

CHAPTER 6

ROMANIA



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Abstract

Based on a draft questionnaire, the present study offers a national report on the EU accession procedure of Romania (2007), focusing on both the historical trajectory of the Romanian accession path and its milestone events, as well as on the specific features that distinguish it from the integration process of countries in a comparable situation. This paper presents in detail the key elements that helped reverse the initial negative opinion of the Commission on Romania's European accession (1997), as well as institutions and procedures of accession and their activity. An examination of the legal criteria the country was obliged to satisfy, as well that of the country-specific provisions contained in the EU Accession Agreement of Romania is also offered, the study being concluded with a chapter dedicated to the special provisions on facilitating the smooth accession and simultaneously, the safeguarding of the proper functioning of EU policies and institutions (the Cooperation and Verification Mechanism, setting out benchmarks to provide the framework for monitoring progress in the areas of judicial reform and the fight against corruption).

Keywords: Romania, EU enlargement, country reports and monitoring reports, EU accession, Cooperation and Verification Mechanism

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1. Initial Requirements on Candidate Countries

The first section is concerned with the requirements laid upon candidate countries before the accession process started and before they joined the EU. The text should cover the following questions but might be more extensive where necessary.

Question No. 1

What Conditions Did Your Country Need to Satisfy Before Formally Applying to Join EU? To Your Knowledge, Were These Conditions Different From Those Applied to Countries in a Comparable Position?

There were no conditions proffered to Romania before its formal application to join the EU was submitted. However, Romania had a unique situation of having had relations with the EEC long before the communist regime had ended in 1989, and before the Community had established ties with the any other countries from this region. Romania could be seen as the only communist country that benefited from preferential treatment, as in 1973 the country obtained a trading status from the EEC.

Following the Romanian revolution in December 1989 and the overthrow of the totalitarian Communist regime, the first diplomatic relations between Romania and the European Union were established on January 7th 1990, when the new Romanian government had officially declared the willingness of the country to cooperate with EEC (European Economic Community). In October 1990, the Trade and Cooperation Agreement with the EEC¹ was signed, which came into force in 1991. Although this type of agreement was fixed for ten years, Romania could only sign it for five years. The agreement was applied to all products originating from the European Community, apart from coal, steel and agricultural products.

The second phase in the pre-application period began after Romania and Bulgaria had signed, on 1st February and 8th March 1993 respectively, the Association Agreements that established the legal framework for their gradual integration into the European Union. In particular these Agreements provided for the gradual establishment of a free-trade area, the maintenance of regular political dialogue, and an approximation of legislation and economic, financial and cultural cooperation. The Agreements entered into force on 1st February 1995.

1 91/159/EEC: Council Decision of 4 March 1991 on the conclusion, on behalf of the European Economic Community, of an Agreement between the European Economic Community and the European Atomic Energy Community, of the one part, and Romania, of the other part, on trade and commercial and economic cooperation. OJ L 79, 26.3.1991, p. 12.; 91/160/Euratom: Commission Decision of 5 March 1991 concerning the conclusion on behalf of the European Atomic Energy Community of the Agreement between the European Economic Community and the European Atomic Energy Community and Romania on trade and commercial and economic cooperation. JO L 79, 26.3.1991, p. 30.

This Treaty offered an important judicial framework for closing the gap between the Romanian state and the civilisation area represented by the European organisation. The CEE offered to support Romania towards a new economic and political system which would respect the rules of state law and human rights, including minority group's rights, would practice a multiparty system based on free and democratic elections, and would build a market economy.

The objectives of the Europe Agreement of 1994, concluded between the Community and its Member States on the one part, and Romania on the other part were established as follows: (a) to provide an appropriate framework for political dialogue between the Parties allowing the development of close political relations, (b) to promote the expansion of trade and harmonious economic relations between the Parties and thus to foster economic development in Romania, (c) to provide a basis for economic, social, financial and cultural cooperation, (d) to support Romania's efforts to develop its economy and to complete the conversion into a market economy, and consolidate its democracy, (e) to set up institutions suitable of making the association effective, (f) to provide a framework for Romania's gradual integration into the Community.²

Romania was offered the support of the White Paper drafted in 1994,³ and addressed to the six countries which already had association agreements (Poland, Hungary, the Czech Republic, Slovakia, Bulgaria and Romania). As part of pre-accession strategy for the associated countries of central and eastern Europe, its purpose was to provide a guide to assist the associated countries in preparing themselves for operating under the requirements of the European Union's internal market.

Question No. 2

When Did Your Member State Formally Apply to Join the EU?

The official application for EU membership was presented by Romania on June 22nd 1995, with the European Commission in Madrid accepting it on December 15th 1995.

Question No. 3

*What Conditions Did Your Country Need to Satisfy Before Joining the EU?
To Your Knowledge, Were These Conditions Different From Those Applied to Countries
in a Comparable Position?*

- 2 Europe Agreement establishing an association between the European Economic Communities and their Member States, of the one part, and Romania, of the other part. Official Journal of the European Communities No L 357/2. 31.12.94
- 3 White Paper Preparation of the Associated Countries of Central and Eastern Europe for Integration into the Internal Market of the Union. Brussels, 03.05:1995 COM(95) 163 final.

The overall enlargement process to encompass all countries that wished to join the union confirmed that the accession process, comprising of the ten Central and East European countries plus Cyprus, would be based on the same criteria and would entail an equal footing process.

According to the Treaty on European Union, certain conditions⁴ and principles⁵ must be met by any country wishing to become a member of the European Union (EU). Romania and all other candidates had to meet the membership requirements laid out in the Copenhagen criteria: the political criteria, the economic criteria and the ability to assume the obligations of membership, strengthened by the institutional requirement adopted by the Madrid European Council in 1995.

The Copenhagen European Council of 21st and 22nd June 1993 laid down the criteria to be met by all the associated countries of Central and Eastern Europe in order for them to be able to accede to the European Union⁶ (these criteria were strengthened by the Madrid European Council in 1995⁷). They are as follows: (a) political: stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; (b) economic: a functioning market economy and the ability to cope with competitive pressure and market forces within the EU; (c) the ability to take on the obligations of membership, including the capacity to effectively implement the rules, standards and policies that make up the body of EU law (the '*acquis*'), and adherence to the aims of political, economic and monetary union.

The accession criteria were the same for all states applying for membership. Throughout the whole accession process, the country in the most comparable position to Romania has been its southern neighbour Bulgaria (both countries transforming from former totalitarian Communist regimes to market economies, officially applying for EU membership in 1995, excluded from the 2004 wave of accession and becoming full members in 2007).

