

**ROMANIA AND BULGARIA
BETWEEN NATO AND EU**

- 1. NATO ACCESSION. A YEAR AFTER PRAGUE**
- 2. EU ACCESSION. IS 2007 FEASIBLE?**

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ROMANIAN ACADEMIC SOCIETY (SAR)

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FOREWORD

The historian Barrington-Moore jr. has once remarked on the small countries of East Europe that they should not even be included in discussions on social and political change, as 'the decisive causes of their politics lie outside their own boundaries.'¹ Popular wisdom and refined econometrics alike argue indeed that the most important determinant for the fate of East European polities is geography, in other words, the foreign environment. Geography is a proxy for many things, ranging from the Churchill-Stalin bargain of shares of influence for West versus Soviet Union to the facilitation of trade and inflows of foreign investment, substantiating the warning that 'geographical cohesion overpowers indigenous capabilities for reform'.² Whenever something went wrong in the region in the last 60 years, Yalta was blamed. In the simple words of Emil Cioran, the Romanian-born French essayist: 'Nous sommes mal places' ('We are misplaced').

There was, therefore, considerable novelty in the new continental arrangements making Romania and Bulgaria prospective members of NATO and the EU. That meant that they were no longer misplaced. Geography could not be blamed as an excuse anymore. In fact, given that the Balkans and the Middle-East have become the main security problems of Europe, their location became suddenly an advantage. This required them to pass from their attitude of passive security or aid buyers to one of contributors. Those reluctant to enlarge NATO or EU to South-Eastern Europe have doubted the capacity of these countries to operate this shift of attitude. And many challenges lie behind this opportunity indeed. But as this report will show, Romania and Bulgaria are no losing cards. In recent years they have enjoyed good rates of economic growth and they are clearly on a good track. Furthermore, they seem committed to invest in security more than some better-off countries are. On European accession they are also doing well considering their legacies of underdevelopment and totalitarianism, which are more severe than those of Visegrad countries. Their accession provides all the hope for the Western Balkans, especially the countries that were considered doomed by analysts for having the wrong religion and the wrong history. If Romania and Bulgaria can make it, so can they.

The source of concern is elsewhere, in the great West-West divide that we witness unfolding in the media and electoral campaigns these days. Placed between former Yugoslavia and Russia there is little wonder Romania and Bulgaria value security, and have recently displayed strong Atlanticist attitudes. This does not mean, however, in any way, that political elites and publics in these countries are not fully aware that their place is in the European Union and that their loyalty does not rest with Europe. As all new Europe, however, these countries wish both for a greater role for US and for Europe³. In fact, their terrible historical experience has taught them that there is little security on the borders when the West is divided in its core. This is the spirit of this report, which values both enlargements equally, and cannot conceive one without the other.

¹ Barrington-Moore, jr. *Social Origins of Dictatorship and Democracy*, Boston, Beacon Press, 1966, p xii

² Kitshelt, Herbert, 'Post-Communist Economic Reform. Causal Mechanism and Concomitant Properties.', paper presented at PSA Annual Meeting, San Francisco, 2001, p 9

³ See poll by German Marshall Fund and Council for Foreign Relations 2002, www.gmfus.org

Selected Macroeconomic Indicators in Selected EU Candidate Countries

	Cz		Hu		Pol		Sk		Bul		Ro	
	I*	II**	I	II	I	II	I	II	I	II	I	II
GDP,% annual real growth	1.0	2.2 tr1	4.4	3.6•	6.9	1.3 2002	2.2	4.4 2002	4.8	5.0•	4.8•	4.3 (Q1-03)
Inflation rate,% Dec/Dec	10.0	1.8 2002	18.3	5.3•	13.2	0.8•	8.4	3.4 2002	3.8	-0.2 (Q1)	14•	7.3 (Aug 03)
Budget deficit,% GDP	-6.1	-7.25•	-2.2	-6•	-3.2	-5•	-3.7	-4.5 2002	-4.4	0.3 (Q1 03)	-4.4	-2.7•
Unemployment rate,%	5.2	8.9 2002	8.1	6.0•	10.3	18.1 2002	17.9	17.8 2002	17.4	15 (Q 2 .03)	6.6 Aug 2003	6.6 (Aug 03)
Gross foreign debt,% GDP	41		63.1		28		37.3		71.9		33.0 (2002)	
Official gross foreign reserves, in months of imports	4.9	6.1 (Q1 03)	5	3.8•	5.9	8.3 2002	3.7	5.9 2002	5.3	5.2•	4.7•	4.7 (Sep 03)
Agriculture efficiency: GD share/ employment share				0.97		0.28				0.48		0.36
Private sector,% PIB			65	80 (2001)	60	65 (2001)			71			67 (2001)

Source: European Commission, IMF, national statistics;

Legend:

- * Macroeconomic indicators at the time the selected candidate countries were declared "functioning market economies"
- ** Latest macroeconomic indicators (2002/2003)
- IMF projections

I. NATO ACCESSION. A YEAR AFTER PRAGUE

This paper attempts to assess the performance of Romania and Bulgaria one year after these two Southeast European countries received the invitation to join NATO⁶. While exceptional geostrategic circumstances have contributed to NATO's decision to enlarge on its southern flank, the two countries' military preparedness and commitment to honour their pledges toward NATO are beyond doubt as the status of reforms in areas such as the defence sector, civil-military relations, and military education testify.

The Road to Prague

Both domestic and geostrategic factors were instrumental in Romania and Bulgaria receiving an invitation to join NATO in November 2002. A slight improvement in their general economic outlook, their remarkable handling of former problems related to ethnic issues and neighbours, and the coming full circle of their democratic political cycle, with the return to power of the Social Democrats in Romania in 2000 and, in Bulgaria, former king Simeon Saxe-Coburg Gotha becoming the country's prime minister in 2001, as well as their improved military preparedness in comparison with the countries in the first round of NATO enlargement have all played a role in catapulting Romania and Bulgaria into serious consideration for NATO membership.

However, unlike at the Madrid summit in 1997, in the changed circumstances of the post-September 11 security environment, geopolitical and geostrategic factors as well as their military contribution also played a major role. The two countries' good record of proving to be loyal partners in the conflicts in Bosnia and Kosovo and in the war against terrorism has been taken into consideration. During the Kosovo crisis, Bulgaria and Romania--both neighbours of Yugoslavia--were among the first to support the Alliance-led operation against Slobodan Milosevic's regime, providing air space and logistical support for the air raids in Serbia. In the wake of September 11, Romania and Bulgaria were among the first Southeast European countries to join President Bush's coalition against terrorism. Both Romania and Bulgaria have opened up their air space unconditionally and offered the use of all land and port facilities, providing bases for US forces flying into Afghanistan and sending peacekeepers to Kabul and the

⁶ Acronyms used in this section are:

WMD - Weapons of Mass Destruction, MoD - Ministry of Defense, MFA - Ministry of Foreign Affairs, NGO - Non-Governmental Organization, RRF -Rapid Reaction Force, PfP - Partnership for Peace, NCO - Non Commissioned Officer, MA - Master of Arts, SEE - South East Europe, CSDC -Country's Supreme Defence Council (Romania), CMR - Civil-Military Relations, HNS - Host Nation Support, MAP - Membership Action Plan, EAPC - Euro-Atlantic Partnership Council, ISAF- International Security Assistance Force (Afghanistan), MPFSEE/SEEBRIG) - Multinational Peace Force South East Europe, BLACKSEAFOR - Black Sea Naval Task Force

Balkans. Romania sent a military police platoon and a Hercules C-130 aircraft to participate in the UN-mandated International Security Assistance Force (ISAF), an infantry battalion in Operation Enduring Freedom, and officers for the International Coalition Headquarters in Afghanistan. Bulgaria has provided air bases and over flight support for the US humanitarian relief flights to Afghanistan. Both countries increased their presence in international peacekeeping missions in the Balkans to free up allied troops for Afghanistan. And military and civilian facilities along the Black Sea in the two countries--near Constantza and in Mamaia in Romania and near Bourgas in Bulgaria--became staging grounds for the rotation of US troops heading to and returning from Afghanistan.

There are a number of positive consequences of the recent NATO enlargement in the Black Sea both for NATO and the countries of Southeast Europe.

First, the two countries' accession will close the territorial gap between the central and southern direction of NATO, help reinforce the Alliance's southern flank, link it with an exposed member (Turkey), strengthening its ties with the integrated Euro-Atlantic space, and improve NATO's access for its Balkans peacekeeping operations. The continuation of the 2+2 format of multilateral regional cooperation of Bulgaria, Romania, Greece, and Turkey will present opportunities for enhancing NATO's capabilities in Southeast Europe, providing strategic depth to the Alliance's fight against terrorism and other nonmilitary threats.

Second, because their good record in proving, time and again, that they are able to remain stable in a very adverse environment and be reliable regional security stabilisers, Romania and Bulgaria are likely to export stability in the region. Together the two countries number approximately 50 million people, making them a critical mass for bringing stability and security in the troubled area of the Balkans.

Third, as it was largely recognized, both Romania and Bulgaria have adopted proactive regional security cooperation policies. Their hosting of the Headquarters of the Multinational Peace Force South East Europe (MPFSEE/SEEBRIG) in Plovdiv and Constantza and the active support given to the Black Sea Naval Task Force (BLACKSEAFOR), including hosting some of its cooperative exercises, are just two obvious examples of the constructive role the two countries play in the international security politics of Southeast Europe. Their upgraded status will present them with new opportunities to go even further, giving an overall boost to the security and defence cooperative arrangements in the region.

Fourth, by inviting Romania and Bulgaria to join, NATO is bound to reinforce its presence in the important Black Sea region, improve security conditions around the Caspian energy infrastructure projects, and secure quick access to the strategic areas of the Near and Middle East. Moreover, the new NATO invitees from Southeast Europe, which represent border societies open to cultural diversity, are well placed to become instrumental in bringing their know-how and experience in transition processes further east, into the Caucasus and Central Asia. Thus, the emerging Mediterranean-Black Sea-Caspian Sea geopolitical, geostrategic, and geoeconomic axis will be completed.

Last but not least, the acceptance of the candidates from both Southeast Europe and the Baltic regions is likely to boost the process of transforming Russia into an equal and democratic partner in the Euro-Atlantic area.

In sum, unlike the three countries that joined in the previous round of NATO accession, which often emphasized their vulnerability due to the security vacuum in post-Cold War Central Europe and thus were initially recipients rather than donors of security, Bulgaria and Romania have proved in their bid to NATO accession that they are willing and able to pay the price of the privilege of membership, acting as security stabilisers in their region.

Defence Sector Reform

As they emerged from their post-totalitarianism regimes in the early nineties, Romania and Bulgaria faced dramatic challenges to update their defence to the post-Cold War era by force reduction, rationalisation, and restructuring. They are also the largest Membership Action Plan (MAP) member countries⁷. Both the Romanian and Bulgarian political and military leadership have correctly perceived MAP as an essential tool for streamlining, focusing, and managing national efforts to meet NATO membership requirements in the preaccession period.

Poland, the Czech Republic, and Hungary did have an opportunity to learn from the MAP process. Their invitation in 1997 was made for political rather than strategic goals. As a consequence, the three countries have been muddling through, enacting reorganisation upon reorganisation, and struggling with the human and organisational capabilities (or lack of) inherited from the past. All three have faced disheartening problems in restructuring their military to be compatible with major NATO members and to be able to operate smoothly in an Alliance framework. The incentives that have driven the MAP countries to actually reform defence were lacking. Among the three, the performance of the Czech Republic has been the most problematic. It has had difficulties meeting the agreed goals regarding force and managing its new international status. Hungary has been summoned several times by NATO officials to begin its military reform in earnest and now encounters problems because of its cumbersome process of parliamentary approval for deployment of troops abroad. As a result, countries like Romania and Bulgaria are now more ready for accession than the new members were in 1997 and even when they became members in 1999. Furthermore, the mechanism of the conditionality of NATO accession, which, until now, has worked well as an incentive for military reform, has been preserved and even reinforced in the post-Prague circumstances in the case of Bulgaria and Romania. The basic documents sketching the institutional basis of their gradual reform and integration are listed in Figure 1.

⁷ Center for European and Security Studies, *Organizing National Defenses for NATO Membership. The Unexamined Dimension of Aspirants' Readiness for Entry*, Harmonie Papers No 15 (Groningen, November 2001), p. 93.

Fig. 1. Security and Defence Programmatic Documents in Romania and Bulgaria

Romania	Bulgaria
<i>National Security Strategy</i>	<i>National Security Concept</i>
<i>National Military Strategy</i>	<i>National Military Strategy</i>
<i>National Military Doctrine</i>	<i>National Military Doctrine</i>
<i>White Book of the Government-Romanian Army 2010</i>	<i>Plan 2010</i>
<i>Program Force 2003</i>	<i>Plan 2004</i>
<i>Objective Force 2007</i>	<i>Force Structure Review 2001</i>

The first stage of restructuring the Romanian armed forces, between 1992 and 1996, began with the elimination of regiment-division echelons and their reorganisation into a battalion-brigade-army corps structure. The downsizing of the armed forces in 1994 permitted the elimination of the army echelon as well. In addition, in 1992, a National Agency for the Control of Strategic Exports (ANCEX) was set up for nonproliferation and export control enforcement purposes⁸. This agency was administratively subordinated to the Ministry of Foreign Affairs.

Between 1997 and 2000, most of the army's restructuring efforts were made according to the annual orders of the Supreme Defence Council. For instance, decision making was both simplified and made more efficient by the reorganisation of the Ministry of Defence in accordance with Governmental Decree No. 110/1997. As a result, the central directorates with general attributions for the armed forces were subordinated to the minister and his staff. New structures were added to the previously reorganised Department for Defence Policy to enhance its capacities in the domains of Euro-Atlantic integration preparedness, defence policy planning, and the management of civil-military relations. The personnel of the General Staff and the service branches were restructured on a modular basis in accordance with similar structures of NATO states.

The reform of the defence organisation has also included the creation of mission-specific differentiated structures such as surveillance and early warning units and rapid reaction forces. The creation of the Rapid Reaction Force on 1 March 1997 heralded the future force structures for crisis management operations in a multinational environment.

In 1999, the government drafted a new *National Security Strategy* and a *White Book of the Government-Romanian Army 2010*. But due to the constant squabbling among coalition partners, the two political documents were approved by the parliament only in 2000.

Over the transition years, Romania has been confronted with the problem of a reversed personnel pyramid. In 2000, there was a surplus of about 450 generals, 1,700 colonels, 3,800 lieutenant colonels, and 5,000 majors. Through an extensive programme of training and governmental financial support to facilitate employment in the civilian sector, by 2003, the inverse pyramid was readjusted to a large extent. This has been accomplished in

⁸ For a certain period of time, the agency functioned under the label of the National Agency for the Control of Strategic Exports and Prohibition of Chemical Weapons (ANCESIAC). See www.ancex.ro and www.ancesiac.ro.

accordance with the *Program Force 2003* planning, which envisaged a pyramidal structure of personnel with an officer/NCO ratio of 1 to 2.4. In facilitating the correction of the inverse pyramid problem, other instrumental reforms have been the *Military Career Guide*, implemented since June 2001, as well as the provision of social protection, assistance, and training for officers who leave the army to help them enter the civilian job market.

Currently, the authorised strength of the active and civilian personnel of the Romanian Armed Forces is 140,000, of which 112,000 are military and 28,000 civilians⁹. *Program Force 2003* complies with the military missions identified in the *National Security Strategy* and the priorities established by the government--to develop a force able to defend the national territory and to solve a possible crisis in favour of Romania's national interest, to develop efficient command and control structures able to turn rapidly from peace to war, to develop a balanced force package (active, territorial, and reserve) to react quickly against possible threats, to establish a mobilisation system able to generate forces in case of national crises, and to develop joint operational forces for land, air, and maritime operations. The active forces have a readiness of 7 to 30 days, the minimum percent of manned personnel being 80. The territorial forces have a lower readiness of 90 days, and their manned personnel are between 30 and 70%. In order to achieve this force structure, 186 units and large units have been disbanded, 162 have been transformed, and 270 have been reorganised.

Currently, 80% of Romanian air forces, 70% of naval forces, and a considerable number of land forces units designated for NATO-led operations have NATO compatible communication systems.

Romania can afford the future force structure outlined in *Objective Force 2007*. Smaller than *Program Force 2003*, it will comprise 75,000 military and 15,000 civilians. The active forces are scheduled to have a readiness of 24 to 72 hours within Romanian territory and 30 days outside the country, whereas the territorial forces will have a readiness of 30–90 days. It will allow for a rapid reaction capability in a possible future conflict, which will secure the time needed for augmenting the territorial forces and the intervention of the Allies. Emphasis will be placed on operational mountain troops, paratroopers, aviation, artillery, navy, and infantry.

The issue of human resources management has been integrated within the framework of the general army reform. In order to have the right people in the right jobs at the right time, all projects in this field have been designed for the medium- or long-term. Consequently, the rethinking of the human resource management system has been structured around the following paradigms: continuing the process of gradually converting the military into a professional body; making the military career more attractive by adapting it to practices common in modern armies; setting up a system of professional retraining and integration into the civilian job market for those who leave the army, including issuing a *Career Guide*; adopting the

⁹ Peter M.E. Volten, "Romanian Security and Defense Policy Reform from a Western Perspective", *The Romanian Journal of Society and Politics*, Volume 2, Number 2, October 2002, p. 24.

personnel pyramid model; and implementing a modern and efficient computerised integrated human resources management system.

As soon as Romania becomes a full-fledged member of the Alliance, the country will want and be expected to have effective national representation at NATO and to fill a number of posts in Alliance structures, both civilian and military. Identifying personnel with the appropriate language skills, experience, and qualifications for these tasks is a major undertaking. As a result, a commission has been set up within Romania's Ministry of Defence to coordinate this process and select a pool of civil servants, military officers, and noncommissioned officers with the necessary backgrounds.

In MAP, Romania has focused on increasing the interoperability, deployability, and sustainability of its forces earmarked for peace-support operations and Article V missions. All forces earmarked for collective-defence or Partnership-for-Peace operations are also available, as required, for operations in or outside Romanian territory on a case-by-case basis. Moreover, Romania is willing and able to participate in all of NATO's new force structures, including the NATO Response Force (NRF), NATO's elite rapid-reaction force, officially launched in October 2003, which combines integrated land, sea, air, and special forces.

From the force package made available for peace-support operations, Romania already has the capacity to sustain two battalions for a period of six months in theatre. By the end of this year, Romania should be in a position to deploy and sustain 1,500 troops in operations abroad.

That said, the Romanian military still needs to focus its contribution to NATO in terms of niche capabilities--alpine units, military police, demining, and military intelligence subunits--and infrastructure facilities for air, sea, and land operations.

Before and after the Prague summit, Romania put a special emphasis on identifying Host Nation Support capabilities. The Romanian catalogue in the area includes four airports for air operation support, two ports with excellent harbour facilities, naval support facilities for naval operations, and other facilities that may be available to NATO forces.

Romania is also committed to substantially contribute to the Alliance's efforts of reducing dangers arising from WMD proliferation, sensitive related materials, and their means of delivery. The NATO exercise in Pitesti in October 2003, which focused on handling a possible radioactive contamination scenario, is just one recent example that Romania is determined to honour its commitments in that field.

Concerning defence planning, Romania already has a NATO-compatible system and is now taking steps to prepare for the rigours of NATO force planning. This involves improving decision making explicitly to link Romania's Alliance responsibilities with the country's limited resources. In this way, the country's defence budget is now pegged to GDP forecasts and based on the government's commitment to ensure a proper level of defence spending, namely 2.38 percent (see fig 2).

Bulgaria started its process of change in the area of defence with a restructuring: the Internal Troops, whose mission was to guard state borders,

were downsized and placed under the Ministry of Interior's jurisdiction, whereas other auxiliary forces, such as the Construction and Transportation Troops, were restructured into commercial companies.

The geographic reorganisation of Bulgaria's Army forces into two corps, headquartered in Sofia and Plovdiv, aimed at changing the previous unbalanced concentration of troops, mainly in the country's south and southwest areas.

However, the functional division of the army into Rapid Reaction Force, Defence Force, and Territorial Defence Force has not become completely functional yet, with a substantial number of senior command and staff officers having difficulties understanding the concept. Another problem is that a considerable part of the military uses most of the available restructuring resources either for paying wages and benefits to military personnel or maintaining obsolete equipment.

The blueprint for the real defence reform (and not mere restructuring) in Bulgaria was offered by the *Plan for the Organisational Development of Armed Forces by the Year 2004* (generally known as *Plan 2004*) envisaged by the *Military Doctrine of the Republic of Bulgaria*, adopted in 1999. According to this document, by 2004, Bulgaria is scheduled to have a 45,000-strong active force. The gradual decrease by more than 56,000 of the total number of military personnel began on 15 September 2001. By the end of this year, 90% of the planned troop reduction should be accomplished. By and large, *Plan 2004* envisages a force that is both appropriate and affordable. However, the mobilisation strength target of nearly 250,000 is generally considered to be beyond the country's capacity. The *Force Structure Review 2001* reassessed this figure, but a reduction of the total available wartime staff to 100,000 is expected to occur at the end of the reform period. Consequently, in the future, the ratio of war to peacetime personnel will be reduced from the current level of 5:1 to a NATO-type ratio of 1.2:1.

A downsizing has also been envisaged for the number of civilians in the Bulgarian armed forces: from 11,000 to fewer than 8,000. The number of civilian personnel has decreased by about 7,000 in 2002 and by 800 in 2003.

