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**ROMANIA**

**May 2006 Monitoring Report**

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## 1. INTRODUCTION

The accession negotiations with Romania were successfully concluded in December 2004. The Accession Treaty was signed in April 2005. Romania and 14 Member States have already ratified it. The Treaty envisages accession on 1 January 2007 unless the Council decides, upon a Commission recommendation, to postpone it until 1 January 2008.

Following the conclusion of the negotiations, the European Union decided that it would continue closely to monitor Romania's preparations and achievements and that, to this end, the Commission would continue to submit annual reports on Romania's progress towards accession, together with recommendations, if appropriate.

The Commission presented its first such report in October 2005. This report showed that Romania was already well advanced in preparing for accession. It also identified a number of areas where further efforts were needed to complete preparations. The Commission decided to step up its monitoring activities and report again in spring 2006.

This report reviews Romania's preparations for membership, focusing on the areas in need of further improvement in the light of the three Copenhagen accession criteria. Accordingly, the report contains three main parts:

- The *first part* assesses political issues which were identified as in need of further improvement.
- The *second part* assesses economic issues which were identified as in need of further improvement.
- The *third part* assesses where Romania stands in implementing commitments and requirements arising from the accession negotiations.

The report identifies the progress made since October 2005 and the gaps in policies, legislation and implementation which remain to be addressed. On this basis the Commission examines, in a separate Communication presented together with this report, whether or not it needs to recommend postponement of the accession date.

This report reflects the situation at the end of April 2006. It is based on a wide array of sources. Romania was invited to provide information on its state of preparedness. The report also draws on information provided within the framework of the Association Agreement and on peer reviews<sup>1</sup> conducted to assess Romania's administrative capacity in specific areas. Council deliberations and European Parliament reports<sup>2</sup> and resolutions have been taken into account. Where relevant, the Commission has also drawn on assessments made by various international organisations, international financial institutions and non-governmental organisations.

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<sup>1</sup> Peer reviews are assessments made by experts of Member States on the state of preparedness of the candidate countries in specific sectors. These experts are responsible for the content of their reports.

<sup>2</sup> The rapporteur is Mr. Moscovici.

## 2. POLITICAL CRITERIA

### *Introduction*

The Commission considers that Romania fulfils the political criteria for EU membership and has done so continuously since 1997.

The aim of this report is to provide an assessment of certain areas that were considered to need further improvement in the October monitoring report. Nine such areas were identified. These concern the public administration reform, effective implementation of the justice reform, the fight against corruption, the fight against trafficking in human beings, ill-treatment in custody and prison conditions, children protection, the disabled and mental healthcare system, effective restitution of property, and the protection and integration of the minorities.

This section assesses, in each of these outstanding areas, the developments that have occurred since the October 2005 report and Romania's preparedness for membership.

### *Public administration*

Since the October 2005 report, there has been progress in the following areas.

The government has continued to adopt measures to improve policy-making and co-ordination. A manual for the preparation of Public Policy Proposals was published, establishing procedures for impact analysis. Measures have been taken to improve co-ordination between government departments.

The decentralisation process has continued: two laws were adopted by the parliament in May 2006, which promote decentralisation of certain powers, budget resources and expenditure. At the end of 2005, the government adopted by Emergency Ordinance a reform of the institution of the prefect. The post of prefect is now reserved for high-level civil servants instead of political appointees. They may not pursue a parallel career in party politics.

The law on the Civil Servants Statute was pending adoption by parliament in May. It clarifies the status, rights and obligations of civil servants and decentralises recruiting procedures to local authorities and to individual ministries. It also contributes to depoliticising the civil service by making a panel responsible for the appointment of high-level civil servants. A specialised unit has been established in the Ministry of Public Finances to ensure better co-ordination of training activities for managing EU structural funds.

However, certain outstanding issues remain to be addressed.

Concerning policy-making, legislation is still sent to parliament without an assessment of all implications or of the administrative capacity needed to enforce it. As regards the legislative process, the government has continued to have recourse to 'emergency ordinances' to pass law. Ninety such texts were adopted during the period between 30 September and 15 March. This strengthens the power of government to the detriment of the parliament and reduces the transparency of the law-making process. The present review of public sector pay scales and career structures is an issue of particular importance for professional ethics. Co-ordination of general training is weak.

Overall, certain progress has been made in the field of public administration reform and the current pace of reform needs to be stepped up.

## *Justice system*

Since the October 2005 report, there has been progress in the following areas.

The implementation of the strategy and action plan on justice reform continued. In October 2005, new provisions were adopted on the organisation and functioning of specialised court sections and panels. In December 2005, legislation was adopted to make it easier for those with low incomes to use bailiffs to enforce court judgements. A substantial reform of the legal aid system is ongoing. The number of pending cases before the civil section of the High Court fell from 8 569 in September 2005 to 6 126 at the end of February 2006.

The random allocation of cases to judges continued to function throughout the country. It has contributed to fighting corruption and enhancing the impartiality of judges and judgements.

In order to ensure a more uniform interpretation of the law and legal certainty, courts of appeal may now refer civil appeals to the High Court. All courts of appeal, tribunals and prosecutors' offices as well as almost all courts of first instance now have electronic access to legislation. Since March 2006, the majority of courts have access to the electronic version of the Official Journal. In January 2006, the Directorate General for Protection and Anticorruption, the Ministry of Justice's part-militarised security service, was abolished.

The Superior Council of the Magistracy (CSM) is responsible for ensuring the independent and effective functioning of the courts. It now has a total of 234 positions, of which 183 are currently filled and its operational budget for 2006 has been more than doubled to EUR 7.9 million. Since the appointment of its new President and Vice President in January 2006, co-operation between the judiciary and the Ministry of Justice has improved. The CSM Inspection Department now comprises 50 positions, 18 have been filled and criteria for recruiting inspectors have been agreed. The CSM has designed a system that assigns a unique registration number to each case to allow the collection of accurate statistics and an effective allocation of resources. This system operates on a pilot basis in some courts in Bucharest and is planned to be fully operational throughout the country by the end of 2006.

The increase in the justice budget has continued. In November 2005, the initial budget for that year was increased by 18% to EUR 362 million. The 2006 budget has further increased to EUR 403 million. Arrears on salaries for judges, prosecutors and clerks were settled in full in November 2005. As regards training, the 2006 budgets for the National Institute of Magistracy (INM) and the National School for Clerks both increased by about 35%. Competitions have been organised for applicants with significant legal experience and the 2-year INM programme is planned to remain the main gateway into a career as a judge or a prosecutor. This prevents partisan appointments. Further progress was made in filling vacancies in the court system and there are now around 380 vacancies for judges compared to 439 in October 2005 and around 220 for clerks compared to 326. In January 2006, the government approved funds for an additional 200 administrative staff in the courts and an additional 500 staff in prosecutor offices. All positions as economic manager in courts of appeal have now been filled.

Overall working conditions in courts have improved. A national programme is in place to refurbish nine courts, and in January 2006 a contract was signed to refurbish a further 25 courts by 2010. In January 2006 a contract was signed to provide over 15 000 computer workstations and related IT equipment to the justice system, almost all of which was installed in March 2006 and is planned to be connected via a secure network by July 2006.

However, certain outstanding issues remain to be addressed.

Of the 14 elected members of the CSM, eight continue to work only on a part-time basis despite their responsibility to represent all Romania's judges and prosecutors. Six of these face potential conflicts of interest in disciplinary matters, given that they hold leading positions in courts or prosecution offices. The CSM role in modernising management in courts and prosecutor offices, in applying disciplinary procedures, in checking the quality of judgements, and in controlling the full observance of objective criteria for recruiting magistrates and CSM staff needs to be further strengthened. The reform of the legal aid system needs to be carried out. The procedural codes need to be further rationalised. The use of alternative dispute settlement mechanisms need to be more widespread. The management of human and financial resources in courts and prosecutor offices should be further improved. There remain around 600 vacant prosecutor positions compared to 588 vacancies in October 2005. Training needs remain high particularly for judges, prosecutors and clerks already employed. A consistent interpretation of the law at all level of courts is not fully ensured yet throughout the country.

Overall, significant progress has been made in the reform of the justice system, especially in strengthening its administrative capacity. Romania needs to maintain the current pace of implementation of judicial reforms to ensure further tangible results (*see also Chapter 24 – Justice and Home Affairs*).

#### *Anti-corruption measures*

Since the October 2005 report, there has been progress in the following areas.

The criminal immunity for bailiffs was eliminated in December 2005. In the same month, the law on granting non-reimbursable contract financing from public funds was adopted. Amendments to the Criminal Code including provisions on the criminal liability of legal persons were presented by the Government. In March 2006, the Parliament approved the law transforming the lead agency in the fight against corruption, the National Anti-Corruption Prosecutor's Office (PNA), into the National Anti-Corruption Directorate (DNA) and allowing it to investigate all cases of high-level corruption including allegations involving Members of Parliament. In April 2006 the Government proposed a Law to amend current rules on financing political parties in order to oblige all finance sources to be published in the Official Gazette. Since October 2005, DNA stopped working on petty corruption cases and has focused on medium and high-level corruption. Since taking office, the new DNA Head has evaluated the performance of DNA prosecutors and judicial police officers and subsequently 30 people left the institution. 15 replacement prosecutors have been recruited and there are 32 current vacancies out of 345 allocated staff positions. DNA's budget for 2006 has increased by 14%.

The quantity and quality of non-partisan investigations into allegations of high-level corruption have substantially increased compared to the previous period. Since October 2005, DNA has investigated fourteen high-level political figures from the opposition and ruling coalition parties who either hold, or have held, Cabinet rank or are Members of Parliament. These investigations have led to four criminal indictments so far. Some of these investigations were initiated on the basis of the wealth declarations that about 100 000 public officials have to produce annually and that are publicly accessible.

Since October 2005, DNA has indicted 89 other individuals, including judges, lawyers, police officers, a number of public officials with executive positions in national and regional

administrations as well as directors in private enterprises. During this period, the courts passed initial convictions against 77 individuals based on earlier PNA investigations and pronounced a further 102 final convictions. There has also been a clear qualitative improvement in DNA's investigation, notably by reopening investigations closed under the previous management team for unclear reasons. DNA has the staff, financial resources and training to conduct effective investigations into high-level corruption. It has also concluded co-operation protocols with a number of agencies with a role in fighting corruption.

In October 2005, the Directorate General for Anti-Corruption (DGA) in the Ministry of Administration and Interior became operational and now has exclusive competence to plan and conduct integrity tests on the Ministry's staff. Since then, DGA has conducted 754 investigations on 1 859 persons and 74 into Ministry staff were transferred to DNA for investigation, a 185% increase compared to last year. DGA regional offices are being established and where required, they work closely with DNA regional offices.

However, certain outstanding issues remain to be addressed.

On the legislative side, there have been delays in the implementation of 3 of the 47 actions foreseen in the current strategy and action plan, pending adoption by Parliament of some important laws. Legislation establishing an independent agency to verify wealth declarations has not yet been adopted. Amendments to the Criminal Procedure Code introducing liability for legal persons are still pending in Parliament.

The Parliament rejected a request made by DNA to search the property of a Member of Parliament. In February 2006, the Senate tried to prevent DNA from investigating Members of Parliament. There have been attempts in Senate to change the nomination and revocation procedures for high level prosecutors. This would have undermined the accountability of the system and decreased the operational capacity of the DNA.

