



KOMMISSIONEN FOR DE EUROPÆISKE FÆLLESSKABER

Bruxelles, den 6.10.2004
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**MEDDELELSE FRA KOMMISSIONEN
TIL RÅDET OG EUROPA-PARLAMENTET**

**Strategidokument fra Europa-Kommissionen om fremskridt i forbindelse
med udvidelsen**

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1. INDLEDNING

Udvidelsen af EU med ti nye medlemsstater den 1. maj 2004 har yderligere styrket det europæiske kontinents enhed. De historiske og politiske argumenter til fordel for denne udvidelse er overbevisende: den fremmer fred, velstand, stabilitet og sikkerhed og har også skabt væsentlige økonomiske værdier.

Bulgarien og Rumænien er en integrerende del af denne udvidelsesproces, der blev lanceret i 1997. Begge lande er tæt på at afslutte forhandlingerne. EU ønsker at begge lande, skal blive medlemmer i januar 2007, hvis de er klar til det.

I dette års periodiske rapporter bekræfter Kommissionen i sin vurdering, at Unionens førtiltrædelsesstrategi med Bulgarien og Rumænien har været en succes. Forvandlingen i begge lande er gået hurtigere på grund af udsigten til udvidelse. Kommissionen vil gøre alt for at nå det mål, som Det Europæiske Råd har sat, om at bringe forhandlingerne med Bulgarien og Rumænien til en vellykket afslutning i 2004 på grundlag af deres egne resultater, således at tiltrædelsestraktaten kan underskrives så tidligt som mulig i 2005.

Det Europæiske Råd besluttede i juni 2004, at tiltrædelsesforhandlingerne med Kroatien skal starte i begyndelsen af 2005. Kommissionen har i det følgende opstillet nogle forslag til en ramme for disse forhandlinger, der bygger på de erfaringer, der er gjort i forbindelse med den nuværende udvidelse. Der bliver også præsenteret en førtiltrædelsesstrategi for Kroatien med tilhørende finansieringsinstrumenter.

På linje med Det Europæiske Råds konklusioner af december 2002 vurderer Kommissionen i et særskilt dokument, om Tyrkiet opfylder de politiske Københavnskriterier, og om der bør indledes tiltrædelsesforhandlinger¹. Alle vestlige Balkanlande har udsigt til at blive kandidatlande. Den Tidligere Jugoslaviske Republik Makedonien har allerede søgt om medlemskab, og Kommissionen er efter anmodning fra Rådet ved at udarbejde en udtalelse om ansøgningen.

2. BULGARIEN OG RUMÆNIEN

2.1. Fremskridt med hensyn til at opfylde medlemskabskriterierne

I de periodiske rapporter er der foretaget en vurdering af de fremskridt, som Bulgarien og Rumænien har gjort med hensyn til at opfylde medlemskabskriterierne hvad angår lovgivning og foranstaltninger, som er vedtaget og gennemført.

¹ Europa-Kommissionens henstilling vedrørende Tyrkiets fremskridt mod tiltrædelse, KOM(2004) 656.

I dette års periodiske rapporter vurderes Bulgariens og Rumæniens evne til at påtage sig alle medlemskabsforpligtelser ved tiltrædelsen. Der er foretaget en evaluering af de fremskridt, de har gjort inden for det seneste år, og der er også en gennemgang af de fremskridt, de har gjort siden udtalelserne fra 1997, og hvilke resultater de har opnået med hensyn til at gennemføre de forpligtelser, de påtog sig under forhandlingerne.

Bulgarien opfylder fortsat Københavnskriterierne i politisk henseende. Der må ske forbedringer, især med reformen af deres offentlige administration, med deres retssystems funktion og med bekæmpelsen af korruption.

Bulgarien og Rumænien opfylder kriteriet med at være en fungerende markedsøkonomi. Hvis Bulgarien fortsætter med sin reformkurs og Rumænien med den energiske gennemførelse af strukturreformprogrammet, vil de kunne klare konkurrencepresset og markedskræfterne inden for Unionen.

Bulgarien og Rumænien har fortsat gjort gode fremskridt med hensyn til at vedtage gældende fællesskabsret og har generelt set opfyldt de forpligtelser, de indgik under forhandlingerne. De vil kunne blive færdige med den nødvendige lovgennemførelse inden tiltrædelsen, hvis de fortsætter med den hidtidige hastighed. De vil fortsat skulle gøre en indsats for at udvikle den nødvendige administrative og retlige kapacitet til at gennemføre og håndhæve gældende fællesskabsret.