Both Romania and Bulgaria experienced major problems in putting the reforms needed to meet the Copenhagen criteria in place. The economic reforms undertaken were not sufficient to establish a competitive market economy, and the existing administrative structures did not allow for the acceptance of the Community *acquis*.

A specific feature in the history of European enlargement was the fact that this time, *acquis communautaire* had to be adapted before accession. The need to have the *acquis* adapted and applied was motivated by the European Commission as a prerequisite in the best interests of the acceding countries. The *acquis* to be adapted by Romania amounted to over 80,000 pages, making it a challenge both as far as quantity,

4 Art. 49.

5 Art. 6(1) must be met by any country wishing to become a member of the European Union.

6 Presidency Conclusions. 15917/02, POLGEN 84. Brussels: Council of the European Union, 29.01.2003.

7 Conclusions of the Madrid European Council (15 and 16 December 1995), pp. 52–58. Bulletin of the European Union. December 1995, No. 12. Luxembourg: Office for Official Publications of the European Union.

as well as quality was concerned, because the process of implementation was marked by various deficiencies: incongruence and weak interinstitutional collaboration, incoherent and sometimes solely automatic adaption, as well as the adaption of different mechanisms without any basis or real content.

Question No. 4

Were There Any Specific Features of Your Member State's Accession to the EU, Compared to Other Countries in a Comparable Position?

An initially negative trajectory in the accession project has marked both Romania and Bulgaria. In July 1997, the European Commission issued an initial negative opinion on the accession applications submitted by Romania and Bulgaria.⁸ In its view, the two countries were on their way to fulfilling the political criteria, and it emphasised the progress that they had made in order to fulfil the economic criteria.

Nevertheless, the Commission deemed the reforms carried out to be insufficient and noted that both countries were experiencing serious problems in transposing the Community *acquis* into national law. Accordingly, it concluded that accession negotiations should be begun once both countries had made sufficient progress towards fulfilling the conditions for accession. Consequently, when the Luxembourg European Council met on 12th and 13th December 1997, Bulgaria and Romania were not part of the first group of countries with which accession negotiations were to begin in 1998.

The generally unfavourable situation was successfully overcome by Romania, mainly as a result of two trends. Firstly, in late 1996, political changes in Romania and Bulgaria resulted in a gradual improvement in the situation, with the new President of Romania, Emil Constantinescu, implementing a policy of change and declaring that accession to the European Union was a political priority. These new reforms were recognised and supported by the European Union. The second aspect concerned the first NATO military action in 50 years, organized in 1999. Romania's involvement and its help to NATO by denying Russia's access to its airspace in the conflict between NATO and Serbia over the Milosevic regime in Kosovo facilitated its inclusion in the European integration project.

All of the above contributed to a shift in the image of Romania, so that in its Monitoring Report published in October 1999,⁹ the Commission finally recommended the opening of accession negotiations with Bulgaria and Romania. The Helsinki European Council of 10–11 December¹⁰ accepted this recommendation and decided to

8 Agenda 2000 – Commission Opinion on Romania's Application for Membership of the European Union. DOC/97/18 Brussels, 15th July 1997.

9 Commission Report COM(1999) 510 final Not published in the Official Journal.

10 Presidency Conclusions Helsinki European Council: 11/12/1999 Nr: 00300/1/99. Council of the European Union.

organise, in February 2000, bilateral intergovernmental conferences with a view to opening negotiations on the terms for their accession to the European Union with each applicant country. In addition to Romania and Bulgaria, the Helsinki group comprised of Latvia, Lithuania, Malta and Slovakia. However, the accession negotiations with Bulgaria and Romania did not progress at the same rate as those with the other acceding countries. The delay in the progress of the negotiations resulted, in particular, from the problems that the two countries were experiencing in creating the administrative and legal systems required to transpose the *acquis* into national law and to bring the requisite economic reforms to a successful conclusion.

2. Institutions and Procedures of Accession

The second section is concerned with legal aspects of the procedure of accession, including institutions set up for that purpose, legislative changes at national level and the monitoring of the process by EU institutions.

Question No. 5

What Was the Legal Framework of the Accession Procedure (From the Application to Join the EU Until Accession)?

The Helsinki European Council (December 1999) decided to start accession negotiations with Romania. In 2000, the Negotiation Strategy was oriented mainly to the chapters not presuming efforts to relate to the *acquis* and thus lagging behind in fulfilling the EU accession criteria. Important themes for fulfilling the criteria for a functioning market economy, that is the economic and market chapters, did not have a clearly delineated position of Romania, neither for the internal nor for the external environment. Thus, the Government of Romania (following the general elections at the end of 2000), was compelled to focus in 2001 on the preparation and official forwarding of the Position Papers for all chapters of negotiation until the end of that year. That objective was accomplished and related to the accelerated process of the legislative harmonisation and implementation of the *acquis*, as well as with the internal modernisation process, of unrolling economic reforms. In this sense, the principal base was established and the sectoral objectives in the accession negotiations were determined.¹¹

The Copenhagen European Council of 12th and 13th December 2002 concluded negotiations with ten countries applying to accede to the European Union, and fixed the date of their accession for May 1st 2004. In the case of Bulgaria and Romania, the European Council followed the road map drawn up by the Commission in October in

11 Puşcaş, 2003. p. 16.

agreement with the two countries and set itself the objective of welcoming them as Member States in 2007.

The accession negotiations with Bulgaria were finally concluded in June 2004, while those with Romania ended six months later, in December 2004.

On 22nd February 2005, the European Commission issued a favourable opinion on the applications submitted by Bulgaria and Romania for accession to the European Union, this opinion being supported by the European Parliament on 13th April.

On 25th April, the Council of the European Union accepted the two countries' applications for accession, and, on the same day, the representatives of Bulgaria and Romania signed the Treaty of Accession to the European Union in Luxembourg¹². However, the Treaty included several safeguard clauses providing, in particular a one-year delay in accession if the requisite commitment to the reforms was not demonstrated and if the countries were not in a position to fulfil the conditions for accession. In the case of some sectors, the safeguard clauses actually remained applicable after the two countries had acceded. Accordingly, the Commission's Monitoring Reports assumed crucial importance. Particular attention was paid to combating corruption, ensuring the independence of the judicial system, combating organised crime (in the case of Bulgaria), respecting human rights and protecting minorities, as well as to ensuring food safety.

