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# Monitoring report on the state of preparedness for EU membership of Bulgaria and Romania

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## 1. Introduction

In 2002, the European Council announced its objective was to welcome Bulgaria and Romania into European Union in 2007, provided they made sufficient progress in fulfilling the membership criteria. Accession negotiations were completed in December 2004. The Accession Treaty[1] was signed in April 2005. To date, the Treaty has been ratified by Bulgaria, Romania and 21 Member States. Ratification is underway in the remaining four Member States. The Treaty states that Bulgaria and Romania will accede on 1 January 2007 unless the Council decides, upon a recommendation from the Commission, to postpone the accession of either country until 1 January 2008.

In its report of May 2006[2], the Commission stated that both countries should be prepared for membership by 1 January 2007, provided that they addressed a number of outstanding issues. The Commission indicated that it would report again on the state of preparedness of both countries by early October.

This report outlines the Commission's assessment of both countries' progress since May 2006. It confirms that Bulgaria and Romania have made further progress to complete their preparations for membership, demonstrating their capacity to apply EU principles and legislation from 1 January 2007. They have reached a high degree of alignment. However, the Commission also identifies a number of areas of continuing concern, and also areas where the Commission will initiate appropriate measures to ensure the proper functioning of the EU, unless the countries take immediate corrective action. Both countries are strongly encouraged to make proper use of the months before accession, in order to address the remaining issues.

## 2. Summary of monitoring findings

This section summarises each country's progress made since May 2006. The report focuses primarily on the areas highlighted in the conclusion of the May 2006 report as needing immediate action or further efforts. For Bulgaria, these are the justice system, the fight against corruption, police cooperation and the fight against organised crime, money-laundering, integrated administrative control system for agriculture (IACS), transmissible spongiform encephalopathies (TSE), and financial control. For Romania, these are the justice system and the fight against corruption and IACS, Paying Agencies, TSE and interconnectivity of tax systems.

In addition, the report briefly highlights progress made with regard to the political, economic and *acquis* criteria.

### 2.1. Bulgaria

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1 The Accession Treaty consists of the Treaty between all current member states and Bulgaria and Romania, the Protocol concerning the conditions and arrangements for admission of both countries and the Act concerning the conditions of accession and the adjustment of Treaties on which the Union is founded.

2 Commission Communication COM(2006) 214, 16.5.May 2006.

Some progress has been made in the reform of the **justice system**. Rules have been introduced establishing objective procedures for the appointment and evaluation of magistrates. Pre-trial proceedings have been improved by the introduction of a fast-track procedure. Further reform of the Supreme Judicial Council is necessary, in particular as regards its accountability and capacity to effectively manage the judiciary, in order to ensure the transparency and efficiency of judicial processes. Difficulties in the implementation of penal procedures persist. The civil procedural code and the judicial system act have not yet been adopted. Amendments to the Constitution need to be adopted.

The legislative framework for the **fight against corruption** has been improved with the adoption of amendments to the laws on political parties and on publicity of property owned by high level officials. All ministers have published their asset declarations on the internet. However, there have been few concrete examples of investigations or prosecution or charges of high level corruption. Corruption remains a problem. The public administration, including tax collecting agencies at the border and local government remain particularly vulnerable.

In the area of **money laundering**, Bulgarian legislation is now largely in line with the *acquis*. However, implementation of legislation is limited to date and so far no successful prosecutions for money laundering can be reported.

The number of cases prosecuted successfully related to **organised crime** is still low. Reliable crime statistics are yet to be established. Law enforcement increased and successful actions have been registered against criminal networks, in some cases in cooperation with EU Member States. However, there is still insufficient cooperation between the bodies involved in the fight against organised crime. There is no systematic confiscation of assets of criminals.

Good progress has been made lately with regard to the setting-up of the Integrated Administration and Control System (**IACS**). However, a tight timetable is foreseen for completing the Land Parcel Identification System/Geographical Information System (LPIS/GIS) and, as a result, the necessary quality of the work to be carried out risks not to be achieved. Moreover, there are delays in the establishment of the link between the Farmers' register and the LPIS/GIS. There remains a real risk that the IACS will not be functioning properly in Bulgaria by the time of accession. Sustained, and in certain areas reinforced efforts will need to be deployed in order to ensure the operability of the IACS.

Bulgaria has made substantial progress with regard to the collection and treatment of dead animals and animal by-products in the context of transmissible spongiform encephalopathies (**TSE**). The necessary measures have been adopted. However, Bulgaria needs to guarantee their effective implementation.

In the area of **financial control**, progress has been made with regard to the Extended Decentralised Implementation System (EDIS) accreditation process for some of the structures concerned although efforts at capacity building for implementing the Structural Funds in particular need to be reinforced. However, no accreditation has taken place yet.

The abovementioned areas were explicitly mentioned in the conclusion of the May report as needing further progress. The monitoring findings for the other issues which were still outstanding in May 2006 are as follows.

As regards the other *acquis* areas, significant progress has been made in several parts of the chapters agriculture, fisheries, consumer and health protection and social policy and employment. This leads to a situation where Bulgaria's preparations are now on track in most areas of the *acquis*.

However, further progress is still needed in a number of other areas, such as social inclusion, social dialogue, anti-discrimination and public health, motor vehicle insurance, nuclear energy and safety, environment, financial management and control of future structural funds, as well as animal diseases.

Bulgaria has made further progress with macroeconomic stabilisation and economic reform. Its current reform path should enable it to cope with competitive pressure and market forces within the Union.

Overall, there has been some progress in the following areas: trafficking in human beings, child protection, and the protection and integration of minorities. Limited progress has been made in the area of detention conditions, treatment of people with disabilities and the mental healthcare and broadcasting. Further action is needed. In addition, Bulgaria needs to ensure the sustainability of public administration reform.

### 2.2. Romania

Further progress has been made in reforming the **justice system**. The Superior Council of the Magistracy (CSM) has started to address fundamental challenges such as unifying the interpretation and application of the law, staffing levels and workloads. Working conditions have improved as modern IT equipment has been installed in all courts and prosecution offices. However, a fully consistent interpretation and application of the law in all courts has not yet been ensured. Some elected CSM members continue to face potential conflicts of interest in inspection matters and individual ethical issues that affect the CSM's reputation. No steps have yet been taken to address the managerial shortcomings in the Public Ministry identified in the institution's most recent annual report.

Progress has continued in the **fight against corruption**. The criminal liability for legal persons has been introduced and new legislation was adopted tightening the rules on the financing of political parties. The quantity and quality of non-partisan investigations by the National Anti-Corruption Directorate (DNA) into allegations of high-level corruption have continued to increase. However, there needs to be a clear political will to demonstrate the sustainability and irreversibility of the recent positive progress in fighting corruption. In the Parliament there has been some attempts to substantially reduce the effectiveness of such efforts. Corruption remains a concern in particular within the local government.

Progress has been made recently with regard to the setting-up of the **paying agencies** and

the Integrated Administration and Control System (**IACS**).

However with regard to the paying agencies, a number of issues remain to be addressed relating to the implementation in due time of a proper IT system, to the adequacy of staffing, equipment and office premises as well as to the incompleteness of the majority of management and control procedures.

Equally a number of issues still need to be addressed with regard to IACS relating to the implementation in due time of a proper IACS IT system, to the tight timetable for completing the Land Parcel Identification System/Geographical Information System (LPIS/GIS) and its quality. Moreover, for on-the-spot checks additional staff has to be recruited and trained, the equipment has to be purchased and the procedure manuals have to be completed.

There is still a real risk that the paying agencies and IACS will not be functioning properly in Romania by the time of accession. Reinforced efforts sustained over the whole period available before the introduction of the system will still need to be deployed in order to ensure the operability of the IACS.

Romania has made good progress with regard to the collection and treatment of dead animals and animal by-products (**TSE**). However, the detailed programme to set up a compliant system is still ongoing. Substantial progress has been made with regard to the interconnectivity of IT **taxation** systems. Romania has successfully completed the required performance tests for the major IT systems and is now well on track to meet its obligations in this area.

The abovementioned areas were explicitly mentioned in the conclusion of the May report as needing further progress. The monitoring findings for the other issues which were still outstanding in May 2006 are as follows.

As regards the other *acquis* areas, significant progress has been made in several areas, such as regional policy although efforts at capacity building for implementing the Structural Funds in particular need to be reinforced, environment and justice and home affairs, as well as in the area of intellectual property rights. This leads to a situation where Romania's preparations are now on track in most areas of the *acquis*.

However, further progress is still needed in a number of areas, such as social policies and employment including public health, genetically modified organisms, motor insurance, capital requirements for credit institutions and investment firms, money laundering and the fight against fraud and corruption, financial management and control of future structural funds and animal diseases.

Romania has made further progress with macroeconomic stabilisation and economic reform. Its current reform path should enable it to cope with competitive pressure and market forces within the Union.

Overall, there has been some progress in the following areas: trafficking in human beings, detention conditions, restitution of property and child protection Limited progress has been made with the treatment of people with disabilities, the mental healthcare and the

protection and integration of minorities. Further action is needed. In addition, Romania needs to ensure the sustainability of public administration reform, and to fully align with EU external positions, such as on the International Criminal Court.

## 3. Safeguards and other measures

Upon accession, the Commission will, as for any other Member State, monitor the implementation of the *acquis*. Like for any other Member State, it will apply all the tools available within the **EU legislation (*acquis*)** where necessary. In addition, there are specific tools which only apply to Bulgaria and Romania. They are laid down in the **Accession Treaty**.

Section 3.1 provides an overview of the tools available under the *acquis*. Section 3.2 presents the tools based on the Accession Treaty. Section 3.3. indicates which specific accompanying measures are foreseen for the actual accession of Bulgaria and Romania.

### 3.1. Tools applicable to all Member States

These tools consist of the necessary preventive or remedial actions which the Commission is obliged to use to address any shortcoming which may impede the proper functioning of EU policies. These include safeguard measures, financial corrections of EU funds, competition policy measures and infringement procedures[3]. They are based on the ***acquis***.

Moreover, for some aspects related to human rights, the European Monitoring Centre on Racism and Xenophobia (EUMC) will continue its monitoring after accession of both countries with respect to the fight against racism and related discrimination and to support of positive integration of minority communities. The scope of the EUMC, which covers all Member States, has already been extended to Bulgaria and Romania.

Safeguard measures based on the *acquis* can be invoked upon accession, as for any Member State, in many policy areas (transport, food safety, aviation safety etc). Such measures are applied as long as the underlying problems exist. The decision making procedures depend on the relevant EU legislation and may therefore vary across different policy areas. For example, the *acquis* contains several measures to ensure the food safety within the EU. For each of the animal or plant diseases, different Directives specify measures to be taken in case such a disease occurs in a current or new Member State. Such measures often consist of prohibitions to export certain animals or products from a Member State to the internal market until the disease is under control or eradicated. The Commission can decide on food safety measures after having received the favourable opinion of the EU Standing Committee on the Food Chain and Animal health by qualified majority voting.

The Commission may apply safeguard measures in relation to the EU funds, including financial corrections. Any shortcomings on the proper use of EU funds may delay the disbursement of funds or allow the Commission to claim financial corrections (i.e.

[3] In addition, when the *acquis* is not properly applied in a Member State, private and public parties can refer to national courts to enforce EC law, and, in the final stage, to the European Court of Justice, and their government risks being condemned.

reduction on future payments) or to recover payments.

For **agricultural funds**, the *acquis* provides different types of controls. Firstly, Member States are obliged to have accredited and efficient paying agencies to ensure the sound management and control of agricultural expenditure. Secondly, Member States are also required to operate functioning control systems, in particular a functioning integrated administrative and control system (IACS), for the direct payments to farmers and parts of rural development expenditures, notably in order to avoid fraudulent practices and irregular payments. Thirdly, if Member States fail to operate such control systems properly, the Commission, based on the *acquis*, decides ex-post on financial corrections through clearance of accounts procedures. In that case, the Commission refuses to finance parts of the agricultural expenditure. Finally, if the Commission concludes that there is a non-respect of Community rules or an abusive use of EU funds, it may suspend or temporarily reduce the payment of advances on a case-by-case basis.

For **structural funds**, the *acquis* provides four types of control that may lead to financial corrections. Firstly, every Member State needs to submit operational programmes indicating how the funds will be spent within each sector. These programmes have to be approved by the Commission before any payments can be made. No advance payments can be made until the Commission formally adopts the programmes. Secondly, any Member State needs to prove that it has established adequate management, certification and audit authorities. If the Commission does not consider these authorities to function efficiently, no interim payments will be made. Thirdly, the corresponding disbursement of funds for these programme or programmes can be interrupted, suspended or cancelled if, on the basis of Commission findings, the Commission suspects or detects cases of irregularities or fraud including corrupt practices. Finally, further to this range of safeguard measures to the EU funds, financial corrections can take place in case of individual or systemic irregularities are found during the regular ex-post controls.

### 3.2. Tools based on the Accession Treaty

Under the Accession Treaty, there are three types of safeguard measures: the economic, internal market and JHA safeguards[4], which can be taken up to three years after accession. The latter two can be invoked prior to accession. Once in place, such measures will be applied until the Commission decides to lift the measures upon the resolution of the underlying problems.

In addition, there are two types of transitional arrangements, which are also outlined below.

The **economic** safeguard can be invoked to address serious economic difficulties in the current or new Member States after accession.

