started its work to define the future objectives of Romanian strategy for development cooperation and to make an inventory of the Romanian programmes for third countries that might be assimilated to the development cooperation assistance. The Romanian MoFA is cooperating closely with the Commission services in order to building capacity in the area of development. Romania made voluntary contributions to UN development programmes and funds. Romania has again provided **humanitarian assistance** during the current reporting period, in particular to Iran and Morocco in the aftermath of severe earthquakes.

### *Overall assessment*

With regard to WTO, Romania has continued to coordinate positions and policies within the World Trade Organisation with the EU. Romania should continue close coordination and co-operation with the Commission in GATS negotiations - mainly in order to facilitate the future convergence of its GATS commitments and MFN exemptions with those of the EU.

Among other agreements, the Foreign Investment Protection Agreement with Canada and the Friendship, Commerce and Navigation Treaty with Japan still have to be brought into conformity with the *acquis*. Romania has begun re-negotiations with Canada and it has contacted Japan in this context. Romania has not yet ratified the Additional Protocol of the Bilateral Investment Treaty with the USA.

In view of the time consuming and complex nature of adjusting or denouncing bilateral agreements, Romania should now prioritise completing its analysis of the compatibility of its bilateral agreements with its EU membership obligations and establish an implementation schedule to bring them in line with the *acquis* by the time of accession.

Romania has fully complied with its commitments under the Stability Pact's 2001 Memorandum of Understanding on trade liberalisation and concluded free trade agreements with all countries involved.

The new legislation on short-term export credits is broadly in line with the relevant Community legislation. Concerning medium- and long-term export credits, further efforts are still needed to align with the OECD Export Credit Arrangement, particularly the minimum premium rates for political risks, in order to fully comply with EC rules. Further modification to Romania's legislation will be required to bring it fully into line with the most recent Council Regulation on dual-use goods, though full alignment with the *acquis*, in particular the general export authorisations, can only take place upon accession. Romania continues to keep its industry regularly informed of developments in this field and has developed bilateral contacts with the EU Member States to exchange best practices on export control issues. The EU continues to support Romania's application to the Missile Technology Control Regime.

The Foreign Trade and Economic Promotion Department, which was relocated to the Ministry of Economy and Commerce, has continued to function effectively. The Department is adequately resourced and well staffed.

Efforts have continued to develop the administrative capacity of the now renamed National Agency for Export Control through in-house training and the development of international networks. The Office for Development has become operational and additional effort should focus on providing dedicated structures for managing development and humanitarian aid. In this context, account must be taken of the commitments taken at the Monterrey International Conference and confirmed by the EU in Barcelona that all Member States donate a minimum of 0.33% of their gross domestic product to official development assistance by 2006.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that Romania should be able to meet Community requirements in this field in the medium term, provided that it reinforced its efforts to eliminate existing trade barriers in order to align itself more closely with the Community trade regime.

Since the Opinion, trade barriers have been progressively eliminated, and Romania has achieved a generally high level of alignment with the *acquis*.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements and is generally meeting the commitments and requirements arising from the accession negotiations in the field of external relations.

In order to complete its preparations for membership, Romania's efforts should now focus on bringing all of its outstanding bilateral treaties into line with the *acquis* as to bring them in conformity with its EU membership obligations by the date of accession. It should also focus on ensuring the necessary application of the EU *acquis* in the field of dual-use goods and export credits. Romania should also develop a credible development and humanitarian policy and build up the necessary institutions and administrative capacity.

### *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.

### *Progress since the last Regular Report*

Since the previous Regular Report, Romania has continued to position its foreign policy and security policy in line with that of the European Union.

Romania has continued its active participation in the **political dialogue** within the framework of the common foreign and security policy (CFSP), including in meetings at Political Director, European Correspondent and Working Group level. Romania has also

shown a continued interest in the development of the European Security and Defence Policy (ESDP) as part of the CFSP and has participated in discussions on this subject with the EU in the EU + 15 format, and after enlargement in May 2004, in EU + 5 format (i.e. non-EU European NATO members and candidates for accession to the EU).

Romania continued to align itself regularly with **EU sanctions and restrictive measures, statements, declarations and démarches** when invited to do so, including negative measures. Romania has taken an active part in the debates on the draft European Security Strategy and in the consultations between the EU and the associated countries. Romania has implemented the embargoes and the restrictive measures imposed by UN, EU, OSCE and others in its capacity as a state party to the Wassenaar Agreement regarding the export control for conventional arms and dual-use products.

The former National Agency for the Control of Strategic Exports and of Prohibition of Chemical Weapons (ANCESIAC) was renamed the National Agency for Export Control (ANCEX) and became administratively subordinated to the Ministry of Foreign Affairs. During the reporting period ANCEX produced Romania's second Report on Conventional Arms Exports Control which covered the year 2002.

In January 2004, Romania started its two-year term as a non-permanent member of the UN Security Council and held the monthly presidency of the Security Council in July 2004. Romania also held the chairmanship of the 1518 Committee for Iraq, and the vice-chairmanship of the 1267 Committee on sanctions imposed on the Taliban and Al Qaeda.

No developments have occurred during the reporting period with regard to Romania's position on the International Criminal Court.

Romania shares the EU approach on the consolidation of the European prospects of the Western Balkan States through the strengthening of the framework provided by the European Stabilisation & Association Process with elements inspired by the current enlargement process. Romania also welcomed the EU decision to initiate a coherent policy towards its future neighbours through the European Neighbourhood Policy and continually supported the inclusion of the countries in the Southern Caucasus. Romania has also proposed to conclude a "Partnership for Europe" with Moldova and is an active participant in the Danube Co-operation Process.

Romania reiterated its willingness to contribute both to the EU Rapid Intervention Force missions and to EU civilian instruments for crisis management. It takes part in the police and military missions carried out by the EU in Bosnia and Herzegovina and the former Yugoslav Republic of Macedonia. Romania has made considerable efforts to support international peacekeeping missions having participated in a series of UN, KFOR, SFOR, ISAF and OSCE peacekeeping and observer operations. Combat troops remained in Afghanistan and in August 2003 a battalion was sent to Iraq, under Polish and British command. At regional level Romania takes part in the Stability Pact and is chairing the South-East European Cooperation Process in 2004-2005.

### *Overall assessment*

Romania has continued to align itself with the EU's Common Foreign and Security Policy and confirmed its good track record in this area. Romania has continued to play an important role as a regional leader in efforts to strengthen stability and security in South-Eastern Europe.

Romanian officials from the Ministry of Foreign Affairs have again demonstrated their ability to successfully implement the provisions relating to the CFSP. The Ministry of Foreign Affairs has a European Correspondent but does not yet have a permanent Political Director, though this function is exercised by the Director General for political affairs in cooperation meetings with the EU. The Ministry of Foreign Affairs is connected to the Associated Correspondents' Network information system, through which the EU communicates with associated partners within the CFSP.

Efforts have also been undertaken to promote transparency in the relationship between the government and the arms manufacturing industries and full implementation of the EU Code of Conduct for Arms Exports and the fight against unauthorised weapons transfers should be further ensured. Horizontal legislation allowing for the automatic enforcement of economic sanctions should be adopted. Furthermore, an agreement with Ukraine on the delimitation of the continental shelf and the maritime border should be reached since Ukraine unilaterally started to build the Bastroe channel in the Danube Delta in May 2004.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that Romania should be able to effectively fulfil its obligations in the field of foreign and security policy.

