

**2003**  
**Regular Report on**  
**Romania's**  
**progress towards accession**

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## A. INTRODUCTION

### 1. Preface

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

The Luxembourg European Council in December 1997 decided that:

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

Consequently, the Commission has published a series of yearly Regular Reports on Romania covering the years 1998 to 2002.

The Thessaloniki European Council in June 2003 concluded that:

*“Bulgaria and Romania are part of the same inclusive and irreversible enlargement process. Following the conclusions of the European Council in Copenhagen and depending on further progress in complying with the membership criteria, the objective is to welcome Bulgaria and Romania as members in 2007. [...] Building on significant progress achieved, the Union supports Bulgaria and Romania in their efforts to achieve the objective of concluding negotiations in 2004, and invites them to step up their preparations on the ground. [...] The European Council in December 2003, based on the Regular Reports from the Commission and the Strategy Paper, will assess progress achieved with a view to setting out the framework for the conclusion of accession negotiations.”*

It is therefore appropriate to produce a Regular Report this year on Romania’s progress towards accession, on the same basis as in previous years.

The structure followed for this Regular Report is largely the same as that used in previous years. 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 1993 Copenhagen European Council (a functioning market economy and the capacity to cope with competitive pressures and market forces within the Union);

- addresses the question of Romania's capacity to assume the obligations of membership, that is, the *acquis* as expressed in the Treaties, the secondary legislation, and the policies of the Union. In this part, special attention is paid to nuclear safety standards, which were emphasised by the Cologne and Helsinki European Councils. This part includes not only the alignment of legislation, but also the development of the judicial and administrative capacity necessary to implement and enforce the *acquis*. The European Council stressed the importance of this latter aspect at its meeting in Madrid in 1995 and on a number of subsequent occasions, most recently in Copenhagen in December 2002. The Madrid 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 Copenhagen European Council underlined again the importance of judicial and administrative reform in the candidate countries, stating that this will help bring forward their overall preparation for membership.

The Report takes into consideration progress since the 2002 Regular Report. It covers the period until 30 September 2003. In some particular cases, however, measures taken after that date are mentioned – notably the revision of the Constitution. It looks at whether planned reforms referred to in the 2002 Regular Report have been carried out and examines new initiatives. The Report also provides an overall assessment of the situation for each of the aspects under consideration, setting out for each of them the main steps still to be taken by Romania in preparing for accession.

For each of the negotiating chapters, this Report provides a summary evaluation of the extent to which commitments made in the negotiations have been implemented, as well as an overview of transitional arrangements that have been granted. The commitments made by Romania reflect the result of the accession negotiations and, in accordance with the principle of differentiation underlying the negotiation process, may differ from those made by other countries. Where Romania has committed itself 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.

Depending on further progress in complying with the membership criteria, the objective is to welcome Romania as a member in 2007. The time scale for the implementation of commitments made by Romania takes account of this perspective.

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

As 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 rule, legislation or measures which are in various stages of either preparation or Parliamentary approval have not been taken into account. This approach ensures equal treatment for all the candidate countries and permits an objective assessment of each country in terms of their concrete progress in preparing for accession.

The Report draws on numerous sources of information. Romania has been invited to provide information on progress made in preparations for membership since the

publication of the last Regular Report. The information it has provided within the framework of the Association Agreement and the negotiations, and various peer reviews that have taken place to assess its administrative capacity in a number of areas, have served as additional sources. Council deliberations and European Parliament reports and resolutions have been taken into account in the preparations.<sup>1</sup> The Commission has also drawn on assessments made by various international organisations, 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.

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

### *Recent developments in bilateral relations*

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

The Association Council met in May 2003. An Association Committee meeting was held in December 2002. The system of sub-committees continues to function as a forum for technical discussions.

The Joint Parliamentary Committee comprising representatives of the Romanian and European Parliament met in Bucharest in November 2002 and in Brussels in June 2003. The Joint Consultative Committee with the Economic and Social Committee met in December 2002 and in June 2003. No progress has been made with regard to establishing a Joint Consultative Committee with the Committee of the Regions.

An accession roadmap was developed in close consultation with Romania and adopted in November 2002. A revised Accession Partnership was adopted by the Council in May 2003. More details on this instrument can be found in Part D. of this report.

As a candidate country for accession to the EU, Romania was invited to participate as an observer in the Intergovernmental Conference on the future institutional architecture of the Union.

The share of the European Community in Romania's foreign trade has continued to increase. Turnover in trade with the EC in 2002 was 10 % up on 2001 and accounted for 62.3 % of Romania's overall trade. In 2002, exports to the EC were 11 % up on 2001, accounting for 67.2% (€ 11.1 billion) of Romania's total exports. Its main industrial exports to the EC were textiles and clothing, machinery and equipment, footwear and steel products. In 2002, imports from the EC were up by 9 % on 2001, accounting for 58.4 % (€ 10.2 billion) of Romania's total imports. Its main industrial imports were machinery and equipment, textiles and clothing, transport equipment, chemical products and steel products.

A new consolidated Additional Protocol on agricultural trade entered into force in April following adoption by the EU Council of Ministers in December 2002 and ratification by the Romanian parliament in March. This Protocol, which incorporates the results of the "double profit" negotiations concluded in June 2002 extends the liberalisation process to sectors where market protection has been substantial (e.g. cereals, dairy products, beef

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

and sheep meat) and where Romania has important export interests. It potentially covers trade worth € 200 million.

Overall, bilateral trade in agricultural goods has grown in the past two years. Romania has seen significant growth in its exports of live animals (sheep, horses), vegetables and wine. Other key sectors are cereals and oilseeds. There has been marked EU export growth in the meat sector (mainly pork and poultry).

In September 2002 the EU adopted definitive safeguard measures on imports of certain steel products, with *erga omnes* effect. These measures are the absolute minimum necessary to protect EU steel producers from serious injury due to surging imports resulting from US protectionism, culminating in the US safeguard measures of March 2002.

On the basis of a Council Decision of May 1997, modified by a Council Decision of September 2002 and following a technical assessment mission which took place in November 2002, the Commission was mandated to open formal negotiations with Romania on a PECA (Protocol on European Conformity Assessment).

#### *Community assistance*

Three **pre-accession instruments** have been financed by the European Community to assist the candidate 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 Phare programme allocated commitments of € 2 billion to Romania during the 1992-2002 period, with commitments of €265.5 million in 2002.<sup>2</sup> For the years 2000-2003, total financial assistance to Romania amounted to around € 280 million annually from Phare, € 156 million from SAPARD, and € 247 million from ISPA.

Phare provides support for institution building, investment to strengthen the regulatory infrastructure needed to ensure compliance with the *acquis*, and investment in economic and social cohesion. Phare also helps the candidate countries develop the mechanisms and institutions that will be needed to implement Structural Funds after accession and is supported by a limited number of measures (investment and grant schemes) with a regional or thematic focus.

There has been a slight improvement in the absorption rate of funds during the reporting period, but the overall capacity for programming, operational management and financial control remains insufficient.

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<sup>2</sup> An additional allocation of € 13 million was granted for Cross-Border Co-operation (CBC) Programmes in 2002.

The **2003 Phare Programme** for Romania consists of an allocation of € 265.5 million for the National Programme. In addition, € 13 million has been allocated to cross border co-operation (CBC) programmes with Bulgaria (€ 8 million) and Hungary (€ 5 million). A further allocation of € 7.3 million has been made for CBC-type investments on the external borders of Romania. The 2003 Phare programme focuses on the following priorities:

- Political criteria: Phare is continuing support for actions in the field of child welfare and is assisting with the implementation of the national strategy to improve Roma conditions (focusing on education). Support is also provided for the implementation of the strategy for integration of the disabled, strengthening the anti-discrimination institutions and supporting civil society (€ 34.9 million).
- Economic criteria: support is provided for the Romanian National Bank to strengthen its capacity in *acquis* related areas, to help the government improve economic analysis and macro-economic planning capabilities, and for the national cadastre (€ 11.4 million).
- Strengthening administrative capacity: support is provided for strengthening the capacity to manage, monitor and assess EU financed programmes, developing the Ministry of Finance's IT system, supporting civil service reform through the continuation of the "Young Professionals" scheme and through institution building for the Romanian Parliament (€ 27.4 million).
- Meeting the obligations of the *acquis*: twinning<sup>3</sup>, technical assistance and investment is provided in the following areas: agriculture; energy; transport; statistics; social affairs; employment; environment; health; telecommunications; justice and home affairs; and customs (€ 56.4 million).
- Economic and social cohesion: investment support is provided for regional development programmes focusing on areas facing particular problems. Complementary institution building measures at national and regional level are also funded (€ 112 million).
- Participation in Community Programmes (€ 23.4 million).

Romania also participates in and benefits from Phare funded multi-country and horizontal programmes, such as TAIEX (Technical Assistance Information Exchange Office), the Small and Medium-sized Enterprises Facility, SIGMA (Support for Improvement in Governance and Public Management) and the nuclear safety programme.

Furthermore, Romania currently participates in the following Community programmes and agencies: Leonardo da Vinci II, Socrates II, Youth, Life III, Enterprises and Entrepreneurship, Culture 2000, Framework Programme 6 for Research and Technological Development and Euratom, Gender Equality, Combating Social Exclusion, Combating Discrimination, IDA II, European e-content, Customs, Fiscalis, Community Action in the field of Public Health, Incentive Measures in the Field of

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



Employment, Civil Protection Mechanism. Participation in the European Environment Agency began in January 2002.

Phare helps meet part of the costs of participation in these programmes and agencies. In order to streamline Community legal procedures and thereby facilitate future participation by Romania in Community programmes, a Decision was adopted in February 2002 by the EU-Romania Association Council establishing the general principles for such participation.

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

- Transport infrastructure (rehabilitation of the Vestem-Miercurea section of the Bucharest-Arad road and the road section Ramnicu Sarat – Marasesti, and widening of sections of the road from Bucharest to Giurgiu).
- Justice and home affairs: strengthening border management and the management of migration; supporting the prevention and control of money laundering.
- Supporting investment in the establishment of new businesses and the development of existing small enterprises.
- Initiating activities in the area of human resource development and vocational education and training in line with the priorities of the European Social Fund.
- Fighting against marginalisation and social exclusion by improving access to education for disadvantaged groups, with a special focus on Roma.
- 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 local partnership projects through the Resource Centre for Roma Communities.
- Supporting civil society to strengthen non-governmental bodies and associations in areas such as: anti-discrimination, civic education, human rights promotion, local administration, media, NGO development & training, parliamentary practice and organisation, penal reform, gender equality, support for disadvantaged groups, partnerships between NGOs and local authorities, and the setting up of a network of citizens' advice bureaux.
- Supporting the development of modern child welfare services through projects proposed and implemented by local authorities and raising awareness of children's rights.

The Phare programme permits extended decentralisation of management, which entails waiving the requirement for *ex ante* approval by Commission Delegations for tendering and contracting. This approach was underlined in the Roadmap for Romania. 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 by the end of 2004 at the latest.

Romania has embarked on the preparation for EDIS in accordance with the four steps outlined in the "Roadmap to EDIS for ISPA and Phare". Romania has completed stage 1, gap assessment, and has started work on stage 2, gap plugging.

The Commission approved the Romanian **SAPARD** programme in November 2000. The financial allocation from the Community for SAPARD in Romania for 2003 is € 162.2 million. The allocation for 2002 was € 160.6 million.

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

Following a decision in July 2002 to confer management on the Romanian implementing structures for three out of the eleven measures ("processing and marketing", "rural infrastructures" and "technical assistance"), the Commission made an initial payment of € 37.5 million to the National Fund in August 2002. The National Act of accreditation for the implementation of three new measures ('investments in agricultural holdings', 'diversification of activities' and 'vocational training') was submitted to the Commission in July 2003. With the approval of the accreditation by the Commission the Agency will manage 81% of the amount available for Romania under the programme.

Since the start of the implementation of the programme until the end of August the SAPARD Agency approved 518 projects involving € 389.2 million of public support (of which the EU is contributing € 292 million).

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

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

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

In 2002, a total commitment of € 256.5 million was made for Romania under ISPA. The allocation for Romania until the end of 2002 represented 23% of the overall ISPA budget. In 2003 a provisional commitment of € 255.1 million was made for Romania.

Six new environmental projects were approved in 2002 and technical assistance was approved for the preparation of five new ISPA environmental projects. In the transport sector, one technical assistance measure was approved. A technical assistance measure was also approved to strengthen ISPA-related implementation capacity, within the framework of EDIS.

### *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. The Commission further strengthened this emphasis on institution building through the action plans for strengthening administrative and judicial capacity and through the elaboration of a roadmap for Romania.

The twinning process, funded under Phare, 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.

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

For Romania, 97 twinning projects have been delivered over the period 1998-2002. Twinning will continue to be an important element of the 2003 programme, contributing 21 projects. Projects span a broad range of sectors including justice and home affairs, internal market, public administration reform, social affairs and employment, and support for the management of the structural funds.

### *Negotiations*

Negotiations were opened with Romania in February 2000. All 30 negotiating chapters have been opened. Of these, 20 have been provisionally closed and the following chapters remain to be concluded: Free movement of persons, Freedom to provide services, Competition policy, Agriculture, Transport policy, Energy, Regional policy and coordination of structural instruments, environment, cooperation in the field of justice and home affairs, and Financial and budgetary provisions. Negotiations continue on the basis of the same principles that have guided the accession negotiations until now, whereby each country is judged on its own merits.

## B. CRITERIA FOR MEMBERSHIP

### 1. Political criteria

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

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

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

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

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

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

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

In its 2002 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 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.*

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

*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.”*

The section below provides an assessment of developments in Romania, seen from the perspective of the Copenhagen political criteria, including the overall functioning of the country's executive and its judicial system. Such developments are in many ways closely linked to developments regarding its ability to implement the *acquis*, in particular in the domain of justice and home affairs. Specific information on the development of Romania's ability to implement the *acquis* in the field of justice and home affairs can be found in the relevant section (*Chapter 24 - Co-operation in the field of justice and home affairs*) of part 3.1 of this Report.

## **1.1 Recent developments**

The political situation has continued to be relatively stable over the reporting period. In September 2003, the small Humanist Party terminated its coalition with the ruling Social Democratic Party (PSD). However, the PSD maintained its protocol of co-operation with the Democratic Union of Hungarians in Romania. This arrangement has provided a secure majority in both houses of Parliament.

A major constitutional revision was adopted following a referendum in October 2003. It introduced changes that are required for EU accession, as well as reforming the parliamentary and judicial systems. Government methods used to encourage voter turnout provoked criticism from independent observers. The Protocol on Romania's accession to NATO was signed in Brussels in March 2003.

## **1.2 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*

A committee comprising of representatives from both houses was set up in the autumn of 2002 to take forward the process of constitutional reform. It has been able to deal effectively with a large number of complex and politically sensitive issues. One of the major features of the constitutional revision is a clarification of the functions of the Chamber of Deputies and the Senate a reduction in the number of senators (from 140 to 110) and deputies (from 345 to 220).

As noted in last year's Regular Report, the high volume of legislation processed — combined with limited resources — has limited Parliament's ability to effectively scrutinise legislation. This is a particular concern relating to the legislative adoption of the *acquis*, where procedural deadlines are particularly short. The use of emergency ordinances was reduced over the reporting period (*see below section on the executive*) although the continued use of this legal instrument effectively bypasses Parliament's position in the legislative process.

Shortages of parliamentary research staff with legal expertise and support staff for parliamentary parties remain. Career development and training policies for existing staff still need to be developed. The Legislative Council, a parliamentary advisory body, remains understaffed.

External oversight of Parliament's activities by civil society remains limited in practice and committee meetings are generally closed to the public.

### *The executive*

In June 2003 a major restructuring of the government took place. A number of ministries were merged and the overall number of ministries was cut from 23 to 14. At the same time six new positions of Minister Delegate were created. The position of Minister Delegate does not have a formal legal basis and it remains to be seen how the respective attributions will be taken up in practice. A feature of the restructuring is that a considerable number of bodies have been placed under the direct control of the Prime Minister's office. A further innovation was the creation of a National Control Authority with mixed roles of supervision and co-ordination over other institutions. In separate

developments, three government ministers were forced to resign in October 2003 and twenty state-secretary positions were abolished in February 2003.

A comprehensive revision of the Civil Servant Statute was adopted in March 2003. The new legislation establishes the principle that recruitment mechanisms be competitive and based on transparency, professional merit and equal access. All recruitment must in future be carried out according to an annual plan approved by the government. The revised statute also establishes the right of civil servants to unionise (with the exception of higher civil servants). It defines the conditions of conflict of interest and stipulates provisions for the declaration and control of the wealth of civil servants. The amended law also redefines the competencies of the National Agency of Civil Servants – the body responsible for implementing civil service reform. Significantly, the Agency has been given the possibility to use the court system to enforce civil service legislation. However, the capacity of the Agency itself remains limited and it has little authority over line-ministries.

Overall, the law represents a considerable improvement over previous legislation and provides a legal basis for the professionalisation of the civil service although further amendments are still required. The law does not apply to a wide range of non-statutory staff employed by the public administration.

Limited progress has taken place in areas related to remuneration and career structure. Implementing legislation is still needed to establish promotion procedures and reduce the discretionary nature of the process. Legislation adopted at the end of 2002 for salary structures is only temporary and the current salary system remains inconsistent, discretionary and lacking in transparency.

The body responsible for designing the reform process is the Central Unit for Public Administration Reform. Its staff numbers have been increased and it has been able to conduct diagnostic work on the modernisation of the public administration, promote debate on reform issues amongst stakeholders, and establish consultative networks. While its achievements are positive in themselves, the unit has no real authority over the rest of the Romanian public administration, and with only eight staff members is under-resourced to carry out a reform of the entire administrative system.

The newly established National Institute of Administration is responsible for the training of civil servants. It started its activities during the reporting period by providing in-service training. The National Institute operates through eight regional training centres and courses cover a wide range of subjects, including management of EU funds. At the same time, the National Institute does not have the resources to meet the considerable training needs of the administration. A scheme for young professionals has been launched in collaboration with Central Unit for Public Administration Reform in order to prepare middle managers for the public administration.

In December 2002 the Government adopted a memorandum which foresees the training of 6 000 specialists in European matters by 2004. A decision was also taken to recruit 500 specialised advisors for European integration, who will be seconded from the Ministry of European Integration and detached to line ministries. The procedures for making these appointments lack transparency and these initiatives were taken without full consultation with the bodies responsible for civil service management and reform.

At the political level, the Inter-ministerial Committee for Monitoring Reform in Public Administration met in July 2003 after almost one year of inactivity.

The Executive's practice of legislating through emergency ordinances, and to a lesser extent "ordinary" ordinances, has reduced the transparency of the legislative process, has limited the opportunity for adequate consultation on draft laws, and has contributed to a situation of legislative instability. In response to criticisms on the use of these legislative procedures, the government accepted that the use of emergency ordinances had been abused in the past. In February 2003, an internal screening procedure was introduced to limit the use of these procedures, and the use of ordinances has been reduced over the reporting period. While this represents progress, Ordinances are still used excessively by the Executive and often in cases where there are no obvious grounds for urgency. The revised Constitution maintains the possibility of legislation by ordinance but clarifies the circumstances under which they can be used and delays their entry into force until they are formally tabled in parliament.

Over the reporting period, the government used votes of confidence for adopting major packages of legislation. While this accelerates the legislative process, it severely limits the possibility for public and parliamentary scrutiny of what are often very sensitive issues (anti-corruption measures, judicial reform and civil service reform). Relying on this process has compromised the quality of the legislation adopted and has reduced the support from key stakeholders.

With regard to policy-making and co-ordination, the main development over the reporting period was the establishment of the Executive Committee for European Integration. The committee is chaired by the Prime Minister and has a standing membership of the Minister for European Integration, the Minister for Foreign Affairs, and the Minister for Public Finances. It meets weekly and discusses specific issues related to accession. Other ministers participate depending on the subjects being discussed. The Executive Committee functions efficiently and has to a considerable extent taken over the role of the Inter-Ministerial Committee for European Integration, raising the EU accession process to a higher political level.

The Ministry of European Integration is responsible for all technical issues related to EU accession. It has continued to play an effective co-ordinating role and has been able to work effectively with other ministries in order to prepare negotiation documents. Nearly all ministries have an EU accession department that is headed by a Secretary of State.

There are persistent weaknesses in the process of legislative preparation. Laws are often prepared hastily, without a sufficient assessment of feasibility, impact and budgetary implications. The consequent need for amendment increases legislative instability. At the working level, formal consultation rules are generally observed but inter-ministerial co-ordination remains limited in terms of substance. Ministries have a limited ability to resolve technical and policy issues without recourse to the political level.

The General Secretariat of the Government has the responsibility for administrative and logistical management of government business and the legal review of documents. However, the General Secretariat has no capacity for substantial policy co-ordination and there is little qualitative monitoring of policy implementation.

In January 2003 legislation was adopted setting procedural requirements to ensure transparency of the decision-making process – the so-called "sunshine law". Key



provisions include the obligation to publish draft legislation, to allow the participation of the public and NGOs in the decision making process (under certain conditions), and to submit annual reports on the transparency of their decision-making process. If implemented, this legislation could significantly improve the decision making process. However, available evidence indicates that most departments of both central and local government have continued to issue legislation without respecting the new rules.

Over the reporting period, consultation with external stakeholders when formulating policy and preparing legislation remained limited. NGOs and civil society have been invited to comment on a number of legislative drafts - although this situation is not typical and the time available for providing input is usually short, which limits the effectiveness of the consultation procedure. A regular dialogue has been held with representatives of the business community.

The activity of the National Council for the Supervision of the Archives of the Former Secret Police has been effectively blocked following a dispute with the Romanian Intelligence Service (which holds the files).

Over the last three years there has been a steady transfer of responsibilities to local authorities: welfare assistance, health, pre-university education, transport, emergency services, public utilities. However, the existing legislative framework is unclear and Romania lacks a strategy for managing the process of decentralisation in a transparent and stable manner. This problem is compounded by limited consultation with representatives of local authorities on draft legislation that will have an impact at the local level.

The shift of competencies has not always been matched with an adequate transfer of resources. The ability to raise local revenues remains limited and as a result many local authorities have dedicated resources to meet increasing current expenditures while the level of capital expenditures has steadily decreased. Legislation governing financial transfers to local government lacks transparency and gives a strong controlling function to county councils at the expense of local councils. An additional source of funding for local investments are the “special funds” managed by central government, which are allocated at the discretion of the ministries concerned. Political considerations are often a major factor in deciding allocations.

A major problem facing local authorities is that of limited administrative capacity to implement decentralised responsibilities. Systems for managing human resources are underdeveloped, remuneration is very low, training is limited and in many cases recruitment and promotion are not merit-based. As a result there has been a high turnover of local civil servants. Considerable efforts are also needed to improve financial management and to remedy shortages of information-technology equipment and skills.

Despite these difficulties, a number of positive developments have taken place over the reporting period. One important element was the political agreement on making prefects (i.e. the local representatives of central government) professional civil servants instead of political appointees, by 2007. Legislation on conflicts of interest placed restrictions on the business activities of locally elected officials as well as prefects and sub-prefects (*see section on anti-corruption measures*). Following an initiative of the Ministry of European Integration, local authorities are obliged to prepare and submit plans for the implementation of the EU *acquis* at the local level.

### *The judicial system*

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

The Superior Council of the Magistracy is responsible for disciplinary matters as well as judicial promotions. A new selection procedure for the Superior Council has been introduced whereby a number of judges are selected by the body of the judiciary and are then proposed to the parliament, although in practice the selection process remains politicised. The overall position of the Superior Council in the judicial system remains weak, and further efforts are needed to ensure that the Superior Council can fulfil its responsibilities.

In June 2003, an Emergency Ordinance revised the civil procedure code and introduced a significant reallocation of responsibilities within the court system. Tribunals now act as courts of first instance in all commercial cases and can no longer rule on appeals involving questions of fact. All such appeals from local courts and tribunals have become the exclusive competence of the courts of appeal. The Supreme Court has been given exclusive competence in all appeals involving questions of law. This change is an attempt to improve legal certainty in Romania by unifying the interpretation of the law at the highest level. This is a major reform and if it is to be successful needs to be accompanied by a major increase in resources to the new institutions as well as the necessary redeployment and retraining of judges.

The same Emergency Ordinance removed the discretionary power of Romania's General Prosecutor to bring extraordinary appeals against judicial decisions in civil cases. This system of extraordinary appeals represented an exceptional form of redress that was incompatible with the European Convention on Human Rights (ECHR). This reform therefore represents important progress – although concerns remain, since the General Prosecutor retains the power to bring extraordinary appeals in criminal cases and did so in 156 cases in the first half of 2003 (compared to 295 cases in 2002 and 367 in 2001).

Despite this development, the independence of the judicial system remains a concern. The Minister of Justice retains the power to directly appoint judges (from amongst the members of other legal professions as well as auditors of the National Institute of the Magistracy). In the absence of clear rules on distributing cases to judges, Court Presidents can have considerable influence over the handling of cases in the courts. The ongoing reform of the judicial system needs to address these issues as a matter of priority.

The National Institute of Magistracy and the Training Centre for Clerks are the two institutions responsible for providing training to professionals in the court system. A number of positive developments took place during the reporting period. Training of entry-level professionals has been developed, curricula have been improved, and the National Institute has embraced new legal subjects such as ethics and justice for minors. The National Institute has established a network of regional trainers and set up three Regional Centres which are now fully operational. Continuous training for clerks is less

developed. There is, however, no clear policy on in-service training for judges and prosecutors, and training activities have focused on further developing academic knowledge rather than on developing applied skills or professional ethics. Specialised training on issues such as economic crime, money laundering and the fight against corruption remains limited. Understaffing and inadequate budgets have also limited these institutions' activities.

The number of judges in the Romanian justice system has remained roughly constant when compared to last year (currently 3677), although there has been a reallocation from local courts to tribunals and courts of appeal. The total number of judicial vacancies has risen to 308 (up from 73 last year) and the average caseload per judge has also increased (to 550 cases, up from 531 last year). This heavy workload is still a particular problem in the tribunals and courts of appeal.

Judicial promotions are now based on a merit-based system using open competitions although judges are still required to have a minimum number of years in the profession.

ROL 550 000 million (€15.7 million) has been allocated to upgrade and build new court houses. This has helped improve working conditions, although serious deficiencies in court infrastructure remain in certain regions, particularly in Bucharest. There has been some progress in the introduction of computers into courts and prosecutors' offices, although actual needs are far from being met. The introduction of the Integrated Case Management System has been disappointingly slow and training of magistrates and clerks in the use of the system is at a very early phase. In January 2003 the salaries of judges and prosecutors were increased by an average of 21% (30% for those specialising in corruption cases). While the increase in salaries should improve motivation and retention rates while reducing the susceptibility to corruption, its effect is likely to be limited given that it follows a two and a half year pay freeze for the judiciary.

The enforcement of civil decisions is the responsibility of private bailiffs, and in most cases is effective. However, the requirement to pre-pay the bailiffs can make it difficult for lower-income groups to have decisions in their favour enforced.

In September 2003, a Judicial System Reform Strategy was adopted by Government Decision. Its aim is to address the weaknesses within the justice system and objectives include ensuring legal certainty and conformity with the European Court of Human Rights, improving the quality of judgements, and enhancing the independence of the judiciary towards the executive. Various measures to achieve these objectives are described including constitutional change, developing alternative dispute resolution mechanisms, providing better career prospects, and improving training and information technology. While there are important issues that the strategy does not address in sufficient detail it nevertheless represents a significant acknowledgement that further judicial reform is necessary. A next step will be to agree upon a definitive action plan that provides sufficient human and financial resources to effectively implement the strategy.

In June 2003 a new Code of Criminal Procedure was adopted. By removing several of the incompatibilities between the previous Code and the case law of the European Court of Human Rights, the revised Code expanded the legal guarantees of a number of fundamental freedoms and liberties. Key provisions include a clear establishment of the presumption of innocence as a ruling principle of the criminal trial process; limits on the powers of prosecutors on pre-trial imprisonment and restraint measures; enhanced

guarantees to juvenile defendants; new provisions giving the entitlement to compensation in cases of unlawful imprisonment; and extended judicial control over measures including witness protection and undercover investigations.

The revised Constitution contains important reforms in the judicial area. Among the most significant are enshrining the principles of the judiciary as a separate and equal power vis-à-vis the executive and the legislature, and the right to a fair trial in a ‘reasonable time’.

Institutional changes are also proposed, including the transformation of the Supreme Court into a High Court of Cassation and Justice responsible for ensuring the consistent interpretation and implementation of the law throughout Romania. Judges in the new High Court will be appointed for life rather than for six-year terms, which should strengthen the independence of this institution.

The Superior Council of the Magistracy, which is responsible for safeguarding the independence of the judiciary, will also be reformed. The mandate of members has been extended from four to six years — which is intended to reduce the effect of political patronage. The composition of the Superior Council has also been amended to include two representatives of civil society. At the same time, the Minister of Justice’s position has been strengthened on the Council, and the one-year non-renewable mandate of the Council’s Chairman could limit the possibility for strong, independent leadership.

#### *Anti-corruption measures*

International reports and surveys indicate that corruption in Romania continues to be widespread and affects all aspects of society. It undermines the effectiveness and legitimacy of state institutions and restricts Romania’s economic development. Although significant efforts were made during the reporting period to intensify the fight against corruption there has been no reduction in perceived levels of corruption and the number of successful prosecutions remains low. There have been very few prosecutions of high-level corruption despite this having been identified as a priority.

Although not yet complete, the legal framework for fighting corruption is relatively well developed. The Romanian government should therefore focus attention on enforcing existing legislation.

In December 2002, over one year after the National Programme for the Prevention of Corruption and the National Action Plan against Corruption were adopted, the government announced a programme to reschedule the timetable of the original Action Plan. A number of new measures were also added. The strategy will focus on those groups it identified as being most susceptible to corruption: the judiciary, public administration, and private enterprises. However, it fails to substantially address the issues of corruption at the political level and is weak with regard to addressing the links between corruption and organised crime.

The National Anti-Corruption Prosecutor’s Office (NAPO) became operational in September 2002. NAPO is responsible for conducting investigations into high-level corruption or corruption involving state officials. During the reporting period, NAPO received reports of 2 285 cases of alleged corruption and sent 119 of these to the courts. Last year’s Regular Report noted that filling NAPO’s posts would be a test of the government’s commitment to the fight against corruption. One year later, NAPO still remains seriously understaffed, which means that prosecutors are responsible for an

excessive number of cases (46 on average) and limits the possibility for effective investigation.

The operational independence of NAPO is jeopardised by the Minister of Justice's responsibility for anti-corruption enforcement and the 'co-ordination' role that the General Prosecutor has been given over NAPO activities. Only the Minister of Justice or the General Prosecutor may order an investigation into the wealth of national politicians or high-level officials.

In April 2003 a package of anti-corruption legislation was adopted using the legislative mechanism of a vote of confidence. The process of adoption restricted possibilities for consultation and as a result the legislation was not thoroughly prepared. Nevertheless, the package does contain several positive features. Requirements on the public disclosure of assets held by elected politicians and senior officials have been extended, the concept of "conflict of interests" has been introduced into Romanian law, and the number of outside interests considered incompatible with being a public official has been significantly expanded. In May 2003 a further requirement was introduced for all individuals covered by the scope of anti-corruption legislation to declare the exact details of all their savings (world-wide) whose cumulate total exceeds €10 000. Despite these developments, a number of shortcomings remain. The legislation on conflict of interest is weak and, for politicians in particular, the definition of conflict of interest is limited. There are also potential loopholes such as the possibility to transfer assets to relatives outside the scope of the law. Available evidence indicates that these anti-corruption provisions are not being fully or consistently applied.

New legislation on the funding of political parties and electoral campaigns entered into force in March 2003. The law contains a number of positive elements: the disclosure of the identity of major donors is obligatory, as is publication of and the total amount of anonymous donations. However, there are a number of omissions in the text – the most significant of which are the possibility for parties to be financed by NGOs between electoral cycles and a lack of clarity in the definition of membership fees.

Progress has been noted in aligning with the acquis on protecting the financial interests of the Communities (1995 Convention). Further legislative steps are required to introduce the concept of criminal liability of legal persons.