The **internal market** safeguard can be invoked when a new Member State causes, or risks causing, a serious breach of the functioning of the internal market. The Commission can take appropriate measures such as excluding this state from the benefits of certain internal market legislation. This safeguard encompasses the internal market in the broad

[4] Article 36, 37 and 38 of the Act of Accession respectively.

sense, i.e. not only the four freedoms, but also the sectoral policies (e.g. competition, agriculture, transport, telecommunications, energy, consumer and health protection, environment etc.) insofar as they have cross-border effects.

The **justice and home affairs** safeguard allows the unilateral suspension of the current Member States' obligations in the field of judicial cooperation with the country concerned, both in civil and criminal law as far as legal instruments falling under the principle of mutual recognition are concerned. It can be invoked in case there are serious shortcomings or the risk thereof in these two areas.

In addition, there are **transitional arrangements** in the Accession Treaty. The first category exists of arrangements which have been agreed during the negotiations for several areas to avoid possible regional or sectoral disturbances in either the new or old Member States. For example, the free movement of workers from new Member States may be restricted by the Member States for up to seven years after accession. Access to the national road transport markets (cabotage) has been temporarily restricted.

Finally, the Accession Treaty foresees a second category of transitional arrangements which the Commission can take during a period of three years after accession on veterinary, phytosanitary and food safety rules[5]. These measures aim to prevent, for example, non-compliant food establishments from selling their products on the internal market during the transitional period of maximum three years. During this period, such establishments are allowed only to produce goods bearing a specific label and only for the national market. After the transition period, they have to comply with the EU rules or close down.

### 3.3. Accompanying measures foreseen for the accession of Bulgaria and Romania

Based on the findings of this report, the Commission will take remedial measures, where necessary, to ensure the functioning of EU policies. This concerns cases in the areas of food safety, air safety, EU agricultural funds and the judiciary and fight against corruption, as described below. In case other shortcomings are identified before or after accession, appropriate measures will equally be taken to ensure the proper functioning of EU policies.

#### *3.3.1. Judiciary and the fight against corruption*

The report shows that further progress is still necessary in the area of judicial reform and the fight against organised crime and corruption. The Commission will establish a mechanism to cooperate and verify progress in these areas after accession. This will be based on Articles 37 and 38 of the Act of Accession.

Both Bulgaria and Romania shall report regularly on progress in addressing specific benchmarks. The first report should be submitted by 31 March 2007. The Commission will provide internal and external expertise to cooperate and provide guidance in the reform process and to verify progress. The Commission will then report to the European

[5] Article 42 and Annexes VI and VII of the Act of Accession.

Parliament and the Council by June on the progress made in addressing the benchmarks. The Commission's reports will assess whether the benchmarks have been met, need to be adjusted and may request further reports on progress if necessary. The mechanism will continue until the benchmarks have been met.

Should either country fail to address the benchmarks adequately, the Commission will apply the safeguard measures of the Accession Treaty. They lead to the suspension of the current Member States' obligation to recognise those judgements and execute warrants issued by either country's courts or prosecutors falling under the principle of mutual recognition.

Based on the findings of this report, the benchmarks to be addressed are as follows:

**Bulgaria**

– Adopt constitutional amendments removing any ambiguity regarding the independence and accountability of the judicial system.

– Ensure a more transparent and efficient judicial process by adopting and implementing a new judicial system act and the new civil procedure code. Report on the impact of these new laws and of the penal and administrative procedure codes, notably on the pre-trial phase.

– Continue the reform of the judiciary in order to enhance professionalism, accountability and efficiency. Evaluate the impact of this reform and publish the results annually.

– Conduct and report on professional, non-partisan investigations into allegations of high-level corruption. Report on internal inspections of public institutions and on the publication of assets of high-level officials.

– Take further measures to prevent and fight corruption, in particular at the borders and within local government.

– Implement a strategy to fight organised crime, focussing on serious crime, money laundering as well as on the systematic confiscation of assets of criminals. Report on new and ongoing investigations, indictments and convictions in these areas.

**Romania**

– Ensure a more transparent, and efficient judicial process notably by enhancing the capacity and accountability of the Superior Council of Magistracy. Report and monitor the impact of the new civil and penal procedures codes.

– Establish, as foreseen, an integrity agency with responsibilities for verifying assets, incompatibilities and potential conflicts of interest, and for issuing mandatory decisions on the basis of which dissuasive sanctions can be taken.

– Building on progress already made, continue to conduct professional, non-partisan investigations into allegations of high-level corruption.

– Take further measures to prevent and fight against corruption, in particular within the local government.

The Commission will adopt a Decision implementing and defining the modalities of this mechanism after consulting the Member States. It will enter into force on 1 January 2007. This list of benchmarks will be amended in case either country complies with one or more of the benchmarks before accession.

*3.3.2. Agricultural funds*

In Bulgaria and Romania there is a real risk that the IACS will not be functioning properly by the time of accession. In both countries, the timetable for completing such a properly functioning IACS is very tight due to the late start of preparations. As a result, the necessary quality of the work to be carried out risks not to be achieved.

The agricultural funds covered by the IACS constitute by far the largest part (around 80%) of the agricultural expenditure of Bulgaria and Romania and, therefore, a proper functioning IACS is of the utmost importance.

To address these risks, a mechanism is needed which provides for the possibility of a future decision on measures relating to the proper use of agricultural funding covered by IACS. Such measures are necessary to avoid undue payments during the first years after accession and to address the imminent risk of a serious breach of the functioning of the internal market in agricultural products. This risk is due to the specific nature of agricultural expenditure, which is under a strict timeframe. In addition, the funds covered by the IACS are characterised by a high volume of transactions early after accession. They have to be managed, controlled and paid soon after accession. Moreover, efficient controls can only be carried out during a limited period in the year concerned.

The mechanism, based on the Accession Treaty, is laid down in a regulation adopted simultaneously with this communication. In practice the mechanism gives the two countries time to complete the necessary work on a properly functioning IACS. The measures will not be introduced if they succeed in doing so within that timeframe. To achieve the timely completion of the work, continued increased efforts are needed.

*3.3.3. Food safety*

Bulgaria and Romania are currently prohibited to export live pigs, pig meat, and certain pig meat products to the EU due to the existence of *classical swine fever* in both countries. The situation as regards classical swine fever requires the adoption of certain decisions by the Commission by the date of accession.

Bulgaria has submitted for formal approval a plan finalising the eradication of classical swine fever in feral pigs. Approval of this plan would lead to the integration of Bulgaria in the community regime already set up for those Member States which are affected by classical swine fever. Romania has submitted for formal approval a plan for the eradication of classical swine fever in feral and domestic pigs. However, the current situation in both countries still require the prohibition to trade live pigs, pig meat, and certain pig meat

products to the EU after accession. The corresponding measures enter into force upon accession.

Both countries do not fully comply with the *acquis* on *TSE*. If Bulgaria and Romania will be not in position before accession to set up an adequate collection system and treatment of dead animals and animal by-products throughout their countries and to complete the upgrading of the rendering establishments, restrictions on the use of certain animal by-products (for example for feeding to animals) will be decided. These measures will be based on the Act of Accession or the *acquis*. They enter into force upon accession.

The list of Bulgarian and Romanian agri-food establishments which were not allowed to sell their products in the other Member States during a period of three years as they do not comply yet with EU rules will be updated by the date of accession. The updated lists will include, if needed, other non-compliant establishments. This procedure is based on transitional measures provided for in the Act of Accession.

In addition, specific transitional measures based on Article 42 of the Act of accession may need to be adopted in the milk sector due to the discrepancy between the capacity of treatment of compliant establishment and the availability of compliant raw milk. These measures will prevent the selling of some products made from this non-compliant raw milk in the other Member States.

### *3.3.4. Aviation safety*

In view of the serious deficiencies identified by the European Aviation Safety Agency (EASA) and the Joint Aviation Authorities (JAA) in the area of aviation safety, the JAA refused Bulgaria's mutual recognition within the JAA system in the relevant safety areas, namely airworthiness, maintenance, operations and flight crew licensing. In order to comply with EU law, Bulgaria needs to submit a corrective action plan to rectify all deficiencies and implement it within a strict timetable, in close cooperation with, and under guidance from EASA. An inspection by EASA will then be carried out as soon as possible before accession to verify the implementation of this plan.

Unless Bulgaria takes the necessary corrective actions, it risks that the Commission, at its own initiative or at the request of a Member State, may restrict access to the internal aviation market. Also, Bulgarian registered aircraft which do not comply with EU civil aviation safety rules may be subject to appropriate safeguard measures, based on the *acquis*. Furthermore, non-complying Bulgarian air carriers may be added to the EU list of banned air carriers which may not fly into, over or out of air space of the EU. These measures are all based on the *acquis*.

## 4. Conclusion

Bulgaria and Romania applied for membership of the European Union in 1995 and accession negotiations with both countries were opened in February 2000. In 2002, the European Council announced its objective was to welcome Bulgaria and Romania into European Union in 2007, provided they made sufficient progress in fulfilling the membership criteria. Accession negotiations were completed in December 2004 and the

Accession Treaty was signed in April 2005.

Bulgaria and Romania have made considerable efforts to complete their preparations for EU membership since the Commission issued its last report in May. Bulgaria and Romania are sufficiently prepared to meet the political, economic and *acquis* criteria by 1 January 2007.

Many of the challenges set out in the May reports have now been addressed. A number of sectoral issues have been resolved. There has been some progress in the areas of judicial reform and the fight against corruption, money-laundering and organised crime, but further tangible results are needed.

This report identifies those issues which require further work. It draws attention to provisions in the *acquis* and the Accession Treaty which are designed to safeguard the proper functioning of EU policies and institutions following accession. In line with the findings of this report, the Commission, after consulting the Member States, will set up a mechanism for cooperation and verification of progress in the areas of judicial reform and the fight against corruption, money-laundering and organised crime. For this purpose, benchmarks have been established which refer to the particular circumstances of each country.

The Commission has adopted the necessary legal provisions to ensure the proper management of EU agricultural funds. The report underlines that the existing rules contain the necessary guarantees for the proper management of EU structural funds, and other programmes.

In the area of food safety, some specific measures are in place. At present, certain animals and animal products may not be exported from Bulgaria and Romania to the EU because of the presence of animal diseases. These restrictions will be maintained after accession, if necessary.

In the area of aviation safety, particular measures will be needed for Bulgarian aircraft and carriers.

Overall, Bulgaria and Romania have made far-reaching efforts to adapt their legislation and administration to the laws and rules of the European Union. This has largely brought them into line with prevailing standards and practices within the European Union. Sustained support from the European Union will be available for addressing the remaining issues. Sufficient guarantees exist in the *acquis* and the Accession Treaty to ensure the proper functioning of EU policies and institutions. As a result of the progress made, Bulgaria and Romania will be in a position to take on the rights and obligations of EU membership on 1 January 2007. The Commission looks forward to welcoming Bulgaria and Romania as fully-fledged members of the European Union on this date.

## COUNTRY ANNEX BULGARIA

### 1. The issues highlighted in the conclusion of the May 2006 report which needed further action

### 1.1. Political criteria

*Justice system*

Bulgaria has continued to make progress in reforming its justice system. The National Assembly has tabled amendments to the Constitution to remove ambiguities concerning the independence of the judiciary and the accountability of the judicial system.

In June 2006, the Supreme Judicial Council adopted a regulation on the competitive examination and evaluation of magistrates in accordance with the Judicial System Act. This act regulates the criteria and procedure for the evaluation of the professional and ethical qualities of magistrates. It stipulates that competitions are carried out for each post. The IT system for random allocation of cases to judges is now available in the great majority of courts. Efforts towards further strengthening IT systems in the judiciary continued. Training organised by the National Institute of Justice continued smoothly.

A number of changes have been recently introduced in penal procedures. The transfer of responsibility from investigating magistrates (Sledovateli) to police investigators (Dosnateli) proceeded smoothly. Prosecutors have started to take over leadership of investigations in the pre-trial phase. A newly established working group monitors the functioning of the new penal procedure code. It aims to collect information about the practical implementation of the new code and to identify possible problems. The fast track procedure has speeded up penal procedures in a number of cases. Management structures in the prosecution office have been improved and efforts have been made to strengthen the accountability and responsibility of individual prosecutors. The specialised department ' Countering Organised Crime and Corruption' has been further strengthened and now counts close to 80 trained prosecutors. This enhanced the effectiveness of the fight against organised crime and corruption within the judicial system.

The Prosecutor General has extended deadlines which were close to expiry for dealing with a large backlog of investigations. The internal inspectorate at the Supreme Cassation Prosecution's Office fighting misconduct by magistrates has been strengthened. In May 2006, the management board of the Association of Prosecutors in Bulgaria requested all members of the association to publish their annual declaration of income and property to submit to the National Audit Office in accordance with the Law on Disclosure of Personal Assets of High-Ranking Officials. The General Prosecution office has published the results of the first stage of an audit on the Prosecution Service. They included serious cases of unprofessional behaviour of prosecutors having closed cases without a solid justification. Disciplinary measures against those responsible have been initiated.

Preparations have started for the implementation of the Administrative Procedure Code. Training measures are under development and preparations for the entrance examination for 315 administrative judges have started. The initial experience with the new system of

legal aid is positive. A sufficient number of accredited lawyers and an adequate budget had been made available. The implementation of the Law on Private Enforcement Agents continued and the first private bailiffs have been appointed.

However, certain concerns persist.

The necessary amendments to the Constitution to remove ambiguities concerning the independence of the judiciary and the accountability of the judicial system need to be adopted.