Along with the large-scale downsizing of military personnel, particular attention has been given to resettlement programmes. The Ministry of Defence's *Resettlement Programme 2000–2004* was developed with the support of NATO experts and introduced under Working Table 3 of the Stability Pact for Southeast Europe. It was designed to provide resettlement support to military personnel during the last 180 days of their service and to continue this support for former servicemen as long as needed. In order to carry out the programme, a partnership between the Ministry of Defence and the NGO Resource Centre Foundation was created¹⁰.

¹⁰ Valeri Ratchev, Velizar Shalamanov, Todor Tagarev, "Reshaping Bulgarian Armed Forces for the 21st Century", in Ognyan Minchev, Valeri Ratchev, Marin Lessenski (eds.), *Bulgaria for NATO 2002* (Sofia: Institute for Regional and International Studies, 2002), p. 234.

Fig. 2. Defence budgets

Country	1997	1999	2001	2002	2003
Bulgaria	N/A	N/A	2.6	2.7	2.8
Romania	N/A	N/A	2.38	2.38	2.38
Hungary	1.4	1.6	1.8	1.75	1.8
Czech Republic	1.7	1.9	2.1	2.0	2.2
Poland	2.3	2.1	1.91	1.71	1.95

Figures are a percent of military spending of GDP

Source: Sam Perlo-Freeman, NATO Enlargement: The Successful Candidates. Background Paper for the Stockholm International Peace Research Institute (SIPRI) Yearbook 2003; Andrew Cottey, Timothy Edmund, Anthony Forster, "Military matters", in NATO Review, Autumn 2002; Integrating New Allies into NATO, Congressional Budget Office, October 2000

The lessons Bulgaria learned during the first MAP cycles illuminated the need for more realistic planning that takes into consideration all aspects of resource capacity in terms of subsidy, time, procedures, and personnel. The revised version of *Plan 2004* attempts to address the problems of retention of obsolete equipment and rank inflation. With respect to the latter, the intention is to progressively reduce the ratio of senior officers (major and above) to junior officers to 40:60 by 2004.

Currently, Bulgaria's defence budget of 2.8% of GDP is compatible with NATO standard planning procedures. It represents a six-year cycle of planning, programming, and budgeting with an annual review in midcycle. After 2004, 25% of Bulgaria's defence budget will be ascribed solely for modernisation.

Civil-Military Relations (CMR)

Civilian control over the military and the creation of democratic mechanisms for overseeing the military are important indicators of the quality of a democratisation process. The new CMR agenda encompasses a move from a state-centred traditional security-oriented approach to a democratic consolidation process with a broader understanding of security, which includes greater effectiveness and efficiency in CMR arrangements. That is why it is important to see how far Romania and Bulgaria have succeeded in transforming their relationships between their security institutions and society.

In Romania, Law No. 45/1994 regarding national defence stipulates that the leadership of the national defence system is ensured by the parliament, the president of Romania, the country's Supreme Defence Council, the government, the Ministry of Defence, and "public authorities that have responsibilities in national defence domain" (article 7). There is a clear-cut division of labour between these institutions. From 1994 onwards, the defence minister must be a civilian.

According to article 62 of the Constitution, the parliament is the only authority competent to adopt defence legislation, as well as any resolution of major importance in the defence field, such as declaring partial or general mobilisation; declaring a state of war; suspending or ceasing military hostilities; and regulating the state of siege and of emergency. Parliament's main bodies exercising effective control over the military are

the two "committees for defence, public order and national security," one in Senate and the other in the Chamber of Deputies. There are three occasions in which the two committees work together: hearings for the nominations of the cabinet members designated to run the military, the approval of the budget, and the approval of military exercises on national territory. Hearings are the principal instrument for exercising parliamentary control over the different military branches. Periodically or whenever the need arises, committee members invite representatives of the institutions within their area of responsibility to testify with regard to specific problems related to the activity of their sector.

A crucial instrument of parliamentary control is the budget, but its efficacy is considerably reduced by built in and economic limitations. The main problem is the fact that the budget report of the two defence committees is not discussed directly or approved in the plenum of the two chambers but sent to the finance and budget committees where it is modified so it matches the government proposal, which, in most cases, means cuts in the defence committees' initial proposals. The defence committees' chairmen can defend the report's proposals only when their chapter is being discussed by the finance and budget committees. They are, therefore, unable to provide the finance and budget committees with relevant information before they vote on the proposals. Certainly, if the proposals contained in their report are voted down in the finance and budget committees, the members of the defence committees are allowed to defend them again before the plenum of the two chambers. However, given the limitations of economic resources, they are unable to obtain more than the what the government states is available, and the entire discussion is one of priorities, unless resources are shifted from other sectors¹¹.

Another instrument of parliamentary control is investigation. If the parliament decides that a certain situation requires special parliamentary investigation, in parallel with one undertaken by specific branches of the government, the members can either mandate the permanent committee(s) or create an entirely new special commission with the aim of complementing the work performed by the executive in this respect.

A serious obstacle to parliament's performing its control duty is the lack of independent and truly civilian parliamentary expertise. The main reason for this is, on the one hand, the lack of recognition that such an independent expertise is needed and, on the other hand, the lack of sufficient means to support the necessary infrastructure for research and analysis. Consequently, the commissions are too dependent on the government's good faith in providing the necessary details and on former officers as staffers.

Romania's president is the commander-in-chief of the Armed Forces and also the head of the country's Supreme Defence Council (CSDC). This position gives him a major influence on national security affairs. The president promulgates the laws regarding the military institution adopted by the parliament. He also decides on general or partial mobilisation as well as

¹¹ Center for European Security Studies, *Organizing National Defenses for NATO Membership*, pp. 110-111.

the state of siege or emergency and confers decorations and honour titles and the ranks of marshal, general, and admiral.

The Supreme Defence Council organises and coordinates the activities related to national defence and public safety in a unitary manner, reporting to the parliament once a year. This is a special agency with responsibilities similar to those of the US National Security Council. The council plays a central role in preparing the main security documents and actually approves them as binding decisions, thus being de facto the most important participant in the decision-making process. The secret services are also part of the CSDC structure as their directors are appointed by the president. A presidential counsellor runs the CSDC on a day-to-day basis as its secretary. The CSDC's main duty is to analyse the major problems in security and national defence and present proposals for their settlement to the parliament and the president.

The government coordinates the activity of the Ministry of Defence for maintaining the capabilities of the country's defence, ensures the necessary defence resources, elaborates budgetary norms, regulates the armed forces' activity through resolutions and rulings, and initiates authoritative documents and draft laws regarding the military field.

Apart from the control exercised by the above mentioned institutions, there is a control of the military exercised by the Constitutional Court, which examines the legal and constitutional aspects of the laws and regulations related to national defence and public order and the Audit Court, which examines budget execution.

In 2000, the National Office for Security was established within the Ministry of Foreign Affairs, as a specialised governmental structure charged with issuing security clearance for Romanian officials who will have access to classified NATO information.

Last but not least, in 2001, the law on the organisation of police was passed by the parliament, consecrating the new status of policemen as civil servants.

Academic expertise in security, defence, and international relations includes university research centres such as the Centre for Euro-Atlantic Studies of the University of Bucharest, think tanks such as the Ministry of Defence-run Institute for Political Studies of Defence and Military History, and the Centre for Strategic Security Studies, or the Ministry of Foreign Affairs-run Nicolae Titulescu Romanian Institute for International Studies.

There are several NGOs dealing with security issues as well, including the EURISC Foundation, the Manfred Wörner Euro-Atlantic Association, the George C. Marshall Association Romania, and the NATO House, which together form the Romanian chapter of the Atlantic Treaty Association (ATA).

However, the few NGOs who enjoy some influence over the government are, in fact, government related. Such is the case with the Manfred Wörner Euro-Atlantic Association, which is led by a Ministry of Defence state secretary, and the NATO House, run by a counsellor of the prime minister. The above-mentioned situation poses the problem of a de facto non-NGO status of such organisations and raises serious doubts about their political

neutrality. All in all, the security community outside the government is rather meagre. There is little to no rotation of security experts from academia to the government and back to academia as in the West. Debates on security and defence issues are insufficient, and the level of expertise in the media on such issues is rather low.

The basic principles of democratic CMR have been an integral part of Bulgaria's set of goals during its transition period. Since 1991, all defence ministers have been civilians, and civilian officials and military personnel work side-by-side in the Ministry of Defence, in charge of the overall conduct of state policy in the area of defence. However, at times, the minister of defence and the chief of the General Staff do not speak with one voice.

Bulgaria has put in place the constitutional and legal mechanisms for the democratic control of security structures. The parliament (National Assembly), along with its committees for foreign policy, national security, and defence, is the main political body overseeing all security structures. It has the authority to pass resolutions on the declaration of war and the conclusion of peace. It approves the deployment and use of Bulgarian armed forces outside the country's borders, the deployment of foreign troops on the territory of the country or their crossing of that territory. It can pass resolutions on motions from the president or the government (Council of Ministers), introduces martial law or declares a state of emergency, and ratifies or rejects international initiatives of a political and military nature. The National Assembly is not, however, an exceptionally meticulous supervisor. In-depth discussion on defence matters is limited to scrutiny of an abbreviated budget and specific issues arising in the armed forces. Over the years, members of the parliamentary committees in charge of overseeing Bulgaria's Ministry of Defence and other security structures have found it difficult to keep the security sector under tight surveillance because the authorities' commitment to domestic transparency has been rather half-hearted. Recent governments have not been politically and financially accountable because they have not regularly published the required and expected details¹².

The president is the supreme commander-in-chief of the Bulgarian armed forces. He is responsible for all appointments and dismissals of the higher command of the armed forces and confers all military ranks, acting on a motion from the Council of Ministers. The president chairs the Consultative Council for National Security, and the National Intelligence Service and the National Guard Service are also under his authority. On a proposal from the government, the president declares general or partial mobilisation for war. In cases of armed attacks against Bulgaria and/or when the parliament is not in session, the president is authorised to declare a state of war or to take whatever urgent action is needed. He can proclaim martial law or any other state of emergency. In such circumstances, the National Assembly is convened to back the president's decision.

The government (Council of Ministers) exercises political control over the armed forces. It formulates and carries out the state defence and military

¹² Valeri Ratchev, Velizar Shalamanov, Todor Tagarev, "Reshaping Bulgarian Armed Forces for the 21st Century", pp. 235-236.

policy, commands and mobilises the armed forces, and approves the deployment and use of Bulgarian military units and military equipment outside the country's borders for peace support operations, as well as the deployment of foreign troops on Bulgarian soil or the crossing over of the Bulgarian territory by foreign troops. The government also manages the transition of the country from peace to war; opens, transforms, and closes military facilities, branches, institutes, and colleges; approves changes to the transport, energy, communications, and storage systems; and regulates the production and trade of defence items.

Bulgaria also has an extensive network of NGOs specialised in security matters. Putting aside those few NGOs that consist of one individual or are simply a means to receive grants, it should be noted that both the main features of Bulgaria's post-1998 defence restructuring and Bulgaria's defence efforts by the time of the Prague summit were presented first in NGO publications. Good work has also been performed at academic institutions. In addition, journalists are fairly knowledgeable on security matters and the print and broadcast media provides a fair coverage of significant political-military issues.

Military Education

Military education reform is an integral part of defence reform and the NATO accession process.

The management of training in the Romanian armed forces has moved to a US/UK model. Similarly to the previously operational Regional Training Centre for staff officers established in Bucharest within the Advanced Military Studies Academy, brought into existence with assistance from the UK, a Regional Centre for Defence Resources Management was formally set up, with US support, in April 1999. Located at the Academy of Aviation and Anti-Aircraft Defence in Brasov and devised in cooperation with the Defence Resources Management programme in Monterrey, California, the Regional Centre for Defence Resources Management began operating in 2000 under the Euro-Atlantic Partnership Council (EAPC) aegis. It is a practical, hands-on training institution modelled on programmes for American junior officers and is open to leading staff and specialists from Eastern and Southeastern Europe who have completed civilian or military university education. This postgraduate centre aims to upgrade training for military and civilian personnel in charge of planning and administration of defence resources, and their chief constituents: the planning of defence, the management of human resources, and the management of other resources that contribute to defence. By setting up this centre, Romania has been integrated into the PfP Training Centres network, thus contributing to the achievement of the standards of interoperability of defence systems of Eastern and Southeastern European countries with the defence systems of NATO member countries.

Aiming at improving the decision-making process through modern simulation and modelling methods, Romania's Ministry of Defence proposed creating a simulation centre. The Training Simulation Centre was established within the Higher Military Academy and began operations in 2002.

There are several higher education institutions active in the area of security and defence that are worth mentioning. As early as 1992, a National Defence College was set up to train high ranking civil servants, military and police officers, MPs, and representatives of political parties on security matters. A well regarded postgraduate programme is the MA programme in International Relations, organised by the Faculty of History and the Centre for Euro-Atlantic Studies at University of Bucharest. Since January 2003, the National School for Political and Administrative Studies in Bucharest has been organising a NATO Senior Executive Programme in cooperation with the NATO Defence College in Rome and the George C. Marshall European Centre for Security Studies in Garmish-Partenkirchen. This course offers tailored training for civil servants and military personnel to prepare them for posts linked to NATO and positions within the Alliance. In addition, starting in 2004, a National Defence University, following the US model, will be established in Bucharest, and the curriculum of existing military schools will be updated to reflect NATO training standards.

Similarly, in the framework of the Romanian Intelligence Service (RIS) a National Institute for Intelligence, which was later transformed into the National Intelligence Academy, was set up in mid-1990s. Since 2003, a National Intelligence College within the National Intelligence Academy was established also for training high-ranking civil servants on intelligence matters¹³.

Furthermore, an impressive number of officers and civilians working for the military participated in foreign languages or security-related courses (most of them in English) at different military and civilian institutions abroad.

In Bulgaria, the national military education system has also undergone important changes. First, there has been structural reform, decreasing the number of schools and strengthening the G.S. Rakovski Defence and Staff College in Sofia. Second, there has been curriculum reform, removing obsolete Cold War scenarios from professional training syllabuses. Third, new initiatives have been implemented as part of the country's NATO accession process. For example, an Interoperability Centre was established at the G.S. Rakovski Defence and Staff College for overseeing language training and testing, organising, and conducting specialised training on defence and security matters and targeting nominees for military personnel assigned to operate in multinational environments.

In 2002, the four previously existing military academies were consolidated into one National Military Academy, a Naval College, and five training centres. Consequently, at present, the Bulgarian system of military education is structured into three levels. The National Military Academy represents the first level, where the cadets, after four years of education, receive a bachelor's degree in a military and a civilian speciality. A master's degree in a civilian speciality may be obtained after one additional year of education. Young graduates from civilian faculties can join the military services after one year of specialised training in the

¹³ Liviu Muresan, *The Security Sector Reform - A Chance for the Euro-Atlantic Integration of Romania*. Paper prepared for a Workshop on Security Sector Reform in Central and Eastern Europe: Criteria of Success and Failure sponsored by the Geneva Centre for the Democratic Control of Armed Forces, 22-23 November 2001.

respective faculty. The second tier includes the education of officers with a certain level of experience in the armed forces who are required to receive the degrees of Master of Science or PhD in military specialities. The third level is for high-ranking officers, who will be promoted to positions requiring the rank of general or its civilian equivalent.

Recently, a special emphasis has been put on interoperability training, which includes a gradual increase in the flying hours for all aircrews.

The Challenges Ahead

The issues that threatened to undermine Romania and Bulgaria's accession into NATO--corruption, a weak economy, and the residual influence of communist-era secret police in security agencies--remain salient. Bucharest and Sofia must combat corruption more resolutely. Unless the two countries improve their economic performance, they will not be able to sustain existing military reforms or current levels of defence expenditure. And the issue of former agents of communist-era state security structures remaining in positions of authority must be tackled properly for the Allies to have confidence in the countries' ability to handle sensitive information.

Fig. 3. State of preparedness

Sector	Steps taken in Romania	Steps taken in Bulgaria
<i>Defence Sector Reform</i>	Downsizing underway Creation of RRF Identifying HNS Capabilities NATO Compatible PPBS	Downsizing underway Creation of RRF Identifying HNS Capabilities NATO Compatible PPBS
<i>Civil-Military</i>	Constitutional mechanisms in place Parliamentary Control in place National Office for Security Civilian Defence Ministers Police Demilitarisation under way Academic and NGO expertise	Constitutional mechanisms Parliamentary control in place Civilian Defence Ministers Academic and NGO Expertise
<i>Military Education</i>	National Defence College Regional Training Centre for Staff Officers Training Simulation Centre Regional Centre for Defence Resources Management NATO Senior Executive Programme National Intelligence Academy National Intelligence College	"G.S. Rakovski" Defence and Staff College Interoperability Centre Training Centres operational National Military Academy Naval College

Some recent events have only reinforced the need for properly handling the sensitive legacy issue. One event was the recent diplomatic scandal caused by the possible appointment of Brigo Asparuhov, a former senior official with the Bulgarian communist-era secret services and former head of the National Intelligence Service, as security advisor to Prime Minister Simeon Saxe-Coburg Gotha¹⁴. In Romania, another event is the press scandal related to the General Directorate of Intelligence and Internal

¹⁴ Anna Mudeva, "NATO Allies Scold Bulgaria Over Ex-Communist Spy", *Reuters*, 3 October 2003.

Protection of the Administration and Interior Ministry, whose competencies have steadily grown since 1990 and whose staff consists mainly of former Securitate agents and which has a history of exceeding its intelligence remit and is solely under the government's control.

The procedure for issuing a certificate for working with NATO classified information includes an investigation of the nominee by the NATO security service. There is no explicit ban on access to information for former state security collaborators, but NATO wants to know about relations with the communist state security service in advance.

Furthermore, the Romanian and Bulgarian militaries still need to focus their contribution to NATO in terms of niche capabilities and infrastructure facilities for air, sea, and land operations.

Bulgaria and Romania should also take their military cooperation to a new level and work together in areas such as developing joint capabilities. Even before considering role specialisation and niche capabilities within a NATO context, the two countries should start developing common NATO assets. Such cooperation could also include deeper involvement in crisis-management operations, including joint initiatives in Southeast Europe and the linking of the two countries' air surveillance systems¹⁵.

Preparing for NATO membership is an intergovernmental, interdepartmental, and interdisciplinary matter. As a result, establishing horizontal contacts between governmental officials and various security agencies is critical. Since new threats, especially that of terrorism, have blurred the boundaries between internal and external security, Romania and Bulgaria need to launch a wide-ranging review of the division of labour between law-enforcement and intelligence agencies as well as between the domestic and foreign branches of the latter. In addition, the two countries must actively promote interagency security cooperation and effect changes in defence research and development, with priority given to high-tech intelligence systems.

Civil society has a major role to play in maintaining momentum for the Euro-Atlantic integration of Romania and Bulgaria. As independent players, grassroots nongovernmental organisations must put pressure on the authorities to accelerate the pace of defence reform, flag problems that might occur in the process, monitor how different NATO-related programmes are being implemented, and help build and maintain informed support for NATO membership.

For their part, the authorities should work together with security-oriented, nongovernmental organisations, informing them of government initiatives, consulting with them and contracting out research to them, as well as actively involving them in promoting Euro-Atlantic integration. The forging of a new security culture based on a genuine partnership between government and civil society is particularly needed in the case of Romania. It will likely create a new awareness on the part of the population of the need for active involvement in countering the new security threats.

¹⁵ Adrian Pop, "Romania's Challenge", *NATO Review*, Spring 2003, at http://www.nato.int/docu/review/2003/issue_1/english/analysis.html

II. EU ACCESSION. IS 2007 FEASIBLE?

NEGOTIATING IN A CHANGING CONTEXT

In November 2003 the European Commission issued its Regular Reports on Romania and Bulgaria. The report on Bulgaria's progress towards accession is very positive in substance. The conclusions in the Report itself and in the accompanying paper 'Continuing Enlargement' (Strategy Paper and Report of the European Commission on the progress towards accession by Bulgaria, Romania and Turkey) with regard to the three Copenhagen and the fourth Madrid criterion are also positive. Bulgaria continues to fulfill the Copenhagen political criteria and is considered a functioning market economy. 'It should be able to cope with competitive pressure and market forces within the Union in the near term, provided it continues implementing its reform program to remove remaining difficulties. Over the past year, Bulgaria has in most areas continued to make good progress in adopting the *acquis* and is on track to complete the required legislative transposition before the planned date of accession if the current pace of progress is maintained; Bulgaria needs to continue to make sustained efforts to develop sufficient administrative and judicial capacity to implement and enforce the *acquis*'.

However, the positive assessment is partly conditional on further progress and sustained efforts but if we go back to the positive assessment of the acceding countries some two years back, we would see elements of a much stronger conditionality. Moreover, elements of conditionality are still contained in the Comprehensive monitoring report on the state of preparedness for EU membership of the ten acceding countries released on November 5 2003. Given the fact that Bulgaria has three more years until the target date 2007 the situation seems to be a rather comfortable one or at least very much under control.

In the case of the conclusions with regard to Romania's preparation, there is more conditionality in the wording, but Romania is considered to be on track for 2007 as well. It is, however, the only candidate country not to have fully received the status of a functional market economy, though the Commission considers that once the good progress made has continued decisively Romanian can be considered a functional market economy.

Shortly after the European Commission's Regular Reports and Strategy Paper were released, *The Economist* published a survey on EU enlargement¹⁶. Within this survey the article dealing with question marks over Bulgaria and Romania raises the general doubt that '... whether an enlargement will happen at all in 2007.' If one takes a closer look at the issues raising doubt over the official deadline of 2007 (not all them made explicit in the article), suggesting that 2009 or 2010 would be more plausible dates, one could group them under four groups of question marks:

- those related to Bulgaria's preparation;
- those related to Romania's preparation;

¹⁶ 'The good, the bad and the muddy' *The Economist*, November 22nd 2003.

