

COUNCIL DECISION**of 28 January 2002****on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with Romania**

(2002/92/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 622/98 of 16 March 1998 on assistance to the applicant States in the framework of the pre-accession strategy, and in particular on the establishment of Accession Partnerships ⁽¹⁾, and in particular to Article 2 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Luxembourg European Council stated that the Accession Partnership is a new instrument and the key feature of the enhanced pre-accession strategy.
- (2) Regulation (EC) No 622/98 sets out that the Council is to decide, by a qualified majority and following a proposal from the Commission, on the principles, priorities, intermediate objectives and conditions contained in the individual Accession Partnerships, as they are submitted to each applicant State, as well as on subsequent significant adjustments applicable to them.
- (3) Community assistance is conditional on the fulfilment of essential elements, and in particular on the respect of the commitments contained in the Europe Agreements and on progress towards fulfilment of the Copenhagen criteria; where an essential element is lacking, the Council, acting by a qualified majority on a proposal from the Commission, may take appropriate steps with regard to any pre-accession assistance.
- (4) The Luxembourg European Council decided that the implementation of the Accession Partnership and progress in adopting the *acquis* will be examined in the Europe Agreement bodies.
- (5) The 2001 Commission's regular report presents an objective analysis on Romania's preparations for membership and identifies a number of priority areas for further work.

(6) In order to prepare for membership, Romania should continue to update its national programme for the adoption of the *acquis*. This programme should set out a timetable for achieving the priorities and intermediate objectives established in the Accession Partnership.

(7) Romania needs to ensure that the appropriate legal and administrative structures needed for the programming, coordination, management, control and evaluation of Community pre-accession funds are in place,

HAS DECIDED AS FOLLOWS:

Article 1

In accordance with Article 2 of Regulation (EC) No 622/98, the principles, priorities, intermediate objectives and conditions in the Accession Partnership for Romania are set out in the Annex hereto, which forms an integral part of this Decision.

Article 2

The implementation of the Accession Partnership shall be examined in the Europe Agreement bodies and by the appropriate Council bodies to which the Commission shall report regularly.

Article 3

This Decision shall take effect on the third day following its publication in the *Official Journal of the European Communities*.

Done at Brussels, 28 January 2002.

For the Council
The President
 J. PIQUÉ I CAMPS

⁽¹⁾ OJ L 85, 20.3.1998, p. 1.

ANNEX

1. Introduction

At its meeting in Luxembourg in December 1997, the European Council decided that the Accession Partnership would be the key feature of the enhanced pre-accession strategy, mobilising all forms of assistance to the candidate countries within a single framework. In this manner, the Community targets its assistance towards the specific needs of each candidate so as to provide support for overcoming particular problems with a view to accession.

The first Accession Partnership for Romania was decided in March 1998. As provided for in Regulation (EC) No 622/98 (Article 2), the Accession Partnership was updated a first time in December 1999, taking into account further developments in Romania. The present revision is based on a proposal by the Commission following consultation with Romania, and draws on the analysis of the Commission's 2001 regular report on progress made by Romania towards accession.

2. Objectives

The purpose of the Accession Partnership is to set out in a single framework the priority areas for further work identified in the Commission's 2001 regular reports on the progress made by Romania towards membership of the Union, the financial means available to help Romania implement these priorities and the conditions which will apply to that assistance. The Accession Partnership provides the basis for a number of policy instruments which will be used to help the candidate States in their preparations for membership. These include *inter alia*, the updated national programme for the adoption of the *acquis* prepared by Romania, the pre-accession fiscal surveillance procedure, the pre-accession economic programme, the pre-accession pact on organised crime as well as the national development plans, the rural development plans, a national employment strategy in line with the European employment strategy, and sectoral plans necessary for the participation in the Structural Funds after membership and for the implementation of ISPA and Sapard before accession. Each of these instruments is different in nature and is prepared and implemented according to specific procedures and may be supported by pre-accession aid. They are not an integral part of this Partnership but the priorities they contain will be compatible with it.