On 26th September 2006, the Commission published its final Monitoring Report¹³ on the state of preparedness for accession in Bulgaria and Romania. Although the Commission listed a number of areas that continued to pose problems, it concluded that Bulgaria and Romania were in a position to assume the rights and obligations associated with their accession as of 1st January 2007. The Commission therefore allowed the two countries to continue the required reforms from within the European Union and in so doing, avoided the threat of uncertainty that could have ensued from a further postponement of their accession.

There was, however, a condition for the timely accession of Romania (as well as of Bulgaria), namely the acceptance of a Cooperation and Verification Mechanism, as a safeguard against certain shortcomings still that existed in both countries.

Following Council approval on 17th October 2006, the accession of Bulgaria and Romania came into effect on 1st January 2007.¹⁴

What Agreements Were Signed With the EU?

On February 1st 1993, Romania signed the Treaty of Association to the European Union, which provided an important legal framework for overcoming the gap between the Romanian state and the countries represented by the European

12 Treaty Concerning the Accession of the Republic of Bulgaria and Romania to the European Union Accession Protocol and its Annexes, signed in Luxembourg on 25 April 2005.

13 Monitoring Report of May 2006 from the Commission COM(2006) 214 final – SEC(2006) 596.

14 cvce.hu, no date.

organisation. The European Economic Community committed to support Romania on its journey towards a new political and economic system that would respect the rule of law and the rules of fundamental human rights, including the rights of minorities, that would practice a multiparty system based on free and democratic elections, and that would build a free market economy.

In its 'Agenda 2000' communication, the European Commission set out a range of proposals for strengthening the pre-accession strategy for all the candidate countries of Central and Eastern Europe (CEEC). The general objective of this strategy was to offer a coherent programme to prepare these countries for membership of the European Union, and more particularly: (a) to bring together the various forms of aid offered by the European Union within a single framework, the accession partnerships; and (b) to familiarise applicants with the European Union's procedures and policies by offering them the opportunity to participate in Community programmes.

The Accession Partnership signed in 2005 was intended to help the Romanian authorities in their efforts to meet the accession criteria. It covered the priorities for Romania's accession preparations in detail, particularly the implementation of the *acquis*, and formed the basis for programming pre-accession assistance from Community funds such as the Phare programme. On 25th April 2005, Romania signed the Treaty of Accession to the European Union, with the objective being its ratification, so that Romania could become a Member State of the European Union on 1st January 2007.

What Legal Measures Adopted by the EU Governed the Proceedings?

In December 2003, the European Council in Brussels established the schedule for Romania's accession to the European Union, the main milestones of which were the completion of negotiations in 2004, the signing of the Accession Treaty as early as possible in 2005, and effective accession to the European Union in January 2007. In its conclusions, the European Council asserted that Romania and Bulgaria's accession represented the common goal of the European Union with 25 members. For the first time, a document of the European Council stated the objective of signing the Common accession Treaty with Romania and Bulgaria in 2005, as well as the European Union's support for this plan.

In June 2004, the European Council in Brussels¹⁵ reconfirmed Romania's accession schedule in the intervals marked by the 2004, 2005, and 2007 milestones. On October 6th 2004, the European Commission presented the annual report on Romania for 2004, as well as the Strategy Document concerning perspectives on the enlargement process. The documents asserted the firm support of the European Commission for the conclusion of the accession negotiations with Romania (and Bulgaria) by the end of 2004.

15 Presidency Conclusions Brussels European Council: 9048/04, Polgen 20 Concl1. Brussels, 19 May 2004.

The conclusion of the accession negotiations from the technical point of view within the Ministerial Accession Conference was confirmed on December 14th 2004.

On April 13th 2005, Romania received the assent of the European Parliament for the signing of the Accession Treaty. According to the procedure (Art. 49 TEU), the European democratic forum has voted on April 13th in the plenary session, on the basis of the Progress Report initiated by the EP rapporteur for Romania, Pierre Moscovici. The result of the vote in plenary was: assent – 497 votes for, 93 against and 71 abstentions. Moscovici reported: 564 vote for, 59 against and 41 abstentions.

On April 25th the Accession Treaty to the European Union of Romania and Bulgaria was signed in Luxemburg, being gradually ratified by member states over the next two years (Slovakia being the first to ratify it on June 21th 2005 and Germany the last to ratify it on November 24th 2006).

On October 25th the European Commission issued the Comprehensive Monitoring Report on Romania, together with the Composite Paper for Romania and Bulgaria, the documents confirming the important progress in the internal preparation and indicating the measures to be undertaken in order to enable accession on 1st January 2007.

Were There Any National Rules Specifically Governing the Procedure of Accession?

After formally applying for membership in June 1995, Romania developed the Snagov Declaration, signed by most of the Romanian political community. This declaration makes a statement for Europeanisation, comprising also the National Strategy for Romania's EU Accession Preparation.

The Snagov Declaration stated that

the crux of this project is the creation of a smooth-functioning market economy, consistent with EU principles, norms, mechanisms, institutions and policies. The national strategic objective of putting in place such an economy serves as a real catalyst that helps Romania's political and social forces to develop solidarities and to find areas of convergence. While the long-, medium-, and short-term actual development of the national economy is still caught in the vicious circle of self-perpetuating and ever increasing gaps in productivity and living standards compared to those of the EU members, the priorities envisaged provide the Romanian people a historic opportunity to promote, in a broader international framework, its goals and primary interests, its identity and tradition, narrow and eventually eliminate, through its own efforts backed by international co-operation, the gaps versus the advanced economies, to achieve Romania's modernization in line with the requirements of transition to a culture and information-based economy in which education capital should play the key role in the social and economic development. The convergences that have been reached in the area of fundamental options, macro and micro-economic objectives, principles and policies rely on a realistic assessment of resources

and opportunities, of the domestic and international environment. They allow us to face the twofold challenge to complete the transition to a market economy and to prepare for Romania's EU membership, taking the historic opportunity to start accession negotiations, as decided by the European Council in Helsinki in December 1999. We also appreciate that in drafting the Strategy a close co-operation has been established with experts of the European Commission, the EU member states, the IMF and the World Bank.¹⁶

Following the European Commission's largely unfavourable conclusion from 1997, outlining that Romania could not cope with the economic constraints and obligations of membership in the medium term, Romania responded in the same year by launching the revised version of National Programme for the Adoption of the *Acquis Communautaire*,¹⁷ supported by all political parties and formations. It set out a timetable for achieving priorities and intermediate objectives, based on the first Accession Partnership, as well as necessary administrative structures and financial resources.

Question No. 6

What Institutions Were Set Up for the Purposes of Accession at Both EU and National Level?

