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**COMMUNICATION FROM THE COMMISSION
TO THE COUNCIL AND TO THE EUROPEAN PARLIAMENT**

**Strategy Paper of the European Commission on progress in the enlargement
process**

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1. INTRODUCTION

The enlargement of the EU to ten new Member States on 1 May 2004 has further strengthened the unity of the European continent. The historical and political arguments in favour of this enlargement are compelling: it enhances peace, prosperity, stability and security and has also produced substantial economic benefits.

Bulgaria and Romania are an integral part of this enlargement process which was launched in 1997. Both countries are close to completing the negotiations. The EU's objective is to welcome both countries in January 2007 as members, if they are ready.

The Commission's assessment in this year's Regular Reports confirms that the Union's pre-accession strategy with Bulgaria and Romania has been a success. The transformation process in both countries has been accelerated by the prospect of enlargement. The Commission will make every effort in order to meet the European Council's objective to bring the negotiations with Bulgaria and Romania to a successful conclusion in 2004, on the basis of own merits, with a view to signing the Accession Treaty as early as possible in 2005.

The European Council in June 2004 concluded that accession negotiations with Croatia shall begin in early 2005. The Commission sets out below suggestions for a framework for these negotiations building on the experiences from the current enlargement process. It also presents the content of a pre-accession strategy for Croatia including financial instruments.

In line with the European Council conclusions of December 2002, the Commission assesses in a separate document whether Turkey fulfils the Copenhagen political criteria and whether accession negotiations should be opened.¹ All Western Balkans countries have a perspective to become candidate countries. Already, the former Yugoslav Republic of Macedonia has applied for membership, and upon Council's request, the Commission is preparing an Opinion on that application.

¹ Recommendation of the European Commission on Turkey's progress towards accession, COM(2004) 656.

2. BULGARIA AND ROMANIA

2.1. Progress in meeting the membership criteria

In the Regular Reports, progress made by Bulgaria and Romania towards meeting the membership criteria is assessed, in terms of legislation and measures actually adopted or implemented.

This year's Regular Reports' assess Bulgaria and Romania's ability to assume all obligations of membership by accession. They evaluate progress made over the last year and also look at progress achieved by each country since the 1997 Opinions and their track record in implementing the commitments made in the negotiations.

Bulgaria and Romania continue to fulfil the Copenhagen political criteria. Improvements need to be made in particular in the reform of their public administration, the functioning of their judicial system, and the fight against corruption.

Bulgaria and Romania fulfil the criterion of being a functioning market economy. The continuation of Bulgaria's reform path and the vigorous implementation of Romania's structural reform programme should enable them to cope with competitive pressure and market forces within the Union

Bulgaria and Romania have continued to make good progress in adopting the *acquis* and have generally fulfilled their commitments made in the negotiations. They are on track to complete the required legislative transposition by accession provided that the current pace of progress is maintained. They need to continue their efforts to develop sufficient administrative and judicial capacity to implement and enforce the *acquis*.

The conclusions of the Regular Reports on Bulgaria and Romania can be found in Annex 1. The Regular Reports point to a number of areas where further improvements need to be made in the context of the political and economic criteria and in relation to the adoption, implementation and enforcement of the *acquis*. These should be vigorously pursued in order to remedy before accession the shortcomings identified.

2.2. Completing the accession process

The **accession negotiations** are well advanced. A framework to finance the accession of Bulgaria and Romania was defined in spring 2004. This allowed the provisional closure of all chapters with Bulgaria in June 2004. For Romania, three chapters remain to be negotiated (competition, environment, and justice and home affairs) as well as parts of Chapter 31 (Other). Additional efforts are needed in particular in the competition chapter as regards state aid and in the justice and home affairs chapter as regards judicial co-operation, fight against corruption and organised crime, border management.

In line with the practice followed in previous enlargements, it will not be possible to go beyond a certain point in time when considering new *acquis* in the negotiations. In view of the very advanced state of the negotiations and the prospect of signing the Accession Treaty as early as possible in 2005, the Commission considers that the negotiations should cover all *acquis* adopted and published by 1 October 2004. Bulgaria and Romania should therefore transmit their positions on all new *acquis*

adopted until that date. This would allow to deal with any transitional arrangements before the end of the negotiations.

The results of the accession negotiations in terms of agreed transitional arrangements and the technical adaptations to the *acquis* as a result of enlargement will be embodied in an **Accession Treaty**. Work on the drafting of this Treaty started in July 2004.

