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**Comprehensive monitoring report
on the state of preparedness for EU membership of
Bulgaria and Romania**

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1. INTRODUCTION

The accession negotiations with Bulgaria and Romania were concluded in December 2004 and a Treaty of Accession was signed in April 2005 with a view to welcoming both countries as members as from January 2007. This Treaty is currently being ratified.

The accession of Bulgaria and Romania will complete the fifth enlargement of the EU which started in May 2004 with the accession of ten new Member States mostly from central Europe. It will bring these countries which had been artificially separated from Europe in recent history back into the European family and will benefit all Member States in the enlarged EU by further extending peace, democracy and prosperity throughout Europe.

In its Strategy Paper and Reports published in October 2004, the Commission noted the progress made by both countries in their preparations for accession. The Commission also identified a number of areas where further improvements needed to be made in order to fully meet all membership requirements and facilitate successful membership. The Commission decided to enhance its monitoring of the countries' preparations.

The European Council of December 2004 concluded that Romania and Bulgaria will be able to assume all the obligations of membership at the envisaged time of accession provided they continue their efforts and complete the necessary reforms in all *acquis* areas, with specific attention for the area of Justice and home affairs and for Romania also Competition policy and Environment. The EU would continue to closely monitor preparations. The European Council recalled that safeguard clauses will provide for measures to address serious problems that may arise before accession or in the three years after accession, in particular in the above-mentioned areas.

In presenting this Report the Commission fulfils the commitment made in its 2004 Strategy Paper and responds to a request expressed by the European Council in December 2004 to continue to submit annual reports on Bulgaria and Romania's progress towards accession, together with recommendations if appropriate.

The Commission also wishes to contribute to helping Bulgaria and Romania in their further preparations so as to ensure a successful accession. Based on individual country reports, the conclusions of which are annexed, this Report assesses the countries' preparedness for membership, identifies remaining gaps and presents steps to be taken for dealing with these gaps. It reflects the situation at the end of September 2005.

2. COMPREHENSIVE MONITORING REPORTS

2.1. Method

Bulgaria's and Romania's progress towards accession has been continuously monitored by the Commission over a number of years. This year's reports evaluate Bulgaria and Romania's state of preparedness for accession in 2007 on the basis of the political and economic criteria for membership and of the requirement to adopt and implement the EU

legal order known as the '*acquis communautaire*', as laid down by the European Council in 1993 in Copenhagen.

As regards the political and economic membership requirements, the reports examine the extent to which progress has been made in the areas highlighted in the conclusions of last year's reports as requiring further improvements. They indicate the issues requiring further efforts and give an overall assessment of whether the countries fulfil these criteria.

As regards the adoption and implementation of the *acquis*, the reference framework for this year's monitoring is the Treaty of Accession which contains rights and obligations of the future Member States and concrete commitments on their adoption and implementation of the entire *acquis*. The basic commitment, and a central Treaty obligation, is to apply all the EU rules and legislation from the first day of membership, with the exception of those areas where transitional arrangements have been agreed in the negotiations. As in previous reports, the *acquis* has been divided into the 29 chapters used for the purpose of the negotiations. The analysis is further broken down into specific areas of *acquis* (around 140 in total), within which possible problematic issues are identified.

As a rule, only legislation actually adopted and measures actually implemented are taken into account. Issues requiring further efforts as well as delays in preparations are signalled. In the conclusion of each chapter, its areas are grouped in three categories.

The *first category* embraces those areas where *a country is ready* or where preparations are ongoing and which should be resolved by accession if the current pace of preparations is maintained. The *second category* includes remaining areas *requiring increased efforts* and faster progress in order to be resolved by the time of accession. The *third category* addresses areas *of serious concern*. Such areas contain important issues where immediate and decisive action needs to be taken for the country to be ready by the date of accession.

The reports are based on information provided by the governments of Bulgaria and Romania, by the international (financial) institutions and by several national and international NGOs. The Commission compared this information with its own findings and insights gathered through the Commission's delegations, field visits, peer reviews, and discussions with Bulgarian and Romanian counterparts.

2.2. Summary of the findings

2.2.1. Political criteria

The Commission concluded last year that both countries fulfilled the political criteria. This assessment remains valid.

In 2004 the Commission suggested a number of areas for each country where further improvements could still be made. The 2005 reports show that progress has been made in some of these areas, such as freedom of expression in both countries, the fight against petty corruption in Bulgaria, and the reform of the justice system, the integration of minorities, child protection and property restitution in Romania.

However, further improvements are still needed in a number of areas. These concern, for both countries, the public administration reform, the functioning of the justice system, the prosecution of high-level corruption, the fight against trafficking in human beings, ill-treatment in custody, the mental healthcare system and the integration of the Roma minority.

The existence of efficient public administrations and justice systems, and the fight against corruption are essential for the effective implementation of the *acquis*. Both countries need to vigorously pursue their current efforts in these areas. They still need to reinforce their public administrations at all levels, including regional and local levels, in terms of improving their accountability, reliability, coordination among and within institutions, staffing and financial resources. The reforms aimed at modernising both countries' justice systems should continue, so as to ensure the effective enforcement of the *acquis*. This concerns in particular the pre-trial phase and the need to improve the accountability of the justice system in Bulgaria. In Romania, justice reform is broadly on track but implementation will need to continue in strict accordance with the deadlines laid down in the action plan.