Romania remains involved in the Stability Pact Anti-corruption Initiative sponsored by the OECD Secretariat, and participates in the Council of Europe's Group of States against Corruption (GRECO). NAPO has designated a prosecutor under GRECO for the 2002-2005 Second Evaluation group of experts. Romania has made limited progress in implementing the recommendations made in the May 2002 GRECO evaluation report. Further efforts should focus on producing a strategic assessment of the nature and scale of corruption, introducing a wide-ranging public information programme, and restricting the powers of the Minister of Justice to intervene in both the supervision of judges and the work of prosecutors.

### **1.3 Human rights and the protection of minorities**

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

Romania has ratified the main human rights conventions (*see Annex I*). The European Convention for the Protection on Human Rights (ECHR) has direct effect in Romania, but certain difficulties remain with its full application.

In 2003, Romania ratified Additional Protocol No. 13 to the ECHR concerning the abolition of the death penalty in all circumstances. As previously reported, Romania has signed but has not yet ratified Additional Protocol No. 12 to the ECHR prohibiting discrimination on any grounds. Romania has formally recognised the competence of the UN Committee for the Elimination of Racial Discrimination in accordance with the International Convention for the Elimination of all Forms of Racial Discrimination (1965).

The National Council for Combating Discrimination has made significant progress during its first year of activity and the issuing of decisions sanctioning cases of discrimination has been an important demonstration of its authority.

New legal provisions have clarified the responsibilities of the National Council. However, a number of the gaps in the legislative framework raised in last year's Regular Report have not been resolved (i.e. indirect discrimination and the burden of proof - *see Chapter 13 - Social policy and employment*). The legal framework also needs to be revised in order to clarify the role of the National Council vis-à-vis other public institutions.

Since starting its activities in August 2002 the National Council received over 450 petitions. It carried out 37 investigations and out of these, it applied sanctions in 31 cases. However, the legal authority of the National Council to issue sanctions remains unclear.

In general, greater transparency is needed in the way in which the National Council carries out its activities. Although existing staff members demonstrate considerable motivation and ability in carrying out their functions, overall staff resources are too limited to match the ambitious mandate of the Council. Particular attention should be paid to clarifying the roles of the technical departments and to reinforcing the investigations and legal departments.

As noted in last year's Regular Report, the fact that the National Council remains administratively subordinate to the government appears to limit its capacity to act independently. Only one member on the board of directors comes from the vulnerable groups covered by the board's mandate.

The Office of the Ombudsman deals with complaints lodged by persons whose civil rights and freedoms have been infringed by the public administration. Over the year from September 2002, the institution received a total of 4 485 petitions. A total of 444 petitions were declared admissible and investigated. A total of 43 own initiative investigations were also carried out. 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, the right to a fair trial, access to justice and the right to health care.

The Ombudsman's office has limited resources in terms of powers, staff, and budget to cope with the high number of complaints received. Nevertheless, the effectiveness of the institution has improved over the reporting period. At the end of 2002 the Ombudsman moved into improved premises. The institution's three regional offices in Alba, Bacau and Dolj counties were set up in 2003.

The Ombudsman is accountable to Parliament, but as noted in previous Regular Reports, Parliament pays limited attention to the Ombudsman's reports. The Ombudsman's 2002 Annual Report also concluded that some public authorities have not yet fully understood the role of the Ombudsman as an autonomous and independent authority.

The revised Constitution gave the Ombudsman the right to ask the Constitutional Court to declare on the unconstitutionality of laws prior to their entry into force. It also extended the term of office of the Ombudsman from four to five years.

### *Civil and political rights*

Romania has continued to make significant progress in the reform of child protection. More than half of the 86 000 children in public care are now placed with families (extended family, foster care), while 37 000 children remain in residential care (including special schools). A methodology for the closure of large residential institutions has been developed and is being implemented. During the reporting period, 54 large institutions were closed. By June 2003, a total of 776 units providing alternative child-protection services had been established (mother and baby centres, family type homes, counselling services). Some 120 large institutions remain. However, the majority of these have been restructured into family-type modules and material living conditions are generally appropriate.

The situation of disabled children has also improved. The majority of the old style residential institutions have been closed or restructured, while preparations are underway to close the remaining inappropriate institutions. A growing number of services are available to support disabled children and their families so that children do not have to be placed out of home.

Significant progress has been made with the development of strategies at county level in order to ensure a correct implementation of the national strategy. Regional differences in the implementation of the reform are decreasing as knowledge of best practices on child protection is extended. Work is underway to finalise national standards for child protection services that will be disseminated through training and information activities. This is a matter of urgency, as the lack of national standards hampers transparent monitoring of public and private service providers and risks allowing practices that are not in the best interest of the child.

The National Authority for Child Protection and Adoption continues to be well managed and work to improve the functioning of the inspection bodies is ongoing. In June 2003, it was transferred under the authority of the Ministry of Labour and Social Protection with the intention of making child protection policy an integral part of social policy.

The moratorium on inter-country adoption has been extended until new legislation on children's rights is enacted and the necessary administrative capacity in place. Extensive consultations are being carried out in order to ensure that the legislation will respect the ECHR and the UN Convention on the Rights of the Child. Preparations are underway to develop the administrative structures and capacity to implement the new legislation. Concerns remain about the lack of specialised courts for family law and the lack of free legal representation in decisions concerning children and in particular decisions that seek to terminate parental rights.

Implementation of the laws on the Status of the Policeman and the Organisation and Functioning of the Romanian Police (adopted in the summer of 2002) began during the reporting period. This marks an important step in the reform of Romania's police forces. Under their new status, policemen are civilian public servants serving the rule of law. Demilitarisation of the police has meant that jurisdiction for prosecuting abuses by the police has been transferred from the military to the civilian court system. However, the other security forces, including the gendarmerie, remain subject to military judicial control.

Despite these positive developments, there has been little measurable progress in terms of increased police efficiency. New legislation has not been accompanied by a modernisation of police structures and the Romanian police force remains a highly centralised body with little exposure to principles such as transparency, accountability, sound and efficient management or modern human-resources policy.

Cases of excessive police violence against suspects, even in connection with petty crimes, have continued to be reported during the reporting period. Several of these cases have involved the use of firearms, and police officers enjoy a certain penal immunity when using firearms in order to fulfil police duties.

In April 2003, Romania authorised the publication of the report made by the Council of Europe's European Committee for the Prevention of Torture, as requested in last year's Regular Report. The report was particularly critical of conditions in police detention facilities, and drew attention to the fact that all categories of detainees are ill-informed about their rights, have difficulty accessing legal advice, and are subject to various forms of ill-treatment.

Romania remains seriously affected by trafficking in human beings and is a country of origin, transit and destination for victims. While the greatest problem concerns the trafficking of women and girls for sexual exploitation, there are also a number of children and handicapped persons who are trafficked in order to be exploited as street beggars or thieves. There is evidence that victims of trafficking are bought and sold by their "owners" and live under degrading conditions.

The 2001 Law for Combating Trafficking, which criminalises trafficking and provides assistance and protection to victims, has not led to a noticeable improvement of the situation. A number of new legal measures were therefore taken at the end of 2002 to address the problem of trafficking. The Criminal Code was amended to increase the sanctions for rape and other sexual offences against minors. Punishments were increased for the production, transportation, trading and distribution of pornographic materials involving minors, as well as for belonging to organised groups involved in these activities. The National Action Plan, referred to in last year's Regular Report, has proved to be a consistent reference point in the anti-trafficking work of the Romanian authorities and NGOs.

In November 2002, Romania ratified the UN Convention against Transnational Organised Crime and the Protocol on preventing, countering and punishing trafficking in human beings, especially women and children.

Actions have been taken to increase administrative capacity in this area. In order to improve collaboration between the different agencies, a new structure was established within the General Directorate Against Organised Crime and Drugs, bringing together staff from the General Police Inspectorate, the Border police, and the General Directorate



for Computerised Record of Persons. A working group has also been established to collect and exchange intelligence and to produce strategic analyses on illegal migration and trafficking in human beings. In February 2003 an Inter-Ministerial Working Group for the Co-ordination and Evaluation of the Prevention and Combat of Trafficking in Human Beings was established and a methodology approved for repatriation of Romanian nationals who have been victims of trafficking. In October 2002 the National Refugee Office started to provide direct assistance to trafficked women.

Approximately 4 100 prison detainees are held in pre-trial detention (just under 9% of the total prison population). Due to overcrowding it is not always possible to separate pre-trial detainees from convicted criminals, as is required by both domestic Romanian legislation and international treaties ratified by Romania. The revised Constitution has significantly reduced the legal limit for pre-trial detention – it is now 180 days whereas previously it was half of the maximum period of imprisonment for the crime with which an individual is charged. Amendments to the Code for Penal Procedure in June 2003 have also placed a limit of one year (exceptionally two in the case of particularly serious crimes) on detention before the first court ruling on the charges. 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. Overcrowding remains the most serious problem, and despite the building and modernisation of some prison facilities, the number of inmates exceeds the capacity of the prison system by approximately 25% (although this represents an improvement compared to the previous period). While efforts have been made to improve prison facilities, overall prison conditions are very poor: the quality of food is below acceptable standards; educational and cultural activities are insufficient; and staff shortages mean that many inmates spend all day locked in their cells.

Alternatives to imprisonment are very limited, which is a major cause of the overcrowding. The probation system is still in the process of being developed and only exists in half of Romania's counties. Legislation on pardoning certain penalties has resulted in 2 700 prisoners being released. However, there is very little assistance for former inmates released on parole to reintegrate successfully into society.

No changes have been made to the legal aid system during the reporting period. In criminal cases legal assistance is mandatory if: the defendant is under arrest; the law provides a sanction of imprisonment exceeding five years; a defendant is judged as being unable to make his own defence. Legal aid is also mandatory for certain categories of defendant, including minors and military personnel. However, in many cases none of these criteria can be met and no legal assistance is guaranteed. As a result, access to legal defence can be limited at all stages of criminal proceedings. In civil cases, legal aid can be granted if the party concerned proves that they have insufficient means to employ a lawyer – but in practice few such requests are granted. Remuneration of the lawyers providing legal aid is low and is not dependent on the time spent on the case. The motivation for lawyers to provide legal aid is therefore limited, especially in complicated and time-consuming cases. As stated in the previous Regular Report, limits to the right to legal representation are a human rights issue that needs to be addressed.

The positive trend noted over previous years in the area of asylum has continued during the reporting period, and in January 2003 the new Aliens Law entered into force. One of the main improvements is the exemption from penal sanctions of asylum seekers who illegally enter or remain in Romania. This new legislation has also brought significant improvements to the procedure for determining whether refugee status can be granted,

and is largely in line with international refugee-law standards. However, the law contains certain shortcomings: the definition of refugees needs revision; provisions allowing for “cessation”, “withdrawal” and “cancellation” of protection do not comply with the provisions of the 1951 Geneva Convention; and there are gaps in the protection regime applicable to persons who have been granted humanitarian protection.

Applicants with humanitarian status continue to receive fewer benefits than those with refugee status. However, other concerns raised in last year’s Regular Report have been addressed (short time limits for processing cases at border points and excessively long detention in airport transit zones).

The administrative capacity for dealing with asylum seekers and refugees has continued to improve. At the same time, a better quality of decision-making is required. A particular concern is the practice of the Romanian authorities to declare aliens, including persons in need of international protection, “undesirable for reasons of public order and national security” in an arbitrary manner.

Freedom of expression is guaranteed in the Constitution, and both the written press and electronic media are able to report freely. In May 2003, the government submitted the draft of a revised Penal Code to Parliament. The draft contains several important features: repeal of the crime of “insult”, removing the possibility of a prison sentence for slander; and the alignment of rules on the burden of proof with the ECHR. If adopted by Parliament, these amendments will enable journalists to report more freely. In a further development, the legislative processing of the draft law on the compulsory right to reply — criticised in last year’s Regular Report — has been suspended.

Despite this progress, certain limits on the freedom of expression are a matter of concern. The number of genuinely independent media sources is limited and ownership is highly concentrated, which has resulted in a degree of self-censorship. Harassment of journalists by regional authorities is a problem in certain parts of Romania, although the occurrence of such cases has fallen over the reporting period.

Romanian legislation on the free access to public information was adopted in 2001. However, application of the law is partial and a significant number of authorities have failed to respond to requests for information. This situation has led to court cases being brought against public institutions for non-respect of the law although the situation remains unresolved. In one case the General Prosecutor used his powers of extraordinary appeal to prevent the release of information that the Bucharest Court of Appeal has ruled should be made public.

A number of Romania’s most important media companies are heavily indebted to the state. In several cases, “fiscal facilities” have been granted by the Ministry of Finance that allow the rescheduling of outstanding debts. Under these circumstances, the continued operation of a number of media outlets is, to an extent, dependent on the good will of the Romanian authorities.

Freedom of religion is guaranteed by the Constitution and is observed in practice. In May 2003, the Ministry of Culture and Cults recognised the Jehovah’s Witnesses. There are 15 recognised religions in Romania. 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 remains in need of reform.

There is no legal discrimination on the basis of sexual orientation in Romania. At the same time, prejudice against homosexuality remains widespread in Romanian society and there have been credible reports of police harassment.

With regard to freedom of association, in December 2002 legislation was adopted on the functioning and organisation of political parties that very substantially increased the requirements for establishing a political party. Under the provisions of the law, parties require at least 25 000 founding members, resident in at least 18 of Romania's counties, with no less than 700 members in each of these counties. The legislation also introduced requirements for registration and re-registration that are both burdensome and also potentially discretionary in their application. Only registered political parties are eligible for public funding. Registered parties are also able to purchase the buildings that they occupy at advantageous prices. These provisions are not likely to affect the main political parties (which are all in support of the law) but they will make it increasingly difficult for new parties or for regional and ethnic parties to establish themselves.

There are no restrictions on the freedom of assembly.

Progress has been made with the restitution of properties confiscated under the communist regime. The legal framework for restitution is now fully functional and the authority responsible for enforcing restitution has become operational during the reporting period. However, progress with actual restitution has been mixed – depending on the type of good concerned.

Restitution of agricultural lands is advanced and as of July 2003 a total of 90% of total lands had been given back. Restitution of forested lands is slightly less advanced, with 79% of the lands returned. The legislation in force sets a limit of restitution of 50 hectares for each applicant.

The process of restituting buildings is ongoing and a total number of 210 000 claims were filed for either restitution in kind or compensation. However, at the end of the reporting period only 3% of properties had been returned, monetary compensation was awarded in 1% of cases and other forms of compensation offered in 2% of cases. No law has yet been adopted in order to establish the criteria for calculation and the procedures for payment of monetary and other forms of compensation.

Secondary legislation has been adopted to facilitate the restitution of property belonging to religious denominations. A total of 7 568 restitution applications were filed, although by September 2003 only 118 restitution decisions had been issued. While this process covers church property, it does not apply to actual churches. The political sensitivity of this issue for the Orthodox Church has resulted in a stalling of promised legislation to address this issue. As noted in last year's Regular Report, this is a particularly important issue for the Greek-Catholic Church, which had a large number of properties confiscated by the communist regime.

The European Court of Human Rights issued 34 substantive judgements against Romania during the reporting period. The most significant of these judgements (*Pantea v. Romania*) found that Romania had violated Articles 3, 5 and 6 of the European Convention of Human Rights. The findings concerned mis-treatment when in prison, unlawful arrest, excessively long detention before seeing a judge, and inability to conclude a case in a reasonable time. With regard to the arrest procedures, the findings of the Court were particularly significant as they ruled that Romanian prosecutors could not

be considered as independent magistrates and were therefore not able to issue arrest warrants. The Romanian authorities have addressed the legislative short-comings identified by the Court although it should be noted that the most serious parts of the judgement also related to the behaviour of certain public officials.

The large majority of other judgements against Romania concerned the (non) restitution of properties confiscated during the communist regime. Most of these cases found violations of the right to a fair trial (Article 6) as well as the right to protection of property (Article 1 of the first additional Protocol to the Convention). A number of changes in Romanian law have sought to address these issues. Other judgements concerned violation of the right of prisoners to receive mail and the lack of access to a court in order to review the final outcome of an administrative procedure. Measures were already taken a number of years ago by the Romanian authorities to address these issues.

### *Economic, social and cultural rights*

The new labour code, adopted in February 2003, prohibits both direct and indirect discrimination, although no specific reference is made to discrimination based on gender. Romanian legislation has established the principle of equal treatment between women and men as regards access to employment. However, further actions are needed to translate this principle into action and while some steps have been taken to implement the National Action Plan for Equal Opportunities, overall progress has been limited. The setting up of the National Agency for Equal Opportunities between women and men is at a preparatory stage and should be finished in 2005.

In May 2003, legislation was passed on preventing and combating domestic violence. The law is a positive development and offers improved protection for the victims of violence. In order to implement the law, the National Agency for Family Protection should be made operational as soon as possible.

Women remain under-represented in political life, with 11% of deputies and 9% of senators. In the Government, only two out of 22 cabinet ministers are women. The revised Constitution guarantees equal opportunities for men and women in filling of public functions.

Fighting social exclusion and poverty remains a government priority and further legislative progress was made during the reporting period. The legal framework for the provision of social assistance is now in place – but there are a number of issues that will need to be addressed if these provisions are to be effectively implemented. Most importantly: institutional responsibilities for social inclusion at both central and local levels are confused and divided between a large number of bodies; staff numbers related to the provision of social assistance need to be increased; and training needs to be developed.

In Romania, there are 420 000 persons registered with disabilities, of whom 20 000 live in residential care. Conditions in these institutions vary considerably from relatively good to very poor. Most of the large residential institutions for persons with intellectual disabilities are over-crowded and offer inadequate living conditions. After years of relative inaction, a major series of reforms was launched during the reporting period to improve care of the disabled. The National Authority for Handicapped Persons was established in 2003 as the regulatory authority for the sector and is responsible for policy

formulation as well as for drawing up national standards. At the same time, the existing county inspectorates for disabled people were replaced by the newly created directorates for social assistance and new regional inspectorates. Although compulsory quality standards for services for handicapped persons were adopted in March 2003, quality standards for residential care do not yet exist. On a more practical level, access facilities for disabled persons to buildings and other infrastructure have started to be provided.

In addition to these administrative changes, the National Strategy for the Protection and Reintegration of Disabled Persons in Romania was approved in November 2002. The strategy is comprehensive in its coverage and key objectives include the prevention of institutionalisation, development of alternative forms of assistance, and social re-integration. The strategy has been followed by a national action plan to support its implementation. These are positive developments – although it will take time before an assessment of their actual impact is possible.

The right to strike is generally recognised in Romania, although there are exceptions for certain key categories of workers. Industrial relations have been generally good over the reporting period – although the Social Pact, concluded in 2002 between the Government, the employers' confederations and a number of trade union confederations, has not been renewed. New legislation on trade unions was adopted in February 2003 updating the framework for the establishment and functioning of trade unions. The law strengthens the position of trade unions in several important respects, and by setting out the minimum requirements for setting up new union branches, it should allow the development of social dialogue at small and medium enterprise level. The new labour code identifies a number of areas in which labour and industrial relations are based on collective agreements. Both the labour code and the law on trade unions include provisions on the involvement of workers' representatives at enterprise level.

In March 2003, legislation was adopted strengthening the role of the Economic and Social Council as an autonomous body to promote social dialogue. However, considerable work remains to be done to promote autonomous bi-partite social dialogue and to develop the social partners' capacity to play an active role in the implementation of the social *acquis*. There are major differences between the 10 employers' organisations represented at national level. This significantly reduces the effectiveness of social dialogue, as they fail to represent a single voice in protecting and representing their interests. Similarly, fragmentation and the lack of sufficiently developed structures reduce the unions' representativeness and consequently their ability to promote social dialogue.

Romania has ratified the revised European Social Charter.

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

Relations with the Hungarian minority continued to be good and further progress was made during the reporting period. The revised Constitution enshrined the right of national minorities representing a "considerable proportion" of a local community to use their own language when dealing with local authorities. The constitutional revision also introduced the right for Romanian citizens belonging to national minorities to use their mother tongue in court proceedings. The law providing for bilingual signs in localities where minorities represent over 20% of the population has now been applied in the vast

majority of cases. In the same localities, implementation has also started of the legal requirement for police officers to speak the mother tongue of the respective minority.

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 practice and the social inequalities to which the Roma community is exposed remain considerable. Living conditions are poor and access to social services is limited.

Lack of access to housing of an acceptable standard remains a very important problem for the Roma population. Despite some positive local initiatives taken during the reporting period, there is still no systematic approach to this issue. County-level strategies for relations with the Roma have been developed by the police. While cases of unjustified police violence against Roma communities continued to be reported, there have also been cases of police officers being sanctioned for such abuse (which is a significant development). Roma have been able to benefit from the new framework for anti-discrimination and are responsible for over half of all complaints made to the National Council for Combating Discrimination.

Over the reporting period the Government has continued with implementation of the Roma Strategy (adopted in 2001), although the results have been uneven. In the health sector, a major development has been the official recognition of the post of “health mediator”, and 166 mediators have been hired and trained. In the area of labour policy, the National Employment Agency and its county offices have started active co-operation with the Roma County Offices in order to improve access to the labour market (although to date there has only been limited progress). Vocational training programmes for Roma have also been initiated. However, further reforms are needed to increase employment opportunities for the many Roma who have not completed compulsory education. In the education sector, legislation has been modified to provide educational programmes for Roma who did not attend school. National programmes also include reserved places in high school and university for Roma students.

Progress in the other areas covered by the Roma Strategy has been limited due to a lack of clear policies and limited funding. As a part of the government reorganisation, responsibility for Roma issues was moved to the Secretary General of the Government. This move is likely to give Roma issues a higher political profile - although these organisational changes have also delayed allocations from the state budget for implementation of the Roma Strategy. The government’s reliance on the Roma Party to implement and monitor the strategy is a matter for concern, as it has led to the effective exclusion of other Roma organisations.

As regards the use of minority languages, there was a very slight decrease in the 2002-2003 academic year in the number of mother-tongue educational units and in the number of students being educated in their mother tongue. The Department for Inter-Ethnic Relations financed the publication of several secondary school textbooks in the German, Hungarian and Serbian languages. The constitutional requirement for education to be organised only in Romanian or in languages of international circulation has been

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<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. According to the 2002 census, the official figure for the Roma population was 535,000.

abrogated, opening up the possibility of private universities teaching exclusively in minority languages. Two private Hungarian universities continued to function well.

The situation for the Csango minority improved over the reporting period. In the 2002-2003 academic year classes were run in two villages for members of the Csango community who wanted to study Hungarian as an optional subject. According to Csango representatives, parents in a further four villages have filed requests that their children be taught Hungarian in the 2003-2004 academic year.

## 1.4 General evaluation

Romania continues to fulfil the political criteria.

The political will to address administrative and judicial reform exists and a number of positive initiatives have been launched over the last year to reform the public administration and the judiciary. For example, the Civil Servant Statute was revised and a major reorganisation of the court system was launched. However, the reform process is at an early stage. The Romanian civil service remains characterised by cumbersome procedures, limited transparency and a limited capacity for policy execution. The judicial system needs to improve the management of cases and the consistency of judgements as well as to increase the independence of the judiciary. These key issues must be urgently addressed.

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

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

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

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

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



## 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 2002 Regular Report, the Commission found that:

*“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.”*

Based on the findings of the 2002 Regular Report, the Roadmap for Romania – adopted by the Commission in November 2002 – summarised a number of benchmarks for further economic reforms.

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.

### 2.2 Economic developments

*Despite a less favourable international environment, economic growth remained robust. Further progress towards economic stability was achieved but macroeconomic risks have recently increased.* The Romanian economy grew by 4.9% in 2002 and is expanding for the fourth year in a row in 2003 as GDP rose by 4.3% year-on-year during the first semester. Against this favourable background, further gains towards domestic stabilisation were achieved as inflation fell more than targeted. While the current account deficit dropped sharply in 2002, it began widening again in the second quarter of 2003 on the back of rapid wage and credit growth. Albeit slightly rising, the unemployment rate remained at a single-digit level.

## Main Economic Trends (as of 30 September 2003)

<b>Romania</b>		<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003 latest</b>
Real GDP growth rate	percent	-4.8	-1.2	2.2	5.7	4.9	4.3 1 <sup>st</sup> semester
Inflation rate	percent	59.1	45.8	45.7	34.5	22.5	15.4 Jan-Aug
- annual average	percent						14.2 Aug-on-
- December-on-December	percent	40.6	54.8	40.7	30.3	17.8	Aug
Unemployment rate	percent	5.6	6.9	7.2	6.7	8.4	
- LFS definition							
General government budget balance	percent of GDP	-3.2	-4.5	-4.6	-3.3	-2.2 p	
Current account balance	percent of GDP	-6.4	-4.0	-3.7	-5.5	-3.4 p	
	million ECU/Euro	-2388	-1348	-1475	-2486	-1663 p	-1386 Jan.-July <sup>a</sup>
Gross foreign debt of the whole economy							
- debt export ratio	percent of exports of goods and services	77.4	74.1	64.0	65.8	:	
	million ECU/Euro	6552	6934	8493	9848	:	
Foreign direct investment inflow	percent of GDP	4.8	2.9	:	:	:	
- balance of payments data	million ECU/Euro	1812	977	:	:	:	362 Jan.-March <sup>a</sup>

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

P= provisional

Source: Eurostat unless otherwise indicated

*Further progress towards the completion of the authorities' reform agenda took place. Privatisation advanced in the industrial sector, with the sale of additional large enterprises while preparations for divestitures in the energy sector moved beyond the first steps, although much more slowly than originally planned. Large layoffs in some of the largest state-owned loss-makers were carried out in order to improve their financial performance and their privatisation prospects. In the banking sector, the largest remaining state-owned bank could not be sold to a strategic investor as originally intended. Nevertheless, the reduction of public shareholding to below 50% is imminent following the agreement with the European Bank for Reconstruction and Development (EBRD) and the International Finance Corporation (IFC) on the purchase of a controlling minority stake in the bank. The incentives for a more efficient allocation of resources were strengthened thanks to partially successful efforts to tighten enterprise financial discipline, further adjustments in energy tariffs, and improvements in the institutional framework for a market economy. At the same time, arrears to the budget and the energy utilities continued to accumulate, energy continued to be provided at below cost recovery prices and the efficiency of the public administration and of the judicial system remains insufficient to substantially improve the business environment in Romania.*

*Despite solid economic growth, Romania made little progress in real convergence towards EU per capita income levels. Catching up of income and productivity towards levels reached elsewhere in Europe remains a major challenge for Romania. In 2002, GDP per capita in purchasing power standards increased slightly to 25% of the EU level. The latest available data suggest that regional income disparities are increasing. This is largely due to above-average growth in the Bucharest region where the 2000 per capita income was more than double the national average and nearly three times above that of the poorest region. Following a revision in statistical definitions, the employment rate*

dropped sharply for both male and female, averaging only 57.6% in 2002 when 8.4% of the labour force was unemployed. Increasingly of a long-term nature, unemployment was significantly higher among the young and slightly more prominent among male job seekers. Regional disparities remained small.

<b>Main Indicators of Economic Structure in 2002 (as of 30 Sept. 2003)</b>		
<b>Romania</b>		
Population (average)	Thousand	21 795
GDP per head <sup>a</sup>	PPS Percent of EU average	25
Share of agriculture <sup>b</sup> in:		
- gross value added	Percent	13.0
- employment	Percent	37.7
Gross fixed capital formation/GDP	Percent	21.1
Gross foreign debt of the whole economy/GDP <sup>d</sup>	Percent	21.9
Exports of goods & services/GDP	Percent	35.5
Stock of foreign direct investment <sup>c</sup>	Million Euro Euro per head	5496 252
Long term unemployment rate	Percent of labour force	3.8

P: provisional data

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

b Agriculture, hunting, forestry and fishing.

c Data refer to 1999

Source: Eurostat unless otherwise indicated

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

#### *The existence of a 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 authorities' reform efforts relied on a broad consensus about the fundamental aims of economic policy.* The authorities' commitment to macroeconomic stabilisation and structural reform in the context of the EU accession process was forcefully re-stated through the drafting of a "priority action plan", the adoption, and close monitoring, of the so-called "crash programme", and the establishment of a steering body for EU-accession related matters chaired by the Prime Minister. In August 2003, the government submitted its third Pre-Accession Economic Programme, which was prepared under the coordination of the National Commission for Prognosis and with the consultation of social partners and various non-government organisations. The programme confirms the government's commitment to its reform agenda. Reflecting the growing support for reform, Romania for the first time successfully completed a stand-by arrangement (SBA) with the International Monetary Fund (IMF).

*Despite a less favourable international environment, GDP continued to grow at a sustained pace as the recovery entered its fourth consecutive year. In 2002, real GDP expanded by 4.9% and economic growth became more balanced. Although rising domestic demand continued to underpin the recovery, the more prudent macroeconomic stance implemented under the IMF SBA limited public consumption and cut household consumption growth in half to 3%. On the back of increasing capital accumulation by the private sector, investment spending continued to rise, growing by 8.3%, while stock accumulation stopped fuelling economic activity. Net exports gave a positive contribution to growth as Romanian exports reaped the cumulative benefits of past private investment in consumer goods industries and grew at an accelerating pace despite the slowdown in the EU markets. At 4.3% year-on-year, GDP growth continued apace in the first half of 2003 but became increasingly unbalanced. Sharply rising net wages and booming consumer credit boosted household consumption growth which accelerated to 7.4% year-on-year in the second quarter. With investment spending also continuing to increase apace at 7.9%, import growth remained sustained at 12.1%. At 5.4% year-on-year in the second quarter, export growth decelerated sharply causing the contribution of net exports to growth to turn negative again.*

*While in 2002 economic growth was accompanied by greater external stabilisation, this trend was reversed in 2003. After worsening to 5.5% of GDP in 2001, the current account deficit fell to 3.4% in 2002 thanks to a continued increase in private transfers from abroad and, above all, a sizeable reduction in the deficit recorded in trade in goods and services. Starting from the second quarter of 2003, however, this trend was reversed largely due to rising import of goods. As a result, in the first seven months of 2003, the cumulative current account deficit amounted to 2.9% of projected GDP and was significantly larger than during the corresponding period in 2002. Romania, however, continued to successfully tap the international financial markets, most recently with a 7-year EUR 700 million bond issue in July 2003. Its sovereign paper was also repeatedly upgraded. Despite large negative outflows under errors and omission and falling net inflows for direct and portfolio investment, in 2002, international reserves excluding gold rose to the equivalent of 3.9 months of imports of goods and services thanks to lower current account deficit financing needs and increased private sector borrowing abroad. After weakening somewhat during the first half of 2003, international reserves increased to EUR 6.7 billion by end-August. The foreign debt-to-GDP ratio increased but remains low.*

*The unemployment rate increased over 2002 but methodological changes in its measurement make it difficult to identify the underlying reasons. The average unemployment rate (ILO methodology) rose to 8.4% in 2002 despite sustained economic growth. While this may be partly due to a deepening of economic restructuring, revisions in the definition of employment and unemployment coverage significantly limit the comparability across time of the 2002 figure. Trends in registered unemployment were also significantly distorted by the changes in the eligibility criteria for safety net entitlements introduced in early 2002. The enactment of a new Labour Code in March 2003 marked a significant advancement in terms of *acquis* transposition (see Chapter 13 – Employment and Social Policy) but also introduced separately some rigidity in the functioning of the labour market. These include restrictive conditions for fixed-term contracts, procedures for individual dismissals that are open to abuse and a centralisation of the bargaining system which could prevent wages from reflecting productivity differences across regions and skill profiles.*

*The gradual reduction of inflation rates from relatively high levels continued in 2003 after advancing more than targeted in 2002.* Carrying on the trend that started in late 1999, the average inflation rate dropped further to 22.5% in 2002. After falling to 17.8% by December 2002 against an official target of 22%, the year-on-year inflation rate declined to 14.2% in August 2003. Moderate consumption growth, a slower pace of depreciation and smaller increases in administered prices supported these positive developments. After having increased by 43% in 2001, administered prices rose by 23.5% in 2002 and by only 3.2% in the first half of 2003 when the year-on-year inflation rate excluding administered prices fell to 14.4% from 16.5% at end-2002.