It remains to be ensured that all judges have sufficient specialist knowledge to hear and judge complex economic and financial cases based on DNA's recent investigations into fraud in privatisations and public procurement. There is still a need for further indictments, prosecutions, trials, convictions and dissuasive sentences. Petty corruption remains a concern in sectors such as health and education (*see Chapter 24 – Justice and Home Affairs*).

Overall, progress has been made in fighting corruption. The reforms led by the Ministry of Justice and the DNA, now need to be followed by sustained efforts of all other executive agencies, of the legislative branch, and of the justice system as a whole so that the progress made becomes irreversible. Romania needs to continue efforts with a view to consolidating and building on the progress made in its fight against corruption.

### *Trafficking in human beings*

Since the October 2005 report, there has been progress in the following areas.

Since October 2005, 10 networks have been dismantled and 567 offences registered. This led to 94 arrests. A total of 310 victims of trafficking were identified.

In January 2006, the "National Agency for Preventing Human Trafficking and Monitoring the Assistance Offered to its Victims" was established to co-ordinate and evaluate preventive activities and to monitor the assistance offered to victims. The Agency replaces the former

National Office. A national strategy and an action plan to fight and prevent trafficking have been approved.

However, certain outstanding issues remain to be addressed.

For the trafficking of human beings, Romania remains a country of transit and to a lesser extent a country of origin and destination. The National Agency needs substantial strengthening in human and financial resources and needs an IT system to register victims returned to Romania so that they can be assisted immediately. There are continuing weaknesses in inter-agency co-ordination. More reliable and coherent national statistics would improve the strategic planning of law enforcement agencies fighting trafficking in human beings. Combating trade in human egg cells is needed to ensure compliance with the principle of voluntary and unpaid donations of tissues and cells. Investigations on the human egg cell trade case have to be completed.

Overall, certain progress has been made in fighting trafficking in human beings. The administrative and operational capacities remain weak.

#### *Ill-treatment in custody and prison conditions*

Since the October 2005 report, there has been progress in the following areas.

During the reporting period, six inadequate temporary arrest locations were closed and measures were taken to separate those in preventive custody from convicted prisoners. In January 2006, the Ministry of Administration and Interior decided that detainees in preventive custody should be moved from the basements of police stations to more appropriate locations. Measures are being taken to minimise the prisoners' exposure to infectious diseases and to hire additional qualified staff.

However, certain outstanding issues remain to be addressed.

Continuing delays in adopting a new Criminal Code and new Criminal Procedure Code prevent the implementation of planned reforms in the prison system. There continue to be cases of ill treatment of detainees by law enforcement staff, including the excessive use of force. Judicial review of such complaints is rare and few procedures lead to any form of sanctions.

The structure of the prison system remains unchanged. Some prisons continue to suffer from serious overcrowding and poor living and sanitation conditions. The network of probation centres supervising the social reintegration of prisoners still has insufficient resources for this task.

Overall, limited progress can be reported in the field of ill-treatment in custody and prison conditions.

#### *Child protection*

Since the October 2005 report, there has been progress in the following areas.

An action plan for the introduction of the new legislation is implemented and the necessary training has been provided. The implementation of the legislative package on child protection has continued smoothly. The number of children in institutions has continued to steadily

decrease. The demand for national adoption is now higher than the number of adoptable children.

The 'pending cases' for international adoptions filed before the entry in force of the new law were screened by a group of child protection experts. This group finalised its tasks by end of March 2006. This has taken place on the basis of the new legislation, which is in line with EU practices. The requests approved by Government memoranda before February 2004 were transmitted to the courts who endorsed 1 003 international adoptions implemented before January 2005. A further 1 399 cases not approved by Government memoranda before February 2004 were equally screened on an individual basis and have been declared ineligible for reasons explained in the report. In both cases each petitioner was notified individually of the outcome of the decision on the case. The number of children in residential care has decreased<sup>3</sup> and meanwhile there was an important increase of children protected in substitute families<sup>4</sup>, or in foster care<sup>5</sup> as well as the number of maternal assistants<sup>6</sup>.

However, an outstanding issue remains to be addressed.

There is not yet sufficient provision of social work assistance for mothers in difficulty during pregnancy and they do not have adequate access to maternity hospitals.

Overall, Romania has made significant progress in the area of child protection. The overall situation has substantially improved.

#### *The disabled and mental health care system*

Since the October 2005 report, there has been progress in the following areas.

The National Strategy on the social protection, integration and inclusion of persons with disabilities for the period 2006–2013 was adopted by the Government in October 2005. An action plan on implementing the mental health reform strategy has been drawn up. The regulations for the implementation of the Law on mental health were adopted in April 2006. A National Centre for mental health has been established as a specialised strategic unit of the Ministry of Health. An Inter-sectoral Committee for Coordination in mental health, bringing together national authorities and civil society representatives, was established in January 2006.

Inspections took place between September 2005 and February 2006 in 35 institutions for the protection of people with disabilities. This resulted in proposals to remove managers of several institutions or to improve their effectiveness.

36 residential institutions for the disabled are being restructured to set up 84 new alternative community centres. Strong emphasis is also being put on building up community-based mental health services. Financial resources on disabled and mental health care have been increased. Food allocations have been increased, and heating systems have been reconstructed and repaired in several psychiatric institutions. A new curriculum for psychiatrists has been introduced and the number of psychiatrists has been increased.

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<sup>3</sup> From about 100 000 at the early 90's to 31 107 in June 2005.

<sup>4</sup> From 30 572 in 2000 to 49 180 in June 2005.

<sup>5</sup> From 4 029 in 2000 to 16 563 in 2005.

<sup>6</sup> From 3 228 in 2000 to 13 213 in 2005.

However, certain outstanding issues remain to be addressed.

In some psychiatric institutions, living conditions remain very poor; inmates share beds, treatment and activities are poor and sanitary facilities are minimal. There are few formal requirements related to patient records, treatment and diagnostics, admissions or dismissals. Violence and ill-treatment are not exceptional. The services available for the disabled remain insufficient and the quality of residential institutions leaves room for improvement.

There are not yet sufficient financial and human resources to ensure successful implementation of the new national strategy for the disabled. Training is necessary for professionals to start a real recovery and rehabilitation programme for the disabled in each institution/service. As regards psychiatric care, the concepts of rehabilitation, psychotherapy or occupational therapy are often poorly understood.

Overall, there has been certain progress in the field of disabled and the disability reform is now on track. As regards mental health, the steps taken to reform should be accelerated and more emphasis should be put on the implementation of decisions taken. Immediate measures are necessary to improve sanitary facilities, to reduce institutionalisation, to establish care in the community and to improve access to pharmaceuticals. In the short term, living and care conditions in the current institutions should be raised to acceptable standards. In particular, overcrowding should be eradicated.

#### *Restitution of property*

Since the October 2005 report, there has been progress in the following areas.

The deadline for submission of applications for claiming restitution in kind or compensation expired in January 2006. 600 000 applications were submitted out of which only 3 000 claims for financial compensation. 300 000 were rejected as being unfounded and 60 000 claims have been processed. The central Commission for the establishment of compensation is now operational.

However, an outstanding issue remains to be addressed.

The criteria which define when restitution in kind is considered impossible and define in which cases only compensation can be granted remain unclear. Furthermore, the Property Fund is not yet able to address claims for financial compensation within a reasonable delay.

Overall, good progress has been made in reinforcing the administrative capacity and setting up the legislative framework of property restitution but the pace of processing claims remains low.

#### *Protection and integration of minorities*

Since the October 2005 report, there has been progress in the following areas.

In the framework of the Decade for Roma Inclusion, a Trust Fund for Roma has been launched. Relations between the National Agency for Roma and Roma NGOs have improved. Institutional discrimination and violence against Roma is decreasing.

However, certain outstanding issues remain to be addressed.

The administrative framework is in place but there has been yet little progress on the ground. The co-ordination capacity of the National Agency for Roma is still weak. Efforts to ensure the effective implementation of the strategy for improvement of the conditions of Roma are insufficient. There are still complaints about police raids against Roma. In some cases Roma were expelled and their houses demolished without providing any alternative accommodation. The application of legislation aiming at combating such phenomena is not ensured. Access of Roma to ID documents, health care, education, the labour market and vocational qualification remains an issue of concern. Campaigns should be carried out in order to increase the percentage of Roma who have ID papers.

The draft law on national minorities is being discussed in Parliament. It needs to be followed closely.

Overall, limited new progress has been made as regards the protection and integration of the Roma minority. Further improvements are still necessary in the coordination and administrative capacities of the Roma institutions, and in the living conditions on the ground. Further efforts are needed to combat racism, discrimination concerning all minorities, xenophobia and other forms of intolerance.

## **2.1. General evaluation**

Romania fulfils the political criteria for EU membership.

Since the October 2005 report, there has been progress in a number of areas. Significant steps have been taken in the reform of the judiciary. Implementing measures were adopted as regards the specialised court sections and panels, following the 2005 justice reform. The process of randomly allocating cases to judges continues to function throughout the country. It has enhanced the impartiality of the justice system. The Directorate General for Protection and Anticorruption, the Ministry of Justice's part-militarised security service, was abolished. The resources of the justice system have increased, including those of the Superior Council of the Magistracy. Working conditions in courts have improved.

Romania has made progress in fighting corruption, by establishing sound structures and launching investigations into a considerable number of high-level corruption cases. Following such investigations, four senior figures have been indicted.

Regarding public administration reform, the civil service statute was revised and decentralisation legislation was adopted. Certain progress has taken place in fighting trafficking in human beings, as well as in the reform of the systems of care for the disabled and the mentally ill. Romania has made significant progress in the area of child protection, where the overall situation has substantially improved. Progress has been made on property restitution.

However, certain outstanding issues remain to be addressed. As regards the justice system, the procedural codes need to be further rationalised. The Superior Council of the Magistracy should step up its activities to promote the uniform interpretation of the law and check the quality of judgements. Courts and prosecutor offices need to make better use of available resources.

In the fight against high-level corruption, Romania needs to continue efforts with a view to consolidating and building on the progress made in its fight against corruption. The reforms

led by the Ministry of Justice and the National Anti-Corruption Directorate (DNA) need to be followed by sustained efforts of all other state institutions so that the progress made becomes irreversible.

In the area of public administration, the government continued to have extensive recourse to emergency ordinance, which is detrimental to the parliament. The review of the public sector pay scale remains of particular importance for professional ethics in the civil service. Romania remains a country of transit and to a lesser extent a country of origin and destination for trafficking in human beings. Follow-up of cases of ill-treatment in custody remains rare and some prisons suffer from overcrowding and poor living and sanitation conditions. Living conditions in psychiatric institutions are in need of improvement. The national strategy for the disabled and other policy initiatives need to be implemented. Social inclusion of the Roma minority still requires substantial efforts. Additional efforts are also needed to combat racism, discrimination, xenophobia and all forms of intolerance.

### **3. ECONOMIC CRITERIA**

#### *Introduction*

In its 2005 Report, the Commission concluded that Romania continues to comply with the criterion of being a functioning market economy and that vigorously implementing its structural reform programme should enable Romania to cope with competitive pressure and market forces within the Union. Romania had broadly maintained macroeconomic stability, even if the policy mix turned less prudent and raised concerns about the sustainability of recent stabilisation achievements. Romania had continued to implement its structural reform programme, although not vigorously in all fields.