Since the Opinion, Romania has continued to make steady progress in aligning with the CFSP *acquis*, and its overall performance in this field has been satisfactory.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements. Romania is generally meeting the commitments and requirements arising from the accession negotiations for this chapter.

In order to complete preparations for membership, Romania's efforts should now focus on the full implementation of the Code of Conduct for Arms Exports and the fight against unauthorised weapons transfers. The legislative framework for arms control and on economic sanctions needs to be completed and administrative structures for CFSP participation need to be finalised.

### ***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 the 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 EC financial interests.

### *Progress since the last Regular Report*

Some progress has been made since the last Regular Report.

In the area of **public internal financial control**, no major legislative development can be reported. In February 2004, the Ethics Code for internal auditors was approved and published. Further progress has been achieved in the decentralisation of the preventive financial control function from the Ministry of Public Finance to the income and spending centres. The Committee for Public Internal Audit, established in August 2003 with an advisory role in matters relating to public internal financial control, has become operational.

In the field of **external audit**, following the 2003 amendment of the Constitution abolishing the jurisdictional power of the Court of Accounts and establishing the independence of its members, the Court has been reinforced in terms of staff and a new department has been created within the Court with special responsibility for audit in the areas of privatisation and of management of EU funds.

As regards the **EU pre-accession funding and future structural action expenditure**, Romania has continued the preparations for the extended decentralised implementation system (EDIS) and the third stage, Compliance Assessment, was launched. The Ministry of Public Finance has been designated as Managing Authority for the Community Support Framework. As regards the preparations related to the set-up of the institutions and systems required for the management of the Structural Funds, the National Paying Agency was established in December 2003. In April 2004, the institutional framework for coordination, implementation and management of structural instruments was established by setting up the Paying Agency for the European Regional Development Fund, the European Social Fund and the Cohesion Fund. 300 posts were allocated. The Agency will become operational by 2005.

With regard to the **protection of the EC financial interests**, in March 2004 the Government Control Department's attributions regarding the protection of EU financial interests were taken over by the Prime Minister's Department of Inspection and Pursuit of Transparent Use of Community Funds (Prime Minister's Inspection Department). The certification report on SAPARD for the financial year 2003 revealed potential significant weaknesses, for which clarifications are expected from the Romanian authorities.

With regard to the **protection of the euro against counterfeiting**, no particular progress can be reported.

### *Overall assessment*

Substantial progress has been recorded in the preventive financial control area, in particular in decentralising preventive financial control to the income and spending centres. However, further attention should be given to developing a policy to cover the entire range of managerial accountability functions in the public sector, in compliance with the internationally agreed standards. Procedures, manuals and audit trails still need to be developed. A Central Harmonisation Unit for Financial Management and Control Systems should be established and become operational soonest. The Central Harmonisation Unit for Public Internal Audit, which has been operational since March 2003, needs to be further strengthened (training of staff, and development of working methods geared to its functional independence).

With regard to external audit, following the 2003 amendment of the Constitution, the Law on the Activity of the Court of Accounts should be modified to *inter alia* specify the financial independence of the Court and introduce systems-based and performance audit.

Romania needs to enhance the formal procedures for parliamentary scrutiny of the Court's audit findings and to improve the transparency and dissemination of the Court of Accounts reports. In order to increase the institutional capacity of the Court, further training is required for its staff.

As regards the control of EU pre-accession funding and future structural action expenditure, Romania should concentrate efforts on preparations for EDIS and on the management of pre-accession funds and Structural Funds.

In the area of the protection of EC financial interests, Romania should pursue its efforts to develop both framework and implementing legislation to ensure the continuous functioning of its administrative structures following the March 2004 governmental reorganization. A Cooperation Arrangement between the Prime Minister's Inspection Department and OLAF should replace the previous one concluded with the Prime Minister's Control Department.

Whilst efforts have been made to elaborate methodological norms for the control and recovery of Community funds, further attention should be paid to developing effective mechanisms for the conduct of anti-fraud investigations and their possible judicial follow-up. The 2003 Anti-fraud Strategy for the Protection of the Communities' Financial Interests needs to be further developed, taking into account practical experience gained in implementing this strategy.

With regard to the protection of the euro against counterfeiting, most of the *acquis* has been transposed. Romania has set up a National Central Office as well as a National Analysis Centre and a Coin National Analysis Centre. Romania still needs to ensure compliance with the requirement for financial institutions to withdraw counterfeit currency from circulation and hand it over to the competent authorities. Appropriate sanctions should be provided for to that effect (*see also Chapter 24 – Co-operation in the field of justice and home affairs*).

In December 2003, the Commission adopted a decision provisionally conferring management authority for three new SAPARD measures, on a fully decentralised basis, to the SAPARD Agency.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that major efforts were essential to strengthen the internal financial control functions.

Since the Opinion, steps forward have been taken. In the field of public internal financial control legislative alignment has progressed and administrative capacity developed. In the area of external audit constitutional modifications have been adopted in order to provide for the independence of the members of the Court of Accounts. The Court's administrative capacity has been strengthened. The preparations for the management of future Structural Funds are ongoing and the administrative structures for cooperation with OLAF are in place.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements in this area. Romania is meeting the majority of the commitments and requirements arising from accession negotiations for this chapter.

However, delays have occurred, in the harmonization of the financial management and control systems.

In order to be ready for membership, particular attention should be paid to strengthening managerial accountability and the administrative capacity to implement sound financial control systems as well as to further developing the legislative framework and administrative capacity in the area of external audit and protection of the Communities' financial interests. A Policy Paper on public internal financial control has been elaborated and training provision is planned. The full implementation of the foreseen measures would make a considerable contribution to ensuring that the current gaps in administrative capacity are filled.

### ***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 from 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.

#### *Progress since the last Regular Report*

Further progress has been made since the last Regular Report.

In the area of **national budget formulation and execution**, the implementation of the Law on Public Finance continued to provide a framework for improvement of the budgetary process and greater clarity in medium-term economic forecasting. In the area of public accounting work has continued with a view to the adoption of accrual-based accounting.

Further progress has been made with regard to the administrative preparations for **own resources** and the underlying policy areas affecting the correct application of the Union's financing system. A working group was set up within the Ministry of Finance in February 2004 to strengthen central coordination regarding own resources. This working group is made up of representatives of five subgroups, namely establishment, calculation, collection, making available and control of own resources.

At the end of March 2004, cooperation protocols were signed between the Ministry of Finance and the various institutions involved in the own resources system but not falling under the Ministry of Finance, such as the National Statistics Institute, the National Customs Authority and the National Bank of Romania.

Romania has continued harmonising its national Customs Code and Implementing Provisions with the Community customs legislation. With regard to VAT some progress was recorded over the reporting period, notably with regard to legislative alignment.

#### *Overall assessment*

Despite an acceleration of preparations in early 2004, further efforts are necessary to develop the administrative capacity to properly calculate Romania's contribution to the EU budget and additional action remains to be undertaken to complete preparations for membership.

As regards traditional own resources, the administrative infrastructure for the collection and recovery of customs duties is in place. However, implementing procedures and structures for the collection and control of sugar levies do not yet exist. Also, particular attention should be given to the accounting (A&B accounts) and reporting (e.g. OWNRES) requirements for Traditional Own resources including the implementation of the Customs Accounting System in all customs offices. An internal audit function exists both within the central headquarters of Romanian Customs as well as within the regional directorates of the National Authority for Customs. Sufficient staff and an adequate infrastructure for collecting customs duties are available.