*The reduction in interest rates that accompanied disinflation recently came to a halt as the monetary policy stance was tightened in view of the emerging demand pressures and the persistently high growth of credit to the private sector.* Continuing to operate within the framework of a managed float regime, the National Bank of Romania intervenes in the foreign exchange market to keep the exchange rate on a path consistent with the inflation target while allowing for a real appreciation against the authorities' euro-dollar basket deemed compatible with a sustainable current account position. As a result of this policy, gradual disinflation has continued and the exchange rate appreciated by 2.4% against the basket in 2002. At the same time, the process of remonetisation has intensified reflecting increased economic activity and rising confidence in both the domestic banking sector and the Romanian economy at large. As a result, broad money rose to 24.7 % of GDP at end-2002 and continued to grow at high, albeit diminishing, rates in 2003. In July 2003, year-on-year growth equalled 28.8% in nominal terms and 12.1% in real ones. Despite some success in curbing the growth of foreign-currency denominated lending, credit to the non-government sector continued to increase sharply, expanding by 38.1% year-on-year in real terms in July 2003. In view of these trends and the parallel sharp rise in net wages and deterioration of the current account deficit, monetary policy was tightened in the course of 2003. After being progressively cut from 22.7% in September 2002 to 17.4% in April 2003, in fact, the central bank intervention rate was gradually raised to 19.2% in September 2003. Paralleling the trend in nominal rates, real rates increased since May 2003.

*Fiscal policy has remained prudent, but is medium-term sustainability is not yet ensured.* At 2.2% of GDP in 2002, general government net borrowing undershot the 2.6% of GDP target<sup>6</sup>, allowing the authorities to achieve their deficit goal for the third year in a row. GFS-based figures show that in 2002 the revenue-to-GDP ratio fell below 30% rather than increasing as targeted. Despite strong VAT collection benefiting from an improved legal framework, disappointing collection of social security contributions and excise duties explain the aggregate shortfall. However, this was more than compensated for by lower than budgeted expenditures, particularly owing to lower than expected interest charges but also payment arrears equal to 0.6% of GDP in the public health sector. These were only partially repaid during the first seven months of 2003 when the cumulative deficit was contained to an estimated 0.6% of GDP, suggesting that the 2.5% of GDP deficit target for 2003 remains achievable. By end-2002, the gross general government debt ratio remained on a downward path, at 22.7% of GDP, while the overall stock of

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<sup>6</sup> All general government deficit and debt data used were notified by the Romanian authorities to the European Commission in April 2003. Data are, however, only partially compliant with EU standards (ESA 95). Figures based on the IMF Government Finance Statistics (GFS) show similar trends with the general government deficit falling to 2.6% of GDP in 2002.

arrears to the general government increased as a percentage of GDP largely as a result of overdue tax claims on the private sector. Even in the case of the monitored enterprises undergoing restructuring and privatisation, the stock of arrears to the consolidated general government increased from 4.0% of GDP at end-2001 to 4.5% at end-2002 and continued rising over the first half of 2003. This increase occurred despite further measures to strengthen tax administration (see Chapter 10 - Taxation) and various rescheduling and write-off arrangements in the context of enterprise restructuring and privatisation. With tax discipline remaining an issue, medium-term budgetary prospects need to be strengthened also because the reform of the health and pension systems required to face the expenditure pressures of an ageing population are still at an early stage.

*Romania has continued to implement a policy mix aimed at the achievement of economic stability but there are continued risks.* The macroeconomic gains achieved in 2002 were made possible by the implementation of a coherent mix of stability-oriented fiscal and monetary policies under the framework of the IMF stand-by arrangement. Income policy also played a supporting role in 2002 as average net wage growth was broadly in line with productivity trends despite faster than budgeted growth in the wage bill of public enterprises. In addition, energy price increases and improved bill collection further moderated real income growth and reduced the quasi-fiscal deficit in the energy sector. However, the overall stock of arrears to the general government and other creditors continued to rise. Money and credit also expanded very rapidly, although this partly reflected the low starting level of monetisation and financial intermediation in Romania. These trends continued in 2003 when progress in reducing energy sector losses slowed down and income policy was loosened as minimum wages were increased by 43% in January. This rise, combined with parallel cuts in social security contribution rates, fuelled net wage growth which averaged 8.7% in real terms in the first eight months of 2003. This is despite the fact that the authorities continued to implement a conservative wage policy in the government sector and for the first time respected the IMF SBA wage bill target for public-owned enterprises. In an attempt to address the concomitant weakening of the external position, the authorities have recently tightened the policy stance by raising interest rates and increasing energy prices. While it is too early to assess the impact of these measures, prudent fiscal and wage policies coupled with a continued reduction in the quasi-fiscal deficit will be needed to preserve the momentum towards greater macroeconomic stability.

*Most prices are liberalised and further adjustments in energy tariffs have taken place.* As in 2002, the prices of 18 goods and services remain subject to special regulatory provisions, mainly because of the existence of natural or legal monopolies. The number of administered goods and services included in the consumption basket has remained unchanged relative to 2002 but their aggregate share in the consumer price index (CPI) basket has risen to 21.7% from 20.4% in 2002 due to rising consumption weights. Regulated prices are linked to CPI inflation, the US dollar exchange rate or a combination of the two. The adjustment of energy tariffs towards cost-recovery levels that started in mid-2001 has continued, as energy prices increased by 21.5% year-on-year at end-2002 and by 14.2% in July 2003. Despite further hikes in September 2003, cost recovery levels in gas and heating are not yet attained. Finally, persisting difficulties in imposing payment discipline on a hard core of unstructured enterprises, leading to significant arrears, still hinders the functioning of the price system.

*The private sector is predominant in the economy.* The share of the private sector in GDP amounted to 66.8% in 2002. The slight decrease from the respective share in 2001 of 67.9% was due to shrinking production in the largely privatised agricultural sector. In

2002, the share of private-owned capital rose above that held by the public sector for the first time since the beginning of the transition. By end-July 2003, property titles were established for 94.1% of total restituted land. Privatisation of state farms had also progressed although it was not yet completed with 174 state farms employing some 7000 workers on more than 5% of the total agricultural area in mid-2003. For the economy as a whole, the latest available data show that, by the end of 2001, private majority-owned establishments accounted for a rising share of all employment, at 76.6%, turnover, at 79.2%, and exports, at 84.4%. Public companies still accounted for significant shares of enterprise investment and tangible assets, at 50.7% and 72.1% respectively, but these ratios were decreasing and mostly reflected the predominant role of public ownership in the energy sector. More recent but limited evidence suggest the trend towards an increasing relevance of private ownership is continuing.

*Privatisation accelerated but the authorities' agenda remains unfinished, especially in the energy sector.* The number of companies in state ownership decreased from 1673 at end-2001 to 1342 in mid-2003 largely thanks to the activity of the privatisation agency APAPS. Of these less than 10% are held by different ministries, mainly for energy and transport. However, this includes most of the largest enterprises. APAPS holds the remaining 90% of companies. It sold some 416 companies over the same period and held stakes in 355 companies under voluntary liquidation, judicial re-organisation or bankruptcy procedures in July 2003. Staff reductions in 23 large state-owned enterprises in the first half of 2003 should increase their attractiveness for buyers, as evidenced by the successful privatisation in late September of three perennial loss-makers that had been repeatedly offered for sale. By end-2003, APAPS aims to divest itself of its full portfolio which currently accounts for roughly 15% of the value of total state holding. However, complex issues slow down the privatisation process in the energy sector, including enterprises' large stock of arrears and past environmental liabilities as well as the lack of clearly established medium-term prospects for the tariff structure. Sorting out these problems would support the privatisation of energy utilities, which account for more than 70% of the total share capital held by the state. Preparations for planned sales have moved forward but much more slowly than originally planned. Negotiations have started with the only bidder for majority stakes in two electricity distributors, letters of interest have been received for the national oil company PETROM and some preliminary steps for the preparation of the sale of two other electricity distributors and 15 hydroelectric electricity producers started. Privatisation efforts in the transport sector only picked up recently. Finally, privatisation has at times been reversed, as a result of breaches in the complex contractual obligations on the new owners. Between end-2001 and mid-2003, 72 enterprises returned under APAPS ownership as a result of buyers' failure to fulfil the commitments undertaken at the time of the sale.

*Despite further administrative improvements, procedures for market entry and exit are still affected by complex administrative procedures and the persisting failure to impose financial discipline on all enterprises.* The authorities continued their efforts to improve legal and administrative provisions for market entry and exit. Measures included changes in the institutional set up of the one-stop offices established in 2001 for registering and authorising firms, the introduction of a silent approval procedure for the issuing and renewal of the large majority of licences issued by the public administration, and amendments to the existing bankruptcy framework. As a result of these and other factors such as the ongoing economic recovery, the proportion of newly registered companies in the trade register has been increasing, rising from 6.0% in 2001 to 8.2% in 2002 and an annualised 9.4% in the first half of 2003. Similarly, both the number of new bankruptcy

cases treated by the courts and the rate of their resolution has increased. The rate of case resolution rose from 53% in 2001 to 68% in 2002 and there are some tentative signs that the average length of resolution has been reduced following the introduction of legal modifications in mid-2002. All these legal and administrative measures constitute important steps in the right direction but facilitating market entry and market exit also requires a more coherent imposition of financial discipline across all enterprises. Despite the efforts made in this respect, the continued toleration of arrears to the budget and the energy utilities and the protracted reorganisation of companies unsuccessfully offered for privatisation, for instance, signal that unviable enterprises are still allowed to survive and undermine payment discipline in the public as well as in the private sector and affects market entry and exit conditions.

*The legal framework for a market economy has continued to strengthen but its functioning and the enforcement of property rights will remain difficult without significant improvements in the efficiency of the judicial system and public administration.* Efforts to enhance the investment climate have continued, for instance by cutting red tape, establishing the Romanian Agency for Foreign Investment and ensuring greater stability of the tax code. Despite the introduction of better procedures, VAT reimbursements still need to be accelerated. More generally, the actual impact of legal and institutional modifications will depend upon the success of ongoing efforts to increase the effectiveness of the judicial system and improve administrative capacity (see the previous section). As the process of land restitution continues, trade in agricultural land is slowly picking up.

*Against the background of improving macroeconomic stability and strengthening banks' balance sheets, the banking sector is gradually developing.* At end-March 2003, mergers and licence revocations had reduced the number of banking institutions to thirty-eight. Thirty-one of these were majority foreign-owned and accounted for 55.9% of total banking sector assets, 65.4% of total lending to the non-governmental sector and 52.6% of total deposits. While still low, financial intermediation continued to increase. Total banking system assets rose to 31% of GDP at end-2002, deposits to 21.7% and domestic credit to the private sector to 11.9%. In the first seven months of 2003, bank deposits declined in real terms while loans continued to expand at double-digit rates on the back of surging credit to households as banks began targeting consumers and home-buyers. Despite booming credit, however, the capital adequacy ratio remained very high at 22.5% in July 2003 and the share of non-performing loans over total loans remained low at 9.4% despite its sharp increase following the introduction of stricter loan classification regulations in January 2003. Although these indicators suggest low banking sector vulnerability, their values also partly reflect the currently positive macroeconomic trends and care should be taken to minimise the prudential and macroeconomic risks stemming from the ongoing lending boom. Despite falling to 14.5% in July 2003, the interest rate spread between average deposit and lending rates remained high, indicating a high cost of financial intermediation and limited competitiveness, among banks as well as between the banking sector at large and other financial sectors. Against the background of poor international market conditions and a less than pro-active stance by the authorities, the planned privatisation of BCR, the largest remaining state-owned bank, ran into difficulty following two unsuccessful tenders in late 2002. As consequence, the weight of the public sector remained significant, with the three remaining state-owned banks accounting for some 40% of total net assets, until September 2003 when the agreement reached with the EBRD and the IFC for their purchase of a controlling minority stake in the bank paved the way for reducing the state share below 50%. Following an organisational restructuring



of the bank, a controlling majority stake will be offered for sale to strategic investors again. First steps in implementing the restructuring strategy of the two remaining state-owned banks were also taken.

*The development of the non-banking financial sector has also slowly continued.* Although increasing, total aggregate capitalisation in the Bucharest Stock Exchange and the over-the-counter RASDAQ remains low at less than 10% of projected GDP in August 2003. Annual turnover also remains quite low at some 7.4% of total capitalisation at end-2002. Diversification, however, increased with the first issue of corporate bonds and new issues of municipal bonds. The insurance sector has continued to grow and consolidate but remains underdeveloped with gross insurance premiums collected in 2002 increasing to 1.1% of GDP.

*Supervision of the financial sector continues to be strengthened.* The credit surge in the banking sector is taking place against improved prudential and supervisory frameworks. Most notably, stricter loan classifications regulations were introduced in the beginning of 2003 by including a criterion related to debtors' financial history. In addition, credit co-operative organisations were fully submitted to the licensing, regulatory and supervisory powers of the central bank. In the capital market, improved market transparency is to be expected as a result of listed companies' obligation to present IAS-compatible financial statements as of March 2003. In the insurance sector, the legally mandated minimum capital increased further and the Insurance Supervisory Commission continued to issue secondary legislation in order to complete the regulatory framework. However, despite continued progress, the institutional framework of financial supervision and the administrative capacity of the implementing bodies should be further improved, in particular as regards securities and insurance supervision (see Chapter 3 – Freedom to provide services).

*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 increasing competitiveness of the Romanian economy highlights the benefits of being close to a functioning market economy.* The advances towards macroeconomic stabilisation, the progress in structural reforms, the increasing availability of credit and the reduction in bureaucratic obstacles affecting the business environment have underpinned the ongoing rise in investment, which allows a reallocation of resources towards more productive uses. Supporting these trends requires continued progress towards macroeconomic stabilisation and tackling the remaining structural reform issues.

*Despite some positive measures, much remains to be done to strengthen the country's human capital.* At 3.0% of GDP in 2002, spending on education has remained stable but low. Compulsory schooling has been lengthened by one year but the rate of early school-leavers increased further to 23.2% in 2002. The average education level remains low but continues to rise. In 2002, the percentage of total students enrolled in post-secondary and tertiary increased to 12.8% while in 2001 the share of the total labour force having completed tertiary education had risen to 9.4%. Active measures play an increasing role in labour market policies. Although low at 0.2% of GDP in 2003, outlays for these activities account for 27% of planned unemployment expenditures, sharply up from 14% in 2002. R&D expenditures dropped below 0.4% of GDP in 2000, and rose only slightly in 2001.

*The renewal and expansion of the country's capital stock is gradually progressing.* Greater macroeconomic stability and improved economic prospects have underpinned gross fixed capital formation which rose from 20.5% of GDP in 2001 to 21.1% in 2002 on the back of increasing private investment. General government gross fixed capital formation increased from 2.4% of GDP in 2001 to 2.5% in 2002 and, according to the 2003 Pre-Accession Economic Programme, will remain on a moderate rising trend. With annual net FDI inflows dropping to 2.4% of GDP in 2002, the stock of FDI remained low on a per capita basis. The mobilisation of greater private sector resources would benefit from continued improvements in the business environment, a sustainable strengthening of the financial sector's intermediary role and further advances in the process of privatisation and restructuring. This is particularly true in the energy sector where tariffs should be adjusted further to allow companies to cover long-term costs.

*The quality of infrastructure is low, but slowly improving.* Following years of under-investment, the energy and irrigation networks are in a poor state. Upgrading of the district heating network is hampered by several factors, including the limited extent of metering (collective meters only cover 37% of supply points for households). The length of motorways and railways has remained the same. The fixed telephone network is making progress, with its digitalisation rate rising to 72.6% in 2002. Subscriptions to the four GSM operators are also increasing reaching an estimated 22.8% of the population in 2002.

*While restructuring has continued and appears to be well entrenched in certain sectors, further advances are needed.* The continued strong export performance of some manufacturing sectors, such as clothing, furniture and electric machinery, reflects the extent of the underlying expansion of private activity. In the banking sector, extensive privatisation has already taken place but the significant spread between deposit and lending rates suggests high cost structures and limited competition, thus hinting at the likelihood of further restructuring and consolidation. In the agricultural sector, plot consolidation still needs to take place and the privatisation of state farms is incomplete although the reduction of labour has recently accelerated. In the industrial sector, the prospects for effective restructuring of some of the chronic loss-makers have improved as a result of the layoffs implemented over the first half of 2003, the efforts to tighten financial discipline and the progress achieved in privatisation. Restructuring advanced further but remains incomplete in many other sectors including steel, transport, mining, and energy. Restructuring the latter, in particular, plays a key role since the energy sector constitutes the main channel through which quasi-fiscal support is granted to unviable enterprises. Their continuous survival weakens market incentives, deprives the budgetary

and private sectors of scarce resources and precludes a faster restructuring of the energy sector itself. A clear strategy for the reform of district heating is still missing.

*Reflecting the overall pace of the transition process, the structure of the economy is continuing to evolve.* In 2002, the service and industrial sectors accounted for an increasing share of gross value added, at 49.4 and 32.1% of GDP respectively. The share of gross value added produced by the agricultural sector dropped by nearly 2 percentage points to 13%. This reflected a poor harvest as well as long-term trends. Refinements in the statistical methodology employed make it difficult to interpret employment sectoral shifts which saw the share of total employees performing their primary activity in the agricultural sector dropping to 37.7% in 2002 (from 44.4% a year earlier).

*The establishment of a more favourable environment for SMEs rests upon a continued reduction in red tape and further expansion of financial intermediation.* SMEs play an important role in the economy at large, and retailing and manufacturing in particular. Conditions for doing business, however, remain difficult, notably due to the uneven implementation of legislation, weak administrative capacity and difficult access to finance (see Chapter 16 – Small and medium-sized enterprises). If effectively implemented, however, the silent approval procedure for firms' authorisations could help increase the dynamism of SMEs. Along with the various targeted initiatives launched by the authorities, the ongoing development of the banking sector could also foster SME growth by granting greater access to financial resources. This, however, requires an improvement in the functioning of the markets underpinning the value of loan collateral.

*The state has made some progress towards reducing its involvement in the productive sector.* Building upon the advances recorded in the last years, the state has continued to reduce its influence over enterprises' operations. Apart from a temporary prohibition on the export of wheat products, the authorities have refrained from introducing new discriminatory trade and fiscal measures and continued to diminish existing ones, partly by raising the preferential tax rate on profits from export activities. The continued adjustment in energy tariffs and improved average collection rates for most energy utilities have also contributed to improving the competitive environment. The role played by privatisation is less clear given that significant state aid packages have often accompanied the more complex sales. Some progress has been recorded in the establishment of an *acquis*-compatible system for state aid to enterprises and the authorities have committed themselves to bring the existing aid schemes into line with the *acquis*. However, no decision has yet been taken and there is no credible state aid enforcement record (see chapter 6 – Competition). Also, despite nominal liberalisation, the electricity and gas markets are not yet competitive (see Chapter 14 - Energy).

*Romania's economy is increasingly open with the EU constituting its main trading partner.* In 2002, the openness of the Romanian economy continued to increase as the value of exports and imports of goods and services rose to 76.6% of GDP from 75.3% in 2001. Exports to the EU expanded strongly but slightly less than the average, causing its share in total Romanian exports to drop slightly to 67.1%. At 58.4%, the share of Romanian imports from the EU continued to increase.

*Romania's trade pattern has marginally changed.* Although sales of low valued-added goods in clothing, footwear and furniture continued to represent the mainstay of Romanian exports, their share of the total fell to 36.2% in 2002 from 37.4% in 2001. The share of machinery exports continued to increase reaching 21.2% in 2002 from 19.9% in

2001 - largely thanks to rising sales of electrical machinery. These trends continued during the first half of 2003. In terms of consumer price inflation, the real effective exchange rate depreciated by just above 1% in the first half of 2003 after appreciating by nearly 3% in 2002. In terms of unit labour costs, however, the real effective exchange rate depreciated by more than 6% in 2002 and by roughly the same amount in the first half of 2003 relative to the same period in the previous year.

## **2.4 General evaluation**

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

Further progress towards macroeconomic stability was made as inflation continued to decline from a relatively high level despite further adaptations of regulated prices. The external position remained sustainable and fiscal policy prudent. Measures to improve tax administration are being progressively put into place. The commitments to control the total wage bill in the public sector were broadly respected and some actions were taken to enforce enterprises' financial discipline, most notably a somewhat higher disposition to disconnect energy users in arrears. Privatisation and restructuring of public enterprises accelerated. Public ownership also decreased in a banking sector that continued to develop its intermediation role. Administrative improvements of market entry and exit mechanisms were undertaken along with various initiatives to improve the business environment.

The authorities should now consolidate the progress achieved in these areas while addressing more decisively those issues where advances were insufficient. In order to preserve the momentum towards greater macroeconomic stability, the recent tightening in monetary policy should be accompanied by prudent fiscal and wage policies as well as by a continued reduction in the quasi-fiscal deficit. Medium-term fiscal prospects also need to be strengthened by advancing expenditure reform and improving tax compliance. This would help strengthening enterprise financial discipline which remains a key, unresolved issue. Measures should focus on the root causes of the continued accumulation of arrears to the budget and the energy sector. Efforts to improve the workings of the market mechanism must be completed by a greater willingness to liquidate loss-making enterprises and establish natural gas prices that appropriately reflect short and long-term costs. Having moved beyond the initial phases, restructuring and privatisation in key sectors, such as energy, mining and transport, must be brought forward. This would greatly 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.

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

This section addresses the question of Romania's ability to assume the obligations of membership – that is, the legal and institutional framework, known as the *acquis*<sup>7</sup>, by

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

means of which the Union implements its objectives. Alongside an evaluation of relevant developments since the 2002 Regular Report, this section seeks to provide an overall assessment of Romania's ability to assume the obligations of membership, and of what remains to be done. It also provides, for each of the negotiating chapters, a summary evaluation of the extent to which commitments made in the negotiations have been implemented, as well as an overview of transitional arrangements that have been granted.

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

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

The Copenhagen European Council in December 2002 underlined again the importance of judicial and administrative reform in the candidate countries, stating that this will help bring forward overall preparation for membership. Building on the assessment of Romania's administrative capacity provided in the 2002 Regular Report, the present Report seeks to add further depth and detail, focusing on the main administrative structures required for implementing the various aspects of the *acquis*.

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

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

In the 2002 Regular Report, the Commission found that:

*"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.*

### 3.1 Chapters of the *acquis*

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

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

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

In the area of **horizontal and procedural measures**, in August 2003 Romania adopted legislation aiming at further alignment with the *acquis* on conformity assessment. It also transposed Community legislation concerning the exchange of information on standards and technical regulations in January 2003. Efforts to improve Romania's administrative capacity for the implementation of horizontal and procedural measures and sector specific legislation have continued during the reporting period. In May 2003 the Romanian Accreditation Body (RENAR) was evaluated by a team from European Accreditation, to prepare for the signing of multilateral agreements in three areas (accreditation of test laboratories, accreditation of quality management systems certification bodies and accreditation of product certification bodies). The Romanian standardisation institution has continued its programme of transposing European standards, having so far transposed more than 70% of European standards.

Progress has continued over the reporting period from the viewpoint of the institutional network. The "Inter-Ministerial Committee for Market Products and Services Surveillance and Consumer Protection" has improved co-operation in the field of market surveillance with additional clarification of sector responsibilities for certain areas of the *acquis*. The Consumer Protection Authority has been formally identified as the national contact point for the transitional system for Rapid Exchange of Information (TRAPEX). The Authority signed protocols with the Romanian Agency for Energy Conservation and with the Labour Inspection in July 2003 to improve market surveillance activities. A co-operation protocol between the Consumer Protection Authority and the customs administration regarding product conformity checks on external borders was signed in late 2002.

In the areas covered by *new approach directives*, progress noted last year regarding the adoption of **sector specific legislation** has continued at an accelerated pace. The main sectors concerned by this progress are low voltage equipment, electro-magnetic compatibility, radio and telecommunications terminal equipment, simple pressure vessels, pressure equipment, appliances burning gaseous fuels, lifts, cableway installations, recreational craft, toys, medical devices, construction products and explosives for civil use.

As regards sectors covered by *old approach directives*, continued 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 of implementing legislation regarding motor vehicles accessing public roads. Progress can



also be reported with legislation on cosmetics. Substantial legislation has been adopted transposing Community legislation in the field of dangerous chemical substances, including good laboratory practice. Romania has also set up a National Agency for Dangerous Chemical Substances and Preparations, and has made progress in adopting implementing legislation in the area of drugs precursors.

As regards food safety and foodstuffs legislation (*see also Chapter 7 - Agriculture*) the majority of the transposed vertical foodstuff directives entered into force in September 2002. Remaining transposed legislation on foodstuff labelling, food additives for human consumption, sweeteners, flavourings and extraction solvents have entered into force in the course of 2003. In the area of food safety Romania has transposed legislation setting the general principles for official control of foodstuffs, foodstuff hygiene, including the introduction of HACCP (hazard analysis and critical control points), and good laboratory practices.

In the field of food safety a high number of ministries are still involved. A decision to set up a National Food Safety Authority was taken in August 2003, although the Authority has still to be established. In the interim period a co-operation protocol was agreed between the institutions involved in the area of control and inspection of the food chain. The Ministry of Agriculture, which is the lead ministry in this area, has made some efforts to improve staffing but there is still a lack of non-veterinary scientific staff in the laboratory network. A wide range of training programmes has been carried out for inspectors and control officials.

Overall administrative capacity to implement the *acquis* on industrial products has continued to improve over the course of the last year.

Since the last Regular Report, some progress has been made in the **non-harmonised area**. Legislative screening for elements in conflict with the principle of free movement of goods has begun and produced its first results in March 2003. The Romanian authorities have also drawn up a timetable for the abolition of measures identified as possible trade barriers. Romania has also formally committed itself to abolishing its system of automatic import licences by the end of 2003. No progress can be reported as regards the introduction of mutual recognition clauses in product legislation.

There have been no developments regarding transposition of the *acquis* on firearms. In March 2003, Romania adopted legislation to transpose the *acquis* relating to the return of cultural goods which have been unlawfully removed from the territory of a Member State.

Romania has already attained a satisfactory level of alignment with the *acquis* on **public procurement** legislation. Developments over the reporting period have been confined to implementing legislation on electronic procurement, defence procurement, and public-private partnership in the transport sector. These texts will require some further adjustments. The internal preference margin is being reduced in line with Romania's commitment to completely eliminate them by January 2005.

### *Overall assessment*

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 and CENELEC. Particular attention should be paid to improving market surveillance.

Although Romania has indicated that it has implemented most new approach directives, several implementing texts have been found to be not fully in line with EU legislation. As regards sector-specific legislation for areas covered by old approach directives, further steps are required in most sectors to complete alignment with the *acquis*. Overall, the capacity of the administration to design legislation on free movement of goods is limited and should be reinforced. Further efforts are also required to improve overall administrative capacity to implement the *acquis* on industrial products which, despite continuing improvement, requires reinforcement.

Institutional weaknesses concerning control authorities and laboratories remain and affect the implementation of the *acquis* on food safety. Particular efforts 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, continues to impede the necessary improvement of the control services in this field.

In the non-harmonised area, the Romanian authorities should ensure that all legislation in conflict with the principle of free movement of goods is identified and amended by the date of accession. Adherence to the principle of mutual recognition must be ensured by the date of accession by means of either a general framework law on mutual recognition, or otherwise by integrating a mutual recognition clause into each piece of relevant Romanian legislation on goods.

To improve safety checks on products at external borders, Romania needs to establish and reinforce customs and market surveillance infrastructure as well as develop effective administrative co-operation between competent authorities.

Romania has achieved a high degree of alignment with the *acquis* in the area of public procurement. Only limited fine tuning is necessary concerning primary legislation (e-procurement, procurement for defence purposes and public private partnership in the transport sector). Greater efforts should be devoted to strengthening administrative structures and their implementing capacity, in particular the Unit of Public Procurement Regulation and Monitoring within the Ministry of Finance. The allocation of responsibilities should be clarified and a long-term strategy defined.

### *Conclusions*

Since the last Regular Report, Romania has continued to make progress, most notably with regard to the transposition of sector-specific legislation and further alignment in the area of public procurement.

Legislative alignment and administrative capacity in this chapter are steadily improving. Attention must be paid to developing the necessary administrative capacity to implement the *acquis*, including market surveillance and the capacity to administer the public

procurement *acquis*, the foodstuffs and food safety *acquis*. Romania should continue screening for measures that may be incompatible with the principle of free movement of goods.

Negotiations on this chapter have been provisionally closed. Romania did not request any transitional arrangements and is generally meeting the commitments made in the negotiations.

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

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

Concerning **mutual recognition of professional qualifications** the National Centre for Recognition and Equivalency of Diplomas (CNRED) within the Ministry of Education, Research and Youth was appointed as the national co-ordinator for the general system of recognition in December 2002. In the same month the Service for Recognition of Professional Qualifications and Continuous Training of Health Professions was established within the Ministry of Health, its main task being to recognise the qualifications of doctors, dentists, pharmacists, nurses and midwives. Further alignment with the sectoral directives on medical professions has been achieved through an agreement on minimum requirements for new curricula, which will be introduced starting with the academic year 2003/2004. The universities will also provide supplementary training programmes for graduates in medical professions. In July 2003 the Ministry of Labour, Social Solidarity and Family designated the Labour Migration Office as competent authority for the recognition of professional qualifications on the basis of professional experience acquired in another Member State.

In the area of **citizens' rights**, Romania amended its Constitution in October 2003 and established the legal basis for legislation granting the right of EU citizens to participate in local elections and elections to the European Parliament. Legislation on the regime applicable to foreigners was adopted in December 2002. However, the new provisions will cease to apply to EU citizens upon accession and therefore do not meet the objective of alignment with the *acquis* on the right of free movement and residence.

As regards the **free movement of workers**, legislation adopted in January 2003 implies that EU citizens do not need work permits for themselves and their families. However, there remains a measure of discrimination as they can only be employed if a vacancy cannot be filled by a Romanian. In February 2003, provisions regarding equal treatment in trade union matters were included in the law on trade unions.

The National Agency for Employment has continued training activities for its staff and started to restructure its computer system to prepare for future participation in the European Employment Services (EURES) network. In addition, the agency has included a language-training component in its training strategy to ensure sufficient language proficiency by the time of accession.

With regard to the future co-operation of social security systems, in November 2002 legislation on the organisation and functioning of the health insurance system was adopted and some progress has been made with regard to the development of the required administrative capacity. The National Health Insurance House established a special commission to co-ordinate social security systems, consisting of representatives from

various government bodies, which is responsible for the negotiation and implementation of bilateral social security agreements. Bilateral social security agreements were ratified with Turkey and the Czech Republic in October 2002 and March 2003 respectively.

### *Overall assessment*

Although Romania has taken additional steps to align its legislation with the Community rules on mutual recognition of professional qualifications, its preparation for implementation of the *acquis* is still at an early stage. Romania should enhance its efforts to introduce the necessary administrative structures as well as the education and training programmes needed to guarantee the level of competence among qualified professionals required by the directives in this field. Moreover, Romania should take measures to ensure that its professionals can meet the requirements laid down by the *acquis* and can benefit from professional recognition throughout the EU from accession, in line with the procedures applied in previous accessions.

By accession, Romania will have to ensure that national legislation complies with the *acquis* on citizens' rights, in particular with respect to nationality, residence and language requirements. By then Romanian and non-Romanian EU nationals should also receive the same treatment concerning access to education, including tuition fees.

In the area of free movement of workers, the new legislation on the regime applicable to foreigners has brought some clarification as regards visa and residence requirements for self-employed persons. However, the amendment to the law on work permits has also introduced additional discrimination for migrant workers and their family members on grounds of nationality.

Preparatory measures for the future co-ordination of social security systems are at a very preliminary stage. Romania should develop administrative capacity, in particular in relation to training and reinforcement of staff who will be responsible for the application of EU provisions on social security as from accession. Romania needs to ensure the necessary financial stability in order to meet the additional costs arising from the application of EU provisions, in particular in the health care field. Furthermore, Romania is encouraged to conclude further bilateral social security agreements, in particular with Member States as they normally rely on the same principles as the EU rules in this field.

### *Conclusion*

In the reporting period Romania has made some progress as regards mutual recognition of professional qualifications for medical professions. Romania has removed some restrictions to allow the free movement of workers and their family, but at the same time introduced the rule that EU nationals can only be employed if a vacancy cannot be filled by a Romanian.