- those related to both Bulgaria's and Romania's preparation;
- those related to Croatia's application;

All these implicit and explicit question marks go beyond the text of the Regular Reports and the Strategy Paper, but they are worth considering by the candidate countries at least as seriously as the Commission's documents.

A. Question mark – Croatia

2007 is out of question for Croatia regardless of the level of the domestic preparation and of the political will and strong support of some Member States. There are at least two unresolved issues linked to the EU's state of preparedness for further enlargements:

- As long as the Nice Treaty is in force, the EU has no solution for the institutional issues linked to Croatia's prospective membership; moreover, no re-negotiating of the institutional issues seems to be envisaged before 2009;
- The EU committed itself both in Copenhagen and in Thessaloniki to decouple the negotiations on the internal financial arrangements from those with Bulgaria and Romania; no such formula can be envisaged for Croatia before the release of the Commission's opinion on Croatia's application and its consideration at the June 2004 European Council.

So, technically speaking, a catch-up strategy is not feasible for Croatia as regards the target date 2007. Joining together the three countries immediately presupposes an accession date later than 2007. However, for the time being the Commission defends the position that both Bulgaria and Romania are on track to join in 2007 (even if Bulgaria is deemed to be further ahead in its preparation). Delaying both Bulgaria's and Romania's accession simply because of reasons of political sympathy with Croatia would discredit EU's enlargement policy not only in the two countries but in the Western Balkans as well. This would be a clear contradiction to the principle that enlargement should be based on individual, not group merits. Croatia's strong aspiration to catch the second wave of enlargement is an expression of the strong belief that contrary to the lip-service paid to the own merits approach, enlargement only occurs for groups of countries. Provided Bulgaria and Romania do not stumble themselves, Zagreb's scenario does not seem to be based on strong arguments.

B. Question mark – Bulgaria and Romania

Regardless of the Croatian case, doubts seem to loom over the capacity of Bulgaria and Romania to stay on track until the end of 2007. One of the implicit doubts (or rather fears) with regard to both Bulgaria and Romania has always been that these are poor countries (GDP per capita at PPP revolving around 25% EU average). But the prospects of dealing with the lower income levels cannot be improved through a delayed EU-membership – on the contrary: clear prospects for EU membership do facilitate faster and more sustainable growth.

Both Bulgaria and Romania have an image problem not only because of their relative poverty, but also because of being associated with the troublesome region of Western Balkans. In the same *The Economist* article, quoting Freedom House's *Nations in Transit* Bulgaria and Romania are seen

as closer to Serbia and Albania in terms of democratic development than to Hungary or Poland. This assessment is out of place with regard to both countries.

C. Question mark Romania

See the rest of this chapter.

D. Question mark Bulgaria

The doubts that still exist with regard to Bulgaria can be explained mainly by two factors and their complex interchange:

- the image that the country has abroad
- the self-image that Bulgarians have developed of their country in recent years

The two aspects of the image problem have been already touched upon as common to Bulgaria and Romania – poverty and the state of democracy. Both deserve a closer examination.

The image of Bulgaria abroad

Two major events with broad international media coverage have shaped the image of Bulgaria in EU Member States (and worldwide). Back in January 1997 people protested in the streets for several weeks against a government that has pushed the country into a financial crisis. The protests resulted in early elections and the installment of 'the most successful reformist government south-eastern Europe had seen' (to quote *The Economist*) the Ivan Kostov government. Since 'good news are no news' Bulgaria almost disappeared from the media until June 2001 when the ex-king Simeon Saxe-Coburg Gotha won the general election against the reformist incumbents. From a EU perspective, both Ivan Kostov's two governments (1997-1999 and 1999-2001) and Simeon Saxe-Coburg Gotha's one (since July 2001) have been very successful in terms of enlargement policies. Indeed, membership in the EU has been a high priority for Bulgaria since the very beginning of the transition process. Skepticism dominated the initial opinion of the Commission on Bulgaria's candidacy: 'Bulgaria's progress in the creation of a market economy has been limited by the absence of a commitment to market-oriented economic policies; it would not be able to cope with competitive pressure and market forces within the Union in the medium term.' The assessment of Bulgaria's ability to assume the obligations of membership was rather negative, too: 'Despite the progress that has been made, Bulgaria has neither transposed nor taken on the essential elements of the *acquis*, particularly as regards the internal market. It is therefore uncertain whether Bulgaria will be in a position to assume the obligations of membership in the medium term.'

On the basis of these assessments the Luxembourg European Council in December 1997 did not include Bulgaria in the group of countries that should start negotiations in early 1998. It made future decisions on the opening up and conduct of negotiations conditional upon the assessment of the country's preparation in Regular Reports to be elaborated on a yearly basis. On the basis of the conclusions of the Helsinki European Council in December 1999 in early 2000 Bulgaria and Romania were included in the negotiations process regardless of the circumstance that the Regular Report 1999 and the respective Composite Paper on the

Commission Reports 1999 did not grant them the status of functional market economy. The Composite Paper 1999 continued to regard Poland, Hungary, Cyprus, Estonia, Slovenia and the Czech Republic as functioning market economies, and added Latvia to this group. The formula for Slovakia and Lithuania was that they 'are close to being functioning market economies and if the reforms, which have been decided or are in the pipeline, are constantly implemented in the coming year, both countries should fulfill this sub-criterion in the course of next year.' Therefore, in Bulgaria and Romania the Composite/Strategy Papers continued to be hotly anticipated even after the launch of the negotiations and to present an image problem both domestically and internationally.

In 2001 the track record achieved during four years of consistent reforms got partial recognition in the Strategy Paper, and Bulgaria was judged 'close to being a functioning market economy'. In 2002 the final recognition came – Bulgaria was labeled a functioning market economy with prospects to cope with competitive pressure in the medium term. In 2003 the Bulgarian economy was further upgraded through the European Commission's expectation that it should be able to cope with competitive pressure 'in the near term'. (In Romania, the 'functioning market economy' continues to be a disputable issue on the agenda with the EU.)

For seven successive years Bulgaria has been now steadily on the right track, with steady improvements on all criteria, and no fallbacks regardless of a sometimes unfavorable external environment. But for many beyond the expert community the image of a collapsing state back in 1997 and of a laggard country this crisis generated is still there.

The external recognition of the functioning market economy status has facilitated critical debate in Bulgaria, stimulated by many NGOs, on the well functioning of the economy – a development that is a further guarantee for the successful preparation of the country. Once the external image issue was resolved, there was a growing sense of ownership on the 'functioning market economy'. Both in 2002 when Bulgaria was recognized as a functioning market economy, and in 2003 when the status was reconfirmed, the influential Institute for Market Economics in Sofia elaborated critical analyses of the European Commission's assessment, analyses that are going beyond the well-known criteria. Domestic experts seem to have taken over the task of monitoring further progress in all crucial areas, thus replacing with internal mechanisms the stick and carrots policy of the European Commission.

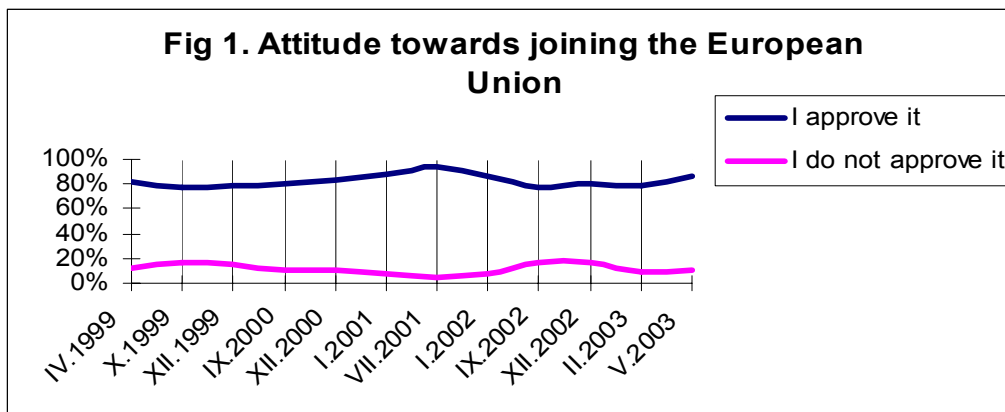
The self-image problem

Serious concern should be given to how ordinary Bulgarians assess the policy of their pro-EU governments. The Kostov-government was outvoted in June 2001 regardless of its successful EU-policy. The present Saxe-Coburg Gotha government can also be assessed as quite successful with regard to its EU policy. However, its decline in popularity is unprecedented. The results of the recent local elections can hardly be interpreted as support for the government's domestic policy. The most recent public opinion poll shows that if elections were to be held today, the Prime Minister's National Movement Simeon II would get 5.9% of the votes. So, one more government with a successful EU policy is on its way to be voted out. The

Bulgarian cabinets gets good marks in Brussels but the Bulgarian voters do not share this enthusiasm.

Could this really threaten Bulgaria's accession in 2007? No doubt, before now and the moment of accession Bulgaria will have a new government in office. The only certainty is that it will be a coalition one. Will the strong gap between approval from Brussels and disapproval at home have consequences on the next government's policy? Could the outcome of the elections be a Euroskeptic government? Hardly. But some doubts remain.

Contrary to the general observation that the closer a country gets to EU membership the more Euro-sceptic the public becomes, Bulgaria displays a stable pattern of support for EU membership. In the last five years this support has been fluctuating (Fig 1), mostly between 78% and 82% with some few higher peaks – the highest one being 94% just shortly after Simeon Saxe-Coburg Gotha had won the June 2001 elections. Whereas in other countries the 'price' of unpopular reforms seems to be paid (partly at least) by the EU, in Bulgaria the 'full price' is paid by the governments. We have a continuing support for EU membership and a declining support for reform policies.

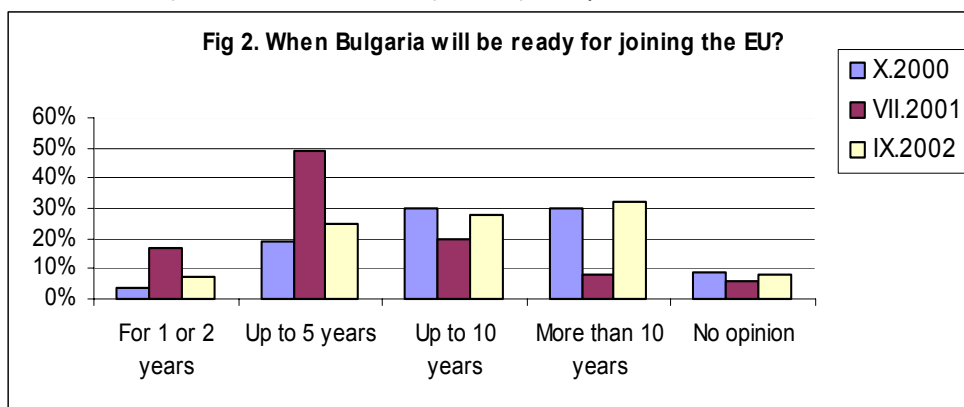


Alpha Research home page, www.aresearch.org

Back in 2000, the year of the start of the negotiations, 9% had no opinion at all as to when Bulgaria might be ready, 38% believed it would take more than 10 years and 30%, up to 10 years. This means that 77% of the Bulgarians actually didn't believe in the feasibility of Bulgaria's target date of 2007. Only 23% of the public was optimistic, 4% believing Bulgaria might be ready within 1 or 2 years and 19% expecting the country to get ready in less than 5 years.

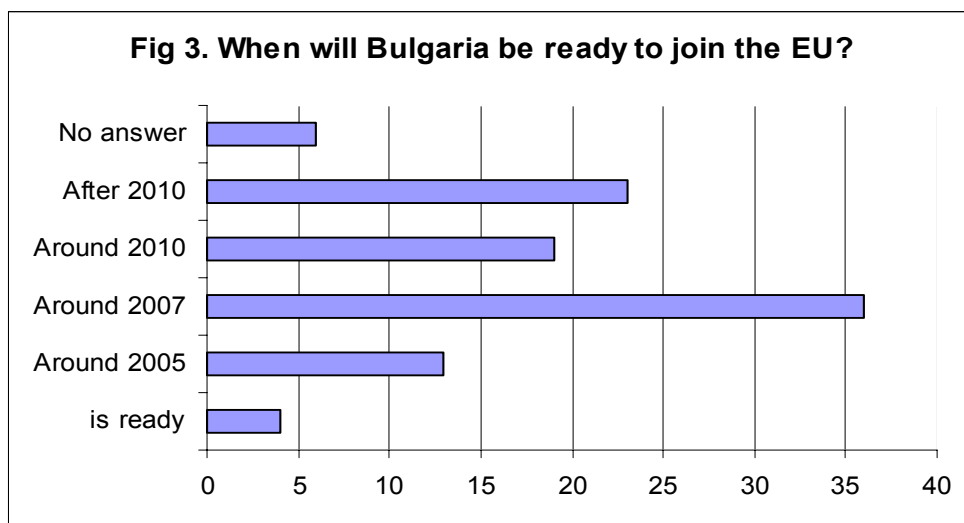
One year later, in July 2001, there was a dramatic change in the expectations pattern. The optimists' camp had jumped to 66% (17% believing the process might take one or two years and 49% believing it might take up to 5 years), whereas the pessimists' camp had shrunk to 34% (20% expecting the process to take up to 10 years, 8% - more than 10 years and 6% having no opinion). The survey was conducted shortly after the June 2001 general elections in Bulgaria. The optimistic trend seems to relate to domestic change rather than to the real level of preparation for EU membership. (The same pattern was disclosed with regard to the support for EU membership).

This hypothesis seems to be proven true by the results of the September 2002 survey. Between July 2001 and September 2002 the preparation for EU membership continued, and Bulgaria succeeded in opening all negotiating chapters and closed several more, almost catching up with the ten favorites. However, optimism did not rise. On the contrary: with minor positive deviations the expectations level was almost back to the 2000 level – 68% in the pessimists' camp (28% expecting the process to take up to 10 years, 32% - more than 10 years and 8% having no opinion). The pool of optimists had shrunk to 32% (7% expecting the country to be ready within one or two years and 25% - in up to 5 years).



Alpha Research home page, <http://www.aresearch.org>

The most recent survey of Alpha Research on people's expectations with regard to EU membership has been conducted in November 2003 (see fig 3), after the release of the Regular Report 2003 and the respective Strategy Paper.



52% of the public is now optimistic about the 2007 accession date (4% assuming that Bulgaria is already ready, 12% - that it will be ready in 2005 and 36 - that it will be ready in 2007). The pessimists are 49% (20% believing that BG might be ready around 2010, 23% - after 2010 and 6% providing no view on the issue).

Results of a study on the state of society (www.osf.bg/sos/) show a tendency towards growing social pessimism in Bulgaria and a strong correlation between social optimism and confidence in the government, on the one hand, and social pessimism and declining confidence in the government, on the other hand. Regardless of economic growth in the last five years the study did show that this has not led to a rise in social optimism. While poverty is the main problem on the agenda, it does not tell the whole story about the present Bulgarian society. The subjective feeling of living in a losers' society is an even bigger problem than objective hardship, a self-image that fosters the external image of poverty and becomes a self-fulfilling prophecy of failure. The Bulgarian civil society has become aware of this problem and is working at strategies of tackling it.

Therefore, regardless of the next governmental change and regardless of whether it will be brought in office through early or ordinary elections, this power change will preserve the democratic achievements and allow the EU integration process to continue. Politicians will be however challenged to find a way to reconnect the foreign policy agenda with the domestic reform agenda. The levels of EU optimism (compared to the levels of social optimism) are rather high but even with regard to them further communication efforts might be needed regardless of the fact that Bulgaria does not intend to hold a referendum on EU membership.

The successful conclusion of the EU integration process in Bulgaria is guaranteed by one further circumstance – the good EU integration network that has been build up in the different line ministries. From 1997 onwards the Bulgarian EU administration has been created through a bottom up effort, rather than top-down. For the purposes of the screening exercise inter-ministerial working groups have been established that became the basis for Bulgaria's negotiating team. After the governmental change in July 2001 the political leadership of Bulgaria's EU integration mechanism changed, but the people in the technical structures remained in place and they guaranteed the continuity of the process.

Back in 1999 Commissioner Gunther Verheugen presented the revised accession strategy that did allow to involve all countries in the negotiations process (regardless of their different level of preparation) as aimed at balancing two potentially conflicting objectives, namely speed of accession and quality of preparation. He said speed was essential because of the expectations of the candidates. Quality was vital because the EU did not want "partial members," but new members with full rights and responsibilities. The need to find the right balance between these two objectives is valid with regard to Bulgaria's and Romania's accession as well. The extra time until 2007 (compared to the 10 countries joining in 2004) can be justified on reasons of quality and has been accepted in both countries. But a delay beyond 2007 would be a real challenge for the expectations in the two countries.

THE ELUSIVE “FUNCTIONAL MARKET ECONOMY”

1. Economic criteria for joining the EU

Aspirant countries to EU accession are asked by the EU Commission in Brussels to comply with two fundamental requirements: to have a so-called “functioning market economy;” and to withstand competitive pressures inside the economic/monetary union. The first requirement – the “existence of a functioning market economy”¹⁷ – connotes an institutional setup (the functioning of basic market institutions) that ensures effective financial discipline, easy market entry and exit, proper contract enforcement and protection of property rights, and an adequate policy mix framework, with reasonably effective mechanisms to deal with adverse shocks.

The second requirement refers to the reduction in scope for the national economic policy in a region with a common monetary policy. EU accession means joining a club where, among other things, intratrade barriers will no longer exist, there is a single currency in 12 member countries, and, in a softer form, the Exchange Rate Mechanism (ERM2) constrains exchange rate policy in the other states significantly. Both requirements are seen as essential for enhancing nominal and real convergence, without which the EU would be undermined from within.

2. Why is it important for Romania to receive the status of functioning market economy?

The transition countries to be admitted in 2004 were granted the status of “functioning market economy” a few years ago; Bulgaria received it in 2002. This upgrade of the economy of our southern neighbour and the debate on Turkey and other would-be accession countries have raised the stakes for Romania in a race that becomes ever more challenging in view of the economic and geopolitical circumstances that accompany enlargement. Being left behind in a race that has its own symbols (specific criteria, diplomatic language, and cryptic qualifiers not always transparent to outsiders such as that of functionality in the “functioning market economy”) can harm a country’s credentials. As a result, it is easy to understand that, in Romania, this issue has extensive political capital attached to it. On the other hand, rushing to join the EU at any cost can be self-defeating. The laws of economics cannot be bent beyond certain limits without threatening the ultimate goal—accession.

Nevertheless, if the next wave of enlargement does not proceed smoothly, Romania will have to illustrate increasingly better results to justify its quest to

¹⁷ A “functioning market economy” is quite curious terminologically; this notion cannot be found in an economic textbook, since all market economies are functioning, whether well or poorly. What the experts in Brussels have, most likely, in mind is a “well functioning market economy,” which relies on a sound institutional setup and low information and transaction costs.

join the EU as the inner political and economic dynamics in the EU make another round of enlargement unlikely any time soon.

3. Where does Romania stand?

Do basic market institutions exist and do free prices play their role in allocating resources in Romania? By and large, they do. In a broad sense, Romania already has a "functioning market economy," the performance of which has improved substantially in recent years. Significant problems remain to be tackled, such as poor financial discipline, weak enforcement of market regulations, low transparency and stability of the regulatory framework, and an inefficient public administration and judiciary. Nonetheless, some progress has been made on all these dimensions in recent years. Moreover, since some leading EU economies have a difficult time meeting the Maastricht criteria, the question could be raised of whether it is sensible to be over strict with accession countries.

Romania has inherited huge structural problems and, as a result, faces a number of dilemmas and constraints in reforming its economy. They appear as a series of trade-offs:

- low budget deficits that should help disinflation while there is a need for public financing of badly needed large infrastructure projects;
- manageable current account deficits and further disinflation (plus exchange rate appreciation) against the backdrop of minimal trade protection that could overwhelmingly put the burden of adjustment primarily on budget policy;
- productivity growth and subdued short-term welfare gains (wages grow slower than productivity to retain the labour costs-driven competitive advantage) while prices grow anyway (because they were initially below world levels);
- free movement of capital flows and interest rates cuts, which may strain the balance of payments while capital account liberalisation proceeds further;
- the current type of competitiveness (based on wage differential) vs. the innovation-driven type of economies, to which Romania is trying to converge (Romania's spending on research and development is seven times lower than the Lisbon target of 3% of GDP).

It should be stressed, nonetheless, that some of these policy dilemmas and trade-offs do not concern Romania only. Other candidate countries, which are to join the EU in 2004, also need to make painful decisions.

3.1. What speaks in favour of an upgrade?

There are economic arguments that support an upgrade if Brussels's implicit criteria are to be consistently applied.

