



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 9.10.2002  
SEC(2002) 1409

**2002**

**REGULAR REPORT**

**ON**

**ROMANIA'S**

**PROGRESS TOWARDS ACCESSION**

{COM(2002) 700 final}

**2002**  
**REGULAR REPORT**  
  
**ON**  
  
**ROMANIA'S**  
  
**PROGRESS TOWARDS ACCESSION**

\*\*\*\*\*

# Table of contents

<b>A. Introduction.....</b>	<b>8</b>
<b>a) Preface .....</b>	<b>8</b>
<b>b) Relations between the European Union and Romania .....</b>	<b>10</b>
Recent developments under the Europe Agreement, including bilateral trade .....	10
Accession Partnership.....	11
Action Plan for reinforcing administrative and judicial capacity .....	11
National Programme for the Adoption of the Acquis.....	12
Community Assistance .....	12
Twinning.....	16
Negotiations .....	17
<b>B. Criteria for membership .....</b>	<b>19</b>
<b>1. Political criteria .....</b>	<b>19</b>
Introduction.....	19
Recent developments .....	20
<b>1.1. Democracy and the rule of law .....</b>	<b>21</b>
The parliament .....	21
The executive.....	21
The judicial system .....	24
Anti-corruption measures .....	26
<b>1.2. Human rights and the protection of minorities .....</b>	<b>28</b>
Civil and political rights .....	29
Economic, social and cultural rights.....	34
Minority rights and the protection of minorities.....	35
<b>1.3. General evaluation .....</b>	<b>37</b>
<b>2. Economic criteria .....</b>	<b>39</b>
<b>2.1. Introduction .....</b>	<b>39</b>
<b>2.2. Summary of economic developments since 1997 .....</b>	<b>39</b>
<b>2.3. Assessment in terms of the Copenhagen criteria.....</b>	<b>42</b>
The existence of a functioning market economy .....	42
The capacity to cope with competitive pressure and market forces within the Union.....	48
<b>2.4. General evaluation .....</b>	<b>51</b>
<b>3. Ability to assume the obligations of membership.....</b>	<b>52</b>
Introduction.....	52
<b>3.1. The chapters of the <i>acquis</i> .....</b>	<b>54</b>
<b><i>Chapter 1: Free movement of goods.....</i></b>	<b>55</b>
Progress since the last Regular Report.....	55
Overall assessment.....	56

Conclusion .....	57
<b>Chapter 2: Free movement of persons .....</b>	<b>58</b>
Progress since the last Regular Report.....	58
Overall assessment.....	58
Conclusion .....	59
<b>Chapter 3: Freedom to provide services .....</b>	<b>60</b>
Progress since the last Regular Report.....	60
Overall assessment.....	61
Conclusion .....	62
<b>Chapter 4: Free movement of capital.....</b>	<b>62</b>
Progress made since the last Regular Report.....	62
Overall assessment.....	63
Conclusion .....	64
<b>Chapter 5: Company Law .....</b>	<b>64</b>
Progress since the last Regular Report.....	64
Overall assessment.....	65
Conclusion .....	66
<b>Chapter 6: Competition policy .....</b>	<b>66</b>
Progress since the last Regular Report.....	66
Overall assessment.....	67
Conclusion .....	68
<b>Chapter 7: Agriculture .....</b>	<b>68</b>
Progress since the last Regular Report.....	68
Overall assessment.....	72
Conclusion .....	73
<b>Chapter 8: Fisheries.....</b>	<b>74</b>
Progress since the last Regular Report.....	74
Overall assessment.....	75
Conclusion .....	75
<b>Chapter 9: Transport policy.....</b>	<b>76</b>
Progress since the last Regular Report.....	76
Overall assessment.....	77
Conclusion .....	78
<b>Chapter 10: Taxation .....</b>	<b>78</b>
Progress since the last Regular Report.....	78
Overall assessment.....	79
Conclusion .....	80
<b>Chapter 11: Economic and Monetary Union.....</b>	<b>80</b>
Progress since the last Regular Report.....	80
Overall assessment.....	81
Conclusion .....	81
<b>Chapter 12: Statistics.....</b>	<b>81</b>
Progress since the last Regular Report.....	81
Overall assessment.....	82
Conclusion .....	83

<b>Chapter 13: Social policy and employment.....</b>	<b>83</b>
Progress since the last Regular Report.....	83
Overall assessment.....	85
Conclusion.....	87
<b>Chapter 14: Energy.....</b>	<b>87</b>
Progress since the last Regular Report.....	87
Overall assessment.....	89
Conclusion.....	90
<b>Chapter 15: Industrial policy.....</b>	<b>91</b>
Progress since the last Regular Report.....	91
Overall assessment.....	92
Conclusion.....	93
<b>Chapter 16: Small and medium-sized enterprises.....</b>	<b>93</b>
Progress since the last Regular Report.....	93
Overall assessment.....	95
Conclusion.....	95
<b>Chapter 17: Science and research.....</b>	<b>96</b>
Progress since the last Regular Report.....	96
Overall assessment.....	96
Conclusion.....	97
<b>Chapter 18: Education and training.....</b>	<b>97</b>
Progress since the last Regular Report.....	97
Overall assessment.....	98
Conclusion.....	98
<b>Chapter 19: Telecommunications and information technologies.....</b>	<b>99</b>
Progress since the last Regular Report.....	99
Overall assessment.....	100
Conclusion.....	100
<b>Chapter 20: Culture and audio-visual.....</b>	<b>101</b>
Progress since the last Regular Report.....	101
Overall assessment.....	101
Conclusion.....	101
<b>Chapter 21: Regional policy and coordination of structural instruments.....</b>	<b>102</b>
Progress since the last Regular Report.....	102
Overall assessment.....	102
Conclusion.....	103
<b>Chapter 22: Environment.....</b>	<b>104</b>
Progress since the last Regular Report.....	104
Overall assessment.....	105
Conclusion.....	106
<b>Chapter 23: Consumers and health protection.....</b>	<b>106</b>
Progress since the last Regular Report.....	106
Overall assessment.....	107
Conclusion.....	108
<b>Chapter 24: Co-operation in the field of justice and home affairs.....</b>	<b>108</b>

Progress since the last Regular Report.....	108
Overall assessment.....	112
Conclusion .....	115
<b><i>Chapter 25: Customs union .....</i></b>	<b><i>115</i></b>
Progress since the last Regular Report.....	115
Overall assessment.....	116
Conclusion .....	116
<b><i>Chapter 26: External relations .....</i></b>	<b><i>117</i></b>
Progress since the last Regular Report.....	117
Overall assessment.....	118
Conclusion .....	119
<b><i>Chapter 27: Common foreign and security policy .....</i></b>	<b><i>119</i></b>
Progress since the last Regular Report.....	119
Overall assessment.....	121
Conclusion .....	121
<b><i>Chapter 28: Financial control .....</i></b>	<b><i>121</i></b>
Progress since the last Regular Report.....	121
Overall assessment.....	122
Conclusion .....	123
<b><i>Chapter 29: Financial and budgetary provisions .....</i></b>	<b><i>123</i></b>
Progress since the last Regular Report.....	123
Overall assessment.....	124
Conclusion .....	125
<b>3.2. Translation of the <i>acquis</i> into the national languages.....</b>	<b>125</b>
<b>3.3. General evaluation .....</b>	<b>126</b>
<b>C. Conclusion .....</b>	<b>129</b>
<b>D. Accession Partnership and Action Plan for strengthening administrative and judicial capacity: Global assessment</b>	<b>133</b>
Political criteria.....	134
Economic criteria.....	135
Ability to assume the obligations of membership.....	136
<b>Annexes .....</b>	<b>145</b>
<b><i>Human Rights Conventions ratified by the Candidate Countries, 15 September 2002 .....</i></b>	<b><i>146</i></b>
<b><i>Statistical data.....</i></b>	<b><i>148</i></b>



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

The Luxembourg European Council 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 in October 1999, a third in November 2000, and a fourth in November 2001.

In its 2001 Enlargement Strategy Paper, which accompanied the 2001 Regular Reports, the Commission indicated that, given the pace of negotiations and the progress made so far, the Commission should be able to make recommendations on those candidate countries ready for accession on the basis of its 2002 Regular Reports. At its meeting in Seville in June 2002, the European Council concluded that “in order to enable the European Council to be held in the coming autumn to decide which will be the candidate countries with which negotiations can be concluded at the end of 2002, [...] the Commission will have to draft appropriate recommendations in the light of the Regular Reports.” The Commission has prepared this fifth series of Regular Reports with a view to the Brussels European Council in autumn 2002.

The structure followed for this Regular Report is largely the same as that used for the 2000 and 2001 Regular Reports. 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. In this part, special attention is paid to nuclear safety standards, which were emphasised by the Cologne and Helsinki European Councils. This part includes not only the alignment of legislation, but also the development of the judicial and administrative capacity necessary to implement and enforce the *acquis*. The European Council stressed the importance of this latter aspect at its meeting in Madrid in 1995 and on a number of subsequent occasions, most recently at Seville in June 2002. At Madrid, the European Council stressed that the candidate countries must adjust their administrative structures, so as to create the conditions for the harmonious integration of these States. The Seville European Council also stressed how important it was that candidate countries should continue to make progress with the implementation and effective application of the *acquis*, and added that candidate countries must take all necessary measures to bring their administrative and judicial capacity up to the required level.

This Report takes into consideration progress since the 2001 Regular Report. It covers the period until 15 September 2002. [In some particular cases, however, measures taken after that date are mentioned.] It looks at whether planned reforms referred to in the 2001 Regular Report have been carried out, and examines new initiatives. In addition, this Report provides a global assessment of the overall situation for each of the aspects under consideration, setting out for each of them the main steps still to be taken by Romania in preparing for accession.

Furthermore, in view of the fact that the 2002 Regular Reports will provide the basis on which the Commission will formulate its recommendations as to which countries are ready to conclude negotiations, this Report includes an evaluation of Romania's track record since the 1997 Opinion. As regards the economic criteria, the Report also provides a dynamic, forward-looking evaluation of Romania's economic performance.

For each of the negotiating chapters, this Report provides a summary evaluation of the extent to which commitments made in the negotiations have been implemented. The commitments made by each country reflect the result of the accession negotiations, and, in accordance with the principle of differentiation underlying the negotiation process, may differ between countries. Where negotiating countries have committed themselves to completing specific measures by the time of accession, the Commission assesses the relevant preparatory processes. For chapters on which the accession negotiations continue, and final commitments remain to be defined, an indicative assessment is given of the state of implementation of the commitments that have been made to date.

Romania has set itself 2007 as the target date for accession. The time scale for the implementation of commitments made by Romania takes account of this perspective.

The Report includes a separate section examining the extent to which Romania has addressed the Accession Partnership priorities. This section also assesses the progress Romania has made in implementing the measures set out in the Action Plan for strengthening administrative and judicial capacity that the Commission developed with each negotiating country in the spring of 2002.

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 their 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 information each of the candidate countries has provided within the framework of the Association Agreement and the negotiations, the National Programmes for the Adoption of the *Acquis* where they are available, as well as the process of developing the Action Plans, and various peer reviews that have taken place to assess candidate countries' administrative capacity in a number of areas, have served as additional sources. Council deliberations and European Parliament reports and resolutions<sup>1</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 those of non-governmental organisations.

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

### *Recent developments under the Europe Agreement, including bilateral trade*

Romania has continued to implement the Europe Agreement and the various joint institutions have continued to function smoothly. The Association Council met in March 2002 and the most recent meeting of the Association Committee was in October 2001. The Joint Parliamentary Committee, comprising of representatives from the Romanian and European Parliaments, met in Brussels in April 2002.

Relations between Romania and the Economic and Social Committee continued to be good and in June 2002 a report on Romania's road to accession<sup>2</sup> was adopted. No progress has been made with regard to establishing a Joint Consultative Committee with the Committee of the Regions.

Romania's implementation of the Europe Agreement improved considerably and a number of outstanding issues were resolved during the course of the year (for example, the removal of export restrictions on sensitive raw materials and the phasing out of a discriminatory system of profit taxation). Measures were also taken to remove discriminatory restrictions on the right of lawyers from EU Member States to establish in Romania.

Recent indicators point to a steady improvement in Romania's trade situation. During 2001, Romanian exports to the EC totalled €9.3 billion (68% of total Romanian exports, an increase of 21% compared to 2000). Over the same period, imports from the EC rose to €10.2 billion (57% of total Romanian imports, an increase of 17% over the previous

---

<sup>1</sup> The European Parliament *rapporteur* is Baroness Nicholson of Winterbourne.

<sup>2</sup> The Rapporteur for the Economic and Social Committee is Mr Bedossa

year). This growth in trade both reflected and contributed to the revival of the Romanian economy that took place in 2001.

In 2001, Romania's main exports to the EC were: textiles and clothing (37%), machinery and equipment (15%), footwear (12%), and steel products (9%). The EC's main exports to Romania were machinery and equipment (27%), textiles and clothing (24%), transport equipment (10%), chemical products (7%) and steel products (5%).

As a consequence of the agreement resulting from the first round of trade negotiations in the agriculture sector (adopted on an autonomous basis, pending the conclusion of an Additional Protocol to the Europe Agreement), approximately 85% of EC agricultural imports from Romania and 43% of EC agricultural exports to Romania are duty free or benefit from preferential reduced duty rates (average trade figures for 1998-2000).

Negotiations on a further round of liberalisation, covering more sensitive sectors where trade is currently rather low, began at the end of 2001 and were concluded in June 2002. The result of this further round, scheduled to take effect in January 2003, enhances the existing agricultural trade preferences between the parties and promotes the abolition or reduction of import duties either within tariff quotas or for unlimited quantities in sectors such as cereals, dairy, beef and sheep meat. This further agreement also includes a commitment by the parties to remove export refunds for certain sectors.

The anti-dumping investigation on imports of urea from Romania (among others) led to the imposition of definitive duties in January 2002.

In March 2002, in response to protectionist measures taken by the US, which greatly restricted access to their market and created the risk of considerable trade diversion, the EU initiated provisional safeguard measures, with erga omnes effect, on imports of certain steel products. The measures were partly confirmed in September 2002.

### *Accession Partnership*

A revised Accession Partnership was adopted in January 2002. Its implementation is reviewed in Part D.

### *Action Plan for reinforcing administrative and judicial capacity*

As announced in the Commission's 2001 Enlargement Strategy, in spring 2002 the Commission and Romania jointly developed an Action Plan to strengthen Romania's administrative and judicial capacity, on which common understanding was reached in June. The revised Accession Partnership has served as the point of departure for this exercise.

The purpose of this Action Plan is to identify jointly the next steps required for Romania to achieve an adequate level of administrative and judicial capacity by the time of accession, to ensure that all necessary measures in this regard are taken, and to provide Romania with targeted assistance in areas that are essential for the functioning of an enlarged Union. As such, the Action Plan is a key tool for meeting the common objective of the EU and Romania, i.e. to ensure that Romania's preparations for accession take place as effectively as possible within the planned timeframe.

The implementation of the Action Plan is reviewed in Part D of this Report.

### *National Programme for the Adoption of the Acquis*

In July 2002 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.

### *Community Assistance*

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

The level of financial support available under the pre-accession instruments creates a substantial challenge for the Romanian administration. At present, the capacity of the bodies responsible for programming, operational management and financial control is insufficient. For Phare the rate of tendering and contracting in 2001 was significantly lower than the volume of new funds committed during the year. Consequently the backlog of funds not yet contracted has increased. Similar limits of institutional capacity may also affect the implementation of ISPA.

In accordance with the conditionality of the Phare 2001 programme, the Government of Romania produced an assessment of the bodies responsible for the implementation of Phare and ISPA. The assessment, which has been adopted by Government, identified the human and material resources required for management of these programmes during the period 2002 to 2004. Measures to strengthen the capacity of the Central Financing and Contracting Unit in the Ministry of Public Finance and the Financial Unit within the Ministry of Development and Prognosis are particularly urgent.

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 established 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, investment to strengthen the regulatory infrastructure needed to ensure compliance with the *acquis*, and investment in economic and social cohesion. This support helps these countries with their efforts to adopt the *acquis* and strengthen the institutions necessary for implementing and enforcing the *acquis* and comprises of co-financing for technical assistance, “twinning” and investment-support projects. Phare 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 and grant schemes) with a regional or thematic focus. In the context of the Action Plans for strengthening administrative and judicial capacity, a particular emphasis is placed on the issue of institution building and associated

investment intended to ensure compliance with the *acquis*. For 2002, the Commission has mobilised special financial assistance of up to €250 million to accompany negotiating countries' efforts, over and above the indicative annual allocations for each of the Phare countries, bringing total Community assistance for strengthening the administrative and judicial capacity of the negotiating countries in 2002 to around €1 billion.

During the period 1992-1999, the Phare programme allocated commitments of approximately €1 200 billion to Romania. In 2000 and 2001 the allocations for Romania were €260 million and €287 million<sup>3</sup>. The **2002 Phare National Programme** for Romania consists of €229 million, complemented by €36.5 million under the Phare 2002 supplementary institution building facility. The 2002 programme focuses on the following priority areas:

- Strengthening democracy and the rule of law: Phare is providing continuing support for actions in the field of child welfare and is assisting with the implementation of the national strategy to improve Roma conditions (€ 19 million).
- Economic criteria: support for restructuring the CEC savings bank (€2.5 million).
- Strengthening administrative capacity: support in this area is designed to improve the capacity to manage EC programmes, to strengthen the local public administration, to pursue the institutional development of the Romanian Court of Accounts, to support the implementation of the strategic plan of the Ministry of Public Finance, and to reinforce the implementing bodies for SAPARD (€34 million).
- Meeting the obligations of the *acquis*: twinning, technical assistance and investment are being provided in the following areas - internal market, competition, customs union, consumer protection, social affairs and employment, agriculture, energy, transport, health, environment and justice and home affairs (€84 million).
- Economic and social cohesion: investment support will be provided for regional development programmes focussing on areas facing particular problems. There are also measures to support economic restructuring and institution building (€107 million).

An additional €13 million have 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, the Small and Medium-sized Enterprises Facility, SIGMA and the nuclear safety programme.

Funding provided under Phare 2002 part-finances participation in Community programmes for 2003. Romania remains an active participant in a number of programmes: Leonardo da Vinci, Socrates, Youth, Life III, the Multi-annual Programme for Enterprises and Entrepreneurship, Culture 2000 and Framework Programme 5 for Research and Technological Development and Euratom. Romania has expressed an interest in participating in Framework Programme 6 for Research and Technological

---

<sup>3</sup> These figures include an allocation of €13 million per year to Cross-Border Co-operation (CBC) Programmes.

Development and Euratom. Romania will also participate in the following programmes: Gender Equality, Combating Social Exclusion, Combating Discrimination, Enterprise and Entrepreneurship, Altener, SAVE, IDA II, Fiscalis, European e-content, Customs 2002, Community Action in the field of public health and the Action Programme promoting NGOs in the field of environmental protection. The formal participation of Romania in the European Environment Agency began in January 2002.

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. In Romania, Phare has played a particularly important role in:

- Building capacity for **regional development** programmes. Grant schemes have supported local initiatives in tourism and rural development as well as the development of human resources.
- Preparing for implementation of **ISPA** and **SAPARD**, through project preparation activities and technical assistance to support development of the necessary administrative structures.
- Initiating activities in the area of **human resource development and vocational education and training** in line with the priorities of the European Social Fund.
- Supporting improved collaboration between national and local authorities on the implementation of the **national strategy for improvement of the situation of the Roma**, in particular by allocating funds for 40 local partnership projects through the Resource Centre for Roma Communities.
- Supporting the rehabilitation of two **national road** sections (DN1 and DN2), which has led to a marked improvement in traffic safety.
- Providing continued support to **civil society** to develop sustainable partnerships between NGOs and local authorities, and to set up a network of citizens' advice bureaux.
- Supporting the **European Initiative for Democracy and Human Rights**, aimed at strengthening non-governmental bodies and associations in areas such as: anti-discrimination, conflict resolution, refugee and migrant rights, civic education, human rights promotion, local administration, media, NGO development & training, parliamentary practice and organisation, penal reform and gender equality.
- Supporting the development of **modern child welfare services** through projects proposed and implemented by local authorities.

The 2000 Phare Review confirmed the accession-driven approach and emphasised the importance of helping countries to prepare for the Structural Funds. The trends introduced in 1997 have continued, with an increased role for Commission Delegations, further streamlining of procedures and an increased emphasis on raising the verifiable and quantifiable impact of Phare projects on institution building, investment in compliance with the *acquis* and economic and social cohesion.

The Review also provided for the possibility of further decentralisation of Phare management, by waiving the requirement for *ex ante* approval by the Commission

Delegations for tendering and contracting. For this to be possible, strict pre-conditions covering programme management, financial control and structures regarding public finance must be met. An extended decentralised implementation system (EDIS) should be put in place for each negotiating country at the latest by the time of accession. High Level Working Groups are being established for each country to oversee this process, along with other key procedural steps in the run up to accession.

The Commission approved the Romanian **SAPARD** programme in November 2000. The indicative allocation for SAPARD in Romania for 2002 is € 157.9 million at 2002 prices (allocation 2001: € 156.3 million at 2001 prices).

The operational programme includes 11 measures and is based on four priorities: improvement of the competitiveness of processed agricultural and fisheries products; improvement of infrastructure for rural development and agriculture; development of rural economy; development of human resources.

*The Multi-annual Financing Agreement (MAFA)*, which sets out the rules for implementing SAPARD, and *the Annual Financing Agreement (AFA)*, which sets out the Community financial commitment to Romania for the year 2000, have been in force since January 2002. The AFA 2001 was signed in February 2002. It will enter into force when Romania notifies the Commission of the completion of all requisite national formalities.

The following structures are responsible for the implementation of SAPARD: the National Fund, located within the Ministry of Finance, administers the SAPARD funds under the responsibility of the National Authorising Officer (NAO) and is responsible for the national accreditation of the SAPARD Agency; the Managing Authority is located within the Ministry of European Integration; the SAPARD Agency is located within the Ministry of Agriculture.

In June 2002 the National Act of Accreditation of the SAPARD Agency, along with all relevant documents, was submitted to the Commission. In July 2002, the Commission adopted a Decision provisionally conferring management authority for SAPARD, on a fully decentralised basis, to the SAPARD Agency. This decision includes approval of 3 out of 11 measures of the SAPARD programme and covers 50% of the amount available for Romania.

A Monitoring Committee has been established by the Managing Authority and has met twice.

**ISPA** programming is governed by the national strategy papers for transport and environment which the Romanian authorities finalised in 2000. The strategy for the environment sector was revised in 2001, to lower the population threshold for water projects from 300 000 to 100 000 inhabitants. Due to a lack of maintenance in the past 20 years, most environmental and transport infrastructure is suffering from serious deterioration. In the case of transport, the emphasis is on upgrading and modernising road and rail links in the trans-European corridors to European standards. Development of waterways is also a priority. As regards the environment sector, Romania faces acute problems concerning air, water and soil pollution requiring large-scale investments from both the public and the private sectors.

For the years 2000 and 2001, the full (mid-range) allocation for Romania has been committed, i.e. €493.2 million (€239.2 million in 2000 and €245.6 million in 2001). The allocation for 2002 will be between €217.8 million and €283.2 million.

Nine environmental projects were approved in 2001: three projects combining investments in the drinking and waste water sectors, in Cluj, Pascani and Targu Mures, with ISPA contributions of €35.1 million, €12.2 million and €20.9 million respectively; five projects focusing on waste water collection and treatment, in Timisoara (ISPA contribution of €334.1 million), Braila (ISPA contribution of €44.9 million), Arad (€13.5 million), Focsani (€11.7 million) and Oradea (€16.7 million); and technical assistance for the preparation of a project for the rehabilitation of the Bucharest waste water treatment plant (€1.4 million). Five transport projects were approved in 2001: three investment projects in the road sector, namely, the rehabilitation of the Craiova-Drobeta road section (€87.8 million), the rehabilitation of the Drobeta-Lugoj road section (€138 million) and the construction of the Sibiu by-pass (€67.9 million); and two technical assistance measures to prepare a project for a rail link with the Hungarian border (€0.6 million) and a project for the rehabilitation of the Craiova-Lugoj road section (€1.1 million). So far in 2002, two measures have been approved in the environment sector: a solid waste project in Ramnicu Valcea (€11 million) and a combined drinking/waste water project for the city of Brasov (€41.7 million). A technical assistance measure to strengthen the capacity of ISPA implementing agencies has also been approved in 2002. Further projects are in preparation.

As regards preparation for extended decentralisation (EDIS), a gap assessment has been carried out. According to the EDIS road map, the Romanian authorities must subscribe to its recommendations in order to proceed with the process.

A number of service contracts have been signed for design, supervision and technical assistance in both the transport and the environment sectors, and three works contracts have been signed in the environment sector and one works contract in the transport sector. Most of the tenders for the remaining ISPA projects approved in 2000 have been launched or are currently in preparation.

### *Twinning*

One of the main challenges still facing the candidate countries is the need to strengthen their administrative and judicial capacity to implement and enforce the *acquis*. As of 1998, the European Commission began to mobilise significant human and financial resources to help them with this process, using the mechanism of twinning administrations and agencies. In 2001, the Commission strengthened this emphasis on institution building further, through the launch of the Action Plans for strengthening administrative and judicial capacity.

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

A total of 503 twinning projects were funded by the Community between 1998 and 2001. Between 1998 and 2000, these projects primarily targeted the main priority sectors identified in the Accession Partnerships: agriculture, the environment, public finance, justice and home affairs and preparation for the management of Structural Funds. Since



2000, other important sectors of the *acquis* have also been addressed through twinning, such as social policy, the fight against drugs, transport, and telecommunications regulation. Twinning now covers all sectors of the *acquis*.

Thanks to the strong support of the EU Member States, 103 twinning partnerships were funded by Phare 1998, involving all the candidate countries and almost all the Member States. These first-generation projects have already come to an end. Under Phare 1999 a further 123 projects are currently being implemented and the programming exercise for Phare 2000 included a further 146 twinning projects. The 2001 programming exercise includes 131 twinning projects embracing all the Phare beneficiary countries, as well as Cyprus and Malta. Under the 2002 programming exercise, 119 twinning projects have already been planned and approved for implementation. A substantial number of additional twinning projects are planned, and these should be approved and implementation launched before the end of 2002. They include twinning projects identified in the Action Plans for strengthening administrative and judicial capacity in the negotiating countries. It is estimated that around 300 twinning projects are operational throughout the candidate countries at any one time. Furthermore, the candidate countries are being offered the a further way of drawing on Member States' expertise through "Twinning light", a mechanism to address carefully-circumscribed projects of limited scope which emerge during the negotiation process.

Under Phare 2001, Romania is implementing 12 twinning projects. Substantial support is being provided for public administration reform and customs. Projects are in place for the National Commission of Statistics, the phytosanitary administration and fisheries. Twinning will be used to develop the Integrated Border Management Strategy and support the institutional framework in the field of migration. Other twinning projects target road safety, waste management and SME policy. The National Bank of Romania as well as the Border Police have designed "twinning light" projects.

Special assistance for Romania through twinning is being prepared under the Phare 2002 programme and a total of 29 twinning projects are scheduled - the highest number of any Candidate Country.

Justice and home affairs will be the main area for twinning projects in 2002. A total of ten projects will address the issues of asylum, refugees, Schengen *acquis*, modernisation of the gendarmerie, and general strengthening judicial capacity. The Ministry of Finance is also a major beneficiary with six twinning projects to assist the implementation of its strategic plan. Two environmental projects (chemicals directives and VOC, LCP and SEVESO II legislation), three projects in the social and employment field (equal opportunities, social security of migrant workers and continued vocational training) and three projects for the internal market (customs, competition and insurance supervision) have been designed. Twinning will also be used to support the implementation of the *acquis* in the fields of animal nutrition and inland waterway transport. Finally, two projects were designed to prepare Romania for the management of structural funds.

### *Negotiations*

Accession negotiations were opened with Romania in February 2000, and by September 2002 negotiations on 27 chapters had been launched while the following 13 chapters had been provisionally closed: Company Law, Fisheries, Economic and Monetary Union, Statistics, Social Policy and Employment, Industrial Policy, Small and Medium-sized

Enterprises, Science and Research, Education and Training, Consumers and Health Protection, External Relations, Common Foreign and Security Policy, Institutions.

## **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 1997 Opinion on Romania's application for EU membership, the Commission concluded:

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

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

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

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

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

In its 2001 Regular Report, the Commission found that:

*"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*

---

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

*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."*

The section below provides an assessment of developments in Romania, seen from the perspective of the Copenhagen political criteria, including the overall functioning of the country's executive and its judicial system. Such developments are in many ways closely linked to developments regarding 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*

The political situation was stable over the reporting period. There were no elections and the Social Democratic Party continued to rule in coalition with the small Humanist Party. Although this coalition does not hold a majority in either of the houses of Parliament, it has been able to comfortably secure parliamentary majorities by working together with

other parties – and in particular the Democratic Union of Hungarians in Romania with whom a protocol has been concluded instituting a wide ranging political partnership. Two votes of confidence were called by the Government itself. Both were passed with ease.

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

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

### *The parliament*

Parliament has demonstrated a capacity to process a considerable amount of legislation, although its ability to provide effective scrutiny has proved limited.

In 2001, the number of laws adopted by Parliament showed a marked increase over previous years, which were characterised by legislative blockages. This increase is due to a combination of revised parliamentary procedures and the strong position of the ruling party in both houses. This trend continued in 2002.

The combination of an increased volume of legislation, tighter deadlines and limited resources have had a negative impact on Parliament's ability to effectively scrutinise legislation. Given this situation, specific concerns exist relating to the transposition of the *acquis* where procedural deadlines are particularly short. Legislation through ordinances (see below under the *executive*) also serves to reduce the importance of Parliament in the legislative process.

While overall levels of staffing are adequate, there is a shortage of research staff with legal expertise to assist parliamentarians. The numbers of support staff for parliamentary parties are also low. These problems are magnified by the lack of a career development policy or training policy for existing staff.

With regard to transparency, information on the legislative process is widely available and most draft laws are published on the Internet. It remains difficult to follow the process of amending and adopting laws in real time – which limits the opportunities for external input into a key stage of the legislative process. The public cannot attend meetings of the specialised committees without their prior consent.

In June 2002, Parliament established a Committee to draft proposals for constitutional reform. These are to include reforms necessary for EU accession and improvements in the functioning of state institutions.

### *The executive*

Several initiatives were taken to reform the executive and improve its functioning – the launching of a campaign of public administration reform, restructuring anti-corruption bodies, and the de-militarisation of the police. These reforms are welcome but are all at early stages of implementation and, to date, their impact has been limited. Considering the importance of these issues the accelerated implementation of the reform process

should be considered as a priority. Decentralisation of responsibilities to local government was already well advanced and has continued. By way of contrast, there has been little progress in improving the policy making process and the continued reliance on ordinances as a legislative tool is a cause for concern.

Following the major re-organisation at the beginning of 2001, few changes were made to the organisation of the Executive. The composition of the Cabinet remained largely stable. A number of new government agencies were established - but of these only the National Council for Fighting Discrimination is directly linked to implementation of the *acquis* (see the section on *Human rights and the protection of minorities*).

The Executive's practice of legislating through emergency ordinances, and to a lesser extent "ordinary" ordinances, has been strongly criticised by previous Regular Reports. These legislative instruments enter into force immediately and only need retrospective approval by the Parliament. This is a cause for concern since legislation can be adopted before adequate consultation has taken place (i.e. transparency is greatly reduced) and because Parliament's power to subsequently amend or reject legislation introduced by ordinance can create legislative instability.

The use of ordinances has not substantially decreased over the reporting period. In 2001 and 2002, the majority of legislation dealt with by Parliament consisted of emergency and ordinary ordinances – i.e. executive legislation already in force. Parliament's limited scrutiny capacity means that most ordinances are approved either without any amendments or with only minor changes. The use of these procedures remains a cause for concern and normal parliamentary procedures should be used in all but exceptional circumstances.

Important developments have taken place with regard to launching a reform of the Romanian public administration. The Prime Minister has established an inter-ministerial committee on administrative reform under his personal authority. A Central Unit for Public Administration Reform has been created within the Ministry of Public Administration and an inter-ministerial structure has been set up at the working level in order to develop reform proposals. Preparations are also underway to develop a "fast track" programme to recruit young professional managers to the Romanian civil service.

These initiatives, if sustained and supported by a clear strategy, could contribute significantly to improving the quality of Romania's public administration. This said, the reform of the civil service is still only at the design stage and the administration remains characterised by excessive bureaucracy, a lack of transparency and a limited capacity for policy execution.

The 1999 organic law on civil servants includes provisions that, once properly applied, could lead to improved practices and performance. However, the law is not fully or uniformly applied. The Civil Service Agency has the responsibility for this task but its mandate is unclear and its influence over line ministries is weak.

A considerable amount of secondary legislation related to civil service reform has been passed. Issues covered include disciplinary committees, performance evaluation, probationary periods for new civil servants, the functioning of parity committees, and the management of recruitment exams. However, certain elements may need further revision before they can be effectively implemented. A further concern related to the legislative framework is that work to date has focussed on relatively minor issues while there has

been little progress on fundamental issues such as remuneration, career structure and developing public accountability.

With regard to training of civil servants, Parliament approved the establishment of a National Institute for Administration. The Institute will be subordinated to the Ministry of Public Administration and will provide intensive training for new recruits as well as continuous training for existing civil servants. The Institute will also be responsible for managing a network of eight regional centres that will provide training for local officials and civil servants. It has been charged with preparing and implementing a national training strategy and will start training activities during the 2002/2003 academic year.

Human resource management is very limited and is essentially the responsibility of line ministries. There is no horizontal overview of the problems that exist and no strategic plan for addressing them. A reassessment of the allocation of human resources inside the central administration and a proper allocation of these to priority areas is badly needed. This could help reduce understaffing problems faced by several sectors of the civil service.

At the administrative level, policy co-ordination between ministries has further improved over the reporting period. The Government has demonstrated itself capable of effectively distributing responsibilities for major reforms between ministries – typically through the production of strategy papers or action plans. The production of this type of document has proved to be a feature of the government's medium to long-term policy planning, particularly in the context of EU enlargement and when responding to external pressures. However, these plans are often not based on impact/needs assessments and in only a few cases are implementation and monitoring mechanisms established.

In certain specific cases inter-ministerial committees have been formed to allow a better co-ordination of policies with horizontal impact – for example, the integration of environmental policies into other sectoral policies.

The main instrument for policy co-ordination and inter-ministerial co-operation remains the weekly meetings of the Government. However, many decisions are reportedly made without following the normal internal procedures. This situation often results in hastily prepared legislation being adopted without adequate consultation and without a sufficient assessment of feasibility and impact. The consequent need for amendment is an additional factor that adds to legislative instability.

Consultation with stakeholders has improved over the reporting period but remains inadequate. The Economic and Social Council has been provided with increased opportunities to comment on legislative drafts, but the time available to comment is usually short which limits the effectiveness of the consultation procedure. A structured dialogue has been held with the business community on horizontal measures to regulate the business environment. However, little progress has been made in improving dialogue between business and the Government on specific regulations concerning particular sectors where consultation procedures remain inadequate. Intensive negotiations have been held with the trade unions which have enabled the Government to renew the “social pact” it has with them (but not with the employers' federations) on the implementation of its economic policy. NGOs have been actively consulted in certain cases, such as on the law concerning public access to information, as well as on various minority and child

protection issues. However, these are exceptions and as a general rule NGOs are not involved in the policy dialogue.

The Ministry of European Integration is responsible for all issues related to EU accession. It has demonstrated itself capable of playing an effective co-ordinating function even though its capacity to deliver expert opinions on draft legislation remains limited. At the political level, the Inter-Ministerial Committee for European Integration has met during the reporting period – although both the level of representation and the frequency of meetings have been lower than originally foreseen. At a technical level, sectoral working groups have been organised and have met regularly. These bodies have been able to effectively prepare negotiation documents. However, they are not actively involved in assessing the feasibility of negotiation commitments or in monitoring their enforcement.

The process of decentralisation has continued over the reporting period with transfer of additional responsibilities to local authorities. Shifting responsibility to provide services has increasingly gone hand-in-hand with the decentralisation of political responsibilities and increased fiscal decentralisation. In this context it has been encouraging to note an improved capacity to assess and collect revenues from local taxes and fees.

Given the rapid pace of decentralisation, a major problem facing local administrations is that of limited management capacities to implement decentralised responsibilities. Systems for managing human resources are underdeveloped, training is limited and there has been a high turnover of local civil servants. Considerable efforts are still needed to improve financial management and to remedy shortages of IT equipment and IT skills.

Associations of local authorities have developed their role during the reporting period. These still tend to be politicised organisations. For the first time, central authorities have consistently consulted these associations on draft legislation with a significant impact at the local level.

With regard to the *demilitarisation of the police*, significant progress was made with the entering into force of a new Law on the Status of the Policeman in August 2002. This legislation explicitly stipulates that policemen are civilian public servants serving the rule of law. The law also passes the responsibility for dealing with crimes committed by policemen to civilian Prosecutors and Courts, makes it compulsory for policemen to respect human rights and fundamental freedoms, and calls for impartiality, non discrimination, proportionality, and gradualism by policemen when exercising their duty.

Other initiatives have been taken to support these legal developments. The use of conscription in the police is being phased out which has significantly improved the level of professionalism. While overall police training remains insufficient, the military component has been decreased and additional training has been provided on human rights issues. Some aspects of policing have been decentralised and pilot projects on community policing have been launched.

### *The judicial system*

Reform of the judiciary has been limited during the reporting period and the main concerns raised in last year's Regular Report have not been addressed. In particular, the involvement of the executive in judicial affairs has not been substantially reduced, the courts remain over-burdened, the General Prosecutor has retained an extensive right to



introduce extraordinary appeals, and the combination of a lack of resources and an inadequate human resources policy means that the judicial system is severely strained.