3. Principles

The main priority areas identified for each candidate State relate to their ability to take on the obligations of meeting the Copenhagen criteria which state that membership requires:

- that the candidate State has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities,
- the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union,
- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

At its meeting in Madrid in 1995, the European Council stressed the need for the candidate States to adjust their administrative structures to ensure harmonious operation of Community policies after accession and at Luxembourg, in 1997, it stressed that incorporation of the *acquis* into legislation is necessary, but not in itself sufficient; it is necessary to ensure that it is actually applied. The Feira and Gothenburg European Councils in 2000 and 2001 respectively confirmed the vital importance of the applicant countries' capacity to implement and enforce the *acquis*, and added that this required important efforts by the applicants in strengthening and reforming their administrative and judicial structures.

4. Priorities and intermediate objectives

The Commission's regular reports have highlighted, besides the progress already made, the extent of the efforts which still have to be made in certain areas by candidate States to prepare for accession. This situation requires the definition of intermediate stages in terms of priorities, each to be accompanied by precise objectives to be set in collaboration with the States concerned, the achievement of which will condition the degree of assistance granted and the progress of the negotiations under way with Romania. The priorities listed in the revised Accession

Partnership have been selected on the basis that it is realistic to expect that Romania can complete or take them substantially forward over the next two years (2002 to 2003). Within this list, issues that require particularly urgent action have been highlighted as such. The progress made in meeting the priorities of the 1999 Accession Partnership is assessed in the 2001 regular report. This assessment has been used in formulating the priorities for the current Partnership.

Romania submitted an updated version of its national programme for the adoption of the *acquis* (NPAA) on 29 June 2001. The NPAA sets out a timetable for achieving priorities and intermediate objectives, based on the 1999 Accession Partnership, as well as necessary administrative structures and financial resources.

The Accession Partnership indicates the priority areas for Romania's membership preparations. Romania will nevertheless have to address all issues identified in the 2001 regular report. It is also important that Romania fulfils the commitments of legislative approximation and the implementation of the *acquis* in accordance with the commitments made under the Europe Agreement, and in the context of the negotiation process. It should be recalled that incorporation of the *acquis* into legislation is not in itself sufficient; it will also be necessary to ensure that it is actually applied to the same standards as those which apply within the Union. In all of the areas listed below there is a need for credible and effective implementation and enforcement of the *acquis*.

Drawing on the analysis of the Commission's regular report, the following priorities and intermediate objectives have been identified for Romania. These priorities are presented in accordance with the structure of the regular report ⁽¹⁾.

Political criteria

Democracy and the rule of law

- develop the policy framework set by the 1999 law on civil servants by introducing and implementing necessary secondary legislation,
- adopt and implement a comprehensive public administration reform package. Issues addressed should include (i) devising mechanisms to ensure the independence from undue influences and the accountability of civil servants, (ii) improved provisions for both initial and in-service training, and (iii) a career structure based on transparent promotion and assessment,
- intensify the fight against corruption in a comprehensive way, in particular by (i) clarifying the competencies of all bodies involved in anti-corruption activities, ensuring improved coordination between these bodies, and strengthening their implementation capacities, (ii) ratifying relevant international conventions against corruption, and (iii) introducing the notion of liability of legal persons into Romanian criminal law. Ensure effective immediate action with impact on public opinion and transparent administrative decisions,
- enhance policy formulation by (i) improving policy coordination and consultation procedures between ministries, (ii) consulting stakeholders — in particular the social partners and representatives from civil society, and (iii) screening all draft legislation for its budgetary implications as well as compatibility with the Europe Agreement, the *acquis communautaire*, and international obligations,
- reduce the reliance on ordinances, and emergency ordinances, as a legislative tool,
- provide adequate resources to the local levels of government to allow resources to match responsibilities,
- guarantee the independence of the judiciary. Improve its functioning by introducing objective criteria for recruitment and career development for judges and prosecutors, and ensuring appropriate initial and in-service training of judges, prosecutors and law clerks through continued support to the National Institute for the Magistracy and the Training Centre for Law Clerks. Widen the availability of legal aid,
- improve the enforcement of civil decisions,

⁽¹⁾ The order of presentation is that used as from the 2000 regular report.