Konklusionerne i de periodiske rapporter om Bulgarien og Rumænien kan ses i bilag 1. I de periodiske rapporter peges der på en række områder, hvor der skal ske yderligere forbedringer i forbindelse med de politiske og de økonomiske kriterier og i forbindelse med vedtagelse, gennemførelse og håndhævelse af gældende fællesskabsret. Der må fortsat arbejdes energisk på sådanne forbedringer, for at de konstaterede mangler kan blive afhjulpet inden tiltrædelsen.

2.2. Færdiggørelse af tiltrædelsesprocessen

Tiltrædelsesforhandlingerne er langt fremme. I foråret 2004 blev der fastlagt en ramme til finansiering af Bulgariens og Rumæniens tiltrædelse. Hermed kunne der foretages en foreløbig afslutning af alle kapitler med Bulgarien i juni 2004. For Rumænien mangler der at blive forhandlet tre kapitler (konkurrence, miljø og retlige og indre anliggender) samt dele af kapitel 31 (Andet). Der vil skulle gøres en yderligere indsats, især inden for konkurrencekapitlet med hensyn til statsstøtte og inden for kapitlet om retlige og indre anliggender med hensyn til retligt samarbejde, bekæmpelse af korruption og organiseret kriminalitet samt grænseforvaltning.

Det vil på linje med praksis ved tidligere tiltrædelser ikke være muligt at gå ud over et vist tidspunkt i behandlingen af ny fællesskabsret under forhandlingerne. I lyset af hvor langt man er nået i forhandlingerne og udsigten til, at tiltrædelsestraktaten vil blive underskrevet så tidligt som muligt i 2005, mener Kommissionen, at forhandlingerne bør dække alt det i gældende fællesskabsret, der er vedtaget og offentliggjort inden den 1. oktober 2004. Bulgarien og Rumænien bør derfor meddele sin stilling med hensyn til alt nyt i fællesskabsretten, der er vedtaget indtil den dato. Hermed vil der kunne tages fat på eventuelle overgangsordninger, inden forhandlingerne afsluttes.

Resultaterne af tiltrædelsesforhandlingerne med hensyn til vedtagne overgangsordninger og tekniske tilpasninger til gældende fællesskabsret som følge af udvidelsen, vil blive indarbejdet i **tiltrædelsestraktaten**. Arbejdet med udkastet til denne traktat startede i juli 2004.

Når traktatens tekst en gang er vedtaget af alle parterne i forhandlingerne i overensstemmelse med artikel 49 i EU-traktaten, skal Kommissionen afgive sin udtalelse. Europa-Parlamentet vil derefter blive anmodet om at afgive samstemmende udtalelse, som følges op af en afgørelse fra Rådet om optagelse af Bulgarien og Rumænien. Formålet er at få tiltrædelsestraktaten undertegnet så tidligt som muligt i 2005, således at den kan træde i kraft den 1. januar 2007. Efter undertegnelsen vil traktaten blive forelagt til ratificering af de nuværende og kommende medlemsstater.

Kommissionen mener, at procedurerne for beslutningstagning i forbindelse med anmodninger fra Bulgarien og Rumænien om overgangsordninger for retsakter fra institutionerne, der er vedtaget mellem den 1. oktober 2004 og tiltrædelsesdatoen, bør strømlines for at sikre en smidig overgang for beslutningstagning før og efter tiltrædelsen. Desuden vil de få status som aktive observatører i Rådet, i de udvalg, hvor Kommissionen har forsæde, samt i givet fald i andre institutioner fra undertegnelsen af traktaten.

Kommissionen fører et indgående **tilsyn** med, hvordan Bulgarien og Rumænien opfylder de forpligtelser, de har påtaget sig under forhandlingerne. Det er meget vigtigt, at disse forpligtelser bliver gennemført som planlagt. Kommissionen vil derfor fortsætte med sit intensive tilsyn efter afslutningen af forhandlingerne.

Ud fra analysen i de periodiske rapporter vil Kommissionen føre tilsyn med fremskridtene ved at gøre intensiv brug af strukturerne i associeringsaftalerne og alle andre tilsynsinstrumenter, herunder peer reviews. Fra november 2005 vil Kommissionen hvert år forelægge omfattende tilsynsrapporter, der dækker alle kapitler i gældende fællesskabsret, offentlig forvaltning, retsvæsenet og bekæmpelse af korruption samt resultaterne i de økonomiske reformer.