The Romanian judicial system has four levels of courts: courts of first instance in the large cities, tribunals which are organised at the county level, court of appeal, and a Supreme Court of Justice. The Prosecutor-General is attached to the Supreme Court. The Supreme Court is also the supreme jurisdiction for the separate system of special military courts. In general, cases enjoy a judgement in substance in the first jurisdiction and two degrees of judicial redress: appeal on facts and appeal on law. There is also a Constitutional Court in Romania. This Court has a two-fold jurisdiction: the examination of laws before their promulgation by the President, and the examination of laws already in force when their constitutionality is challenged before ordinary courts.

The Superior Council of the Magistracy proposes the appointment of judges and prosecutors to the President and is responsible for disciplinary matters as well as judicial promotions. However, selection of Council members lacks transparency and, as in the past, the Minister of Justice has a strong influence over the Council. An amendment to the Law on Judicial Organisation has increased the number of members in the Council from 15 to 17 in order to increase representation of tribunals. In a separate, positive development the Minister of Justice issued an order stipulating that the promotion of judges and prosecutors is merit-based and decided following an open competition using written and oral tests. This promotion process is supervised by a commission composed of university professors, researchers, legal practitioners and experts working within the Ministry of Justice. Given that political influence over the judiciary remains a concern in Romania, further reforms are needed to strengthen the role of the Council and guarantee the independence of the judiciary.

The General Prosecutor, who is sub-ordinated to the Executive, has continued to use his discretionary power to bring extraordinary appeals against judicial decisions. The concerns expressed in last year's Regular Report, over allowing extraordinary appeals to be made even before other legal remedies have been exhausted and about the relaxation of the criteria for introducing such appeals, have not been addressed. This situation has been found contrary to the European Convention of Human Rights and undermines the principle of legal certainty.

The National Institute of Magistracy is the main entry point for a career as a judge or prosecutor and trainees are selected following highly competitive open competitions. The other common route into these professions is for lawyers to pass an examination. However, individuals with a doctorate in law or who have been magistrates, general inspectors or legal counsellors within the Ministry of Justice can be appointed as judges or prosecutors without having to pass a competitive examination. This raises the possibility of political appointments and could undermine the independence of the judiciary.

The National Institute of Magistracy is legally dependent on the Ministry of Justice for its funding, numbers of trainees, approval of programmes and trainers, and generally for the approval of decisions adopted by the Institute's Council. There has been no progress with the granting of self-governing status to the Institute. The centre providing initial training for Court Clerks became operational during the reporting period. Despite the fact that two regional centres for continuous training have been created they are not operational and the Ministry of Justice has not yet established a clear policy on in-service training for

judges and prosecutors. Although training provisions have been improved they remain inadequate and the quality of training for all judicial professions, including clerical staff, should be improved. Particular attention needs to be given to providing specialised training on issues such as economic crime, money laundering and the fight against corruption.

The total number of judges and judicial vacancies has not changed substantially over the reporting period. The average number of cases dealt with by each judge increased from 511 in 2000 to 531 in 2001, and this heavy workload is a particular problem in the tribunals and courts of appeal and has negative consequences for the quality of judgement. Working conditions remain poor and despite an evident need there has only been limited progress with the introduction of IT systems in courts and in prosecutors' offices, and in terms of improving court management.

The number of judges working in the Supreme Court increased over the reporting period, although the workload remains excessive. Additional staff resources as well as measures to reduce the number of cases forwarded to the Supreme Court are necessary.

The situation with regard to the enforcement of civil decisions has improved. Enforcement is the responsibility of private bailiffs and is carried out effectively in most cases.

The Romanian system of *legal aid* is operational but is limited and should be extended. There have been no changes over the reporting period, and in criminal cases, mandatory legal aid is provided in all cases of detention and to all minors. However, legal aid is only mandatory during hearings for cases where the punishment exceeds five years imprisonment and in cases where the court decides that the defendant is unable to defend himself. The Civil Procedure Code contains provisions for granting *legal aid* to persons who cannot afford the legal costs of a civil case. Legal assistance service are organized by the bars and payment is provided by the Ministry of Justice.

In order to address the issues set out above, the Romanian authorities are advised to draw up a comprehensive strategy to further reform and improve the functioning of the judiciary. Such a strategy should include an implementation plan with budgetary provisions.

### *Anti-corruption measures*

Surveys indicate that corruption remains a widespread and systemic problem in Romania that is largely unresolved. Despite a legal framework that is reasonably comprehensive, and which has been expanded over the last year, law enforcement remains weak. New institutional structures have been created but are not yet fully operational. A further development has been the adoption of a National Plan and Programme for the Prevention of Corruption.

Corruption remains a common aspect of commercial operations but is also widely reported in dealings with public bodies as well as at the political level. Such high levels of corruption undermine economic development and erode popular trust in state institutions. Independent observers have concluded that there has been no noticeable reduction of corruption during the reporting period. A total of 343 persons were convicted for corruption in 2001, marginally more than in 2000 but fewer than in 1999.

The National Plan for the Prevention of Corruption was adopted in October 2001, along with the National Programme for the Prevention of Corruption. The two instruments establish target dates for the ratification of the international legal instruments related to fighting corruption, aim to complete the existing legal framework, set out plans for elaborating sectoral strategies for fighting corruption, and promote Romania's active participation in international anti-corruption programmes. These are important developments and ensuring their implementation should be a priority.

The major institutional development over the period was the setting up of the National Anti-Corruption Prosecutor's Office (NAPO). This new body replaces the existing anti-corruption section of the General Prosecutor's Office. The National Office only investigates corruption cases involving sums over €100 000 and relating to high-ranking officials. NAPO also has regional branches attached to each of the 15 Courts of Appeal. These branches handle corruption cases that fall outside NAPO's competence. Country-wide, and when fully staffed, NAPO will have 75 prosecutors, 150 judicial police officers, 35 financial experts, 50 auxiliaries and 10 administrative positions.

NAPO's activities are co-ordinated by the General Prosecutor of Romania and the office is headed by a specially appointed chief prosecutor. The NAPO chief prosecutor is formally appointed by the President of Romania, in accordance with a decision by the Superior Council of the Magistracy. This decision is in turn based upon a shortlist of names proposed by the Minister of Justice. The other prosecutors are appointed by the Minister of Justice, in accordance with recommendations made by the head of NAPO. The same procedure applies for revoking prosecutors' mandates.

The considerable role played by the Minister of Justice in this process could undermine NAPO's independence – a situation which may compromise the effectiveness of its investigations. Measures should be taken to strengthen the autonomy of the Office through a better definition of the status of the prosecutors, in particular the status of the chief prosecutor, and by giving prosecutors guarantees for permanence in office.

The new body enjoys largely the same legal powers as the previous (and ineffective) anti-corruption structures. The major innovations are the division of powers between NAPO and its regional branches and the fact that provision is made for a large number of expert posts. The ability to fill these posts will be a major test of the Government's commitment to this initiative, as previous anti-corruption bodies have been severely understaffed.

Despite the establishment of NAPO, overlapping and unclear institutional arrangements (between the Financial Guard, the Control Office of the Prime Minister and the police) when investigating corruption remains a serious problem.

There were several legislative developments during the reporting period. The Council of Europe's Civil Law Convention on Corruption was ratified in April 2002, the Criminal Law Convention on Corruption in July 2002, and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime in August 2002. In October 2001 a law on free access to information of public interest was adopted. This law should play a major role in increasing transparency and thereby reducing corruption – although implementation has proved to be slow and inconsistent. A further step towards reducing corruption has been the development of public procurement through electronic tenders. It remains to be seen whether these measures will lead to any noticeable reduction in levels of corruption.

No progress has been made in making the funding of political parties more transparent or in addressing potential conflicts of interest of politicians and civil servants.

The concept of criminal liability of legal persons still needs to be introduced into Romanian Penal Code. Further secondary legislation is also needed to fully implement the 2000 anti-corruption law.

Romania is involved in the Stability Pact Anti-corruption Initiative sponsored by the OECD Secretariat, and participates in the Council of Europe's Group of States against Corruption (GRECO).

As a member of GRECO, Romania received an expert mission in October 2001. According to the evaluation report that was adopted in March 2002, successive Romanian governments have been concerned by the problem of corruption, and have made efforts to prevent and combat it. However, the undoubted reality of corruption in Romania is all the more worrying because the institutions most involved in fighting corruption, including the police and the judiciary, are also affected by the phenomenon. In conclusion, GRECO addressed specific recommendations to Romania, which it is strongly encouraged to follow-up.

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

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

Romania has ratified the major human rights conventions (see annex). In principle, the European Convention for the Protection of Human Rights and Fundamental Freedoms has direct effect in Romania. In practice, this remains to be convincingly established.

In May 2002, Romania signed Additional Protocol No. 13 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty in all circumstances.

As previously reported, Romania has signed but not yet ratified Additional Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms prohibiting discrimination on any grounds.

A law approving the 2000 Government Ordinance on Preventing and Punishing all Forms of Discrimination entered into force in January 2002. This law represents a step forward in terms of the fight against discrimination in Romania and the transposition of the *acquis*. However, amendments to the law will be needed in order to fully conform with the *acquis* based on Article 13 of the EC Treaty, notably with regard to indirect discrimination and the burden of proof (*see chapter 13 - Social policy and employment*).

A formal decision was taken to establish the National Council for Combating Discrimination in December 2001 and the necessary funds for its functioning were allocated from the 2002 state budget. The President and the Board of Directors of the Council of Combating Discrimination were appointed in August 2002. This is a significant development, as it has proved impossible to enforce anti-discrimination legislation without such a body. The decision setting up the Council states that it will

operate independently of any institution or public authority. However, in practice it is not an independent body as it remains administratively subordinate to the Government. A concern is that members from vulnerable groups and NGOs are not represented in the Council.

The Office of the Ombudsman deals with complaints lodged by persons whose civil rights and freedoms have been infringed by the public administration. In 2001, the institution received a total of 7 412 petitions (63% more than in 2000). A total of 2 970 petitions were declared admissible, and of these more than two thirds were either totally or partially solved during the year. As in previous years, the majority of cases related to property rights, while a significant number of other cases related to the right to a decent standard of living and to social assistance.

The main administrative change was the appointment of a new Ombudsman in October 2001, and the subsequent appointment of two deputy-ombudspersons. Other than these changes, staff numbers have not increased, and remain insufficient to deal with the growing number of petitions and with the Ombudsman's substantially increased remit (as a result of legislation on data protection).

Legislation adopted over the reporting period gives the Ombudsman the authority to establish regional offices and obliges the Constitutional Court to ask the Ombudsman's opinion on laws relating to human rights. The Government and Parliament have been given the option of consulting the Ombudsman on draft legislation concerning human rights and fundamental freedoms, though this is not an obligation. Despite these changes there has been no apparent improvement in the co-operation between the Ombudsman and other state institutions including Government ministries, local administrations and the courts.

### *Civil and political rights*

Romania's progress with improving civil and political rights has been mixed. A number of important reforms have been initiated. Reform of the childcare system has continued and standards of child protection have improved. The Government has also prioritised the fight against trafficking in human beings and a number of important measures have been taken to address this problem. Progress has been made with the development of a probation system – although Romania's prisons are overcrowded and conditions remain extremely poor. Romania's asylum legislation was brought closer to the *acquis*. There has been no noticeable reduction in cases of excessive violence being used by police officers (in particular against the Roma community). Progress in developing safeguards to protect the freedom of expression has been very limited, and progress with the restitution of property has remained slow.

During the reporting period, Romania made significant progress with the reform of *child protection*, although large regional differences still exist in the implementation of the new measures. The number of children in residential care has been reduced from approximately 50 000 in 2001 to 43 000 in 2002. A further 40 000 children are protected in family-type care (placement with a substitute family or with a foster family).

Improvements have taken place with the financing of child protection activities. The budget allocated to childcare has been further increased. The main part of this financing is now transferred from the national budget to the county (*judets*) councils. Funding is

also channelled through the National Authority for Child Protection and Adoption to support national interest programmes dealing with: the closure of old-style institutions; social integration of street children; social and vocational integration of young persons leaving care institutions; and training of staff in child protection issues. However, the fact that budget appropriations are calculated as a function of the number of institutionalised children tends to favour institutionalisation in comparison to prevention of abandonment.

Closure of large, old-style institutions is ongoing: 31 institutions were closed during the course of 2001, and the closure of further 34 is under way. The move away from large institutions has been paralleled by a substantial increase in the number of professional foster parents and the range of alternative child protection services. Living conditions in most placement centres (decentralised childcare institutions) are adequate, although care standards in the remaining large, old-style institutions do not respect the individual needs of children. A further positive development is the adoption of a national strategy on maternity hospitals, which could help reduce the levels of abandonment of children in these hospitals.

The modification of the assessment procedures for children with disabilities is a welcome development although further efforts are needed to develop an inclusive educational policy for disabled children. In the absence of such a policy, the closure of special schools, some of which do not provide adequate living conditions, has been hampered.

Mainstreaming of child protection concerns into other policy issues has progressed, and the National Authority for Child Protection and Adoption has improved its relations with other ministries over the reporting period. The law to combat social exclusion includes measures for young people leaving residential care institutions and should have a positive effect on their integration into society. Given that the main reason for child abandonment is poverty, social legislation passed during the reporting period, and in particular the laws establishing a minimum wage, should help reduce the number of children in institutions.

The National Authority for Child Protection and Adoption is a professional body with a good management capacity. It is adequately staffed, although training could be improved.

Despite this overall progress, a general concern is that there are significant regional differences in the implementation of the reform programme. This situation is compounded by the absence of adequate national standards for child protection services and the fact that the National Authority lacks the mandate to perform inspections at the local level.

The moratorium on inter-country adoptions, noted in last year's report, is still in place. However, a Government Decree, adopted in December 2001, provided for adoption applications to be processed in cases where court procedures had been started prior to the introduction of the moratorium – as well as in certain exceptional cases. One result of the moratorium was a substantial increase in the number of national adoptions. The Romanian authorities have prepared new legislation on childcare and international adoptions and are also developing administrative structure 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 adoption being resumed.

In October 2001, Romania became a party to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

In November 2001, Romania ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

There continue to be consistent and credible reports of *degrading treatment by the police* – in particular when dealing with persons belonging to the Roma minority. The use of physical violence to extract confessions is not unusual. The Romanian police have a comprehensive and systematised management approach to dealing with complaints. However, successful prosecutions against police officers are rare and internal police investigations have frequently been inconclusive. Given this situation, the recent transfer of responsibility for the investigation and prosecution of this type of offence to the civilian authorities represents a positive development. New procedures are also needed to improve controls over the use of firearms by the police in the line of duty. The Romanian authorities have not yet authorised the publication of reports made by the European Committee for the Prevention of Torture and are strongly encouraged to do so.

Romania remains a country of origin and of transit for the *trafficking in human beings*. The Romanian Border Police uncovered 269 cases of trafficked women in 2001 while the International Organisation for Migration estimates that as many as 20 000 women are trafficked from Romania each year. In response to this situation, a number of significant measures have been taken by the Romanian Government during the reporting period.

A law for combating trafficking in human beings was adopted in December 2001 and defines the concepts of ‘trafficking’ and ‘exploitation’ as well as setting out penal sanctions. This is a positive step, and addresses one of the weaknesses identified in the 2001 Regular Report. However, implementing rules have not yet been adopted and it is therefore unclear if this legislation is being applied in full. The Romanian authorities should also take particular care to ensure that legislation aimed at regulating emigration is not misused in order to punish victims of trafficking.

A National Action Plan on Trafficking in Women and Children has also been adopted which covers a wide range of objectives, from improving collaboration between the different agencies involved in combating trafficking, to information activities. Tangible results of the Plan have included the opening of a Centre for Victims of Trafficking, and the introduction of specific training on trafficking for the Police Anti-Crime Squad. Administrative structures have been developed with the appointment of a National Co-ordinator to combat trafficking and the setting up of a network of liaison officers within the Ministry of Interior and in Prosecutors’ Offices whose function is to co-ordinate Romanian activities with those carried out by EU Member States and other candidate countries.

Just over 9% of prison detainees are being held in *pre-trial detention*. No data are available on the duration of pre-trial detention in practice, but the legal limit for pre-trial detention is high – half of the maximum period of imprisonment for the crime with which an individual is charged. Judicial review is applied both during the pre-trial detention and during the judicial phase.

Romania’s prison population is high compared to the size of its population and *prison conditions* continue to be extremely poor. While certain positive developments have taken place over the reporting period these have only had a limited effect.

Despite a small reduction in the prison population, severe overcrowding is the most serious problem. While a considerable number of new cells have been built over the last

year, and a concerted programme of cell modernisation and refurbishment has been launched, the prison population still exceeds capacity by over 40%. There has been a gradual improvement in the treatment of inmates: the number of visits and food packages allowed has been increased, greater efforts have been made to find jobs for inmates, and education and recreational facilities have been developed. The training of prison staff has also improved over the last year. However, living conditions remain harsh and the poor quality of food, limited medical care, and unhygienic conditions are issues which still need to be addressed. Human rights organisations have also reported the use of excessive disciplinary measures, such as depriving inmates of food parcels and the use of chains for restraint. There have also been continued reports of physical violence in prisons – although there is no evidence of systematic abuse.

An important and positive development over the reporting period has been the evolution of the probation service. A total of 28 regional probation services have been established, and a budget allocation has been made for hiring 210 staff (although there have been certain difficulties in finding suitably qualified personnel). These regional services have laid the foundations of an effective probation system.

In crimes where the maximum sanction is less than 5 years imprisonment, and the accused is not a minor, there is no mandatory *legal aid* provided. This is a limitation to the right to legal representation is human rights issue that needs to be addressed. Where legal aid is provided, an additional problem is that the quality of representation is often low.

The positive trend noted last year in the area of *asylum* has continued during the reporting period. Romanian asylum procedures are working effectively, handling times are complied with, country information has been improved, the National Office for Refugees enjoys good relations with civil society, and the overall professionalism of dealing with asylum claims has improved.

Although Romania's asylum legislation is largely in line with the *acquis*, certain shortcomings were noted in last year's Regular Report. The Government's recognition of family reunification as a right and clarification of the grounds for exclusion addressed two of these concerns. However, there are still gaps in the legal framework: those with humanitarian status receive fewer benefits than those with refugee status; time limits for processing cases at border points are too short; and asylum seekers can be kept in the airport transit zone for an excessive period of time. The principle of *non-refoulement* is guaranteed under Romanian law but a small number of *refoulement* cases have nonetheless been reported during the reporting period.

Further steps have been taken to improve assistance provided to refugees and asylum seekers. Detailed standards have been established regarding material assistance and feeding, and a programme has been developed to provide classes in the Romanian language to children of asylum seekers (an important development as this will allow children to attend school).

An Emergency Ordinance, adopted in March 2002, banned fascist, racist or xenophobic organisations as well as symbols relating to individuals guilty of crimes against humanity.

*Freedom of expression* is guaranteed in the Constitution and both the written press and electronic media are able to report freely. At the same time, restrictions on the freedom of expression do exist. Over the reporting period the progress made with guaranteeing freedom of expression was limited, while a number of developments raised questions



about Romania's compliance with international standards and practices.

The main development over the reporting period was the revision of the Penal Code. The crime of "offence to authorities" was repealed, the crime of "insult" will no longer be punishable with a prison sentence, and the maximum prison terms for "calumny against private persons" and "calumny against officials" were reduced. The amendments are limited and maintaining "calumny against officials" as a specific offence with a higher penalty than a similar offence against non-officials contradicts the case law of the European Court of Human Rights. No change has been made as regards the burden of proof (Art. 207), which is weighted against journalists, even though this provision is incompatible with the European Convention on Human Rights and was raised as a specific concern in last year's Regular Report.

Both Houses of Parliament passed a draft law on the right to reply that has been criticised by human rights organisations for giving disproportionate power to the plaintiff and thereby discouraging the media from presenting critical opinions or closely scrutinising controversial issues. The law was not promulgated by the President. In a separate development, procedural reasons were used to dismiss the Board of Control for Romanian State Radio (appointed by the previous Government) before it had completed its term of office. This allowed the current Government to appoint a new Board of Control. Taken together, these developments indicate the Government's increasing sensitivity to critical media reports and represent a worrying trend.

ProTV, the largest private television company, is heavily indebted to the Romania state and has applied to the tax authorities for a rescheduling of its outstanding tax liability. This makes the channel's continued operation dependent on the good will of the Romanian authorities.

*Freedom of religion* is guaranteed by the Constitution and is observed in practice. The Government does not restrict the observance of religious belief, although human rights organisations have reported cases of Orthodox clergy, sometimes working with local officials, restricting the religious activities of other churches.

There are 15 recognised religions in Romania, and while the possibility of registering new religions exists in principle, it has not been applied in practice. Non-recognised faiths are able to operate without restriction but do not benefit from the same legal advantages as recognised religions. The 1948 Decree on Religious Denominations is in need of reform, but there has been no progress in this regard over the reporting period.

As regards discrimination on the basis of *sexual orientation*, Parliament confirmed the decriminalisation of homosexuality during the reporting period (the measure was originally introduced by Emergency Ordinance in June 2001) and ensured that sexual offences are now governed by the same legislation irrespective of sexual orientation.

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

In Romania, the process of *restitution of properties* confiscated under the communist regime has three main components: restitution of buildings, restitution of agricultural and forest lands, and restitution of churches and related premises.

Although the legal framework for the restitution of buildings was established in early 2001, progress has been hindered by weak administration and by the absence of implementing legislation. An authority for the enforcement of the restitution law was created during the reporting period but this body is not yet fully functional.

The restitution of agricultural land and forests has continued over the reporting period. Progress has been relatively slow and varied considerably from region to region. In an effort to address this situation, the commissions responsible for restitution were re-organised and working procedures revised. It is too early to assess the effectiveness of these measures but it is unlikely that the Government will be able to meet its own target of completing 90% of agricultural and forestry restitution by the end of 2002.

In July 2002, Parliament adopted legislation that clarified the process of restituting property confiscated from churches. The legislation extends the scope of the previous law in several important respects. However, only church property is covered and there is presently no legal framework for the restitution of actual churches. This is a particularly important issue for the Greek-Catholic Church which had a large number of properties confiscated by the Communist regime but still has no legal redress. The Government has committed itself to producing specific legislation on this issue but delays in preparing such a law means that there has been no substantial progress.

### *Economic, social and cultural rights*

The government has prioritised improving social conditions and there were important legislative developments in order to promote equal opportunities between women and men and to fight social exclusion and poverty. There is still a need to improve social dialogue and the role of trade unions at enterprise level remains limited.

During the reporting period, new legislation has been adopted to promote *equal opportunities* and equal treatment for women and men (*see Chapter 13 - Social policy and employment*). The principle of equal opportunities for men and women has also been introduced, as a basic principle into other legislation (such as the Law on Unemployment Insurance and the Promotion of Employment Stimulation). Given the lack of statistical records or previous case law, it is currently impossible to determine the extent of discrimination. This kind of information will be necessary before the effectiveness of new legislation can be assessed.

Implementation of the National Action Plan for Equal Opportunities continued over the reporting period, most notably with the initial steps towards setting-up a National Agency for Equal Opportunities by 2004. Training activities have also been developed to raise the awareness of civil servants responsible for the implementation of the law on equal opportunities.

Women remain under-represented in political life, with only 11% of deputies and 9% of senators. In the Government, five out of 28 cabinet ministers are women.

Fighting social exclusion and poverty is an explicit government priority and the reporting period has been characterised by intensive legislative activity. New legislation has sought to provide a social safety net while at the same time facilitating access to the labour market in order to develop the economic independence of the *socially vulnerable*. The National Plan for Poverty Prevention and the Promotion of Social Inclusion was finalised

in April 2002 and a law on Preventing and Combating Social Exclusion was adopted as one of the first instruments to implement this Plan. A National Strategy on Special Protection and Social Integration of *Disabled Persons* has also been drawn up.

*Trade unions* are amongst the most visible civil society organisations and the Government has continued its efforts to constructively engage with them. In January 2002 the Government concluded a Social Pact with the majority of trade unions. A further agreement was reached in June 2002 with the two unions that had not signed the original agreement. Following a request from the trade unions, the Ministry of Labour and Social Solidarity signed the European Social Security Code.

Against a background of industrial restructuring serious labour disputes have taken place – most frequently in the processing industry and in the public sector. At the same time, the Law on the Solution of Labour Disputes would appear to be working with over 50% of disputes solved through conciliation.

The need to improve social dialogue and the role of trade unions at enterprise level was noted in the last Regular Report - but no developments can be reported. There are concerns that implementation is not being respected in all cases.

Romania has submitted the second report on implementation of the Revised *European Social Charter* to the Council of Europe Secretariat General.

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

During the reporting period, positive developments continued to take place with regard to the treatment of minorities. Legislation extending the use of minority languages was implemented relatively smoothly and important steps were taken to implement the National Strategy for Improving the Condition of Roma, with a view to addressing the difficult situation faced by the Roma Community.

The Law on Local Public Administration allows the official use of minority languages in localities where speakers represent more than 20% of the population. This legislation is mainly applicable to the Hungarian minority and, in general terms, it has been successfully applied despite the reticence of some prefectures and local authorities. New legislation stipulates that communities with a minority population of over 20% will be obliged to employ police officers who know the mother tongue of the relevant minority. Progress has already been made with enforcing these new provisions. A further development was the amendment of legislation on the use of the national flag, anthem and coat of arms, in order to allow national minorities to use their own symbols at official gatherings.

Romania has a large Roma population – estimated at between 1 800 000 and 2 500 000<sup>5</sup>. *Discrimination against the Roma minority* continues to be widespread in Romanian society, and the social inequalities to which the Roma community is exposed remain considerable. Living conditions are poor, access to social services remains limited and human rights organisations have received credible reports of police harassment. Against

---

<sup>5</sup> In some cases estimates are considerably higher than official figures, due at least partly to the reluctance of some Roma to identify themselves as such. In 1997, the official figure for the Roma population was 400 000.

this context, the Government has made steady progress in implementing last year's Roma Strategy, which is explicitly aimed at addressing discrimination.

During the reporting period, the structures for the implementation of the Roma Strategy were progressively established. At the county level, the Roma offices provided for in the strategy have become operational. Over 400 Roma have been hired as experts, the responsibilities of these experts have been clarified, and all 42 local Roma offices have elaborated Action Plans for the 2001-2004 period. The Roma Party has been the main interlocutor when making these appointments and efforts should be made to increase the involvement of other Roma organisations.

At the national level, 15 commissions have been established in ministries or national agencies for the implementation of sectoral strategies. In addition to experts from the ministries, these commissions also include a member designated by Roma organisations. There has also been significant progress with the implementation of sectoral policies. In the field of employment the Ministry of Labour and Social Solidarity has promoted Roma participation in labour market programmes. The Ministry of Health, and the Ministry of Education have also been active in the implementation of the strategy. A particularly important innovation was the official establishment of school and health "mediators" since this facilitates improved Roma access to public services in general and to education and health services in particular. Agreement was also reached with the Ministry of Interior to employ 100 policemen from Roma communities during the course of 2002.

Against this positive background, a weakness with the implementation of the Roma Strategy is that the full levels of funding envisaged in the original document have not been made available. This lack of financial support means that it has been impossible to carry out many of the planned activities and efforts have been restricted to less ambitious, and less costly actions. Other concerns are the absence of effective co-ordination mechanisms. Without these, the success of the strategy will rely upon the individual approaches taken by the different institutions involved.

One of the aspects of the Strategy that has not, to date, been satisfactorily addressed is that of housing. This is one of the largest problems affecting Roma communities, many of whom live in unacceptable conditions, without basic amenities and without security of tenancy. Certain local authorities have used this situation to attempt to move Roma into special neighbourhoods, but the Government has firmly rejected any such form of segregation.

Although the legal framework for addressing discrimination against Roma is not yet fully operational, courts did rule against employers and newspapers – for the first time – for publishing discriminatory job vacancies.

As regards the use of *minority languages*, slight increases were recorded during the 2001/02 school year in the number of mother-tongue educational units and the number of students being educated in their mother tongue. The Department for Inter-Ethnic Relations decided to finance the publication of textbooks for schools teaching through the medium of minority languages. The private Hungarian University "Sapientia" functioned well and completed its first academic year in 2001/02 with 450 students attending its courses.

No progress was noted with regard to the Csango minority: a non-homogenous group of between 60 000 and 70 000 Roman Catholic people living in the north-east of Romania

who speak a form of Hungarian. Reports from human rights organisations provide evidence that certain local authorities have obstructed attempts by Csango to be taught the Hungarian language (as an optional language). This would contradict current Romanian legislation, which provides the right to study a minority language if there is sufficient demand.

As reported in previous years, Romania is a party to the Council of Europe Framework Convention for the Protection of National Minorities. In March 2002, the Committee of Ministers of the Council of Europe concluded<sup>6</sup> that Romania had made commendable efforts to support national minorities and their cultures. Further efforts were required in the fields of media, public employment and education - areas where particular attention would have to be paid to the numerically smaller minorities. The Committee concluded that, despite the determination of the authorities to speed up the social integration of the Roma, real problems remained regarding acts of discrimination, the wide socio-economic differences between Roma and the rest of the Romanian population, as well as ill-treatment by some law-enforcement officials.

### **1.3. General evaluation<sup>7</sup>**

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

The launch of a major programme of administrative reform is an important development and ensuring the successful implementation of these reforms should be considered as a priority. Significant progress was also made with the decision to demilitarise the police. This will increase the public accountability of police officers - although further actions are needed to ensure the proportionality of their actions. New institutional structures have been created for fighting corruption, which remains a cause for very serious concern, but they have yet to have an impact.

Romania still needs to improve the decision making and legislative processes. In particular, the Government's reliance on emergency ordinances should be reduced and parliament's ability to scrutinise legislation increased. Reform of the judiciary has been limited. A lack of resources means that the judicial system is severely strained and the executive's involvement in judicial affairs has not been reduced in practice. In order to address these issues, judicial reform should be made a political priority and a comprehensive strategy to improve the functioning of the judicial system should be drawn up.

Romania continues to respect human rights and freedoms. It has made significant progress with child protection, reducing the number of children in residential care and improving actual living conditions. Progress has also been made in promoting equal opportunities between men and women, with developing structures to reduce trafficking in human beings and with setting up the institutional framework to fight discrimination.

---

<sup>6</sup> Resolution Res CMN (2002)5 of 13 March 2002.

<sup>7</sup> See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

The development of a probation system has continued although prison conditions remain extremely poor. Additional steps need to be taken to strengthen safeguards for freedom of expression.

Positive developments took place with regard to the treatment of minorities. Legislation extending the official use of minority languages was implemented relatively smoothly. Important steps were taken to implement the National Strategy for Improving the Condition of Roma, with the aim of effectively combating discrimination and improving living conditions, although additional financial resources will be necessary to make further progress.

## **2. Economic criteria**

### **2.1. Introduction**

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

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

In its 2001 Regular Report, the Commission found that:

*“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.”*

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

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

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

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

*Romania's macroeconomic performance has been mixed but is showing signs of improvement.* Over the period, the average growth rate has been negative, inflation high and the sustainability of the external accounts a frequent source of concern. A lack of restructuring has underpinned a low rate of unemployment but a high rate of underemployment. Since mid-2000, however, macroeconomic trends have improved distinctly, building upon the cumulative impact of successive rounds of incomplete structural reforms, a more favourable external environment and, crucially, the adoption of a more balanced and responsive policy mix. Growth has resumed, inflation declined and external vulnerability decreased.

Main Economic Trends								
Romania		1997	1998	1999	2000	2001	Average	2002 latest
Real GDP growth rate	per cent	-6.1	-4.8	-1.2	1.8	5.3	-1.0	3.1 Q1
Inflation rate <sup>a</sup>	per cent	:	59.1	45.8	45.7	34.5	46.3	27.4 July <sup>c</sup>
- annual average								
- December-on-December	per cent	:	40.6	54.8	40.7	30.3	41.6	23.0 July
Unemployment rate								
- LFS definition	per cent	5.5	5.6	6.2	7.0	6.6	6.2	10.0 Q1
General government budget balance	per cent of GDP	-4.5	-3.2	-4.5	-4.5	-3.4	-4.0	
Current account balance	per cent of GDP	-6.0	-7.1	-3.6	-3.7	-5.9	-5.3	
	million ECU/€	-1,884	-2,647	-1,216	-1,471	-2,623 <sup>d</sup>	1,968	- 750 Jan.-May <sup>d</sup>
Gross foreign debt of the whole economy	per cent of exports of goods and services	82.6	84.7	81.7	64.1	:	:	
- debt export ratio	Million ECU/€	7,513	7,176 <sup>b</sup>	7,643	8,505	:	:	
Foreign direct investment inflow	per cent of GDP	3.4	4.8	2.9	2.8	:	:	
- balance of payments data	million ECU/€	1,071	1,812	977	1,110	:	:	434 Jan.-May <sup>d</sup>

*Sources: Eurostat. National sources. OECD external Debt Statistics*

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

<sup>b</sup> series break as a result of some technical changes to the definition.

<sup>c</sup> Moving 12 months average rate of change.

<sup>d</sup> Source: Website of the National Bank.

*Despite notable advances, transition-related reforms still need to be completed.* Romania is a late starter in the reform process, with key measures in the area of liberalisation and enterprise reform starting to be taken only in early 1997. Although further progress has been achieved since then, especially in the banking sector, reforms have failed to gain significant momentum as the authorities have struggled to implement stated policies in a difficult political and economic environment. Price and trade liberalisation has advanced with the progressive application of the Europe Agreement trade provisions, and, recently, a significant adjustment in administered prices. The weight of the private sector also increased as the privatisation of large state-owned enterprises started. Although still



awaiting privatisation, integrated energy companies have been unbundled and their markets partially opened up. The structure of the banking sector has been overhauled and the regulatory framework considerably strengthened in a belated response to serious financial difficulties. Progress has also been made on establishing the legal framework and basic institutions for a market economy. However, most of these reforms still need to be completed. Most importantly, budget constraints have been only partially tightened as poor payment discipline, large tax arrears, and weak bankruptcy procedures have allowed several nonviable enterprises to survive, hindering the reallocation of resources to more efficient uses.

*Romania has not made progress in real convergence with EU per capita income levels.* GDP per capita in purchasing power parity was only 25% of the EU average in 2001. Regional income disparities are moderate. At 35% of the EU average over the 1997-99 period, per capita income in the Bucharest region was some 40% higher than the national average and some 85% above the level in the poorest region. Since 1997, the economic activity rate has averaged 70% and the employment rate 65%. Both have declined over the period. Totalling 6.2% of the labour force on average, unemployment was considerably higher among the young and slightly more pronounced among male job-seekers. Although regional disparities in unemployment have been small, unrestructured public enterprises and inefficient agricultural activities account for a significant share of employment in certain areas.

<b>Main Indicators of Economic Structure in 2001</b>		
Population (average)	Thousand	22,408
GDP per head <sup>a</sup>	PPS	5,900
	per cent of EU average	25
Share of agriculture <sup>b</sup> in:		
- gross value added	per cent	14.6
- employment	per cent	44.4
Gross fixed capital formation/GDP	per cent	19.0
Gross foreign debt of the whole economy/GDP <sup>c</sup>	per cent	21.3
Exports of goods & services/GDP	Per cent	33.5
Stock of foreign direct investment	Million €	5,496 <sup>d</sup>
	€ per head <sup>a</sup>	245
Long term unemployment rate	per cent of labour force	3.2

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

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

<sup>c</sup> Data refer to 2000.

<sup>d</sup> Data refer to 1999.

### **2.3. Assessment in terms 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.

*The consensus about the fundamental goals of economic policy has progressively broadened but fears of high political and social costs still deter a more resolute implementation of structural reforms.* Support for macroeconomic stabilisation and structural reform has often proved to be shallow and narrow, contributing to the large gap between policy goals and achievements, and to a frequently disjointed decision-making process. There are, however, growing indications that the consensus about the essential aims of economic policy may be broadening. After lengthy debates, in March 2000 the government managed to agree on a Medium Term Economic Strategy, which was broadly endorsed by all political parties. The change of government at the end of 2000 did not lead to any fundamental modification of the ultimate goals of economic policy, which were strongly re-stated through the approval of Romania's first Pre-Accession Economic Programme in mid-2001 and the conclusion of a new IMF arrangement in October 2001. At the same time, improved co-ordination among ministries and between the government and the central bank facilitated the adoption of a more balanced policy mix. This progress, however, has not yet led to a significant acceleration in structural reforms leading, inter alia, to delays in disbursements from the IMF.

*Although the economy has contracted in real terms relative to 1997, GDP growth resumed in 2000 on the back of rising domestic demand.* Recording an average period growth of -1%, the economy has not fully recovered from the recession of 1997-1999, when real GDP contracted by a cumulative 11.7%, and investment by nearly 9%, as the economy struggled to cope with various negative shocks against a background of indecisive policy action and faltering investor confidence. After a modest rebound in 2000, however, GDP expanded by 5.3% in 2001 on account of three main factors. Private consumption boomed on the back of rising real wages and income. Stock building continued to rise, hinting at unresolved statistical problems in the estimation of GDP components or at a persistent accumulation of unsold products by enterprises with soft-budget constraints. Investment accelerated for the second year in a row, partly as a result of distortionary tax incentives offered to small and medium-sized enterprises (SMEs). Although the strengthening domestic demand led to an increasingly negative contribution by the external sector to growth, exports expanded at double-digit annual rates from mid-1999 until the last quarter of 2001, when growth slowed down sharply as the external economic situation worsened. The economic recovery, however, has remained resilient. In the first quarter of 2002, GDP increased by 3.1% as import growth came to a near halt while exports rebounded somewhat and domestic demand continued to expand, albeit at a slower pace.

