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**2001**

**REGULAR REPORT**

**ON**

**ROMANIA'S**

**PROGRESS TOWARDS ACCESSION**

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## A. Introduction

### a) 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 in preparations for membership, and that it would submit its first Report at the end of 1998.

The European Council in Luxembourg 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.”

On this basis, the Commission presented a first series of Regular Reports in October 1998, a second series in October 1999, and a third in November 2000. The Commission has prepared this fourth series of Regular Reports with a view to the Laeken European Council in December 2001.

The structure followed for this Regular Report is the same as that used for the 2000 Regular Report. In line with previous Regular Reports, the present 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. This part gives special attention to nuclear safety standards, as underlined by the Cologne and Helsinki European Councils. It encompasses not only the alignment of legislation, but also the development of the judicial and administrative capacity necessary to implement and enforce the *acquis*, as emphasised by the Madrid European Council in December 1995, and confirmed by the Gothenburg European Council in June 2001. At Madrid, the European Council underlined the necessity for the candidate countries to adjust their administrative structures, so as to create the conditions for the harmonious integration of those States. The Gothenburg European Council emphasised the vital importance of the

candidate countries' capacity to effectively implement and enforce the *acquis*, and added that this required important efforts by the candidates in strengthening and reforming their administrative and judicial structures.

This Report takes into consideration progress since the 2000 Regular Report. It covers the period until 30 September 2001. In some particular cases, however, measures taken after that date are mentioned. It looks at whether intended reforms referred to in the 2000 Regular Report have been carried out, and examines new initiatives. In addition, this Report provides also an overall assessment of the global situation for each of the aspects under consideration, setting out for each of them the main steps which remain to be taken by Romania in preparing for accession.

In accordance with this approach, the assessment of progress in meeting the political and *acquis* criteria (including Romania's administrative capacity to implement the *acquis*) focuses on what has been accomplished since the last Regular Report, complemented with a view of the global situation for each of the aspects discussed. The economic assessment, for its part, provides, besides an assessment of progress made over the reference period, also a dynamic, forward-looking evaluation of Romania's economic performance.

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

As has been the case 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 matter of principle, 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. The candidate countries have been invited to provide information on progress made in preparations for membership since the publication of the last Regular Report. The National Programmes for the Adoption of the *Acquis* of each of the candidate countries, as well as the information they have provided in the framework of the Association Agreement and in the context of the analytical examination of the *acquis* (screening) and the negotiations<sup>1</sup>, have served as additional sources. Council deliberations and European Parliament reports and resolutions<sup>2</sup> have been taken into account in the preparations. The Commission has also drawn on assessments made by various international organisations and in particular the contributions of the Council of Europe, the OSCE and the International Financial Institutions, as well as that of non-governmental organisations.

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<sup>1</sup> As in previous years, the Report does not mention any commitments undertaken or requests made in the context of the accession negotiations.

<sup>2</sup> The European Parliament *rapporteur* is Baroness Nicholson of Winterbourne.

## **b) Relations between the European Union and Romania**

### *Recent developments under the Association Agreement (including bilateral trade)*

Romania has contributed to the smooth functioning of the various joint institutions. The Association Council met in March 2001. The most recent meeting of the Association Committee was held in October 2001. The Joint Parliamentary Committee, comprising representatives of the Romanian and European Parliaments, met in Brussels in January 2001 and in Bucharest in September 2001.

Although in most cases Romania continued to implement the Europe Agreement correctly, a number of specific problems arose during the course of the year. Particular causes for concern have been obstacles to EU law firms establishing themselves in Romania and the introduction of export restrictions on sensitive raw materials. Such measures represent a move away from the both *acquis* and the Europe Agreement.

Recent indicators point to a remarkable improvement in Romania's trade situation. During the course of 2000, Romanian exports to the EC were €7.6 billion (a growth of 32% compared to 1999). Over the same period, imports from the EC rose to €8.7 billion (an increase of 38% over the previous year). This increase in trade both reflected and contributed to the revival of the Romanian economy that took place in 2000. However, the rapid growth in imports meant Romania's trade deficit with the EC increased substantially to €1.1 billion, which remains a cause for concern.

Over the course of 2000, Romania's main exports to the EC were: textiles and clothing (34%), machinery and equipment (16%), steel products (12%), footwear (12%), and furniture (7%). While the structure of exports was broadly similar to previous years, the increased share of machinery and equipment is a positive development and represents a pick-up in Romania's industrial production. The EC's main exports to Romania were machinery and equipment (28%), textiles and clothing (24%), chemical products (9%) and steel products (6%).

Romania's main commercial partners amongst the EU Member States were Italy (34%), followed by Germany (25%), France (10%) and Great Britain (8%).

Regarding agricultural products, a new agreement on reciprocal concessions with Romania entered into force in July 2000 on an autonomous basis, pending the conclusion of an Additional Protocol to the Europe Agreement. As a consequence of the new agreement, approximately 85% of EC imports and 17% of EC exports of agricultural products are exempt from duties. A second round of bilateral negotiations for trade liberalisation in agriculture is presently being prepared and would cover more sensitive sectors where current trade is low, in particular due to a high degree of tariff protection. Negotiations with Romania concerning new reciprocal concessions in the field of fish and fishery products were concluded on a technical level in May 2001. Preparations for a decision of the Association Council are ongoing.

The previous bilateral wine agreement between the Community and Romania expired on 31 December 2000. The parties concluded negotiations relating to new agreements on the reciprocal recognition, protection and control of wine names and spirits designations, including trade arrangements, in October/November 2000. The results of the trade agreement were



applied as from 1 January 2001 as autonomous trade measures pending the adoption of the new agreements as an Additional Protocol to the Europe Agreement.

### *Accession Partnership / National Programme for the Adoption of the Acquis*

A revised Accession Partnership was adopted in December 1999. Its implementation is reviewed in Part D. This Regular Report is accompanied by a proposal from the Commission to update the Accession Partnership.

In June 2001 Romania presented a revised National Programme for the Adoption of the *Acquis* (NPAA), in which it outlines its strategy for accession, including how to achieve the priorities of the Accession Partnerships (see Part D).

### *Community aid*

There are three **pre-accession instruments** financed by the European Community to assist the applicant countries of Central and Eastern Europe in 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. These programmes concentrate their support on the Accession Partnership priorities that help the candidate countries to fulfil the criteria for membership.

In the years 2000 – 2002 the total financial assistance available to Romania will, on average, amount €260 million from Phare, €150 million from SAPARD, and between €208 and €270 million from ISPA.

The level of financial support available under the pre-accession instruments creates a substantial challenge for the Romanian administration. The capacities of the bodies responsible for programming, operational management and financial control are limited. For Phare there has been a relatively low rate of tendering and contracting in 2001 compared with the previous two years, and consequently the backlog of funds not yet committed has increased. The same limits of institutional capacity may also affect the implementation of ISPA. Considerable efforts are therefore needed to strengthen institutional structures and recruit and train staff for all key functions. In particular, the capacities of the Central Financing and Contracting Unit in the Ministry of Public Finance and the Financial Unit within the Ministry of Development and Prognosis need to be reviewed and strengthened. The development of the administrative capacity needed to manage SAPARD has begun, but substantial further efforts are needed.

The **Phare** programme has been providing support to the countries of Central and Eastern Europe since 1989, helping them through a period of fundamental economic and social transition and political change. Its current “pre-accession” focus was put in place in 1997, in response to the Luxembourg European Council’s launching of the present enlargement process.

Phare provides the applicant countries of Central and Eastern Europe with support for institution building (around one third of the Phare allocation), investment to strengthen the regulatory infrastructure needed to ensure compliance with the *acquis* (equally around one third of the allocation), and investment in economic and social cohesion (the remaining one-third of the Phare allocation). This support comprises co-financing for technical assistance, “twinning” and investment-support projects, to help these countries in their efforts to adopt the *acquis* and

strengthen the institutions necessary for implementing and enforcing the *acquis*. This also helps the candidate countries develop the mechanisms and institutions that will be needed to implement Structural Funds after accession and is supported by a limited number of measures (investment or grant schemes) with a regional or thematic focus.

During the period 1992 – 1999, the Phare programme allocated commitments of approximately €1,200 billion to Romania. In 2000 the Phare allocation was €260.3 million<sup>3</sup>, and in 2001 the Phare National Programme for Romania allocated a further €73.7 million to the following priority areas:

1. Strengthening democracy and the rule of law (€27 million). *Support is being provided for further action in the field of child welfare, improving the access of Roma to education, and development of civil society.*
2. Economic criteria (€6 million). *Support for improved management of municipal services.*
3. Strengthening administrative capacity (€18 million). *Projects promoting the reform of public administration policies, civil service recruitment and training, and the programming and management of EC financial instruments are being supported.*
4. Meeting the obligations of the *acquis* (€8 million). *Twinning, technical assistance and investment are being provided in the following areas: internal market, agriculture and fisheries, energy, transport, health, environment and justice and home affairs.*
5. Economic and social cohesion. (€109 million). *Investment support is being provided for regional development programmes concentrated in areas facing particular problems. Measures can also support economic restructuring. Associated institution building is being provided.*
6. Participation in Community programmes (€21 million).

An additional €13 million has been allocated for cross border co-operation (CBC) programmes with Bulgaria (€8 million) and Hungary (€5 million).

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

Funding provided under Phare 2001 pre-finances participation in Community programmes for 2002. Romania has continued to participate actively in a number of programmes: Leonardo da Vinci, Socrates, Youth, Life III and Framework Programme 5 for Research and Technological Development, and Euratom. Preparations for participation in a number of new programmes have been initiated: Gender Equality, Enterprise and Entrepreneurship, Altener, ETAP, SURE, IDA II, DAPHNE, Culture 2000, Fiscalis, European e-content, Customs 2002, and health programmes covering health monitoring, pollution-related diseases, and injury prevention. Preparations have also been initiated for Romania's continued participation in programmes

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<sup>3</sup> This includes an allocation of €13 million to Cross-Border Co-operation (CBC) Programmes.

which have had their period of application extended: SAVE II, as well as public health programmes dealing with cancer, AIDS, drugs dependence, and health promotion. Following the ratification and entry into force of the agreement, the formal participation of Romania in the European Environment Agency will start in January 2002

In order to streamline Community legal procedures and thereby facilitate future participation of Romania in **Community programmes**, a Decision is in the process of being adopted by the EU-Romania Association Council establishing the general principles for such participation.

Overall, the impact of Phare has been positive. Effective transfer of know-how, equipment and financial resources has taken place in a number of important fields such as industrial restructuring and privatisation, institutional structures and planning capacity for regional development, the phytosanitary and veterinary *acquis*, environment, transport and energy. Phare support for institution building in a wide range of *acquis*-related areas has succeeded in developing accession strategies and in focusing efforts on the legislative and institutional requirements for adoption and implementation of the *acquis*. In Romania, Phare is for example playing a particularly important role in:

- Developing the framework for designing and implementing programmes of regional development. Assistance provided under the 1998 Phare programme (€3 million) has developed the arrangements under which substantial pre-accession programmes of economic and social cohesion are being financed under the Phare 2000 and 2001 programmes.
- Initiating measures to improve border management in line with Romania's accession obligations through institution building and investment. The Phare 1998 and 2000 programmes have supported the Ministry of Interior, providing a total of €20 million.
- Developing a framework for the implementation by local authorities of projects introducing modern child welfare services and reducing institutionalisation of children in line with government policies for the reform of child protection. This is being financed under the Phare 1999 programme through a €19 million grant scheme known as "Children First". Phare is also supporting associated measures that include technical assistance and a public information campaign.

The Phare Review for 2000 confirmed the accession-driven approach and emphasised the importance of helping countries to prepare for the Structural Funds. The Review foresees the possibility that management of the Phare funds can be fully decentralised from 2002 if the strict pre-conditions set down in the Co-ordination Regulation 1266/99 are met. Second, Phare programming can be moved onto a multi-annual basis if supporting strategies are in place. Third, the reforms introduced in 1997 continue with an increased role for Delegations, further streamlining of procedures and, lastly, increasing emphasis on raising the verifiable and quantifiable impact of Phare projects in institution building, investment in compliance with the *acquis* and economic and social cohesion.

Romania's National Plan for Agricultural and Rural Development, which forms the basis for implementation of the **SAPARD programme** in Romania, was approved in December 2000. It provides for total public expenditure of around €1,423 million, of which €1,073 million will be

financed by EC SAPARD funds, over the period 2000 –2006. The annual allocation for SAPARD in Romania for 2000 was 153.2 million at 2000 prices.

The multi-annual and the annual financing agreements between the Commission and Romania setting out respectively the rules for implementing SAPARD and the Community financial commitments for the year 2000 were both signed in February 2001.

In order to accelerate the start of SAPARD implementation the government decided to concentrate efforts initially on only three of the measures of the programme: rural infrastructure, processing and marketing of agricultural and fishery products and technical assistance.

Progress has been made in preparing the accreditation of the SAPARD Agency. 150 personnel have been recruited to work in the central and regional offices of the Agency, and an updated organisational structure has been approved. New premises have been provided for the Agency in Bucharest, and eight regional offices have been set up for the territorial management of the programme.

Financial manuals and procedures are not yet completed, and further efforts are needed to complete the organisation of the financial department of the Agency. Arrangements must also be finalised for opening the SAPARD Euro Account. Efforts are continuing on the development of computerised management and accounting systems tailored to Romania's specific requirements. An audit of the system will be required, as well as extensive staff training at central and regional level.

Further efforts are needed to strengthen the National Fund and the Court of Accounts for their respective functions in relation to SAPARD. The National Fund has been preparing for the implementation of a pre-accreditation review of the SAPARD Agency, particularly as regards its draft procedural manuals. The Court of Accounts requires further strengthening in the area of clearance-of-accounts procedures for SAPARD.

The internal public expenditure audit function , which has not yet been fully implemented in Romania, needs to be substantially strengthened within the SAPARD implementation structures. An internal audit unit in the Ministry of Finance will perform this function for the National Fund, but the procedures for effectively carrying out this task have not been formalised. The Internal Audit Unit of the SAPARD Agency requires additional expertise.

The annual allocation to Romania under **ISPA** is between €208-270 million for the period 2000-2006. The sectors benefiting from ISPA are transport and the environment, with both sectors receiving around half of the annual allocation. The ISPA programme is designed principally to support municipalities in the field of the environment and the central authorities in the field of transport (the National Administration of Roads and the CFR railway company).

An overall ISPA strategy in the field of the environment was adopted in 2000 by Romania and the Commission and is currently being revised. It will concentrate on the 'heavy investment' directives (mainly drinking water, treatment of wastewater, and solid-waste management) that are intended to bring Romania up to EC standards. Since the beginning of 2000, eleven projects have been approved, accounting for a total ISPA allocation of more than €300 million (multi-annual commitments) in the areas of sewerage networks, drinking water treatment and waste management.

In the transport sector ISPA will concentrate on projects located on the Trans-European Networks (TENs) in the field of railways, roads, ports and airports. An overall ISPA strategy in the field of transport was adopted by Romania and the Commission in early 2000, focusing on the upgrading of Corridors IV and IX for both road and rail. Since the beginning of 2000, six projects have been approved, accounting for a total ISPA allocation of more than €500 million (multi-annual commitments).

Implementation of the ISPA project will follow the same general institutional framework as the Phare programme, with the National Fund at the Ministry of Finance being in charge of the overall financial management and with a number of Implementing Agencies being responsible for the technical implementation.

### *Twinning*

One of the main challenges the candidate countries continue to face is the need to strengthen their administrative capacity to implement and enforce the *acquis*. As of 1998, the European Commission proposed to mobilise significant human and financial resources to help them in this respect, through the process of twinning of administrations and agencies. The vast body of Member States' expertise is now being made available to the candidate countries through the long-term secondment of civil servants and accompanying short-term expert missions and training.

To start with, twinning focused primarily on the priority sectors of agriculture, environment, public finance, justice and home affairs and preparatory measures for the Structural Funds. It now covers all sectors pursuant to the *acquis*.

A total of 372 twinning projects, primarily in the fields of agriculture, environment, public finance, justice and home affairs and preparation for the management of Structural Funds, have been funded by the Community between 1998-2000. These represent the principal priority sectors that have been identified in the Accession Partnerships. But also other important sectors of the *acquis* have been addressed through twinning, for example, social policy, fight against drugs, transport, and telecommunications regulation.

Thanks to the strong support and response from EU Member States 103 twinning partnerships, funded by Phare 1998 and involving all candidate countries and almost all Member States are coming to an end or have been concluded. Under Phare 1999 a further 124 projects are being implemented and the programming exercise for Phare 2000 includes a further 145 twinning projects. The 2001 programming exercise foresees 131 twinning projects in all Phare beneficiary countries as well as Cyprus and Malta. Furthermore, the candidate countries are being offered the possibility of drawing on Member States' expertise through "Twinning Light" (twinning projects of less than six months), to address well-defined objectives of limited scope, which emerge during the negotiation process as requiring adaptation. It is estimated that around 250 twinning projects are operational throughout the candidate countries at any one time.

Under Phare 2000, Romania benefited from 23 twinning projects - nine of which are for supporting regional development. Considerable twinning support is also being provided for the agricultural sector covering agricultural and rural policy, veterinary standards and the *acquis* on wine. The penal system and the Refugee Office each benefit from one twinning project. In the area of finance, the National Commission of Securities, the Court of Accounts and the Ministry

of Finance receive twinning assistance. A twinning project on the fight against drugs has been established with the Ministry of Interior as the main co-ordinator, and the Ministry of Education is preparing a project dealing with the mutual recognition of qualifications.

Under Phare 2001 twelve twinning projects have been designed in a variety of fields: public administration reform, phytosanitary matters, fisheries, road safety, waste management, SME and co-operatives policy, support for the ombudsman's office, migration and border management, as well as customs. The National Bank of Romania and the Border Police have requested support through the new medium-term twinning mechanism.

There have been considerable delays in drafting the 1999 covenants and this has led to less time being available for the actual implementation of some projects. The preparation for the twinning projects under Phare 2000 is well on track but the Romanian authorities should make every effort to ensure that the problems encountered with the 1999 covenants are not repeated.

### *Negotiations / screening*

The analytical examination of the *acquis* (screening) has taken place in the context of meetings of the Association Committee and the sub-committees.

Since the opening of the accession negotiations in February 2000, substantial discussions on the individual chapters of the *acquis* started and by September 2001 negotiations on 15 chapters had been opened.

By the end of September 2001, the following 8 chapters had been provisionally closed: fisheries, statistics, small and medium-sized enterprises, science and research, education, external relations, common foreign and security policy and consumers and health protection.

## **B. Criteria for membership**

### **1. Political criteria**

#### *Introduction*

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 2000 Regular Report on Romania’s progress towards accession, the Commission concluded that:

“Romania continues to fulfil the Copenhagen political criteria.

"The government has shown a political commitment to addressing the problems of institutionalised children and progress has been made. Responsibility for the institutions has been transferred to local authorities, a national strategy aimed at structural reform has been adopted, and the necessary budgetary transfers have been made. Romania can therefore be judged as having met the 1999 Accession Partnership’s short-term priorities. However, the Commission will continue to monitor the situation closely to ensure that these positive policy developments result in a comprehensive reform as well as an improvement in the actual living conditions in the institutions concerned.

"In the case of the treatment of the Roma, the continued high levels of discrimination are a serious concern. The Accession Partnership’s short-term priorities still need to be met (elaborating a national Roma strategy and providing adequate financial support to minority programmes) and progress has been limited to programmes aimed at improving access to education.

"Continued improvements can be noted with regard to the functioning of the judiciary – although the reform process needs to be continued and consolidated in line with the short-term priorities of the Accession Partnership. Further progress still needs to be made with regard to demilitarisation of the police and other bodies subordinated to the Ministry of Interior (a medium-term Accession Partnership priority).

"Romania’s democratic institutions are well established, but the process of decision making remains weak. Despite the initiatives taken over the last year the government has continued to rely on legislating by ordinances and consultation on draft legislation should be substantially improved.

"In terms of administrative capacity, Romania has met short-term Accession Partnership priorities by adopting a law on the civil service and has set up a civil service agency. These developments should be built upon through the development of a comprehensive, public

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<sup>4</sup> These principles have been emphasised in the Charter of Fundamental Rights of the European Union that was proclaimed at the Nice European Council in December 2000.

administration reform programme. Particular care needs to be taken to ensure that decentralised responsibilities are matched by sufficient financial and human resources at the local level. Little progress has been made in reducing the levels of corruption and improved co-ordination is needed between the various anti-corruption initiatives that have been launched.”

The section below aims to provide an assessment of developments in Romania since the 2000 Regular Report, as well as of the overall situation in the country, seen from the perspective of the political Copenhagen criteria, including the overall functioning of the country’s executive and its judicial system. Developments in this context are in many ways closely linked to developments regarding Romania’s 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 *B.3.1.* of this Report.

### *Recent developments*

Parliamentary elections were held in November 2000. The main winner was the Romanian Party of Social Democracy (PDSR) which won 45% of the seats in the Chamber of Deputies and 46% of the seats in the Senate. The PDSR was able to govern without forming a coalition and has secured parliamentary majorities on a case-by-case basis working together with other parties – in particular the Democratic Union of Hungarians in Romania and representatives from national minorities. The new government was sworn-in in December 2000. In June 2001, the PDSR merged with the small Romanian Social-Democratic Party to form a single new party (the Social Democrat Party).

Presidential elections were also held at the same time and the PDSR candidate, Ion Iliescu, was elected as President of the Republic. Both parliamentary and presidential elections were free and fair.

## **1.1. Democracy and the rule of law**

As mentioned in the previous Regular Reports, Romania has achieved stability of institutions guaranteeing democracy and the rule of law. This section focuses on the most significant developments of the past year.

### *The parliament*

The efficiency of the legislature, which had been recognised as a particular problem in previous Regular Reports, improved considerably over the reporting period.

Prior to the elections the legislature had been effectively paralysed by the weakness of the ruling coalition. One of the first acts of the new Parliament was to reform the functioning of both houses in order to accelerate the legislative process. In the Senate changes included streamlined procedures for amending legislation, and reducing opportunities for “filibustering.” In the Chamber of Deputies the changes included an accelerated procedure for the adoption of priority legal acts – including legislation related to EU accession.



A series of measures have also been introduced in order to improve the relationship between the legislature and the executive. Meetings between the President, the Prime Minister and the speakers of the two chambers take place on a weekly basis. A Minister for Relations with Parliament has been appointed. State Secretaries responsible for parliamentary relations have been appointed in all line-ministries. Taken together, these measures illustrate the importance given by the government to effective co-operation with Parliament.

The combination of a government with a strong position in both houses and reformed parliamentary procedures has seen the number of laws adopted by Parliament increase significantly since the beginning of the year. This has allowed the legislature to effectively process the backlog of some 700 draft legislative acts left over from the previous government.

The improved functioning of Parliament has been matched by the government's reduced reliance on ordinances and emergency ordinances as legislative instruments. This said, legislation by ordinance remains too common and has frequently been used without a clear justification for bypassing parliamentary procedures. This is a concern because Parliament's power to subsequently amend or reject legislation introduced by ordinance can result in legislative instability. A further concern is that parliament's ability to carry out the essential function of scrutinising legislation remains limited.

### *The executive*

Reforms made since the elections have significantly improved the functioning of government. Inter-ministerial co-operation has increased, as has the policy-making capacity of the administration. Progress has also been made with the decentralisation of powers to local government – although certain problems remain related to the implementation of reforms. A remaining concern is the lack of progress in carrying out a strategic reform of the public administration.

Since taking office at the beginning of the year, the new government has conducted an extensive overhaul of the executive. The number of ministers and ministries has been increased and all government agencies have been subordinated to ministries – previously many of them were considered as independent bodies. Bringing the agencies more closely into the structures of government has improved the cohesion of the administration.

A positive development has been the particular emphasis placed upon re-enforcing the structures that are responsible for managing the accession process. The new Ministry of European Integration is responsible for co-ordinating the EU accession effort including implementation of the pre-accession strategy, management of EC financial assistance and conducting the accession negotiations. The position of Chief Negotiator has been upgraded to a ministerial-level post, and a Secretary of State responsible for European Integration has been appointed in each line-ministry. These Secretaries of State meet regularly in an inter-ministerial committee. At the civil servant level, inter-ministerial working groups have been established to deal with the preparation of each negotiating chapter. These measures have significantly improved the quality of Romanian preparations for accession.

Following the elections, a number of specific initiatives were taken to strengthen *policy formulation* (identified as a particular problem in last year's Report). These changes, combined

with a situation where all ministers now belong to the same political party, have significantly improved the policy-making capacity of the government.

A Law on the Organisation and Functioning of the Government of Romania was adopted in February 2001. One of the important elements of the law was the provision of a legal basis for inter-ministerial bodies “in order to elaborate, integrate, correlate and monitor certain policies”. The General Secretariat of the Government has been made responsible for co-ordinating the activities of line ministries and ensuring that the correct legal procedures are observed in the elaboration and endorsement of draft legislation. In general terms this initiative has improved policy co-ordination – although there are still cases of government decisions being taken hurriedly and without key ministries being consulted.

Consultation with stakeholders when drafting legislation –social partners, NGOs, the business community – has improved over the reporting period but remains limited. The Council for Economic and Financial Co-ordination, which was created by the previous government and which proved to be ineffective, has been dissolved.

Last year’s Regular Report welcomed the adoption of a Civil Servants’ Statute and the establishment of the Civil Servants’ Agency to implement the Statute and to take a leading role in public administration reform. Unfortunately, little substantial progress on *civil service reform* can be noted since last year.

All ministries have been re-structured - but this has been the result of a change in government rather than of a programme of strategic reform. Certain positions have disappeared while others have had their responsibilities changed. This has led to the removal of many civil servants, either through resignations or through redundancies. This process has seriously undermined the stability of the civil service at all levels of public administration. The number of secretaries of state (political appointees) has been significantly increased. Most of them have taken over the responsibilities that were held by director generals (career civil servants).

The reorganisation of ministries was accompanied by the announcement of a 30% reduction in the numbers of civil servants (as of September 2001, staff numbers had been reduced by 22%). This measure has reduced the already low levels of administrative capacity and has left several important ministries understaffed. There was no evidence of systematic overstaffing in the central administration and making substantial cuts in each ministry missed the opportunity of reallocating excess resources to those areas that needed additional staff.

In terms of process, these dismissals were made following written tests and therefore followed the provisions of the Civil Service Statute. However, the National Agency for Civil Servants was not involved at any stage. This not only raises concerns as to the standard of these testing arrangements (which were the responsibility of each ministry) but also indicates that the Agency is not yet carrying out its role as guardian of the Civil Service Statute.

In spite of this retrenchment a fresh wave of recruitment has also taken place – particularly for the newly established ministries. Many of the staff hired by the new ministries are officials previously employed by other ministries which makes it difficult to assess the overall reduction in numbers of civil servants. Just as with the dismissal of officials, the National Agency of Civil Servants has not been involved in either supervising or implementing the recruitment process.

A National Institute of Public Administration has been established with the remit of improving the training provisions for civil servants. As the Institute will only become fully functional in the 2002-2003 academic year, it is not possible to assess the effectiveness of this institution.

The Commission has made the case that a fundamental structural *reform of the public administration* should be one of the new government's most urgent priorities. In order to make the 1999 Civil Servant's Statute fully operational, secondary legislation is still needed to cover recruitment, career structures, and remuneration. In addition, a comprehensive reform strategy should be developed (this is one of the priorities in the 1999 Accession Partnership that has not yet been implemented). Such a strategy should cover the development of mechanisms to ensure the political independence and accountability of civil servants, improved provisions for both initial and in-service training, and the introduction of a career structure based on transparent promotion and assessment.

In September 2001, the Romanian Government responded by adopting a "General Strategy Regarding the Acceleration of Public Administration Reform", and a strategy on e-government. An inter-ministerial council, directly subordinated to the Prime Minister, has been established to monitor the implementation of the reform strategy. Considerable work will be necessary to further develop the strategy. Nevertheless, these developments are significant steps forward and should represent the foundations for future progress.

The bodies responsible for administrative reform are the Ministry of Public Administration and the National Agency of Civil Servants - but their own operational capacity is limited as is their political influence on other ministries. If a reform programme is to succeed then it is essential that these institutional arrangements should be considerably reinforced.

The new executive has given considerable attention to issues related to *local administration and decentralisation*. In March 2001, a new Law on Local Public Administration was adopted in order to extend and clarify the decentralisation process. This legislation enshrines the principle of local autonomy, clearly sets out the competencies of local authorities, and defines the relationship between central and local government. Crucially central government is prohibited from devolving additional responsibilities to the local level without also providing the necessary financial means. At the same time a greater fiscal autonomy is envisaged and the law sets out the right of local authorities to levy local taxes and to elaborate and approve their own budgets. This is a positive development, although difficulties have continued to arise from the transfer of new responsibilities to local authorities (e.g. education, health, institutionalised children) without a corresponding transfer of resources. The capacity of local government to raise local taxes remains limited and is an issue that should also be addressed.

Significantly, the Law on Local Public Administration also promotes the rights of ethnic minorities by providing for the use of minorities' languages in the local administration where more than 20% of the population belongs to a minority.

Local authorities have been increasingly involved in international assistance programmes and some have started contracting foreign loans to develop local infrastructure without a sovereign guarantee. These developments are indications of increasing *administrative capacity* although the performance of the local administrations still varies greatly from one place to another. In general terms, the local level has not yet developed sufficient financial or administrative capacity to deal with the decentralisation of competencies. This has contributed, in many local

communities, to cumbersome administration and, on occasion, a mismanagement of funds – and these shortcomings will have to be urgently addressed if further decentralisation is to be successful.

With regard to the *demilitarisation of the police*, no substantial developments can be reported although the Government did approve draft laws on the statute of policemen and on the modification of the law on the organisation and functioning of the Romanian police, and has submitted them to Parliament using urgency procedures. These laws should establish the legal basis for the demilitarisation of the police and redefine policemen as civil servants albeit with a special status.

### *The judicial system*

Romania has made considerable advances in reforming its judiciary over recent years. This process has continued over the reporting period and there has been progress with speeding up court procedures and the enforcement of judicial decisions. At the same time, additional reforms are still necessary and should include measures to further guarantee the independence of the judiciary and to develop a human resource policy for judges and supporting court staff.

A revised version of the Civil Procedure Code entered into force in April 2001. New procedures were introduced in order to speed up the operation of the courts and improve the enforcement of judicial decisions. In a separate measure, the government made it necessary for judges to publish a reasoning for all their decisions (previously this was only necessary in cases involving appeals to higher courts). Most of the changes to the Civil Procedure Code represent welcome and much needed efforts to improve the efficiency of the judicial system. However, some of these changes raise concerns: the Supreme Court, which is already overburdened, has been given additional tasks (hearing appeals in commercially significant cases), and the process of simplifying procedures has considerably restricted the right to appeal in certain cases.

A further set of concerns relate to the extension of the General Prosecutor's right to introduce extraordinary appeals against judicial decisions. This provision already existed in Romanian law but an Emergency Ordinance extended the period during which extraordinary appeals could be brought (from 6 months to 1 year), allowed extraordinary appeals to be made before all other legal avenues had been exhausted (previously only "final" judgements were covered) and made the right to introduce such appeals more discretionary (they can now be exercised against "obviously ungrounded judicial decisions" - an ill-defined criterion). This is a potential worry since the extension of such extraordinary procedures risks undermining the principle of legal certainty.

A number of developments have occurred during the reporting period that draw attention to the independence of the judiciary from the executive. During the first half of 2001, a number of presidents and vice-presidents of courts have been transferred from their posts (i.e. demoted) without clear reasons being given. Decisions over transfers and removals of judges are taken by the Superior Council of the Magistracy, but the Ministry of Justice has a significant influence over this body (one third of its members are appointed by the Ministry and the Minister chairs its meetings). In a separate development, the Ministry of Justice issued a circular letter to courts in March 2001 asking them to pay attention to the social consequences in cases concerning restitution of nationalised houses. As the Romanian authorities have subsequently recognised, such recommendations would appear to contradict the principle of an independent judiciary.