Preparation for implementation of the *acquis* on mutual recognition of professional qualifications is still at an early stage and accelerated progress needs to be made, in particular as regards curricula and training requirements. Additional efforts should also be focused on ensuring that national legislation is in line with EU rules on nationality, residence and language. Attention should be paid to the development of appropriate administrative structures and to financial stability with respect to Romania's future obligations resulting from the co-ordination of social security systems.

Negotiations on this chapter continue. Romania has not requested any transitional arrangements in this area although it has provisionally agreed to a transitional arrangement in respect of the free movement of workers. 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.

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

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

Over the reporting period, the Romanian authorities continued the screening of the legislation for compliance with the principles of the EC Treaty concerning the identification of barriers against the **right of establishment and the freedom to provide services**. While focus was initially put on discriminatory measures, a second stage will cover non-discriminatory measures and the jurisprudence of the European Court of Justice. So far 20 barriers to trade in areas such as transport, leisure, commercial or self-employed activities and medical services have been identified and a timetable for their removal has been drawn up.

In June 2003 and in December 2002 respectively, an Order of the (former) Ministry of Tourism and a Government Decision abolished language and citizenship requirements imposed on travel agencies and tourist guides. No significant developments can be reported concerning the freedom of establishment and the freedom to provide services for craftsmen, traders and farmers. Romanian legislation on self-employed commercial agents still requires residence in Romania.

In the area of **financial services**, a gradual strengthening of overall supervision in the sector was recorded, but progress in aligning Romanian legislation with the *acquis* remained limited. All supervisory bodies have issued additional implementing legislation and an action plan was drawn up in April 2003 to address shortcomings in alignment with the *acquis*.

With regard to the *banking sector*, the National Bank of Romania (NBR) has the competence for the licensing of credit institutions, foreign bank subsidiaries and branches, for issuing banking regulations and for prudential supervision. The Board of the National Bank of Romania approves annual plans for on-site inspections, which are carried out at least once a year for each bank. Targeted examinations may be included as well in the annual plans. Legislative developments in banking services were confined to issuing implementing legislation, notably on the minimum capital of banks and foreign banks' branches, on transactions performed by means of electronic payment instruments and on the merger and splitting-up of credit co-operatives.

The Insurance Supervisory Commission is the competent authority to regulate the *insurance sector*. Numerous implementing measures have been adopted, notably on third-party liability motor insurance and on conditions for drawing up annual financial reports. The law on insurance companies and insurance supervision was amended in March 2003 with a view to further alignment with the *acquis*.

With regard to the *investment-services and securities markets*, the National Securities Commission, the supervisory body in charge of securities market supervision, initiated a reform to replace the existing framework laws with new regulations. This initiative is

aimed at bringing it into compliance with the EC rules, but still only limited progress has been made since the last Regular Report. Implementing legislation was adopted on public offer and on the authorisation and functioning of financial investment services companies in August 2003 and on regulated commodities exchanges markets and financial derivative instruments in December 2002.

The transposition of the *acquis* concerning **the protection of personal data and the free movement of such data** attributes the role of supervisory authority for personal data protection to the Directorate for Data Protection within the office of the Romanian Ombudsman. In June 2003 a decision was taken to increase the number of positions within the Directorate from 13 to 20 persons. Throughout the reporting period, the Ombudsman has continued to pass implementing legislation. According to the Ombudsman it has registered 458 notifications of personal data processing until October 2003 (compared to 211 for the whole of 2002) and 32 notifications of transfer of such data abroad. A total of 527 personal data operators have been registered over the same period (303 in 2002).

With regard to **information society regulations**, implementing legislation in the field of electronic commerce has been approved referring to electronic currency issuing, payment instruments and insurance as part of information-society services.

### *Overall assessment*

The process of screening Romanian law is well underway and some measures have been taken to eliminate discriminatory restrictions placed against the right of establishment and the freedom to provide services. Nevertheless, draft legal texts submitted to the Commission suggest that provisions incompatible with the principle of free provision of services continue to be included in new Romanian legislation.

As regards financial services, the regulatory framework for the banking sector is in general further advanced than those for the securities and insurance sectors. Particular attention should be given to the transposition of EC legislation on capital adequacy, financial conglomerates and the winding up of credit institutions, as well as branch accounts and electronic money, and to implementing supervisory practices in those fields.

Legislation in relation to the insurance sector lacks precision, and both implementing provisions and the decisions of the Romanian Insurance Supervisory Commission are not always consistent over time. Substantial further amendments and new implementing measures will be required to fully align Romanian legislation with the insurance *acquis* - these are planned in several steps until 2006.

There are various outstanding legislative issues that need to be further revised by the National Securities Commission, in order to align them with the *acquis*, for example as regards current provisions on initial capital levels and double authorisations. On the enforcement side, no specific procedures have been developed to define the interaction between off-site and on-site inspections and there is no risk-based approach to supervision. The directive on financial collateral remains to be transposed.

As regards administrative capacity, the National Bank of Romania has adequate numbers of qualified staff and management capacity. The human resources of the Insurance Supervisory Committee should be further strengthened through the provision of training.

The internal structure of the National Securities Commission is rather hierarchical and rigid, causing delays in the decision-making process. Furthermore, its staffing levels are insufficient and training should be reinforced. Particular attention should be given to reinforcing the staff devoted to day-to-day supervision and enforcement.

Concerning the protection of personal data, there is only a very low level of enforcement on the part of the Directorate for Data Protection, and the Romanian Data Protection Act is not yet fully aligned with the *acquis*. In addition, there appears to be a low level of public awareness about individuals' rights in this area, as indicated by the low number of petitions, complaints and requests for consultations in the record book of data processing operations received by the Ombudsman.

As regards information-society services, the main focus has been on further developing the Romanian electronic public procurement system, which is now mandatory for the majority of public institutions.

### *Conclusion*

Since last year's Regular Report, Romania has made further progress in this area. The work to identify barriers against the right of establishment and the freedom to provide services has continued, but only a few restrictions have been removed so far. While Romania's banking legislation is being progressively aligned with relevant EC legislation, transposition in the insurance and securities sectors has seen only limited progress.

Romania should focus further efforts on concluding the screening of legislation in the area of non-financial services. The institutional framework of financial supervision should be further improved and alignment of legislation pursued, in particular as regards securities and insurance supervision. The Data Protection Act should be fully aligned with the *acquis*, with special attention paid to implementation and to improving level of public awareness.

Negotiations on this chapter continue.

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

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

As regards **capital movement and payments**, in September 2002 the National Bank of Romania issued a circular that will introduce a significant liberalisation of the controls on capital account outflows as of January 2003. The transactions covered by this circular include trading by residents in foreign securities, short-term financial loans and credits obtained by residents from non-residents, financial loans and credits (including personal loans granted by residents to non-residents) as well as guarantees granted by residents to non-residents. This round of measures is in line with the National Bank's timetable for the liberalisation of certain transactions by 2004. A number of regulatory controls on cross border capital movements were also abolished in February 2003. The controls abolished include stipulations on the repatriation of foreign exchange earnings, the prohibition of counter-trade without prior government authorisation, and ceilings on the foreign exchange exposure of domestic banks.

In the area of foreign direct investment, a new version of the Law on Mines entered into force in March 2003 repealing sector specific restrictions obliging license holders to give priority to the use of local workforce and equipment. In February 2003 legislation was adopted allowing the Privatisation Authority to convert golden shares in companies in its portfolio into ordinary shares although there is no obligation to do so. The constitutional amendment adopted in October 2003 removed the prohibition on the acquisition of real estate by non-nationals.

No particular developments can be recorded with regard to **payment systems**.

An amendment to the Anti-Money Laundering Law entered into force in December 2002. It is intended to bring Romanian legislation into line with the *acquis* concerning the prevention of the use of the financial system for the purpose of **money laundering**.

### *Overall assessment*

Current legislation remains ambiguous regarding restrictions on inward investment and is open-ended as concerns undefined sectors, where prior authorisation can be imposed through “special laws”. At present, the purchase of real estate by non-nationals is not allowed (although companies established in the country can, even if wholly foreign-owned, buy land for the conduct of business). Further legislation will therefore be needed in order to follow up the constitutional amendment and align with the *acquis*.

The new inter-bank payment and settlement system is still not fully operational. Much of the *acquis* on payment systems remains to be transposed, including the introduction of effective redress procedures for the settlement of disputes between banks and customers. The payment infrastructure also has to be improved.

The National Bank of Romania regulates and operates exchange controls and oversees the payment system. The staff and administrative capacity of the National Bank is sufficient 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 operational and the increase in its investigative activities has been noticeable. The Office has introduced important measures concerning the reporting obligations of financial institutions. This Financial Intelligence Unit needs further strengthening. Inter-agency co-operation between responsible bodies should also be reinforced.

Following the ratification of the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime in 2002, the amendment to the Anti-money-laundering Law is intended to ensure compliance with the recommendations of the Financial Action Task Force.

### *Conclusion*

Progress has been made since the last Regular Report with respect to cross-border capital flows.

The general level of alignment with the *acquis* in this chapter is steadily improving but considerable further efforts are required in all areas. Administrative capacity is essentially



good within the National Bank of Romania but requires further strengthening as regards payments systems and the control of money laundering.

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

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

### *Progress since the last Regular Report*

With regard to **company law**, in December 2002 EC legislation on cross-border insolvency was incorporated into Romanian law and an "anti-corruption" package of legislation was adopted in April 2003, which included major elements of the company law *acquis*.

In October 2002, the trade registers, which had been previously attached to the Chamber of Commerce and Industry, were transferred to the National Office of the Register of Commerce, a newly established body subordinated to the Ministry of Justice. The offices of the registers of commerce are now attached to courthouses and staffing has been slightly increased.

**Accounting** and auditing requirements in Romania are progressively moving towards compliance with international standards and EC directives. The number of financial auditors has substantially increased during the reporting period from 1 400 in 2002 to 1 854 in mid-2003, out of which 334 were legal persons. Training courses were organised for accountants and auditors by the School of Public Finances within the Ministry of Public Finance and the Chamber of Financial Auditors. In addition, a new Consultative College of Accountancy was established in December 2002, which will organise additional training activities and will have an advisory role in the process of drafting sector-specific accounting rules.

In the area of **industrial and intellectual property rights**, the process of further alignment with the *acquis* has continued slowly since the last Regular Report.

No significant developments can be reported with the transposition of EC legislation on intellectual property rights. As regards enforcement, the Romanian Office for Copyright (ORDA) signed a protocol for co-operation with the Border police General Inspectorate in May 2003, which supplements existing protocols with the Police General Inspectorate and Customs. In July 2003 a government decision on the organisation and functioning of ORDA was adopted, which increased the number of staff to 61. Furthermore, working groups were organised under the General Prosecutor's Office aimed at improving law enforcement.

The Romanian office for Inventions and Trademarks (OSIM) signed a Memorandum of Understanding with Chamber of Commerce and Industry, with the objectives of raising

awareness among business circles in Romania and disseminating information. In June 2003 OSIM signed a co-operation agreement with the Bulgarian Patent Office. Amendments to the Law on Industrial Design were adopted in November 2002 in order to further align with the *acquis* in the area of industrial property rights. Progress was also made with the adoption of implementing legislation, in particular with regard to the *acquis* on the protection of bio-technological inventions. In March 2003 Romania acceded to the European Patent Convention.

During the reporting period, the provisions of the **Regulation replacing the Brussels Convention** on jurisdiction and enforcement of judgements in civil and commercial matters have been incorporated into national legislation. As regards the **Rome Convention** on contractual obligations, Romania has indicated that as of the date of accession to the EU it will be able to apply the rules without any further amendments to Romanian private international law (*see also Chapter 24 – Cooperation in the field of justice and home affairs*).

### *Overall assessment*

Over the reporting period, Romania has made significant progress towards transposing most of the Community *acquis* in the area of company law. However, there have been credible reports of cases where business registers did not make financial statements of listed companies publicly available. The registers do not therefore fulfil one of their basic functions and *de facto* Romania does not consistently comply with the Community *acquis* which it has already transposed.

As regards accounting, Romania is working towards full compliance with International Accounting Standards and International Standards on Auditing, except for micro-companies. The main concern in this field is the limited availability of suitably qualified accountants and auditors. In addition, there are no well-established mechanisms to enforce accounting and auditing standards, either by regulators (Ministry of Finance, National Bank of Romania, Insurance Supervisory Commission, National Securities Commission), business registers or Bucharest Stock Exchange.

Particular attention should be given to ensuring that both the Consultative College of Accountants and Chamber of Financial Auditors have sufficient resources to support the implementation of the new standards, in particular by providing training and advice to their professions.

Concerning copyright and related rights, important aspects of the *acquis* remain to be transposed: the protection of databases including *sui generis* protection, artists' resale rights, and the protection of certain aspects of copyright and related rights in the information society (in particular, the rights of reproduction and communication to the public and the protection of technological measures and rights management information).

Alignment is also needed with regard to certain aspects of the EC legislation on satellite broadcasting and cable retransmission.

Piracy and counterfeiting are still a serious problem in Romania and the fight against these crimes should continue to be a priority. Administrative capacity is insufficient to ensure effective enforcement of intellectual property rights legislation, which remains a major challenge for Romania. Border controls need to be strengthened and co-ordination

between competent authorities including customs, police and judiciary should be improved.

### *Conclusion*

Since the last Regular Report Romania has made progress in the field of company law as such. As regards the protection of industrial and intellectual property rights only limited progress can be recorded (accession to the European Patent Convention and the adoption of legislation on industrial design).

Romania should focus further efforts on ensuring correct implementation of the *acquis* on company law, in particular as concerns basic functions of the trade registers. New accountancy standards have been introduced, but there are neither enough sufficiently qualified accountants to implement the legislation nor mechanisms to enforce it. Further alignment with the *acquis* on intellectual property rights should be pursued. Piracy and counterfeiting remain 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. Special transitional rules will apply in relation to pharmaceutical product patents: involving the non-applicability of Community exhaustion to certain exports from Romania; the granting of supplementary protection certificates for medicinal and plant protection products; and the extension of registered or pending Community trademarks to the territory of Romania. Romania is generally meeting the commitments and requirements arising from the accession negotiations on this chapter.

### ***Chapter 6: Competition Policy***

In the **anti-trust** sector, the adoption of sector-specific regulations and guidelines is under way and amendments to the Competition Law are in the process of adoption. To take account of the level of domestic inflation the *de minimis* threshold (below which anti-competitive practices are deemed to be too unimportant for inducing market distortions), and the threshold of the aggregate turnover of undertakings participating in mergers and acquisitions (beyond which notifications become mandatory), were revised in December 2002.

The Competition Council, which is the national decision-making authority, has continued to develop its anti-trust enforcement record over the reporting period. In 2002 the Competition Council adopted 219 anti-trust decisions, including restrictive agreements (43), abuse of dominant positions (19) and merger control (157). These decisions led to 16 prohibitions (12 with fines).

In the area of **state aid**, multi-sectoral regulations as well as regulations on guarantees, risk capital and transparency of public undertakings were adopted. In January 2003 a set of new regulations on regional aid, state aid for small and medium-sized enterprises, rescuing and restructuring aid, environmental aid and training aid entered into force. A regulation on the sale of land and buildings by public authorities entered into force in July 2003. Amendments to the law on state aid are currently being discussed in Parliament. The Annual State Aid Report for 1999-2001 was submitted.

The Competition Council, which is also in charge of state aid control, adopted 62 state aid decisions during 2002, which represents an increase compared to the previous year. However, no negative decisions were taken and no ex-officio actions were carried out. Several measures were taken to reinforce co-operation between the Competition Council and the aid granting authorities. Measures were also taken to ensure greater respect of the *ex ante* notification obligation. These include the setting-up of an inter-ministerial working group and training for state aid granting authorities and other regulatory bodies.

Romania submitted a steel restructuring programme to the Commission. Aid for restructuring the steel industry can only be given if both the national restructuring programme and the restructuring programmes of individual 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).

No significant progress was made developing the administrative capacity of the Competition Council. A separate state aid department became operational at the beginning of 2003, but overall staffing levels have remained almost unchanged and need to be reinforced.

### *Overall assessment*

As regards anti-trust, Romania's performance is satisfactory and its legislation is broadly in line with the *acquis*. The Competition Council should be further strengthened through targeted, advanced-level training. In view of the forthcoming modernisation and decentralisation of the application of the EC anti-trust rules, specialised training for the judiciary should also be provided. The anti-trust enforcement record of the Competition Council is largely satisfactory. Further efforts should be made to implement sanctions that carry greater deterrence and to put more emphasis on preventing serious distortions of competition.

As regards state aid, control mechanisms are still insufficient. The law on state aid provides a procedural framework and the Competition Council has broad powers to enforce state aid rules - but these powers need to be exercised and as yet no decision has been taken on non-notified or existing aid. The Competition Council needs to enhance its expertise in the area of state aid and to improve the quality of its state aid decisions. The current implementing legislation does not fully reflect the *acquis* and therefore transposition of substantive rules needs to be continued.

There have been small improvements in the co-operation between the Competition Council and aid-granting authorities and this should be further developed. It remains to be seen if the planned re-organisation of the two competition authorities will clarify the overlapping competences of the Competition Office and the Competition Council. Awareness-raising and training activities should continue. All legislative instruments allowing the granting of state aid need to foresee notification and approval by Competition Council before any state aid is awarded. Annual reports have been submitted for the years up until 2001, and the quality of the latest reports has improved. Nevertheless, further improvements are necessary in order to make sure that the report and inventory are comprehensive, in particular as regards fiscal aid measures.

Efforts need to continue to ensure *ex ante* notification and proper assessment of all new measures, including legal acts, fiscal exemptions, payment deferrals (tax, social security,

debts) and measures in connection with privatisation and restructuring. Payment deferrals and debt cancellation to public companies, in particular towards energy suppliers, should also be checked for possible state aid elements. The Competition Council needs to start the assessment of all existing aid measures and to ensure that these measures are brought in line with the law, in particular in the field of fiscal aid. Aid to so-called sensitive sectors, including the coal sector, must be fully controlled (in particular as regards restructuring).

In the steel sector, transparency with regard to direct and indirect state aid, as set out in Protocol 2 to the Europe Agreement, must be respected. Comprehensive viability plans for individual enterprises need to be further elaborated and the national steel restructuring plan should be updated.

### *Conclusion*

Romania has made further progress in the areas of both anti-trust and state aid over the reporting period.

Romanian competition legislation is broadly in line with EC anti-trust rules, although in the area of state aid sufficient controls are not yet present. The quality of state aid decisions has to be improved and awareness of the main state aid principles remains low among state aid granting authorities. Romania should strengthen the position of the competition authorities vis-à-vis the aid granting authorities. Particular attention must be paid to addressing questions of alignment of incompatible state aid schemes and the enforcement of competition rules in respect of non-notified aid schemes and existing aid. Romania should also ensure that timely notification is given of plans to grant state aid to steel companies and that there is transparency vis-à-vis the EU of aid measures in favour of these companies.

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

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

### *Progress since the last Regular Report*

In 2002, agriculture accounted for 13% of Romania's gross value added as opposed to 14.6% in 2001<sup>8</sup>. Agricultural employment represents 37.7% of the national labour force and around 66.7% of the rural labour force<sup>9</sup>.

Unfavourable weather conditions in 2002 and 2003 led to a steep drop in the production of grains from 18.9m tonnes in 2001 to 14.4m tonnes in 2002. Final figures for 2003 are not yet available, but the harvest is said to be the lowest in the last 50 years. The decline in grain production is mirrored in other crop sectors with the only exceptions to the trend being oil grains, sugar beet, and potatoes. The Government national recovery programme for livestock has reversed the decrease in the national herds in most major species.

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<sup>8</sup> The source for all agricultural statistics is EUROSTAT unless otherwise specified.

<sup>9</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 2002, whilst overall agricultural trade<sup>10</sup> between Romania and the EU increased, this was accounted for by growth in EU exports – Romanian exports to the EU actually fell. As a result, the trade balance in favour of the Community amounted to €240 million (compared to €167 million in 2001). EU imports were again dominated by live animals, vegetables and oilseeds. Meat, essential oils, fruit, and hides and skins were the main export goods from the EU.

The 2003 state budget allocated to agriculture and forestry is ROL 14.1 thousand billion (€439 million) and was supplemented with ROL 3.7 thousand billion in August 2003. 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 change in focus of agricultural policy that was initiated during the last reporting period has been maintained over the past year. The direct payment system for several agricultural crops and a premium system for animal products were the main support schemes to Romanian agriculture throughout the 2002-2003 marketing year. In August 2003 a direct support scheme for small farmers was established. The scheme is expected to benefit approximately 4.4 million farmers and with a total budgetary cost of ROL 13.2 thousand billion will almost double the state budget for agriculture. Over the past year an additional support scheme involving the free distribution of fertilisers to small farmers has been introduced. Operating aids to support production are also provided under a law on agricultural credit adopted in 2003. The extra-budgetary fund “Development of Romanian Agriculture” was discontinued in 2003 and all direct support schemes are now managed via the state budget. Romania has taken the decision to establish a Paying and Intervention Agency responsible for the implementation of support programmes in agriculture, rural development and fisheries.

Over the reporting period Romania has adopted an Agriculture and Rural Development Strategy for accession to the Community. The strategy is comprehensive in terms of identification of the changes required to comply with the Common Agricultural Policy, and contains a list of measures needed to adapt current policies, structures, and legislation along with a detailed timetable for these measures covering the period 2003-2006. The strategy should also take into consideration the Common Agriculture Policy reform decision of June 2003.

Since the last Regular Report, the privatisation of state owned farms has continued.

Restitution of both agricultural and forested land has continued over the reporting period. The legal framework for land restitution was amended in 2001 and this has led to an acceleration of the pace of restitution. Of the 11.92 million hectares to be restituted to private ownership, 88.3% has been returned (10.5 million ha).

### **Horizontal issues**

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

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<sup>10</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.)

Some progress has been made with preparations to establish the *Integrated Administration and Control System (IACS)*. A service entitled the IACS management unit has been established within the Ministry of Agriculture, Forestry, Waters and the Environment although this unit has limited staff and resources. A pilot project was launched in June 2003 for the setting up of LPIS (Land Parcel Identification System). There has been no significant progress in developing a computerised database or with the introduction of an alphanumeric system for parcel identification. However, good progress has been made in adopting the legal framework for the identification and registration of animals. Transposition of Community legislation on animal identification and movement controls is partially complete for bovines but further work is required as regards pigs and small ruminants.

As regards *trade mechanisms*, over the reporting period Romania has started preparation of a security system for agricultural products.

On *quality policy*, two lists of protected geographic indications for food products and spirits were adopted by Ministerial Orders in May and June 2003.

Following the transposition last year of the greater part of the legal framework for *organic farming* the process of establishing the certification and inspection service in this area has continued. The Romanian Accreditation Association has issued the rules for accreditation and ten inspections and certification bodies have applied for accreditation so far.

There has been further progress in developing the network of returning holdings for the *Farm Accountancy Data Network*. The coverage of the institutional framework has been extended from 18 to all 41 counties and the number of holdings returning data has increased from 203 in 2002 to 616 in June 2003.

The General Agricultural Census was carried out between December 2002 and January 2003.

### **Common Market Organisations**

Following legislation in 2002 on farm organisation, 13 products have been designated as being of “national importance” for the period 2003-2006. The Inter-ministerial Committee for Agricultural Markets is responsible for proposing intervention measures for these products.

During the reporting period, inter-professional organisations have been authorised by the Ministry of Agriculture in the following sectors: sugar, barley and breweries, pork meat and wine. The legal recognition of these organisations allows them to play a significant role in the management of the market organisation for their respective products. A further nine associations are at different stages of the approval process.

With regard to *arable crops*, no significant progress has been made with setting up a system for regular market and price monitoring. However, recently adopted regulations have created the framework for granting licences to grain grading operators. In the second quarter of 2003 Romania abolished the automatic licensing system for the import of cereals but in July it prohibited the export of wheat until July 2004.

For sugar, implementing regulations were adopted regarding EU quality criteria. There has been some progress through the adoption of a legal framework for inter-professional agreements and for the reporting of statistics by the sugar companies.

There has still been no progress in developing administrative structures for the management of common market organisations for *specialised crops*. However, progress has been made towards completing the legal framework for *floriculture, fruit production* and for the designation of origin and protection of geographical indications for *wines* and alcoholic beverages. Ministerial orders based on this implementing legislation have established standards for the production, the control and the quality certification of vineyards, planting materials and zoning of wine varieties. New regulations have also been adopted regarding the denomination, the presentation, and the protection of wine products. Good progress has been made with the setting up of the vineyard register and all vineyards covering areas above 100m<sup>2</sup> must now be notified to the local office of the Ministry of Agriculture but substantial work remains to be done.

No significant developments can be reported as regards *animal products*, but the government livestock rehabilitation programme continued to be implemented successfully.

### **Rural development and forestry**

The Ministry of Agriculture, Forestry, Waters and the Environment is responsible for *rural development*. Current rural development activities mainly consist of providing subsidies for the purchase of agricultural machinery and equipment, and support for the establishment of micro-enterprises and SMEs. Following the conferral of management of aid to the SAPARD Agency for the implementation of three measures in 2002 Romania has made good progress preparing the accreditation of a further three measures. However, the absorption capacity for the SAPARD Community funds needs to be urgently and substantially improved in order to avoid a substantial amount of the SAPARD Community appropriations earmarked for 2000 being de-committed by the end of 2004. (See also Part A.2 of this report – *Relations between the European Union and Romania.*)

As regards *agri-environmental measures*, no significant developments can be reported.

There have been several developments in the *forestry* sector. Romania transposed community legislation regarding fire risks in forests, and approved legislation allowing for the extension of National Forests Fund and allowing for the acquisition of publicly owned forestry land.

### **Veterinary and phytosanitary issues**

Over the reporting period further important progress has been made in terms of transposing the EC **veterinary acquis** in line with the Government's timetable for full transposition and implementation. Since September 2002, 132 veterinary legal acts have been approved in areas such as animal health, animal identification and registration, the control of animal diseases, public health, border inspections and controls, zootechnical and veterinary issues and animal welfare. A Veterinary Committee for European Integration has been established in order to identify changes required in national legislation, to ensure proper transposition of the *acquis* and to identify action required in order to enforce transposed Community legislation.



As regards TSE and animal by-products, while progress has been made additional efforts are necessary to achieve compliance with the *acquis*. In particular, testing of fallen stock is still insufficient, the rendering industry needs to be upgraded, and a total feed ban is not yet implemented. Romania has adopted the legal framework for animal identification and registration, particularly as regards bovine animals. The new legislation, which entered into force in October 2002, lays down the basic principles for the implementation of the *acquis* on bovine identification. Implementing legislation has also been adopted on bovine identification and registration, the labelling of beef and beef products, livestock rearing, ear tags, exploitation registers and bovine passports. The National Sanitary Veterinary Agency has been designated as co-ordinator of the programme for bovine identification and registration.

In January and August 2003, the Government took decisions on the number, location, design and operation of border inspection posts, which will remain in place after accession.

The Government has adopted a decision, which establishes the legal framework for the upgrading of agri-food establishments in the meat, fish and milk sectors.

Steps have been taken to align the Romanian legislation with the Community *acquis* on animal welfare.

There have been no developments with the adoption of a new framework veterinary law.

Efforts have continued over the reporting period to improve administrative capacity. New regulations have been adopted governing the internal management of the Institute for Diagnosis and Animal Health (IDAH). This Institute has been given responsibility for consolidation and simplification of veterinary legislation as well as for training decentralised veterinary services on the enforcement of harmonised veterinary legislation.

The National Sanitary Veterinary Agency has designated the Institute for Diagnosis and Animal Health as the national reference laboratory for a number of animal diseases. In addition to the considerable efforts made to upgrade laboratory services the IDAH was accredited by the Romanian accreditation body RENAR in March 2003. Applications for the accreditation of 10 animal health laboratories are being processed. A number of steps have also been taken to improve disease security in the various laboratories. The introduction of fees by public official veterinary laboratories for analyses has substantially increased the funding of these laboratories. Important financial resources have been allocated for the modernisation of laboratory infrastructure and for covering running costs.

In the **phytosanitary field** Romania continues to make good progress with transposition of the *acquis*. Over the reporting period Romania has continued efforts to harmonise legislation in the field of *plant health (harmful organisms)*. Legislation was adopted on the monitoring process necessary for the establishment of protected zones, the control of the bacteria *Ralstonia solanacearum*, the registration of producers and collective storage and expedition centres.

In November 2002, legislation was adopted regarding the delivery of phytosanitary passports and the import, under derogation, for scientific or varietal selection purposes. The legislation should enter into force in 2004.

In the field of pesticide residue control, the national monitoring programme established by the Ministry of Agriculture now covers cereals, fruits and vegetables.

In the field of seed and planting material the transposed harmonised legislation entered into force at the end of 2002 and the necessary implementing legislation has since been adopted. Romania is in the process of developing the institutional structures necessary to manage and enforce the *acquis*.

The Phytosanitary Directorate of the Ministry of Agriculture, Forestry, Waters and the Environment have continued to organise specific training courses on the enforcement of transposed legislation.

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 measures to deal with BSE. Furthermore, in August 2003 the Government decided to establish the National Food Safety Agency.

### *Overall assessment*

Romanian agriculture is particularly vulnerable to adverse weather conditions because of the sector's structural weaknesses. One of the major problems is the current fragmentation of farmland, which results in farms being too small to undertake the necessary investments and to apply adequate technology. Farms continue to be weakly connected to the market, as processing industries and marketing institutions remain geared towards large-scale institutions rather than the small farms, which now dominate the sector.

The legal measures for restructuring the agricultural sector adopted in 2002 have resulted in a more stable and transparent set of rules for privatisation of state owned farms and development of the sector. However, Romania still needs to adopt a new and coherent state support policy, which should be more targeted at the development of a market oriented agricultural policy and should give much more consideration to rural development. The current direct payment systems in Romania are not compliant with Community rules on state aid and will need to be modified prior to accession.

The adoption of a strategy for progress towards accession in the agricultural sector is a welcome development since it identifies the main steps needed to create the administrative structures required by the *acquis*. Nevertheless, human and financial resources remain scarce when compared to the very tight time schedule for the implementation of the measures identified in the strategy.

Romania has built upon the accelerated transposition of the agricultural *acquis* noted last year. However, the Commission's concern that new legislation in these highly technical fields has not yet been matched by necessary increases in staff and other resources remains. This situation raises doubts as to Romania's capacity to effectively enforce the new laws. The rapid transposition also places great pressure on the agri-industry to comply with new legislation. Communication and awareness-raising as regards the transposition is limited, which reduces the sector's ability to adapt to these changes.

As regards horizontal issues, further efforts are still needed in areas such as land registration, trade mechanisms, 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 has progressed but remains at an 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. The adoption of implementing legislation following the new wine law represents a positive development in the area of specialised crops.

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 dependant services. In the reporting period only financial resources have been increased, but no noticeable improvement in terms of staffing have been made. The capacity of the veterinary administration to enforce the newly adopted legislation still requires further strengthening. In addition, the sanitary veterinary framework law dating from 1974 no longer provides an appropriate legal framework for sanitary veterinary activities. Steps towards creating a reliable animal identification and registration system have been initiated but work on this area must continue. Severe deficiencies still have to be corrected as regards the treatment of animal by-products. As with the veterinary *acquis*, the rapid transposition of phytosanitary legislation has been followed only by the allocation of additional financial resources, but this has not been accompanied by an increase of human resources. However, as in the case of the implementation of the veterinary *acquis* it is vital that efforts in this area continue to ensure sufficient enforcement capacities. As regards the upgrading of agri-food establishments, the evaluation process varies considerably. This questions the viability of the whole process, and specific attention is needed to address this situation.

The reorganisation of some of the bodies dealing with food safety has begun (*see also Chapter 1 – Free movement of goods*).

### *Conclusion*

Further progress has been made by Romania in transposing the agricultural *acquis* and in the restructuring of the agricultural sector, although the farm structure remains largely unfavourable.

A considerable amount of the agricultural *acquis* has been transposed but enforcement is hampered by very limited management and administrative capacity. Important efforts are still required to achieve full compliance by accession as regards Community requirements on food safety and consumer protection.

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.