In 2005, real GDP grew by 4.1%, compared to 8.4% in 2004. This slowdown in growth was caused by a decline of close to 14% in agricultural output due to floods and by a reduction in industrial production growth due to loss of competitiveness. Domestic demand remained strong and a substantial external imbalance persisted as net exports had a negative contribution of 5% to GDP growth. In the second half of 2005 export growth and investments picked up. The trade and current account deficit widened further to respectively 9.9% and 8.7% of GDP in 2005. Net inflows of foreign direct investment remained high at 6.6% of GDP. Labour markets showed little improvement and youth and long-term unemployment were rising.

This section assesses, in each of the outstanding areas, the developments that occurred since the October 2005 Report and Romania's preparedness for membership.

#### *Macroeconomic stability and policy mix*

The 2005 Report concluded that priority should be given to re-establishing a prudent fiscal policy and a cautious public sector wage policy. Since the October 2005 report, there has been progress in the following areas.

The disinflation process resumed at higher pace in 2006. The central bank intensified its sterilisation activities in 2006 and hiked the monetary policy rate by 1%, which contributed to tightening monetary conditions and signalled the priority of disinflation. The general government deficit fell to 0.8% of GDP in 2005 due to lower interest payments, revenue

growth from indirect taxes and restrained capital spending. Romania managed to accommodate considerable flood repairs without causing a rising deficit. Due to the postponement of public investment projects, fiscal policy as a whole did not turn out pro-cyclical in 2005. The 2006 budget reflects a focus on a slightly more prudent fiscal policy and a more restrictive public sector wage policy. The statutory minimum wage was increased by a moderate 6.5%.

However, certain outstanding issues remain to be addressed.

Following a loosening of the monetary stance in late 2005, the end-of-year inflation target was slightly overshoot at 8.6%. The central bank expects to miss its 2006 inflation target due to hikes in administered prices, the impact of floods on food prices and buoyant domestic demand. Stricter minimum reserve requirements, prudential and administrative measures did not prevent credit growth from reaccelerating. Real money market interest rates remained negative as the risk of higher capital inflows made the central bank reluctant to fully use the interest rate instrument. Hence, monetary policy should remain strongly committed to attain the announced inflation targets.

The 2005 tax reform had a strong pro-cyclical impact on the economy and caused a loss in direct tax revenue of 1% of GDP. The slippage in public sector wages, subsidies and transfers had a negative budgetary impact of close to 1% of GDP in 2005. Public sector net real wages rose by around 20% in 2005 and further increases have not been fully budgeted for 2006. Spending around 1.9% of GDP in December 2005 weakened fiscal consolidation. Fiscal risks remain important as spending increases on education, infrastructure investment and further flood repairs are planned. Hence, fiscal and public sector wage policy should be implemented in compliance with the deficit target and priority should be given to permanently strengthen revenues. Even though productivity growth slowed and some competitiveness was lost in 2005, the national collective agreement decided a minimum wage increase of 12.1% for the private sector in 2006, which accentuates the need for tripartite consensus on wage policy.

Overall, after its accommodating stance in the last part of 2005, the policy mix was tightened in 2006 and the authorities displayed an increased awareness of the need for prudence in order to tackle macroeconomic imbalances.

#### *Expenditure reform and tax compliance*

The 2005 Report concluded that priority should be given to a clear medium-term expenditure strategy to strengthen the growth potential and prepare for EU accession. Since the October 2005 reports, there has been progress in the following areas.

The 2006 budget sets a clearer focus on sustaining real economic convergence and improving the capacity to absorb EU funds, by restructuring expenditures. Preparations for reforming the pension system continued. Progress was made in reforming the health system. Tax revenues turned out in line with budget plans in 2005. The amount of VAT, custom duties and social security contributions collected benefited from strong growth in consumption, imports and wages. Unpaid obligations to the government continued to decline in 2005 and fewer new tax arrears were recorded in the second half of 2005. The streamlining of procedures for forced execution, the centralised handling of large tax payers and the abolishment in principle of new debt rescheduling bore fruit.

However, certain outstanding issues remain to be addressed.

The quality of public finances was affected as public investment expenditure fell short of budget plans by 1.7% of GDP in 2005, to partly offset the public sector wage increases, higher subsidies and flood repairs. Romania has not yet established a clear medium-term expenditure framework to support the reallocation of public expenditure towards human capital, infrastructure and administrative capacity. Such a framework is called for in order to provide fiscal space for accession-related expenditures. Total tax arrears remain large at around 8% of GDP, and further improvements in tax collection and compliance are necessary to ensure fiscal sustainability. Pension reform remains to be fully adopted by the Parliament.

Overall, no particular progress was made in reforming expenditures. However, the government envisages a restructuring of spending in order to enhance the growth potential. Further progress was made in promoting tax compliance.

#### *Privatisation and industrial restructuring*

The 2005 Report concluded that continuing the privatisation programme and active dismantling of non-viable enterprises are required. Since the October 2005 reports, there has been progress in the following areas.

An important step forward was taken with the signature of the privatisation contract for the largest commercial bank (BCR) after a fair and transparent process. Privatisation in the energy sector proceeded slowly. Two electricity distributors were privatised. Since October 2005, 18 majority state-owned companies in AVAS's portfolio were either privatised or went into liquidation. Targets for downscaling employment in state-owned companies and divesting a number of smaller companies were met. The tax authorities continued to monitor and enforce tax payments of enterprises and new debt rescheduling was largely avoided.

In the energy sector, the upwards adjustment of prices generally continued. Competition on the energy market started to bear fruit and the transparency of energy transactions increased further with the establishment of a wholesale power exchange. The efforts to improve the collection of energy bills continued. In the mining sector, adjustment of employment continued and additional mines were closed. In rail transport, restructuring and controlled wage growth resulted in improved financial performance of the freight and infrastructure company. Restructuring of the national airline resulted in net profits in 2005.

However, certain outstanding issues remain to be addressed.

The envisaged privatisation of the last remaining large state-owned bank by end-2005 has not taken place. Privatisation targets set by Romania for electricity distribution, power generation and gas extraction are not yet fully met. Little progress was made in privatising companies in the defence sector. The total number of companies with a state share increased from 1 180 in mid-2005 to 1 233 in early-2006. This reversal was caused by the continued bounce-back of companies to state ownership due to disputes over the privatisation contracts. The objective of divesting five large companies before end-march 2006 was missed. The number of minority stakes held by AVAS was hardly reduced. More than half of the remaining companies in AVAS' portfolio are not deemed fit for privatisation. Against this background, liquidation and bankruptcy proceedings remain the last resort for AVAS. Romania decided to shift the envisaged date for accomplishing the privatisation process from end-2006 to end-2007. Privatisation and liquidation activities need to be stepped up considerably in order to meet this revised target.

In order to strengthen competition within the internal market, the gap between international and domestic producers' gas prices should be narrowed. The restructuring of the thermal energy sector went slowly and the sector continues to suffer from high-cost production facilities, ailing distribution networks and endemic non-payment. In order to meet the commitment to align fully consumer and production prices for heating in 2007, the restructuring of the sector should be advanced. In the mining sector, the structural adjustments should address the lacking profitability and accumulation of arrears. In rail transport, further steps are necessary to improve the precarious financial state of the passenger transport company. For mining and railways, the repeated cancellation of debts to the state budget should be abandoned.

Overall, the privatisation process continued at a slow pace and achievements fell short of the government targets. Some progress in restructuring the energy, mining and transport sectors took place. Substantial further progress is required to eliminate the persistent losses and reliance on direct and indirect subsidies by large parts of the sectors.

### *Business environment*

The 2005 Report concluded that enforcing financial discipline and substantial progress in the functioning of the judiciary are required. Since the October 2005 reports, there has been progress in the following areas.

Efforts to limit the accumulation of new tax and social security arrears continued and financial discipline was strengthened by generally refraining from new debt rescheduling and cancellation. This contributes to the creation of a level playing field for doing business. There was substantial progress in the functioning of the judiciary (*see also Chapter 24 – justice and home affairs*). Noteworthy progress was made in using bankruptcy and other liquidation procedures to foster market exit. In 2005, the share of bankruptcy cases solved by liquidation increased further. The overall rate of case resolution increased moderately. The number of completed liquidations increased significantly and the rate of cases solved between six months and two years from their initiation increased slightly. In April 2006, the bankruptcy code was amended with the objectives to simplify procedures and improve creditor protection.

However, certain outstanding issues remain to be addressed.

Financial discipline should be further enhanced. The group of monitored large state-owned companies still builds up new arrears. Shortcomings persist in the bankruptcy framework and creditor protection remains weak, due in particular to the relatively long time and low recovery rate of bankruptcy cases. This underscores the importance of a successful implementation of the recent amendment to the bankruptcy framework.

Overall, further progress was made in improving financial discipline and noteworthy progress was observed in bankruptcy proceedings, even if the accumulation of new arrears continued and shortcomings in the bankruptcy framework persist. Labour markets showed little improvement with an unemployment rate relatively stable (7.7 % in 2005) but with both youth unemployment (23.8% in 2005) and long-term unemployment (4.4% in 2005) high and rising.

### 3.1. General evaluation

Romania is a functioning market economy. Vigorous implementation of its structural reform programme should enable it to fully meet the economic criteria in the near term. Romania has broadly maintained macroeconomic stability and advanced structural reforms.

Progress has continued since the October 2005 report. More appropriate fiscal, monetary and wage policies have been adopted. Tax compliance was enhanced, corporate financial discipline was better enforced and the bankruptcy framework was improved. Restructuring continued in the energy, mining and transport sectors.

However, public expenditure reform must be advanced and tax revenue should be strengthened. Deepening of structural reforms notably requires the continued restructuring of the energy, mining and transport sectors and progress in implementing the privatisation programme. New arrears are still accumulating and the bankruptcy framework still suffers from shortcomings.

## 4. COMMITMENTS AND REQUIREMENTS ARISING FROM THE ACCESSION NEGOTIATIONS

### *Introduction*

In the October 2005 reports the Commission concluded that Romania had already achieved a considerable degree of compliance with the *acquis*.

In most chapters of the *acquis* either Romania was ready or preparations were being made to resolve the last outstanding issues by accession. In the case of the chapters on transport, energy, statistics, economic and monetary union, small and medium-sized enterprises, science and research, education and training, telecommunications, consumer protection, external relations, common foreign and security policy and EU budgetary provisions the country was generally meeting the commitments already. For all these chapters, Romania was considered to be sufficiently prepared for a smooth integration into the EU. This conclusion remains valid. Moreover, progress has continued, for instance on external relations and development. These chapters are therefore not examined below, with the sole exception of the chapter on education and training where preparations need to be stepped up.

The remaining chapters contained some issues which required increased efforts from Romania and, in a limited number of cases, immediate and decisive action in order to be ready by accession. These issues are re-examined in the relevant chapters below.

This section therefore gives an overview of all the remaining issues which Romania needs to address in order to be prepared for implementing the *acquis* by accession.