Eventuelle forsinkelser eller problemer i forbindelse med økonomisk reform eller med opfyldelsen af forpligtelser vil blive påpeget af Kommissionen, blandt andet gennem en hurtig varsling på politisk plan, og meddelt til Rådet på grundlag af gældende procedurer. For så vidt angår alvorlige mangler vil tiltrædelsestraktaten indeholde tre **beskyttelsesklousuler**, som kan træde i kraft som en sidste udvej (generelle økonomiske anliggender, indre marked, retlige og indre anliggender).

Eftersom der sandsynligvis vil gå lang tid fra afslutningen af forhandlingerne til den forventede tiltrædelsesdato for Bulgarien og Rumænien og på grund af det store antal forpligtelser, der endnu ikke er opfyldt, mener Kommissionen, at tiltrædelsestraktaten som en forsigtighedsforanstaltning bør indeholde en specifik beskyttelsesklousul. Denne beskyttelsesklousul er allerede vedtaget under forhandlingerne med Bulgarien og bør også gælde for Rumænien. Hermed vil Kommissionen til hver en tid inden tiltrædelsestraktatens ikrafttræden kunne henstille, at Rådet udskyder den planlagte dato for Bulgariens eller Rumæniens tiltrædelse med et år indtil januar 2008, hvis det står klart, at der er alvorlig risiko for, at Bulgarien eller Rumænien slet ikke vil være forberedt til at opfylde kravene til medlemskab inden den 1. januar 2007 inden for en række vigtige områder.

I tiden op til tiltrædelsen vil Unionen fortsat hjælpe Bulgarien og Rumænien med at forberede sig til medlemskab gennem **fortiltrædelsesstrategien**. Dette betyder omfattende finansiel bistand til begge lande, således at de kan indhente det, de mangler i fuldt ud at opfylde tiltrædelseskriterierne.

2.3. Efter optagelsen i Unionen

Processen med kraftig styrkelse af den administrative og retlige kapacitet vil skulle fortsætte, også efter at Bulgarien og Rumænien er blevet optaget i Unionen. Derfor foreslår Kommissionen, at der bliver oprettet en særlig overgangsfacilitet til institutionsopbygning. I den forbindelse vil der blive benyttet nogle af de EF-finansierede instrumenter, som har vist sig at være nyttige, for eksempel parvist samarbejde.

Bulgarien og Rumænien kan ifølge EU-traktaten ikke straks ved tiltrædelsen overtage euroen. Med hensyn til anvendelse af Schengen-bestemmelserne vil ophævelsen af kontrollen ved de indre grænser tilsvarende først finde sted et stykke tid efter tiltrædelsen og vil blive vedtaget for hver ny medlemsstat hver for sig, når de opfylder Schengen-bestemmelserne.

Bulgarien og Rumænien vil skulle ansøge om at blive optaget i Det Europæiske Økonomiske Samarbejdsområde (EØS), og deres tiltrædelse af EØS vil finde sted på samme tid som deres tiltrædelse af EU. Andre internationale aftaler vil skulle tilpasses som følge af udvidelsen, så snart tiltrædelsestraktaten er undertegnet.

2.4. Konklusioner

Det fremgår af dette års periodiske rapporter, at Bulgarien og Rumænien har gjort yderligere fremskridt med hensyn til at gennemføre Københavnskriterierne. Bulgarien og Rumænien opfylder de politiske kriterier. I betragtning af de fremskridt, der er gjort i begge lande, hvad de har nået med hensyn til at gennemføre deres forpligtelser, og under hensyntagen til deres igangværende forberedende arbejde forventer Kommissionen, at disse to lande vil have opfyldt de økonomiske og fællesskabsretlige kriterier og være klar til medlemskab inden 1. januar 2007.

Kommissionen vil gøre alt for at nå det mål, som Det Europæiske Råd har sat, om at bringe forhandlingerne med Bulgarien og Rumænien til en vellykket afslutning i 2004 på grundlag af deres egne resultater, således at tiltrædelsestraktaten kan underskrives så tidligt som mulig i 2005.