Once the text of the Treaty has been agreed by all parties, in accordance with Article 49 of the EU Treaty, the Commission will issue its Opinion. The European Parliament will be asked to give its assent, followed by a decision of the Council on the admission of Bulgaria and Romania. The objective is to sign the Accession Treaty as early as possible in 2005 in order for it to enter into force on 1 January 2007. After the signature, the Treaty will be submitted for ratification by the present and future Member States.

The Commission considers that the decision making procedures concerning requests from Bulgaria or Romania for transitional arrangements on acts of the institutions adopted between 1 October 2004 and the date of accession should be streamlined to ensure a smooth transition from pre- to post-accession decision making. In addition, active observer status in the Council, in committees presided over by the Commission as well as in other institutions as appropriate would be granted as from the signature of the Treaty.

The Commission is closely **monitoring** how Bulgaria and Romania are meeting their commitments made in the negotiations. It is highly important that these commitments are implemented as foreseen. The Commission will therefore continue its intensive monitoring after the conclusion of the negotiations.

Building on the analysis in Regular Reports, the Commission will monitor progress by making intensive use of the Association Agreements structures, and all other monitoring instruments including peer reviews. As from November 2005, the Commission will issue yearly comprehensive monitoring reports, covering all *acquis* chapters, public administration, judiciary and fight against corruption as well as the track record in economic reforms.

Any delays or problems in economic reform or in the fulfilment of commitments will be signalled by the Commission, in particular through early warning letters at a political level and reported to the Council on the basis of current procedures. For cases of serious shortcomings, the Accession treaty will contain three **safeguard** clauses as a last resort mechanism (general economic, internal market and justice and home affairs).

Moreover, as the period between the end of the negotiations and Bulgaria and Romania's expected date of accession is likely to be long, and given the large number of commitments that still need to be fulfilled, the Commission considers that the Accession Treaty should as a precautionary measure contain a specific safeguard. This safeguard, already agreed in the negotiations with Bulgaria, should be extended to Romania as well. It would allow the Commission to recommend to the Council at any time before the entry into force of the Accession Treaty to postpone the envisaged date of accession of Bulgaria or Romania by one year to January 2008 if there is clear evidence that there is a serious risk that Bulgaria or Romania will be

manifestly unprepared to meet the requirements of membership by 1 January 2007 in a number of important areas.

Up until accession, the Union will continue to help Bulgaria and Romania in their preparations for membership through the **pre-accession strategy**. This includes significant financial assistance to support both countries in taking the remaining steps necessary to fully meet the accession criteria.

2.3. After joining the Union

The process of considerably reinforcing administrative and judicial capacity will need to continue after Bulgaria and Romania join the Union. Therefore the Commission proposes to make available a special transition facility for institution building. In this context, certain Community financed instruments which have proven their usefulness, such as twinning, will continue to be used.

In accordance with the EU Treaty, Bulgaria and Romania will not immediately adopt the euro upon accession. Similarly, as regards the application of the Schengen *acquis*, the lifting of internal border controls will only occur some time after accession and will be decided for each new Member State separately once they fulfil the Schengen *acquis*.

Bulgaria and Romania will need to apply to join the European Economic Area (EEA) and their accession to the EEA should take place at the same time as their accession to the EU. Other international agreements will have to be adjusted as a result of enlargement as soon as the Accession Treaty is signed.

2.4. Conclusions

This year's Regular Reports show that Bulgaria and Romania have made further progress in implementing the Copenhagen criteria. Bulgaria and Romania fulfil the political criteria. Bearing in mind the progress achieved by both countries, the track record in implementing their commitments, and taking into account their preparatory work in progress, the Commission expects these countries to fulfil the economic and *acquis* criteria and to be ready for membership by 1 January 2007.

The Commission will make every effort in order to meet the European Council's objective to bring the negotiations with Bulgaria and Romania to a successful conclusion in 2004, on the basis of own merits, with a view to signing the Accession Treaty as early as possible in 2005.

3. CROATIA

3.1. Pre-accession strategy

The Brussels European Council in June 2004 concluded that Croatia is a candidate country with which accession negotiations will start in early 2005 and requested the Commission to prepare a pre-accession strategy for Croatia. The Commission considers that the reinforced pre-accession strategy for candidate countries decided by the European Council in Luxembourg in December 1997 should be extended to Croatia. The elements of this strategy are outlined below.