The composition and functioning of the Supreme Judicial Council still give rise to concern. Members of the Supreme Judicial Council continue their other professional activities (in most cases as heads of courts or prosecution offices) and therefore cannot devote their effort full-time. Decision making on disciplinary measures by the Supreme Judicial Council has often been slow. There are no legal provisions to suspend magistrates who are under internal disciplinary investigation. A magistrate who is a member of the Supreme Judicial Council and is found to have committed a disciplinary offence cannot be dismissed from the Council. Therefore, concern remains regarding the ability of the Supreme Judicial Council to act as a credible and leading body to promote the highest ethical standards throughout the Bulgarian justice system. Following the adoption of the regulation on competitive examination for and evaluation of magistrates, efforts need to continue to ensure it is rigorously applied.

So far, the monitoring mechanism of the new penal procedure code is rather ineffective. The mechanism needs to be better known and used by magistrates, especially in local courts. Most difficulties regarding the implementation of the new penal procedure code relate to its too cumbersome procedures, unrealistic deadlines for the investigation of serious crimes and for scheduling case hearings and, finally, legal restrictions for giving evidence in court by police officers. Furthermore, there is still a backlog of cases initiated under the previous penal procedure code.

As regards the pre-trial phase, more training is needed for police investigators. An internal audit in the Public Prosecution Office revealed a number of breaches regarding the legality of decisions and the respect of deadlines. In some cases prosecutors were found to have set aside cases without justification. The serious shortcomings in the audit on the functioning of the Prosecution Office now need to be properly addressed by the responsible authorities with sustainable measures ensuring in all cases accountable and professional behaviour of prosecutors. Software for random allocation of cases to prosecutors, similar to the one already in place for judges, needs to be developed to ensure impartiality. The staff needs to be recruited so that these courts can be operational as foreseen from 1 March 2007.

There are major delays in the adoption of the new Civil Procedure Code. The new Law on Private Enforcement Agents has not yet substantially improved the execution of judgements. The process of recruiting private bailiffs is not yet complete and training is at an early stage. The anti-corruption departments in the Supreme Judicial Council and in the Prosecution services need to be reinforced and to be protected from undue influence.

Overall, some progress has taken place since May. However, as indicated, a number of

important issues still need further improvement.

*Anti-corruption measures*

Bulgaria has continued to make progress in the fight against corruption. As part of the programme for the implementation of the strategy for transparent governance and for preventing and counteracting corruption, amendments to the 'law on the publication of the assets of persons occupying high public positions', were adopted in August 2006. They will enter into force in January 2007. The law now authorises the National Audit Office with support of other public bodies to carry out inspections to confirm the accuracy of declarations submitted to the National Audit Office by persons occupying high public positions. Furthermore, the recent amendments widened the range of persons obliged to declare their assets. All ministers have published their asset declarations on the internet.

Amendments to the Law on Political Parties were adopted in August 2006. These amendments stipulate that members of the governing and controlling bodies of the political parties have to declare all their domestic and foreign assets, income and expenditure to the National Audit Office. Political parties have to name their donors as well as the type and value of donations. Furthermore, political parties now also have to submit to the National Audit Office a list of (non-profit) bodies in which their senior members participate. In September 2006, the National Audit Office made public the results of a detailed audit of the financial activities and the management of the property of political parties.

In accordance with the Law on the Administration, inspectorates directly subordinated to the Minister have been established in all ministries and most state agencies. These inspectorates may propose disciplinary or legal measures against staff in case of misconduct. A 'Chief Inspectorate' has been established in the Council of Ministers which reports to the Prime Minister. It is in charge of coordinating and assisting the activities of the ministerial inspectorates. The Chief Inspectorate is the secretariat of the Anti-Corruption Commission. The Commission's staff has now been increased. Contact points for receiving reports of corruption have been established in many state bodies. A plan for conducting anti-corruption training for about 50 000 officials at all levels of the administration has been drawn up. Various other preventive measures have been taken. These include hotlines and complaint boxes as well as simplified procedures for the citizen to address local authorities. Within the border police arrangements have been made to reduce the risk of corruption through random changes in working hours and places of work. The vetting of staff as well as training and the introduction of preventive measures and good practice are underway within the Ministry of the Interior. There continues to be a more pro-active attitude of the Prosecutor General in terms of requests for lifting immunity of members of Parliament. Since May 2006, immunities from two Members of Parliament were lifted.

Bulgaria has ratified the UN convention against corruption. Amendments to the Law on the Professional Organisations of Physicians and Dentists were adopted in August 2006 aiming at heavier sanctions for breaches of professional ethics.

However, certain concerns persist.

The secretariat to the Anti-corruption Commission is not yet fully operational. Coordination of the anti-corruption strategy remains incomplete and the bodies involved are too dispersed.

Arrangements for encouraging whistle blowing are still inadequate. The inspectorates within the public administration are not yet sufficiently independent and their institutional competences need to be strenghened. In addition, the anonymity of messages cannot always be ensured as phone numbers can be registered. Regarding disciplinary sanctions due to allegations of corrupt activity, no complete and reliable statistics have been provided as to the nature of the offences and the punishments. Tax collecting agencies, customs and Road Executive Agency as well as veterinary inspection services and local government are particularly susceptible to corruptive practices. Additional steps are needed to prevent corruption at border crossing points, including awareness campaigns for truck drivers and frequent users. Border crossing point arrangements need further revision in order to enhance efficiency and accelerate procedures.

So far, few concrete results have emerged from the investigation and prosecution of corruption cases. As regards high level corruption, there are still very few indictments and convictions relating to senior figures and little information about the level of sanctions. Very few investigations of alleged unethical behaviour of magistrates have led to prosecutions and convictions. Overall, a certain amount of progress has taken place since the May Report. However, as indicated above a number of important issues still remain to be addressed.

### 1.2. *Acquis* criteria

*Fight against organised crime, fraud and corruption*

Bulgaria has made progress in police co-operation and combating organised crime. The new Penal Procedure Code has been implemented. It includes new investigation techniques for combating organised crime and the recruitment and training of police officers with investigative powers. The Chief Directorate for Combating Organised Crime (CDCOC) is now staffed with the highly qualified personnel. In July 2006, the Law on the enactment, adoption and execution of decisions for freezing property or evidence has been adopted, implementing the Council decision on the execution of orders freezing property or evidence in the EU.

Co-operation with neighbouring countries and EU Member States in dismantling international criminal networks has continued. The fight against organised crime has gained more political attention and some law enforcement agencies have been more active in this field. Some successful actions have been registered against criminal networks dealing with trafficking in human beings, drugs and counterfeiting currencies, in some cases in cooperation with EU Member States. Several measures have been taken to uncover links between law enforcement bodies and organised crime groups. Witness protection schemes are partly operational. Agreements for cooperation on witness protection had been concluded with the former Yugoslav Republic of Macedonia and the United States of America.

However, certain concerns persist.

As regards the new Penal Procedure Code, there are shortcomings, as outlined in the judicial reform section. In addition, the number of specialised staff conducting police investigations needs to be further raised and more training of the police investigators is necessary. Data protection and the treatment of confidential information are not always adequate, which hampers international co-operation. A modern and consistent system of crime statistics, allowing Bulgaria to monitor and analyse the current situation and trends more closely, needs to be established.

Contract killings of persons rarely result in successful investigations and prosecutions. Illegal possession of firearms remains a problem. The number of cases prosecuted successfully related to trafficking of human beings, drug smuggling, money laundering, counterfeiting of goods, currency and documents, is still low.

Organised crime continues to be a problem. Co-operation needs to be enhanced between the CDCOC and financial institutions, Europol and the relevant services abroad. Bulgarian law provides the legal tools necessary for the investigation and prosecution of organised crime. However, this has yet to yield significant results.

Overall, certain mechanisms had been put into place which should facilitate the fight against organised crime. However, there are still insufficient tangible results in investigating and prosecuting organised crime cases.

*Money laundering*

Bulgaria has made some progress in the fight against money laundering. Legislation on money laundering is now largely in line with the *acquis*. In June 2006, the Law on Measures against Money Laundering was amended to reflect fully the requirements of the second EU Anti-Money Laundering Directive. The revised recommendations of the Financial Action Task Force on the prevention of money laundering and terrorist financing have also been taken into account. Furthermore, various initiatives have been taken with the aim of improving enforcement and co-operation between law enforcement agencies: training of investigators and prosecutors, new organisational structures within the police and the prosecutor's office and improvement of inter-agency coordination within the enforcement agencies.

Positive developments can also be reported concerning responses to international requests for cooperation and operations against money laundering activities by foreign nationals. The Financial Intelligence Agency continues to be an adequate administrative body analysing suspicious transaction reports.

However, certain concerns persist.

Effective implementation of legislation remains rather limited, with an absence of tangible results in terms of enforcement and prosecution. Awareness campaigns for all entities susceptible to risk of money laundering need to be carried out and their (supervisory) capacity needs to be increased. The effectiveness of the fight against money laundering

continues to be seriously hampered by corruption and organised crime.

Overall, Bulgaria has made some progress in this area. Bulgaria still needs to demonstrate its ability to deliver tangible results in terms of enforcement and prosecution of cases of money laundering.

*Integrated Administration and Control System (IACS)*

Good progress has been made lately with regard to the setting-up the Integrated Administration Control System (IACS). An IACS IT software system has been developed and it is currently being tested and the IT hardware has been installed. A detailed plan in respect of on-the-spot checks has been established; staff has been recruited and trained, equipment purchased and the procedure manuals established. Significant additional resources have been provided for the work relating to the setting-up of the Land Parcel Identification System/Geographical Information System (LPIS/GIS), which have speeded up considerably the work.

However, certain concerns persist.

As a result of the tight timetable for completing the Land Parcel Identification System/Geographical Information System (LPIS/GIS) and the quality of the work carried out could be at a risk. Moreover, there are delays in the establishment of the link between the Farmers' register and the LPIS/GIS. Overall, there is still a risk that IACS will not be functioning properly by the time of accession. Sustained and in certain areas reinforced efforts will need to be deployed in order to ensure the operability of the IACS.

*TSE and animal by-products*

Considerable progress has also been noted for the collection and treatment of dead animals and animal by-products (risk category l, 2 and 3). Bulgaria has established EU-compliant technical capacities for rendering. It has also foreseen the necessary collection system of this material from the farms or plants and means for the efficient supervision of the disposal procedure. The disposal of the rendering product meat and bone meal is intended to be done by co-incineration. The other rendering product fat is used in the rendering plants as fuel replacements.

The current two rendering plants are situated very close to each other in the north east of Bulgaria. Although the currently available rendering capacity is sufficient, Bulgaria still plans to build a third plant to ensure a more even distribution of rendering capacity over the country and to use modern equipment. As regards low risk material (category 3) material plants have the choice to send those products either to the rendering plants or to plants registered or approved to deal with such material in compliance with the EU requirements and procedures. Bulgaria has compiled an inventory of all existing plants involved in the trade and further processing of category 3 materials. All of those existing plants were inspected and registered or approved respectively.

However, certain concerns persist.

Bulgaria still needs to improve all of the enforcement aspects and to continue carrying out

systematic (cross) checks at all levels including the introduction of Health Hazard Critical Control Point (HACCP) system. Overall, there is risk that the rendering system will not be fully operational upon accession.

*Financial control over structural action expenditure*

Good progress was made with regard to the Extended Decentralised Implementation System (EDIS) accreditation process for the pre-accession financial instruments Phare and ISPA. Bulgaria has taken specific measures such as adopting a government decision for the appointment of additional monitors in the relevant institutions; it has continued its recruitment process and has run intensive training programmes for staff in key relevant areas. A memorandum of understanding was signed between the Ministry of Finance and relevant line ministries, which should improve cooperation and enable an accelerated Phare and ISPA EDIS accreditation.

Bulgaria now needs to continue intensively its efforts by completing its on-going recruitment and training process and by carrying out an additional comprehensive training programme for experts from the implementing agencies on the national procurement legislation and procedures and by preparing relevant additional manuals.

The current pace of preparations should enable the completion of ISPA EDIS accreditation by the end of the year for some of the implementing bodies concerned but at least in one case, accreditation will not be recommended. As regards the Phare EDIS accreditation process, additional efforts are needed if the target is to be achieved.

## 2. Other issues which needed further progress in may 2006

### 2.1. Political criteria

*Trafficking in human beings*

Progress has been made in this area. Continuous cooperation with Member States to fight trafficking of human beings has led to the dismantling of one network. In August 2006, the penal code was amended and now also defines trafficking pregnant women aiming at trade in babies as a specific crime.

However, certain concerns persist.

No functional office has been made available to the National Anti-Trafficking Commission. Its secretary resigned in July 2006. Bulgaria remains a country of transit and origin for the trafficking of human beings. Trafficking of new born babies involving pregnant women giving birth abroad has not been halted. The absence of reliable registration mechanisms leads to a lack of clear information on trafficked persons and the number of missing persons. The implementation of the Law on Bulgarian Identification Documents remains incomplete. The implementation of the witness protection programme has been limited. Bulgaria has not yet signed the Council of Europe Convention on the Fight against Trafficking in Human Beings. Overall, limited progress has been made with regard to trafficking in human beings.

*Ill-treatment in custody and prison conditions*

The issues outlined in the May Report in the areas of prison conditions, treatment and respect of obligations under international conventions in detention centres and prisons, remain to be addressed.

*Child protection*

There has been progress in the area of child protection. In May 2006, a specialised unit at the Inspectorate at the Social Assistance Agency was set up to supervise and monitor the institutions for elderly people and children. In June 2006, monitoring of the programme 'Assistants of people with disabilities' started. In this framework, training for parents with children with disabilities is also taking place. The rules for implementation of the Law on Social Assistance were amended to enhance the development of alternative services for children. Monitoring of homes for children with disabilities continued.

