Accession of Bulgaria

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PURPOSE : to present the monitoring report on the state of preparedness for EU membership of Bulgaria and Romania in 2007.

CONTENT : this monitoring report follows up on the findings of the October 2005 report on the state of preparedness of the accession of Bulgaria and Romania to the Union (please refer to **INI/2005/2204** and **INI/2005/2205**). It is based on the detailed assessment contained in the accompanying Monitoring Reports for each country (**SEC(2006)0595** for Bulgaria and **SEC(2006)0596** for Romania in procedure reference **INI/2006/2115**).

More specifically, in this report, the Commission:

– reviews, as of end April 2006, developments and the preparedness of both countries in areas previously identified as in need of further improvement;

– examines measures required to remedy any shortcomings that might persist upon accession;

– draws conclusions on the state of preparedness for EU membership of Bulgaria and Romania.

Conditional accession in 2007 : Bulgaria and Romania have continued to make progress in their preparations for membership. In many areas the countries are generally meeting their commitments or are on track to fulfil the *acquis* requirements. However, a number of outstanding issues still need to be addressed. Some of these require increased efforts, and in a few cases immediate action is needed.

In the light of the overall progress made by Bulgaria and Romania assessed in the accompanying Monitoring Reports and summarised in this communication, the Commission considers that Bulgaria and Romania should be prepared for membership by 1 January 2007, provided that they address a number of outstanding issues. An **impartial, independent and effective justice system properly equipped to fight corruption and organised crime is of paramount importance**, as it underpins the functioning of the whole society and economy. In this regard:

- Bulgaria needs to demonstrate clear evidence of results in the fight against corruption, in particular high-level corruption, notably in terms of investigations and subsequent judicial proceedings. It needs to further reform the judiciary, in particular to reinforce its transparency, efficiency and impartiality, and remove any ambiguity regarding its independence;

- Romania needs to continue its efforts and demonstrate further results in the fight against corruption, notably in terms of further investigations and subsequent judicial proceedings. It also needs to consolidate the implementation of the ongoing judicial reforms, and further enhance the transparency, efficiency and impartiality of the judiciary.

Other more specific demands are made of these two countries :

1. Bulgaria needs to demonstrate clearer evidence of results in the following areas:
   - investigating and prosecuting organised crime networks;
   - implement more effectively and efficiently laws for the fight against fraud and corruption;
   - intensify the enforcement of anti-money laundering provisions;
   - set up a proper integrated administration and control system (IACS) in agriculture;
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build up the necessary rendering collection and treatment facilities in line with the *acquis* on TSE and animal by-products;
- strengthen financial control for the future use of structural and cohesion funds.

2. In addition, Romania needs to:
   - accredit paying agencies for handling common agriculture policy expenditure;
   - set up a proper integrated administration and control system in agriculture;
   - build up the necessary rendering collection and treatment facilities in line with the *acquis* on TSE and animal by-products;
   - ensure that the tax administration IT systems are ready for inter-operability with those of the rest of the Union, to enable a correct collection of VAT throughout the EU internal market.

Safeguards and other measures : it is the responsibility of the authorities of both countries to take all the necessary measures to address the outstanding issues identified in this Report, so as to be able to carry out their obligations under the *acquis* upon accession. This concerns mainly the areas giving rise to serious concern, but also areas identified in this report as requiring increased efforts.