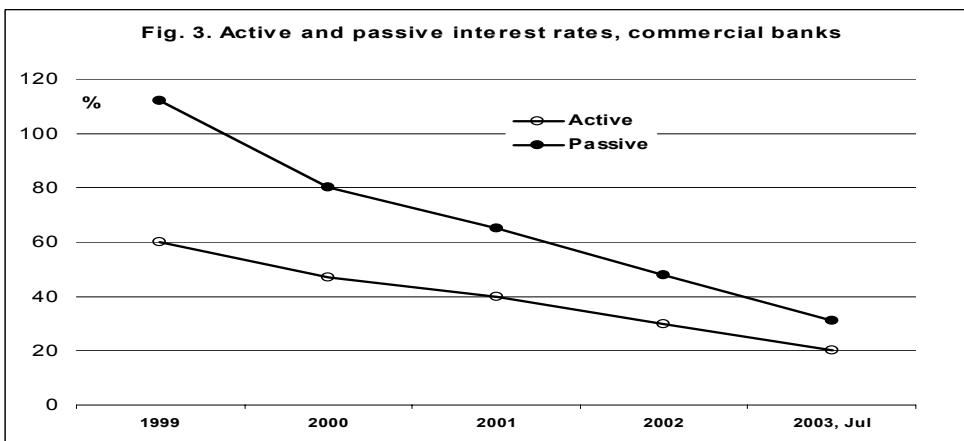
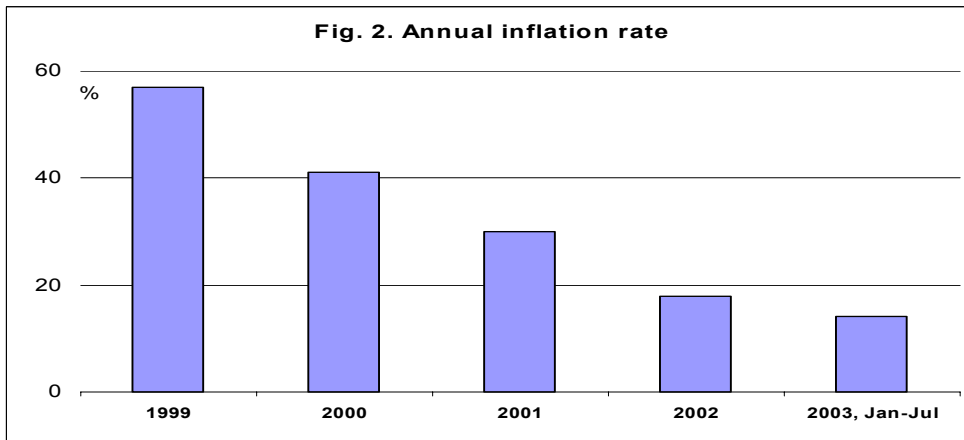
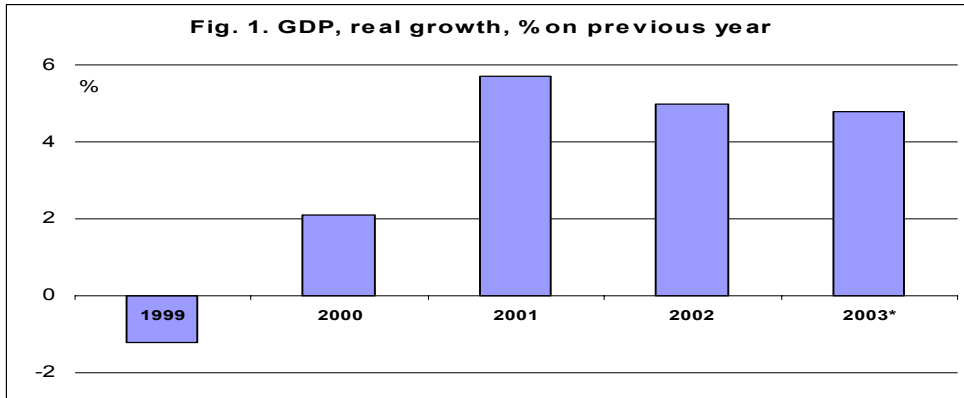
- Economic recovery has been underway for several years now; the GDP grew by 5.7% and 4.9% in 2001 and 2002, respectively (figure 1). It should probably rise by around 4.5% this year. The current deceleration would be due primarily to fallout from economic stagnation in the West and a bad

domestic harvest. For 2004, a forecast of 5% is reasonable in view of an expected revival in EU economies, the growth of domestic nongovernmental credit, a further increase in domestic investment, and, hopefully, a better harvest.

- **Inflation, the scourge of the past decade, has been coming down consistently:** from 30.3% (Dec. on Dec.) in 2001, it went down to 17.8% in 2002 and will likely drop to around 14% this year (figure 2). It is forecast to go further down to about 9% in 2004.
- **The overall public indebtedness has stayed below 30% of GDP**, out of which the external public and publicly guaranteed debt is approximately three-fourths, while short term indebtedness is pretty low (below 5% of total foreign debt).
- **Budget deficits have been kept under 3%** in recent years. Although significant quasi-fiscal deficits blur this assessment, it is encouraging that they have shown a tendency of decline lately. Current account deficits have been kept, on average, around 5% in recent years while the international reserves of the Central Bank have surged to almost 7 billion euro in September 2003 (which covers more than 4.7 months of imports).
- **The private sector's contribution to GDP formation is nearing 70%** currently, while this sector accounts for over 55% of social capital in the economy and more than 70% of employed population.
- **The banking system is now much sounder** after a massive clean up operation in the late 1990s and the introduction of a new regulatory framework that fits the BIS new recommendations. This evolution has taken place against the background of increasing foreign ownership in the banking sector (to above 60% of total assets and loans), which has ameliorated corporate governance in this sector. Recently, Banca Comerciala Romana, the largest commercial bank, received the IFC and the EBRD as new shareholders. Banks are on the average better at providing effective intermediation between savers and investors. Both the active and the passive interest rates have decreased substantially (figure 3), and the spread between them also diminished (Figure 4). Likewise, the range of financial products has increased remarkably and led to a boost of nongovernmental credit.
- **Some structural reforms** (including privatisation) and **a more effective budget (tax) policy administration** have been implemented recently. A good part of the privatization commitments undertaken in the PSAL I and PSAL II programs with the World Bank are reasonably on track: companies with a history of loss making, such as Tepro Iasi, Tractorul and Roman Brasov, and ARO, have just been sold.
- **A new fiscal code is to be adopted by the government** by the end of this year, and a special unit for large taxpayers has been established in Bucharest in a move to strengthen tax administration. New legal framework has been created to unify the collection, audit, and enforcement of the social-security funds under the supervision of the Ministry of Public Finance.
- **Market access procedures have been simplified.** Registration and authorization have been simplified by setting up a one-stop-office, and a silent approval procedure was introduced. In order to facilitate market exit,

a legislative project on bankruptcy and reorganisation procedures has been initiated, aiming at increasing the ability of creditors to file for bankruptcy.

- In the field of **state aid and competition**, Romania is currently applying the EC criteria in the authorization of new state aids and is monitoring the existing aid with the goal of bringing it in line with the *acquis*. However, the issue of arrears, discussed in the following sections, questions the progress in this direction.



- **The annual yield for T-bills**, which was a major attraction for banks' investment policy, decreased from 76% in 1999 and 35.7% in 2001 to 17.3% in 2002 and 15.5% as of August 2003. This evolution has provided another

stimulus to domestic nongovernmental credit, which has boomed by 25%, in real terms, in the first half of 2003. It is noticeable that, despite this substantial increase, prudential indicators are still in safe territory. Lately, the Central Bank has adopted a series of measures aiming at restraining the upsurge of this credit as a sort of preemptive policy.

- **The nonfinancial sector** has also developed rapidly, and the best indicator in this regard is the market capitalization of the Bucharest Stock Exchange. From 1.04% of GDP in 1999 and 3.3% of GDP in 2001, it has climbed to 6.05% of GDP in 2002 and 7% of GDP in the first half of 2003.

Fig. 4. Key prudential indicators in the banking system

	1999	2000	2001	2002	2003 Jul
Solvency rate (>12%)	17.9	23.7	28.8	25.0	22.8
Bad loans, as% of total assets	2.36	0.29	0.32	0.23	0.42
Credit risk rate	35.4	3.8	2.5	1.1	3.9

Source: NBR Monthly Bulletin 7/2003

3.2 How does Romania fare comparatively?

It is instructive to compare the current state of the Romanian economy with the situation in other EU candidate countries when they received the status of "functioning market economy." The data in the figures below are comparable in most respects. If the same standards operate in the judgement of economic performance, Romania can be given serious consideration for an upgrade. One could argue that judgements evolve over time and that they are now more severe in view of developments in recent years both inside and outside the EU. This is not an argument to dismiss out of hand. On the other hand, how can one reconcile this reasoning with, for instance, the recent ballooning budget deficits of some countries that are to join the EU in 2004?

Fig. 5. Private sector's share in selected accession economies

	Private sector,% PIB		Private sector,% employment	
	1997	2001	1997	2001
Hungary	65*	80		
Poland	60*	65	65*	70
Bulgaria		71*		73*
Romania		67		70

* At the time when it was declared a functioning market economy.

Source: OECD and World Bank data

Fig. 6. Key macroeconomic indicators, selected EU candidate countries, at the time the European Commission considered them “functioning market economies” – as compared to Romania before the Commission’s 2003 Country Report

	Cz 97	Hu 97	Pol 97	Sk 00	Bul 02	Ro 03
GDP,% annual real growth	1.0	4.4	6.9	2.2	4.8	4.8 (proj)
Inflation rate,% Dec/Dec	10.0	18.3	13.2	8.4	3.8	14 (proj)
Unemployment rate,%	5.2	8.1	10.3	17.9	17.4	6.6 (Aug 03)
Current account deficit,% GDP	-6.1	-2.2	-3.2	-3.7	-4.4	-4.8 (proj)
Budget deficit,% GDP	-2.2	-4.6	-3.1	-6.7	-0.6	-2.7 (proj)
Gross foreign debt,% GDP	41	63.1	28	37.3	71.9	33.0 (end 02)
Official gross foreign reserves, in months of imports	4.9	5	5.9	3.7	5.3	4.7 (Sep 03)
M2,% GDP	67.3	39.4	38.2	66.0	43.3	24.7 (end 02)

Note: all projections for Romania are those of the Government, and are endorsed by the latest IMF country analyses. Source: European Commission, IMF, national statistics

There are countries, such as Hungary, Poland, and the Czech Republic, that have registered sharply deteriorating economic indicators (budget and current account deficits) in the last couple years, quite ahead of their forthcoming year of accession, in 2004.

During this period, Romania's economic performance has visibly improved. This state of affairs has not been unnoticed by the main rating agencies, which improved Romania's standing during the spring of 2003. Most recently, Standard and Poor's raised it to BB. Romania's rating is still under investment grade, but prospects for further positive revisions are deemed fairly high.¹⁸

Other indicators capturing the deep structural characteristics of East European economies also offer an interesting view since, on many dimensions, Romania is not necessarily the outlier.

¹⁸ Analysts from leading investment banks consider that, in spite of these upgrades, rating agencies continue to underrate Romania's performance (“Sovereign Eastern Europe Update,” Bear and Stearns, 26 June 2003).

Fig. 7. Latest economic data from selected EU candidate countries

	Cz	Hu	Pol	Sk	Bul	Ro
GDP,% annual real growth	2.2 (Q1 03)	3.6 (03 IMF proj)	1.3 (end-2002)	4.4 (end-2002)	5.0 (03 IMF proj)	4.3 (H1 03)
Inflation rate,% Dec/Dec	1.8 (end 02)	5.3 (03 IMF proj)	0.8 (end 02)	3.4 (end 02)	-0.2 (Q1 03)	7.3 (8m 03)
Unemployment rate,%	8.9 (end 02)	6.0 (03 IMF proj)	18.1 (end 02)	17.8 (end 02)	15 (Q2 03)	6.6 (Aug 03)
Current account deficit,% GDP	-6.5 (end 02)	-4.8 (03 IMF proj)	- 3.6 (end 02)	-8.2 (end 02)	-10.2 (Q1 03)	-4.8 (03 IMF proj)
Budget deficit, % GDP	-7.25 03 IMF proj	-6 03 IMFproj	- 5 03 proj	-4.5 (2002)	0.3 (Q1 03)	-2.7 (03 IMF proj)
Official gross foreign reserves, in months of imports	6.1 (Q1 03)	3.8 (03 IMF proj)	8.3 (end 02)	5.9 (end 02)	5.2 (03 IMF proj)	4.7 (Sep 03)

Source: IMF, national statistics

Fig. 8. Credit ratings, Standard & Poor, countries' sovereign fixed income long term debt, as of October 1st, 2003

	Local currency		Foreign currency	
	Rating	Evolution	Rating	Evolution
<i>Romania</i>	BB+	Positive	BB	Positive
Bulgaria	BBB-	Stable	BB+	Stable
Czech Rep.	A+	Stable	A-	Stable
Cyprus	A+	Stable	A	Stable
Hungary	A	Stable	A-	Stable
Lithuania	A-	Stable	BBB+	Stable
Poland	A	Negative	BBB+	Negative
Slovak Rep.	A-	Stable	BBB	Positive

Labour costs as a share of per capita GDP revolves around the regional average, unlike in a few other countries where they appear to be unsustainably high (Figure 9). The large agriculture sector is indeed inefficient, but not more than Poland's. In this respect, Bulgaria fares better than the other two countries, while, in Hungary, the agriculture is virtually as efficient as the rest of the economy (Figure 10). The energy consumption per one dollar of GDP, a fair measure of the advance in restructuring a postcommunist economy, is lower in Romania than in Bulgaria, although

higher than in other countries that have moved faster toward energy efficiency (Figure 11). And the deviation from the world prices expressed by the purchasing power parity (how many more similar goods one can buy in a particular country with \$1 than in US) also illustrate that Bulgarians face the longest road to catching up with the rest of the world (Figure 12).

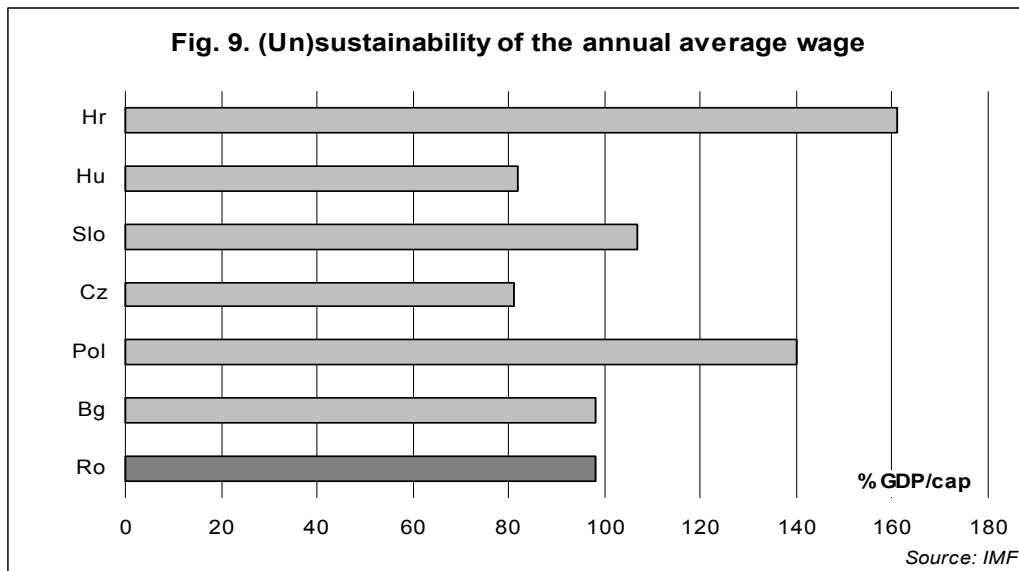
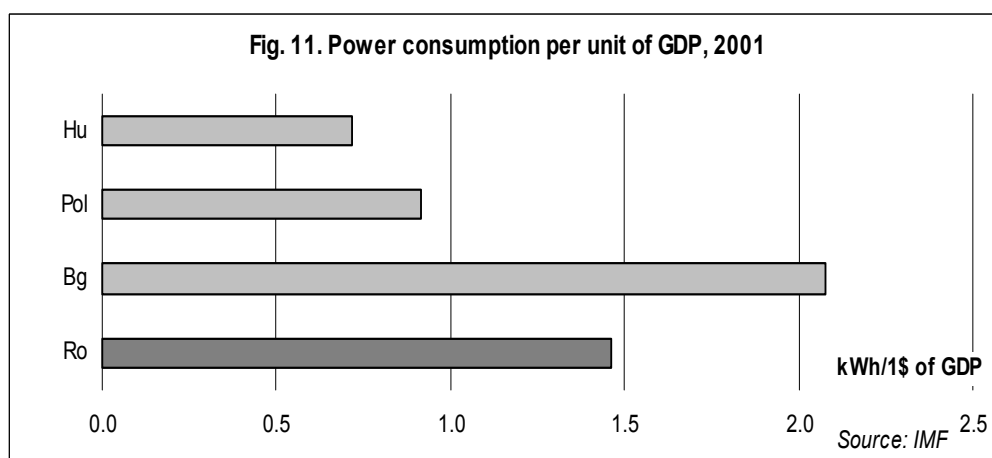
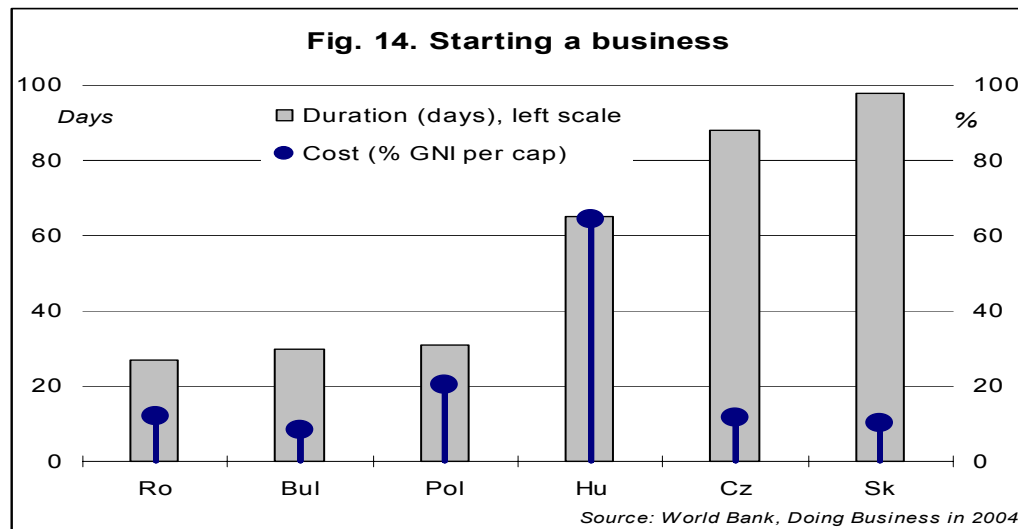
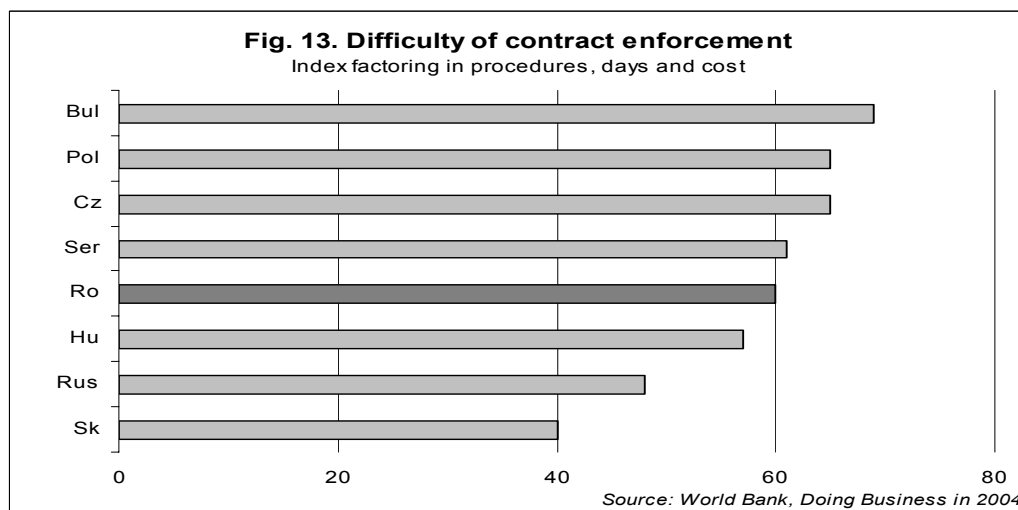
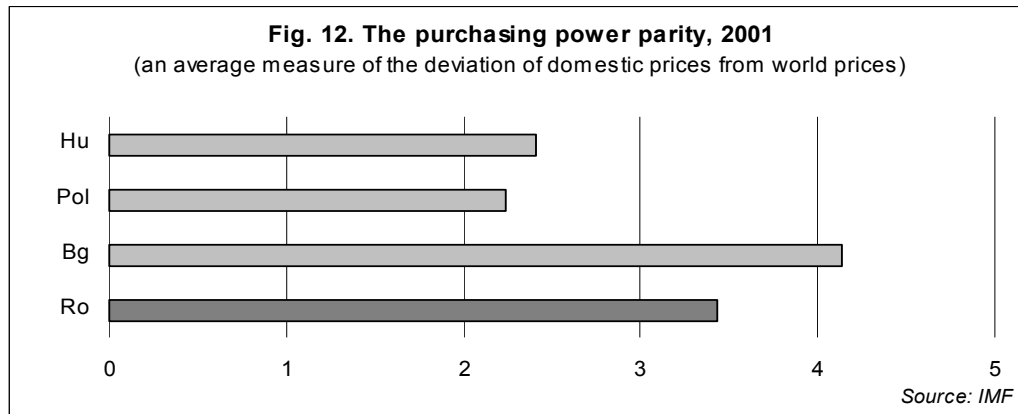


Fig. 10. The efficiency of the agricultural sector

	Ro	Bg	Pol	Hu
Agriculture,% employed	42	27	18	6.2
Agriculture,% GDP	15	13	5.1	6
Agriculture efficiency: GDP share/employment share	0.36	0.48	0.28	0.97

Source: IMF





The overall picture emerging from these comparisons is therefore more complex than that offered by the Commission's annual reports.