In both countries corruption is still a problem which affects confidence in the public administration and the judiciary, thereby also affecting the proper implementation of the *acquis*. The fight against corruption should therefore continue to be high priority. The countries' authorities should not spare efforts to enforce anti-corruption legislation, to investigate and prosecute high-level corruption cases, and to take preventive measures. The Commission will also pay particular attention in the coming years to protecting EU funds from being diverted from their rightful beneficiaries as a result of fraud and corruption.

2.2.2. *Economic criteria*

The Commission concluded last year that both countries complied with the criterion of being a functioning market economy. As regards compliance with the criterion of being able to cope with competitive pressure and market forces within the Union, it concluded that, for Bulgaria, 'the continuation of its current reform path' and that, for Romania, 'vigorous implementation of its structural reform programme' should allow them to do so. This assessment remains valid.

Both countries continued to show relatively favourable economic developments. Real GDP growth, 5.6% for Bulgaria and 8.3% for Romania, was strong in 2004 and this trend broadly continued in the first half of 2005. Inflation remained fairly low in Bulgaria and fell further in Romania. Employment has also started to rise, leading to slight reductions in unemployment rates in both the countries. Financial intermediation deepened further, driven by the strong growth in domestic lending in both countries. Despite being uneven across the various areas, structural reforms continued in both countries, thereby strengthening the medium-term competitiveness of their economies.

In 2004 the Commission suggested a number of areas where further improvements could particularly still be made. The 2005 reports show that considerable progress has been made in several of these areas, such as privatisation of state-owned enterprises or the

liberalisation of telecommunications in Bulgaria, and the restructuring of key sectors and the improvement of financial discipline in Romania.

However, in a number of areas progress has clearly been less pronounced. In particular, in Bulgaria the current account deficit has further widened and labour market reforms have been very limited. In Romania, the expansionary policy mix has widened macroeconomic imbalances. Privatisation has continued but at a slower pace than envisaged in the Government's programme. These issues call for continued attention.

2.2.3. *Legislative and administrative preparations*

Last year the Commission expected both countries to fulfil the *acquis* criteria and to be ready for membership by January 2007, bearing in mind the progress achieved, the track record in implementing their commitments, and taking into account their preparatory work in progress. This Report shows that both countries have, since then, made further progress in adopting and implementing the *acquis*.

However, developments have been insufficient in a number of areas. Overall, it is important that the *acquis* is not only adopted, but also implemented on the ground. Both countries need to step up their efforts to complete preparations and in particular to develop a sufficient administrative and judicial capacity to implement and enforce the *acquis*.

Progress made in adopting and implementing the *acquis*

In most areas of the *acquis*, preparations for membership are quite well advanced in **both countries**. Relatively few problems still exist in the *acquis* chapters relating to capital movements, company law, transport, energy, statistics, economic and monetary union, industrial policy, small and medium-sized enterprises, science and research, education and training, external relations, common foreign and security policy and EU budgetary provisions. In addition, in **Bulgaria**, competition rules and the *acquis* on culture and audiovisual policy are well respected. In the case of **Romania**, the situation is encouraging in relation to most areas concerning the free movement of persons, telecommunications and consumer protection. In all these chapters, if the current pace of progress is maintained, Bulgaria and Romania should be able to integrate smoothly into the EU.

Issues requiring increased efforts

Bulgaria and Romania have thus reached a considerable degree of alignment with the *acquis* by the cut-off date of 30 September 2005, which is 15 months away from the envisaged date of accession. Nevertheless, at this stage the Commission has also identified a number of areas where increased efforts are required.

In **both countries** the fight against money laundering must be given more attention. In the area of *agriculture*, Bulgaria and Romania need to speed up preparations for their integration into the Common Market Organisations and for putting in place the mechanisms for external trade. Both countries must give greater priority to the completion of preparations in *fisheries*. The horizontal *environmental* legislation is not yet completed in either country and increased efforts are needed. In the *social policy*

field, both acceding countries must step up efforts in the areas of labour law and social dialogue and must improve public health, social inclusion and conditions in care institutions and to combat discrimination. Increased efforts are required in both Bulgaria and Romania to prepare for the implementation of the *Structural and Cohesion Funds*, including timely accreditation for Extended Decentralisation (EDIS) in the context of the pre-accession funds. The legislative framework is not yet complete and work on preparing the pipeline, with adequate co-financing mechanisms, needs to continue. In the field of *justice and home affairs*, Bulgaria and Romania must accelerate preparations to apply EU visa and anti-drugs policies and the judicial cooperation mechanisms between Member States. Important weaknesses still exist in the area of *financial control*, which may affect the countries' ability to implement EU-funded programmes in a sound and efficient way.

