

Commission Opinion on Romania's application for membership of the European Union: Introduction and Conclusion (15 July 1997)

Caption: On 15 July 1997, in an Opinion on Romania's application for accession to the European Union, the European Commission emphasises the progress made by the country in order to comply with the political and economic criteria. However, it considers that Romania is experiencing serious problems in transposing the Community acquis into national law and reaches the conclusion that the accession negotiations will be opened as soon as the country has made sufficient progress to meet the accession terms set by the Copenhagen European Council.

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A. Introduction

(a) Preface

The Application for Membership

Romania presented its application for membership of the European Union on 22 June 1995 and the Council of Ministers decided on 17 July 1995 to implement the procedure laid down in Article O of the Treaty, which provides for consultation of the Commission.

That is the framework in which the Commission submits the present Opinion, responding to the request of the European Council in Madrid in December 1995 to present the Opinion as soon as possible after the conclusion of the Intergovernmental Conference, which began in March 1996 and ended in June 1997.

The Context of the Opinion

The Romanian application for membership is being examined at the same time as applications from nine other associated countries. Romania's accession is to be seen as part of an historic process in which the countries of central and eastern Europe overcome the division of the continent, which lasted for more than 40 years, and join the area of peace, stability and prosperity created by the Union.

The European Council in Copenhagen in June 1993 concluded that:

“The associated countries in central and eastern Europe that so desire shall become members of the Union. Accession will take place as soon as a country is able to assume the obligations of membership by satisfying the economic and political conditions. Membership requires:

- that the candidate country 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.

The Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries”.

This declaration spelled out the political and economic criteria for examining the accession requests of the associated countries of central and eastern Europe.

The European Council in Madrid in December 1995 referred to the need, in the context of the pre-accession strategy, “to create the conditions for the gradual, harmonious integration of the applicant countries, particularly through:

- the development of the market economy,
- the adjustment of their administrative structure,
- the creation of a stable economic and monetary environment”.

In its Opinion, the Commission analyses the Romanian application on its merits, but according to the same criteria as the other applications, on which it is delivering Opinions at the same time. This way of proceeding respects the wish, expressed by the European Council in Madrid, to ensure that the applicant

countries are treated on an equal basis.

In addition to the individual Opinions the Commission is presenting separately to the Council, in the framework of its communication “Agenda 2000”, a general assessment of the accession requests, and its recommendations concerning the strategy for successful enlargement of the Union. At the same time, it is presenting an evaluation of the impact of enlargement of the Union's policies.

The Contents of the Opinion

The structure of the Opinion takes account of the conclusions of the European Council in Copenhagen. It:

- describes the relations up to now between Romania and the Union, particularly in the framework of the Association Agreement;
- analyses the situation in respect of the political conditions mentioned by the European Council (democracy, rule of law, human rights, protection of minorities);
- assesses Romania's situation and prospects in respect of the economic conditions mentioned by the European Council (market economy, capacity to cope with competitive pressure);
- addresses the question of Romania's capacity to adopt the obligations of membership, that is the *acquis* of the Union as expressed in the Treaty, the secondary legislation and the policies of the Union;
- makes finally a general evaluation of Romania's situation and prospects in respect of the conditions for membership of the Union and a recommendation concerning accession negotiations.

In assessing Romania in respect of the economic criteria and its capacity to assume the *acquis*, the Commission has included a prospective assessment; it has attempted to evaluate the progress which can reasonably be expected on the part of Romania in the coming years, before accession, taking account of the fact that the *acquis* itself will continue to develop. For this purpose, and without prejudging the actual date of accession, the Opinion is based on a medium-term horizon of approximately five years.

During the preparation of the Opinion, the Commission has obtained a wealth of information on Romania's situation from the Romanian authorities and has utilized many other sources of information, including the Member States and numerous international organisations.

(b) Relations Between the European Union and Romania

Historical and Geopolitical Context

Romania is situated between the Black Sea and Danube delta to the south-east and is crossed by the Carpathian Mountains to the north-west, which also form a north-south barrier across much of the country. Its area is 237 500 km², and its population 22.6 million.