3. KROATIEN

3.1. Førtiltrædelsesstrategi

Det Europæiske Råd i Bruxelles i juni 2004 konkluderede, at Kroatien er et kandidatland, og at der vil blive indledt tiltrædelsesforhandlinger i begyndelsen af 2005, og Kommissionen blev anmodet om at udarbejde en førtiltrædelsesstrategi for Kroatien. Kommissionen mener, at den udbyggede førtiltrædelsesstrategi for kandidatlande, som blev besluttet af Det Europæiske Råd i Luxembourg i december 1997 bør udvides til at omfatte Kroatien. Elementerne i denne strategi er skitseret nedenfor.

Den procedure, der anvendes til at vurdere kandidatlandenes fremskridt mod medlemskab, vil blive sat i gang for Kroatiens vedkommende i 2005. Det betyder, at Kommissionen vil begynde at udarbejde periodiske rapporter om Kroatien fra efteråret 2005. I forbindelse med stabiliserings- og associeringsprocessen har Kommissionen allerede foreslået et europæisk partnerskab baseret på, hvad der fremgik af udtalelsen om Kroatiens ansøgning om medlemskab. Dette dokument vil være en vejledning for Kroatien i dens forberedelser til tiltrædelsen.

Kroatien bør som kandidatland nyde godt af alle tre finansielle førtiltrædelsesinstrumenter: Phare til institutionsopbygning og økonomisk og social samhørighed, ISPA til miljø og transport og SAPARD til udvikling af landdistrikter. Kommissionen vil foreslå ændringer til forordningerne for disse tre førtiltrædelsesinstrumenter, så de også kommer til at gælde for Kroatien fra 1. januar 2005. I betragtning af at det er nødvendigt, at Kroatien forbereder sig på passende måde til tiltrædelsen, anbefaler Kommissionen, at der afsættes 105 mio. EUR (80 mio. EUR til Phare og 25 mio. EUR til ISPA) til Kroatien i 2005 og 140 mio. EUR i 2006 (80 mio. EUR til Phare, 35 mio. EUR til ISPA og 25 mio. EUR til SAPARD). Disse beløb vil blive finansieret af førtiltrædelsesmidlerne, der er tilgængelige under udgiftsområde 7 i indeværende finansielle overslag. Kommissionen har foreslået Rådet, at der oprettes et nyt førtiltrædelsesinstrument (IPA), som Kroatien vil kunne modtage bistand fra fra 2007 og fremover, og som bygger på de nuværende førtiltrædelsesinstrumenter Phare, ISPA og SAPARD. Hvilke beløb der vil blive afsat til Kroatien fra 2007 og fremover, vil blive besluttet i forbindelse med det næste finansielle overslag.

Stabiliserings- og associeringsaftalen (SAA), der blev undertegnet med Kroatien i oktober 2001, er nu blevet ratificeret. For at kunne gennemføre de handelsrelaterede aspekter ved SAA trådte der en interimsaftale i kraft i marts 2002. Der vil blive oprettet et stabiliserings- og associeringsråd, et udvalg og underudvalg. Kommissionen foreslår, at strukturerne i SAA anvendes ikke blot til at dække emner, der vedrører gennemførelse af aftalen, men som også tjener som et forum, hvor gældende fællesskabsret kan forklares, og hvor det kan vurderes, hvilke fremskridt Kroatien gør med hensyn til tilpasning til gældende fællesskabsret hvad angår de forpligtelser, landet påtager sig under forhandlingerne.

Den rammeaftale, der giver Kroatien mulighed for at deltage i EF-programmer og –agenturer, bør træde i kraft i første halvdel af 2005 efter at være blevet ratificeret af EU-institutionerne og Kroatien. Kroatiens finansielle bidrag til det enkelte program kan delvis finansieres af Phare.

Ud over ovennævnte elementer til en styrket førtiltrædelsesstrategi mener Kommissionen, at der fortsat bør være en indgående politisk dialog med Kroatien, for at der kan blive taget fat om de områder, der er påpeget i udtalelsen. Der er tale om forbindelserne med Den Internationale Krigsforbrydertribunal for det tidligere Jugoslavien, mindretalsrettigheder, flygtninges tilbagevenden, reform af retsvæsenet, regionalt samarbejde og bekæmpelse af korruption. Kroatien må blandt andet arbejde videre med det regionale samarbejde inden for rammerne af stabiliserings- og associeringsprocessen for det vestlige Balkan. Kommissionen vil overvåge disse områder på nært hold under de regelmæssige møder med de kroatiske myndigheder og vil holde Rådet underrettet herom.