*The current account deficit has been high and its sustainability a frequent source of concern. Recent trends, however, point to an improved situation.* The current account deficit has fluctuated around a period average of 5.3% of GDP. External financing was called into question when the deficit peaked at 7.1% of GDP in 1998 against the background of a severely misaligned exchange rate, a rising trade deficit, dwindling reserves, a bunching of debt repayments and adverse international financial conditions. To stave off a full-blown external crisis, the authorities accepted a large devaluation of the real exchange rate and tightened policies while continuing to service their foreign debt. Following two years of successful external consolidation, however, the current account deficit widened again to 5.9% of GDP in 2001, when the trade deficit rose to 7.5% of GDP on the back of the strengthening recovery and various one-off factors boosting import growth. Unlike in the past, however, the external deterioration was kept in check thanks to the timely tightening of the policy stance in the second half of 2001. In the first half of 2002, this combined with rebounding exports of goods, lower prices for energy imports and an underlying trend towards higher private transfers from abroad and lower service trade deficits to cause a significant reduction in the current account deficit. Financing the external deficit has also become less problematic thanks to a steady inflow of foreign direct investment (FDI), averaging nearly 3.5% of GDP, a positive error and omission item, rising to 2.6% of GDP in 2001, and improving borrowing conditions. In April 2002, Romania launched its first ten-year bond on the international market, reaping the benefits of various upgrades granted by rating agencies since 2000 and of its improving vulnerability indicators. The debt-to-GDP ratio remains low while its average maturity has lengthened. Reserves' import coverage has also been on a rising trend, reaching 4.4 months by June 2002.

*Over most of the period, unemployment remained fairly low and relatively constant owing to the limited progress achieved in economic restructuring.* The unemployment rate (ILO definition) averaged 6.2%. After rising moderately during the three-year recession, it decreased to 6.6% in 2001 on the back of the on-going recovery. In the first quarter of 2002, however, the unemployment rate rose sharply to 10%, possibly largely due to seasonality and administrative factors linked to the introduction of a minimum income guarantee scheme. Recent trends in the registered unemployment rate support this view. Unemployment is much higher among the young and of a long-term nature for more than half of job-seekers. Between 1997 and 2001, the activity rate decreased from 71.5% to 68.3%. Average employment in industry dropped by more than 15% and the workforce of public enterprises was cut by nearly a fifth. Yet, total employment decreased by less as the agricultural sector absorbed a large proportion of dismissed workers. Along with the relative stability of the unemployment rate, the resulting increase in the share of agricultural employment, reaching 44.4% in 2001, suggests the existence of large pockets of underemployment in the economy.

*Inflation remains high but has declined steadily since mid-2000 on the back of a more coherent policy stance.* Even excluding the 1997 spike caused by the belated liberalisation of the exchange rate and of energy and agricultural prices, the annual inflation rate has been high at 46.3% on average. Inflation has been the most visible symptom of the economy's structural weaknesses and macroeconomic imbalances. Since mid-2000, however, it has been on a steadily declining path. Unlike in the past, from mid-2001 onwards disinflation has been achieved despite simultaneous high but warranted increases in energy tariffs. After totalling 45.7% in 2000, average yearly CPI inflation fell to 34.5% in 2001. The year-on-year rate has also dropped sharply, decreasing to 23.0% by July 2002.

*Due to more supportive conditions, the present monetary policy framework has led to increased macroeconomic stability.* Monetary and exchange rate policies were relieved of their quasi-fiscal functions in early 1997 but the central bank initially remained unable to sustain a stance geared to price stability. Other policy objectives routinely took precedence in an environment characterised by a fragile external position, a weak financial sector, widespread financial lack of discipline, and unsupportive fiscal and income policies. Progress on these fronts, however, has allowed the monetary authorities to increasingly focus on disinflation. Within the framework of the managed float regime adopted in 1999, the exchange rate is used as the main anti-inflationary instrument as long as this does not endanger the external balance. Thanks to an improved external outlook, productivity increases and more supportive wage trends, the real exchange rate could appreciate some 17% against the euro between 1999 and 2001 without imperilling the external accounts. However, new challenges are emerging with strong capital inflows forcing the central bank to engage in costly sterilisation operations. These totalled some 16% of GDP in volume over 2001 and continued at a sustained rate over the first half of 2002. Nevertheless, broad money has expanded rapidly with the real year-on-year growth rate turning positive at the beginning of 2001 and accelerating to above 16% by June 2002. In view of the faster than expected disinflation in the first half of 2002, however, the authorities recently allowed real policy interest rates to drop after letting real money market rates rise over 2001. Various measures were also taken recently in an attempt to slow down an on-going rapid expansion in foreign-currency denominated credit.

*The authorities have been adopting an increasingly responsible fiscal stance.* At 4% of GDP on average,<sup>8</sup> the general government deficit has remained under control despite direct banking sector restructuring costs of some 4.5% of GDP over 1999 and 2000. After peaking at 4.5% of GDP in 2000, the general government deficit was cut to 3.4% of GDP in 2001 thanks to a tightening of policy in the second half of the year. This restored a moderate primary surplus and made it possible to achieve the target agreed with the IMF despite lower-than-planned revenues. After rising sharply from very low levels, the gross debt ratio was stabilised in 2000 and cut to 23.3% in 2001. Developments during 2002 have remained broadly positive. Thanks to strict expenditure control and increases in excise taxes compensating a shortfall in revenues, the 2.6% of GDP deficit target for the year remains achievable. Relative to 1997, GFS-based data indicate that, at 30.5% of GDP, revenues have increased by nearly 2 percentage points thanks to a higher rate of collection of indirect taxes. After increasing on the back of rising interest payments until 1999, and higher non-interest spending in the run up to the 2000 election, expenditure has been brought back to about 34% of GDP with cuts in public investment counterbalancing a slight increase in current expenditure.

*Despite recent progress, fiscal consolidation needs to be put on a sounder footing by tackling the remaining unresolved issues.* Tax arrears have typically been tolerated and regularly cancelled. Under the latest IMF arrangement, for instance, monitored enterprises' arrears to the budget rose above the agreed targets, increasing by 13% in the first four months of 2002 after a temporary fall in the second half of 2001. Further undermining tax discipline, tax codes have also changed frequently, often to offer targeted incentives to specific economic groups. Some progress, however, has been

---

<sup>8</sup> All general government deficit and debt data used were notified by the Romanian authorities to the European Commission in April 2002. Data are, however, only partially compliant with EU standards (ESA-95). At 4.3% of GDP, the average GFS-based general government deficit used as reference in the context of IMF programmes is somewhat higher than the equivalent ESA-95 figure.

achieved with the recent approval of more transparent procedures for the cancellation of tax arrears and, most notably, with the enactment of new VAT and profit tax laws that constitutes a significant effort towards the elimination of tax exemptions and distortionary tax incentives. The establishment of a new minimum income guarantee scheme in late 2001 was an important step towards the creation of a better-targeted social safety net. Measures are also being taken to improve the institutional framework for budgetary policy and tax administration. The 2002 budget was the first to be approved within the mandated time limits and a new improved public finance law was recently approved. The number of extra-budgetary funds has been reduced. Procedural and administrative changes are being carried out to address the systemic weaknesses affecting tax administration. However, significant medium-term challenges still need to be faced, including the reform of the increasingly unbalanced public pension system, the orderly implementation of on-going fiscal decentralisation and the need to support transition by providing an effective social safety net and adopting a more growth-enhancing structure of revenue and expenditure.

*Romania has a mixed track record of policy-making geared towards economic stability. Although the policy mix has become more balanced of late, some concerns remain.* By often failing to adopt the most appropriate macroeconomic policy mix and repeatedly holding back from advancing the structural reforms needed to support successive stabilisation programmes, the authorities have directly contributed to the boom-and-bust nature of Romania's economic performance. Signs of more responsible behaviour, however, have begun to emerge, most notably with the tightening of the inappropriately loose policy stance adopted in the run up to the general elections at the end of 2000 and at the beginning of the new administration. The adoption of a more coherent mix in the context of a new IMF stand-by arrangement was instrumental in halting the deterioration of the current account and supporting disinflation in the face of necessary increases in energy tariffs. So far, however, the authorities have failed, yet again, to put the process of macroeconomic stabilisation on a sounder basis, making insufficient advances in enterprise reforms and allowing the wage bill and the arrears stock of public enterprises to rise above the levels agreed with the IMF. Finally, in June 2002, the government signed an agreement with two trade unions providing for a 50% increase in the minimum wage and a reduction in the minimum income tax in 2003 that could endanger the future pace of disinflation. Safeguarding measures, including a tightening of the fiscal stance in 2003, were agreed only later with the IMF and will need to be strictly implemented to sustain stabilisation. In this regard, the sharp growth in money and credit observed since late 2001 also requires continued monitoring.

*Most prices are liberalised. Despite diminished direct intervention by the authorities, poor payment discipline continues to affect the workings of the price mechanism.* Currently, price regulations apply to eighteen goods, ten of which are included in the consumption basket accounting for a share of 20.4%. The responsibility for price administration is entrusted to the Competition Office and the energy regulators. Although formally independent, the energy regulators have not been immune from political pressure and administered prices have often lagged behind inflation. Recently, however, regulated prices have been adjusted over and above inflation. Most notably, since mid-2001 the prices for electricity, heating and natural gas have been brought progressively closer to international and cost recovery levels. To protect this achievement, electricity and heating tariffs were tied to the US dollar in July 2002. However, this important relative price adjustment has not fully fed through the economy because of a worsening in the collection rates of energy enterprises over 2001. Recent positive efforts to address this

problem include the establishment of escrow accounts for intra-sectoral payments, some disconnection of delinquent users, and rescheduling agreements conditional on the payment of current obligations. However, without more fundamental reforms, particularly with regard to the privatisation or liquidation of large loss-making public enterprises, poor payment discipline will continue to affect the functioning of the price system. Progress towards this goal will also require the authorities to continue refraining from the ad hoc protective trade measures used in the past.

*The private sector has continued to grow but the weight of large loss-making public enterprises remains high.* Averaging 63.7% over the period, the share of the private sector in GDP has steadily increased, climbing some 6.5 percentage points to 67.1% in 2001. By end-2000, private-majority establishments accounted for roughly three-quarters of all employment, turnover and export. However, public companies still accounted for more than 40% of enterprise investment and 75% of all tangible assets. With the weight of private ownership expanding in all sectors, the continuing influence of public ownership largely rested upon its dominant role within the energy sector, which accounts for 30% of total industrial turnover. In the agricultural sector, nearly all land is privately owned but the development of an effective land market is still at an early stage. Despite some progress, property titles are not yet fully clarified. This and the limited progress in the privatisation of agricultural companies hold back the consolidation of fragmented holdings.

*Amid procedural changes, repeated delays and frequently untransparent procedures, privatisation has made some progress.* The sluggish pace of privatisation recorded so far reflects the limited attractiveness of many enterprises on offer but is ultimately due to the authorities' failure to overcome the political and social obstacles to faster divestiture. Rather than accelerating the process, numerous changes in privatisation methods, conditions, and administrative responsibilities have contributed to its slow pace and facilitated the proliferation of opaque procedures that deter investors' interest. Progress has nevertheless been achieved since the Opinion, particularly with respect to small and medium-sized enterprises. Some success has also been achieved with respect to larger companies, most notably with the sale of Banca Agricola and SIDEX. In agriculture, 207 companies have been sold and 256 are undergoing privatisation out of a total of 739 entities. Preparations for the privatisation of various energy companies have also started to make progress, albeit slowly. On the whole, however, the divestiture of large enterprises has been protracted despite international assistance. As a result of the enduring difficulties encountered in privatisation, the authorities missed the privatisation targets agreed with the IMF and the World Bank for the first half of 2002. A recent flurry of new offers and the approval of yet another law aiming at accelerating privatisation will need to be judged on results.

*Welcome initiatives to improve the institutional provisions for market entry and exit must be accompanied by a greater effort to impose market discipline throughout the economy.* Since 1997, the annual increase in economic units recorded in the Trade Register has averaged 7%. The number of active enterprises, however, has declined by nearly 3%, reflecting a strong growth in the number of self-employed entrepreneurs. To facilitate market entry, administrative measures have been taken to reduce lengthy bureaucratic procedures and red tape. In particular, one-stop offices for simplified registration and authorising procedures were instituted in 2001. Important initiatives aimed at improving market exit have also been launched. In an attempt to streamline procedures, bankruptcy legislation for non-financial enterprises has been amended several times, most recently in

February 2002. Implementation, however, remains weak. In the banking sector, the bankruptcy legislation introduced in 1997 also failed to provide an effective exit mechanism. In October 2001, it was modified and extended to credit co-operatives. Despite these efforts, uncertainties about property rights, frequent changes in laws and regulations, and difficult access to financing continue to hamper market entry. More fundamentally, several nonviable industrial enterprises have been allowed to survive, hindering the reallocation of resources to more productive uses.

*Having established most of the legal framework for a market economy, Romania must ensure its sustained implementation.* Despite some improvements and strengthened efforts, Romania has made insufficient progress towards the establishment of a positive investment climate and favourable business environment. To this end, tax regulations should be streamlined. Legal certainty should also be strengthened, eliminating remaining uncertainties about property rights, refraining from changing regulations frequently and ensuring a non-discretionary interpretation of the law by improving courts' effectiveness.

*The banking sector has strengthened considerably but still cannot provide effective intermediation between savers and investors. Its continued development depends on the completion of privatisation and the sustained implementation of an improved supervisory and regulatory framework.* The development of the banking sector was seriously hampered by the slow pace of reform and by the misuse of public banks as instruments for subsidisation. A creeping banking crisis forced the authorities to act between 1998 and 2000 when several problem banks were closed or cleaned up and privatised, overhauling the structure of the sector. In 1997, seven state-owned banks held nearly 80% of all loans. In March 2002, only three state-owned banks remained, accounting for 35% of the credit stock. The largest one, BCR, is in the early stages of privatisation. The share of foreign institutions has also increased with thirty-two foreign-owned banks and branches accounting for more than half of total banking sector net assets, and three-fifths of all loans by March 2002. Largely due to the clean up or closure of problem banks, vulnerability indicators have improved dramatically. The capital-adequacy ratio increased from 14.5% at end-1997 to 27.1% in June 2002. The share of non-performing loans fell from 71.7% at end-1998 to 2.8% in June 2002 and prudential reports indicate that past due and doubtful claims dropped from over 250% of commercial banks' own capital at end-1998 to some 2.8% in June 2002. Taking advantage of much strengthened supervisory powers, the National Bank of Romania will need to rigorously apply the significantly improved prudential regulations to avoid any renewed deterioration in the financial health of the banking sector, especially in view of the on-going expansion of credit and deposits. Real year-on-year growth of deposits and credit to the non-government sector resumed in 2001 and accelerated strongly from a low base. The banking sector, however, remains underdeveloped. Total assets still amount to less than 30% of GDP, deposits to some 20% and domestic credit to little more than 10%. Occasional scandals point to persisting governance problems, at least among domestic banks. A low, albeit rising, average profitability depends upon a large spread between deposits and lending rates which equalled 16.4% in June 2002.

*Although strengthened supervision and other institutional developments have set the stage for the growth of non-bank financial markets, these are still underdeveloped and will be unable to mobilise significant funds for years to come.* The equity markets remain small with the total aggregate capitalisation of the Bucharest Stock Market and the over-the-counter RASDAQ amounting to some 7% of projected GDP in July 2002. Privatisation has recently been completed in the insurance sector which has grown

steadily but remains underdeveloped: gross insurance premiums collected in 2001 amount only to some 1% of GDP. To support the development of the non-banking financial sector, the authorities have been taking steps to strengthen the supervisory framework. In particular, regulations in the insurance sector have improved and the recently established supervisory body has begun to operate. The formation of a joint committee between the capital market regulator, the central bank and, as of April 2002, the Insurance Supervision Commission, has the potential to improve the surveillance of the local financial sector.

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

The ability to fulfil this criterion depends on the existence of a market economy and a stable macroeconomic framework, allowing economic agents to make decisions in a climate of predictability. It also requires a sufficient amount of human and physical capital, including infrastructure. State enterprises need to be restructured and 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 such integration.

*The lack of macroeconomic stability and structural reforms has held back the reallocation of resources towards more productive uses.* Several factors have hindered the restructuring of the economy, such as limited financial discipline, tax arrears and other forms of quasi-fiscal subsidies, sporadic price controls, ad-hoc trade restrictions, an underdeveloped financial sector and, until recently, a reluctance to adjust the relative level of administered prices. By depressing investor confidence and affecting the business environment, a volatile macroeconomic environment, an unstable legal framework, and a limited enforcement capability by inexperienced regulatory agencies also helped to slow down the process of restructuring.

*To maintain and upgrade the country's human capital, Romania's education system should be strengthened and active labour market policies further developed.* At 3.3% of GDP on average, general government spending on education has been stable but low. Schooling is compulsory for only eight years. The participation rate of students aged 16 to 24 is relatively low, albeit rising. Some 70% of students in upper secondary and post-secondary education are enrolled in vocational courses. A small but increasing percentage of total students is enrolled in post-secondary and tertiary education. As a result, despite some recent improvements, the average education level remains relatively low with less than 10% of the total labour force having completed tertiary education in 2000. Spending on R&D has dropped to less than 0.5% of GDP in 1999. Although passive measures still represent the bulk of labour-market policies, the authorities have designed and implemented an increasing array of active measures. These, however, are still heavily concentrated on subsidies to employment rather than training measures. Moreover, while labour-market policies can play a useful complementary role, they cannot supplement the restructuring measures needed to solve the extensive underemployment of labour resources in Romania.



*Only sustained growth within a more stable macroeconomic environment will make available the resources needed to upgrade Romania's capital stock.* The transport infrastructure is inadequate and suffers from a lack of investment with motorway construction resuming only recently for the first time since 1997. Energy sector infrastructure has also deteriorated. Forced to provide quasi-fiscal subsidies to the rest of the economy, energy companies have been left without the resources needed for investment. An obsolete capital stock and irrigation network have made the agricultural sector particularly vulnerable to the vagaries of the weather.

*The level and quality of investment spending must increase to support the long-term development of the economy.* Gross fixed capital formation averaged 19% over the period. After declining during the recession from 21.2% in 1997 to 17.7% in 1999, the investment ratio started rising again in 2000, reaching 19% of GDP in 2001. There are some doubts about the soundness of the business decisions underlying much of this investment activity as state-owned companies were responsible for more than 60% of all gross fixed capital formation carried out by enterprises. Despite the poor state of public infrastructure, gross fixed capital formation by the general government only amounted to 1.8% of GDP on average. FDI inflows are playing an increasing role even though the cumulative stock of FDI remained low on a per capita basis at €245 per head in 2001. Yet, since 1997, net FDI inflows have remained rather stable on an annual basis, equalling 3.5% of GDP on average. As a result, the 1997 FDI stock had doubled by 1999.

*Despite important progress in some sectors, restructuring is still incomplete.* The breadth and depth of enterprise restructuring has been uneven. The positive performance of some industrial sectors, like textiles, footwear, furniture, and electrical equipment, indicates that restructuring is beginning to bear fruit in those sectors where it has been carried out more aggressively, largely thanks to faster privatisation. Significant progress has also been achieved in some sensitive sectors, like banking, mining and shipbuilding. Despite a chronic gap between policy announcements and implementation, restructuring has also advanced in most other sectors, including agriculture, steel and energy, where the formerly integrated enterprises have been unbundled and slowly prepared for sale. However, privatisation and restructuring are not yet completed in most sectors and are at a relatively early stage in some. In particular, several large loss-making enterprises that actually subtract rather than add value have survived with little or no restructuring thanks to direct and indirect government support. This has weakened market incentives and deprived the budgetary and private sectors of scarce resources. It has also precluded a faster and deeper restructuring of the energy sector, which has become the main provider of quasi-fiscal support following the restructuring of the banking sector. Finally, as illustrated in the relevant chapter of this Report, serious economic and institutional weaknesses still hamper rural and agricultural development.

*The structural composition of the economy reflects the incompleteness of the transition process.* The share of the service sector in gross value added increased some 10 percentage points to 51.3% in 2001. The counterpart to this expansion in the tertiary sector has been an equally distributed decline in the share of gross value added produced by industry, down to 28.5% by 2001, and by agriculture. At 14.6 % of GDP in 2001, however, the latter's share is still relatively high while the increasing number of agricultural workers points to a large deterioration in sectoral productivity. Moreover, the sectoral structure of gross value added has been relatively stable since 1998.

*A growing acknowledgement of the role played by SMEs could lead to a better environment for their development.* Operating mostly in retailing and manufacturing, SMEs play an increasingly important role, explaining a rising share of turnover and gross value added, respectively 56.1% and 39.5% in 2000. Between 1997 and 2000, SMEs accounted for more than half of total turnover, a quarter of all exports, and a fifth of all investment carried out by enterprises. The share of employees working in SMEs also increased sharply, rising from 33% in 1997 to 47% in 2000. In line with SMEs' growing economic relevance, the authorities have taken various steps to facilitate their development, instituting a Ministry for SMEs in 2001. Notwithstanding these initiatives, Romania still lacks a coherent and effective SME strategy. In any case, apart from specific targeted programmes, SMEs would greatly benefit from faster progress towards more general and fundamental policy goals such as the completion of the privatisation process, the sound development of the financial sector, and the establishment of stable legal, regulatory and tax frameworks.

*Although decreasing over the period, government intervention has continued to affect enterprises' competitiveness, thereby holding back the process of restructuring.* Advances in domestic and external liberalisation coupled with progress in privatisation have reduced the influence of government policy and legislation on competitiveness. However, successive governments have continued to shelter a slowly diminishing number of sectors and enterprises from market discipline. This was achieved through the provision of explicit budgetary subsidies as well as through other less transparent and more pervasive forms of support. At different points in time, these have included controlling the price of key inputs for certain production sectors, writing off tax arrears to the budget on a regular basis, tolerating mounting inter-enterprise arrears, granting borrowing guarantees and implementing discriminatory trade and fiscal measures. Although some progress has been recorded on most of these aspects, it is still insufficient.

*Under the impulse of increased liberalisation, Romania's economy has become more open and increasingly integrated with the EU.* At 75.1% of GDP in 2001, the value of exports and imports of goods and services was some 15% higher than in 1997. Already Romania's main trading partner in 1997, the EU has further increased its predominant role. By 2001, it accounted for 67.8% of the total value of Romania's merchandise exports against 56.6% in 1997.

*Increased trade integration has been accompanied by a sustained shift in specialisation away from heavy industries towards low value-added activities in light manufacturing.* The share of metals, minerals and chemical products in the total value of merchandise exports has decreased, dropping from 33% in 1997 to 25% in 2001 while that of clothing, footwear and electrical equipment has increased from 38% in 1997 to 50% in 2001. Such trends reflect the progressive but incomplete dismantling of the artificial trade specialisation inherited from the control economy. With a more flexible exchange rate regime, relative unit labour costs have been broadly stable since mid-1999. Against this background, the strengthening of the private sector, particularly SMEs, and the development of a wide subcontracting network with foreign firms aimed at taking advantage of Romania's cheap labour have underpinned the growth of the most dynamic export industries. Without an increase in the proportion of local value added, however, Romania's export sector remains characterised by a high import requirement and dependent upon relatively low wage costs and favoured access to the EU markets within the framework of outward processing trade.

## 2.4. General evaluation<sup>9</sup>

Romania has continued to make progress towards being a functioning market economy, for which the prospects have improved. Sustained and full implementation of planned measures together with the completion of the reform agenda should allow Romania to be able to cope with competitive pressure and market forces within the Union in the medium term.

Some significant gains on macroeconomic stabilisation have been achieved over the last years. A more appropriate policy-mix is decreasing inflation, while growth has resumed and the external position remains sustainable. Considerable progress has been made on the creation of the necessary market institutions. The ongoing overhaul of the banking sector, the successive improvements in the supervisory and regulatory framework for the financial markets and the advances in privatisation have progressively tightened enterprises financial discipline. Price and trade liberalisation coupled, over the last year, with a significant adjustment of energy tariffs and important reforms of the tax system have set the stage for a more efficient allocation of resources. Restructuring is advancing in a number of sectors.

To build upon this progress, the authorities should give priority to establishing a track record on macroeconomic stabilisation grounded on further disinflation, by maintaining an appropriate policy mix and underpinning it with the enforcement of enterprises' financial discipline. Commitments to restrict the total wage bill in the public sector should be respected. The recent sharp growth in money supply and credit requires careful monitoring and a readiness to take prompt actions. Establishing enterprises' financial discipline requires improved tax administration and compliance, a consistent and transparent implementation of the latest measures to reduce the arrears of energy users, a determined and transparent use of the recently approved legal provisions for accelerating privatisation, and a readiness to liquidate loss-making enterprises. Completing privatisation in the banking sector, continuing the reform of public expenditures and budgetary procedures, and ensuring the implementation of improved regulatory and legal frameworks would also support the establishment of a functioning market economy and the development of Romania's capacity to cope with competitive pressure and market forces within the Union.

---

<sup>9</sup> See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

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

#### *Introduction*

This section addresses the question of Romania's ability to assume the obligations of membership – that is, the legal and institutional framework, known as the *acquis*<sup>10</sup>, by means of which the Union implements its objectives. Alongside an evaluation of relevant developments since the 2001 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. Furthermore, it includes an evaluation of Romania's track record since the 1997 Opinion. It also provides, for each of the negotiating chapters, a summary evaluation of the extent to which commitments made in the negotiations have been implemented, as well as an overview of transitional arrangements that have been granted.

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

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

In June 2002, the Seville European Council repeated how important it was that candidate countries should continue to make progress with the implementation and effective application of the *acquis*, and added that candidate countries must take all necessary measures to bring their administrative and judicial capacity up to the required level. Building on the assessment of Romania's administrative capacity provided in the 2001 Regular Report, the present Report seeks to add further depth and detail, focusing on the main administrative structures required for implementing the various aspects of the *acquis*.

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

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

---

<sup>10</sup> A description of the *acquis* for each chapter can be found in the Commission's 1997 Opinion on Romania's application for EU membership.

In the 2001 Regular Report, the Commission found that :

*"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."*

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

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

Accordingly, this section opens with an assessment of progress relating to the cornerstones of the internal market which are known as the “four freedoms”, and continues with a systematic review of progress on each of the chapters, covering all aspects of the *acquis*, including sectoral policies, economic and fiscal affairs, regional policy, environment, justice and home affairs, external policies, and financial questions.

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

### *Progress since the last Regular Report*

Since the last Regular Report, Romania has made some progress in this domain, notably with regard to the transposition of sector legislation and further alignment in the area of public procurement.

In the area of **horizontal and procedural measures**, Romania adopted framework legislation introducing *New and Global Approach principles* into domestic legislation in October 2001 and there has been acceleration in the transposition of New Approach legislation. At the same time, only limited progress was made with the transposition of the *acquis* related to market surveillance, product safety and safety checks at external borders. No significant progress can be reported with regard to the notification procedure and interchange of data between administrations.

Progress can be reported regarding the adoption of **sector specific legislation**. In the areas covered by *New Approach Directives*, this progress is linked to the adoption of framework legislation allowing for implementation of the *acquis* in this area. The main sectors concerned by this progress are equipment to be used in explosive atmospheres (ATEX), machinery, protective equipment, cableway installations, medical devices, recreational craft, legal metrology (non-automatic weighing equipment) and pressure equipment, as well as radio- and telecommunications terminal equipment.

As regards sectors covered by *Old Approach Directives*, some limited progress has been made in the transposition and implementation of the *acquis* on legal metrology and pre-packaging. Some progress can be reported on motor vehicles with the adoption by the Romanian authorities of CTAC 2002 (technical conditions motor vehicles must comply with in order to be admitted in traffic), which significantly increases the degree of legislative harmonisation in this sector. However, some vertical Directives in this field still have to be transposed. Progress can also be reported regarding legislation on textiles and cosmetics. With reference to pharmaceuticals, progress has been made in relation to the legislative framework for marketing authorisations but additional efforts are needed to reduce the time necessary for the treatment of files. The *acquis* on glass has now been transposed as well as Directives concerning footwear and wood.

As regards food safety and foodstuffs legislation (*see also Chapter 7 - Agriculture*) the process of transposition has accelerated considerably. Major elements of the vertical food directives have been transposed in addition to transposition of *acquis* in the areas of labelling, contaminants, flavourings and extraction solvents. Progress has also been made concerning transposition of the chemicals *acquis* with particular reference to chemical fertilisers and good laboratory practice. No significant progress can be reported in relation to the classification, packaging, and labelling of dangerous substances or as regards civil explosives.

A Government Decision intended to transpose the *acquis* on the return of cultural objects unlawfully removed from the territory of a Member State entered into force in April 2002.

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

As regards the development of Romania's administrative capacity for the implementation of horizontal and procedural measures and sector specific legislation improvements have continued during the reporting period. The Romanian Accreditation Body has initiated the evaluation process prior to opening negotiations on multilateral agreements concerning testing laboratories, product certification bodies, and quality management systems certification bodies. The Romanian standardisation institution has continued its programme of transposing European standards, having so far transposed more than 37% of European harmonised standards. In April 2002 the Romanian Standardisation Association (ASRO) signed a memorandum of understanding with the American standards body ASTM. This memorandum of understanding commits ASRO to adopt and promote ASTM standards. It will be necessary to clarify the implications of this commitment with those already taken by Romania in the framework of the Europe Agreement and the accession negotiation process.

With the adoption of framework legislation in the area of conformity assessment, progress has been achieved over the reporting period from the viewpoint of the institutional network. In order to improve the co-ordination of market surveillance activities, the Romanian authorities set up the "Inter-Ministerial Committee for Market Products and Services Surveillance and Consumer Protection" in September 2001. In the field of food safety a high number of ministries are still involved and a decision to establish the National Food Authority has not been taken. The overall administrative capacity to implement the *acquis* on industrial products has slowly improved over the course of the last year.

Since the last Regular Report, no major progress has been made as regards the **non-harmonised area**. In April the Romanian authorities adopted legislation intending to transpose the *acquis* on conformity checks with the rules on product safety on products imported from third countries. Legislative screening for elements in conflict with Articles 28-30 of the EC Treaty has hardly begun. Although certain legislative provisions incompatible with this part of the *acquis* have been repealed other provisions remain in place and new restrictions have been introduced, notably as regards the sale of second hand goods ostensibly for reasons of health and hygiene. The Romanian authorities have given no scientific or statistical evidence for the necessity of these measures.

Recent amendments to **public procurement** legislation, which entered into force in April 2001, have improved the level of alignment with the *acquis* in this area. Intensive efforts made by Romania have resulted in notable progress in the degree of transposition and implementation of the directives in this field. Domestic preference is due to be maintained until January 2005.

### *Overall assessment*

Although Romania has transposed more horizontal and procedural measures and has indicated that it has implemented most New Approach Directives, several implementing texts have been found to be partially or not in line with EC legislation. These include



texts on lifts, toys, gas appliances, electromagnetic compatibility, low voltage and simple pressure vessels. Further improvements are needed in order to comply with the *acquis*. Some other implementing texts are still to be evaluated.

In the non-harmonised area, Romanian authorities should ensure that all legislation in conflict with Articles 28-30 of the EC Treaty is identified and amended by the date of accession. A full screening of Romania's legislation is necessary to ensure conformity with Articles 28-30 EC as well as a more consistent approach to regulation in this area.

To ensure the principle of mutual recognition, a clause on 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, further steps are required in all sectors to complete alignment with the *acquis*.

As for administrative capacity, the Romanian standardisation and accreditation bodies have been in place for some years and continue to function appropriately. Efforts have been made to adopt European standards in order to meet the requirements for membership of CEN, CENELEC, and the European Telecommunications Standards Institute. Major efforts are still required to improve the overall administrative capacity to implement the *acquis* on industrial products which, despite improvements, requires reinforcement. Institutional weaknesses concerning conformity assessment bodies and laboratories remain and affect the implementation of the *acquis* on food safety. Particular efforts will need to be devoted to re-structuring the food control system, ensuring proper co-ordination between all the institutions involved, abolishing the pre-market approval system for foodstuffs, and preparing both the administration and food operators to apply the principles underpinning the EC food safety system. The lack of resources, both in terms of equipment and of staff, impedes the necessary improvement of the control services in this field. The achievements in the area of conformity assessment infrastructure require consolidation and reinforcement, particularly as regards administrative capacity. 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 needs to make further efforts to establish appropriate customs and market surveillance infrastructure as well as effective administrative co-operation between competent authorities.

In the area of public procurement Romania has achieved a high degree of alignment with the *acquis*. Romania should complete the process of alignment in line with its timetable for adoption of further implementing legislation.

### *Conclusion*

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

Since the Opinion considerable progress has been achieved in the field of legislative alignment - in particular over the past few years. This is largely due to the adoption of framework legislation on the principles of the New and Global Approach, which facilitates sector-specific legislation. Considerable progress has been made in the establishment of the necessary bodies to administer the *acquis*. A reasonable level of transposition has been reached in many areas but the level of administrative capacity and enforcement has not kept pace with this.

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

Romania should focus further efforts on intensifying the process of alignment. The administrative capacity still needs reinforcement and in some areas the required structures still need to be completed.

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

### *Progress since the last Regular Report*

In the area of free movement of persons some developments can be recorded during the reporting period.

As regards **mutual recognition of professional qualifications** a number of laws were adopted in July and August, which aim to transpose the *acquis* as regards medical doctors, dentists, nurses, midwives and pharmacists.

Romania has reversed the discriminatory measures in respect of lawyers that were highlighted in last year's Regular Report (*see chapter 3 – Freedom to provide services*).

No significant progress was made as regards **citizens' rights**.

As regards **free movement of workers**, a bilateral agreement on free movement of workers was concluded with Spain in January 2002 and ratified in July 2002. Agreements with Portugal and Luxembourg, signed in 2001, have subsequently been ratified. In August 2002 Romania adopted a law intended to transpose the *acquis* regarding organization and developing of certain economic activities by natural persons. Also in August 2002, the decision was taken to establish an Information and Documentation Centre for Migrant Workers within the Office for Labour Migration. The new Office will be responsible for the dissemination of information on Romanian and Community legislation.

With regard to the future **co-ordination of social security systems**, in November 2001, Romania signed an agreement on the export of social security benefits with the Netherlands, which was ratified in July 2002. In May 2002 it signed the European Social Security Code, which still has to be ratified by Parliament.

### *Overall assessment*

Measures to ensure mutual recognition of professional qualifications and diplomas should be intensified, and the introduction of the necessary administrative structures and education and training programmes accelerated. The compliance with the *acquis* of the

recently adopted legislation on the mutual recognition of qualifications for doctors, nurses, dentists, midwives and pharmacists needs further assessment. Shortcomings identified in the curricula and training for these professions need to be overcome. It is important that appropriate provisions are in place to allow midwives to work autonomously. 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.

By accession, it has to be ensured that all Romania's legislation is aligned with Community rules, in particular with respect to nationality, residence and language requirements. Legislation on mutual recognition will need to include simpler procedures to allow the provision of services. Romania should continue efforts to bring legislation in line with Community *acquis* in the area of right of residence. Romania should also amend the law on aliens' status to ensure full compliance with the *acquis* in this area. Preparations to align with the *acquis* on voting rights upon accession should continue.

Although some progress has been made with respect to equal treatment and work permits, further alignment with the *acquis* is needed. A clarification of existing arrangements is needed with regard to the employment and residence of migrant workers and their families as well as visa and residence requirements for self-employed persons.

Further progress is necessary to strengthen public employment services with a view to future participation in the European Employment Services (EURES) network. Particular emphasis should be placed on language training for staff.

As regards future co-ordination of social security systems, the development of sufficient administrative structures, in particular in relation to the training and recruitment of additional staff, is needed in order to apply Community provisions on social security from accession. Romania needs to ensure the financial stability of its social security system in order to be able to meet the additional costs arising from the application of Community provisions from accession, in particular in the health care field. 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.

### *Conclusion*

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

Since the Opinion, limited progress has been made. The legislative framework remains inadequate but is now at a stage where the foundations for future progress have been laid. Bilateral agreements on access to labour markets have been signed or are being negotiated with a majority of EU Member States and elements of the administrative infrastructure have been put in place.

Negotiations on this chapter continue. Romania has not requested any transitional arrangements in this area. Romania has agreed to a transitional arrangement in respect of the free movement of workers put forward by the EU. Restrictions on the movement of workers from Romania to the EU will apply for a minimum two-year period as of the date of accession and may remain in force for a maximum of seven years.

Romania should focus further efforts on addressing shortcomings identified in the area of mutual recognition, in particular with respect to curricula and training. Romania is in the process of establishing the required administrative structures and these efforts will need to be maintained. It will also need to prepare, in good time, to meet the financial and administrative obligations which will result from application of the rules on co-ordination of social security.

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

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

Since last year's Regular Report, Romania has made significant progress in this area, notably as concerns the right of establishment for lawyers and in the field of insurance and financial securities.

In the area of **the right of establishment and the freedom to provide services** (other than financial services), Romania has taken steps to put an end to a number of discriminatory restrictions which were placed on the professional activities of Member States' lawyers in Romania. An amendment to the 1995 Law on the Legal Profession was approved by Parliament in August 2002 removing these restrictions.

Legislation aimed at transposing the *acquis* on *self-employed commercial agents* was adopted in August 2002. However the law adopted still requires residence in Romania. No developments can be reported concerning the freedom of establishment and the freedom to provide services for craftsmen, traders and farmers. However, the Romanian authorities set up a working group to identify barriers against the right of establishment and freedom to provide services in January 2002.