However, certain concerns persist.

In many institutions, living and sanitary conditions remain at a very low level. The established specialised unit in the Inspectorate at the Social Assistance Agency needs to be further developed in order to carry out a satisfactory level of monitoring. Provisions have to be taken to address the results of that monitoring appropriately.

*Disability and mental health care*

Limited progress has been made. Certain steps have been taken, in particular with the aim of improving transparency on the breakdown of responsibilities between the Ministries of Health and Labour and Social Affairs.

However, certain concerns persist.

There is a need to enhance the Agency for Disabled Persons as the institution responsible for planning and implementing the national disability policy. Substantial efforts are still needed to ensure the improvement of living conditions in institutions. In addition, efforts are needed to ensure the prevention of further institutionalisation and the realisation of the actions set out in the National Action Plan for Implementation of the Mental Health Policy of Bulgaria 2004-2012. The existing projects and priorities do not sufficiently meet the needs of the people in the institutions.

*Protection and integration of minorities*

Some progress has been made with regard to the integration of Roma. A programme for Roma literacy and occupational training 'From Social Aid to Employment' was launched in May 2006. It aims at providing basic occupational training for jobless Roma. Furthermore, members of the Roma community were employed under this programme, mainly in infrastructure upgrading.

In May 2006, a coordinator of the Decade of Roma Inclusion 2005-2015 was assigned. Bulgaria has taken over the chairmanship over the Decade of Roma Inclusion for one

year. Regular monitoring meetings are organised in order to review the implementation of this programme. The administrative capacity of the Commission for Protection against Discrimination has been strengthened by recruiting additional staff. The implementation of vocational and other training measures for vulnerable groups has continued. Further training was provided to officials of the Directorate Ethnic and Demographic Issues.

However, certain concerns persist.

The job profiles and budget for the assistant teachers have not been conclusively defined. Measures to integrate Roma children in schools have to be further enhanced to cover higher education. The health status of the Roma population is low and outbreaks of diseases caused by poverty or lacking hygiene are frequent. Many Roma continue to have limited access to healthcare services. Efforts to include vulnerable groups, in particular Roma, in the labour market need to be further enhanced.

The administrative capacity of the National Council for Cooperation on Ethnic and Demographic Issues remains weak, particularly on the regional level. The governmental approach to non-registered settlements of mainly Roma community has led to tensions. Forced evictions further increased those tensions. Further efforts are needed to combat all forms of intolerance, particularly by fully applying existing legislation on broadcasting and other activities aiming to combat any form of racism, discrimination or xenophobia.

## 2.2. Economic criteria

*Macroeconomic stability and current account deficit*

The May 2006 Report reconfirmed it is a functioning market economy and concluded that continued prudent fiscal and wage policies were warranted in view of the widening current account deficit. There has been progress in the following areas. Fiscal policy remained tight and the general government surplus reached 3.6% of the forecasted GDP in the first seven months of 2006. Real wages rose by 1.5%, year-on-year, in the first half of 2006, and thus less than productivity. Merchandise export growth accelerated to around 30% in the first half of 2006 and was higher than import growth. As a result, the trade deficit started to decrease slightly in May and reached 21.0% of GDP until the end of June. In line with the lower trade deficit, the current account deficit also declined in June for the first time in more than a year. Net FDI inflows continue to cover around 75% of the current account deficit.

However, certain outstanding issues remain to be addressed. The current account deficit remains high and widened further from 11.8% at the end of 2005 to 14.3% in the 12 months to June 2006. This was largely due to lower incomes from tourism, substantially lower current transfers and a lower surplus in the income balance. Tight macroeconomic policies therefore need to be maintained to contain the high external deficit.

*Privatisation and industrial restructuring*

The May 2006 Report concluded that the privatisation process and the liberalisation and restructuring of utilities were well advanced. There has been further progress in the following areas. The privatisation process has regained momentum. The sale of the river

shipping company and the thermal power plant in Varna were completed. Sales procedures for the privatisation of some district heating companies were started. The tender procedure for the sale of Bulgaria Air was launched in June. The liberalisation of the energy market continued with a lowering of thresholds for direct contracts between larger customers and suppliers.

However, certain outstanding issues remain to be addressed. The privatisation process as foreseen by the government has to be completed. The privatisation strategy for the maritime shipping company is still being revised by the Council of Ministers. The unbundling of the National Electricity Company and Bulgargas and the liberalisation of the gas and electricity markets remain to be completed until accession. Efforts to improve the financial situation of the railway companies need to continue.

*Business environment*

The May 2006 Report concluded that further improvements in the functioning of the judicial system and further easing of the regulatory burden on businesses were required. There has been limited progress in the following areas. The draft civil procedure code has been submitted to Parliament in May. Amendments to the insolvency legislation were adopted in May. In June, the Council for Economic Growth adopted an Action Plan on better regulation, including a survey of the most problematic regulations currently in place.

However, certain outstanding issues remain to be addressed. The Commercial Register Law needs to be fully implemented and the electronic commercial register needs to become fully operational. Efforts need to continue to ease the regulatory burden and to target in particular those regulations that create the greatest barriers to doing business. Regulatory impact assessments need to be implemented more systematically. The functioning of the administrative and judicial systems needs to be improved further.

*Labour market flexibility*

The May 2006 Report concluded that the regulatory framework for the labour market needed to be made more flexible. There has been some progress in the following areas. Amendments to the Labour Code in May have made working time arrangements slightly more flexible. For employees working under a special contract to perform additional work, the maximum weekly working time has been raised to 48 hours. If they give their written consent, these workers are also allowed to work longer hours. Moreover, the maximum reference period for the calculation of average weekly working hours has been increased to six months in certain cases.

However, certain outstanding issues remain to be addressed. Provisions in the Labour Code on working time and fixed-term work remain rather restrictive. As a principle, normal overtime work remains prohibited except for certain specific cases. Seniority bonuses have still not been integrated into the regular pay scale. A comprehensive reform of the education system remains crucial to address bottlenecks in the labour market.

### 2.3. *Acquis* criteria

This section assesses developments in the *acquis* areas which required increased efforts in May 2006 according to two categories.

– Firstly, the areas where significant progress has been made and where, provided current momentum is maintained, Bulgaria's preparations are now on track.

– Secondly, the areas where further progress is still needed and where Bulgaria's preparations should continue.

### *2.3.1. Areas in which preparations are now on track*

*Chapter 2* Free movement of persons

In the field of **mutual recognition of professional qualifications**, the Law on Health was amended in July 2006 and the strengthening of administrative capacity continues, both in terms of training and further development of appropriate administrative structures. Progress can also be noted as regards health professions (doctors, general care nurses, dentists, pharmacists and midwives), the co-ordination of training and the automatic mutual recognition of qualifications, for which ordinances were adopted in August 2006. Bulgaria needs to ensure that the legislation mentioned above is correctly implemented.

*Chapter 3* Freedom to provide services

In the field of **banking**, the Law on the Supplementary Supervision of Financial Conglomerates and the Law on Credit Institutions were adopted in July 2006. The Law on Bank Deposit Guarantee was also amended in July 2006. Bulgaria still needs to complete the transposition of the new EU capital requirement rules for credit institutions and investment firms.

In the field of **investment services** and **securities markets**, the Amendment to the Law on Public Offering of Securities and the Law on Insider Dealing and Manipulation of the Securities Market were approved by the Council in July 2006 and submitted to the Parliament for adoption. In the area of the **information society**, the Law on electronic commerce was adopted. Bulgaria has made good progress in the areas of banking, investment services and securities markets, as well as the information society.

*Chapter 7* Agriculture

Bulgaria has made progress in some areas of agriculture. The setting up of the **Paying Agency**, the awareness and expertise on **trade mechanisms** and the establishment of the **common market organisations on wine and alcohol, beef and milk** progressed. Likewise, substantial progress has been observed in the veterinary sector, in particular on the aspects of **trade in live animals and animal products**, **common measures** including zoonoses and **animal welfare**. For the latter, detailed analyses have been carried out as regards enforcement of the EU standards. Corresponding projects for Community support have been elaborated. Bulgaria has made good progress in the above areas.

*Chapter 8* Fisheries

With regard to **inspection and control**, the EU legal requirements for catch registration and for keeping logbooks have been transposed and are enforced. In the context of **resource and fleet management** substantial progress has been achieved on the satellite based fishing vessel monitoring system which is expected to be operational for all vessels concerned by accession. With regard to the preparations for Bulgaria's participation in the **EU structural action** fisheries fund and the **market policy**, Bulgaria has taken significant steps to improve the administrative capacity and the relations with the fishing industry. Furthermore, a draft national strategic plan has been presented to the Commission.

*Chapter 9* Transport

In the field of **maritime transport**, some progress can be noted. The updated strategy for privatisation of Navybulgar was submitted to Parliament in August. Until the independence of inspections is guaranteed by the finalisation of the privatisation process, all inspections except those under International Ship and Port Facility Security Code and the International Safety Management code and the issuance of documents for safe manning of ships are carried out by classification societies. By accession, these inspections may only be carried out by classification societies recognised by the EU.

*Chapter 10* Taxation

Bulgaria has made substantial progress in the areas of Value Added Tax (VAT). In the area of VAT, the new Law on VAT was adopted in July 2006. It contains in particular provisions for the transposition of the intra-Community regime. In the field of IT interconnectivity, Bulgaria continues to be on track and efforts should be sustained with regard to the timely completion of the VAT on E-services system.

*Chapter 13* Employment and social policy

Bulgaria has made good progress in the area of **labour law**. The Labour Code was amended in May 2006 with a view to the *acquis*, particularly as regards the directives on collective redundancies, transfer of undertakings, part-time work, fixed-term work, employer insolvency, working time, written information on individual employment conditions and protection of young people at work. Further acts were adopted aiming at the transposition of the Directive on Posting of Workers and the directives supplementing the European Company and European Cooperative Society Statutes, the Directive on Information and Consultation and the European Works Councils Directive. Therefore, most of the shortcomings have been corrected. However, the administrative capacity and internal control mechanisms of the Labour Inspectorate need to be further enhanced to guarantee effective, even-handed application of the *acquis* in this area.

Significant progress has been made on the preparations for managing the **European Social Fund (ESF)**, particularly in relation to the training of civil servants and further recruitment of staff.

*Chapter 21* Regional policy

With regard to the **institutional structures** (administrative capacity), Bulgaria has made good progress with the continued implementation of recruitment plans across the different concerned bodies. The increased salaries for civil servants involved in administering EU funds have facilitated the recruitment of qualified staff. Substantial training has been given to ensure an effective implementation of the Structural Funds.

In the area of **monitoring and evaluation**, good progress has been achieved with the completion of the basic pilot system for the Management and Information System. Initial training has started and a comprehensive training programme for all end users has been elaborated. Evaluation units have been established in a number of managing authorities. Nevertheless, capacity building at all levels will need to be reinforced to insure the full

absorption of EU funds while respecting the *acquis*. Moreover, project selection procedures and implementation will need close attention.

*Chapter 22* Environment

Bulgaria has made good progress in the area of **nuclear safety and radiation protection**. Staff numbers at the Nuclear Regulatory Agency have increased, now including experts in charge of aspects relating to medical exposure.

*Chapter 23* Consumer and health protection

Considerable progress has been made in this chapter. The legal alignment of the Bulgarian legislation with the *acquis* in both **safety related** and **non-safety related areas** has progressed substantially through the adoption of the Consumer Credit Law and through amendments to the Law on Consumer Protection. New secondary legislation includes the support mechanism for the consumer organisations and statutory rules for the Commission on Consumer Protection. A draft law on distance marketing of consumer financial services has been elaborated but still requires the approval of the Bulgarian government and adoption by the Parliament.

Additional staffing and training of both the policy–making body and the enforcement bodies has taken place. This has improved **market surveillance** by establishing the Commission of Consumer Protection (CCP) and the Council on Coordination and Exchange of Information. The latter is in charge of bringing together the CCP with the other three major market surveillance authorities. The active participation in the EU Rapid Alert System for Non-Food Products and intensified inspections with administrative follow up, indicate adequate market surveillance. 12% of all inspections carried out resulted in issuing administrative acts or the withdrawal of products from the market in eight cases.

The formation of an effective consumer movement continued with the provision of financial resources to eleven Bulgarian **consumer organisations** and substantial training of their staff. These NGOs have been formally involved in market surveillance since the signature of a Memorandum of Joint Activity with the CCP. A campaign has started to inform the public about the objectives and mechanisms of consumer protection.

*Chapter 24* Cooperation in the field of justice and home affairs

In the field of **asylum**, the administrative capacity of the Agency for Refugees has been adequately strengthened.

In the area of **judicial cooperation in civil and criminal matters**, the Agreement on the Privileges and Immunities of the International Criminal Court and the Council of Europe Convention to Prevent Terrorism have been ratified. As regards the quality of international judicial co-operation in penal matters, the Law on Issuing, Adoption and Execution of Decisions for Securing Property or Evidence, issued by the EU Member States was adopted in July 2006. Bulgaria has made good progress in these areas.

### *2.3.2. Areas in which further progress is still needed*

*Chapter 3* Freedom to provide services

In the field of **insurance**, amendments to the Code on Insurance were adopted in June 2006, which provide for an obligatory re-insurance cover that the Guarantee Fund must subscribe.

