

## POLITICS

# IS ROMANIA STILL FULFILLING THE COPENHAGEN POLITICAL CRITERIA?

## Warning: A Little Action, but still Falling behind on EU Accession

**The Romanian civil service is not fit for the heavy burden of EU accession... What can be done about it in 2001?**

An incendiary report on Romania's progress by an European MP, Baroness Emma Nicholson of Winterbourne, and the conclusions of the Gothenburg European Summit in June, which acknowledged that more assistance was needed for the laggard applicants, Romania and Bulgaria, have once again emphasized Romania's extremely vulnerable position in the accession race. To be sure, Romania started the race with a serious disadvantage and it is good that EU leaders acknowledged, even if quite late, that the most disadvantaged applicants needed more help. Furthermore, the conclusion that Romania was no longer meeting the political criteria of accession set in 1993 at the Copenhagen European Council, as was put forward in the first draft of the Nicholson Report, was by no means reached after a review that can be considered systematic or in-depth. These being said, it must be made clear, however, as was already outlined in the previous issue, that **many things**

have to be done *by the Romanian Government* before asking for more support from the outside world. For the time being, the Government is hardly able to manage the current level of foreign aid, not to speak of an eventual increased amount.

### Where we stand on the Copenhagen criteria

The Nicholson report is only the last in a series of warnings by European officials that the Romanian administration is not able to face the challenge of accession and that in-depth reforms are needed. But apart from cleansing the civil service of people hired during previous governments, little was ever done to modernize the Romanian civil service, and this is reflected in the overall performance of the reform as well as in public opinion polls (Fig. 1) or analysts' ratings (Fig. 3,4).

**Fig. 1. Attitudes on corruption, law enforcement**

Variable	Percentage
Mistreated by a civil servant after 1989	59
Bribed a civil servant at town hall or Court recently	13-22
MPs work for the public interest	11
Judges work for the public interest	27
Central govt civil servants work for the public interest	16
Local govt civil servants work for the public interest	33
Government does not do enough to curb corruption*	75
Unsatisfied with govt's law enforcement performance*	50

Public opinion data shows politicians, civil servants and the judiciary enjoying the least public trust. Only tiny minorities consider them as working for the public interest. A majority of the public complains of having been abused by civil servants after 1989, and the strong correlation between reported bribe and abuse suggests that bribe is often a consequence of mistreatment. (Fig. 2)

**Fig. 2. Explanatory model-dependent variable: have you been mistreated by an official after 1989?**

Independent variables	Unstandardized regression coefficient (Standard Error in paranthesis)
How often did you have to bribe?	.6410 (.2200) ***
Wealth	.4310 (.0300)
Age	2.504E-02 (.0340)
Size town	2.214E-02 (.0270)
Education	-3.605E-02 (.0440)
Adjusted R <sup>2</sup>	.15

Significance levels: \* = p ≤ .05, \*\* = p ≤ .001, \*\*\* = p ≤ .000

\* Items marked with a star come from a May 2001 BOP survey; the rest come from a CURS 2000 survey.

Widespread administrative corruption is a consequence of the administration's overall failure to provide public services. Bribes are an extra-tax Romanian citizens pay to get the services they are entitled to as normal taxpayers and this is why a repressive approach to corruption will not solve the problem. Corruption is only one symptom of the widespread administrative performance deficiency, and of Romania's overall institutional weakness. From economic development to social inclusion and the ability to integrate into Europe, much will depend on the strengthening of institutions and governance in Romania.

Gradual integration into the European Union will require greater maturity of institutional structures, in order for them to be able to meet the economic and political framework of the EU and to implement the "acquis communautaire". Unlike other strategies that come as a package with at least some intermediate institutions (like development strategies), European accession is an end often deprived of means, and quite a burdensome end for countries where institutions are weak, norms shabby and resources scarce. One cannot stress enough the need for institutional development if Romania is to become a reliable partner in the EU integration process<sup>6</sup>. Romania is a striking case of weak development and the high degree of institutional transformation required by successive ideologies and contradictory targets throughout the transition have weakened the institutions even further.

The core services the government is supposed to provide, such as legal and judicial protection for its citizens, are the most affected such weaknesses. Romania badly needs to build an accountable government and public agencies that perform reasonably and are client-oriented. The dramatic discontent with the political class and the civil service (see Fig. 1) lies within the widespread feeling that the government is unaccountable.