In addition, in **Bulgaria**, particular efforts will still be required in the field of public procurement; financial services; minimum training requirements and mutual recognition rules for a number of professions; freedom to provide non-financial services; and the principle of mutual recognition of product specifications, although in general much has been done as regards the *internal market acquis*. Increased efforts are needed to ensure adherence to the national restructuring programme for the steel *industry*, in particular the commitment not to grant restructuring aid to the steel sector after 2005. Among the other sectoral policies, Bulgaria needs to accelerate efforts in relation to *transport* by air and over sea and in relation to *energy* and *telecommunications* market liberalisation. In the area of *social policy*, increased efforts are needed as regards anti-discrimination policy. In relation to *taxation*, Bulgaria needs to accelerate alignment with both indirect and direct taxation rules and to rapidly complete the setting up of implementing structures. Shortcomings still exist in Bulgaria in the *environmental policy* fields of integrated pollution prevention and control, implementation of waste management legislation and nuclear safety, and in relation to all aspects of the *consumer protection acquis*. In Bulgaria, the implementation of the *acquis* on *asylum* needs to be speeded up. In the field of *customs*, efforts will be required to ensure the computerisation and interconnectivity with EU customs IT systems.

Romania has also achieved a good level of alignment in many areas related to the *internal market*, but increased efforts are needed in the field of industrial product requirements, the freedom to establish companies, and the protection of personal data. Although good progress has been made in state aid control, efforts are still needed to attain a satisfactory enforcement record. Romania needs to increase efforts in the *audiovisual* sector and in relation to the implementation of the *customs union acquis*. The *fight against organised crime* must be stepped up in Romania.

Corrective action is at this moment feasible and expected in all these areas, but both countries are warned that greater efforts are required to solve them in time for accession. If such efforts are not undertaken as expected, there is a real risk of delays in transposing and applying the *acquis* by accession. For example, there is a serious risk that Bulgaria and Romania will not have the enforcement capacity to implement rules on the protection of personal data unless efforts are speeded up. Also, Romania must reduce the proportion of motor vehicles which are uninsured against third party liability with a view to joining and implementing the 'green card' Multilateral Guarantee Agreement before accession.. If such cases are not resolved in time, they would be subject to remedial action by the Union as described in Point 3.2 below.

Areas of serious concern

The Commission has identified a number of gaps in the preparation for membership which are of serious concern and where, unless immediate and decisive action is taken, the country in question will not be in a position to implement the *acquis* or to benefit from EU funds by accession in 2007.

Both countries suffer from high levels of piracy and counterfeiting. Enforcement must be strengthened, especially border control and the effective prosecution of *intellectual property violations*.

Bulgaria and Romania must reinforce efforts to set up the necessary institutions and administrative capacity to apply direct support schemes for farmers, to realise market-related expenditure and to disburse rural development funds in the context of the Common Agricultural Policy. There are serious concerns that the *paying agencies* and the *integrated administration and control system* will not be fully functional by accession. Unless this situation is remedied, new Member States run the risk that their farmers will not have access to payments under the Common Agriculture Policy.

The adoption and implementation of the necessary veterinary legislation is urgently required in both countries. Problems in this area compromise the integration of both countries' animal sector into the internal market because if they are unresolved they would undermine the veterinary system and the safety of the food chain in the EU. Insufficient progress has been made to date notably in organising the *identification and registration of animals* and *checks on third country imports* within the framework of the overall veterinary control system. The implementation of the *acquis* in respect of *transmissible spongiform encephalopathies (TSEs)* such as BSE is a cause of serious concern for both countries. *Animal disease control* is flawed in Bulgaria and Romania as serious diseases appear to be endemic. Measures may be needed to protect the rest of the EU from disease. In both countries, the current pace of upgrading their *agri-food establishments* will not permit all of them to meet the obligations agreed in the accession negotiations. In the interest of public health, specific measures will be taken to deal with non-compliant producers, for example by imposing restrictions on the production and marketing of their products.

Bulgaria and Romania do not possess sufficient border infrastructure and lack sufficient numbers of well-trained staff to ensure full compliance with *EU external border* requirements and procedures. Specific restrictive measures may need to be imposed to prevent the internal security of the EU from being compromised.

Corruption remains a serious problem in both Bulgaria and Romania. If it remains at current levels, *corruption* threatens the internal market, the proper functioning of EU policies and EU-funded programmes. Urgent and forceful action is needed to demonstrate the ability of Bulgaria and Romania to combat corruption effectively and to set in motion an irreversible decline in the levels of corruption. The unambiguous enforcement of the rule of law is a precondition for any country aspiring to EU membership.

Both Bulgaria and Romania face substantial difficulties with regard to the administrative capacity of the *institutional framework* and in ensuring adequate *financial management*

and control for the implementation of EU-funded *Structural Funds* programmes and *Cohesion Fund* measures. If the required bodies are not in place or if their administrative capacity remains weak, Bulgaria and Romania will not be in a position to absorb all funding allocated to them.