However, many vehicles with invalid plates still circulate in Bulgaria. The re-insurance programme of the Guarantee Fund has not yet been carried out. The main challenge remains the signature of the Multilateral Agreement under the aegis of the Council of Bureaux as well as the Agreement between compensation bodies and guarantee funds in order to allow the Bulgarian vehicles to circulate throughout the EU without border checks on motor third party liability (MTPL) policies and to ensure the full applicability of the 4th Motor Insurance Directive. There is consequently a risk that border checks on MTPL policies of Bulgarian vehicles will still be required after accession and that compensation of victims of road accidents by compensation bodies will not or only partly provided as foreseen by Article 6 of that Directive.

Building on the progress made since May 2006, Bulgaria's preparation in the area of insurance should continue in the remaining months.

As regards the **protection of personal data**, Bulgaria's legislation is not yet aligned with the *acquis*. Amendments to the Law on Personal Data Protection are still under preparation and recruitment of additional staff for the Commission for Data Protection is still not completed. The lack of budgetary independence and the functioning of the registration and notification scheme need to be tackled. The activity as regards enforcement and handling complaints needs to be enhanced and effective action by the supervisory authority in determining the use of the resources and powers already at its disposal.

*Chapter 4* Free movement of capital

In the area of **money laundering**, progress has been made with the amendment of the Law on Measures against Money Laundering, which largely reflects the requirements of the second EU Anti-Money Laundering Directive and to align Bulgarian law with the revised recommendations of the Financial Action Task Force on the prevention of money laundering and terrorist financing. Bulgaria needs to demonstrate that it can achieve tangible results in terms of enforcement and prosecution of cases of money laundering. *(See also Chapter 1.2)*

*Chapter 5* Company law

Bulgaria has made progress in the field of **protection of intellectual and industrial property rights (IPR)**. Amendments to the Law on patents were adopted in July 2006 and amendments to the Law on Trade Marks and Geographical Indications and to the Law on Industrial Design were adopted in August 2006. A major awareness raising conference was organised with the assistance of the World Intellectual Property

Organisation and the European Commission in Rousse in May. A national public awareness campaign in the electronic media started in August 2006. The Council on IPR protection has met twice. Meetings with IP-related industry associations have also been held. Training sessions involved relevant ministries, the patent office, prosecutors, as well as customs officers. IP-related crime remains a continuing threat and poses a real challenge to Bulgaria. The country should ensure compliance of users of protected subject matter, such as cable operators, with their obligations to pay royalties.

In respect of the recently amended Bulgarian patent law, concerns have arisen regarding some amendments that lead to a reduction of the terms of interim protection schemes for pharmaceutical products. This has in some cases curtailed acquired rights.

*Chapter 7* Agriculture

As for the **veterinary control systems in the internal market**, Bulgaria still has to finalise the infrastructure (border inspection posts) and procedures for checks on live animals and products of animal origin introduced from third countries, to set up an effective control system for participation in the internal market and to demonstrate the real time – online multi-user operation of the databases for the identification, registration and movement control for the relevant life stock species (traceability). Measures on the control of **animal diseases** are needed to ensure that the country is free from classical swine fever. Finally, as regards **public health**, Bulgaria still has to set up the repartition of compliant raw milk between milk establishments in the dairy sector.

*Chapter 9* Transport

In the area of **air transport**, joint inspections by the European Aviation Safety Agency (EASA) and the Joint Aviation Authorities (JAA) have revealed significant and persistent shortcomings in the administrative capacity of the Bulgarian Civil Aviation Authority to ensure the necessary safety oversight, to implement the Community requirements on certification, of airworthiness and maintenance of aircraft and to ensure that the large fleet designed in the Commonwealth of Independent States can meet these requirements.

In order to comply with the relevant EU aviation safety rules, Bulgaria urgently needs to submit a corrective action plan and implement it within a strict timetable, in close cooperation with, and under guidance from EASA to redress all safety shortcomings. EASA will then have to verify the implementation of this plan by means of another inspection before Bulgaria's accession.

*Chapter 10* Taxation

In the areas of **direct taxation** and **mutual assistance**, no progress can be reported, as the relevant legislative acts are still not adopted by Parliament. Bulgaria still needs to abolish tax free shops for incoming travellers.

*Chapter 13* Social policy and employment

As regards **public health**, further legal alignment is under preparation in the field of blood and blood products as well as for tissues and cells to complete *acquis* alignment. The EU

requirements concerning traceability and notification of serious adverse reactions and events have been transposed. The administrative capacity of relevant executive agencies has been slightly strengthened. Inspections of the current network of specialised institutes are being carried out on a regular basis, followed up by administrative acts or sanctions where necessary.

As regards access to healthcare, child welfare and handling of the elderly, persons with disabilities, substantial efforts are still needed to ensure that living conditions in institutions are improved, that institutionalisation is reduced and that the actions set out in the "National Action plan for the implementation of the Mental Health policy of Bulgaria 2004–2012" are realised. Despite some progress since May 2006 in the area of **social dialogue**, the bipartite dialogue has not been sufficiently strengthened and the need for more capacity building is still an outstanding issue. The representativeness criteria need to be applied in an impartial way for all social partner organisations. Participation in the tripartite dialogue must be restricted to social partner organisations with a social mandate. Bulgaria needs to step up its preparations in this field.

In the area of **social inclusion**, several issues remain to be addressed. Bulgaria needs to continue its analytical work and the development of social statistics on poverty and social exclusion in line with the EU indicators on social inclusion. Efforts to improve the situation of vulnerable groups, in particular Roma, and to promote their full integration into society need to continue.

Bulgaria has made some progress in the area of **anti-discrimination**. However, the administrative capacity of the Commission for Protection against Discrimination needs to be enhanced. Efforts to ensure effective implementation of the Framework Programme for Equal Integration of Roma in Bulgarian society have been insufficient.

*Chapter 14* Energy

With regard to the **competitiveness and the internal energy market**, limited progress has been made. The overall opening of the electricity and gas market is progressing, however, continued efforts are needed in order to complete the restructuring of the electricity and gas companies NEK and Bulgargas. Also, Bulgaria needs to abolish the existing import/export monopolies by accession, as foreseen in its Energy Law.

In the area of **nuclear energy and nuclear safety** some progress has been made. The Bulgarian Authorities have established a viable decommissioning strategy to meet their commitments regarding the early closure and subsequent decommissioning of units 1-4 of Kozloduy Nuclear Power Plant.

However, efforts need to continue, in the implementation of the proposed actions. The operational and administrative actions required for the implementation of this strategy, especially approval by the Nuclear Regulator of licence alteration for units 1&2 permitting preparatory activities for decommissioning and dismantling, as well as issuance of a "zero power" licence for units 3&4, remain be finalised. They are needed to implement consequently the revised strategy guaranteeing the irreversible closure of all four units of the power plant.

*Chapter 15* Industrial policy

In the area of **privatisation and restructuring**, progress has been made. *(See also the economic section.)* However, little progress has been achieved with regard to the restructuring of the steel industry. Bulgaria has applied for an extension of the restructuring period until 2008. It has accepted to extend until 2008 the possibility of reclaiming state aid if conditions are not met.

*Chapter 19* Electronic communications and information technologies

Certain key issues still remain to be addressed in **electronic communications and information technologies**. The adoption of the new primary law transposing the 2002 *acquis* and subsequent secondary legislation is still underway. The imposition of appropriate regulatory measures on mobile wholesale prices and application of effective cost accounting systems has not taken place yet. These measures ensure the accuracy and fairness of pricing obligations in interconnection, unbundling, access and retail voice services. In addition, the National Regulatory Authority should be given enhanced capacity and full independence to carry out its regulatory tasks. Bulgaria's preparations remain insufficient to reach compliance with the EU regulatory framework by accession.

*Chapter 21* Regional policy and coordination of structural instruments

**Programming** is progressing as scheduled. However, more progress is needed with regard to the establishment of an adequate pipeline of well-prepared projects. Bulgaria risks not having prepared enough projects upon accession and may hence not be in a position to fully absorb its financial allocation under the Structural Funds.

Results with regard to the establishment and functioning of a sound and efficient **financial management and control** system remain to be proven in particular in respect of internal audit units which carried out limited work and have not achieved adequate standard. Progress was made with the hiring and training of people but complex recruitment and training plans still need to be completed. Procedural manuals are available in draft format. These manuals need to be finalised rapidly and training on them being carried out. Procedures need to be tested and routine being established. While ex-ante control teams have been established in all managing authorities, the proper implementation of public procurement procedures in this context need to be demonstrated.

*Chapter 22* Environment

No specific actions have been taken as regards the public awareness and involvement in the areas of Integrated Pollution Prevention and Control (IPPC) and NATURA 2000 in the area of **horizontal legislation**. Financial resources for the creation of a publicly available register for Environmental Impact Assessment have been set aside. However, the register has not yet been established.

For **waste management**, the recruitment of staff for the regional level has made little progress. The development of an integrated network of disposal installations lacks attention.

Concerning **water quality**, the amendment to the Law on Water for full alignment with the EU Water Framework Directive needs to be adopted.

However, certain concerns persist.

Further strengthening of the administrative capacity has yet to be achieved in terms of human resources, laboratories and equipment, in particular at regional level.

As for **IPPC and risk management**, progress has been made. The total number of integrated permits so far has increased to 108 out of a total of 230 to be granted by the end of October 2007. For the other installations, the procedures have been opened. However, the process of issuing the remaining permits and enforcing all of the permits needs to be continued in order to conclude this process in time.

Regarding **air quality** transposition is lagging behind. An increased effort is still needed to fully transpose the remaining air Directives (ambient air, national emissions ceiling, emissions trading, sulphur content of liquid fuels).

Substantial efforts are needed as regards progress - as scheduled - in terms of implementation of measures in these areas.

*Chapter 24* Cooperation in the field of justice and home affairs

As regards the preparations for applying the **Schengen *acquis* and the management of the future EU external border**, progress has been registered. Following the implementation of the strategy and action plan on Integrated Border Management, in May 2006 joint investigation teams were deployed in the border zone and in June 2006 joint mobile teams of customs and border police officials were initiated in the border zone. There are currently 13 of these teams in operation. In June 2006, Bulgaria adopted an Action Plan to prepare for joining SIS II at a later stage after accession. Preparations to join Schengen after accession are broadly on track, but Bulgaria will need to demonstrate also in practice that its preparatory work are wholly focussed on SIS II and not on SIS I+. The recruitment of additional staff continued: 137 of the foreseen 200 extra border police officers for 2006 have been recruited. In July 2006, the principle 'one desk payment' has been introduced as a pilot project at the Lesovo BCP on the Bulgarian-Turkish border, but this now needs to extended throughout the borders of Bulgaria to reduce the risk of corrupt practices at the border. In August 2006, the Bulgarian border police and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union FRONTEX signed a co-operation agreement. Also in August, an agreement on the state border regime, co-operation and mutual aid on border issues was signed with Romania. In the period May-September 2006, 220 persons have been apprehended at the Bulgarian state border while 499 have been refused entry at border crossing points.

Bulgaria's borders remain very vulnerable with regard to trafficking of human beings and goods and investments in modern equipment and well trained staff should continue in view of ensuring a high level of control.

In the fight against **drugs**, the administrative capacity of the National Focal Point within the European Monitoring Centre for Drugs and Drugs Addictions has not been strengthened. Bulgaria continues to be a major transit country for the smuggling of drugs. Effective implementation of anti-drugs measures remains a challenge. Since May 2006 close to 180 kg heroine, 30 kg hashish and over 200 kg amphetamines as well as small quantities of marihuana, ecstasy and cocaine were seized at the Bulgarian borders.

For information on **data protection**, see Chapter 3.

*Chapter 28* Financial control

As regards the **protection of EU financial interests**, some improvements have been observed in the fight against fraud. The anti-fraud strategy and its action plan has been improved and the activities have been implemented in practice up to now. A new central unit has been created within the AFCOS in July to enhance the capacity of coordination of relevant national bodies and cooperation with OLAF in the fight against fraud and the protection of the financial interests of the EU. The proper functioning of the central unit and the full cooperation of the relevant national bodies within the structure will now have to ensure the efficient protection of the EU financial interests.

## 3. Translation of the *acquis* into Bulgarian

Bulgaria has yet to translate about 1.4 % of the *acquis* (around 1 360 pages) and to revise about 16 % (around 15 000 pages). Taken together with the situation at other stages of production (proofreading, correction, finalisation by the institutions' legal revisers) this means that some 51 % of the total number of pages (that is, about 48 000 pages) have not yet been prepared for the Special Edition of the Official Journal which will be published from the date of enlargement.

It is of utmost importance that the *acquis* is fully translated and revised prior to accession in order to ensure legal certainty of secondary legislation. Bulgaria is invited to step up its efforts towards achieving this goal.

## COUNTRY ANNEX ROMANIA

### 1. The issues highlighted in the conclusion of the May report which needed further action

### 1.1. Political criteria

*Justice system*

Further progress has been made in reforming the justice system. The implementation of the national Strategy and Action Plan on justice reform has continued. In May 2006 a Law on Mediation was adopted that provides for a system of alternative dispute resolution. A mediation council will be established to oversee the implementation of the law. A fundamental review of the Civil Code and Criminal Code as well as both associated procedural codes has been started by the Ministry of Justice, the Superior Council of the Magistracy, practising judges and prosecutors, lawyers and foreign experts. It should be completed by the third quarter of 2007. The number of cases pending before the civil section of the High Court has fallen from 6 126 at the end of February 2006 to 5 160 in September.