While the involvement of the executive in judicial affairs is not a new phenomenon in Romania, these incidents indicate that further efforts are needed in order to guarantee the independence of the Romanian judiciary.

Magistrates continue to rank amongst the best paid public officials, but a change in the wage policy means that this preference is being eroded - unlike other public employees, magistrates will not receive a wage adjustment in 2001 to compensate for inflation. Working conditions of judges need to be improved and existing plans to develop and introduce adequate IT systems to facilitate case handling and to give access to case law and legislation should be implemented.

Since the last report there have been no major developments with regard to the total number of judges or the number of judicial vacancies. The average number of cases dealt with by each judge has decreased slightly from 514 in 1999 to 511 in 2000, but the workload remains heavy, which limits the ability of judges to carry out their functions effectively. Compared to 1999, the number of pending cases in Courts of the First Instance and in Courts of Appeal dropped in 2000. However, over the same period, there was a slight increase in pending cases before Tribunals.

The National Institute of Magistracy is currently the sole entry point for a career as a judge although it remains unclear if the Institute will keep this position since the law organising the judicial system provides for other routes into the judiciary. The initial training period has been extended to two years with effect from the academic year 2001/2002. The training programmes include Community law, constitutional and human rights subjects, as well as citizens' liability claims and judicial co-operation in civil and penal matters. Continued support for the National Institute for the Magistracy, granting it self-governing status and confirming it as the sole entry point to the judiciary are important elements in developing a professional and independent judiciary. In a separate development a training centre for legal clerks was opened in December 2000 – although it is not yet operational.

### *Anti-corruption measures*

Last year's Regular Report noted that corruption was a widespread and systemic problem that undermined the legal system, the economy and public confidence in government. Despite a general recognition of the seriousness of this problem by the government there has been no noticeable reduction in levels of corruption and measures taken to tackle corruption have been limited.

A section for anti-corruption and related organised crime at the General Prosecutor's Office was established in October 2000. According to the anti-corruption law passed last year, this body was to take the lead in combating corruption. However, it has never been functional due to a lack of staff and equipment. Out of 38 posts for prosecutors only 17 are filled. Secondary legislation detailing institutional arrangements for the anti-corruption section has not yet been adopted and as a result there has been no substantial progress in implementing the anti-corruption law. Co-ordination between the various other bodies charged with tackling organised crime and corruption remains a problem and recent administrative changes have not led to any improvements.

Reports on the funding of political parties have indicated that expenditures (and in particular election expenditures) are considerably higher than declared revenues. This applies to all

political parties and is a potential source of corruption. In order to address this issue, Romania should adopt a fully transparent system of party funding.

A positive development regarding the fight against corruption was the adoption, in April 2001, of an ordinance introducing public procurement procedures and establishing the right to appeal against the award of public contracts.

Romania has still not ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. It has signed, but has still to ratify, the Council of Europe's Criminal and Civil Law Conventions on Corruption. Romania is involved in the Stability Pact Anti-corruption Initiative supported by the OECD Secretariat. Romania is a party to the Council of Europe's partial agreement "Group of States against Corruption" (GRECO).

*Access to information* is an important issue that is closely related to both the accountability of government and the fight against corruption. Although the principle of access to information is enshrined in the 1991 Constitution there is no effective implementing legislation.

In conclusion, and with the important exception of public procurement legislation, there has been no substantial progress in the fight against corruption since last year's report. In order to begin making progress, secondary legislation needed for the implementation of the anti-corruption law should be adopted and the anti-corruption section at the General Prosecutor's Office given the resources it needs to operate effectively. The National Strategy to Combat Corruption should be finalised and adopted. The division of tasks among the bodies involved in the fight against corruption needs to be clarified and overlapping competencies should be removed. The concept of criminal liability of legal persons should be introduced into Romanian criminal law and the rules governing the funding of political parties revised.

## **1.2. Human rights and the protection of minorities**

As mentioned in the previous Regular Reports, Romania continues to respect human rights and freedoms. The following section concentrates on major developments since the last Regular Report.

Romania has ratified the major human rights conventions (see annex). In November 2000 Romania signed Protocol no. 12 to the European Convention on Human Rights containing the general prohibition of discrimination on any grounds such as sex, race, colour, and language.

A major development, and one which was noted in the last Regular Report, was the issuing of an Emergency Ordinance, in September 2000, on the prevention and *combating of all forms of discrimination*. The ordinance covers rights defined in relevant international agreements and is broadly in line with the Council Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of their Racial and Ethnic Origin (*see chapter 13-Employment and Social Policy*) as well as recent recommendations of the European Commission against Racism and Intolerance. However the ordinance is not yet operational since the necessary secondary legislation has not been adopted and the implementing body, the National Council for Preventing and Combating Discrimination, has not yet been established. Despite these delays, this legislation should, when implemented, represent a positive development by providing legal protection against discrimination on various grounds, including ethnic origin, language, religion and sexual orientation.

The Office of the Ombudsman deals with complaints lodged by persons whose civil rights and freedoms have been infringed by the public administration. In 2000 the institution dealt with 4 556 complaints, a slight increase over the previous year. Almost half of these cases were declared admissible (compared to 40% in 1999) which demonstrates the growing public awareness of the role and function of the Ombudsman. Most of the complaints referred to alleged infringements of individual rights in the process of restitution of land or residential property. Other frequent cases concern women's and family rights, and cases related to the provision of social security.

Over the reporting period, significant developments included the setting up of regional offices, increased co-operation with NGOs and a large increase in the number of direct audiences held with complainants. In terms of administrative capacity, the personnel reductions imposed on the entire central administration at the beginning of 2001 reduced the number of posts at the Ombudsman's office from 108 to 80. However, this did not lead to redundancies, as only 77 posts had been filled at the end of 2000.

Despite the fact that the performance of the Ombudsman's office has improved significantly over recent years, its co-operation with other state institutions remains problematic. Many institutions have failed to respond to requests from the Ombudsman within the legally set delay. The Senate, which is itself responsible for appointment of the Ombudsman, has repeatedly delayed debating the Ombudsman's Annual Report. This attitude undermines both the credibility and the effectiveness of the institution.

### *Civil and political rights*

Romania has made significant progress in improving the civil and political rights of its citizens. Reform of the childcare system is well under way and the decriminalisation of homosexuality has brought Romania in line with European standards. Important new legislation has been passed regarding the restitution of property. New legislation has clarified the rights of asylum seekers and refugees and the introduction of probation represents an important reform of the penal system. Positive initiatives have been taken to address trafficking of human beings – although this remains a serious problem. Despite this progress, implementation of reforms has been disappointing in several of these areas. This is a challenge that the government will have to address. Other areas where further reform is needed include modernising the Penal Code (in particular the articles relating to freedom of expression) and increasing the public accountability of police officers.

In last year's Strategy Paper, the Commission noted that Romania had adopted legislative, administrative and financial measures to address the problems in *child-care* institutions. However, it stressed that further sustained efforts were needed to improve living conditions, implement structural reforms and address the problem of street children in full respect of human rights.

There has been further progress made over the reporting period. The budget allocated to child-care has been substantially increased (€79 million in 2001 compared to €42 million in 2000). The number of child-care services offered as alternatives to institutions has been increased. Presidents of county councils have direct responsibility for all institutions related to child protection - a measure intended to ensure that local administrations give sufficient political priority to child-care issues. Important translation errors in the United Nations Convention on

the Rights of the Child were corrected. The process of moving children out of special schools and into mainstream education has been initiated.

The reforms made mean that Romania has met the 1999 Accession Partnership priority related to child protection. However, and despite these developments, the demand for state-supported care remained constant in 2001 with poverty being the main reason. A better-targeted social allowance scheme for families with children is therefore necessary in order to prevent child abandonment and institutionalisation.

According to official figures, at the end of 2000 there were 129 296 children in need of special protection out of which 77 844 were children in residential care and 51 452 were children supported in natural or substitute families.

In May 2001 the Government adopted a revised Strategy on the Protection of Children in Need (2001-2004). The revision was made following consultation with NGOs and international organisations and is a broadly positive development – although the emphasis is placed on rehabilitating institutions rather than closing them. There are also important areas that are not fully addressed by the strategy: the provision of support to families and mothers, the care of young adults leaving the residential care system, and policies to prevent abandonment.

In terms of institutional structures, the National Authority for Child Protection and Adoption was placed under the Secretary General of the Government. This was an important development that provided the Authority with representation at ministerial level. At the same time, insufficient budgetary resources and training reduce the Authority's ability to effectively carry out its regulatory and monitoring functions. The role of the National Authority in co-ordinating government policies related to children's rights is still not fully established. This is a matter of some urgency since the integration of childcare policy with other sectoral policies, such as social and family policies, health and education, has not been adequately addressed.

A High Level Group to support and monitor the reform efforts was set up during the reporting period. This body is made up of the European Parliament's rapporteur on Romania<sup>5</sup> (who took the initiative to establish it) and representatives of the Romanian Government, the European Commission, the World Bank, UNICEF and the WHO.

In the 2000 Regular Report, the Commission expressed concern with regard to legislation and practices on inter-country adoption that allowed considerations other than the best interest of the child to influence adoption decisions. This risked having a negative effect on efforts to reform the child protection system in Romania. Following this and similar expressions of concern, the Romanian government decided to suspend international adoptions. In December 2000 the Romanian Adoption Committee stopped referring children to international adoption foundations. As of June 2001, the Committee suspended the registration of new foreign families requesting international adoption for at least one year.

The Commission welcomes this moratorium as a mechanism to end practices that were incompatible with Romania's international obligations under the United Nations Convention on the Rights of the Child and which risked opening opportunities for trafficking in children and other forms of abuse. The Romanian authorities need to reform legislation on international

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<sup>5</sup> The European Parliament *rapporteur* is Baroness Nicholson of Winterbourne.



adoptions and to develop the appropriate administrative structures and capacity in order to ensure that adoption decisions are made exclusively in the best interest of the child. This should be done prior to international adoptions being resumed.

Cases of inhuman and *degrading treatment by the police* continue to be reported by human rights organisations. There is no evidence to suggest that these cases are the result of a systematic disregard of human rights by the police. At the same time, it is clear that the use of physical violence to extract confessions is not exceptional and that the safeguards in place to prevent such incidents are inadequate. Allegations of police abuse are investigated through the system of military courts, and investigations are typically lengthy and often inconclusive. Increasing the public accountability of police officers should reduce instances of degrading treatment. It is therefore important that progress is made with the demilitarisation of the police force.

Romania is both an origin and a transit country for the *trafficking of human beings*. Economic and social uncertainty, widespread poverty and domestic prostitution rings are the main reasons for this problem. Recent research has revealed a very low level of public awareness on this issue and, alarmingly, a continuing decrease in the age of the victims. In the first eight months of the year the police dealt with 435 trafficking cases.

Against this background, the Romanian government has made considerable efforts to detect and fight trafficking in persons. Within the framework of the Regional Centre for Combating Organised Cross-border Crime, a task force for combating trafficking in human beings was set up. In October 2000, the Ministry of the Interior launched a programme for the protection of women and children against trafficking and, in April 2001, the Government appointed a national co-ordinator to combat trafficking. In May 2001 the Government established an inter-ministerial commission to draft an anti-trafficking law. Despite these actions, there are still insufficient legislative tools for prosecuting and punishing traffickers and for protecting victims.

Overall *prison conditions* are often extremely poor and prisons remain severely overcrowded. A particular problem with pre-trial detention is that the periods of detention can be excessive – up to half of the possible sentence. In order to address these issues, important reforms of the Romanian penal system have been initiated. An ordinance establishing a probation system entered into force in October 2000 and 11 experimental probation centres have been set up in seven counties. The Penal Code was amended through an Emergency Ordinance in November 2000 to further improve the provisions on conditional release from prison. These are positive developments. However, a major constraint on the effective implementation of these laws is the severe shortage of probation officers.

Other initiatives have been taken in order to improve prison conditions, such as finding jobs for inmates and limited improvement to educational and recreational facilities. A further positive development has been the granting to prisoners of the right to appeal against disciplinary measures.

The Civil Procedure Code contains provisions for granting *legal aid* to persons who cannot afford the legal costs of a case. The Penal Procedure Code guarantees the right to defence throughout criminal proceedings. The legal aid provisions are applied in Romania - although the relatively low levels of payment and the delays in processing payment claims limit the attractiveness of these cases for the legal profession. In criminal cases, both the Romanian

Constitution and the Penal Procedure Code provide for free access to an interpreter for citizens belonging to a national minority, as well as persons who cannot understand Romanian.

Concerning *asylum-seekers and refugees*, a new Law on Aliens was adopted in April 2001. This legislation represents a much needed improvement upon the previous legislation (which dated from 1968) although certain problems remain – notably concerning the possibility of expelling foreigners without their having the right to challenge this decision in the courts. Amendments to the Refugee Law, in line with the *acquis*, were approved by Parliament in June 2001. The principle of ‘non-refoulement’ is guaranteed and the amended legislation represents considerable progress. This said, there are still shortcomings in the legislation and the provisions on detention of asylum seekers should be based on stronger legal guarantees. In parallel with revised legislation, the assistance provided to refugees and asylum seekers has been improved. Measures have been developed to ensure minimum standards of reception for all asylum seekers throughout the whole asylum procedure and refugees enjoy the same basic rights as Romanian citizens, including the right to work.

The Romanian constitution provides for *freedom of expression* and prohibits censorship. There is a great diversity of media in Romania with 15 national daily papers, many more local daily papers, over 70 private television channels and over 150 private radio stations. Most of the print media is privately owned and both the written press and electronic media are able to report freely. At the same time there are limitations on the free operation of the media.

Of particular concern are provisions in the Penal Code that restrict the activities of journalists. The articles dealing with slander and libel are restrictive and the extensive use of legal proceedings against journalists, in particular where they have made allegations of corruption, undermines the freedom of the press. A related concern is that the burden of proof in such cases is weighted against journalists since the accused is obliged to prove the absolute truth of public statements – as opposed to the responsibility lying with the plaintiff to demonstrate that a mis-representation of the truth had taken place. An amendment to the Penal Code, that would have reversed this situation and brought Romania in line with the case law of the European Court of Human Rights, was drafted by the previous government but has not been taken forward.

Other articles in the Penal Code dealing with “offences against authorities” and “verbal outrage” provide for specific punishments, including prison, for insulting or defaming elected officials or civil servants. As a general principle, supported by the case law of the European Court of Human Rights, politicians and civil servants should expect closer public scrutiny of their actions than private individuals. There is also a risk that these provisions could be used to stifle public criticism of the authorities. Although these concerns about the Penal Code have been raised by international observers, no progress can be reported since the last Regular Report.

*Freedom of religion* is guaranteed by the Constitution and the government does not restrict the observance of religious belief. However, as last year’s Regular Report noted, the 1948 decree on religious denominations, which is still in force, is outdated and in need of reform. There are 15 recognised religions in Romania and other congregations are obliged to register as either religious foundations or as cultural associations and are not permitted to build churches or houses of worship. A further issue is that legislation on conscientious objection to military service differentiates between members of “recognised religions” and other religious groupings.

In June 2000, the government adopted an emergency ordinance that amended the Penal Code in order to *decriminalise homosexuality*. Homosexual relations are no longer a criminal offence, and sexual offences are now governed by the same legislation irrespective of sex. This represents a major and positive development in human rights legislation that brings Romania into line with European standards.

The Romanian Constitution provides for the *freedom of association* and the *freedom of assembly*. Both of these rights are respected in practice.

The Real Estate Restitution Law entered into force in February 2001, setting out the basic principles and procedures that are to be applied for the *restitution of property* – as well as establishing a mechanism for providing compensation in cases where restitution is not possible. The law applies to all real estate “abusively taken” by the former Communist regime between 1945 and 1989. The law also covers the 1940–45 period, thus satisfying many of the restitution demands of Jews who suffered from anti-Semitic laws adopted during the war.

The law has several positive aspects. Most importantly it provides a legislative framework for addressing an issue that has remained unresolved since 1989. It goes considerably further than the requirements of the European Convention on Human Rights by covering almost all confiscations made under the Communist regime. It also extends the right for restitution to all persons who have been dispossessed (earlier restitution legislation only covered Romanian citizens).

Despite these developments, implementation of the new legislation has proved to be disappointing and crucially, the administrative procedures for calculating and awarding compensation have not yet been adequately defined. A further issue arises because the restitution law does not cover property confiscated from churches. Although the law indicates that this issue will be covered by future legislation there has been no progress in preparing such legislation.

The law on the restitution of land and forests has also been amended in order to address some of the shortcomings of the initial version of the law that had proved to be inoperable.

### *Economic, social and cultural rights*

The government’s agenda has prioritised social issues such as the fight against social exclusion and promoting equal opportunities between men and women. Various initiatives have been launched - but a lack of resources and limited administrative capacity has slowed down implementation. More substantial progress has been made with the conclusion of a Social Pact with the social partners – although the position of trade unions in private enterprises remains weak.

In December 2000 the government approved the National Action Plan Regarding *Equal Opportunities* for Men and Women. The plan identifies a number of areas of intervention and a number of operational objectives in the fields of legislation, social rights, economy, participation in decision-making, and public awareness. While the action plan is a welcome development, there have been no concrete actions taken in order to implement it and the resources allocated for implementation are insufficient.

The government has identified equal opportunities between men and women as one of its main objectives and has made important changes to administrative structures in order to address this issue. A new structure for liaison with NGOs and trade unions has been set up in the Ministry of Labour and Social Solidarity. Specific departments have also been set up within both governmental and non-governmental bodies (the Equal Opportunities Commission within the Economic and Social Council, the Department for Family, Children and Women within the Ombudsman's office, and departments for equal opportunities within the trade union confederations).

Following last year's election, 10% of deputies in the Chamber of Deputies are female (33 women out of a total of 345 deputies) as are 9% of senators (12 women out of a total of 140). In the government, four out of 28 cabinet ministers are female (European Integration, Justice, Education and Research, and Health and Family).

*Disabled persons*, the elderly and isolated women are particularly at risk of both poverty and *social marginalisation*. The government's programme has prioritised the fight against social exclusion as a political priority and has adopted legislation establishing a Minimum Guaranteed Income, under which the state will cover the basic living expenses of the unemployed as well as persons earning less than the legal minimum income. In April 2001, the Law on the Public Pension entered into force. During the reporting period, the government also took a number of decisions concerning evaluation of needs of the elderly, criteria for identifying dependency degrees, and definition of the type of services to be supplied to dependant persons.

Despite these developments, the fragmentation of the administrative structures dealing with socially vulnerable sections of society is a considerable obstacle to making decisive reforms. No less than five government bodies are involved in the provision of social assistance and the fight against exclusion. The decentralisation of social services and social assistance has also led to difficulties related to finding the appropriate level of decentralisation (municipalities or counties), low levels of administrative capacity at the local level, and problems related to financial decentralisation.

The new government has demonstrated a firm commitment to strengthen the *role of trade unions* in social and political life. Recognising that social peace and partnership are indispensable for implementing economic and social reforms, the government signed a Social Pact with the social partners shortly after taking office. The main objective of this initiative was to establish an agreed economic and social agenda (macro-economic stability, social policy, employment, social protection and fiscal measures). The Social Pact also provides a framework for negotiations – although important disagreements still arise and there have been serious labour conflicts during the reporting period.

The Economic and Social Council has been created as an institution to allow social partners to comment on legislation with a significant economic and social impact. However, to date, the Council has not been systematically consulted. At the working level, commissions for social dialogue have been created within all ministries and prefectures. The commissions are consulted on draft sectoral legislation, as well as economic restructuring and privatisation issues.

Despite these initiatives, the role and the recognition of trade union activities in private enterprises remains weak. Bipartite social dialogue at enterprise level is not sufficiently developed – a problem that is magnified because the employers' movement remains divided.

## *Minority rights and the protection of minorities*

During the reporting period, a number of positive developments took place in this area. New legislation extended the use of minority languages, and a National Strategy for Improving the Condition of Roma was adopted.

There are over 1.6 million ethnic Hungarians in Romania and they represent the most politically active minority group. Romanian provisions for respecting the rights of minorities are well developed and existing policies provide extensive rights for education in minority languages. Further developments were made during the reporting period with the Law on Local Public Administration giving linguistic minorities, in localities where they represent more than 20% of the population, the right to receive services from local authorities in their mother tongue. In these localities, the law also stipulates that the agenda and decisions of the local council will be made public in the relevant minority languages.

During the school year 2000-2001, the number of educational units providing teaching in minority languages remained constant. A slight increase was noted in the number of students from linguistic minorities studying their mother tongue in schools teaching in Romanian. There were no developments with establishing a public university teaching in Hungarian, German and Romanian (the proposed Petöfi-Schiller University) despite the fact that legal obstacles had already been removed in 2000. However, a decision was taken to establish a private Hungarian university, financed with the support of the Hungarian State. Courses started in October 2001 for 450 students.

Since the last Regular Report, the government has taken several major initiatives to address the problems faced by the *Roma minority*. The most important of these was the adoption, in April 2001, of a National Strategy for Improving the Condition of Roma – which means that Romania has met one of the key political priorities contained in the 1999 Accession Partnership. The strategy is a comprehensive and high quality document that was elaborated together with Roma organisations and has been welcomed by them. The strategy covers a 10-year period and sets out a plan of measures to be taken for the first four years. The starting point of the document is a clear admission that discrimination against Roma is a serious problem in Romania. It goes on to set objectives that include changing negative public perceptions, improving living conditions for the Roma, and encouraging Roma participation in all aspects of civil society. It is anticipated that Roma NGOs will play an active role in the implementation of the strategy. At the same time, the lack of unity between Roma organisations could pose an obstacle to the implementation of the strategy. Important next steps will be drafting an operational plan, and securing the necessary budget allocations.

One of the key features of the strategy is its decentralised nature. This is an important consideration since most of the public institutions covered by the strategy (e.g. education, police, hospitals) are managed at the local level. In order to implement the strategy local Roma offices are being set up in each county. Staff, who are themselves Roma, have been hired for these offices. This represents a positive development, although there are concerns that their actual responsibilities remain unclear and that recruitment has been based on reasons other than technical merits.

Despite these positive developments, discrimination against the Roma minority remains widespread – although it occurs as individual incidents and is not institutionalised. Human rights

organisations have documented instances of police harassment of individual Roma as well as of whole Roma communities. Roma face difficulties in gaining access to schools, medical care and social assistance. Social discrimination is often manifested in Roma being banned from public places and, despite the fact that it is illegal, a number of job advertisements explicitly exclude Roma applicants.

### **1.3. General Evaluation<sup>6</sup>**

In its 1997 Opinion, the Commission concluded that Romania fulfilled the political criteria. Since then, the country has made considerable progress in further consolidating and deepening the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. Over the past year, further positive developments have been noted. Romania continues to fulfil the Copenhagen political criteria.

The efficiency of the legislature has improved considerably as has the overall functioning of government. The reform of judicial procedures has continued and effective implementation of new legislation on public procurement should play an important role in the fight against corruption – although corruption remains a serious problem that is largely unresolved. Other particular concerns are the lack of progress in carrying out a strategic reform of the public administration and the need to further guarantee the independence of the judiciary.

Significant progress has been made in the field of human rights. Reform of the childcare system is well under way; homosexuality has been decriminalised; and important new legislation has been passed regarding the restitution of property and the treatment of asylum seekers and refugees. The introduction of probation represents an important reform of the penal system and several initiatives have been taken to address trafficking of human beings. Future reforms should seek to modernise the Penal Code and increase the public accountability of police officers as well as ensure the proportionality of their actions. Efforts to improve the actual living conditions in childcare institutions should continue.

New legislation extending the use of minority languages was approved, and a National Strategy for Improving the Condition of Roma adopted. Efforts now need to focus on the implementation of the strategy, with the aim of effectively combating widespread discrimination, and improving living conditions.

Romania has addressed the short-term Accession Partnership priorities related to the political criteria by improving the conditions of institutionalised children, making progress with the reform of childcare policy, developing a national strategy for Roma, and taking measures to provide support to minority programmes. As regards medium-term priorities, progress has been made towards meeting the medium-term priority related to childcare, and initiatives have been taken to increase the Roma's access to education. However, important actions are still needed in other areas: the Roma strategy has not yet been implemented; anti-discrimination legislation has been adopted but it is not yet operational; and the demilitarisation of the police has not yet started.

## **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”.*

This finding was confirmed in the 1998 and 1999 Regular Reports. In its 2000 Regular Report the Commission found that:

*“Romania cannot be considered as a functioning market economy and it is not able to cope with the competitive pressures and market forces within the Union in the medium term.”*

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

- the existence of a functioning market economy; and
- the capacity to cope with the competitive pressures 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.

### **2.2. Economic Developments**

*The macroeconomic environment has improved.* After three years of declining economic activity, GDP growth was positive in 2000, and accelerated in the first half of 2001. Export performance has been remarkable, but the current account deficit has been widening in 2001 on the back of surging imports. Other indicators of external vulnerability, however, have improved as gross international reserves increased, and Romania regained access to international capital markets. After several years of fiscal consolidation, the deficit is targeted to decrease slightly to 3.5% of GDP. Though declining, inflation remained high throughout 2000 and the first half of 2001.

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<sup>6</sup> See "Making a success of enlargement: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2001) 700.

Main economic trends							
Romania		1996	1997	1998	1999	2000	2001 latest
Real GDP growth rate	per cent	3.9	-6.1	-4.8	-2.3	1.6	4.9 H1
Inflation rate <sup>7</sup>							
- annual average	per cent	38.8	154.8	59.1	45.8	45.7	37.2 <sup>8</sup> Sep
- December-on-December	per cent	56.9	151.5	40.6	54.8	40.7	31.2 Sep
Unemployment rate, end-year							
- ILO definition	per cent	6.7	6.0	6.3	6.8	7.1 P	7.7 P Q1
General government budget balance <sup>9</sup>	per cent of GDP	-3.5	-4.5	-4.4	-2.1	-3.8	:
Current account balance	per cent of GDP	-8.8	-6.1	-7.1	-4.2	-3.7	:
	million ECU/euro	-2,446	-1,895	-2,637	-1,382	-1,477	-154 <sup>9</sup> Jan-July
Foreign debt							
- debt export ratio	per cent	76.4	82.6	84.2	86.8	65.8	:
- gross foreign debt	million ECU/euro	5,974	7,513	7,346	8,315	8,960	:
Foreign direct investment in flow							
- balance of payments data	per cent of GDP	0.9	3.5	4.9	3.0	2.8	:
	million ECU/euro	250	1,077	1,804	980	1,114	391 <sup>10</sup> Jan-July

*The political uncertainty in the months prior to the end-of-2000 elections delayed progress on Romania's key reform priorities. In the closing months of 2000, privatisation*

<sup>7</sup> PROXY HICP since 1996 (see methodological notes)

<sup>8</sup> Moving 12 month average rate of change

<sup>9</sup> Source: Website of National Bank

<sup>10</sup> Source: Website of National Bank



sales ground to a halt and the decision to cap energy prices at their August 2000 level undermined previous efforts to strengthen enterprise sector financial discipline. As a consequence, enterprise arrears increased dramatically during the first half of 2001. After the election, there were increasing signs of a renewed commitment to privatisation, and two important sales – Banca Agricola, and SIDEX – were finalised. In the summer months of 2001, energy prices were raised, to more closely reflect production costs, and tied to the exchange rate, to protect their real value.

<b>Main Indicators of Economic Structure in 2000</b>		
Population (average)	thousand	22,435 <sup>11</sup>
GDP per head <sup>12</sup>	PPS	6,000
	per cent of EU average	27
Share of agriculture <sup>13</sup> in:		
- gross value added	per cent	12.6
- employment	per cent	42.8 P
Investment-to-GDP ratio <sup>14</sup>	per cent	18.5
Gross foreign debt/GDP <sup>15</sup>	per cent	22.4
Exports of goods & services/GDP	per cent	34.1
Stock of foreign direct investment	million euro	7,121
	euro per head <sup>16</sup>	317

P: provisional data

*Romania has been losing ground in the catching-up process with the EU. GDP per capita in Purchasing Parity Standards (PPS) as a percentage of the EU average has fallen over the last five years, from 32% in 1995, to just under 27% in 2000. Regional disparities are moderate: per capita income is some 40% above the national average in the capital region, some 20% below in the poorest region. Pension levels are very low. In June*

<sup>11</sup> At 1<sup>st</sup> of July

<sup>12</sup> Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

<sup>13</sup> Agriculture, hunting, forestry and fishing.

<sup>14</sup> Data refer to gross fixed capital formation as % of GDP.

<sup>15</sup> At 1<sup>st</sup> of July

<sup>16</sup> Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

2001, the social insurance pension was approximately €40 a month, and represented 30% of the net average wage. The economic activity rate and employment rate have declined somewhat to 63.2% and 64.2% in 2000, while the unemployment rate increased slightly to 7.1% from 6.8%. Unemployment is higher in urban areas and higher for men than for women, at respectively 7.7% and 6.4%. Long-term unemployed workers account for nearly half of all unemployed. The declining level of income has imposed serious hardship in the population, and the social, education and healthcare infrastructures have deteriorated, creating serious obstacles for human capital development.

### **2.3. Assessment of the Copenhagen Criteria**

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

The existence of a functioning market economy requires that prices, as well as trade, are liberalised and that an enforceable legal system, including property rights, is 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.

*There is a growing consensus about the ultimate objectives of economic policy.* The commitment to structural reform and macroeconomic stabilisation was reaffirmed by concluding a new IMF programme at the end of October 2001. In September 2001, the government approved Romania's first Pre-Accession Economic Programme and submitted it to the Commission in early October.

*In 2000, Romania experienced a 1.6% increase in economic activity.* This ended the recession which had caused a 13% cumulative decline in GDP since 1997. The primary source of growth in 2000 was investment, which grew by 5.5%, along with inventory accumulation and exports, which expanded by nearly 24% in real terms. In contrast, household consumption expenditure fell by 1.2%.

*Driven by rising domestic demand, growth accelerated during the first half of 2001.* Gross domestic product grew by 4.9% in the six months to June. Higher social transfers and real wages led to a recovery in household consumption, which rose by 7.6%. Investment growth accelerated to 6.7%. However, stocks also continued to accumulate. The strong pick-up in activity was also reflected in industrial production, which rose 10.8% year-on-year in the seven months to July.

*In recent months, labour market conditions have improved.* Over the last five years, labour force participation has fallen from around 65% to 63%. In 2000, unemployment was 7.1%, compared to 6.8% in the previous year. In the first quarter of 2001, it increased further to 7.7% (ILO definition). However, as economic activity picked up in 2001, the registered unemployment rate has fallen and private sector employment started to increase.

*Monetary policy has focused on objectives other than price stability.* In order to honour its external obligations and maintain external competitiveness, the central bank has pursued the twin objectives of building up foreign exchange reserves and keeping the real exchange rate competitive. However, this came at the expense of price stability, which was already hard to achieve given the difficulty to control costs, and most notably public enterprises wages, in the

absence of hard budget constraints. As a consequence, inflation has remained very high, although declining. The December 2000 end of period inflation rate was 40.7%, compared to 54.8% the previous year. The twelve-month average inflation rate had fallen to 37.2% in September 2001 from 45.7% in 2000.

*After several years of significant fiscal consolidation, the deficit has stabilised.* In 2000, the GFS-based general government consolidated deficit was 4.0% of GDP, compared to 3.8% in 1999. The previous government successfully resisted expenditure pressures in the run-up to the elections. The budget was also helped by a lower foreign debt-servicing requirement. Government expenditure accounted for 35.6% of GDP, while total revenues accounted for 31.6% of GDP. For 2000, the authorities' estimate for the ESA 95-based general government deficit was also 3.8% of GDP<sup>17</sup>.

*The underlying fiscal dynamics have improved in recent months.* The 2001 budget, adopted in April, prioritised social expenditure, particularly in the areas of child allowances and pensions, and targeted a general government deficit of 3.7% of GDP. Due to the upturn in economic activity during 2001, tax revenues have performed well. Interest expenditure, as a percentage of total expenditure, has fallen giving the authorities some room to increase social outlays. In line with the improved budgetary performance, the deficit target was revised downwards to 3.5% of projected GDP last June. Since the budget outturn for the first half of the year was a deficit of 2% of projected GDP, the revised target implies a welcomed tightening of fiscal policy. In line with this new stance, the deficit target for 2002 was set at 3% of GDP.