- develop an effective probation system and limit the use of pre-trial detention,
- continue police reform by (i) adopting the draft laws on police organisation and the statute of police officers, (ii) redefining the police force as civil servants albeit with special status and (iii) bringing police officers under the jurisdiction of civilian courts,
- revise those sections of the Penal Code dealing with verbal outrage and offence against authorities in order to ensure that they do not inhibit legitimate freedom of expression.

Human rights and the protection of minorities

- complete the reform of the childcare system in accordance with the national strategy on the protection of children in need. The reform should (i) include adequate budgetary support for all children in care, (ii) address the particular problems of children with chronic diseases and handicaps, (iii) address the particular problems of young adults leaving institutions, and (iv) work towards closure of the existing special schools through the development of an inclusive education system,
- maintain the moratorium on international adoption in place until new legislation compatible with the best interests of the child and Romania's international obligations is adopted and the administrative capacity to implement the new legislation is ensured,
- provide adequate financial support and administrative capacity in order to implement the Government strategy on the improvement of the situation of Roma at national, regional and local levels with particular attention to fighting discrimination (including within the public administration) and ensure equal access to mainstream education, housing and social services,
- ensure that an efficient system for examining complaints of police misconduct is established and functions properly; access by Roma to this system should be ensured,
- provide adequate financial support and administrative capacity in order to adopt and implement the national strategy on the improvement of the situation of persons with handicaps,
- establish and ensure the due functioning of institutions to prevent and combat all forms of discrimination.

Economic criteria

- establish macroeconomic stability, in particular through the implementation of structural reforms, with a view to ensuring medium-term sustainability of public finances,
- promote competitiveness through market-driven enterprise restructuring including: (i) continuing and intensifying the privatisation process with a view to completing the Government's programme, (ii) taking measures to stimulate domestic and foreign investment, (iii) simplification of legal and administrative procedures, (iv) implementing new bankruptcy procedures, and (v) stabilising and increasing the transparency of the rules governing privatisation and business operation to ensure correct privatisation procedures,
- deal in particular with the outstanding arrears between companies (between public companies, but also between private and public companies),
- implement a plan for restructuring the steel sector in line with Community requirements and implement viability plans in the steel enterprises,
- implement a restructuring plan for the national air carrier aimed at reducing financial losses,
- speed up the creation of a functioning land market by developing a policy for agricultural land consolidation, completing the issuance of land titles and strengthening property rights,
- develop a policy framework for rural credit and rural financial infrastructure compatible with IFI and Community financial support,
- create an SME-friendly economic and legal environment, and in particular continue simplification of registration and licensing procedures.

Ability to assume the obligations of membership

Free movement of goods

- continue implementation of 'New approach' directives on the basis of framework legislation, and reinforce related administrative capacity (conformity assessment bodies). Bring Romanian legislation on pharmaceuticals, chemicals, cosmetics, textiles, footwear, legal metrology and motor vehicles into line with the *acquis*, and pursue alignment of the remaining traditional technical legislation. Pursue adoption of EN standards. Establish a market surveillance system, and prepare administration and food operators to Community principles of food safety,
- ensure an appropriate implementation of the new legislation on public procurement,
- proceed with screening of legislation in the non-harmonised area to ensure that it is in compliance with Articles 28, 29 and 30 of the Treaty and complete administrative arrangements for the future monitoring in this area.

Free movement for persons

- pursue alignment of mutual recognition of professional qualifications and diplomas and introduce required administrative structures, education and training programmes,
- take preparatory measures to develop the administrative structures for the coordination of social security systems.

Freedom to provide services

- pursue alignment of legislation on securities markets,
- reinforce the supervision of financial services.

Free movement of capital

- ensure compliance with the recommendations of the financial action task force,
- complete alignment of legislation with the second Directive against money laundering.

Company law

- strengthen administrative capacity of enforcement bodies of intellectual and industrial property rights and increase efforts to fight against piracy and counterfeiting. Improve cooperation among enforcement bodies notably the police, customs and the judiciary. Strengthen administrative capacity at the border and ensuring proper enforcement of border legislation. Intensify training for enforcement bodies including judges and prosecutors,
- complete the process of alignment to the *acquis*, in particular through the adoption of necessary secondary legislation.