In July 2006 the General Prosecutor of Romania, together with the heads of the Romanian Intelligence Service, the Foreign Intelligence Service and the Directorate General for Intelligence and Internal Protection resigned following the disappearance and subsequent flight from the country of a defendant in a terrorism trial. Judicial Inspectors have launched a preliminary investigation into the actions of the prosecutors and judges involved.

The Superior Council of the Magistracy (CSM) has started to rank the complexity of the various types of cases handled by courts and to measure the average time spent on them in order to assist the courts in managing the human resources of the justice system more efficiently. A pilot project has started in 17 courts in which clerks will be permitted to carry out additional administrative duties currently performed by judges to reduce judges' workloads. In June the CSM proposed improvements to the legislation on disciplinary sanctions for judges. This aims to ensure that those being investigated cannot take early retirement to escape sanction and to prevent them from continuing to pronounce on cases after the CSM has taken an initial decision to remove them from office.

The CSM's Action Plan is being implemented on schedule and the following measures have been taken: firstly, internal rules have been adopted that prevent Council members from voting in disciplinary matters that affects their court or prosecution office; secondly, steps have been taken to ensure a more consistent interpretation and application of the law; thirdly, more objective criteria have been provided for the promotion of judges and prosecutors; and fourthly, new objective criteria have been established for the recruitment of staff to the Inspection Department and applied in the selection of three new judicial inspectors.

In May 2006 Parliament ratified the contract to refurbish 25 courts. The Palace of Justice in Bucharest was reopened in August and now houses the Bucharest Court of Appeal and

a local court. The deployment of modern information technology and communications equipment in the justice system has continued and by July 2006 all courts were interconnected via a secure network. The extension of this network to all prosecutor's offices is underway. The Case Documentation and Management System software is operational in 152 of Romania's 237 courts and in 40 of its 235 prosecutor's offices. Local Area Networks have been established in 82% of courts and 90% of prosecutor's offices. Since July 2006 all courts and prosecutor's offices have had online access to legislation and case law.

However, certain concerns persist.

A consistent interpretation and application of the law at all levels of courts throughout the country has not yet been fully ensured. Five of the fourteen elected CSM members continue to face a potential conflict of interest in inspection matters as they hold leading positions in courts or prosecution offices. The objectivity of the overwhelming majority of current inspectors is not sufficiently guaranteed. New inspectors should be recruited, according to the new procedure, in order to reduce the number of vacancies and to increase the regional representation amongst inspectors. The CSM has not yet addressed the issue that unethical behaviour by individual members of the CSM negatively affects the reputation of the Council as a collective body. No new legislation for a framework of legal aid has been adopted yet. No new General Prosecutor has been appointed yet. No steps have yet been taken to address the Public Ministry's serious managerial shortcomings such as the very uneven distribution of workloads, lack of relevant ongoing training and inability to collect statistics. This issue will have to be addressed as a priority.

Overall, progress continues in the reform of the justice system, especially in strengthening its administrative capacity. Further efforts are needed to ensure a more consistent interpretation and application of the law in order to create legal certainty. While the Superior Council of the Magistracy has started to address some of the key issues facing the justice system through its newly-adopted Action Plan, concerns about potential conflicts of interest and ethics continue with regard to some Council members. Steps should also be taken to address managerial weaknesses in the Public Ministry.

*Anti-corruption measures*

Romania has continued to make progress in fighting corruption. The implementation of the national Strategy and Action Plan for fighting corruption has continued. In June 2006 amendments to the Criminal Code were adopted introducing the criminal liability of legal persons. In July new legislation was adopted tightening the rules on the financing of political parties.

The quantity and quality of non-partisan investigations into allegations of high-level corruption have continued to increase. The National Anti-Corruption Directorate (DNA) launched investigations in three new cases of high-level corruption involving a former member of Parliament, leading figure from local government and senior civil servant. DNA indicted seven people for cases of high-level corruption, four of whom were politicians from the ruling coalition, two from the opposition and one high-profile business person. DNA has also indicted five judges and is investigating two further judges. Since

March 2006, DNA indicted a total of 199 suspects and the courts issued initial convictions against 87 defendants and 82 final convictions in cases initiated by DNA. The qualitative improvement of DNA's investigations has continued as is demonstrated by the reopening of cases which had been closed under the previous management team and by the launch of new investigations into long-standing public procurement scandals. The anti-corruption framework has become more effective as more DNA investigations are launched on the basis of information provided by public control bodies. In May DNA was allocated an additional 56 posts.

The Directorate General for Anti-Corruption (DGA) within the Ministry of Administration and Interior now has 298 staff working at national and local levels. Since May DGA has conducted preliminary investigations into 615 persons and passed all these files to the competent prosecution service, which resulted in 157 indictments. DGA also conducted integrity tests that uncovered corruption within the Ministry. In May and June the National Customs Authority conducted 42 controls of its staff, including those based on public complaints, and consequently disciplined 41 staff and sent one file to DNA for further criminal investigation. In September, various joint actions between DGA and DNA have resulted in further arrests of among others 30 customs officers as well as various other public officials, underlining the good co-operation established between both anti-corruption bodies.

Two national campaigns have been started to increase awareness among the public and civil servants including the judiciary of the negative consequences of corruption.

However, certain concerns persist.

There needs to be a clear political willingness of all political actors to demonstrate the sustainability and irreversibility of the recent positive progress in the fight against corruption. In the Parliament there have been some attempts to reduce the effectiveness of the proposed National Integrity Agency during the passage of the Draft Law through Parliament, which Romania committed to adopt in the national Strategy and Action Plan against corruption.

In the Parliament there has also been an attempt to change the nomination procedure for both the General Prosecutor of Romania and the Head of the National Anti-Corruption Directorate, which would bring additional legal and institutional uncertainty to the anti-corruption framework. The reforms led by the Ministry of Justice and DNA need to be complemented by sustained efforts from all other executive agencies, the legislature and the judiciary. Co-operation between the two specialised prosecution services needs to be further improved in cases of high-level corruption and organised crime. It is still not ensured that all judges have sufficient specialist knowledge to hear and judge complex cases of financial and economic crime. So far, there have not been any final convictions in high-level corruption cases stemming from the new investigations launched by DNA in September 2005. Corruption remains a general concern. Certain sectors such as health care, education and local government are particularly vulnerable.

Overall, progress continues to be made in fighting corruption, particularly in launching criminal investigations and concluding indictments. Further indictments, trials, final

convictions of the guilty and dissuasive sentences in high-level cases are needed to ensure the sustainability and irreversibility of the recent progress. All political actors need to demonstrate their commitment to a serious and effective fight against corruption and ensure that no one is perceived to be above the law. Once an effective Integrity Agency has been established and co-operation between prosecutors working on corruption and organised crime cases has been improved there is a need to ensure stability in the legal and institutional anti-corruption framework.

### 1.2. *Acquis* criteria

*Accreditation of paying agencies*

Progress has been made recently with regard to the setting-up of the paying agencies. The contract with the IT Company for developing the IT software applications was signed on 15 July and the work commenced end of July. A detailed plan for the work has been established. Further IT hardware equipment has been installed. Additional staff has been recruited and trainings have commenced.

However, certain concerns persist.

A number of issues remain to be addressed with regard to the paying agencies relating to the implementation in due time of a proper IT system, to the adequacy of staffing, equipment and office premises as well as to the incompleteness of the majority of management and control procedures.

Overall, there is still a real risk that the paying agencies will not be functioning properly by the time of accession.

*Integrated Administration and Control System (IACS)*

Progress has been made recently with regard to the setting-up of the IACS. The contract with the IT Company for developing the IACS IT software applications was signed on 15 July and the work commenced end of July. A detailed plan for the work has been established and the Farm register module has been developed. The Farmers' register contains information on the majority of farmers and further progress has been made with regard to establishing the link between the Farmers' Register and the Land Parcel Identification System/Geographical Information System (LPIS/GIS). Additional resources have been provided for the work relating to the setting-up of the LPIS/GIS, which have speeded up the work.

However, certain concerns persist.

A certain number of issues remain to be addressed relating to the implementation in due time of a proper IACS IT system, to the tight timetable for completing the Land Parcel Identification System/Geographical Information System (LPIS/GIS) and its quality. Moreover, for on-the-spot checks additional staff has to be recruited and trained, the equipment has to be purchased and the procedure manuals have to be completed.

Overall, there is still a real risk that IACS will not be functioning properly by the time of

accession. Reinforced efforts sustained over the whole period available before the introduction of the system will still need to be deployed in order to ensure the operability of the IACS.

*TSE and animal by-products*

Romania has made good progress with regard to the collection and treatment of dead animals and animal products (TSE). Tendering contracts for collection, disposal and treatment of animal by-products have been signed with a Hungaro-Romanian consortium. The future organisation of the rendering system, as of January 2007, has been defined. The existing three rendering plants located in Popesti, Coldea and Dej will be upgraded to handle animal by-products in compliance with EU norms. A detailed programme for restructuring and modernising each establishment was agreed between the veterinary authorities and the consortium. Animal waste of risk category 1 and 2 (high risk material) will be treated only in Coldea whereas the plants in Popesti and Dej will process animal waste of risk category 3 (low risk material). Two incineration units will treat the waste issued from the Coldea plant. The setting up of 21 intermediate collection plants and means of transport is foreseen in the consortium's programme. The consortium has also committed to incinerate most of the stock of meat and bone meal.

Furthermore, the consortium intends to build four new rendering plants to progressively replace the current plants. A commission for coordination of the creation of an EU compliant rendering system in Romania was created in June 2006. Each county authority has nominated someone to supervise the development of the rendering system.

However, certain concerns persist.

The deadlines for modernisation and construction of the rendering plants foreseen by the end of November 2006 are very tight with regard to ensuring the approval by the Romanian veterinary authorities and its notification to the Commission. In addition, the same concern applies to the timing of the construction and/or the upgrading of the intermediate collection plants as well as to the timing of the acquisition of means of transport.

*Tax administration – interconnectivity with IT systems*

Romania has made significant progress in preparing for the VAT Information Exchange System (VIES), VAT on e-services (VoES) and Excise Movement Control System (EMCS). The Romanian Ministry of Public Finance has taken ownership of the system implementation with projects team. Romania has successfully passed the conformance tests of the VIES and the EMCS applications, thus meeting its obligations in this area. The development of VoES is on track to be fully functioning upon accession, provided that Romania maintains the current pace of progress.

## 2. Other issues which needed further progress in May 2006

This section assesses Romania's progress with regard to the issues of the political, economic criteria and the *acquis* areas which were still outstanding in the May report.

## 2.1. Political criteria

*Public administration reform*

Progress has been made in the area of public administration reform. Two key laws were adopted by Parliament in July. The first is the law on local public finance, the second is the law on Civil Servants, amending the Civil Service Statute The former completes the legal framework for decentralisation. Work continues to ensure the transfer of competences from central government to the most appropriate sub-national level. Timetables and procedures are being drawn up to decentralise responsibilities and resource management, including finances. The decentralisation process is now taking off.

The amended law on civil servants aims for administrative decentralisation. It also improves the recruitment procedure and defines the rights and responsibilities of civil servants. In addition, it intends to define career structures and procedures for recruiting high-level civil servants, and to de-politicise the service.

Some progress has been made in improving policy formulation. The role of the General Secretariat of the Government has been defined. The government has drawn up a handbook on impact assessment methodology, as well as a comprehensive methodology for strategic planning at the level of ministries and General Secretariat of the Government. The latter includes measures to provide authorities with a clear and comprehensive framework for the elaboration and coordination of public policies, with an active involvement of civil society.

However, certain concerns persist.

Drafting of a new law on Unitary Pay for civil servants, to complement the new Civil Service Statute, is likely to be further delayed. The Government continues to rely on Emergency Ordinances to adopt laws (105 were approved between February and July 2006). This bypasses the Parliament's legislative and oversight role and should be limited to exceptional circumstances.

*Trafficking in human beings*

The 2006-2010 Strategy and Action Plan to fight against trafficking in human beings was adopted in August 2006. Progress has been made in filling vacancies within the National Agency for Preventing Human Trafficking and monitoring the assistance offered to victims. Eight regional offices and an IT system to register returned victims so that they can be assisted will be established. A partly state-funded programme is planned to provide victims with the medical, psychological and legal assistance they require. So far in 2006, a total of 130 victims were assisted in either state-run or NGO centres or at home. In May 2006, 45 cases of trafficking were detected involving 91 traffickers, 15 of which were arrested.

However, certain concerns persist.

Further efforts are needed to improve the facilitation of victims' social reintegration. There are still 16 vacancies in the Agency from a total staff of 34. An enhanced budget

reflecting the responsibilities given the Agency has not yet been adopted. The IT system needed to register returned victims is not yet operational and there are few measures to assist the social reintegration of victims.

*Ill-treatment in custody and prison conditions*

Progress has been made in improving detention conditions. The Romanian police has refurbished six detention facilities and closed one. During May and June the police conducted inspections of the pre-trial detention conditions in nine counties and five police stations in Bucharest. No human rights violations or infringements of procedural norms such as holding those on pre-trial detention and convicted prisoners in the same cell were found. Three complaints of ill treatment by police officers were received by the Central Directorate for Criminal Prosecution. Subsequent investigations concluded that these had no merit. In June 2006 a Law on the enforcement of criminal penalties was adopted that provides for a differentiated detention regime in prisons (maximum security, closed, semi-open and open). The Law also facilitates improvements in prison conditions and strengthens oversight by judges over sentences served.

However, certain concerns persist.

There continue to be some reports of ill treatment by law enforcement and prison service staff, including the excessive use of force. Judicial review of such complaints remains rare and there have been no sanctions since May. The efforts to relocate persons in preventive custody from police stations basements to more appropriate locations need to continue.