- There is a heavy burden of rural underdevelopment in Romania and Poland, with Bulgaria performing surprisingly better in this respect.

However, in Poland, agriculture and the pension system appear to be used less as safety valves against unemployment as compared to Romania.

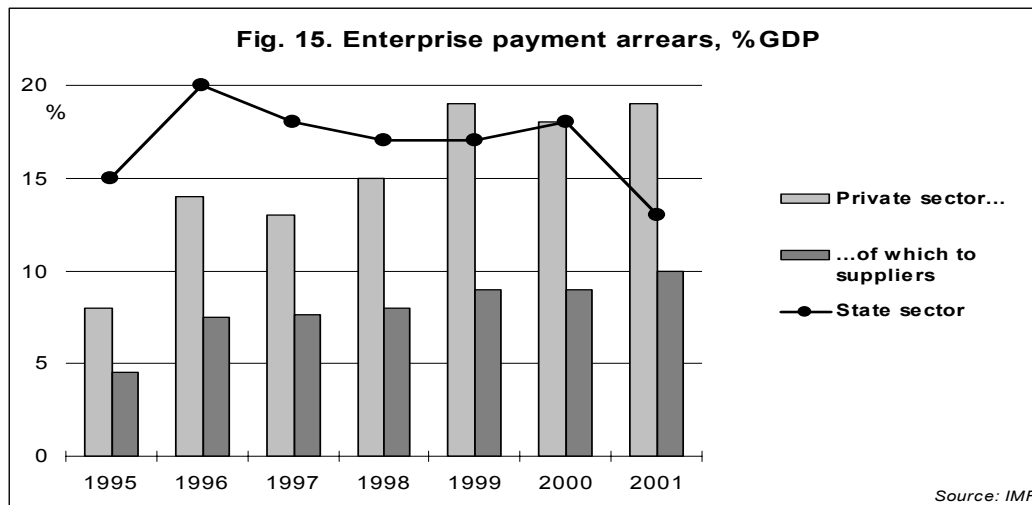
- Privatization has advanced faster in Bulgaria than in Romania, especially since the current government took over in Sofia. In combination with the tight monetary policy of the currency board, it has led to the current perception of better macrostability and reformist drive. The latest move by Bucharest to privatize some loss-making companies, after years of foot-dragging, is probably too recent to have trickled into the regular reports of international observers.
- By contrast, the alignment to world prices seems to be more advanced in Romania than in Bulgaria. Most probably, this is the case with energy prices that were liberalized faster in Romania. As a result, the Romanian economy appears to be more energy-intensive today, although still behind those of the first-wave countries.
- The business environment has improved in Romania lately, at least in the indicators measured by World Bank and reported in a recent study. Contract enforcement seems to be no more difficult than in other "market economy" countries while starting a business has become relatively easy and cheap (Figures 13–14).

3.3 What clouds the sky?

Romania's economic track record after 1999, when the country fended off the threat of a Bulgarian-style crisis, is very patchy, however. As already mentioned, major weaknesses persist that could harm GDP growth and macroeconomic conditions unless reforms continue. This caveat does not refer to unavoidable business cycle related fluctuations but to an imaginable relapse into a combination of revived inflation and balance of payments difficulties. In Romania, investors have repeatedly stressed the current poor financial discipline and the unfriendly investment climate as risk factors, and a number of recent government initiatives were aimed at improving these issues.

- **Inflation** is still high and in the past has been used by many companies as a means to survive. The current disinflation puts pressure on the loss-making sector and, in absence of bolder restructuring, large quasi-fiscal deficits will clobber the budget in the years to come. The persistence of these deficits will question the suitability of moving fast with the liberalisation of the capital account and the adoption of inflation-targeting in the near future. Although adding quasi-fiscal deficits to the official public budget deficits has its own methodological flaws (this is how the actual "consolidated" public deficit is measured most of the time), ignoring or underestimating them would be a serious mistake.
- Related to the point above, **financial** (including fiscal) **discipline** is not enforced consistently and loss making companies produce sizeable arrears/quasi-fiscal deficits. This is especially the case in their relationship with the energy sector, where the losses amount to about 1.5–2% of GDP. Arrears (losses) are also significant in the petrochemical industry. Also worrisome is the fact that the arrears generated in transactions

between private agents are on the rise and soon will overcome those generated by the state sector, which was predominant in the early 1990s (Figure 15). It is true that the total arrears have declined in real terms lately, including in the energy sector, and the budget deficit has been capped at 3%. However, these goals should not be achieved by hiding twice the amount of the deficit in various dark corners of the economy, as the director of World Bank mission in Romania recently pointed out. He estimated the current quasi-fiscal deficit to around 2–3% of the GDP, an unsustainably high level, and argued that the problem is kept under the lid since no official data are published on these issues, and the public is not properly informed.



- In spite of the recent improvements in the business climate mentioned above, **red tape and corruption remain major concerns**. What is more, while all the recent measures look impressive on paper, the changes for the better in the actual investment climate hinge fundamentally on how all these normative acts and regulations will be enforced since enforcement is, like in other transition economies, the critical element in fostering real change.
- The **pension system is increasingly under strain**. The system is unbalanced, with much of its financing coming from the health insurance's budget, a fact usually denied by the government. The problem is chronic because the retired population exceeds the number of employees (the ratio is currently 3:2 as compared to 1:2 in the early 1990s). Public authorities seem only now to move closer to a real reform after the abolition, in early 2001, of the private pension laws adopted by the previous government. The accumulation of hidden deficits in the pension system, in parallel with a low and steadily declining employment rate, are not good omens for a would-be market economy.
- In the **energy sector**, Petrom, the national oil company, is **slowly advancing toward privatization** as are two branches of the national electricity provider and two gas distribution companies. However, the general perception is that too little is done and too late, as the government will soon enter the last year of its mandate. True, the energy sector poses specific problems because it needs large investments while the interests of potential investors must be reconciled with the protection

of numerous low-income individuals. Moreover, as the experience worldwide indicates, energy markets need effective regulation since market failures can be especially damaging in this area. But none of these arguments can be an excuse for foot-dragging and letting state energy companies become suppliers of soft credits, like the banks, which eventually went bust six or seven years ago.

- The same bold **reforms are also needed in the mining and railways sector**. When the fourth and final instalment from the current agreement with the IMF was approved in October, thus completing the first of six such agreements since the fall of communism, the result was achieved only with four important waivers included. The general impression was that Romania had limped over the finish line rather than run a brilliant race.
- There are also important **"legacies" of delayed reforms** from PSAL program with the World Bank, such as the unfulfilled promise to sell BCR, the largest Romanian bank, and CEC, the savings bank. It is true that the lack of interest from strategic investors made the privatization slow and difficult. But whatever the reason, this is another point on which Romania compares unfavourably with Bulgaria, which has fully privatized its banking sector and insulated it from political intervention. As things stand, PSAL II can only be concluded by rolling over the "legacies" into the new PAL program currently negotiated with the Romanian government.

The problems highlighted in this brief analysis cannot be dealt with rapidly, since most of them are structural. Some of them do not even pertain to Romania only; they loom large in other accession (and not only) countries as well. For instance, agriculture has already strained Poland's accession negotiations. Likewise, the crisis of the pension (welfare) systems shows up increasingly in all accession countries and in the Euroland as well.

ROMANIA'S STRUGGLE FOR BETTER GOVERNANCE

LIMITED ADMINISTRATIVE CAPACITY HINDERS ROMANIA'S ACCESSION TO THE EUROPEAN UNION

The Copenhagen European summit of last December, as well as the last round of 2003 Country Reports, brought few novelties in the EU's approach to Romania and Bulgaria. Based on the roadmap for the two countries, itself heavily drawing on the Commission's strategy paper and the conclusions of the Brussels European Council, the documents restated the EU's support toward the target set by the two countries for 2007. The roadmap offered again the list of checkpoints for the two countries, slightly longer for Romania than for Bulgaria. Together they form a contrasting pair: in Romania, society is doing relatively well (compared to Bulgaria), but the state is underperforming. In Bulgaria, governance fares a little better, making structural constraints on a severely underdeveloped society less visible.

Negotiation chapters have been provisionally closed on the basis of the indicative accession date – 2007. In Bulgaria, 25 chapters have been provisionally closed and 20 in Romania. Progress toward the completion of accession negotiations will reflect progress in the adoption, implementation, and enforcement of the necessary measures in each country. The roadmap reiterates the worries of the strategy and country report, stating that “the overall capacity of the public administration to implement the *acquis* remains limited and represents a major constraint on Romania's accession preparations. While certain parts of the administration are able to function effectively there are many important sectors where the weakness of the administration is a serious cause for concern. These concerns extend beyond adoption of the *acquis* and also apply to the management of EC financial assistance.” While credit is given to the government for starting to tackle the issue, the roadmap acknowledges that intentions, more than an actual policy, is all the Romanian government currently has to redress its administrative capacity.

There are **obstacles** hindering Romania's European accession, both because of poor administrative (implementation) and policy making (generation) capacity. Neither the government nor the frail opposition parties are very good at proposing strategies and putting mechanisms in place to implement them. Policy-making flaws are related to low legislative capacity, which explains, to a great extent, why negotiations with Romania are slow. The indicator of this structural problem remains the number of emergency ordinances. Despite receiving heavy criticism, the ordinances proliferate, because bypassing the parliament at least in the short run is the only effective way the government can pass legislation.

Governments have repeatedly claimed, with good reason, that the reliance on ordinances is due to the parliament's low level of effectiveness (unlike ordinary laws, ordinances become effective immediately, even if the parliament can modify them later in the process). Despite pledges to make the parliament more effective, the two chambers and most MPs are often in the position to rubber stamp whatever comes from the cabinet. Moreover, due to their large numbers, MPs do not interact often enough with the representatives of the international community, to which only a small number of leaders have access. This further prevents them from finding opportunities to upgrade their capacity.

An indicator of **low capacity** is the small number of policy materials produced to promote integration, which is not going to happen only as a by-pass effect of adopting legislation. Neither the government nor the opposition parties have created substantial policy materials to back their actions, despite the large number of laws and amendments passed in total disregard of the limited implementation capacity.

Getting feedback on a policy is also seldom done in Romania. In some instances, programs fail from stage one due to the inability to spend funds. In other cases, specific programs are avoided and money lost because the bureaucracy thinks it has more to lose than gain by assuming the tasks. Therefore, getting to the final stage – assessing the program's outcome effects on society – is quite exceptional. However, the accession process requires more than formal adoption of the *acquis*, even assuming this can be eventually achieved. It actually requires implementation of EU legislation. Briefly put, this means that, in addition to adopting regulations that cans must be put in the can bin and the paper in the paper bin, the government must be able to enforce the measures, and citizens must actually start showing some discipline in disposing their garbage. How far away is Romania from that ideal? A good metric is to do case studies on relevant pieces of legislation, which are intended to be grounded in clear and important policies assumed explicitly by the government, and assess (1) the extent to which they are actually implemented and (2) the extent to which the results reflect the initial policy objectives. SAR has performed two such evaluations on two important policy areas related to public administration reform.

Test No. 1: The Freedom of Information Act (FOIA)

FOIA was passed in 2001, and its subsequent implementation has attracted extensive public attention and publicity from the media, as well as extensive capacity-building resources from the donor community. Conditions existed to make it a relevant case study. The question is: a year later, was the law actually implemented and the targets set by the government met? SAR surveyed 500 public institutions from 96 localities, with a questionnaire aimed at checking how the main requirements of the law were fulfilled in the legal timeframe. Operators were also asked to check, whenever possible, the statements of their respondents from various agencies in central

and local governments. The first round of questions examined the formal implementation of the law. More specifically, FOIA requires that access to public information by public authorities should be granted on request or ex-officio, through the specially designated office or civil servant (article 3) and public institutions must establish specialized offices with the competence to inform the public and answer the public's requests for information (art 4).

Results point to ordinary formal compliance: three-quarters of the sample designated a person in charge, and over two-thirds created a special office to deal with FOIA issues (Figure 2). Implementation is, unsurprisingly, considerably lower in rural areas than urban ones. The level decreases at the level of cities below 100,000, dropping seriously in rural localities.

Going more in depth, the law requires that each institution must produce and made available ex officio a list of documents of public interest. SAR checked on the existence of such a list, which is crucial to orient citizens, NGOs, and the media on the kind of information produced by the agency. It is also important if a case can be contested in court, as allowed by the law. The results are presented in Figure 3: the list was available in far fewer institutions – about a third of the total.

Fig. 1. Public institutions surveyed

	Number
Local governments	85
Parliament (houses)	2
Ministries	15
Prefectures	40
Higher courts	33
Lower courts	42
Public prosecutor offices	46
School districts	41
Police precincts	55
County councils	49
Local labor offices	59
Other institutions	32
Total	500

Fig. 2. Formal compliance by law provision and size of locality

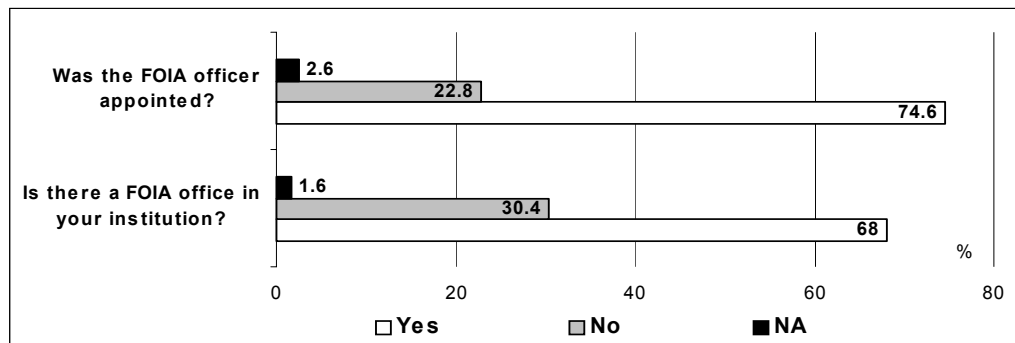
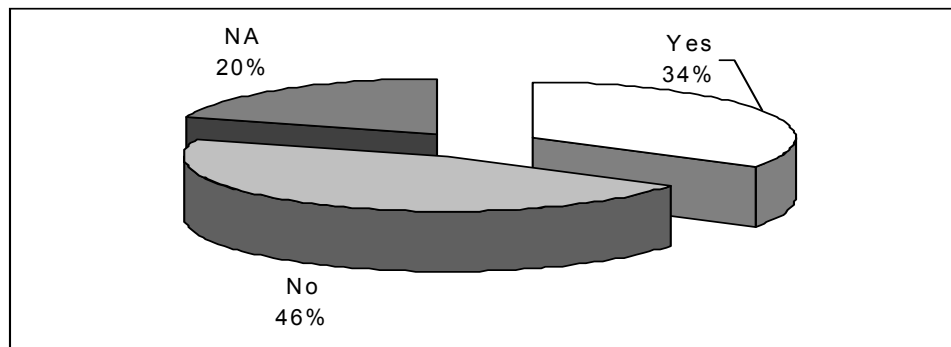
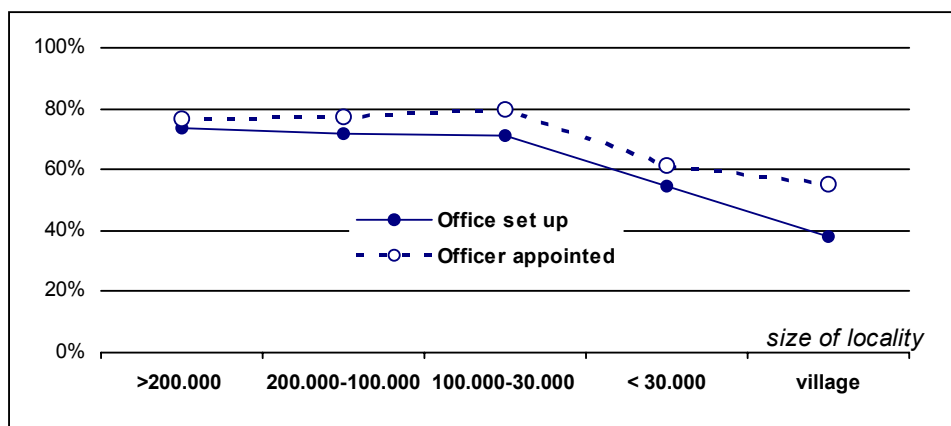


Fig. 3. Self-reports on producing the list of public documents

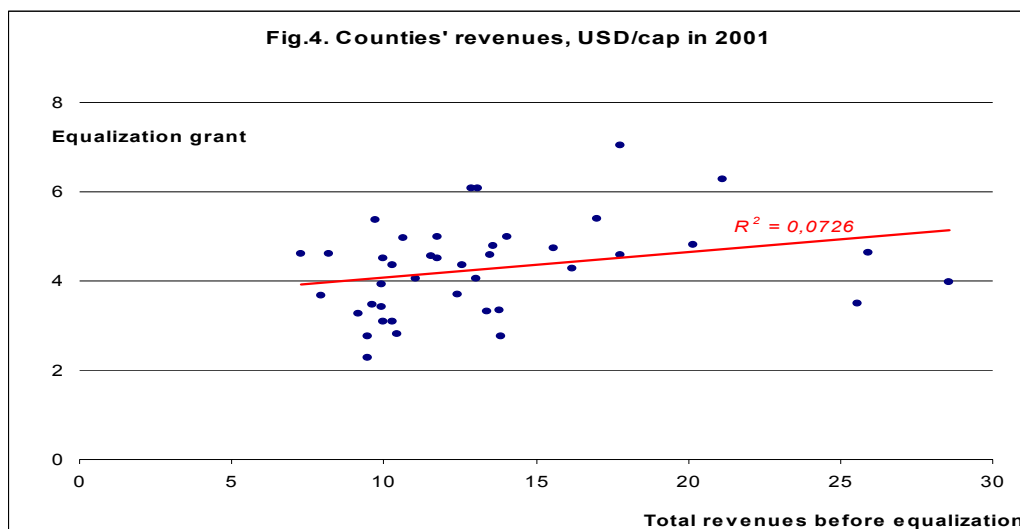
However, when our operators asked to actually see the list, only 16% of agencies could produce one. We did not check if the list was accurate and complete. The essential fact is that only 16% were able to meet the minimal first requirement of the FOIA: making the inventory of information that can be disclosed to the public. Therefore, one year after FOIA was enacted, the evidence illustrated that it was implemented formally and superficially in two-thirds of the agencies surveyed, and the first substantial step was undertaken in only 16% of the public administration. This might be illustrative for the fate of the *acquis*, which, even after being adopted by the parliament, itself a difficult task, may experience a similar outcome. The government department charged with overseeing the FOIA, the Department of Information, has invested substantial public credit on this bill, as well as a large budget to buy advertising space and commission an unconvincing awareness campaign. In spite of the effort, the results are discouraging: less than one-fifth of the total agencies are near the level of implementation required.

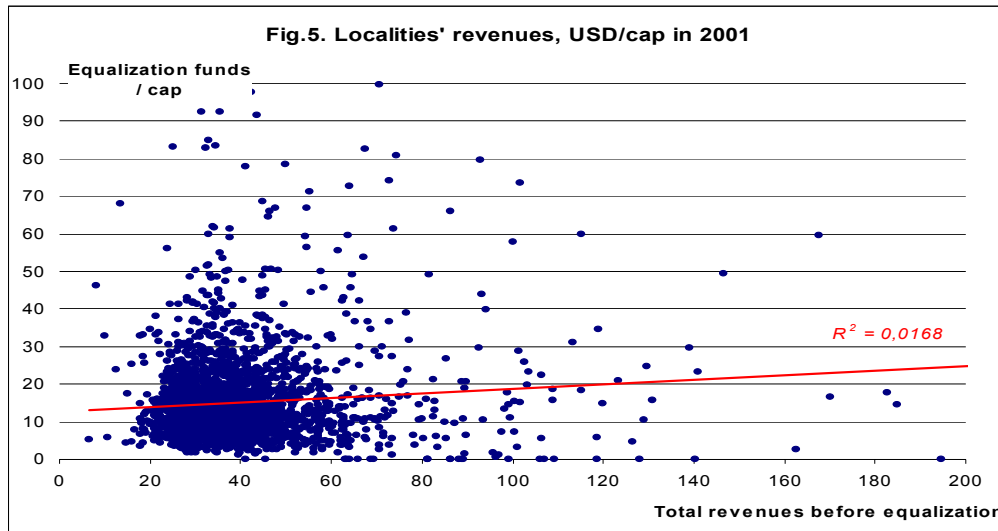
Test No. 2: Financial transfers for local governments (equalization grants)

With the advance of decentralization in the last decade, local autonomy has increased in Romania, and local governments were able to develop a basis of own revenues to finance their independent functions. But their actual capacity to raise revenues varies substantially from one unit to another, depending mainly on the local level of development. For example, in 2001, counties' revenues per inhabitant ranged from more than 1:3 from the poorest to the most well-off county. If anything, the disparities are even higher among localities, the second tier of local government.

Following international standard practice, a system of financial transfers was created in 1998–99 to partially compensate these disparities and ensure that all local governments have a minimum of resources to perform their basic functions. This system of transfers is called the *equalization grants system*, and, although in reality it works as an intricate arrangement of transfer stages and flows of funds, it is based on the simple principle of creating a pool of money that is to be distributed in inverse proportion with the financial strength of the local governments, following a formula specified in the Annual State Budget Law.