The Association Agreement from 1995 has created an institutional framework suited for the development of close relations between Romania and the EU, consisting of The Council of Association (political-national level) and The Parliamentary Committee of Association (which was created as a Commission for the European Integration of Romania) and The Association Committee. The latter is made up of high ranking officials from the Romanian government, the European Council and the European Commission, and it supports the Association Council. The new dialogue framework between Romania and the EU allowed for a constructive dialogue between both parties at all levels, improved access for Romanian products on the community market, the involvement of the Romanian state in all trans-European infrastructure network development project, which include transport, communications, energy, participations in community programs (research, industrial cooperation, energy, environment protection, trans-border cooperation, support in the training and improvement of personal).

In 1995, an independent institutional system was created in Romania specifically for the purpose of European integration. The newly created Secretariat of Interministerial Commission for European Integration comprised three pillars: the Department

¹⁶ Snagov Declaration.

¹⁷ *Hotărâre nr. 114 din 26 februarie 1999 privind actualizarea Programului național de aderare a României la Uniunea Europeană. Publicat în Monitorul Oficial nr. 98 din 8 martie 1999.* Published in the Official Gazette No. 98 from 8 March 1999.

of European Integration, the Ministry of Foreign Affairs and the Ministry of Industry and Trade.¹⁸

The Department of European Integration acted as a specially designed body for the central public administration, operating under the Government and having the legal personality to ensure the coordination of policies and technical processes pertaining to accession, and to fulfil its responsibilities in the decision making and position taking process of the accession. Its activities were carried out by 30 employees (although the number was supposed to double by 1998, but remained the same).¹⁹

The Ministry of Foreign Affairs, also established in 1997 was a specialised structure in the form of an EU Directorate, staffed with 12 diplomats, which continued to control communication channels with the Permanent Mission in Brussels.

As the Department of European Integration and the EU Directorate operated under different political patronages, friction between the two bodies was acute and their collaborations remained mostly strained during their functioning.

The third pillar in the central organism was the EU Directorate set up by the Secretariat for Trade of the Ministry of Industry and Commerce, destined to handle commercial aspects of the association process.

Before the negotiation process started in 2000, the Department for European Affairs was created, by merging the Department of European Integration with three diplomatic missions of the Ministry of Foreign Affairs. The mission of the newly created Department was to monitor the implementation of the European Act and the Association Act, to coordinate the monitoring process and the financial assistance, to conduct and coordinate negotiations on accession and to ensure a political dialogue with the institutions of the European Union, as well as with member states and candidate states.

Question No. 7

What Legal Criteria Was Your Country Obligated to Satisfy Before Joining the EU? To Your Knowledge, Were These Criteria Different From Those Applied to Countries in Comparable Position?

The European Commission's Composite Paper on the reports about progress towards Accession by each of the Candidate Countries detailed specific conditions regarding the accession of Bulgaria and Romania:

(a) in view of the paramount importance of nuclear safety, the opening of negotiations with Bulgaria should be conditional on a decision by the Bulgarian authorities before the end of 1999 on acceptable closure dates for units 1-4 in the Kozloduy nuclear

18 *Hotărâre nr. 119 din 9 martie 1998, privind elaborarea Programului național de aderare a României la Uniunea Europeană. Publicat în Monitorul Oficial nr. 112 din 12 martie 1998.* Published in the Official Gazette No. 112 from 12 March 1998.

19 Ivan, 2004, pp. 73–78.

power plant and upon a confirmation of the significant progress accomplished in the economic reform process;

(b) the opening of negotiations with Romania should be conditional on the confirmation of effective action announced by the Romanian authorities to provide adequate budgetary resources and to implement structural reform of child care institutions before the end of 1999. It is also conditional upon a further assessment of the economic situation before negotiations are formally opened, in the expectation that appropriate measures will have been taken to address the macro-economic situation.²⁰

Question No. 8

What Procedures on EU Level Were There in Place to Monitor the Fulfilment of the Accession Criteria? Were There any Comparable Specific Domestic Monitoring Procedures?

On the basis of Agenda 2000, the Commission presented a multiple series of regular country reports, starting in 1998 and continuing until 2004 in the case of Romania,²¹ as well as monitoring reports on the state of preparedness for EU membership.²²

Question No. 9

To What Extent Was Your Country Involved in the Work of EU Institutions (e.g. Participation in the Commission's or Council's Working Groups, Participation of Your Representatives at the Commission's or Council's Meetings etc.)?

During the accession process, Romania and Bulgaria were gradually getting implicated in the work of EU institutions. For example, between February 2002 and June 2003, the two countries were already participating in the work of the European

- 20 European Commission's Composite Paper on the reports on progress towards Accession by Each of the Candidate Countries. EC Cons Doc 12053/99, 1999, 31.
- 21 Commission Report COM(98) 702 final Not published in the Official Journal; Commission Report COM(1999) 510 final Not published in the Official Journal; Commission Report COM(2000) 710 final Not published in the Official Journal; Commission Report COM(2001) 700 final – SEC(2001) 1753 Not published in the Official Journal; Commission Report COM(2002) 700 final – SEC(2002) 1409 Not published in the Official Journal.; Commission Report COM(2003) 676 final – SEC(2003) 1211 Not published in the Official Journal; Commission Report COM(2004) 657 final – SEC(2004) 1200 Not published in the Official Journal.
- 22 Comprehensive Monitoring Report from the Commission COM(2005) 534 final – SEC(2005)1354; Monitoring Report of May 2006 from the Commission COM(2006) 214 final – SEC(2006) 596; Communication from the Commission of 16 May 2006 'Monitoring report on the state of preparedness for EU membership of Bulgaria and Romania' COM(2006) 214 final Not published in the Official Journal; Report From The Commission To The European Parliament And The Council on Romania's progress on accompanying measures following Accession. Brussels, 27.6.2007 COM(2007) 378 final.

Convention, and in 2003, they established Permanent Representations to the European Union in Brussels.

Following the signature of the Accession Treaty with Bulgaria and Romania in Luxembourg on 25th April 2005, European Parliament President Josep Borrell welcomed 18 observers from Bulgaria and 35 from Romania on 26th September 2005 in Strasbourg, as it is conventional for countries acceding to the European Union to send observers to the European Parliament in advance.

The first European Council in which Romania participated in its new capacity as observer took place between June 16th and 17th 2007.

Question No. 10

Has Your Country Experienced any Particular Difficulty in Meeting Some of the Accession Criteria?