Negotiations on this chapter continue.

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

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

In the areas of **resource and fleet management** and **inspection and control**, Romania has adopted legislation establishing the species, places and period of fisheries prohibition. Fish farms located in the Danube Delta reserve are however excluded from the scope of this legislation. Legislation governing the organisation of tenders for concessions managed by the National Company for the Management of the Fisheries Resources has been adopted. Inspection operations, under the authority of the Ministry of Agriculture, Forestry, Waters and the Environment in co-operation with the Ministry of Public Administration and the Interior continued to make progress. In the course of 2002, over a thousand infringements were detected and monetary and other sanctions imposed, including the confiscation of 28 fishing boats. Some staff training in maintenance of the register was carried out during the reporting period, but no progress can be reported regarding the connection to the EC fishing vessel register. Scrapping of the last deep-sea fishing vessels was completed.

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

Concerning **market policy**, Romania has adopted a regulation on the sales note as well as marketing standards for fish and other aquatic life intended to bring Romanian legislation into line with the *acquis* in this area. There are now a total of 11 professional organisations within the fisheries and aquaculture sector and the relevant legislative framework has recently been upgraded.

As regards **state aid** to the fisheries sector, a measure was adopted providing for the reimbursement of 55% of the purchase of locally produced equipment by fishermen and fishermen's organisations located in the Danube Delta. Support is also provided to preserve animal genetic heritage including freshwater fish. The only other state aid instrument for the fisheries sector concerns VAT exemptions for diesel oil used in Romanian Black Sea fisheries.

As regards **international fisheries agreements**, Romania has ratified the agreement setting up EUROFISH (International Organisation for the Development of the Fishery Sector in Central and Eastern Europe).

### *Overall assessment*

The Romanian marine fishing fleet has been drastically reduced during the last 15 years.

Romania has made some progress as regards resource and fleet management and inspection, and control. The legislative framework in Romania is largely in line with the *acquis*. However, full implementation of the fishing vessel register is delayed. Control activities have increased but fisheries control in Romania is still weak. No full-time enforcement service exists and the inspectors carry out many other tasks. Control functions are mainly focused on inland waters and there is no control beyond 12 nautical miles in the Black Sea.

Weaknesses as regards administrative structures identified in previous reports have not been addressed. However, following the June Government restructuring, the Directorate

for Fisheries and Aquaculture has been transformed into an office within a wider directorate, with six staff posts of which only three are filled. Only half of the 194 posts in the National Company for the Management of Fisheries Resources are filled. The institutional set-up and administrative responsibilities still have to be clarified. 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.

As far as structural actions are concerned, the rules enabling the use and implementation of Financial Instrument for Fisheries Guidance (FIFG) measures will need to be established.

In the area of market policy, further progress is needed to establish a market-monitoring instrument and to improve the collection of statistics. Development of a research strategy is also a priority.

As regards state aid the most recent scheme introduced by Romania is not compatible with the *acquis* since it introduces subsidies for equipment purchases exclusively of Romanian origin. This situation should be rectified.

Romania is party to several international fisheries agreements. It is a member of the General Fisheries Commission for the Mediterranean and has ratified the amendment authorising an autonomous budget for this organisation.

### *Conclusion*

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

While Romania's legislation is broadly in line with the *acquis*, there have been delays in the implementation of agreed measures, in particular on the fishing vessel register. The competencies of the institutions involved in this sector need to be clarified, administrative capacity should be considerably reinforced and staffing increased. A database on fisheries statistics remains to be set up. Action should also be taken to redress the discriminatory elements of the recently introduced state aid support scheme for the Danube Delta fisheries.

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

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

### *Progress since the last Regular Report*

Rehabilitation of works on **Trans-European Transport Networks** is ongoing. Securing the necessary funding for the road rehabilitation investments continues to be the main limiting factor. An Ordinance was adopted in May 2003 to promote Public Private Partnership.

Further progress has been achieved in harmonising Romanian legislation on **land transport** with the *acquis*.

Over the reporting period, Romania continued to make good progress in the *road transport* sector. The Road Traffic Code was updated, harmonising provisions for driving licenses and the compulsory use of safety belts. Progress has also been made in the field of fiscal harmonisation. As of January 2003, tolls levied for crossing the Giurgiu – Russe bridge no longer discriminate against vehicles registered in foreign countries. Conditions for purchasing the Rovignette (the road user charge) have been simplified for foreign hauliers. Ministerial orders have been approved to fix minimum qualification requirements for road vehicle drivers. Legislation has also been modified to align weight and dimensions limits with those of the *acquis*. The charges for exceeding the admissible total weight, axle load or dimensions have been fixed for the period 2003-2007. Charges for foreign operators are currently twice as high as for domestic operators, although Romania has committed itself to removing all discrimination by 2007. The legislative framework for roadworthiness inspections has been updated and consolidated.

On *railways*, the Romanian Railway Authority has been nominated as the body in charge of assessing the conformity for interoperability. In July 2003 a Government Decision was adopted on interoperability of the conventional rail transport system. Preparation for the implementation of the revised railway *acquis*, including on capacity allocation and charging, is continuing.

Concerning *inland waterways*, a ministerial order of April 2003 updated the technical requirements for inland waterway vessels flying the Romanian flag. It defined an agenda for the gradual implementation of measures to align with the *acquis* by 2007. The Romanian Naval Authority is responsible for control activities. A ministerial order was adopted in February 2003 to transpose EU rules on access to the occupation of carrier of goods by waterways.

As concerns **air transport**, Romania has continued to adopt implementing legislation to align with technical requirements and administrative procedures in the field of civil aviation. A law of December 2002 established a denied-boarding compensation system. A ministerial order on access to the ground handling market at airports was also adopted in December 2002. The national air carrier TAROM has continued to implement its restructuring plan.

Significant progress has been achieved in the **maritime transport** sector, where alignment with the *acquis* is nearly completed. Legislation has been adopted transposing the *acquis* regarding classification societies, vessel traffic monitoring and information systems, Port State Control, marine equipment, bulk carriers and safety rules and standards for passenger ships and ro-ro ferries.

The Romanian Naval Authority is now operational. It has defined an action plan for improving maritime safety and launched a comprehensive inspection programme of Romanian flagged vessels. As a result, a further “cleaning up” of the national shipping registry took place, so that presently only 23 vessels are flying the Romanian flag. However, these recent efforts only resulted in a slight improvement of detention rates in 2002. According to statistics for 2002, under the Paris Memorandum of Understanding the percentage of Romanian flag vessels detained following Port State control was 21.8%, representing a decrease compared with 2001 (23.5%), but an increase compared to 2000 (19.1%). This compares with an average for EU-flagged vessels of 3.5% in 2002. Romania remains on the black list (category ‘very high risk’).

## *Overall assessment*

As regards Trans-European Transport Networks, coherence between the network discussed and agreed with the Commission and the published list of national priority projects will have to be ensured. Procedures for awarding Public-Private Partnership contracts will have to be aligned with the *acquis* requirements. Further strengthening of the administrative capacity is still needed to programme, implement and maintain the significant investments needed.

On road transport, further progress has been achieved in terms of legal alignment. Implementing legislation especially in the technical field remains to be adopted, most notably as regards technical roadside inspection.

Reports from 2002 showed a significant increase in the number of vehicle controls performed. However, these controls mainly focus on checking transport documents and authorisations, rather than on checking the observance of social legislation or of safety rules by transport operators. Efforts to strengthen the administrative capacity to enforce social and technical legislation should be pursued.

Romania is still completing alignment with the revised *acquis* on railways. Part of the interoperability *acquis* still needs to be transposed and existing legislation should be further amended, notably as regards the licensing of railway undertakings, allocation of capacity and infrastructure charges. The major institutional changes required by the *acquis* are completed. The financial situation of the infrastructure and passenger companies remains very weak. Urgent action should be taken to adopt a robust long-term business plan for restoring financial equilibrium in the sector and for modernising passenger operations.

In the inland waterways sector, alignment with the *acquis* is nearly completed, but little progress has been achieved in restructuring the Romanian fleet so far. Romania needs to strengthen its administrative capacity to strictly enforce the legislation.

Good progress has been achieved in aligning legislation on air transport with the *acquis*.

As regards maritime safety, the detention rate of Romanian flagged vessels remained worryingly high as a result of the previous failure to address the issue. The newly established Romanian Naval Authority has made significant efforts during 2003: alignment with the *acquis* has been practically completed, and an action plan has been defined which tackles the problem of high detention from several angles. There are not yet any clear indications, however, on the positive impact that the implementation of these measure may have on the detention rates. Efforts should be sustained to ensure that Romania will meet its objective of removing the Romanian flag from the Paris MoU black list.

## *Conclusion*

Since the last Regular Report, Romania has continued to make progress with the transposition of the transport *acquis* and with the establishment of the required administrative structures.

While Romania has achieved a satisfactory level of alignment with the *acquis*, it should focus further attention on developing institutions able to enforce the new legislation. It should give priority to defining a realistic strategy for securing the funding to make the heavy investments required by the *acquis*.

Negotiations on this chapter continue.

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

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

In the area of **indirect taxation**, some progress was made over the reporting period. Amendments to the *VAT* law introduced VAT exemptions for the leasing and letting of certain immovable property and for the supply of goods and services for the armed forces under the NATO Treaty. The definitions of the place of taxation as regards telecommunication, broadcasting and electronically supplied services have been brought in line with the *acquis*. Measures have also been taken to implement a system of ex-post controls on the management of VAT refunds with the aim of significantly reducing the period for effecting these refunds.

Romania has continued the gradual alignment of *excise duties* for all harmonised product categories although the duty rates currently applied remain well below the EU minima stipulated in the relevant *acquis*. Duty rates on mineral oils were raised as the result of including the road tax into the excise duty. The differentiated taxation levels on beers produced by local and foreign small breweries have been eliminated. Romania started registration and authorisation of tax warehouse keepers in October 2003.

Romania has not introduced any new legislation in the area of **direct taxation**. According to the timetable for gradual phasing out contained in the revised Profit Tax Law of June 2002, the reduced rate of 5% on profits made from exports has been raised to 12.5%.

No substantial progress can be reported on **administrative co-operation and mutual assistance**. Specific training of the staff for the future Central Liaison Office and Excise Liaison Office has started. The Office will become responsible for administrative co-operation with Member States upon accession.

The Ministry of Public Finance has been engaged in a major process of restructuring, aiming to unify the Tax administration under a single department in the ministry. In February 2003 the ministry created the Tax Administration Department. The department integrates the three existing administrations for collection, auditing, and enforcement of social security contributions within the ministry.

In order to improve revenue collection, an Office for Large Taxpayers in Bucharest and Ilfov County was established in January 2003 and staff numbers at the Ministry of Public Finance were increased.

Romania has continued to modernise its tax administration and to improve the revenue collection system. In August 2003 the National Agency for Fiscal Administration was established and will become operational at the beginning of 2004. The Agency's main responsibilities include tax collection, fiscal control, and maintaining taxpayer records. Assistance and information to tax payers have also been further developed. The



implementation of the strategy, adopted in 2002, to improve the administrative capacity of the tax administration has now commenced. The strategy covers the period until December 2006 and will be revised each year.

### *Overall assessment*

Substantial alignment is still required concerning indirect taxation.

Limited legislative progress has been made concerning VAT. Alignment remains incomplete in a number of areas, such as exemptions (with and without the right of deduction), taxable persons, the chargeability of the tax, the place of taxation, imports, payment of VAT, and the introduction of all special VAT schemes under the *acquis*.

While recent legislation on excise duties represents progress, a major effort is still needed (mainly regarding the alignment of the scope of exemptions and the duty rates and structure of all harmonised product categories). Incompatibilities with the *acquis* also concern the rules for the chargeability of the excise duty and on losses and irregularities. The duty suspension scheme, and in particular the provisions on tax warehouses, is in the process of being transposed.

Romania will have to further align its direct taxation legislation with the *acquis*. The review of its tax legislation should be continued in order to eliminate potentially harmful tax measures so as to comply with the Code of Conduct for Business Taxation upon accession to the same extent as current Member States.

Despite the efforts made during the reporting period, the administrative capacity of the Romanian tax authorities remains weak and fraud on VAT refunds is significant. The revenue collection and the refund systems need major improvement and an effective audit system, based on risk analysis, needs to be developed.

The drafting 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, although plans for the VAT Information Exchange System have now been drawn up Romania will need to make extensive additional efforts to complete these tasks and be in a position to meet the obligations of the *acquis*.

### *Conclusion*

Since the last Regular Report, Romania has made some progress in aligning with the *acquis* on taxation as well as with administrative reform.

While Romania has achieved some degree of alignment with the *acquis*, it must maintain the pace of alignment on all areas of the *acquis* and pay particular attention to the reform and modernisation of its tax administration. Action is also needed to improve IT systems.

Accession negotiations on this chapter have been provisionally closed. Romania was granted a transitional period concerning the application of the minimum excise duty levels on cigarettes (until December 2009). Romania was granted a derogation to apply a specific excise duty scheme for distillation by small fruit growers. Derogations were also granted on a VAT exemption for international passenger transport, and a VAT exemption

and registration threshold for small and medium sized enterprises. Romania is generally meeting the commitments and requirements arising from the accession negotiations under this chapter.

## ***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. This 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 by 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. The process of liberalisation of capital movements, upon the completion of which compliance with the EMU *acquis* is conditional, has been covered in the section on *Chapter 4 – Free movement of capital*.

No progress can be reported as regards the **prohibition of direct public sector financing by the central bank**.

No progress was made with the **prohibition of privileged access of the public sector to financial institutions**.

No new legislative developments have taken place in the reporting period concerning the **independence of the central bank**.

### *Overall Assessment*

Upon accession, Romania will participate in EMU without adopting the euro as a currency. It will need to implement the necessary changes to its institutional and legal framework.

Legislative amendments are still necessary as regards the prohibition of direct public sector financing by the central bank, in order to fully align with the *acquis*, in particular in the field of purchase of government securities. Romania has committed itself to introduce the required legislative amendments by the end of 2004.

Further alignment is required with regard to the provisions of the *acquis* prohibiting privileged access of public sector authorities to financial institutions. Romania has committed itself to amending legislation on the functioning of the deposit guarantee fund in the banking system by the end of 2004.

Further alignment with the *acquis* is necessary in the area of central bank independence. Romania has committed itself to amend the law on the central bank statute by the end of 2004.

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

## *Conclusion*

Romania has made no progress with adopting the EMU-related *acquis* since the last Regular Report.

While some degree of alignment has been achieved, further work is still necessary and Romania has committed itself to introduce the main reforms by the end of 2004.

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

## **Chapter 12: Statistics**

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

As regards **statistical infrastructure**, the government reorganisation in June 2003 placed the National Statistical Institute (NSI) under the direct responsibility of the Prime Minister. A strategy for the development of the national statistical system during 2003-2006 was drawn up, as was a general framework for an electronic data collection system.

Revised versions of the **classifications** of Economic Activities in the European Community (NACE) and the Classification of Products by Activity (CPA) were adopted and introduced into surveys.

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

Concerning *demographic and social statistics*, good progress can be reported. The data from the population and housing census were published in June 2003. The pilot survey on the structure of earnings has been implemented. The Labour Force Survey *ad hoc* module on employment of disabled persons was implemented and results published. A first quality report on the 2000 Labour Force Survey was drafted. Activities to collect social protection statistics have started.

As regards *regional statistics*, in accordance with the European System of Accounts ESA 95, complete 1998-2000 data series were produced and published for regional gross added value and gross domestic product. Regional surveys on living conditions and road transport of goods were also launched.

Concerning *macro-economic statistics*, national accounts are compiled in line with ESA95. The financial accounts for 1999 were produced and the debt and deficit data have been sent to Eurostat for the period 1999-2002. The nomenclature of goods and services for the consumer price index was enlarged in January 2003.

Improvements in data quality can be reported for *business statistics*. In March 2003 quality reports for the 2000 structural business statistics were prepared. A number of key short-term statistical indicators are now regularly transmitted to Eurostat.

On *transport statistics*, electronic data collection for water and air transport was introduced. Quarterly 2003 data have been prepared for experimental processing.

Concerning *external trade statistics*, initial pilot surveys for Intrastat, the system measuring trade between Member States, were implemented.

As regards *agriculture statistics*, the General Agricultural Census was carried out during the end of 2002/beginning of 2003. Data checking and processing were completed and preliminary results are available. Preparations for statistical surveys on land use, crop production, farm structure, animal production and agricultural prices have started.

### *Overall assessment*

Regarding the statistical infrastructure Romania has achieved a number of objectives laying down the basis for strong and targeted development of the statistical system.

Methodologies for most branch statistics have been harmonised and will be used for statistical surveys. Further methodological development is under way. A major statistical activity, the General Agricultural Census, was implemented. Quality aspects of statistics have been introduced. The number of data sets available and transmitted to Eurostat was increased.

Some challenges still lie ahead of the NSI. Achieving full compliance with the statistical acquis strongly depends on the availability of sufficient staff and resources. There is a need to increase the number of qualified personnel in all sectors, especially for improving the quality of data. Highly qualified personnel can only be successfully recruited and retrained if a proper working environment for the staff, proper IT infrastructure and continued training in statistics are ensured.

Further progress is also needed in the area of classifications, macro-economic statistics, business statistics and agriculture statistics. Quality, coverage and timeliness of data should be the focus of future efforts, in particular in the field of demographic and social, regional, transport and external trade statistics.

### *Conclusion*

Since the last Regular Report progress has been made in particular in the field of demographic and social statistics, statistical infrastructure and the General Agricultural Census.

Romania is well on the way to developing a modern statistical system. Further efforts are, however, still needed to strengthen the administrative capacity of the National Statistics Institute and in the area of agricultural statistics, business statistics and financial accounts.

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

## ***Chapter 13: Employment and social policy***

### *Progress since the last Regular Report*

On **labour law** significant progress can be recorded with the entry into force of the Labour Code in March 2003 incorporating the main principles of the labour law *acquis*. However, an important part of the *acquis* still needs to be implemented through secondary legislation, and adjustments are still necessary in relation to directives on collective redundancies, protection of young people at work and on the transfer of undertakings.

Some progress can be recorded in the field of **equal treatment of women and men**. The directive on the burden of proof has been transposed by the Labour Code. The Labour Code also includes some measures on night work during pregnancy although more detailed provisions are required with regard to maternity protection. Some progress has been achieved with the implementation of the National Plan for Equal Opportunities through the establishment of a national training programme on gender related regulations for the Ministry of Labour's staff in central and territorial departments.

On **health and safety at work** some progress was achieved by the revision of the General Norms of Labour Protection in December 2002, which aims to transpose 20 health and safety directives. Positive developments can be noted with regard to the administrative capacity of the labour inspectorate. A national training programme for labour inspectors began in 2002 and was continued in 2003. A nation-wide awareness campaign drawing the attention of key economic actors to the regulations in the field of health and safety was launched in October 2002. According to the evaluation carried out by the EU Senior Labour Inspectors' Committee, the Romanian labour inspectorate needs to reinforce tripartite consultations on occupational health and safety at all levels, including at enterprise level, abolish the system of risk premiums to compensate for hazardous working conditions and increase the labour inspectors' awareness of their advisory and controlling role.

In the area of **social dialogue** the new Labour Code identified aspects of labour and industrial relations which can be agreed upon bilaterally by social partners through collective agreements. The role of the Economic and Social Council as a consultative body has been strengthened and its remit widened with the law adopted in March 2003. A framework for the creation, organisation and functioning of trade unions is fixed in a new law adopted in February 2003. A one-year collective labour agreement was concluded between employers' and trade union federations for 2003. A web-forum to encourage consultation and debates on social partnership was created and connects about 150 trade union and employers' organisations, NGOs and the Ministry.

Some developments can be reported on alignment with the *acquis* on **public health**. As regards tobacco control, although several awareness-raising initiatives were taken during the reporting period, Romanian tobacco legislation is still only partially in line with the *acquis*. A law on prevention measures against HIV/AIDS was adopted in November 2002 and Romania's application to the Global Fund against HIV/AIDS, TB and Malaria was approved in February 2003. The government re-organisation of June 2003 established a new Ministry of Health. This institution has the same basic structure as the former Ministry of Health and Family, although responsibility for families and handicapped persons has been transferred to the Ministry of Labour, Social Solidarity and Family.

Several pieces of legislation have been adopted to promote reform of the health sector during the reporting period. However, their implementation has only been partial and implementing measures still need to be elaborated. A coherent strategy for the continuation of the reform process is still lacking.

In the area of **employment policy**, unemployment in Romania was 8.4% using ILO criteria. Long-term unemployment of 21.8% continues to be a serious problem as does youth unemployment of 21.2%. As regards the activity of the National Employment Agency, job placement measures increased in 2002. While training should be an important measure to increase employability, the rigid requirements regarding reintegration upon completion of the course have resulted in reduced provision of vocational training services to the unemployed. By signing the Joint Assessment Paper on Employment Policy Priorities (JAP) in October 2002, Romania and the European Commission have continued the work on the Employment Policy Review. The first Romanian National Action Plan for Employment was adopted in 2002 covering the period of August 2002 to December 2003. Intermediary assessment of the implementation of the plan is positive and indicates that inter-institutional co-operation has been effective and that the participation of the social partners is satisfactory. The Ministry of Labour, Social Solidarity and Family as the designated Managing Authority and the National Employment Agency as Paying Authority for the **European Social Fund** are drafting an action plan for developing administrative capacity.

To promote **social inclusion**, anti-poverty commissions have been established at local level in 41 counties and Bucharest and a majority of counties have developed anti-poverty plans. However, financing of local strategies is not yet secured. Rules for the implementation of the law on preventing and combating social marginalisation were approved in November 2002. As a follow-up to the Gothenburg European Council, 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.

Following a Government Decision of February 2003 on **social protection**, specialised structures at county and local council level have been set up to deal with social assistance in the area of family and child protection, single persons, the elderly, disabled persons and any other persons in need. This was intended to be a step forward towards decentralisation of the social assistance system. However, the Decision leaves some room for interpretation and does not provide for compulsory financing for such services. The minimum income under the Minimum Income Guarantee Law was increased as from 1 January 2003.

The public system of pensions and other social security rights was amended in February 2003. It reduces contribution quotas and envisages the setting up of an integrated system for the collection, audit and enforcement of social security contributions. All the institutions which are currently involved in the administration of the various social insurance funds (the Ministry of Labour, the Ministry of Health and Family, the National Pensions House, the National Health Insurance House, the National Agency for Employment) will have to gradually transfer their responsibilities to the Ministry of Public Finance as from January 2004. The reform of the pension system is an area where little progress has been made.

Although the current **anti-discrimination** legislation represents an important step forward in tackling discrimination, the legislation still requires some adjustments in order to be in line with the *acquis* (see Section B.1.2 *Human rights and protection of minorities*). The National Council for Combating Discrimination became operational during the last quarter of 2002 and has dealt with over 450 discrimination cases since its creation. It should be noted that among the acceding and candidate countries Romania is the first to have a functioning equality body.

### *Overall assessment*

The adoption of the new Labour Code can be considered a significant achievement in terms of transposing the *acquis*. It covers most of the basic principles of the labour law *acquis* but adjustments will still be needed in some areas in order to reach full alignment. Further reforms are needed to ensure the appropriate balance between flexibility and security. Capacity building within the Labour Inspection for the effective implementation of the new provisions is crucial.

On equal treatment of women and men, work needs to continue to implement the National Plan for Equal Opportunities.

On health and safety at work, further adjustments to the national legislation have been made and in a number of areas closer alignment with the *acquis* has been achieved. Continuing the national training programmes for labour inspectors is encouraged as this represents a key mechanism through which to improve institutional performance and develop administrative capacity.

Encouraging steps have been taken in promoting bipartite social dialogue and in strengthening the role of social partners, but further work remains necessary in order to strengthen autonomous bipartite collective bargaining at enterprise, sectoral and regional levels.

In the area of public health, concrete results of the restructuring of the national network of surveillance and control of communicable diseases remain to be seen. Romania should continue efforts to implement and enforce existing legislative measures to develop an EU compatible national surveillance system for communicable diseases. This includes the improvement of laboratory standards and capacity as well as further training. Recent information initiatives on smoking prevention are positive and are in line with the EU recommendations. However, further work is needed for the full transposition of the *acquis* on tobacco control. The overall health status of the population continues to be well below the EU average. An increased amount and effective allocation of resources and further improvement of the management of the health sector is necessary. Five years after the start of health care reform, primary care is still very much neglected, in spite of the increase in overall resources collected by the health insurance fund. The majority of funding continues to be directed towards hospitals, but an effective system to control the spending of these funds is not in place.

Regarding employment, the Joint Assessment Paper represents an important step in the preparation for accession. It is important to ensure effective implementation of these policies and monitor the phasing-in of the priorities and commitments contained in the JAP. Efforts need to focus more on active and preventive employment measures and on increasing employability.

In order to be able to effectively cope with the future management of the European Social Fund, the Ministry of Labour and Social Solidarity needs to set up the structures, ensure staff training and reinforcement. It will also be necessary to provide continuous training and institution building measures in order to consolidate the role of the Employment Agencies designated to implement the European Social Fund. Specific attention should be given to a significant reinforcement of the Human Resources component of the National Development Plan 2004-2006.

Further steps have been taken to promote social inclusion, but a national integrated strategy on promoting social inclusion, taking into account the EU objectives, needs to be developed. Implementation at local level will need sufficient resources.

As regards social protection, the reorganisation at the local level is a positive step. At national level all social issues, such as family, children and handicapped persons are now covered by the Ministry of Labour, Social Solidarity and Family, which should lead to a more integrated approach. However, the lack of sufficient staff is a matter of concern. Successful implementation at local level will depend on the provision of a sufficient budget at both local and national level and the availability of well-trained staff, in particular social workers.

On anti-discrimination, the capacity of the National Council for Combating Discrimination could be enhanced, and the legislative framework should still be adjusted.

### *Conclusion*

Overall, some progress has been achieved in the field of employment and social policy since the last Regular Report.

The adoption of the Labour Code was a significant step forward in the transposition of the *acquis*. Future efforts should focus on ensuring its implementation and promoting an appropriate balance between flexibility and security. Further efforts should also be made to finalise the transposition and improve the implementation of the health and safety at work *acquis*. The administrative capacity of the relevant bodies, including the General Labour Inspectorate, needs to be further strengthened. While efforts have been made to tackle specific problems in the public health sector, the overall situation remains a concern due to the lack of financial resources and the absence of a coherent strategy for the continuation of the reform process. Enhanced efforts are needed to strengthen the administrative capacity with regard to the European Social Fund management and implementation. Important progress has been made in improving the organisation of social inclusion and social protection, but success in implementation will depend on sufficient resources being available. The reform of the pension system needs to be accelerated.

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

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

### *Progress since the last Regular Report*



Concerning **security of supply**, the building-up of minimum oil stocks is progressing. A Government Decision of April 2003 defined the level to be reached by the end of 2003, namely 55.5 days of annual consumption compared to 51.5 days for the end of 2002. In May 2003 the Commission for the co-ordination, setting up, maintenance and monitoring of minimum safety stocks of oil and oil products was established. This structure comprises of six staff and is a part of the Ministry of Economy and Commerce.

Some progress has been achieved with **competitiveness and the internal energy market** since last Regular Report. The Electricity Law was adopted in June 2003 but will have to be amended to take into account the newest *acquis*. In the *electricity sector*, 33% of the domestic market is open. Out of the eight existing distribution companies, the privatisation process has been launched - but not completed - for two branches. Two others are being prepared for privatisation. In May 2003, Transelectrica, the Romanian Transmission System Operator, became a full member of the Western European Electricity Networks system (Union for the Co-ordination of the Transmission of Electricity). In December 2002 Romania signed the Memorandum of Understanding aiming at the creation of the Regional Electricity Market in South Eastern Europe.

ANRE, the electricity regulator, has significantly modified the wholesale market operation rules. It set transitional allocation rules for the regulated generation portfolio in order to balance out the different prices charged by the eight distribution companies. Romania has started to differentiate the prices for residential and non-residential consumers.

In January 2003 Romania increased market opening in *the gas sector* from 25% to 30%. Eligible customers are obliged to buy a minimum percentage of their consumption from foreign producers. Gas tariffs were not increased until July 2003 except for storage service tariffs. This severely undermined domestic gas production. Since then gas prices have been increased twice and a start has been made with differentiating prices between residential and non-residential consumers.

The two distribution companies Distrigaz Nord and Distrigaz Sud are being prepared for privatisation but the process has been delayed.

Bill collection rates have shown some signs of improvement (with the notable exception of the district-heating sector) due to a greater willingness to disconnect bad payers. However, figures are positively affected by arrears cancellation and by lending from the State Privatisation Authority to some chronic non-payers. This implies that efforts need to be intensified to increase financial discipline on a sustainable basis.

The restructuring of the coal industry is ongoing and is aimed at increasing the efficiency of exploitation and improving competitiveness. Twelve non-viable hard coal and lignite mines were closed in 2002.

Legislation has been approved regarding minimum **energy efficiency** requirements for various products (ballast for fluorescent lighting, household air conditioners, hot-water boilers fired with liquid or gaseous fuels and household electric ovens). The transposition of the requirements of the directive to limit carbon dioxide emissions by improving energy efficiency (SAVE) is underway. The implementing directives on labelling appear to have been satisfactorily applied. Legislation regarding certification and inspection of boilers and air-conditioning remains to be adopted. A Government Decision regarding promotion of **renewable energy** sources was published in April 2003 and will enter into

force in April 2004. The Romanian Fund for Energy Efficiency, financed by a contribution of the Global Environmental Fund of US \$10 million, became operational in July 2003.

In the field of **nuclear energy**, Romania operates, at Cernavoda nuclear power plant (NPP), a Canadian-designed CANDU 6 type reactor with a nominal capacity of 700 MWe. Cernavoda NPP provides approximately 10% of the country's electricity. Investment works at Unit 2 of Cernavoda are 50% completed and this unit is expected to be operational in 2007. The first module for the storage of spent fuel in Romania has been built. In addition to Cernavoda NPP the Romanian nuclear sector includes three research reactors, one of which has been shut down and is in the process of being decommissioned.

A Nuclear Development Strategy including a National Action Plan was published in November 2002, aiming among other things to increase electricity production from nuclear sources and to increase the competitiveness of the sector.

The nuclear regulatory authority (CNCAN) was accepted as a member of the Western European Nuclear Regulator's Association in March 2003.

As regards nuclear safety, Romania has continued to implement the recommendations contained in the June 2001 Council Report on Nuclear Safety in the Context of Enlargement and the subsequent Peer Review Status Report of 2002.

The Atomic Law on the Safe Deployment of Nuclear Activities was amended in May 2003, and included a number of EU and IAEA recommendations. A Government Ordinance on the management of spent nuclear fuel and radioactive waste was adopted in January 2003 and the National Agency for Radioactive Waste Management (ANDRAD) was established. These positive actions in the area of radioactive waste notwithstanding, the safety levels in some specific sectors, notably in the field of management of institutional radioactive waste, should be optimised. ANDRAD has only recently been created and needs significant support before it can become fully operational.

### *Overall assessment*

Legislation is in place as regards *security of supply*. Romania needs to develop its monitoring capacity and the monthly reporting system to the Commission still needs to be set up.

In the electricity sector, the recent adoption of the Electricity Law constitutes a welcome development. Electricity prices have been increased but further steps are still needed to fully cover costs (including environmental and long-term investment costs). Romania should ensure sufficient investment in the power sector, which remains a key challenge. Insufficient bill collection rates make this problem critical. The electricity market, despite the fact that domestically it is 33% open, is *de facto* not functioning as a competitive market. The measures taken to enforce competitive market functioning are counteracted by the tendency towards centralised co-ordination by the regulatory body, by poor investment planning and by an unstable legal environment. Beyond splitting the state-owned energy producer Termoelectrica into five state-owned entities, no meaningful reforms have been developed. This should be a key issue on which Romania needs to

focus its attention. Some progress has been achieved in the privatisation of electricity distribution companies.

Romania should transpose the recently adopted electricity directive in line with the timetable provided for by the *acquis*.

In the gas sector little progress was made and as with the electricity sector market the market does not yet function competitively. Detailed plans concerning important issues such as tariffication, balancing, storage, public service obligation are still lacking. Romania will need to continue the elimination of price distortions. Future legislation should take provisions of the new *acquis* into account and address issues such as legal unbundling, access to the network and to storage, the role for the regulator, and total market opening in 2007.