Compliance with this Robin Hood principle should be very easy to check in practice, were it not for the deliberate obscurity surrounding the system. Nevertheless, SAR managed to collect and assemble data on execution of local budgets to check if the basic policy objective – to transfer money from rich to poor local governments – is actually met. Unsurprisingly, it turns out that it is not, either at the county (Figure 4) or locality level (Figure 5). In both cases, there is no significant correlation between the wealth of the local government unit and the size of the (presumably) equalization grant it gets. Many rich units receive more money per capita than the poor ones – which is to say that instead of reducing inequalities, this policy slightly magnifies them.





The explanations are manifold and merely listing them offers a good x-ray of the functioning of the Romanian public sector in matters of financial allocations: the formula mandated by law is not applied, especially at the subcounty level, where the leadership of the county councils use the funds in a discretionary manner; the prefects, whose main constitutional attribution is to check the legality of local government decisions, have never challenged this illegal behavior in courts; the central government lacks the political will to step in and discipline its local bosses. As a result, incentives to behave responsibly and make fiscal efforts at the local level are destroyed, with the result that everyone focuses on rent-seeking and makes deals with the upper tiers of government on case-by-case basis. In addition, a lack of access to relevant information in a meaningful format makes it difficult for independent observers to see and document such policy flaws.

What is to be done about the public administration reform?

Although there is no specific *acquis communautaire* on **public administration reform**, the topic has gradually climbed at the top of the agenda of the EU-Romania relationship in the last years, a development reflected in the annual country reports. Approaching this subject is problematic, as the area of **public administration reform (PAR)** is difficult to measure for monitoring purposes. However, a consensus has emerged that PAR should advance in three main directions:

a. Decentralization. Real decentralization means the existence of subnational tiers of elected government, with their own legitimacy and scope of **decision making**. A good process of decentralization presupposes a clear assignment of (1) attributions and (2) sources of revenue by tier of government. If decentralization is to be something more than window-dressing, the relationship between central and local governments must be defined through iron-clad rules protecting the area of exclusive local autonomy. The shared resources must be allocated according to transparent and nonnegotiable criteria (in other words, not the way equalization grants are currently distributed).

b. Civil service reform, including the fight against bureaucratic corruption. A professional, politically neutral and stable bureaucracy must be created that is able to carry out the daily routine of public-service delivery and assist political decision makers with quality technical advice. Although, in general, this has been considered a fuzzy area of postcommunist reform since progress is harder to quantify than in, for example, privatization, a number of dimensions can be identified on which it is possible to build indicators that can be monitored: entry in the civil service must be open and competitive; regular performance evaluations (where not everyone receives the highest grade) must be conducted that feed into the payment and promotion systems; civil servants should be insulated from illegitimate political pressure; a fair institutional process should exist for disciplinary action; the average training level should increase in time; civil-service positions should be attractive, meaning that a certain proportionality should be maintained with private-sector salaries; a good database should exist with complete data on civil-service salaries as a management instrument for the government; the total wage bill should be affordable and transparent, while the sector-specific arrangements and discretionary fractions of salaries should be reduced to a minimum.

c. Policy process reform, including issues of transparency and accountability. *Policy formulation* in a modern administration ensures that (1) the top cabinet meetings are managed in a way that allows the cabinet to focus on strategic objectives rather than being burdened with details of legal drafting; (2) there is a system of cabinet subcommittees to coordinate a number of broad policy areas and screen new proposals before they reach the plenum; (3) important measures are first presented to the cabinet as short “policy options papers,” outlining the main problems, trade-offs, and solutions; draft laws are produced only afterwards when the hard choices are explicitly made. A proper consultation with the main stakeholders should be organized during the stage of discussing policy options. *Policy implementation* assumes that subordinated institutions should be given clear mandates, freedom to manage themselves, and be held accountable for results.

In brief, the core philosophic principles at the heart of PAR are the separation and delegation of powers. Essentially, it is all about the gradual and orderly withdrawal of the central political power from local community affairs and daily routine bureaucratic work. New institutions and accountable processes must be inserted in the newly free space, many of which will be newly created and involve other nonpolitical actors. Public sector institutions should become accountable primarily to their clients – the broader public – and only subsequently to their superiors. As a rule, all relevant information produced in a public organization for reporting and management purposes, whether financial or nonfinancial, should be ex officio available to the public in a meaningful form.

What has been done since the last country report?

- The Romanian government has taken a number of actions in the past year to address the deficit of PAR and improve its scorecard in view of the 2003 country report.
- A comprehensive Anti-Corruption Law was adopted in April. In fact, this was a package of laws including, among other things, the assets and interests disclosure requirements for top dignitaries and civil servants; measures to enhance the anticorruption institutional framework; and a new *law of the civil service* to replace the old one passed in 1999. This last law attempts to better define the scope and status of the Romanian civil service and raises the threshold in the process of depoliticization by transforming a number of top appointed positions into a special class of "high civil servants" (for example, the office of prefect).
- A so-called *sunshine law* came into effect that opens up the decision-making process in public institutions to public consultation and participation. The scope of the e-procurement system, set up a few years ago, was broadened. The new Constitution (if approved in the referendum) would also slightly constrain the government's ability to adopt emergency ordinances.
- There was a *government reshuffle-cum-restructuring* in June, which reduced the number of Romanian ministries from 24 to 14 (however, some of them survived as central government "agencies"). The restructuring was accompanied by a staff reduction, but clear and complete data in this respect were not offered.
- A *subcommittee of the cabinet* was set up, consisting of eight ministers, to deal specifically with public administration reform issues (IMCAR). Its members are intended to meet roughly once a month. IMCAR has a permanent secretariat – the Central Unit for Public Administration Reform (CUPAR) – located in the new Ministry of Administration and Internal Affairs.
- A comprehensive *exercise of consultations* with public institutions and various nongovernmental actors was initiated in August, under the coordination of CUPAR. It consists of a series of workshops organized in various locations in Romania where representatives of public organizations are intended to bring and discuss their sectoral strategies for reform. All inputs will be integrated into a consolidated strategy of the Romanian government, which should be ready by December and will represent the basis for further steps in PAR.
- The *National Institute for Administration (INA)* was improved and scaled up, particularly since the new law of the civil service creates a legal obligation for every civil servant to attend at least seven days of professional training per year. Moreover, a program for young professionals was initiated that aimed to recruit 500 young people educated abroad and place them on a fast-track career of "euro-councilors" in ministries and central government agencies.
- A number of *foreign assistance programs* were initiated, financed by the EU, World Bank, or bilateral donors, aimed at providing resources and technical expertise for the process of public administration reform. Most notably, important funds are being pumped into central administration streamlining, professionalization of certain functions (for example, the prefect), assisting INA and the National Agency for Public Servants to

understand and carry out their new duties and increase the capacity of local governments.

Stumbling blocks in the public administration reform

It is questionable whether all this legal and institutional frenzy will have a significant impact on the situation on the ground. Among the three areas presented above, prior to 2001, most progress has probably been made in **decentralization**, although it is also one of the least well understood areas. By and large, a reasonably functional system of local governance was created through successive legislative acts (1991, 1994, 1998, and 2001). All that was needed was some adjustment at the margins, for example, by better clarifying the functions of local and county councils, spelling out the further steps in the reassignment of attributions and revenues to stabilize expectations, and refining the criteria for resource allocation passed down from ministries through counties to localities.

But first of all, what was needed was a strong determination to enforce the existing legislation (as shown in the case study above). This has been utterly missing. Laws are ignored, interpreted creatively, or openly broken to perpetuate the old pattern of patronizing and subordinating the lower tiers of government. In their turn, those local governments that have the right political connections cherish this loose environment where hard budgetary constraints are missing, and everything is negotiable on a case-by-case basis. Certain financial allocations are made in defiance of the State Budget Law to build political networks at the local level (the equalization sums). Others are not only discretionary but also opaque. As a result, independent observers and the public have a difficulty seeing where the money went and why (infrastructure funds).

The new Civil Service Law requires that the office of prefect will become a professional "high civil servant," with all the limitations and protections of such a position. The provision was not meant to apply immediately, with implementation being phased over a period of a few years. Yet, only months after the law was adopted and following the government reorganization in June, a number of prefects were reshuffled. Some were ousted not for their ineffectiveness as prefects, but as local party organization leaders.. The former prefect of Bucharest, a military judge, was replaced by a two-star retired general, who, only three months later, was replaced by another person with a military background. These developments raise a question mark, not over the speed of decentralization reforms, but on its very direction.

If this is the situation with decentralization, the other two areas of PAR look even worse. **Overall, the same general impression is conveyed that laws are adopted to check boxes in the matrices of conditionality imposed by international organizations, while they make little impact on reality.** The previous **Civil Service** Law, adopted just in time for Romania to be admitted to start EU negotiations at Helsinki in 1999, was no obstacle against a politically motivated reshuffle of the public sector when a new government came to power. In some cases, only the names of institutions were changed as a pretext for reorganization.

It is unlikely that the current version will have more teeth. The monitoring of compliance in such sensitive areas as civil service reform should follow not only the adoption of legislation but also carefully constructed indicators such as turnover rates after a change in leadership (overall and by institution). Moreover, as the EU Commission observes, *“limited progress has taken place in areas related to remuneration and career structure,”* while *“the current salary system remains inconsistent, discretionary and lacking in transparency.”*¹⁹

The same problem exists with the transparency laws. There are no clear consequences if someone is found to have filled incomplete data in the assets- or interest-declaration forms. The case of a senator recently exposed by the media as having been in conflict of interest conveys the impression that sanctions are negotiable and depend on the perpetrator's political affiliation. There is a clear need that the government follow up the adoption of legislation with resolute action; this will send a clear signal. Otherwise, nonenforced EU-compatible laws will continue to accumulate and contribute to the legislative Potemkin village erected by the authorities in the heroic effort to build the new Romania.

Some changes are well meant but half-baked and, as a result, may have unforeseen consequences. The legal obligation that each of the 110,000 civil servants from the central and local administrations take at least seven days of training per year creates an annual public liability estimated at about \$40 million. The level exceeds by far the current supply of training on the Romanian market. Government officials have admitted that INA can cover about 10% of the demand at best. It is unclear who will provide the rest. In addition to short-term training, INA should also offer long-term graduate programs in public administration. It has been slow to organize but, in the fall of 2003, eventually managed to select and dispatch the first class of students to a British university for one academic year. This is good – but the danger lies elsewhere. Having adopted the French ENA as a model, the Romanian INA is unlikely to replicate ENA's strengths anytime soon (a good education and *esprit de corps*) while it is very probable that it will replicate its weaknesses (opacity, a boys-club mentality, and preference for deals based on informal personal connections, including across the public-private border). All these will only reinforce existing shortcomings in the Romanian civil service and probably add exotic flavors to the original ENA model because of the specific Balkan context where it has been transplanted. A more open and competitive admission in civil service, by removing the “preferential” treatment of INA graduates, would make the environment more transparent and dissipate the impression that INA is just another party cadre school.

The initiative for young professionals is also one that should be scrutinized very carefully. The performance of these professional will depend very much on the environment and system of incentives in the institutions where they are appointed. It is true that, in general, the Romanian public administration strongly needs young people who can work on PCs, manage projects, and speak foreign languages.

¹⁹ Country Report, 2003, pg. 15.

However, most of them will likely only stay as long as they feel they can make a difference and lose motivation when they see that they do not. It may seem hard to believe, but, in the central government, there are some young people who recently returned from abroad and work in top positions without being formally employed. They stay in these unpaid internships for many months, working hard in the hope that their engagement will eventually be formalized. The situation is unusual but demonstrates **that some individuals come with motivations that are more purposive than financial and that there is a supply of qualified labor at least for some sections of the civil service. If the turnover remains high, there may be other reasons than the low pay which drive good people away.**

In general, the management of the civil service remains amateurish, fragmented, and discretionary. Obscurity is used by most employees as a cover for incompetence – or worse. There is little institutional memory in organizations. By default, they remain secretive, and public information is hidden from the public as the only comparative advantage of otherwise unemployable individuals. The National Agency of Civil Servants (NACS) is too weak politically to perform effective horizontal screening during the recruitment process, a fact noted by the EU Commission in the latest report: the appointments of young professionals *“lack transparency and these initiatives were taken without the full consultation with the bodies responsible for civil service management and reform.”*²⁰

As NACS representatives themselves admit, they cannot impose anything on strong ministries, which continue to be run as independent feudal estates – sometimes they cannot even collect the information they are mandated to collect, such as those referring to salaries. The newly introduced annual evaluation does not rank the employees according to their actual performance since everybody gets the highest grades. As a result, the bonus payment system is regarded as a discretionary supplement to a wage that, in any case, is too low to be an incentive for performance.

In fact, there is still no unitary civil service in Romania. What exists, rather, is a collection of sectoral and opaque bureaucracies, run on a mismatch of sector-specific arrangements around which powerful vested interests have solidified in time. This establishment is not only unmanageable but even hard to understand, and the government has shown little appetite for tackling the core of the problem so far. The effort to develop a database and a system of indicators to assess the current situation has been going on for years, with help from donors. However, NACS is sometimes reluctant to even develop measures of output and outcome, partly because nobody has done this before and partly out of fear to step on someone's toes.

All of this leads to the conclusion that substantial civil service reform, and PAR in general, can only be pursued if there is a firm commitment at the top. The cabinet leadership should be willing to spend some political capital on painful decisions – which include staff reductions,

²⁰ Country Report, 2003, pg. 15.

among other measures. Delegating unpleasant tasks to junior ministers is not going to work, as they cannot reform the departments run by their powerful senior colleagues. This is obvious in the case of CUPAR: *“the unit has no real authority over the rest of the Romanian public administration, and with only eight staff members is under-resourced to carry out a reform of the entire administrative system.”*²¹ Until now, the necessary determination at the top has been missing, and we have to see if it will be present from now on.

The **process of decision making** remains protracted, being ambushed on various points with draft laws that flow continuously from ministries and agencies, which sometimes collide with competing versions of the same draft. Instead of being short, focused, and reaching clear decisions, Romanian cabinet meetings are long and have unpredictable agendas. Extensive time is spent on irrelevant details, while crucial choices either pass unnoticed or are avoided on purpose. When this happens, the difficult decisions are postponed indefinitely. As a result, these decisions are made by the bureaucracy in the process of implementation. This is why, in many cases, the administrative norms that follow a law are more important than the law itself. In actuality, *they make law*.

There is currently little chance to slow down the flow of ill-considered legislation, rushed through because “reforms are urgent,” which quickly prove inapplicable and are followed by new and even more urgent bills to amend the first. In other instances, the drafting and adoption of laws has become a substitute for real action in Romania, a way to avoid confronting reality. Donors have come to realize the problem and increasingly ask the Romanian authorities to allow more time for debates and to openly discuss the key issue to increase the quality of acts and regulations. However, this is difficult, since there is no clear counterpart on the domestic side overseeing this issue. No focus for coordinating policies has emerged so far, and the civil service has no experience in costing out laws, evaluating their broader social impact, and assisting the decision makers with such expertise. The government’s Secretariat General, the natural location of this function, *“has no capacity for substantial policy coordination and there is little qualitative monitoring of policy implementation.”*²² Like in civil service reform, there is little chance that such policy coordination capacity will be developed as long as the top political leadership does not realize its importance and is willing to spend political capital on fixing the problem.

The consultations organized by public authorities – whether they are required by the new sunshine law or part of broader strategies, such as the one led by the Ministry of Administration and Interior on public administration reform – are likely to be, in the end, just formal exercises carried out to please international donors. There is usually not conceptual preparation of these initiatives, as well as structure or channel to feed the outputs, whatever they are, into the real decision-making process.

²¹ Country Report, 2003, pg. 15.

²² Country Report, 2003, pg. 16.

The European Commission has repeatedly suggested that the Romanian government devise mechanisms to increase the accountability of public institutions and the political independence of civil servants, to introduce modern management instruments, develop human resources, and so forth. In the light of the two case studies presented above, these seem more like targets than recommendations to those acquainted with the situation on ground. It is not by mere chance that Romania has the highest corruption score among all applicant countries with Transparency International, and the worse governance score with Freedom House's *Nations in Transit*. Nothing will prevent further legislation from being ignored and training for civil servants and politicians being as superfluous as it has been in the past decade, if promotion in the state and local bureaucracy continues to be wholly unrelated to merit, the effects of policies are not measured, and performance, rather than loyalty, is not rewarded. To sort out these problems, **the government should**

- **Slow down the process of drafting and adopting legislation in a haste, because most of it is ill-considered and will be amended later, increasing the confusion and incoherence. First of all, introduce the practice of working with *policy papers*, which summarize all the options in a certain area and are discussed publicly. The laws can be written only subsequently, after a decision is made on the crucial points of the policy.**
- **Do not let important decisions to be made implicitly by the bureaucrats who write the secondary legislation (norms of implementation), just because they are too unpleasant to be made explicitly by the cabinet or the parliament.**
- **Once a law is passed, make serious efforts to enforce it. It is unacceptable when public institutions are allowed to ignore crucial provisions, as it happens with intergovernmental financial transfers.**
- **Define a clear territory of local autonomy, and agree on a general strategy of decentralization, with details and deadlines, to govern the direction and pace of the process. This creates transparency and stable expectations among stakeholders.**
- **Assume responsibility at the top for sensitive areas like public administration reform (PAR), which cannot be delegated to junior ministers and obscure agencies with no political clout. PAR is difficult, and some political capital must be spent on it in order to get real results.**
- **Create a system of performance measurements for the civil service and local governments, which can be used both as management and transparentization tool. Disclose the results *ex officio*.**

The donors, primarily the EU,

- **Should be prepared to open up to public scrutiny all their activities to assist governance improvement in Romania. As the real drive for change in Romania is the domestic public opinion, all the commitments of the Romanian government, including diagnoses, technical papers, recommendations and deadlines, should be made public. This will foster accountability and avoid superficial compliance, as the public opinion will do the job of monitorization for the donor.**

WHY THE ABSORPTION OF EU FUNDS IS POOR

Romania's low administrative capacity shows most dramatically in the key area of absorbing donor funds in general, and EU funds in particular. On a regular basis, officials from the European Commission publicly declare that the Romanian bureaucracy is unable to absorb the large sums of money that are made available each year. The 2003 Country Report concluded that "*there has been a slight improvement in the absorption rate of funds during the reporting period, but the overall capacity for programming, operational management and financial control remains insufficient.*"²³ If programming flaws have much to do with the poor policy-making process described in the previous section, implementation and control are purely administrative functions that depend on the effectiveness of the domestic bureaucracy. After Copenhagen, more funds were pledged by the EU for Romania and Bulgaria to help them catch up, but, in order for these funds to achieve their task, current administrative bottlenecks must be investigated.

Rather than accepting the criticism from Brussels in the spirit in which it is given—in other words, constructive criticism aimed to increase Romania's "absorption capacity" – officials often become defensive, claiming that the government is perfectly able to spend all the funds that Brussels makes available. Earlier this year, in an interview with *EU Observer*, Eneko Landaburu, head of the Enlargement Directorate at the European Commission, stated that Romania does not really have the administrative capacity to attract EU funds: "The problem lies with the weak administration, which will absolutely have to reform in order to join the EU in 2007." Also mentioned in the same interview was the problem of the EBRD loan to the Bucharest City Hall, which is also seen as an "absorption" problem. In response, the Ministry for European Integration made it clear that spending EU funds was not a problem for Romania and that an additional 2,000 bureaucrats were being employed this year to help resolve the issue.

What neither party addressed in this exchange was the real problem regarding EU funds – the institutional "bottleneck" within the Ministry of Finance, which not only delays the spending of EU funds, but also makes the process extremely tortuous and complicated and the atmosphere poisoned, while the likelihood of "transferring know-how" (one of the aims of EU assistance) is lost within these bureaucratic struggles.

The framework and context of EU funds

Although Romanians have become accustomed to the fact that the EU and other international donors make large cash donations to Romania, little effort is made to promote the ideas and philosophies behind these funds, and some people struggle to understand why so much money is given to their country. Fortunately, the European

²³ Country Report, 2003, pg. 7.

Commission has come a long way in terms of communicating its policies and guidelines, most of which can be seen on their mega-site: <http://europa.eu.int>. According to the Vade Mecum on grant management (1998) "A grant is a direct payment of a non-commercial nature by the Commission to promote an EU policy aim." The overall objective of the PHARE program is to "help the candidate countries prepare to join the European Union."

In practice, what the 31 chapters of the *acquis* represent is a detailed policy and road map to reform for each and every ministry.²⁴ This, in turn, means that each ministry can apply for EU Structural Funds to build its capacity to both manage the funds and adopt new legislation. These funds generally end up in the hands of EU consultancy companies which provide a wide range of *Technical Assistance* and other services. However, several problems become apparent at the ministerial level. These are problems that the European Commission's Delegation to Bucharest has been wrestling with for years:

- A tendency toward resentment among certain ministerial officials, who can dismiss and undermine the efforts of EU consultants. This is often based on jealousy because the EU consultant is often paid a salary significantly higher than the Romanian official. If the ministerial official is incompetent, he will blame the consultancy for the lack of progress.
- A lack of capacity within individual ministries to understand and effectively deal with the complex EU procedures. Each ministry is required to set up a PMU (Project Management Unit). If these appointments are made on political – rather than professional – criteria, little progress will be made.
- An expectation among certain PMU members that association with an EU project will bring personal material reward. When the officials realize that the consultants usually have little in the way of unallocated funds at their disposal and that many are unfamiliar with Romanian practices, relations can worsen.

These factors can undermine the assumption that an experienced Western expert will be able to transfer know-how to open minded and supportive Romanian officials. While this may suit the consultant who is usually so caught up in the approval process with the Ministry of Finance (see below) that he/she has little time for the transfer of know-how, it represents a major lost opportunity for the ministries who should be learning from each and from every specialist who visits.