In addition, serious concerns remain regarding the enforcement by **Bulgaria** of the rules on *motor vehicle insurance*, with high levels of vehicles uninsured against third party liability. If Bulgaria does not join and implement the ‘green card’ Multilateral Guarantee Agreement border controls may need to be maintained for compulsory insurance against third party liability after accession. In the field of agriculture, Bulgaria is insufficiently advanced in setting up the *milk market organisation*, which will impede EU market interventions in that sector if not remedied in time. In the field of veterinary control, the capacity to treat *animal waste* is insufficient in Bulgaria. Bulgaria has also not transposed the *acquis* on *trade in live animals and animal products* and the enforcement of *animal welfare* rules at farm level, during transport and at slaughter is deficient. In the field of justice and home affairs, in addition to the problems mentioned above, Bulgaria has failed to curb *organised crime*. Here too, the rule of law must be made to prevail.

In addition, **Romania** has not completed alignment with EU *public procurement* rules, and the implementation and enforcement of these are seriously flawed. If not corrected, this would create unfair conditions for operators from other Member States and affect Romania’s ability to implement EU-funded programmes in a sound way. Disbursement of EU funds, notably under the Structural and Cohesion Funds, may not be possible as long as this situation persists. There are serious delays in Romania in *computerisation and interconnectivity* with EU tax IT systems. Unless immediate and sustained efforts are made, appropriate remedial measures will be required to safeguard the smooth operation of EU taxation systems. In the environmental field, Romania does not have sufficient administrative capacity to complete the issuing of permits to industrial operators in compliance with the EU rules on *integrated pollution prevention and control* and to ensure rules are enforced. This would have adverse cross-border environmental effects and would create unfair operating conditions for industries. Remedial measures might need to be imposed as long as this situation persists.

Translation of the acquis

The two countries must also ensure the *acquis* is translated into Bulgarian and Romanian respectively. Of the nearly 90 000 pages of *acquis*, Bulgaria has already translated more than 95%. However, around 60% of these have still to be revised by the national authorities before they can be submitted to the EU institutions. Romania has translated almost 60% but more than 50% of this volume still has to be revised.

The translation and revision capacity in both countries has not yet reached the necessary throughput level of some 6 000 pages per month, largely due to difficulties with recruiting and retaining staff. The Bulgarian and Romanian governments have been urged to give this matter the necessary attention.

3. NEXT STEPS

3.1. Actions to be taken by Bulgaria and Romania

It is the responsibility of the authorities of both countries to take all necessary corrective measures to address the shortcomings identified in this Report, so as to ensure that they will be fully prepared for membership in 2007. All energy and efforts should now be geared towards that goal.

This will involve, at all government levels, precise activity planning, setting priorities, adopting measures and ensuring an adequate allocation of the necessary financial and human resources. Both countries will need to pay attention to reinforcing their administrative and judicial capacity in order to adequately implement and enforce the required legislation. Vigorous steps will need to be taken in the fight against corruption and in the reforms of the justice system and the public administration in order to ensure the proper functioning of the rule of law.

3.2. Monitoring and safeguards

In view of the shortcomings that still need to be addressed, the Commission will continue its intensive monitoring of the countries' preparations, focusing on the findings of this Report. Monitoring will be aimed at guiding Bulgaria and Romania in completing their preparations for membership, and at keeping the Council and the Parliament duly informed of the progress made by both countries. It will also serve as a basis for deciding on any measures that may be required to prevent or to remedy possible problems that could affect the functioning of the EU if the countries were insufficiently prepared.

The Commission will continue its various monitoring activities until accession. It intends to make full use of all available instruments, such as warning letters, peer reviews, monitoring missions carried out by the Commission services and the structures of the association agreements.

Immediately after the adoption of this Report, the Commission will send substantiated **warning letters** at a political level to the Bulgarian and Romanian authorities, drawing their attention to the main shortcomings identified and inviting them to undertake the necessary remedial action.

The Commission will then launch a series of **peer reviews** covering the most problematic issues identified in this Report. These reviews, carried out by Member States' and Commission experts, will aim to assist both countries and assess real progress on the ground in the various areas concerned. The Commission intends to have these reviews completed before spring 2006. In March/April 2006 the Commission will then organise **high level meetings** with each country focusing on the outstanding issues.

The results of these follow-up meetings and all information gathered until then will feed into a **monitoring report** which the Commission intends to present to the Council and Parliament in April/May 2006. On the basis and in the context of this report, the Commission may recommend that the Council postpone the accession of one or both countries until 1 January 2008, if the conditions for such a postponement set out in the Treaty of Accession are met. In accordance with the Treaty, the Council may decide to

postpone the accession of one or both countries by one year if there is a serious risk of any of those states being manifestly unprepared to meet the requirements of membership by January 2007 in a number of important areas or, in the case of Romania, if specific requirements in the areas of competition policy and justice and home affairs are not met.¹ The Commission expects Bulgaria and Romania to take all necessary corrective action until then so as to avoid having to issue such a recommendation.

In the event of a Commission recommendation to postpone accession, the Council would have to decide on postponing the accession of any of the two countries until 1 January 2008. Immediately thereafter, the Commission would propose to the Council the necessary **adjustments to the Treaty of Accession**, in particular regarding the institutional and budgetary provisions. The budgetary adjustments would have to fit within the process for deciding on the EU budget for 2007.