*Child protection*

As regards child protection, further progress has been made. The authorities have continued to implement the 2005 legislation on children's rights and adoption. This has brought Romania's legislation in line with the UN Convention on the Rights of the Child and on a par with the Member States. The number of institutionalised children continued to decrease. Living conditions in the remaining institutions have improved substantially and are now generally of a good standard. Many children have been reunited with their family or go into foster care with trained persons. Furthermore, the action plan aiming at assisting mothers in order to prevent them from abandoning their new born baby, needs to be carefully implemented. As for children with a handicap, the Romanian authorities have installed a working group which will closely examine the living conditions of these children in placement centres, hospitals and boarding schools, with a view to improving these conditions.

*Disability and mental health care*

Limited progress has been made. The action plan on implementing the mental health reform strategy 2006–2009 was adopted in May 2006. A National Centre for Mental Health was established in August 2006 to coordinate the mental health reform. Recruitment of social workers to monitor the respect of human rights in psychiatric institutions has continued and should be urgently completed. In the field of disability, de-institutionalisation process has continued. The National Authority for People with disabilities has recently allocated funds to NGOs for setting up services for disabled

persons. 18 social services are under preparation, such as for training and professional integration, respite care centres and protected dwellings.

However, certain concerns persist.

As regards disability, promotion of quality services for disabled persons, i.e. creation of community-based alternative services as well as increased access to employment and education, now need to become a clear priority. In the field of mental health, although some steps have been taken to tackle the most urgent challenges, more work is needed to abolish the excess occupancy in some psychiatric institutions, and to ensure sufficient staff and treatment. In order to ensure due implementation of the mental health reform, this work needs to be part of an overall approach and a continuous monitoring effort.

*Property restitution*

As regards property restitution, some progress has been made. The legislation has been modified to streamline the regime of establishment and payments of compensations. However, the processing of claims remains slow.

*Protection and integration of minorities*

In the field of protection of minorities, only limited progress can be reported. The draft law on the statute of national minorities and setting up the principles of equality and non-discrimination and multi-culturalism, is still being discussed in parliament. This legislative process needs to be followed closely. The new National Employment Plan which was approved in August 2006 provides targeted action for minorities, including Roma. The law on preventing and sanctioning all forms of discrimination has been amended to meet EU standards related to the independence of the National Council for Combating Discrimination. The administrative capacity of the National Agency for Roma has improved as regional offices are being developed. The Agency has also begun implementing community development projects which could make a significant and long lasting contribution to improving the situation of Roma. However, certain concerns persist.

Implementation is slow. Social inclusion of the Roma minority remains a structural problem. Overall living conditions are still inadequate. Employment measures should be further developed and implemented. Adequate resources for Roma strategies and policies are not always ensured, especially at the local level. The Romanian authorities do not yet demonstrate at all levels that a zero-tolerance policy on racism against Roma is applied.

There are still cases of institutional violence against and assaulting of Roma, such as police raids and evictions in Roma communities, without providing them with alternative accommodation. Generally, the level of awareness of the Roma situation and of the government strategy for Roma, especially in the local communities which are responsible for the evictions, is low. Local authorities should be supported to develop community development projects and bring solutions to the problems of legality of Roma settlements or others. The institutional framework for the implementation of the national strategy for Roma is not yet sufficiently effective and it tends to diminish the capacity decision-making capacity of the National Agency for Roma and representatives of the Roma population to

participate effectively in decision-making in relevant areas. Romania's preparations in this area should be stepped up immediately and continued after accession.

## 2.2. Economic criteria

*Macroeconomic stability and policy mix*

The May 2006 Report reconfirmed it is a functioning market economy and concluded that more appropriate fiscal, monetary and wage policies had been adopted. Since that report, there has been progress in the following areas: The general government budget exhibited a surplus of 1.5% of GDP for the first six months of 2006. The disinflation process continued. The central bank tightened minimum reserve requirements and moderately increased the policy interest rate in view of inflationary pressures and risks. Real wage growth was largely covered by productivity growth.

However, certain concerns persist.

Fiscal policy was considerably relaxed as the deficit target for 2006 of originally 0.5% of GDP was revised upwards to 0.9% in April and to 2.5% in June. Budgeted expenditures were increased by nearly 3.5% of GDP, of which 0.4% of GDP is for higher public wages. This pro-cyclical policy deviates from the medium-term fiscal policy earlier presented by Romania. It creates a higher risk of exceeding the 3% of GDP reference value for the budget deficit in the future. Inflation developments give little assurance that the target for 2006 will be met. The looser fiscal policy and surging credit growth worsen prospects for reaching next year's inflation target.

*Expenditure reform and tax compliance*

The May 2006 Report concluded that public expenditure reform and tax compliance had to be advanced and tax revenue should be strengthened. Since that report, there has been progress in the following areas: the collection of income tax as well as VAT revenues; amendments to the fiscal code broadened the tax base and improved the structure of tax rates.

However, certain concerns persist.

The relaxation of the expenditure policy was not accompanied by steps to improve the prioritisation of government expenditure and the capacity to implement large public investment projects. Only around half of the additional spending was earmarked for investment. Public sector wages, subsidies and the government's purchases of goods and services increased by 1.1% of GDP. Pension reform remains to be fully adopted by the Parliament. Further improvements in tax collection and compliance remain necessary to improve fiscal sustainability.

*Privatisation and industrial restructuring*

The May 2006 Report reconfirmed it is a functioning market economy and concluded that deepening of structural reforms notably required the continued restructuring of the energy, mining and transport sectors and progress in implementing the privatisation

programme. Since that report, there has been some progress. The total number of companies with a state share fell slightly. Four majority state-owned companies in the portfolio of the privatisation agency (AVAS) were privatised or went into liquidation. The adjustment of energy prices in line with cost developments continued. Mine closures and adjustment of employment continued under the mining restructuring programme.

However, certain concerns persist.

Privatisation achievements continued to fall short of government targets and the process was generally slow across the banking, energy and defence sectors. There are still instances of State-owned companies (Tractorul Brasov is a case in point) where continued assistance from the State is preferred to liquidation. The target of divesting five large industrial companies before the end of March 2006 has still not been met. In order to strengthen competition within the internal market, the gap between international and domestic producers' gas prices should be narrowed.

*Business environment*

The May 2006 report concluded that new payment arrears were still accumulating and that the bankruptcy framework still suffered from shortcomings. Since that report, there has been some progress: The total amount of tax arrears fell and new arrears accumulated more slowly. Large tax debtors were increasingly faced with bankruptcy or forced execution procedures. Bill collection rates in the energy sector slightly improved. A high number of new insolvency cases were registered, the number of solved cases rose and more cases were solved quickly. Large tax debtors were increasingly faced with bankruptcy or forced execution procedures. Bill collection rates in the energy sector slightly increased.

However, certain concerns persist.

Total and new tax arrears remain substantial, incurred in particular by state-owned companies. The government resumed its practice of large debt cancellations by deciding to erase debts of more than 1% of GDP of a main energy supplier without presenting convincing restructuring measures. Unpaid bills remain endemic in the energy sector. In order to create a level playing field for business, financial discipline should be strengthened and further progress in the functioning of the judiciary is required.

### 2.3. *Acquis* criteria

This section assesses developments in the *acquis* areas which required increased efforts in May 2006 according to two categories.

– Firstly, the areas where significant progress has been made and where, provided current momentum is maintained, Romania is now on track.

– Secondly, the areas where further improvement is needed and where Romania's preparations should continue.

### *2.3.1. Areas in which preparations are now on track*

C*hapter 1* Free movement of goods

Progress has been made in the field of **horizontal and procedural measures**, in particular as regards the administrative capacity in the accreditation sector. The statute of the Romanian accreditation body has been improved, staff recruitment and training have been carried out and documentation has been prepared or finalised to regain the status as a signatory of the Multilateral Agreement on Cooperation for Accreditation for quality management systems and product certification bodies. Overall, Romania has made satisfactory progress in the above-mentioned area of free movement of goods.

*Chapter 2* Free movement of persons

Romania has made good progress through adoption by the Parliament of legislation aiming at transposing the *acquis* on the **citizens' rights** regarding Union's citizens and their family members to move and reside freely within the territory of the Member States and through amendment of legislation in order to ensure that non-Romanian EU nationals receive the same treatment as the Romanian nationals on access to education and education fees. The *acquis* on **electoral rights** has not yet been transposed. Romania's preparations in this area should continue in the remaining months.

*Chapter 3* Freedom to provide services

Good progress has been made with identifying barriers to the **right of establishment and the freedom to provide services** and removing incompatibilities with the EC Treaty. Romania has now a legal framework in place which allows the provision of services in a temporary manner by persons of the European Community and the European Economic Area without the need to obtain further licences.

*Chapter 6* Competition policy

Romania has continued to make good progress in the area of **state aid** enforcement. The quality and independence of the Competition Council's assessment of state aid measures and their analysis remains satisfactory. Romania advanced in establishing state aid discipline to an extent that public authorities and industry are now aware of their respective rights and obligations, even if the behaviour of state aid grantors (particularly the Ministry of Public Finance) needs to be improved. State aids in the form of tax exemptions to the National Lottery constitute a case in point. Efforts need to continue to conclude the assessment of aid measures in favour of major companies in need of restructuring.

As regards state aid to the steel industry, the Romanian authorities cooperated closely with the Commission on the implementation of the National steel restructuring programme. Romania continued to observe its commitments not to authorise any aid to steel plants in the National restructuring programme.

However, strengthened efforts are needed to ensure steel companies' return to long-term viability at the end of the restructuring period. Restructuring aid granted to steel

companies outside the National Restructuring Programme has been recovered.

*Chapter 7* Agriculture

In most areas, progress has been made. The administrative capacity (staff and subsequent training) of most of the **common market organisations** has been reinforced. A number of manuals of procedures have been prepared or finalised. In the specific sectors, the main progress to mention are: the formal approval of 128 intervention centres for cereals; the formal approval of 288 milk purchasers, the establishment by Government of the methodology for individual milk quota allocation and the national reserve set up; in the meat sector the legal framework for carcass classification was completed and the pig carcass classification system started to operate. The vineyard register is now designed to be compatible with the Integrated Administration and Control System (IACS).

On veterinary issues, the National Agency for Amelioration and Reproduction in **zootechnics** is now operational. As regards **veterinary control system in the internal market**, the system of identification of animals and registration of their movements had been set up. The bovine database is operational. However, the management of the database must be substantially improved which implies the reinforcement of the administrative capacity of the veterinary authorities. Construction works for the eight border inspections posts (BIPs) are well advanced. Staff is being trained. According to the Romanian time schedules, all BIPs should be operational in October 2006.

*Chapter 8* Fisheries

Romania has made good progress in the chapter of **fisheries** through the adoption of an emergency ordinance clarifying the management of the structural funds. The National Company for Fisheries Resources Management will subsequently not be anymore considered as an intermediate body for implementing EU funds. Preparations for the national strategic programme and the operational programme are well advanced. The overall administrative capacity of the National Agency for Fisheries and Aquaculture has been strengthened.

*Chapter 10* Taxation

In the field of **direct taxation**, Romania has largely completed the transposition of the Directives concerning indirect taxes on the raising of capital, mergers, parent-subsidiary, interest and royalties and savings. However, several aspects need to be corrected before accession. The Fiscal Code has also completed alignment in the field of administrative cooperation and mutual assistance Romania has also abolished all duty-free shops at all its land borders. Provided that the amendments are adopted, Romania will therefore be ready for accession in this area.

Progress has been made with regard to **indirect taxation**. The new Fiscal Code completes alignment in this field, by transposing the provisions related to intra-community movements for all the harmonised product categories and the Energy Directive. Romania has also reached the minimum levels of duties for energy products (except for leaded petrol and heavy fuel oil), alcoholic products and tobacco products and has introduced the reduced excise duty rate (50%) for small fruit growers' personal consumption. In the field

of VAT, the new Fiscal Code, which will enter into force on 1 January 2007, eliminates the remaining discrepancies with the *acquis* and introduces the intra-Community regime. However, the Fiscal Code has introduced legislation on car taxation which is incompatible with the EC Treaty and the Jurisprudence of the European Court of Justice.

*Chapter 18* Education and Training

As regards the **Community programmes** it has been decided to delegate the management of the future Youth in Action programme to a joint National Agency for Lifelong Learning and Youth in Action programmes. This should be followed by appropriate action to ensure the merging takes place in good conditions. A tripartite protocol is envisaged between the Ministry of Education and Research, the National Youth Authority and the National Agency to ensure coordination and monitoring, and guarantee the transparent and correct use of funds.

*Chapter 21* Regional policy

Good progress has been made regarding the **institutional structures** (administrative capacity). Romania has largely fulfilled the recruitment and training plans. Formalising the delegation of tasks from managing authorities to intermediate bodies has started. Some action has been taken on coordination procedures. Project pipeline preparation has advanced well for most of the sectors.

Good progress was also made with regard to **monitoring and evaluation** as the setting up the Single Management Information System has progressed according to schedule. Evaluation capacity has been further developed through setting up evaluation units, drafting evaluation strategy, training and raising awareness.

Nevertheless, efforts at capacity building at all levels will need to be reinforced to ensure the full absorption of EU funds while respecting the *acquis*. Project selection procedures and implementation, in particular, will need close attention to ensure that problems evident with the pre-accession funds are not continued.