The review procedure aimed at assessing candidate countries' progress towards membership will start to be applied to Croatia as of 2005. This will mean that the Commission will start issuing Regular Reports on Croatia as from autumn 2005. In the context of the Stabilisation and Association Process, the Commission has already proposed a European Partnership, based on the findings of its Opinion on Croatia's application for membership. This document will guide Croatia's accession preparations.

Croatia as a candidate country should benefit from all three pre-accession financial instruments: Phare for institution-building and economic and social cohesion, ISPA for environment and transport, and SAPARD for rural development. The Commission will propose amendments to the regulations for these three pre-accession instruments in order to extend their scope to Croatia as of 1 January 2005. Taking into account the needs for an adequate preparation of Croatia for accession, the Commission recommends that €105 million (€80 million for Phare and €25 million for ISPA) are allocated to Croatia in 2005 and €140 million in 2006 (€80 million for Phare, €35 million for ISPA, and €25 million for SAPARD). These amounts will be financed out of the pre-accession funds available under heading 7 of the current financial perspectives. The Commission has proposed to Council to create a new pre-accession instrument (IPA), from which Croatia would benefit from 2007 onwards, building on the present pre-accession instruments Phare, ISPA and SAPARD. The amounts to be allocated to Croatia from 2007 onwards will be decided in the context of the next financial perspective.

The Stabilisation and Association Agreement (SAA) signed with Croatia in October 2001 has now been ratified. In order to implement the trade-related aspects of the SAA, an Interim Agreement entered into force in March 2002. A Stabilisation and Association Council, Committee and Sub-Committees will be set up. The Commission proposes that the structures of the SAA be used not only to cover issues related to the implementation of the agreement, but also to serve as forums for the explanation of the *acquis* and review progress made by Croatia in the alignment of the *acquis* in line with commitments taken in the negotiations.

The framework agreement allowing Croatia's participation in Community programmes and agencies should come into force in the first half of 2005, after ratification by the EU institutions and Croatia. Croatia's financial contribution to each programme can be partly funded by Phare.

In addition to the above mentioned elements for a reinforced pre-accession strategy, the Commission considers that an enhanced political dialogue with Croatia should continue in order to tackle the issues highlighted in the Opinion. Such issues include the relations with the International Criminal Tribunal for the former Yugoslavia, minority rights, return of refugees, judiciary reform, regional co-operation and the fight against corruption. In particular, Croatia needs to remain committed to regional cooperation within the framework of the Stabilisation and Association Process for the Western Balkans. The Commission will closely monitor these issues in regular meetings with the Croatian authorities and will keep the Council informed.

3.2. The negotiating framework

The Brussels European Council in June 2004 decided that "in advance of negotiations with Croatia, the Council will agree a general negotiating framework,

taking full account of the experience of the fifth enlargement process". The Commission suggests that the framework should build on the following principles:

- The negotiations with Croatia should be guided by the conditions for accession as defined at the Copenhagen European Council in 1993. These conditions are adequate tools for measuring a candidate country's preparedness for meeting the obligations of membership, and provide for clear guidance in the reform process.
- Progress in the negotiations will be fully dependent on the sustainability of political reforms and Croatia's fulfilment of its obligations in respect of regional cooperation with the other countries of former Yugoslavia and other related international obligations such as cooperation with ICTY.
- In line with the Treaty on European Union and the Constitution for Europe, the Commission will recommend the suspension of negotiations in the case of a serious and persistent breach of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law on which the Union is founded. The Council should be able to decide on such recommendation by a qualified majority of Member States.
- The negotiations will be conducted on the principle of own merits. Any transitional arrangements should be limited in scope and time and not have significant impact on competition or the functioning of the internal market.
- Immediately after the formal opening of the accession negotiations with Croatia, the Commission will organise a formal process of examination of the *acquis*, called screening, in order to explain it to the Croatian authorities and to obtain preliminary indications of the issues that will most likely come up in the negotiations.
- Once a chapter has been screened, the Commission will, building on its recent Opinion on Croatia, recommend opening it for negotiations provided Croatia is sufficiently prepared.
- Croatia's correct transposition and implementation of the *acquis* including effective and efficient application through appropriate administrative and judicial structures will determine the pace of negotiations.
- The Commission will propose to the Council benchmarks for each chapter's provisional closure ahead of the opening of negotiations under that chapter. These benchmarks could refer to legislative alignment or to a satisfactory track record in implementation. This approach has proved to be successful notably in the competition chapter.
- Progress in the negotiations will be dependent on Croatia's fulfilment of its commitments under the Stabilisation and Association Agreement, in particular those that mirror requirements under the *acquis* for example in the field of competition. Any such commitment needs to be fully met before a chapter can be provisionally closed.
- The Commission will carefully monitor Croatia's progress towards accession making use of all available instruments.