Independently of whether a postponement decision has been taken or not, in autumn 2006 the Commission will present a second series of **comprehensive monitoring reports** on Bulgaria and Romania's preparedness for membership to the Council and Parliament. For accession in 2007, these reports will serve as a basis to decide on any possible remedial measure to be taken by the Commission in its role as guardian of the Treaties. Such measures include safeguards, infringement proceedings or financial management measures. The Commission will not hesitate to take them when required.

Failure to implement parts of the *acquis* after accession would affect not only the citizens and companies of the country concerned, but also of other Member States. Therefore, the Commission may, in certain cases, need to take measures to prevent or remedy such negative cross-border effects. The basis for such action is found in a number of specific provisions of the Treaty of Accession. These include **three safeguard clauses** which allow measures to be taken by the Commission until three years after accession¹:

- a general economic safeguard to remedy serious and persisting difficulties in one or other economic sector in present or new Member States;
- an internal market safeguard to prevent or deal with serious breaches by Bulgaria or Romania of the functioning of the internal market. They relate to the four freedoms, but also to competition, energy, transport, environment, telecommunication, agriculture and consumer and health protection (e.g. food safety) insofar as they have cross-border effects. Safeguard measures may result in temporarily excluding the new Member State or its citizens and companies from the benefits of membership in specific areas in order to protect the integrity of the internal market and prevent damage to others;
- a justice and home affairs safeguard to deal with serious shortcomings in the field of cooperation in civil and criminal matters, in particular to temporarily suspend related rights and obligations under the EU *acquis*.

¹ The precise details of the postponement clause and of the safeguard clauses can be found in Articles 36-39 of the Protocol and Act of Accession, as published in OJ L 157, 21.6.2005.

In addition to these three safeguards, **specific safeguards** existing in the *acquis* (e.g. to prevent the sale of unsafe food) and other procedures (notably **infringements** and decisions on **competition matters**) will become applicable as from accession in order to deal with shortcomings in Bulgaria and Romania.

Shortcomings may also automatically incur penalties, such as when the Commission is not able to disburse **EU funds**. The Commission, in its capacity to execute the budget, will not release funds from the EU budget if, for example, a new Member State does not offer the necessary guarantees on proper spending of EU funds as required under the Common Agricultural Policy or under the Structural Funds.

Although the safeguard or management measures which are taken must be proportional to the extent of the problem and must be designed to cause the least disruption, in most cases their inevitable effect will be temporarily to deny the new Member States and their citizens the full benefits of membership. It is therefore in the interest of all parties to do their utmost to avoid such a situation by tackling the remaining gaps quickly and effectively.

3.3. EU support measures

The EU is providing a substantial financial assistance to both countries in order to help them prepare for membership. In 2006 approximately EUR 1 155 million will be reserved for Romania and approximately EUR 545 million for Bulgaria.

The Commission intends to support both countries in their efforts by focusing this assistance on measures to tackle the remaining gaps. Depending on the nature of the problem, EU support could take the form of peer assistance, training seminars, advice missions, twinning (light) projects or similar instruments, which can be mobilised quickly and can be focused on well-targeted issues. Equally, a number of existing EU programmes (such as Customs 2007, Fiscalis, and other programmes) can be used to address gaps in both countries.

Such specific support measures may help to improve or accelerate alignment and implementation of the *acquis*. The Commission will actively pursue this task. Much will depend, however, on the capacity of both countries to absorb and make good use of the EU funds. Further efforts to improve the management and control capacity are needed in particular to ensure the move to Extended Decentralisation (EDIS) in 2006.

4. CONCLUSIONS

In the light of the above, the Commission's conclusions and recommendations are the following:

- The Commission confirms its earlier assessment that Bulgaria and Romania meet the political criteria for membership. Nevertheless, further efforts are needed in particular to strengthen the rule of law, by improving public administration and the justice system and by fighting corruption effectively. As regards the economic criteria, Bulgaria and Romania fulfil the requirement of being a functioning market economy. Bulgaria's continuation of the current pace of its reform path and Romania's vigorous

implementation of its structural reform programme should enable them to withstand competitive pressure and market forces within the Union.

- Both Bulgaria and Romania have continued to make progress in adopting and implementing EU legislation and have reached a considerable degree of alignment 15 months before their envisaged accession on 1 January 2007. At this stage the Commission has also identified a number of areas where increased efforts are required. The authorities in both countries should vigorously pursue their preparations in order to ensure the full benefit of membership for their citizens and economic operators. They need in particular to step up their efforts to develop a sufficient administrative and judicial capacity to implement and enforce the *acquis*. The Commission will continue to monitor progress intensively up to accession. Particular attention should be paid to actual implementation and enforcement of the legislation.
- There are a limited number of specific gaps in both countries' preparations which give cause for serious concern. Without immediate action Bulgaria and Romania will most likely not be able to fulfil their obligations in those specific areas by 1 January 2007. Bulgaria and Romania hold the key to their accession on time; even more than in the past years, they need to take firm and decisive steps to tackle these issues.
- The main remaining problems will be followed up in warning letters. On-site peer reviews and specific consultations will be held to ascertain the steps taken by Bulgaria and Romania; where needed, the Union will rapidly mobilise targeted assistance. The results of this follow-up will feed into a monitoring report which the Commission intends to present to the Council and Parliament in April/May 2006. At that moment, the Commission may recommend that the Council postpone the accession of Bulgaria or Romania until 1 January 2008 if there is a serious risk of any of those states being manifestly unprepared to meet the requirements of membership by January 2007 in a number of important areas. The Commission expects Bulgaria and Romania to take all necessary corrective actions until then so as to avoid having to issue such a recommendation.