According to the EBRD/World Bank 1999 Business Enterprise Performance Survey, in the institutional infrastructure component, which measures perceptions of the Judiciary, Corruption, Street Crime and Organized Crime on a scale of 0 (major obstacle) to 3 (no obstacles), Bulgaria is rated 1.49 and Romania 1.48. This compares unfavorably to Hungary (2.34), Slovenia (2.23), Czech Republic (1.97) and Poland (1.7).

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<sup>6</sup> See the 2000 World Bank strategy report for South-Eastern Europe for a broader argument on this.

Fig. 3. Judicial Indicators for Eastern Europe

## Selected Legal/Judicial Indicators

		Albania	Slovakia	Bulgaria	Croatia	FYROM	Romania	Kosovo	Hungary
FH	Rule of law	5.25		3.75	4.75	4.50	4.25	5.00	1.75
WDR	Predictable judiciary	4.66		4.61	NA	4.28	NA	NA	3.65
EBRD	Law and order index	NA		1.38	1.43	NA	1.07	NA	2.34
KKZ	rule of law index <sup>7</sup>	-0.92		-0.15	0.15	-0.26	-0.09	NA	0.71
ICRG	law and order (0-6)	2		4	5	NA	4	NA	6
SAR	accountability index (0-5)		1.51	2.64		1.74			
FH	Corruption /3	4	3	3	3	3	3	4	1

Note: High scores indicate worse governance for FH and WDR97. High scores indicate better governance for EBRD law and order index, TI, KKZ, SAR and ICRG.

Romania is doing poorly on all accounts, being the only applicant country closer to the performance of former Yugoslavian states, and on certain aspects inferior to some of them (such as Croatia).

An administration unable to provide daily, ordinary services to citizens, in a timely and effective manner, can hardly be able to process the complicated task of European integration.

Fig. 4. Applicant countries: Political indicators (5=max)

	CZ	ES	HU	PL	SL	BU	LV	LI	RO	SK
Reform progress	4	5	5	4	5	3	4	3	1	3
Political stability	3	4	4	2	5	2	3	2	1	2
Clean government	3	4	4	3	5	2	3	3	1	3

Source: *The Economist*

Why such low rankings for Romania? After all, the effect of the November 2000 elections could have been much worse. Europe's greatest fear concerning Romania was the radical populism of Vadim Tudor. Nevertheless, some interventions of the new government and Parliament triggered a new

wave of suspicion from Western observers and led to the poor ranking given by *The Economist*. Those included the dismissal of certain members of the judiciary (which culminated with the resignation of Lucian Mihai, President of the Constitutional Court); purging the civil service of appointees from the Constantinescu régime; repeated attempts to pass repressive legislation against press freedom, such as a classified information act or increased penalties against offending office-holders; nominations of people with a secret service background from the Ceausescu's régime in important positions (covered in the previous issue of our report); and the latest attempt by the Parliament to get rid of legally appointed Public Broadcasting Boards regulating national TV and Radio by not approving their annual reports in spite of good financial performance. To be sure, such attempts led nowhere so far: they were either aborted as soon as public scandal arose, or stopped in time by the Constitutional Court or the Prime Minister, but the Government paid a high political price for such initiatives.

The most incomprehensible of these attempts was the Parliamentary mobilization against the Boards of TVR and Romanian Radio. Overlaps between Parliamentary mandates and Broadcasting Board mandates are common in Eastern Europe: they are mainly due to the slow legislative procedure and to the belated appointments of the Boards. Although allegations of political intervention are common to the whole region, there is no precedent in dismissing a Board altogether simply on the grounds that the political majority has changed, if some serious fraud or mismanagement is not at stake<sup>7</sup>. This is not the case for TVR and Romanian Radio. Furthermore, the managerial approach of the Boards has eased chronic financial problems of the two companies, so the Parliament could not even use this excuse to dismiss the Boards.