The other EU policy that must be understood in this context is ownership. In order to build capacity and a sense of responsibility among candidate countries, the European Commission introduced the DIS (Decentralized Implementation System).²⁵ The DIS was a complex rulebook for individual ministries and governments to properly manage EU funds and was

²⁴ The World Bank program for Romania is constructed along similar lines to the EU funds, in other words, budgets are allocated to individual line ministries based on their reform efforts, capacity, and coherent requests.

²⁵ It has subsequently been updated and renamed.

introduced in parallel with accession talks. At the same time, the EU introduced strict new spending rules requiring that all procurement of goods and services be tendered. On the theoretical side, both these developments were positive.

But all this placed a huge burden on the Romanian bureaucracy, which is not familiar with creating management units run by genuine experts willing to take personal responsibility for complex decisions. Romania's institutional culture is more attuned to the command style of the communist period, where initiative was crushed, and all decisions were made by the minister. This was the first big "capacity crunch" that Romania faced with regard to the absorption of EU funds, and one that has not yet been satisfactorily resolved. If every paper, no matter how trivial, must be signed and countersigned by the upper level of the hierarchy because responsibility cannot be delegated to lower levels, significant delays in the process are the obvious result.

Many of the above problems are being tackled, and it is clear that certain officials have made superhuman efforts to understand EU procedures and generally gear up the system to EU standards. Most ministries have set up PMUs and are managing EU funds from PHARE, ISPA, and SAPARD. The current government has made some important steps in improving Romania's absorption capacity. The new Ministry of European Integration deserves particular credit for initiating training and information schemes to build the capacity of the line ministries. However, important obstacles remain in the form of bottlenecks, which substantially reduce Romania's absorption capacity.

Identifying the bottlenecks

In order to identify the blockages within the system, it is essential to understand the way in which contracts are awarded and where the ministerial responsibilities lie. The process by which a ministry – or a municipal government – can access EU funds to finance particular projects is as follows:

- The European Commission signs a *Financial Memorandum* with a line ministry with regard to a particular project that relates to a policy (for example, for environmental policy, a project to improve the water supply system in a municipality would qualify);
- The ministry responsible for water supplies will produce a *Terms of Reference (TOR)*. This should be done by the PMU, but if they are not able – as is often the case – a consultant or an EC Delegation staff member will produce it;
- The TOR becomes the basis for a public tender for *Supplies, Services or Works*, which is announced on the Commission's internet site;
- A number of (usually international) service companies – or consortia – are short listed. They submit detailed proposals and budgets and an evaluation committee at the Ministry of Finance's CFCU (Central Finance and Contracting Unit) chooses the most competitive offer. EC representatives can attend these evaluation sessions and can cancel them if they suspect corrupt practices;
- A contract is signed between the company (the contractor) who wins the tender and the CFCU (the contracting authority). From the moment the contract is signed, the contractor must submit

continual progress reports and detailed spending analyses to the CFCU if it wants to be paid for its services.

What becomes clear in the above description is the critical role of the Ministry of Finance's CFCU, which is, in effect, the legal entity responsible for almost all EU projects. In addition to its responsibilities for international EU contracts, the CFCU is also responsible for each and every subcontract the contractors sign with local suppliers – as well as each and every grant contract for the grant funds (for example, the 19 million euro given in grants to Child Protection Institutions). This rule was set up to prevent corruption, but, in effect, it creates an unmanageable mass of work for the CFCU, as well as excruciating delays and stress at all levels of the system.

The bottleneck in the system lies within the CFCU. Because of its obscure identity within the Ministry of Finance, it escapes the scrutiny of the media, which is generally reserved for the Ministry of European Integration (where most people wrongly believe the “absorption capacity” problem lies). The problems faced by the CFCU are complex and numerous, but the most important problems can be summarized as follows:

- With hundreds of contracts operating simultaneously, the CFCU is under substantial pressure regarding its financial and legal responsibilities. It lacks resources in general and human resources in particular and is unable to effectively monitor all contracts.
- Due to the institutional culture of decision making at the highest level, the CFCU's problems are compounded by the fact that the director must personally approve almost all contracts and invoices. There appears to be very little delegation of authority, and an atmosphere of mistrust regarding the contractors is prevalent (the EC delegation has not been sufficiently determined in discouraging this attitude). This factor is the “bottleneck within the bottleneck,” and getting the director's approval for mundane issues can involve lobbying from the delegation and even Brussels.
- Romanian officials are poorly paid, and there are no concessions for those within the CFCU. Many of them see the seemingly high fees of international and local consultants. Such low pay, linked with such high levels of responsibility, inevitably leads to a lack of motivation.
- Despite its strategic responsibilities and the complex nature of the work involved, the CFCU is run like any other Romanian public institution – with a lack of modern management systems (clear lines of responsibility, incentives, delegation of authority, training, bonuses) that could help to more effectively manage the massive workflow. The directors are so swamped in mundane work that they are unable to consider strategic or policy decisions.

Taking into consideration the above factors, it is a wonder that the CFCU manages to accomplish anything. It is a testament to the hard work and integrity of the officials involved that they are able to get so many contracts through this bottleneck and have remained apparently clean to date. Additional external factors contribute to the difficulties faced by the CFCU.

- With delays in getting approvals for most EU projects, the EC delegation inevitably becomes involved in putting pressure on

CFCU officials to agree to individual requests from the contracts they are responsible for. As an effect of this informal lobbying, the EU is effectively taking the initiative away from the government, thus undermining the EU's overall aim of creating a sense of ownership within the Romanian government. Although this is justified in terms of expediency, it does present a moral dilemma that should be addressed.

- As a further negation of the principle of Romanian government ownership, the PMUs within ministries become marginalized in this bureaucratic process, and the occurring delays are out of the PMUs' control. Although the PMUs designed the projects (at least in principle) and are responsible for approving their contractors' progress reports (required for payment) as well as local tenders, they have no formal authority over the contractor. This results in a loss of interest in the project itself, and an increased likelihood that know-how will not be passed on.

The fact that the CFCU is so well hidden within the Ministry of Finance (which rarely comments on EU issues) is one of the reasons why it has not come under press or diplomatic scrutiny so far. If the CFCU could be modernized in terms of its management capacity and properly resourced, it could play a key part in managing EU funds better and ensuring that the transfer of know-how actually happens and is not just an idea to be sneered at by frustrated and burned out officials.

The following recommendations would go some way in resolving the problems faced by the CFCU, which, in turn, would not only increase their own capacity but also the capacity of Romania to effectively absorb all the EU funds available:

- **The Romanian government and the European Union should commission an experienced management consultancy consortium to fully assess the CFCU's needs. The detailed recommendations of this study should form the basis for a full modernization package that could transform the institution.**
- **Based on the recommendations that would emerge from the above study, management of the CFCU should be overhauled and the principle of delegation of authority – in particular – should be implemented.**
- **The CFCU should be fully resourced to effectively carry out its current duties, motivate and manage its staff, and have spare capacity to deal with other EU related policy issues.**
- **Once the management and resource issues are decided, the CFCU should develop an effective Monitoring and Evaluation Unit, as well as a public relations capacity, ensuring that the press, diplomats, and politicians are kept informed about the progress being made.**
- **Romania's diplomatic and political communities should recognize the CFCU for what it is: a strategic point within the administration that is responsible for all EU funds and, at the same time, a bottleneck that is preventing Romania from absorbing all the funds and know-how that is available to it.**

THE QUEST FOR A CLEANER SOCIETY

BAD POLITICS PROMPTS POOR JUSTICE

Legislative and judicial reform

Romania amended its 1991 Constitution in a referendum held in October 2003. The declared purpose was to allow European citizens to run in local elections and buy land in Romania, changes necessary for accession to the EU, although Romania's accession is forecast for 2007 at the earliest. The amendment of the Constitution was a missed opportunity to reform the political system, although progress on a few issues is worth noting. After two years of debate, all the proposals with a real potential for change were not adopted. These included abolishing the upper chamber, reducing the number of MPs, currently among the largest per capita in the world, and outlawing political migration from one party to another. Because these provisions were not included, the changes that were adopted will bring little improvement in the separation of powers, the effectiveness of the two chambers, and the recruitment of higher quality MPs. The amendments did introduce a deadline of 45 days into legislative procedure to avoid delays between the two chambers. But since no step of the legislative chain was eliminated, this amendment risks only further impeding the already low quality of legislation adopted. Property will be "guaranteed" instead of simply "protected," and the rights of Hungarians to use their language in the courts or local governments is again part of the Constitution, as was the case in the 1964 version. However, these amendments were not really indispensable. The 1991 Constitution did not prevent a better treatment of property nor did it forbid the use of minority languages. If these practices have not been encouraged, it was because of a lack of political will, not deficiencies in the Constitution. Progress was recorded in the limitation of parliamentary immunity for MPs, who can now be charged without the approval of their chamber for offenses committed outside the parliament unrelated to politics. The regime of the judiciary was also improved by limiting the right to warrant preventive arrest and searches to judges only and subordinating the police to the prosecutors in a less equivocal way than was the case with the previous arrangements.

The situation of property restitution remains the best example of the distance between law and practice. While the amended Constitution states that property will not be nationalized in the future--an unlikely possibility in view of Romania's EU accession--Romania struggles daily (and loses) in the European Court of Human Rights in Strasbourg *not* to return nationalized property. All extraordinary appeals against owners are still pending: the General Prosecutor, newly appointed in the fall of 2003, made no sign that he intends to backtrack on this issue. The week the Constitution was adopted, in an extraordinary appeal, the Supreme Court of Justice ruled that a building confiscated by the Red Army without any papers and then passed to the Romanian state--still without papers--cannot be returned to its former owners.

In the past decade, the main difference between Romania and Central European countries concerns property restitution and privatization, in other words, the political will to create an autonomous society quickly, rather than retaining the old dependency model of the socialist era. Such will has always been in short supply in Romania under the rule of the postcommunist parties. The policy distance between incumbents and challenger elites has also been far greater in Romania compared to Central Europe. The more elites agree on essential issues, such as how to handle the communist heritage, *notably property*, the smoother and faster the transition will be. In Central Europe, such a consensus existed from the onset of the transitions in 1989, as communist parties had already exhausted the possibilities of reforming the former system. In post-totalitarian Romania, the communist successors explored these half-baked reforms in the first years of the transition and failed.

2003 was *the* crucial year for judicial reform, as all four laws constituting the new framework of the organization of judiciary (texts on magistrates, the organization of the judiciary, the Supreme Council of Magistrates, and the public prosecutor) should have been enacted, as well as the criminal code, criminal and civil procedure codes, and a new fiscal code. Although these drafts are complete, they still must be adopted by both chambers, and disputes remain regarding the two most important issues, those bearing an influence on the crucial topic of political intervention, the mechanism of appointment of judges in the Supreme Council of Magistrates and the use of extraordinary appeals.

Initially an exception, in the last decade, extraordinary appeal by the general prosecutor has become the norm to challenge final judicial rulings favoring owners of nationalized real estate. In practice, this means that an owner would turn to the courts after waiting in vain for his property confiscated by the communist regime to be returned by the postcommunist one. Both prior to a 1995 law of restitution and following it, the courts have ruled mostly in favor of owners. In most cases, the government appealed, and the case eventually reached the Supreme Court, which also ruled in favor of the owner. But the general prosecutor would then appeal, and a second panel of judges from the Supreme Court would rule in favor of the government. Many of these cases have now reached ECHR in Strasbourg, and, unsurprisingly, the Romanian government lost all cases before the ECHR in 2003. The Supreme Court judge who reversed most of these sentences now occupies the number two position in the Ministry of Justice. The ECHR, however, cannot require the restitution of property but simply fine the Romanian government and establish the damage that the owners should receive. As a result, each lawsuit lost by the government is paid by the Romanian taxpayers (in 2003, one house was evaluated at \$1 million) while the state or the state tenants keep the house. This mixture of ideology—the owners are former propertied classes so they were always seen unfavorably by the ruling party (PSD)—and self-interest—tenants of these luxurious houses are cronies of the political establishment—is typical for the Romanian transition under postcommunist rule.

Pressed hard by the European Commission, the World Bank, and almost every donor, the Romanian government promised that it would abolish the

practice of extraordinary appeal. The revised civil procedure code, the implementation of which should have begun in 2003, does not include this type of appeal. Anymore - in principle. But extraordinary appeal will be preserved until 2007, at which point most property trials should be over due to the provision that current appeals will continue and the 30 000 new requests for appeal shall not be dismissed. The revised Criminal Procedural Code, adopted in 2003, preserved extraordinary appeals. In the first half of 2003, the number of final sentences of the Supreme Court successfully challenged by the general prosecutor, a subordinate of the minister of justice, was 156 appeals in criminal law suits and 238 in civil law suits.²⁶ General Prosecutor Joita Tanase, who was dismissed in the fall of 2003, previously challenged all final sentences with some political importance--from the generals condemned for shooting on anti-Ceausescu protesters in Timisoara, to the banker who bankrupted Bancorex, the main state trade bank, by giving preferential loans to PSD cronies.

Romania's courts are burdened by meager budgets and poor legislation. But political intervention remains the number one problem, as costly European programs are underway to address logistical issues. Bad politics prompts bad justice in Romania, and this overrides the judiciary's organization and administrative problems. Even the creation of the new opposition alliance was hindered by a court without serious grounds. Courts do not have their own budgets or the power to organize their own finances because of a lack of political will. The reluctance to grant autonomy to the courts has long prevented the judiciary's financial decentralization. Unfortunately, successive governments have shown their distrust in the magistrates' ability to regulate themselves, instead assuming that reform can progress only by strengthening the ministry's control role. Many sentences are inept in Romania, and quite a number of judges are corrupt, but as the ministry's intervention failed to prevent the development of this environment, it is difficult to understand why the ministry believes that further intervention will set things right. Since reform intended to empower the judiciary is about process as much as it is about ends, this constant enhancing of the government's power over the judiciary cannot bring progress.

The main hope for Romanian civil society and donors assisting judicial reform lies in the passage of control power from the Ministry of Justice, which now directly controls judges and participates in their appointment, to the Supreme Council of Magistrates (SCM). And indeed the amended Constitution opens the door for this development. But how should the Council be appointed to insulate it from political intervention? The mechanism introduced in 2002, through an emergency ordinance, failed to make this new body autonomous. In 2003, the SCM took a very aggressive public stand in defense of the minister of justice in a rift with the president of the Supreme Court of Justice. The appointment mechanism proposed by the new Constitution is close to the current one, but makes the president (still a representative of the executive branch) chair the SCM instead of the minister of justice. Prosecutors, who are directly subordinated to the Ministry of Justice, compose half of the SCM. The other half of the SCM consists of

²⁶ Source: Apador-Romanian Helsinki Committee, quoting statistics obtained from the Department of Justice on the basis of the Freedom of Information Act.

judges, who are elected by superior courts and must have seniority and a PhD., further diminishing the chances of post-1989 judges of being elected. In addition, the parliament, and therefore the majority, appoints two members of civil society to the SCM, further lowering the proportion of judges on the body. Under these circumstances, even a formal transfer of power from the Ministry of Justice to the SCM risks making little difference in practice. Furthermore, following the adoption of the Constitution, Supreme Court judges will not have their six-year terms renewed automatically, being replaced for the first time with judges of unlimited tenure on a case-by-case basis. While this is obvious progress from the former situation, it also provides a fresh opportunity for new political appointments.

Corruption is grounded in misbalanced politics and underdevelopment

In 2003, Romania again was named the most corrupt of EU accession countries by Transparency International. Romania scores last among EU accession countries on the World Bank composite index of governance quality—an average of six scores measuring accountability, government effectiveness, regulatory quality, rule of law, control of corruption, and political stability—falling behind a nonaccession country like Croatia (see Figure 7). But more important, Romania witnessed the smallest improvement in performance between 1998 and 2002 from all the states included in this group. This is a cause for concern, especially since part of the increase is explained by one of the six indices (political stability). The findings confirm that the low grades Romania has received from the EU Commission in the annual country reports on public administration reform are not entirely subjective or politically motivated.

Some steps ahead have been taken, however, to fight administrative or petty corruption. Implementation of the new Freedom of Information Act progresses slowly. (The law is, in fact, an accountability law requesting, for the first time, public reports on how public money is spent.) An estimate by the Romanian Academic Society following the monitoring of all county capitals reported that only 15% of public agencies complied with the law by producing such reports for 2002. The most positive effect of the government restructuring was the joining of all administrative control units under a minister delegate; an increase in the efficiency of controls was subsequently reported. For the first time, the new minister of control started investigating government party members.

A comprehensive *Anticorruption Law* was adopted in April. In fact it was a package of laws including, among other things: disclosure requirements on assets and interests of top dignitaries and civil servants; measures to enhance the anticorruption institutional framework; and a new *law of the civil service* to replace the previous one adopted in 1999. This law attempts to better define the scope and status of Romania's civil service and raises the threshold in the process of depoliticization by transforming a number of top appointed positions into a special class of "high civil servants" (for example, the office of prefect). However, media allegations of fraud and corruption, which led to the spectacular resignations of three ministers, fell in areas not covered by this legislation, such as the misspending of

European funds. Nevertheless, most of the energetic control activity by the minister of control was made possible by this new legislation, which, for the first time, prohibits conflict of interest in Romania.

Administrative corruption in Romania is deeply grounded in the administration's lack of capacity to deliver fair and timely service to every citizen. Individuals bribe because otherwise they would obtain the service they require later than they need or below the quality required. Between 20 and 23% of Romanians acknowledge in polls that they have "connections" that help them on a regular basis in all their dealings with public agencies.²⁷ Such connections turn the impersonal relationship with the administration of the claimant into a personal one, the only way the underdeveloped public sector can be made to work at acceptable standards in Romania. The likelihood that "connected" people receive the public service they require in a satisfactory manner is considerably higher compared to the rest of the citizens. Next follows the category of individuals who have sufficient resources to bribe on a regular basis (between 15 and 30%, slightly more when medical services are concerned) but does not however report receiving satisfactory service. Finally, there is the majority of citizens, who are not "connected" and lack sufficient resources to bribe and are quite unsatisfied with the quality of public services they receive.²⁸

This year, Romania passed a stuffy anticorruption package, but the public perception did not improve. The belief that judges, policemen, and MPs are highly corrupt has been steady for years. Only local governments are seen as doing somewhat better in recent years. This widespread perception is based on general experience with the lack of accountability of civil servants or politicians rather than their actual corruption. Reported bribes, although variable, is actually low in the case of judges or the town hall.

Romania's petty corruption is a matter of underdevelopment as much as an inheritance of communist times. This rural postcommunist society never achieved the stage of a fully modernized society, and its administration has never reached the impartiality, impersonality, and fairness that should characterize modern bureaucracies. Therefore, corruption manifests itself not just by the use of a public position to seek personal gain but more broadly as the widespread infringement of the norm of impersonality and fairness that should characterize public service. Providing discriminative public service as a general rule may not only be prompted by financial gain, but it is the norm in societies dominated by groups with uneven power status. A favor may be granted to acknowledge superior status or establish such a status without money even being involved. The superimposition of communism on traditional rural societies led to a *culture of privilege* governed by unwritten rules rather than formal laws. As other resources or forms of social stratification were de facto annihilated by the communist regime, *status, or the distance of an individual from the groups or networks holding power* became the main provider of social hierarchy.

²⁷ See Alina Mungiu-Pippidi "Culture of Corruption or Accountability Deficit?" *East European Constitutional Review* 12 (2).

²⁸ SAR analysis of Romanian Barometer of Opinion, spring 2002 and fall 2003.

This not only implies that corruption as we observe it in Romania is still grounded in the social structure of a country with almost no middle class and networks of individuals with disproportionate influence, but also that the corruption that matters most is inherently related to power and thus is political, not economic. The public perceives this as well: a majority believes that parliamentary seats are bought, corruption increased after the last government change, and rates MPs as the most corrupt social group who are also in conflict with their own constituents. Political migration reached a scale that is no longer comparable with the Central European countries, not to mention established democracies. Even the spokesperson of the government party belonged to a different party barely a year ago. Ministers often do the same. Such is the case with Romania's main representative in the European Convention, among others. Parties grow when they are in government and shrink after losing office by orders of magnitude. This is made even worse by the fact that MPs are elected on party lists, and therefore the electorate votes for the party rather than the person (a majority of voters cannot even name their local representatives). As a result, every politician becomes a potential client, corrupting politics completely, and because they violate electoral results by switching to another party, vertical accountability is denied of any meaning. The situation is no better in the case of mayors, who are directly elected. They also switch party frequently, usually in favor of the government party or its satellites. By the end of 2003, the government party has nearly doubled its share of mayors (who were originally elected in 2000) by recruiting from other parties. PSD has also increased its ranks of MPs by 10%, all of whom came from other parties, a legal practice under Romanian law.²⁹ As a result, Adrian Nastase's government, which was a minority government after parliamentary elections, became a government enjoying majority support even without its Hungarian allies.

Once corruption starts at the top, it is difficult to argue that fighting petty bureaucratic corruption is a worthy cause--or even a feasible one--in an environment of growing cynicism. Romanians are highly skeptical that the new agencies created to fight corruption are impartial and do not shield people in power.³⁰ This year Romania passed an anticorruption package but due to constant scandals in the media about high profile corruption cases and the spectacular ineffectiveness of law enforcement agencies to nail at least one political entrepreneur close to the government, the perception did not improve. It seems unlikely that it could improve, given that the largest advertising campaign of the year, the campaign for the referendum on the constitution, was commissioned without any tender to the advertising agency favored by the government. Moreover, how can the public be convinced of the impartiality of the one-year-old Anti-Corruption Prosecutor's Office when the only politicians investigated are former and current opposition leaders? The office even reopened some investigations such as the old file, known as "The Fleet," which allegedly incriminates the main opposition leader, Bucharest Mayor Traian Basescu. The case was first investigated prior to 1996 when the current ruling party was in government. At that time, both an ad-hoc parliamentary committee

²⁹ See SAR Policy Warning Report No. 3/2003 for figures on MPs, and IPP Romania, <http://www.ipp.ro/alternativa/IPP%20Mayors%20migration%202003.pdf>.