5. ANNEX: CONCLUSIONS OF THE COMPREHENSIVE MONITORING REPORTS ON BULGARIA AND ROMANIA

Bulgaria

Bulgaria, as in previous years, continues to fulfil the **political criteria** for membership. Overall, it has reached a satisfactory level of compliance with EU requirements. Nevertheless, further action is needed in a number of important areas which were highlighted in the 2004 Report as requiring further efforts.

As regards public administration reform, Bulgaria still needs to complete the legislative framework guaranteeing the principles of legality, accountability, reliability and predictability in the workings of the public administration. Also, further efforts are needed to strengthen local and regional administration in the context of decentralisation. The White Paper on the Modernisation of the Administration adopted by the Government in April 2004 now needs to be put into practice.

Important legislative steps have been taken in relation to the judiciary. However, progress in the reform of the pre-trial phase remains limited and the justice system continues to suffer from a lack of accountability. The procedures for administering justice remain cumbersome and slow.

The main problem in combating corruption effectively remains the weak results in the investigation and prosecution of high-level corruption cases. While efforts to combat corruption have had a certain impact, notably in relation to petty corruption, generally the perception remains that corruption continues to be a cause for concern.

In the area of human rights and the protection of minorities, more effort needs to be made to combat efficiently the trafficking of human beings and to improve conditions in a number of state institutions for children and people with disabilities. Further progress is needed in the process of de-institutionalisation and in improving the management of the mental health care system. Sustained efforts are required to realise the effective integration of the Roma minority. The Framework Programme for Equal Integration of Roma into the Bulgarian Society should be implemented as planned.

As regards the **economic criteria** for accession, Bulgaria continues to be a functioning market economy. The continuation of the current pace of its reform path should enable Bulgaria to cope with competitive pressure and market forces within the Union. Bulgaria has broadly maintained macroeconomic stability, even if external deficits have further risen. It continued implementing its structural reform programme, albeit not equally vigorously in all fields.

Progress has been made in most areas where improvements were suggested in last year's report, but a number of challenges remain. After narrowing in 2004, the trade and current account deficit widened considerably again in the first half of 2005. Further measures have been taken to curb bank credit growth, but the continuation of prudent fiscal policy and moderate wage increases remains critical to containing potential risks for the external balance and the situation needs to be closely monitored. Further reforms are needed to improve the business environment, and in particular the functioning of the administrative and judicial system. The streamlining of business registration has started but remains to be completed. While already well advanced, the momentum in completing the privatisation programme should be maintained. Little progress has been made in improving labour market flexibility, which, together with a comprehensive reform of the education system, would be crucial for dealing with skills mismatches and improving the adaptability of the Bulgarian economy.

Bulgaria has reached a **considerable level of alignment with the *acquis*** in most policy areas. Efforts to strengthen overall administrative capacity should continue with a view to properly implementing the adopted legislation.

It is expected to be in a position to implement the *acquis* as required in the following areas by the envisaged date of accession: horizontal and procedural measures and new and old approach sectoral legislation in the *free movement of goods* chapter; the free movement of workers, the coordination of social security systems and citizens' rights as regards *free movement of persons*; capital movements and payment systems in the field of *free movement of capital*; company law, accounting and the Regulation replacing the Brussels Convention and the Rome Convention in the *company law* chapter; *competition*

policy. In relation to the agriculture chapter, by the envisaged date of accession Bulgaria is expected to be in a position to implement the *acquis* as in the areas of quality policy, organic farming, the Farm Accounting Data Network, state aid, rural development, zootechnics, animal nutrition and the phytosanitary sector as well as in relation to international fisheries agreements and state aid in the *fisheries* chapter.

By the envisaged date of accession Bulgaria is also expected to be in a position to implement the *acquis* in the areas of trans-European networks, inland waterways, road transport and rail transport in the field of *transport policy*; VAT in the area of *taxation*; the chapters on *economic and monetary union* as well as *statistics*; with regard to equal treatment of women and men, health and safety at work, social protection and employment policy in the area of *social policy and employment*; with regard to security of supply measures, energy efficiency and renewable energy and nuclear energy in the area of *energy*; industrial strategy in the area of *industrial policy*; the chapters on *small and medium-sized enterprises, science and research, education and training and culture and audio-visual policy*; territorial organisation in the area of *regional policy*; nature protection and air quality in the field of the *environment*; the areas of migration, the fight against terrorism, customs cooperation and human rights legal instruments in the *justice and home affairs* chapter; *customs union* legislation, *external relations* and *common foreign and security policy*; the areas of public internal financial control and external audit in the field of *financial control*; and with regard to *financial and budgetary provisions*.