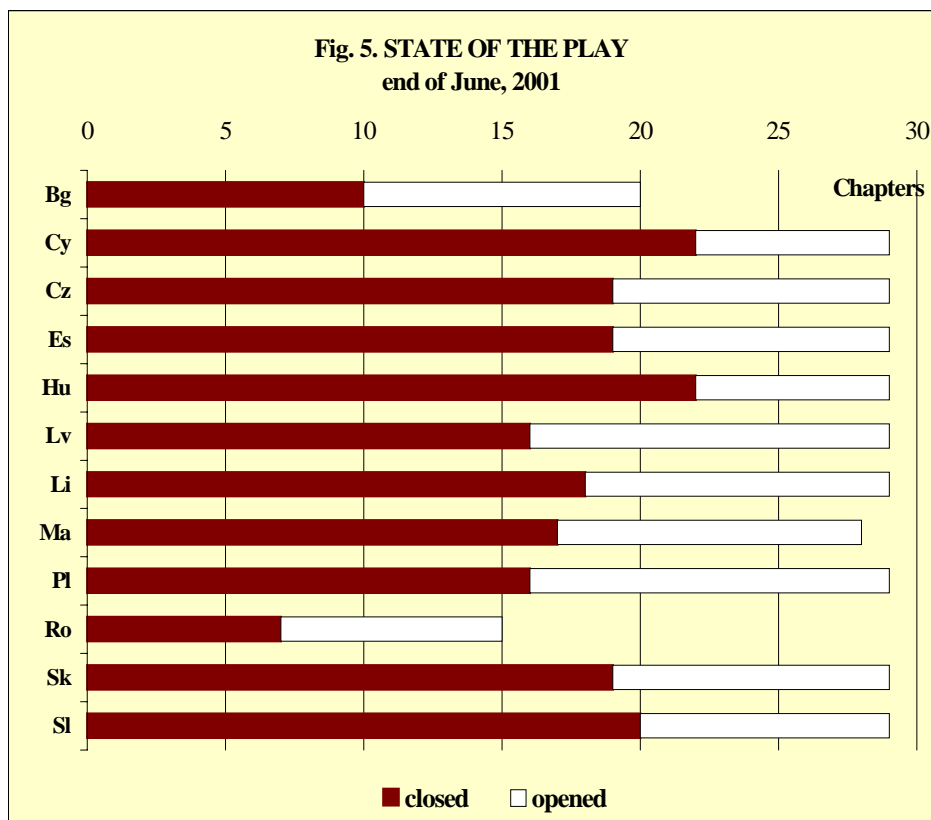
Even further, evidence from panel studies of the last electoral campaign showed that the great majority of the audiences of public channels endorsed the current government in the elections, despite the stations being run by executives appointed by previous governments. Since the elections, the two stations refrained from criticizing the newly appointed Government, so one may wonder what is the point of dismissing the current management in order to replace them with Ceausescu-era individuals, whose names were leaked by the media. This can bring no advantage to the current Government, but may entail a heavy cost in terms of image. Pressures from interested would-be members of a new Council should be resisted. Good or bad, these new Councils were the first legally appointed and leaving them to fulfil their term to the end would represent a gain for democracy and for the Năstase Government's image, both at home and abroad.

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<sup>7</sup> The situation in Hungary is not created by the Fidesz government, but the inability of opposition parties to agree on a candidate. Despite heavy criticism received by Orbán due to the incomplete board of MTV he could always argue – which he did – that he cannot determine the Socialists and right-wing extremists to agree on the occupant of the last seat.

### Where we stand on EU negotiations




The draft Nicholson Report was accused to be inaccurate regarding the situation of children. However, nobody can ignore the serious warnings that the Report has issued concerning Romania's falling behind on European negotiations (see Fig. 5).



Diplomatic relations between the European Union (EU) and Romania began with the Europe Agreement (EA), which was signed on 1 February 1993 and went into effect on 1 February 1995. One of the main objectives of the EA is the establishment of a free trade area over a period of ten years. Romania's official request for accession to the European Union was presented on 22 June 1995. Two years later the European Commission issued its opinion on Romania's membership application and, at the Helsinki European Council at the end of 1999, it was decided to start accession talks with Romania in the spring of 2000.