Failure to do so would lead the Commission to take the necessary preventive or remedial action to safeguard the functioning of EU policies. This part sets out the safeguards and other measures which could be imposed in the event of certain shortcomings not having been adequately addressed upon accession. These are outlined in three broad areas:

1. **Internal market :** a certain number of safeguard clauses are provided in this area in the event that Bulgaria or Romania are not able to abide by all its obligations upon accession. The Accession Treaty safeguard can be taken up to three years after accession. Other instruments, such as the infringement procedure, and the enforcement mechanisms for competition rules, may also be applied. This section covers both the four freedoms, and the EU policies on competition, energy, transport, environment, telecommunication, taxation, agriculture and consumer and health protection insofar as they have cross-border effects. Regarding transmissible spongiform encephalopathies, if no progress is made in rendering collection and treatment facilities to be fit, the Commission will take a decision on the basis of the *acquis* in order to prevent the related animal products awaiting treatment from returning into the feed chain. The EU framework for VAT and excise duties foresees computerised systems interconnected within the EC data systems. Romania's preparations need to be accelerated to ensure that its IT systems are fully operational and ready for interconnection upon accession.
2. **Justice, freedom and security :** this remains principal problem area. The Accession Treaty provides for safeguard measures for up to three years from accession, in the event that Bulgaria or Romania is not able to abide by its obligations pertaining to judicial co-operation. If implementation of reforms in the justice system is not sufficiently advanced in either country before accession, or if the fight against corruption in the judiciary has not yielded sufficient tangible results, the Commission will establish on the basis of Article 38 of the Act of Accession a mechanism for further monitoring in this area. The mechanism would be in place for up to three years and would require a yearly report to the Commission on progress in implementing reforms in the judiciary and in related law enforcement bodies, and on anti-corruption measures affecting them. The decision establishing the mechanism would contain benchmarks tailored to the specific shortcomings observed in each country, and against which progress will be measured. The Commission would report yearly on the results of the mechanism to the European Parliament and Council. Should either country fail to address shortcomings adequately, the Commission would adopt safeguard measures suspending obligations of the current Member States to automatically recognise judgements or execute warrants issued by that country's courts or prosecutors.
3. **Disbursement of EU funds :** a Member State needs to offer the necessary guarantees on proper spending of EU funds under shared management, i.e. the Common Agricultural Policy and the Structural and Cohesion Funds. Any shortcoming in this respect may delay the disbursement of funds or give rise to subsequent claims by the Commission for financial corrections or recovery. In

the area of agriculture, accredited paying agencies as well as a proper integrated administration and control system (IACS) are necessary for handling direct payments to farmers and operators. In Romania, the paying agencies are not fully operational and accredited. A proper IACS is not set up in Bulgaria and Romania. If this is not remedied, in addition to the existing mechanisms, the Commission may take measures based on Article 37 of the Act of Accession to withhold payments to Bulgaria or Romania. Implementation of EU structural actions requires effective programming and monitoring structures, as well as financial management and control systems, including for procurement. Bulgaria's preparations for the control over structural funds expenditure need improvement. If these are not remedied, this would delay the release of payments by the Commission.

Conclusions and subsequent steps : the Commission is firmly committed to ensuring that both countries successfully complete their final preparations for accession. To that end, it has closely monitored the progress made by Bulgaria and Romania and has provided targeted support to help them in their reform efforts. Although both countries can be commended on their achievements, the Commission makes clear that, if shortcomings persist upon accession, it will take the necessary action in its role as guardian of the treaties and propose safeguard measures as mentioned above.

Itwill report on Bulgaria's and Romania's progress in addressing the outstanding issues no later than **early October 2006**. On this basis, the **Commission will consider whether the date of their accession to the European Union on 1 January 2007 can be maintained**.

To conclude, the Commission recalls that the Accession Treaty provides that Bulgaria and Romania will join in 2007 unless the Council decides, upon a recommendation from the Commission, to postpone the accession of either country until 2008. The Council may so decide:

– by qualified majority, if serious shortcomings have been observed in the fulfilment by Romania of one or more of a number of the specific commitments and requirements related to justice and home affairs and competition policy, listed in Annex IX to the Act of Accession, or

– by unanimity, if there is clear evidence that the state of preparations for adoption and implementation of the acquis in Bulgaria or Romania is such that there is a serious risk of either country being manifestly unprepared to meet the requirements of membership by 1 January 2007 in a number of important areas.