Secondly, Bulgaria needs to make **increased efforts** in certain areas in order to complete its preparations for accession.

This includes the non-harmonised area and public procurement in the chapter of *free movement of goods*; mutual recognition of professional qualifications in the field of *free movement of persons*; the right of establishment, the areas of banking, investment services and securities markets, information society regulations and protection of personal data in the chapter on *freedom to provide services*; money laundering in the area of the *free movement of capital*; most common market organisations and the external trade mechanisms in the field of *agriculture*, as well as common measures in the veterinary field; fleet management, inspection and control, structural actions and market policy in relation to *fisheries policy*.

This also includes the fields of: air transport and maritime transport in *transport policy*; excise duties, direct taxation, administrative cooperation and mutual assistance in the field of *taxation*; the areas of labour law, social dialogue, public health, the European Social Fund (except the operational programme for strengthening the institutional capacity and the efficiency of public administration, for which a serious concern exists), anti-discrimination and social inclusion in the chapter on *social policy and employment*; competitiveness and the internal energy market in the area of *energy*; privatisation and restructuring measures in the area of *industrial policy*, and in particular of the steel industry; *telecommunications and information technologies*; the legislative framework and the areas of programming and monitoring and evaluation in the field of *regional policy*; horizontal legislation, and the areas of water quality, industrial pollution and risk management, chemicals and GMOs, nuclear safety and radiation protection and waste management with regard to the *environment*; the chapter on *consumers and health protection*; visa policy, the area of asylum, judicial cooperation in civil and criminal

matters, the fight against drugs and money laundering, and data protection in the field of *justice and home affairs*; administrative and operational capacities to apply the *customs union* rules; and the control over structural action expenditure and the protection of the EU financial interests in the *financial control* chapter.

Thirdly, Bulgaria must take immediate and decisive action to address issues of **serious concern** if it is to be ready by the envisaged date of accession.

This covers the protection of intellectual and industrial property rights in the *company law* field and motor vehicle insurance in the *services* chapter. It concerns the paying agency and the integrated administration and control system as well as the common market organisation on milk, transmissible spongiforme encephalopathies (TSEs) and animal by-products (in particular the construction of a second rendering plant and the introduction of a feed ban), the veterinary control system (identification and registration of animals, the establishment of border inspection posts) and animal diseases control, the trade in live animals and animal products, veterinary public health and animal welfare in the chapter on *agriculture*; institutional structures and financial management and control in the area of *regional policy*, including in relation to the above-mentioned operational programme under the European Social Fund. Finally, urgent action is required in the field of *justice and home affairs*, in particular as regards preparations for applying the Schengen *acquis* and for the management of the future EU external border as well as police cooperation and the fight against organised crime and fraud and corruption, if Bulgaria is to be ready for membership by the envisaged date.

Romania

Romania, as in previous years, continues to fulfil the **political criteria** for membership. Overall, it has reached a satisfactory level of compliance with EU requirements. In addition, Romania has taken significant steps to address some of the issues within the political criteria which were highlighted in the 2004 report as requiring further improvements, such as the reform and independence of the judiciary, ensuring greater media freedom, new legislation on property restitution, an overall improvement of the situation of minorities and child protection.

However, further efforts are still needed to continue to reform the public administration, in particular the further professionalisation of the civil service and the adequate staffing and funding of the administrations required to apply and enforce EU rules. Reforms in the justice system are broadly on track but should be effectively implemented in accordance with the timetable in the adopted strategy and action plan.

The fight against corruption should receive high priority. Efforts should focus on the effective enforcement of anti-corruption legislation and on preventive measures, fighting high-level corruption and corruption within law enforcement bodies.

In the area of human rights and the protection of minorities further efforts are needed to combat ill-treatment in custody, strengthen the administrative capacity of the national office for preventing trafficking in human beings, continue efforts to improve the situation of disabled and mentally ill people, raise awareness on new legislation on children's rights, and ensure the effective integration of the Roma minority in particular as regards access to housing, social services and the labour market.

In terms of the **economic criteria**, Romania continues to comply with the criterion of being a functioning market economy. Vigorously implementing its structural reform programme should enable it to cope with competitive pressure and market forces within the Union. Romania has broadly maintained macroeconomic stability, even if the policy mix turned less prudent and raised concerns about the sustainability of recent stabilisation achievements. It continued implementing its structural reform programme, although not vigorously in all fields.