### 4.1. Chapters of the *acquis*

#### 4.1.1. Chapter 1: Free movement of goods

As regards **horizontal and procedural measures**, the Romanian standardisation body (ASRO) has become a full member of both the European standardisation body CEN and the European Committee for Electrotechnical Standardization CENELEC. In October 2005 the

Romanian accreditation body (RENAR) regained its status as signatory of the Multilateral Agreement on European Cooperation for Accreditation in the field of testing laboratories.

RENAR has not yet regained its status for quality management systems and product certification bodies. The administrative capacity of RENAR still needs to be significantly improved in order to ensure accreditation at EU standards. Preparations in this field should be accelerated.

Concerning the **old approach** legislation, implementation of the *acquis* on good laboratory practice has advanced. Preparations are underway for revision of marketing authorisations for pharmaceuticals for human use before the end of 2006.

Concerns remain to exist regarding food safety legislation and GMO cultivation. Foodstuffs legislation is not yet fully aligned with the *acquis* in a number of important areas such as additives, flavourings, materials in contact with food, food supplements and food for particular nutritional use, official controls, ionising radiation, mineral waters and GMOs.

Official controls on GMOs are lacking for foodstuffs produced from self-cultivated and imported GMO crops. Labelling and traceability requirements have to be fully met, sampling procedures and methods of analysis to be improved and laboratories have to be accredited. In the field of good laboratory practice, a monitoring authority still has to be designated. Full alignment in the areas of cosmetics and fertilisers remains to be achieved. The adoption and implementation of an action plan with specific measures is needed to ensure that farmers no longer use non-authorised genetically modified seeds after accession. Preparations need to be significantly accelerated to ensure that processed food products comprising GMOs be fully traceable, labelled and controlled as from accession.

In the context of the overall reform of the **public procurement** system, a clear and comprehensive single Public Procurement Act was adopted in April 2006 in conformity with the EU rules, to enter into force in June 2006. Secondary legislation is being prepared. Positive developments can be reported in the area of e-procurement. The new National Public Procurement Authority works well and has well trained staff. The remedies system has improved but it remains to be seen how the Review Council will function in practice.

Secondary legislation remains to be implemented. Further efforts are needed to raise awareness of the new legal framework. There is no track record yet with the system of *ex-ante* control of public procurement. In general, preparations in this field are well on course.

### *Conclusion*

Significant progress has been made in the area of **public procurement** and Romania is now generally meeting the commitments and requirements arising from the accession negotiations in this area. Preparations are ongoing and the remaining issues should be resolved by accession if the current pace of preparations is maintained.

Progress has been made on **horizontal and procedural measures** and on **old approach** legislation. However, increased efforts and swift action are now needed in these areas in order to solve persistent shortcomings by accession. In particular, administrative capacity has to be significantly improved, especially in the field of accreditation. Urgent action is needed to complete the transposition of the foodstuff legislation and to upgrade the administrative capacity for the control of the cultivation, production and marketing of GMOs which gives

rise to concern. In particular, the implementation of an action plan with specific corrective measures is now needed in order to ensure that Romania will be ready in this area by the time of accession.

#### 4.1.2. Chapter 2: Free movement of persons

In the area of **citizens' rights**, no particular developments can be reported.

Transposition of the new *acquis* on the right of Union citizens and their family members to move and reside freely within the territory of the Member States remains to be completed. Concerning electoral rights, the *acquis* still remains to be transposed. Legislation has yet to be amended in order to ensure that non-Romanian EU nationals receive the same treatment as the Romanian nationals on access to education and education fees. Preparations in this field need to be stepped up.

#### Conclusion

Increased efforts and swift action are needed in the field of **citizens' rights** to complete alignment of the legislation on electoral rights and access to education.

#### 4.1.3. Chapter 3: Freedom to provide services

Several laws and decisions at national and local level have been amended to eliminate restrictions to **establishment and freedom to provide services**. Legal and administrative restrictions are being removed.

Further adjustments are awaited to the licensing and authorisation procedures applicable to all natural and legal persons involved in temporary business, regardless of sector. Laws and administrative procedures with unjustified restrictions, for instance on setting up pharmacies, should be avoided. Preparations in this area still need to be stepped up.

In the **banking sector**, the situation has become a source of concern, as the transposition of the new, more stringent, capital requirements directive remains to be ensured. A sufficient period of time should be given before implementation in order to allow both the banks and the investment firms to proceed with the necessary adaptations. Consistency needs to be ensured between transposition work by respectively the National Bank and by the National Securities Commission in order to enable coherent supervision of banks and investment firms. Preparations now need to be accelerated.

As regards the **insurance sector**, a number of legal acts have been approved by the Insurance Supervisory Commission (ISC) aiming at better enforcement and improved supervision of insurers. A new action plan with specific measures to combat uninsured driving has been adopted. The Information Centre has been equipped with efficient IT equipment. Databases are now constantly updated and rectified so that the problem of uninsured driving can be brought under control. Public awareness campaigns have been launched and an increased number of police checks has been carried out.

However, this action plan on motor insurance remains to be implemented. Most of the institutions required are not yet operational. The Compensation Body has not been provided with premises or financial resources. The Information Centre lacks staff to handle queries. The financial capacity of the Guarantee Fund needs to be strengthened. The financial independence of the National Motor Insurance Bureau needs to be ensured. Enforcement of

the rules on motor vehicle insurance is low. There is a risk that Romania will not be able to sign the multilateral agreement in time to allow the Commission to take its decision concerning the removal of border checks for insurance certificates by December 2006. The administrative structures are not yet fully operational and need to be strengthened. Preparations need to be considerably stepped up in the field of insurance.

Enforcement of the rules on **protection of personal data** has improved and the administrative structures have been considerably strengthened (*see Chapter 24 – Justice and home affairs*).

### *Conclusion*

Important progress has been made in the field of **protection of personal data**. Romania is now generally meeting the commitments and requirements arising from the accession negotiations in this area.

In the **banking sector**, the situation has become a source of concern, as increased efforts are now needed to transpose the new capital requirements and ensure a uniform application of these requirements and a coherent supervision for banks and investment firms.

Progress has been made on **right of establishment and the freedom to provide non-financial services and the insurance sector**. However, further efforts and swift action are now needed in these areas in order to solve the shortcomings in time, before accession. In particular, efforts to eliminate restrictions to establishment and freedom to provide services should be stepped up. The enforcement of the insurance rules on motor vehicles still requires increased efforts. In order to complete preparations for membership, the necessary institutions have to be set up or become fully operational urgently.

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

As regards the fight against **money laundering**, awareness of reporting obligations amongst reporting entities has been improving and some progress has been made on reporting suspicious transactions. A more active control regime is being applied on entities with reporting obligations such as casinos and currency exchange *bureaux*.

Legislation implementing the amended anti-money laundering law still has to be adopted in some cases, such as reporting entities without a regulatory body. The revised recommendations of the Financial Action Task Force (FATF) on money laundering and terrorist financing have not yet been aligned. Reporting by private entities remains insufficient, especially in sectors other than banking and securities, such as real estate and casinos, which are particularly vulnerable to money laundering. Basic misunderstandings continue among some reporting entities such as notaries. Supervision of reporting entities by the Financial Intelligence Unit (FIU) has been limited to only a few sectors. Moreover, the FIU has been facing management and administrative problems that have affected its functioning. Additional resources and expertise, especially financial analysts are needed in the FIU. Effective cooperation between entities in the chain and with other countries remains to be strengthened.

The effectiveness of anti-money laundering defences is hampered by problems with law enforcement (*see Chapter 24 – Justice and home affairs*).

### *Conclusion*

Some progress has been made in the area of **money laundering**. However, the results are still limited in terms of effective implementation and enforcement, in particular in the areas of awareness, reporting of suspicious transactions and supervision activities. Increased efforts and swift action are now needed in this area in order to overcome the shortcomings in time, before accession.

#### *4.1.5. Chapter 5: Company law*

The national strategy on **protection of intellectual and industrial property rights (IPR)** and the related action plan adopted in September 2005, which aim at improving administrative structures and enforcement, are being implemented. New legislation allows *ex-officio* investigation and prosecution of IPR crimes through a specialised department in the General Prosecutor's Office. The role of the General Prosecutor's Office as central coordinating body has been strengthened. Exchange of information, coordination and cooperation between all institutions and law enforcement authorities have been improved. Appropriate measures have been taken for awareness-raising amongst the public and continued staff training. Strong efforts have been made to improve communication between the institutions.

However, alignment has to be completed in the field of biotechnology patents. Also, adequate preparations have to be made for processing applications for Supplementary Protection Certificates as of accession. Awareness-raising measures need to be disseminated further. Communication efforts need to be maintained. Communication between institutions and right holder organisations needs to be further developed. IPR-related crime remains a continuing threat and poses a real challenge. There is no track record of concrete and tangible results. Further clarification is needed with regard to collecting societies. Overall preparations in the field of protection of intellectual and industrial property rights, including enforcement, need to be accelerated.

### *Conclusion*

Significant progress has been made in the area of **protection of intellectual and industrial property rights**. However, increased efforts and swift action are now needed in this area in order to solve the shortcomings in time, before accession.

#### *4.1.6. Chapter 6: Competition policy*

As regards the **state aid** enforcement record, the quality of the Competition Council's assessment and analysis of aid measures has noticeably improved. Significant progress has been made in terms of both the restraint shown by state aid grantors and of control by the Competition Council, which opened one *ex-officio* investigation and continued its efforts to ensure greater compliance with the *ex-ante* notification obligation. This concerned several cases of rescue and restructuring aid and aid measures linked to the privatisation of undertakings in particular.

The pre-consultation mechanism (whereby the Commission offers informal technical advice on draft decisions before their adoption) has proved successful. An inter-ministerial working group on state aid issues and a high level inter-ministerial task force support the work of the Competition Council by ensuring that all state aid plans of all Ministries are notified. The Competition Council has also started to implement its decisions to recover illegal aid.

As regards state aid to the steel industry, the Romanian authorities are continuing to cooperate closely with the Commission on implementation of the National Steel Restructuring Programme. Since October 2005 the Romanian competition authority has authorised no aid in favour of the steel plants included in the National Restructuring Programme. Nevertheless, the implementation of the restructuring conditions and obligations need to be stepped up, as well as the recovery of incompatible aid granted to steel companies outside the national Restructuring Programme (*see also Chapter 15 - Industrial policy*).

*Ex ante* notification of all new aid measures in relation to restructuring cases, payment deferrals or measures connected with privatisation are not yet carried out up to the requisite standards. Additional measures to instil further discipline into state aid grantors is need to be taken. Cooperation of state aid grantors like the Ministry of Public Finance and the privatisation authority AVAS with the Competition Council needs to be improved. Furthermore, serious problems have been allowed to develop in several cases, making it impossible for the companies to maintain their production capacity and workforce without new injections of aid.

### *Conclusion*

Good progress has been made on **state aid** enforcement. However, increased efforts and swift action are now needed in this area in order to solve the shortcomings in time, before accession. In particular, efforts should be continued to conclude the assessment of the major existing aid measures in time. State aid grantors should ensure strict *ex ante* control of state aid schemes by the Competition Council.

