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## **ROMANIA'S ACCESSION TO THE EUROPEAN UNION FROM A EUROPEAN BUSINESS PERSPECTIVE**

The European Commission's 2004 progress report painted a picture of Romania's readiness for EU accession in 2007. European business carried out its own assessment of Romania's readiness for accession through a cross-sectoral survey among, industry, commerce and services which work in or with the country. The findings are the basis for a general assessment of the country as well as specific recommendations from companies to Romania.

The European business community wants to point out that positive results have already been achieved in Romania and that the overall business climate is improving. We also welcome the obviously sincere efforts of the new government to pursue a liberal regulatory policy for the economy and to take a credible and forceful stance in fighting corruption.

However it appears that, although Romania is mostly on track in transposing the *acquis communautaire*, its implementation at national level and above all at local level (great difficulties in managing decentralisation of decisions) remains problematic. National and local administrative capacities are weak in terms of both numbers and academic training. The inherent dysfunctions are accentuated by poor vertical and lateral coordination between all the administrative bodies concerned. In addition, Romanian administrations remain highly corrupt. Vested interests prevent companies from being treated equally under the law. This could range from hidden subsidies to well connected companies, to favourable treatment and even lack of prosecution for illegal activity.

Regarding trade, it is important to ensure that all forms of European environmental, sanitary and normative standards are complied with. Romania should only export to the European Union products which meet Community "standards"; goods which do not comply with these standards should not be allowed to circulate freely within the European Union.

We also want to underline that Romania's accession treaty contains a "special" safeguard clause allowing its accession to be deferred by a year until January 2008, if decided by qualified majority of Member States at the end of 2006. The safeguard clause will be applied if the *acquis*, notably in the areas of state aid, combating corruption and organised crime, is not sufficiently implemented. The European business community welcomes this special safeguard clause and the linked enhanced monitoring mechanism set up by the European Commission, ensuring that Romania complies with the full set of European legislation upon accession.

## General recommendations

Romania is a country with foreign investment potential; however the weakness of its business climate limits investments.

To enhance the investment climate in Romania, European business calls on the European institutions to support the efforts of the Romanian authorities in order to:

- Enhance compliance with competition law: the *acquis communautaire* must be transposed, competition law respected and sanctions applied. Structural obstacles to trade and investment (corruption, bureaucracy, legislative instability) must be reduced. The application of sanctions should be based on strict compliance with EU law and practice and ensuring a level playing field for local and multinational companies.
- Foster free movement of goods: non-tariff barriers (import licences, packaging/labelling, authorisations prior to placing on the market) must be eliminated; public procurement *acquis* must be implemented.
- Facilitate free movement of services and capital (right of establishment, restrictions on investments): transposition of the *acquis* must be completed; existing laws need to be clarified.
- Improve the fiscal environment (VAT, excise duties): completing transposition of the *acquis*, respecting reimbursement deadlines and combating local fraud.
- Implement environmental legislation: transposed legislation must be implemented in all areas, from national level to local level.
- Independent business representation: The capacities of independent Romanian business associations, including the associations representing industrial sectors must be strengthened. Their role in the socio-economic life of the country should be fully recognised and promoted.

All these chapters and areas require serious and urgent action from the Romanian authorities.

## Specific recommendations in relation to the *acquis communautaire*

### • State aid

Businesses in Romania suffer from an uneven playing field which is perpetuated by subsidies. Apart from the subsidies granted to publicly owned enterprises, the Romanian state supports enterprises with all sorts of disguised aid: tax, energy, financial (insurance and payment of bank arrears). The latter are more difficult to identify and therefore to sanction effectively.

To enhance its performance on state aid, Romania must move forward with the final adoption of a new law on state aid and ensure its strict application, in particular for restructuring operations, deferrals of payment and privatisations.

At administrative level, stronger monitoring by the Competition Council of state aid linked to privatisations and large publicly owned enterprises, improved examination procedures as well as monitoring of fiscal aid measures and accumulation of aid in general will contribute to a level playing field.

The case of state aid to the steel sector merits very particular attention: the provision of substantial amounts of financial aid for the restructuring of the sector is non-transparent. The European Commission recently admitted in the press that non-conformity of this aid would irrevocably lead to a delay in Romania's accession.

- **Agriculture**

Romania has virtually completed its alignment with the *acquis*. However the law currently under debate on agricultural markets is not in line with EU legislation.