*Much remains to be done to improve the transparency of fiscal policy, increase the quality of public expenditure management, and enhance medium term fiscal sustainability.* These problems are particularly severe at the local government level. These issues need to be addressed to allow Romania to increase EU accession-related expenditures. Furthermore, the government has not yet addressed the medium term fiscal challenges, especially pensions and healthcare reform. So far government policies have been directed at attaining short-term stability.

*After improving to 3.7% of GDP in 2000, the current account deficit widened sharply over the first seven months of 2001, when it totalled 3.6% of projected GDP.* Over the last 18 months, export performance has been impressive. In 2000, exports increased by 22% in (dollar) value terms. Growth remained buoyant but slowed down to 14.6% in the eight months to August. The foundation for this strong export performance was laid in 1999 when the real exchange rate depreciation restored external competitiveness. Export demand was also strongly affected by developments within the EU economy. The value of imports increased by around 25% in 2000 and grew at roughly the same pace year-on-year over the first eight months of 2001. The import surge is partly the result of temporary factors in 2000, such as higher world oil prices and a drought, which depressed agricultural production and increased food import needs. Lately, however, import growth has been supported by rising capital expenditure and by the looser policy mix leading to stronger household consumption.

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<sup>17</sup> Two figures are given for the government balance. One is based on the most commonly used national concept, and the other is calculated according to the European System of Accounts (ESA 95), which was reported by the candidate countries for the first time this year.

*In general, indicators of external vulnerability have improved recently.* Romania's liquidity position has improved considerably in recent months. In September 2001, gross reserves held by the central bank were €1.1 billion, compared to €2.4 billion a year earlier. Romania will easily meet this year's external debt servicing obligations. The liquidity position has also been helped by a more benign debt servicing profile, especially compared to the difficult year of 1999. However, in the early months of 2001 a significant proportion of the current account deficit was financed by debt-creating inflows to the public sector, which regained access to the international capital markets in late-2000. While external indebtedness is still low by international standards, it has increased rapidly in recent months. In December 2000, medium and long-term external debt was €10.8 billion, but by June 2001 the stock had risen to €12.7 billion with short term external debt slightly increasing to €454 million. This growth of external borrowing will have to be curtailed if current account sustainability is to be maintained.

*In general, the policy mix has not paid sufficient regard to reducing inflation and maintaining the external balance.* As evidenced by the rise in non-interest expenditures, fiscal policy has become more expansionary in 2001 against the background of a largely accommodating monetary policy. From this point of view, the plan to tighten the fiscal stance in the second half of 2001 and the new IMF programme are welcome developments. An improved co-ordination of macro-economic policies, based on an effective public sector income policy and on a tighter enterprise financial discipline, is urgently needed in Romania. Only under this new policy framework can the central bank develop a more aggressive anti-inflationary strategy.

*Most prices in Romania are liberalised, but sporadic price controls tend to create large distortions, which can be very costly to the economy.* The share of regulated prices in the consumer price index is 18%, of which 9% are energy prices. However, as already mentioned, the decision to cap energy prices at their August 2000 levels had a severe impact on enterprise sector financial discipline. Lower domestic energy prices relative to international prices did nothing to reduce domestic consumption, while the utilities had to pay for energy imports by borrowing abroad with the support of state guarantees. Enterprise arrears, primarily within the utilities sector, increased by nearly 50% during the first three months of 2001. At the end of March, total arrears within the largest state-owned enterprises were €3.2 billion, or 7% of GDP. A further deterioration took place in the second quarter. The government has recently introduced an emergency ordinance, which links management salaries to the financial performance of the public utilities. Following a small rise in end-users electricity prices in April, electricity, heating and gas prices were increased more substantially and linked to the exchange rate in the summer. Nonetheless, any progress on enterprise sector financial discipline will require that the authorities continue to increase prices further as envisaged under the new IMF arrangement.

*The private sector is still quite under-developed, with the state owned enterprises accounting for a significant share of economic activity.* In 2000, the private sector produced 65% of GDP. The state owned enterprises still play a major role in many sectors of the economy, including the utilities sector, finance, and manufacturing.

*The authorities have renewed their commitment to privatisation.* In the closing months of 2000, the privatisation process effectively ground to a halt. However, during the first six months of 2001, privatisation activity started again. The government reaffirmed its commitment to sell 64 of the largest state-owned enterprises, and it has developed a broad timetable to fulfil it. The

sale of Banca Agricola and the large loss-making steel producer SIDEX were two important successes with a high symbolic value. In recent months, the authorities have also sold about 40 medium sized companies and more than 180 small enterprises.

*The authorities have modified the administration of the privatisation process.* The new government abolished the State Ownership Fund, the institution that had previously been responsible for managing and privatising state-owned enterprises. It was replaced by the Authority for Privatisation and Management of State Assets (APAPS). This new institution was given additional legal authority to accelerate the privatisation process. The authorities decided against modifying the existing privatisation law but are prepared to adopt a more flexible case-by-case approach with those enterprises where there is strong investor interest. However, the flexibility of a case-by-case approach will have to be coupled with greater transparency to avoid opportunities for corruption.

*Most of the legal framework of a market economy is already in place; however, the institutions to implement and enforce it are either weak or have not yet established.* Regulations are frequently changed, and public officials often interpret them in a discretionary manner. Corruption is a serious problem which has hampered the development of the private sector. Bankruptcy legislation has only limited effectiveness, as procedures are often long and difficult. The number of liquidation procedures during 2001 is unchanged relative to 2000.

*While some progress has been made towards clarifying property rights for land, much still needs to be done.* Many large state farms have not yet been privatised. It is still difficult to use land as collateral, and this has limited the development of modern market-orientated financial structures for the rural economy.

*The financial system is very underdeveloped, and it cannot yet provide effective intermediation between savers and investors.* In June 2001, total banking sector assets amounted to only 24.7% of projected GDP, while total lending activity was only 10.4% of GDP. The majority of commercial loans have very short maturities. Over half of all loans have a maturity of less than one year, while only 13% have a maturity greater than five years. Mortgage lending accounts for just over 1% of all lending activity. Around 69% of all loans are denominated in foreign currency. In June 2001, the commercial bank interest rate spread for non-bank clients was a massive 19%.

*Although the dominance of the state-owned sector has fallen in recent years, the state still plays a major role within the banking system.* The three remaining state-owned banks account for 46% of total assets, while in 1998 the state-owned sector accounted for three-quarters of total assets. By June 2001, foreign banks accounted just over 50% of total assets.

*The financial sector is turning away from the damaging practices of the past.* The state-owned banks have now been cleaned up by removing bad and dubious loans. Large directed credits are no longer channelled through the banking system. Commercial bank loans to state-owned enterprises account for just 10% of all lending activity. Based upon the available information, the largest state-owned bank – BCR – seems to be profitable. The Savings Bank (CEC) is now the most problematic state-owned bank. Its cost structure is extremely heavy. Due to the highly inflationary environment and the considerable macroeconomic uncertainty, the Savings Bank enjoys a high spread between government bonds (its primary investment vehicle) and its deposits. The bank could quickly run into difficulties if interest rate spreads narrowed.

*The central bank has stopped issuing liquidity support to the banking sector.* Between September and December 2000, the central bank extended significant credit lines to Banca Agricola. However, these were withdrawn after the privatisation of the bank. To set a sound basis for the future development of the banking sector, the recent government restraint from interfering in banks' credit decisions, the limitation of new state guarantees, and the elimination of liquidity support by the central bank for those banks which do not pose a systemic risk need to become permanent features of Romanian economic policy. In addition, the mandate of the debt recovery agency should be kept limited to minimise the costs of the banking sector clean up and reduce moral hazard problems.

*The equity markets are at a rudimentary stage of development.* Romania has two main stock exchanges - the Bucharest Stock Market and the over-the-counter RASDAQ. Their capitalisation is very small. In August 2001, the capitalisation in the Bucharest market was €0.7 billion or just 1.7% of GDP, while RASDAQ was €1.2 billion, representing 2.7% of GDP. Trading is generally very light, and in recent months trading volumes have declined compared to 2000. Since 1997, foreign participation in both markets has fallen.

*In the area of financial-sector supervision, the picture is mixed.* Supervision within the commercial bank sector has improved. An early warning system is now in place, and banks are inspected more frequently. The central bank has taken a more proactive role with those banks that break prudential regulations, issuing warning letters and sanctioning offenders. The central bank has also recently assumed responsibility for supervising the potentially problematic co-operative institutions and what are known as the "popular banks". In contrast, capital market regulation is extremely weak. The Romanian National Securities Commission is only starting to effectively carry out all its legal responsibilities, because it is still building up its capacity.

#### *The capacity to cope with competitive pressures and market forces within the union*

The ability to fulfil this criterion depends on the existence of 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 all 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 this.

*The absence of a functioning market economy has hampered the development of economic activity – particularly the growth of the private sector.* This often led to economic disequilibria with high social costs. Misplaced attempts to solve the problems through further direct government intervention eventually failed, producing cycles of stop and go policies. The high inflationary environment has been especially damaging to private sector confidence.

*Romania's education system suffers from a lack of resources.* In 2000, government expenditure on education was just 3.6% of GDP. Romania has a low participation rate of students in higher education and only 11% of the workforce has received tertiary level

education. The amount spent on research and development has fallen from 0.8% of GDP in 1994 to 0.5% of GDP in 1998. Skill levels in the rural areas are low.

*Romania does not have sufficient physical capital.* The transport infrastructure is weak and suffers from a lack of investment. The motorway network has not increased in nine years. A long-term programme for the rehabilitation of the main road and railways networks has now been established, but it will have to be financed by international donors. In 2000, gross fixed capital formation amounted to 18.5% of GDP, although this ratio was inflated by often wasteful investments made by the state-owned enterprises. The large agricultural sector suffers from particularly difficult problems, including an obsolete capital stock, low productivity and feeble market institutions. Energy sector infrastructure is also in a poor state as artificially low prices have starved firms of the funds needed to maintain and upgrade their capital.

*Cumulative foreign direct investment (FDI) remains low on a per capita basis.* Nonetheless, FDI has provided a fairly constant inflow of funds, averaging 3.5% of GDP over the last four years. In 2000, net foreign direct investment amounted to €1.1 billion, which represents 2.8% of GDP. In the first half of 2001, FDI flows remained constant in nominal terms relative to the same period in 2000. The authorities have tried to improve the administrative procedures for foreign investors. They have created a new government department for relations with foreign investors, which will act as a “one-stop shop” for investments above \$10 million. Although the government has adopted a new investment law which offers tax incentives to investors, the stability of the tax codes, rather than the continuous fine-tuning of targeted incentives, holds the key to increase investors’ interest.

*The new government has emphasised the importance of developing small and medium-sized enterprises.* SMEs represent the vast majority of firms and employ around 50% of the labour force. Most are very small and operate in trade and services. An unstable legal environment has hindered their development. SMEs have also found it difficult to gain access to the financial system, forcing them to rely largely on retained profits to finance their growth.

*Government policy towards the enterprise sector has often directed scarce resources to the support of the state owned sector at the expense of developing a strong private sector.* Several large and inefficient firms have been allowed to survive with state support. Despite poor corporate governance, unviable state-owned enterprises have been allowed to continue their operations because of the absence of hard budget constraints, and, in many cases, large implicit state aid, typically granted by forgiving tax arrears and other debts to the state. Moreover, the state has not been able to stop these companies from building up very considerable arrears to creditors, including workers, utilities and the budget. By allowing these enterprises to continue their operations, successive governments have failed to create an appropriate structure of incentives for a thorough restructuring of the supply side of the economy.

*However, the authorities have set up the institutional framework for monitoring and approving state aids.* The Competition Council, which was created in 1999, now considers each case of state aid, and assesses its impact upon the competitive environment.

*As a result of strong recent export performance, the Romanian economy has become much more open.* In 2000, exports and imports accounted for 74% of GDP, compared to 62.4% in 1999. The European Union is Romania’s largest trading partner. In 2000, the EU

accounted for around 64% of exports and 57% of imports. Reflecting Romania's comparative advantage and increased wage competitiveness, the product composition of exports is changing. Textiles now account for about a third of exports, while metallurgical products account for about 15%. Over the last two years, the real exchange rate has remained broadly constant.

#### **2.4. General evaluation<sup>18</sup>**

Romania has made progress towards establishing a functioning market economy and although it would not, in the medium term, be able to cope with competitive pressure and market forces within the Union, it has taken measures that would allow to develop its future capacity, provided that it keeps to the engaged economic reform path.

Romania has made progress towards macroeconomic stabilisation: growth has resumed and exports have increased. The government is acutely aware of the need to implement the programme agreed with the IMF and the Pre-accession Economic Programme. Structural reforms have been re-launched, most notably in the area of privatisation and energy price adjustments. The recent privatisations demonstrate a new commitment towards the establishment of a functioning market economy.

However, there are still serious economic imbalances with high inflation and a widening current account deficit, in a difficult social environment. The still fragile macroeconomic environment, the uncertain legal framework and the poor administrative capacity hinder the development of the private sector. Large parts of the enterprise sector have yet to start restructuring or are still in the early stages of the process. Romania's reform agenda remains considerable. The authorities should give priority to securing macroeconomic stability by fighting inflation and halting the deterioration of the external account. The full implementation of the programme agreed with the IMF, focusing on reversing the causes of inflation, would permit a gradual shifting of monetary and exchange rate policy towards inflation reduction. Enterprises' financial discipline should be established by halting the accumulation of inter-enterprise arrears and the provision of state support to inefficient ventures. The removal of the burden that these practices put on fiscal policy would allow for a better co-ordination between fiscal and monetary policy. A further priority is to accompany enterprise restructuring and privatisation with the establishment of sound legal and institutional foundations of the functioning market economy.

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<sup>18</sup> See "Making a success of enlargement: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2001) 700.



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

#### *Introduction*

This section aims to update the Commission's 2000 Regular Report on Romania's ability to assume the obligations of membership - that is, the legal and institutional framework, known as the *acquis*, by means of which the Union implements its objectives. Alongside an evaluation of relevant developments since the 2000 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. This section is structured to follow the list of twenty-nine 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.

The European Council in Madrid in December 1995 referred to the need to create the conditions for the gradual, harmonious integration of the candidates, 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 pre-condition for creating the mutual trust indispensable for future membership.

The European Council in Santa Maria da Feira and in Gothenburg in June 2000 and June 2001 respectively recalled the vital importance of the applicant countries' capacity to implement and enforce the *acquis*, and added that this required important efforts by the applicants in strengthening and reforming their administrative and judicial structures. Building on the assessment of Romania's administrative capacity provided in the 2000 Regular Report, the present Report seeks to add further depth and detail, focusing on the main administrative structures which are required for implementing the *acquis* in its various aspects.

In the 2000 Regular Report, the Commission concluded that :

“Romania has continued to advance with the adoption of the *acquis* – although the achievements over the last year have been mixed. In certain sectors both legal transposition and the setting up of the necessary administrative structures are advanced. At the same time there is a worrying lack of progress in certain key areas.

Those areas where positive developments can be noted include *company law* and *competition* where Romania has achieved a high degree of compatibility with the *acquis*. Romania has also made significant progress with the transposition and implementation of *transport acquis* during the last year (although the questions of fiscal harmonisation in road transport and maritime safety still need to be addressed). Advances have been made with the transposition of the *statistics* *acquis* although statistical coverage for a number of areas still needs substantial improvement.

Concerning *internal market legislation*, progress has been made in the field of public procurement and positive developments have also taken place with regard to the simplification of the issuance of work permits for EU citizens and the adoption of a new law on social security. Romania has also eased authorisation requirements on capital imports and has made

progress in combating the problem of money laundering. Romanian *VAT and excise duties* are broadly in line with the EU principles.

Despite the positive achievements noted above, there are many areas where further progress is needed. For the *internal market*, Romania still needs to develop framework legislation on the principles of the New and Global Approach. A number of crises in the banking industry demonstrate that the effective supervision of financial services still has to be considerably strengthened. Further work is required to ease the authorisations for capital exports and to transpose the *acquis* on cross border credit transfers. Romanian legislation on the protection of personal data remains inadequate and substantial harmonisation is still required in the area of direct taxation.

In the case of *agriculture*, a major structural reform of the sector is needed. The conditions that would allow the implementation of much of the EU agricultural *acquis* do not yet exist. The lack of administrative capacity is acute and the Ministry of Agriculture is not able to either develop the necessary reforms, or to effectively implement those items of legislation that have been adopted. In the case of *social policy*, little legislative progress was made over the period and further measures are needed with regard to the adoption of a new Labour Code, improving the protection of employee rights, and extending legislation on health and safety at work. The structures for social dialogue do exist but need to be accorded greater importance. In the *environmental sector*, in contrast to previous years, Romania has made progress with preparing strategies for transposing the *acquis* but the status of approximation is still very low. Specific cost assessments and the corresponding financial plans for implementing the environmental *acquis* need to be developed. Romania's approach to *industry policy* is not yet either market-based or predictable and Romania still has to develop an official industrial policy at both national and sectoral level. With *telecommunications*, there has been no substantial progress with the transposition of the *acquis* and further efforts are required to develop the regulatory framework. In the field of *justice and home affairs* positive measures have been taken on visa policy, border management and asylum. This said, Romania still needs to adopt or amend legislation in several important areas (the status of foreigners, the state frontiers, the organisation of the police and the statute of police officers).

The Romanian authorities have not yet elaborated a comprehensive policy framework for internal *financial control*. Policy guidelines still need to be developed for preventive financial control and internal audit functions (this is particularly important at the local level where the capacity to manage and control public funds remains weak). Substantial efforts are still required to develop control mechanisms for pre-accession funds. National *budgetary procedures* are weak and the medium-term programming of expenditure needs to be substantially improved.

A related concern is the ability of Romanian institutions to effectively manage the increased levels of EU funding. A programme-oriented budgeting system needs to be developed and the overall budget execution process strengthened. Romania should also take measures to strengthen public financial control functions through the provision of adequate staff, training and equipment.

The quality of the Romanian administration is very diverse. A number of ministries are well managed and are staffed by qualified professionals. However, in general terms, the *capacity of the public administration* to implement and manage the *acquis* is very limited and represents a major constraint in the accession preparations. Despite the widespread recognition in Romania

that this is a fundamental problem there has been little progress in developing administrative capacity since the last regular report. The main conclusions of the 1999 report - that certain key institutions still need to be set up, that in many key sectors (particularly agriculture and environment) the administration lacks the required level of competence, and that there is a need to ensure independence of regulatory and supervisory bodies - remain valid.

With regard to meeting short-term Accession Partnership priorities, Romania has made some progress in the areas of *taxation, customs, transport and justice and home affairs* although none of the priorities identified for these sectors have yet been fully met. Some, limited progress has been made in addressing the priorities related to the *internal market*, and the *reinforcement of administrative and judicial capacity*. In the case of *agriculture, employment and social affairs* and *environment* no substantial progress has been made.

Romania has already started to address some of the medium-term Accession Partnership priorities.”

### **3.1. The chapters of the *acquis***

As indicated, the review of Romania’s ability to assume the obligations of membership that is below has been structured in accordance with the list of twenty-nine negotiating chapters. Accordingly, this section opens with an assessment of progress related to the so-called “four freedoms”, the cornerstones of the internal market, and continues with a systematic review of progress on each of the chapters, to cover the *acquis* in all its various aspects, 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***

Since the last Regular Report, Romania has made only limited progress in this domain, except for new legislation on the New and Global Approach and public procurement.

In the area of **horizontal and procedural measures**, Romania has only recently adopted framework legislation introducing *New and Global Approach principles* into domestic legislation but no further progress has been made over the last year in the implementation of these principles. Nor can any significant progress be reported on the transposition of the *acquis* related to the notification procedure, interchange of data between administrations, market surveillance, product safety and safety checks at external borders.

Very little progress can be reported on the adoption of **sector specific legislation**. In the areas covered by *New Approach Directives*, this lack of progress is linked to the lack of framework legislation. This has delayed the implementation of the *acquis* concerning lifts, gas appliances, electromagnetic compatibility, medical devices, recreational crafts, legal metrology (non-automatic weighing equipment) and, pressure equipment, as well as radio- and telecommunications terminal equipment. New legislation on low voltage equipment and simple pressure vessels has been adopted, which will be difficult to fully implement in the absence of framework legislation.

As regards sectors covered by *Old Approach Directives*, the directive on wood has been fully implemented. Some limited progress has been made in the implementation of the *acquis* on

chemicals and pre-packaging. No further progress can be reported on motor vehicles, pharmaceuticals and the Old Approach Directive on legal metrology. Romania has transposed only part of the textiles, motor vehicles and cosmetics *acquis*. No progress can be reported on the *acquis* on glass. As regards the issue of food safety - foodstuffs legislation (*see also chapter 7 - Agriculture*) no new developments took place in the period under consideration.

There have been no developments on the transposition of the *acquis* on firearms and cultural goods.

As concerns the development of Romania's administrative capacity for the implementation of horizontal and procedural measures and sector specific legislation the gradual improvement has continued during the period under consideration. The Romanian Accreditation Body has signed some multilateral recognition agreements and the Romanian standardisation institution has continued its programme of transposing European standards, having so far transposed about 15% of European harmonised standards. However, there are still institutional weaknesses concerning conformity assessment bodies and laboratories, which also affect the implementation of the *acquis* on food safety. The overall administrative capacity to implement the *acquis* on industrial products has improved only gradually over the course of the last year.

Since the last Regular Report, no progress has been made as regards **non-harmonised area**.

New **public procurement** legislation eventually entered into force on 1 April 2001 after an Act of Parliament on the subject, adopted in 2000, had seen its entry into force postponed repeatedly and, once entered into force, had been suspended. While this legislation still leaves room for improvement and its protracted postponement is regrettable, it nonetheless brings Romanian legislation much closer to the *acquis* in this area.

### *Overall assessment*

On the whole, the alignment with the *acquis* on free movement of goods has been considerably limited throughout the reporting period by the persistent lack of framework legislation on the principles of the New and Global Approach, which has also prevented further progress on sector specific legislation in areas covered by the New Approach Directives.

In the non-harmonised area, Romanian authorities should ensure that all legislation in conflict with articles 28-30 of the EC Treaty is amended by the date of accession. To ensure the principle of mutual recognition, a clause of mutual recognition should be integrated into each piece of relevant Romanian legislation on goods by the date of accession.

As regards sector specific legislation for areas covered by Old Approach Directives, apart the implementation of the wood directive, some limited progress can be noted in the transposition of the *acquis* on textiles, chemicals, motor vehicles, cosmetics and pre-packaging. However, further substantial steps are required in all these sectors, particularly in transposing the *acquis* on pharmaceuticals, foodstuffs, legal metrology and glass.

As for administrative capacity in this domain, the Romanian standardisation and accreditation bodies) have been in place for some years and continue to function appropriately. Efforts need to be strengthened to adopt European standards to meet the requirements for membership of CEN, CENELEC and the European Telecommunications Standards Institute. Major efforts are

required to improve the overall administrative capacity to implement the *acquis* on industrial products, which remains very weak. Particular efforts will need to be devoted to re-structuring the food control system, while abolishing the pre-market approval system for foodstuffs and preparing both the administration and the food operators to the principles underlying the EC food safety system. Urgent progress is required to establish conformity assessment bodies and laboratories, and improve the capacity of those which already exist to cope with their tasks. Furthermore, the capacity of the administration to design legislation on free movement of goods is still limited and should be reinforced.

As regards safety checks on products at external borders, Romania still needs to establish appropriate customs and market surveillance infrastructure as well as effective administrative cooperation between competent authorities.

After numerous delays in the entry into force of the legislation on public procurement adopted in August 1999, it eventually entered into force during the reporting period, but was suspended shortly after. Meanwhile, the Romanian authorities have in May 2001 published a new Emergency Ordinance. Although the protracted postponement of the legislation in public procurement is regrettable and despite the fact that the legislation still requires work on substantive issues, it will constitute a significant progress in the alignment to the *acquis* on public procurement. However, the new public procurement procedures need to be implemented by over 10000 contracting public authorities in all areas of public activity throughout the country, such as ministries, regional governments, public utilities and schools. It is a significant challenge to make the staff of all these institutions familiar with the new system and to ensure that the legislation is properly and competently applied throughout the country.

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

In the area of free movement of persons no significant developments can be recorded during the reference period.

No progress was made on **mutual recognition of professional qualifications** or on **citizens' rights**. As regards non-discrimination towards EU citizens in the field of education, tuition fees for foreigners in higher education are set by a Government Ordinance at a fixed level. Fees for Romanian students are set by the University Senates on the basis of cost calculations provided by the National Council for the Funding of Higher Education. As a result, the fees for foreign students are considerably higher.

In December 2000, the Romanian Parliament amended the law on the legal profession, which increased existing discrimination against EC legal firms. This represents a move away from the *acquis* and the provisions of the Europe Agreement.

As regards free **movement of workers** no significant developments took place. While the 1999 law on work permits was amended in October 2000, the changes have little consequence for the free movement of workers and concern the preliminary visa requirements for work permits, and the taxes and fees applied. A bilateral agreement on free movement of workers was concluded with Portugal in July 2001. Romania also signed a bilateral agreement on the exchange of trainees with Luxembourg in July 2001.

No significant developments related to the **co-ordination of social security systems** occurred during the period.

### *Overall assessment*

Alignment with the *acquis* has been limited in Romania. Steps have been taken to establish the required administrative structures and these efforts will need to be maintained and institutional capacity strengthened in all areas.

Measures to ensure mutual recognition of professional qualifications and diplomas should be intensified, and the necessary administrative structures and education and training programmes introduced.

It should be ensured that by accession there are no provisions in Romanian legislation which contradict Community rules, in particular with respect to nationality, residence or language requirements. Legislation on mutual recognition will need to include simpler procedures to allow the provision of services.

With respect to professional qualifications obtained before harmonisation, Romania should introduce measures to ensure that all its professionals can, as from accession, meet the requirements laid down by the directives.

Although some progress has been made in the area of free movement of persons, in particular with respect to equal treatment and work permits, further alignment with the *acquis* is needed. This is particularly important with regard to the employment and residence of migrant workers and their families.

As regards future co-ordination of social security systems, Romania needs to develop the required administrative structures and to train the necessary staff. Romania is encouraged to conclude further bilateral social security agreements, in particular with Member States, as these normally rely on the same principles as the Community rules in this field.

Steps will have to be taken to strengthen public employment services with view to future participation in the European Employment Services (EURES) network. A particular emphasis should be placed on language training for staff.

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

Since last year's Regular Report, Romania has made no substantial progress in this area - with the exception of the field of financial services.

In the area of **the right of establishment and the freedom to provide services** (other than financial services), legislative developments over the last year have further entrenched previously existing discriminatory provisions concerning legal practice by EU law firms. Legislative developments concerning other liberal professions have also introduced rules incompatible with the Europe Agreement and the *acquis*. Romanian law continues to contain provisions concerning residence requirements and, in the case of lawyers, prescribes particular legal forms of incorporation and requirements to associate Romanian lawyers in registered law firms. In addition, EU legal firms can no longer use their habitual name for practice in Romania, but must conform to the form prescribed by Romanian law.

No progress concerning alignment with the *acquis* on *self-employed commercial agents* can be reported, since the law in force still requires residence in Romania.

In the field of **financial services**, with regard to the *banking sector*, the National Bank of Romania has issued a number of rules bringing banking regulation more closely into line with the *acquis*. These rules concern notably accounting norms, minimum required share capital, own funds, and liquidity levels. Progress has also been made in the implementation of legislation approved in 2000 to extend normal prudential surveillance requirements to credit co-operatives.

In the *insurance sector* the appointment of members to the Insurance Supervision Commission Council, even if it occurred much later than had been provided for in the relevant legislation, has allowed initial steps to be taken to allow the independent regulator to start operations.

With regard to *investment services and securities markets*, no major legislative developments have occurred.

Concerning the **protection of personal data and the free movement of such data and information society directives** no progress can be reported. In July 2001 the Government published a law on electronic signature.

### *Overall assessment*

Recent developments have reinforced Romanian laws that discriminate against EU citizens with regard to the right of establishment and freedom to provide services. This represents a move away from the *acquis* since the last Regular Report.

Concerning financial services as a whole, Romania will still have to make substantial efforts to bring its legal framework in line with the *acquis*.

However, in the *banking sector* Romanian legislation has made some progress towards compatibility with the *acquis* and further steps forward continue to be made. Its rules, policies, and practices follow broadly the Recommendations of the Basle Committee on Banking Supervision and to the relevant EC directives. Despite progress in this area, the sector is still fragile and only the consistent application of the regulatory and supervisory framework over a period of time will re-establish confidence.

As regards the *insurance sector*, the late establishment of the Insurance Supervision Commission (ISC), which is in charge of drafting relevant secondary legislation, has delayed the implementation of the *acquis*. Furthermore, the situation concerning administrative capacity of the new Insurance Supervisory Commission is unclear, and indications are that the ISC will require considerable strengthening in terms of staff, training, and equipment. At present, a large number of currently registered insurance companies are not expected to meet the requirements of the legislation. While waiting for the new law to come into force, some of these companies have continued to operate, while others do not report any activity at all. In the meantime, no new companies have been able to commence operations in the sector. The ISC will have to meet a considerable challenge during its start-up period to oversee all operators in the sector, while laying the groundwork for its own operations.

In the field of *investment services and securities markets*, current legislation remains incompatible with the *acquis*. The new law on securities supervision is still before Parliament. In the absence of a suitable legal framework, the National Securities Commission can only make marginal improvements in the situation, which has given rise to major crises in recent years. Moreover, the administrative capacity of the National Securities Commission continues to be a cause for concern. As noted in previous years, the National Securities Commission's

effectiveness is restricted by the limited number and experience of its staff. This reduces its capacity to gather and process information about operators in its sector. Considerable progress is necessary in this area - starting with the creation of an adequate legal framework.

In the field of the protection of personal data and the free movement of such data, the current legislation remains inadequate.

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

Progress on liberalisation measures has been limited since the last report.

As regards **capital movement and payments**, the Government approved, at the start of 2001, a three-stage approach to abolish all existing restrictions by 2004. Some initial measures have been taken in the course of 2001 to implement this plan. Nevertheless, tight capital controls, requiring prior authorisation for capital account transfers, remain in force. Over the course of the year the only change introduced to the foreign exchange regime was allowing residents to acquire foreign exchange, for the purposes of payments to other residents, and only in the case of transactions carried out within free zones.

In the reporting period the Government adopted a law on the promotion of foreign direct investments with significant impact on the economy. This law aims to guarantee the stability and coherence of the legal framework for foreign direct investment and the application of international conventions in this area.

No significant progress can be reported on the implementation of the *acquis* on **payment systems**. Nevertheless, the establishment in May 2001 of the National Society for Settlement by Transfer (TransFonD S.A.) creates the framework for the externalisation, by the National Bank of Romania, of the inter-bank transfer of funds.

As for the related *acquis* on **money laundering**, although no major legislative developments can be reported over the last year, the National Office for the Prevention and Control of Money Laundering is operational. The Office has recruited staff and investigation and enforcement operations have commenced.

#### *Overall assessment*

While Romania has aligned with some of the *acquis*, a comprehensive system of exchange controls and other restrictions on capital movements still exists.

While there are no specific restrictions on inward direct investment, current laws are ambiguous and open-ended as concerns undefined “sensitive” sectors where prior authorisation can be imposed through “special laws.”

The Romanian Constitution forbids the purchase of real estate by non-nationals. Nevertheless, for companies established in the country, even if wholly foreign-owned, land purchases for the conduct of business are allowed.

Preparations for the creation of a new inter-bank payment and settlement system are, as yet, at an early stage. Considerable work remains to be done in order to transpose the *acquis* in payment systems (including the introduction of adequate and effective redress procedures for settlement of disputes between bank and customers) and to improve the payment infrastructure.

The National Bank of Romania regulates and supervises banking and credit institutions, operates exchange control and oversees the payment system. The National Bank has sufficient staff and administrative capacity to ensure the effective application of legislation in these areas.