Furthermore, the capacity to duly collect and control VAT and customs duties (including instruments to enforce payment and to combat fraud and evasion) and to calculate gross national income (GNI) in a reliable and accurate way must be further developed.

A satisfactory level of compliance with ESA95 (for the compilation of the national accounts) has been reached but there is still some way to go before full compliance can be certified, particularly as regards the exhaustiveness of the accounts. Reaching this stage will depend strongly on the availability of sufficient staff and resources.

In addition to the need for central coordination of the proper collection, monitoring and payment of funds to and from the EC budget, administrative capacity should continue to be strengthened in the context of the relevant policy areas described elsewhere in this Report, such as agriculture, customs, taxation, statistics and financial control.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that in order to ensure that own resources could be established, monitored and made available in line with Community regulations, Romania would have to overhaul its current customs system. In addition, for the purpose of accurately calculating the GNP resource, considerable improvements would have to be made to the national accounts to ensure that they are reliable, homogeneous and complete. Also, improving the statistics for drawing up the VAT own resources base was considered essential to bring Romania's VAT system fully into line with the Community directives.

Since the Opinion, Romania has progressed in its preparations, notably for the application of the own resources system. Alignment has continued in the areas of customs and VAT. Progress has been made in the area of harmonisation with the ESA95 standards for the compilation of national accounts.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangement and is generally meeting the commitments arising from accession negotiations for this chapter.

In order to complete preparations for membership, Romania's efforts should now focus on developing an adequate level of administrative capacity and on properly calculating the various own resources to be contributed to the EU budget. Sustained efforts are

required to strengthen the administrative capacity in the context of the underlying policy areas of customs, VAT and GNI statistics. This implies an adequate capacity to duly collect and control VAT and customs duties (including instruments to enforce payments and to combat fraud and evasion) and to calculate GNI in a reliable, accurate and exhaustive way, following ESA 95 standards.

### **3.2 Translation of the *acquis* into Romanian**

Applicant countries are required to translate the various legal texts constituting the *acquis* into their national languages by the time of their accession. Primary and secondary legislation alone represents a considerable volume of texts, roughly estimated at 90,000 pages of the Official Journal. 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). To help the candidate countries in this process, assistance is being provided under the Phare programme. With the help of TAIEX, a dedicated database has been set up to act as a repository of all translated acts and as a tool through which candidate countries forward their translations to the Commission and the Council. The legal revisers of the Commission and the Council vet the submitted texts; they meet regularly and liaise with representatives of the centralised Translation Co-ordination Units in each country.

In Romania, the Translation Co-ordination Unit is established within the European Institute of Romania (EIR). It is responsible for managing all translation activities and it is being reinforced to improve its effectiveness. Translations of the *acquis* are published on the EIR's website and are available free of charge. In parallel with the translation work, research on terminology has continued.

The translation project launched in April 2003 financed by the Ministry of European Integration was finalised in December 2003. The objectives of the project were the translation of 10,000 pages of the Official Journal and the revision of another 11,000 pages. As of August 2004, 75,000 pages of the Official Journal were translated into Romanian, of which 23,000 pages were fully revised. Efforts in this area need to be maintained if targets are to be met. Due attention must also be paid to the training of conference interpreters.

### **3.3 General evaluation**

Since the opinion, Romania has made good progress in adopting the *acquis* and more recently, has also made progress in gradually building up the administrative capacity to implement and effectively enforce the *acquis*.

Over the past year, Romania has made further progress in the vast majority of the chapters of the *acquis* and is on track to complete the required legislative transposition before the planned date of accession if the current pace of progress is maintained.

Overall, alignment with the *acquis* has reached a fair level in the large majority of areas. The administrative capacity has been strengthened in the majority of areas but there is still room for improvement since not all the necessary institutions are yet in place. In order to cover the remaining gaps, due attention should be given to the full and timely implementation of the strategies and action plans for the reinforcement of administrative capacity already approved in these areas.

In the area of *internal market*, Romania has continued to make progress with the transposition of legislation in the field of the *free movement of goods*. However, transposition of the public procurement legislation must be completed. In addition, practices which put Romania's commitment to open and transparent procurement procedures into question should be discontinued. Legislation has been further aligned in the area of *free movement of persons*, in particular as regards mutual recognition of professional qualifications and free movement of workers. Alignment needs to be completed as regards citizens' rights and administrative and training capacities should be enhanced in general. In particular in the field of financial services, Romania achieved substantial progress in *freedom to provide services*. Romania should continue to pay attention to the removal of identified barriers against the right of establishment and the freedom to provide services and to the development of the insurance and financial securities markets. While alignment with the *acquis* on *free movement of capital* has further improved, outstanding restrictions to capital movements and payments should be removed and the enforcement record of the National Office for the Prevention and Control of Money Laundering needs to be improved.

Romania has continued to make progress in transposing the *company law acquis* as such and the *acquis* concerning the protection of intellectual and industrial property rights. However, the level of enforcement of such rights has not kept pace with this. Romania's legislative alignment on accounting and auditing should be completed. While the Romanian *competition* legislation is broadly in line with EC anti-trust rules, current proposals needed to complete alignment of the state aid legislation are being prepared. The enforcement record of the Romanian competition authority still needs to be considerably improved in state aid matters. Recent efforts in this respect need to be stepped up. Romania needs to ensure that restructuring aid given to steel companies is in line with the Europe Agreement.

Romania made significant progress to further transpose the *agricultural*, veterinary and phytosanitary *acquis* and has strengthened its administrative capacity. However, overall administrative and enforcement capacities should be further enhanced. Particular attention should be paid to reinforcing the SAPARD Agency and to establishing the necessary elements of a functioning IACS. Upgrading plans for non-complaint establishments in the veterinary sector should be introduced with no delay. Steady progress has taken place in the *fisheries* sector in terms of alignment and administrative capacity. However, sustained efforts are needed to recruit sufficient staff in the Fisheries Inspectorate and provide it with adequate inspection tools. The fishing database should be established.

Romania has continued to make progress with the transposition of the *transport acquis* and building up the administrative structures in the areas of road, rail and aviation transport. Alignment is fairly advanced in the maritime sector. The technical state of the inland waterway fleet should be improved.

Romania has made some progress in aligning with the *acquis* on *taxation* and particular attention should now be paid to completing alignment and strengthening administrative capacity. Transposition of the *acquis* on *social policy and employment* has continued. Future efforts should focus on completing legislative alignment in the area of labour law and on strengthening the Labour Inspectorate to ensure proper implementation in the area of health and safety at work. Due attention should be paid to the promotion of social dialogue and to the improvement of the health status of the population, which is well below the EU average. Administrative capacity with regards to ESF management should

be strengthened as a matter of priority. Legislative progress in the *energy* sector should be matched by full implementation and increased administrative capacity, in particular with regard to the internal energy market structures. The restructuring of energy markets process needs to be completed.

Romania has performed steady progress as far as *industrial policy* is concerned, but the key challenge is its implementation as structural weaknesses limit the capacity for enforcement. Transparency of the privatisation process should be fully ensured. Progress has continued in the area of *telecommunications* with liberalising the telecommunications market and completing the transposition of the *acquis*.