3.2. Forhandlingsramme

Det Europæiske Råd i Bruxelles i juni 2004 besluttede at ”Forud for forhandlingerne med Kroatien vil Rådet fastlægge en generel forhandlingsramme, der fuldt ud tager hensyn til erfaringerne fra den femte udvidelsesrunde”. Kommissionen foreslår, at denne ramme skal bygge på følgende principper:

- Forhandlingerne med Kroatien bør foregå efter de tiltrædelsesbetingelser, der blev fastlagt af Det Europæiske Råd i København i 1993. Disse betingelser er passende værktøjer til at måle, om et kandidatland er forberedt til at opfylde forpligtelserne ved medlemskab og udgør en klar vejledning i reformprocessen.

- Om der gøres fremskridt i forhandlingerne vil fuldstændigt afhænge af de politiske reformers bæredygtighed og Kroatiens opfyldelse af sine forpligtelser med hensyn til regionalt samarbejde med andre lande i det tidligere Jugoslavien og andre hertil knyttede internationale forpligtelser som for eksempel samarbejdet med ICTY.
- På linje med traktaten om Den Europæiske Union og forfatningen for Europa vil Kommissionen henstille, at forhandlingerne suspenderes i tilfælde af alvorlige og vedvarende brud på principperne om frihed, demokrati, respekt for menneskerettigheder og grundlæggende frihedsrettigheder samt retsstaten, som Unionen bygger på. Rådet bør kunne træffe afgørelse om en sådan henstilling ved kvalificeret flertal blandt medlemsstaterne.
- Forhandlingerne vil foregå efter princippet om egne resultater. Eventuelle overgangsordninger bør være begrænsede i anvendelsesområde og tid og bør ikke have en signifikant indvirkning på det indre markeds konkurrenceevne eller funktion.
- Umiddelbart efter den formelle indledning af tiltrædelsesforhandlingerne med Kroatien vil Kommissionen tilrettelægge en formel gennemgang af gældende fællesskabsret, kaldet screening, for at forklare den over for de kroatiske myndigheder og for at få en foreløbig antydning af, hvilke områder der mest sandsynligt vil komme op i forhandlingerne.
- Når et kapitel er blevet screenet, vil Kommissionen ud fra sin seneste udtalelse om Kroatien henstille, at der indledes forhandlinger herom, forudsat at Kroatien er tilstrækkeligt forberedt.
- Hvor hurtigt forhandlingerne går, vil afhænge af, hvordan Kroatien overtager og gennemfører gældende fællesskabsret, og hvor virkningsfuldt og effektivt den bliver håndhævet gennem de rette administrative og retlige strukturer.
- Inden der bliver indledt forhandlinger under et kapitel, vil Kommissionen foreslå Rådet benchmarks for den midlertidige lukning af hvert enkelt kapitel. Disse benchmarks kan vedrøre tilpasning af lovbestemmelser eller tilfredsstillende resultater med hensyn til gennemførelsen. Denne fremgangsmåde har blandt andet været vellykket inden for konkurrencekapitlet.
- Om der gøres fremskridt i forhandlingerne vil afhænge af, om Kroatien opfylder sine forpligtelser i henhold til stabiliserings- og associeringsaftalen, især dem, der afspejler kravene i gældende fællesskabsret for eksempel på konkurrenceområdet. Alle forpligtelser af den art skal være fuldstændig opfyldt, inden et kapitel kan lukkes midlertidigt.
- Kommissionen vil nøje overvåge Kroatiens fremskridt mod tiltrædelse ved hjælp af alle tilgængelige instrumenter.

4. KONKLUSIONER OG HENSTILLINGER

Kommissionens konklusioner og henstillinger er i lyset af ovenstående som følger:

- (1) Det fremgår af dette års periodiske rapporter, at Bulgarien og Rumænien har gjort yderligere fremskridt i det forløbne år med gennemførelsen af tiltrædelseskriterierne.

- (2) Bulgarien og Rumænien opfylder de politiske kriterier. I betragtning af de fremskridt, der er gjort i disse lande, hvad de har nået med hensyn til at gennemføre deres forpligtelser, og under hensyntagen til deres igangværende forberedende arbejde forventer Kommissionen, at disse to lande vil have opfyldt de økonomiske og fællesskabsretlige kriterier og være klar til medlemskab inden 1. januar 2007.

Kommissionen vil gøre alt for at nå det mål, som Det Europæiske Råd har sat, om at bringe forhandlingerne med Bulgarien og Rumænien til en vellykket afslutning i 2004 på grundlag af deres egne resultater, således at tiltrædelsestraktaten kan underskrives så tidligt som mulig i 2005.