In the area of money laundering the National Office for the Prevention and Control of Money Laundering needs to complete the recruitment process and the acquisition of certain specialised equipment related to enforcement. The National Office for the Prevention and Control of Money Laundering has introduced important measures concerning the reporting obligations of financial institutions, but revision to the current legal framework is required concerning the civil liability of the Office in the course of investigations.

The Office is a member of the Egmont Group and connected to the Egmont Secure Web permitting the secure exchange of information on financial transactions. The Office has signed Memoranda of Understanding with Slovenia and Belgium on the exchange of financial information.

Compliance with the Recommendations of the Financial Action Task Force should be ensured.

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

In the year under review further progress was made as regards company law, accounting regulation, and the protection of intellectual and industrial property rights.

Regarding **company law** as such, legislative developments included the introduction in May 2001 of a simplified, single procedure for the registration and authorisation of traders. In June 2001, a law providing for accelerated winding-up procedures for companies failing to meet minimum levels of social capital was adopted.

Romania has transposed much of the content of the 4<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Accounting Directives. This process has continued throughout the year with further transposition of the 4<sup>th</sup> Accounting Directive. Romanian legislation now provides the framework for consistent application of the Harmonised Accounting Regulations in relation to Romanian Accounting Standards.

In the field of **industrial and intellectual property rights**, Romania ratified the Geneva Treaty on Copyright and the Geneva Treaty on Performances and Phonograms. The ratification instruments were deposited with the World Intellectual Property Organisation in February 2001.

Romania has also adopted legislation to ensure the protection of intellectual property rights during customs clearing operations. Secondary legislation on the law's application was also adopted. As regards enforcement, staffing at the Romanian Copyright Office was recently reduced, although this reduction was limited to posts then unfilled. Romania has a long tradition of legislation on industrial property rights and has become a member of the International Convention for New Variety of Plants Protection. Since the last Regular Report, Romania also ratified the Geneva Act in the Hague Agreement on International Patenting of Industrial Designs. In June 2001 the Romanian Parliament approved a law transposing provisions regarding the protection of undisclosed data.

### ***Overall assessment***

As mentioned in previous years' Regular Reports, Romania has already aligned with most of the *acquis* on **company law**. Further transposition is, however, necessary as concerns company registration, Economic Interest Groupings, and provisions on the jurisdiction and enforcement of foreign judgements in civil and commercial matters.

In the area of *accounting law*, Romanian legislation is largely in line with the *acquis*.

The body responsible for Accounting Standards is the Ministry of Finance through the Department of Accounting Regulations. Romania does not plan to create an independent accounting standards body before 2005, by which time it expects to have completed the implementation of the International Accounting Standards.

In the field of **industrial and intellectual property rights**, Romanian legislation is generally consistent with the *acquis*. The process of further alignment and transposition of the *acquis* has continued during the reporting period and it should be pursued in order to align with the directive on copyright in the information society and the directive on the resale right.

As regards *administrative capacity* in the field of intellectual and industrial property rights, the Romanian Copyright Office and the Office for Inventions and Trademarks are the competent authorities to which right-holders can present applications for intellectual and industrial property protection. Despite considerable efforts in this area, further improvements in staffing and budgets should be made. Financial allocations were increased recently, but taking into account inflation, further financial allocations are deemed necessary to secure the Office a sufficient level of resources. Overall, administrative capacity in this area is considered adequate, although statistical reporting could be improved. Nevertheless, the Commission has repeatedly expressed concern about weaknesses in the enforcement of legislation on intellectual and industrial property rights.

Of particular concern is the import into Romania of pirated and counterfeit goods. Controls at Romania's borders continue to give rise to concerns, as demonstrated by the high percentage of counterfeit goods in circulation. However, the statistics currently produced are insufficient to allow a detailed assessment of trends in copyright piracy. Further progress is necessary with implementing border controls and enhancing co-operation between organisations involved with industrial and intellectual property rights, (the border police, the judiciary and customs authorities). Additional training is also required for the judiciary on intellectual property rights issues. Further efforts are needed to avoid overlapping between the institutions involved in industrial and intellectual property rights, particularly as regards to "name" rights, where cross checking to avoid granting overlapping registrations is necessary. The creation of an efficient inter-institutional network is vital in making progress in the fight against piracy. Communication and co-operation between customs, police, border police, the Ministry of Justice, and the judiciary need to be improved and joint training programmes established.

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

Romania has made some progress in this area since last year's Regular Report.

In the field of **anti-trust** legislation, the turnover thresholds for merger notifications were updated in February 2001. The enforcement record of the *Competition Council*, as the national competition authority in Romania, has further developed in the past year. In 2000, the Council Board handled 437 cases, including 2 prohibition decisions concerning vertical restraints and horizontal co-operation. Of these decisions 18 were challenged in court.

In the field of **state aid**, the law of 1999 became operational, but no new legislative measures were taken. The national state aid monitoring authority is the *Competition Office*, which operates under the authority of the Ministry of Public Finance. The investigative and decision-making body is the *Competition Council*. The *Competition Council* dealt with 72 state aid cases in 2000. However, the state aid authorities were not consulted systematically on all state aid measures and in some cases their opinion was not observed by the Government.

Following concerns expressed in last year's Regular Report concerning the law on "industrial parks", measures have been taken to replace the law governing the creation of these industrial parks with legislation more compatible with existing state aid legislation and the *acquis*. In September 2001, a Government Order regarding the constitution and functioning of industrial parks repealed the previous law of 2000.

The Competition Office finalised its work on state aid reports for the years up until 1999. Romania also presented a proposal for a regional aid map.

### *Overall assessment*

Romania has made considerable progress in creating a legal framework in this area that is broadly aligned with the Community *acquis*. However, additional efforts are necessary to complete the legal framework and ensure its adequate enforcement.

As regards **anti-trust**, Romania's legislation is largely in line with, and covers most of, the *acquis* provisions. However, further secondary legislation still needs to be adopted, to take account of the Commission's new vertical restraints policy and its policy on horizontal co-operation agreements. The Competition Council has broad powers to enforce competition rules but will need further reinforcements- especially in the form of training and IT equipment, in order to fulfil the tasks assigned to it. It is essential that the Competition Council could focus its resources more effectively on cases with most serious distortions to competition. A more deterrent sanctioning policy will also be required. Finally, general transparency, including an improved access of the public to relevant documents should be increased.

As regards **state aids**, the existing legislation covers the basic principles of state aid control. However, the field of application of this law is not comprehensive and numerous state aid measures are not notified to the competition authorities. Romania should rapidly adopt the required secondary legislation on state aids, which is currently being prepared. This is a precondition to any effective enforcement activities. A significant number of unaligned aid schemes remains such as the profit tax rate 5% on export earnings and the law on direct investment promotion. Moreover, implementation of state aid policy in sensitive sectors is still at an early stage. There are continuous problems with the monitoring of frequent waivers by public bodies of the accumulated debt.

Romania has now formally adopted state aid reports for the period 1996 – 1999 but has yet to finalise the state aid inventory. In addition, Romania's recent proposal for the regional aid map would allow aid intensities for regional investment aid of up to 50% net grant equivalent. In the area of state aids, both the Competition Office and the Competition Council require further strengthening in terms of human resources and training.

In addition to strengthening administrative capacity within the competition authorities, particular attention should also be given to intensifying the training of the judiciary in the specific fields of anti-trust and state aid. There is also a need to raise awareness amongst all market participants, and especially amongst administrations granting state aids, of the policy and legislative provisions in this area.

## ***Chapter 7: Agriculture***

While Romania has made progress in alignment with several aspects of the agricultural *acquis*, restructuring of the agricultural sector has barely begun.

In 2000, agriculture accounted for 12.6% of Romania gross value added as opposed to 14.8% in 1999<sup>19</sup>. Agricultural employment represents 42.8% of the national labour force and around 70% of the rural labour force<sup>20</sup>.

The situation in 2000 and at the start of 2001 was particularly difficult for the agricultural sector due to the severe drought, which affected the entire country. The decline in vegetable production was particularly serious and of the order of 20%, despite an increase in cultivated area. The fall in grain production negatively affected livestock. Numbers of cattle, sheep and goats fell by 6% while pig numbers declined by 18%. Agri-food exports dropped by 30% in 2000 as against 1999. Exports were €37 million and imports were €1010 million. The trade deficit in agricultural food products represented 22% of Romania's total trade deficit.

In 2000, EC imports<sup>21</sup> of agricultural products originating in Romania decreased by 2% to €24 million. EC exports to Romania increased by 24% to €32 million. The trade balance in favour of the Community amounted to €107 million compared to €9 million in 1999. The most important product groups in terms of EC imports from Romania are live animals (27%) with an increase of 40%, oilseeds (15%) with a decrease of 56% and vegetables (7%) with a decrease of 18%. As far as EC exports to Romania are concerned, the most important sectors are meat (12 %) with an increase of 265%, due to a strong progression of exports of pig meat and poultry meat, miscellaneous preparations (10%) with an increase of 40%, tobacco (9%) with a decrease of 17% and fruit (8%) with an increase of 72%.

A first round of trade negotiations with Romania was concluded in May 2000 and the results were applied as from 1 July 2000 as autonomous trade measures pending their adoption as an additional Protocol to the Europe Agreement (Council Regulation (EC) N°2435/2000). As a consequence of the new agreement approximately 85% of the EC imports and 17% of EC exports of agricultural products are exempted from duties (*see section A.b. - Relations between the European Union and Romania*).

In 2001, the allocation from the state budget for agriculture and forestry was €403 million. In real terms, the level of domestic budget support for agriculture remained steady (about €32 million in 2001 as compared with €30 million in 2000). Some changes in the type of measures for domestic support were decided on, and the voucher-for-inputs scheme was replaced with a fixed cash payment of about €41 per hectare. This new scheme accounts for 61% of total assistance but does not radically change the philosophy of last year's voucher-for-input scheme. It continues to subsidise the purchase of farm inputs but it targets bigger individual farms and associations rather than small subsistence households. The severe drought that affected Romania last year led the Government to make a large budgetary contribution for irrigation (14% of the total budgetary support to agriculture in 2001).

Over the reporting period there has been some progress in the privatisation of agri-food companies. By the end of May 2001, out of 637 former state-owned farms, 113 had been privatised and 210 were in the process of being liquidated. The privatisation of the food

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<sup>19</sup> The source for all agricultural statistics is EUROSTAT unless otherwise specified.

<sup>20</sup> Eurostat Labour Force Survey (LFS). Agricultural employment is defined in LFS terms as economically active persons who gain a significant part of their income from agriculture.

<sup>21</sup> Source: Uruguay Round Agreement definition of agricultural products, figures taken from EUROSTAT COMEXT (see U.E 12/15: Commerce des produits agricoles 1988-2000, 1 Partie DG AGRI/ A.2 Analyses quantitatives, previsions, statistiques, études, 2001, p. 10-57 et 86-89)

processing industry is more advanced, and out of a total of 440 commercial companies 345 had been privatised by the same date. Despite the adoption of a legal framework for restitution of agricultural and forested land the actual pace of restitution was very slow. By May 2001, only 6% of claims for restitution of agricultural land and 0.03% of claims for forested land had been processed. At the same time, the land market has started to grow and is likely to be larger than reflected by central statistics, but Romania still has to establish an agricultural cadastre register and ensure a fully operational land market.

### **Horizontal issues**

Following the change of government in January 2001 there has been an increased political commitment to the SAPARD programme and considerable efforts have been made to make up the delay in setting up and accrediting the SAPARD Agency (*see also Section A.b. - Relations between the European Union and Romania*). The main priorities for Romania's rural development policy were set in the Rural Development Plan approved by the Commission in November 2000. The Multi-annual Financing Agreement signed in February 2001 and the 2000 Annual Financing Agreement signed in March 2001 were ratified by the Parliament. The legal basis for the implementation of SAPARD and rural development support schemes was approved and the SAPARD Agency was set up under the responsibility of Ministry of Agriculture, Food and Forestry.

A decision was taken as regards the central and regional structure of the Agency including the number and positions of staff. The Managing Authority, Competent Authority, and Certifying Bodies were officially designated.

By May 2001 the recruitment of the SAPARD Agency staff was well under way – and the senior positions had been filled. Training courses are being organised, the staff are competent and motivated, and the administrative capacity of the SAPARD Agency is developing. Nevertheless, continued efforts are needed in order to consolidate the newly created structures and to fulfil criteria for accreditation.

In contrast to the positive developments on SAPARD, there has been very little progress with preparations to establish the Integrated Administration and Control System (IACS). No progress has been registered in developing the animal identification and farm registration system. The Ministerial Order adopted last year was never published and consequently could not be enforced.

No major progress has been made as regards the development of a land registration system, which is a vital pre-condition for the identification of agricultural parcels.

As regards the implementation of *trade mechanisms* only limited progress has been made with setting up the administrative structures required by the Common Market Organisations for each specific sector. New legislation introduced a grain grading system and warehouse receipts. However, there has been no improvement as regards regular market and price monitoring.

Progress has been made as regards protection of denomination of origin for wines, wine by-products and alcoholic beverages obtained through natural fermentation. Secondary legislation was approved by ordinance in February 2001 allowing full enforcement of the framework law on wine and new administrative structures responsible for the enforcement of the law have been

established. A list of laboratories for wine quality control has been authorised and inspectors have been appointed in all regional inspection offices.

The basic elements of the *Farm Accountancy Data Network* (National Committee, Liaison Agency) have not been set up.

### **Common Market Organisations**

Since last year's Regular Report there has been no progress in Romania as regards the development of the horizontal structures necessary to operate the Common Market Organisations for arable crops, sugar, specialised crops (including fruit and vegetables, plants and flowers) or animal products. There has been little progress (with the exception of the wine sector) as regards the introduction of a legal framework and overall administrative structures for the establishment of the Common Market Organisations.

### **Rural development and forestry**

Concerning *agri-environmental measures*, some progress has been made. A Government Decision of October 2000 approved the Action Plan for Protection of Waters Against Pollution with Nitrates from Agricultural Sources, and set up a Commission for the enforcement of the Action Plan. The Plan proposes the identification of vulnerable zones and establishes a framework for introducing the Code of Good Agriculture Practices.

Progress was made with the legal designation of the competent authority for monitoring and classifying forest resources (the National Regie of Forests).

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

Since last year's Regular Report some progress has been made in the **veterinary** sector.

The lack of a coherent overall strategy for adoption and enforcement of the veterinary *acquis* remains a major problem. The absence of agreement amongst different ministries is an obstacle to reaching the necessary consent on new draft legislation.

Substantial efforts have been made to improve laboratory infrastructure for animal health and diseases control. New laboratories have been set up and scientists have been trained in new laboratory techniques. Preparation has started for the accreditation of laboratories for quality control of foodstuff of animal origin. Insufficient resources have been allocated to allow implementation of EC directives on veterinary controls for animal health and meat products at the place of origin. In the context of the Geographical BSE Risk Assessment, Romania has been classified in group III.

No significant progress can be reported in the field of animal nutrition.

Although the National Sanitary Veterinary Agency was restructured during the reporting period there is no evidence of any real improvement in its functioning. Administrative capacity is low.

In the **phytosanitary sector**, considerable progress has been achieved with the adoption of legislation in the area of *plant health, pesticide residue control, and harmful organisms*. Legislation approved in 2001 sets up measures for protection against the introduction and

spread on Romanian territory of organisms injurious to plant and plant products. A framework law for determining maximum pesticide residue levels of was approved in December 2000. This was followed by the adoption of secondary legislation that is aimed at completing the harmonisation with the *acquis*. Progress has also been made in developing the infrastructure necessary to enforce the newly adopted laws on pesticide residues and a new Central Analytical Laboratory for the control of pesticide residues in plants and plant products has been established in Bucharest. Plant protection and phytosanitary quarantine activities were re-organised in 2001 and the competent authority is now the Directorate for Plant Protection and Phytosanitary Quarantine inside the Ministry of Agriculture. Training programmes have been carried out for central and local staff and internships for border inspectors have been organised. Recent investments have been made to set up a nation-wide computerised system linking the counties' phytosanitary inspectorates with the central administration.

As regards **food safety** (*see also chapter 1 - Free movement of goods*), Romania produced a Food Safety Strategy in early 2001. The document outlines the systems for co-ordination between the various official bodies involved, their roles, organisation, and staffing. Little progress has been made with regard to upgrading food-processing establishments and considerable efforts are still necessary.

### *Overall assessment*

The pace of agricultural reform and alignment with the CAP *acquis* has been disappointing.

Despite some progress in *privatisation of state-owned farms*, the majority of these continue to be state-owned and to accumulate losses. Little attention is paid to economic efficiency and new investments in the privatisation process have not improved the economic situation of the sector.

As far as the restructuring of the *agri-food industry* is concerned, some progress has been made in privatisation of the food processing industry and agricultural services companies.

Regrettably, progress in *land reform* has continued to be slow and there has been no significant restitution of agricultural and forested lands. The overall economic environment continues to be unfavourable to the development of Romanian agriculture and the diversification of the rural economy. Fragmentation of land remains a major problem and the lack of a land consolidation policy perpetuates inefficient farm structures. However, a more positive development is that markets for both sale and leasing of agricultural land are now emerging in many areas of Romania. Legislative reforms over the past two years have stimulated the agricultural land market, and it is significant that sale transactions, and not just lease transactions, are now taking place in Romania.

The lack of reliable *statistics and regular market and price monitoring instruments* combined with the lack of competitive marketing channels weaken the government decision-making process. It often merely reacts to interest groups' pressures for measures that will create a window of opportunity for increased profit margins. As a matter of priority, Romania should carry out an agricultural census.

Progress has been made in several sectors with the *adoption of EC-compliant legislation*. However, the enforcement of legislation has proved to be difficult due to delays in adopting

secondary legislation and a lack of financial and human resources. While some investments have been made in the control infrastructure for animal health and phytosanitary control, further developments are still required to ensure appropriate enforcement of the *acquis*. Romania still needs to establish a vineyard register and control systems in the wine sector.

As regards **horizontal issues**, The SAPARD Agency accreditation process is now at an advanced stage. However, progress in areas such as land registration, trade mechanisms, inter-professional organisations, quality policies and the Farm Accountancy Data Network is limited.

Romania still needs to carry out conceptual work to prepare the administrative structures and systems required for handling the Common Agricultural Policy expenditure under the Guarantee and Guidance section of the EAGGF.

Preparation of the administrative and horizontal structures necessary for the operation of **Common Market Organisations** is at a very early stage. The internal support policies are still based on measures that are not compatible with the CAP and a change in agriculture policy to achieve sustainable agriculture needs to be undertaken.

Although some legislative progress has been made, overall progress in the area of **rural development and forestry** remains limited.

As concerns **veterinary and phytosanitary issues, including food safety**, the lack of a coherent overall strategy for the adoption and enforcement of the veterinary *acquis* remains a major problem. The shortage of resources allocated to the Sanitary Veterinary Agency continues to be a major obstacle to strengthening its administrative capacity. Although an assessment has been carried out as regards the real capacity and possibilities for implementation of EC Directives on veterinary controls for animal health and meat products at the place of origin, no decision on the allocation of the necessary resources has been taken.

In the phytosanitary field there has been some progress towards the approximation of Romanian legislation with the *acquis*. However, greater efforts as regards both transposition and implementation are still needed. Administrative capacity has been improved but remains weak.

The overall *administrative capacity* of the Ministry of Agriculture is weak. Although the technical staff of the ministry are well qualified, the current situation is typified by an inappropriate allocation of human resources between central and local services, understaffing, a high turn-over of personnel, job insecurity, and limited career prospects. Further support is required to strengthen the overall capacity of the agricultural administration to elaborate and enforce agricultural policies compatible with the *acquis*. Particular priority should be given to the ability to conduct economic assessments of various policy options and to prepare administrative structures for the management of EC-funded rural development programmes. The capacity of middle and senior management also needs to be improved and would greatly benefit from increased job stability. Staff cuts made at the beginning of the year have weakened the capacity of some services and agencies to carry out their mandate (e.g. the veterinary agency, and the phytosanitary directorate). A clear policy decision needs to be taken on the outsourcing of agricultural services whose functioning has been impaired by a lack of certainty about their future.

The Ministry of Agriculture and its subordinate institutions need to take urgent measures to develop administrative capacity in order to be able to implement and enforce the management



mechanisms of the Common Agricultural Policy - in particular the Integrated Administration and Control System, including an animal identification and registration system.

### ***Chapter 8: Fisheries***

Since the last Regular Report, significant progress in the fisheries sector has been recorded.

Concerning **resource management, inspection and control** a new law on fisheries resources, fishery and aquaculture was adopted in April 2001 and represents a significant step forward. The law establishes the legal framework regulating resource conservation, resource control and management, fisheries inspection, aquaculture and state intervention for the management and development of the fisheries sector.

The law initially provided for the setting up of the National Company for the Management of the Fisheries Fund and the creation of a Fisheries Inspection. The main tasks of the National Company would be to implement the national strategy for protection of fish stocks and total annual catches. Romania finally decided not to proceed with the establishment of the said company and to establish instead 8 regional offices. Therefore the enforcement of the newly adopted law risks being delayed. The Fisheries Inspection is in charge of monitoring the enforcement of the law. Inspectors have been given considerable additional powers, although pending the full enforcement of the new law, all inspections and controls continue to be carried out according to the procedures set out in the Ministerial Order on the matter issued last year.

As regards inspection operations, good progress has been made: in 2000, 102 infringements were detected, and the Coast Guard and the Fishery Inspection opened 57 criminal investigations.

The newly-adopted law also introduces measures for conservation of fish stocks. These include the introduction of total allowable catches, limits on the capture of small fish, forbidding certain devices and practices, and setting up minimum fish landing sizes.

As for **structural actions**, the new fisheries law introduces a Fishing Vessel Register that is separate from the General Fishing Register. Pending the approval of the necessary secondary legislation, previous provisions establishing a register office remain valid although no new records have been entered into the database. Progress has been made over the reporting period with providing the register office with basic IT equipment and with training staff. All vessels will have to be measured in accordance with the 1969 London Convention by the end of 2001.

There were no specific structural actions in the fishing industry. Significant progress has been made in the privatisation of fishing farms. Concerning **market policy**, no significant development can be recorded. The supply of fish in Romania is channelled through several distribution channels. Some of the companies are vertically integrated, covering all stages from fishing to retailing. There was a slight increase in 2001 in the number of fish and fish products' storage facilities (121) as compared with 1999 (103). Three professional associations have been set up representing respectively the interests of caviar producers, the Danube Delta fishermen and the Black Sea fishermen.

As concerns **State aid to the fisheries sector**, support has been given to preserve animal genetic heritage and covering, *inter alia*, freshwater fish. In total, the new measure concerns

ten farms and research institutes. No other State aids for the fisheries sector exists. In July 2001, legislation was adopted to support Romanian Black Sea fisheries via VAT exemptions for diesel oil. As regards **international fisheries agreements**, Romania is party to several international fisheries conventions and is a member of the General Fisheries Commission for the Mediterranean. Over the reporting period, Romania withdrew from the North-western Atlantic Fishing Convention (NAFO). Negotiations have continued on a new convention for fishing in the Black Sea.

### *Overall assessment*

Despite good progress achieved with regard to legislation, considerable further work and investment is still needed, especially in terms of administrative structures, for Romania to achieve compliance with the *acquis*.

Considerable efforts are needed to strengthen administrative structures that, at present, are only partially able to implement the common fisheries policy. The institutional set-up needs to be streamlined and some administrative responsibilities still need to be clarified between the Ministry of Agriculture and the Ministry of Waters and Environmental Protection. The Fisheries Department within the Ministry of Agriculture, although recently reinforced, remains understaffed.

In the field of resource management, inspection, and controls, Romania already has a licensing scheme for marine fishing vessels. Licences specify the type of fishing, allowed gears and area of operation. The newly adopted fisheries law brings the Romanian legislative framework largely in line with the *acquis*. However, the enforcement of the law and the effective creation of the Fisheries Inspection, and the National Company will depend upon the adoption of secondary legislation. This should therefore be treated as a priority.

Control actions have intensified but fisheries control in Romania is still weak. No full-time enforcement service exists and the inspectors carry out many other tasks. More emphasis should be put on training fisheries inspectors and providing appropriate equipment, as well as on increasing the number of inspectors for controlling sea fisheries.

Development of a research strategy remains among Romania's short-term priorities in fisheries.

As for structural actions, primary legislation regarding the Fishing Vessels Register is now in line conformity with EC requirements, although secondary legislation is still needed and sufficient resources should be allocated for implementation of this legislation. The process of reforming the fisheries administration should be accelerated.

As regards market policy, no market intervention mechanism for fish products has been established so far. While there has been some progress as regards the establishment of producer organisations (there are now five), there is no indication as to their compliance with the EC conditions for recognising such organisations. Romania still needs to set up a market monitoring instrument and improve the collection of statistics.

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

Romania has continued to make good progress in harmonising its legislation.

As regards **Trans-European Transport Networks**, Romania has continued to develop and rehabilitate its infrastructure. However, considering the costs involved, the full rehabilitation of the road network to make it suitable for lorries with 11.5 tonnes axle-weight will be a long-term objective. Romanian plans are restricted to the rehabilitation of part of its national road network.

As regards **land transport**, in the area of *road transport*, progress has been achieved in the field of technology and safety, with a Government Decision approving the gradual application of the provisions of the European Agreement for the road transport of dangerous goods and in the field of weights and dimensions, including a Government Ordinance on the legal arrangements relating to roads. No progress has been made with transposition of the *acquis* on recording equipment and speed-limiting devices.

Only limited progress can be reported in the field of fiscal harmonisation: Romania has submitted a plan to gradually phase out the existing discriminatory practices and has adjusted tariffs at Giurgiu-Ruse bridge to make them less discriminatory. That being said, the new user charge system announced by Romania for 1 January 2002 will continue to discriminate in favour of Romanian national operators performing domestic transport operations.

The road transit agreement for the carriage of goods was signed with Romania in June 2001, and should enter into force by the beginning of 2002. Its implementation will result in an increased number of transit authorisations for both Romania and the EU. In October 2000 Romania signed the European Agreement on International Occasional Carriage of Passengers by Bus (INTERBUS). Its implementation will result in partial harmonisation with the road passenger transport *acquis*.

As far as the *railways* sector is concerned, several activities such as maintenance and ticket selling have recently been contracted out from the former freight and passenger transport companies. The freight transport sector is fully liberalised, five different operators have been licensed, and subsidies are no longer provided. With regard to passenger traffic, the 8 (newly created) regional companies were re-merged with the national passenger company. The main reasons for this decision were that the public service obligation compensations from local budgets and the division of costs and revenues between various operators were not functioning properly.

In the *inland waterways* sector, no progress has been registered as regards alignment of Romanian vessels with EC technical requirements. Since this sector suffers severely from the present blockage of the Danube, the Romanian authorities have decided to wait until the economic situation improves before taking any decision.

No major developments have been registered in the field of *combined transport*, mainly due to the financial implications of promoting this mode of transport .

As concerns **air transport**, Romania has adopted legislation which partly transposes the Joint Aviation Requirements and covers certification procedures for aircraft, additional navigability requirements, noise produced by aircraft, minimum equipment of civil aircraft and rules for international air transport. Romania also became a full member of the Joint Aviation Authority in December 2000. The Civil Aviation Inspectorate, which carries out technical investigation of civil aviation accidents and incidents, has been separated from the Directorate for Air Transport

within the Ministry of Public Works, Transport and Housing. It is now directly subordinated to the Minister.

The privatisation of TAROM, the national air carrier, was launched at the end of 2000 but failed: no offers were received. Romania has therefore given up the idea of privatisation in the short-term and decided to restructure the company. The success of this operation will ultimately depend on the willingness of the Romanian authorities to implement drastic measures. Romania has recently demonstrated a reticence to adopt the *acquis* on the licensing of air carriers, fearing that this would result in non-Romanian control of TAROM.

As regards **maritime transport**, Romania has made considerable progress on the legislative aspects, and has adopted Governmental ordinances on: safety of life at sea, the tonnage measurement of ballast spaces in segregated ballast oil tankers, standards of training, certification and watch-keeping for seafarers, methodological norms for international maritime traffic, oil pollution preparedness, response and co-operation in case of hydrocarbon pollution, civil liability for oil pollution damage, the international convention on rescue, and minimum standards for merchant shipping.

The main problem in this sector concerns safety issues due to sub-standard vessels operating under the Romanian flag. The authorities have therefore undertaken a policy of “cleaning” their national shipping registry and the total number of vessels flying the Romanian flag has decreased to 48, out of which only 14 belong to state-owned companies. The institutions involved in the implementation of the port and flag State controls are currently being reorganised in order to ensure improved co-ordination. Unfortunately, these positive developments have not yet resulted in acceptable detention rates: according to 2000 statistics under the Paris Memorandum of Understanding, the percentage of Romanian flag vessels detained following port State control was still very high: 19.1%, even though a significant decrease compared to 1999 (29.6%) and 1998 (20.9%). This compares to an average for EU-flagged vessels of 3.9% in 2000.

### *Overall assessment*

Considering the overall level of transposition, the main issue over the coming years will be the strict implementation of the recently adopted legislation, particularly considering the financial resources that will be necessary for the heavy investment needed to meet the standards required by the *acquis*. In the short-term, Romania should concentrate on three key issues where concrete results have not yet materialised: fiscal harmonisation in road transport, maritime safety and restructuring of TAROM.

As regards Trans-European Transport Networks, Romania is implementing its long-term rehabilitation plan and will only be able to speed up this process when the global economic situation improves, allowing the country to invest additional financial resources in infrastructure.

On road transport, the operators have made considerable efforts to adapt their fleet to EC norms. The main difficulty in Romania is the intentional maintaining of certain discriminatory tariffs and charges in favour of Romanian hauliers. Although plans to gradually phase out these practices are becoming clearer, no concrete improvement has been registered on the ground with the exception of tariff adjustments at the Giurgiu-Ruse bridge. In addition, Romania needs to develop the administrative capacity for enforcing the road transport *acquis*.

As regards railways, Romania is in line with most of the EC requirements.

Concerning inland waterways, Romania has decided to postpone all reforms until navigation along the Danube restarts. This is particularly worrying as Romanian vessels are already far from complying with EC technical requirements and this policy will result in additional delays in adapting the Romanian fleet.

Concerning air transport, Romania has made significant efforts to transpose the *acquis*. The main remaining problem is the restructuring of TAROM. According to a recently carried-out assessment, TAROM could become profitable by 2005 if properly restructured. A restructuring plan has been drawn up and a set of measures intended to cut losses have been identified. However, stronger political commitment to implement the recommended restructuring measures is still required.

As regards maritime safety, Romania is currently taking measures to solve the outstanding problems. However detention rates remain very high and Romania should intensify its efforts. Priority should be given to the reorganisation of the institutions involved in port and flag State controls in order to clearly define their responsibilities and avoid the present lack of co-ordination.

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

Since the last Regular Report Romania has made some progress, particularly with regard to excise duties.

In the area of **indirect taxation**, Romania has continued to align its legislation on excise duties with the *acquis*. The specific duty on cigarettes was increased in March 2001, bringing the total duty on the most popular price category to 45% (although this is still below the present EC minimum of 57%). The Emergency Ordinance from 2000, providing a 50% reduction on excises on alcoholic products for producers without outstanding liabilities, was abolished. This removed an important area of conflict with the *acquis*. An Emergency Ordinance from September 2001 established a single excise duty rate for all kinds of alcohol and alcoholic beverages. No progress was made on the alignment of VAT legislation.

No progress was reported as regards **direct taxation**. The reduced tax rate of 5% on profits made from exports (instead of the normal profit tax of 25%) remains in force, even though this measure appears to contravene Romania's WTO and Europe Agreement obligations.

As regards **administrative co-operation and mutual assistance**, Romania has continued to modernise its tax administration. The National School of Public Finance has developed training programmes covering most aspects of tax administration. IT-systems have been introduced to improve revenue collection and to support control and audit activities.

### ***Overall assessment***

Romania has continued, albeit at a slow pace, to align its legislation with the *acquis*. Limited results have been achieved in modernising the tax administration.

Significant alignments are still needed in the area of VAT as regards the taxable scope, VAT refunds, exempt transactions and zero rates.