As regards *regional policy and co-ordination of structural instruments*, progress has been made in preparing for the implementation of structural policies with the designation of the Managing and Paying Authorities and establishing their tasks and adoption of the 2004-2006 National Development Plan. Efforts need to be continued to bring the administrative capacity up to the level required in order for Romania to reap full benefits of the structural instruments. *Environment* is an area where Romania has achieved a good level of alignment with the *acquis* in most of the sectors, whereas implementation is, in general, still lagging behind. Further transposition should concentrate on completing the alignment in the areas of horizontal legislation, air quality, waste management, water quality, nature protection and a number of other sectors. Implementation of the transposed *acquis* remains a key challenge and, therefore, requires enhanced efforts. It is of utmost importance that the environmental administration at all levels obtains sufficient resources in order to cope with the increasing recruitment, training and equipment needs. Strategic planning, adequate investment and financing plans also have to remain in the focus of the public services in the field of environment.

Legislative alignment on *consumer and health protection* is well on track and Romania has made good progress as regards improvement of administrative capacity and the general co-ordination of market surveillance activities. These efforts should be maintained and consumer movement should be strengthened.

Legislative progress has been made in many areas of *justice and home affairs* and especially so in migration, asylum and judicial co-operation in civil and criminal matters. However, implementation capacity should be significantly strengthened in almost all areas, as should inter-agency co-operation. Many agencies and institutions involved in law enforcement are still affected by staff shortages, which will also require enhanced training capacity. The independence of the judiciary must be ensured on the ground. As regards the fight against corruption, implementation capacity should also be significantly strengthened and the existing legislation should be rigorously enforced. Romania should implement its current plans to fully address the above issues of concern and in particular increase its administrative capacity in the relevant institutions, implement an effective reform of the judicial system, recruits and train the necessary staff and take measures that have a significant impact on corruption.

Limited progress has been made in the area of *customs* and legislative alignment should be completed. Internal co-ordination improved. Furthermore, any customs duties and charges having equivalent effect with regard to export and import to and from the Community will have to be abolished. Romania has pursued its efforts in the *financial control* area. However, the legislative framework should be completed in the area of external audit and protection of the Communities' financial interests. Administrative capacity should be strengthened to implement sound financial system.

In a number of important sectors, the overall *capacity of the public administration* to implement and enforce the newly adopted legislation should be enhanced. Romania has started to address this issue through the comprehensive reform of its public administration. These concerns extend beyond the adoption of the *acquis* and also apply to the management of EU financial assistance. Furthermore, there are a number of areas where further efforts will be needed to complete the work, in particular as regards company law, competition policy, environment and justice and home affairs, customs and financial control.

In the accession negotiations, 27 chapters have been provisionally closed. Romania is generally meeting the commitments that it has made during the negotiations, although delays have been noted in specific areas.

Bearing in mind the progress achieved since the Opinion, the level of alignment and administrative capacity that Romania has achieved at this point in time and its track record in implementing the commitments that it has made in the negotiations, and taking into account their preparatory work in progress, the Commission expects Romania to assume the obligations of membership in accordance with the envisaged timeframe. In the period leading up to accession, Romania needs to continue its preparations, in line with the commitments it has made in the accession negotiations.

## C. CONCLUSION

Since the Commission concluded in its 1997 Opinion that Romania fulfilled the political criteria, the country has further consolidated and deepened the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. This trend has accelerated over the past year. Romania continues to fulfil the political criteria.

Progress was made to address the need for administrative and judicial reforms. A public administration reform strategy was launched in May 2004, covering the area of civil service reform, decentralisation and deconcentration, and policy co-ordination. A positive start was made to the reform of the civil service. The establishment of the Chancellery of the Prime Minister should help to improve policy coordination and consistency. The use of emergency ordinances was restricted to “extraordinary circumstances”, but this has not yet led to a decrease of their use. The laws on the freedom of information and transparency in the legislative process should still be fully implemented. The revision of the Constitution in October 2003 contributed to streamlining the parliamentary process by giving both chambers primary responsibility for different types of legislation. Efforts to improve the policy-making and legislative process should continue. Further efforts are also needed to strengthen local and regional governance with a view to ensuring proper implementation of the *acquis* at those levels.

The management of court cases and the quality of judgments needs to improve. Official surveys confirm the possibility for the executive to influence the outcome of judicial proceedings. However, organisational and legislative changes introduced in Romania’s judicial system should help to make it more independent and efficient. Their implementation on the ground is a matter of priority.

Corruption in Romania continues to be serious and widespread. Romania’s anti-corruption legislation is generally well developed, but its ability to curb corruption will depend on the effective implementation of the law. In particular, additional efforts are required to ensure the independence, effectiveness and accountability of the National Anti-Corruption Prosecution Office. It should concentrate its resources on investigating high-level corruption.

Romania continues to respect human rights and fundamental freedoms and has made further progress in several areas. The introduction of national standards for child protection services and of strict rules on inter-country adoption, which appear to be in line with the UN Convention on the rights of the child, should further improve the protection of children’s rights. As regards freedom of expression, the legal situation of journalists has improved but the economic situation of many mass media organisations remains precarious and further efforts are necessary to guarantee media independence. Although the restitution of agricultural land is almost completed, a more speedy and transparent approach is needed to further the restitution of buildings and religious property. Efforts to address the problems of ill-treatment in custody, trafficking in human beings and prison overcrowding should be sustained.

The Roma Strategy, which is explicitly aimed at addressing discrimination, is being implemented but de facto discrimination against the Roma minority remains widespread. The support for an inclusive approach to education is a positive development. The same encouraging trend has been noted in health care and employment.

The 1997 Opinion already acknowledged the substantial reform efforts undertaken by the Romanian authorities to transform their economy. Since the Opinion economic structure and performance have significantly improved. Macroeconomic stability has been achieved, profound economic reforms have been carried out while the Romanian authorities' commitment to the economic requirements of EU accession has been sustained.

Hence, it is 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.

Improvements can be made in sustaining macroeconomic stability and in deepening structural reforms. 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. Fiscal sustainability needs to be strengthened by advancing expenditure reform and further improving tax compliance. The privatisation process should be accomplished, post-privatisation disputes be settled and non-viable enterprises more actively dismantled. In key sectors, such as energy, mining and transport, perseverance in restructuring and a more manifest strive for privatisation should go hand in hand. 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.

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Bearing in mind the progress achieved since the Opinion, the level of alignment and administrative capacity that Romania has achieved at this point in time and its track record in implementing the commitments that it has made in the negotiations, and taking into account their preparatory work in progress, the Commission expects Romania to assume the obligations of membership in accordance with the envisaged timeframe. In the period leading up to accession, Romania needs to continue its preparations, in line with the commitments it has made in the accession negotiations.

#### D. ACCESSION PARTNERSHIP: GLOBAL ASSESSMENT

Romania's progress and overall state of preparation in respect of the Copenhagen criteria has been examined and conclusions drawn above. The present section assesses briefly the overall extent to which the priorities of the Accession Partnership have been met.

A revised Accession Partnership was adopted in May 2003.<sup>11</sup> The purpose of the Accession Partnership is to assist the Romanian authorities in their efforts to meet the accession criteria. It covers in detail the priorities for accession preparations, in particular implementing the *acquis*, and forms the basis for programming pre-accession assistance from Community funds such as the Phare programme.

Romania has continued to address the priorities defined by the revised Accession Partnership. Overall, good progress has been made, but affects unevenly the different priorities foreseen. Substantial efforts are still necessary to complete the tasks foreseen by the revised Accession Partnership. For a number of priorities, the government will benefit from Phare assistance, as projects directly related to these priorities have been included in the 2004 Phare programme (*see more details in Part A.2 of this report*).

With regard to the **political criteria**, Romania has launched major reforms in the field of public administration, the fight against corruption and the judiciary with the aim of reinforcing *democracy and the rule of law*. Further progress has been made in the area of *human rights and protection of minorities*. However, attention should be focused on the implementation of these reforms and on the enforcement of existing legislation. A considerable amount of work still remains to be done and the current pace of reforms should be accelerated to meet the priorities laid down in the Accession partnership.