Competition

- complete the legislative framework in both State aid and anti-trust. Strengthen the administrative capacity of the competition authorities; ensure enforcement of the rules in anti-trust and State aid including the alignment of incompatible aid schemes. Complete the State aid inventory and prepare the annual reports. Increase awareness of the rules among all market participants and aid granters; intensify the training of the judiciary in the competition field.

Agriculture

- organise and carry out a general agricultural census,
- prepare the administrative structures needed for the design, implementation, management, monitoring, control and evaluation of Community-funded rural development programmes,

- reinforce administrative structures in order to improve capacities for policy formulation and economic analysis,
- prepare for the implementation and enforcement of the management mechanisms of the common agricultural policy, in particular the integrated administration and control system including an animal identification and registration system and a land parcels identification system, as well as for the implementation and enforcement of veterinary and phytosanitary and food safety legislation,
- continue the establishment of a vineyard register and control systems in the wine sector,
- continue alignment of veterinary and phytosanitary legislation and upgrade inspection arrangements, in particular at future external borders,
- complete transposition of legislation on transmissible spongiform encephalopathies, plant passports, maximum residue levels, animal nutrition and ensure implementation and enforcement, including testing of animal diseases, in particular transmissible spongiform encephalopathies, in accordance with the *acquis*,
- strengthen the administrative capacity to implement the food safety strategy.

Fisheries

- complete the establishment of adequate organisation, adequate institutional resources and equipment relating to inspection and controls at central and regional levels. Complete the fishing register in full compliance with Community requirements. Develop a reliable system of fisheries statistics.

Transport policy

- reinforce administrative capacity in road transport and continue legal alignment (in particular phase out discriminatory practices in road transport taxation/charging) and begin the implementation of an action plan to retrofit Romanian haulage vehicles with speed limitation devices and recording equipment,
- ensure due implementation of the maritime safety *acquis*, taking into account its latest developments, and strengthen the administrative capacity in order to improve the flag State performance of the Romanian fleet,
- restructure and modernise the Romanian Danube fleet to increase its competitiveness and to prepare it to comply with Community technical requirements,
- transpose and implement the revised railways *acquis*.

Taxation

- ensure legislative alignment with particular attention to VAT exemptions, refund conditions, taxable scope and zero-rating as well as excise duties levels, structure and exemptions,
- ensure that existing and future legislation complies with the principles of the Code of Conduct for Business Taxation,
- strengthen administrative capacity and control procedures including administrative cooperation and mutual assistance. Particular attention should be given to revenue collection, setting up of a taxpayer register, and refunding of VAT; draw up a tax administration strategy; establish a code of ethics and measures to apply such a code; assess the human resource requirements of the tax system and design and implement a training system covering both initial and in-service training,
- develop IT systems so as to allow for the exchange of electronic data with the Community and its Member States,
- implement the Holding and Movements Directives.

Statistics

- carry out a population census,
- further improve quality and coverage of statistics by ensuring that adequate resources are made available to further strengthen statistical capacities, including at regional level.

Social policy and employment

- define and implement a national policy for employment that is in line with European employment guidelines, including preparations for participation in European Social Fund-type activities,
- develop capacity of the national Agency for Employment to implement active measures and employment programmes and strengthen the employment services at local level notably by improving cooperation between local services in the field of employment and social assistance,
- complete reform of the social assistance system, including financial decentralisation of the institutions involved,
- continue alignment and ensure proper implementation of Community legislation in the fields of labour law, equal treatment for women and men and health and safety at work, notably through the adoption of the new Labour Code. Strengthen the related administrative and enforcement structures, including the labour inspectorates. Adopt secondary legislation against discrimination and develop a timetable for its implementation,
- transpose and implement legislation on public health and develop a national system for surveillance and control of communicable diseases and a health monitoring information system,
- adopt necessary legislation to strengthen employees' and employers' organisations and support social partners' capacity-building efforts, notably in autonomous bipartite social dialogue, in particular with a view to their future role in the elaboration and implementation of EU employment and social policy, including the European Social Fund,
- strengthen the capacity to manage health sector reform in a comprehensive manner by improving strategic planning for human and financial resources to make efficient use of public funds while ensuring equal access to health care,
- prepare a national strategy, including data collection, with a view to future participation in the European strategy on social inclusion.