While some progress has been made concerning excise duty levels, Romanian legislation on excise duties still requires extensive adjustment with regard to the structure of the duties, exemptions, and the applied rates (which remain much lower than EC minimum levels). The taxable scope of mineral oils should also be aligned with the *acquis*.

As regards direct taxation and the directives on administrative co-operation and mutual assistance, full transposition is still required. The setting up of national IT systems compatible with EC systems should be given priority.

It will be important to ensure that existing and future legislation complies with the principles of the Code of Conduct for Business Taxation.

Despite the efforts made during the reporting period the administrative capacity of Romania's tax authorities remains weak.

The Romanian administration has given a commitment to develop a Code of Ethics by mid-2003. In order to address issues related to corruption, and to improve administrative practices, the application of this code should be brought forward.

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

A detailed assessment of Romania's economic policy in its various aspects has been given above, in the Chapter discussing the economic criteria (B-2). Therefore, the present section is limited to a discussion of those aspects of the Economic and Monetary Union *Acquis* - as defined by title VII of the EC treaty and the other relevant texts - which candidate countries should implement before accession, i.e. the prohibition of direct public sector financing by the central bank, the prohibition of privileged access of the public sector to financial institutions, and independence of the national central bank. As to the process of liberalisation of capital movements, upon the completion of which compliance with the EMU *Acquis* is conditional, this aspect has been covered above, in the section on *Chapter 4 – Free movement of capital*.

Since the last Regular Report, there have been no significant developments with regard to alignment with the EMU *acquis* in Romania.

Romanian legislation still allows for the possibility of **direct public sector financing by the Central Bank** through an overdraft facility. Public authorities made only very limited use of financing by the National Bank of Romania during the course of 2000 and no such cases have been reported during 2001.

No specific developments can be reported regarding **privileged access of the public sector to financial institutions**.

Romania's legislation already guarantees a very high degree of **independence for the Central Bank**. This legislation has remained unchanged over the last year.

## *Overall assessment*

Romania will participate in EMU upon accession with the status of a country with a derogation under article 122 of the EC treaty. It will need to implement the necessary changes to its institutional and legal framework by the date of accession.

Romania has transposed a significant part the *acquis* on Economic and Monetary Union, but has not yet fully aligned its legislation with the *acquis*. Further changes to Romanian legislation, concerning for example the elimination of direct public sector financing and the full independence of the National Bank, will be necessary in order to achieve this goal.

## **Chapter 12: Statistics**

Romania has continued over the past year with the gradual implementation of the statistics *acquis*.

The new statistical law has helped strengthen the mission and organisation of the statistical system in Romania. Meanwhile, Romania's **statistical infrastructure** has also undergone significant changes during the reporting period. In the context of a general restructuring of the public administration, decision-making processes in the National Institute for Statistics were simplified and the number of staff was cut by 20%. The National Institute for Statistics now has 436 posts at headquarters and 1381 posts in its territorial units. There are now 34 directorate generals at country level and 8 regional statistical directorates, one for each of Romania's main regions. It is too early to assess the full impact of this reorganisation, although it appears not to have had a negative impact on the National Institute for Statistics' ability to carry out its core tasks.

The Ministry of Development and Prognosis is in charge of the National Institute for Statistics. The National Institute for Statistics co-operates closely with line ministries, the National Bank of Romania and other administrative bodies, which supply the National Institute for Statistics with data on a regular basis. A Co-ordination Council for Statistics Activities, chaired by the National Institute for Statistics' president, advises on the development of the Romanian statistical system. The National Institute for Statistics is financed on the state budget.

**Demographic and social statistics** have been brought further in line with EU practice regarding the quarterly labour survey and the multi-functional sample of territorial units. However, Romania has postponed to 2002 the population census, which was originally scheduled for March 2001.

Romania has continued to align **regional** statistics with the *acquis*. The creation of 8 regional statistical offices should facilitate the collection of data at NUTS II level. Some regional data, for example business statistics, have been made available starting in 1998. Regional data in a number of other areas, such as population, GDP and social conditions are being collected and fed into the system on a regular basis. More efforts are required to create a coherent regional collection and storage system for statistical data.

Romania has also made progress over the last year in the field of **macro-economic statistics**. ESA 95 methodology was used for the first time for the 1998 National Accounts. The Consumer Price Index has been brought closer to EU practice by the introduction of annual

updating of expenditure weightings. Last year Romania completed its first fiscal notification and submitted it to the Commission, although the notification is not yet in line with EC requirements. The National Institute for Statistics should try to maintain an adequate number of staff with the specific skills required for the elaboration of macro-economic statistics.

Concerning **business statistics** Romania has set up a sampling base of industrial companies in line with the *acquis*. A pilot survey on PODROM 2000 was carried out during the first half of 2001. Sectoral statistics for industry, construction, trade and services have also been brought closer in line with the *acquis* during the past year. A structural business survey is being carried out at regional level. There are no new developments to report concerning tourism statistics.

In the area of **transport statistics** Romania started to collect data on railways and inland waterway traffic in 2001. However, there is still a need to improve the statistical coverage of motor vehicle use and maritime transport.

As concerns statistics on **external trade** Romania was connected to the foreign trade database of EUROSTAT (COMEXT) at the beginning of 2001.

In the area of **agricultural statistics** a micro-census on agricultural holdings was carried out in October 2000 with the goal of establishing a sampling frame for the first structural survey in agriculture (planned for December 2002). However, significant efforts are still necessary to bring agricultural statistics in line with the *acquis*. No significant progress can be reported on forestry and fishery statistics.

### *Overall assessment*

Romania is quite advanced in the field of statistics. However, there are still shortcomings, in particular concerning agricultural statistics (a general agricultural census is not planned until end 2002) and tourism statistics. These are the same areas which the 2000 Regular Report identified as weaknesses. The one-year delay in carrying out the population census is also disappointing.

There is room to improve the administrative capacity of Romania's statistical system, in particular as concerns the relatively low qualifications and relatively high turnover of staff. Adequate resources need to be made available to further strengthen statistical capacities, including at regional level.

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

Mixed progress was made in this area since the last Regular Report.

Pending the adoption of a new Labour Code no major legislative development can be reported in the field of **Labour Law**, although Romania did ratify the ILO Convention on Child Labour.

In the field of **equal treatment for men and women**, slow progress in transposition and enforcement of the *acquis* is a cause for concern.

A National Action Plan on equal opportunities was adopted in December 2000. It identifies priority areas of intervention according to the European strategy model: legislative framework, social rights, economy, decision-making, and civic awareness. While the National Action Plan is



a welcome development it does not appear to have been followed by any implementing action and it is essential that the Plan is adequately financed if it is to have any impact. Other than the National Plan, there has been little progress in improving the position of women on the labour market.

In the field of **health and safety at work** initiatives include a clearer definition of different categories of employers and the requirement for specific health and safety norms for certain economic sectors. The Government has also established the methodology and the criteria for defining “special conditions” in work places.

The administrative capacity of the Labour Inspectorate remains weak. There is a scarcity of funds, and a serious shortage of qualified staff. The Labour Inspectorate has been allocated 239 staff at the central level and 2,570 regional staff, but 40% of the central posts and 20% of the regional posts remain vacant. The creation of a centre for training and re-training labour inspectors is a welcome development.

On **public health**, legislation on the labelling of tobacco products has been adopted which partly transposes the *acquis*. No measures have been taken on the maximum tar yield of cigarettes. No new measures have been taken related to epidemiological surveillance although the establishment of a functioning surveillance system has been initiated.

With a view to stabilising the **social dialogue**, the Government signed a social pact with trade unions and employers' confederations, which sets common social, economic, and legislative priorities. Secretaries of State responsible for, amongst other things, the relationship with the social partners have been appointed in all ministries. In a separate initiative, tripartite social dialogue commissions, with consultative power, were established at the sectoral and territorial levels. Despite these developments, no progress can be reported concerning bipartite social dialogue and workers' participation at enterprise level.

The level of unemployment increased to 7.0% in 2000. Employment in agriculture is particularly high in Romania (45% in 2000) and is increasing. At the same time, illegal working is widespread.

Romania and the Commission have launched the Employment Policy Review in order to examine progress in adapting the Romanian employment system so as to be able to implement the European Employment Strategy in line with the Employment Title. Work on a Joint Assessment Paper started in May 2001. The preparation of a National Plan for Employment is also under way.

The National Agency for Employment has been designated as the body responsible for the implementation of **European Social Fund (ESF)**-type projects. However, since the Ministry of Development and Prognosis is formally responsible for the programming and implementation of ESF-type programmes, in the framework of pre-accession support, the overall coherence of the system remains unclear. Other than this, no progress can be reported concerning preparations for administering the ESF.

**Social protection** and social assistance were presented as major political priorities in the new government's programme and some progress has since been made in addressing them. A Commission for the Fight against Poverty and Social Inclusion has been set up. This Commission will report directly to the Prime Minister. In July 2001, the law creating a minimum

guaranteed income was adopted. The law includes provisions covering additional allowances such as heating allowances, and allowances for childbirth. In a separate development, the National Solidarity Fund was consolidated into the national budget.

Following an agreement with the major trade union confederations, the Government amended the law on public pensions. The main changes include lower retirement ages and revaluation of pension points. The government has also defined priorities for provision for the elderly as well as norms for home-care services. Local authorities are responsible for the provision of these services but ensuring adequate budgetary transfers to the local level remains a problem.

The issue of the financial sustainability of the pension system has begun to be addressed through better collection measures and the overall situation has improved slightly, mainly due to transfers from the unemployment budget to the social insurance budget. However, the question of social contributions remains unresolved and undeclared working combined with the non-payment of social insurance contributions by many employers has led to a serious deficit in the social and unemployment budgets.

As regards **anti-discrimination**, no further progress can be reported.

### *Overall assessment*

While Romania has advanced in some areas, considerable efforts are still needed to align with the social policy *acquis*.

The approval of a new Labour Code is a particular priority. Further work is also required to align Romania's legislation with the *acquis* on health and safety at work and improving the capacity of the Labour Inspectorate should be dealt with as a matter of urgency.

On equal treatment for women and men, substantial work is required to align and enforce the *acquis*.

On public health, some progress can be recorded as regards tobacco directives but further steps need to be taken to comply with the new *acquis* on tobacco. Efforts to establish the national surveillance system for communicable diseases in line with the Community Network should be stepped up.

Basic indicators, such as high infant mortality and low life expectancy, demonstrate the low level of public health in Romania. While reform of the health care system is one of the Government's priorities, the budget allocation to the health sector, measured as a share of GDP, is far lower than EU levels. This lack of resources limits the delivery and quality of health services. Romania should therefore continue with its health sector reforms and a greater emphasis should be placed on strategic planning of human and financial resources in order to make efficient use of scarce public funds. Ensuring equal access to basic health care should be one of the Government's objectives.

Despite some recent progress, social dialogue is still not given sufficient importance and the Economic and Social Council is repeatedly by-passed in the decision making process. Efforts are required to promote and strengthen bipartite social dialogue structures especially at sectoral level. Social dialogue in the public sector remains inadequate. At enterprise level, social dialogue mechanisms and worker participation in works councils should be improved. The Government

will need to help the social partners to develop their capacity before they can play an active role in the EU context.

As regards employment, necessary re-structuring of the economy will pose further challenges on the labour market. Therefore, finalising a Joint Assessment Paper and approving a national employment strategy should be considered as priorities. Romania should further develop an active labour market policy, develop the capacity of the National Agency for Employment, and strengthen the administrative capacity of the local employment offices in order to improve their provision of services.

As regards preparation for participation in the European Social Fund, Romania should use the expertise gained with ESF-type projects in order to fully benefit from the European Social Fund after accession and to establish links with the European Employment Strategy and the Social Inclusion Process.

Increasing poverty and the risk of social exclusion of different categories of the population (including abandoned children, young unemployed, families of unemployed, single parent families, homeless families, and the Roma population) is a major challenge facing Romania. Sustained efforts are required to reform social assistance which is currently hampered by fragmented administrative structures and the confused decentralisation of resources and responsibilities to the local level.

The fight against exclusion, as laid down in Article 136 of the Treaty establishing the European Community, is part of the objectives of EU social policy. As decided at the Lisbon and Nice European Councils, policies to combat social exclusion combine commonly agreed objectives at the EU level and national action plans. The Göteborg European Council in June 2001 invited candidate countries to translate the Union's objectives of promoting social inclusion into their national policies.

Legislation on preventing and sanctioning all forms of discrimination does exist and contains the basic principles of the *acquis* - equal pay, equal access to employment, training, promotion and working conditions. However, this law is not yet applied due to the lack of implementing legislation. Efforts should continue to ensure alignment with the *acquis* on anti-discrimination based on Article 13 of the EC Treaty.

### ***Chapter 14: Energy***

During the reporting period the energy sector has been subject to contradictory decisions which led to an inconsistent evolution. The first half of 2001 was typified by the blockage of reforms and even steps backward. This contrasts with positive developments, in particular as regards pricing, that occurred during the second part of 2001. Overall progress has therefore been limited.

Concerning **security of supply**, no progress has been registered. The *acquis* has still not been transposed and there is no reliable oil stock monitoring system. On this point, following clarification with the competent Romanian authorities, it appears that the present level of stocks of oil and oil products corresponds to over a third of the required level of consumption, while the storage capacity already meets the requirements of the *acquis*.

On **competitiveness and the internal energy market**, there have been major developments over the reporting period - not all of them positive. A long-awaited “National Strategy for Energy Development” was adopted in June 2001. This document mainly focuses on energy production (especially electricity and heat), and proposes an extensive rehabilitation and investment programme, with little mention of how to secure the necessary funds. It does not address core issues such as demand-side management, improvement of the financial health of energy utilities, sectoral restructuring and regulation, and energy pricing. In its present form the strategy is not an adequate basis on which a competitive and market-oriented energy sector can be developed.

In the *electricity* sector, the market openness has reached 15%, with licensed suppliers and eligible customers. In practice, the contracts signed between licensed suppliers and eligible customers amount to 8%. For the first months of 2001, electricity prices were frozen and were only increased in the early summer by 20% compared with last year. However, the present prices cover only around 85% of production costs. ANRE, the national regulatory authority, has performed a reasonable amount of work despite the fact that it is understaffed with only 65 employees.. In particular it has elaborated secondary legislation to strengthen the electricity market. Since December 2000, ANRE has been brought under the control of the Ministry of Industry and Resources, which now plays an active role in the setting of electricity prices.

A more positive development is the restructuring of the distribution and transport utilities. Electrica, the distribution company, was reorganised into 8 regional branches and one service subsidiary in June 2001 (reversing a reorganisation in 2000 that had set up 19 branches of limited size, which made individual branches less attractive to private investors). The maintenance activity of the electricity transport company Transelectrica has been contracted out .

As regards energy production, despite its worrying financial situation, Termoelectrica has only been subject to limited reorganisation: 8 plants have been closed down for lack of efficiency and there are plans to transfer several heating power plants to local municipalities.

Concerning the interconnection to the Western European UCTE (Union Co-ordinating the Transport of Electricity) electricity networks, two 400 kV connections with Hungary and Ukraine have become operational. Tests have started with a view to a future interconnection with UCTE.

The *gas sector* has also been subject to considerable shifts in policy during the past year. Whereas the market used to be open at a rate of 15% with licensed suppliers and eligible customers, the Government suspended all bilateral contracts in October 2000. In July 2001, it re-opened the sector at a rate of 10% and the regulatory authority selected 18 new eligible customers.

The gas utility ROMGAZ was re-established in 2001 by merging the gas production and underground storage companies (in 2000 it had been unbundled into five companies responsible for transport, production, underground storage and distribution in the south and in the north of Romania). The Government initially kept the price of indigenous gas production artificially low with most of it directed to household customers. This had an effect similar to cross-subsidisation: household customers paid nearly half the price that industrial customers paid. In

mid-August 2001, a single regulated price for all gas consumers was established, reducing greatly this price distortion and ensuring cost recovery.

As for legislative harmonisation, ANRGN, the regulatory authority for the gas sector, has elaborated secondary legislation in order to facilitate the establishment of the gas market in Romania. With 51 employees, ANRGN is understaffed.

Although it is difficult to obtain precise figures on energy bill collection rates the situation seems to have improved slightly with a collection rate around 85%. However, this still significant level of non-payment, combined with an electricity price that does not cover production costs worsens the financial situation of the utilities and continues to endanger the whole sector. Because of cash flow shortages, the utilities have to borrow at high costs on the international market to pay their suppliers. These loans worsen their financial situation, and ultimately the Government has to intervene to take over these debts. As an illustration, the Government had to write off the penalties (about €450 million) and to reschedule the debt (also about €430 million) of 13 energy companies or utilities in April. Payment rates for the electricity produced by Romania's nuclear power plant have, however, improved to a level whereby Nuclearelectrica no longer needs to resort to budgetary help.

In the sectors of *oil* and *solid fuels*, no major developments have been recorded.

As far as **energy efficiency** is concerned, the efficiency of the existing network, and in particular the heating systems, is very poor. The energy intensity of the economy is very high and has been estimated at between two and four times that of EU member states. Legislation has been adopted on energy efficiency requirements for washing machines, washing-drying machines and refrigerators. More importantly, a law for "the efficient use of energy" providing for the establishment of the National Energy Efficiency Fund has been adopted. However, detailed rules for the implementation of the law have not yet been elaborated, and the budget devoted by the Government to the fund is very limited (€2.5 million for 2001). Moreover, the enforcement of the law is the responsibility of the Romanian Agency for Energy Conservation, which suffered a severe reduction in staff numbers over the reporting period and therefore has limited administrative capacity.

In the field of **nuclear energy**, Cernavoda unit 1 (a CANDU unit of Canadian design) provides 9-10% of the country's electricity. The government has declared the completion of the second unit (CANDU type 700 MW) a national priority. This second unit is expected to be operational by 2005 – 2006.

The Nuclear Safety Authority (CNCAN) has been returned to the control of the Ministry of Water and Environmental Protection. CNCAN can now concentrate on regulatory issues since the Environmental Radioactivity Surveillance Networks have been transferred to the local Environmental Protection Agencies. CNCAN has 80 employees, but salaries remain very low when compared with employees in the nuclear industry.

### *Overall assessment*

The Romanian energy sector has been characterised by a succession of reorganisations and contradictory decisions, which have finally resulted in an overall limited level of alignment with the energy *acquis*. This was the consequence of the lack of a clear medium-term vision for the

energy sector - as illustrated by the limited scope of the energy strategy that was produced. This instability and lack of direction has slowed down the reform of the Romanian energy sector. In order to stabilise the sector and to restore the confidence of foreign investors, Romania should elaborate a clear medium-term policy for restructuring the energy sector, establish annual action plans, and strictly implement these programmes.

In the electricity sector, price setting is not subject to market rules. Prices still do not reflect the production costs and therefore the financial situation of the utilities has become very serious. This is all the more worrying as no clear programme yet exists to restructure the energy production companies in order to reduce production costs (beyond the intention to transfer non-viable plants to local municipalities). Transferring ownership without addressing core issues is unlikely to solve structural problems.

The gas market has been subject to an even more erratic evolution, with the re-merger of the production and underground storage gas companies after only one year of independence, the suspension of internal market and the return of distorted prices. However, the situation has improved and Romania has recently re-opened its gas market and adjusted gas prices (which resulted in a doubling of the gas price for household customers).

Although improvement can be registered, the problem of non-payment of energy bills continues to weaken not only the energy sector but also the economy as a whole. The debts and the arrears of the energy utilities continue to grow at a preoccupying level.

Progress has been achieved with legislation to promote energy efficiency. However, Romania still does not devote the necessary resources to effectively address the very serious issue of energy efficiency, which would offer large potential for savings and rationalisation. In order to do so, the administrative capacity of the Romanian Agency for Energy Conservation needs to be reinforced.

There is a continued lack of progress in the transposition of the oil stock *acquis* and related necessary investment.

As regards nuclear energy, the European Union has repeatedly emphasised the importance of a high level of nuclear safety in candidate countries. In June 2001, the Council of the European Union took note of a Report on Nuclear Safety in the Context of Enlargement. This report contains findings on the situation and perspective regarding nuclear safety in each candidate country, as well as recommendations for specific improvements. In July, the Commission conveyed this report to the candidate countries.

General recommendations of the Council Report call for all candidate countries with nuclear power plants to complete their plant-specific safety improvement programmes, and to ensure that their programmes include measures considered good practices within the European Union. This concerns particularly specified safety measures such as assessment practices, emergency procedures, feedback of experience, resources of the regulatory authority and other aspects.

The report recommends all candidate countries to continue their national programmes regarding the safe management of spent fuel and radioactive waste, and regarding the safety of their research reactors.

For Romania, the Council Report recommends seven specific measures to ensure the safe operation of the Cernavoda nuclear power plant and other nuclear installations. The measures concern the capability and resources of the regulatory authority, the financial situation and competence of the operator, the establishment of an on-site emergency centre, fire and seismic hazard analyses and due consideration and, if applicable, implementation of safety improvements implemented in Canada for the CANDU type reactor used in Cernavoda.

The resources of CNCAN, the nuclear safety regulatory authority, should be further strengthened and salary levels should be brought in line with those in the nuclear sector. No progress has been achieved regarding spent fuel and nuclear waste, which are two issues that need to be addressed in the very short term.

Romania will also need to ensure compliance with Euratom requirements and procedures. In this respect, due attention should 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 structures operating nuclear installations or storing nuclear material. It should be noted that Romania has concluded a Full Scope Safeguards Agreement with the IAEA. An Additional Protocol to this Agreement has been in force since July 2000.

### ***Chapter 15: Industrial policy***<sup>22</sup>

Since the 2000 Regular Report, the government has made some further progress in developing a national industrial policy. Despite some progress, efforts still need to be made with the privatisation and restructuring process.

In July 2001 the Government approved the **industrial strategy** document “Industrial Policy of Romania”, together with an Action Plan covering the measures needed to implement this policy. The document was drawn up after consultation with relevant stakeholders (professional associations, trade unions, employers, ministries, private sector, academics, and other public institutions).

The stated objective of the strategy is to increase Romania’s industrial competitiveness through the development of a business-friendly environment, speeding up structural adjustment measures, more effective investment promotion, respecting European environment standards, supporting the SME sector, and developing industrial and business services.

Over the last year the Romanian authorities have prioritised **investment promotion**, in particular through the simplification of legal and administrative procedures and by improving the stability and transparency of the legislative system. Several tax initiatives aiming at the promotion of investment were introduced and in July 2001 a law on the promotion of investments was adopted. The law covers large-scale investments (worth over US \$1 million) and provides a combination of special fiscal incentives and measures to improve the business environment. In contrast to previous efforts to attract investment, the fiscal incentives offered would appear to be compatible with Romania’s international obligations. In September 2001 legislation on the establishment of industrial parks was adopted. Significantly, this law repealed the legislation of June 2000 and introduced measures that are compatible with the Europe Agreement and the

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<sup>22</sup> “Developments in industrial policy should be seen in relation to developments in the context of SME policy (see chapter 16 – Small and medium-sized enterprises).

relevant *acquis*. (See also chapter 16 – *Small and medium-sized enterprises for progress in implementing the business environment*).

The **privatisation and restructuring** process came to a virtual standstill in the period before the November 2000 elections. This was followed by a period of institutional re-organisation which saw the abolition of the State Ownership Fund, (responsible for managing and privatising state-owned enterprises), and its replacement by the Authority for Privatisation and Management of State Assets (APAPS). This new institution was given additional legal authority to accelerate the privatisation process.

The pre-election stagnation of privatisation and subsequent institutional changes meant that the number of privatisations recorded during the first half of the reporting period was very low. The high profile privatisation of Banca Agricola and the progress made with the privatisation of the steel company SIDEX (where a pre-privatisation agreement has been concluded) have demonstrated the government's commitment to the privatisation process. In September 2001 the Government approved a "**Steel Industry Restructuring Programme**".

### *Overall assessment*

Romania's policy towards industry is moving towards the principles of EC industrial policy, i.e. market-based, stable and predictable. However, considerable additional efforts will be needed before policy objectives are reflected in practice.

In 2000, industrial output increased by 6.1% over the previous year. This trend has continued and over the first six months of 2001 the growth of industrial value-added was 11.2%. An increase in domestic investments has also taken place since the last Regular Report although, by regional standards, the level of Foreign Direct Investment remained low (*see Section B.1.2. - Economic criteria*).

Privatisation and restructuring remain an area where major additional efforts are needed. There is still a considerable backlog with privatisation and this should be addressed as a matter of urgency. Romania's progress, to date, has been limited (the private sector only accounted for 65% of GDP in 2000).

While the development of a Steel Industry Restructuring Programme is a welcome (and long overdue) development, the plan remains incomplete, and improved transparency in the field of State aids as well as better coordination between ministries involved in implementing the restructuring strategy are urgently needed. There has only been limited progress in the actual restructuring of the sector and individual viability plans for Romania's steel enterprises have still to be submitted to the Commission.

Romania continues to grant both direct and indirect State aids to its steel industry and, with the notable exception of SIDEX, the privatisation process has been slowed down by restructuring delays and the high level of indebtedness of the main steel enterprises.

It should also be noted that an important element of any industrial policy is the control of state aid and that the compatibility of support schemes with EC rules, including the current rules on state aid of the ECSC Treaty, will have to be examined under the Europe Agreement (*see Chapter 6 - Competition policy*).



The government has made notable efforts to collaborate with bodies representing industrial interests as well as with foreign investors. This is a welcome development. At the same time, there is still scope for the administration to further improve its dialogue with the business community so that their concerns can be taken into account when policy is being drafted.

The Ministry of Industry and Resources is responsible for the design and implementation of industrial policy – although a particular concern is that the department responsible for these tasks has limited administrative capacity.

### ***Chapter 16: Small and medium-sized enterprises***<sup>23</sup>

The Romanian authorities have made considerable progress in developing policy and measures for SME development.

Over the reporting period, the government has developed a comprehensive **SME strategy and implementing policies**. An “Action Plan for the Abolition of Certain Barrier to SMEs” was adopted in May 2001 and responds, to a large extent, to problems identified by international studies of the SME sector. The Action Plan specifically aims at the simplification of registration and licensing procedures for new SMEs, streamlining the legal framework, reducing and simplifying the tax system, promoting access to finance and access to public contracts, and providing an information system for SMEs.

The measures identified in the Action Plan for the first semester of 2001 have already been implemented – essentially through reactivating a 1999 law that had subsequently been suspended. These include the establishment of a programme for stimulating R&D in the SME sector, training programmes for entrepreneurs, and the establishment of a national consultancy network for SMEs. In order to improve SMEs' access to finance, the government has established a National Credit Guarantee Fund, which can grant low-interest loans to SMEs. A simplified taxation system has been introduced for micro-enterprises. Important tax exemptions are given to SMEs on selected imports, as well as for the re-investment of profits. Reductions on profit tax are given for job creation and for profits generated by exports, although there are concerns that these incentives are incompatible with Romania's WTO and Europe Agreement obligations (*see also chapter 10 – taxation and chapter 26 – external relations*).

A further set of measures aim at improving the **business environment** through the **simplification of registration and licensing procedures**. An Emergency Ordinance issued in May 2001 established a “one-stop-shop”, situated in local Chambers of Commerce, where new companies can be registered and get all necessary operating permits within 20 days (an earlier initiative had only dealt with registration procedures). Progress has also been made by the unification of the two identification codes (the fiscal code and the trade code) into a single code.

The new Government's commitment to promoting the sector was demonstrated by the creation of a new ministry - the Ministry for SMEs and Co-operatives. The Ministry is responsible for elaborating policies to support SME development and for ensuring that SME interests are

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<sup>23</sup> Developments concerning SME policy should be seen in relation to the overall enterprise policy, including the industrial policy (*see Chapter 15 - Industrial policy*).

integrated into other policy areas. The Ministry shares responsibility for the implementation of SME support measures with other ministries, public institutions and accredited NGOs.

### *Overall assessment*

The Government has recognised the importance of the sector and, through its Action Plan, has started to address some of the most serious problems facing SMEs. This is a positive development, although the Action Plan should only be considered a first step - it is far from complete, and lacks sufficient detail in several key areas.

While recent initiatives may result in some improvements, the Romanian business environment remains hostile and considerable further efforts are needed. A comprehensive simplification of enterprise licensing remains overdue, as does a clear and binding calendar for streamlining the existing legal framework. There is also considerable scope for reducing the cost and bureaucracy involved in gaining access to the services provided by public utilities (e.g. electricity, water, telephones).

Heavy state controls also place an excessive burden on SME operators. A large number of bodies are authorised to conduct inspections and audits of businesses. Businesses can expect to be investigated several times each year and the wide degree of discretion left to inspectors creates opportunities for corruption. This issue was not raised in the recent SME Action Plan.

The preferential tax treatment of SMEs is a potential concern and the fiscal incentives contained in the SME law will prove difficult to apply – a situation which creates the risk of increased bureaucracy, as well as arbitrary treatment of enterprises. These measures also appear to contravene normal market rules and are potentially incompatible with Romania's international obligations, including the Europe Agreement. Finally, giving such preferential status to SMEs could encourage the fragmentation of larger enterprises.

Since the banking system is typified by high interest rates and heavy collateral procedures, access to investment funds remains a serious constraint on the development of SMEs. Concessional finance schemes for SMEs have been launched, but the funds allocated by government are insufficient to meet financing needs.

The Romanian SME definition is broadly in line with the EC definition.

Setting up a ministry to deal exclusively with SME policy underlines the political importance attached to the sector. However, this initiative will only prove effective if the new Ministry of SMEs and Co-operatives is given sufficient influence over other ministries that also deal with issues related to the SME sector. There is a considerable risk of overlapping responsibilities. A further concern is that funding allocated to the ministry will prove insufficient given the ambitious scope of its mandate. The new ministry may well emerge as a dynamic and effective institution. However, what is most urgently required is a period of institutional stability. There have been three different administrative structures responsible for SME policy in the last 18 months. These constant changes have undermined the possibility of making genuine progress.

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

In the area of science and research some progress has been made since the last Regular Report.

In January 2001, the Ministry of National Education was reorganised as the Ministry of Education and Research. It took over the responsibilities of the former National Agency for Science, Technology and Innovation, with a view to establishing closer links between higher education and research. So far the reorganisation has taken place at government level but organisation at lower levels (e.g. universities) has not seen any change.

The National Plan for Research, Technological Development and Innovation, which was launched in 1999, has been only partly implemented due to lack of funding. The plan was further updated in June 2001 to cover the period until 2005. The updated plan shifts the focus of Research and Technological Development activities away from supply-oriented and towards demand-oriented actions with the aim of better responding to the needs of economy and society. Co-operation with the enterprise sector has been reinforced.

The state budget expenditure in research and development as percentage of GDP continued to decrease in 2000 and was approximately 0.22%. The state budget for 2001 foresees an increase to 0.25% of GDP.

Romania continued to be fully associated with the Fifth Framework Programme, as well as with the Euratom Framework Programme. As for other candidate countries associated with the Fifth Framework programme, Romania has been granted observer status in CREST (*Comité pour la Recherche Scientifique et Technique*).

### *Overall assessment*

Though the financial and institutional framework for participation in the Fifth Framework Programme is well established, the reinforcement of research-related administration capabilities, as well as the strengthening of research-related infrastructure is necessary to ensure Romania's successful participation.

Romania's contribution to the EC budget for participation in the Fifth Framework Programme is financially significant for a country with limited resources. The results Romania achieved in the participation have improved over the reporting period but they remain less than satisfactory. As a consequence, Romania is currently unable to reap the full benefits from its contribution to the Fifth Framework Programme. Although active information dissemination and assistance activities for the project promoters through the National Contact Point network and regional and institutional networks continued, they need to be further intensified if this situation is to be remedied.

Funding for RTD activities is low compared to many European countries and remains far below the EU average. This lack of funding has prevented the full implementation of the National Plan for Research, Technological Development and Innovation. Efforts are needed to ensure adequate levels of funding for this sector.

The recent reorganisation of research activities at the government level is a welcome development. However, the reinforced co-operation between research centres, universities and enterprises is necessary to ensure successful participation in the framework programme.

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

Some progress has been made since the last Regular Report.