Since the Commission had concluded in its 1997 Opinion that Romania fulfilled the political criteria for accession, the country has worked further to consolidate and deepen the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.

The regular country reports on Romania have mentioned several additional improvements: the last commission report from 2004 lists a reduction in the use of emergency ordinances, the full implementation of laws covering freedom of information and transparency in the legislative process, the improvement of the policy-making and legislative process, the strengthening of local and regional governance with a view to ensuring proper implementation of the *acquis*, the improvement of court cases management and the quality of judgments, the effective implementation of anti-corruption laws, additional efforts to ensure the independence, effectiveness and accountability of the National Anti-Corruption Prosecution which should concentrate its resources on investigating high-level corruption, efforts to guarantee media independence, as many media organisations' economic situation remains precarious, a more speedy approach to further the restitution of buildings and religious property, and the vigorous implementation of a structural reform programme so that Romania's functioning market economy should cope with competitive pressure and market forces within the Union.²³

The justice system reform has been one of the toughest of the reforms expected from Romania and along with anti-corruption measures, a key-point in ensuring EU membership.

The reform of the judicial system imposed itself as the justice sphere was marked by inefficiency, corruption among the judges and a dependency on the political sphere.

23 Commission Report COM(2004) 657 final – SEC(2004) 1200 Not published in the Official Journal, 147–149.

One of the first decisions of the Ministry of Justice in this sense was to initiate public debate on the National Anti-corruption Strategy of 2005-2007 (SNA) and on an essential package of three laws: the Law on the Superior Council of the Magistracy (CSM), the Law on the Organisation of the Judiciary (JO) and the Law on the Statute of Magistrates (SM). The National Anti-Corruption Strategy of 2005-2007 took into consideration systemic problems within the Romanian judiciary, aiming at guaranteeing the independence of justice, ensuring the quality and efficiency of the act of justice and accountability for the act of justice.

The modifications proposed by the Ministry of Justice introduced two essential principles: efficiency of the justice act and accountability for the justice act.

The representatives of the European Council and of the European Commission repeatedly indicated that National Anti-Corruption Prosecutor's Office (PNA) comprised an inefficient structure. The anti-corruption legislation was publicly advertised as a success by the former Government, although from its inception serious criticism had been levied about the inefficiency of its enforcement in the absence of sanctions, narrow definitions, and inefficient structures. There was a lot of vagueness in the formulations, as well as an unwillingness to investigate.

In relation to the principle of freedom of expression, reports have revealed that special treatment given by fiscal control bodies to media companies has resulted in a de facto editorial self-censorship within TV stations, most notably during the 2004 coverage of the electoral campaign.

Reports also touched upon the issue of minorities and anti-discrimination as the institutions charged with safeguarding minority rights often proved weak and indecisive, and legislation continued to include discriminatory provisions or to offer inadequate protection. In 2003 and 2004 the anti-discrimination law was amended, and due to the sustained advocacy of several NGOs with the Human Rights Commission of the Senate, and in spite of some opposition expressed by the National Council for Combating Discrimination, several improvements were made.²⁴

Question No. 11

In What Way Was the Constitution of Your Country Changed in Order to Accede the EU? Was the Accession Legally Challenged (e.g. Constitutional Court)?

The Constitution of Romania was amended in 2003 in light of the ongoing EU accession negotiations, in order to encompass changes in several areas.

One such amendment referred to the equality of rights of Romanian and EU citizens regarding the right to vote and to be elected in local public administrations, as well as the right to take public office, apart from high officials. The 1991 version of the Constitution of Romania provided that the public offices and dignitaries, civil or military, could only be taken by Romanian citizens and only Romanian citizens with a right to vote (aged 18 years, vote day included) could do so. The alteration became

24 Dill and Motoc, 2025.

necessary within the context of the negotiations for chapter 2 – Free Movement of Persons and chapter 30 – Institutions.

Another provision in need of amendment was the requirement of having Romanian citizenship for land acquisition, conflicting with the right of establishment provided by the Treaty of Amsterdam which enables the acquisition of land and use of agricultural land within the territory of a Member State by the inhabitant of another Member State. The harmonisation of this provision was to be made within the negotiation for chapter 4 – Free Movement of Capital.

In the position paper for chapter 24 – Justice and Home Affairs, the alteration of the Constitution Art. referring to the interdiction to extradite Romanian citizens was envisaged, for the Convention on extradition between EU Member States cannot be refused on the grounds that such a person who may be the object of an extradition is a citizen of the Member State which solicited the extradition. In 1997, Romania ratified the European Convention on extradition, reserving that Romanian citizens and the persons granted asylum in Romania could not be extradited. The proposed amendment to the constitutional provision entailed the withdrawal of the reserve held in 1997.

Romania committed under chapter 28 – Financial Control, to introduce to its Constitution a provision regarding the independence of the Court of Accounts, observing the provisions of The International Organisation of Supreme Audit Institutions (INTOSAI), of which Romania is a party.

One last aspect related to the revision of the Constitution that was discussed under chapter 11 – Economic and Monetary Union, refers to the alteration of the Article providing that the national currency is the Leu, the subdivision of which is Ban. An alteration was therefore needed, so that Romania could join the Eurozone in the future.²⁵

Was the Accession Legally Challenged (e.g. Constitutional Court)?

The European project was not legally challenged in Romania. The principles of Euro-Atlantic integration became a part of the 2003 Constitution of Romania, with Art. 148 of Title VI (Euro-Atlantic integration) dedicated to Integration into the European Union.

TITLE VI – Euro-Atlantic integration

Art. 148 – Integration into the European Union

(1) Romania's accession to the constituent treaties of the European Union, with a view to transferring certain powers to community institutions, as well as to exercising in common with the other member states the abilities stipulated in such treaties, shall be carried out by means of a law adopted in the joint sitting of the

²⁵ Pușcaș and Meerts, 2003, p. 187.

Chamber of Deputies and the Senate, with a majority of two thirds of the number of deputies and senators.

(2) As a result of the accession, the provisions of the constituent treaties of the European Union, as well as the other mandatory community regulations shall take precedence over the opposite provisions of the national laws, in compliance with the provisions of the accession act.

(3) The provisions of paras. (1) and (2) shall also apply accordingly for the accession to the acts revising the constituent treaties of the European Union.

(4) The Parliament, the President of Romania, the Government, and the judicial authority shall guarantee that the obligations resulting from the accession act and the provisions of para. (2) are implemented.

(5) The Government shall send to the two Chambers of the Parliament the draft mandatory acts before they are submitted to the European Union institutions for approval.²⁶

Question No. 12

Was There a Referendum in any Stage of the Accession Procedure?