In the field of **financial services**, overall supervision of this sector was strengthened by the inclusion of the Insurance Supervisory Commission in the co-operation agreement previously in place between the National Bank of Romania and the National Securities Commission, thus providing a comprehensive forum for regulatory co-operation.

With regard to the *banking sector*, further progress has been made in the implementation of legislation approved in 2000 to extend normal prudential surveillance requirements to credit co-operatives. Considerable rationalisation of this sub-sector should be finalised by the end of 2002. Legislation in this area has already attained a high degree of alignment with the *acquis* and this has been reinforced by additional regulations concerning banking accounting systems, liquidity, supervision of foreign exchange positions, and licensing.

In the *insurance sector*, following the start-up of operations by the Insurance Supervisory Commission, a considerable number of norms have been published in line with the Supervisory Commission's regulatory timetable as well as with accounting regulations for the insurance sector, which came into force in January 2002. With the adoption of a new organisational structure and increase in personnel the Supervisory Commission has

started the process of re-authorisation of insurance companies, the number of which has dropped from 73 in 2001 to 48 currently operating. In addition, the Supervisory Commission has conducted 23 control actions resulting in 6 formal sanctions involving fines or the temporary or definitive interdiction of insurance activities in one or more classes of insurance.

With regard to *investment services and securities markets*, a number of major legislative developments have occurred, notably concerning the statute of the Securities Market Commission, undertakings for collective investment in transferable securities, regulated commodities markets, derivatives services and financial instruments, and securities financial services and regulated markets.

Concerning the **protection of personal data and the free movement of such data** and the **information society Directives**, Romania approved a law for the protection of individuals with regard to the processing of personal data and the free movement of this data in December 2001. In February 2002 Romania ratified Convention 108 of the Council of Europe. Most of the provisions of this law entered into force in March 2002. The Office of the Ombudsman is designated as the supervisory body under the law. A considerable amount of legislation for the implementation of this law has also been adopted. As concerns e-commerce, Romania approved a law transposing the e-commerce Directive in July 2002.

### *Overall assessment*

In the *banking sector* Romanian legislation is now at a high degree of alignment with the *acquis*. The rules, policies, and practices broadly follow the Recommendations of the Basle Committee on Banking Supervision and the relevant EC directives. The degree of fragility mentioned in last year's Regular Report has diminished but the process of rationalisation continues, particularly as concerns smaller banks whose prudential ratings are unsatisfactory. Only the consistent application of the regulatory and supervisory framework over a period of time will fully re-establish confidence.

As regards the insurance sector, 2001 was the first year of operations for the Insurance Supervisory Commission. This first year has produced satisfactory results, both in terms of the creation of administrative structures and initial steps to improve sector supervision and rationalisation. Coming years will require a consolidation of this performance in order to further restructure this sector and complete the legislative framework, in particular as regards motor vehicle insurance.

The Romanian authorities have identified the essential steps necessary for the application of the securities markets *acquis*. In addition to ensuring sound financial markets progress in this area should be a principal objective in this domain. Steps are being taken to improve the level of training, as well as the physical infrastructure and equipment available to the National Securities Commission. It is essential that these activities be undertaken as rapidly as possible in order to allow adequate human resources to be made available to implement the new legislation.

In the field of the protection of personal data and the free movement of such data, the major pieces of legislation transposing the *acquis* are now in place, although some provisions of the Data Protection Act are still not in line with the *acquis*. The primary challenge now lies in implementation. However, there remains some concern about the

ability of the Ombudsman's Office to adequately ensure a satisfactory supervisory structure.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that the key decisions for the effective restructuring of the banking sector had been taken. However, with the sector then overwhelmingly still in state hands, the Opinion pointed out that respect for prudential rules and, above all, the National Bank's supervisory capacities would have to be reinforced to guarantee the sector's soundness. The central bank was still not totally independent and the banking sector remained fragile. As consolidation was bound to be a lengthy process, the Opinion predicted that there was no prospect of integrating the Romanian banking system into the internal market in the medium term. As regards financial securities, the Commission remarked that the market was still embryonic, supervision was inadequate and there were grounds for doubting its efficiency. In the field of insurance, the Opinion stated that Romania seemed to have a long way to go in terms both of the adoption and implementation of legislation and of the elimination of barriers to access to its market.

Since the Opinion, considerable efforts have been made to reform the sector, and alignment with the *acquis* has increased significantly over the past year. The supervisory and regulatory functions of the National Bank have improved and the Bank now enjoys effective independence from central government. The last two years have seen a considerable reinforcement of the supervision of the insurance and financial securities sectors, although both markets are still at an early stage in their development. Progress in the banking sector has led to an improvement in the solidity of the sector, despite some remaining problems.

Negotiations on this chapter have not yet been opened with Romania.

Romania should focus further efforts on completing legislative alignment, strengthening administrative capacity, and establishing a track record of efficient supervision. Further improvements in the institutional framework of financial supervision are still needed, particularly in the area of securities and insurance. The process of screening Romanian law in the area of non-financial services has only just begun and needs to be accelerated.

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

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

Progress has been made with cross-border capital flows since the last Regular Report. Some progress can also be reported on payment systems. As regards **capital movement and payments**, in December 2001 the National Bank of Romania issued a circular introducing a significant liberalisation of the controls on capital account outflows. The transactions covered by this circular include direct investments abroad by residents, loans and guarantees made by residents to non-residents, transfers related to insurance contracts and the physical export and import of financial assets (with the exception of cash). The National Bank circular also formalises a legally binding timetable for the liberalisation of certain transactions by 2004.

There have been no significant developments as regards laws governing foreign direct investment and the acquisition of real estate by non-nationals. The recent law on the acceleration of privatisation has not repealed the “special rights” or “golden share” provisions.

As concerns **payment systems**, the National Bank of Romania issued a regulation in January on large value fund transfers setting out the principles for performing and processing such transfers. These operations are presently performed by the National Society for Settlement by Transfer (TransFond S.A.). Other activities in this area will continue to be performed by the National Bank of Romania until TransFond S.A. becomes fully operational. In July, the National Bank of Romania issued a regulation to ensure compliance with the *acquis* on electronic payment instruments. As for the related *acquis* on **money laundering**, in August 2002 Romania ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

### *Overall assessment*

Current laws are ambiguous regarding restrictions on inward direct investment and are 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 according to sub-constitutional law.

The creation of a new inter-bank payment and settlement system is still at an early stage. Much of the *acquis* in payment systems remains to be transposed (including the introduction of effective redress procedures for settlement of disputes between bank and customers) and the payment infrastructure has to be improved.

The National Bank of Romania regulates and 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 is now operational and the increase in its investigative activity is noticeable. The Office has introduced important measures concerning the reporting obligations of financial institutions, but revision of the current legal framework to complete the process must be continued. In particular, Romania has not yet implemented procedures for customer identification when opening accounts at credit institutions. The Office deals with a large number of reports on suspicious transactions (almost 600 over the reporting period) and sent more than 200 cases to the General Prosecutor’s Office. Criminal investigations were started in 68 cases, of which 22 resulted in a conviction for money laundering offences while the rest are still before the courts.

The ratification of the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime represents an important step in aligning Romanian legislation with the *acquis* in this field. However, the ratification of

the Convention needs to be followed by institutional and legal changes that will allow the provisions of the Convention to be enforced at the national level.

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

### *Conclusion*

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

Since the Opinion, alignment with the *acquis* has improved moderately and the process of liberalisation has been initiated. Although exchange controls and other restrictions on capital movements still exist, Romania is committed to a timetable for the abolition of certain restrictions.

Negotiations on this chapter continue.

Romania should focus further efforts on the alignment of legislation. The revision of the legal framework in the area of money laundering needs to be continued.

## ***Chapter 5: Company Law***

### *Progress since the last Regular Report*

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

Regarding **company law** new legislation was largely confined to implementing legislation in the area of bankruptcy procedures including measures for creditor protection.

As regards accounting, Romania has already transposed much of the content of the 4<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Accounting Directives. This process continued throughout the year with further transposition of the 4<sup>th</sup> Accounting Directive. Responsibility for overseeing the implementation of the 8<sup>th</sup> Accounting Directive on financial audit lies with the Romanian Chamber of Auditors, whose status as a public non-profit professional body was confirmed by Act of Parliament in the course of the reporting period. The number of auditors registered with the Chamber has now risen to 1 400.. The Chamber issued a number of standards for training in the course of the year.

In the field of **industrial and intellectual property rights**, the process of further alignment and transposition of the *acquis* has continued during the reporting period.



Romania adopted legislation concerning related rights for film producers. Additional legislation has been adopted to achieve approximation in the area of the protection of biotechnological inventions. Romanian legislation is now fully compatible with the provisions of the European Patent Convention and with the WTO TRIPS agreement.

Romania has a long tradition of legislation on industrial property rights and is a member of all the international conventions relevant to the *acquis*. Since the last Regular Report, Romania has taken further steps towards completing the process of becoming a member of the European Patent Convention. As regards enforcement, further legislation defining the role of the Romanian Copyright Office (ORDA) and its overall responsibilities for legislation in this area was adopted. However, additional clarification on ORDA's responsibilities in enforcement activities is still required, as well as further reinforcement in staffing. The number of actions taken and of seizures of counterfeited and pirated goods increased in 2002. While overall levels of piracy remain high, there has been a noticeable reduction as evidenced by statistics provided by the Romanian authorities and by industry sources.

No major developments can be reported as regards the **Regulation replacing the Brussels Convention** on jurisdiction and enforcement of judgements in civil and commercial matters and the **Rome Convention** on the law applicable to contractual obligations.

#### *Overall assessment*

In the area of accounting law, Romanian legislation is largely in line with the *acquis*. Romanian legislation now provides the framework for consistent application of the Harmonised Accounting Regulations in relation to Romanian Accounting Standards.

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*. Further alignment should be pursued in order to transpose the Directive on copyright in the information society and the Directive on the resale 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. As regards administrative capacity, despite considerable progress, further improvements in staffing and budgets remain necessary. Efforts to improve statistical reporting should also be continued.

The import into Romania of pirated and counterfeit goods is a particular concern and results in large quantities of such goods in circulation (estimated by private industry at 70% for music products, 75% for software products and 60% for videos). Further progress remains necessary with implementing border controls and enhancing co-operation between enforcement bodies involved in industrial and intellectual property protection. The creation of an efficient inter-institutional network is vital in making progress in the fight against piracy and counterfeiting. Communication and co-operation between customs, police, border police, the Ministry of Justice and the judiciary need to

be improved and the joint training programmes now established should be pursued in the future.

### *Conclusion*

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

Since the Opinion, Romania has continued the process of alignment with the *acquis* on company law. Improved administrative structures and intensified co-operation between general law enforcement agencies has led to a recent decline in the level of piracy and counterfeiting. Nevertheless, this remains a serious problem and the enforcement of intellectual and industrial property rights is a particular concern.

Negotiations on this chapter have been provisionally closed. Romania has not requested any transitional arrangements in this area and has agreed to a proposal put forward by the EU concerning industrial property rights for pharmaceutical products and Community Trademark. Romania is generally meeting the commitments it made in the accession negotiations in this field.

Romania should focus further efforts on reducing the level of piracy and counterfeiting. Further transposition of the *acquis* is necessary as concerns Economic Interest Groupings, as well as for provisions on the jurisdiction and enforcement of foreign judgements in civil and commercial matters.

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

### *Progress since the last Regular Report*

Since last year's Regular Report, Romania has made some progress but many enforcement and administrative issues remain open.

In the **anti-trust** field, with respect to implementing legislation, regulations on research and development agreements, specialisation agreements and vertical restraints as well as guidelines on horizontal co-operation agreements have been adopted.

The Competition Council has continued to build on its enforcement record over the past year and in 2001 it issued 435 decisions in anti-trust cases, one of which was a prohibition.

In the field of **state aid**, Romania adopted implementing legislation concerning regional aid, aid to small and medium-sized enterprises, aid to rescue and restructure firms in difficulty, research & development aid, training aid, and environmental protection aid. These regulations will only come into force in January 2003. Romania has proposed a regional aid map for joint adoption by the Association Council. The state aid survey for 1996-1999 was completed in March 2002 and broadly follows the methodology and presentation of the "Survey on State Aid in the European Union".

The state aid enforcement record of the Competition Council is still developing. In 2001, the Council adopted 48 state aid decisions, none of them dealing with non-notified or existing aid. The quality of the decisions needs to be improved.

There are still a large number of incompatible fiscal aid schemes which need to be aligned. Existing benefits also need to be converted into compatible aid.

Romania has presented its steel restructuring programme to the Commission although the viability plans of the individual enterprises still need further elaboration. In the steel industry aid for restructuring can only be given if the national and individual restructuring programmes of the companies include necessary measures for reaching viability and making cuts in production capacity, in line with the requirements set out in Protocol 2 of the Europe Agreement.

### *Overall assessment*

In Romania there are two competition authorities: the Competition Council and the Competition Office. The co-operation between the two authorities needs to be improved and their responsibilities need to be strengthened. Under the current legislation the competition authorities are only occasionally consulted on new laws and comments are not taken into account systematically. The competition authorities should be given the right to oppose legislation restricting competition, and it should be made clear that legislation on competition takes precedence over legislation on businesses and legislation under which state aid is provided. Both the Competition Office and the Competition Council require further strengthening in terms of human resources and training.

As regards anti-trust, Romanian legislation is broadly in line with the *acquis* provisions. However, the individual notification requirement should be abolished. Romanian competition law currently obliges companies to apply for an exemption even if an agreement would fall under the block exemptions. Excessive notification requirements do not allow the Competition Council to focus its resources more effectively on cases representing the most serious distortions of competition. The most important challenge for the Competition Council is to pursue a more pro-active approach including own-initiative investigations and a deterrent sanctions policy.

In view of the planned modernisation and decentralisation of the application of the EC anti-trust rules, training efforts should be pursued, in particular with regard to the judiciary.

As regards state aid, further transposition of the substantive state aid rules is still necessary. Application of the state aid rules is not comprehensive and numerous state aid measures are not notified to the competition authorities. The Competition Council should take a firmer and more pro-active approach to ensure the effective application and enforcement of the state aid rules, including non-notified aid, and the alignment of existing aid schemes and legislation under which authorities at various levels grant aid. There is also a need to raise awareness among administrations granting state aid of the policy and legislative provisions in this area.

There are continuous problems with the treatment of debt cancellation – a form of state aid which is widely practised by public bodies, especially when state-owned companies

are privatised. Implementation of state aid policy in sensitive sectors is still at an early stage.

### *Conclusion*

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

Since the Opinion, some progress has been made with the transposition of the *acquis* in respect of both state aid and anti-trust. At the same time, Romania's enforcement record in both areas needs to be improved. Knowledge and awareness of competition law remain limited in Romania, in particular among other authorities that are meant to co-operate with the Competition Council and the Competition Office. On legislative alignment, administrative capacities and enforcement record Romania is only partially in line with the requirements of the *acquis*.

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

Romania should focus further efforts on continued institutional strengthening and on training staff in both the Competition Council and the Competition Office. It should address the questions of the alignment of incompatible state-aid schemes and the enforcement of competition rules in respect of non-notified aid schemes and existing aid.

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

### *Progress since the last Regular Report*

Romania has continued to make progress with transposing certain aspects of the agricultural *acquis*, and the process of restructuring the agricultural sector has accelerated. However, the pace of reform is uneven across the sector.

In 2001, agriculture accounted for 14.6% of Romania's gross value added as opposed to 12.2% in 2000<sup>11</sup>. Agricultural employment represents 44.4% of the national labour force and around 70% of the rural labour force<sup>12</sup>.

Favourable weather conditions in 2001 combined with an increase of the area cultivated led to an exceptionally high production of grains. However, drought during the first part of 2002 has compromised an important part of this year's grain crop. The livestock sector continued last year's downward trend and prompted the Government to approve a national recovery programme.

---

<sup>11</sup> The source for all agricultural statistics is EUROSTAT unless otherwise specified.

<sup>12</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.

In 2001, overall agricultural trade<sup>13</sup> between Romania and the EC increased significantly, largely due to the “double-zero-agreement” to liberalise trade in agriculture. EC imports of agricultural products originating in Romania increased by 28% to €289 million. EC exports to Romania increased by 37% to €454 million. The trade balance in favour of the Community amounted to €165 million compared to €107 million in 2000. EC imports were dominated by live animals, vegetables and oilseeds. Meat, tobacco and miscellaneous edible preparations were the main export goods from the EC.

The 2002 state budget allocated to agriculture and forestry is ROL 11.6 thousand billion (€445 million). Although there was a major change in the type of domestic support measures, the level of budgetary support for agriculture and forestry in 2002 remained similar to 2001 in real terms. The Ministry of Agriculture, Food and Forestry also manages an extra budgetary fund called “*Development of Romanian Agriculture*” made up of receipts from privatisation of state owned farms.

There was a noticeable change in the focus of agricultural policy during the reporting period with the voucher-for-inputs scheme, (targeted at small family farms) being replaced by a direct payment system for several agricultural crops and a premium system for animal products. Legislation from 2002 defined two basic categories of farm (family farms and commercial farms). A consequence of this legislation is that commercial farms are eligible for domestic support while family farms can only receive free consultancy services and incentives to practise organic farming.

In a welcome development, the Ministry of Agriculture, Food and Forestry set up a policy formulation department headed by a State Secretary. This department was subsequently merged with the European Integration Department.

Since the last Regular Report, the privatisation of state owned farms has continued - but at a slower pace than expected by the Government. Privatisation of state farms is considered the cornerstone of the whole process of agricultural privatisation. The agricultural sector also includes many commercial companies other than farms. While a total of 214 agricultural commercial companies have been privatised most of them are loss-making and have accumulated large debts - which makes them unattractive for privatisation. A recently approved law provides for the cancellation of outstanding debts to the state budget.

Restitution of both agricultural and forested land has continued slowly over the reporting period. The legal framework for land restitution was once again amended in 2001 which led to further delays in the process. Since the legal framework is now complete it should be possible to accelerate the pace of restitution - although the Government’s objective of completing land restitution by the end of 2003 appears overly ambitious.

### **Horizontal issues**

Romania only envisages full implementation of institutional and legislative requirements regarding the *EAGGF Guarantee and Guidance fund acquis* by 2007.

---

<sup>13</sup> Source of trade figures: WTO definition of agricultural products, figures from EUROSTAT COMEXT (see U.E. 12/15: Commerce des produits agricoles 1998-2000, 1 Partie D.G. AGRI / G.2 Analyses quantitatives, prévisions, statistiques, études, 2001, pp. 10-57 et 86-89.)

There has been no noticeable progress with preparations to establish the *Integrated Administration and Control System (IACS)*. There has been no progress in developing a computerised database or with the introduction of an alphanumeric system for parcel identification. However, the land cadastre legislation was amended in order to improve institutional arrangements. The National Office for Cadastre Geodesy and Cartography was reorganised and merged with offices belonging to the Ministry of Agriculture and Forests. A cadastre strategy was approved in 2002 but it focuses more on technical matters (*geodetic networks*) than on improving service and performance standards.

Progress has been made over the reporting period to complete the legal framework for *organic farming* and the number of Romanian farms using organic farming methods is increasing. Regulations to enforce the law in this area were introduced by a Government Decision establishing rules for the production of vegetable, animal and processed organic products as well as setting out the way in which these rules are checked by the National Authority for Organic Products.

There has been some progress in developing the network of returning holdings and in setting up the basic institutional elements (National Committee, liaison agency) for the *Farm Accountancy Data Network*. A specific unit was created within the Ministry of Agriculture Food and Forests to deal with this issue.

### **Common Market Organisations**

Newly adopted legislation on farm organisation allows farmers and processors to organise themselves to play a role in common market organisation management. Several inter-branch organisations are emerging and the preparation of administrative structures for the operation of common market organisations is slowly taking shape.

The Government adopted a law in January 2002 on the Organisation and Operation of Agricultural and Food Markets. This law sets the general framework for common market organisations and introduces elements for price regulation (intervention price, target price, reference price, minimum guaranteed price, threshold price), trade mechanisms (export refunds, export premia, reference tariffs) and intervention stock and warehouse receipts. It defines and introduces a range of market intervention instruments that have been taken over from the CAP - although further clarifications are needed regarding the implementation of these provisions. The state intervention foreseen by the law does not designate specific market mechanisms for each specific sector. Instead, the law provides for the creation of a National Authority for Agriculture and Food Product Markets, which issues decisions regarding conventions to be established by the Ministry of Agriculture, Food and Forestry with individual commodity councils or inter-branch organisations.

With regard to *arable crops*, the new legal framework should facilitate the setting up of intervention agencies and centres required for intervention and withdrawal of produce. In the *sugar* sector an inter-branch organisation has been set up.

There has been no progress in developing administrative structures for the management of common market organisations for *specialised crops*. However, in April 2002, a new wine law set up the basic elements of the common market organisation for wine (planting rights, oenological practices, distillation, controls). Last year's legal framework for designation of origin and protection of geographical indications for wines and alcoholic beverages was amended with new legislation replacing the previous vineyard law. The National Office for the Denomination of Origin for Wines and other Wine Products was

reorganised as a Directorate within the Ministry of Agriculture and 15 inspectors were appointed.

No progress was made as regards *animal products*.

### **Rural development and forestry**

The Ministry of Agriculture, Food and Forestry is responsible for *rural development*. Current rural development activities mainly consist of providing subsidies for the purchase of agricultural machinery and equipment, although support for the establishment of micro-enterprises and SMEs has been included in the 2002 agricultural budget. Some pilot rural development activities have been undertaken that are in line with the *acquis* (investments in agricultural holdings, improvement of marketing and processing of agricultural products, development and diversification of economic activities in rural areas, development of rural infrastructure). With the conferral of management of aid to the SAPARD Agency under the Ministry of Agriculture for the implementation of three measures, Romania has made further progress in the preparation of the restructuring of its agricultural sector (*see also Section A.b. - Relations between the European Union and Romania*).

As regards *agri-environmental measures*, a manual of Good Agricultural Practice has been prepared.

There have been several legal developments in the *forestry* sector. The Ministry of Agriculture, Food and Forestry approved the regulation to be used by the National Forest Administration for selling fuel wood to the population. Rules for building forest roads during the period 2000-2010 were also approved. There have been some developments with setting up structures for management of private forests and 5 private structures (Forestry Offices) started operation during the reporting period.

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

Over the reporting period important progress has been made in terms of transposing the EC **veterinary** *acquis* and there is now a timetable for full transposition and implementation. Since September 2001, legal acts have been approved in the following areas: common measures, animal welfare, veterinary control, control of animal diseases and animal health, animal waste treatment, public health protection and animal nutrition. However, no evaluation of the applicability of the new legislation has been made.

Efforts have been made over the reporting period to improve the laboratory infrastructure and to accredit laboratories. In September 2001 the Institute of Diagnosis and Animal Health officially inaugurated new laboratories for molecular biology, transmissible spongiform encephalopathies and major viruses. The central reference laboratories and some important regional laboratories have received new equipment. The rehabilitation of laboratories is a priority of the Ministry and is considered as a key part of a larger programme to modernise the animal health infrastructure. Romania has joined the Animal Disease Notification System (ADNS).

In the **phytosanitary field** good progress has been made with transposing the *acquis*. Romania has continued efforts to harmonise legislation in the field of *plant health* (*harmful organisms*). Standards were introduced to regulate phytosanitary measures regarding the import, export and transit of plant and vegetable products. The measures

also cover the circulation of plant and vegetable products within Romania and the registration of producers, storage facilities and dispatch centres.

Ministerial Orders were adopted in January 2002 regarding the phytosanitary quality control of imports and exports of seeds and plant propagating materials. The regulation specifies the tasks of importers, exporters and the competent authority to comply with the import and export requirements. The Central laboratory for Seeds Quality Control in Bucharest was re-accredited by the International Seed Testing Association (ISTA).

In the field of pesticide residue control, a national monitoring programme has been established by the Ministry of Agriculture, Food and Forestry. Controls have been put in place only for imported fruit and vegetables and the Border Inspection Posts have the option to take a sample for analysis. There is not yet a system in place to trace non-compliant products, although a system for registration of producers has been operational since February 2002. To be in line with the *acquis*, this monitoring should equally cover domestic production.

The Phytosanitary Directorates of the Ministry of Agriculture, Food and Forestry have organised specific training courses on the enforcement of transposed legislation. Efforts have continued to further develop the phytosanitary computerised information system.

As regards **food safety** (*see also Chapter 1 - Free movement of goods*), some progress has been made, particularly regarding the inspection of food establishments and the start of measures to deal with BSE. A national plan for restructuring of agri-food establishments was agreed in June 2002.

### *Overall assessment*

Legal measures for restructuring the agricultural sector may result in a more stable and transparent set of rules for *privatisation of state owned farms* and development of the sector. However, focusing domestic support on a small percentage of large-scale farms could have negative social and economic implications for rural communities. The new state support policy should be more targeted at the development of a market oriented agricultural policy and should give much more consideration to rural development.

The ability to develop a coherent agricultural policy remains a problem in Romania, although the new policy formulation department should help improve the situation. Although there has been a slight improvement in the administrative capacity of the Ministry of Agriculture, Food and Forestry, the current situation remains typified by an inappropriate allocation of human resources between central and local services. Instability of middle and top management remains a problem.

After many years of neglect, Romania has accelerated the transposition of the agricultural *acquis*. However, there are serious concerns that new legislation in these highly technical fields has not been matched by necessary increases in staff and other resources. This situation raises doubts as to Romania's capacity to effectively enforce the new laws. The rapid transposition also places a great pressure on the agri-industry to comply with new legislation. Communication and awareness-raising as regards the transposition is limited and reduces the sector's ability to adapt to these changes.



As regards **horizontal issues**, further efforts are needed in areas such as land registration, inter-branch organisations, quality policy, and the Farm Accountancy Data Network (FADN).

The 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 agricultural policy is needed to achieve sustainable agriculture. While the new wine law represents a positive development in the area of specialised crops, enforcement measures remain to be developed, in particular regarding the vineyard register.

Recent initiatives demonstrate that Romania is moving towards the development and implementation of a coherent **rural development** policy. These initiatives should be reinforced and further developed. The implementation of the SAPARD programme will assist in this task.

The very rapid transposition of the EC **veterinary acquis** has resulted in many new tasks and responsibilities being assigned to the National Sanitary Veterinary Agency (NSVA) and its subordinated services – but so far the transposition of legislation has not been followed by a commensurate allocation of additional human and financial resources. There are serious doubts as to the capacity of the veterinary administration to enforce the newly adopted legislation. In addition, the current sanitary veterinary framework law dates from 1974, and no longer provides an appropriate legal framework for sanitary veterinary activities.

As with the veterinary *acquis*, the rapid transposition of **phytosanitary** legislation has not been matched by additional human and financial resources. This is likely to limit enforcement capacities.

As regards **food safety** (*see also Chapter 1 - Free movement of goods*), the reorganisation of some of the bodies dealing with food safety (i.e. the national food laboratory and the plant hygiene laboratory), is needed in order to improve effectiveness in this area. A reliable animal identification and registration system is still missing in Romania. Most farms are not registered and only a small proportion of the bovine population is registered for selection and reproduction purposes. As regards animal waste treatment, severe deficiencies still have to be corrected.

### *Conclusion*

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

Since the Opinion, Romania has made progress towards alignment with the agricultural *acquis*, in particular over the last year. Legislative developments have not yet been matched by the development of administrative structures able to effectively implement the *acquis*. Structural reforms in the agricultural sector have brought concrete results in terms of the privatisation of state owned farms and the agri-food industry. However, the pace of restitution of agricultural and forested land has been slow.

Negotiations on this chapter have not yet been opened with Romania.

Romania should focus further efforts on reinforcing the administrative capacity to implement and enforce the *acquis*, in particular in the veterinary and phytosanitary fields, and accelerating the structural reform of the agricultural and agri-food sectors. Considerable investments are required to complete cadastre reform and the registration of property titles in the land book offices.

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

### *Progress since the last Regular Report*

Over the past year, some progress has taken place in the fisheries sector.

Concerning **resource management, inspection and control** implementing legislation was adopted concerning the recording and transmission of data on maritime fishing activity, the regulation of fishing licences and quota distribution amongst licence holders.

In August 2002, legislation was adopted establishing the National Company for the Management of the Fisheries Fund as well as a Fisheries Inspectorate. Inspectors have been given considerable additional powers.

Inspection operations, under the authority of the Ministry of Agriculture, Food and Forestry in collaboration with the Ministries of Waters and Environmental Protection and the Interior, continued to make progress. In the course of 2001, 151 infringements were detected and the Coast Guard and the Fisheries inspectors opened 75 criminal investigations.

The 2001 Fisheries Law introduced a fishing vessel register, but appropriate administrative structures still have to be established. A total of 11 fishing vessels are licensed and registered. No progress can be reported regarding connection to the EC fishing vessel register.

In the field of **structural actions**, no progress can be recorded.

Concerning **market policy**, Romania formally adopted a list of commercial denominations of fish species and aquatic life which may be traded on Romanian territory. The supply of fish in Romania is funnelled through several distribution channels. Some of the companies are vertically integrated covering all stages from fishing to retailing. A total of 10 professional associations have been set up representing, respectively, the interests of producers and traders (three), Danube Delta fishermen (five) and Black Sea fishermen (two). However, there is no indication as to their compliance with the EC conditions for recognising such organisations.

As concerns **state aid to the fisheries sector**, support is now provided to preserve animal genetic heritage including freshwater fish. In total, the new measure concerns ten farms and research institutes. No other state aid for the fisheries sector exists. Romanian Black Sea fisheries continue to benefit from VAT exemptions for diesel oil.

As regards **international fisheries agreements**, Romania became a member of the International Organisation for the Development of Fishing in Central and Eastern Europe (EUROFISH) in October 2001. Negotiations still continue on a new convention for fishing in the Black Sea.

### *Overall assessment*

Existing weaknesses as regards administrative structures remain to be addressed. The institutional set-up has yet to be streamlined and some administrative responsibilities still need to be clarified between the Ministry of Agriculture, Food and Forestry and the Ministry of Waters and Environmental Protection. The Fisheries Department within the Ministry of Agriculture, Food and Forestry, although recently reinforced, remains understaffed.

In the field of resource management, inspection and controls, Romania has a licensing scheme for marine fishing vessels. Licences specify the type of fishing, allowed gears and area of operation. The size of Romania's fishing fleet has continued to decline and aquaculture has become relatively more important, particularly in the Danube delta. The legislative framework in Romania is largely in line with the *acquis*.

Control activities have again increased 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.

Romania still needs to set up a market-monitoring instrument and improve the collection of statistics. Development of a research strategy remains among Romania's short-term priorities in fisheries.

Romania is party to several international fisheries conventions and is a member of the General Fisheries Commission for the Mediterranean.

### *Conclusion*

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

Since the Opinion, Romania has adopted the necessary framework legislation, but progress in establishing the administrative structures has been slow. Considerable further work is needed to achieve compliance with the *acquis*.

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

Further efforts should focus on implementing the recently adopted legislation governing the functioning of the main administrative structures.

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

### *Progress since the last Regular Report*

During the reporting period, Romania has made further progress in harmonising its legal framework, in particular in the field of road transport, and has started to reorganise the institutions responsible for inland waterways and maritime transport in order to improve their efficiency.

Regarding **Trans-European Transport Networks**, the rehabilitation of Romania's national infrastructure is ongoing. Considering the costs that are involved, budgetary constraints are the main limiting factor.

As far as **land transport** is concerned, progress was made with harmonising legislation in the area of *road transport*. An Ordinance of January 2002 introduced the concept of tariffs for the use of road transport infrastructure: the level of road user charges will gradually increase with a view to ending discrimination between Romanian and Community hauliers. An Ordinance of January 2002 established the driving times and rest periods for drivers performing national road transport activities: there is to be gradual implementation in order to align with the *acquis* by 2006. Romania has continued to align its legislation with the *acquis* on the transport of dangerous goods by road. The EC/Romania Transport Agreement entered into force in June 2002 and the European Agreement on International Occasional Carriage of Passengers by Bus (INTERBUS) was ratified in June 2002.

On *railways*, the law regarding rail transport of dangerous goods was adopted in December 2001, further harmonising Romanian legislation with the *acquis* in this field.

In the *inland waterways sector*, no progress was made with the alignment of technical requirements for Romanian vessels with those of the EC.

As concerns **air transport**, more implementing legislation on the harmonisation of technical requirements and administrative procedures in the field of civil aviation was approved. Romania also adopted legislation on the investigation of civil aviation accidents and incidents. Restructuring of the national carrier continued: a cost reduction programme is under way; most of the non-profitable long-haul lines have been cancelled; and the use of the commercial fleet has been optimised.

With regard to **maritime transport**, further significant legislative alignment can be noted. A framework law on Maritime and Inland Waterway Transport was adopted in June 2002, which will form the legal basis for alignment with a number of provisions of the *acquis* regarding both non-safety and maritime safety issues. The law also establishes the institutional framework for implementing the *acquis* on maritime safety, in particular by setting up a new body, the Romanian Naval Authority, through the merger of the

existing bodies. It will be fully responsible for flag state implementation, Flag State control and Port State control.

Furthermore, the authorities have continued their policy of “cleaning up” their national shipping registry, and the total number of vessels flying the Romanian flag has decreased to 43. However, these positive developments have not yet resulted in acceptable detention rates. According to 2001 statistics under the Paris Memorandum of Understanding, the percentage of Romanian flag vessels detained following Port State control has increased again to 23.5%, despite improving considerably from 29.6% in 1999 to 19.1% in 2000. This compares with an average for EU-flagged vessels of 3.1% in 2001.

### *Overall assessment*

As regards Trans-European Transport Networks, Romania is implementing its long-term rehabilitation plan. Special emphasis should be given to ensuring the necessary administrative capacity (both in qualitative and quantitative terms) to prepare for the significant investments that will be needed in road and rail infrastructure.

On road transport, Romania has made steady progress in terms of legislative alignment. Romania also needs to strengthen its administrative capacity to enforce newly adopted legislation related to social, technical and fiscal issues. In particular, Romania should ensure that the roadside inspection of vehicles does not give rise to any *de facto* discrimination between Romanian and EC hauliers and/or vehicles.

As regards railways, Romania is now well advanced in terms of legislative alignment with the relevant *acquis*; in particular, infrastructure management has been separated from the provision of rail transport services. The reorganisation of the railway sector is practically completed.

Concerning inland waterways, Romania has made no progress in restructuring its fleet in order to meet future competition and to comply with the technical standards set by the *acquis*. These delays mean that the inevitable restructuring process will become considerably more difficult.

Concerning air transport, Romania has continued to transpose the *acquis* and has started to improve the management of its national carrier in order to prepare it for competition with foreign companies by the time of accession. Thanks to these measures, the carrier’s losses have been significantly reduced, but major additional reforms will be needed to reach a financial equilibrium. Romania should continue with the necessary legislative alignment in the sector. Proper attention should be given to the necessary strengthening of administrative capacity in the sector.

As regards maritime safety, Romania’s detention rate remains worryingly high and the Romanian flag is still on the Black List of the Secretariat of the Paris Memorandum of Understanding on Port State Control. Romania has reorganised its institutions in order to avoid duplication and excessive dilution of responsibilities - but whether these changes lead to an actual improvement in safety standards remains to be seen. Romania needs to enhance maritime safety and considerably intensify its efforts to decrease the detention rates for inspected ships.

## *Conclusion*

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

Since the Opinion, Romania has made steady progress with the transposition of the transport *acquis* and with the establishment of the required administrative structures - although the degree of progress has varied considerably depending on the transport sector. Most work has been carried out with regard to road and railway transport while positive developments were also recorded in the area of aviation. Progress in the area of maritime safety and inland waterways was more limited. Additional legislative efforts are needed to complete the process of legislative alignment. Institutional mechanisms and budgetary means for implementing the *acquis* also need to be developed.

Negotiations on this chapter continue.

Romania should focus further efforts on developing institutions able to enforce the new legislation, and securing the necessary funding to make the heavy investments required by the *acquis*. Further efforts will also be needed to implement the fiscal and social/technical *acquis* in the road sector, to transpose and implement the *acquis* in the aviation and maritime sectors, to considerably improve the maritime safety record, to restructure the inland waterways fleet to meet EC standards, and to strengthen the maritime safety authority while also guaranteeing its independence.

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

### *Progress since the last Regular Report*

Since the last Regular Report, Romania has made some progress, particularly in the alignment of its VAT legislation.

In the area of **indirect taxation**, Romania has made significant progress in aligning with the *acquis* by the adoption of a consolidated law on VAT in June 2002. The law introduces a comprehensive definition of taxable persons, reduces the list of incompatible VAT exemptions, and introduces VAT exemptions provided for under the *acquis*. The law also establishes principles for determining the place of taxation and sets out new provisions for the right of deduction. In an attempt to tackle fraud on VAT refunds, the new VAT law has introduced heavy criminal penalties.

New legislation on excise duties entered into force in January 2002. Among other provisions, excise duties were increased for all harmonised product categories and the definitions were reviewed, bringing them closer to the *acquis*. The taxable regime applicable to alcohol has been unified, with the same duty rate applied to both ethyl alcohol and spirits.

As regards **direct taxation**, a revised Profit Tax Law was adopted in June 2002. Under the new law, the reduced rate of 5% on profits made from exports will be phased out completely by January 2004. Certain fiscal facilities for small and medium-sized enterprises and taxpayers established in disadvantaged areas and free zones will also be gradually eliminated.

As regards **administrative co-operation and mutual assistance**, no progress can be reported.

Over the reporting period, Romania has continued to modernise its tax administration and to improve the revenue collection system. Measures have been taken to reduce tax arrears. Assistance and information to tax payers have been further developed. Also, a strategy to improve the administrative capacity of the tax administration was approved in February 2002. The strategy covers the period until December 2006 and will be revised each year. Romania has also committed itself to develop a Code of Ethics by mid-2003.