The “interim mechanism” for state aid provides for aid measures of an acceding country, which will continue to apply upon accession, to be deemed existing aid within the meaning of Article 88(1). With regard to this mechanism, Annex V to the Act of Accession states that “with regard to Romania, paragraph 1(c) shall only apply to aid measures assessed by the Romanian State aid monitoring authority after such date, decided upon by the Commission on the basis of continuous monitoring of the commitments undertaken by Romania in the context of the accession negotiations, that Romania's State aid enforcement record in the period prior to accession has reached a satisfactory level”. The Commission's monitoring and the efforts undertaken by the Romanian authorities show that such a level has now been attained and the Commission will therefore apply paragraph 1(c) of Annex V to the Act of Accession as from May 2006.

#### *4.1.7. Chapter 7: Agriculture*

### **Horizontal issues**

The broad institutional framework for the two **paying agencies** is now in place and the overall administrative capacity has been strengthened: 3 600 persons were hired at the end of March, higher salaries are paid to staff dealing with management of EU rural development funds and offices have been acquired and are now starting to be fitted with IT equipment. The role and mandate of the agencies have largely been defined.

Important deficiencies continue to exist: there is a lack of proper offices premises, equipment, procedures and IT systems. In addition, Romania intends to recruit 1 400 persons. Staff needs to be adequately trained before accession in order to be able to carry out their tasks properly.

The overall administrative capacity and infrastructure of paying agencies remain sources of serious concern and should be urgently strengthened.

The original master plan for setting up the **Integrated Administration and Control System (IACS)** has been updated to reflect the delays in its implementation. Budget has been earmarked and staff recruitment is progressing. The elaboration of the farm register and its relevant database is on-going and the details of about 75% of all the registered farmers have been recorded in the database.

The Land Parcel Identification System (LPIS) is not yet completed. Although all aerial photos are available, usable ortho-photos are outstanding for 36% of the country and block digitisation has been completed for only 40% of the ortho-photos. Work has only just started for the establishment of the link between the farmers and the LPIS blocks. This is needed to supply the farmers with graphical material indicating boundaries of the reference parcels, their single identification number and their area. It constitutes a considerable workload, especially in view of the high number of expected beneficiaries. Many procedures and manuals are still to be elaborated including implementation of good agriculture and environment conditions and the definition of less-favored areas. Purchase of the hardware and development of the IACS software should be urgently stepped up. The current pace of progress would not allow the IACS/LPIS system to be fully operational upon accession.

Legislation on **trade mechanisms** has been further aligned. A simplified version of export and import certificates and the guarantees system for imports and exports for certain agricultural products have been introduced. A body has been set up and staff recruitment is on-going. In March 2006, the paying agency took over the responsibility of issuing import and export licences. A cooperation protocol has been signed with the National Sanitary Veterinary and Food Safety Authority.

However, cooperation between the main players in trade mechanisms remains weak. This applies to the organisms in charge of export licences and of import licenses as well as of paying refunds, customs services, the organism in charge of ex-post administrative controls and the National Sanitary Veterinary and Food Safety Authority. The Paying Agency has not yet taken over the responsibility for trade mechanisms. Preparations in the field of trade mechanisms should be accelerated.

No significant development can be reported on **quality policy**. Preparations in this area should be stepped up.

### **Common Market Organisations (CMOs)**

Regarding the CMOs, some progress has taken place in the majority of sectors although effective and administrative structure for the enforcement of these market organisations remains to be set. Furthermore, additional staff recruitment as well as appropriate training and a clear definition of procedures for the different institutions dealing with the market sectors are needed.

A department for market intervention on **arable crops** has been established within the paying agency but it is understaffed. A price reporting system has been designed and is now being introduced.

No particular development can be reported in the area of **sugar**. Staff dealing with this issue in the paying agency remains insufficient.

In the area of **fruit and vegetables**, progress has been achieved for the implementation of quality control of fresh fruit and vegetables and marketing standards. Progress has also been made with regard to the administrative structure in charge of recognition of producers.

Registration of traders has improved; the respective database is updated monthly and prices at farm gate started to be collected. The supervisory authority remains understaffed, inspection equipment needs to be improved and risk analysis for inspection systems is at an early stage.

New legislation has been adopted to introduce market intervention mechanisms for **wine** and wine by-products. The vineyard register should still be made compatible with IACS.

The legislative framework for the **milk** sector has been broadly adopted and the institutional structure to manage the quota system has been established with the creation of the milk quota department and seven regional offices and of the National Milk Council as an advisory body.

However, these structures for the milk sector are not yet operational. Further efforts are needed in terms of staff, equipment and a clear distribution of tasks between these entities and the paying agency to ensure that the system is operational by accession. Approval of dairies (milk purchasers) and collection centres are still to be put in practice. No progress can be reported regarding rules for the individual allocation of milk quotas, in particular the direct sales quotas as well as regarding the establishment of a plan for a national reference laboratory.

As regards **beefmeat, sheepmeat and pigmeat** sectors, the legislation has been further aligned with the *acquis*. The administrative capacity for the introduction of carcass classification and price reporting systems has been developed but is not yet operational. Inspectors and classifiers need to be trained and licensed. Preparations in this area need to be stepped up. Funds have been earmarked to design a market reporting system.

Marketing standards related to grading by weight category and labelling of **eggs and poultry** are in place and being enforced. The administrative capacity of the relevant department of the paying agency is weak.

Overall, preparations in the field of common market organisations should be considerably accelerated, in particular as regards the administrative capacity.

### **Veterinary issues**

As regards **TSE (transmissible spongiform encephalopathies) and animal by-products**, only limited developments can be reported.

Enforcement of the feed ban in companies with their own processing facilities is not guaranteed (stocks of beef and bone meat have not yet been destroyed). Appropriate rendering, collection and treatment facilities for high-risk material are not yet in place. According to the 2005 strategy for restructuring and development of a national animal by-products system, eight calls for tender have been launched to cover all the territory of Romania. The selected companies will have a license and the obligation to set up a regime for the collection of high risk materials as well as to build and equip rendering establishments

with a view to becoming operational by the end of 2006. Their operability remains a source of serious concern. Stocks of meat and bone meat remain to be destructed and incinerated.

As regards establishment of the **veterinary control system in the internal market**, identification and registration of animals and their movements has further advanced and the database is being completed. As regards veterinary checks on imports from third countries and rules on imports, tenders were successfully concluded for all of the eight border inspection posts (BIPs) and construction works have started.

Relations between the operator and the National Sanitary Veterinary and Food Safety Authority (NSVFSA) are not sufficiently streamlined to guarantee that the NSVFSA, as the competent authority, ensures effective management of the system. The administrative capacity of the animal identification department must therefore be considerably strengthened as only one out of seven jobs is currently occupied. BIPs' facilities remain to be completed some time in advance of accession in order for staff to undergo training and familiarise themselves with use of the facilities and procedures. Preparations in this area need to be stepped up.

As regards **animal disease control**, the *acquis* has been transposed and is implemented. A national strategy for the eradication of classical swine fever which bans preventive vaccination as of January 2006 has been adopted and is being reviewed. A national plan for the control of the disease has been adopted. Funds have been earmarked to compensate farmers.

The plan must be extended to cover vaccination of wild boars, urgency vaccination of certain domestic pigs with marker vaccine and include contingency and surveillance plans. Stringent controls of the vaccination ban are not yet performed. Preparations in this area should be accelerated.

A number of controls on exports of equines have been performed in **trade in live animals and animal products**. However, preparations in this area still need to be stepped up.

As regards **public health**, the implementation of the upgrading programme for the agri-food establishments is on-going. The number of "non-compliant establishments without an upgrading plan" has been considerably reduced. This is a sign of good progress and the current pace of upgrading should be maintained. Preparations should be stepped up to improve the management of the collection and treatment of non-compliant raw milk. The legislation on direct sales remains to be completed.

The NSVFSA has taken good steps to introduce the various elements needed for a control system for **animal welfare**. Enforcement of the *acquis* is on-going.

The administrative capacity of the National Agency for Amelioration and Reproduction in **zootechnics** has not improved. Preparations in this sector should be accelerated.

The control system for **animal nutrition** needs further improvement in order to meet food and feed safety requirements. Preparations need to be accelerated in this field.

### *Conclusion*

Progress has been made in the areas of **animal welfare**. Romania is now generally meeting the commitments and requirements arising from the accession negotiations in this area.

Progress has been made in the areas of **trade mechanisms** and the **common market organisations** and on **trade in live animals and animal products, zootechnics** and **animal nutrition**. Good progress has been made as regards animal identification and registration of their movements in the field on the **veterinary control system in the internal market, animal disease control** and **public health** with the upgrading of establishments. No particular development can be reported as regards **quality policy**. Increased efforts and swift action are now needed in these areas in order to solve the remaining shortcomings in time, before accession.

Progress has been made over the last few months in the areas of **paying agencies** and the **Integrated Administration and Control System (IACS)**, but serious concerns remain as to whether the Paying Agencies and the IACS/LPIS will be operational by the date of accession. Progress has been limited on **TSE (transmissible spongiform encephalopathies) and animal by-products** which also remain an area of serious concern. Romania should take immediate and decisive action now in order to be ready by the date of accession.

#### *4.1.8. Chapter 8: Fisheries*

As regards **resource and fleet management** and **inspection and control**, the administrative capacity of the National Agency for Fisheries and Aquaculture (NAFA) has been strengthened. The Fishing Vessel Monitoring System has been operational since February 2006 and the necessary monitoring equipment has been installed. Romania has set up its Fishing Fleet Register including all its fishing vessels, and the relevant database is operational.

Test data have been transmitted to the Community Fishing Fleet Register but not yet in the right format. This also applies to the catch registration system, where logbook data, landing declarations and sales notes information are not currently entered in a computer readable format and consequently cross-checks are not possible. Overall, preparations are well on track as regards resource and fleet management and inspection and control.

The operational and administrative capacity for managing **structural action** within the NAFA has been reinforced. Several responsibilities for management of structural funds remain to be clarified, notably in order to exclude the National Company for Fisheries Resources Management from any role in management of Community funds as an intermediary body. Preparations need to be stepped up.

As regards **market policy**, so far the NAFA has authorised 44 producers' organisations. Landing points and first sales centres have been established for both inland and sea fishing. Preparations should continue, in particular as regards the transmission and computerisation of data.

#### *Conclusion*

Significant progress has been made in the areas of **resource and fleet management** and **inspection and control** and on **market policy**. Romania is now generally meeting the commitments and requirements arising from the accession negotiations. Preparations are being made and the remaining issues, such as catch registration systems, should be resolved by accession if the current pace is maintained.

Progress has been made in the area of **structural action**. However, increased efforts and swift action are needed to exclude the National Company for Fisheries Resources Management from managing Community structural funds.

#### 4.1.9. Chapter 10: Taxation

In the areas of **VAT** and **direct taxation**, legislation has yet to be adopted in the area of corporate and income tax as well on VAT. Preparations now need to be stepped up.

In the area of **administrative cooperation and mutual assistance**, the overall administrative capacity improved slightly, especially in the field of VAT. A number of measures has been taken to improve the collection rate, which is rising, albeit slowly.

The level of tax collection in Romania in general is excessively low and urgent improvements are needed in this regard. The control capacity of the administration remains weak, in particular as concerns excise duties on alcoholic products. Romanian needs to carry out a general reform of the tax administration and collection with a view to ensuring integrity, preventing conflicts of interest and tackling the lack of resources. Urgent improvements are needed to ensure taxpayer compliance and tax collection.