4. CONCLUSIONS AND RECOMMENDATIONS

In the light of the above, the Commission's conclusions and recommendations are the following:

- (1) This year's Regular Reports show that Bulgaria and Romania have made further progress over the last year in implementing the accession criteria.
- (2) Bulgaria and Romania fulfil the political criteria. Bearing in mind the progress achieved by these countries, the track record in implementing their commitments, and taking into account their preparatory work in progress, the Commission expects these countries to fulfil the economic and *acquis* criteria and to be ready for membership by January 2007.

The Commission will make every effort in order to meet the European Council's objective to bring the negotiations with Bulgaria and Romania to a successful conclusion in 2004, on the basis of own merits, with a view to signing the Accession Treaty as early as possible in 2005.

- (3) The Regular Reports point to a number of areas where further improvements need to be made in the context of the political and economic criteria and in relationship to the adoption, implementation and enforcement of the *acquis*. These should be vigorously pursued in order to remedy before accession the shortcomings identified. In order to analyse progress and to facilitate successful membership of the European Union, the Commission will conduct an enhanced monitoring and regularly report to the Council. The Commission will issue as from November 2005 yearly comprehensive monitoring reports for the Council and the Parliament. The Commission considers that a specific safeguard needs to be introduced in the Accession Treaty which would allow the Commission to recommend to the Council to postpone the date of accession of either Bulgaria or Romania by one year to January 2008 if there is clear evidence that there is a serious risk that Bulgaria or Romania will be manifestly unprepared to meet the requirements of membership by 1 January 2007 in a number of important areas.
- (4) The Commission recommends extending to Croatia the reinforced pre-accession strategy for candidate countries decided by the European Council in Luxembourg in December 1997, as outlined above.
- (5) The Commission recalls that the European Council has decided to begin negotiations with Croatia early in 2005 and suggests that the negotiating framework for Croatia, building on the principles outlined in this paper, is finalised to that end.

ANNEX: CONCLUSIONS OF THE REGULAR REPORTS ON BULGARIA AND ROMANIA

Bulgaria

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

Tangible progress was made in public administration reform with the adoption of amendments to the Civil service law. The specific structures for co-ordinating European integration continue to function well, and in view of Bulgaria's aim of building a qualified and efficient civil service by the time of accession this progress needs to spread throughout the public administration. Also, interdepartmental coordination should improve. Attention should be given to the legal framework for local and regional administration, which will play an important role in the implementation of the *acquis*.

Building on important reforms of the judiciary system achieved in recent years, there have been positive developments with regard to the recruitment and appointment of judges. Still, certain key parts of the reform of the judiciary remain to be adopted. The complexity and efficiency of the penal structures, in particular in the pre-trial phase, is a matter of concern. Strong efforts will be necessary to foster Bulgaria's capacity to prosecute organised crime and corruption, which involves further reforms in the structures of the judiciary and of the police.

Bulgaria has implemented several measures in the fight against corruption, but it remains a problem. Renewed efforts are needed, including tackling high level corruption.

Bulgaria continues to respect human rights and fundamental freedoms. Further progress should be pursued in specific areas to improve their implementation in practice. Comprehensive legislation on anti-discrimination was adopted but the independent body required by the law has not yet been established. The freedom of expression is ensured by law. However, the legal framework regarding libel and defamation by journalists needs to be revised. Efforts to address inadequate living conditions in certain prisons and problems of ill-treatment in custody need to be sustained. Trafficking in human beings is a serious problem and needs to be addressed. A new law on public health should address most of the issues related to the placement of mentally disabled people. The structures responsible for child welfare and their co-ordination with the relevant ministries need to be reinforced.

Efforts have been made in the past years to develop a framework to tackle the problems faced by minorities, but the situation on the ground has not evolved much. Sustained efforts including allocation of appropriate financial resources will be necessary to effectively implement the intentions and to combat in particular anti-Roma prejudice.