The regulatory bodies for both the electricity and gas markets have the necessary resources to carry out their activities. However, effective independence from the Ministry of Economy and Trade remains limited. Market interference has adversely affected competition and deterred private investments.

While an *energy efficiency* strategy does exist, it fails to identify either clear, short-term priorities or the necessary funding resources. Although charges levied for its activities have been significantly increased, the impact of the Romanian Agency for Energy Efficiency remains limited. Resources devoted to the sector remain scarce compared to needs and to official objectives. The Romanian Fund for Energy Efficiency (funded by the Global Environmental Fund) is oriented towards private companies whereas the main potential for energy saving is to be found in the large state owned sector. Romania should significantly step up its efforts to improve the energy efficiency of its economy. Legal alignment on energy efficiency and renewable energy sources is progressing and will require continued attention.

In the solid fuels sector, Romania will need to complete the restructuring process and ensure the application of the *acquis*, in particular on state aids.

In the field of *nuclear energy*, the existing *acquis* has been transposed. Romania should continue with the implementation of all the recommendations contained in the Report on Nuclear Safety in the Context of Enlargement and the Peer Review Status Report with due regard to the priorities assigned in these reports, including: (1) the strengthening of the resources and capacity of its nuclear regulatory authority in a sustainable manner; (2) ensuring a high level of nuclear safety at Cernavoda nuclear power plant; and (3) ensuring the timely implementation of the emergency operation centre at Cernavoda.

Romania should also strengthen the resources and capabilities for improving the safety of radioactive waste management and should establish a clear strategy highlighting possible gaps and shortcomings of current management practices.

### *Conclusion*

Progress has been achieved in several areas since the last Regular Report.

While Romania has achieved a certain level of alignment further progress is still needed. The national authorities should now focus on the full and timely implementation of legislation; the full and rapid implementation of the structural reforms in the energy

sector; the elimination of price distortions and the improvement of bill collection rates; improved energy efficiency; the greater use of renewable energy; the progressive building up of oil stocks; and the strengthening of administrative capacity (in particular for the energy regulators and for the nuclear safety authority).

Negotiations on this chapter continue.

## ***Chapter 15: Industrial policy***<sup>11</sup>

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

The revised **Industrial Policy** Strategy and Action Plan that Romania adopted during the previous reporting period are compatible with the EU approach to industrial policy. During the reporting period an inter-ministerial Task Force has been responsible for the assessment and updating of the Action Plan. A significant development was the setting-up of an Industrial Policy General Directorate in April 2003 with specific responsibility for co-ordinating and implementing Romania's industrial policy.

The Consultative Council has continued to meet and serves as a forum for bringing the Romanian administration together with business associations and other stakeholders.

Inflows of foreign direct investment represented 2.4% of GDP in 2002, compared to 2.9% of GDP in 2001. The main sectors benefiting from these investments were natural gas, transport and distribution, communications (radio/mobile telephony networks), steel, machinery, furniture and wholesale trade.

Progress continued with **privatisation and restructuring** and at the end of 2002, for the first time, private equity capital exceeded that owned by the state. In September 2003, the privatisation was concluded of a number of large, loss-making companies. The main responsibility for industrial privatisation is split between the Authority for Privatisation and Management of State Ownership (APAPS) and the Ministry of Economy and Commerce (which holds approximately 78% of total state assets and is responsible for companies in strategic sectors including energy, oil and gas, mining and defence). APAPS was relatively successful with the privatisation of its remaining portfolio during the reporting period. The Government intends to conclude this element of privatisation by the end of 2003 and close down the Authority. However, the progress made by the Ministry of Economy and Commerce has been disappointing – only two privatisations have been concluded since its establishment in November 2001.

Further progress has been made with restructuring of the steel industry and approximately 90% of steel production capacity is now privately owned. An assessment has been launched of the economic viability of the major steel companies. In November 2002, an Additional Protocol to the Europe Agreement was signed that extended the time during which Romania can grant state aid, under certain conditions, for the purpose of restructuring its steel industry.

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<sup>11</sup> Developments concerning industrial policy should be seen in relation to the overall enterprise policy, including SME policy (*see Chapter 16 - Small and medium-sized enterprises*).

In the June 2003 governmental reorganisation the Ministry of Industry and Resources took on responsibilities for certain aspects of economic policy, improvement of the business environment as well as foreign trade. The new institution was established as the Ministry of Economy and Commerce. International support has played a considerable part in increasing the capacity of the Ministry with regard to implementing industrial policy issues – both through the provision of training and through the introduction of international best practices.

### *Overall assessment*

The current versions of the Industrial Policy Document and the corresponding Action Plan represent the building blocks for a modern industrial policy in Romania. The main challenge for the Romanian authorities is now implementation. Progress in this area has been slowed by lack of co-ordination between the competent authorities. It is hoped that the new Directorate-General for Industrial Policy will be able to address this weakness. Steps should be taken to develop more effective co-ordination between policy makers and industry. It is also important that regional administrative structures are strengthened to ensure efficient implementation of policies.

Tolerating the non-payment of utility bills and other budgetary debts by state-owned companies results in implicit subsidies. When combined with a situation where charges for electricity and gas are below cost-recovery levels there is a risk that inefficient activities are supported and that resources are not allocated to the most productive uses. Such a situation undermines industrial competitiveness (*see also economic criteria and Chapter 14 – Energy*).

With regard to investment promotion, the Romanian authorities have maintained their policy of actively consulting investors and have made considerable efforts to improve the business environment – notably through the Action Plan for Improving the Business Environment (*see also economic criteria and Chapter 16 – Small and medium-sized enterprises*). This said, further action is still needed to address the obstacles to investment that were noted in last year's report: corruption, excessive bureaucracy and an unstable legislative climate.

In the area of privatisation the relatively good progress made by APAPS contrasts with the poor performance of the Ministry of Economy and Commerce. The Ministry has failed to address many of the structural issues that would help privatisation of these companies.

While continued progress has been made with the restructuring of the steel industry, further efforts are needed 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*

Since the last Regular Report, Romania has made progress in setting up the structures to implement its industrial policy. Progress in the privatisation process has continued.

The building blocks for a modern industrial policy are now in place, but the key challenge is its implementation, as structural weaknesses remain and limit the capacity for enforcement. Restructuring and privatisation of strategic industries should be accelerated.

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.

## ***Chapter 16: Small and medium-sized enterprises<sup>12</sup>***

### *Progress since the last Regular Report*

In order to develop Romania's **SME policy**, a new version of the SME Sector Development Strategy was prepared which sets out five strategic directions: improving the business environment for SMEs; increasing overall SME competitiveness; improving SME access to finance; increasing SME access to external markets; and promoting an entrepreneurial culture.

To an extent, the national strategy has been superseded by Romania's commitment to the European Charter for Small Enterprises, which represents the basis for Romania's action to support and develop small enterprises. Implementation of the Charter has been closely monitored and good progress has been made in a number of areas.

While SME access to finance remains a serious problem, banks are gradually developing a more open approach. The considerable amount of external credits specifically designed for SMEs provides a large number of financing opportunities. Micro-credits are also increasingly available with credit co-operatives and micro-credit institutions. The National Guarantee Fund for SME Credit has been developed and additional regional branches opened. The administration has also set up a grant scheme to support investments by start-ups and micro-enterprises, as well as investments for the technological modernisation of SMEs.

Following the concerns raised in last year's report on overlapping responsibilities for improving the **business environment**, all initiatives have been consolidated in the Action Plan for Improving the Business Environment. The Action Plan is constantly updated and new tasks are added as a result of broad consultation with the business community, donor recommendations, and on the basis of business surveys. A new version of the plan was approved by the Government in May 2003.

Further measures have been taken to simplify the registration and authorisation of economic operators within the "one-stop shops" – although the combination of new institutional structures and the legal requirement to re-register by the end of 2002 caused considerable bottlenecks. A Single Control Register was established in June 2003 to reduce the burden of various and too frequent control exercises on SMEs. New

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<sup>12</sup> Developments concerning SME policy should be seen in relation to the overall enterprise policy, including industrial policy (*see chapter 15 – Industrial policy*).

legislation has sought to clarify the legal status and obligations of self-employed persons and to revise the special tax regime for micro-enterprises.

Certain horizontal measures should also help improve the business environment. A package of anti-corruption measures was adopted in May 2003 (*see also Anti-corruption section in Political Criteria*), and legislation was adopted stipulating that tax and permit related controls should not occur more often than once every two years. However, current procedures still allow considerable scope for rent-seeking activities and discretionary measures.

Despite these positive developments, the new Labour Code, which came into force in March 2003, risks creating obstacles to entrepreneurship by introducing constraints to the labour market as well as a number of new bureaucratic procedures.

As a part of the government reorganisation in June 2003, the Ministry for SMEs and Co-operatives was dissolved and became the National Agency for SMEs and Co-operation under the authority of the Prime Minister. The Ministry of Development and Prognosis was also disbanded and its functions with regard to promoting improvements in the business environment were given to the new Ministry of Economy and Commerce. In a separate development, responsibility for the Trade Registry and the “Single Offices” was transferred from the Chamber of Commerce system to the Ministry of Justice in November 2002.

A structured dialogue exists with the business community. In June 2003, the Advisory Committee for SME Development was established and includes chambers of commerce, business associations, the banking association, Regional Development Agencies, various ministries and government agencies. The Advisory Committee will have a role in approving future action plans for SME promotion.

There is no progress to report over the last year as regards the **SME definition** applied by Romania, which is not yet fully in line with the recommendations of the European Commission.

### *Overall assessment*

While the revised SME Strategy manages to address the key issues for the sector, it remains more of a declaration of intentions than an operational document. There is no direct link between objectives and activities, there is no mechanism for assessing implementation, and the strategy lacks a regional dimension. Limited resources have hindered the effective implementation of the SME Strategy, particularly in the regions.

Continued implementation of the European Charter for Small Enterprises is important as a foundation for the development of SMEs, an entrepreneurial culture and an improved business environment.

The Romanian authorities have continued to demonstrate a strong commitment to promoting SMEs and there have been a number of encouraging developments during the reporting period with regard to improving the business environment and improving access to finance.

Nevertheless, conditions remain difficult for SMEs and considerable further efforts are needed. Uneven implementation of legislation and weak administrative capacity,

particularly in the regions, remain serious problems. As noted in previous reports, continued legislative instability has made it difficult for SMEs to develop business plans.

Despite considerable progress made by the Romanian authorities, access to finance remains a key constraint on SME development and is one of the most serious barriers to entrepreneurship. Further improvements in this area are particularly critical for start-ups and micro-enterprises and priority should be given to improving the access of SMEs to credit institutions.

It is too early to assess if the new institutional structures dealing with SME policy will be able to effectively promote SME interests and improve the business environment.

Romania should adopt legislation aligning the Romanian **SME definition** with the relevant Commission Recommendation.

### *Conclusion*

Since the last Regular Report, considerable efforts have been made to improve the business environment and to address some of the key problems facing SMEs, such as access to finance.

Despite these efforts, the situation remains difficult for SMEs in Romania. The SME strategy as it stands is not an operational document and the limited capacity of the SME Agency remains a concern. Continued efforts are needed in order to remove obstacles to entrepreneurship and to improve access to sustainable sources of finance.

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.

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

### *Progress since the last Regular Report*

Romania has been associated with the **Sixth EC Framework Programme for Research and Technological Development** and the **Sixth Euratom Framework Programme** since October 2002.

The National Plan for Research (NPR), Technological Development and Innovation was updated with a government decision and the duration was extended until the year 2005. One of the priorities of the NPR was the establishment of centres of excellence, as central elements of high-level networks in technical and scientific fields.

The authorisation for the establishment of the first science and technology park was released in October 2002.

The National Contact Points System has been reorganised to improve participation in the Sixth Framework Programme.

### *Overall assessment*



Difficulties are still encountered in terms of implementation of science and research activities. The budgetary resources allocated to Research and Technological Development are very low and need to be increased considerably in view of the target of 3% of GDP by 2010, set by the Barcelona European Council.

Romania's participation in the Fifth Framework Programme was not fully satisfactory and did not allow the research community to reap the full benefit from the programme. In order to make better use of the possibilities offered by the association to the Framework Programme, Romania should make further efforts to improve the co-operation between the research sector and enterprises and to improve the management and co-ordination of R&D budgetary funds. The information flow on the Programmes needs to be improved in order to increase the knowledge about them and the capacity to deal with relevant procedures.

### *Conclusion*

Only limited progress has been made since the last Regular Report.

Romania's participation in the relevant Framework Programmes is not yet fully satisfactory. Romania should now make efforts to further reinforce the research-related administrative capacity and infrastructure, so as to ensure successful participation in the Programmes. In addition, Romania needs to improve the co-operation between the research sector and enterprises. Budgetary resources allocated to research and technological development remain limited.

Negotiations on this chapter have been provisionally closed and no transitional arrangements have been requested. Romania is generally meeting the commitments and requirements arising from the accession negotiations.

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

### *Progress since the last Regular Report*

Romania has continued to participate in the second generation of the relevant **Community programmes**, namely Leonardo da Vinci, Socrates and Youth.

Concerning the Directive on **education of children of migrant workers** a government Decision of December 2002 addressed two elements which had been omitted from the original 2001 Decision, namely the definition of 'migrant worker' and the free teaching of Romanian.

A number of initiatives have been taken to promote **reforms in the field of education, training and youth**. Compulsory education was extended to ten years and the age of entry into the school system was lowered from seven to six years of age, through an amendment to the education law in June 2003. In the area of vocational education and training, which is now considered as compulsory education, structural and curricular changes were introduced, so as to allow students better access to the labour market. Little progress has been made on implementing the Strategy for Initial and Continuing Training of Educators and Education Managers for 2001-2004.

Efforts to integrate children with special needs into a normal school environment have been continued. Measures were taken to improve access and conditions of education for pupils from rural areas and disadvantaged groups. Initiatives include the rehabilitation of schools, means of transport, daily provision of dairy and bakery products to primary school students, and improved teaching capacities.

During the reporting period, some progress has been made in setting up a coherent legislative framework in the area of continuing training. The new Labour Code, which entered into force in March 2003, obliges employers to ensure access to training for their employees. A national accreditation system for adult training has been adopted.

### *Overall assessment*

The participation of Romania in Community Programmes is basically satisfactory. However, the capacity of the Leonardo da Vinci National Agency needs to be enhanced and the quality of programme implementation should be improved in some key areas.

Efforts should continue to ensure that the directive on education of children of migrant workers will be fully implemented by the time of accession. Though progress has been made over the reporting period, the existing obligation for children of migrant workers to follow remedial or extra-curricular Romanian language courses should be made optional.

The administration's priority has been to enhance access to education for disadvantaged groups and for the rural population. However, these efforts were limited by the low level of funding allocated to the education sector. This issue should be addressed in line with conclusions of the Lisbon European Council. School participation for low income groups increased. The extension of compulsory education to ten years is a positive development, but efforts are still needed to improve quality in education and ensure transparency of qualifications in education.

Some progress has been made in setting up the legislative framework for adult training but it is not yet complete and operational. Further efforts need to be undertaken to raise the level of adult participation — including the unemployed — in training.

### *Conclusion*

Some progress has been made since the last Regular Report with aligning to the *acquis* and in the overall reform of the education system.

The limited budget allocated to the education sector inevitably reduces the impact of intended reforms. Further efforts need to be taken to increase school participation, to improve quality in education, and to stimulate participation of adults in training. Romania is fully involved in the second generation of Community programmes in the field of education, training and youth. Efforts should continue to ensure that the directive on education of children of migrant workers will be fully implemented by the time of accession.

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

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

### *Progress since the last Regular Report*

The reporting period marked the full liberalisation of the **telecommunications** market in Romania with the removal of the incumbent operator's remaining exclusive rights to offer fixed voice telephony and leased wire line services on 1 January 2003.

In July 2003, with the aim of finalising the transposition of the new telecommunications *acquis*, legislation on universal service and users' rights relating to electronic communications networks and services was adopted.

The National Regulatory Authority for Communications became operational in September 2002. The Authority is responsible for implementing national policies in the field of electronic communications and postal services. It has 200 staff, of whom half are allocated to territorial offices in each county and in the districts of Bucharest.

In December 2002, the Authority adopted a decision on the general authorisation regime for the provision of electronic communications networks and services. In January 2003 minimum requirements for the provision of publicly available communication services were established. This resulted in high numbers of notifications at the beginning of this year, gradually falling towards market saturation in summer 2003. There are currently a total of nine markets defined or under definition. A total of 15 operators were issued licences and granted numbering resources, and interconnection obligations were imposed on mobile and fixed line telephony providers.

Good progress has also been made in transposing the **postal services** *acquis*. The market is already *de facto* liberalised. Under the new legal framework, the National Regulatory Authority for Communications is also responsible for regulation of postal services. In this capacity a decision was issued in April 2003 laying down the authorisation procedure for postal service providers. The right to provide postal services is granted either on the basis of the general authorisation regime (for postal services which are not included in the scope of universal services) or by individual licences (for postal services which are included in the scope of universal services). *Posta Romana* is the only provider granted a license in the area covered by universal services. Ten licenses have been granted to direct mail providers.

### *Overall assessment*

The telecommunications market has been fully liberalised as of 1 January 2003 and implementing legislation is being gradually adopted and implemented. Before that date liberalisation had already taken place in other markets, such as cellular mobile telephony, data transmission, the provision of Internet services, cable television and satellite networks. Although the fixed network is still expanding in terms of lines, there are signs of tension in the market, which could result from the lack of rebalancing tariffs in preparation for the opening of the market.

The National Regulatory Authority for Communications became operational and a sufficient number of staff has been hired. Training efforts that are under way should be continued, in order to strengthen the legal and technical expertise of the authority. The National Authority has started defining significant markets and identifying the incumbent

fixed and mobile network operator as having significant market powers for their respective sectors.

The adoption of the Law on Universal Services should be followed up by appropriate implementing legislation. In view of the commercial situation in the fixed network market, affordability problems should be addressed by the new law.

Romania has already achieved a considerable degree of alignment with EU legislation. It should be noted, however, that the 2002 *acquis* is designed for markets where much of the transition from monopoly to competitive market has already been achieved and where a case for reducing obligations may already exist. Care will be needed in the application of the 2002 telecommunications *acquis* so as to secure an orderly transition to a fully competitive market. National authorities should also proceed in a way that harmonises regulatory treatment in national jurisdictions so as to avoid fragmenting the single market.

In implementing the 2002 *acquis*, the Romanian national regulator should ensure that its decisions are taken in line with developments in EU member states. Full alignment with the new telecommunications framework also requires a strict separation of separate regulatory functions from ownership interests, in particular with regard to spectrum licensing, where the Government still exercises property rights.

In the postal services area, Romania's legislation is broadly in line with the first postal services directive. However, full alignment with the second directive is outstanding, in particular as regards the thresholds for the reserved area.

### *Conclusion*

Significant progress has been made since the last Regular Report, in particular as regards the establishment of the regulatory body, the liberalisation of the telecommunications market and transposition of the new telecommunication *acquis*.

Romania has already achieved a considerable degree of alignment as regards telecommunications, with postal services slightly lagging behind. Further alignment with the *acquis* should concentrate on implementing legal provisions on users' rights and on universal service (both in respect to telecommunications and postal services). Romania should also pay attention to the separation of regulatory responsibilities from those of ownership, where the Ministry of Communications and Information Technology still acts as owner of certain operators.

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

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

### *Progress since the last Regular Report*

Concerning **audio-visual policy**, the European Convention on Transfrontier Television was ratified and its amending protocol was signed in February 2003. The National Audio-visual Council, which regulates the sector, has continued to issue implementing regulations on the basis of the Audio-visual Law.

The Ministry of Culture and Religious Affairs has the right of legislative initiative in the audio-visual sector. There have been no improvements regarding the administrative capacity of the Ministry, which remains very limited following the staffing reductions noted in the 2002 Regular Report.

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

### *Overall assessment*

Following the adoption of the new Audio-visual Law in July 2002 Romanian legislation is largely in line with the *acquis*. Some further technical amendments should be made to the Audio-visual Law in particular in relation to jurisdiction and restriction of retransmission.

Romania should continue to strengthen its administrative capacity in the audio-visual sector, both in the National Audio-visual Council and in the Ministry of Culture and Religious Affairs, in order to ensure the predictable, transparent and effective implementation of the regulatory framework for audio-visual policy.

### *Conclusion*

The ratification of the European Convention on Transfrontier Television and the adoption of a considerable amount of secondary legislation on the basis of the Audio-visual Law represent major developments in the audio-visual sector since the last Regular Report.

Romania's legislation is largely in line with the *acquis*, though attention should be paid to the remaining adjustments of the Audio-visual Law and to ensuring that all related implementing decisions are in line with the *acquis*.

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

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

### *Progress since the last Regular Report*

No further developments can be recorded regarding **territorial organisation** or the **legislative framework**. The legislative framework for financial control and compliance with other Community policies is monitored in other chapters.

Several Government decisions have been taken concerning the **institutional structure**. In December 2002, the Government formally designated the future Managing and Paying Authorities for the Structural and Cohesion Funds, and in June 2003 it set a precise

schedule for finalisation of the structures, definition of their tasks, an increase in staff levels and the training of staff. However, a subsequent Government reorganisation reduced the number of ministries (through merger or re-allocation of competences), thereby affecting the structures identified for programming and managing Structural Funds upon accession. Of particular relevance in this context is the dissolution of the Ministry of Regional Development and Prognosis and the transfer of its regional development responsibilities to the Ministry of European Integration.

With regard to **programming**, the National Development Plan (NDP) for 2004-2006 is under preparation. As regards partnership, in December 2002 the Government issued a decision on the partnership for the elaboration of the Romanian NDP. The decision requires the setting-up of partnership structures at both national and regional levels. An Inter-institutional Committee assembles ministerial representatives, regional development agencies, central public institutions, research institutes and universities as well as representatives of the economic and social partners. The decision also requires regional committees to be set up to draft the Regional Development Plans.

There has been no significant progress with work on ensuring compliance with the Structural Funds requirements for monitoring. On **financial management and control**, the Law on Public Internal Audit (adopted in December 2002) partly satisfies the requirements of the Structural Funds, but does not yet include specific provisions on certification of payments, annual independent verification and programme closure.

Some limited developments can be recorded in the field of regional **statistics**. A database of indicators for the elaboration of macroeconomic and socio-economic sectoral and regional analyses of the NDP is being set up.

### *Overall assessment*

A provisional NUTS classification, including eight NUTS 2 level regions, has already been agreed with the Commission.

More work is necessary to adopt the framework legislation needed to implement the *acquis* under this chapter. As regards compatibility of operations by the Structural (and Cohesion) Funds with Community policies and legislation, work has to progress to ensure that the newly transposed legislation is adequately implemented for the purpose of Structural and Cohesion Funds. Romania must give particular attention to public procurement issues in considering the future implementation of Structural and Cohesion Funds and must draw on the experience of implementing pre-accession instruments to consider the appropriate designation of responsibilities and overall control of procedures.

Romania has taken a number of decisions aimed at designating the authorities responsible for the preparation and implementation of the Structural Funds and the Cohesion Fund after accession and defining their internal organisation. However, the recent Government reorganisation has created uncertainty, which Romania needs to resolve. It is important that in the final structure, bodies are designated according to their capacity to adequately manage, implement and carry out the necessary inter-ministerial co-ordination particularly the choice of managing authorities. To this end, Romania needs to review the feasibility of the system being designed, clarify arrangements for inter-ministerial co-ordination, and draw up a detailed description of the tasks to be performed by other ministries and the future Intermediate Bodies.

Substantial work is needed to enhance the quality of the Romanian National Development Plan in order for it to serve as a valid basis for a future Development Plan, as required by the Structural Funds. The initial steps taken if it is to establish partnership structures are positive, but the efficient functioning of these structures should be ensured in order to closely involve regional and local, as well as social and economic, partners in the practical programming work.

Work on ensuring compliance with the Structural Funds' requirements for monitoring and evaluation needs to be stepped up.

Romania still has to make substantial progress in the field of financial management and control, i.e. by setting up the bodies, structures and procedures for financial control, auditing, certification of expenses, and correction of irregularities specifically applicable to the Structural and Cohesion Funds. Specific attention should be paid to an adequate separation of functions within the implementation structure.

### *Conclusion*

Limited progress has been made in preparing for the implementation of structural policies. While some progress can be seen in the preparation of the 2004-2006 National Development Programme and concerning the application of the partnership principle, the institutional framework is still not clearly defined.

Romania has to make considerable further efforts to bring administrative capacity up to the level required, in particular in programming, monitoring and evaluation, financial management and control. Stability of the institutional structures as well as strong administrative capacity, based on a comprehensive human resources development plan, is an absolute pre-requisite for the successful implementation of a sustainable development policy in Romania. Greater appreciation of the scale of the task ahead is necessary, as well as a firm commitment to draw on the lessons learned from implementing the pre-accession instruments. Further attention should be paid to clarifying the role of regional levels and re-enforcing inter-ministerial co-operation. Specific arrangements for financial management and control have yet to be made.

Negotiations on this chapter continue.

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

### *Progress since the last Regular Report*

**Integration of environmental protection into other policies** has hardly progressed. The Inter-Ministerial Committee, which is responsible for co-ordination between ministries to ensure that the environment is taken into account by all sectors concerned, only met once during the reporting period, and consequently there is very little progress on implementation of the integration principle. Close attention is therefore needed to start integrating environmental considerations into the development and implementation of other policies.

Significant progress has been made in legal alignment in the field of **horizontal legislation** by adopting laws on environmental impact assessment for certain public plans and programmes and projects with transboundary impact; on regulation procedures for

economic and social activities with environmental impact; and on free access to environmental information. If properly implemented, the new legislation on environmental impact assessment will represent a key mechanism to improve the state of the environment in Romania.

As regards **air quality**, substantial progress has been made on transposition. Legislation has been adopted on non-road mobile machinery and on the sulphur content of liquid fuels. A preliminary assessment of air quality in the eleven defined urban areas has been carried out, and a preliminary inventory of installations subject to the requirements on volatile organic compounds from the storage and distribution of petrol has been completed. Romania ratified the Convention on Long-Range Transboundary Air Pollution in December 2002.

As regards **waste management**, legislation has been passed on hazardous waste, landfill of waste, packaging waste, and shipments of waste. A preliminary inventory of landfills has been completed.

As regards **water quality**, a number of laws have been adopted in the fields of drinking water, bathing water, pollution caused by nitrates, discharges of dangerous substances, and integrated coastal zone management. A committee for the co-ordination and monitoring of the implementation of the water framework Directive has been set up. A preliminary inventory of discharges of dangerous substances into surface waters has been completed.

As regards **nature protection**, progress can be recorded on data collection for the identification of sites and special protection areas, as well as in relation to establishing their administration.

As regards **industrial pollution control and risk management**, in January 2003 the Government adopted a decision on major accident hazards. The Convention on the Transboundary Effects of Industrial Accidents was ratified in March 2003. Preliminary inventories of installations falling within the scope of the *acquis* regarding integrated pollution prevention and control, large combustion plants and volatile organic compounds have been carried out.

As regards **chemicals and genetically modified organisms**, significant progress has been made in legal alignment with the *acquis* on ozone-depleting substances and asbestos. Romania ratified the Cartagena Protocol on Biosafety in March 2003.

No progress has been made in the field of **noise**.

As regards **nuclear safety and radiation protection**, further progress was made with the adoption of additional provisions to implement the *acquis* previously transposed, including basic safety standards, outside workers, and shipments of radioactive waste.

As regards **administrative capacity**, institutional changes continued. Following the Government reorganisation in June 2003, the Ministry of the Environment and Waters Protection was merged with the Ministry of Agriculture. The mandate of the National Environmental Guard (which is no longer under the responsibility of the Ministry of Agriculture, Forestry, Waters and the Environment) is not clear. The Regional Environmental Protection Agencies (EPAs) are still to be established and made operational.



Some 150 new budgetary posts have been allocated to this sector, but this increase is insufficient to ensure proper implementation of the environment *acquis*. There is also a concern as regards the continuity of staff within the Ministry. National budgetary allocations continued to be very low compared to needs in terms of administrative capacity and investments. Moreover, funding earmarked for the local Environmental Protection Agencies, previously used to purchase monitoring and compliance-checking equipment, has been removed. The National Environmental Fund collected some funds but is still not fully operational.

### *Overall assessment*

There is a heavy emphasis on the legal transposition and formal meeting of the requirements of the *acquis*. This can be to the detriment of real progress as transposition continues to outpace both strategic thinking and actual implementation, even if in some sectors such as waste management attempts can be registered as regards strengthening of strategic planning.

The adoption of legislation on environmental impact assessment represents a significant step forward. However, in order to achieve full implementation it will be necessary to strengthen administrative capacity, especially at local level.

As regards air quality, the monitoring system has to be completed and action plans need to be drafted. Inspections and enforcement capacities also have to be developed.

The national waste management plan has to be finalised, and regional plans have to be developed. The inventory of existing landfills has been completed, but the situation of industrial landfills has to be clarified. Essentially, adopted legislation needs to be strictly enforced, and collection systems and recovery and disposal facilities need to be significantly enhanced.

As regards water quality, river basin management plans have not yet been developed. Decisions still have to be taken to identify sensitive areas in accordance with the requirements of the urban waste water Directive. Monitoring has to be further developed (e.g. for nitrates, drinking water) and adequate programmes have to be defined.

As regards nature protection, work on preparing a list of proposed sites of Community interest and on designating special protection areas needs to be pursued.

In the field of industrial pollution and risk management, implementation is at a very early stage, and preliminary inventories of the installations concerned have just been completed. No progress has been made regarding compliance of “new” installations with the requirements of the *acquis*.

As regards chemicals and genetically modified organisms, beyond designating competent authorities, much remains to be done for proper implementation, including monitoring and inspection.

Additional work is also needed in the area of noise.

As regards nuclear safety and radiation protection, framework legislation has been adopted. However, the adoption of an important amount of secondary legislation remains necessary as well as to ensure proper implementation.

This year's institutional changes increased instability and confusion in terms of responsibilities, while overall administrative capacity remains insufficient. This is especially true for local EPAs, which should have a key role in terms of licensing, monitoring, inspection and enforcement of environmental regulations. A concern is also to ensure the continuity of staff within the Ministry. The removal of resources earmarked for purchasing monitoring and compliance-checking equipment is likely to worsen working conditions at local level. The regional EPAs need to be made operational, and effective co-ordination mechanisms with the regional development authorities have to be established.

No progress has been achieved in securing the necessary resources for achieving the considerable investments needed over the medium and long term for implementing the environmental *acquis*.

Co-operation with non-governmental organisations has improved. There is still, however, much more work to be done in ensuring public participation in both the development and the implementation of environmental policy.

### *Conclusion*

Since the last regular report, further progress has been made in legislative terms.

Although Romania has transposed a considerable amount of legislation, administrative capacity and financial resources dedicated to the sector remain inadequate, resulting in poor implementation of EC environmental policies.

Negotiations on this chapter continue.

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

### *Progress since the last Regular Report*

Regarding **safety-related measures**, no new developments can be recorded.

As regards functioning **market surveillance** systems, the National Authority of Consumer Protection is the body responsible for co-ordinating policy in the field of consumer protection and market surveillance and for implementing the framework law on consumer protection. The authority has 42 territorial offices, which monitor the market for consumer goods and services at the local level. Steps have been taken to strengthen the administrative capacity of the National Authority and according to a Government Decision of December 2002, the number of staff should be increased by 150 (60 new staff had been employed by June 2003). Additional financial resources have been allocated to improve market surveillance activities. As a result, the number of market surveillance activities has increased during the reporting period: the authority performed over 100 000 control actions, out of which approximately 20% were made in co-operation with other institutions from the central public administration. During the same period, 41 732 fact-finding statements were concluded, penalising infringements with fines and either prohibiting the marketing or withdrawing products from the market. A total of 4 544 companies were temporarily forbidden to perform marketing activities, while 1 795 were prohibited from developing production and trade activities.

Under TRAPEX (Transitional Rapid Exchange of Information System), for which the National Authority for Consumer Protection functions as the Romanian contact point, 21 non-food notifications of dangerous products that could be found on the Romanian market were received between January and June 2003.