Romania has moved progress in the implementation of the priorities defined by the revised Accession Partnership with regard to the **economic criteria**. Romania has continued its economic recovery which is partly due to a more appropriate policy mix. As regards structural reforms, major privatisations took place in the industrial sector and in the energy field. However, further efforts are still needed in order to tackle the issue of accumulation of arrears and the reticent use of bankruptcy procedures.

Romania has made good progress with the adoption and implementation of the *acquis*. However, considerable efforts are still needed to ensure effective implementation and enforcement of the legislation arising from the commitments made in the negotiations. Overall, legislative alignment as well as the administration should be enhanced to meet these commitments.

Progress on the issues identified as priorities in the Accession Partnership is discussed in more detail in other parts of this report, notably in Part B.3. The revised Accession Partnership follows the same structure as the Regular Report.

The revised Accession Partnership continues to be a main tool guiding Romania's work on preparation for accession. Implementation of the Accession Partnership needs to

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<sup>11</sup> Council decision 2003/397/EC of 19 May 2003 on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with Romania (OJ L 145, 12.6.2003, p. 21).

continue. It should be given the necessary political attention and should help Romania to set its legislative and institution-building agenda.

## ANNEXES

## ANNEX I

### HUMAN RIGHTS CONVENTIONS RATIFIED BY THE CANDIDATE COUNTRIES

(as at end of September 2004)

<i>Adherence to following conventions and protocols</i>	<b>Bulgaria</b>	<b>Romania</b>	<b>Turkey</b>
ECHR (European Convention on Human Rights)	✓	✓	✓
Protocol 1 (right of property)	✓	✓	✓
Protocol 4 (freedom movement et al.)	✓	✓	
Protocol 6 (death penalty)	✓	✓	✓
Protocol 7 (ne bis in idem)	✓	✓	
European Convention for the Prevention of Torture	✓	✓	✓
European Social Charter	n/a	n/a	✓
Revised European Social Charter	✓	✓	
Framework Convention for National Minorities	✓	✓	
<b>ICCPR</b> (International Covenant on Civil and Political Rights)	✓	✓	✓
Optional Protocol to the ICCPR (right of individual communication)	✓	✓	
Second Optional Protocol to ICCPR (death penalty)	✓	✓	
<b>ICESCR</b> (International Covenant on Economic, Social and Cultural rights)	✓	✓	✓
<b>CAT</b> (Convention against Torture)	✓	✓	✓
<b>CERD</b> (Convention on the Elimination of All Forms of Racial Discrimination)	✓	✓	✓
<b>CEDAW</b> (Convention on the Elimination of All Forms of Discrimination against Women)	✓	✓	✓
Optional Protocol to the CEDAW			
<b>CRC</b> (Convention on the Rights of the Child)	✓	✓	✓

## ANNEX II

## STATISTICAL ANNEX

	1997	1998	1999	2000	2001	2002	2003
<b>Basic data</b>	<b>in 1000</b>						
Population (at 1 <sup>st</sup> of July)	22.546	22.503	22.458	22.435	22.408	21.795	21.734
	<b>in km<sup>2</sup></b>						
Total area	238.391	238.391	238.391	238.391	238.391	238.391	238.391

<b>National accounts</b>	<b>1000 Mio Lei</b>						
Gross domestic product at current prices	:	373.798	545.730	803.773	1.167.243	1.512.617	1.890.778
	<b>1000 Mio ECU/euro</b>						
Gross domestic product at current prices	:	37,4	33,4	40,3	44,9	48,4	50,4
	<b>in ECU/Euro</b>						
Gross domestic product per capita b) at current prices	:	1.660	1.490	1.800	2.000	2.220	2.320
	<b>% change over the previous year</b>						
Gross domestic product at constant prices	:	:	-1,2	2,1	5,7	5,0	4,9
Employment growth	-3,8	-2,3	-4,5	2,5	-0,8	-9,5	-4,5
Labour productivity growth i)	:	:	3,5	-0,3	6,6	7,9	4,3
Unit labour cost growth	:	:	-7,6	21,7	-1,1	:	:
	<b>in Purchasing Power Standards</b>						
Gross domestic product per capita b) at current prices	:	:	4.760	5.010	5.460	6.020	6.340
	<b>in % of EU-25 average</b>						
GDP per capita b) at current prices in PPS	:	:	:	25,6	26,9	28,7F	29,9F
	<b>in % of EU-15 average</b>						
Labour productivity (GDP per person employed in PPS) i)	:	:	27,2	26,6	28,5	30,5F	31,7F
Structure of production	<b>% of Gross Value Added c)</b>						
- Agriculture	:	16,0	14,9	12,4	14,7	12,5	12,9
- Industry (excluding construction)	:	29,1	27,7	30,5	30,5	31,4	31,4
- Construction	:	5,6	5,6	5,5	5,9	6,2	6,3
- Services	:	49,2	51,8	51,7	48,9	50,0	49,3
Structure of expenditure	<b>as % of Gross Domestic Product</b>						
- Final consumption expenditure	:	90,3	88,8	86,2	85,2	82,2	83,3
- household and NPISH	:	75,7	74,3	70,1	70,0	68,9	68,9
- general government	:	14,5	14,5	16,1	15,2	13,3	14,3
- Gross fixed capital formation	:	18,2	17,7	18,9	20,7	21,3	22,5
- Stock variation d)	:	-0,4	-1,6	0,6	1,9	2,2	2,1
- Exports of goods and services	:	22,6	28,0	32,9	33,3	35,5	36,2
- Imports of goods and services	:	30,6	32,9	38,5	41,1	41,2	44,2

<b>Inflation rate</b>	<b>% change over the previous year</b>						
Consumer price index	154,9	59,1	45,8	45,7	34,5	22,5	15,3

<b>Balance of payments</b>	<b>in Mio ECU/euro</b>						
-Current account	-2.104	-2.917	-1.437	-1.355	-2.223	-1.733	-2956
-Trade balance	-1.980	-2.625	-1.257	-1.684	-2.969	-2.762	-3.954
Exports of goods	8.431	8.302	8.487	10.366	11.385	14.638	15.597
Imports of goods	10.411	10.927	9.744	12.050	14.354	17.400	19.550
-Net services	-381	-603	-395	-246	-115	-52	-14
-Net income	-322	-442	-411	-285	-282	-532	-627
-Net current transfers	579	753	626	860	1.143	1.614	1.640
- of which: government transfers	64	46	57	70	221	290	200
- FDI (net) inflows	1224	2040	1025	1048	1174	1130	1345P

<b>Public finance</b>	<b>in % of Gross Domestic Product</b>						
General government deficit/surplus	-4,5	-3,2	-4,5	-4,4	-3,5	-2,0	-2.0P
General government debt	16,5	18,0	24,0	23,9	23,2	23,3	21.8P