### *Overall assessment*

Although the new VAT law represents an important step forward, alignment remains incomplete in a number of areas, such as exempted activities – with or without the right of deduction. Rules which are not compatible with the *acquis* also exist, including the general rules on the chargeability of the tax, rules on the place of taxation, and rules on the payment of VAT. Romania still has to transpose provisions concerning the special VAT schemes.

Concerning excise duties, while recent legislation represents progress, a major effort is still needed (mainly regarding the alignment of the scope of exemptions as well as of rates and structure of all harmonised product categories). Furthermore, Romanian legislation does not appear to contain provisions to allow small foreign breweries, that are not registered as taxpayers in Romania, to benefit from the same reduced rates as locally registered breweries. In this respect, it has to be emphasised that the *acquis* does not permit differentiated taxation levels based on origin. The duty suspension scheme, and in particular the provisions on tax warehouses, still needs to be adopted. Given the complexity of this essential part of the excise *acquis*, Romania should urgently start preparing for its transposition and implementation.

Concerning direct taxation, Romania will have to align its legislation further with that of the *acquis*. Legislation will have to be reviewed in order to eliminate potentially harmful tax measures, so as to comply with the Code of Conduct for Business Taxation to the same extent as current Member States upon accession. The Commission's initial technical assessment of potentially harmful measures applied in Romania is ongoing.

Despite efforts made during the reporting period, the administrative capacity of the Romanian tax authorities remains weak and fraud on VAT refunds has reached significant proportions. The revenue collection and the refund systems are in need of major improvement. The elaboration and application of the Code of Ethics should be given a high priority in order to address issues related to corruption and to improve administrative practices.

As regards interconnectivity, no detailed plans concerning the VAT Information Exchange System have been drawn up. Romania will need several years to complete these tasks and be in a position to meet the obligations of the *acquis*.

### *Conclusion*

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

Since the Opinion, Romania has made progress towards alignment with the taxation *acquis* although this has been at a slow pace. Transposition of legislation on indirect taxation has continued over recent years although it is not yet complete. Further, legislative adjustments are still needed, also in the area of direct taxation. Despite recent efforts, only limited results have been achieved in modernising the tax administration

Negotiations on this chapter continue.

Romania should focus further efforts on addressing outstanding legislation to complete transposition of the *acquis*, as well as on reinforcing its capacity for implementation and enforcement. Administrative reforms should focus on improving the revenue collection and the refund systems as well as reducing fraud on VAT refunds.

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

### *Progress since the last Regular Report*

A detailed assessment of the various aspects of Romania's economic policy 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 the 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, Romania has made only limited progress with adopting the EMU-related *acquis*.

As regards the **prohibition of direct public sector financing by the central bank**, no legislative progress can be reported - although no recourse to such financing has been made since 2000.

Similarly, no progress was made during the reporting period with the **prohibition of privileged access of the public sector to financial institutions**.

Concerning the **independence of the central bank**, an Emergency Ordinance of October 2001 amended the Statutes of the National Bank of Romania and explicitly discharged



the Bank's directors from civil or criminal liability for supervisory actions taken in good faith.

### *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.

As regards the prohibition of direct public sector financing by the central bank, legislative amendments are necessary to fully align with the *acquis*, particularly as regards the purchase of government securities. The Romanian authorities have agreed a timetable for the modification of the relevant statutory provisions by the end of 2004.

Romania also needs to further align its legislation with the provisions of the *acquis* prohibiting privileged access of public sector authorities to financial institutions. Romania is to amend legislation regarding the functioning of the deposit guarantee fund in the banking system by the end of 2004.

In the area of central bank independence, further alignment is needed in order to make the legislative framework compliant with the *acquis*. Romania has identified the legal texts requiring amendment and has approved a timetable for their modification by the end of 2004.

### *Conclusion*

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

Since the Opinion, while overall policy has stabilised legislative alignment has remained limited.

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

Romania should focus further efforts on pursuing the alignment of its legislation with the *acquis* in this area.

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

### *Progress since the last Regular Report*

Romania has continued to make progress over the past year.

As regards **statistical infrastructure**, the regional offices subordinated to the National Statistical Institute (INS) have been reorganised and concentrated into 8 offices, and total staff numbers have decreased substantially over the last years. In order to compensate for the low numbers of staff, training has been given a high priority in the national statistical system. A new training centre for officials was opened during the reporting period. It is also open to staff of other public bodies, thereby contributing to the training of users.

Concerning **demographic and social statistics**, a good level of compliance has already been reached and further progress was made during the reporting period. A census of population and housing was carried out in March 2002 and will benefit the whole statistical system. Most other statistical surveys are in place or have been tested.

Efforts have been made to improve the infrastructure for production of **regional statistics**. The establishment of 8 regional offices has facilitated the collection of data at level 2 of the Nomenclature of Territorial Units for Statistics (NUTS-II level) and staff from regional offices have received specialised training.

No new developments can be reported for **classifications and macro-economic, business and transport statistics** - although the current situation is already quite good.

For **external trade**, the customs administration and the INS are cooperating in order to develop additional data control and to improve the quality of primary data. First steps towards the preparation for INTRASTAT, the system which monitors trade among Member States, have been taken.

During the past year, Romania has made progress in testing the methodologies and questionnaires for surveys related to **agricultural statistics**. However, considerable efforts are still required in order to establish a permanent observation system for agricultural statistics that has a reasonable coverage. Preparations have been made for carrying out the agricultural census, scheduled for late 2002, which will provide the basis for redesigning the survey system. A pilot survey to prepare for the General Agricultural Census was carried out during August 2002.

### *Overall assessment*

Concerning classifications, national classifications providing direct implementation of European classifications and nomenclatures are in force. They are applied in statistical surveys as well as for other administrative purposes, which enhances the use of administrative sources for statistical purposes.

In the field of macro-economic statistics, the main steps have been taken and legal compliance is generally high. However, there is a continued need to develop the quality and coverage of statistics, which is only possible with sufficient and qualified staff. For business statistics, Romania has achieved a reasonable level of compliance. Some gaps concerning production statistics have been filled. Priority should now be given to improving the quality and timeliness of statistics.

Renewing and developing IT capacity remains an important issue that should be addressed. This should include further training for central and regional staff in order to make effective use of the equipment and the software applications.

## *Conclusion*

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

Since the Opinion, Romania has made good progress, especially over the last three years. Major developments have taken place in reforming national legislation, redesigning household and business surveys, conducting a population census, and maintaining the necessary administrative capacity. All provisions required by the *acquis* are now in place, including protection of confidentiality and the creation of a Statistical Council. The National Statistical Institute (INS) is an independent state agency and the regional organisation of the INS appears appropriate for a large country such as Romania.

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

Romania should focus further efforts on upgrading statistical methodologies and improving the quality and completeness of data. Further efforts are also needed to develop the capacity of staff within the statistics administration and care should be taken that levels of staffing are not further decreased.

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

### *Progress since the last Regular Report*

Some progress has been made since the last Regular Report.

With regard to **labour law**, no major legislative development can be recorded pending the adoption of the new Labour Code.

In the field of **equal treatment** for women and men, a law on Equal Opportunities and Treatment for Women and Men was adopted in May 2002. The law aims to eliminate direct and indirect discrimination on the basis of gender and forbids it in the fields of employment, education, health, culture, information and senior management positions. The law also establishes a mechanism for resolving disputes. The penal code was modified to introduce the specific crime of sexual harassment. No progress was made with regard to allocation of funds for the implementation of the National Plan for Equal Opportunities.

In the area of **health and safety at work**, Parliament adopted a law on insurance against accidents in the workplace and professional diseases in May 2002. According to the law, insurance is mandatory for all employers and the contribution to the national insurance fund is made proportional to the risks existing in a given enterprise. The levels of staffing in central and local labour inspectorates increased over the reporting period.

In the area of **social dialogue**, the majority of labour conflicts have been resolved by conciliation procedures in the framework of the Law on Labour Conflicts since it entered into force in January 2002. In January 2002 the Government concluded a Social Pact with the majority of trade unions. A further agreement was reached in June 2002 with the two

unions that had not signed the original agreement. The difficulty in concluding a single agreement reflects a worsening relationship between the Government and the trade unions. The Economic and Social Council played a more significant role as an advisor on legislative acts – although autonomous sectoral social dialogue continues to be weak and is mainly limited to the public-sector and to large enterprises.

On **public health**, a ministerial order on reorganising the national network for surveillance and control of communicable diseases was adopted in March 2002. It defines the responsibilities of the bodies involved in the national surveillance of communicable diseases, clarifies the information flow, and prioritises the diseases for surveillance in line with EC provisions (although limited laboratory capacity means that not all diseases on the EC priority list are yet covered). Legislation on combating the effects of the use of tobacco products was adopted in June 2002.

Romania has jointly with the European Commission continued the work on an **Employment Policy** Review, with a view to finalising the Joint Assessment on Employment Policy Priorities (JAP). The purpose is to examine the progress made by Romania in adapting its employment system for preparing its future participation in the European Employment Strategy after accession. This document, in its final stage, sets out the key priorities and tasks in the field of labour market for the pre-accession period. The situation on the labour market seems to have improved slightly and at 6.6% in 2001 the unemployment rate stopped rising. Unemployment was 7% amongst men and 6% amongst women. Despite the overall reduction in unemployment, levels of long term unemployment remain high.

A law on Unemployment Insurance and Employment Stimulation was adopted and entered into force in March 2002. The law aims to develop active measures for fighting and preventing unemployment. In August 2002, the Government approved the National Action Plan for Employment.

As regards the future establishment of the European Social Fund (ESF), the Government designated the Ministry of Labour and Social Solidarity as the National Authority for the overall co-ordination of ESF-type activities and as the Managing Authority for the ESF after accession. The National Agency for Employment was designated as the paying authority.

As a follow-up to the Gothenburg European Council, where the EU invited the candidate countries to translate the EU objectives into their national policies, the Commission and Romania have initiated a joint co-operation exercise to prepare for future participation in the EU **social inclusion** process after accession. This exercise consists of joint identification of the social exclusion challenges and relevant policy responses. The Statistical Office of Romania co-operates with Eurostat to produce data on poverty and social exclusion. Preliminary figures suggest that the overall income disparities seem to be rather moderate with a relatively high poverty rate after social transfers of 17%, and a particularly high risk of poverty for members of the Roma community.

Fighting social exclusion and poverty is a Government priority and intense legislative activity characterised the reporting period. In December 2001, a law on the National Assistance System was adopted. The law aims at establishing a consistent and unified national system, defining the legal framework for providing social services and making local communities responsible for people in difficulty. In February 2002, the law on

employment insurance and employment stimulation was adopted, which sets out measures for preventing unemployment and combating its social outcomes, including for persons with disabilities. In July 2002 the Government decided to set up an inter-ministerial commission concerning social assistance and adopted a Social Programme.

The National Plan on Poverty Prevention and Social Inclusion Promotion was adopted in July 2002. The Law on Preventing and Combating Social Exclusion was adopted as one of the first instruments for implementing this Plan. The Law aims at guaranteeing access of marginalised people, especially the young and Roma, to basic rights: employment, proper housing, health assistance, and education.

A national strategy on special protection and social integration of disabled persons was drawn up as a first step of a true reform of the policy in favour of disabled persons, including closure and/or restructuring of old-type residential institutions. In December 2001, the Government issued an emergency ordinance decreasing the disabled persons' contribution to the Special Solidarity Fund and delegating financial responsibility to local authorities.

As regards other areas of **social protection**, preparatory steps have been taken to press ahead with the pension reform (Government Decisions on pensions recorelation and on indexation of pensions, setting-up of an inter-ministerial group for creating a single administrative structure in charge of collection, audit, and contribution to the social insurance budget).

With respect to **anti-discrimination**, a law approving the 2000 Government Ordinance on Preventing and Punishing all Forms of Discrimination entered in force in January 2002. The National Council for Combating Discrimination was established in August 2002. These are positive developments although amendments to the law will be needed in order to fully conform with the *acquis*. (See *Political criteria - 1.2 Human rights and the protection of minorities*).

### *Overall assessment*

As regards labour law, Romania still needs to adopt a revised Labour Code. This would represent an important step towards ensuring full alignment with the Community *acquis*.

Regarding equal treatment for women and men, further efforts are needed to align Romanian legislation with regard to burden of proof, protection of the rights of pregnant women, and free access to night work.

Regarding health and safety at work, despite progress with legal transposition, considerable work remains to be done with respect to the effective implementation of the *acquis*. Particular attention should be paid to improving co-operation between the Ministry of Labour and Social Solidarity and the Ministry of Health and Family. The capacity of the Labour Inspectorate should also be improved.

The framework for establishing a national surveillance system for communicable diseases was adopted but the system needs to be substantially reorganised before complying with the *acquis*. A well functioning information system needs to be put in place, laboratory capacity should be reinforced, laboratory standards need to be brought up to EC levels, and staff training should be intensified. Current tobacco legislation is partially aligned

with the *acquis*, but it still needs to be completed. Draft legislation transposing the new EC Directive needs to be adopted and implemented.

Basic health indicators reflect the low level of public health in Romania and infant mortality remains high while life expectancy is low. The incidence of some communicable diseases also gives rise to concern. The 2002 budget allocation is limited and a lack of resources continues to limit the quality of and equal access to health services. The Ministry of Health and Family is undergoing continuous organisational changes, which inevitably have a negative impact on policy implementation. The recommendations made in the 2001 Regular Report remain valid and Romania should place greater emphasis on strategic planning of human and financial resources in order to make efficient use of scarce public funds.

Despite social dialogue with regard to conflict resolution and the involvement of the Economic and Social Council in legislative consultations, autonomous social dialogue should be actively promoted, especially at the sectoral level and in small and medium sized enterprises, in order to improve its coverage (both in terms of percentage of the labour force and of enterprises covered by collective agreements). Further steps should be taken to strengthen the administrative capacity of the social partners, and in particular private employers. The tripartite social dialogue should be extended to new policy areas including employment and social inclusion.

Regarding employment policy, the Joint Assessment of the Employment Policy Priorities of Romania (JAP) will represent an important element in preparing the Romanian employment system for participation in the European Employment Strategy after accession. It is therefore important to ensure effective monitoring of the phasing-in of the commitments contained in the JAP. The reform of vocational education needs to be completed and adapted to the long-term needs of the labour market. Ensuring access to education for everybody and in particular for minority groups is of high priority. The Law on Unemployment Insurance and Employment Stimulation will represent a significant step forward and should be treated as a priority. Employment policies need to be focused on active and preventive measures that contribute to the transformation of the economy. With regard to preparation for Structural Funds, the early designation of the bodies responsible for ESF management will only make sense if training and institution-building measures are undertaken in order to define, finance and efficiently implement ESF-type measures.

A national integrated strategy on promoting social inclusion, taking into account the EU objectives, needs to be developed. As poverty and social exclusion are multidimensional by nature, it is important to promote an integrated approach mobilising various governmental bodies and all relevant stakeholders in the process. It is also crucial to improve and develop social statistics on poverty and social exclusion in line with agreed EU indicators.

As regards other areas of social protection, sustained efforts are required to clarify the institutional responsibilities of all bodies and authorities concerned. The precarious state of social protection in Romania is mainly due to the economic situation, but is also caused by the weak administrative capacity to collect contributions to the social insurance funds, the lack of appropriately trained personnel, and the lack of co-operation between ministries. At the local level, the distribution of responsibilities is still unclear and fragmented and local structures are understaffed. Difficulties occur in implementation of

the legislation due to lack of a common methodology and a lack of expertise. A common approach to social inclusion should urgently be developed at national level.

The success of recent legislative measures will depend upon the Government's ability and to build the required administrative capacity, both at national and local level, and to allocate sufficient and predictable budgetary resources.

Although the adoption of the law on the prevention of all forms of discrimination is a positive step, further efforts are needed to ensure alignment with the *acquis* on anti-discrimination, notably with regard to indirect discrimination and the burden of proof.

### *Conclusion*

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

Since the Opinion, Romania has made good progress in aligning with the *acquis*, especially over the last two years. Legislative progress has been particularly good with regard to the equal treatment of men and women, social assistance and social inclusion, and anti-discrimination. Despite these developments, additional legislative efforts are needed. Institutional mechanisms and budgetary means for implementing the new legislation also need to be developed.

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

Romania should focus further efforts on the adoption of a new labour code, continued transposition and implementation of the health and safety at work *acquis*, further promotion of social inclusion, fully aligning anti-discrimination legislation with the *acquis*, protecting the rights of pregnant women, and providing free access to night work. Further work is also needed with regard to inter-institutional co-operation, decentralising social responsibilities to the local level, budgetary organisation, ensuring adequate staff numbers, and effective training of personnel.

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

### *Progress since the last Regular Report*

Since the last Regular Report, Romania has made progress in preparing for the internal energy market, in particular as regards the level of market opening, pricing policy, and restructuring of some utilities. However, progress in implementing key structural reforms and improving administrative capacity has been limited.

Concerning **security of supply**, an Emergency Ordinance adopted in April 2002 established an oil stock monitoring system in Romania. While the country has sufficient storage capacity to meet the requirements of the *acquis*, Romania does not have the requisite stocks of oil products. The Ordinance stipulates that the level of these oil stocks

will be gradually increased, and will be 50% financed by the state, through the National Agency for State Reserves, and 50% by private operators.

Significant progress has been made in the field of **competitiveness and the internal energy market**. In the *electricity sector*, following a Government Decision in January 2002, market openness was increased to 33%, with licensed suppliers and eligible customers defined by the regulatory authority. In practice, the contracts signed between licensed suppliers and eligible customers amount to around 8% of the market.

Electricity prices were adjusted several times and now reflect production costs to an acceptable degree. Prices have also been indexed with the US dollar, which prevents some of the negative effects of inflation. An Ordinance adopted in March 2002 gave the Prime Minister responsibility for appointing the President of the National Electricity Regulatory Authority (ANRE), which reinforces its independence vis-à-vis the Ministry of Industry and Resources. In addition, two regional distribution companies have been prepared for privatisation.

Tests with a view to future interconnection with the Western European UCTE (Union Co-ordinating the Transport of Electricity) were finalised and the monitoring of the inter-connected operation with UCTE is currently being carried out.

In the *gas sector*, the rate of market opening was increased from 10% to 25%, and the regulatory authority has selected 45 eligible customers. As with the electricity sector, gas prices have been adjusted to reflect production costs, they are now indexed with the US dollar, and the president of the National Gas Regulatory Authority (ANRGN) is appointed by the Prime Minister.

The Government has adopted an action plan for the improvement of bill collection in the energy sector, including the disconnection of non-paying companies. However, problems of non-payment remain acute in the state sector (state-run industries, local authorities or public services). Although there are no reliable figures available, the energy bill collection rates remain at an insufficient level.

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

As far as **energy efficiency and renewable energy** is concerned, little substantial progress was made during the reporting period. In October 2001, the Romanian Fund for Energy Efficiency was legally established but it is not yet operational.

In the field of **nuclear energy**, Romania operates, at the Cernavoda Nuclear Power Plant, a Canadian-designed CANDU 6 type reactor with a nominal capacity of 700 MWe. This unit has been licensed following the Canadian licensing requirements for similar reactors in Canada. Cernavoda Unit 1 provides 11% of the country's electricity. Unit 2 of Cernavoda is being completed and is expected to be operational by 2005 – 2006.

As regards nuclear safety, Romania has continued to develop the legislative and regulatory framework. However, no progress has been achieved in dealing with spent fuel and nuclear waste.

Legislation has been harmonised with the adoption of orders for approving EURATOM safeguards, on radiological safety norms in September 2001, and on international transit of nuclear materials through Romanian space in February 2002.



As part of the Strategic Plan for Safety Analysis, a technical agreement was concluded between the National Company Nuclearelectrica and a Korean nuclear power company in order to assist the Romanian operator to develop its capability to perform accident analyses at Cernavoda Nuclear Power Plant. This Strategic Plan is scheduled to be finalised by 2004.

### *Overall assessment*

As regards security of supply, Romania has adopted legislation that should provide the basis for future compliance with the *acquis* on oil stocks. While storage capacities are sufficient, required oil stocks will have to be built up.

In the electricity sector, important steps have been taken to adjust electricity prices to reflect production costs and to establish the legal framework for market opening. Similar positive reforms have taken place in the gas sector. However, there has been a continued lack of progress with restructuring the state-owned energy producer Termoelectrica in order to improve its management and to make its production costs competitive. The key priority should now be a thorough reform of Termoelectrica in order to reduce production costs of thermal power plants.

Poor collection of energy bills remains a fundamental problem in Romania which impacts negatively on the financial situation of the utilities and prevents them from making the necessary investments to modernise their networks and improve their efficiency. This situation distorts the entire Romanian economy and Romanian efforts should be devoted to ensuring a genuine improvement of bill payment. For the solid fuels sector, it is important that Romania continues with its restructuring efforts and, for the hard coal sector, ensures compliance with the Community state aid *acquis*.

Romania does not devote the necessary resources to improving energy efficiency and to promoting renewable energy. The present efficiency of production means and networks is very poor, mainly due to a lack of investment. The Romanian Agency for Energy Conservation is in charge of promoting energy efficiency but has very limited financial and human resources - which is a demonstration of the low priority Romania gives to energy efficiency. This is particularly worrying, since the energy intensity of the economy is very high (estimated at around 8 times the EC average).

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 recommendations to all candidate countries to continue their national safety improvement programmes, including the safe management of spent fuel and radioactive waste, and regarding the safety of their research reactors. During the first half of 2002, a special Peer Review on nuclear safety assessed the progress made by candidate countries in implementing the 2001 Report's recommendations. This exercise under the auspices of the Council resulted in a Status Report, published in June 2002, which concludes that Romania has accepted and addressed all the recommendations contained in the Report on Nuclear Safety in the Context of Enlargement of June 2001.

Most recommendations have been adequately addressed. Romania should devote further attention to six recommendations: to systematically consider and implement relevant safety improvements for similar plants adopted in Canada; to strengthen the co-operation

between the Nuclear Safety Regulatory Authority (CNCAN) and the Canada Nuclear Safety Commission; to install an emergency Operating Centre at Cernavoda; to pay attention to the continued financial resources of the operator, as well as to the preservation of its management's and staff's competence; and to complete the update and regulatory reviews regarding fire and seismic hazard assessments at Cernavoda.

The Status Report recommends further monitoring with regard to four recommendations: to ensure the implementation of relevant safety improvements adopted in similar CANDU plants in Canada; to ensure the timely implementation of the Strategic Plan for Safety Analysis of Cernavoda Unit 1 and the development of the Safety Analysis Report for Cernavoda Unit 2; and to ensure that sufficient resources are allocated to the Nuclear Regulatory Authority in order to strengthen its capabilities.

Salaries at CNCAN remain low when compared with employees in the nuclear industry and there is a steady turnover of personnel, who leave the institution to work for Cernavoda or other industries that pay better salaries. Romania is therefore encouraged to address this specific issue and to further strengthen the resources and capabilities of CNCAN within a stable framework.

The unresolved issues of spent fuel and nuclear waste will have to be addressed in the short-term.

In order to ensure compliance with Euratom requirements and procedures Romania should give due attention to preparing the implementation of Euratom safeguards, in particular regarding the direct reporting of nuclear material flows and inventories by the persons or bodies operating nuclear installations or storing nuclear material. Romania has concluded a Full Scope Safeguards Agreement with the International Atomic Energy Agency.

### *Conclusion*

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

Since the Opinion, Romania has made progress in aligning itself with the relevant *acquis*. However, many structural issues still have to be addressed in the energy sector. Legislative alignment is limited and the new administrative structures remain to be consolidated.

Negotiations on this chapter continue.

Romania should focus further efforts on addressing the structural problems that are facing the sector: non-payment of energy bills, restructuring of Termoelectrica, and improving

the efficiency of its energy networks. It should also move away from its current energy production-oriented policy, and towards a policy based on energy saving. Romania should take the necessary measures to ensure the full and timely implementation of legislation in the energy sector as well as strengthening the administrative capacity of the newly established bodies (in particular the energy regulators, the energy efficiency body and the nuclear safety authority). Romania should ensure compliance with Euratom requirements and procedures and take measures for the progressive building up of oil stocks.

## ***Chapter 15: Industrial policy***<sup>14</sup>

### *Progress since the last Regular Report*

Since the last Regular Report, Romania has made progress in developing a coherent industrial policy. Substantial progress has also been noted in the steel restructuring process, while progress with privatisation has been relatively slow.

As regards **industrial strategy**, in April 2002 the strategic document “Industrial Policy of Romania” and the corresponding Action Plan were amended in order to increase their usefulness as operational policy instruments and to ensure coherence between interrelated policy areas. The changes made represent substantial improvements over the initial version that was adopted in 2001. Over the reporting period, implementation measures have mainly focused on improving the business environment, attracting foreign investment and accelerating the privatisation process.

The Ministry of Industry and Resources established a specific Directorate-General for Syntheses, Strategies, Industrial Policy and Development programmes, although the effectiveness of this change still remains to be seen. In June 2002, the first meeting of the Consultative Forum took place. The forum is comprised of all stakeholders (institutional, corporate, social, academic and civil society) and is to be consulted periodically on the implementation of Romania’s industrial policy.

Romania continues to lag behind other candidate countries in terms of attracting foreign direct investment (*see Section B.1.2. – Economic criteria*). In an effort to improve investment promotion, the Romanian Agency for Foreign Investments (ARIS) was established in March 2002. ARIS replaces two bodies that had overlapping competences and as such is a welcome development. It is headed by a state secretary, and its responsibilities cover strategy design, legislative harmonisation, assistance to foreign investors and local companies, and investment promotion. Further legislation is, however, needed for the Agency to become fully operational, and adequate resources still need to be allocated.

In 2002 Romania witnessed steady growth in both domestic and foreign investments. The share of gross fixed capital formation in GDP averaged 19% and the investment ratio also improved over the reporting period although levels remain low. Inflows of foreign direct investment represented 2.9% of GDP in 2001.

---

<sup>14</sup> Developments concerning Industrial policy should be seen in relation to the overall enterprise policy, including the SME policy (*see Chapter 16 - Small and medium-sized enterprises*).

Since last year, some progress has been made with **privatisation and restructuring**. In March 2002, new legislation was adopted to speed up the privatisation process. This is, in itself, tacit recognition that previous privatisation efforts had been disappointingly slow. The law incorporates recommendations from the IFIs and its major features include new privatisation methods and the possibility to settle debts before contract signature.

A Government Ordinance from February 2002 clarified the relationship between the Authority for Privatisation and Management of State Assets (APAPS) and investors. However, in November 2001, a new Office of State Ownership and Privatisation in Industry (OPSI) took over APAPS's responsibility for companies in strategic sectors (energy, oil and gas, mining, defence). OPSI is part of the Ministry of Industry and Resources and its portfolio represents 75% of total state assets.

Considerable progress has been made with restructuring of the steel industry. Privatisation of the steel company SIDEX was successfully concluded in 2001 and approximately 80% of steel production is now privately owned. The closure of production facilities at the Hunedoara steel plant means that progress has also been made with the implementation of restructuring measures. A revised steel restructuring programme was also produced during the reporting period. The national plan along with individual viability plans forms the basis of Romania's efforts to fulfil its obligation under the Europe Agreement as concerns state aid in the sector.

### *Overall assessment*

Following the development of an industrial policy, the key challenge for the Romanian authorities is implementation. Progress in this area has been slowed by a lack of effective co-ordination between the various ministries involved and relevant stakeholders. A number of co-ordination bodies have been established in order to rectify the situation, but these are not fully operational. The Inter-Ministerial Group, which is supposed to meet monthly and ensure overall policy co-ordination, only met twice during the reporting period. The Task Force established at expert level meets on an *ad hoc* basis and only deals with operational issues. Problems have also arisen due to the overlapping responsibilities of the Ministry of Industry and Resources and the Ministry for Development and Prognosis (which share responsibility for the implementation of industrial policy), and the Ministry for SMEs and Co-operatives.

Romania would seem to be steadily, if slowly, enhancing its international credibility in the area of foreign direct investment. Improving the investment climate has consistently been given a high priority by policy makers and there has been a greater willingness to consult and listen to the concerns of investors. This said, levels of investment will remain low until the general problems of corruption, excessive bureaucracy and an unstable legislative climate are addressed (*see also Chapter 16 – Small and medium-sized enterprises for progress in implementing the business environment*).

Recent legislative measures may help boost the privatisation process, but these are yet to be applied. The Romanian authorities should take great care to ensure that current privatisation practices (e.g. debt-for-equity swaps, the possibility of using a special administrative regime to accelerate privatisation, and direct negotiations with potential buyers) do not further reduce the financial discipline of enterprises. The benefits of splitting the responsibilities for privatisation between APAPS and OPSI are not clear since OPSI does not (yet) have the experience or the political stature of APAPS.

Experience over the last year demonstrates that increasing transparency in the privatisation process should be a priority for both institutions.

While undoubted progress has been made, restructuring of the steel industry remains a challenge that needs to be tackled in order to fulfil Romania's obligations under the Europe Agreement concerning state aid. It should be noted that an important element of any industrial policy is the control of state aid and the compatibility of support schemes with EC rules, which will have to be examined (*see Chapter 6 - Competition policy*).

### *Conclusion*

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

Since the Opinion, Romania has internalised the principles of EC industrial policy. However, while progress has been made in certain areas, Romania has been slow in addressing and implementing necessary structural reforms. Limited privatisation has been a particular problem. Romania's policy towards industry generally complies with the principles of EC industrial policy. However, underlying structural weaknesses (economic, administrative and legal) remain and limit the effectiveness of the industrial policy and its various instruments.

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

Romania should focus its further efforts on finalising the privatisation process in a fully transparent manner, attracting investment by simplifying and stabilising the business environment, and developing the administrative capacity and structures necessary to implement its Industrial Policy Strategy. Great care will have to be taken that the policy of restructuring is implemented in a manner which conforms to the competition and state aid *acquis* so as to create efficient competitive firms.

## ***Chapter 16: Small and medium-sized enterprises<sup>15</sup>***

### *Progress since the last Regular Report*

Romania has continued to prioritise SME development over the reporting period, and while further improvements can be noted, additional efforts to improve the business environment are essential.

As regards **SME policy**, in April 2002, Romania endorsed the European Charter for Small Enterprises as the basis for its action to support and develop small enterprises. The European Charter, adopted by the European Council in June 2000, is the reference document in the field of enterprise policy within the socio-economic strategy set up at the

---

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

Lisbon European Council. The reporting process on the implementation of the European Charter in Romania started in May 2002.

The Ministry for SMEs and Co-operatives has also prepared a revised version of the SME strategy, setting a number of short- and medium-term objectives. The new strategy will be supported by a number of national programmes covering *inter alia* micro enterprises and start-up financing.

In an attempt to improve access to finance, the Romanian authorities established a third guarantee fund, the National Credit Guarantee Fund. The Ministry for SMEs and Co-operatives is also responsible for the management of a wide range of multi-annual programmes. Support measures include investment promotion, providing access to training and consulting services, setting up the national network of consultancy centres, supporting export activities, and the establishment of business incubators.

Romania has made some progress with improving the **business environment**, and the Ministry for SMEs and Co-operatives has continued with the implementation of its Action Plan for Removing Barriers to SMEs. New legislation has attempted to simplify the registration and authorisation procedures for new companies and improvements have been made to the functioning of the “Single Offices” (one-stop-shops for company registrations). Other initiatives include developing information materials for entrepreneurs, creating a statistical database of SMEs, producing an Annual Report on the SME sector, and publishing the SME Sector Development Strategy.

A number of horizontal reforms are also likely to have a positive impact on the SME sector. These include amendments to the Code of Civil Procedure designed to accelerate court procedures, increasing the number of judges assigned to commercial litigation, and new legislation to accelerate bankruptcy procedures and reduce inter-enterprise arrears.

New VAT measures helped align Romanian legislation with the *acquis* but have also removed a number of tax exemptions which had previously been granted to SMEs. Due to their incompatibility with Romania’s WTO and Europe Agreement obligations, reduced tax rates on profits generated by exports will be eliminated by 2004 (*see also Chapter 10 – Taxation and Chapter 26 – External relations*). Other legislation introduced a legal deadline for VAT refunds, which cannot exceed 30 days. This is a positive development - although until implementing legislation has been developed the law cannot be applied and there is some concern that implementation will be restricted by the absence of sanctions for authorities that miss the 30-day deadline.

In April 2002 a Government decision established the legal obligation for the administration to consult with “business associations and other NGOs” on draft legislation with an impact upon the business environment. While it does address a key issue, it is too early to judge the impact of this legislation. Even if consultation on business environment measures does improve, sectoral ministries should also be obliged to consult businesses on sector-specific legislation.

The Romanian **SME definition** is broadly in line with the EC recommended definition and no developments have been made over the reporting period.

## *Overall assessment*

Priority issues identified in last year's report were the need for a simplification of enterprise licensing, a binding timetable for streamlining the existing legal framework, and a reduction in the cost and bureaucracy involved in gaining access to services provided by public utilities. No substantial progress has been achieved with these issues. Similarly, there has been no noticeable reduction in the large number of bodies that are authorised to conduct inspections and audits of businesses. Continued legislative instability, such as revisions to VAT and Profit Tax legislation, has made it difficult for SMEs to develop business plans with any degree of certainty.

Although the relationship between the banking sector and SMEs has recently improved, access to finance remains a serious difficulty. In an unstable macro-economic climate, banks are unwilling to accept long-term risks and the cost of credit remains very high. Against this background, government support measures are welcome – although there are concerns that support from the National Credit Guarantee Fund may be allocated on a discretionary basis.

The establishment of the Ministry for SMEs and Co-operatives has provided a degree of institutional stability to the sector. It has consolidated its position as the promoter of SME interests, the source of legislative acts which impact upon the sector, and as moderator between the various stakeholders (other ministries, SME representative organisations, trade unions, chambers of commerce, business support centres). However, insufficient personnel and a high turnover of senior staff put a strain on the Ministry's efficiency and risk undermining its effectiveness.

There is still a considerable policy overlap between the Ministry for SMEs and Co-operatives, the Ministry for Industry and Resources and the Ministry for Development and Prognosis. A specific concern is that the Ministry for SMEs and Co-operatives' Action Plan for Removing Barriers to SMEs overlaps with the activities of the Task Force responsible for drafting an Action Plan for Removing Administrative Barriers to Business (led by the Ministry for Development and Prognosis). A clearer definition of the respective tasks of these two bodies, as well as much more effective co-ordination, is needed.

## *Conclusion*

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

Since the Opinion, Romania has taken a number of initiatives to support SMEs and their importance in the overall economy has increased substantially. Although Romania has prioritised the development of the SME sector and Romania's enterprise policy broadly meets the EU objectives and policies, the legal and administrative environment remains difficult and restricts SME development.

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

Romania should focus future efforts on fully implementing the Action Plan for Removing Barriers to SMEs, and on addressing improvements required in the legal and administrative environment. Measures should also be taken to ensure that there is effective co-ordination between the many different agencies involved in the sector.

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

### *Progress since the last Regular Report*

Since the last Regular Report, Romania has made some progress in the area of science and research.

Implementation of the National Plan for Research, Technological Development and Innovation has started and 1 045 projects have been selected for financing.

The Inter-Ministerial Council for Science, Technology and Innovation (CISTI) was re-organised in December 2001 and given the responsibility for drawing up and implementing strategies and programmes for research, development and innovation. CISTI also advises on proposals for updating the National Plan.

In August 2002, the Ministry of Education and Research was nominated as the State Authority for Research and Development. A National Council for Certifying Research was also established and a legal status was defined for Research and Development personnel.

A Government Ordinance from February 2002 on scientific and technological parks established a framework for cooperation between enterprises and research units from universities. This legislation aims to promote the transfer of technological research to enterprises and to establish research poles attracting foreign investment at the regional level.

Romania has continued to be associated with the Fifth **EC Framework Programme**, as well as with the Fifth **Euratom Framework Programme** and overall levels of participation improved in 2001. Romania is preparing for participation in the Sixth Framework Programme (2002 – 2006). An action plan with the aim of improving participation in EC Framework Programmes was adopted for the period 2003-2004.

Funding for RTD activities increased in nominal terms but the real increase was very limited and overall levels of expenditure remain low.

### *Overall assessment*

Romanian participation in the Fifth EC Framework Programme should be improved since Romania is still not able to reap the full benefits from its considerable financial contribution. The assessment of last year's Regular Report remains valid and reinforcement of research-related administration capabilities, cooperation practices and co-financing possibilities, and the strengthening of research-related infrastructure, are all necessary in order to ensure Romania's successful participation.

The institutional framework for Research and Development has been progressively developed. However, Romania's gross domestic expenditure on research and



development as a percentage of GDP remains very low and needs to be increased significantly.

### *Conclusion*

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

Since the Opinion, Romania has fully associated itself with the Fifth Framework Programme and the financial and institutional framework for participation in the Programme is well established. Romania has adopted the National Plan for Research, Technological Development and Innovation as the basic reference for Romanian research activities. Efforts to encourage co-operation between enterprises and the research sector have also been made.

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

Romania should focus further efforts on reinforcing research-related administrative capacity and infrastructure, in order to increase the benefits from association with the relevant Community Framework Programmes.

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

### *Progress since the last Regular Report*

Progress has been made since the last Regular Report.

During the reference period, Romania continued to participate in the second generation of the Leonardo da Vinci, Socrates and Youth **Community programmes** (*see section A.b – Relations between the European Union and Romania*). Implementing legislation for the application of the **Directive concerning education of children of migrant workers** was approved in October 2001.

Several initiatives were taken over the reporting period to promote **reforms in the field of education, training and youth**. Scholarships are now granted to children from families living on the minimum income and to adults in literacy programmes. In order to improve the quality of education and continued studies for children in rural areas, a system of commune school centres was set up. Steps have also been taken in all counties for the integration of children with special needs into a normal school environment.