There were no referendums in Romania and Bulgaria. Romanian national law did not require this type of consultation for the accession. Full commitment to become a member state had been expressed in the Snagov Declaration of 1995, which was a general agreement from Romania's political sphere, signed by 14 political parties. Such a declaration of support towards Europeanisation is a unique feature in the path of accession of new member states.

Furthermore, the 2003 amendment of the Constitution comprised the principles of EU and NATO adherence, and the Romanian Parliament was fully aligned in this direction, while support for EU accession was extremely high among the population.

By voting on the amendment of the Constitution in 2003 (the Law on revision of the Constitution), the citizens of Romania manifested their solid adherence regarding joining NATO and the European integration project. The Law on revision of the Constitution expressly stated that the objective of the amendments was to create the adequate constitutional framework and legal basis for the Euro-Atlantic integration of Romania, the harmonisation of constitutional provisions with the legal norms of the European Union, and the right of Romanian citizens to vote in representatives as well as to be voted in as a representative in the European Parliament.

26 Constitution of Romania.

Question No. 13

In Addition to the Above, Were There any Noteworthy Legal Aspects Concerning the Negotiation and Ratification of the EU Accession Agreement in Your Country?

The accession of Bulgaria and Romania became far more contested at national parliamentary and general public levels in several major EU member states – for example Germany, France, and the Netherlands. At that point in history there were increasing political and popular concerns about the enlargement and, hence, additional provisions were necessary to ensure that this enlargement would neither cause damage to the EU nor run counter to public opinion. This is the reason why the EU Accession Agreement includes a postponement clause, added to the usual safeguard clauses, stating that the accession of each one of the two countries could be postponed for one year.

The clause provided a provision for a delay of entry of one year ‘if serious shortcomings have been observed in the fulfilment by Romania of one or more of the commitments and requirements’ relating to four specific items of the competition chapter and seven of the justice and home affairs chapter (including ‘the acceleration of the fight against high-level corruption’, which had meanwhile been included as an item in the *acquis* to reinforce its legal power’).

3. Legal and Economic Support for Candidate Countries

The third section concentrates on the support provided to the candidate countries by the EU.

Question No. 14

Before the Accession, Was There Any Institutionalised Support for the Approximation of the Legal Order of Your Country From the EU?

Romania benefited from pre-accession aid. In 2000, aid for agricultural and rural development (SAPARD) and a structural instrument (ISPA) giving priority to measures in the transport and environmental sectors were introduced. The Regulation coordinating aid under PHARE, SAPARD and ISPA, adopted in June 1999, enabled the Commission to carry out a posteriori monitoring of contracts where it considered the financial control in the partner country to be deficient.

The total amount of financial aid made available between 2000 and 2002 was EUR 1.890 billion, of which EUR 242 million was sent via Phare, EUR 150 million via SAPARD; and between EUR 208 and EUR 270 million via ISPA. SAPARD 2003 allocated around EUR 162.2 million to Romania. The envelope agreed under ISPA for the same year was EUR 255.1 million.

The Community allocated EUR 158.7 million for the implementation of the SAPARD programme in Romania in 2004. The main focus of the 2004 SAPARD programme was to increase the absorption and especially the use of the 2000 financial allocations, since any unused funds were due to be decommitted by the end of 2004. In December 2003 the SAPARD Agency was accredited for the implementation of the following three additional measures: (a) Investments in agricultural holdings; (b) Development and diversification of economic activities, multiple activities and alternative income, and (c) Improving vocational training. With this accreditation the Agency was to manage 80% of the amount available for Romania under the programme.²⁷

ISPA programming was governed by the national strategy papers for transport and the environment, which the Romanian authorities finalised in 2000 and the strategies for these two sectors were revised. The strategic objectives in the field of transport were intended to address serious weaknesses in the network of roads and railways and placed focus on the modernisation of the trans-European corridors crossing the country. Other priorities were dealing with increased traffic levels around urban areas and the development of the use of waterways. In 2004, a total commitment of EUR 272.3 million was approved, in support of both transport (EUR 149.6 million) and environmental projects (EUR 122.7 million).

Question No. 15

Did Your Country Benefit From Any Funds Providing Financial Support in Relation to EU Accession Immediately After the EU Accession?

The objective of the Accession Partnership (adopted in March 1998 and amended in December 1999, January 2002 and May 2003) was to build a legislative framework, designed to contain and support the working priorities set out in the road map and the Commission's 2003 Regular Report on progress towards accession, the financial resources available to help Romania implement these priorities, and the conditions which apply to this aid. This partnership underpins a range of instruments to support candidate countries in the accession process.

These instruments include a national programme for adopting the Community *acquis*, the joint evaluation of medium-term economic priorities, a pact against organised crime, the national development plan and other sectoral programmes required for participation in post-accession structural funds, and the pre-accession implementation of the ISPA and SAPARD. In 2002, the Accession Partnership served as the starting point to prepare an action plan to reinforce the administrative and judicial capacity of Romania.

The implementation of the Accession Partnership was monitored under the Europe Agreement between the European Union and Romania.

27 The Accession Partnerships with Romania.

The Accession Partnership priorities were reviewed in December 1999 and a final revision was published in May 2003 (Decision 2003/397/EC). The revised priorities formed the basis of the Commission's evaluation in its 2003 report.

The revised Accession Partnership defined the priorities which Romania should wholly or largely achieve from 2003-2004. They were jointly defined by the EU and Romania. The level of aid granted to Romania depended upon the implementation of these priorities.

Romania has addressed the priorities set out in the revised Accession Partnership. Overall, it has made progress, including the launch of major reforms in the fields of public administration, the fight against corruption, and the judicial system, which are all intended to strengthen democracy and the rule of law. Further progress was expected to be made in the area of human rights and the protection of minorities, although attention should be focused on the implementation of these reforms and on the enforcement of existing legislation. Structural reforms included major privatisations in industry and in the energy sector, but further efforts were still needed in order to tackle the accumulation of arrears and reluctance to initiate bankruptcy procedures. Romania has made satisfactory progress with the adoption and implementation of the *acquis*. However, considerable efforts are still needed to ensure effective implementation and enforcement of the legislation arising from the commitments made in the negotiations. Overall, more legislative alignment and greater administrative capacity are needed to meet these commitments.

Support from the Phare programme and other pre-accession instruments was a focus on the Accession Partnership priorities, comprising a financial framework. The total volume of pre-accession assistance available to Romania for 2004 (around EUR 825 million) was substantial: EUR 405.3 million for the national PHARE programme, EUR 158.7 million for SAPAR and between EUR 289 million and EUR 343 million for ISPA.

