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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 2003.

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Relations between the EU and Romania

Recent developments in bilateral relations

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

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

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

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

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

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

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

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

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

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

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

Community assistance

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

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

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

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

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

The Phare programme allocated about €2,100 million to Romania during the 1992-2003 period, including €283 million in 2003.² The Economic and Social Cohesion sub-programme of the 2004 National Phare programme will use about €160 million or about 40% of the total Phare budget in 2004. This is an increase in relation to the 2003 allocation of €48 million.

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

The 2004 Phare programme focuses on the following priorities:

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

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

Meeting the obligations of membership: twinning³, technical assistance and investment is provided principally in four priority areas, namely public finance, agriculture, environment and border management, also subject to multi-annual programming. Further areas will be covered specifically under the 2004 budget, such as internal market, competition, statistics, social policy and employment, energy, transport, consumer protection, justice and home affairs and the audiovisual sector (€155.4 million).

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

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

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

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

³ Technical support provided by experts from the public administrations of the EU Member States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Twinning

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

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

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

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

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

Negotiations

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

B. CRITERIA FOR MEMBERSHIP

1. Political criteria

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

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

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

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

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

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

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

In its 2003 Regular Report, the Commission found that:

"Romania continues to fulfil the political criteria.

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

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.

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

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

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

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

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

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

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

1.1 Democracy and the rule of law

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

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

The parliament

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

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

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

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

The executive

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The judicial system

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Anti-corruption measures

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

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

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

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

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

Romania remains involved in the Stability Pact Anti-corruption Initiative sponsored by the OECD Secretariat, and participates in the Council of Europe's Group of States against Corruption (GRECO). The PNA has designated a prosecutor under GRECO for the 2002-2005 Second Evaluation group of experts. A First Round Compliance Report on Romania was adopted by GRECO in July 2004. The GRECO Plenary concluded that Romania had satisfactorily implemented almost all of its recommendations from the March 2002 First Round Evaluation Report. Among the positive developments described by the Compliance Report were increases in salaries for police officers and certain

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

1.2 Human rights and the protection of minorities

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

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

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

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

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

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

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

Civil and political rights

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

There are no restrictions on the freedom of assembly.

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

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

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

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

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

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

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

Economic, social and cultural rights

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

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

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

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

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

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

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

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

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

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

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

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

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

Romania is a party to the revised European Social Charter.

Minority rights and the protection of minorities

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

Romania has a large Roma population, estimated at between 1 800 000 and 2 500 000⁵. De facto discrimination against the Roma minority continues to be widespread and the social inequalities to which the Roma community is exposed remain considerable. Living conditions are poor and access to social services is limited.

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

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

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

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

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

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

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

1.3 General evaluation

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

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

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

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

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

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

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

C. CONCLUSION

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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.

D. ACCESSION PARTNERSHIP: GLOBAL ASSESSMENT

Romania's progress and overall state of preparation in respect of the Copenhagen criteria has been examined and conclusions drawn above. The present section assesses briefly the overall extent to which the priorities of the Accession Partnership have been met.

A revised Accession Partnership was adopted in May 2003.¹¹ The purpose of the Accession Partnership is to assist the Romanian authorities in their efforts to meet the accession criteria. It covers in detail the priorities for accession preparations, in particular implementing the *acquis*, and forms the basis for programming pre-accession assistance from Community funds such as the Phare programme.

Romania has continued to address the priorities defined by the revised Accession Partnership. Overall, good progress has been made, but affects unevenly the different priorities foreseen. Substantial efforts are still necessary to complete the tasks foreseen by the revised Accession Partnership. For a number of priorities, the government will benefit from Phare assistance, as projects directly related to these priorities have been included in the 2004 Phare programme (*see more details in Part A.2 of this report*).

With regard to the **political criteria**, Romania has launched major reforms in the field of public administration, the fight against corruption and the judiciary with the aim of reinforcing *democracy and the rule of law*. Further progress has been made in the area of *human rights and protection of minorities*. However, attention should be focused on the implementation of these reforms and on the enforcement of existing legislation. A considerable amount of work still remains to be done and the current pace of reforms should be accelerated to meet the priorities laid down in the Accession partnership.

Romania has moved progress in the implementation of the priorities defined by the revised Accession Partnership with regard to the **economic criteria**. Romania has continued its economic recovery which is partly due to a more appropriate policy mix. As regards structural reforms, major privatisations took place in the industrial sector and in the energy field. However, further efforts are still needed in order to tackle the issue of accumulation of arrears and the reticent use of bankruptcy procedures.

Romania has made good progress with the adoption and implementation of the *acquis*. However, considerable efforts are still needed to ensure effective implementation and enforcement of the legislation arising from the commitments made in the negotiations. Overall, legislative alignment as well as the administration should be enhanced to meet these commitments.

Progress on the issues identified as priorities in the Accession Partnership is discussed in more detail in other parts of this report, notably in Part B.3. The revised Accession Partnership follows the same structure as the Regular Report.

The revised Accession Partnership continues to be a main tool guiding Romania's work on preparation for accession. Implementation of the Accession Partnership needs to

¹¹ Council decision 2003/397/EC of 19 May 2003 on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with Romania (OJ L 145, 12.6.2003, p. 21).

continue. It should be given the necessary political attention and should help Romania to set its legislative and institution-building agenda.

ANNEXES

ANNEX I

HUMAN RIGHTS CONVENTIONS RATIFIED BY THE CANDIDATE COUNTRIES

(as at end of September 2004)

<i>Adherence to following conventions and protocols</i>	Bulgaria	Romania	Turkey
ECHR (European Convention on Human Rights)	✓	✓	✓
Protocol 1 (right of property)	✓	✓	✓
Protocol 4 (freedom movement et al.)	✓	✓	
Protocol 6 (death penalty)	✓	✓	✓
Protocol 7 (ne bis in idem)	✓	✓	
European Convention for the Prevention of Torture	✓	✓	✓
European Social Charter	n/a	n/a	✓
Revised European Social Charter	✓	✓	
Framework Convention for National Minorities	✓	✓	
ICCPR (International Covenant on Civil and Political Rights)	✓	✓	✓
Optional Protocol to the ICCPR (right of individual communication)	✓	✓	
Second Optional Protocol to ICCPR (death penalty)	✓	✓	
ICESCR (International Covenant on Economic, Social and Cultural rights)	✓	✓	✓
CAT (Convention against Torture)	✓	✓	✓
CERD (Convention on the Elimination of All Forms of Racial Discrimination)	✓	✓	✓
CEDAW (Convention on the Elimination of All Forms of Discrimination against Women)	✓	✓	✓
Optional Protocol to the CEDAW			
CRC (Convention on the Rights of the Child)	✓	✓	✓