The 1997 Opinion already acknowledged the substantial reform efforts undertaken by the Bulgarian authorities to transform their economy. Since the Opinion economic

structure and performance have significantly improved. Macroeconomic stability has been achieved soon after the Opinion, profound economic reforms have been carried out over the entire period while the Bulgarian authorities' commitment to the economic requirements of EU accession has been sustained.

Hence, it is concluded that Bulgaria is a functioning market economy. The continuation of its current reform path should enable Bulgaria to cope with competitive pressure and market forces within the Union.

Improvements can be made in sustaining macroeconomic stability and in deepening structural reforms. The current account deficit has widened substantially in 2003 and could, if continuing, warrant a further policy response. The business environment, in particular the efficiency of the administrative and judicial system as well as regulatory procedures, should be further improved to increase Bulgaria's attractiveness for investment. In spite of significant achievements, privatisation still needs to be completed. While the legal framework is largely in place, the actual restructuring and liberalisation of the network industries need to progress further in order to enhance competition and efficiency. The ongoing reduction in unemployment should be further supported by reducing rigidities in labour market regulation.

Since the Opinion, Bulgaria has made good progress in adopting the *acquis* and more recently, has also made progress in gradually building up the administrative capacity to implement and effectively enforce the *acquis*.

Over the past year, Bulgaria has made further progress in the vast majority of the chapters of the *acquis* and is on track to complete the required legislative transposition before the planned date of accession if the current pace of progress is maintained.

Overall, Bulgaria has now achieved a reasonable degree of alignment with the *acquis* in the large majority of areas. It is also on track in developing adequate administrative capacity to implement the *acquis* in a considerable number of fields. Bulgaria has established most of the necessary institutional structures. Nevertheless, in some sectors, further efforts and resources are required to strengthen the capacities of these institutions and to ensure their effective functioning. In order to cover the remaining gaps, due attention should be given to the full and timely implementation of the strategies and action plans for the reinforcement of administrative capacity already approved in these areas.

In the field of internal market, Bulgaria has continued to make progress in most areas as regards the *free movement of goods* in terms of transposition of the *acquis* and the development of the administrative capacity. However, further efforts are required to develop the administrative capacity to implement the *acquis* on industrial products and as regards foodstuff and food safety. Mutual recognition clauses are still to be introduced into the Bulgarian legislation falling under the non-harmonised areas. Alignment of the legislation on public procurement needs to be completed. As regards *free movement of persons*, some progress was made in the field of mutual recognition of professional qualifications but work is still needed on the framework legislation for mutual recognition and with regard to the future co-ordination of social security systems. As regard the right for establishment and the *freedom to provide services*, efforts are required to unequivocally eliminate the remaining restrictions and discriminatory measures on foreigners despite some corrective actions. As regard

financial services, major parts of the *acquis* on insurance remain to be transposed. In the area of *free movement of capital*, Bulgaria still has to adopt legislation on capital movements and payment systems. Efforts to improve the framework in the fight against money laundering should be maintained.

As regards *company law*, particular attention should be paid to the effective enforcement of industrial and intellectual property rights, in particular through strengthening border controls and improving co-ordination between the law enforcement bodies. In the area of *competition*, Bulgarian has further updated its legislative framework and further strengthened its administrative capacity. Sustained efforts are required in order to continue to improve the quality of its State aid enforcement.

Regarding *agriculture*, Bulgaria has continued to make good progress in the transposition process. Further strengthening of administrative structures has been noted. However, significant work is still needed in the veterinary field and in the setting up of the paying agency and IACS. With regard to *fisheries*, legal alignment has taken place according to schedule. However, further progress has to be made regarding the administrative and technical capacity for inspection and control.

As regard *transport*, Bulgaria has made steady progress in transposing the *acquis* in most sectors, however administrative capacity should be further strengthened. Further efforts are needed to align the inland waterway legislation. Particular attention should be devoted to improving the maritime safety record and to the building up and reinforcement of the necessary capacities and structures for Port State and Flag State control.

In the area of *taxation*, Bulgaria's indirect legislation is to a significant extent aligned with the *acquis*, notably as far as VAT is concerned. Further transposition is required as regards excise duties and direct taxation. Efforts should continue as concerns specifically interconnectivity with EU systems.