- (3) I de periodiske rapporter peges der på en række områder, hvor der skal ske yderligere forbedringer i forbindelse med de politiske og de økonomiske kriterier og i forbindelse med overtagelse, gennemførelse og håndhævelse af gældende fællesskabsret. Der må fortsat arbejdes energisk på sådanne forbedringer, for at de konstaterede mangler kan afhjælpes inden tiltrædelsen. For at kunne analysere fremskridt og lette medlemskab af Den Europæiske Union vil Kommissionen føre et indgående tilsyn og regelmæssigt rapportere til Rådet derom. Kommissionen vil fra november 2005 hvert år udarbejde omfattende tilsynsrapporter til Rådet og Parlamentet. Kommissionen mener, at det er nødvendigt at indføre en specifik beskyttelsesklausul i tiltrædelsestraktaten, således at Kommissionen kan henstille, at Rådet udskyder den planlagte dato for Bulgariens eller Rumæniens tiltrædelse med et år indtil januar 2008, hvis det står klart, at der er alvorlig risiko for, at Bulgarien eller Rumænien slet ikke vil være forberedt til at opfylde kravene til medlemskab inden den 1. januar 2007 inden for en række vigtige områder.
- (4) Kommissionen henstiller, at den udbyggede førtiltrædelsesstrategi for kandidatlande, som blev besluttet af Det Europæiske Råd i Luxembourg i december 1997 udvides til at omfatte Kroatien, som skitseret ovenfor.
- (5) Kommissionen minder om, at Det Europæiske Råd har besluttet at indlede forhandlinger med Kroatien i begyndelsen af 2005, og foreslår, at forhandlingsrammen for Kroatien, der bygger på de i dette dokument skitserede principper, færdiggøres med henblik herpå.

ANNEX: CONCLUSIONS OF THE REGULAR REPORTS ON BULGARIA AND ROMANIA

Bulgaria

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

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

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

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

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

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

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

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

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

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

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

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

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

As regards *company law*, particular attention should be paid to the effective enforcement of industrial and intellectual property rights, in particular through strengthening border controls and improving co-ordination between the law enforcement bodies. In the area of *competition*,

Bulgarian has further updated its legislative framework and further strengthened its administrative capacity. Sustained efforts are required in order to continue to improve the quality of its State aid enforcement.

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

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

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

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

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

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

Concerning *regional policy and co-ordination of structural instruments*, Bulgaria has made progress notably with regard to establishing the legal framework and designating institutional structures. However, considerable efforts are still needed to improve the administrative capacity in key Ministries and improving the capacity of other relevant bodies, such as the intermediate bodies, and other relevant players both at central and regional level. Priority must also be given to the setting up of efficient and integrated monitoring and evaluation systems as well as to further improving the financial management and control systems. Attention must be paid to observance of an ambitious planning schedule for the National Development Plan and to the full involvement of relevant partner organisations in this process.

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

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

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

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

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

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

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

Bearing in mind the progress achieved since the Opinion, the level of alignment and administrative capacity that Bulgaria has achieved at this point in time and its track record in implementing the commitments that it has made in the negotiations, and taking into account their preparatory work in progress, the Commission expects Bulgaria to assume the

obligations of membership in accordance with the envisaged timeframe. In the period leading up to accession, Bulgaria needs to continue its preparations, in line with the commitments it has made in the accession negotiations.

Romania

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

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

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

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

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

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

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

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

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

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

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

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

In the area of *internal market*, Romania has continued to make progress with the transposition of legislation in the field of the *free movement of goods*. However, transposition of the public procurement legislation must be completed. In addition, practices which put Romania's commitment to open and transparent procurement procedures into question should be discontinued. Legislation has been further aligned in the area of *free movement of persons*, in particular as regards mutual recognition of professional qualifications and free movement of workers. Alignment needs to be completed as regards citizens' rights and administrative and

training capacities should be enhanced in general. In particular in the field of financial services, Romania achieved substantial progress in *freedom to provide services*. Romania should continue to pay attention to the removal of identified barriers against the right of establishment and the freedom to provide services and to the development of the insurance and financial securities markets. While alignment with the *acquis* on *free movement of capital* has further improved, outstanding restrictions to capital movements and payments should be removed and the enforcement record of the National Office for the Prevention and Control of Money Laundering needs to be improved.

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

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

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

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

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

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

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

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

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

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

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

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