As regards participation in **Community programmes** in the fields of education, training and youth, the new Association Council decision establishing the financial contribution of Romania to Socrates and Youth for the years 2001 to 2006 was adopted in May 2001, and information activities through the agencies and the network of county school inspectorates were intensified and improved results can be noted (*see section A.b Relations between the European Union and Romania*).

A legal framework for voluntary activities was created in April 2001.

The Government decision adopted in June 2001 represents a significant step towards the transposition of the **Directive concerning education of children of migrant workers**. However, some details still require further clarification.

As regards the reform of the education system, support measures for poor families and for children from rural areas were introduced in order to facilitate school attendance. These include providing free notebooks and schoolbooks in primary and secondary education for children from families with limited income and organising school transport in rural areas. Scholarships for higher education students from rural areas will also be provided. One negative development is that some legislative measures that were noted in the last Regular Report have not been implemented: the overall legislative framework for vocational training of adults has not come into effect and is being modified; legislation on social partnership in vocational education and training was rejected by the Parliament; and legislation on quality management in higher education has been suspended.

Following the governmental reorganisation, education and research activities were merged into a single ministry, the Ministry of Education and Research (*see chapter 17 – Science and Research*).

Romania has a low GDP per capita expenditure on education and there are insufficient resources available to make necessary investments. In 2001 funding of pre-university education was decentralised to local authorities. The transfer of responsibility will be accompanied by budgetary transfers from the state to the county councils. However, it is important that appropriate measures are taken to ensure that the new system does not increase regional disparities in educational standards.

### *Overall assessment*

Participation in relevant Community programmes is satisfactory and national structures are functioning. A regulatory framework for voluntary activities has been established and Romania has advanced towards the full transposition of the Directive concerning education of children of migrant workers. However, some details remain to be clarified.

Absence of a structured vocational training system for adults is a problem in the context of large scale economic restructuring. A coherent system should urgently be established and this will require intensified co-operation between all concerned authorities: education, labour and the social partners.

Adequate level of funding for the education system as a whole should be ensured.

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

Progress since the last Regular Report has been limited. The main development in this sector was the abolition in January 2001 of the National Agency for Communications and Informatics and its replacement by the Ministry of Information Technology and Communications. The Ministry of Information Technology and Communications has taken over all the responsibilities of the former Agency, including policy and strategy formulation and regulatory functions.

Concerning the **liberalisation of the telecommunications market**, steps announced last year to introduce competition in the 1800Mhz band for mobile telephony became the subject of a court dispute between two private operators and the incumbent, Romtelecom, which currently has the monopoly on fixed line telephony. In the end, the parties reached an agreement stipulating that the private mobile telephony companies would not use frequencies allocated in the 1800Mhz band before the end of 2002. The date foreseen for the liberalisation of the fixed line telephony market remains the end of 2002. Until that date, the incumbent maintains a monopoly on these services. However, liberalisation has already taken place in other markets, such as cellular mobile telephony, data transmission, and the provision of Internet services, cable television, and satellite networks.

As regards the **regulatory framework**, a law on the processing of personal data and the protection of privacy in the telecommunications sector, transposing the Directive concerning the processing of personal data and the protection of privacy in the telecommunications sector, has been passed. As stated above, the new ministry has taken over the regulatory functions of the former National Agency for Communications and Informatics. It will continue to exercise these functions until the creation of the independent national regulatory authority in the course of 2002.

As regards the **postal services**, no major developments can be reported in the period under review. There is, however, a considerable degree of liberalisation already in the sector, with the following services being open to competition: express mail, insured mail, parcel services and advertising and marketing mail services. Restrictions remain for the moment on regular mail, parcels below 2kg and money order and wire transfers.

#### *Overall assessment*

While the overall development in the telecommunications sector has been limited, there has been extensive preparatory work through the identification of key personnel and arranging assistance with the transposition of the *acquis*.

In terms of administrative capacity, only a short time after its creation the Ministry of Information Technology and Communications has given considerable indications of a new impetus in preparing for the liberalisation of the communications and postal markets. In order to achieve the objectives of liberalisation of fixed line telephony by the start of 2003 and postal services by the same date, considerable legislative work remains to be done. Furthermore, administrative weaknesses in the exercise of regulatory functions as regards telecommunications remain. Although these functions are scheduled to be transferred in 2002 to the new National

Regulatory Authority, considerable training will be necessary to ensure adequate administrative capacity in this area for the new body.

As for postal services, a political decision was taken regarding the establishment and type of regulatory authority in the sector, contrasting with the lack of any such decision by former governments. On the other hand, some key departments of the Ministry of Information Technology and Communications still require further strengthening.

### *Chapter 20: Culture and audio-visual*

Romania has made limited progress since the last Regular Report.

In January 2001 the Ministry of Culture and Religious Affairs was given new responsibilities in the field of **audio-visual** policy, including the right of legislative initiative, and the mandate to negotiate international agreements in the film and audio-visual field. This is a positive development. A Directorate for Harmonisation, Media, Audio-visual and Evaluation was set up to assume these responsibilities but its staff remains limited.

No progress can be recorded as regards the audio-visual framework law, which means that no progress in aligning with the Television Without Frontiers directive has been achieved.

Although staffing at the National Audiovisual Council remains the same as last year (138 posts out of an allocation of 144 are occupied), the monitoring and control activities of the Council have increased over the reporting period. However, the capacity of the National Audiovisual Council still needs strengthening in terms of equipment and training. In order to encourage self-regulation in the audio-visual field, the NAC also issued recommendations relating to the respect of human dignity, protection of minors and restricting excessive violence in broadcasts. A decision concerning the right to reply was adopted in April 2001.

A strategy for culture was established in 2000, but results have been limited despite the fact that a number of cultural managers were trained to implement the strategy.

#### *Overall assessment*

Adoption of the main legislation related to the audio-visual sector remains pending.

The debate on the new audio-visual framework law, which has been on-going since 1998, proved inconclusive. Following the breakdown in discussions, the Ministry of Culture and Religious Affairs, the Ministry of Communications and Information Technology, and the National Audiovisual Council have been charged with elaborating a completely new law that fully covers all aspects of the *acquis*. The deadline for the adoption of this law has been set for March 2002. In order for this deadline to be respected, it will be important to ensure due co-operation between the various bodies involved in the sector.

Romania has signed but not yet ratified the Council of Europe Convention on Transfrontier Television. Upon ratification Romania will be bound, as well, by the Protocol amending the Convention.

Romania's obligations under the GATS agreement – which are not in line with the obligations that Romania will have to take on under the *acquis* and the obligations that it already has through the implementation of the Europe Agreement - still need to be clarified.

### ***Chapter 21: Regional policy and co-ordination of structural instruments***

Some progress has been achieved in preparing for the implementation of structural policies since the last Regular Report.

No further developments can be reported as regards the **territorial organisation**.

Concerning Romania's **institutional structures**, the National Agency for Regional Development was disbanded following the change of government, and the main responsibilities for regional development were moved to the newly created Ministry of Development and Prognosis. Two of the Ministry's five state secretaries are in charge of regional policy: the State Secretary for Investment and Regional Development (responsible for programming and management), and the General Secretary (responsible for payments).

In the field of **financial management and control**, Romania has made some progress. The Ministry of Development and Prognosis has developed its own payment and accounting procedures for financial management and a Payment Directorate Office has been established as a separate function from the General Directorate for Regional development. No developments can be reported concerning preparation for a multi-annual budgeting system.

The **legislative framework** has been amended to reflect these changes. Government decisions of January and April 2001 have defined the Ministry of Development and Prognosis's role as the central body responsible for co-ordinating the national development policy, drawing-up the National Development Plan, managing the National Fund for Regional Development, and managing EC pre-accession funds for social and economic cohesion. The Minister of Development and Prognosis chairs the National Board for Regional Development.

Two Government decisions have been taken concerning the definition of territories with special development problems: one modifies and adapts the criteria for "less favoured areas", and the other establishes eleven industrial restructuring zones as priority areas for EC economic and social cohesion assistance. Three related laws were passed in April and July 2001. The law on local public administration defines new responsibilities for local authorities and gives a co-ordination power to the local representative of the central government (the prefect). The law on the State Budget provides for state co-financing of pre-accession funds.

The National Agency for Employment was designated as the body responsible for the implementation of the European Social Fund. In order to ensure the smooth implementation of future ESF-type programmes, the administrative capacity of this agency needs to be strengthened and co-ordination with the Ministry of Development and Prognosis improved.

Regarding **programming**, the National Development Plan is in the process of being revised.

Administrative capacity improved over the reporting period, mainly through improved training, although significant weaknesses remain. As a new institution, the Ministry of Development and Prognosis experienced delays in filling several key positions, defining responsibilities and organising internal work. Substantial efforts have been made to strengthen the Regional

Development Agencies' administrative capacity - both in terms of staff training and office facilities. This said, insufficient financial resources and inadequate premises remain a problem.

No major developments can be reported with regard to the application of the **partnership principle, monitoring and evaluation and regional statistics.**

### *Overall assessment*

While Romania has developed some structures for the implementation of the Structural Funds many issues still need to be tackled.

Romania has already agreed with EUROSTAT on a national territorial organisation for statistical purposes. The territorial classification consists of 42 *judets* (similar to NUTS 3) and of 8 groupings of *judets*, termed "development regions" (similar to NUTS 2).

There is still a need to clearly define the responsibilities of ministries and all other bodies involved in the preparation of future Structural Funds assistance - both at national level and regional level. Romania needs to ensure that the structures for inter-ministerial co-ordination are efficient and based on a political consensus. In this context, the newly created Ministry of Development and Prognosis needs to be given greater authority.

While new legislation foresees that administrative structures will be put in place at the regional level, these structures' role in programme development and implementation needs to be further clarified. Regional development institutions also need to be strengthened in terms of the recruitment of sufficient numbers of qualified staff and the allocation of sufficient financial resources by local authorities. At the central level, the Payment Directorate is currently understaffed, and better-qualified and better-trained staff are needed in the bodies involved in the programming, management and implementation of Structural and Cohesion Fund assistance.

Concerning the European Social Fund, Romania is slowly developing the necessary structures and operational arrangements to implement the European Social Fund. Substantial efforts are still required to improve both administrative capacity and the mechanism for co-ordinating European Social Fund interventions in the context of the European Employment Strategy and the Social Inclusion Process.

As regards programming, in order to match sectoral and regional approaches inter-ministerial co-ordination needs to be made more effective and comprehensive. Genuine partnership structures at the regional level, including regional/local authorities, the economic and social partners and other relevant organisations need to be established.

With a view to preparing for Structural and Cohesion Funds, substantial progress is needed with the technical preparation of projects (project pipeline).

In the field of financial management and control the newly established internal audit departments need to be strengthened. The training of internal auditors should be a priority. Appropriate systems and procedures for financial management and control should be established in relation to the structure of the managing and paying authorities, in order to fulfil the specific requirements of the Structural Funds regulations.



Significant work is still necessary to ensure compliance with the *acquis* requirements for monitoring and evaluation. Particular priorities are ex-ante evaluation of the National Development Plan and the collection of the relevant statistical information and indicators. The timely availability and effective functioning of a monitoring and evaluation system will be of central importance for the efficient implementation of the Structural Funds.

As regards regional statistics, further efforts are necessary to bring them up to the level required for regional policy planning and programming.

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

Since the last Regular Report, Romania has made progress with ratification of international conventions, elaboration of action plans for alignment, and adoption of some elements of the *acquis*.

With regard to the **integration of the environment with other policies**, no significant progress has been achieved. The Ministry of Water and Environment Protection has experienced difficulties assuming its co-ordination role and the inter-ministerial committee, established two years ago, has not met since the end of 1999.

In the field of **horizontal legislation**, Romania ratified the Convention on environmental impact assessment in trans-boundary contexts (the Espoo Convention). Ratification of the Agreement on the participation in the European Network for Information and Observation is in the final stage. Romania has also ratified the Kyoto Protocol on climate change. While these are positive developments, Romania is still some way from complying with EC requirements in other key areas - in particular with the legislation on environmental impact assessments.

Substantial legislation aiming at transposing the *acquis* on **air quality** has been adopted: an emergency ordinance on air protection was promulgated, guidelines for air polluting emissions inventories were established and a governmental decision on the reduction of the sulphur content of diesel fuel was taken.

On **waste management**, limited progress has been achieved in the legislative field, with three emergency ordinances adopted on waste arrangements, on the management of recycled industrial waste, and on the procurement of metal and non-ferrous waste.

In the field of **water quality**, a National Plan for the prevention of water pollution by nitrates from agriculture has been drawn up and adopted. Romania is also in the process of identifying and selecting areas to be classified as sensitive areas as regards urban wastewater. This process is of great importance given the costs that will be involved in proper implementation. Romania has also adopted a regulation for the organisation and functioning of water basin committees in line with the requirements of the recent water framework directive.

On **nature protection**, in order to transpose the directives on the conservation of natural habitats, of wild fauna and flora, and on the conservation of wild birds, an emergency ordinance has been adopted and published. In addition, an Order of the Ministry now establishes the permitting procedures for the harvest, capture, purchase and commercialisation of wild flora and fauna. Efforts are needed to prepare for the NATURA 2000 network.

As regards **industrial pollution control and risk management**, no progress has been made, only an inventory of the enterprises that will be concerned by this legislation is under

preparation. The importance of legislation in this area is demonstrated by the numerous industrial pollution accidents that occurred during the reference period.

With regard to **chemicals and genetically modified organisms**, an emergency ordinance on classification, labelling, packing, and packaging of hazardous chemical substances has been adopted. Romania also adopted the provisions of several Amendments to the Montreal Protocol on substances that deplete the ozone layer.

As far as **noise** is concerned, only a Government Decision intended to transpose the Directive on airborne noise emitted by household appliances has been adopted.

No progress has been recorded in the field of **radiation protection**, (*see also chapter 14 – Energy*), where the level of alignment is quite limited.

As regards *administrative capacity*, the Ministry of Water and Environmental Protection is responsible for drawing up of environmental policy. The Ministry has been reorganised once again but there has been no improvement at the level of staffing, who still number 170. Implementation of environmental policy lies with the 42 local authorities (counties). Since the last report, the Environmental Protection Inspectorates in the counties have had their staff cut by over 20% (there are now 1680 employees working for the Environmental Protection Inspectorates plus around 200 additional staff in the environmental radioactivity surveillance network).

The budget allocated for environment has been slightly increased, but remains extremely low: it reached around €73 million in 2001, which represents less than 0.4% of GDP (the average figure for EU Member States is approximately 1.5%).

### *Overall assessment*

Romania still has a long way to go before being in line with the *acquis* in the field of environment policy: the overall level of transposition and implementation of the environmental *acquis* still remains low. Whereas transposition has advanced, the development of the administrative capacity in 2001 has led to increased uncertainty about Romania's enforcement capacities in this sector.

On the one hand, the determination exists in the Ministry of Water and Environment to harmonise Romanian practices with the environmental *acquis*. In this respect, progress has been achieved and several pieces of legislation transposing the *acquis* were adopted in 2001, or are now before Parliament for final approval. The top priorities for the next year should be the transposition of legislation on environmental impact assessment and industrial pollution control and risk management. Particular emphasis needs to be put on the development of implementation plans, including financing strategies and institutional strengthening.

On the other hand, there have been no improvements in creating the administrative capacity to enforce the newly adopted legislation. Furthermore, the resources allocated to environment in Romania are insufficient to address the environmental problems the country faces. The situation is made worse by the fact that domestic institutions have a relatively short experience in the field of environmental protection, especially as regards transposition of legislation and application of economic instruments.

At the local level, the staff allocations for policy implementation have been reduced and the self-financing mechanism set up last year has only generated one quarter of the expected revenues. Co-ordination at regional level is non-existent. At the national level, the budget devoted to

environmental protection is insufficient, and the Environmental Fund is unlikely to be operational in the short term.

Romania should make the environment one of its priorities for accession and considerable investments need to be secured, also in the medium-term, to ensure implementation of the environmental *acquis*.

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

In the field of consumer protection, the intensive legislative work noted in the last Regular Report has continued.

On **safety related measures**, no new measures can be recorded. As regards **non-safety related measures**, modalities regarding price indication were established and a law on unfair contract terms was adopted. In terms of **administrative structures**, the National Authority for Consumer Protection (NACP) replaced the Office for Consumer Protection. This reorganisation has resulted in the number of posts being cut from 770 (of which 668 were filled at that time) to 600. Currently still 612 posts are filled. A five-year strategy for the NACP was adopted in June 2001.

The National Authority for Consumer Protection has the right of initiative in consumer protection and co-ordinates Government policy in the field. As regards **market surveillance** it has the right to impose sanctions, which can take the form of fines, definite or temporary prohibition of marketing of the product or service or imposing withdrawal from the market and it actively exercises this right. However, the authority cannot order refunds or compensation, since it only acts as an administrative body.

The National Authority for Consumer Protection functions as the contact point for TRAPEX (Transitional Rapid Exchange of Information System). Under TRAPEX, 22 notifications of dangerous products on the Romanian market were received between January and August 2001.

During the period between September 2000 and August 2001, 9 371 out of the 17 205 consumer complaints received by the authority were judged admissible. Consumer associations submitted 398 complaints.

The National Authority for Consumer Protection actively provides consumer and legal advice. A web-site has been established and complaints can now be submitted online.

Consultative Councils of consumers at county and local level are functioning, but the Inter-Ministerial Committee for Markets, Products and Services Surveillance, which was established in 2000, has only met once and its functioning has recently been reviewed. As a result of the review, the consumer organisations are no longer represented as formal members of the Committee. This can be considered a negative development, especially as one of main objectives of the Committee is co-operation with the civil society. Co-operation with other bodies involved in consumer protection issues could be further strengthened, as well.

There are 127 consumer associations in Romania, organised into 16 federations and one confederation. These have the right to be consulted on legal acts and receive some funding from the state budget. However, the extent to which active consultations are carried out remains

unclear. The degree to which some of these organisations are genuinely representatives of consumer interests should also be examined.

### *Overall assessment*

Romania has successfully managed an ambitious legislative agenda in the field of consumer protection over a relatively short time period. However, adjustments are still necessary in order to align fully with the *acquis* and in some areas the *acquis* have not yet been transposed (consumer credits, time-share, injunctions, sales of consumer goods and associated guarantees) or is only partly transposed (product liability). As regards legislation that was recorded in last year's Regular Report, the law on advertising is partially in line with the *acquis*. While addressing these gaps, Romania should also place particular emphasis on the implementation of existing legislation.

The adoption of the five-year strategy for the National Authority for Consumer Protection represents progress, although concrete measures to implement it have still to be established. Recent staff cuts may have an impact on the well-established control and monitoring activities, which are crucial for the implementation of activities in the field of consumer protection.

Romania should pay further attention to clarifying the roles of different bodies involved in consumer protection and enhancing co-operation between them. This will be necessary in order to establish a clear market surveillance mechanism and to avoid overlapping activities. The support for and concrete involvement of consumer organisations in decision-making, as well as full enforcement of consumers' rights, should be ensured.

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

Since the 2000 Regular Report, significant progress has been made in Romania in the fields of visa policy, border control and migration. However only limited progress can be reported on police co-operation and the fight against fraud and corruption.

Romania has not yet adopted legislation on **Data Protection**.

As far as **visa policy** is concerned, the conditions and criteria for obtaining visas have been specified in methodological norms implementing the new Law on Aliens and in common instructions agreed by the Ministry of Foreign Affairs, the Ministry of Interior and the Ministry of Labour. The new Law on Aliens and the provisions on visas were adopted in April 2001. Particularly strict conditions are applied to citizens of 86 countries with high migratory tendencies. Since 1 January 2001, visas can, as a rule, only be obtained from Romanian diplomatic missions and consular offices. They are only issued at border posts in exceptional cases. Since 1 July 2001, Moldovan citizens have needed to have a passport to enter Romania.

All visa applications are sent from the diplomatic or consular missions to the National Visa Centre, which takes the final decision on the issuing of a visa. The applications from nationals of countries with high migration tendencies are also sent, for a further check, to the Directorate for Aliens and Migration Issues of the Ministry of Interior. A new Schengen-compatible type of visa application form has been introduced.

Significant progress has been made in alignment with, and implementation of, the *acquis* in the field of control of **external borders**. Two emergency ordinances were adopted in June 2001, one on the Romanian State Border and another on the organisation and functioning of the Border Police. The former contains general provisions on the border regime and aligns Romanian legislation in the field of border control with similar legislation in EU Member States. The ordinance on the Border Police establishes a new organisational structure and sets up the framework for co-operation between the Border Police and other agencies. It also contains provisions on the competences of the individual border policemen.

A Government Decision was adopted in April 2001 on the exchange of existing passports for a new type of passport with additional security features.

As regards administrative capacity, a new organisational structure was introduced in June 2001. The hierarchical structure has been simplified and one regional level of command has been abolished. The number of Regional Directorates has been decreased to one for each land border and one for the Black Sea. Significant numbers of personnel have been reassigned from administrative to operational tasks. The professionalisation of the border police, i.e. the progressive replacement of conscripts with professional staff, has continued. The newly recruited sergeants get initial training for a period of three months at regional Border Police training centres.

Several measures have been taken to fight corruption amongst the Border Police. Following the entry into force of the new law on fighting corruption (May 2000), a specialised service, the General Internal Protection Directorate, was set up within the Ministry of Interior. This new structure, which became operational in January 2001, is one of the results of a recently developed anti-corruption strategy for the Ministry of Interior and its subordinate bodies. One of the tasks of this new structure is to carry out preventive and *ad hoc* inspections of Border Police structures.

In February 2001 a co-operation protocol was signed between the Border Police and the National Office for Refugees with the purpose of carrying out joint controls at airports. The controls focus on transit travellers coming from high-risk migration destinations.

To make controls of travel documents and visas more effective, a co-operation protocol was signed in May 2001 between the General Inspectorate of Border Police and the national airline (TAROM). The protocol provides for special training programmes on the detection of false or forged documents for airline staff.

Training activities have been carried out as regards preparations for the **Schengen** Agreement. Otherwise there have been no significant developments in this area.

As regards **migration**, a new Aliens Law entered into force in May 2001, establishing the conditions for entry and stay in Romania as well as the regime for expulsions. As indicated, the Government also adopted the 'methodological norms' to implement the above-mentioned law. These norms contain detailed provisions specifying the procedures for applying the law as regards checking of documents, issuing visas, granting residence rights and expelling aliens.

Recently adopted legislation has also tightened the conditions for obtaining work permits in Romania. A necessary pre-condition is the possession of a work visa (i.e. persons having a student visa are therefore no longer allowed to obtain a work permit).

The Government has signed an agreement with the International Organisation for Migration, to establish a centre offering temporary protection for women victims of trafficking as well as managing programmes supporting their reintegration into society.

In 1998, 2,830 foreigners were expelled for not complying with the conditions of entry and stay in Romania. This number increased in 1999 to 3,431 aliens, but then decreased to 2,498 in 2000.

As regards **asylum**, the Refugee law of 1996 was amended through a government ordinance in August 2000. In June 2001, Parliament definitively approved this ordinance after certain changes had been made. The amended law introduces new concepts in Romanian legislation on asylum in order to align it with the *acquis*, such as 'manifestly unfounded applications', 'safe third country', 'country of origin', and 'accelerated procedures'. 'Non-refoulement' is, in principle, guaranteed. The body responsible for dealing with asylum applications is the National Office for Refugees, whose decisions can be appealed against before a court of law. However, when Parliament adopted the government ordinance it eliminated the right to a second appeal in cases of accelerated procedures.

Following the new legislation, measures have been developed to ensure minimum standards of reception for all asylum seekers during the whole procedure. As far as recognised refugees are concerned, they have a right to nine months of public financial support. Additional support is provided for particular categories of refugees, such as unaccompanied minors, elderly people, and single women with children. Refugees basically enjoy the same rights as Romanian citizens, including the right to work. The National Office for Refugees has a modern accommodation centre for asylum seekers located in Bucharest with a capacity of 250 places. However, due to lack of resources, accommodation centres for asylum-seekers are not fully equipped and have a shortage of staff.

According to the Romanian authorities, the number of people applying for asylum in Romania decreased from 1,667 in 1999 to 1,366 in 2000. Asylum seekers in Romania come mainly from Afghanistan, Bangladesh, India, Iran, Iraq and Pakistan. Most of the applicants (95%) apply for asylum as soon as they enter the country.

In the field of **police co-operation and the fight against organised crime**, the structures dealing with organised crime within the General Inspectorate of the Police have been reorganised and the Directorate for Combating Organised Crime has become a General Directorate for Combating Organised Crime and for Anti-drugs. The process of bringing the police under civilian control has continued and the police have received training courses on the respect of human rights. Police numbers at central level have been reduced and these posts have been transferred to operational levels (*see Section B. 1.1, Democracy and the rule of law*).

As far as the **fight against fraud and corruption** is concerned, a section for anti-corruption and related organised crime at the General Prosecutor's Office was established in October 2000 (*see section B.1.1. - Democracy and the rule of law*).

In the field of **drugs**, after the adoption of the law on the fight against trafficking and illicit consumption of drugs, no further important legislation has been adopted. However, in December 2000 secondary legislation for enforcement of the aforementioned law was adopted.

An Anti-drug Squad was established in March 2001 within the General Inspectorate of the Police. After a peak in 1998, drugs seizures decreased significantly during 1999 and 2000.

The current legislation on **money laundering**, has been supplemented with new legal acts (*see also Chapter 4 - Free movement of capital*). The Penal Code and Penal Procedure Code have been amended and the responsibility for judging crimes relating to money laundering has been passed to the tribunals (the second level of jurisdiction in the Romanian court system). The National Office for Preventing and Fighting Money Laundering Operations has carried out training sessions for its own staff and the personnel of the reporting entities.

In 2000, the National Office for Preventing and Fighting Money Laundering Operations sent 130 reports to the General Prosecutor's Office. Investigations have been started in 87 cases and 3 cases have been sent to court for trial. Eight seizure orders have been issued in money laundering investigations on related properties to a value of €2.5 million. Although the National Office for Preventing and Fighting Money Laundering Operations is functioning well, the criminal investigations and court proceedings in money laundering cases have not yet led to any convictions.

As regards **customs co-operation**, no mutual assistance agreements have been signed since the last report. An Anti-fraud Service was established in January 2001 in the Directorate for Customs Surveillance and Fighting Customs fraud within the General Customs Directorate.

On **judicial co-operation**, no major conventions have been ratified since the last Regular Report. A Ministerial Order of November 2000 established the legal framework for a network of judges to function as local correspondents in the field of international judicial assistance.

### *Overall assessment*

While important legislation has been adopted recently, in particular on border control and on the aliens regime, much remains to be done on legal approximation and strengthening administrative capacity. Particular attention should be paid to speeding up the reform of the national police and the recent anti-corruption law should be followed up by measures to strengthen the capacity to enforce the legislation.

Legislation on personal **data protection**, data protection and privacy in the telecommunications sector, and on the ratification of the European convention on Data Protection, is pending in Parliament. It is envisaged that the Romanian Ombudsman will be the implementing and supervisory body, although it is questionable whether the modest budget allocations will allow the ombudsman to successfully carry out this additional responsibility.

Romania has also made significant progress in aligning its **visa policy** with that of the European Union. There are 156 countries whose citizens need a visa to enter Romania, while nationals of 35 countries, including the EU Member States, are exempted from the visa requirement. Further alignment with the EU visa policy should continue, in particular with regard to the introduction of visa obligations for countries with high migration potential.

In order to improve identity checks and detect attempts to misuse visas, a Schengen-type visa sticker will need to be developed and Romania should also rapidly implement the upgrading of existing passports. As regards **external borders**, the reorganisation and modernisation of the

Romanian Border Police is ongoing and is yielding its first results in terms of improved efficiency and practices. However, inter-agency co-operation between border management agencies should be further improved and efforts to combat corruption increased.

The Border Police currently has 23,000 staff made up of both professionals and conscripts. The ongoing replacement of conscripts with contract staff is to be completed by the end of 2002. Plans to reform the training programmes for different categories of border police staff still need to be implemented.

Considerable investments have been made in surveillance equipment and further investments are foreseen. Border posts still need to develop an on-line connection to the central database on immigration.

Romania should start the preparations for participation in the **Schengen** area and develop a Schengen Action Plan.

Romania has concluded readmission agreements with all Member States except the United Kingdom and Portugal. These agreements are all in force, except the agreements with Finland and Ireland, which have been signed but not yet ratified. In addition, 6 readmission agreements with candidate countries (Poland, Slovakia, the Czech Republic, Slovenia, Hungary and Bulgaria) are in force. There are also agreements with Switzerland, India, Croatia and Moldova. The Romanian Government has re-negotiated the readmission agreements with Sweden, Slovenia and Hungary in order to update and align them with the relevant EU recommendations and standards. For the same purpose the agreement with Austria is in the process of negotiation.

The amended Refugee Law has considerably improved the alignment of the **asylum** legislation. However the provisions on detention of rejected asylum seekers need to be further clarified. Romania also needs to develop country-of-origin information and there is still scope for improving accommodation conditions for asylum-seekers.

In the field of **police co-operation and the fight against organised crime** new legislation on Police Organisation and Operation and on the Statute of Policemen were approved by the Government and are pending in Parliament. This legislation will form the legal basis for the demilitarisation of the police, which will be essential in order to increase the democratic control and the accountability of the police forces. Discussions with EUROPOL for concluding a co-operation agreement have not yet started. A prerequisite for the negotiations is the adoption of a data protection law.

Very limited progress has been made with the **fight against fraud and corruption**. Far greater efforts are needed to create an efficient implementing capacity and to improve inter-institutional co-operation in this area.

In order to ensure the protection of the financial interests of the European Communities Romanian should, as a matter of priority, align its legislation with the 1995 Convention on the Protection of the Financial Interests of the European Communities and its protocols.

The Romanian authorities have applied for full membership of the OECD Working Group for Combating Corruption in International Commercial Transactions. The council of Europe Civil and Criminal Law Conventions on Corruption remain to be ratified.



Romania is a party to all international conventions listed under the *acquis* in the field of **drugs**, with the exception of the 1995 Agreement on Illicit Traffic by Sea. The national drug strategy should be further developed to cover both drug demand and drug supply reduction. The Inter-ministerial Committee for Fighting Drugs should be made fully operational. The capacity of the law-enforcement agencies, especially the police and customs, should be increased. Further efforts are required to improve the collection and availability of information on drug-related issues. The creation of the National Drug Information Focal Point, in accordance with EMCDDA (European Monitoring Centre for Drugs and Drug Addiction) requirements, should be completed.

As regards **money laundering**, Romanian legislation is, to a great extent, already aligned with the *acquis*, although the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds of Crime still has to be ratified. Sufficient financial means and training should be given to the National Office for Preventing and Fighting Money Laundering Operations. The capacity of the Office to co-operate with other law-enforcement agencies should be strengthened, in particular with the police and prosecutors. Specialised training should be organised for police officers and prosecutors dealing with money laundering issues.

Romania has made progress on **customs co-operation** by setting up the Anti-Fraud Service within the General Customs Directorate. Inter-agency co-operation needs to be improved and mutual assistance agreements signed. Areas where good progress has been made are the development of risk analysis and the development of a national computerised database in line with CIS standards. However, other methods for fighting fraud and corruption should still be developed, including the introduction of mobile surveillance units, the development of customs laboratories and the attribution of powers to customs personnel to carry out controls and enforce compliance.

As far as **judicial co-operation** is concerned, Romania has ratified most of the international conventions included in the *acquis*. The following conventions need still to be ratified: the Hague Convention of 1965 on Service of Documents; the Hague Convention of 1970 on the taking of Evidence Abroad; the Hague Convention of 1980 on International Access to Justice; the European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children.. Further efforts will be required in order to ensure the appropriate level of co-operation in civil matters, notably as regards mutual recognition and enforcement of judicial decisions, and direct court-to-court dealings in cross-border situations.

All the **human rights** legal instruments covered by the Justice and Home Affairs *acquis* have been ratified by Romania, with the exception of the 1981 Council of Europe Convention on the protection of individuals with regard to automatic processing of personal data. Legislation for its ratification is pending in Parliament.

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

Good progress has been made by Romania in the field of customs since the last Regular report.