Romania was founded as an independent state in 1859 with the union of Wallachia and Moldavia. In the First World War Romania sided with the Allies, and was occupied by Austro-Hungarian, Turkish and Bulgarian forces. In the post-war settlement Romania recovered Bukovina and Transylvania. In the Second World War Bessarabia and Bukovina were occupied by the Soviet Union, and Romania also had to cede Transylvania back to Hungary and Dobruja to Bulgaria. In the 1947 Treaty of Paris Romania again recovered Transylvania and parts of Bukovina.

By 1947 the Communist Party had achieved power in Romania. In 1965 Nicolae Ceausescu became First Secretary of the Party, and subsequently President. As from the 1960s Romania maintained some distance from the Soviet Union in its external policies. Hence its membership both of Comecon and the IMF and the World Bank. Ceausescu's internal policies, however, were highly repressive, based on fear and manipulation. By late 1989 there was revolt within the party and popular uprising, which led to the removal and execution of Ceausescu in December of that year.

Free elections in May 1990 led to the adoption of a new constitution in December 1991, under which parliamentary and presidential elections took place in 1992 (which returned the former- Communists to power). The 1996 elections saw the first alternation of power. During this period Romania has also worked hard to regularise relations with its neighbours, concluding agreements with Hungary and Ukraine on recognition of borders and minority rights.

Romania's Position Concerning the European Union

Romania submitted its application for membership of the European Union on 22 June 1995 along with a national pre-accession strategy and a declaration signed by the Presidents of the Republic, the Senate and the Chamber of Deputies and the Prime Minister and the leaders of all the political parties represented in Parliament. This declaration expresses Romania's political will to pursue the consolidation and development of the rule of law, political pluralism, the separation of powers, free elections, respect for human rights and the establishment of a market economy compatible with the principles governing the European Union.

The change of government in November 1996 and the reforms launched by the new government have brought preparations for "Euro-Atlantic" integration to the centre of Romania's foreign policy. This was clear from the statement issued by President Emil Constantinescu when Mr Santer visited Bucharest on 10 April 1997. The President saw European and Euro-Atlantic integration as a major political priority for Romania, indeed as the only avenue for development in the national interest. Romania's most important and pressing objective was to take its place among continental Europe's democracies.

The President said that the country would be pressing on with the major structural reform of its economy, legislation and institutions required for integration into Europe. The crux of this effort, the true significance of taking on the Community acquis, was, however, the assimilation of democratic values and respect for human and civil rights. Respecting and consolidating these values was the ultimate goal of Romania's integration into Europe. For Romania, the Union was above all a gateway to a balanced and harmonious structure organising the continent's micro- and macrocosms under the flag of European civilisation, a common home in which all are equal in dignity, while remaining themselves.

Contractual Relations

Romania was the first CEEC to have contractual relations with the EC: a Generalised System of Preferences Agreement in 1974, and an Agreement on Industrial Products in 1980. Romania's diplomatic relations with the EC date from 1990. Following Romania's return to democracy a Trade and Cooperation Agreement was signed in 1991. This was superseded by the entry into force of the Europe Agreement in February 1995, the trade provisions of which had already come into force in May 1993 under an Interim Agreement. Trade in wine is covered by a parallel agreement expiring at the end of 1997.

The Europe Agreement is now the legal basis for Romania's relations with the European Union. Its aim is to provide a framework for political dialogue, promote the expansion of trade and economic relations between the parties, provide a basis for Community technical and financial assistance, and an appropriate framework to support Romania's gradual integration into the Union. The institutional framework of the Agreement provides the necessary mechanism for implementation, management and monitoring of all areas of relations. Subcommittees examine questions at a technical level. The Association Committee, at a senior official level, provides for in-depth discussion of issues and often finds solutions to problems arising under the Agreement. The Association Council examines the overall status of and perspectives for the relationship and provides the opportunity to review Romania's progress in preparing for accession.

In order to strengthen government policy- and decision-making in matters related to European integration, the Government set up the Department for European Integration, which in January 1997 was upgraded into a Ministry answering to the Prime Minister. Advice on European integration is provided by an interministerial committee chaired by the Prime Minister and served by the Department for European Integration. Ministries retain responsibility for the execution of their respective parts of the Europe Agreement and the pre-accession preparation, including, inter alia, the approximation of legislation. The Department for European

Integration has been responsible for the preparation of the national strategy for the implementation of the Commission's White Paper on the internal market, in consultation with the 23 EU Integration Working Groups.