Only limited progress can be reported on Romania's preparations to be able to exchange information with EU Member States effectively as of accession. As regards preparations for the VAT Information Exchange System, VAT on e-services and the System for Exchange of Excise Data (SEED), significant additional delays occurred in setting up these systems, mainly due to the lack of preparations on the side of the Tax Administration. Whilst work began in earnest only at the beginning of March 2006, unless swift action is taken to overcome such delays, these systems are unlikely to become effectively operational upon accession.

#### Conclusion

In the areas of **VAT** and **direct taxation**, increased efforts are now needed with regard to legislation and collection.

Little progress has been made on **administrative cooperation and mutual assistance**, an area on which urgent action was already requested in October 2005, in particular to address the slow pace of implementation of the IT interoperability systems for tax collection, in particular VAT and excise duties. This remains an area of serious concern, given the additional time elapsed before any progress begun to be made. Romania should take immediate and decisive action, and ensure strong and continuous commitment now in order to be ready by the date of accession. Romania should also continue increasing its efforts to strengthen the collection and control capacity of the Tax Administration, with particular regard to excise duties and direct taxation.

#### 4.1.10. Chapter 13: Social policy and employment

On **labour law**, legislation aiming at transposing the *acquis* on transfers of undertakings was adopted in March 2006.

Still, the recent *acquis* on the statute of the European Company, the European Cooperative Society as well as on information and consultation remains to be transposed. Several shortcomings need to be addressed with regard in particular to collective redundancies, part-

time work, fixed-term work and European Works Councils. Transposition also needs to be completed in areas not yet covered by the Labour Code (such as employer insolvency, posting of workers and sectoral working time). Improvement of the administrative capacity of the Labour Inspectorate should be maintained in order to guarantee good application of the *acquis* on the ground. Preparations need to be stepped up to align and implement the *acquis*.

As regards **equal treatment of women and men**, legal alignment is lagging behind. The *acquis* on equal treatment in occupational social security schemes remains to be transposed. Furthermore, a number of shortcomings for correct and full transposition need to be addressed, in particular as regards directives on equal pay, equal treatment in employment, parental leave and maternity protection. Romania still has to verify whether retirement age of civil servants needs to be equalised according to the principle of equal pay laid down by the EU Treaty and the criteria established by the European Court of Justice. The National Agency for Equal Opportunities is still not adequately resourced and not fully operational and its independence needs to be guaranteed. Preparations now need to be accelerated.

As regards **health and safety at work**, legal alignment still needs to be completed in the field of extractive industries. The recast of the General Norms on Labour Protection in the form of Government decisions is not accomplished. Considerable delays have occurred in the transposition of some parts of the *acquis*, which should be remedied through the adoption by the Parliament of a new Health and Safety Law. Administrative capacity of the Labour Inspectorate needs to be further enhanced, and awareness-raising of and training on health and safety requirements among employers, especially in SMEs, need to continue. Transposition of the *acquis* has been completed on vibration, asbestos, noise as well as temporary and mobile construction sites. Overall, preparations in this area now need to be enhanced.

Intensive training on **social dialogue** has been provided to the Ministry of Labour, Social Solidarity and Family, to social partner organisations and to the Economic and Social Council in the context of promoting bipartite social dialogue. Negotiations on the 2006 national collective agreement have been completed.

However, the weakness of bipartite social dialogue, particularly at branch and industry levels, remains substantially unchanged, as well as the capacity of social partners to conclude and negotiate valid agreements. Social partner organisations remain fragmented and lack capacity and representativeness. The consultation mechanism with the Economic and Social Council does not ensure the role of the Council as the interlocutor of the Government. Capacity-building of social partners needs to be further strengthened, and their participation in the social dialogue process at European level should be enhanced.

Legislation has been adopted on **public health** with the aim of transposing the *acquis* on blood and blood components and tissues and cells. In the field of communicable diseases, progress has been made on HIV/AIDS and use of prophylactics among the vulnerable groups.

Further implementing legislation on blood, tissues and cells remains necessary. Quality management measures need to be ensured in all blood centres. The National Agency for Transplantation should be strengthened. The ethical committee is not sufficiently consulted on transplantation matters. Investigations on the human egg cell trade have to be completed (*see also the political section*). Transposition of the *acquis* in the field of tobacco has yet to be completed. Further strengthening of the administrative structures remains necessary and coverage of minority groups should be ensured as part of comprehensive disease surveillance and prevention. Broader participation by Romanian institutions in EU surveillance networks

needs to be guaranteed. Further efforts are still necessary to improve the health status of the population and access to health care, especially at regional level and among poorer socio-economic groups and minorities. A law on the reform of the health sector adopted in April 2006 might contribute to this. As regards mental health, measures need to be taken swiftly to manage excess occupancy and improve overall living conditions (*see also the political section*). Preparations need to be stepped up considerably.

Concerning **European Social Fund (ESF)**, the administrative capacity has been strengthened, in terms of recruitment and training, at all levels.

However, the National Agency for Employment, an intermediary body, still deserves attention. Inter-ministerial and regional coordination mechanisms are established, but progress is still to be made in order to guarantee a continuous and efficient functioning. Project identification activities have been initiated and the national training plan for the ESF staff includes also training for final beneficiaries. Sustained efforts should now focus on training and on creating a project pipeline. Administrative progress has been made, but preparations for managing the ESF should be accelerated (*see also Chapter 21 – Regional policy and coordination of structural instruments*).

In the field of **social inclusion**, the National Anti-Poverty and Promotion of Social Inclusion Plan for 2006–2008 was approved in December 2005. A Committee for monitoring the implementation of the Joint Inclusion Memorandum (JIM) was set up in April 2006.

A clear mechanism for coordination among relevant ministries and other stakeholders remains to be set up. Analytical work and development of social statistics on poverty and social exclusion should be continued in line with the EU indicators on social inclusion. Efforts need to continue to improve the situation of vulnerable groups, including the Roma, and to promote their full integration into society. Access of persons with disabilities to public areas, buildings and transport, as well as to education and the labour market needs to be further improved. Increased efforts are needed to close or restructure large residential institutions for people with disabilities by developing alternative community-based services, support to families and smaller residential units.

### *Conclusion*

Only limited progress has been made in most of the areas of social policy and employment. The situation in the field of **equal treatment of women and men** has deteriorated, and a lack of progress can be noted in the field of **health and safety at work**. Increased efforts and swift action are now needed in order to solve the shortcomings in time, before accession. Legal alignment needs to be completed and enforced in the areas of **labour law**, equal treatment of women and men, health and safety at work and **public health**. **Social dialogue** should be improved. Attention should be paid to ensuring access to primary health care and a high level of health protection along with increased services and transparency in the health system. Preparations for managing the **European Social Fund** and **social inclusion** of all the vulnerable groups in society, including the Roma minority, should be stepped up. In general, increased efforts continue to be needed to strengthen the administrative capacity to ensure due implementation of the social policy *acquis*.

#### *4.1.11. Chapter 15: Industrial policy*

In the area of **privatisation and restructuring**, some progress has been made.

Full transparency of the privatisation process needs to be ensured. Comprehensive restructuring or liquidation of companies which are not viable in their current form has not advanced substantially. The problems with post-privatisation obligations included in the privatisation contracts and resulting litigations need to be addressed now as they have resulted, inter alia, in the reversal of privatisations and caused fluctuations in the privatisation portfolios (*see also the economic section*).

Delays have occurred in implementation of the steel restructuring programme. This has led Romania to propose changes to the National Restructuring Programme and to the individual business plans, which need to be analysed, notably from the angle of compatibility with state aid rules. Efficient and timely restructuring of the steel sector and full implementation of individual viability plans still needs to be ensured. Measures should also be taken to ensure that, in accordance with Romania's commitments, no state aid is given to the sector outside the provisions of the Europe Agreement and the Accession Treaty (*see also Chapter 6 – Competition policy*). Overall, preparations need to be stepped up, in particular as regards the steel industry.

#### *Conclusion*

Limited progress has been made on **privatisation and restructuring**. Increased efforts and swift action are now needed in this area in order to solve the remaining shortcomings in good time before accession. In particular, the further implementation of the privatisation strategy, solving problems with post-privatisation obligations and the implementation of the steel restructuring strategy complying fully with state aid commitments need further attention.

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

In the area of **Community programmes**, no particular development can be reported except for the Youth programme where serious problems were encountered in the management of the programme by the Romanian National Agency. Implementation of all the activities of the Youth programme managed by the National Agency was subsequently suspended. An action plan has been drawn up in order to remedy the situation and its implementation has started. Preparations in this field need to be accelerated as a new agency has to be created and sound financial and operational management and control procedures should be put in place.

#### *Conclusion*

As regards **Community programmes**, the situation with the Youth programme has deteriorated. Increased efforts and swift action are needed now in order to solve this shortcoming in time before accession.

#### *4.1.13. Chapter 20: Culture and audiovisual policy*

Legislation in the field of **audiovisual policy** has been further aligned with the *acquis* by adopting the two remaining amendments to the Audiovisual Law concerning jurisdiction and freedom of reception.

However, the Law on Cinematography includes an obligation for all television broadcasters in Romania to reserve a minimum of 5% of broadcasting time for Romanian feature films, which is still contrary to the principle of non-discrimination on the grounds of nationality. Preparations in this area should be stepped up.

## *Conclusion*

Progress has been made on **audiovisual policy**. However, the principle of non-discrimination in the broadcasting sector is not applied yet. Increased efforts and swift action are now needed in this area in order to ensure that the necessary amendments to the Law on Cinematography enter into force in good time, before accession.

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

As regards the **legislative framework**, the multi-annual budgetary programming is in place and budgetary flexibility has been enshrined in the Law on the 2006 State Budget. The new Public Procurement Act was adopted. The legislation providing a framework for the ex-ante control system for public procurement was adopted. Preparations in this field are now well on track.

In the case of **institutional structures**, significant progress has been made. The designation of the bodies for management of the structural instruments has been finalised and establishment of the implementing structures is almost completed. With regard to administrative capacity, comprehensive recruitment and training plans have been and are being implemented.

The structures for implementing the economic competitiveness programme have not yet been finalised. The delegation of tasks from managing authorities to the intermediate bodies has not been finalised. The *ex-ante* control system for public procurement remains to be put in operation. Administrative bodies are at differing stages of preparation with some seriously lagging behind, such as the SME Agency, the National Agency for Employment and those that were designated at a late stage. General training for existing and new staff is available but further specialised training is still needed.

Inter-ministerial coordination mechanisms have been set up but need to ensure flexible and efficient arbitration arrangements. Cooperation between the national and regional levels still needs to be significantly improved, considering at the same time devolution mechanisms allowing accountable presence at regional level. Overall, cross-sectoral coordination at regional level needs further strengthening. The co-financing mechanisms to share the financial burden between the state budget and the final beneficiaries, mainly municipalities, are not fully clarified. Preparations in this area need to be stepped up.

On **monitoring and evaluation** the Single Management Information System, which is the main monitoring instrument, has been tested for the pre-accession instruments and for the cohesion policy at national level through the main implementing structures.