In order to develop teacher training, a Strategy for Initial and Continuing Training of Educators and Education Managers for 2001-2004 was adopted in November 2001. This represents an important step towards a structural reform of the education system.

In the area of vocational education and training, local Development Committees for Social Partnership in Vocational Education and Training were recognised through a Ministerial Order. These are consultative structures which are consulted by the County School Inspectorates on a number of issues (e.g. school network, educational offer,

qualifications, specialisations). In a separate measure, a Government Decision from December 2001 regulated the certification of qualifications.

In June 2002, legislation was adopted establishing the legislative and institutional framework for the vocational training of adults. The legislation is in line with the principle of life-long learning and represents significant progress, even though further legislation and institutional reforms will be needed before the law can be effectively implemented.

### *Overall assessment*

Participation in the relevant Community programmes is satisfactory and the established national agencies are functioning.

In order to fully transpose and implement the Directive concerning education of children of migrant workers, attention should focus on the definition of beneficiaries and the free teaching of Romanian.

The Romanian education system suffers from low levels of funding and even though expenditure has slightly increased it remains insufficient.

There have been a number of positive developments such as increased access to education for people with limited income. The Strategy for Initial and Continuing Training of Educators and Education Managers is a welcome initiative, although it is not clear if sufficient resources have been allocated to allow for its effective implementation. The decentralisation of funding of pre-university education to local authorities, which took place in 2001, has been implemented without major problems. The introduction of a compulsory year of pre-school education is being implemented on a pilot basis.

However, there have also been setbacks. Implementation of the 1997 decision extending compulsory school education from 8 to 9 years, which was supposed to start in the school year 2003-2004, has been postponed. The Romanian authorities still have to develop an overall plan to reform the education system. The absence of a structured vocational training system for adults remains a serious problem.

### *Conclusion*

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

Since the Opinion, Romania has continued to reform the education system although low levels of Government funding limit the impact of the reforms. Progress has been made with the transposition of the *acquis* although further work is necessary. A number of important social inclusion measures have also been put in place. Participation in the relevant Community programmes is satisfactory and the established national agencies are functioning effectively.

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

Romania should focus future efforts on completing alignment with the *acquis* and ensuring that reform initiatives are supported by adequate levels of funding.

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

### *Progress since the last Regular Report*

Progress since the last Regular Report has been significant, particularly as regards primary legislation.

Concerning the **liberalisation of the telecommunications market**, the planned date 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, the provision of internet services, cable television and satellite networks. Fixed network penetration reached 18% and is growing slowly. Further network modernisation and price rebalancing will be needed. Penetration in mobile services has also reached 18%. There are two GSM operators and UMTS licences have yet to be issued.

At the end of May 2002 the Government approved an Emergency Ordinance creating the general framework for communications regulation. The legislation creates a National Agency for Communications Regulation (ANRC) whose primary role is to act as a regulatory authority implementing national policies in the field of electronic communication and postal services. The ANRC will be led by a president and a vice-president for a period of five years. The overall framework legislation is intended to transpose the most recent Community legislation in this area, adopted in April this year.

The adoption of legislation providing the **regulatory framework** is a major step towards achievement of Romania's target date for full alignment with the *acquis* in this area by the end of 2003. The legislation creates a regulatory framework as regards authorisation procedures for electronic communication networks and services, the allocation of numbering resources and management of the radio frequency spectrum. As part of the basic policy objectives it provides the framework to promote competition in the communications market.

In February 2002 Romania adopted legislation introducing the single European emergency number 112, including the obligation of free and available access to this number from both fixed and mobile telephone operators. In January 2002 Romania adopted legislation transposing the *acquis* as regards access to electronic communication networks and associated infrastructure. The same legislation provides the framework for ensuring the interoperability and interconnectivity of these networks.

As regards **postal services**, legislation approved in January 2002 creates a general framework for postal service regulation and universal service provision. With the creation of the ANRC, the latter will also take over regulatory responsibility in this sector. There is a considerable degree of liberalisation in the sector. Restrictions remain for the moment on regular mail, parcels below 2 kg and money order and wire transfers. In the direct-mail market segment 10 private operators have been assigned licences.

### *Overall assessment*

Now that the framework legislation has been adopted, the Ministry of Information Technology and Communications will need to follow up this achievement in the coming year with the adoption of implementing legislation and with institution building efforts in order to ensure that the ANRC can assume its functions in time for liberalisation of the fixed-line telephony market at the start of 2003. Last year's assessment concerning the considerable amount of training and financial investment that will be necessary to ensure adequate administrative capacity in this area for the new regulatory authority remains valid.

The above remarks are equally pertinent for postal services, as the ANRC will also be responsible for this sector.

Overall, legislative transposition is on course to meet the Government's targets. The major challenge will be ensuring that the administrative architecture necessary to implement this legislation is set up in a timely fashion and operates effectively and independently of both the Romanian authorities and the sector operators.

Romania has not yet been able to evaluate the economic implications of fully implementing the universal service *acquis* so as to achieve affordability and a decision on this point remains outstanding.

### *Conclusion*

In its 1997 Opinion the Commission remarked that Romania could have some difficulty in adopting the EC model of telecommunications liberalisation, because of slow sector development and delays in liberalisation. However, the Commission expressed the view that with the implementation of new legislation during the next few years, Romania could be expected to fully achieve the approximation to EC regulation in the medium term. The Commission concluded that the competitiveness of the sector would crucially depend on the acceleration of the modernisation programme for networks and services, on the increase in foreign investment, as well as on market-oriented and flexible management of the public network operator.

Since the Opinion, Romania has made good progress although the adoption of legislation has taken somewhat longer than initially envisaged. Nevertheless, the regulatory framework now has the potential to be fully aligned with EC legislation in the near future and Romania has made important progress in preparation for liberalisation of the communications and postal markets.

Negotiations on this chapter are ongoing. Romania has not requested any transitional arrangements.

Romania should focus further efforts on creating an efficient and independent regulatory administration and on adopting implementing legislation. It should continue to transpose the updated telecommunications *acquis* and complete the implementation procedures as soon as possible.

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

### *Progress since the last Regular Report*

Romania has made good progress in this area since the last Regular Report.

In the **audio-visual** sector, a new framework law to align with the Television Without Frontiers Directive was adopted in June 2002. Cooperation between the various Romanian bodies involved in the legislative process has also improved significantly.

Implementing legislation for advertising, teleshopping and sponsorship was adopted in March 2002. Conditions for applying the right of reply were set in a decision of the National Audio-visual Council (NAC) on the obligations of broadcasters to record radio and TV programmes. The framework for broadcasting audio-visual programmes of local interest was established through an NAC decision in March 2002.

No major changes can be recorded regarding the administrative capacity of the NAC, and even though the number of control activities has been steadily increasing staffing levels remain the same as last year. A new IT network has improved communication between headquarters and regional offices. Within the Ministry of Culture and Religious Affairs, which has the right of legislative initiative in the audio-visual field, the Department for Harmonisation, Media and Audio-visual has been disbanded and most staff who had previously dealt with audio-visual issues have left.

Both houses of Parliament have approved legislation ratifying the Council of Europe Convention on Trans-frontier Television and its amending Protocol – although the Convention has still to be promulgated by the President.

In the field of **culture**, the Association Council Decision allowing Romania's participation in the "Culture 2000" was adopted in October 2001.

### *Overall assessment*

With the adoption of the new audio-visual law, Romania is now well advanced in terms of transposition of the *acquis*, although a few minor adjustments are needed in order to reach full alignment. Elements of Romania's legislation relating to the broadcasting of European works will come into force on accession, taking into account Romania's international obligations.

In terms of administrative capacity, the increasing number of control activities being carried out by the National Audio-visual Council is a reflection of improved management abilities, although there is still a need for further training. However, disbanding the audio-visual unit in the Ministry of Culture and Religious Affairs raises questions as to the future role of the Ministry following the adoption of the audio-visual law.

### *Conclusion*

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

Since the Opinion, Romania has made significant progress in the legislative field and, to a lesser degree, with improving its administrative capacity. Legislative alignment is now well advanced. The necessary administrative structures are in place.

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

Romania should focus further efforts on making the final legislative adjustments and should continue to reinforce its administrative capacity.

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

### *Progress since the last Regular Report*

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

No further developments can be reported regarding **territorial organisation** or with the **legislative framework**.

With regard to **institutional structures**, Romania has identified the preliminary institutional and programming structure for Structural Funds implementation as well as a preliminary structure for operational programmes. Two Government Decisions of January 2002 designated the management structures for implementation of the European Social Fund: the Ministry of Labour and Social Solidarity has been designated as Managing Authority and the National Agency for Employment as Paying Authority. Inter-ministerial working groups have been established which should lead to improved administrative co-ordination at the national level. A Government Decision from February 2002 limited the Ministry of Development and Prognosis' activities to the central level, and eliminated the territorial offices foreseen in a former Government Decision.

With regard to **programming**, in December 2001 Romania submitted its National Development Plan (NDP) 2002-2005 to the Commission - which presented its comments in March 2002.

No major developments can be reported with preparations for implementing the **partnership principle** or with regard to **monitoring and evaluation, financial management and control**.

Although efforts have been made to develop the infrastructure for producing **regional statistics**, and staff from regional offices have received specialised training, there is still a lack of reliable **statistics** at the regional level.

### *Overall assessment*

Romania's 1998 Regional Development Act established a provisional NUTS classification designating eight development regions corresponding to NUTS level II, with 42 counties corresponding to NUTS level III. This classification was agreed with the Commission.

Romania has already started to identify the bodies responsible for the preparation and implementation of the Structural Funds and the Cohesion Fund after accession. However, there is still a need for continued efforts and the Romanian authorities should further elaborate the management and programming structures at both national and regional levels. Considerable additional preparation is needed to bring the capacity of the Romanian administration up to the level required for Structural Funds and Cohesion Fund implementation. Substantial efforts are also needed to develop the structures and coordination mechanisms to manage financial assistance from the European Social Fund in the context of the European Employment Strategy and the inclusion process.

Significant efforts will be needed to improve the quality of the existing NDP before it can serve as the basis for a future development plan. The NDP should be further embedded into the national budgetary and policy-making processes. The programming work should continue.

With regard to programming, the capacity to discuss and clarify development priorities is very limited at both national and regional levels. The lack of co-ordination and co-operation between ministries, as well as with relevant agencies and social and economic partners, remains a problem and there should be further progress in the preparation of projects (the project pipeline).

A considerable amount of work will be necessary before Romania meets Structural Funds requirements for monitoring and evaluation.

Romania's progress in the field of financial management and control remains insufficient.

### *Conclusion*

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

Since the Opinion, Romania has made progress in legislative terms and, more recently, has started to develop its administrative capacity. However, there is still a need for continued efforts and Romania does not yet have a clear and consolidated cohesion policy.

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

Romania should focus further efforts on designing the management and implementation system for the Structural Funds. Particular attention should be given to clarifying the role of the regional levels and strengthening inter-ministerial cooperation and partnership. Systems and procedures for effective monitoring, financial management and control

should be established. Administrative capacity needs to be significantly improved with regard to programming, including identification and preparation of projects.

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

### *Progress since the last Regular Report*

During the reporting period, Romania has made progress with transposition of the environmental *acquis* - although much of the new legislation appears to have been adopted without due consideration for the administrative and financial resources necessary for its implementation.

**Integration of the environment into other policies** is hardly progressing, although the Inter-Ministerial Committee, which is responsible for co-ordination between ministries to ensure that environment is taken into account by all concerned sectors met in February 2002 for the first time since 1999. Recent medium-term and long-term energy strategies, which concentrate on increasing energy production without giving due attention to either the environmental effects of increased energy production or the potentials for improving energy efficiency, are cases in point.

In the field of **horizontal legislation**, no developments can be noted regarding environmental impact assessment legislation, which is a key issue in the Romanian context.

As far as **air quality** is concerned, a Government Order on volatile organic compounds from storage and distribution of petrol was adopted, as was a governmental decision on the emission of gaseous and particulate pollutants from internal combustion engines.

On **waste management**, a substantial amount of legislation was adopted concerning the waste framework, packaging and packaging waste, incineration of waste, landfill of waste, and hazardous waste.

A considerable amount of legislation was also adopted on **water quality**. Standards have been set for surface waters intended for abstraction of drinking water. An action plan was prepared for reducing pollution of ground waters and of the aquatic environment. Norms have been set regarding the discharge of waste water, the quality of surface waters to support fish life, the quality of water intended for human consumption, and the quality of bathing water. In addition to legislative measures, meetings of the Inter-Ministerial Committee for Water Management resumed, and the committees responsible for water basin management commenced their activities.

As far as **nature protection** is concerned, legislation was adopted during the reporting period related to zoos.

As regards **industrial pollution control and risk management**, progress was limited to the adoption of an Emergency Ordinance on industrial pollution prevention, reduction and control. Although this legislation is of considerable importance, a very substantial amount of work is necessary before it can be implemented (e.g. the list of enterprises that will be covered by this law still has to be drawn up). As far as enforcement is concerned, a National Environmental Guard has been created by transferring staff from



Environmental Protection Inspectorates – but no additional staff or resources have been allocated.

With regard to **chemicals and genetically modified organisms**, progress was limited to the adoption of an Ordinance on animal welfare. No progress has been achieved in the field of **noise**.

On **nuclear safety and radiation protection**, (*see also chapter 14 – Energy*), Romania has largely completed the transposition of the Directive laying down basic safety standards for the protection of workers and the general public from ionising radiation. Transposition has been completed for the directives on the protection of outside workers, and on health protection of individuals to ionising radiation in case of medical exposure. Standards have also been adopted on the safe transport of radioactive materials.

As regards **administrative capacity**, the Ministry of Water and Environmental Protection remains understaffed. The situation has deteriorated since the last Regular Report and the total number of vacancies has increased. There have been no substantial measures taken during the reporting period to increase the limited capacity of the 42 local Environmental Protection Inspectorates, which are responsible for the implementation of environmental policy (permitting, inspections, enforcement).

The budget allocated for environmental protection has been slightly increased but remains extremely low. The National Environmental Fund is still not operational, although most of the implementing legislation has now been adopted.

### *Overall assessment*

At face value, the list of environmental legislation that Romania has adopted during the reporting period is impressive. However, most of the legislation has been prepared without full consultation of stakeholders (other ministries, economic operators, and NGOs), without a precise assessment of the implementation costs, and without securing the financial and human resources necessary for its enforcement. It is therefore likely that many of these laws will prove impossible to implement and will have to be amended.

Adoption of legislation on environmental impact assessment has been delayed and should be treated as a priority by the Romanian authorities. Real progress has been limited regarding air quality, waste management, industrial pollution and risk management. In the case of nature protection, most of the *acquis* has been transposed. However, in the areas of noise and chemicals and genetically modified organisms additional work is necessary.

Romania has ratified the Kyoto Protocol.

Last year's Regular Report concluded that Romania did not have sufficient administrative capacity to implement its existing environmental legislation. Since then the body of legislation has grown very considerably, but staff levels have not increased and conditions remain poor. Romania urgently needs to build up the capacity of the local Environmental Protection Inspectorates (EPIs) in order to improve permitting, monitoring, inspection, and enforcement. The creation of the National Environmental Guard does not represent increased enforcement capacity since its staff have all been transferred from the EPIs without any additional means being provided.

Considerable investments will need to be secured over the medium and long-term in order to ensure the implementation of the environmental *acquis*.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that Romania would have to place a higher priority on environmental issues, implement focused environmental accession strategies and work programmes, significantly increase financial and other resources and develop its administrative capacity. It was estimated that if these steps were taken, full transposition of the *acquis* could be achieved in the medium to long term. The Opinion also noted that compliance with legislation requiring a sustained high level of investment could be achieved only in the very long term.

Since the Opinion, Romania has transposed a considerable amount of legislation, but has not developed the administrative or the financial resources to implement it. This means that Romania is still far from complying with the environmental *acquis*.

Negotiations on this chapter continue.

Romania should focus further efforts on developing implementation capacities and should ensure that laws include realistic deadlines and cost assessments, and are only proposed following sufficient consultation. At the local level, significant resources are needed to improve the status of existing staff, to recruit new inspectors, and to train them adequately. Co-ordination between ministries on environmental issues needs to be improved and Romania should integrate environment protection requirements into the definition and implementation of all other sectoral policies so as to promote sustainable development.

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

### *Progress since the last Regular Report*

In the field of consumer protection, further progress has been made since the last Regular Report.

On **safety related measures**, the framework law on consumer protection was modified in January 2002 by incorporating existing provisions on general product safety and liability of producers into the law. The legislation on dangerous imitations was modified and brought into line with the *acquis*.

As regards **non-safety related legislation**, no developments can be recorded.

As regards **market surveillance**, the authority of the consumer protection inspectors was extended to allow temporary and permanent closing down of commercial units. This complements the existing rights to impose sanctions, i.e. fines, definitive or temporary prohibition of marketing, or withdrawal from the market of products. The National Authority for Consumer Protection continued to provide information and advice to consumers. As a new service, a free-phone line for consumer complaints and a payable phone line for consumer information were opened. During the period between September 2001 and August 2002, 22 450 consumer complaints were received by the authority including 390 complaints submitted by consumers' associations.

The National Authority for Consumer Protection functions as the contact point for TRAPEX (Transitional Rapid Exchange of Information System). Under TRAPEX, 47 non-food notifications of dangerous products that could be found on the Romanian market were received between January and June 2002. As regards the development of administrative capacity for the implementation of consumer protection legislation, a decision to increase the staffing of the National Authority for Consumer Protection by the end of this year was suspended. Training seminars on enforcement issues, handling of complaints, inter-institutional co-ordination and the use of laboratory tests were held for inspectors from regional offices.

Progress can be noted in inter-ministerial co-operation. The Inter-Ministerial Committee for Products and Services, Market Surveillance and Consumer Protection resumed its activities and a strategy for its functioning was adopted. Its activities include, *inter alia*, developing and improving the market surveillance system and legal and institutional arrangements in the area, including clarification of the roles of the bodies involved in market surveillance and ensuring transparency of procedures. Consumer organisations are still not represented as formal members of the committee.

Some progress has been achieved in other areas of consumers' representation. An Unfair Terms Commission and a Product Safety Commission were established in January 2002. The commissions are independent consultative bodies, composed of representatives of the public administration, consumers and other relevant bodies. The commissions provide a channel for NGOs to get involved in the decision-making process.

The number of consumer associations has decreased slightly from last year in Romania. There are now 119 consumer associations organised into 16 federations, one confederation and one inter-regional convention.

### *Overall assessment*

The implementation of the five-year strategy of the National Authority for Consumer Protection has started smoothly and a number of activities have been initiated. Although the increasing trend of consumers' complaints may demonstrate increased consumer awareness and better information about the possibilities of claiming their rights, ensuring that citizens are fully aware of their rights as consumers remains an important task for the National Authority for Consumer Protection and consumers' associations.

Consumers' representation improved through their participation in the two consultative commissions that were established during the reporting period. However, full representation in the Inter-Ministerial Committee for Products and Services, Market Surveillance and Consumer Protection still remains to be achieved.

Despite the staff cuts reported last year, the National Authority for Consumer Protection managed to maintain its control and monitoring activities at the same level, although mainly concentrating on food safety. Strengthening the administrative capacity of the institution remains a priority and additional training should be organised for staff of the National Authority for Consumer Protection as well as for personnel from other relevant institutions such as the police, customs and the magistracy.

Co-operation between all actors in the area of consumer protection should also be strengthened and a further clarification of their respective tasks is needed. The 2002-2004

strategy for the Inter-Ministerial Committee for Products and Services, Market Surveillance and Consumer Protection should therefore improve the organisation of market surveillance activities, clarify the roles of competent bodies, and eliminate overlapping activities. Market surveillance activities should also be oriented to a larger extent to check the safety aspects of non-food consumer products and more resources devoted to laboratory testing.

### *Conclusion*

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

Since the Opinion, Romania has continued legislative alignment at a steady pace and managed to carry out an extensive legislative agenda during the last four years. Implementation structures are in place although administrative capacity is limited and the degree of co-operation between different actors involved in consumer protection should be improved.

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

Romania should focus further efforts on completing transposition of EC legislation in areas such as consumer credit, time-share, injunctions, sales of consumer goods and associated guarantees. Romania should place particular emphasis on the implementation and enforcement of existing legislation which means ensuring that the administrative structures are able to operate effectively. This is particularly important with regard to market surveillance, and increasing consumers' and producers' awareness of the new regulations. The role of consumer associations in developing and implementing consumer policy should be further promoted.

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

### *Progress since the last Regular Report*

Since the 2001 Regular Report, progress has been made in all areas of justice and home affairs apart from migration and drugs. However, the implementation capacity remains weak.

Romania adopted several pieces of legislation on **data protection** at the end of 2001 (*see chapter 3 – Freedom to provide services*). The Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and its additional protocol were ratified in February 2002. A new directorate in the Romanian Ombudsman Office has been designated as the independent supervisory authority. A public register of all data-processing operations has been created on the basis of the new law.

As far as **visa policy** is concerned, over the past few years Romania has brought its visa policy largely in line with the policy of the EU. As a result, since January 2002 Romania has enjoyed a visa-free regime with all Schengen Member States. Romania adopted provisions that entered into force at the same time as the visa-free regime which stipulate that Romanian nationals travelling to countries where an entry visa is not required must prove that they have sufficient resources to cover the intended stay abroad, a return ticket and valid health insurance. Romania does not yet comply with the *acquis* as regards the list of countries whose nationals do not need a visa to enter the EU. During the reporting period bilateral agreements to lift visa obligation entered into force with Latvia, Liechtenstein, Malta and Venezuela. A visa obligation was introduced in January 2002 for nationals of Bosnia-Herzegovina and Romania has decided to introduce the visa obligation for nationals of FYROM from the beginning of 2003. Romania does not yet require visas for nationals of the Federal Republic of Yugoslavia, the Republic of Moldova, the Russian Federation, Turkey and Ukraine. New consular instructions entered into force in July 2002 stipulating that visas can only be issued by diplomatic and consular missions. This puts an end to the practice of issuing visas at border crossing points.

As regards **external borders** and **Schengen**, Romania presented a Schengen Action Plan in December 2001, which will be updated on a yearly basis. The process of decentralising the border police and providing it with a more manageable command structure has continued. Legislation on the Romanian state border and on the organisation and functioning of the border police was adopted and entered into force in May and in March 2002 respectively. The professionalisation of the border police has continued to improve through the ongoing replacement of conscripts with professional staff. The total number of posts within the Romanian border police is approximately 19 100, of which about 15 450 are filled.

An Inter-Ministerial Group for Integrated Border Management was established in October 2001 with the task of facilitating communication and co-operation between authorities responsible for border control activities. A memorandum for creating a joint single clearance for border control was concluded between the border police and the customs administration in February 2002 and entered into force in June 2002. Plans to conclude agreements on integrated border management with neighbouring states have not been successful to date. The gradual exchange of the old type of passports for a new type with additional security features started in January 2002, with old passports being replaced when they expire.

As regards **migration**, progress has been rather limited. With regard to uniform residency permits, Romania adopted in June 2002 legislation for the issuing of new Romanian identity and state border crossing documents for third country nationals. Over the last year, readmission agreements were ratified with Albania, Austria, Croatia, Hungary, the Republic of Moldova and Sweden. Agreements with Lebanon and Norway were signed. The Directorate for Aliens and Migration Issues, which is the central co-ordinating body, has concluded co-operation protocols with the General Directorate for Combating Organised Crime and Drugs Traffic and with the national carrier in order to return illegal aliens to their country of origin or of departure. In June 2002 the Government concluded an agreement with the International Organisation for Migration on co-operation in the field of voluntary humanitarian assisted repatriation.

As regards **asylum**, in November 2001 Romania published the list of safe third countries and the list of countries where there is no risk of persecution. In an effort to better align with the *acquis* both lists were modified in August 2002. A Government Decision on refugee integration was adopted in November 2001. In March 2002 legislation was adopted establishing a procedure for reunification of refugees with their family members. This legislation remedies the most significant shortfalls in the previous legislation on family reunification.

While the number of asylum-seekers arriving in Romania has rose significantly from 1 503 in 2000 to 2 435 in 2001, but declined again in the first eight months of 2002, when a total of 796 applications were registered. At 4.8% in 2001, the combined approval rate of persons recognised as refugees and persons granted conditional humanitarian protection at first instance remained low compared to Western European countries. This rate has risen to 6.5% during the first eight months of 2002. There are three reception centres for asylum seekers with a capacity of 770 places. The National Refugee Office has sufficient staff and in 90% of the cases processed in 2001 a decision was taken within the legal deadline of 30 days.

In the field of **police co-operation and the fight against organised crime**, the Law on the Organisation and Functioning of the Police was adopted in May 2002 and the Law on the Status of Policemen was adopted in June 2002. In December 2001 a Law on the Prevention and Combating of Trafficking in Human Beings and an Action Plan for Combating Trafficking in Human Beings were adopted. The reform of the General Inspectorate of the Police, which started in 1999, should be achieved in 2002. In July 2002 Romania and Bulgaria signed a protocol aiming at combating trans-border organised crime more efficiently. Other international agreements were concluded with the Czech Republic, Armenia and Albania. In an effort to combat trafficking in human beings, in May 2002 legislation was adopted stipulating the sanctions for acts committed by Romanian citizens abroad or by stateless persons registered in Romania.

As regards the **fight against terrorism**, Romania adopted an ordinance sanctioning certain terrorist acts and certain encroachments upon public order as well as an ordinance to prevent the financial and banking systems being used to finance terrorist acts. An Inter-Ministerial Council has been set up to supervise the implementation of UN Security Council Resolution 1373/2001. In April 2002 the Supreme Defence Council (CSAT) adopted a National Strategy for Preventing and Fighting terrorism.

As far as the fight against **fraud and corruption** is concerned, in July 2002 the Parliament approved legislation establishing the National Anti-Corruption Prosecutor's Office (*see also section B.1.1. – Democracy and the rule of law*). The new Office began functioning in September 2002. It transforms the present anti-corruption section within the General Prosecutor's Office, and its territorial branches, into a structure with special status. The Head of the National Anti-Corruption Prosecutor's Office is appointed by the President of Romania based on a decision by the Superior Council of the Magistracy. This decision is in turn based upon a shortlist of names proposed by the Minister of Justice. As for Prosecutors, they are appointed by the Minister of Justice in accordance with recommendations made by the Head of the Office. The same procedure applies for revoking prosecutors' mandates. Romania ratified the Council of Europe Civil and Criminal Law Conventions in April and July 2002 respectively. The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime was ratified in August 2002.

No significant progress has been made in the field of **drugs**. A joint unit of the border police and the customs administration was created to evaluate information concerning drugs trafficking in Constanța harbour. Special joint control teams consisting of customs officials and representatives of the South Eastern Co-operation Initiative (SECI) have been created. In 2001, 25 tonnes of drugs (including 41 kg heroin) were confiscated. According to Romanian figures for the first five months of 2002, 41 tonnes (including 70 kg heroin) were confiscated. In June 2002 Romania ratified the 1995 Agreement on Illicit Traffic by Sea. New legislation on precursors was adopted in June 2002.

As regards **money laundering** (*see also Chapter 4 - Free movement of capital*), in August 2002 Romania ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. Regulations on organising and functioning of the National Office for the Prevention and Control of Money Laundering were adopted in May 2002. The National Office for Prevention and Control of Money Laundering Operations sent 143 cases to the General Prosecutor's Office in 2001 and 157 cases in the first eight months of 2002. However, the number of criminal proceedings and convictions that followed these investigations has been very low.

As regards **customs co-operation**, anti-fraud control teams have been set up for preventing, detecting and sanctioning customs fraud. Twenty-seven mobile surveillance teams have been created in order to strengthen the control of customs operations. An Action Programme Against Corruption in the Customs Administration and a Sector Action Plan Against Corruption were elaborated as a part of the National Programme on Prevention of Corruption and the National Action Plan Against Corruption. At the beginning of 2002 the Code of Conduct and Discipline of the Customs Staff was issued. The Code defines proper and improper professional and personal conduct, the acts considered as generating corruption and the penalties that can be applied. In the first half of 2002 16 customs officers were fired for disciplinary reasons, including for corruption cases. Over the same period, 15 customs officers were suspended from duty following penal investigations into corruption cases. A number of co-operation agreements have been signed between the Customs Administration and other institutions such as the border police, the national police, the financial guard and the Office for Copyrights. In June 2002 an Emergency Ordinance on setting up "single windows" at the border crossing points of Romania was taken. Mutual assistance agreements were concluded with customs agencies from Bulgaria, the Federal Republic of Yugoslavia, the Republic of Moldova and Ukraine.

As far as **judicial co-operation in criminal and civil matters** is concerned, Romania ratified the optional Protocol to the United Nations Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. The EU Joint Action of February 2002 concerning actions to combat trafficking in human beings and sexual exploitation of children has been partially implemented through the law on the Prevention and Combating of Trafficking in Human Beings, which was adopted in December 2001.

Romania also adopted domestic legislation transposing the European Convention on Mutual Assistance in Criminal Matters (including its first additional protocol) and ratified the additional protocol to the European Convention concerning the Transfer Abroad of Convicted Persons in December 2001.

## *Overall assessment*

The **data protection** legislation adopted at the end of last year should be promptly implemented and the Ombudsman's Office should be given sufficient resources to enable it to function as a fully operational and independent supervisory authority. Romania should take steps to implement the *acquis* on the use of personal data in the police information system.

Romania has further aligned its **visa policy** with that of the European Union. However, further steps towards full alignment are required - in particular as regards the list of countries whose nationals need a visa to enter the EU and the list of countries whose nationals are exempted from such an obligation. Romania should take appropriate measures to make the features of the national visa sticker more secure. Administrative capacity remains insufficient: the National Visa Centre is understaffed and technical equipment available to visa issuing services remains poor. Romania should step up efforts to provide all diplomatic and consular offices with technical equipment for detecting forged and falsified documents, focusing in particular on high-risk countries.

As regards **external borders**, the process of modernising agencies and procedures has continued and more efficient structures have started to emerge. The Memorandum of Understanding concluded between the customs authorities and the border police is a positive development, provided it is fully implemented in practice. However, co-ordination between all border authorities needs to be further improved. The training system should be further developed to ensure that border controls are only carried out by specially trained professionals. Romania also needs to fully implement its plan to terminate the use of conscripts at all its borders by the end of 2002. There are currently over 3 600 vacancies in the border police and considerable efforts will be needed to fill these posts. The modernisation of equipment at border posts has continued but further investments are required. A multi-annual investment plan should be elaborated in order to speed up the modernisation of border infrastructure.

The **Schengen** Action Plan which the Romanian authorities have presented needs to be further elaborated and should cover all policy areas included in the Schengen *acquis*. A clear distinction should be made between the requirements that must be applied upon accession to the EU and those which are connected with the eventual Council Decision on the lifting of internal border controls. Romania should continue its efforts to establish an operational National Information System containing Schengen-compatible data.

As to **migration**, considerable efforts in terms of both legal approximation and administrative capacity are still required. Legislation needs to be amended in several areas such as entry and stay of third-country nationals for the purposes of employment, self-employment and studies, long-term residents and unaccompanied minors. In order to comply with the *acquis*, Romania must also introduce the possibility of lodging an appeal with suspensive effect against expulsion decisions and return measures. Romania has concluded 27 readmission agreements in total. It should continue these efforts, focusing above all on risk countries.

Since the adoption of the Law on the Status and Regime of Refugees in 2001 Romania's **asylum** legislation has been made largely compatible with the *acquis*. Some shortcomings in this law have been addressed during the past year, although problems remain regarding the protection regime for persons who have been granted humanitarian



protection, as well as concerning the *non-refoulement* principle and the detention of asylum-seekers.

The National Refugee Office has an adequate number of staff, who are generally well trained. However, training of personnel in other services directly involved in asylum and refugee matters (police, immigration and border guards) remains necessary. The recently modified lists of August 2002 are now in line with the criteria adopted in 1992 on countries in which, in general, there is no serious risk of persecution and on safe third countries. They are also in line with the Resolution adopted on 30 November 1992, on a harmonised approach to questions concerning host third countries.

In the field of **police co-operation and the fight against organised crime**, the newly adopted legislation should be implemented and an effective reform of the police should be carried out without delay. A co-operation agreement with EUROPOL has not yet been concluded but the pre-condition for such an agreement has been established with the adoption of data protection legislation. Romania has signed the 2000 UN International Convention against Transnational Organised Crime (Palermo Convention) and its additional Protocols on trafficking of persons and smuggling of migrants. The additional Protocol on firearms remains to be signed. Despite legislative progress and improvements related to the fight against trafficking of human beings, Romania remains an important country of origin, transit and to some extent destination of trafficked women and children. Efforts in this area will need to be sustained. Public confidence in the police remains low and efforts should continue to establish a more citizen-oriented police force.

The operational capacity of the police as well as the flow of information between all institutions working in the field of law enforcement, including the judiciary, will need to be improved. Statistical instruments for measuring the crime rate should be improved, while new methods of technical crime investigation, including the development of forensic investigation should be further developed. In terms of international police co-operation, Romania should further develop the network of police liaison officers and should continue to implement its obligations under the Pre-Accession Pact on Organised Crime.

Romania has taken appropriate measures in the **fight against terrorism**. It still has to ratify the 1999 United Nations Convention for the Suppression of the Financing of Terrorism.

When it comes to the **fight against fraud and corruption** a major concern remains the ineffectiveness of preventing and combating corruption related crimes. Romania should pay more attention to the fact that prevention through transparency and accountability standards is as important as repressive tools. The considerable role played by the Minister of Justice in the establishment of the National Anti-Corruption Prosecutor's Office could jeopardise its independence - a situation which may compromise the effectiveness of its operations. In order to strengthen the autonomy of the Office the status of the prosecutors, in particular the status of the chief prosecutor should be better defined. The criteria for deciding which cases need to be investigated should be reconsidered and clarified. Romania should intensify its preparations for alignment with the 1995 Convention on the Protection of the European Communities' Financial Interests and adopt the relevant legislation. Romania should ensure that the recently ratified conventions in this field are implemented in all their aspects.

As far as **drugs** are concerned, the Inter-Ministerial Committee for Fighting Against Drugs should be made operational as soon as possible and its capacity to improve policy co-ordination should be developed. The National Focal Point still needs to be established. Romania should speed up preparations for participation in the European Information Network on Drugs and Drug Addiction of the European Monitoring Centre for Drugs and Drug Addiction. It should adopt a national drug strategy in line with the EU Drugs Strategy 2000-2004.

Trafficking of drugs remains a problem and considerable efforts are needed to intensify the fight against it. In the first instance, Romania should strengthen both the administrative capacity and co-ordination of its law enforcement services, especially the police and customs.

Further steps have been taken in fighting money laundering and related crimes, especially as regards alignment with the *acquis*. The National Office for the Prevention and Control of Money Laundering has improved its enforcement record, mostly by creating a general framework for the reporting obligation of other institutions. However, the Office has insufficient staff to tackle the increasing number of cases it has to deal with.

Problems remain related to certain regulatory loopholes and further efforts are therefore required to step up inter-agency co-operation as well as to improve co-operation at the international level. Apart from continuous training for the staff of the National Office, specialised training should also be organised for police officers, prosecutors and judges dealing with money laundering cases.

Romania has addressed deficiencies in **customs co-operation** by setting up control teams and mobile surveillance teams and by signing co-operation agreements. Measures have also been taken to fight corruption in the customs administration. These should be implemented without delay. Training of customs officials in professional ethics should be further developed. Inter-agency co-operation needs still to be improved, especially between the border police and the financial guard, customs and the economic branch of the police specialised in tax crimes. In terms of legal approximation, Romania should start its preparation for accession, which will require the implementation of the Convention on Mutual Assistance and Co-operation between the Customs Administration (Naples II) and the 1995 Convention on the Use of Information Technology for Customs Purposes.

As far as **judicial co-operation on civil matters** is concerned, Romania has continued to ratify the international conventions included in the *acquis*. However, in the civil area, Romania has still not 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; and the European Convention of 1980 on Recognition and Enforcement of Decisions Concerning Custody of Children. Romania should take further measures to ensure the implementation of the recently adopted Community instruments in the area of judicial co-operation in civil matters, notably as regards mutual recognition and enforcement of judicial decisions. Direct contacts between the competent judicial authorities should be made possible.

As regards **judicial co-operation in criminal matters**, Romania needs to start to prepare for the implementation of the Convention on Mutual Assistance in Criminal Matters. It should take the necessary steps to ensure the full implementation upon accession of the

instrument applying the principle of mutual recognition and in particular the Framework Decision on the European arrest warrant and the Framework Decision on the execution of orders freezing property or evidence. Preparatory measures are needed in order to participate effectively in the European Judicial network, and in Eurojust.

Romania has ratified all the **human rights instruments** covered by the *acquis*.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that Romania was facing particular challenges in the justice and home affairs area. Romania had only made limited progress towards meeting the necessary conditions of the justice and home affairs *acquis* and it would be difficult to meet the (present and future) *acquis* requirements in the medium term. The Commission went on to say that the necessary progress in this field was dependent on a more general institutional reform which derived from the political process.

Since the Opinion, Romania has made steady progress, especially in the last two years. It has started to make fundamental reforms in most areas and has speeded up alignment with the *acquis*. Romania is now in the process of developing various multi-disciplinary strategies and started important reforms aiming at improving the functioning of its law enforcement bodies. A notable exception to this general trend is the judiciary. However, notwithstanding progress achieved, considerable further work remains to be done on legal approximation and above all on strengthening administrative capacity.

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

Romania should focus further efforts on legal approximation in areas such as migration, Schengen, co-operation in the field of drugs, and judicial co-operation. Romania should continue efforts to increase the administrative capacity and inter-agency co-operation of law enforcement bodies. Particular attention should be given to bodies in charge of combating fraud and corruption. Finally, major efforts are required to reinforce the capacity of the judiciary and to ensure its full independence.