As regards alignment between the Romanian legislation and the **EC Customs Code and its implementing provisions**, further progress has been achieved in areas including simplified procedures, inward processing, duty relief, customs value, counterfeit and pirated goods, and transit.

Regarding the **customs *acquis* outside the Customs Code**, legislation was passed in October 2000 harmonising Romanian laws on the protection of cultural goods with those of the EC. In November 2000, legislation on protection of intellectual property rights was also harmonised. In December 2000, the printed form of the Romanian Customs Integrated Tariff (TARIR) was finalised. This document uses the same principles of codification and integration as the EC Integrated Tariff (TARIC).

Progress has also been made in improving the **administrative and operational capacity** to implement the *acquis*. The ASYCUDA system (a computerised customs system) is operational and currently processes 98% of all customs declarations. The Integrated Customs Information System (ICIS) has been designed, developed and implemented taking into account interconnectivity with EC IT systems. The opening of the National School of Public Finance in October 2000 represented an important step towards upgrading the training of customs officials.

At the beginning of 2001, the Romanian customs administration was reformed. The new structure includes an Internal Control and Audit Division in charge of ensuring the regularity of customs operations and detecting fraud. Considerable efforts have been made to introduce IT-based systems for risk analysis. A Risk Analysis Office has been set up and specialist staff have been appointed to carry out risk analysis both at central and regional levels. Co-operation protocols have been concluded with other agencies with border-related competencies such as the border police, the national police and the financial guard. The reform also introduced a new system for appeals against administrative decisions in customs matters.

Considerable efforts have been made in order to secure the Northern and Eastern borders. Substantial investments have been made in upgrading border infrastructure and in purchasing equipment for customs enforcement and control. A drug-testing laboratory has been set up within the General Customs Directorate. For the control of other kind of goods, the customs administration has concluded agreements with external laboratories.

### *Overall assessment*

Although Romania has adapted large parts of its legislation to the customs *acquis*, efforts are still needed, in particular with regard to rules of origin and the status of free zones. Further harmonisation is also needed in the cases of simplified procedures, end use provisions, and precursors.

Romania should continue its efforts to tackle the problem of waiting times at borders, step up the fight against customs fraud, and further improve co-operation with other enforcement bodies.

Romania is a signatory to the major international customs agreements and is an observer in working groups of the Common Transit System. Free Trade Agreements with Latvia and Estonia still need to be finalised; this is important in order to allow the full integration of Romania into the pan-European system of origin cumulation.

As regards administrative and operational capacity to implement the *acquis*, Romania should increase its efforts to combat corruption within the customs administration. Border management should be improved and customs laboratories established. With regard to IT development, it

must be emphasised that flawlessly functioning EC-compatible IT systems should be in place at least one year before EU accession in order to allow a sufficient period of time for the test requirements and to guarantee interconnectivity with the EC customs computerised systems.

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

Romania has continued to align itself with the *acquis*, in most cases, and to co-ordinate positions and policies within the World Trade Organisation with those of the EU, in particular with regard to the preparation of the New Round. However, several new trade measures have represented a move away from EC practices.

As regards the **common commercial policy**, Romania will be required to align its tariffs with those of the EC upon accession. Romania's applied tariffs currently average 19.4% on all products, 33.2% on agricultural products, 21.4% on fishery products and 15.6% on industrial products. By comparison the EC tariffs<sup>24</sup> currently stand at 6.3% on all products, 16.2% on agricultural products, 12.4% on fishery products and 3.6% on industrial products.

Over the reporting period, Romania has increasingly resorted to trade policies that are incompatible with its international obligations. In response to pressure from domestic producers, Romania introduced export restrictions on strategic raw materials (logs, sunflower seeds and scrap metal – although in the case of sunflower seeds the restrictions have not been implemented). This is not only a move away from the *acquis* in the field of commercial policy but potentially violates Romania's obligations under both the Europe Agreement and the WTO. Romania should also honour its commitments under the WTO Agreement on Subsidies and Countervailing Measures and abolish the export subsidies it currently maintains in the form of reduced taxation on profits from exports (*see chapter 10 - Taxation*).

As regards **bilateral agreements with third countries**, Romania has finalised negotiations for a FTA with Lithuania and has started negotiations with Croatia. Romania's FTA with Israel entered into force in July 2001. Within CEFTA, the member countries, including Romania, signed Additional Protocol No. 8 on the updated version of the Pan-European cumulation of origin of goods (*see chapter 25 – Customs Union*).

In January 2001 the responsibility for commercial policy was transferred from the Ministry of Industry to the Ministry of Foreign Affairs (the Department for Foreign Trade and Economic Promotion). This reorganisation resulted in a reduction of staff dealing with trade policy as well as a reduction in the number of commercial counsellors in Romania's diplomatic missions. The Department for Foreign Trade has exclusive powers in certain policy areas (e.g., trade defence instruments), a co-ordination role in other areas (e.g. international trade negotiations), and an overall responsibility for ensuring that legislation drawn up by other government departments compatible with Romania's overall trade policy.

As regards **development policy and humanitarian aid**, Romania has neither institutions nor a policy framework for managing external assistance. Romania has, however, consistently provided emergency assistance following natural disasters in other countries.

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<sup>24</sup> WTO bound tariffs after full implementation of all concessions including - where possible - estimated *ad valorem* equivalents of specific and compound tariffs.

## *Overall assessment*

Where alignment with the Community *acquis* on commercial policy is necessary - for example concerning rules of origin and dual-use goods – Romania is advanced. . However, breaches of the Europe Agreement and WTO commitments are a serious cause of concern.

The EC and Romania have established a framework for co-operation regarding WTO issues both at ministerial and at departmental level. Romania has been supportive of EC policies and positions within the WTO framework. As regards the New Round, Romania concurs with the EC on the need to launch a comprehensive trade round as soon as possible and shares the view that the results of work under the built-in-agenda would be less substantial in its absence.

Romania is a signatory to the WTO plurilateral agreements on Civil Aircraft and Information Technology. By the time of accession Romania will need to have joined the WTO plurilateral agreements on Government Procurement. Further co-operation is also needed to ensure alignment of Romania's GATS commitments with EC commitments and MFN exemptions.

As regards the WTO Agreement on Trade in Textiles and Clothing (ATC), Romania needs to use the third stage of integration under the ATC to align its integration programmes with those of the EC, while avoiding the integration of products not yet integrated by the EC.

Romania lacks enforceable legislation on trade defence instruments (anti-dumping, anti-subsidy, and safeguards) and has no provisions relating to the application of an "injury test" as part of anti-dumping and countervailing investigations. The result of this legal vacuum is that Romania has not made use of trade defence instruments as a part of its commercial policy. While not a problem in itself, there is a risk that, in the absence of conventional control mechanisms, otherwise legitimate requests for protection by Romanian producers will be met through other instruments - such as non-tariff barriers.

Romania is a member of CEFTA and has concluded FTAs with the Republic of Moldova, Israel, Turkey and EFTA. Any international agreement which is incompatible with the obligations of membership will have to be re-negotiated or renounced prior to accession. Romania should continue to keep the Union fully informed about existing trade agreements or negotiations aimed at the conclusion of any new trade agreements with a third country. This also applies to Bilateral Investment Treaties concluded with third countries.

With regard to medium and long-term export credits, further alignment with the *acquis* is necessary.

Despite significant staff cuts the Ministry of Foreign Affairs has sufficient personnel to manage Romania's commercial policy.

In principle, the transfer of responsibility for commercial policy to the Ministry of Foreign Affairs should have had the benefit of distancing trade policy from vested domestic interests. However, this has not happened and there have been several instances of trade measures that are incompatible with Romania's international commitments being adopted without properly consulting the responsible ministry. In order to prevent a repeat of these problems, the trade department of the Ministry of Foreign Affairs urgently needs to improve its control over the formulation of its trade policy. Development and humanitarian aid are also administered by the Ministry of Foreign Affairs. Romania's future contribution to the European Development Fund

will rely upon effective management of the national budget organisation and management of the flow of funds to the EC budget. These issues are addressed under *Chapter 29 – Financial and budgetary provisions*.

The administrative infrastructure concerning customs services is addressed under *Chapter 25 - Customs union*.

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

Over the reporting period Romania has continued to align its foreign policy with that of the European Union and has participated constructively in the framework of the Common Foreign and Security Policy (CFSP).

The regular **political dialogue** established by the Association Agreement with Romania is proceeding smoothly and Romanian participation in the CFSP has included meetings at the level of Political Directors, European Correspondents and Working Groups.

Romania has shown a keen interest in continuing the political dialogue with the EU including European Security and Defence Policy (ESDP) developments. It has actively participated in the exchanges in this context with the EU and, for ESDP, in the EU+15 format meetings (i.e. with non-EU European NATO members and candidates for accession to the EU). Romania played an active role in the first Capabilities Commitment Conference in November 2000 and, in March 2001, held bilateral consultations with the EU on its participation in ESDP missions. It has pledged forces to EU Rapid Intervention Force missions from 2003 (including two battalions of ground troops, three specialised companies, and four ships).

Since the last Regular Report, Romania has responded positively to all invitations of association with EU **joint declarations and demarches**. Since October 2000, Romania has associated itself with 8 EU common positions, including 3 on the Federal Republic of Yugoslavia. Romania has also implemented those joint actions which it was invited to join and has aligned itself with the Union's decisions on **international sanctions and restrictive measures** and has implemented negative measures in accordance with those adopted by the EU.

Romania has been Chair-in-Office of the OSCE in 2001. This important responsibility was successfully carried out by the Ministry of Foreign Affairs and during its chairmanship Romania co-operated effectively with the EU institutions.

Romania's relations with neighbouring countries have been mixed. High level visits confirmed a spirit of co-operation between Romania and the new Bulgarian government and Romania participated in the trilateral summit with Bulgaria and Turkey in February 2001. Diplomatic relations were resumed with Yugoslavia following an official visit from the Yugoslav President. Romania established the Euro-Regio "Upper Prut" together with Ukraine and the Republic of Moldova. However, border demarcation negotiations with Ukraine have proved controversial due to the Ukrainian decision to authorise oil and gas exploration in one of the areas covered by the negotiations. Relations with Hungary have encountered difficulties concerning Hungarian legislation granting preferential status to ethnic Hungarians living in selected third counties (including Romania).

The Ministry of Foreign Affairs was restructured after the new Government took office and alignment with the CFSP is managed within its Department for Multilateral Affairs.

In the field of arms exports control, the National Agency for the Control of Strategic Exports and the Prohibition of Chemical Weapons (ANCESIAC) was established as a body within the Ministry of Foreign Affairs. This measure is aimed at improving the implementation of existing export controls. In a separate development, the Ottawa Convention on landmines was ratified in November 2000 and entered into force in May 2001.

### *Overall assessment*

Romania has demonstrated a good track record in the Common Foreign and Security Policy and there have been no problems regarding Romania's alignment with the CFSP *acquis*.

Romania has subscribed to the EU Code of Conduct on Arms Exports and continues to respect and implement those aspects of the Code that are applicable to candidate countries.

On the regional level Romania has maintained an active role in the Stability Pact. Romania has also made considerable efforts to support international peacekeeping missions and has participated in KFOR and a series of UN, OSCE and WEU (MAPE) peacekeeping and observer operations. The Romanian contribution includes 6 military personnel in KFOR, 62 military and 49 support staff in the Dutch Unit in SFOR, and 70 police officers in UNMIK (Kosovo).

The successful management of the OSCE Presidency provides a clear demonstration of Romania's capacity to assume an international leadership role in the field of foreign affairs. Romania has a well-staffed and functioning Ministry of Foreign Affairs that has sufficient administrative capacity to implement the provisions relating to CFSP. The effectiveness of the ministry was demonstrated by its efficient chairmanship of the OSCE. The Ministry is connected to the Associated Correspondents' Network information system through which the EU communicates within the CFSP with the associated partners.

### *Chapter 28: Financial control*

Romania has made some progress in this area during the period covered by the Regular Report.

As regards **Public Internal Financial Control**, the Ministry of Public Finance further developed the ex-ante financial control function during the reporting period, through legislative acts defining the methodology for both own and delegated ex-ante control. No particular development can be reported in the area of internal audit.

The Romanian Court of Accounts is the institution responsible for **external audit**, reporting to Parliament on the financial management and control of public funds exercised by government. The Court has begun to prioritise the development of systems-based and performance-audit methodologies. The staffing levels of the Court have been considerably reduced.

With regard to preparation for **control of structural action expenditure**, some progress has been made in the creation of structures for the control and audit of SAPARD funds but substantial efforts are needed in order to meet the requirements for the accreditation of the

SAPARD Paying Agency and the National Fund. An Order of the Minister of Finance has been issued concerning the organisation of delegated preventive financial control for ISPA funds. No specific progress can be reported concerning audit of ISPA and Phare funds and preparations for extended decentralisation in the management of these programmes.

No progress can be reported either in the field of the protection of **EC financial interests**.

### *Overall assessment*

Further substantial efforts are required in order to complete the policy framework for public internal financial control and to adopt new legislation in line with EC requirements, focusing in particular on internal audit. Romania needs to establish functionally independent internal audit units in the budget spending centres, with a focus on systems-based and performance audit methodology.

The Policy Paper on Public Internal Financial Control (PIFC) has not yet been finalised, whereas the administrative capacity for Public Internal Financial Control remains insufficient, both in terms of numbers of staff and level of training. Difficulties have been experienced in attracting competent new personnel.

The co-ordinating functions of the Ministry of Public Finance as regards harmonisation of the methodology for financial management and control, as well as for internal audit, should be defined. A coherent programme of recruitment and staff development for financial control and internal audit functions in all spending centres should be developed. Romania should make further efforts as regards the implementation of legislation on public procurement, including ex-ante control of commitments, tender and contracting procedures, as well as disbursements and recovery of unduly paid sums.

The availability of the staff necessary for the Romanian Court of Accounts to fulfil its mandate, and to develop its capacity to implement modern audit methods, should be ensured. The Court of Accounts should continue its efforts to prioritise the development of modern audit methodologies. Parliament should put in place follow-up procedures relating to the audit findings and recommendations of the Romanian Court of Accounts.

With regard to the control of structural action expenditure, efforts need to be made in order to enhance Romania's capacity for the management of pre-accession funding and future structural funds. Clear rules and procedures for public internal financial control should be established and administrative capacity should be substantially reinforced. The development of mechanisms for the recovery of lost funds is equally important.

With a view to ensuring suitable protection of EC financial interests, Romania needs to adopt legislation allowing the competent EC bodies to carry out on-the-spot checks. It should also develop the adequate administrative capacity to implement the acquis, including the ability of the Romanian law enforcement bodies and judiciary to address cases where EC financial interests are at stake. Romania should designate, in consultation with OLAF, an institution or administrative structure capable of co-ordinating investigations into cases of fraud and irregularities affecting the Communities' financial interests and of acting as a single contact point in relations with OLAF.

## *Chapter 29: Financial and budgetary provisions*

Romania has made some progress over the reporting period, in particular as regards strengthening **national budget** procedures and ensuring **co-financing of EC financial instruments**.

Efforts were made in the context of the preparation of the State Budget Law for 2001 to move towards a programme-based approach to budgeting based on national and sectoral priorities in a multi-annual macroeconomic framework. The number of ministries and government agencies using a programme-based budget approach has been increased. The State Budget Law for 2001 ensures the co-financing of projects and programmes supported by EC pre-accession financial instruments.

The national budget for 2002 was submitted to Parliament by early October 2001.

There has been some progress during the past year in the development of the capacities for medium-term economic forecasting and the preparation of a medium-term budget strategy. There has also been considerable progress in absorbing special funds into the state budget.

As regards **Own Resources and administrative infrastructure**, and more specifically control measures relating to own resources, Romania's customs and tax administrations are in the process of carrying out reforms in order to enhance their operational and administrative capacity. These reforms involve the completion of the computerisation process, the strengthening of human resources, and the improvement of internal organisation. This is also important in the context of control relating to own resources with a view to ensuring the protection of EC financial interests.

### *Overall assessment*

Continued efforts are needed to ensure that budgetary principles and rules are brought into line with the standards generally applicable in the Community. Preparation of a new Law on Public Finance should contribute to this process.

Submission of the national budget for 2002 to Parliament by early October 2001 represented an improvement in performance in comparison with previous years.

Legislation to strengthen the role of the Ministry of Finance's co-ordination of line ministries when preparing budget proposals should be adopted. Procedures for multi-annual budgeting should be put in place, and the inclusion of multi-annual co-financing in the national or local budgets should be ensured.

Links between the National Plan for Adoption of the Acquis and the budgetary process should be developed. Capacity should be developed to assess the cost-effectiveness of proposed budgetary expenditure in fulfilling national and sectoral policy objectives. In parallel, on-going work on improving macro-economic forecasting and drawing up a medium-term budget strategy should be continued. The work in progress for defining and implementing the operating procedures for the management of EC pre-accession funds, through the National Fund, should be continued and improved.



In the interest of transparency and efficiency the number of extra-budgetary funds should be further reduced.

The procedures for selecting, monitoring and evaluating public investments and expenditure programmes need to be strengthened in order to improve the process of allocation of resources.

Inter-ministerial co-ordination for Community Own Resources under the Ministry of Public Finance should be developed to prepare for the tasks required after accession. The Ministry of Public Finance is the central body of state administration responsible for taxation, and for the performance of customs functions. These functions are performed through the Romanian Customs Administration and the Central Tax Directorate respectively. The calculation of own resources based on gross national product (GNP) is the responsibility of the National Institute for Statistics. Further efforts are needed to bring practice in Romania closer to the European System of Accounts (ESA 95) standards. There is currently no provision in Romanian law with regard to the levies on trading in and warehousing of sugar, which forms part of the Traditional Own Resources.

Romania still needs to improve its capacity to calculate GNP as well as VAT and customs receipts in a reliable, harmonised, controllable and transparent way. The administrative capacity to duly collect and transfer in a timely manner all Own Resources to the Community budget will need to be established prior to accession, as will the ability to provide the Commission with accurate reports on the situation with regard to each type of own resources. With regard to the control of future EC Own Resources, Romania should continue its efforts to set up effective instruments to combat fraud relating to VAT and customs duties.

In addition to the need for central co-ordination for the proper collection, monitoring and payment and control of funds to and from the EC budget, administrative capacity should be strengthened in the context of the relevant policy areas described elsewhere in this report, such as financial control, taxation, agriculture, customs, and regional policy.

### **3.2. Translation of the *acquis* into the national languages**

Applicant countries are to translate the various legal texts constituting the *acquis* into their national languages by the time of their accession. The *acquis*, consists of primary and secondary binding legislation, and represents a considerable volume of acts, roughly estimated at 60,000-70,000 pages of the Official Journal. To help the candidate countries in this process, assistance is being provided under the Phare programme. With the help of TAIEX, a centralised Translation Co-ordination Unit has been created in each of the ten candidate countries of central Europe.

In the case of Romania, this unit has been established within the European Institute of Romania and became operational in December 2000. The unit is responsible for translation, linguistic revision, and technical revision of texts. It functions effectively, but is understaffed in relation to the volume of translation work required. As of September 2001, approximately 14 300 Official Journal pages of *acquis* had been translated by the Translation Co-ordination Unit - of which some 5 000 had also been revised. This represents a considerable improvement since the last Regular Report.

The Romanian government has also allocated substantial resources from the state budget in order to speed up translation of the *acquis*. This is a separate initiative managed by the

National Institute of Information and Documentation, under which, as of September 2001, approximately 11 600 Official Journal pages of *acquis* had been translated.

Without prejudice to the outcome of the accession negotiations, while the progress made in translation is welcomed, further efforts will be needed, in particular to ensure quality control and the technical uniformity of texts.

Due attention should also be given to the training of conference interpreters.

### **3.3. General evaluation<sup>25</sup>**

Romania has continued to make progress with the adoption of the *acquis*. However, advances in legal transposition have not always been matched by improvements in administrative capacity.

Romania's progress with *internal market legislation* has been mixed. Other than the adoption of new legislation on public procurement, little progress has been made with the *free movement of goods* and the framework legislation for the New and Global Approach has still not been adopted. The administrative infrastructure for standardisation, certification and market surveillance should be reinforced. Only limited progress has been made in aligning with the *acquis on free movement of persons*, and while progress has been made with insurance and banking supervision there has been no progress with transposing the *acquis* on financial securities markets. Legislation on the protection of personal data remains inadequate. New Romanian legislation on money laundering is a welcome development but a comprehensive system of exchange controls and other restrictions on capital movements still exists. The supervision of financial services should also be improved. Further progress was made in aligning with the *company law* and *competition policy acquis* – sectors where Romania has already achieved a high degree of transposition. This said, the supervision of intellectual property rights should be further developed as should the capacity to enforce state aid and anti-trust rules.

In the field of *taxation*, Romania has made some progress particularly with regard to excise duties. However, further alignment is still needed in the area of VAT and much remains to be done to modernise the tax administration – including the development of electronic data exchanges with the Community and Member States. Romania's adoption of an *industrial strategy* document is a welcome development and while some important progress has been made in privatisation considerable further efforts are still needed. Good progress has been made in promoting the *SME sector* and a series of measures have been taken to improve the business environment.

While Romania has made progress in aligning with several aspects of the *agricultural acquis*, restructuring of the sector has barely begun. The overall administrative capacity of the Ministry of Agriculture remains weak and Romania still needs to develop the ability to implement the management mechanisms of the Common Agricultural Policy. Inspection arrangements in the veterinary and phytosanitary fields also need to be upgraded. The newly adopted fisheries law brings the Romanian legislative framework largely in line with the *acquis*. However, efforts are still needed to strengthen administrative structures.

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<sup>25</sup> See "Making a success of enlargement: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2001) 700.

Romania has continued to make good progress in harmonising its *transport* legislation. Policy related to the *energy sector* has been inconsistent and therefore only limited progress can be noted. While there has been limited progress in the *telecommunications sector* in terms of transposition, extensive preparatory work has been carried out that should enable future reforms. Romania has made advances in aligning itself with the *environmental acquis* but does not have the administrative capacity to effectively enforce the newly adopted legislation and insufficient financial resources are allocated to the sector. Romania has made progress in aligning with several aspects of the *consumer protection acquis* but attention will be required to ensure effective enforcement. Romania has only made limited progress in the *audio-visual* sector.

*Social policy* is a priority for the government, and while progress has been made further alignment with the *acquis* is necessary, as are improvements in administrative capacity (in particular in the area of occupational health and safety and in strengthening labour inspectorates). Some progress was made in the area of *regional policy* during the reporting period - mainly in terms of improving institutional arrangements. However, the new structures remain fragile and considerable work is still necessary as regards programming, monitoring and evaluation and developing the capacity to manage and control public funds.

In the field of *justice and home affairs*, significant progress has been made in the fields of visa policy, border control and migration. However, there is still a need to adopt legislation in some important areas such as data protection and to further upgrade the capacity and infrastructure for border management.

Romania has increasingly resorted to *trade policies* that are incompatible with its international obligations and which represent a move away from the *acquis*. At the same time, the management of the OSCE Presidency demonstrated Romania's capacity to assume its responsibilities international leadership role in the field of foreign affairs. Romania has continued to make progress on harmonisation with the *customs acquis* although the operational capacity of the customs service should be improved and efforts should be intensified to develop systems that will allow the exchange of computerised data between the EC and Romania.

Despite some positive developments, the Romanian authorities have not yet succeeded in elaborating a comprehensive policy framework for internal *financial control* over public funds, and further efforts are needed to strengthen administrative capacity in this area. Romania has made some progress in reforming national budgetary procedures but further efforts are required both in relation to the national budget and own resources.

The overall *capacity of the public administration* to implement the *acquis* remains limited and represents a major constraint on Romania's accession preparations. While certain parts of the administration are able to function effectively there are many important sectors where the weakness of the administration is a serious cause for concern. These concerns extend beyond adoption of the *acquis* and also apply to the management of EC funds. There has been no significant progress in developing administrative capacity although this issue is beginning to be addressed by the government.

With regard to meeting short-term Accession Partnership priorities, Romania has met the priorities related to *transport*. While progress has been made in the areas of *taxation*, *customs*, and *justice and home affairs* none of the priorities identified for these sectors have

yet been fully met. Some, limited progress has been made in addressing the priorities related to the *internal market, agriculture, environment, employment and social affairs* and the *reinforcement of administrative and judicial capacity*. Romania has started to address some medium-term Accession Partnership priorities. In *transport* and *fisheries* Romania is close to meeting the medium-term priorities. However, no substantial progress has been made in the cases of *agriculture, environment, and employment*.

## C. Conclusion<sup>26</sup>

In its 1997 Opinion, the Commission concluded that Romania fulfilled the political criteria. Since then, the country has made considerable progress in further consolidating and deepening the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. Over the past year, further positive developments have been noted. Romania continues to fulfil the Copenhagen political criteria.

The efficiency of the legislature has improved considerably as has the overall functioning of government. The reform of judicial procedures has continued and effective implementation of new legislation on public procurement should play an important role in the fight against corruption – although corruption remains a serious problem that is largely unresolved. Other particular concerns are the lack of progress in carrying out a strategic reform of the public administration and the need to further guarantee the independence of the judiciary.

Significant progress has been made in the field of human rights. Reform of the childcare system is well under way; homosexuality has been decriminalised; and important new legislation has been passed regarding the restitution of property and the treatment of asylum seekers and refugees. The introduction of probation represents an important reform of the penal system and several initiatives have been taken to address trafficking of human beings. Future reforms should seek to modernise the Penal Code and increase the public accountability of police officers as well as ensure the proportionality of their actions. Efforts to improve the actual living conditions in childcare institutions should continue.

New legislation extending the use of minority languages was approved, and a National Strategy for Improving the Condition of Roma adopted. Efforts now need to focus on the implementation of the strategy, with the aim of effectively combating widespread discrimination, and improving living conditions.

Romania has addressed the short-term Accession Partnership priorities related to the political criteria by improving the conditions of institutionalised children, making progress with the reform of childcare policy, developing a national strategy for Roma, and taking measures to provide support to minority programmes. As regards medium-term priorities, progress has been made towards meeting the medium-term priority related to childcare, and initiatives have been taken to increase the Roma's access to education. However, important actions are still needed in other areas: the Roma strategy has not yet been implemented; anti-discrimination legislation has been adopted but it is not yet operational; and the demilitarisation of the police has not yet started.

Romania has made progress towards establishing a functioning market economy and although it would not, in the medium term, be able to cope with competitive pressure and market forces within the Union, it has taken measures that would allow to develop its future capacity, provided that it keeps to the engaged economic reform path.

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<sup>26</sup> See "Making a success of enlargement: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2001) 700.

Romania has made progress towards macroeconomic stabilisation: growth has resumed and exports have increased. The government is acutely aware of the need to implement the programme agreed with the IMF and the Pre-accession Economic Programme. Structural reforms have been re-launched, most notably in the area of privatisation and energy price adjustments. The recent privatisations demonstrate a new commitment towards the establishment of a functioning market economy.

However, there are still serious economic imbalances with high inflation and a widening current account deficit, in a difficult social environment. The still fragile macroeconomic environment, the uncertain legal framework and the poor administrative capacity hinder the development of the private sector. Large parts of the enterprise sector have yet to start restructuring or are still in the early stages of the process. Romania's reform agenda remains considerable. The authorities should give priority to securing macroeconomic stability by fighting inflation and halting the deterioration of the external account. The full implementation of the programme agreed with the IMF, focusing on reversing the causes of inflation, would permit a gradual shifting of monetary and exchange rate policy towards inflation reduction. Enterprises' financial discipline should be established by halting the accumulation of inter-enterprise arrears and the provision of state support to inefficient ventures. The removal of the burden that these practices put on fiscal policy would allow for a better co-ordination between fiscal and monetary policy. A further priority is to accompany enterprise restructuring and privatisation with the establishment of sound legal and institutional foundations of the functioning market economy.

Romania has continued to make progress with the adoption of the *acquis*. However, advances in legal transposition have not always been matched by improvements in administrative capacity.

Romania's progress with *internal market legislation* has been mixed. Other than the adoption of new legislation on public procurement, little progress has been made with the *free movement of goods* and the framework legislation for the New and Global Approach has still not been adopted. The administrative infrastructure for standardisation, certification and market surveillance should be reinforced. Only limited progress has been made in aligning with the *acquis on free movement of persons*, and while progress has been made with insurance and banking supervision there has been no progress with transposing the *acquis* on financial securities markets. Legislation on the protection of personal data remains inadequate. New Romanian legislation on money laundering is a welcome development but a comprehensive system of exchange controls and other restrictions on capital movements still exists. The supervision of financial services should also be improved. Further progress was made in aligning with the *company law* and *competition policy acquis* – sectors where Romania has already achieved a high degree of transposition. This said, the supervision of intellectual property rights should be further developed as should the capacity to enforce state aid and anti-trust rules.

In the field of *taxation*, Romania has made some progress particularly with regard to excise duties. However, further alignment is still needed in the area of VAT and much remains to be done to modernise the tax administration – including the development of electronic data exchanges with the Community and Member States. Romania's adoption of an *industrial strategy* document is a welcome development and while some important progress has been made in privatisation considerable further efforts are still needed. Good progress has been made in promoting the *SME sector* and a series of measures have been taken to improve the business environment.

While Romania has made progress in aligning with several aspects of the *agricultural acquis*, restructuring of the sector has barely begun. The overall administrative capacity of the Ministry of Agriculture remains weak and Romania still needs to develop the ability to implement the management mechanisms of the Common Agricultural Policy. Inspection arrangements in the veterinary and phytosanitary fields also need to be upgraded. The newly adopted fisheries law brings the Romanian legislative framework largely in line with the *acquis*. However, efforts are still needed to strengthen administrative structures.

Romania has continued to make good progress in harmonising its *transport* legislation. Policy related to the *energy sector* has been inconsistent and therefore only limited progress can be noted. While there has been limited progress in the *telecommunications sector* in terms of transposition, extensive preparatory work has been carried out that should enable future reforms. Romania has made advances in aligning itself with the *environmental acquis* but does not have the administrative capacity to effectively enforce the newly adopted legislation and insufficient financial resources are allocated to the sector. Romania has made progress in aligning with several aspects of the *consumer protection acquis* but attention will be required to ensure effective enforcement. Romania has only made limited progress in the *audio-visual* sector.

*Social policy* is a priority for the government, and while progress has been made further alignment with the *acquis* is necessary, as are improvements in administrative capacity (in particular in the area of occupational health and safety and in strengthening labour inspectorates). Some progress was made in the area of *regional policy* during the reporting period - mainly in terms of improving institutional arrangements. However, the new structures remain fragile and considerable work is still necessary as regards programming, monitoring and evaluation and developing the capacity to manage and control public funds.

In the field of *justice and home affairs*, significant progress has been made in the fields of visa policy, border control and migration. However, there is still a need to adopt legislation in some important areas such as data protection and to further upgrade the capacity and infrastructure for border management.

Romania has increasingly resorted to *trade policies* that are incompatible with its international obligations and which represent a move away from the *acquis*. At the same time, the management of the OSCE Presidency demonstrated Romania's capacity to assume its responsibilities international leadership role in the field of foreign affairs. Romania has continued to make progress on harmonisation with the *customs acquis* although the operational capacity of the customs service should be improved and efforts should be intensified to develop systems that will allow the exchange of computerised data between the EC and Romania.

Despite some positive developments, the Romanian authorities have not yet succeeded in elaborating a comprehensive policy framework for internal *financial control* over public funds, and further efforts are needed to strengthen administrative capacity in this area. Romania has made some progress in reforming national budgetary procedures but further efforts are required both in relation to the national budget and own resources.

The overall *capacity of the public administration* to implement the *acquis* remains limited and represents a major constraint on Romania's accession preparations. While certain parts of the administration are able to function effectively there are many important sectors where the

weakness of the administration is a serious cause for concern. These concerns extend beyond adoption of the *acquis* and also apply to the management of EC funds. There has been no significant progress in developing administrative capacity although this issue is beginning to be addressed by the government.