<b>Financial indicators</b>	<b>in % of Gross Domestic Product</b>						
Gross foreign debt of the whole economy	24,1	20,7	22,9	22,1	24,0	23,0	:
	<b>as % of exports</b>						
Gross foreign debt of the whole economy	82,6	91,6	81,7	67,3	71,9	64,8	:
Monetary aggregates	<b>1000 Mio ECU/euro</b>						
- M1	2,1	1,7	1,6	1,9	2,3	2,5	2,8
- M2	7,0	7,2	7,3	7,7	9,7	10,6	11,2
- M3	:	:	:	:	:	:	:
Total credit	5.7B	6,8	6,0	5,1	5,9	6,4	8,1
Average short-term interest rates	<b>% per annum</b>						
- Day-to-day money rate	86,0	80,7	68,3	41,5	37,8	23,4	18,0
- Lending rate	72,5	55,4	65,7	53,8	45,4	35,4	25,7
- Deposit rate	55,7	37,3	45,8	32,9	26,6	19,1	10,8
ECU/EUR exchange rates	<b>(1ECU/euro=..Leu)</b>						
- Average of period	8.112	9.985	16.345	19.922	26.004	31.270	37.551
- End of period	8.859	12.814	18.345	24.142	27.817	35.135	41.158
	<b>1995=100</b>						
- Effective exchange rate index	33,8	28,5	17,4	14,1	11,2	9,5	8,2
Reserve assets	<b>Mio ECU/euro</b>						
- Reserve assets (including gold)	2.780	1.981	2.455	3.637	5.514	6.913	8.098
- Reserve assets (excluding gold)	1.987	1.175	1.519	2.652	4.456	5.841	7.125

<b>External trade</b>	<b>Mio ECU/euro</b>						
Trade balance	-2.596	-4.002	-1.950	-2.962	-4.661	-4.206	-5.587
Exports	7.481	9.327	7.977	11.273	12.722	14.675	15.614
Imports	10.077	13.329	9.927	14.235	17.383	18.881	21.201
	<b>previous year=100</b>						
Terms of trade h)	:	:	:	105,1	100,9	99,8	101,5
	<b>as % of total</b>						
Exports with EU-15	56,6	64,5	65,5	63,8	67,8	58,4	67,7
Imports with EU-15	52,5	57,7	60,7	56,5	57,4	58,4	57,7

<b>Demography</b>	<b>per 1000 of population</b>						
Natural growth rate	-1,9	-1,5	-1,4	-0,9	-1,8	-2,7	-2,5
Net migration rate (including corrections)	-0,6	-0,3	-0,1	-0,2	0,02	-0,07	-0,3
	<b>per 1000 live-births</b>						
Infant mortality rate	22,0	20,5	18,6	18,6	18,4	17,3	16,7
Life expectancy :	<b>at birth</b>						
Males:	65,2	65,2	65,2	66,1	67,0	67,6	67,4
Females:	73,0	73,3	73,7	74,2	74,8	74,9	74,8

<b>Labour market (Labour Force Survey)</b>	<b>as % of the total population of the same age group</b>						
Economic activity rate (15-64)	69,9	68,9	68,4	68,4	67,3	63,4	62,2
Employment rate (15-64), total	65,4	64,2	63,2	63,0	62,4	57,6	57,6
Employment rate (15-64), males	71,9	70,4	69,0	68,6	67,8	63,6	63,8
Employment rate (15-64), females	59,1	58,2	57,5	57,5	57,1	51,8	51,5
	<b>as % of the total population of the same age group</b>						
Employment rate of older workers (55-64)	52,1	51,5	49,6	49,5	48,2	37,3	38,1
Average employment by NACE branches	<b>in % of total employment</b>						
- Agriculture and forestry	37,6	38,1	41,2	41,4	40,9	35,1	34,1
- Industry (excluding construction)	27,2	26,3	24,4	23,2	23,6	26,3	26,4
- Construction	4,9	4,4	4,0	4,1	4,0	4,4	4,5
- Services	30,4	31,2	30,4	31,3	31,6	34,3	34,9
	<b>% of labour force</b>						
Unemployment rate, total	5,3	5,4	6,2	6,8	6,6	7,5	6,6
Unemployment rate, males	5,0	5,5	6,8	7,2	6,9	7,8	6,9

Unemployment rate, females	5,7	5,3	5,6	6,3	6,2	7,1	6,2
Unemployment rate of persons < 25 years	16,3	15,8	17,2	17,2	17,6	21,0	18,7
Long-term unemployment rate	2,4	2,3	2,7	3,5	3,3	4,0	4,1

<b>Social cohesion</b>	<b>ratio of top quintile to lowest quintile</b>						
Inequality of income distribution	:	4,2	4,4	:	4,6	:	:
	<b>% of population aged 18-24</b>						
Early school-leavers	19,7	19,1	21,5	22,3	21,3	23,2	23,2
	<b>as % of the total population of the same age group</b>						
Children aged 0-17 living in jobless households	6,9	7,5	7,3	7,2	6,8	9.8B	10,2
People aged 18-59 living in jobless households	6,8	7,3	7,8	8,4	8,7	11.3B	11,1

<b>Standard of living</b>	<b>per 1000 inhabitants</b>						
Number of cars	116	125	133	139	144	136	142
Main telephone lines	151,9	161,2	168,3	173,8	185,9	200,0	:
Number of subscriptions to cellular mobile services	9,0	24,5	50,1	90,0	205,0	234,0	:

<b>Infrastructure</b>	<b>in km per 1000 km<sup>2</sup></b>						
Railway network	47,7	46,2	46,1	46,2	46,2	46,2	46,5
	<b>km</b>						
Length of motorways	113	113	113	113	113	113	113

<b>Industry and agriculture</b>	<b>previous year=100</b>						
Industrial production volume indices	92.8e)	86.2e)	97.8e)	107.6e)	108.3f)	104.4 f)	103.1 f)
Gross agricultural production volume indices	103,4	92,5	105,2	85,8	:	:	:
Agricultural production volume indices of goods and services g)		:	104,0	85,2	122,7	96.5p	107.5P

<b>Innovation and research</b>	<b>as % of GDP</b>						
Spending on Human Resources (public expenditure on education)		4,38	3,37	2,89	3,28	:	:
	<b>as % of GDP</b>						
Gross domestic expenditure on Research & Development	:	:	0,40	0,37	0,39	:	:
	<b>per 1000 inhabitants</b>						
Level of Internet access - households		:	:	:	:	:	:

<b>Environment</b>	<b>tonnes CO2 equivalent per capita</b>						
Total greenhouse gases emissions	61,2	54,1	47,4	48,5	50,0	52,0	:
	<b>kg of oil equivalent per 1000 euro of GDP</b>						
Energy intensity of the economy	1648	1.563	1.418	1.455	1164	1267	:
	<b>as % of total electricity consumption</b>						
Share of renewable energy	30,5	35,0	36,7	28,8	28,4	30,8	:
	<b>road as % of total freight transport</b>						
Modal split of freight transport	45,1	43,1	43,5	42,9	49,6	57,4	:

P=provisional figures

E=estimated data

B=break in series

F=forecast

a) Data based on the definite results of the Population and Housing census of March 18, 2002.

b) Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

c) Including FISIM.

d) These figures include changes in inventories, acquisitions less disposals of valuables and the statistical discrepancy between the GDP and its expenditure components.

e) Indices are calculated according to the structure of the year 1995.

f) Indices are calculated according to the structure of the year 2000.

g) The indicator "Gross agricultural production volume indices" is no longer calculated starting with 2001. It was replaced with "Agricultural production volume indices of goods and services", according to the Eurostat methodology.

h) Terms of trade are obtained on the basis of the Unit Value Indices calculated from values expressed in Euro.

i) 'Labour productivity growth' is calculated from GDP at constant price Euros, while the structural indicator 'Labour productivity (in %

## Methodological Notes

### Inflation rate

As part of the preparations for the common currency EU Member States (MSs) have designed a new *consumer price index* in order to comply with the obligations of the EU Treaty. The aim was to produce CPIs comparable among Member States. The main task was to harmonise methodologies and coverage. The result was the Harmonised Index of Consumer Prices (HICP). A similar exercise has been started with Candidate Countries (CC). In respect to enlargement it is equally important that their economic performance is assessed on the basis of comparable indices. CCs have monthly transmitted proxy HICPs to Eurostat since January 1999. These proxy HICPs comply essentially with the HICP regulations in force in MSs.