Fig. 6. Romania: The Pace of the Negotiation Process

PRESIDENCY	semI/00 - Portugal	semII/00 - France	SemI/01 - Sweden	SemII/01 - Belgium	SemI/02 - Spain	SemII/02 - Denmark
1. Free Movement of Goods				scheduled for submission		
2. Free Movement of Persons					scheduled for submission	
3. Free Movement of Services				scheduled for submission		
4. Free Movement of Capital			opened			
5. Company Law			opened			
6. Competition		opened	opened			
7. Agriculture					scheduled for submission	
8. Fisheries			closed			
9. Transport			opened			
10. Taxation				scheduled for submission		
11. EMU				scheduled for submission		
12. Statistics		closed				
13. Social Policy Employment				scheduled for submission		
14. Energy				scheduled for submission		
15. Industrial Policy				scheduled for submission		
16. SMEs	closed					
17. Science & Research	closed					
18. Education & Training	closed					
19. Telecommunications		opened	opened			
20. Culture & Audiovisual		opened	opened			
21. Regional policy					scheduled for submission	
22. Environment					scheduled for submission	
23. Consumers & Health			opened			
24. Justice & home affairs				scheduled for submission		
25. Customs Union			opened			
26. External Relations	closed					
27. Foreign policy & security	closed					
28. Financial control				scheduled for submission		
29. Finance & budget						scheduled for submission
30. Institutions						scheduled for submission

closed  closed  
 opened  opened  
 scheduled for submission  scheduled for submission

Romania has so far only closed 7 of the 31 negotiation chapters and is currently lagging behind all the other candidates (Fig. 5). The European Commission's 2000 Report on Romania's progress towards accession was rather pessimistic. The report stated that: there had been slow progress on reforming the state-owned economy and poor public administration; little had been done to reduce the levels of corruption; Romania could not be regarded as a market economy, and it had not improved its future economic prospects. The rush from the department of European Integration to open new chapters

is risky as long as Romania proves incapable of closing already opened chapters. This is like rushing to get more homework when one has not completed the existing assignments. It does not matter how many chapters are opened, but how many are closed. Chapter closing is an indicator of the government's performance to absorb changes induced by the EU integration process, while the opening of new chapters is more of a PR signal than anything else. If there is political will, this must be proven in the implementation of the *acquis*, that is, in successfully closing negotiation chapters.

Much has still to be done to even consider such a move: for instance, the intention to open the Justice and Home Affairs chapter this year seems a doomed attempt from the start, given the state of the home and justice affairs in Romania, presented above. Strong internal reforms are needed before considering adopting the *acquis* to bring in line the Romanian judiciary and law enforcement agencies, and the government has announced none so far. By and large the reform of the judiciary was postponed by giving up the reform package proposed by the late Isarescu Government: good or bad, the package had been put together with EU assistance and had the merit of being comprehensive. A simple ordinance to revise civil code procedures cannot supplant the large volume of change needed in preparation for the adoption of Home and Justice European *acquis*. Economic indicators have so far been better than the prognosis of the European Commission, but that alone is not enough. Not surprisingly, even the public perceives that the government does not struggle enough to meet the EU's criteria (see Fig. 7)

**Fig. 7. Public Opinion on EU Accession, %**

Government is doing enough for EU accession	35
Persons who would vote for EU integration in referendum	77

The Gothenburg summit had the merit to point to the fact that it was not strictly the fault of Romania and Bulgaria for doing worse than the rest. The inclusion of sustainable development amongst EU priorities gives good grounds to hope that the Commission will revise its policy and offer greater assistance towards the more disadvantaged applicants. However, the Swedish presidency is over: Belgium and Spain, who are next, will probably not pursue the enlargement agenda so keenly. Spain had openly fought the reform of Structural Aid, being one of its main beneficiaries, and it is bad luck indeed that it is during Spain's presidency, in the first half of 2002, that structural aid and Common Agricultural Policy reforms are going to be discussed. The Romanian government should start lobbying with Spain immediately. The target of our advocacy campaign should be support for infrastructure development in order for the Eastern Balkan countries to become integrated into Europe even if this is a more distant prospect. Collaboration with Bulgaria on these aspects would only bring advantages.



**Fig. 8. Applicant countries: selected indicators**

	CZ	ES	HU	PL	SL	BU	LV	LI	RO	SK
GDP/capita adjusted by purchase power parity (PPP- 1999); EU average=100	62	38	53	42	73	24	29	31	28	49
Share of employment in agriculture from total employment (1999)	5.2	8.8	7.1	18.1	10.2	18.1	15.3	20.2	41.7	7.4
Foreign direct investment /capita, \$	168	164	205	104	135	46	175	65	27	39

On the matter of Schengen visas, it is a fact that Romania's immigration potential remains the highest in the region, according to a CEORG poll released in June. Around 31% of Romanians are interested in seeking work in a EU member-state, compared to 20% of Bulgarians, 23% of Poles and just 14% of Hungarians.