³⁰ SAR-CURS survey, August 2003.

and the Prosecutor's Office decided that there were insufficient grounds to prosecute Basescu, who is the only Romanian politician to relinquish his parliamentary immunity to stand investigation. Reopening this file eight years later even without *the claim* of new evidence illustrates that an anticorruption agency with a politically appointed leadership cannot succeed. What explains Romania's political corruption? The explanation lies in its misbalanced political system. The Romanian political system has always been less competitive than the other accession countries. It had the most belated political swing in the region as late as 1996 and is the only country in the accession process where, since 1989, three of four governments serving its full mandate were postcommunist ones. The figure tells more about the competitiveness of the political system--the difference in skills and resources between postcommunists and anticommunists--than about voters. Comparing Romania to first wave accession Poland (it is the best comparison because of the large population and large number of peasants), one is stricken by the resemblance of the electoral patterns in the two countries.

Fig 7. Comparing political competitiveness in Romania and Poland

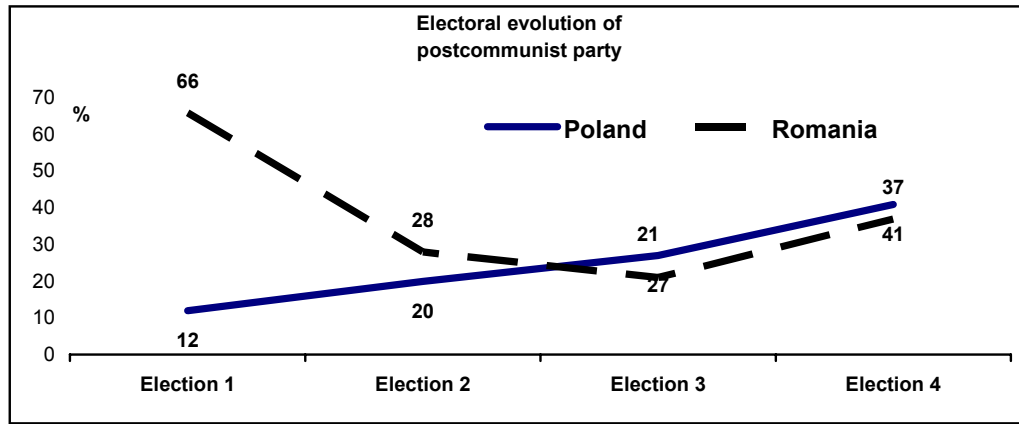


Fig 7bis. Electoral competition between incumbent and challenger elites

	ELECTION 1	ELECTION 2	ELECTION 3	ELECTION 4
Poland postcommunist party	12	20	27	41
Poland anticommunist party			34	5.6
Romania main postcommunist party	(66)	28	21	37
Romania anticommunist party		20	30	5
Romania antisystem party (PRM)		3.9	4.5	19.5

Numbers indicate share of total votes cast.

Under these circumstances, the creation, in September 2003, of an alliance of the two main opposition parties, the Democratic Party (PD, led by Traian Basescu) and the Liberal Party (PNL, led by Teodor Stolojan) is positive news. Together, the alliance can unseat the Greater Romania Party, the radical populist party of Corneliu Vadim Tudor, currently the second largest party in the parliament. The political system is now more balanced. Even the

government party will benefit from a more solid opposition. And corruption will certainly decrease if Romania emerges from the next elections with a more balanced parliament, in which the opposition can indeed check on the government.

MIGRATION: FEARS ARE EXAGGERATED

The Western media abounds in horror stories about Romanian migrants who trespass local residence rights, work in the black economy, and form criminal networks engaged in stealing, prostitution, or begging. These stories are readily taken over by the Romanian media, which usually emphasize the Roma ethnic origin of many of the culprits. This game has been going on for years, but, recently, the situation has taken a turn for the worse, with separate media reports that the French and Austrian governments are considering reintroducing visa requirements for Romanian citizens. While officially denied, these rumours have nevertheless stirred anxiety in Bucharest, and the matter was raised during the visit of the Romanian Home Secretary to his French counterpart.

(Illegal) Migrants

Romania was the last applicant from Central and Eastern Europe to have visa restrictions lifted in 2001 by the Schengen countries. The decision came only after the newly elected Romanian government had convinced the European partners of its ability to secure the external borders and reversed a policy of the prior government, accepting the repatriation of asylum seekers expelled from Germany. The benign impact, in terms of migrant inflow, of abolishing visas for Bulgarian citizens one year before also eased the course for the decision on Romania.

Problems emerged fairly quickly. Media reports presented a much worse situation than actually existed of Romanians working in the black economy, at times under the control of criminal gangs. Romanians also became involved in human trafficking, comprising prostitutes (mostly women, but also men), children, and, more recently, the disabled (used for begging). Another widespread criminal activity consisted of networks of thieves who rob shops and storage spaces and resell the products in Eastern Europe.

While the number of people involved was not extremely high, prostitution and begging are visible activities for the media. However, there are also reports of large migrant communities in midsize towns who engage in organized crime and have a strong influence over the local authorities. This is the case, for example, in Castellon, in Spain, where the Romanian community numbers as many as 10,000 people.

The situation appears to have reached a crisis point in a number of EU member states. The Austrian home affairs secretary publicly lashed out at the Romanian and Bulgarian governments, requesting that they curb criminal activities of their nationals as a precondition of EU accession. He is reported to have mentioned that the reintroduction of visa requirements for Romanian and Bulgarian nationals is under consideration. The French authorities are also rumoured to contemplate a similar move in the case of Romania. Romanian authorities have acted swiftly. The home affairs secretary visited France to engage his counterpart, and a senior official from the border police was dispatched to Vienna.

As Figure 1 illustrates, Romanian emigration peaked in the early 1990s and registered fairly low flows in subsequent years. Since 2001, it has practically

stalled. The situation is similar in Bulgaria, where another peak was recorded during the highpoint of the political and economic crises (see Figure 2). Bulgaria is a particular case because of its large Turkish minority. Many Turks fled the country after the fall of communism, after 1989, and most of them settled in Turkey. Figure 2 reveals that the Turkish minority represented the bulk of migrants in the first years after the fall of communism. Leaving aside the minorities, both in Romania and Bulgaria, migration has a cyclical component, with many migrants returning after a brief spell abroad, especially as things settled down in their native country.

Fig. 1. Romania's dwindling migrants

	Total population	Birth rate (per thousand)	Mortality rate (per thousand)	Emigrants (number of persons)
1981	22,352,635	17	10	
1985	22,724,836	15.9	10.9	
1989	23,151,564	15.8	10.6	
1990	23,206,720	13.6	10.7	96,929
1991	23,185,840	11.9	10.9	44,160
1992	22,788,969	11.5	11.7	31,152
1993	22,755,260	11.1	11.7	18,446
1994	22,730,622	10.9	11.7	17,146
1995	22,680,951	10.4	12	25,675
1996	22,607,620	10.2	12.7	21,526
1997	22,545,925	10.5	12.4	19,945
1998	22,502,803	10.5	12	17,536
1999	22,458,220	10.4	11.8	12,594
2000	22,435,205	10.5	11.4	14,753
2001	22,392,000	9.8	11.6	

Source: INSSE, Romania

Fig. 2. Gross migration out of Bulgaria

	General population	Bulgarian Turks
1989	218,000	218,000
1990	85,000	71,195
1991	45,000	32,164
1992	65,000	23,490
1993	54,000	
1994	64,000	
1995	54,000	
1996	66,000	
1997	44,000	
1998	52,000	
Total	747,000	344,849

Unequal burden

Several explanations can be forwarded regarding the strong public opinion in EU member states in spite of the relatively low numbers of immigrants. First, migration flows are not distributed equally; some countries are disproportionately affected. Among the EU member states, Austria bears the largest burden, and Germany has the highest absolute number of migrants from Central and Eastern Europe.³¹ This situation can be explained by proximity (Austria and Germany are the closest member states for most of the applicants), size (Germany), and wealth of their economies that seem to offer opportunities to prospective migrants. Apart from these easy targets, a few other member states receive a disproportionately high influx of Bulgarian and Romanian migrants: Greece, the only member state bordering Bulgaria, and Spain, Italy, France, and, to a lesser degree, Portugal, targeted especially by Romanians due to cultural affinities.

In addition, official statistics might be just the tip of the iceberg. It is difficult to estimate the number of illegal migrants (as opposed to people who emigrated legally) as many people who declare tourism as their reason of travel to EU countries might actually be involved in black market or criminal activities. The Romanian census from 2002 registered 600,000 less people than was expected. It is conceivable that part of them have left the country illegally. One survey reported that, by the end of 2002, 17% of Romanian households claimed that a member of the family had worked abroad in the previous 12 years.³² Moreover, the number of Romanians returned by the Schengen countries has continued to grow.

A third cause of public outrage is the general anti-immigration trend throughout the EU. The process was recently substantiated by antimigrant outbursts led by extreme-right parties in Austria, France, the Netherlands, and the UK. In this context, even centrist parties expressed views against immigration (for example, in Denmark). Public opinion, combined with highly visible crimes that were associated with minorities such as the Roma, make a powerful political cocktail.

Aware of the gravity of the situation, the Romanian government has put considerable effort into mitigating illegal migration. Romania was severely criticized on justice and home affairs in the Report of the European Commission from 1997. Since then, much progress has been achieved. Romania transposed practically the entire relevant *acquis communautaire* into domestic legislation. Even so, the Commission's last Regular Report found serious deficiencies in the implementation of these regulations. The issue of administrative capacity returns as a familiar shortcoming of Romania's compliance with *acquis* requirements in a number of fields.

Romania takes back all of its illegal migrants expelled by EU member states. These individuals are banned from travelling abroad and, in some cases, are even prosecuted (they face up to five years in prison). On the

³¹ Migration models also predict these two states will receive about half of the migrants from Central and Eastern after accession. See *European Union Enlargement. Effects on the Spanish economy*, Carmela Martin, Jose A. Herce, Simon Sosvilla,-Rivero, Francisco J. Velazquez, 2002.

³² Romania, *Annual Early Warning Report*, 2003, Romanian Academic Society, <http://www.sar.org.ro/pwr>

prevention side, Romanians willing to travel to the EU are required to show that they have the means to support themselves while in the EU and to pay for the return journey. At least considering the data available, these policies had some success. In 2002, the total number of people returned from the border increased dramatically (eighteen-fold) when compared to 2001, and the number of total exits from Romania has declined. As mentioned above, the number of people returned by the Schengen countries has continued to increase. The Romanian government is planning to further strengthen these rules.

After accession

The key question to explore is how accession and the easing of travel restrictions will affect migration flows in Bulgaria and Romania. Opinion polls suggest that the migration potential is rather high. Around 3% of the citizens of Central and Eastern Europe are expected to migrate to the EU-15, mostly to Germany. However, half of them are likely to return to their native countries over the medium-term. While the overall number of migrants can be considerable, the pressure is expected to be manageable.

Migration models illustrate that the key variables determining the volume of migration flow are the income differential between the country of origin and the country of destination and proximity. Romania and Bulgaria are the poorest accession countries by far. Thus, the migration pressure will be stronger than the average among Central and Eastern European countries. A mitigating factor is the geographic distance between Romania, and especially Bulgaria, and the rich EU members. Neither Romania nor Bulgaria borders any of the core EU states. Also, in Romania, even after visa requirements were abolished, the percentage of people planning to seek work in the EU remained constant at 16–17% of adults. Of this number, only 5% acted on their intention, which represents the rate of labour force migration after 1990.³³ Romania's cultural connection with Spain, Italy, France, and Portugal might lead to more Romanian migration to these countries. Greece, the only current member state bordering Bulgaria, already receives a large share of the Bulgarian migrants.

Poorer and less educated people are the most likely to be interested in circular migration and thus take advantage of the relaxation of the restrictions on finding employment in other EU countries.

Brain drain

Romanian and Bulgarian opinion leaders fear that EU accession and liberalization of the movement of labour will result in an exodus of well qualified elites. This brain drain is largely believed to be an impediment to development in the respective countries, but the evidence is mixed in this respect. Partly confirming the brain drain scenario are opinion polls in Bulgaria illustrating that the people most likely to emigrate are rather young (18–29 years old), better educated (high school or university graduates), but single and unemployed.

³³ Romania, *Annual Early Warning Report, 2003*, Romanian Academic Society, <http://www.sar.org.ro>

However, there are a number of qualifications to be made. First of all, this phenomenon is already taking place, even without accession. German statistics have shown that migrants from Central and Eastern Europe are relatively well educated, with higher education attainment at least similar with their national average or that of the host country. These findings were also confirmed in other EU member states, for example, in Spain. The difference is that the current labour market restrictions are forcing them to accept jobs below their qualifications.

Secondly, both Romania and Bulgaria have a high proportion of educated people. In Romania, the rate of participation in higher education is on par with the European average; Bulgaria's rates are among the highest in Europe (see Figure 3). Although the economies of Romania and Bulgaria struggle to involve them in the labour market, in Europe, many of these people are unemployed, or, more frequently, underemployed. Thus, even with strong migration of the educated elite, both Romania and especially Bulgaria will be able to cope.

Fig. 3. Share of the labour force with tertiary education (%)

	Latest available data
Austria	8.6
Bulgaria	19.3
Croatia	13.8
Czech Rep.	10.7
Greece	22.9
Hungary	13.9
Poland	14.0
Romania	12.4
Slovakia	11.7
Slovenia	14.1

Data source: World Bank 2000, 2001.

Finally, brain drain does not necessarily have only negative effects. In some respects, Romania, and especially Bulgaria, overproduce college graduates if we take into account the level of development in the two countries (expressed in ppp GDP pc). Allowing these people to emigrate could be beneficial for their careers and also for the national economies that can compensate for the investment in education through remittances. Remittances are already an important source for funding the current account deficit in Romania (larger than foreign investment) (Figure 4). Estimates of the National Bank of Romania for 2002 indicate that approximately \$2 billion in remittances have entered in this year alone. Similar data for Bulgaria indicate that remittances totalled \$230 million in 1998, representing 3.8% of imports. These numbers, while considerable, are probably underestimated since the difficulties present at the time in the Bulgarian banking system encouraged people to rely on unrecorded cash transfers.

Fig. 4. Volume and Relevance of Remittances in the Romanian economy in 2000³⁴

Total, mil. USD	% GDP	% exports	% imports	% FDI inflows	% foreign reserves*
1,074	3.37%	10.36%	8.91%	100.8%	44.3%

*Gold reserves not included

Transit countries

The most challenging consequence of EU expansion for Bulgaria and Romania will be their new status as gatekeepers of the EU. Once the 10 new members from Central and Eastern Europe formally join the EU in May 2004, Romania will become the EU's immediate neighbour and will have to control the flood of illegal emigrants trying to enter the EU space. Romania is actually at the crossroads of two major trafficking routes: one starting in Russia, Moldova, Ukraine, Romania and continuing toward the EU; the other is the southern route, coming from Turkey, Bulgaria, Romania, and the EU. Failing to carry out this task would have dire consequences for Romania. The direct costs could be very high and could affect its chances for EU accession. The new EU approach proposed by the Italian presidency is to expel illegal emigrants and rejected asylum seekers to the country of origin or to the last safe country passed though on the way to the Union. After May 2004, this last safe country will be Romania.

The responsibility will be even higher after Romania's eventual accession and the subsequent liberalization of the movement of people. The EU has taken precautionary measures by requesting a five-year transition period for the free movement of people. Romania's government has already heavily invested in upgrading the eastern border and acquiring new surveillance equipment. Romania has introduced or is about to introduce visa requirements for Turkey and Yugoslavia. Despite special historical ties, at the moment of accession, visas will be required even for Moldovans. The National Office for Refugees also underwent a process of institutional consolidation. Figure 5 illustrates that these measures brought results, with the number of foreigners denied entrance to Romania increasing. However, the capacity of border police,³⁵ interinstitutional cooperation, and the issue of corruption raise serious question marks over Romania's ability to face its obligations.

Bulgaria has handled these challenges much better. The country will, however, face a difficult situation, having to handle relatively long borders with Turkey, the former Yugoslav republics, and the Black Sea coast.

³⁴ Dăianu et al, *Losers and Winners in the process of EU integration. A look at Romania*; Working Paper No. 27/2001; RCEP

³⁵ The Romanian border police is seriously short of staff and employs a large number of military personnel under contract for whom training is needed.

Fig. 5. Foreigners Not Allowed to Enter

Top 10 countries (1 Jan–31 May)	2001	2002
Moldova	16,308	16,514
Hungary	6,534	8,576
Ukraine	2,577	2,532
Bulgaria	685	2131
Turkey	592	1,204
Yugoslavia	296	643
Germany	98	262
Italy	106	198
Bosnia and Herzegovina	25	178
Russian Federation	110	100
Total	27,331	32,338

Source: General Inspectorate of Border Police, Public Relations Division; August 2002

Conclusions and recommendations

The influx of illegal emigrants from Romania and Bulgaria is relatively small. The negative perceptions of Western public opinion toward emigrants and the highly visible criminal activity some emigrants engage in make this a very potent political issue. In spite of the success of *acquis* transposition (both countries) and increased capacity (Bulgaria), the Romanian and Bulgarian governments do not appear to have stopped the people that matter from passing into the EU. In the short-term, urgent efforts are needed to stop criminals from reaching EU countries and to block trafficking networks.

The high income differential between Romania and Bulgaria and the EU-15 will create a relatively strong pressure for migration. The stabilization of the socioeconomic situation in Romania and Bulgaria will, however, act as a mitigating factor, and the flux will not reach unmanageable proportions even after the Romanian and Bulgarian accession. The fear of the negative effects of brain drain is unjustified. Both Romania and Bulgaria have sufficient higher educated graduates to cope with migration, and their economies will benefit from increased remittances. Poorer and less educated people are likely to engage in circular migration, which might prove a very potent tool for improving their status. It is neither realistic nor advisable to use long transition periods to completely shut off Western labour markets for Romanians and Bulgarians. Instead, the migration flux should be managed, and regulations should be enacted that will facilitate the integration of the migrants in EU labour markets and their eventual return to the country of origin. This would benefit the national economies of both the home and host country and would be to the great advantage of the migrants themselves.

A serious challenge to Romania and Bulgaria is represented by their new status of last safe country (Romania) and eventually gate-keepers (both countries) of the Schengen space. They must continue to upgrade the infrastructure and the administrative capacity of border police and custom

services. In addition, the endemic corruption needs urgent tackling. From this perspective, accession is likely to make things worse by increasing the rewards for infringement of laws. In spite of the national sensibilities, the only solution might be to give the EU a role in the management of Romania and Bulgaria's outer borders.

III. Conclusions and Recommendations

This report highlights the fact that risks ahead are not so great, even if a substantial transformation of these two countries will take far more time than 2007. Elections are unlikely to change much, as both postcommunists and anticommunists are equally committed to European integration. What is likely happen, though, is that the enthusiasm of the public fades away. A raise in optimism in these two countries has not accompanied economic growth. Bulgarians are gloomy: active age Romanians have built up the colossal figure of two million occasional workers abroad in less than two years after the lift of Schengen visas. There are still more opportunities abroad than inside.

The challenges facing the European integration process are also serious. They do not consist so much in delays or misuse of funds, although both matter. The main one is a syndrome we can call: 'Acquisition without Implementation'. Wrapping up negotiation chapters is easy. Catching up is difficult, in the absence of serious investment flows. Speeding privatization is just a slogan: it still requires that somebody is there to buy what is privatized. Romania and Bulgaria together count over 30 million people. They are no small Baltics, where a Scandinavian bank can dominate the whole banking sector by itself.

There are three important recommendations arising of these warnings. Their goal is to bring about a real change, a change in *le pays réel*, and not only *le pays légal*.

➤ STRESS ON IMPLEMENTATION

Both countries and EC should put more stress on the implementation rather than the creation of lengthy –and empty- strategy documents; it is important to identify and monitor indicators of real change and design policies with built-in incentives to foster real transformation.

➤ IMPROVE AND DEMOCRATIZE POLICY FORMULATION

Adopting and implementing the *acquis* cannot replace a national process of policy formulation. The policy dialogue within each country should be enhanced. Unless every parliamentary political party, business and civil society important actor does not become a stakeholder in the process of European integration, progress on implementing the *acquis* will drag on. Countries should reduce impact of elections on accession process through joint working groups on integration by all political parties, civil society. Administrative reform essentials should be agreed among all political parties in order to prevent further politicization of the state and to foster professionalization of bureaucracies. A special attention should be given that elections do not bring about the loss of EU experts within ministries which were assembled with considerable difficulty.

➤ FOSTER FAIR COMPETITION

A considerable amount of legislation was passed and business is still dominated by a culture of privilege in the two countries, indeed as the

competition is in the rest of these societies as well. Romanian and Bulgarian governments should devote resources to enforce rules fostering competition and financial discipline, to establish transparent procedures in dealing with the private sector³⁶, and especially to build a system of property and contract enforcement which is both just and effective.

³⁶ Conclusions also supported by the final documents of the Bluebird group of experts based at Central European University (Ivan Krastev, Alina Mungiu-Pippidi, G. Ganev, et

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