### Finance

*Public finance:* The general government deficit / surplus is defined in accordance with GFS 1986 and the government net borrowing / net lending (EDP B.9) is calculated according to ESA95. General government debt is defined as consolidated gross debt at end-year nominal value.

*Gross foreign debt* is of the whole economy, covering both short- and long-term, but excluding equity investment and money market instruments. The source for stock of outstanding debt is OECD, while the source of GDP is Eurostat. For the ratio of gross foreign debt to exports, the national accounts definition of exports of goods and services is used (source: Eurostat).

*Monetary aggregates* are end-year stock data, as reported to Eurostat. Generally, M1 means currency outside banks plus sight deposits. M2 means M1 plus household savings plus time and restricted deposits in ROL plus residents' deposit in convertible currencies. Total credit means loans by resident monetary financial institutions (MFIs) to non-MFI residents.

*Interest rates:* Annual average rates based on monthly series reported to Eurostat. Lending rates refer to bank lending to customers other than banks (all maturities). Deposit rates refer to bank deposits customers other than banks (all maturities). Day-to-day money rates are overnight interbank rates.

*Exchange rates:* ECU exchange rates are those that were officially notified to DG ECFIN until 1 January 1999, when the ECU was replaced by the euro. Euro exchange rates are reference rates of the European Central Bank. The effective exchange rate index (nominal), is from the IMF and is weighted by major trading partners.

*Reserve assets* are end-year stock data, as reported to Eurostat. They are defined as the sum of central bank holdings of gold, foreign exchange, SDRs, reserve position in the IMF, and other claims on non-residents. Gold is valued at end-year market price.

### External trade

*External trade (current prices).* The data is based upon the special trade system and includes all the exchanges of goods between Romania and other countries having as object: imports of goods directly for consumption, imported goods taken out of customs warehouses of free zones in order to be consumed, export of national products, as well as export and imported goods declared for domestic consumption. There are also comprised: temporary imports of foreign goods for processing inside the country; temporary exports of goods for processing in other countries (passive processing) and imports of compensatory goods after processing outside the country and imports and exports of goods in financial leasing.

*Exports and imports* do not include transit goods, temporary goods admitted (taken) out, inside/outside the country (excepting those for processing), goods purchased by international organisations for own uses in Romania and goods for repairs.

Goods – object of foreign trade are classified according to the Combined Nomenclature on which customs tariff is based.

Value of external trade turnover includes the market value of the goods and the additional costs (freight, insurance etc.). The terms FOB means that all costs incurred in the course of transport up to the customs frontier are charged to

the seller. The term CIF means that the purchaser pays the additional costs. Exports are recorded here on FOB basis and imports on CIF.

External trade statistics are customs statistics, value being registered in national currency (ROL).

*Terms of trade.* The indices are calculated by the “unit value” method (Paasche index).

*Imports and exports with EU-15.* Data declared by Romania.

### **Demography**

*Net migration rate.* Crude rate of net migration (recalculated by EUROSTAT) for year X. is: population (X+1) - population (X) - Deaths (X) + Births (X). This assumes that any change in population not attributable to births and deaths is attributable to migration. This indicator includes therefore also administrative corrections (and projection errors if the total population is based on estimates and the births and deaths on registers). Figures are in this case more consistent. Further most of the difference between the Crude rate of net migration provided by a country and the one calculated by Eurostat is caused by an under reporting or delay in reporting of migration.

*Life expectancy.* Data are compiled on the basis of the number of death and estimates population by single year of age and generations.

### **Labour market**

The results are based on the European Union Labour Force Survey (LFS). The EU LFS is conducted on a quarterly basis each year in accordance with Council Regulation (EEC) No. 577/98 of 9 March 1998. A detailed description of the sampling methods, the adjustment procedures, the definitions and the common EU coding currently used in the labour force survey is presented in the publications ‘Labour Force Survey – Methods and definitions. 2001’ and ‘Labour Force Survey in the acceding countries – Methods and definitions 2002’.

All definitions apply to persons aged 15 years and over living in private households. The concepts and definitions used in the survey follow the guidelines of the International Labour Organisation. Persons carrying out obligatory military service are not included (the aggregates provided by the Romanian National Institute of Statistics comprise them). *Employed persons* were those who during the reference week did any work for pay or profit for at least one hour (for self-employed and contributing family workers from agriculture, the minimum duration is 15 hours), or were not working but had jobs from which they were temporarily absent. Family workers are included.

*Unemployed persons* comprise persons aged 15 to 74 who were without work during the reference week, were currently available for work and were actively seeking work or who found a job to start later.

*The active population* (labour force) is defined as the sum of employed and unemployed persons.

*Employment rates* (respectively economic activity rates) represent employed persons (respectively economic active persons) as a percentage of the same age population. *Unemployment rates* represent unemployed persons as a percentage of the active population.

*Duration of unemployment* is defined as (a) the duration of search for a job, or (b) the length of the period since the last job was held (if this period is shorter than the duration of search for a job). *Long term unemployment rates* represent persons unemployed for one year and more as a percentage of the active population.

*Early school-leavers* includes all the persons aged 18 to 24 who are not in education/training and with at most lower secondary education (ISCED 0-2). Population in education includes persons who had followed any kind of education during the 4 weeks preceding the week of reference. Students who were on holidays in this period are not included.

The indicators of « Population in jobless households » are calculated:

- for children, as a share of persons aged 0-17 who are living in households where no-one is working;
- for adults, as a share of persons aged 18 - 59 who are living in households where no-one works. Students aged 18 -24 who live in households composed solely of students of the same age class are not counted in either numerator or denominator.

The reference period is quarter 2 for the following indicators: early school-leavers and population in jobless households. For all other indicators, annual averages are derived from the LFS quarterly data. In case of incomplete series, missing quarters are estimated by Eurostat.

### **Social cohesion**

*Inequality of income distribution (income quintile share ratio):* The ratio of total income received by the 20% of the population with the highest income (top quintile) to that received by the 20% of the population with the lowest income (lowest quintile). Income must be understood as equivalised disposable income. The total net income of each household is calculated by adding together the income received by all the members of the household from all sources. For each person, the 'equivalised total net income' is calculated as its household total net income divided by equivalised household size according to the modified OECD scale (which gives a weight of 1.0 to the first adult, 0.5 to other persons aged 14 or over who are living in the household and 0.3 to each child aged less than 14). Consequently, each person in the same household receives the same 'equivalised total net income'.

The population consists of all the persons living in private households of a country. The term person therefore includes all the members of the households, whether they are adults or children.

Persons with missing 'equivalised total net income' are excluded from the calculations (ie. people with missing household income or households with missing composition details).

As the Candidate countries do not participate in ECHP, income data from national Household Budget surveys were used. The methodology of calculation of the indicators for the Candidate Countries is the same as the one used for Member States. Every effort has been made to ensure that the definition of income used is as comparable as possible to the ECHP definition. Nevertheless, the indicators for the Candidate Countries cannot be considered to be fully comparable with the EU ones, or between Candidate Countries, due to the differences of underlying data sources.