On *social policy and employment*, progress has continued in alignment with the *acquis*. Further efforts for the effective implementation of the transposed legislation need to be undertaken in particular in the areas of labour law, occupational safety and health, public health, anti-discrimination as well as equal opportunities for women and men. Administrative capacity needs to be strengthened, *inter alia* with regard to ESF management and implementation.

Regarding *energy*, Bulgaria is making good progress in its legislative alignment and in its preparation to the internal energy market. The restructuring and privatisation of the energy sector is progressing well but particular efforts are still needed to improve energy efficiency and the use of renewable energy. Bulgaria must continue to respect its commitments on nuclear safety, notably as regards closure commitments for certain units of the Kozloduy nuclear power plant, and to ensure a high level of nuclear safety in its installations.

Although a reasonable degree of alignment with *acquis* in the *telecommunications* has been reached, Bulgaria needs to adopt further implementing legislation and ensure that the regulatory body is strengthened.

Concerning *regional policy and co-ordination of structural instruments*, Bulgaria has made progress notably with regard to establishing the legal framework and

designating institutional structures. However, considerable efforts are still needed to improve the administrative capacity in key Ministries and improving the capacity of other relevant bodies, such as the intermediate bodies, and other relevant players both at central and regional level. Priority must also be given to the setting up of efficient and integrated monitoring and evaluation systems as well as to further improving the financial management and control systems. Attention must be paid to observance of an ambitious planning schedule for the National Development Plan and to the full involvement of relevant partner organisations in this process.

With regard to the *environment*, Bulgaria has achieved a reasonable degree of alignment with the *acquis* and the necessary administrative structures are in place. However, further strengthening of the enforcement authorities notably at regional and local level is required as well as the provision of adequate financial resources for State and private sector investment.

In the area of *consumer and health protection*, a reasonable degree of alignment with the *acquis* has been reached in the area of safety related measures. However, further alignment is particularly needed with regard to the non-safety related measures and Bulgaria should ensure that the administrative structures in place can effectively enforce legislation and carry out market surveillance activities.

In the area of *justice and home affairs*, further good progress could be noted as regards the management of the future external borders. However, significant further efforts are needed to strengthen the law enforcement capacity and policy formulation in order to step up the fight against organised crime and corruption. Bulgaria needs to press ahead and dedicate adequate resources to fundamental reforms of the police and of the judiciary, including the reform of the pre-trial phase and the implementation of the strategies against crime. Overall, the full and timely implementation of the main strategies and action plans in the area of justice and home affairs, together with the entry into force of the planned amendments to the legislation on the penal procedure, legal aid, asylum, mediation and forfeiture of criminal assets should address the bulk of the issues covered in this chapter.

Regarding *customs*, Bulgaria has achieved a high degree of legislative alignment and has improved its administrative capacity. Efforts should continue in the IT area as well as to further improve revenue-collection and controls.

Further progress has been made in strengthening *financial control* in Bulgaria. More effort is needed to ensure the protection of the EC financial interests and of the euro against counterfeiting, as to well as to further strengthening the administrative capacity to implement sound financial control systems.

Overall, the capacity of the law enforcement and regulatory bodies to ensure a level playing field within the internal market through effective implementation and enforcement of the *acquis* must be enhanced. The continued reinforcement of the judicial system and administrative structures in certain areas will require particular attention, notably as regards public procurement, competition and justice and home affairs. Bulgaria should devote more efforts and financial resources to make the necessary investments to apply the *acquis*, notably in agriculture (in particular in the veterinary field), transport and environment. Continued efforts are required to establish the necessary administrative capacity to ensure the sound and efficient management of EU funds, notably the Structural Funds.

In the accession negotiations, all 31 chapters have been provisionally closed. The commitments made in the negotiations are with a view to accession in 2007. Bulgaria is generally meeting the commitments that it has made during the negotiations although delays have been noted in specific areas.

Bearing in mind the progress achieved since the Opinion, the level of alignment and administrative capacity that Bulgaria has achieved at this point in time and its track record in implementing the commitments that it has made in the negotiations, and taking into account their preparatory work in progress, the Commission expects Bulgaria to assume the obligations of membership in accordance with the envisaged timeframe. In the period leading up to accession, Bulgaria needs to continue its preparations, in line with the commitments it has made in the accession negotiations.