Under the PHARE program, Romania received EUR 2.1 billion for the period 1992-2003, of which EUR 283 million was allocated for 2003. The economic and social cohesion subprogramme of the 2004 National Phare programme allocated the amount of about EUR 160 million, about 40% of the total PHARE budget in 2004, marking an increase on the 2003 allocation of EUR 48 million.

The 2004 Phare programme focused on the following priorities:

- Political criteria: emphasis is put on multiannual programmes to strengthen administrative and judicial capacity, support minorities and civil society, fight corruption and fraud, improve prison conditions and strengthen police cooperation (EUR 50 million)
- Economic criteria: further substantial assistance is provided for the creation of a unified, efficient and adequate land registration system as a basis for Community support (e.g. in agriculture), and also to ensure the safety of investments (EUR 4.5 million). Meeting the obligations of membership: twinning, technical assistance and investment projects are carried out principally in four priority areas, namely public finance, agriculture, environment and

border management, also subject to multiannual programming. Further areas will be covered specifically under the 2004 budget: internal market, competition, statistics, social policy and employment, energy, transport, consumer protection, justice and home affairs and the audiovisual sector (EUR 155.4 million).

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

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

Question No. 16

Were There Any Other Noteworthy Aspects of EU Support Provided to Your Country Before the Accession?

In January 1991, the European Commission granted Romania the statute of special observer to the European Community. Romania was also included in the PHARE programme, which had initially been created for Hungary and Poland. Though the negotiations aimed at the conclusion of an association act were halted for a couple of months due to the miners' strikes and the fall of the government led by Petre Roman, they resumed later in the same year.

In 1992, the EEC granted an aid amounting of ECU 80 million to sustain the balance of payments. In its decision on 20th June 1994, the Council of the European Community decided to grant Romania a medium-term balance of payment loan for a maximum amount of ECU 125 million, to be disbursed in two tranches. While the first tranche was disbursed in November 1995, by 1997 it was not possible to send the second tranche due to persistent malfunctioning of the foreign exchange market and lack of progress on structural reforms.

4. Specific Rules Applicable to Candidate Countries Before and After Their Accession

The final section is concerned with any country-specific exemptions from the general approach, adopted by the candidate countries, both during the pre-accession period and after the actual accession.

Question No. 17

After the Formal Application to Join the EU, Was Your Country Willing or Able to Negotiate Any Specific Exemption From the Accession Procedure (e.g. Areas of Law Not to Be Approximated, Limits to the Approximation etc.)?

There were no requests from Romania to negotiate exemptions from the accession procedure.

Nevertheless, there were requests for extensions on the time necessary for implementing and applying the *acquis*. In this sense, Romania has arranged for 50 periods of transit, as well as transitory arrangement, a unique feature among the states of the fifth enlargement (the longest extension amounting to 12 years – in the chapter of Environment).

Question No. 18

What Country-Specific Provisions Were Contained in the EU Accession Agreement of Your Country?

Country-specific provisions are comprised in Art. 39 of the Act of Accession, under the Annex: Specific commitments undertaken, and requirements accepted, by Romania at the conclusion of the accession negotiations on 14th December 2004 (referred to in Art. 39 of the Protocol).

In relation to Art. 39(2): To implement without further delay the Schengen Action Plan, amended in line with the *acquis* and in accordance with the deadlines agreed upon.

In order to ensure a high level of control and surveillance at the future external borders of the Union, speed up considerably efforts in terms of modernising equipment and infrastructure at the green border, blue border and at border crossing points, and to further enhance the capacity of operational risk analysis, one single multi-annual investment plan reflecting these points needed to be tabled no later than March 2005, which had to allow the Union to measure progress on a yearly basis and until the decision referred to in Art. 4(2) of the Protocol was taken with respect of Romania. In addition, Romania would have to considerably step up its plans to recruit 4,438 border police agents and officers, ensuring, in particular that a staffing level as close as possible to 100% would already be reached along the borders with Ukraine, Moldova and at the Black Sea coast upon accession. Romania would have to also implement all necessary measures to effectively combat illegal immigration, including strengthening cooperation with third countries.

Romania was required to develop and implement an updated and integrated Action Plan and Strategy for the Reform of the Judiciary including the main measures for implementing the Law on the Organisation of the Judiciary, the Law on the Status of Magistrates and the Law on the Superior Council of Magistracy entered into force on 30th September 2004. Both updated documents would have to be submitted to the Union no later than March 2005; adequate financial and human resources for

the implementation of the Action Plan would have to be ensured and it would have to be implemented without further delay and according to the time schedule set. Romania would also have to demonstrate by March 2005 the full operationability of its new system for the random distribution of cases.

Romania was required to considerably step up the fight against corruption and in particular against high-level corruption by ensuring the rigorous enforcement of the anti-corruption legislation, the effective independence of the National Anti-Corruption Prosecutors' Office (NAPO), and by submitting on a yearly basis as of November 2005 a convincing track-record of the activities of the NAPO in the fight against high-level corruption. The NAPO would have to be given the staff, financial and training resources, as well as the equipment necessary for it to fulfil its vital function.

Romania was also required to conduct an independent audit of the results and the impact the current National Anti-Corruption Strategy had generated; to reflect the conclusions and recommendations of this audit in the new multi-annual anti-corruption strategy which had to be comprised of one comprehensive document, in place no later than March 2005, accompanied by an action plan with clearly defined benchmarks to be reached and results to be obtained, as well as adequate budgetary provisions. The implementation of the Strategy and Action Plan would be overseen by one existing, clearly defined, independent body; the strategy would include the commitment to revise the protracted criminal procedure by the end of 2005 to ensure that corruption cases would be dealt with in a swift and transparent manner, in order to guarantee adequate sanctions that would have a deterrent effect. Finally by the end of 2005, it would have to contain steps to considerably reduce the number of bodies having powers to prevent or investigate corruption, so that overlapping responsibilities would be avoided.

Romania was required to ensure a clear legal framework by March 2005 for the respective tasks of, and cooperation between, gendarmerie and police including the implementation of legislation, and the development and implementation of a clear recruitment plan by the middle of 2005 for both institutions, with the aim of having made considerable progress in filling the 7,000 police vacancies and the 18,000 gendarmerie vacancies by the date of accession.

Romania was required to develop and implement a coherent multi-annual anti-crime strategy including concrete actions to curb its status as a country of origin, transit and destination of victims of human trafficking and to submit on a yearly basis, as of March 2005, reliable statistics on the manner in which this crime phenomenon was being tackled.