As regards the areas where last year's report emphasised the need for further improvements, some progress – although uneven – has been made on the majority of these issues. However, disinflation has slowed down, external imbalances have widened and growth was increasingly unbalanced due to buoyant household consumption and slowing export growth. The pro-cyclical effect of the tax reform and slippage in the public sector wage policy are responsible for this and are not in line with last year's call for a prudent policy mix. Priority should be given to re-establishing a prudent fiscal policy, notably by implementing additional measures to permanently strengthen the revenue base, and by a cautious public sector wage policy within the framework of a clear medium-term expenditure strategy aimed at strengthening the economy's growth potential and preparing for EU accession. Continuation of the privatisation programme, active dismantling of non-viable enterprises, further improvement in enforcing financial discipline and substantial progress in the functioning of the judiciary are required to establish a positive business environment and free the economy from mis-allocated resources.

Romania has reached a **considerable level of alignment with the *acquis*** in most policy areas. Efforts to strengthen overall administrative capacity should continue with a view to properly implementing the adopted legislation.

It is expected to be in a position to implement the *acquis* by the envisaged date of accession as required in the following areas: in the non-harmonised area as well as new approach sectoral legislation in the *free movement of goods* chapter; mutual recognition of professional qualifications, free movement of workers and coordination of social security systems as regards *free movement of persons*; the banking sector, investment services and securities market, and information-society regulations in the field of *freedom to provide services*; capital movement and payments as well as payment systems as regards *free movement of capital*; company law, accounting, auditing and the Regulation replacing the Brussels Convention and the Rome Convention in the *company law* chapter; the anti-trust area in the *competition policy* chapter; in a limited number of issues of the *agriculture*; in relation to international fisheries agreements and state aid in the *fisheries* chapter; in the *transport* sector; legislative alignment on VAT, excise duties and direct taxation in the field of *taxation*; *the economic and monetary union*; *statistics*; equal treatment of women and men, health and safety at work, employment policy, social protection and anti-discrimination policy in the field of *social policy and employment*; *energy*; industrial strategy in the field of *industrial policy*; *small and medium-sized enterprises*; *science and research*; *education and training*; *telecommunication and information technologies*; culture in the area of *culture and audiovisual policy*; territorial organisations and programming as regards *regional policy and coordination of structural instruments*; air quality, nature protection, chemicals and genetically modified organisms, noise, nuclear safety and radiation protection in the *environment* chapter; *consumer and health protection*; the areas of migration, asylum, the fight against terrorism, customs

cooperation and human rights legal instruments in the field of *justice and home affairs*; *customs union* legislation; *external relations*; *common foreign and security policy* and *financial and budgetary provisions*.

Secondly, Romania needs to make **increased efforts** in certain areas in order to complete its preparations for accession.

This includes horizontal and procedural measures and old approach sectoral legislation on the *free movement of goods*; citizens' rights in the field of *free movement of persons*; the area of *freedom to provide services* as regards the right of establishment and the freedom to provide non-financial services and (motor vehicle) insurance and personal data protection; anti-money laundering in the area of *free movement of capital*; *competition policy* as regards in particular the enforcement of state aid rules. In the *agriculture* area, it concerns quality policy, external trade mechanisms and Common Market Organisations; animal welfare, the trade in live animals and animal products, zootechnics and animal nutrition; resource and fleet management, inspection and control, structural actions and market policy in relation to *fisheries* policy.

This also includes the fields of labour law, social dialogue, public health, the European Social Fund (though serious concerns exist in relation to the institutional structures needed for implementation – see below under *regional policy and the coordination of structural instruments*), and social inclusion as regards *social policy and employment*; privatisation and restructuring in *industrial policy*; completion of alignment of the audiovisual legislation in the field of *culture and audio-visual policy*; the legislative framework, and monitoring and evaluation as regards *regional policy and co-ordination of structural instruments*; horizontal legislation, waste management, water quality in *environment*; visa policy, data protection, police co-operation and the fight against organised crime, judicial cooperation in civil and criminal matters as well as the fight against drugs and money laundering in the field of *justice and home affairs*; administrative and operational capacities to apply the *customs union* rules; and *financial control*.

Thirdly, Romania must take immediate and decisive action to address issues of **serious concern** if it is to be ready by the envisaged date of accession.

This covers the field of public procurement in *free movement of goods* as well as the protection of intellectual and industrial property rights in *company law*. A significant number of issues still remain to be addressed in the field of *agriculture*, in particular regarding Romania's preparations to set up its paying agencies and implement the integrated administration and control system. Furthermore, this concerns in the area of veterinary issues, measures relating to transmissible spongiform encephalopathies (TSEs) and animal by-products (in particular the collection system of cadavers, the absence of rendering plants, the introduction of the feed ban) but also the veterinary control system in the internal market (identification and registration of animals, the establishment of border inspection posts), animal disease control measures and veterinary public health. Other issues of serious concern are the administrative capacity in the *taxation* area, notably the slow pace of achieving IT system interoperability; the urgent need to strengthen institutional structures and financial management and control mechanisms to deal with *regional policy and coordination of structural instruments* as well as industrial pollution and overall administrative capacity in the field of *environment*. Finally, urgent

action is required in the field of *justice and home affairs*, in particular as regards preparations for applying the Schengen *acquis* and for the management of the future EU external border, as well as the fight against fraud and corruption, if Romania is to be ready for membership by the envisaged date.