Inter-ministerial co-operation has continued and the Inter-Ministerial Committee for Market, Products and Services Surveillance and Consumer Protection, which provides the general co-ordination of market surveillance activities, met several times and approved a Common Control Programme for 2003. However, some relevant bodies, in particular the Ministry of Labour, Social Solidarity and Family and the Ministry of Communication, were not included in the work of the Committee.

Legislation on **non-safety related measures** was amended in February 2003 in order to align with the *acquis* on misleading advertising, on comparative advertising and on distance selling.

No progress can be reported with the representation of **consumer organisations**. There are two independent consultative bodies including representatives of professional associations and of consumers: the Commission for Product Safety, which has met only twice, and the Unfair Term Commission, which has not met at all during the reporting period. The number of consumer associations remains practically unchanged.

To raise awareness of consumer protection issues, the National Authority for Consumer Protection carried out a number of information and education activities for the including the publication of press articles and carrying out radio-TV interviews. A weekly radio show and a monthly television show on consumer protection were launched during the reporting period.

### *Overall assessment*

With regard to safety-related measures Romanian legislation is largely in line with the *acquis*. However, the revised directive on general product safety and the directive on liability for defective products still need to be fully transposed.

Even though some areas of market surveillance are still at an early stage, the National Authority for Consumer Protection has increased its level of activity and has successfully carried out joint controls with other market surveillance bodies. This positive development should be maintained and market surveillance activities should be further oriented towards safety aspects of non-food consumer products. Market surveillance would be more efficient using methods of risk analysis to target non-compliant products. Additional resources should be allocated to laboratory testing and other technical facilities.

Since the last Regular Report, the Romanian authorities have placed additional emphasis on ensuring co-operation between the various bodies operating in market surveillance. However, there are still some overlaps and gaps in enforcement. For that reason, membership of the Inter-Ministerial Committee for Products, Services, Market Surveillance and Consumer Protection should be extended to include all relevant parties. Further efforts could also be made to improve consumer representation: only one of the two independent consultative commissions established so far is operational. No consumer

organisations were present at the Inter-Ministerial Committee for Market, Products and Services Surveillance and Consumer Protection.

The alignment of legislation in relation to non-safety related measures has been slow and a considerable number of directives still need to be transposed into Romanian legislation. The transposition of the *acquis* on certain aspects of the sale of consumer goods and associated guarantees has been delayed. Other directives, such as the ones on consumer credit, on timeshare property, and on injunctions still need to be transposed. The same applies to the new *acquis* on distance marketing of consumer financial services.

Progress was made by strengthening the administrative capacity of the National Authority for Consumer Protection through the allocation of additional staff and control activities. The Authority should now develop training activities for its own staff and also extend this to personnel from other relevant institutions such as the police, customs and the judiciary.

The activity of consumer organisations is not well understood by consumers who prefer to claim their rights individually. These associations should play a more important role in developing and implementing a consumer policy. Particular attention has to be paid to consumer information activities, in order to enable consumers to claim their rights.

### *Conclusion*

Although legislative alignment has been relatively slow, Romania has made some progress as regards market surveillance activities and the co-ordination of control activities between competent ministries and authorities.

Legislation regarding safety-related measures is largely in line with the *acquis*, although transposition of several directives in relation to non safety-related measures is still outstanding in areas such as guarantees, consumer credit, timeshare, injunctions, and liability for defective products. Romania should continue to build up technical expertise in order to implement and enforce existing legislation and should further improve co-ordination between competent authorities in order to avoid gaps or overlaps in enforcement. Market surveillance activities should be oriented to a larger extent towards guaranteeing the safety of non-food consumer products and more resources should be devoted to laboratory testing. Consumer organisations should be more actively involved.

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

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

### *Progress since the last Regular Report*

In the field of **data protection**, the Ombudsman issued an Order in October 2002 approving the procedures of transferring personal data abroad. In March 2003 an Order was issued establishing standard contractual clauses in cases of personal data transfer to an operator in a state where legislation does not provide a level of protection at least equal to that provided by Romanian legislation. The number of posts in the Directorate for Personal Data Protection has been increased by seven to a total of 20.

As far as **visa policy** is concerned, the new Aliens Law introduced the distinction between short- and long-term visas, introduced special provisions regarding citizens from EU member states, and eliminated exit visas. A new visa sticker was approved in April 2003 for use from the beginning of 2004. From January 2003 Romania introduced a visa obligation for nationals from the former Yugoslav Republic of Macedonia. A bilateral agreement to lift visa obligations entered into force with Singapore in February 2003 and a similar agreement has been reached with Estonia. A visa-on-line computer system linking Romanian consulates, the Ministry of Foreign Affairs, the Ministry of Administration and Interior, and local units within the Directorate for Aliens and Migration Issues is being installed. The number of Romanians who were not permitted to exit the country increased from 23 311 in 2001 to 417 969 in 2002.

As regards **external borders** and **Schengen**, during the reporting period the Ministry of Administration and Interior approved a Border Security Strategy for 2003-2007 and a revised Schengen Action Plan. An Integrated State Border Management Strategy for 2003-2006, which focuses on the northern and eastern borders, was also approved. The General Inspectorate of Border police has been reorganised to increase the number of frontline staff and in an attempt to improve effectiveness. The last conscripts were phased out of the border police in October 2002 and the institution should be demilitarised in accordance with the Police Status Law. Training programmes have been modernised and a significant amount of new equipment has been acquired. As a result of a Co-operation Protocol signed between the border police and the General Directorate of Customs in March 2003, joint single clearance controls have been established at four of Romania's border crossing points. Following the signing of an Agreement between the Border police of Romania and Bulgaria in December 2002 a Joint Contact Office was opened at the Giurgiu border crossing point in February 2003. A similar centre at Galati was opened in July 2003. A Protocol on co-operation between the border police and the Romanian Office for Copyright was signed in May 2003 to improve the fight against the smuggling of counterfeit goods. An agreement was ratified in March 2003 between Romania and Bulgaria on co-operation in countering organised crime, drug trafficking, and terrorism. In the same month, the border police reached an agreement with the Russian Federal Border Service on co-operation in border matters.

In the area of **migration**, a new Aliens Law was adopted in December 2002 that contained provisions on the entry and stay of third-country nationals for the purposes of employment, self-employment and studies, long-term residents, unaccompanied minors, appeals against expulsion decisions and return measures. In May 2003 the government issued a decision lifting the obligation for long-term visas for economic and commercial activities for nine of the acceding countries. The Directorate for Aliens and Migration Issues, the central co-ordinating body, was nominated as the Aliens Authority. The Directorate concluded co-operation agreements with a number of government agencies and collaboration with the National Refugee Office has improved. Re-admission agreements were signed with UK, Portugal and Latvia during the reporting period. In February 2003 an Emergency Ordinance suspended the passports of Romanians who have committed offences abroad. Romania reached an agreement in October 2002 to facilitate the return of minors staying illegally in France. There was also a sharp reduction in the number of foreign nationals detected attempting to cross the Romanian border illegally, down from 3,577 in 2001 to 2,045 in 2002 (of which three-quarters were trying to enter Romania). The number of Romanians returned from the Schengen Area increased from approximately 9,000 in 2001 to over 11,000 in 2002 and almost 10,000 for the first half of 2003.

As regards **asylum**, Romania passed a Government Decision in December 2002 to raise the level of accommodation and meal allowances for asylum seekers. The new Labour Code adopted in February 2003 exempts recognised refugees in Romania from the requirement of having a work permit for regular employment. A manual of best practice intended to support the work of all institutions in the asylum field was approved in July 2003. In August 2003 a database to hold details of refugee's countries of origin became operational and will be used in the status determination procedure. The total number of asylum applicants for 2002 was 1,000 (compared to 2,435 applications in 2001). The National Refugee Office has opened a refurbished accommodation centre in Bucharest during the reporting period. Use of the accelerated procedure has been reduced, the average detention in airport transit zones shortened and 94 % of asylum applications received in 2002 were processed within the legal deadline of 30 days. The approval rate has gone down during the reporting period and is now approximately 4%. No cases of refoulement occurred.

In the field of **police co-operation and the fight against organised crime**, the Law on Preventing and Combating Organised Crime was passed in January 2003. This provides various legal definitions, establishes the framework governing undercover police officers infiltrating organised crime groups, attributes responsibilities to various public authorities and regulates international co-operation. Secondary legislation to implement the reform of the Police was adopted in October and November 2002. The text of a co-operation agreement with Europol was endorsed in May 2003. In November 2002 Romania ratified the United Nations Conventions Against Transnational Organised Crime, and the associated Protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and Against the Smuggling of Migrants by Land, Air and Sea. An Inter-Ministerial Working Group for the Co-ordination and Evaluation of the Prevention and Combat of Trafficking in Human Beings was set up in February 2003. New entities have also been created within the General Inspectorate of Romanian Police including a National Office for Witness Protection, a Department for combating Money Laundering, a Department for Inter-institutional Co-operation, services for fighting cyber crime, and services for intelligence analysis.

As regards the **fight against terrorism**, Romania ratified the 1999 United Nations Convention for the Suppression of the Financing of Terrorism in November 2002 and adopted a Government Decision listing the legal and natural persons suspected of being involved in or having financed terrorist acts. The Inspectorate for Preventing and Combating Terrorism, which is charged with implementing the General Protocol for the Organisation and Functioning of the National System for Preventing and Fighting against Terrorism under the co-ordination of the Romanian Intelligence Service, became operational during the second half of 2002.

In the **fight against fraud and corruption** a plan of anti-corruption measures was adopted in December 2002 to accelerate the application of the National Strategy for Combating Corruption (*see also Section B 1.2 – Democracy and the rule of law*). In December 2002 the National Anti-corruption Prosecutor's Office agreed upon a framework of co-operation with the General Inspectorate of the Police.

Romania has implemented measures aimed at complying with the recent *acquis* related to the **protection of the euro against counterfeiting**. In January 2003 a Commission within the Romanian National Bank for studying counterfeit Euro became operational.

In the field of the **fight against drugs**, in January 2003 the Romanian government adopted a National Strategy on Drugs for 2003-2004 and created a National Anti-Drugs Agency within the Ministry of Administration and Interior to implement the strategy. The Agency is responsible for co-ordinating the fight against drugs in accordance with the strategy and for managing relations with the European Monitoring Centre for Drugs and Drug Addiction and other relevant international institutions. The former National Focal Point on Drugs has been renamed the Romanian Monitoring Centre on Drugs and Drug Addiction and brought under the control of the National Anti-Drugs Agency. In October 2002, a Law on chemical precursors used to produce drugs entered into force.

As regards **money laundering** (*see also Chapter 4 – Free Movement of Capital*), in December 2002 a Law on the Prevention and Sanctioning of Money Laundering was adopted. The National Office for Prevention and Control of Money Laundering Operations sent 256 cases to the General Prosecutor's Office in 2002 (compared to 143 in 2001) and 151 cases in the first five months of 2003.

As regards **customs co-operation**, an inter-departmental working group was created within the Romanian Customs Administration to prepare the accession to the 1995 Convention on the Use of Information Technology for Customs Purposes (CIS). Implementation of the Action Plan for Combating Corruption has continued by increasing the size of the Division of Inspection and Control for Customs Activity, which allows more unannounced controls, rotating senior staff, and providing training in ethics.

With regard to **judicial co-operation in civil matters**, legislation was adopted in May 2003 on International Judicial Assistance in Civil Matters and on Jurisdiction Competence, Recognition and Execution of Judgements in Civil and Commercial Matters Handed Down in EU Member States. A Law on Regulating Private International Law Relations in the Field of Insolvency was passed in December 2002. A supplementary Law on the Proceedings for Rescue Plans and Bankruptcy was passed in March 2003. A Law for Romania's accession to the Hague Conventions of 1965 on the Service Abroad of Judicial and Extra-judicial Documents in Civil or Commercial Matters was passed in April 2003. In May 2003, Romania adhered to the 1970 Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters and the 1980 Hague Convention on International Access to Justice. In May 2003, Romania also adhered to the European Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children. From September 2002 Romania began to participate as an observer in certain European Judicial Network and EuroJust meetings.

As to **judicial co-operation in criminal matters**, in November 2002 Romania ratified an agreement with France to facilitate the return of minors staying illegally.

No developments with regard to **human rights instruments** can be reported since the last Regular Report. Romania has ratified all the human rights instruments covered by the *acquis*.

### *Overall assessment*

Administrative capacity in the field of data protection has been strengthened by increasing the staffing levels at the Ombudsman's Office. The Office has its own budget,

which gives it greater control and flexibility in acquiring the resources that are needed to effectively carry out the duties set out in the data protection legislation.

As far as visa policy is concerned, the visa-free regime introduced for Romanian nationals by Schengen member states in January 2002 has had mixed results. Despite an almost eighteen-fold increase in the number of Romanians who were not permitted to exit in 2002 compared to 2001 and an overall decrease in exits from Romania by more than a million, the number of Romanians returned from the Schengen Area has continued to increase. Romania has made some progress amending the list of countries whose nationals are exempted from visa obligations but does not yet fully comply with the *acquis*. Romania is in the process of aligning with the *acquis* on the list of countries whose nationals require a visa to enter the EU and is engaged in negotiations to introduce visas with Ukraine and Turkey, will enter into negotiations with Serbia and Montenegro, has finalised an agreement with Russia, and will apply visas to Moldovan nationals upon Romania's accession to the EU.

Human resources in the area of visa policy have not changed significantly during the reporting period. Thorough training in the new visa-on-line system will be required if this is to make an appreciable impact in the future. General administrative capacity remains low with significant room for improvement especially as concerns risk analysis. Romania should step up efforts to provide all diplomatic and consular offices with the necessary technical equipment, particularly in high-risk countries. As for external borders implementation of the memorandum of understanding between the border police and customs could be further improved by better information sharing and greater joint action with the 30km border action zone. Co-operation with neighbouring states remains uneven due to geo-political relations in the region. While co-operation with Bulgaria is at an advanced state and the bilateral centre at Giurgiu is operational, co-operation with Ukraine and Moldova is less developed. The most pressing challenge facing the Border police remains the large staffing shortfall of more than 4,300 officials (22.3%). There has been progress in modernising the Border police and more efficient structures and procedures are starting to emerge. While conscripts have been removed from the Border police, demilitarisation remains an ongoing process as approximately 8,000 "military under contract" remain. All of these "military under contract" as well as the 4,300 people still to be recruited to fill the current staffing shortfall will need to be trained as professional border police officers in accordance with the Police Status Law. As such there is an immediate training need for over 12,000 staff places, a huge demand on the training capacity of the border police which would take years to fulfil at the current rate. A realistic action plan for tackling this challenge is needed.

The updated Schengen Action Plan needs to be modified substantially in order to show full awareness of the two-stage process in implementing the Schengen *acquis*. Romania must also continue its efforts to establish an operational national information system containing Schengen-compatible data. There are no clear linkages between the various strategies that have been elaborated as regards external borders (National Border Security Strategy, Integrated State Border Management Strategy and Schengen Action Plan). Limited practical co-operation casts doubt on the value of the current Integrated State Border Management Strategy, which is already rather vague, and lacks timeframes for implementation or budgetary allocations. Co-operation between all the agencies involved in border management remains largely ineffective and unfocused. The Inter-Ministerial Committee on Border Management meets rarely and has little operational impact. Better inter-agency co-operation would also allow multi-annual investment plans to be put in



place. Investment is particularly needed in surveillance equipment on the blue borders, in communications equipment for all borders, and at the newly opened air and land border crossing points. Despite the new equipment that has been purchased problems are reported in meeting running costs, such as fuel for vehicles.

In the field of migration, the Directorate for Aliens and Migration Issues is capable of managing re-admission and expulsion to remote countries. Despite the strict self-imposed exit requirements, and the fact that Romanians sent back to Romania face up to five years in prison, there has been an increase in the number of Romanians returned from EU member states. The large numbers of Romanian nationals involved in petty crime, aggressive begging and other anti-social behaviour across the EU has prompted several member states to take action.

The southern border with Bulgaria is the one most targeted by those attempting to enter Romania illegally and the good co-operation between both countries is therefore welcomed. The agreement on co-operation in the field of voluntary humanitarian-assisted repatriation concluded last year with the International Organisation for Migration has not yet been ratified by Romania. Co-operation with the United Nations High Commission for Refugees is gradually improving.

As far as asylum policy is concerned, inter-agency co-operation has improved, largely due to the Action Plan of the National Refugee Office to spread best practice to other government departments and to the Ukrainian and Moldovan authorities. However, additional training of personnel in other services directly involved in asylum and refugee matters (police, immigration and border guards) remains necessary, as is enhanced interagency co-operation. The Office has sufficient staff and has continued to work satisfactorily. The planned opening of two new reception centres will significantly increase the capacity in the Romanian asylum system. In general, the existing asylum centres are reported to be functioning well. The Directorate for Aliens and Migration Issues continues to delay application of the *de facto* refugee status beyond the legally stipulated 30 days, which results in these applicants remaining in detention. Legislation does not define the category of people to whom humanitarian protection is granted. Problems have continued with integration of refugees and asylum seekers.

There has been significant legal progress in the field of police co-operation and the fight against organised crime although further secondary legislation is still needed. Romania has not yet signed the Protocol to the UN Convention Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition. Reform of the Police has started but is far from complete and should be accelerated. The operational capacity of the police as well as the flow of information between law enforcement agencies needs to be improved. Another area where greater efforts are needed is on improving integration between the law enforcement and judicial systems as available data suggest a low conviction rate. In terms of international police co-operation, the network of police liaison officers has been expanded and strengthened but the level of other contacts with police services in neighbouring countries is low. More reliable and meaningful statistical instruments for measuring the crime rate are also needed, while new methods of technical crime investigation, including the development of forensic investigation, should be further developed. Despite some progress in strengthening the legal and administrative capacity in combating trafficking in human beings, Romania remains a country of origin, transit and destination. Despite the existence of a number of action plans for various areas of criminality, a strategic and coherent approach against

organised crime is still missing. Romania should therefore adopt a comprehensive anti-crime strategy in line with previous recommendations in the Roadmap and Accession Partnership.

Romania continues to take appropriate measures in the fight against terrorism and is party to the major international agreements in this area.

When it comes to the fight against fraud and corruption Romania has focused its efforts on legislative measures and sanctions and has not given an equal emphasis to increasing transparency and improving accountability standards. Further time is needed before an assessment of the impact of the package of Anti-Corruption Laws of April 2003 can be made. Corruption in law enforcement agencies remains a problem and the December 2002 Action Plan has only had limited results. Concerns remain over the independence of the National Anti-Corruption Prosecutor's Office and its operational effectiveness is reduced by serious staff shortages. Despite the establishment of the National Anti-Corruption Prosecutor's Office as the main anti-corruption body in Romania, there is still a need for improved inter-agency co-operation.

Romania must also complete alignment with the *acquis* in the field of criminal-law protection of the Communities' financial interests. In the field of the protection of the euro against counterfeiting, Romania should ensure that the appropriate legislative measures are taken and implemented, especially with regard to the establishment of criminal sanctions.

As far as the fight against drugs is concerned, there has been some legislative progress with the adoption of the national strategy. This should now be implemented through a number of sector strategies. There is considerable scope for improvement in Romania's fight against drugs as drug smuggling into and through Romania is a growing challenge, as is the production of synthetic drugs in Romania. Enforcement in all areas remains weak. Steps have been taken to reorganise the administrative structure co-ordinating the anti-drugs policy by replacing the Inter-ministerial Committee for Fighting against Drugs with the newly created National Anti-Drugs Agency, though it is still too early to assess the impact this change will have. The national drug information system also remains inadequate and is in need of improvement.

The Romanian legal framework is now in line with the most important *acquis* on the fight against money laundering. However, the Law on the Prevention and Sanctioning of Money Laundering increased the powers and responsibilities of the National Office for the Prevention and Control of Money Laundering without strengthening its administrative capacity. It remains to be seen what impact this legislation will have in practice. Despite the increase in the number of cases referred by the National Office to the prosecution service, the interface with the justice system remains ineffective with only one conviction in almost three years. Given the complexity of money laundering offences, the provision of specialist training to prosecution and courts services may be a first step in improving the conviction rate.

Legal approximation in customs co-operation has not progressed significantly. Preparations for adopting the Convention on Mutual Assistance and Co-operation between Customs Administrations (Naples II) and the 1995 Convention on the Use of Information Technology for Customs Purposes (CIS) are still at very early stages. Inter-agency co-operation still needs to be further improved, especially between the Border

police and the financial guard, customs and the economic branch of the police specialised in tax crimes.

While areas of the *acquis* on judicial co-operation in civil and criminal matters continue to be transposed there have been no measures to increase the capacity for effective implementation of new legislation. The Ministry of Justice should ensure that direct contact between judicial authorities in Romania and those in EU Member States can occur as is foreseen. Reform of the judiciary to enhance its independence and improve its effectiveness is therefore essential to implement the *acquis* in this area. A particular concern is that the activities of the two existing networks of magistrates continue to be reduced.

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

### *Conclusion*

Since the 2002 Regular Report legislative progress has been made in most areas of justice and home affairs and especially in migration, organised crime, money laundering, and judicial co-operation in civil matters.

Overall legal alignment remains variable: transposition has been quite good in many areas but there are still a number of important areas, most significantly the Schengen *acquis*, where additional efforts are required. Implementation capacity remains weak in almost all cases, particularly border management, visa policy, anti-corruption, fight against money laundering, protection of the euro against counterfeiting, fighting various types of organised crime and judicial co-operation. In addition to continued legislative alignment, Romania should increase its efforts to develop administrative capacity and inter-agency co-operation. The reliance on legal measures and re-organisation of agencies has often been at the expense of implementation of the law and in many cases there has been little impact on the actual problem that prompted the government's response. In particular the results achieved in policy areas where effective co-operation between a number of services is required (e.g. border management, policing, anti-corruption) have been limited. Greater contacts with partner agencies in neighbouring states would also allow problems that are often trans-national in nature to be tackled more effectively.

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

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

### *Progress since the last Regular Report*

Concerning the **customs acquis**, in February 2003 the Convention on Temporary Admission came into force following the adoption of legislation ratifying the Istanbul Convention. Romania also adopted legislation to enforce respect for intellectual property rights during customs clearance procedures and to apply Community regulations on the tariff classification of goods.

No progress was made over the reporting period with the conclusion of free trade agreements with Estonia and Latvia, which are required to ensure the application of pan-European cumulation under the Europe Agreement.

Further progress has been made in developing the **administrative and operational capacity** to implement the *acquis*. Interventions by the customs administration to protect intellectual property rights have led to the seizure of increasing amounts of suspected counterfeit goods. During the reporting period Romania also signed a co-operation agreement with the Anti-counterfeiting European Network (REACT). Some initial progress has been made with preparations to integrate the Romanian Integrated Customs Tariff with that of the Community (TARIC). A National Control Authority was created in July 2003 and is amongst other things responsible for co-ordination of a number of services including the General Customs Directorate.

In the fight against corruption a number of actions were taken over the reporting period. These include: surveys to evaluate the level of corruption amongst customs staff and to identify its causes, an action plan to counter corruption by customs staff, the adoption of a policy of education and prevention for customs staff, a public awareness campaign, and the strengthening of the departments charged with fighting corruption. The staff allocated to the audit and control department more than doubled in the course of the reporting period (rising from 10 to 22) and a new control methodology involving spot checks was adopted. A new system of rotation of customs officers was also introduced. In order to improve the transparency of customs operations a number of consultative committees were established between the customs administration and professional and employers' associations.

Improvements in border infrastructure and the modernisation of equipment continue. Romania also adopted a Strategy for the Integrated Management of the State Border covering the period 2003-2006. In March 2003 the Romanian Customs Administration agreed a co-operation protocol with the General Inspectorate of Border police covering, inter alia, joint actions to combat smuggling. This agreement entered into force in August 2003. In the field of risk analysis a number of measures were adopted and training activities organised to combat irregularities and improve the efficiency of analytical methods. Training systems are in place with over 3 600 customs officers and officials, at both central and regional levels, receiving training during the 2002–2003 academic year. Agreements on co-operation at common borders were concluded with Ukraine and negotiated with Hungary in June/July 2003. Customs requirements were reduced for goods in temporary storage in the port of Constanța.

As far as computerised customs systems and interoperability are concerned, progress was made on a module for suspensive procedures, a module for book-keeping and accountancy (both restricted to specific customs office or regional offices) and various internal administrative systems.

In July 2003, Romania concluded a Memorandum of Understanding with the Community on participation in the Customs 2007 programme.

### *Overall assessment*

The Customs Code of Romania, its implementing provisions and the legislation on the control of precursor chemicals are partly aligned with the *acquis*. Provisions on customs controls on counterfeit and pirated goods are largely aligned with the *acquis*.

Alignment remains to be completed for the new *acquis* adopted since 2001 and for provisions on: rules of origin (non-preferential rules will be aligned after adoption of the WTO agreement or upon accession to the EU, whichever is the earlier); free zones/warehouses; duty reliefs and economic regimes; and abandoning customs fees which are not provided for in Community provisions.

Full harmonisation with the *acquis* on duty reliefs remains to be achieved. Duty reliefs which are not provided for in Community legislation, such as those designed to promote certain types of businesses, must be abolished by the time of accession at the latest.

The creation of a National Control Authority with a control and co-ordination role covering customs services has had little effect on the reorganisation of the Romanian Customs Administration itself. Co-operation between the Customs Administration and other enforcement bodies, especially the Border police, continues to improve and these efforts should be maintained over the coming period.

Continuous attention is needed in order to ensure the uniform application of customs procedures in the whole of the customs territory. Romania should develop customs ethics and combat corruption. To combat fraud and irregularities the use of risk analysis methods should be increased and the intelligence function within the customs administration strengthened.

As regards computerisation, the development of the necessary IT systems, inter-connectivity and operational capacity is progressing.

### *Conclusion*

Romania has made continued progress since the last Regular Report.

Attention should still be paid to completing the alignment of customs legislation and to preparing for the application of Community-compatible computerised systems and achieving inter-operability. Additional efforts are also needed to combat corruption within the customs administration and to prepare in advance for the application of measures that will be introduced at the time of accession.

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

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

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

As regards the **common commercial policy**, upon accession Romania will be required to align its tariffs with those of the EC. Romania's applied tariffs currently average 18.6% (Most Favoured Nation or MFN) on all products, 30% on agricultural products, 21.4% on fishery products and 15.4% 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.

Romania has continued to align with the *acquis* on common commercial policy and to co-ordinate positions and policies within the World Trade Organisation with the EU, in particular with regard to the Doha Development Agenda negotiations.

As regards **bilateral agreements with third countries**, Romania made significant progress during the reporting period. Croatia acceded to CEFTA in March 2003, and thereby entered the free trade area of which Romania is a member. As provided for in the Stability Pact's 2001 Memorandum of Understanding, Free Trade Agreements were signed by Romania with FYROM and Albania in February 2003 and with Bosnia-Herzegovina in April 2003. The agreements with Bosnia-Herzegovina and FYROM entered into force in September 2003. An agreement with Serbia-Montenegro has been negotiated, but signature was delayed due to institutional difficulties on the Serbia-Montenegro side. Preliminary contacts have been made with Morocco and Egypt.

In October 2002, a working group was established by the Ministry of Foreign Affairs to analyse the compatibility of agreements concluded by Romania with the *acquis*. Romania has also clearly stated its intention to re-negotiate its bilateral investments treaties in order to ensure their conformity with the *acquis*. A Memorandum of Understanding, and Additional Protocol, were signed regarding the bilateral investment treaty between Romania and the United States.

The EU actively supports Romania's application to the Missile Technology Control Regime.

In June 2003, the responsibility for commercial policy (together with the Foreign Trade Department and all its staff) was transferred from the Office of the Prime Minister to the new Ministry of Economy and Commerce. The organisation and responsibilities of the department are largely unchanged and assurances have been given that staff numbers and conditions will not be affected by this reorganisation.

Romania is not an international donor and does not have a **development policy** although the Ministry of Foreign Affairs has established an Office for Development in order to co-ordinate Romania's input into EU development policy. Romania has continued to contribute to UN development programmes and funds. Romania is a consistent provider of **humanitarian assistance**. Over the reporting period most of this type of aid was allocated to Afghanistan and to Iraq.

### *Overall assessment*

The EU and Romania have established a framework for co-operation regarding WTO issues both at ministerial and at departmental level. This efficient co-operation should be sustained. Romania should continue close co-ordination and co-operation with the Commission in GATS negotiations - mainly in order to facilitate the future convergence of its GATS commitments and MFN exemptions into the EU ones.

Following the signature of the Memorandum of Understanding with the United States on the bilateral investment treaty (BIT) Romania should ensure swift ratification of the Additional Protocols to the BIT, which were also signed with the US. This will be necessary in order for the adaptations to enter into force by the date of accession to the EU.

Among other agreements, the Foreign Investment Protection Agreement with Canada and the Friendship, Commerce and Navigation Treaty with Japan still need to be brought into conformity with the *acquis*. Romania should also complete its analysis of the compatibility of its bilateral agreements with its EU membership obligations, and should establish an implementation schedule to bring them in line with the *acquis*.

Further transposition is needed to align Romania with the core EU 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.

Romania has implemented its commitments under the Stability Pact Memorandum of Understanding on trade liberalisation by concluding or negotiating free trade agreements, albeit with some delays.

Further efforts are needed to align with the *acquis* on medium and long-term export credits.

The Foreign Trade Department is adequately resourced and is well staffed. The capacity of the department has been demonstrated by both the observance of international trade commitments and by the successful hosting of the Sixth Enlargement Trade Ministerial in Bucharest. It is too early to assess the impact of the latest institutional changes on this situation. A recurring issue, raised in previous reports, is that frequent institutional changes inevitably reduce the ability of the Foreign Trade Department to function effectively. Instead of almost annual re-organisations, a period of institutional stability should be considered a priority.

The administrative infrastructure with respect to customs services is discussed in the chapter on customs union (*Chapter 25 – Customs union*). Efforts have been made to develop the administrative capacity of the National Agency for the Control of Strategic Exports and of Prohibition of Chemical Weapons through in-house training and the development of international networks. Despite the setting up of an Office for Development, there are no dedicated structures for managing development and humanitarian aid.

### *Conclusion*

Since the last Regular Report Romania has continued to align with the *acquis* on common commercial policy. It has effectively co-ordinated positions and policies within the World Trade Organisation (WTO) and has respected its international obligations including those of the Europe Agreement. Particularly good progress was made concerning the conclusion of bilateral agreements with third countries.

There are no major outstanding problems in this chapter although Romania should take steps to renegotiate or denounce its bilateral treaties so as to bring them in full conformity with its EU membership obligations by its date of accession.

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.

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

### *Progress since the last Regular Report*

Romania has remained an active participant in the **political dialogue** and has played a constructive role within the framework of the Common Foreign and Security Policy (CFSP), including in the meetings at Political Directors, European Correspondents and Working Groups level. Romania has also shown its interest in the development of the European Security and Defence Policy (ESDP) as part of the CFSP and has participated in discussions on this subject with the EU in the EU + 15 format (i.e. non-EU European NATO members and candidates for accession to the EU).

Romania has continued to align its position with **EU sanctions and restrictive measures, statements, declarations and démarches** and, when invited to do so, has associated itself with the Union's common positions and joint actions. Romania has implemented the embargoes and the restrictive measures imposed by the UN, EU, OSCE and others that stem from the Wassenaar Agreement regarding the export control for conventional arms and dual-use products.

In September 2002 the National Agency for the Control of Strategic Exports and of Prohibition of Chemical Weapons (ANCESIAC) published Romania's first Report on Conventional Arms Exports Control. During the reporting period, ANCESIAC also launched a computerised export control system with the concerned sectors of Romanian industry and carried out a number of specialised industry awareness-raising exercises. International contacts have been further developed in order to benefit from best practices on export control issues. As a part of the government re-organisation in June 2003, ANCESIAC was integrated into the new Ministry of Control.