Problems also persist in transposition of agriculture legislation taking concrete form through adapted administrative capacities (strengthening veterinary and phytosanitary services, creation of certification systems) and in compliance with phytosanitary and food safety standards and laws. Therefore provisions guarantee that, at the time of Romania's accession, Romanian "products" destined for export to the other member states of the European Union will be in conformity with community "standards" (environmental, hygiene, sanitary, etc.). By contrast, Romanian products destined for the home market will not.

European business has also special concern regarding enforcement of food safety standards and laws. It is not clear who supervises and on what basis. Moreover the current protocol allows all involved authorities to supervise at their own liberty, which leads to overlapping, high costs and corruption. The recently established Sanitary, Veterinary and Food Safety Authority should be the sole supervision body and fully empowered by a clear protocol based on EU practice.

Lastly, markets must generally be organised in line with new supervision and regulatory structures.

- **Environment**

A large number of sectoral laws still have to be aligned with the *acquis*, including air quality, water quality, waste management (including nuclear and radioactive) and industrial pollution.

This delay is harmful for European companies causing an uneven playing field in terms of environment between companies established in Romania and EU member states.

At local level foreign companies and their Romanian counterparts should be subject to the same compliance conditions. A code of conduct for environmental authorities should also be set up.

- **Industry**

Romanian industry, notably in traditional sectors, experiences tremendous difficulties to finance measures necessary to enforce the *acquis* in the field of environment, health and safety, worker protection.

Therefore, industry would require an effective, up-to-date industrial policy including access to finance for companies in need of restructuring.

Industry would also require that the Romanian government verifies efficiently the compliance of imports to national and EU standards at the border.

- **Combating corruption, organised crime and money-laundering**

Corruption, organised crime and money-laundering constitute one of the major problems in Romania's accession to the EU and is covered by the special safeguard clause leading to deferral. Improvement has accelerated recently, but the Romanian government still has a lot of work to do.

Combating corruption, organised crime and money-laundering still runs up against three main problems:

- endemic scale;
- weakness of the administrative capacities concerned by the issue: problem of training, shortage of human and financial resources, absence of coordination at all levels;
- delay in transposition of the *acquis*.

The struggle against corruption is still a full-scale problem since the *acquis communautaire* does not comprise the provisions of OECD and Council of Europe penal and / or civil conventions which cover trade operations.

- **Recommendations relating to administrative capacities**

The prerequisite to ensure proper transposition and implementation of the *acquis communautaire* is a well functioning administration. Unfortunately problems in Romanian administrative capacity persist, notably:

- Impartiality and professionalism by the competition authorities has not been secured in the medium term;
- Accelerated decentralisation to local structures, having neither the experience nor the necessary training for good application of national legislation, is likely to weaken transposition of Community law on the ground (in the field of environment, for instance, a number of foreign firms are threatened by zealous administrations);
- Frequent corruption and the absence of professionalism, in particular at local level;
- Counterfeiting does not appear to be being combated with the necessary energy due to the absence of efficient agencies and accurate procedures;
- Protection of brands and geographical indications, notably agrifood, and the ability of companies to acquire infrastructures (e.g. acquisition of land) do not seem assured despite transposition of the *acquis*.

A general strengthening of administration must be conducted at national level as well as local level in terms of human and technical resources and "acquis learning". Vigorous efforts must be pursued above all in judicial capacity-building.

More generally, it is important to monitor the setting-up of and the resources allocated to the competent institutions for competition, intellectual property (e.g. pharmaceuticals patents), impartial foreign investment supervision, justice and home affairs (corruption, money-laundering), customs, agriculture (veterinary and phytosanitary agencies), indispensable for good application of the *acquis*.

## **Conclusions**

A lot has been achieved already on Romania's way to European Union accession. However European business believes that a great deal of action is still needed if all obligations are to be met and transposition and even implementation of the entire *acquis*, especially on combating of corruption and organised crime, is to be completed by the time of accession.

Provided that Romania continues its committed and goals-oriented approach, and steps up its efforts in the areas outlined in the Commission early warning letter, sent to Romania on June 9, 2005, accession to the EU should be possible in January 2007.

In this context, the European business community will continue to monitor closely Romania's administrative, legislative and commercial environment so that any dysfunctions or distortions of competition can be addressed promptly and effectively prior to accession.

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