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

### *Progress since the last Regular Report*

Romania has made good progress in the field of customs since the last Regular Report.

With the **customs *acquis***, further progress has been made with alignment with the EC Customs Code and its implementing provisions in areas including the regime applicable to precursors used in the illicit production of drugs, inward processing, simplified procedures, end use and transit. Provisions were adopted in November 2001 on the application of the Romanian Integrated Customs Tariff (TARIR) which builds upon the EC Integrated Tariff (TARIC). In July 2002 the Government adopted a law ratifying Romania's accession to the Convention on Temporary Admission.

As regards **administrative and operational capacity** to implement the *acquis*, some further progress has been made. Based on co-operation protocols the Customs

Administration co-operates with bodies in charge of protecting intellectual and industrial property rights. An Inter-Ministerial Group for Integrated Border Management has been set up to ensure communication and efficient co-operation between bodies with border control responsibilities. However, co-operation between customs and the border police has been limited. The IT development strategy and plan have been applied since the beginning of 2002. In accordance with these documents, the Romanian Integrated Customs Information System is in the process of being consolidated and developed, aiming at the complete installation and operation of IT systems compatible with those of the EU in time for accession.

Regarding border security, measures have been taken to improve border infrastructure and to modernise equipment. This is especially the case with the northern and eastern borders where 15 customs offices have been equipped with automatic vehicle control devices. Customs offices have also been equipped with X-ray devices and detectors for smuggled goods, drugs and explosives. Following the adoption of the law concerning drug precursors anti-drug control units have been set up at the central and territorial level. Customs co-operation agreements exist between Romania and Bulgaria, the Federal Republic of Yugoslavia, the Republic of Moldova and Ukraine. Risk analysis structures have been set up to combat customs fraud.

The professional training of customs officers is carried out by the School for Public Finance and by the Regional Training Centres which have been established to meet the specific training needs of customs staff. Training systems work effectively with over 2 500 customs officers and officials, from both central and regional levels, receiving training during the 2001–2002 academic year. At the beginning of 2002, the Code of Conduct and Discipline for Customs Staff was issued. The code defines improper professional and personal conduct and stipulates the penalties that can be applied.

### *Overall assessment*

Co-operation between customs services and other enforcement bodies, especially the border police, has improved over the reporting period but additional efforts need to be made.

Continuous attention is needed in order to ensure the uniform application of customs procedures in the whole of the customs territory, to develop customs ethics, and to combat fraud and corruption by increasing the use of risk analysis methods and strengthening the intelligence function within the customs administration.

As regards computerisation, since July 2001 Romania has had a clear strategy on how to reach interoperability. Romania is making a sustained effort to achieve a satisfactory level of IT operational capacity and, if work proceeds as planned, Romania will have sufficient time to meet its obligations by its planned date of accession.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that it would be necessary to align Romania's customs administration to the duties that had to be carried out by a modern customs organisation. The Commission also noted that it seemed unlikely that Romania would be ready to fulfil the responsibilities of an EC customs administration within the next few years.

Since the Opinion, Romania has made progress on aligning its legislation with the *acquis*, although less progress has been made with regard to developing administrative capacity and fighting corruption within the customs administration. Romania has now achieved a good level of harmonisation of its customs legislation but administrative capacity is still weak.

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

Romania should now focus further efforts on completing the approximation of the customs legislation, in particular with regard to rules of origin, the status of free zones, and dual-use goods and precursors. Additional efforts are also needed to reduce levels of corruption within the customs administration and to prepare in advance for the application of measures that will be introduced at the time of accession.

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

### *Progress since the last Regular Report*

Since the last Regular Report Romania has continued to align with the *acquis* on common commercial policy and to co-ordinate positions and policies within the World Trade Organisation (WTO) with the EU, in particular with regard to the Doha Development Agenda negotiations.

Romania has continued to align with the *acquis* on common commercial policy and has made considerable improvements with respect to meeting its obligations under the WTO and the Europe Agreement. Romania has coordinated with the EU when developing positions and policies within the World Trade Organisation, in particular with regard to the preparation of the Doha Development Agenda negotiations.

As regards the **common commercial policy**, upon accession Romania will be required to align its tariffs with those of the EC. Romania's applied tariffs currently average 19.1% (MFN) on all products, 31.7% on agricultural products, 21.4% on fishery products and 15.6% on industrial products. By comparison, EC tariffs currently stand at 6.3% on all products, 16.2% on agricultural products, 12.4% on fishery products and 3.6% on industrial products. As from January 2002, Romania eliminated all remaining customs duties for imports of industrial products originating in the EU and the free trade area for these products was fully accomplished.

Last year's report noted that Romania had increasingly resorted to trade policies that were incompatible with its international obligations including the Europe Agreement. However, following intensive bilateral consultations with the European Commission, the Romanian authorities have taken the necessary steps to remove these trade irritants.

As regards **bilateral agreements with third countries**, Romania ratified a free trade agreement (FTA) with Lithuania in May 2002. Following the commitments given in the Stability Pact Memorandum of Understanding on Trade Liberalisation and Facilitation, formal negotiations were held to establish FTAs with the Republic of Yugoslavia and FYROM. Exploratory talks were held with the Republic of Albania and with Bosnia Herzegovina. In the case of Croatia, Romania has consistently supported Croatia's accession to CEFTA, which would establish a free trade area between the two countries.

Within CEFTA, Romania signed the Additional Protocol No. 10 relating to the liberalisation of agricultural and food trade, and the Additional Protocol No. 11 relating to the origin for goods.

In June 2002, the responsibility for commercial policy (together with the Foreign Trade Department and all its staff) was transferred from the Ministry of Foreign Affairs to the Office of the Prime Minister. In operational terms, the Foreign Trade Department is headed by a State Secretary who reports directly to the Prime Minister. For all administrative issues, the department relies upon the General Secretariat of the Government. The responsibilities of the department are largely unchanged.

Romania is not an international donor and does not have a **development policy** although contributions are made to certain United Nations development programmes and funds. Romania is a consistent provider of **humanitarian aid**, most usually to countries in the Balkan, Black Sea and Central Asian regions that have been hit by natural disasters.

### *Overall assessment*

The EU and Romania have established a framework for co-operation regarding WTO issues both at ministerial and at departmental level. Romania has been supportive of EU policies and positions within the WTO framework, in particular also during the preparation for and the launching of the Doha Development Agenda. This close co-operation should continue.

Close co-ordination should continue in order to ensure the smooth alignment of Romania's GATS commitments with the EC's commitments and MFN exemptions. Steps have been defined to this extent. Romania is a signatory to the Information Technology Agreement and a member of the WTO plurilateral Agreement on Trade in Civil Aircraft. With regard to the WTO Agreement on Textiles and Clothing (ATC) co-ordination has taken place within the third stage of integration under the ATC to align Romania's integration programmes with those of the EC.

In addition to its bilateral free trade agreements with Israel, Lithuania, the Republic of Moldova, Turkey and EFTA, Romania is a member of CEFTA and was president of CEFTA's Joint Committee in 2001. Romania needs to ensure that the Union fully informed about existing trade agreements and about any negotiations aimed at the conclusion of new trade agreements with a third country. Prior to accession, Romania will need to renegotiate or renounce all international agreements concluded with third countries that are incompatible with its future obligations as an EU Member State. Decisive steps are needed, as a matter of urgency, to bring bilateral investment treaties in conformity with the Treaty obligations. Failure to do so will mean that the conflict between the bilateral investment treaties and Treaty obligations will need to be resolved in the Accession Treaty.

Further transposition is needed to align Romania with the core EC regulation on dual use goods. Full alignment to the *acquis*, in particular the general export authorisations, can only take place upon accession. Romania keeps industry regularly informed of developments in this field and has developed bilateral contacts with the EU Member States to exchange best practices on export control issues.

Where medium and long-term export credits are granted, further efforts are needed to align with the *acquis*.

Staff levels in the Foreign Trade Department are adequate, and trade officials are well qualified and able to effectively manage Romania's commercial policy. Over the reporting period the department has successfully improved its control over the formulation of trade policy. It has been able to resist pressures for protectionist trade measures that have been made by vested domestic interests as well as by other ministries (in particular the Ministries of Agriculture and Industry). As a result, Romania's respect of its international trade commitments improved significantly.

It is too early to assess the impact of the latest institutional changes on this situation, i.e. the loss of a minister with direct Cabinet responsibility for trade issues. A more general concern is that frequent institutional changes inevitably reduce the ability of the Foreign Trade Department to function effectively. A period of institutional stability should be considered as a priority.

The administrative infrastructure which needs to be in place with respect to customs services is discussed in the chapter on customs union (*Chapter 25 – Customs union*). Control of exports and imports of *dual-use goods and technologies*, is the responsibility of the National Agency for the Control of Strategic Exports and of Prohibition of Chemical Weapons (ANCESIAC). There are no dedicated structures for managing development and humanitarian aid.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that Romania should to be able to meet Community requirements in this field in the medium term, provided that it reinforced its efforts to eliminate existing trade barriers in order to align itself more closely with the Community trade regime.

Since the Opinion, trade barriers have been progressively eliminated, and Romania has achieved a generally high level of alignment with the *acquis*.

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

Romania should focus further efforts on ensuring that the capacity exists to fully implement and enforce the EC *acquis* in this field upon accession and on taking decisive steps, as a matter of urgency, towards the renegotiation or abrogation of its bilateral investment treaties in full conformity with its EU membership obligations. A mechanism should also be established to thoroughly screen all trade-related legislation in order to ensure that it is compatible with Romania's international obligations.

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

### *Progress since the last Regular Report*

Over the last year Romania has confirmed its good track record in Common Foreign and Security Policy and has continued to align its policy with that of the European Union.

Romania is an active participant in the **political dialogue** established by the Association Agreement and has played a constructive role within the framework of the Common Foreign and Security Policy (CFSP), including meetings at the level of Political Directors, European Correspondents and Working Groups. Romania has shown a keen interest in the development of the European Security and Defence Policy (ESDP) as part of the CFSP, and has participated in exchanges on this subject with the EU in the EU + 15 format (i.e. non-EU European NATO members and candidates for accession to the EU).

Romania has continued to align its positions with **EU statements and declarations** and, when invited to do so, has associated itself with the Union's **common positions and joint actions**. Romania has continued to comply with **international sanctions and restrictive measures** imposed by the UN and the EU.

Relations with Hungary have improved, with the conclusion in December 2001 of a Memorandum of Understanding on the implementation of the Hungarian "Status Law" with regard to Romanian nationals (the law itself grants preferential status to ethnic Hungarians living in selected third counties). Romania made a positive contribution to the handling of this matter and the tensions noted in last year's Regular Report have diminished considerably. Good cooperation with Bulgaria has continued and relations with the Federal Republic of Yugoslavia and FYROM have improved. There has been no significant change in relations with Ukraine and a dispute over border demarcation remains unresolved.

Romania confirmed its willingness to contribute to both the EU Rapid Intervention Force and to EU civilian instruments for crisis management. It played an active role in the Capabilities Improvement Conference in November 2001 (where it presented an upgraded offer including police personnel) as well as in the EU +15 Defence Ministers' meeting in May 2002. The Romanian President approved the country's participation in the EU-led police mission in Bosnia and Herzegovina that should begin in 2003.

As regards defence co-operation, Romania is an active contributor to the International Security Assistance Force (ISAF) operation in Afghanistan, and in April 2002 the Romanian Parliament approved the participation of an infantry battalion and of a nuclear, biological and chemical company in Operation "Enduring Freedom". Romanian troops are members of the Stability Force in Bosnia and Herzegovina (SFOR) and of the Peacekeeping Mission in Kosovo (KFOR). Romania has contributed 8 military observers to the OSCE monitoring mission in FYROM.

Romania has ratified the Rome Statute establishing the International Criminal Court. In August 2002 Romania signed a bilateral agreement with the USA on the non-surrender of each others' nationals to the International Criminal Court. Regrettably, this decision was taken without adequate prior consultation with the EU. It does not comply with the guiding principles laid down by the Council on 30 September 2002.

Romania has passed new anti-terrorism legislation, including measures against the financing of terrorism, and has aligned with the EU Plan of Action of September 2001. Romania has also aligned with all EU Common Positions on combating terrorism and has acceded to the relevant international conventions relating to terrorism.



### *Overall assessment*

Romania has continued to play an important role as a regional leader in efforts to strengthen stability and security in South-Eastern Europe and has been an active participant in the work of the Stability Pact (co-chairing its third Working Table on security issues during the reporting period). Romania has been active in regional fora such as the Southeast Europe Cooperation Process and the Southeast Europe Security Cooperation Steering Group. Romania was Chair-in-Office of the OSCE during 2001 – a responsibility that it carried out efficiently, effectively and in cooperation with the EU.

Romania has subscribed to the content and principles contained in the EU Code of Conduct on Arms Exports, and continues to respect and implement the Code's criteria.

The officials in Romania's Ministry of Foreign Affairs are well qualified and have the ability to successfully implement the provisions relating to CFSP. The Ministry of Foreign Affairs has a European Correspondent but does not yet have a permanent Political Director. However, arrangements do exist to assume the Political Director's tasks in co-operation meetings with the EU and Romania intends to make relevant changes at a later stage. Measures to improve administrative capacity are ongoing and during the reporting period a diplomatic academy was created within the Ministry of Foreign Affairs. The academy's main functions are training of Ministry staff and carrying out research in the field of international relations.

The Ministry of Foreign Affairs is connected to the Associated Correspondents' Network information system, through which the EU communicates with associated partners within the CFSP.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that Romania should be able to effectively fulfil its obligations in the field of foreign and security policy.

Since the Opinion, Romania has made steady progress in aligning with the CFSP *acquis*, and its overall performance in this field has been satisfactory.

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

Romania should focus further efforts on ensuring that its foreign policy orientation remains in line with the Union's developing foreign and security policy, adopting the legislation on economic sanctions, and finalising the development of administrative structures. In particular, Romania should ensure that its national policies conform to the EU's common positions, and should defend these positions in international fora.

## ***Chapter 28: Financial control***

### *Progress since the last Regular Report*

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

In the area of **Public Internal Financial Control (PIFC)**, the Government adopted a policy paper in November 2001 which defines the framework for the organisation of the public internal financial control system. It also describes the principles for the development of internal audit within budget spending centres and envisages the establishment in the Ministry of Public Finance of a Central Harmonising Unit for Internal Audit. The Directorate for Preventive Financial Control in the Ministry of Public Finance has been strengthened by the recruitment of additional staff, and the deconcentration of preventive financial control functions to county level has been initiated in 10 counties. A Code of Ethics for internal auditors was adopted in June 2002.

In the area of **external audit**, a law adopted in February 2002 on the organisation and functioning of the Romanian Court of Accounts provides clarification of the Court's mandate to conduct audits relating to the privatisation of public companies and public procurement. The law contains provisions for reducing the number of members of the Court of Accounts. The ensuing dismissal of all the members of the Court is in conflict with the principle of independence of the supreme audit institution, as established by the relevant international standards.

Romania has made some progress as regards the **control of structural action expenditure**. The law on the organisation and functioning of the Romanian Court of Accounts, adopted in February 2002, defined the responsibilities of the Court for the audit of EC financial assistance, including SAPARD funds and related co-financing. The Court has continued the development of methodological norms for external control procedures relating to certification of the accounts of the SAPARD Agency. In July 2002 the Commission adopted a Decision provisionally conferring management authority for SAPARD, on a fully decentralised basis, to the SAPARD Agency. With respect to ISPA, Romania has made efforts in setting up the required management and control systems, and is in the process of finalising the assessment of the compliance of the national institutions and procurement procedures with the requirements for extended decentralisation. Romania has established a timetable for extended decentralisation of PHARE and ISPA implementation.

The Prime Minister's Control Department has been designated as the anti-fraud co-ordination service, responsible for the co-ordination of all legislative, administrative and operational activities related to the **protection of EC financial interests**. A start has been made with the implementation of effective co-operation with OLAF through this co-ordinating service. In order to reinforce inter-institutional co-ordination within Romania, a working group on the protection of the Communities' financial interests has been set up involving the relevant Romanian institutions and bodies.

### *Overall assessment*

With regard to Public Internal Financial Control, Romania needs to complete the establishment of functionally independent internal audit units in all budget-spending centres, focusing on systems-based procedures and performance-audit functions. Furthermore, appropriate working methods should be defined for the Central Harmonising Unit at the Ministry of Finance. Both the internal audit units and the Central Harmonising Unit need to be adequately staffed with well-trained and experienced personnel and therefore appropriate and adequate human resources and training policies should be put in place. The draft Internal Audit Law should be finalised and adopted, as should the draft Preventive Financial Control Act. The Internal Audit

Committee provided for under the draft Internal Audit Law should be established and made operational. Manuals for financial management and control systems and internal audit should be developed and audit trails should be defined. Preparations should continue for the decentralisation of ex ante financial control from centralised financial control to resident financial controllers in the spending units by the end of 2003.

In the area of external audit, Romania needs to reinforce the independence of members of the Court of Accounts through an amendment to the relevant article of the Constitution, in order to ensure the Court's financial independence and enhance its overall operational capacity. A comprehensive set of standards for external audit, conforming to internationally accepted external audit standards and in line with the EC *acquis*, should be developed and implemented. Effective staff training should be further developed. Romania also needs to enhance the formal procedures for parliamentary scrutiny of the Court's audit findings and to improve the transparency and dissemination of the Court of Accounts' reports.

As regards the control of structural action expenditure, Romania should concentrate efforts on the need to strengthen national public internal financial control systems and external audit services.

In the area of the protection of EC financial interests, Romania should pursue its efforts to develop an effective co-ordination structure, and should give priority to the development of mechanisms for administrative enquiries and for the judicial follow-up of anti-fraud investigations.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that major efforts were essential to strengthen the internal financial control functions.

Since the Opinion, significant steps forward have been taken, both as regards definition of the role of the Romanian Court of Accounts as the national external audit body in line with international standards, and as regards introduction of modern financial management and control as well as internal audit arrangements within the bodies responsible for public expenditure.

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

Romania should focus further efforts on implementing sound financial control systems by completing alignment, further developing its legislative framework and administrative capacity to protect the Communities' financial interests, and completing and strengthening the required institutional structures.

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

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

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

Further progress has been achieved through the adoption of a new *Public Finance Law* which aims at improving **national budget formulation and execution**, in particular by introducing a three-year programme-based framework for budgetary procedures. This framework ensures improved arrangements for co-financing the EC pre-accession instruments. The new law also continues the process of decentralisation by increasing the range of public services financed out of local budgets. The preparation of the 2002 state budget introduced programme-based budgeting for the main spending ministries for the period 2003-2005. The reform of budgetary procedures and public expenditure management has been accompanied by successful efforts to improve the timeliness of the budgetary process. At the same time, the number of extra-budgetary funds has been reduced to seven, compared with eleven two years ago.

As regards **own resources** and preparation of the system of contributions to the European Community budget, the Ministry of Public Finance has set up an Office for Special Assessments within the General Division of Public Revenues Management and Monopolies of the Ministry. This unit is responsible for co-ordination between the various services which will be involved in calculating Romania's contribution to the EC budget and the VAT base, and for ensuring that they are familiarised with the budgetary requirements related to Romania's accession to the EC.

As regards VAT, consolidated legislation, which entered into force in June 2002, has significantly improved the level of alignment (*see chapter 10 –Taxation*).

### *Overall assessment*

The integration of the medium-term financial outlook into the 2002 budgetary process is a positive step in improving the management of public budgetary resources. Efforts should be continued to create the capacity to effectively implement the multi-annual budgetary mechanisms defined in the Public Finance Law, particularly with a view to ensuring co-financing of EC pre-accession instruments. As regards traditional own resources, Romanian customs legislation is already largely in line with the EC *acquis* and progress has been achieved in alignment with the EC Customs Code and its implementing provisions. However, for the purpose of own resources, Romania needs to develop its reporting system on cases of fraud and irregularity, and certain other reporting and accounting requirements (the 'A' and 'B' accounts) will need to be set up in time for accession. Also, the systems and procedures necessary for sugar levies are not yet in place. Romanian law does not currently include any provisions requiring that producers of sugar, isoglucose or insulin syrup pay levies on sugar production, nor has an entity been identified to carry responsibility for levy collection.

As regards VAT, Romania has achieved a reasonable degree of alignment, although a number of issues remain to be tackled. For the purposes of own resources, considerable efforts are required in order to be able to calculate the weighted average rate in accordance with ESA-95 and to determine the impact on the VAT base of any special arrangements agreed under the Taxation Chapter. Romania should continue to participate in the VAT simulation exercise, which is the key tool for effectively testing its capacity regarding the VAT resource. Sustained efforts are also needed to improve the actual collection of VAT.

As regards the GNP resource, Romania's statistical system is largely in line. Implementation of the ESA-95 concept should be continued, along with the ongoing

process of quality and methodology improvements in the calculation of GNP and the national accounts, including enhancing their exhaustiveness.

Following the establishment of the co-ordination unit on own resources in the Ministry of Public Finance, considerable efforts will be needed to define the necessary procedures, organisational arrangements and capabilities to fulfil the administrative requirements in this area. In addition to the need for central co-ordination for the proper collection, monitoring and payment 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, Agriculture, Customs, Taxation and Regional Policy.

### *Conclusion*

In its 1997 Opinion, the Commission concluded that, in order to ensure that own resources could be established, monitored and made available in line with Community regulations, Romania would have to overhaul its current customs system. In addition, for the purpose of accurately calculating the GNP resource considerable improvements would have to be made to the national accounts to ensure that they were reliable, homogeneous and complete. Also, improving the statistics for drawing up the VAT own resource base was considered essential to bring Romania's VAT system fully into line with the Community directives.

Since the Opinion, Romania has achieved considerable progress with alignment in the areas of customs and VAT. Romania's statistical system is largely in line with requirements. Progress has been achieved in calculating the GNP resource through harmonisation with the ESA-95 standards, but this work has not yet been completed.

Negotiations on this chapter have not yet been opened with Romania.

Romania should focus further efforts on preparations for application of the *acquis* on own resources, and on creating a framework for transparent and efficient financial flows to and from the EC budget. Romania should continue implementation of the ESA-95 concepts and pay particular attention to quality and methodology improvements in the calculation of GNP and the national accounts, including enhancing their exhaustiveness. Romania should also work to improve the calculation of the VAT base.

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

Applicant countries are required to translate the various legal texts constituting the *acquis* into their national languages by the time of their accession. Primary and secondary legislation alone represents a considerable volume of texts, roughly estimated at 60 000-70 000 pages of the Official Journal. In the framework of the translation of the *acquis*, the Court of Justice has defined a set of key judgements to be translated as a priority (representing about 15 000 pages). To help the candidate countries in this process, assistance is being provided under the Phare programme. With the help of TAIEX, a dedicated database has been set up to act as a repository of all translated acts and as a tool through which candidate countries forward their translations to the Commission and the Council. The legal revisers of the Commission and the Council vet the submitted texts; they meet regularly and liaise with representatives of the centralised Translation Coordination Units in each country.

In Romania, the Translation Co-ordination Unit is established within the European Institute of Romania (EIR). It is responsible for managing all translation activities and functions effectively (but remains understaffed considering the volume of translation work that is required). Translations of the *acquis* are published on the EIR's website and are available free of charge. In parallel with the translation work, research on terminology has continued. The Internal Market Glossary and the Customs Glossary have been finalised.

As at September 2002, 9 750 pages of revised text and 41 200 of unrevised text were registered in the dedicated Commission database. Translation work is continuing, although current efforts are particularly focussed on speeding up the revision of translated texts. Sustained efforts are needed to ensure quality control and the technical uniformity of texts.

Due attention must also be paid to the training of conference interpreters.

### **3.3. General evaluation<sup>16</sup>**

Since the 1997 Opinion, Romania has made steady progress with the adoption of the *acquis*. However, in many areas, there has been an increasing gap between progress in legal transposition and the limited ability of the Romanian administration to implement and enforce the newly adopted legislation.

Over the last year, Romania has accelerated the process of legislative transposition and has continued work, albeit at a slower pace, on developing the administrative structures required by the *acquis*.

Overall, and in view of Romania's target date for accession, Romania's progress has been reasonable and national legislation has been aligned with the *acquis* in many areas. Administrative capacity building will require a comprehensive, structural reform of both the public administration and the judicial system.

In the area of the internal market, framework legislation on the New and Global Approach has allowed accelerated alignment with the sector-specific *acquis* on *free movement of goods*. Considerable progress has also been made in the establishment of bodies to administer the *acquis*. Further efforts should concentrate on improving standardisation and certification, on reinforcing market surveillance systems, on restructuring the food control system, and on effectively implementing public procurement legislation. The foundations for future progress with the *free movement of persons* have been laid, although further transposition is necessary to address shortcomings in the area of mutual recognition and administrative capacity should be strengthened in all areas. Considerable efforts have been made to facilitate the *free movement of services*, although the newly developed institutional framework for supervising financial services still needs to be supported. Liberalisation has continued in the area of *free movement of capital* and Romania is committed to a timetable for dismantling exchange controls and other restrictions on capital movements. Further efforts are particularly needed to revise the legal framework in the area of money laundering. Romania has aligned with most of the *acquis* on *company law*, although the level of piracy and counterfeiting remains a serious

---

<sup>16</sup> See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

problem and enforcement should be improved. In the area of *competition policy*, some progress has been made with the transposition of the *acquis*, mainly in the field of anti-trust, but Romania's enforcement record in respect of both state aid and anti-trust needs to be improved. The restructuring of the steel sector will need to be closely monitored.

Romania has made steady progress towards alignment with the *taxation acquis* although further adjustments are needed and the ability to implement and enforce tax legislation remains limited. Despite a high level of harmonisation with the *customs acquis*, further legislative alignment is needed as are efforts to reduce levels of corruption within the customs administration. Work should continue on developing IT systems to allow the exchange of computerised data between Romania and the EC. In order to develop a successful *industrial policy* and to promote *SME* development further efforts are needed to simplify and stabilise the business environment.

Alignment with the *acquis* on *agricultural policy* has accelerated, although legislative developments have not yet been matched by the development of administrative structures able to effectively implement the *acquis*. Structural reforms have only been slowly introduced. Inspection arrangements should be improved in the phytosanitary sector and, even more urgently, in the veterinary sector. In the area of *fisheries*, Romania has adopted the necessary framework legislation, although there have been delays in the establishment of the required administrative structures.

On *social policy and employment*, some progress has been made but considerable further work remains on legal transposition in the areas of labour law, equal opportunities, and health and safety at work.

Progress with *regional policy* has been slower and Romania does not yet have a clear and consolidated cohesion policy. Work has begun on developing administrative capacity, but continued efforts are needed to design management and implementation systems.

Romania's progress in the *transport* sector has been mixed: good with regard to road and railway transport, reasonable in the area of aviation, but only limited in the case of maritime safety. The key issues facing Romania are developing institutions able to enforce recently adopted legislation and securing the funding to make the heavy investments required by the *acquis*. Despite progress in terms of legislative alignment, many structural issues still have to be addressed in the *energy* sector and new operating structures need to be consolidated. Despite having transposed a considerable amount of *environmental* legislation, Romania has neither the administrative nor the financial resources to implement it. Future efforts should focus less on legislative alignment and more on developing implementation capacities as well as securing resources for environmental investments. Alignment with the *consumer protection acquis* has continued and implementation structures are in place - although inter-institutional co-operation should be improved.

Steady progress has been made with aligning with the *telecoms acquis* and progress has been made with preparing for the liberalisation of the communications and postal markets. Future efforts should focus on developing the newly established regulatory administration into a truly efficient and independent body, and on the evaluation of the economic implications of full implementation of the universal service *acquis*.

Romania has started to make structural reforms in the area of *justice and home affairs*, although a considerable amount of work remains to be done on legal approximation and

above all on strengthening administrative and judicial capacity. Despite recent reforms, including the adoption of a Schengen Action Plan, the efficiency of all police forces is limited and border infrastructure and management need to be improved. Major efforts are required to increase the efficiency of the judiciary.

In the area of *external relations*, trade barriers have been progressively eliminated, and Romania has achieved a generally high level of alignment with the *acquis*.

Progress has been made with regard to *financial control* and modern systems of financial management and control are being introduced. Further work is necessary to protect the Communities' financial interests, administrative capacity needs to be strengthened with regard to public internal financial control, and the independence of the Court of Audit should be guaranteed.

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 financial assistance. This issue is beginning to be addressed by the Government which has announced a major reform programme. However, these reforms are only at the design stage and still need to be carried out.

In the accession negotiations, 13 chapters have been provisionally closed. The commitments made in the negotiations are with a view to accession in 2007 and are generally being met.



## C. Conclusion<sup>17</sup>

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

The launch of a major programme of administrative reform is an important development and ensuring the successful implementation of these reforms should be considered as a priority. Significant progress was also made with the decision to demilitarise the police. This will increase the public accountability of police officers - although further actions are needed to ensure the proportionality of their actions. New institutional structures have been created for fighting corruption, which remains a cause for very serious concern, but they have yet to have an impact.

Romania still needs to improve the decision making and legislative processes. In particular, the Government's reliance on emergency ordinances should be reduced and parliament's ability to scrutinise legislation increased. Reform of the judiciary has been limited. A lack of resources means that the judicial system is severely strained and the executive's involvement in judicial affairs has not been reduced in practice. In order to address these issues, judicial reform should be made a political priority and a comprehensive strategy to improve the functioning of the judicial system should be drawn up.

Romania continues to respect human rights and freedoms. It has made significant progress with child protection, reducing the number of children in residential care and improving actual living conditions. Progress has also been made in promoting equal opportunities between men and women, with developing structures to reduce trafficking in human beings and with setting up the institutional framework to fight discrimination. The development of a probation system has continued although prison conditions remain extremely poor. Additional steps need to be taken to strengthen safeguards for freedom of expression.

Positive developments took place with regard to the treatment of minorities. Legislation extending the official use of minority languages was implemented relatively smoothly. Important steps were taken to implement the National Strategy for Improving the Condition of Roma, with the aim of effectively combating discrimination and improving living conditions, although additional financial resources will be necessary to make further progress.

Romania has continued to make progress towards being a functioning market economy, for which the prospects have improved. Sustained and full implementation of planned measures together with the completion of the reform agenda should allow Romania to be able to cope with competitive pressure and market forces within the Union in the medium term.

---

<sup>17</sup> See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

Some significant gains on macroeconomic stabilisation have been achieved over the last years. A more appropriate policy-mix is decreasing inflation, while growth has resumed and the external position remains sustainable. Considerable progress has been made on the creation of the necessary market institutions. The ongoing overhaul of the banking sector, the successive improvements in the supervisory and regulatory framework for the financial markets and the advances in privatisation have progressively tightened enterprises financial discipline. Price and trade liberalisation coupled, over the last year, with a significant adjustment of energy tariffs and important reforms of the tax system have set the stage for a more efficient allocation of resources. Restructuring is advancing in a number of sectors.

To build upon this progress, the authorities should give priority to establishing a track record on macroeconomic stabilisation grounded on further disinflation, by maintaining an appropriate policy mix and underpinning it with the enforcement of enterprises' financial discipline. Commitments to restrict the total wage bill in the public sector should be respected. The recent sharp growth in money supply and credit requires careful monitoring and a readiness to take prompt actions. Establishing enterprises' financial discipline requires improved tax administration and compliance, a consistent and transparent implementation of the latest measures to reduce the arrears of energy users, a determined and transparent use of the recently approved legal provisions for accelerating privatisation, and a readiness to liquidate loss-making enterprises. Completing privatisation in the banking sector, continuing the reform of public expenditures and budgetary procedures, and ensuring the implementation of improved regulatory and legal frameworks would also support the establishment of a functioning market economy and the development of Romania's capacity to cope with competitive pressure and market forces within the Union.

Since the 1997 Opinion, Romania has made steady progress with the adoption of the *acquis*. However, in many areas, there has been an increasing gap between progress in legal transposition and the limited ability of the Romanian administration to implement and enforce the newly adopted legislation.

Over the last year, Romania has accelerated the process of legislative transposition and has continued work, albeit at a slower pace, on developing the administrative structures required by the *acquis*.

Overall, and in view of Romania's target date for accession, Romania's progress has been reasonable and national legislation has been aligned with the *acquis* in many areas. Administrative capacity building will require a comprehensive, structural reform of both the public administration and the judicial system.

In the area of the internal market, framework legislation on the New and Global Approach has allowed accelerated alignment with the sector-specific *acquis* on *free movement of goods*. Considerable progress has also been made in the establishment of bodies to administer the *acquis*. Further efforts should concentrate on improving standardisation and certification, on reinforcing market surveillance systems, on restructuring the food control system, and on effectively implementing public procurement legislation. The foundations for future progress with the *free movement of persons* have been laid, although further transposition is necessary to address shortcomings in the area of mutual recognition and administrative capacity should be strengthened in all areas. Considerable efforts have been made to facilitate the *free movement of services*, although

the newly developed institutional framework for supervising financial services still needs to be supported. Liberalisation has continued in the area of *free movement of capital* and Romania is committed to a timetable for dismantling exchange controls and other restrictions on capital movements. Further efforts are particularly needed to revise the legal framework in the area of money laundering. Romania has aligned with most of the *acquis* on *company law*, although the level of piracy and counterfeiting remains a serious problem and enforcement should be improved. In the area of *competition policy*, some progress has been made with the transposition of the *acquis*, mainly in the field of anti-trust, but Romania's enforcement record in respect of both state aid and anti-trust needs to be improved. The restructuring of the steel sector will need to be closely monitored.

Romania has made steady progress towards alignment with the *taxation acquis* although further adjustments are needed and the ability to implement and enforce tax legislation remains limited. Despite a high level of harmonisation with the *customs acquis*, further legislative alignment is needed as are efforts to reduce levels of corruption within the customs administration. Work should continue on developing IT systems to allow the exchange of computerised data between Romania and the EC. In order to develop a successful *industrial policy* and to promote *SME* development further efforts are needed to simplify and stabilise the business environment.

Alignment with the *acquis* on *agricultural policy* has accelerated, although legislative developments have not yet been matched by the development of administrative structures able to effectively implement the *acquis*. Structural reforms have only been slowly introduced. Inspection arrangements should be improved in the phytosanitary sector and, even more urgently, in the veterinary sector. In the area of *fisheries*, Romania has adopted the necessary framework legislation, although there have been delays in the establishment of the required administrative structures.

On *social policy and employment*, some progress has been made but considerable further work remains on legal transposition in the areas of labour law, equal opportunities, and health and safety at work.

Progress with *regional policy* has been slower and Romania does not yet have a clear and consolidated cohesion policy. Work has begun on developing administrative capacity, but continued efforts are needed to design management and implementation systems.

Romania's progress in the *transport* sector has been mixed: good with regard to road and railway transport, reasonable in the area of aviation, but only limited in the case of maritime safety. The key issues facing Romania are developing institutions able to enforce recently adopted legislation and securing the funding to make the heavy investments required by the *acquis*. Despite progress in terms of legislative alignment, many structural issues still have to be addressed in the *energy* sector and new operating structures need to be consolidated. Despite having transposed a considerable amount of *environmental* legislation, Romania has neither the administrative nor the financial resources to implement it. Future efforts should focus less on legislative alignment and more on developing implementation capacities as well as securing resources for environmental investments. Alignment with the *consumer protection acquis* has continued and implementation structures are in place - although inter-institutional co-operation should be improved.

Steady progress has been made with aligning with the *telecoms acquis* and progress has been made with preparing for the liberalisation of the communications and postal markets. Future efforts should focus on developing the newly established regulatory administration into a truly efficient and independent body, and on the evaluation of the economic implications of full implementation of the universal service *acquis*.

Romania has started to make structural reforms in the area of *justice and home affairs*, although a considerable amount of work remains to be done on legal approximation and above all on strengthening administrative and judicial capacity. Despite recent reforms, including the adoption of a Schengen Action Plan, the efficiency of all police forces is limited and border infrastructure and management need to be improved. Major efforts are required to increase the efficiency of the judiciary.

In the area of *external relations*, trade barriers have been progressively eliminated, and Romania has achieved a generally high level of alignment with the *acquis*.

Progress has been made with regard to *financial control* and modern systems of financial management and control are being introduced. Further work is necessary to protect the Communities' financial interests, administrative capacity needs to be strengthened with regard to public internal financial control, and the independence of the Court of Audit should be guaranteed.

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 financial assistance. This issue is beginning to be addressed by the Government which has announced a major reform programme. However, these reforms are only at the design stage and still need to be carried out.

In the accession negotiations, 13 chapters have been provisionally closed. The commitments made in the negotiations are with a view to accession in 2007 and are generally being met.

## **D. Accession Partnership and Action Plan for strengthening administrative and judicial capacity: Global assessment**

Romania's progress and overall state of preparation in respect of the Copenhagen criteria has been examined and conclusions drawn above. The present section assesses the extent to which the priorities of the Accession Partnership have been met and the measures foreseen under the Action Plan implemented according to schedule. It should be noted that both the Accession Partnership and the Action Plan have a time perspective of two years covering 2002 and 2003, providing for another 15 months for priorities to be met. Furthermore, much has already been achieved based on previous Accession Partnerships. The present one focuses on remaining specific and well-circumscribed topics identified as requiring more work to prepare Romania for membership. Therefore the analysis below only focuses on these specific topics and does not give an overall picture of the state of preparation of Romania in each domain.

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.

The Accession Partnerships are revised on a regular basis, to take account of progress made, and to allow new priorities to be set. The Council adopted a revised Accession Partnership for Romania in January 2002, based on a proposal from the Commission.

The revised Accession Partnership has served as the point of departure for the Commission and Romania to develop jointly an Action Plan to strengthen Romania's administrative and judicial capacity.