In June 2003, Romania and Ukraine signed the Treaty on the State Border Regime and agreed to continue negotiations in order to find a mutually acceptable solution for the delimitation of the continental shelf. Romania has also improved its relations with the Russian Federation and a Romanian-Russian Treaty on Friendly Relations and Co-operation was signed in July 2003. Romania continued efforts to improve relations with the Republic of Moldova, proposing a "Partnership for Europe", and was able to upgrade economic relations with FYROM, Bosnia-Herzegovina and Croatia. In March 2003 Romania reconfirmed its willingness to provide forces to both the EU Rapid Intervention Force and to EU civilian instruments for crisis management. In May 2003, at the meeting of the EU Ministers of Defence with third countries, Romania provided details of its national contribution to EU Rapid Intervention Force missions. Romania is taking part in the EU Police Mission (EUPM) in Bosnia and Herzegovina and in the EU military operation CONCORDIA in FYROM.

As regards defence co-operation, Romania has continued to make considerable efforts to support international peacekeeping missions. Combat troops were contributed to the International Security Assistance Force and "Enduring Freedom" operations in Afghanistan. Romania also participated in a series of UN, KFOR, SFOR, and OSCE peacekeeping and observer operations. At the regional level Romania takes part in the Stability Pact (chairing the South-Eastern Defence Ministerial Process Co-ordination Committee and the Political-Military Committee of the Multinational Peace Force in South-Eastern Europe). Romania has agreed to host the headquarters of the future South-East European Brigade for a four-year period.



Romania has adhered to the Rome Statute establishing the International Criminal Court. Although it signed an agreement with the US on the exemption of US citizens, ratification of this agreement has been suspended following the EU Common Position of June 2003.

### *Overall assessment*

As in previous years Romania confirmed its good track record in the common foreign and security policy. Romania has continued to play an important role as a regional leader in efforts to strengthen stability and security in South-Eastern Europe.

As noted in last year's report, officials in Romania's Ministry of Foreign Affairs 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. 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.

Despite some progress with regard to Arms Export Control the full implementation of the EU Code of Conduct for Arms Exports and the fight against unauthorised weapons transfers deserves further attention. There is still no horizontal legislation allowing for the automatic enforcement of economic sanctions.

### *Conclusion*

Romania has continued to align itself with the EU's CFSP and has been active in promoting regional security issues.

There are few areas where further work is necessary, but the legislative framework for arms control and on economic sanctions needs to be completed and administrative structures for CFSP participation need to be finalised.

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.

## ***Chapter 28: Financial control***

### *Progress since the last Regular Report*

In the area of **Public Internal Financial Control (PIFC)**, in December 2002 Romania adopted the Internal Audit Law, which creates a framework for internal financial control, aiming at bringing it into compliance with the *acquis*. The main feature of the law is the provision of safeguards for the functional independence of internal auditors. Implementing regulations on carrying out and assessing public internal audits have been approved as well as the manual for public internal audit.

A Central Harmonisation Unit for Public Internal Audit was established in March 2003 reporting directly to the Minister of Public Finance. Separate Internal Audit units have been established in all major budget-spending centres, but are yet to become fully operational and functionally independent. A Committee for Public Internal Audit has also been formally established with an advisory role in relation to the Central Harmonisation Unit.

In March 2003 Romania adopted a law regulating centralised and decentralised preventive financial control in all public entities and approved the evaluation criteria for the conduct of preventive financial control. The Romanian authorities have continued preparations for the gradual transfer of centralised preventive financial control to management levels, which should be finalised by the date of accession.

In the field of **external audit**, the independence of members of the Court of Accounts has been strengthened by the amendment of the Constitution, which was adopted in October 2003. The Court of Accounts has been substantially reinforced in terms of staff and a new department has been created within the Court with special responsibility for audit in the areas of privatisation and of management of EU funds. The Financial Audit Manual was completed and published in November 2002.

As regards **EU pre-accession funding and future structural action expenditure**, implementing legislation on public internal audit trails for entities responsible for the management of Community pre-accession expenditure was adopted in December 2002. Procedures for developing public internal control and preventive financial control for ISPA were also adopted in December 2002. Romania has embarked on preparation for the extended decentralised implementation system (EDIS). A gap assessment has been completed and work has started on gap plugging. This will be essential not only in the perspective of the management of pre-accession funds, but also in preparation for participation in the Structural Funds after accession.

In the area of the **protection of EC financial interests**, the Prime Minister's Control Department, which acts as the Romanian anti-fraud co-ordination service, defined an "Anti-fraud Strategy for the Protection of the Communities' Financial Interests". A cooperation arrangement with OLAF was signed and entered into force in March 2003 and concrete operational co-operation with OLAF has started.

Following the reorganisation of the Government in June 2003, the Prime Minister's Control Department was renamed the Government Control Department and placed under the control of the new National Control Authority. The continuity of co-operation with other relevant institutions and bodies, including OLAF, needs to be ensured. In addition, attention should be paid to the efficient functioning of co-ordination structures and to further development of mechanisms for administrative enquiries and for the judicial follow-up of anti-fraud investigations.

### *Overall assessment*

With regard to Public Internal Financial Control, Romania has made progress with the establishment of both a Central Harmonisation Unit for Internal Audit and Internal Audit units in all budget-spending centres. A priority should be to ensure that these newly established structures become fully operational and are able to function effectively. Preparations should continue for the transfer of centralised preventive financial control to

management levels. Increased staffing and improved training are needed to guarantee the operational capability of Internal Audit units, of the Directorate for Public Internal Audit and of the Central Harmonisation Unit.

In the area of external audit, the independence of members of the Court of Accounts has been reinforced through an amendment to the relevant article of the Constitution.

A comprehensive set of standards for external audit, conforming to internationally accepted external audit standards and in line with the EC *acquis*, should be finalised and implemented. Effective staff training should be provided in order to strengthen the administrative capacity of the Court. Romania needs to enhance the formal procedures for parliamentary scrutiny of the Court's audit findings and to improve the transparency and dissemination of the Court of Accounts' reports. The Performance Audit Guidelines have been completed.

As regards control of EU pre-accession funding and future structural action expenditure, Romania should concentrate efforts on the preparation for EDIS.

In the area of the protection of EC financial interests, Romania should pursue its efforts to develop both framework and implementing legislation, and must ensure the continuous functioning of its administrative structures following the recent governmental reorganisation.

In July 2002 the Commission adopted a Decision provisionally conferring management authority for three SAPARD measures, on a fully decentralised basis, to the SAPARD Agency. The audit of national accreditation for three additional measures, prerequisite for conferral of management, is well underway.

### *Conclusion*

Since the 2002 Regular Report, considerable progress has been made in the financial control area, notably as regards public internal financial control and external audit.

Implementation remains the main priority and Romania needs to strengthen the capacity of the newly created administrative structures. Further efforts should be focused on implementing sound financial control systems (both public internal financial control systems and external audit systems) by completing legislative alignment, implementing the structural changes and strengthening administrative capacity relating to public internal financial control. In the area of the protection of the EC financial interests, the legislative framework should be further refined and administrative capacity must continue to be ensured.

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

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

### *Progress since the last Regular Report*

In the area of **national budget formulation and execution**, the implementation of the Law on Public Finance, which entered into force in January 2003, provided the framework for a substantial improvement of budgetary processes and greater clarity in medium-term economic forecasting. Budget formulation now follows a well-structured calendar and the preparation process is based on detailed guidelines issued by the Ministry of Public Finance. In the area of public accounting, the Ministry has started moving towards accrual-based accounting.

Some progress has been made since the last Regular Report regarding the underlying policy areas affecting the **application of the own resources system** and preparation of the system of contributions to the European Community budget. Preparatory work has been carried out for a model to simulate the Romanian contribution to the EU budget. Further progress has been made on alignment with the customs code as well as on improving administrative and operational capacity in this area. With regard to VAT, some progress has been registered over the period. National accounts are now compiled using ESA95 standards, but there is still some distance to go before full compliance with ESA95 methodology can be certified.

### *Overall assessment*

Progress has been made with improving budget formulation and execution. A sound framework for multi-annual budgeting is now established and its introduction should be consolidated. While progress has been made in terms of consolidation of funds into the budget, the number of extra-budgetary funds remains high.

In the area of public accounting, the Ministry of Finance has started the move towards accrual-based accounting, a lengthy process, which will require also additional capacity and resources. Administrative capacity needs to be further developed, through improved training and an appropriate allocation of staff in the structures responsible for budget management and public accounting.

Mechanisms for parliamentary control of fiscal and budgetary processes are in place but Parliament has not yet developed the capacity for a substantial debate on public spending.

Romania should continue strengthening its technical and administrative capacity for preparatory activities related to management of own resources.

For traditional own resources, Romania needs to develop an adequate reporting system for cases of fraud and irregularities. Accounting requirements (the A and B accounts) will also need to be set up before accession, as will the systems and procedures necessary for sugar levies.

Further efforts should be made to combat fraud relating to VAT. For the purposes of own resources, Romania will need to develop the capacity to properly calculate the VAT-based resource. Efforts are still necessary to improve the actual collection of VAT.

As regards the Gross National Income (GNI) resource, implementation of ESA95 should be continued, while particular attention should be given to quality and methodology improvements in the calculation of GNI and national accounts.

The co-ordination unit on own resources established in the Ministry of Public Finance needs to strengthen procedures, organisational arrangements and capacity to create a

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

### *Conclusion*

Romania has made some progress since the last Regular Report.

A sound framework for multi-annual budgeting has been established and Romania should consolidate the progress made in the field of budget formulation and execution. At the same time, the structures and the administrative capacity to manage Romania's contribution to the EU budget do not yet exist. An adequately staffed and equipped co-ordinating body needs to be developed in order to prepare for application of the *acquis* on own resources.

Negotiations on this chapter continue.

### **3.2 Translation of the *acquis* into Romanian**

Applicant countries are required to translate the various legal texts constituting the *acquis* into their national languages by the time of their accession. Primary and secondary legislation alone represents a considerable volume of texts, roughly estimated at 70 000 – 80 000 pages of the Official Journal. In the framework of the translation of the *acquis*, the Court of Justice has defined a set of key judgements to be translated as a priority (representing about 15 000 pages). To help the candidate countries in this process, assistance is being provided under the Phare programme. With the help of TAIEX, a dedicated database has been set up to act as a repository of all translated acts and as a tool through which candidate countries forward their translations to the Commission and the Council. The legal revisers of the Commission and the Council vet the submitted texts; they meet regularly and liaise with representatives of the centralised Translation Co-ordination Units in each country.

In Romania, the Translation Co-ordination Unit is established within the European Institute of Romania (EIR). It is responsible for managing all translation activities and it is being reinforced to improve its effectiveness. The Translation Co-ordination Unit participates as observer in the translation and revision work currently undertaken for the ten acceding countries. 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.

As at September 2003, the total translated text registered in the dedicated Commission database represents about 55% of the Official Journal pages, but the revised text so far represents only about 15% of the Official Journal pages. Translation work is continuing and efforts in this area need to be sustained if targets are to be met. Due attention must also be paid to the training of conference interpreters.

### 3.3 General evaluation

Romania has made steady progress with the adoption of the *acquis* and is on track to transpose the required legislation before the planned date of accession provided the current pace of progress is maintained. Weaknesses in the legislative process mean that the quality of legislation transposed is uneven and in some cases revisions will be needed before laws can be implemented.

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

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

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

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

Romania has made some progress in aligning with the *acquis* on *taxation* and particular attention should now be paid to the modernisation of the tax administration and improvement of IT systems. The adoption of the Labour Code was a major step forward in the transposition of the *acquis* on *social policy and employment*. The main focus of future efforts should be ensuring the implementation of the various initiatives that have been taken and to strengthen the administrative capacity. Legislative

progress in the *energy* sector needs to be matched by establishing effective implementation structures, carrying through with structural reforms and improving the functioning of the internal energy market..

The building blocks for a modern *industrial policy* are now in place, but the key challenge is its implementation as structural weaknesses limit the capacity for enforcement. Considerable efforts have been made to improve the business environment although the situation facing *Small and medium-sized enterprises*, remains difficult. Romania has made significant progress in the area of *telecommunications* with the establishment of a regulatory body, the liberalisation of the telecommunications market and the transposition of the new telecommunication *acquis*.

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

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

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

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

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

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

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



## C. CONCLUSION

Romania continues to fulfil the political criteria.

The political will to address administrative and judicial reform exists and a number of positive initiatives have been launched over the last year to reform the public administration and the judiciary. For example, the Civil Servant Statute was revised and a major reorganisation of the court system was launched. However, the reform process is at an early stage. The Romanian civil service remains characterised by cumbersome procedures, limited transparency and a limited capacity for policy execution. The judicial system needs to improve the management of cases and the consistency of judgements as well as to increase the independence of the judiciary. These key issues must be urgently addressed.

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

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

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

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

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

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

Further progress towards macroeconomic stability was made as inflation continued to decline from a relatively high level despite further adaptations of regulated prices. The external position remained sustainable and fiscal policy prudent. Measures to improve tax administration are being progressively put into place. The commitments to control the total wage bill in the public sector were broadly respected and some actions were taken to enforce enterprises' financial discipline, most notably a somewhat higher disposition to disconnect energy users in arrears. Privatisation and restructuring of public enterprises accelerated. Public ownership also decreased in a banking sector that continued to develop its intermediation role. Administrative improvements of market entry and exit mechanisms were undertaken along with various initiatives to improve the business environment.

The authorities should now consolidate the progress achieved in these areas while addressing more decisively those issues where advances were insufficient. In order to preserve the momentum towards greater macroeconomic stability, the recent tightening in monetary policy should be accompanied by prudent fiscal and wage policies as well as by a continued reduction in the quasi-fiscal deficit. Medium-term fiscal prospects also need to be strengthened by advancing expenditure reform and improving tax compliance. This would help strengthening enterprise financial discipline which remains a key, unresolved issue. Measures should focus on the root causes of the continued accumulation of arrears to the budget and the energy sector. Efforts to improve the workings of the market mechanism must be completed by a greater willingness to liquidate loss-making enterprises and establish natural gas prices that appropriately reflect short and long-term costs. Having moved beyond the initial phases, restructuring and privatisation in key sectors, such as energy, mining and transport, must be brought forward. This would greatly 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.

Romania has made steady progress with the adoption of the *acquis* and is on track to transpose the required legislation before the planned date of accession provided the current pace of progress is maintained. Weaknesses in the legislative process mean that the quality of legislation transposed is uneven and in some cases revisions will be needed before laws can be implemented.

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

Romania has made progress in the field of *company law* as such. Implementation of new accountancy and auditing rules should be prioritised. Greater efforts to protect industrial and intellectual property rights are needed. While the Romanian *competition* legislation is broadly in line with EC anti-trust rules, in the area of state aid there is not yet sufficient

control. In the steel sector, Romania's obligations for transparency with regard to direct and indirect state aid should continue to be respected.

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

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

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

The building blocks for a modern *industrial policy* are now in place, but the key challenge is its implementation as structural weaknesses limit the capacity for enforcement. Considerable efforts have been made to improve the business environment although the situation facing *Small and medium-sized enterprises*, remains difficult. Romania has made significant progress in the area of *telecommunications* with the establishment of a regulatory body, the liberalisation of the telecommunications market and the transposition of the new telecommunication *acquis*.

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

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

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

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

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

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

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

#### D. ACCESSION PARTNERSHIP: GLOBAL ASSESSMENT

Romania's progress and overall state of preparation in respect of the Copenhagen criteria has been examined and conclusions drawn above. This section assesses briefly the overall extent to which the priorities of the Accession Partnership have been met.

A revised Accession Partnership was adopted in May 2003.<sup>13</sup> The purpose of the Accession Partnership is to assist the Romanian authorities in their efforts to meet the accession criteria. It covers in detail the priorities for accession preparations, in particular implementing the *acquis*, and forms the basis for programming pre-accession assistance from Community funds such as the Phare programme.

This Accession Partnership followed two earlier documents, an action plan and a roadmap<sup>14</sup>. The purpose of the action plan adopted in 2002 was to identify jointly the next steps required for Romania to achieve an adequate level of administrative and judicial capacity by the time of accession; it served also as an instrument to target EU assistance in these areas. As announced in the Commission's 2002 Strategy Paper, an accession roadmap was developed in close consultation with Romania and adopted in November 2002. The roadmap covers the whole period up to accession and provides a longer-term perspective than the Accession Partnership. It indicates the main steps that need to be taken to be ready for membership with particular reference to the administrative and judicial capacity necessary to implement the *acquis*, and to the economic reforms necessary to meet the Copenhagen criteria. For the *acquis* chapters, the roadmap provides benchmarks against which Romania's progress can be monitored. These issues were further refined in the revised Accession Partnership.

Romania has begun to address the priorities defined by the revised Accession Partnership. Overall, progress has been made, but substantial efforts are still necessary to complete the tasks foreseen for the period 2003-2004. For a considerable number of these priorities, the government will benefit from Phare assistance, as projects directly related to these priorities have been included in the 2003 Phare programme (*see more details in Part A.2 of this report*).

With regard to the **political criteria**, Romania has initiated a complex set of civil service, administrative and judicial reforms with the aim of reinforcing *democracy and the rule of law*. Attention should be focused on the implementation of these reforms and on the enforcement of existing legislation. While some progress can be reported in meeting the priorities relating to respect for *human rights and protection of minorities*, a considerable amount of work still remains to be done.

Romania is steadily moving forward in the implementation of the priorities defined by the revised Accession Partnership with regard to the **economic criteria**. Economic growth was accompanied by some progress towards economic stability although macroeconomic risks have recently increased. The regulatory framework is progressively

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<sup>13</sup> Council decision 2003/397/EC of 19 May 2003 on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with Romania (OJ L 145, 12.6.2003, p. 21).

<sup>14</sup> Communication from the Commission to the Council and the European Parliament - Roadmaps for Bulgaria and Romania, 13 November 2002 (COM/2002/624 final).

developing but further efforts are needed in the areas of judicial and public administration in order to strengthen its functioning and ensure the enforcement of property rights. Further efforts will be needed on the priorities relating to structural reform.

While Romania is continuing to make progress with the adoption and implementation of the *acquis*, a considerable gap remains between the commitments made in the negotiation process and the capacity of the Romanian administration to meet these commitments. Legislative alignment also needs to continue on many of the Accession Partnership priorities.

Progress on the issues identified as priorities in the Accession Partnership is discussed in more detail in other parts of this report, notably in Part B.3 of this report. The revised Accession Partnership follows the same structure as the Regular Report.

The revised Accession Partnership continues to be a main tool guiding Romania's work on preparation for accession to the EU for the period 2003-2004. Implementation of the Accession Partnership needs to continue. It should be given the necessary political attention and should help Romania to set its legislative and institution-building agenda.

## **ANNEXES**

## ANNEX I

### HUMAN RIGHTS CONVENTIONS RATIFIED BY THE CANDIDATE COUNTRIES

(as at end of October 2003)

<i>Adherence to following conventions and protocols</i>	<b>Bulgaria</b>	<b>Romania</b>	<b>Turkey</b>
<b>ECHR (European Convention on Human Rights)</b>	✓	✓	✓
Protocol 1 (right of property)	✓	✓	✓
Protocol 4 (freedom movement et al.)	✓	✓	
Protocol 6 (death penalty)	✓	✓	✓ <sup>1</sup>
Protocol 7 (ne bis in idem)	✓	✓	
<b>European Convention for the Prevention of Torture</b>	✓	✓	✓
<b>European Social Charter</b>	n/a	n/a	✓
<b>Revised European Social Charter</b>	✓	✓	
<b>Framework Convention for National Minorities</b>	✓	✓	
<b>ICCPR (International Covenant on Civil and Political Rights)</b>	✓	✓	✓
Optional Protocol to the ICCPR (right of individual communication)	✓	✓	
Second Optional Protocol to ICCPR (death penalty)	✓	✓	
<b>ICESCR (International Covenant on Economic, Social and Cultural rights)</b>	✓	✓	✓
<b>CAT (Convention against Torture)</b>	✓	✓	✓
<b>CERD (Convention on the Elimination of All Forms of Racial Discrimination)</b>	✓	✓	✓
<b>CEDAW (Convention on the Elimination of All Forms of Discrimination against Women)</b>	✓	✓	✓
Optional Protocol to the CEDAW			✓
<b>CRC (Convention on the Rights of the Child)</b>	✓	✓	✓

<sup>1</sup> Not yet notified to the Council of Europe.



## ANNEX II

## STATISTICAL ANNEX

	1998	1999	2000	2001	2002
<b>Basic data</b>	<b>in 1000</b>				
Population (at 1 <sup>st</sup> of July)	22,503	22,458	22,435	22,408	21,795)
	<b>in km<sup>2</sup></b>				
Total area	238,391	238,391	238,391	238,391	238,391
<b>National accounts</b>	<b>1000 Mio Lei</b>				
Gross domestic product at current prices	373,798	545,730	803,773	1,167,243	1,512,257
	<b>1000 Mio ECU/euro</b>				
Gross domestic product at current prices	37.4	33.4	40.3	44.9	48.4
	<b>in ECU/Euro</b>				
Gross domestic product per capita b) at current prices	1,700	1,500	1,800	2,000	2,200
	<b>% change over the previous year</b>				
Gross domestic product at constant prices (nat. currency)	-4.8	-1.2	2.2	5.7	4.9
Employment growth	-2.3	-4.5	2.5	-0.8	-8.7
Labour productivity growth	-2.5	3.5	-0.3	6.5	14.8
Unit labour cost growth	50.7	-7.6	21.7	:	:
	<b>in Purchasing Power Standards</b>				
Gross domestic product per capita b) at current prices	6,000	5,100	5,300	5,600	5,900
	<b>in % of EU-15 average</b>				
GDP per capita b) at current prices in PPS	30	24	23	24	25
Labour productivity (GDP per person employed in PPS)	33	28	27	28	31
Structure of production	<b>% of Gross Value Added c)</b>				
- Agriculture	16.0	14.9	12.4	14.7	13.0
- Industry (excluding construction)	29.1	27.7	30.5	31.2	32.1
- Construction	5.6	5.6	5.5	5.4	5.5
- Services	49.3	51.8	51.7	48.7	49.4
Structure of expenditure	<b>as % of Gross Domestic Product</b>				
- Final consumption expenditure	90.3	88.8	86.2	85.2	82.7
- household and NPISH	75.8	74.3	70.1	69.4	67.1
- general government	14.5	14.5	16.1	15.8	15.6
- Gross fixed capital formation	18.2	17.7	18.9	20.5	21.1
- Stock variation d)	-0.4	-1.6	0.6	2.1	2.0
- Exports of goods and services	22.6	28.0	32.9	33.3	35.5
- Imports of goods and services	30.7	32.9	38.5	41.1	41.2

	1998	1999	2000	2001	2002
<b>Inflation rate</b>	<b>% change over the previous year</b>				
Consumer price index	59.1	45.8	45.7	34.5	22.5
<b>Balance of payments</b>	<b>in Mio ECU/euro</b>				
-Current account	-2,647	-1,216	-1,471	-2,886	-1,664 l)
-Trade balance	-2,341	-1,025	-1,823	-3,701	:
<i>Exports of goods</i>	7,405	7,978	11,223	14,194	:
<i>Imports of goods</i>	9,747	9,003	13,047	17,895	:
-Net services	-583	-393	-275	-258	:
-Net income	-394	-386	-304	-352	:
-Net current transfers	672	587	931	1,425	:
- of which: government transfers	46	53	76	276	:
- FDI (net) inflows	1,812	977	:	:	:

	<b>in % of Gross Domestic Product</b>				
General government deficit/surplus	-3.2	-4.5	-4.6	-3.3	-2.2p
General government debt	18.0	24.0	23.9	23.1	22.7p
<b>Financial indicators</b>	<b>in % of Gross Domestic Product</b>				
Gross foreign debt of the whole economy	17.5	20.8	21.1	21.9	:
	<b>as % of exports</b>				
Gross foreign debt of the whole economy	77.4	74.1	64.0	65.8	:
<b>Monetary aggregates</b>	<b>1000 Mio ECU/euro</b>				
- M1	1.7	1.6	1.9	2.3	2.5
- M2	7.2	7.3	7.7	9.7	10.6
- M3	:	:	:	:	:
Total credit	6.8	6.0	4.9	5.9	6.4
<b>Average short-term interest rates</b>	<b>% per annum</b>				
- Day-to-day money rate	80.9	80.8	44.8	41.0	26.5
- Lending rate	55.4	65.7	53.8	45.4	35.4
- Deposit rate	37.3	45.8	32.9	26.6	19.1
<b>ECU/EUR exchange rates</b>	<b>(1ECU/euro=..Leu)</b>				
- Average of period	9,985	16,345	19,922	26,004	31,270
- End of period	12,814	18,345	24,142	27,817	35,135
	<b>1990=100</b>				
- Effective exchange rate index	0.33	0.20	0.15	0.12	0.10
<b>Reserve assets</b>	<b>Mio ECU/euro</b>				
-Reserve assets (including gold)	1,981	2,455	3,637	5,514	6,913
-Reserve assets (excluding gold)	1,175	1,519	2,652	4,456	5,841

	<b>Mio ECU/euro</b>				
<b>External trade</b>	<b>Mio ECU/euro</b>				
Trade balance	-3,202	-1,979	-3,055	-4,688	-4,225
Exports	7,381	8,055	11,365	12,685	14,680
Imports	10,583	10,034	14,420	17,373	18,905
	<b>previous year=100</b>				
Terms of trade	105.1	103.8	103.5	102.0	103.9
	<b>as % of total</b>				
Exports with EU-15	64.5	65.5	63.8	67.8	67.1
Imports with EU-15	57.7	60.7	56.6	57.3	58.4

	1998	1999	2000	2001	2002
<b>Demography</b>	<b>per 1000 of population</b>				
Natural growth rate	-1.5	-1.4	-0.9	-1.8	-2.7a)
Net migration rate (including corrections)	-0.3	-0.1	-0.2	0.02	-0.07a)
	<b>per 1000 live-births</b>				
Infant mortality rate	20.5	18.6	18.6	18.4	17.3
Life expectancy :	<b>at birth</b>				
Males:	65.5	66.1	67.0	67.7	67.6
Females:	73.3	73.7	74.2	74.8	74.9

<b>Labour market (Labour Force Survey)</b>	<b>% of population</b>				
Economic activity rate (15-64)	70.3	69.8	69.6	68.3	64.2
Employment rate (15-64), total	64.2	63.3	63.0	62.4	57.6
Employment rate (15-64), males	70.4	69.1	68.6	67.8	63.6
Employment rate (15-64), females	58.2	57.8	57.5	57.1	51.8
	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>
	<b>as % of the total population of the same age group</b>				
Employment rate of older workers (55-64)	51.5	50.0	49.5	48.2	37.3
Average employment by NACE branches	<b>in % of total</b>				
- Agriculture and forestry	42.0	44.0	45.2	44.4	37.7
- Industry (excluding construction)	24.8	23.4	22.1	21.8	25.3
- Construction	4.0	3.6	3.7	4.0	4.3
- Services	29.3	28.9	29.0	29.7	32.7
	<b>% of labour force</b>				
Unemployment rate, total	5.4	6.2	6.8	6.6	7.0
Unemployment rate, males	5.5	6.8	7.2	6.9	7.3
Unemployment rate, females	5.3	5.6	6.3	6.2	6.6
Unemployment rate of persons < 25 years	16.8	17.3	17.8	17.6	22.2
Long-term unemployment rate	2.6	3.1	3.7	3.3	3.8
<b>Social cohesion</b>	<b>ratio of top quintile to lowest quintile</b>				
Inequality of income distribution	4.2	4.4	:	:	:
	<b>% of population aged 18-24</b>				
Early school-leavers	19.1	21.5	22.3	21.3	23.2
	<b>% of population aged 0-65</b>				
Population in jobless households (persons aged 0-65)	8.0	8.6	9.0	8.9	11.8

<b>Standard of living</b>	<b>per 1000 inhabitants</b>				
Number of cars	125	133	139	144	:
Main telephone lines	161.2	168.3	173.8	185.9	200.0
Number of subscriptions to cellular mobile services	24.5	50.1	90	205.0	234.0
<b>Infrastructure</b>	<b>in km per 1000 km<sup>2</sup></b>				
Railway network	46.2	46.1	46.2	46.2	46.2
	<b>Km</b>				
Length of motorways	113	113	113	113	113

	1998	1999	2000	2001	2002
<b>Industry and agriculture</b>	<b>previous year=100</b>				
Industrial production volume indices	86.2e)	97.8e)	107.6e)	108.4f)	106.0p f)
Gross agricultural production volume indices	92.5	105.2	85.8		
Agricultural production volume indices of goods and services g)	:	104.0	85.2	122.7	96.5p

<b>Innovation and research</b>	<b>as % of GDP</b>				
Spending on Human Resources (public expenditure on education)	4.38	3.37	2.89	3.05E	3.01E
	<b>as % of GDP</b>				
Gross domestic expenditure on Research & Development	0.49	0.40	0.37	:	:
	<b>per 1000 inhabitants</b>				
Level of Internet access - households	:	:	:	:	:

<b>Environment</b>	<b>tonnes CO2 equivalent per capita</b>				
Total greenhouse gases emissions	61.9	61.9	61.9	:	:
	<b>kg of oil equivalent per 1000 euro of GDP</b>				
Energy intensity of the economy	1,563.4	1,418.6	1,460.4	:	:
	<b>as % of total electricity consumption</b>				
Share of renewable energy	35.0	36.7	28.8	:	:
	<b>as % of total freight transport</b>				
Modal split of freight transport	43.1	43.5	42.9	49.6	:
p=provisional figures					
E=estimated data					

a) Provisional figures based on the preliminary results of the Population and Housing census carried out in March 2002.

b) Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

c) Including FISIM.

d) These figures include changes in inventories, acquisitions less disposals of valuables and the statistical discrepancy between the GDP and its expenditure components.

e) Indices are calculated according to the structure of the year 1995.

f) Indices are calculated according to the structure of the year 1998.

g) The indicator "Gross agricultural production volume indices" is no longer calculated starting with 2001. It was replaced with "Agricultural production volume indices of goods and services", according to the Eurostat methodology.

h) Terms of trade are obtained on the basis of the Unit Value Indices calculated from values expressed in US dollars

i) Source: Website of the National Bank

## Methodological Notes

### Inflation rate

For details please refer to the following link to the Eurostat website:  
[http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/ecobac\\_ir.htm](http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/ecobac_ir.htm)

### Finance

*Public finance:* The general government deficit / surplus refers to the national accounts concept of consolidated general government net borrowing / net lending (EDP B.9) of ESA95. General government debt is defined as consolidated gross debt at end-year nominal value.

### External trade

*Imports and exports (current prices).* The data is based upon the special trade system. Trade Classification: Trade in goods are recorded using the commodity classification according to the Combined Nomenclature. Imports are recorded on CIF basis, exports on FOB basis.

*Imports and exports with EU-15.* Data declared by Romania.

### Labour market

Indicators are harmonised annual figures with the exception of average employment by NACE branches and unemployment rate of persons < 25 years, which are for the 2<sup>nd</sup> quarter of the respective year. The results are based on the European Union Labour Force Survey (LFS). The EU LFS is conducted on a quarterly basis in accordance with Council Regulation (EEC) No. 577/98 of 9 March 1998.

For details please refer to the following link on the Eurostat website:  
<http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/emploi.htm>

### Social cohesion

For details please refer to the following link on the Eurostat website:  
<http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/socohe.htm>

### Industry and agriculture

*Industrial production volume indices.* Since 1991, IPI is computed based on a sample of representative products, constituted in series-witness, for which quantitative and value data are collected. Since 2001, 1998 represents the reference year with a coverage by 78.3%, per total industry. 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. 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. 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. The indicator "Gross agricultural production volume indices" is no longer calculated starting with 2001 and it was replaced with the new indicator, namely "Agricultural production volume indices of goods and services", according to the Eurostat methodology.

*Agricultural production volume indices of goods and services.* Indices based on evaluation of all individual products and agricultural services according to the Eurostat methodology on "Agriculture Economic Accounts", in constant prices of the year preceding the examined one.

### Innovation and research

For details please refer to the following link to the Eurostat website:  
<http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/innore.htm>

### Environment

For details please refer to the following link to the Eurostat website:  
<http://europa.eu.int/newcronos/suite/info/notmeth/en/theme1/strind/enviro.htm>

### Sources

Total area, External trade, Demography, Standard of living, Infrastructure, Industry and agriculture: National sources. Other indicators: Eurostat.