The Single Management Information System is not yet in operation in line with the implementing requirements for all Structural Funds programmes. Relevant staff at managing authority and intermediate levels is not yet actively involved in putting the SMIS into operation. Monitoring and evaluation capacity still needs to be reinforced as part of the overall effort to strengthen administrative capacity. Extension of the Single Management Information System to the end users will require further efforts. Preparations in this field need to be accelerated.

In the area of **financial management and control**, improvements have been made to administrative capacity, verification of expenditure declarations, establishment of internal

audit units and adequate audit trail and the procedures for dealing with irregularities. Financial management and control structures have been identified for all areas of expenditure.

However, implementation of the challenging recruitment and training plans, including for specialist staff, across most bodies needs to continue. Accountability of the external audit authority needs to be clarified. Practical implementation of the financial management and control structures remains to be tested. Preparations in this area should be stepped up.

### *Conclusion*

Significant progress has been made in relation to the **legislative framework**, and Romania is now generally meeting the commitments and requirements arising from the accession negotiations.

Significant progress has been made with regard to **the institutional structures**, including administrative capacity. Progress has also been made on the project pipeline in the context of **financial management and control**. Overall, further steps are still needed in order to complete the preparations by accession. Enhanced efforts are still required to address the following outstanding issues: establish implementation procedures and strengthen administrative capacity, with particular attention to recently designated bodies, strengthen cooperation between national and regional levels and cross-sectoral coordination at regional level, continue project pipeline preparation and training for final beneficiaries and ensure putting on operation *ex-ante* control of public procurement and an efficient financial management and control system. Progress has been made on **monitoring and evaluation**. However, the results remain limited. The Single Management Information System needs to be finalised and expansion of the system to all relevant bodies, before accession, is needed. Increased efforts and swift action are now needed for all these areas.

#### *4.1.15. Chapter 22: Environment*

In the field of **horizontal legislation**, further alignment has taken place. Legal amendments have been adopted to ensure that expenses for public announcements are born by the environmental authorities. A manual for Strategic Environment Assessment has been adopted. However, legal transposition in relation to the Strategic Environmental Assessment, access to justice and public participation needs to be completed.

In the area of **waste management**, legal transposition is almost complete. The necessary secondary legislation has been adopted. Operational responsibilities in waste management at the national level are clearly distributed between the Ministry and the National Environmental Protection Agency. A general directorate for waste has been created in the Ministry which represents a step forward. At local/regional level the separation of responsibilities is less clear and it seems that regional authorities could play a more important role in the overall strategic planning of the waste sector. In order to fulfil these tasks the Regional Environmental Protection Agencies will need further staff to work on waste issues. Regional waste management plans are under preparation, but efforts need to be increased in order to finalise the plans as early as possible and further guidance from national level is needed in order to ensure coherence. The National Environment Guard needs reinforcement in order to carry out the necessary inspections. Implementation of commitments for closing down landfills and establishing new waste management facilities are on-going.

As regards **water management**, legal transposition has continued and is almost complete. The design of the national monitoring system has been finalised introducing biological monitoring and monitoring of priority dangerous substances. Moreover, the sampling points have increased considerably. The register of protected areas has been finalised. The monitoring of water quality needs further efforts. As regards investment in water infrastructure, the necessary funds need to be secured in order to ensure proper implementation.

Concerning **industrial pollution**, good progress can be reported, but the momentum must be maintained. The legislation is fully transposed and adequate institutional structures with a reasonable number of staff are in place. The cooperation between the regional and the national level is functioning well. A re-inventory of installations subject to the Integrated Pollution Prevention and Control (IPPC) directive has been carried out and a schedule for speeding-up the application process has been established. There are now 638 installations which are assessed requiring an IPPC permit. In April 2006, 434 applications have been submitted with 140 permits issued.

The outstanding permits represent a challenge which the environment administration has to tackle without reducing the quality of the permits. Particular efforts are needed to ensure that water licensing procedures do not delay the IPPC permitting procedures. The National Environmental Guard should be further reinforced in order to be able to ensure appropriate enforcement of inter alia Integrated Permits.

In the field of **nature protection**, preparations of the first list of NATURA 2000 sites continued, but at a slower pace, which cannot ensure that a designation of sites will be ready by accession. Further strengthening of this process is now urgently needed. The national strategic approach as well as coordination and cooperation issues and the clear allocation of responsibility still need further attention as only few developments have taken place since October 2005. A National Agency for Protected Areas has been established in order to coordinate management of protected areas in the future. However, it is essential that this Agency, which should be directly subordinated to the Ministry for Environment and Water Management, is allocated clear responsibilities including the coordination with other involved authorities. Preparations now need to be stepped up.

### *Conclusion*

Progress has taken place in the areas of **horizontal legislation**, **waste management** and **water quality**. Legal transposition and the necessary implementation steps remains to be completed. Administrative capacity in these sectors should be further reinforced particularly at local/ regional level. Important progress has been made in the area of **industrial pollution**. Efforts should be continued to issue permits of a sufficient quality and to strengthen administrative capacities. The National Environmental Guard should be able to ensure appropriate enforcement of environmental legislation. The area of **nature protection** deteriorated and the full implementation of the *acquis* as from accession needs to be ensured. In particular, strengthening of the administrative capacities, of the cooperation and coordination mechanisms as well as the completion of the preparations for special nature protection areas are needed. All these areas required increased efforts and swift action.

#### 4.1.16. Chapter 24: Cooperation in the field of justice and home affairs

As regards preparations for applying the **Schengen *acquis* and the management of the future EU external border**, the implementation of the Schengen Action Plan has continued on schedule. The framework for financing Romania's border management needs has been clarified and in January 2006 revisions to the single multi-annual investment plan were approved to provide an integrated border security solution. The Border Police has established a Communications and IT Office to oversee the delivery of this sophisticated system. Surveillance equipment along the border and related infrastructure has continued to be modernised. IT equipment has been purchased and training delivered to establish an operational risk analysis capacity.

Recruitment of Border Police staff has continued on schedule with around 1 800 additional members of staff. Staffing levels on the future EU external borders are now all at 85-90%. Following the signature of a contract in March 2006 to deliver an integrated surveillance and control system for the Black Sea coast, additional equipment is being deployed. Some further preparations have been made for the Schengen Information System (SIS 2). Romania has continued to fight illegal migration and during the reporting period has disrupted 16 people smuggling networks with 26 facilitators and 120 illegal migrants. Romania and Bulgaria have agreed to intensify their border co-operation especially on the surveillance of the Danube. In November 2005 and February 2006 three agreements were signed between Romania and Ukraine to improve practical cooperation and establish a bilateral Contact Centre in Porubnoe. At the end of 2005 an agreement was signed with Moldova to improve co-operation and fight illegal activities.

Additional training and further staff increase are still needed. Efforts should be continued to ensure there are no further delays in contracting border management projects and to recruit additional IT and communications experts to deploy and implement the border management system. Establishing a national IT network for the SIS 2 remains a challenge. Enhanced efforts will be required to ensure that the integrated border management system is operational by 2009 as foreseen. Overall, efforts need to be stepped up in this area.

On **visa policy**, visa stickers have been issued to all border crossing points to replace visa stamps. Moldova remains the only country on the EU negative list with which Romania has not yet introduced a visa regime. An agreement with Moldova is being negotiated. Romania's preparations for the Visa Information System (VIS) are based on modern technology and Romania participates in the VIS-related working groups and technical meetings at EU level.

Alignment with the *acquis* remains to be completed for the visa agreements that are under renegotiation with Turkey, Serbia and Montenegro, Ukraine and Russia. Final alignment with the EU positive list is also pending. The use of new visa stickers with some EU security and anti-forgery features remains to be expanded. Some further efforts are still required to complete the installation of more sophisticated equipment to detect forged and falsified documents in diplomatic and consular posts especially in high-risk countries. In general, preparations in this area are well on track but adequate administrative preparations are needed well in advance of EU accession for the introduction of a visa regime for Moldova.

In the field of **police co-operation and combating organised crime** there has been some improvement in the effectiveness, accountability and autonomy of the law enforcement agencies subordinated to the Ministry of Administration and Interior as well as the co-ordination between them. In particular there is a good level of co-operation between police

and gendarmerie, which now have a clear division of responsibilities. Rules have been adopted to make recruitment, career development and salaries more transparent. In January 2006 the police structures at county level were reorganised by reducing management and auxiliary positions and considerably increasing the number of operational posts. The starting salary for new police recruits is attractive and vacancies have been reduced in line with commitments. Practical and specialised training is provided in the police school to new recruits. There has been an improvement in the capacity to implement the multi-annual strategy to fight organised crime through enhanced capabilities in undercover policing, criminal intelligence analysis and witness protection. Inter-agency co-operation is improving, notably between prosecutors and specialised police services dealing with the fight against organised crime. The crime prevention capacity has been further improved.

However, rules on recruitment, career development and salaries remain to be implemented both centrally and in the territories. Additional continuous training is also needed for serving police officers and agents. A coherent system to collect and analyse crime statistics from all law enforcement agencies has yet to be adopted. Preparations in this area need to be accelerated.

As regards the **fight against money laundering** (*see also Chapter 4 – Free movement of capital*), the Financial Intelligence Unit (FIU) files can now be used in court. During the reporting period more than 140 cases were passed to the General Prosecutor's Office and 11 to the National Anti-Corruption Directorate. In 2005, ten persons were convicted for money laundering, of which two are final convictions. 15 additional cases regarding 39 suspects are ongoing before courts.

However, the effectiveness of the fight against money laundering continues to be hampered by corruption, organised crime and the informal economy. Some secondary legislation is still missing in order to implement the amended law on sanctioning money laundering. Prosecuting money laundering as a stand-alone crime is not yet the practice. An improvement in the anti-money laundering and terrorist financing enforcement record is still needed outside the banking and securities sector. Additional resources and expertise, especially financial analysts, in relevant institutions such as police, prosecutors and judges are needed for better co-ordination among the entities in the maintenance chain. Preparations in this area need to be stepped up.

In the **fight against drugs**, efforts at drug supply reduction have intensified during the reporting period with a 114% increase in all seizures and a 452% in hard drug seizures. The number of drug smugglers convicted has also increased.

The National Focal Point is now adequately staffed but it needs to further improve its managerial capacity. The building up of the administrative capacity of all relevant agencies involved in the implementation of the national anti-drugs strategy is still incomplete, in particular for the various agencies involved in reducing drug supply, demand and harm. Preparations in this field need to be stepped up.

In the **fight against fraud and corruption** Romania has stepped up its fight against corruption and in particular the quantity and quality of serious non-partisan investigations into allegations of high-level corruption has increased. As such the anti-corruption laws are being implemented more rigorously. Efforts to fight corruption and improper behaviour within law enforcement agencies have been intensified. The Directorate-General for Anti-Corruption (DGA) is now fully operational at central level while recruitment of staff in local branches is

ongoing. During 2005 around 770 files dealing with suspected corruption in the police were passed to the National Anti-Corruption Directorate (DNA), a 133% increase on 2004, and more than 7 150 to other prosecutors. Thus, in the fight against high-level corruption, the newly formed DNA has made more progress during the first seven months of its existence than had been made in the years before. The National Customs Authority has adopted an action plan on fighting corruption and during 2005 sent 29 files to prosecutor's offices and applied administrative sanctions in 195 cases.