With regard to meeting short-term Accession Partnership priorities, Romania has met the priorities related to *transport*. While progress has been made in the areas of *taxation*, *customs*, and *justice and home affairs* none of the priorities identified for these sectors have yet been fully met. Some, limited progress has been made in addressing the priorities related to the *internal market*, *agriculture*, *environment*, *employment and social affairs* and the *reinforcement of administrative and judicial capacity*. Romania has started to address some medium-term Accession Partnership priorities. In *transport* and *fisheries* Romania is close to meeting the medium-term priorities. However, no substantial progress has been made in the cases of *agriculture*, *environment*, and *employment*.



## D. Accession Partnership and National Programmes for the Adoption of the *Acquis*: Global assessment

The purpose of the Accession Partnership is to set out in a single framework:

- the priority areas for further work identified in the Commission's Regular Report;
- the financial means available to help candidate countries implement these priorities;
- the conditions which will apply to this assistance.

Each candidate has been invited to adopt a National Programme for the Adoption of the *Acquis*. This sets out how the country in question envisages dealing with the Accession Partnership, the timetable for implementing the Partnership's priorities, and implications in terms of human and financial resources. Both the Accession Partnerships and the National Programmes for the Adoption of the *Acquis* are revised on a regular basis, to take account of progress made, and to allow for new priorities to be set.

### 1. Accession Partnership

In the following assessments the main sub-headings are indicated in bold type and further key concepts taken from the Accession Partnership are highlighted in *italics*.<sup>27</sup>

#### *Short-term priorities*

##### **Political criteria:**

Following on from the progress made last year, *adequate budgetary provisions* have been made for *institutionalised children* and a *strategy for a comprehensive reform of child-care policies* has been launched and is in the process of being implemented. The political criteria priority relating to children continues to be met. The reform strategy covers the situation of *children with chronic diseases and handicaps*. At the same time, the situation of *adults with chronic diseases and handicaps* remains a matter of concern. In the case of the *Roma* a *national strategy* has been adopted and has been widely recognised as being of a high quality – although implementation is only just beginning. There is scope for improving the *provision of adequate financial support to minority programmes* and this will be particularly important over the coming year when the *Roma strategy* is implemented. In overall terms, **the political criteria priorities have been met** although close attention needs to be given to implementation of commitments that have been given.

##### **Economic criteria**

*Macro-economic stability* is improving and a revised *medium term economic strategy* has formed the basis for progress on structural reforms. Over the reporting period Romania has made considerable progress in reaching *agreements with the International Financial Institutions*. There have been limited initiatives taken to *restructure public finances* but this is an area where considerable additional work is needed. Important legislation has been adopted

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<sup>27</sup> For the detailed text of the short and medium term priorities established in the 1999 Accession Partnership please refer to Council Decision 1999/853/EC. Official Journal L 335, 28/12/1999 pp. 15-21.

with the aim of improving the *functioning of the property market* but implementation has proved to be disappointing. There has been no progress with introducing a *national land and property register*. Some progress has been made in privatisation of *small and medium-sized enterprises* although there is certainly scope for efforts to be accelerated. In the case of large companies, which still have had a very significant influence on the entire economy, two important deals have shown the government's renewed commitment to privatisation, although further progress needs to be made. A series of measures have been taken to improve the overall *business environment*. These are welcome developments but it will take time to assess the extent to which this will improve the overall *competitiveness* of Romanian industry. There is certainly scope for additional measures to be taken. An improved *bankruptcy law* was already established during the previous reporting period but market exit remains unsatisfactory – a situation highlighted by the ability of businesses to continue operating while building up huge arrears. A *steel restructuring plan* has been developed but further work will be necessary before it can be judged as the requirements of the Europe Agreement. **Romania has made progress in meeting the numerous priorities related to the economic criteria – but considerable additional efforts are necessary.**

### **Internal Market**

- A new ordinance on *public procurement*, which is broadly in line with the *acquis*, has entered into force although it is too early to pass judgement on the effectiveness of its implementation. Romania has made major efforts in transposing the *acquis* on *industrial property rights* although further efforts are needed in the case of *intellectual property*. Work has been progressing with improving the *administrative capacity* in this field as well as with *border controls on counterfeit goods*, and while advances have been made this is inevitably a long-term process and continued efforts will be necessary. Despite considerable preparatory work, no progress has been made during the reporting period with transposing the *acquis* on *data protection* or with the establishment of an independent supervisory authority.

As concerns *free movement of goods*, progress has been made in implementing a number of Old Approach directives, and in adopting the framework legislation on the New and Global Approach. However, administrative infrastructure for market surveillance remains a problem. As concerns *financial services* the main development has been the adoption of a new *insurance law*, but this has still to be fully implemented. The administrative capacity of the financial sector supervision agencies remains weak. Romania has made good progress in approximating its *competition legislation* (particularly good in the area of anti-trust although more needs to be done as concerns state aids) and has improved the capacity of the Competition Council and the Competition Office. However, implementation of State Aids legislation remains a concern and a particular worry has been the continued non-delivery of annual State Aid reports and a State Aid inventory. Romania still needs to complete the alignment of its *audio-visual legislation* with that of the EC.

Romania has continued to make important progress in aligning its legislation on *VAT and excise duties* and the discrimination between imported and domestic tobacco products has been eliminated. Despite certain positive developments in the field of *customs* substantial additional efforts are still needed to fight *fraud and corruption*. Overall Romania has continued to make progress in several areas. While many priorities have been partially met Romania **continues to have not yet fully implemented any of the Accession Partnership Priorities concerning the internal market.**

## **Agriculture**

- There is an urgent need to develop strategies for the adoption of the *acquis* based on a realistic assessment of the human and financial resources needed to implement specific policies. The legislative framework for the *phytosanitary acquis* is in place and the emphasis should now be placed on implementation. With regard to the veterinary *acquis*, important efforts have been made in improving the laboratory infrastructure for animal health and diseases control. However, although the National Sanitary Veterinary Agency was restructured during the reporting period there is no evidence of any real improvement of its functioning. A coherent strategy for the development of *border controls* still needs to be elaborated. Legislation aligning with the *acquis* regarding *pesticide residues* and the plant health regime has been adopted – although enforcement issues still need to be addressed. As regards the implementation of a *national animal identification system*, there has been little progress. A *vineyard register* has still not been established although there has been progress made in strengthening the management and control systems in the wine sector. In conclusion, there has been **limited progress in meeting the Accession Partnership priorities in the agricultural sector.**

## **Transport**

- Romania has transposed the *acquis on maritime safety* and has therefore **fully met this priority.** Romania's focus should be now turned to the enforcement of legislation where capacities remain weak.

## **Employment and Social Affairs**

- Progress has been made with developing the *social dialogue* although the *capacity of the social partners* remains low and the bipartite social dialogue is underdeveloped. Romania has initiated the work on a Joint Assessment Paper and the preparation of a National Action Plan for Employment. The finalisation of these is a priority. **Despite good progress these priorities have only been partially met.**

## **Environment**

- Romania has drawn up *directive specific approximation and implementation programmes* for all main sectors (excluding noise). Progress can also be noted with regard to *transposition programmes* where new legislation has been adopted. Progress has also been made with preparing framework legislation for air, waste, water quality and industrial pollution. Romania has also made progress with the transposition of the *Environmental Impact Assessment directive*. However, despite these positive developments there is still no realistic *plan for financing investments* and the weakness of the *environmental administration* raises serious questions as to the capacity to enforce recently passed legislation. While **good progress has been made with transposition of legislation, the priorities related to administrative capacity have not been addressed.**

## **Justice and Home Affairs**

- The *Border Police* has been restructured and the process of replacing conscripts with permanent staff is well under way. Romania has also passed a Law on the State Frontier and initiated a programme to *strengthen border controls and prevent illegal immigration.*

However, there has been no substantial progress with regard to preparation for participation in the Schengen Information System. A law on the prevention of, and the fight against, *corruption* has been adopted and the capacity to deal with money laundering has been strengthened. This said, the *co-ordination between agencies* involved in the fight against corruption still needs to be improved and while an anti-corruption unit has been established it is severely understaffed. New *laws on aliens and refugees* have been adopted and introduced, inter alia, accelerated *asylum procedures*. There has not been any significant progress yet *with upgrading the capacities of law enforcement agencies* and there has been no progress with the demilitarisation of the police force (although some other bodies, which were controlled by the Ministry of the Interior, have been demilitarised). Romania has not yet ratified the *international conventions* listed in the Accession Partnership and it can be concluded that despite progress since the last Regular Report the **Justice and Home Affairs priorities continue to have only been partially met.**

### **Reinforcement of administrative and judicial capacity (including capacity to manage and control EC funds)**

- Romania has adopted a new *Civil Service Law* but it has only been partially implemented. The *Government of Romania has adopted the National Development Plan and the Rural Development Plan*. Progress has also been made in setting up an agency to be responsible for *implementation of SAPARD* in Romania – although considerable further efforts will be needed before it can be accredited. The *functioning of the judiciary* has improved through organisational changes in the court system, improved training and recruitment, and improved enforcement of civil decisions. This said, working conditions leave much to be desired and computerisation of courts should be accelerated. The proportion of persons in *pre-trial detention* of the total prison population has decreased. However, the *penal code* and *law on penal procedure* are still in need of substantial revision. The Romanian legal system provides for *access to legal advice and representation*. With regard to financial management, some progress has been made towards improving budget procedures through introduction of medium-term budgetary perspectives and *programme-based budget methodology*. Ongoing efforts to review budgetary procedures and to prepare new legislation need to be continued. Improvements have also been introduced into *public procurement* legislation, but sustained efforts are needed to implement the legislation effectively. Further efforts are needed to define legislative and organisational requirements related to ensuring adequate *financial control and audit* of Romanian public expenditure and EU funds managed by Romanian public authorities. To conclude, **Romania has made mixed progress in meeting the priorities relating to administrative and judicial capacity.**

#### *Medium-term priorities*

### **Political criteria**

*Conditions for children in care* have improved and *reform efforts have been consolidated*. Initiatives have been taken to increase the *Roma's access to education*. The Roma strategy has only recently been adopted and therefore the medium-term priority of continuing to implement the strategy is not relevant. Comprehensive *anti-discrimination* legislation has adopted - but it is not yet operational. The demilitarisation of the police has not yet been started and therefore the medium-term priority of continuing to demilitarise the police is not

relevant. Progress towards meeting the medium term political criteria priorities has **been made in the case of child-care while important efforts are still needed in the other areas.**

### **Economic priorities**

The *privatisation* process in Romania is still far from complete and since a steel restructuring programme has only recently been adopted the medium-term priority of continuing to implement the programme is not relevant. However, a *fiscal surveillance* notification has been submitted and efforts have been made in support of *private enterprise and SME's* in particular. Romania has **therefore made progress in meeting two priorities – supporting business and SME development and establishing an annual fiscal surveillance procedure. The other priorities in this area still need to be addressed.**

### **Internal market**

- Romania has made little progress in implementing *new approach directives*. Progress has been made in the area of *consumer protection* through aligning with the *acquis* and developing the capacity of market surveillance and enforcement authorities. Romania has not yet completed alignment of *intellectual and industrial property rights*. Very limited progress has also been made with regard to the *mutual recognition* of diplomas. Further alignment is still needed concerning *VAT exemptions, zero-rates and refund procedures*, as well as concerning *excise duties structure, minimum rates and exemptions*. A full review of existing legislation needs to be carried out, in order to ensure that it complies with the Code of Conduct for Business Taxation. Considerable additional efforts are needed in order to improve the *efficiency of the tax administration* and an *independent telecoms regulatory body* still has to be set up. In the field of *competition*, price controls are largely in line with competition rules and steps have been taken to develop the capacity of competition authorities. In the *customs* area, a series of steps have been taken to improve administrative and operational capacity, simplified procedures are applied and an integrated tariff has been prepared. **Progress has been made on several internal market priorities, although in the area of free movement of persons, progress has been disappointing.**

### **Agriculture**

- Despite having legislation in place that lays the foundations for establishing some Common Market Organisations, the basic *CAP management mechanisms* have not been set up. A lack of accurate statistics makes the *monitoring of agricultural markets* impossible. The food control administration is not able to guarantee *EU hygiene and public health standards* yet. Only limited progress has been made with setting up *quality control systems, animal waste treatment, and border inspection*. **This priority has been met to a limited degree.**

### **Fisheries**

- Impressive legislative developments need to be matched by increasing the *capacity of the fisheries administration* to implement the Common Fisheries Policy. **This priority has been met to a limited degree.**

## Energy

- No progress has been made with regard to improving *energy efficiency* and implementing the *acquis on oil stocks*. Only limited progress has been made with regard to *energy pricing* (although cross subsidies in the electricity sector have been removed) and adopting EU fuel quality standards. While a considerable amount of legislation has been passed relating to Romania's participation in the *internal energy market* important secondary legislation is still missing and there are serious concerns about the capacity to enforce this legislation. Romania continues to ensure high levels of *nuclear safety* at the Cernavoda Nuclear Power Plant and has taken measures to improve the *regulatory structures* for nuclear safety and radiation protection. **Romania has met the medium-term priority related to nuclear safety but not those related to other aspects of energy policy.**

## Transport

- Romania has continued *alignment of its legislation with the acquis* with regard to all transport sectors, though further work remains to be done. Additional work is necessary with regard to *freight taxation* and *technical requirements for inland waterway vessels*. **This priority has been partially met.**

## Employment and social affairs

- Pending the adoption of a new labour code, Romania has made very limited progress with meeting the Accession Partnership priorities and no *independent fund* exists to protect employees in the event of employer insolvency. Considerable work is needed to *align with EU legislation* and *administrative structures* still need to be strengthened.

## Economic and social cohesion

- Work has started on a national policy for economic and social cohesion although much remains to be done. Romania has made preparations for implementing regional development programmes and Community initiative. Inter-ministerial co-ordination has also improved. But there has been no substantial progress with developing pluri-annual budgeting or with the development of appraisal and evaluation mechanisms. **This priority has been partially met.**

## Environment

- While progress has been made with the adoption of the *acquis* Romania remains far from *full transposition*. Little appears to have been done to *integrate sustainable development principles* into the definition of other sectoral policies and Romania's *enforcement and monitoring* capacities remain weak. **This priority has therefore not been met.**

## Justice and Home Affairs

- Romania's *visa policy* has been substantially aligned with that of the EU and measures have been taken to combat *trafficking in women and children* – although this remains a serious problem. Romania still has to adopt and apply the international instruments related to the *fight against drug trafficking* and should take steps to reinforce the *independence of the judiciary* from the executive. **Two of these priorities have been met** while further work is necessary with the other two.

### **Administrative and judicial capacity**

- Romania has recently adopted a strategy for the *reform of the public administration* but has not yet started with its implementation. In contrast, the National Institute of the Magistracy has provided *training in EU law* for the legal profession. Some progress has also been made in improving the legislative framework for ex-ante *financial control* although administrative weakness hampers implementation. This progress is not matched by the development of the internal audit function and as a result the Romanian approach to financial control remains incomplete. With regard to external audit, the Romanian Court of Audit has made progress in defining a programme of institution building measures although these still have to be implemented. Despite some improvements, the Romanian *statistical system* is still far from compliance with EU standards. **Romania has only made limited progress in meeting the priorities relating to administrative and judicial capacity.**

## **2. National Programme for the Adoption of the Acquis**

The revised Romanian National Programme for the Adoption of the *Acquis* was adopted by the Romanian government in June 2001 and subsequently presented to the Commission.

The NPAA covers the period 2001-2004 and is in the same overall format as previous years. Actions are divided between short-term measures (2001 and 2002) and medium-term measures (2003 and 2004). All chapters of the *acquis* are covered in line with negotiation chapters. Political and economic accession criteria are also addressed, as is the issue of public administration reform. An innovation compared to previous editions is the inclusion of a chapter on the actual process for preparing Romania's accession efforts. Issues raised in previous Regular Reports and in the Accession Partnership are systematically covered and commitments given are generally consistent with those given in other frameworks.

The format is clear and consists of two volumes. The first provides a description of the current situation as well as of short-term and medium-term priorities. The second volume consists of a matrix that lists the elements of *acquis* that need to be adopted, specifies the national measure(s) proposed to meet each part of the *acquis*, indicates the lead institutions that will be responsible for initiating the required reforms, and finally, provides an indicative deadline. In most cases the deadlines given for the transposition of the *acquis* are realistic.

An estimate of the financial resources required to implement each item of the NPAA is also provided as an annex to the NPAA. However, the methodology used to calculate these financial estimates remains unclear, as is the relation between these figures and the national budget. As was noted in last year's Regular Report, these issues will have to be resolved before the NPAA can become a fully operational policy tool. While EU funding from the Phare, ISPA and SAPARD programmes is taken into account by the NPAA the document does not represent a co-ordination instrument for the use of these funds.

In general the Romanian NPAA is a well-structured and readable document. The quality is an improvement over previous years. It provides a useful overview of Romania's pre-accession strategy and also functions as a co-ordination tool for Romania's own accession preparations. Understandably, the presentations vary from sector to sector, but general observations can be made. Firstly, there is a tendency to focus on past achievements (which is useful as background) rather than to provide additional detail on future plans. And secondly, in several sectors it would be useful to have more detail on structures for the implementation of legislation.

## **Annexes**



***Human Rights Conventions ratified by the Candidate Countries,  
30 September 2001***

<i>Adherence to following conventions and protocols</i>	<b>BG</b>	<b>CY</b>	<b>CZ</b>	<b>EE</b>	<b>HU</b>	<b>LV</b>	<b>LT</b>	<b>MT</b>	<b>PL</b>	<b>RO</b>	<b>SK</b>	<b>SI</b>	<b>TK</b>
<b>ECHR (European Convention on Human Rights)</b>	X	X	X	X	X	X	X	X	X	X	X	X	X
Protocol 1 (right of property)	X	X	X	X	X	X	X	X	X	X	X	X	X
Protocol 4 (freedom movement et al.)	X	X	X	X	X	X	X	O	X	X	X	X	O
Protocol 6 (death penalty)	X	X	X	X	X	X	X	X	X	X	X	X	O
Protocol 7 (ne bis in idem)	X	X	X	X	X	X	X	O	O	X	X	X	O
<b>European Convention for the Prevention of Torture</b>	X	X	X	X	X	X	X	X	X	X	X	X	X
<b>European Social Charter</b>	O	X	X	O	X	O	O	X	X	O	X	O	X
<b>Revised European Social Charter</b>	X	X	O	X	O	O	X	O	O	X	O	X	O
<b>Framework Convention for National Minorities</b>	X	X	X	X	X	O	X	X	X	X	X	X	O
<b>ICCPR (International Covenant on Civil and Political Rights)</b>	X	X	X	X	X	X	X	X	X	X	X	X	O
Optional Protocol to the ICCPR (right of individual communication)	X	X	X	X	X	X	X	X	X	X	X	X	O
Second Optional Protocol to the ICCPR (death penalty)	X	X	O	O	X	O	O	X	O	X	X	X	O
<b>ICESCR (International Covenant on Economic, Social and Cultural Rights)</b>	X	X	X	X	X	X	X	X	X	X	X	X	O
<b>CAT (Convention against Torture)</b>	X	X	X	X	X	X	X	X	X	X	X	X	X
<b>CERD (Convention on the Elimination of All Forms of Racial Discrimination)</b>	X	X	X	X	X	X	X	X	X	X	X	X	O
<b>CEDAW (Convention on the Elimination of All Forms of Discrimination against Women)</b>	X	X	X	X	X	X	X	X	X	X	X	X	X
Optional Protocol to the CEDAW	O	O	X	O	X	O	O	O	O	O	X	O	O
<b>CRC (Convention on the Rights of the Child)</b>	X	X	X	X	X	X	X	X	X	X	X	X	X

X = Convention ratified

O = Convention **NOT** ratified

BG=Bulgaria; CY=Cyprus; CZ=Czech Republic; EE=Estonia; HU=Hungary; LV=Latvia; LT=Lithuania; MT=Malta; PL=Poland; RO=Romania; SK= Slovak Republic; SV=Slovenia; T=Turkey

## Statistical data

	1996	1997	1998	1999	2000
<b>Basic data</b>	<b>in 1000</b>				
Population (at 1 <sup>st</sup> of July)	22.608	22.546	22.503	22.458	22.435
	<b>in km<sup>2</sup></b>				
Total area	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	108.920	252.926	371.194	539.357	796.534
	<b>1000 Mio ECU/euro</b>				
Gross domestic product at current prices	27,8	31,2	37,2	33,0	40,0
	<b>ECU/euro</b>				
Gross domestic product per capita <sup>28</sup> at current prices	1.200	1.400	1.700	1.500	1.800
	<b>% change over the previous year</b>				
Gross domestic product at constant prices (nat. currency)	3,9	-6,1	-4,8	-2,3	1,6
	<b>in Purchasing Power Standards</b>				
Gross domestic product per capita <sup>29</sup> at current prices	6.100	5.900	5.800	5.800	6.000
Structure of production	<b>% of Gross Value Added<sup>30</sup></b>				
- Agriculture	20,1	19,5	15,8	14,8	12,6
- Industry (excluding construction)	34,8	33,4	30,3	29,9	30,5
- Construction	6,8	5,7	5,5	5,4	5,3
- Services <sup>31</sup>	38,3	41,5	48,4	49,9	51,5
Structure of expenditure	<b>as % of Gross Domestic Product</b>				
- Final consumption expenditure	82,6	86,4	90,2	87,2	86,4
- household and NPISH	69,5	74,2	76,0	74,4	73,9
- general government	13,1	12,3	14,2	12,7	12,5
- Gross fixed capital formation	23,0	21,2	18,3	18,0	18,5
- Stock variation <sup>32</sup>	2,9	-0,5	-0,4	-0,8	1,0
- Exports of goods and services	28,1	29,2	23,5	29,0	34,1
- Imports of goods and services	36,6	36,2	31,5	33,4	39,9
<b>Inflation rate</b>	<b>% change over the previous year</b>				
Consumer price index <sup>33</sup>	38,8	154,8	59,1	45,8	45,7
<b>Balance of payments</b>	<b>In Mio ECU/euro</b>				
<b>-Current account</b>	-2.446	-1.895	-2.637	-1.382	-1.477
-Trade balance	-2.350	-1.756	-2.332	-1.183	-1.831
Exports of goods	7.693	7.475	7.376	7.986	11.268
Imports of goods	10.043	9.231	9.708	9.169	13.099
-Net services	-366	-367	-581	-402	-276
-Net income	-294	-285	-393	-387	-305
-Net current transfers	564	513	669	589	935
-of which: government transfers	45	57	46	54	76
- FDI (net) inflows	250	1.077	1.804	980	1.114
<b>Public finance</b>	<b>in % of Gross Domestic Product</b>				

<sup>28</sup> Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

<sup>29</sup> Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

<sup>30</sup> Including FISIM.

<sup>31</sup> These figures include changes in inventories, acquisitions less disposals of valuables and the statistical discrepancy between the GDP and its expenditure components.

<sup>32</sup> These figures include changes in inventories, acquisitions less disposals of valuables and the statistical discrepancy between the GDP and its expenditure components.

<sup>33</sup> Changes in Methodology: PROXY HICP since 1996 (see methodological notes).

General government deficit/surplus	-3,5	-4,5	-4,4	-2,1	-3,8
General government debt	:	16,5	17,9	24,4	22,9

<b>Financial indicators</b>	<b>in % of Gross Domestic Product</b>				
Gross foreign debt of the whole economy	21,5	24,1	19,8	25,2	22,4
	<b>as % of exports</b>				
Gross foreign debt of the whole economy	76,4	82,6	84,2	86,8	65,8
Monetary aggregates	<b>1000 Mio ECU /euro</b>				
- M1	2,2	2,1	1,7	1,6	1,9
- M2	5,9	7,0	7,2	7,3	7,7
- M3	:	:	:	:	:
Total credit	6,3	5,7	6,8	6,0	4,9
Average short-term interest rates	<b>% per annum</b>				
- Day-to-day money rate	53,4	86,0	80,9	80,8	44,8
- Lending rate	55,3	72,5	55,4	65,6	53,8
- Deposit rate	38,1	55,7	37,3	45,8	32,9
ECU/EUR exchange rates	<b>(1ECU/euro=.. Leu)</b>				
- Average of period	3922	8112	9985	16345	19922
- End of period	5182	8859	12814	18345	24142
	<b>1991=100</b>				
- Effective exchange rate index	1,2	0,6	0,5	0,3	0,2
Reserve assets	<b>Mio ECU/euro</b>				
- Reserve assets (including gold)	1.259	2.780	1.981	2.455	3.637
- Reserve assets (excluding gold)	429	1.987	1.175	1.519	2.652

  

<b>External trade</b>	<b>Mio ECU/euro</b>				
Trade balance	-2.733	-2.596	-3.202	-1.979	-3.055
Exports	6.364	7.481	7.381	8.055	11.365
Imports	9.097	10.077	10.583	10.034	14.420
	<b>previous year = 100</b>				
Terms of trade	97,2	101,2	105,1	103,8	103,5
	<b>as % of total</b>				
Exports with EU-15	56,5	56,6	64,5	65,5	63,8
Imports with EU-15	52,3	52,2	57,7	60,7	56,6

  

<b>Demography</b>	<b>per 1000 of population</b>				
Natural growth rate	-2,5	-1,9	-1,5	-1,4	-0,9
Net migration rate (including corrections)	-0,9	-0,6	-0,3	-0,1	-0,2
	<b>per 1000 live-births</b>				
Infant mortality rate	22,3	22,0	20,5	18,6	18,6
Life expectancy :	<b>at birth</b>				
Males:	65,2	65,2	65,5	66,1	67,0
Females:	73,0	73,0	73,3	73,7	74,2

  

<b>Labour market (ILO methodology)</b>	<b>% of labour force</b>				
Economic activity rate	64,8	64,8	63,6	63,4	63,2 P
Unemployment rate, total	6,7	6,0	6,3	6,8	7,1 P
Unemployment rate, males	6,3	5,7	6,5	7,4	7,7 P
Unemployment rate, females	7,3	6,4	6,1	6,2	6,4 P
Unemployment rate of persons < 25 years	20,2	18,0	18,3	18,8	18,6 P
Unemployment rate of persons >= 25 years	4,2	3,8	4,2	4,9	5,3 P
	<b>as % of all unemployed</b>				
Long-term unemployment	51,3	47,7	41,9	44,3	51,5 P
Average employment by NACE branches	<b>in % of total</b>				
- Agriculture and forestry	38,0	39,0	40,0	41,7	42,8 P
- Industry (excluding construction)	27,2	26,3	25,4	23,9	22,4 P
- Construction	4,3	4,2	4,0	3,7	3,8 P
- Services	30,5	30,5	30,6	30,7	31,0 P

<b>Infrastructure</b>	<b>in km per 1000 km<sup>2</sup></b>				
Railway network	47,8	47,7	46,2	46,1	46,2
	<b>km</b>				
Length of motorways	113	113	113	113	113

<b>Industry and agriculture</b>	<b>previous year = 100</b>				
Industrial production volume indices	106,3	92,8	86,2	97,8	108,2 P
Gross agricultural production volume indices	101,3	103,4	92,5	105,2	85,8 P

<b>Standard of living</b>	<b>per 1000 inhabitants</b>				
Number of cars	106	116	125	133	139
Main telephone lines	139,8	151,9	161,2	168,3	173,8
Number of subscriptions to cellular mobile services	:	9,0	24,5	50,1	90
Number of Internet subscriptions	:	:	:	:	:

P=provisional figures

## Methodological Notes

### Inflation rate

As part of the preparations for the common currency the 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 between Member States. The main task was to harmonise methodologies and coverage. The result was the Harmonized 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. Some progress has already been made towards adapting the new rules. Since January 1999 CCs report monthly to Eurostat so-called proxy HICPs that are based on national CPIs but adapted to the HICP coverage. They are not yet fully compliant with the HICPs of the MSs. In the table, the proxy HICPs are back-calculated to 1995 (rates from 1996).

### Finance

*Public finance:* The government deficit and debt statistics of the Candidate Countries are provisional, in the sense that they do not yet fully comply with EU methodological requirements. Broadly speaking, the general government deficit / surplus refers to the national accounts concept of consolidated general government net borrowing / net lending of ESA95. General government debt is defined as consolidated gross debt at end-year nominal value. The series are available from 1997; the 1996 data are an approximation derived from the IMF's GFS methodology.

*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). The data for 2000 are Eurostat estimates, based on joint OECD/IMF/BIS/World Bank series.

*Monetary aggregates* are end-year stock data, as reported to Eurostat. Generally, M1 means notes and coin in circulation plus bank sight deposits. M2 means M1 plus savings deposits plus other short-term claims on banks. M3 means M2 plus certain placements in a less liquid or longer-term form. Not all countries produce an M3 series. 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. For Romania, lending rates refer to bank lending to customers other than banks (all maturities). Deposit rates refer to bank deposits of 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), as reported to Eurostat, 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**

*Imports and exports (current prices)*. The data is based upon the special trade system, according to which; external trade comprises goods crossing the customs border of the country. Trade data excludes direct re-exports, trade in services and trade with customs free zones as well as licenses, know-how and patents. Value of external trade turnover includes the market value of the goods and the additional costs (freight, insurance etc.). The term 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 includes all exchanges of goods between Romania and other countries having as its objective: import of goods directly for consumption, imported goods taken out of customs warehouses or free zones in order to be consumed, export of national products as well as export of imported goods declared for domestic consumption and imported goods under financial leasing system. The goods are classified according to the Combined Nomenclature on which the customs tariff is based. Value of export data is given in FOB external effective prices for exports and in CIF for imports. External trade statistics are customs statistics, values being registered in USD. Data for 1999 are provisional and can be rectified due to delayed arrival, modification or cancellation of customs declarations from previous periods.

*Terms of trade*. The indices are calculated yearly by the „unit value” method (Paasche index).

*Imports and exports with EU-15*. Data declared by the Republic of 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 under reporting or delay in reporting of migration.

## **Labour force**

*Economic activity rate (ILO Methodology)*. Percentage of labour force in the total population aged 15+. This rate is derived from LFS (Labour Force Survey) observing the following ILO definitions and recommendations:

Labour force: employed and unemployed persons according to ILO definitions stated below.

The employed: all persons aged 15+, who during the reference period worked at least one hour for wage or salary or other remuneration as employees, entrepreneurs, members of

cooperatives or contributing family workers. Members of armed forces and women on child-care leave are included.

The unemployed: all persons aged 15+, who concurrently meet all three conditions of the ILO definition for being classified as the unemployed:

have no work,

are actively seeking a job and

are ready to take up a job within a fortnight.

LFS excludes persons living in non-private households (so-called institutional population).

*Unemployment rate (by ILO methodology)*. Percentage of the unemployed in labour force. This rate is derived from LFS (Labour Force Survey) observing the ILO definitions and recommendations (see ILO definitions above)

*Average employment by NACE branches*. This indicator is derived observing the ILO definitions and recommendations. The employed comprise all people aged 15 years and over, who have carried out an economic or social activity producing goods or services, with a duration of 1 hour at least (for self-employed and unpaid family workers from agriculture, the minimum duration is 15 hours) during the reference period (one week), with a view to achieve certain incomes in form of salaries, in kind remuneration or other benefits.

## **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 motorway*. 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 carriage ways 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**

*Industrial production volume indices*. Since 1996, IPI is computed based on a sample of representative products, constituted in series-witness, for which quantitative and value data are collected, these covering 76% of total industrial activity. The successive aggregation of industrial production indices are compiled using a system of constant weights, which corresponds to the



structure by activities of the gross value added at the cost of factors from the base year. Starting with 1998, the base year is 1995. Data for 1996 and 1997 are recalculated using the 1995 weights. Data on industrial production are provided by all the enterprises with 50 employees and over, having industry as the main activity. For the food industry due to its specific, smaller economic units (20-49 employees) these are also sample surveyed, as well as those having agriculture as their main activity but with industrial subunits specialised in the manufacture of food products. Units belonging to handicraft and consumption co-operatives which are surveyed only yearly are not included. Indices are not adjusted.

*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. Data for 1999 are provisional.

### **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 for fax and mobile phones).

### **Sources**

Total area, external trade, infrastructure, demography, industry and agriculture, labour market, standard of living (except Internet connections): National sources.

National accounts, inflation rate, balance of payment, public finance, finance: Eurostat.