### **Standard of living**

*Number of cars.* Passenger car, road motor vehicle, other than a motor cycle, intended for the carriage of passengers and designed to seat no more than nine persons (including the driver).

The term "passenger car" therefore covers microcars (need no permit to be driven). Taxis and hired passenger cars, provided that they have less than ten seats. This category may also include pick-ups. Passenger cars exclude minibuses.

*Telephone subscribers.* Phone subscriptions include subscriptions of natural and legal persons (including subscriptions

### **Infrastructure**

*Railway network.* All railways in a given area. This does not include stretches of road or water even if rolling stock should be conveyed over such routes; e.g. by wagon-carrying trailers or ferries. Lines solely used for tourist purposes during the season are excluded as are railways constructed solely to serve mines; forests or other industrial or agricultural undertakings and which are not open to public traffic. The data considers the construction length of railways.

*Length of motorways.* Road, specially designed and built for motor traffic, which does not serve properties bordering on it, and which:

- (a) is provided except at special points or temporarily with separate carriageways for the two directions of traffic, separated from each other, either by a dividing strip not intended for traffic, or exceptionally by other means;
- (b) does not cross at level with any road, railway or tramway track, or footpath;
- (c) is specially sign-posted as a motorway and is reserved for specific categories of road motor vehicles.

Entry and exit lanes of motorways are included irrespectively of the location of the signposts. Urban motorways are also included.

### **Industry and agriculture**

The industrial production index (IPI), measures the evolution of industrial activities results from one period to another. The production survey has been carried out by the NIS since 1991. The industrial production indices measure its evolution per total industry, by sections (mining and quarrying, manufacturing and electric, thermal energy, gas and water), by subsection, by CANE divisions Rev.1 (10,11,13,14,15-29, 31-36, 40,41) and by main industrial groups.

The indicator coverage all CANE Sections C to E fully harmonized to the NACE Rev.1, except divisions 12, 30 and 37.

The survey is exhaustive for the enterprise with 20 employees and more. The sample size of the monthly production survey for year 2004 is about 5000 enterprises for about 4100 PRODRUM products. PRODRUM - The Nomenclature of Industrial Products and Services used for data collection for the industrial production is fully harmonised with the nomenclature used in European Union countries PRODCOM respectively.

Since 2004, 2000 represents the reference year used in the IPI calculation, according with Eurostat recommendation and with requests that are included in the acquis communautaire.

The primary indices of industrial physical production are aggregated by a system of successive weightings, using the average price of basic year (2000) for the aggregation at level of product (PRODIND – superior aggregation level of PRODRUM), while for upper aggregation levels (CANE Rev.1 class, group, division, subsection and section or main industrial group), the gross value added at factors costs (GVACF) of the basic year (2000).

Using a Laspeyres type formula, the first aggregated indices are those at the level of CANE Rev.1 class, the next aggregation levels being determined as a weighted arithmetic mean of the CANE Rev.1 classes, groups, divisions, sections, the main industrial groups indices with the corresponding GVACF of the basic year (2000).

The indices for the main industrial groups (intermediate goods industry, capital goods industry, durable goods industry, current use goods industry, energy industry) are obtained by the indices aggregation at level of the CANE Rev.1 component classes, weighted with the corresponding GVACF.

The industrial production indices for total industry are obtained by the indices aggregation at level of the CANE Rev.1 division or the main industrial groups.

*Gross agricultural production volume indices.* Indices based on evaluation of all individual products of gross agricultural production in constant prices of the year preceding the examined one. The indicator “Gross agricultural production volume indices” is no longer calculated starting with 2001 and it was replaced with the new indicator, namely “Agricultural production volume indices of agricultural goods and services”, according to the Eurostat methodology.

*Agricultural production volume indices of agricultural goods and services.* Indices based on valuation of all individual products and agricultural services according to the Eurostat methodology on “Agriculture Economic Accounts”, in constant prices of the year preceding the examined one.

### **Innovation and research**

*Total public expenditure on education* includes direct public expenditure on educational institutions, public subsidies to other private entities for education matters (e.g. subsidies to companies or labour market organisations that operate apprenticeship programmes) and public subsidies to households such as scholarships and loans to students for tuition fees and student living costs. Educational institutions are defined as entities that provide instructional services to individuals or education-related services to individuals and other educational institutions.

Data are collected through the joint UNESCO-OECD-EUROSTAT data collection (UOE) questionnaires on educational finance.

*Gross domestic expenditure on R&D (GERD)* is composed of: Business enterprise expenditure in R&D (BERD), Higher Education expenditure in R&D (HERD), Government expenditure in R&D (GOVERD) and Private Non-profit expenditure in R&D (PNRD).

The figures relating to GDP are compiled in accordance with ESA '95. Where GDP data using ESA '95 were missing, the year on year growth rates of GDP in the ESA '79 system were applied retrospectively to the years for which data were missing in the ESA '95 national accounts database.

Indicators are calculated using current ECU/EUR.

*Internet access of households:* Annual data on percentages of households with Internet access at home compiled via household surveys (telephone interviews).

### **Environment**

*Total greenhouse gases emissions:* This indicator shows trends in anthropogenic emissions of the greenhouse gases: carbon dioxide (CO<sub>2</sub>), nitrous oxide (N<sub>2</sub>O), methane (CH<sub>4</sub>) and three halocarbons, hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF<sub>6</sub>), weighted by their global warming potentials (GWP). The GWP relates to the ability of the different gases to contribute to global warming over a 100 year time horizon. GWPs are provided by the Intergovernmental Panel on Climate Change. The figures are given in CO<sub>2</sub> equivalents.

*Energy intensity of the economy.* The energy intensity ratio is the result of dividing the Gross Inland Consumption by the GDP. Since Gross Inland Consumption is measured in kgoe (kilogram of oil equivalent) and GDP in 1000 EUR, this ratio is measured in kgoe per 1000 EUR.

The Gross Inland Consumption of Energy is calculated as the sum of the Gross Inland Consumption of the five types of energy: coal, electricity, oil, natural gas and renewable energy sources. In addition, each of these figures is calculated as an aggregation of different data on production, storage, trade (imports/exports) and consumption/use of energy. The GDP figures are taken at constant prices to avoid the impact of inflation, base year 1995 (ESA95).

*Share of renewable energy:* This indicator measures the contribution of electricity produced from renewable energy sources to the national electricity consumption. It is a ratio between the electricity produced from renewable energy sources and the gross national electricity consumption calculated for a calendar year.

The main definitions involved in this indicator are the following:

1. Renewable energy sources: renewable non-fossil energy sources (wind, solar, geothermal, hydro and biomass/wastes)

2. Electricity produced from renewable energy sources : it comprises the electricity generation from hydro plants (excluding pumping), wind, solar, geothermal and electricity from biomass/wastes. Biomass/wastes electricity comprises electricity generated from burning of wood/wood wastes and other solid wastes of renewable nature (straw, black liquor), municipal solid waste incineration, biogas (incl. landfill, sewage, farm gas) and liquid biofuels.

3. Gross national electricity consumption : it comprises the total gross national electricity generation from all fuels (including autoproduction), plus electricity imports, minus exports.

These data have been traditionally compiled by Eurostat through the annual Joint Questionnaires (joint, because they are shared by Eurostat and the International Energy Agency) following a well established and harmonised methodology.

*Modal split of freight transport:* Percentage share of road in total inland freight transport (road, rail and inland waterways), tonne–km.

#### **Sources**

Total area, External trade, Demography, Standard of living, Infrastructure, Industry and agriculture: National sources.  
Other indicators: Eurostat.