Follow-up to allegations of high-level corruption needs to be carried out without obstruction so that no one is perceived to be above the law. Further indictments, criminal trials, convictions and dissuasive sentences need to be pursued in a sustainable manner. Romania has still not yet fully complied with the second Protocol to the 1995 Convention on the Protection of the Community's Financial Interests and introduced the liability of legal persons. Overall, implementation of the existing laws in the fight against corruption needs to become more efficient and systematic. There has been opposition in the Parliament against further legislative action against corruption and corruption still remains a widespread problem affecting many aspects of society. Increased, concerted efforts by all law enforcement agencies and members of the justice system are needed urgently in this area.

As regards **data protection**, legislation is now largely in line with the *acquis* although security and intelligence agency must also be brought within the scope of the new National Supervisory Authority for Personal Data Processing. Since December 2005, the Authority has significantly improved its administrative capacity by completing the recruitment of its 51 operational staff including legal, IT and budget experts. All of the data protection files previously kept by the Ombudsman have been handed over to the Authority. Adequate human, financial and technical resources are now in place to allow the Authority to perform its duties. Parliament has not yet appointed a Vice President to the Authority and there is no electronic register of data protection files. In general, Romania now has the legislation and administrative capacity in place to fully implement the *acquis*.

In the area of **judicial co-operation in civil and criminal matters**, Romania has reached a good level of legal alignment and signed a co-operation agreement with Eurojust in December 2005. Further good progress has been made in the overall reform of the justice system, especially in strengthening its administrative capacity.

Still, the overall administrative capacity in staff and training is not yet up to requirements. Romania needs to remain vigilant as regards unethical behaviour within the justice system. Ensuring a consistent interpretation of the law will be particularly important in terms of building the confidence that underpins the principle of mutual recognition. Direct contacts between Romanian judges and prosecutors and their colleagues in EU member states remain limited. Preparations in this area need to be stepped up.

### *Conclusion*

Significant progress has been made in the area of **visa policy** and Romania now generally meets the commitments and requirements arising from accession negotiations in this area. Nevertheless, final alignment with the EU positive and negative lists now needs to be ensured and practical preparations made for introducing the visa regime with Moldova. Significant progress has also been made in the area of the **protection of personal data** and Romania now has the legislation and administrative capacity in place to implement the *acquis*.

Significant progress has been made in the preparations for the **Schengen *acquis* and management of the future EU external border**, as well as in the **fight against fraud and corruption**. These areas still require increased efforts and swift action now in order to resolve the shortcomings in time for accession. Romania must pursue results in the fight against corruption at all levels; to prevent and fight corruption within law enforcement agencies and to adopt legislation on the financing of political parties, to be able to verify wealth declarations and to introduce the liability of legal persons.

Some progress has taken place in **police co-operation and combating organised crime, the fight against money laundering, the fight against drugs, and judicial co-operation in civil and criminal matters**. Enhanced efforts are needed to continue training for law enforcement personnel; to improve police detention facilities; to establish a coherent system for crime statistics from all law enforcement agencies; to prosecuting money laundering as a stand-alone crime, to improve the enforcement record in anti-money laundering and terrorist financing. All of these areas still require swift action now in order to resolve the remaining shortcomings in time for accession.

#### *4.1.17. Chapter 25: Customs union*

Romania's efforts to strengthen its **administrative and operational capacity** have begun to bear fruit. Officials from the Romanian Customs Administration (RCA) have undergone extensive training, particularly on application of the customs legislation. Competitions are being organised to fill vacant managerial posts. In January Romania became a party to the EC-EFTA Conventions on common transit procedure and on simplification of formalities in trade in goods.

The percentage of "green channel" operations has increased significantly and exceeded the internal target of 40%. This has been achieved largely by authorising reliable operators at local level to use simplified procedures. Uniform and consistent application of customs procedures in the offices has improved in particular. Use of risk analysis (including in post-clearance) has improved significantly. Controls are more focussed on target risky consignments and operations. The RCA is implementing an IT development strategy and is well on its way to implementing the changes and developments. Since the beginning of the year, the New Computerised Transit System (NCTS) has been interconnected with the EU systems.

The RCA's anti-corruption strategy has been focusing on developing simplified procedures and increasing IT usage for clearing operations. Measures like these have decreased the opportunities for corruption. In parallel, a determined effort has been made to track down officials involved in illegal activities and a number of disciplinary measures have already been adopted. Business operators continue to report significant improvement in the operations of the RCA. The RCA could continue its policy to facilitate clearance for reliable operators, while focusing controls on risky operations, especially at the port of Constanta and at the future external borders. The value of seized counterfeit goods continues to increase, particularly due to improved controls at the port of Constanta. Improved border control and enforcement together with cooperation with other border-related bodies would make it possible to reduce waiting times. In general, preparations are now well under way.

#### *Conclusion*

Romania has made significant progress on strengthening its **administrative and operational capacity**. Romania now generally meets the commitments and requirements arising from the accession negotiations in the area of the customs union. Preparations should be completed by accession if the current pace is maintained. To do so, Romania must maintain the pace of progress in preparing the remaining IT systems for interconnectivity upon accession, and the RCA should maintain its fight against corruption as its top priority, also by extending to all customs offices the existing IT tools for random allocation of officers to physical and documentary controls. Training at all levels within the customs administration should continue.

#### *4.1.18. Chapter 28: Financial control*

As regards **public internal financial control**, Romania has made progress in implementing its overall strategy in accordance with international standards and EU best practice. Training of controllers and internal auditors is extensive and on-going but needs to be further enhanced, in particular on risk assessment and public procurement.

In the field of **external audit**, the organic law on the Court of Accounts, reflecting the constitutional amendments of October 2003, has not yet been adopted. The new law should contain a reference assuring the financial independence of the Court. Further effective staff training is needed at all levels. The Court should finalise the review of the audit methodology in order to develop and disseminate the INTOSAI Auditing Standards and the EU implementation Guidelines.

The quality of the audit activities is not up to standards and internal audit structures have not yet been fully integrated into daily financial management. The skills of managerial staff of the Court of Auditors at local level are not sufficiently developed. Good ownership of the Court's objectives should also be ensured at all levels, including local level. Preparations in the field of external audit need to be accelerated.

As far as **control over structural action expenditure** is concerned, Romania submitted its application for the extended decentralised implementation system (EDIS) at the end of 2005: three of the four implementing agencies (the central contract and financing unit, roads and railways) are effective with a view to EDIS conferral under ISPA.

The fourth implementing agency, the Danube Agency, has been set up effectively but deals with only few transactions. Full decentralisation of the system has to be ensured. As regards PHARE, preparations in the area of control over expenditure on structural actions are close to being finalised for two implementing agencies and the final accreditation is ongoing. However, one implementing agency, the Ministry of Labour, Social Solidarity and Family is lagging behind. Preparations need to be stepped up.

Romania is continuing to implement its National Strategy for the Fight against Fraud and for the **protection of the EU's Financial Interests**. Cooperation agreements have been concluded between the Department for the Fight against Fraud (DLAF) and relevant enforcement bodies to improve anti-fraud coordination. Another agreement has been reached with OLAF to carry out joint investigations. The wages of DLAF personnel were increased by 75% in December 2005. The number of financial adviser posts with DLAF has been increased from 26 to 45, of which 42 are currently occupied.

Cooperation with OLAF is satisfactory; the agreement reached between DLAF and OLAF shows the willingness to carry out joint investigations. The building-up of the Department for the Fight against Fraud is close to completion but investigation activities could be improved.

### *Conclusion*

Significant progress has been made on **protection of the EU's financial interests**. Preparations should be completed by accession if the current pace of preparations is maintained. Romania is now generally meeting the commitments and requirements arising from the accession negotiations in this area.

Progress in the area of developing **public internal financial control, external audit and control over structural action expenditure** has been made, although the results have been limited as years of continued efforts in accordance with adopted strategies will be required to yield such results. Romania should continue its efforts to consolidate achievements in a sustainable way, more in particular in the area of managerial accountability and of strengthening its relevant administrative organisations. Increased efforts are still needed in these areas.

#### **4.2. Translation of the *acquis* into Romanian**

In accordance with Articles 2 and 58 of the Act of Accession, all acts adopted by the Union institutions prior to accession become applicable to the new Member States and are to be published in a special edition of the *Official Journal of the European Union*, including in the new official languages. While the EU institutions take responsibility for the final revision and publication of the translations, it falls to the acceding States to produce the translations and ensure thorough legal and linguistic revision. In the context of translation of the *acquis*, the Court of Justice has defined a set of key judgments to be translated as a priority (totalling about 15 000 pages).

Of the nearly 90 000 pages of *acquis*, Romania has translated more than 60%. However, more than 45% of this still has to be revised by the national authorities before submission to the EU institutions. Translation and revision capacity in Romania has not yet reached the necessary throughput level of some 6 000 pages per month, largely due to difficulties with recruiting and retaining staff. The Romanian government is urged to give this matter due attention, otherwise the *acquis* might not be published in time for accession on 1 January 2007.

#### **4.3. General evaluation**

Romania has reached a considerable degree of alignment with the *acquis*.

The October 2005 report concluded that Romania would be ready by accession in a large number of areas. A number of other areas required increased efforts, and 14 areas gave rise to serious concern.

Since then, further progress has been made. Romania should be ready by accession in the following additional areas if the current pace of progress is maintained: public procurement, protection of personal data; animal welfare; fisheries resource, fleet, control and market policies; regional policy legislation; visa policy; customs preparations; and protection of the EU's financial interests.

Progress has also been made in a number of areas, which no longer give rise to serious concern but still require increased efforts to complete preparations: protection of intellectual property rights; veterinary border inspection posts and animal identification and registration, animal diseases control measures, and veterinary aspects of public health; institutional and financial management structures for regional policy regional policy; industrial pollution prevention and control; Schengen preparations and management of the future EU external borders; fight against fraud and corruption.

Increased efforts are also needed for: industrial product horizontal and procedural measures; product requirements under the old approach including the production and marketing of GMOs; EU citizens' rights; freedom to provide non-financial services; capital requirements for banks and investment funds, motor insurance; fight against money laundering; State aid control and steel restructuring programmes implementation; most agriculture common market organisations, quality policy, agriculture trade mechanisms, zootechnics, animal nutrition, trade in live animals and animal products; structural actions in fisheries; VAT, direct taxation; labour law, occupational health and safety, social dialogue, social inclusion, equal treatment of women and men, the European Social Fund; public health; Community Youth programme; audio-visual policy; regional policy monitoring; horizontal environmental legislation, nature protection, waste management, water quality, police co-operation and fight against organised crime, judicial co-operation, fight against drugs; public internal financial control, external audit and control over structural actions expenditure; the translation of the *acquis* into Romanian.

There remain four areas of serious concern, which require urgent action:

- fully operational paying agencies accredited for handling direct payments to farmers and operators, building on progress made, under the common agriculture policy (*acquis* chapter 7);
- setting up a proper integrated administration and control system (IACS) in agriculture, building on progress made (*acquis* chapter 7);
- building-up of rendering collection and treatment facilities in line with the *acquis* on TSE and animal by-products (*acquis* chapter 7);
- tax administration IT systems ready for inter-operability with those of the rest of the Union, to enable a correct collection of VAT throughout the EU internal market (*acquis* chapter 10).