Romania

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

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

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

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

Romania continues to respect human rights and fundamental freedoms and has made further progress in several areas. The introduction of national standards for child protection services and of strict rules on inter-country adoption, which appear to

be in line with the UN Convention on the rights of the child, should further improve the protection of children's rights. As regards freedom of expression, the legal situation of journalists has improved but the economic situation of many mass media organisations remains precarious and further efforts are necessary to guarantee media independence. Although the restitution of agricultural land is almost completed, a more speedy and transparent approach is needed to further the restitution of buildings and religious property. Efforts to address the problems of ill-treatment in custody, trafficking in human beings and prison overcrowding should be sustained.

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

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

Hence, it is concluded that Romania complies with the criterion of being a functioning market economy. Vigorous implementation of its structural reform programme should enable Romania to cope with competitive pressure and market forces within the Union.

Improvements can be made in sustaining macroeconomic stability and in deepening structural reforms. Priority should be given to preserve the momentum in disinflation and safeguard the sustainability of the external position by maintaining a prudent policy mix and by further reducing the deficit of the broader public sector. To achieve this, significant improvements in enforcing financial discipline, continuous adjustments of energy prices towards cost recovery levels and improved financial performance of public enterprises are vital. Fiscal sustainability needs to be strengthened by advancing expenditure reform and further improving tax compliance. The privatisation process should be accomplished, post-privatisation disputes be settled and non-viable enterprises more actively dismantled. In key sectors, such as energy, mining and transport, perseverance in restructuring and a more manifest strive for privatisation should go hand in hand. Substantial progress in the functioning of the judiciary and the public administration, including an even and predictable application of law, is required to create an enabling business environment with a level playing field.

Since the opinion, Romania has made good progress in adopting the *acquis* and more recently, has also made progress in gradually building up the administrative capacity to implement and effectively enforce the *acquis*.

Over the past year, Romania has made further progress in the vast majority of the chapters of the *acquis* and is on track to complete the required legislative transposition before the planned date of accession if the current pace of progress is maintained.

Overall, alignment with the *acquis* has reached a fair level in the large majority of areas. The administrative capacity has been strengthened in the majority of areas but there is still room for improvement since not all the necessary institutions are yet in place. In order to cover the remaining gaps, due attention should be given to the full and timely implementation of the strategies and action plans for the reinforcement of administrative capacity already approved in these areas.

In the area of *internal market*, Romania has continued to make progress with the transposition of legislation in the field of the *free movement of goods*. However,

transposition of the public procurement legislation must be completed. In addition, practices which put Romania's commitment to open and transparent procurement procedures into question should be discontinued. Legislation has been further aligned in the area of *free movement of persons*, in particular as regards mutual recognition of professional qualifications and free movement of workers. Alignment needs to be completed as regards citizens' rights and administrative and training capacities should be enhanced in general. In particular in the field of financial services, Romania achieved substantial progress in *freedom to provide services*. Romania should continue to pay attention to the removal of identified barriers against the right of establishment and the freedom to provide services and to the development of the insurance and financial securities markets. While alignment with the *acquis* on *free movement of capital* has further improved, outstanding restrictions to capital movements and payments should be removed and the enforcement record of the National Office for the Prevention and Control of Money Laundering needs to be improved.

Romania has continued to make progress in transposing the *company law acquis* as such and the *acquis* concerning the protection of intellectual and industrial property rights. However, the level of enforcement of such rights has not kept pace with this. Romania's legislative alignment on accounting and auditing should be completed. While the Romanian *competition* legislation is broadly in line with EC anti-trust rules, current proposals needed to complete alignment of the state aid legislation are being prepared. The enforcement record of the Romanian competition authority still needs to be considerably improved in state aid matters. Recent efforts in this respect need to be stepped up. Romania needs to ensure that restructuring aid given to steel companies is in line with the Europe Agreement.

Romania made significant progress to further transpose the *agricultural, veterinary and phytosanitary acquis* and has strengthened its administrative capacity. However, overall administrative and enforcement capacities should be further enhanced. Particular attention should be paid to reinforcing the SAPARD Agency and to establishing the necessary elements of a functioning IACS. Upgrading plans for non-complaint establishments in the veterinary sector should be introduced with no delay. Steady progress has taken place in the *fisheries* sector in terms of alignment and administrative capacity. However, sustained efforts are needed to recruit sufficient staff in the Fisheries Inspectorate and provide it with adequate inspection tools. The fishing database should be established.