The Pre-Accession Strategy

Implementation of the Europe Agreement and the White Paper

The EA is being implemented for the most part according to the timetable set out in the Agreement. The Association Council has met at ministerial level once each year, and the Association Committee has met twice at senior official level. A Joint Parliamentary Committee comprising representatives of the Romanian and European Parliaments has met on four occasions. A structure comprising nine multidisciplinary subcommittees has also been established and is operating.

For certain provisions of the Agreement there have been delays in entry into force. The implementing rules on competition among companies, which should have entered into force in 1996, did so only in 1997, while the regulation of state aids has yet to be defined. The trade provisions of the Agreement are being implemented on schedule with few problems. The Romanian authorities have not invoked any of the trade defence provisions in the Agreement. An anti-dumping procedure was opened in 1996 by the European Commission in respect of seamless pipes, and provisional duties have been applied since June 1997.

Currently, the main issues discussed in the framework of the Europe Agreement are: approximation of legislation and pre-accession strategy; macroeconomic progress; trade issues; opening of Community programmes; certification and standardisation issues; and third-pillar cooperation.

The Commission White Paper of 1995 on the internal market set out the legislation which the candidate countries would need to transpose and implement in order to apply the *acquis*, and identified elements essential to the implementation of the Single Market (known as Stage I measures) for priority attention. Romania has attached importance to this work. The Government adopted in December 1995 a detailed strategy for the adoption of the *acquis*. In parallel, it called for the involvement of large sectors of the society in the process, namely trade unions, business associations and the professional associations.

In general, implementation of the Europe Agreement is going ahead without problems, though there have been some delays. Slow economic liberalisation and a lack of real administrative reform have made it difficult to exploit the Agreement fully, but the new government is improving this.

Structured Dialogue

Romania has participated in the structured dialogue, seeing it as a key part of its preparations for accession. It has used the dialogue to report on its reform policy and called for it to be stepped up. In the context of the dialogue Romania has played a significant role in work to recreate stability in former Yugoslavia.

Phare

In 1996, ECU 118.4 million was committed for Romania. Total commitments for the period 1990-96 were ECU 731 million. The principal sectors for which Phare has been used are: agriculture; education, training and research; infrastructure; and the private sector, restructuring and privatisation.

Romania has no common border (terrestrial or maritime) with any EU Member State. No Romanian region is, therefore, eligible for Phare cross-border cooperation programmes between CEECs and EU Member States. But a cross-border cooperation programme was approved in 1996 for the border with Hungary; it includes projects in the sectors of economic development, transport, environment and the third pillar.

There have been difficulties with programme implementation owing to the lack of a clear commitment to policy reform, particularly in agriculture and industry. But reasonable commitment rates have been

maintained.

Participation in Community Programmes

As from 1997 Romania will be participating in Socrates, Leonardo and Youth for Europe. It is preparing to take part in LIFE, SAVE and various social programmes too.

Trade Relations

EU exports to Romania in 1995 amounted to ECU 3.8 billion, up from ECU 1.2 billion in 1990. EU imports were at ECU 3.4 billion in 1995, up from ECU 1.6 billion in 1990. Romanian trade with other CEECs is not developing at the same pace as that with the EU. Textiles are the main EU export, light industry products the main import.

Difficulties in the development of bilateral trade are mainly linked to regulatory and administrative issues, such as the issuing of export licences or certification requirements. But recently introduced Romanian legislation should help to overcome difficulties over the latter, while the remaining Romanian export restrictions are due to be eliminated by January 1998.

General Evaluation

Since 1989 relations between Romania and the EU have developed positively. There have been few significant policy obstacles to overcome, though Romania will need to tighten its border controls. The speed of Romania's progress towards integration has been determined by the economic and political reform and has been hampered by the continuing weakness of its administrative structures.

[...]

C. Summary and Conclusion

Romania submitted its application for membership of the European Union on 22 June 1995. Its request is part of the historic process of ending the division of Europe and consolidating the establishment of democracy across the continent.

In accordance with the provisions of Article O of the Treaty, the Commission has, at the request of the Council, prepared an Opinion on Romania's request for membership.

Romania's preparation for membership is going forward notably on the basis of the Europe Agreement which entered into force in February 1995. Implementation of the White Paper of May 1995 on the Internal Market, another essential element of the pre-accession strategy, is going ahead on the basis of a harmonisation programme revised by the new government. The government has also reinforced the mechanisms for coordinating its policies for European integration.