In relation to Art. 39(3): Romania was required to ensure the effective control by the Competition Council of any potential State aid, including State aid foreseen by means of deferrals of payments to the State budget of fiscal or social liabilities or deferrals of liabilities related to energy supply.

Romania was required to strengthen the State aid enforcement record without delay and to ensure a satisfactory enforcement record in the areas of both anti-trust and State aid thereafter.

Romania was also required to submit to the Commission by mid-December 2004, a revised steel restructuring plan (including the National Restructuring Programme and the Individual Business Plans), in line with the requirements set out in Protocol 2 on ECSC products to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, as well as with the conditions set out in Annex VII, Chapter 4, Section B, to the Protocol.

Romania was required to fully respect the commitment not to grant or pay any State aid to the steel mills covered by the National Restructuring Strategy from 1st January 2005 to 31st December 2008 and to fully respect the State aid amounts and the conditions regarding capacity reductions to be decided in the context of Protocol 2 on ECSC products to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part.

Finally Romania was required to continue devoting adequate financial means and sufficient and adequately qualified human resources to the Competition Council'.²⁸

Question No. 19

Were There Any Country-Specific Transitory Provisions?

The Treaty of Accession of Bulgaria and Romania includes three provisions which were to allow the Union to remedy difficulties encountered as a result of accession, namely a general economic safeguard clause; a specific internal market safeguard clause; and a specific justice and home affairs safeguard clause.

These safeguards were the same as the ones included in the Accession Treaty of the Member States who joined on 1st May 2004.

In the case of Romania, the clause may be invoked not only in case of a lack of preparation 'in a number of important areas', but also if one or more of 11 specific commitments (in the areas of justice and home affairs and competition) are not met.²⁹

Romania holds a record number of six safeguard clauses in the Accession Act, the largest number of safeguard clauses in relation to the other countries from the fifth and previous enlargement wave. There is a general economic safeguard clause; a safeguard clause regarding the failure to fulfil obligations assumed during the accession process impacting the functioning of the internal market; a safeguard clause

28 Treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union Accession Protocol and its Annexes, signed in Luxembourg on 25 April 2005.

29 Frequently asked questions about the safeguard clauses included in the Treaty of Accession of Bulgaria and Romania. MEMO/05/396. Brussels, 25 October 2005.

to be activated in case of deficiencies in transposing, applying or respecting legal provisions on justice and internal affairs; a safeguard clause regarding the unfulfillment of obligations in one or more fields related to justice and internal affairs; and a safeguard cause regarding the unfulfillment in one or more fields related to competition.

Question No. 20

Was Your Country Able to Negotiate Any Permanent Exemptions From the EU Law?

Romania did not request and did not negotiate permanent exemptions from EU law.

Question No. 21

To Your Knowledge, Were There Any Notable Differences in the Content of Your Country's EU Accession Treaty From Other Countries in a Comparable Position?

When Romania entered the EU on 1st January 2007, special provisions were made to facilitate and support its smooth accession while, at the same time, safeguarding the proper functioning of EU policies and institutions.

The Accession Treaty made clear that should there be any serious shortcomings in the transposition and implementation of the *acquis* in the economic, internal market and justice and home affairs areas, safeguard measures could be taken for up to three years following accession. Romania's accession was also accompanied by a set of specific accompanying measures, put in place to prevent or remedy shortcomings in the areas of food safety, agricultural funds, judicial reform and the fight against corruption. For the last two areas, a cooperation and verification mechanism was established, setting out benchmarks to provide the framework for monitoring progress in this area.³⁰ This mechanism was put in place to improve the functioning of the legislative, administrative and judicial system and to address serious deficiencies in fighting corruption. The purpose of the Cooperation and Verification Mechanism was to ensure that measures were taken to provide assurance to Romanians and to the other Member States that administrative and judicial decisions, legislation and practices in Romania were in line with the rest of the EU. Progress on judicial reform and the fight against corruption would allow Romanian citizens and business to enjoy the rights due to them as EU citizens. Without irreversible progress in these areas, Romania risks being unable to correctly apply EU law.³¹

30 Commission Decision 2006/928/EC of 13 December 2006 establishing a mechanism for cooperation and verification of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption (OJ L 354, 14.12.2006).

31 Brussels, 27.6.2007 COM(2007) 378 final Report from the Commission to the European Parliament and the Council on Romania's progress on accompanying measures following Accession.

In November 2022, the European Commission requested the lifting of the Cooperation and Verification Mechanism (CVM) for Romania, meaning that the Commission will no longer monitor or report on Romania under a CVM but via the annual Rule of Law Report, as for all other EU member states.

In July 2023, the European Commission Vice President Věra Jourová stated that the Commission was sending a letter to the Council and the European Parliament intending to close the CVM for Bulgaria and Romania, expecting the Council to ‘make observations by 25th August’. On 15th September 2023, the European Commission formally closed the CVM for Bulgaria and Romania.³² Much of the ongoing monitoring would continue under the EU’s annual Rule of Law Cycle, which applies to all EU member states.

After the European Commission formally closed the CVM reports for both Bulgaria and Romania on 15th September 2023, the European Commission decided to not use the CVM for aspiring members of the EU. Instead, the Commission now expects every new member to join the EU without deficiencies that would require special monitoring, such as how CVM reports were used for Bulgaria and Romania.

The decision to end the use of the CVM for future members was also taken because the EU recently introduced its new Rule of Law mechanism in 2019, which monitors all member states, including Bulgaria and Romania, who now use the standard Rule of Law cycle instead of the CVM reports.

Benchmarks had been met by Romania in order for the CVM to be lifted, including: (1) the guarantee of a more transparent, and efficient judicial process notably by enhancing the capacity and accountability of the Superior Council of Magistracy, and reporting and monitoring the impact of new civil and penal procedures codes; (2) the establishment, as foreseen, of 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; (3) the continuation of building on progress already made, continuing to conduct professional, non-partisan investigations into allegations of high-level corruption; (4) the implementation of further measures to prevent and fight against corruption, in particular within local government.

Question No. 22

Are There Any Other Noteworthy Exemptions From the Application of the EU Law in Your Country?

There are no exemptions from the application of EU law in Romania.

32 Commission Decision (EU) 2023/1786 of 15 September 2023 repealing Decision 2006/928/EC establishing a mechanism for cooperation and verification of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption. Official Journal of the European Union (OJ L 229/94. 18.9.2023).

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