Romania has continued to make progress with the transposition of the *transport acquis* and building up the administrative structures in the areas of road, rail and aviation transport. Alignment is fairly advanced in the maritime sector. The technical state of the inland waterway fleet should be improved.

Romania has made some progress in aligning with the *acquis* on *taxation* and particular attention should now be paid to completing alignment and strengthening administrative capacity. Transposition of the *acquis* on *social policy and employment* has continued. Future efforts should focus on completing legislative alignment in the area of labour law and on strengthening the Labour Inspectorate to ensure proper implementation in the area of health and safety at work. Due attention should be paid to the promotion of social dialogue and to the improvement of the health status of the population, which is well below the EU average. Administrative capacity with regards to ESF management should be strengthened as a matter of priority. Legislative

progress in the *energy* sector should be matched by full implementation and increased administrative capacity, in particular with regard to the internal energy market structures. The restructuring of energy markets process needs to be completed.

Romania has performed steady progress as far as *industrial policy* is concerned, but the key challenge is its implementation as structural weaknesses limit the capacity for enforcement. Transparency of the privatisation process should be fully ensured. Progress has continued in the area of *telecommunications* with liberalising the telecommunications market and completing the transposition of the *acquis*.

As regards *regional policy and co-ordination of structural instruments*, progress has been made in preparing for the implementation of structural policies with the designation of the Managing and Paying Authorities and establishing their tasks and adoption of the 2004-2006 National Development Plan. Efforts need to be continued to bring the administrative capacity up to the level required in order for Romania to reap full benefits of the structural instruments. *Environment* is an area where Romania has achieved a good level of alignment with the *acquis* in most of the sectors, whereas implementation is, in general, still lagging behind. Further transposition should concentrate on completing the alignment in the areas of horizontal legislation, air quality, waste management, water quality, nature protection and a number of other sectors. Implementation of the transposed *acquis* remains a key challenge and, therefore, requires enhanced efforts. It is of utmost importance that the environmental administration at all levels obtains sufficient resources in order to cope with the increasing recruitment, training and equipment needs. Strategic planning, adequate investment and financing plans also have to remain in the focus of the public services in the field of environment.

Legislative alignment on *consumer and health protection* is well on track and Romania has made good progress as regards improvement of administrative capacity and the general co-ordination of market surveillance activities. These efforts should be maintained and consumer movement should be strengthened.

Legislative progress has been made in many areas of *justice and home affairs* and especially so in migration, asylum and judicial co-operation in civil and criminal matters. However, implementation capacity should be significantly strengthened in almost all areas, as should inter-agency co-operation. Many agencies and institutions involved in law enforcement are still affected by staff shortages, which will also require enhanced training capacity. The independence of the judiciary must be ensured on the ground. As regards the fight against corruption, implementation capacity should also be significantly strengthened and the existing legislation should be rigorously enforced. Romania should implement its current plans to fully address the above issues of concern and in particular increase its administrative capacity in the relevant institutions, implement an effective reform of the judicial system, recruits and train the necessary staff and take measures that have a significant impact on corruption.

Limited progress has been made in the area of *customs* and legislative alignment should be completed. Internal co-ordination improved. Furthermore, any customs duties and charges having equivalent effect with regard to export and import to and from the Community will have to be abolished. Romania has pursued its efforts in the *financial control* area. However, the legislative framework should be completed in the

area of external audit and protection of the Communities' financial interests. Administrative capacity should be strengthened to implement sound financial system.

In a number of important sectors, the overall *capacity of the public administration* to implement and enforce the newly adopted legislation should be enhanced. Romania has started to address this issue through the comprehensive reform of its public administration. These concerns extend beyond the adoption of the *acquis* and also apply to the management of EU financial assistance. Furthermore, there are a number of areas where further efforts will be needed to complete the work, in particular as regards company law, competition policy, environment and justice and home affairs, customs and financial control.

In the accession negotiations, 27 chapters have been provisionally closed. Romania is generally meeting the commitments that it has made during the negotiations, although delays have been noted in specific areas.

Bearing in mind the progress achieved since the Opinion, the level of alignment and administrative capacity that Romania has achieved at this point in time and its track record in implementing the commitments that it has made in the negotiations, and taking into account their preparatory work in progress, the Commission expects Romania to assume the obligations of membership in accordance with the envisaged timeframe. In the period leading up to accession, Romania needs to continue its preparations, in line with the commitments it has made in the accession negotiations.