In preparing its Opinion, the Commission has applied the criteria established at the Copenhagen European Council of June 1993. The Conclusions of this Council stated that those candidate countries of Central and Eastern Europe who wish to do so shall become members of the Union if they meet the following conditions:

- 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 ability to cope with competitive pressures 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.

A judgment on these three groups of criteria - political, economic, and the ability to take on the *acquis* - depends also on the capacity of a country's administrative and legal systems to put into effect the principles of democracy and the market economy and to apply and enforce the *acquis* in practice.

The method followed in preparing these Opinions has been to analyse the situation in each candidate country, looking forward to the medium term prospects, and taking into account progress accomplished and reforms already under way. For the political criteria, the Commission has analysed the current situation, going beyond a formal account of the institutions to examine how democracy and the rule of law operate in practice.

1. Political Criteria

Romania has democratic institutions whose stability now seems secure. They still need to be consolidated by fuller respect in practice for the rule of law at all levels of the structures of government. Elections are free and fair, and in November 1996 led to genuine alternation of power.

A number of gaps remain as regards respect for fundamental rights, even if the measures adopted and the undertakings given by the Romanian authorities since November 1996 constitute progress. Considerable efforts are still needed in the fight against corruption, and in order to improve the operation of the judicial system and the protection of individual rights against the police and the secret services as well as during the operation of the penal system.

If the Hungarian minority seems well integrated in the light of recent improvements in their situation, this does not seem to be the case for the Roma, who constitute a significant minority.

Reforms undertaken for protection of children placed in orphanages constitute significant progress, but still need to achieve their full results.

Current improvements following the arrival in power of a new government make it possible to conclude that Romania is on the way to satisfying the political criteria set by the European Council at Copenhagen.

2. Economic Criteria

After several earlier unsuccessful efforts at reform of the Romanian economy, the new government elected in November 1996 has put in place a radical programme of macroeconomic stabilisation and structural reform. This policy is being implemented at a time of diminishing growth (7.1 % in 1995, 4.1% in 1996), accelerating inflation (56.9% in 1996) and deteriorating budget and trading deficits.

Romania has a population of 22.6 million and GDP per head is 24% of the EU average. The agricultural sector employs more than one third of the working population and contributes 20% of the Gross Value Added. There are still substantial structural problems despite recent privatisation. Trade with the EU represents 55% of Romania's exports and 52% of its imports.

On the basis of its analysis, the Commission's judgement as to Romania's ability to meet the economic criteria established at Copenhagen is as follows:

Romania has made considerable progress in the creation of a market economy. The reorientation of economic policy since the recent change of government has meant a change for the better, but much still needs to be done. While prices have been almost fully liberalized, property rights are not yet fully assured for land, the legal system is still fragile and policy making on economic issues has not always been coherent. Further efforts to consolidate the administrative and legal framework and to address persistent macroeconomic imbalances, are required to ensure a stable environment.

Romania would face serious difficulties to cope with competitive pressure and market forces within the Union in the medium term. It has made progress recently towards improving the competitive capacity of its economy, notably by addressing major distortions such as low energy prices, by accelerating privatization, and by beginning to liquidate large loss-making state owned firms. However, much of Romania's industry is obsolete and agriculture needs to be modernised. The low levels of research and development, and of skills among the workforce also suggest that the economy needs a number of years of sustained structural reform.

3. Capacity to take on the obligations of membership

Romania's ability to take on the acquis has been judged according to several indicators:

- the obligations set out in the Europe Agreement, particularly those relating to the right of establishment, national treatment, free circulation of goods, intellectual property and public procurement;
- implementation of the measures set out in the White Paper as essential for establishing the single market;
- progressive transposition of the other parts of the acquis.

Romania has made significant efforts to comply with its obligations under the Europe Agreement and with the recommendations of the White Paper; but the rate of transposition is too low.

Romanian legislation has only taken on a small part of the acquis relating to the key elements of the single market including competition, except in respect of industrial and intellectual property. The scale of progress still needed requires very substantial and sustained efforts, both in approximation of legislation and in the creation of structures for implementing it. Complete restructuring of the financial sector, in order to re-establish essential public and investor confidence in it, is among the highest priorities.

In general, the weakness of public administration constitutes a serious problem, putting into question both the rate and the quality of approximation of legislation. The various structures necessary for applying legislation on the single market are not currently capable of carrying out their roles.