Energy

- develop and implement an energy strategy in line with Union energy policy objectives. In addition to the main energy sources, the strategy should also focus on improved energy efficiency, in particular in the sector of heating, and the use of renewable energy,
- advance the alignment process in the internal energy market (electricity and gas) through establishment of an independent electricity transmission system operator (electricity), elimination of remaining energy price distortions and preparation for continuing the progressive opening of the market, and ensuring independent and efficient regulatory mechanisms,
- establish strict and transparent financial discipline between all the actors of the energy market in Romania, in order to phase in a programme of cost recovery and reduction of arrears,
- develop and start implementing a programme to align to the oil stocks *acquis*,
- implement the recommendations contained in the Council report on nuclear safety in the context of enlargement with due regard for the priorities assigned in the report,
- continue to ensure a high level of nuclear safety at the Cernavoda nuclear power plant,
- focus on strengthening the resources and capacities of the national regulatory authority for nuclear energy.

Industrial policy

- review policy framework and legislation to improve the access of enterprises (particularly SMEs) to investment finance,
- implement a market-oriented competitiveness strategy including sectoral restructuring programmes.

Telecommunications and information technologies

- transpose the *acquis* on telecommunications and postal services,
- prepare for the full liberalisation of the telecommunications market by creating a national regulatory authority.

Culture and audiovisual policy

- align legislation and strengthen the capacities of the independent television/radio regulatory authority.

Regional policy and coordination of structural instruments

- develop a national policy for economic and social cohesion and, in this context, regularly update and improve the national development plan,
- set up the required monitoring and evaluation system, in particular for *ex ante* and *ex post* evaluation and for the collection of the relevant statistical information and indicators,
- strengthen the institutional and administrative capacity of the bodies in charge of programming and managing funds for economic and social cohesion, in line with the Structural Funds approach; in particular define the managing and paying authorities; establish a clear division of responsibilities at national and regional level and improve the administrative capacity in terms of recruitment, career profiles and training. Ensure interministerial cooperation.
- prepare to comply with basic financial management and control provisions as laid down by the respective regulations of the Structural Funds.

Environment

- complete transposition and start enforcement of the *acquis* in the sectors of horizontal legislation (environmental impact assessment), waste management, water quality, industrial pollution control and risk management (integrated pollution prevention and control, large combustion plants, control of major accident hazards involving dangerous substances),
- draw up directive-specific implementation plans, including financing plans, with particular attention to waste management (including a waste management strategy at national and regional level), water quality and industrial pollution control and risk management (integrated pollution prevention and control, control of major accident hazards involving dangerous substances),
- strengthen the administrative capacity at the national level to improve capacities for policy preparation and economic analysis. Particular attention needs to be paid to the enforcement capacity of the Environmental Protection Inspectorates at local level,
- integrate environmental protection requirements into the definition and implementation of all other sectoral policies with a view to promoting sustainable development.

Consumers and health protection

- continue alignment of legislation, strengthen market surveillance and enforcement authorities, and in particular ensure effective implementation of the five-year strategy for the National Authority for Consumer Protection.

Cooperation in the field of Justice and Home Affairs

- improve border management by (i) developing an integrated border management strategy, (ii) implementing legislation for the law on the state frontier and the law on the organisation and functioning of the border police, (iii) ending the use of conscripts in the border police, and (iv) aligning legislation and practice in the field of countering illegal migration and trafficking in human beings, especially women and children,
- develop and present a Schengen action plan,
- continue progressive alignment of visa legislation and practice,
- draw up and start implementing an integrated strategy for the fight against corruption and organised crime and improve the coordination between law enforcement bodies from prevention to prosecution,
- develop and implement a national drugs strategy and establish a national focal point for contacts with the European Monitoring Centre on Drugs and Drug Addiction,
- continue alignment on the relevant *acquis* in the field of money laundering; ratify and implement the 1981 Council of Europe Convention and strengthen the administrative capacity of the National Office for Preventing and Fighting Money Laundering Operations,
- take the necessary steps in order to ensure the implementation of Community instruments in the area of judicial cooperation in civil matters,
- take the necessary steps to align the legislation with the Convention on the Protection of the Communities' Financial Interests and its Protocols.