*Chapter 22* Environment

Good progress can be noted as regards **administrative capacity** in general. Staff recruitment and training have been carried out. The division of responsibilities between different levels of the environment administration has been improved. However, the advisory role of the Ministry and the National Environmental Agency towards regional and local agencies remains to be strengthened. The remaining job vacancies be filled in before accession and training needs to be continued in order to ensure appropriate quantity and quality of staff.

In the field of **horizontal legislation**, legislative alignment is completed as regards public participation and access to justice and implementation must proceed without delay.

In the field of **waste management**, full transposition has been reached. The administrative capacity has been strengthened and particularly the regional level is now better equipped to deal with the implementation of the waste *acquis*. Drafts of regional waste management

plans have been finalised. Other important preparatory steps have been taken to implement the directives on landfills, packaging waste and waste from electrical and electronic equipment. However, guidance and advisory functions from the national level should be improved.

Concerning **water quality**, legal transposition has been completed. The monitoring of water quality has been established according to the parameters and frequencies as defined by the *acquis*. Other important implementation steps have been taken including the identification of catchments areas for drinking water and a new inventory for establishment of collection systems and waste water treatment. Investments in the water infrastructure have continued and a new financial strategy has been elaborated.

In the field of **industrial pollution**, good progress can be noted in the permitting process subject to the Integrated Pollution Prevention and Control (IPPC) Directive. As of 31 August 2006, 549 applications out of the total of now 607, which require a permit, have been submitted with 272 permits issued. The water licensing process has been harmonised with the IPPC permitting procedures so that there is no longer a risk of delays in this process. However, it remains important that the outstanding permits are issued in time without reducing the quality.

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

Progress has also been made in **police co-operation and the fight against organised crime**. More than 1 000 new staff has been recruited by the national police, the majority of whom will be deployed in frontline public order roles. New patrol cars have been purchased to increase the ability of the police to cover remote rural areas. The capacity to fight organised crime has also been enhanced as additional IT equipment and software have been deployed. The forensic laboratory has received new equipment to perform DNA analysis.

In the **fight against drugs**, staffing levels within the National Anti-Drugs Agency have increased to over 95% of the Romanian target and seven counselling centres across the country were refurbished. Since May until 26 June approximately 20 kg of drugs were seized including almost 2 kg of heroin and over 1 800 ecstasy pills. In addition, over 63 kg and 440 litres of precursor chemicals used in drug production were seized.

In the area of **judicial co-operation in civil and criminal matters**, online guides for judges and prosecutors have been published that describe the procedures to be followed after accession. Preparations continue for Romania's integration in the European Judicial Networks and the relevant training institutes have conducted training in this area.

*Chapter 28* Financial control

Romania has adopted an overall strategy for the development of **public internal financial control** in accordance with international standards and EU best practice. Its implementation is advancing and in compliance with the *acquis*. Preventive financial control is being progressively integrated into the sphere of managerial responsibility.

As far as **control over structural action expenditure** is concerned, the Agencies for

implementing pre-accession ISPA funds are fully operational and the Extended Decentralised Information System (EDIS) accreditation of the entire ISPA system in Romania has been granted. This is proof that Romania has arrived at a satisfactory control over structural action expenditure. However, for the Phare pre-accession funds the finalised EDIS audit still requires further action from Romania in order for the accreditation to be granted before the end of the year.

### *2.3.2. Areas in which further progress is still needed*

*Chapter 1* Free movement of goods

Some positive developments can be reported in the field of **old approach** legislation as regards the control of cultivation, production and marketing of GMOs. Romania has completed the transposition of the food safety legislation. The regulatory framework necessary to set up a system of registration and control of GMO crops is in place including a ban on cultivation of GM soya as of accession.

However, certain concerns persist.

The enforcement of the legal framework needs significant improvement. In particular, preparations for a well-defined control system have to be stepped up in order to ensure that the entire genetically modified (GM) soybean harvest in 2006 is accounted for, sent to processing factories and labelled and traced according to EC requirements. Romania does not yet ensure that GM seeds stored at farms are under full control and will not be used for cultivation after accession. Laboratories for food and feed and for seed quality are not yet fully operational. The Romanian authorities need to ensure a practical and efficient implementation of the GMO action plan, which was elaborated in June 2006.

*Chapter 3* Freedom to provide services

Romania has made efforts in the **banking** sector to transpose the new capital requirement rules for credit institutions and investment firms into its national legislation. However, the extracts of the draft legislation provided by the Romanian authorities still do not allow the Commission's services to ascertain whether Romania would correctly and completely transpose the new capital requirements for credit institutions and investment firms.

As regards the **insurance sector**, increased efforts have been noted in the field of motor insurance both in terms of reducing the number of uninsured vehicles and the strengthening of administrative capacity.

The institutions required by the Motor Insurance Directives are now operational. The Street Victims Fund is responsible for managing the Information Centre, the Guarantee Fund and the Compensation Body. A reinsurance scheme for the Street Victims Fund is in the process of being concluded. Furthermore, the Green Card Bureau is now financially independent. The main challenge for Romania remains the signature of the Multilateral Agreement under the aegis of the Council of Bureaux as well as the agreement between compensation bodies and guarantee funds before accession in order to allow the Romanian vehicles to circulate throughout the EU without border checks on motor third party liability (MTPL) policies and to ensure the full applicability of the 4th Motor

Insurance Directive. There is consequently a risk that border checks on MTPL policies of Romanian vehicles will still be required after the accession date and that compensation of victims of road accidents by compensation bodies will not or only partly be provided as foreseen by Article 6 of that Directive.

*Chapter 4* Free movement of capital

In the area of fighting **money laundering**, some progress has been made. The National Office for preventing and combating money laundering has issued regulations to address shortcomings linked to preventing and combating money laundering and terrorism financing, know-your-customer standards and internal control for non-financial reporting entities that are not subject to the prudential supervision of the existing supervisory authorities.

However, further efforts are still required to arrive at a more satisfactory level of enforcement and implementation of the legal framework, particularly in respect of the awareness of reporting entities outside the financial sector and supervision of these reporting entities. There remains a need for additional staff in the National Office for the Prevention and Control of Money Laundering, especially financial analysts, to increase the National Office's operational capacity. Efforts from all law enforcement agencies, the Financial Intelligence Unit and the court system are required to improve the enforcement of anti-money laundering and terrorist financing legislation.

*Chapter 5* Company law

While Romania made general progress in the field of **intellectual and industrial property rights (IPR)**, further efforts are still required in the area of copyrights. Implementing measures concerning biotechnological inventions have been notified. Preparations for the setting up of the necessary infrastructure for processing Supplementary Protection Certificate applications are underway. Furthermore, the Romanian authorities provided clarification with regard to collecting societies. Concerning enforcement, the Romanian authorities have stepped up their efforts to reduce intellectual property-related crime and to improve cooperation between institutions and with the private sector. However, the Copyright Act is not yet fully in line with the *acquis* as regards the exclusion of certain TV programmes from the obligation to pay royalties and an overall limitation on payment of neighbouring rights.

*Chapter 7* Agriculture

The Paying and Intervention Agency has taken over the responsibility for **trade mechanisms** and an inter-institutional cooperation protocol was signed between the agency and the National Customs Authority for the management of import/export certificates. Cooperation with the National Sanitary Veterinary and Food Safety Authority has improved. Manuals of procedures have been prepared. However, the necessary legislation in the field of trade mechanisms is not yet available. There is a risk that the relevant staff will not be fully operational in this area upon accession.

No development can be reported as regards **quality policy** where inspection services need to be strengthened. While the control system for **animal nutrition** is in place, it is not yet

sufficiently implemented. In the area of **veterinary public health,** particular attention should be devoted to complete the set up to treat non-compliant raw milk upon accession. As regards **trade in live animals and animal products** and **animal disease control**, Romania has submitted a global plan for monitoring, control and eradication of classical swine fever. However the overall monitoring and control capacities of the veterinary services should be considerably strengthened.

*Chapter 10* Taxation

In the area of **administrative capacity**, some progress has been made. A number of actions (legislative and operational) are underway to improve the tax collection rate. The tax collection rate, while remaining at low levels, has shown improvements in excess of what could be explained only by cyclical conditions.

However, certain concerns persist.

The operational capacity of the National Agency for Fiscal Administration, whilst increasing slowly, is still in need of significant improvement. Its collection and control capacity remains weak, and whilst the tax collection rate as a percentage of GDP has improved slightly; the actual results of the recent actions are mixed. For instance, much of the increase in VAT collection can be attributed to a higher collection rates at import.

Romania needs to sustain and further its efforts to ensure an adequate level of tax compliance and collection, in order to improve the administrative capacity of its tax administration if it is to complete preparation in this area.

*Chapter 13* Social policy and employment

There has been some progress on the legislative front, in particular as regards **health and safety at work**. However, legal alignment still needs to be completed swiftly in the areas of **labour law** and **equal treatment of women and men**. Particular attention needs to be paid to completing transposition in the field of **public health**, such as communicable diseases, tobacco advertising and blood and tissues. Efforts need to be maintained to achieve full implementation and enforcement of the legislation and to further strengthen the administrative capacity in these areas.

Although representativity of the Economic and Social Council has been improved through an increase of the number of its members, efforts need to continue in view of improving **social dialogue** in general, particularly in order to promote the weak bipartite dialogue, clarify representativity criteria and solve the outstanding issues of fragmentation and insufficient capacity of social partner organisations. Further efforts are also necessary to improve the health status of the population and access to health and health care, especially at regional level and among poorer socio-economic groups and minorities.

Although considerable progress has been made in the preparations for the **European Social Fund**, they need to be accelerated, mainly by increasing administrative capacity and the project pipeline preparation.

In the area of **social inclusion**, efforts need to continue to improve the situation of

vulnerable groups, such as the Roma, and promote their full integration into society.

*Chapter 15* Industrial policy

Little progress was made with the regard to **privatisation and restructuring**. Romania's preparations in this area should continue in the remaining months. *(See also the economic section)*

*Chapter 20* Culture and Audiovisual policy

In the area of **audiovisual policy**, the recently adopted amendments to the Law on cinematography fail to guarantee an effective application of the principle of non-discrimination on grounds of nationality. Swift action is now needed to ensure that the principle of non-discrimination on grounds of nationality is truly incorporated into the Law on cinematography before accession, thereby fully aligning this legislation with the *acquis*. Romania's preparations in this area should continue in the remaining months.

*Chapter 21* Regional policy

The definition of payment and certification circuits is in process on **financial management and control**.

However, certain concerns persist.

The procedures remain to be tested under the coordination of the certifying authority. Co-financing mechanisms are still to be streamlined within the operational programmes in order to clarify the burden for final beneficiaries. Romania has not yet put the established ex-ante control system for public procurement in operation. Needs for specialised training (financial management, public procurement, project appraisal etc.) remain be addressed.

*Chapter 22* Environment

Concerning **nature protection**, preparations for the Natura 2000 network have been stepped up. However, certain concerns persist. The tight time schedule for the final steps of the compilation of the national list of Natura 2000 sites including the public consultation process represents a major challenge. Sufficient administrative capacity to manage this process needs to be established without delay.

*Chapter 24* Justice and home affairs

As regards the **Schengen *acquis* and the management of the future EU external border**, some progress has been made. The Schengen Action Plan was updated in May 2006 and continues to be implemented on schedule. In June Romania's Border Police attained full staffing along the future EU external border. The Government also approved a plan to implement Romania's national Schengen Information System in June. Tenders were launched for the Black Sea radar surveillance system as well as parts of the mobile communication system to be used in the integrated border management system. In August Romania signed an agreement on the state border regime with Bulgaria that covered co-operation and mutual assistance on border control issues.

However, certain issues persist.

The threat at the Romanian borders from trafficking in human beings, illegal migration and smuggling remains high. Ongoing efforts will be required to make the integrated border management system fully operational by 2009 as planned. Training needs to be provided to all the recently-recruited border guards to ensure they can provide a high level of control at the border and some additional staff are still needed within the Border Police.

Concerning the implementation of the **fight against money laundering**, certain issues remain to be addressed (see Chapter 4).

In the area of the **fight against fraud and corruption**, there have been seven further indictments for high-level corruption (see political section).

However certain concerns persist.

There is a lack of clear information at the borders in certain key languages (notably Turkish) and fines imposed on truck drivers do not always have a clear legal basis so the amount actually requested can in practice vary considerably. Criminal trials, convictions and dissuasive sentences for those found guilty are needed to ensure the irreversibility of the fight against corruption.

*Chapter 28* Financial control

Certain concerns persist as regards the following areas of this Chapter.

Further efforts are still required to ensure implementation of Romania's strategy for **public internal financial control**. In the domain of **external audit**, a new organic law for the Court of Accounts, in conformity with Romania's 2003 constitutional amendments (and making a reference to the sound financial independence of the Court), has still not been adopted yet. The Court, as a supreme audit institution, needs to be further strengthened, making sure that the institution's structure, leadership and activity are not politically influenced. The current situation does not ensure that the Court can exercise its audit functions in full independence, neutrality and at the highest professional standards.

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

Romania has yet to translate about 8 % of the *acquis* (around 7 000 pages) and to revise about 12 % (around 11 500 pages). Taken together with the situation at other stages of production (proofreading, correction, finalisation by the institutions' legal revisers) this means that some 47 % of the total number of pages (that is, about 44 000 pages) have not yet been prepared for the Special Edition of the Official Journal which will be published from the date of enlargement.

It is of utmost importance that the *acquis* is fully translated and revised prior to accession in order to ensure legal certainty of secondary legislation. Romania is invited to step up its efforts towards achieving this goal.