As for the other parts of the acquis, if Romania pursues its work of transposition, it should not have significant difficulty in applying it in the medium term in the following fields: education, training and youth; research and technological development; fisheries; small and medium enterprises; consumer protection; international trade relations; and development.

By contrast, substantial efforts will be needed in the fields of telecommunications; audio-visual; taxation and customs.

Romania has not yet created the conditions which are conducive to a dynamic and competitive private sector. Its industry therefore will only be ready in the long term to withstand competitive pressures in the single market.

For the environment, very important efforts will be needed, including massive investment and strengthening of administrative capacity for enforcement of legislation. Full compliance with the acquis could only be expected in the very long term and would necessitate increased levels of public expenditure.

Romania has made some progress in taking on the acquis for transport. It needs to increase its efforts, notably in respect of road freight transport and in the maritime and rail sectors. Romania will also need to provide the investment necessary to complete the European transport network, which is an essential element of the effective operation of the single market.

Romania still needs to make substantial efforts to bring its employment and social affairs standards into line with those of the EU. Progress is particularly needed in respect of labour law and health and safety. There

also needs to be an effective labour inspectorate.

On regional policy Romania has barely started to put in place the structures needed to use effectively the Union's structural funds. It will also need to establish effective systems of financial control.

Romania needs to implement fundamental reform of its agricultural sector before it can fulfil the obligations of membership. Particular effort will be needed to restructure the sector and the agrifood industry and to put in place health and quality control mechanisms. Romania will also need to strengthen the administrative structures responsible for implementing the common agricultural policy.

For energy efforts are still needed on price fixing, state intervention in the solid fuel and uranium sectors and the operation of monopolies. Romania has at Cernavoda a nuclear power station which produces around 8% of the country's electricity. It was built in accordance with Western technology. A solution will need to be found to the problem of nuclear waste.

On the basis of the analysis of Romania's capacity to apply the *acquis*, it is not yet possible to be sure when it could become able to take and implement the measures necessary to remove the controls at borders between Romania and member states of the Union and to establish them instead at the Union's external border.

Romania does not seem to be in a position to participate in the third stage of economic and monetary union which implies coordination of economic policies and the complete liberalisation of movement of capital. It is premature to judge whether Romania will be in a position by the time of its accession, to participate in the Euro area. That will depend on how far the success of its structural transformation enables it to achieve and sustain permanently the convergence criteria. These are however not a condition for membership.

Romania faces a particular challenge in justice and home affairs. So far it has made limited progress in taking on the *acquis* in this field. The new government has undertaken an ambitious programme to introduce the essential institutional reforms.

Romania should be able to fulfil its obligations in respect of the common foreign and security policy.

Romania has recently improved its relations with its neighbours particularly with Hungary and Ukraine, and has settled most of its disputes with these countries.

4. Administrative and Legal Capacity

Romania's administrative structures will need a major and sustained effort of reform if it is to have the capacity to apply the *acquis* effectively.

The capacity of the judicial system to ensure uniform application of Community law is of great importance, especially for implementation of the single market. It is not yet possible to judge Romania's prospects in this sector.

Conclusion

In the light of these considerations, the Commission concludes that:

- the current improvement in Romania, following the arrival in power of a new government, indicates that Romania is on its way to satisfy the political criteria;
- Romania has made considerable progress in the creation of a market economy, but it would still face serious difficulties to cope with competitive pressure and market forces within the Union in the medium term;

- despite the progress that has been made, Romania has neither transposed nor taken on the essential elements of the acquis, particularly as regards the internal market. It is therefore uncertain whether Romania will be in a position to assume the obligations of membership in the medium term. In addition, considerable efforts will be needed in the areas of environment, transport, employment and social affairs, justice and home affairs as well as agriculture. More generally, substantial administrative reform will be indispensable if Romania is to have the structures to apply and enforce the acquis effectively.

In the light of these considerations, the Commission considers that negotiations for accession to the European Union should be opened with Romania as soon as it has made sufficient progress in satisfying the conditions of membership defined by the European Council in Copenhagen.

The reinforced pre-accession strategy will help Romania to prepare itself better to meet the obligations of membership, and to take action to improve the shortcomings identified in the Opinions. The Commission will present a report no later than the end of 1998 on the progress Romania has achieved.