Customs union

- continue efforts to implement the customs ethics policy. Implement measures to reduce waiting times at the border, to fight cross-border movement of pirated and counterfeit goods and to fight economic crime and organised crime,
- reinforce administrative and operational capacity in the field of customs enforcement through inter-service cooperation. Human resource requirements should be assessed and centralised training developed,
- accelerate the implementation of the IT strategy of the Romanian customs administration; develop IT systems to permit the exchange of computerised data between the Community and Romania.

Financial control

- prepare a policy paper for public internal financial control, followed by legislation, rules and procedures in line with internationally accepted standards, covering, in an integrated manner (i) the financial management and control responsibilities of the manager of the budget spending centre (managerial accountability); (ii) the *ex ante* controls performed by the Ministry of Finance delegate preventive financial control systems, and (iii) the internal audit function, including its functional independence,
- define and quantify the organisational, human resource and investment needs to establish internal financial control and internal audit in line with the policy paper, in key budget spending centres; draw up and implement plans for institution building and human resource development in the field of internal financial control and internal audit.
- strengthen the institutional capacities of the Court of Accounts as necessary for the introduction of modern auditing procedures in line with international standards and best practice,
- strengthen the fight against fraud, particularly as regards protection of Community financial interests,
- designate a central contact point for the protection of Community financial interests and start effective cooperation with OLAF through this contact point,
- step up efforts to ensure the correct use, control, monitoring and evaluation of Community pre-accession funds as a key indicator of Romania's ability to implement the financial control *acquis*.

5. Programming

For the period 2000 to 2006, in addition to PHARE, financial assistance to Romania comprises support for pre-accession measures for agriculture and rural development through the pre-accession instrument Sapard (Council Regulation (EC) No 1268/1999, OJ L 161, 26.6.1999, p. 87); and support for infrastructure projects in the fields of environment and transport through the structural instrument ISPA (Council Regulation (EC) No 1267/1999, OJ L 161, 26.6.1999, p. 73), which gives priority to measures similar to the cohesion fund in the pre-accession period. Under these national allocations, Romania can also fund part of its participation in community programmes including the research and technological development framework programmes and programmes in the areas of education and enterprise. In addition Romania will have access to funding from multi country and horizontal programmes directly related to the *acquis*. Joint financing by the applicant States is systematically required for all investment projects. Since 1998 the Commission has worked with the European Investment Bank and the International Financial Institutions, in particular the European Bank for Reconstruction and Development and the World Bank, with a view to facilitating the co-financing of projects relating to pre-accession priorities.

6. Conditionality

Community assistance for financing projects through the three pre-accession instruments PHARE, ISPA and Sapard is conditional on respect by Romania of its commitments under the Europe Agreement, further steps towards satisfying the Copenhagen criteria and in particular progress in meeting the specific priorities of this revised Accession Partnership. Failure to respect these general conditions could lead to a decision by the Council on the suspension of financial assistance on the basis of Article 4 of Regulation (EC) No 622/98.

7. Monitoring

The implementation of the Accession Partnership is monitored in the framework of the Europe Agreement. As underlined by the European Council in Luxembourg, it is important that the institutions of the Europe Agreement continue to be the framework within which the adoption and implementation of the *acquis* can be examined. The relevant sections of the Accession Partnership are discussed in the appropriate subcommittee. The Association Committee discusses overall developments, progress and problems in meeting the Partnership's priorities and intermediate objectives as well as more specific issues referred to it from the subcommittees.

The PHARE Management Committee ensures that actions financed under all three pre-accession instruments, PHARE, ISPA, and Sapard, are compatible with each other as well as with the Accession Partnerships as laid down in the Coordinating Regulation (Council Regulation (EC) No 1266/1999, OJ L 161, 26.6.1999, p. 68).

The Accession Partnership will continue to be amended as necessary in accordance with Article 2 of Regulation (EC) No 622/98.