The purpose of the Action Plan is to identify jointly the next steps required for Romania to achieve an adequate level of administrative and judicial capacity by the time of accession, and ensure that all necessary measures in this regard are taken, providing Romania with targeted assistance in areas that are essential for the functioning of an enlarged Union.

Developing adequate administrative and judicial capacity for EU membership is a demanding and wide-ranging task, which requires detailed preparations in each and every domain covered by the Union's policies and legislation. In preparing individual Action Plans, the Commission has taken a comprehensive approach. All priorities from the revised Accession Partnerships which relate to the development of administrative and judicial capacity have been included in the Action Plans. Each of these priorities is treated separately in the Action Plans, and specific measures have been designed to address each of them.

In the following, progress in addressing each of these priorities is reported. For ease of reference and to avoid repetitions, wording from the *Accession Partnerships* is rendered in italics. As regards the measures foreseen by the Action Plan, implementation is checked against timetables and reported.

## *Political criteria*

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

The 1999 law on civil servants is not yet fully applied and the body of *secondary legislation governing the civil service* still needs to be completed and revised. Steps have been taken to initiate a *comprehensive public administration reform* package - a reform strategy has been adopted and an inter-ministerial committee announced to oversee the implementation of the strategy. However, the main elements of the strategy have not yet been implemented and, to date, there has been no substantial improvement in ensuring the *political independence and accountability of civil servants*, or with developing a *career structure based on transparent promotion and assessment*. In accordance with the Action Plan, a National Institute for Administration has been set up to improve *training provision* – although it is not yet operational. The overall process of policy formulation remains weak. While *consultation procedures between ministries* have improved, *consultation with stakeholders* during the drafting process is limited. Not all draft legislation is *screened for its budgetary implications or its compatibility with Romania's international obligations*. There has been no significant reduction in the *use of ordinances, and emergency ordinances, as a legislative tool*. Efforts have been made to match the devolution of responsibilities to local levels of government with increased fiscal decentralisation. The *provision of financial resources* to local government has increased – although certain difficulties remain. The establishment of a National Anti-Corruption Prosecutor's Office, as set out in the Action Plan, may help *clarify the competencies of all bodies involved in anti-corruption activities, and improve co-ordination between these bodies*. However, the office is not yet fully operational and it is premature to assess its effectiveness. Romania has *ratified relevant international conventions against corruption*. The notion of *criminal liability of legal persons* still needs to be introduced into Romanian Criminal Law. Romania still needs to improve the functioning and independence of the judiciary by *introducing objective criteria for recruitment and career development* for judges and prosecutors. The training measures set out in the Action Plan have been implemented and while the *in-service training of judges, prosecutors and law clerks* has improved it remains inadequate. The Ministry of Justice has not yet established a clear policy on continuous training for judges and prosecutors. The *availability of legal aid* has remained unchanged. The *enforcement of civil decisions* has improved as it is now the responsibility of private bailiffs. In line with the measures set out in the Action Plan, the foundations have been laid for an *effective probation system*. New probation centres have been opened and specialised probation officials have been recruited and trained. Despite this development, there has been no significant reduction in the use of *pre-trial detention*. Romania has adopted *legislation on police organisation and the statute of police officers* which will bring police officers under the jurisdiction of civilian courts and complete the demilitarisation of police forces. There is still no *effective system for examining complaints of police misconduct*. The section of the Penal Code dealing with *offence against authorities* has been revised – although the amendments are limited and the revised legislation does not resolve contradictions with the case law of the European Court of Human Rights.

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

Romania has made good progress in implementing *reform of the child care system in accordance with the National Strategy on the Protection of Children in Need*. *Budget provisions* for children in care have been increased, and initiatives have been taken to

address the particular problems of *children with chronic diseases and handicaps* – although additional efforts are needed to develop an inclusive educational policy for disabled children. In the absence of such a policy, the *closure of special schools* has been hampered. Measures have also been taken to support the *integration of young people leaving residential care institutions* into society. New legislation on international adoption has been prepared and based upon the provisions of the Action Plan, and efforts have been made to develop the administrative capacity that would be required to implement this legislation. While this process has been carried out the *moratorium on international adoption has remained in place*. In line with the Action Plan, steps have been taken to develop *administrative capacity* in order to implement the Government Strategy on the improvement of the situation of Roma. The local structures for implementation of the Strategy have been established and measures have been taken to re-enforce the capacity of the national office for Roma. This said, the levels of *financial support* provided for the Strategy's implementation have been inadequate and in this respect the Action Plan has not been fully implemented. Romania has *adopted a National Strategy on the Improvement of the Situation of Persons with Handicaps*. Effective implementation of the strategy will depend upon sufficient *budgetary support and developing administrative capacity*, both at national and local levels – a process that is on-going in line with the measures foreseen in the Action Plan. In accordance with the Action Plan, Romania has *established the institutional framework in order to implement legislation on the prevention and combating of all forms of discrimination*. However, the institution concerned (the National Council for Fighting Against Discrimination) is not fully compatible with the *acquis*.

The Accession Partnership priorities related to the political criteria have been partially met. For those priorities also covered by the Action Plan the actions foreseen in the Action Plan are largely on track.

### *Economic criteria*

*Macroeconomic stability* has improved noticeably in Romania although progress with the *implementation of structural reforms* has been slow. The *privatisation process* has continued, but only slowly, and the Government has not been able to meet its own privatisation programme. A variety of measures have been taken to *stimulate domestic and foreign investment*, but although Romania witnessed a steady growth in both domestic and foreign investments, overall levels of investment remain low. Despite a number of high-profile initiatives, actual progress in *simplifying legal and administrative procedures* has been limited and the *rules governing privatisation and business operation* still suffer from instability and a lack of transparency. New *bankruptcy procedures* were introduced in 2002 but it is not yet possible to assess if the new legislation is being effectively implemented. A revised *plan for restructuring the steel sector* has been produced and progress has been made with the implementation of restructuring measures. Romania is in the process of developing *individual viability plans* for steel enterprises. *Restructuring of the national air carrier* has continued and a cost reduction programme has led to a significant *reduction in losses* – although additional reforms will be needed to reach a financial equilibrium. The *land market* in Romania is progressing, although the market in land sale lags behind the rental market. Efforts have been taken to develop a *policy for agricultural land consolidation*, and progress with the *issuance of land titles* is continuing, albeit more slowly than anticipated. Romania has not yet developed a *policy framework for rural credit and rural financial infrastructure compatible with IFI and EC*

*financial support*. In line with the provisions set out in the Action Plan, Romania has taken a number of initiatives to support SMEs – notably through the implementation of an Action Plan for the Removal of the Administrative Barriers from the Business Environment. Despite these efforts, the overall *economic, legal and administrative environment* remains difficult. New legislation has attempted to *simplify the registration for new companies* but there has been no substantial progress with the *simplification of enterprise licensing*.

The Accession Partnership priorities in this area have only been partially met. The Action Plan measures are being implemented although additional efforts are needed.

### *Ability to assume the obligations of membership*

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

*Implementation of the New Approach directives* has accelerated considerably over the reporting period. The programme for *strengthening the national system for conformity assessment* set out in the Action Plan has begun. New *legislation on pharmaceuticals, chemicals, cosmetics, textiles, footwear, legal metrology, and motor vehicles* has been passed or is in the process of being drafted. Work on the *adoption of EN standards* continues as planned. In order to *prepare a market surveillance system*, an Inter-Ministerial Committee for Market, Products and Services Surveillance and Consumer Protection, a Commission for Unfair Terms, and a Commission for Safety have been created - as mentioned in the Action Plan. In the context of *preparing the administration to implement EC principles of food safety*, Romania still needs to set up a National Food Authority. Other measures listed in the Action Plan have started as foreseen (work on the provision of information to economic operators in the food industry, the equipment of three reference laboratories and the reinforcement of inter-ministerial co-operation). As foreseen in the Action Plan, training of officials from both central and local government has started in order to *ensure an appropriate implementation of the new legislation on public procurement*. An inter-ministerial working group has been created to *screen legislation in the non-harmonised area* but work is still at an early stage. Overall, most of the Accession Partnership priorities in the area of free movement of goods have been met. Implementation of the measures under the Action Plan is largely on track.

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

No significant progress has yet been made on alignment with the *acquis on mutual recognition of professional qualifications*. However, the training programme mentioned in the Action Plan to reinforce institutional capacity in the field of recognition of professional qualifications (directives on the general system of recognition and sectoral directives) is being implemented. As mentioned in the Action Plan, Romania is implementing a capacity building programme within the National Health Insurance House and District Health Insurance Houses in order to *develop the administrative structures for the co-ordination of social security systems*. Overall, the Accession Partnership priorities in the area of free movement for persons have been partially met. Implementation of the measures under the Action Plan is largely on track.



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

With regard to *aligning with securities markets acquis*, a number of major legislative developments have occurred concerning the statute of the Securities Market Commission, undertakings for collective investment in transferable securities, regulated commodities markets, services and derivative financial instruments and securities financial services and regulated markets. As mentioned in the Action Plan, Romania is implementing training and administrative programmes within the supervisory authorities for the banking, insurance and securities markets in order to *reinforce the supervision of financial services*. Romania has also established the inter-institutional co-operation structures as foreseen in the Action Plan. The Accession Partnership priorities in the area of freedom to provide services have been met to a large degree. Implementation of the measures under the Action Plan is largely on track.

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

Romania has revised its legislation to incorporate the *recommendations of the Financial Action Task Force*. As mentioned in the Action Plan, a review of the National Office for the Prevention and Control of Money Laundering is planned for the near future for the purposes of implementing the recommendations. Overall, the Accession Partnership priorities in the area of free movement of capital have been met. Implementation of the measures under the Action Plan is largely on track.

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

As mentioned in the Action Plan, Romania has approved and is implementing plans to improve training and *strengthen administrative capacity in the main enforcement bodies for intellectual and industrial property rights*. Steps have been taken, in line with the Action Plan, to improve co-operation between the Romanian Copyright Office and the police, customs authorities and the judiciary. A programme to strengthen the *capacity to enforce border legislation* is also underway and *training programmes for judges and prosecutors* are being implemented. While the encouraging decline in reported levels of piracy is evidence of *increased inter-agency co-operation*, the enforcement of legislation in the area of protection of intellectual and industrial property rights, especially at borders, is still a source of concern. The efforts of all law enforcement institutions involved in the protection of intellectual and industrial property rights to improve co-operation should be pursued. Although transposition continues, Romania is slightly behind its own timetable for the *adoption of the Company Law acquis*. Overall, most of the Accession Partnership priorities in the area of company law have been met. Implementation of the measures set out in the Action Plan is slightly delayed.

### **Chapter 6: Competition**

Romania has continued with its programme of *legislative transposition in both the state-aid and anti-trust sectors*, although further efforts are needed, in particular in the field of state aid. Programmes to *strengthen the capacity of the competition authorities*, as mentioned in the Action Plan, are ongoing but need further enforcement. Little progress can be reported as regards the *alignment of incompatible state-aid schemes*. Romania has *completed the state-aid inventory and submitted an annual report* for the period 1996-1999. A *regional aid map* was agreed. As mentioned in the Action Plan, Romania is implementing *awareness raising programmes aimed at market participants and aid grantors* and *training programmes aimed at the judiciary*, but efforts need to be

*intensified*. The Accession Partnership priorities in the field of competition have been partially met. Implementation of the Action Plan is slightly delayed.

## **Chapter 7: Agriculture**

Romania intends to carry out an *agricultural census* starting at the end of 2002, for which preparations are under way. With conferral of management for the SAPARD Agency approved in July 2002, Romania has taken a step forward in *preparing the administrative structures for the design, implementation, management, monitoring, control, and evaluation of EC-funded rural development programmes* – although it still has to elaborate a national rural development strategy and will have to earmark financial resources for restructuring the agricultural sector and rural communities. Romania is implementing a programme of institutional reform in the Ministry of Agriculture, Food and Forestry. A programme of *administrative strengthening to improve policy formulation and economic analysis* is also being carried out, as mentioned in the Action Plan. Although Romania is currently implementing an *animal identification programme* in line with its calendar for implementation, work on the *creation of a General Cadastre and Land Registration system* has encountered delays. As mentioned in the Action Plan, training and technical assistance programmes are in place in the various institutions responsible for *veterinary, phytosanitary and food safety legislation*. Substantial efforts have been made to reform the different veterinary and phytosanitary administrations and their respective laboratory structures. Many of these actions are at an early stage of implementation although overall the priorities are being satisfactorily addressed. Major reforms of veterinary and phytosanitary administrations are being implemented to ensure their capacity to enforce the *acquis*, including on the *testing of animal diseases, and in particular transmissible spongiform encephalopathies*. The Romanian authorities are also in the process of implementing a strategy to *upgrade inspection arrangements, including at future external borders*. These programmes are at an early stage of development although they remain in line with the calendar outlined in the Action Plan. While Romania has adopted a programme to *strengthen the administrative capacity to implement the food safety strategy*, work is still at an early stage. Romania has encountered delays in the *establishment of a vineyard register and control systems in the wine sector* - although implementation of a programme of administrative restructuring and reinforcement is under way. The Accession Partnership priorities in the area of agriculture have been partially met. Implementation of the measures under the Action Plan is partially on track.

## **Chapter 8: Fisheries**

Although framework legislation is in place, delays have been encountered in establishing the National Company for the Management of the Fisheries Fund and *creating a Fisheries Inspection*. Romania has *established a compliant fishing register* although administrative capacity in this area is still weak. Delays have been encountered in the implementation of the administrative strengthening programmes intended to address fisheries management structures. The Accession Partnership priorities in the area of fisheries have been partially met. Implementation of the measures under the Action Plan is delayed.

## **Chapter 9: Transport policy**

Romania has made progress in *legal alignment*, but *administrative capacity in road transport* still has to be strengthened in order to enforce the adopted legislation. In line with the Action Plan, training programmes are being implemented at both managerial and execution level and steps are being taken to strengthen the capacity for roadside inspections. The measures planned to *retrofit haulage vehicles with speed limitation devices and recording equipment* are ongoing, but monitoring should be reinforced. Although a framework law on maritime and inland transport was adopted, considerable efforts still have to be made to ensure alignment with the *acquis*. With the Romanian fleet rated as a very high risk in the latest Paris MOU report, the situation remains worrying with regard to *implementation of the maritime safety acquis*. However, as foreseen in the Action Plan, a new body, the Romanian Naval Authority, has been set up through the merger of the existing bodies, which should avoid duplication and dilution of responsibilities. No progress has been made with *restructuring and modernising the Romanian Danube fleet and further efforts are necessary to improve the administrative capacity of the inland waterway sector*. In the railway sector, Romania is in line with most of the requirements of the *revised railways acquis*. Romania has partially met the Accession Partnership priorities in this area. The measures set out in the Action Plan are being implemented as planned.

## **Chapter 10: Taxation**

Romanian law has been brought closer to the *acquis* in the areas of *VAT legislation and excise duties* although further extensive adjustments are still needed. Romania still has to ensure that existing and future legislation complies with the *principles of the Code of Conduct for Business Taxation*. As mentioned in the Action Plan, major initiatives have been launched to *modernise the tax administration and improve the revenue collection system*. The Action Plan also provides details of a programme, that has now been completed, to develop the norms and procedures necessary for *the organisation and administration of the Taxpayer Registry*. A *Tax Administration Strategy* was approved in February 2002. The Action Plan is also the basis for an on-going national programme for the *improvement of revenue collection*, and a programme to improve the form and the content of tax returns and to simplify the declaration procedures is due to be completed at the end of the third quarter of 2002. Work to *develop a Code of Ethics* by mid-2003 is continuing according to schedule. *Initial and continuous training* is provided at the School of Public Finance and curricula have been developed which cover the majority of the activities of the tax administration. Romania will need several years before it can *develop IT systems for the exchange of electronic data* and be in a position to meet the obligations of EU membership. Romania is therefore somewhat behind in this area. Overall, the Accession Partnership priorities in the area of taxation have been partially met. Implementation of the measures under the Action Plan is largely on track.

## **Chapter 12: Statistics**

A *population census* was carried out in March 2002, and efforts have been made to *strengthen statistical capacities, including at regional level*. The regional statistical offices have been reorganised and concentrated into 8 offices, and training has been given a high priority with the opening of a new training centre for officials as foreseen in the Action Plan. However, total staff numbers have decreased and the lack of adequate resources, particularly human resources, remains a problem. The Accession Partnership

priorities in this area have been partially met. Implementation of measures under the Action Plan is largely on track.

### **Chapter 13: Social Policy and Employment**

A *national policy for employment* has been defined and approved as scheduled in the Action Plan. *Preparation for European Social Fund type activities* has started and related training is ongoing. Similarly, actions aimed at *strengthening the capacity of the National Agency for Employment* have started, in line with the Action Plan, as has the *reform of the social assistance system*. Important pieces of *secondary legislation* have either already been adopted or are planned for before the end of 2002. No major progress has been made with improving the *co-operation between local employment services and local social assistance services*, and despite commitments given in the Action Plan these services remain understaffed and staff is insufficiently trained. The Action Plan objective of *strengthening the capacity of the local employment services* is due to be completed by the end of the year. With regard to *alignment and proper enforcement of EC legislation in the fields of labour law, equal opportunity between men and women, health and safety at work, notably through the adoption of the new Labour Code*, progress has been made in adopting legislation and preparing legislation and the administrative capacity of the Labour Inspectorates improved. The *anti-discrimination law* has not yet been implemented. In the field of public health, the *national network for surveillance and control of the communicable diseases* was reorganised but the main commitments taken in the Action Plan aiming at *strengthening the capacity to manage health sector reform* will not be completed before end of 2002. The *legislation to strengthen social partners capacity* has been partially adopted and training is being delivered, but in accordance with the Action Plan much remains to be done in the coming years. With regard to developing a *national policy for future participation in the European strategy on social inclusion*, work is continuing in line with the commitments made in the Action Plan. A new institutional framework is being created, and progress has been made with implementation of the Law on guaranteed minimum income, adoption of an anti-poverty strategy and preparation for the Joint Inclusion Memorandum. The Accession Partnership priorities have been partially met. Implementation of the measures under the Action Plan has started.

### **Chapter 14: Energy**

Little progress has been made with *developing and implementing an Energy Strategy in line with EU energy policy objectives*. The *priority given to energy efficiency* remains low and Romania does not devote the necessary resources to improve this situation. The reorganisation of energy conservation bodies planned in the Action Plan has not had any measurable results. Romania has made significant progress in *establishing an internal energy market*. Utilities have been unbundled, progressive opening of the market is on track, and the *regulatory body's independence* has been strengthened. No substantial progress has been made with *establishing strict and transparent financial discipline in order to phase in a programme of cost recovery and reduction of arrears*. An action plan for improving bill collection has been adopted but it is not strictly implemented, and the problem of arrears remains a burden for the whole sector. Some progress has been made with the *oil stock acquis* - a monitoring system has been adopted and a financing scheme for increasing oil stocks has been defined, but still needs to be implemented. Most *recommendations in the Council Report on Nuclear Safety in the Context of Enlargement* have already been addressed and work is continuing on the others. Further efforts are

needed to *strengthen the resources and capacities of the national regulatory authority for nuclear safety*. Most measures in the Action Plan relating to nuclear issues are being implemented. Overall, the Accession Partnership priorities in the energy sector have been partially met. The implementation of measures under the Action Plan is slightly delayed.

### **Chapter 15: Industrial policy**

A number of new measures have been taken to *improve the access of enterprises (particularly SMEs) to investment finance* including the establishment of the National Credit Guarantee Fund. The strategic document “Industrial Policy of Romania” and the corresponding Action Plan represent a *market-oriented competitiveness strategy including sectoral restructuring programmes*. Implementation measures have mainly focused on improving the business environment, attracting foreign investment and accelerating the privatisation process. The Accession Partnership priorities in the area of industrial policy have largely been met.

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

The adoption of legislation providing the regulatory framework is a major step towards *transposition of the acquis on telecommunications*, as foreseen in the Action Plan, and should allow Romania to meet its target date for full alignment with the *acquis* by the end of 2003. As regards *postal services*, legislation approved in January 2002 creates the general framework for postal service regulation and universal service provision. At the end of May 2002 the Government approved an Emergency Ordinance on the general framework for communications regulation. The legislation creates a *national regulatory authority* – the National Agency for Communications Regulation (ANRC). Romania is also implementing a programme designed to create the required administrative structures and capacity in order to ensure that the ANRC will be operational before the end of 2002, as foreseen in the Action Plan. The Accession Partnership priorities in the area of telecommunications and information technology have been met to large extent. Implementation of the measures under the Action Plan is largely on track.

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

A new audio-visual law was approved in order to *align legislation with the acquis*, and actions were launched to *strengthen the capacities of the independent television/radio regulatory authority*. In line with the Action Plan, the upgrading of equipment in headquarters and local control offices is taking place as planned. The other planned actions, which include the training of staff, database restructuring, and the setting up of a department for protection of minors are due to start before the end of 2002. The Accession Partnership priorities in this area have been met. Implementation of the measures under the Action Plan is on track.

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

The *national policy for economic and social cohesion* is neither fully defined nor developed in Romania. Nevertheless, the *National Development Plan was regularly updated and improved*. The timetable for the next programming exercise, foreseen in the Action Plan, has been modified due to the importance of the tasks to be achieved for moving towards an operational National Development Plan. As regards the *monitoring and evaluation system and the collection of relevant statistical indicators*, the measures foreseen in the Action Plan are scheduled for the end of 2003, so no progress can be

reported. The *strengthening of the institutional and administrative capacity in charge of programming and managing Structural Funds* has been partly carried out. A Managing Authority and a Paying Authority have been nominated, but there is not yet a *clear division of responsibilities at national and regional level*. Some improvement in *staff recruiting* does not compensate for the lack of *career profiles and sufficient training*. *Inter-ministerial co-operation* remains weak and difficult. Preparations to *comply with basic financial management and control provisions* are on-going. The Accession Partnership priorities in the field of regional policy and co-ordination of structural instruments have been partially met. Implementation of measures under the Action Plan is lagging behind.

## **Chapter 22: Environment**

Substantial progress has been made with the *transposition of the acquis in the sectors of waste management, water quality, industrial pollution control and risk management*. However, implementation issues have not been sufficiently taken into account and *enforcement* is weak. Secondary legislation is needed to complete the implementation of horizontal legislation. The *elaboration of directive-specific implementation plans, including financing plans* has started but still needs to be completed. There has been no substantial progress in *improving capacities for policy preparation and economic analysis at the national level or with developing the enforcement capacity of the Environmental Protection Inspectorates at local level*. All entities remain understaffed and most of measures covered by the Action Plan have not yet started. Despite the re-activation of the Inter-Ministerial Committee, there has been no meaningful *integration of environmental protection requirements into sectoral policies*. The Accession Partnership priorities have not been met. Implementation of the measures contained in the Action Plan is delayed.

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

*Alignment of legislation* has continued, but progress in *strengthening market surveillance and enforcement authorities* is slow. The *implementation of the five-year strategy for the National Authority for Consumer Protection* has started as planned. The overall responsibility for a market surveillance system was given to the National Authority for Consumer Protection as laid out in the Action Plan, but the strengthening of its administrative capacity remains to be seen. Further improvement of information technology infrastructure and modernisation of decentralised laboratories have not been addressed yet. Overall, the Accession Partnership priorities have been partially met. The implementation of the measures under the Action Plan is largely on track.

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

The *legislation on the Romanian State Border and on the Organisation and Functioning of the Border Police* was adopted. *The use of conscripts as border police* is being rapidly phased out and the establishment of an Inter-ministerial Group for Integrated Border Management represents a first step towards *developing an integrated border management strategy*. The establishment of a National Anti-corruption Prosecution Office could help *improve the co-ordination between law enforcement bodies from prevention to prosecution* as foreseen by the Action Plan. However, the Office is not yet fully operational and Romania cannot be said to be *implementing an integrated strategy for the fight against corruption*. Due to delays in adopting the appropriate legal framework,

Romania's participation in EUROPOL is still pending. No progress has been made with *developing and implementing a national drugs strategy*. Romania has recently started to *establish a national focal point for contacts with the European Monitoring Centre on Drugs and Drug addiction*. Romania ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime in August 2002. The measures contained in the Action Plan to *strengthen the administrative capacity of the National Office for Preventing and Fighting Money Laundering Operations* are in the process of being implemented. As foreseen in the Action Plan Romania presented a *Schengen Action Plan* in December 2001. This should be further elaborated in order to cover all areas included in the Schengen Convention. It will be monitored and updated on a yearly basis. Romania has also made progress with *alignment of visa legislation and practice* but does not yet fully comply with the *acquis*. Romania has taken a wide range of measures in order to *ensure the implementation of Community instruments in the area of judicial co-operation in civil matters*. However, Romania still needs to *align its legislation with the Convention on the Protection of the Communities' Financial Interests and its Protocols*. Overall, the Accession Partnership priorities have been partially met. The implementation of the measures under the Action Plan has started.

## **Chapter 25: Customs union**

Romania has *continued efforts to implement the customs ethics policy* and at the beginning of 2002, the Code of Conduct and Discipline for Customs Staff was issued. An Inter-ministerial Group for Integrated Border Management has been set up to ensure communication and efficient co-operation between bodies with border control responsibilities. Objectives of the Group include *reducing waiting times at the border*. The Customs Administration co-operates on a permanent basis with bodies in charge of protecting intellectual and industrial property rights in order to *fight cross-border movement of pirated and counterfeit goods*. As set out in the Action Plan, a large number of co-operation protocols have been signed with various agencies, in order to *reinforce administrative and operational capacity in the field of customs enforcement*. *Centralised training has been developed* and, as stipulated in the Action Plan, a large-scale training programme is being implemented at both central and regional levels and covering both initial and in-service training. As regards computerisation, the Romanian customs administration has a clear *IT strategy* on how to achieve interoperability which it is in the process of implementing, and in accordance with commitments given in the Action Plan, Romania is making a sustained effort to *develop IT systems to permit the exchange of computerised data between the EC and Romania*. Overall the Accession Partnership priorities in this area have been met to a large extent. Implementation of the measures under the Action Plan is on track.

## **Chapter 28: Financial control**

Romania has prepared and adopted a *Policy Paper on Public Internal Financial Control* covering managerial responsibility in budget spending centres, ex-ante controls performed by Ministry of Finance delegated financial controllers, and development of functionally independent internal audit structures. The Action Plan identified the need for significant further efforts *to define the organisational and human resource needs for effective implementation of public internal financial control* in all budgetary spending centres in accordance with the requirements of the Policy Paper. These efforts have been initiated, but substantial further work is needed. Efforts are continuing to *strengthen and*

*modernise external audit procedures at the Romanian Court of Accounts in line with international standards and best practise. As regards protection of Community financial interests, an anti-fraud co-ordination service has been designated, and the further development of the legislative and administrative framework is underway, including the reinforcement of inter-institutional co-operation. While the accreditation of the SAPARD Agency represents progress as regards the correct use and financial control of EC pre-accession funds, significant further efforts will be needed to allow the introduction of extended decentralisation of the ISPA and Phare programmes. The Accession Partnership priorities have been partially met. The implementation of the measures under the Action Plan is slightly delayed.*



## **Annexes**

***Human Rights Conventions ratified by the Candidate Countries,  
15 September 2002***

<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	X	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	X	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 ICCPR (death penalty)	X	X	O	O	X	O	X	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	X	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

	1997	1998	1999	2000	2001
<b>Basic data</b>	<b>in 1000</b>				
Population (at 1 <sup>st</sup> of July)	22,546	22,503	22,458	22,435	22,408
	<b>in km2</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	252,926	373,798	545,730	800,308	1,154,126
	<b>1000 Mio ECU/euro</b>				
Gross domestic product at current prices	31.2	37.4	33.4	40.2	44.4
	<b>ECU/euro</b>				
Gross domestic product per capita f) at current prices	1,400	1,700	1,500	1,800	2,000
	<b>% change over the previous year</b>				
Gross domestic product at constant prices (nat. currency)	-6.1	-4.8	-1.2	1.8	5.3
Employment growth	-3.8	-2.3	-4.5	2.5	:
Labour productivity growth	-2.3	-2.5	3.5	-0.7	.
	<b>in Purchasing Power Standards</b>				
Gross domestic product per capita f) at current prices	5,100	5,000	5,100	5,500	5,900
Structure of production	<b>% of Gross Value Added g)</b>				
- Agriculture	19.6	15.8	14.7	12.2	14.6
- Industry (excluding construction)	33.5	29.1	27.7	28.2	28.5
- Construction	5.7	5.5	5.6	5.6	5.5
- Services e)	41.8	49.3	51.8	54.0	51.3
Structure of expenditure	<b>as % of Gross Domestic Product</b>				
- Final consumption expenditure	86.4	90.3	88.8	86.0	86.2
- household and NPISH	74.2	84.1	85.4	82.9	:
- general government	12.3	14.5	12.6	12.4	:
- Gross fixed capital formation	21.2	18.2	17.7	18.9	19.0
- Stock variation e)	-0.5	-0.4	-1.6	0.8	2.9
- Exports of goods and services	29.2	22.6	28.0	33.0	33.5
- Imports of goods and services	36.2	30.7	32.9	38.7	41.6
<b>Inflation rate</b>	<b>% change over the previous year</b>				
Consumer price index	:	59.1	45.8	45.7	34.5
<b>Balance of payments</b>	<b>In Mio ECU/euro</b>				
- Current account	-1,884	-2,647	-1,216	-1,471	-2,623 j
- Trade balance	-1,746	-2,341	-1,025	-1,823	:
<i>Exports of goods</i>	7,434	7,405	7,978	11,223	:
<i>Imports of goods</i>	9,180	9,747	9,003	13,047	:
- Net services	-365	-583	-393	-275	:
- Net income	-284	-394	-386	-304	:
- Net current transfers	511	672	587	931	:
<i>-of which: government transfers</i>	56	46	53	76	:
- FDI (net) inflows	1,071	1,812	977	1,110	:
<b>Public finance</b>	<b>in % of Gross Domestic Product</b>				
General government deficit/surplus c)	-4.5	-3.2	-4.5	-4.5	-3.4
General government debt	16.5	18.0	24.0	24.0	23.3

<b>Financial indicators</b>	<b>in % of Gross Domestic Product</b>				
Gross foreign debt of the whole economy d)	24.1	19.3	23.2	21.3	:
	<b>as % of exports</b>				
Gross foreign debt of the whole economy d)	82.6	84.7	81.7	64.1	:
Monetary aggregates	<b>as % of exports</b>				
- M1	2.1	1.7	1.6	1.9	2.3
- M2	7.0	7.2	7.3	7.7	9.7
- M3	:	:	:	:	:
Total credit	5.7	6.8	6.0	4.9	5.9
Average short-term interest rates	<b>% per annum</b>				
- Day-to-day money rate	86.0	80.9	80.8	44.8	41.0
- Lending rate	72.5	55.4	65.7	53.8	45.4
- Deposit rate	55.7	37.3	45.8	32.9	26.6
ECU/EUR exchange rates	<b>(1ECU/euro=.. Leu)</b>				
- Average of period	8,112	9,985	16,345	19,922	26,004
- End of period	8,859	12,814	18,345	24,142	27,817
	<b>1991=100</b>				
- Effective exchange rate index	0.6	0.5	0.3	0.2	0.2
Reserve assets	<b>Mio ECU/euro</b>				
-Reserve assets (including gold)	2,780	1,981	2,455	3,637	5,514
-Reserve assets (excluding gold)	1,987	1,175	1,519	2,652	4,456

<b>External trade</b>	<b>Mio ECU/euro</b>				
Trade balance	-2,596	-3,202	-1,979	-3,055	-4,688
Exports	7,481	7,381	8,055	11,365	12,685
Imports	10,077	10,583	10,034	14,420	17,373
	<b>previous year = 100</b>				
Terms of trade	101.2	105.1	103.8	103.5	102.0
	<b>as % of total</b>				
Exports with EU-15	56.6	64.5	65.5	63.8	67.8
Imports with EU-15	52.5	57.7	60.7	56.6	57.3

<b>Demography</b>	<b>per 1000 of population</b>				
Natural growth rate	-1.9	-1.5	-1.4	-0.9	-1.8
Net migration rate (including corrections)	-0.6	-0.3	-0.1	-0.2	0.02
	<b>per 1000 live-births</b>				
Infant mortality rate	22.0	20.5	18.6	18.6	18.4
Life expectancy :	<b>at birth</b>				
Males:	65.2	65.5	66.1	67.0	67.7
Females:	73.0	73.3	73.7	74.2	74.8

<b>Labour market (Labour Force Survey)</b>	<b>% of population</b>				
Economic activity rate (15 - 64)	71.5	70.3	69.8	69.6	68.3
Employment rate (15-64), total	67.2	65.9	65.0	64.2	63.3
Employment rate (15-64), male	73.4	71.9	70.4	69.5	68.6
Employment rate (15-64), female	61.1	60.1	59.7	59.0	58.2
Average employment by NACE branches	<b>in % of total</b>				
- Agriculture and forestry	40.9	42.0	44.0	45.2	44.4
- Industry (excluding construction)	26.0	24.8	23.4	22.1	21.8
- Construction	4.3	4.0	3.6	3.7	4.0
- Services	28.8	29.3	28.9	29.0	29.7
	<b>% of labour force</b>				
Unemployment rate. total	5.5	5.6	6.2	7.0	6.6
Unemployment rate. males	5.2	5.8	6.9	7.5	7.0
Unemployment rate. females	5.9	5.5	5.5	6.4	6.0
Unemployment rate of persons < 25 years	17.4	16.8	17.3	17.8	17.6
	<b>as % of all unemployed</b>				
Long-term unemployment share	48.0	43.8	45.2	49.2	48.6

<b>Infrastructure</b>	<b>in km per 1000 km2</b>				
Railway network	47.7	46.2	46.1	46.2	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	92.8a	86.2a	97.8a	107.6a	108.2ph
Gross agricultural production volume indices	103.4	92.5	105.2	85.8	:
Agricultural production indices of goods and services b)	:	:	104.0	85.2	122.7i

<b>Standard of living</b>	<b>per 1000 inhabitants</b>				
Number of cars	116.0	125.0	133.0	139.0	144.0
Main telephone lines	151.9	161.2	168.3	173.8	185.9
Number of subscriptions to cellular mobile services	9.0	24.5	50.1	90.0	205.0
Number of Internet subscriptions	:	:	:	:	:

P = provisional figures

- a) Indices are calculated at structure of 1995.
- b) "Agriculture production indices of goods and services" represent the volume index and it is calculated reporting the value of the agriculture production of goods and services for a certain "n" year, expressed in "n-1"year prices, to the value of the agriculture production of goods and services from the "n-1" year, expressed in "n-1"year prices. The name of the new indicator "Agriculture production of goods and services" was given in order to distinguish it from the old indicator "Gross agricultural production volume indices" which was referring to the gross production and it was not comprising the value of the agriculture services.
- c) Data not fully verified: statistical treatment of financial defeasance does not appear to be in accordance with ESA95 methodology. The impact on the deficit is not yet known.
- d) Series break after 1997.
- e) These figures include changes in inventories, acquisitions less disposals of valuables and the statistical discrepancy between the GDP and its expenditure components
- f) Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.
- g) Including FISIM.
- h) Indices are calculated at structure of 1998
- i) Semi-final figure
- j) Source: Website of the National Bank

## 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 Harmonised Index of Consumer Prices (HICP). A similar exercise has been started with Candidate Countries (CC). In respect to enlargement, it is equally important that their economic performance is assessed on the basis of comparable indices. 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 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:  $\text{population (X+1)} - \text{population (X)} - \text{Deaths (X)} + \text{Births (X)}$ . 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**

The European Labour Force Survey is conducted in spring each year in accordance with Council Regulation (EEC) No. 577/98 of 9 March 1998. A detailed description of the sampling methods, the adjustment procedures, the definitions and the common Community coding currently used in the labour force survey is presented in the publications ‘Labour Force Survey – Methods and definitions, 1998’ and ‘Labour Force Survey in central and east European countries – Methods and definitions, 2000’.



All definitions apply to persons aged 15 years and over, living in private households. The concepts and definitions used in the survey follow the guidelines of the International Labour Organisation. Persons carrying out obligatory military service are not included.

Persons in employment were those who during the reference week did any work for pay or profit for at least one hour, or were not working but had jobs from which they were temporarily absent. Family workers are included. For self-employed and unpaid family workers from agriculture, the minimum duration is 15 hours.

As from 2001 (Commission Regulation (EC) No 1897/2000 of 7 September 2000), unemployed persons comprise persons aged 15 to 74 who were:

- (a) without work during the reference week, i.e. neither had a job nor were at work (for one hour or more) in paid employment or self-employment;
- (b) currently available for work, i.e. were available for paid employment or self-employment before the end of the two weeks following the reference week;
- (c) actively seeking work, i.e. had taken specific steps in the four weeks period ending with the reference week to seek paid employment or self-employment or who found a job to start later, i.e. within a period of at most three months.

Comparability with results prior to 2001: unemployment results used to refer to persons aged 15 and more. Persons who found a job to start later used to be considered as unemployed with the unique condition to have no job in the reference week; however, the new condition on time limit of at most three months is not yet applied.

Duration of unemployment is defined as:

- (a) the duration of search for a job, or
- (b) the length of the period since the last job was held (if this period is shorter than the duration of search for a job).

The active population is defined as the sum of persons in employment and unemployed persons.

Inactive persons are those who are not classified as persons in employment nor as unemployed persons.

Employment rates represent employed persons aged 15-64 as a percentage of the same age population.

Unemployment rates represent unemployed persons as a percentage of the active population aged 15 years and more.

Economic activity rates represent the active population aged 15-64 as a percentage of the population of the same age.

## **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.