**Fig. 9. Eastern European would-be workers in the EU, %**

Would you be personally interested in finding a job in one of the EU countries once your country enters EU?	CZ		HU		PL		BU	RO
	Sep 00	May 01	Sep 00	May 01	Sep 00	May 01	May 01	May 01
1. Yes, I am interested and I will certainly try	4	4	6	7	10	13	9.6	17.3
2. Yes, I am interested and I will probably try	7	8	7	7	8	10	10.6	13.5

Source: CEORG poll, 2001

## Recommendations

1. The civil service must be made accountable and effective; *and some instruments are already at hand*. In the aftermath of the scandal concerning the classified information law, the Government negotiated with the opposition and the civil society, and adopted a Freedom of Information Act. The bill, subsequently passed by the Chamber of Deputies, is the first valuable accountability bill, as it compels government agencies to publish ex officio activity reports from the previous year, including an account on expenditures. This has the potential to dramatically reduce discretionary spending, to increase internal communication within government agencies and generate a rise in public trust. Both the World Bank and the European Union have important resources that could be enrolled to build the capacity of these newly created PR offices and this could become an instrument to reform the civil service, together with the reshaping of the central government that we suggested in the first issue.

2. Following the successful transformation of the PDSR into a new social-democratic party the Prime Minister should get a stronger grip on his party. Attempts such as the illegal and useless dismissal of Broadcasting Boards from the part of interested MPs put the government and the PM in a position to pay a heavy and unnecessary price.
3. The popularity of the Judiciary declined steeply despite the Minister of Justice's attempts to make changes in personnel look like a campaign for curbing corruption. Political purging and repressive approaches to judiciary reform are unlikely to improve the quality of the judicial process, but it has already shown that they affect public trust and undermine the building of a European-oriented legal culture. A great effort is needed to design and implement a reform policy, which should begin by the time negotiations on Home and Justice Affairs are initiated this fall.

The government should revise its structures dealing with EU accession and negotiations. We suggested in the first issue that the institutional design of these structures might render them ineffective. Only one office should be invested with overall authority on the negotiation process and on all agencies involved, including other ministries, and this should be handed to an authoritative and effective politician who should also be a respectable and agreeable partner to the European Commission.

## Trend analysis: Political stability and trust

### Just business as usual

After a temporary boost in political trust, the public seems to have returned to its usual skepticism regarding politicians and government. However the Judiciary's decline is the most important and demonstrates that previous warnings on the rule of law were justified (Fig. 10). *The issue of the Judiciary should be a priority for the Government.*

**Fig. 10. Public mood on government**

Variable	February	May
Romania heading nowhere or in the wrong direction	54	52
Satisfied with living conditions	18	25
Optimism with one's economic future in a years time	36	19
Trust in President	58	48
Trust in Prime Minister	67	49
Trust in main opposition leader (Traian Basescu)	65	50
Trust in government	52	44
Trust in Judiciary	40	29

Source: Barometer of Opinion sponsored by the OSF Romania., IMLAS for February, Metromedia Transylvania for May

The government is otherwise well in place. Changes in the opposition parties brought a few defectors from various parties, mainly the Democrat Party (PD), into the ranks of the government party. The Greater Romania Party (PRM) voted increasingly with the government in Parliament, and the confidence vote on the investment law was a success for the PM. A survey by SAR in the Romanian Parliament shows that even opposition parties' members do not believe that the government will be in any serious danger of a no-confidence vote by the end of this year (Fig. 11).<sup>8</sup>

**Fig. 11. Expectancy of a no-confidence vote by Romanian MPs, %**

<b>Do you expect a no-confidence vote to threaten this government by the end of this year?</b>			
	YES	NO	NA
PDSR	14.1	52.2	33.5
UDMR	40.7	59.2	-
PD	16.1	83.8	-
PNL	33.3	64.5	-
PRM	21.4	78.5	-
TOTAL	20.1%	63.9%	15.9%

<b>Who would initiate such a motion?<sup>9</sup></b>	
<b>(% of those who answered 'yes' at the first question)</b>	
6%	PNL
19.6%	PNL, PD, PRM
9%	PNL, PD, UDMR
22.7%	PRM, PD, UDMR, PNL
13.6%	PRM
24.2%	Don't know

<sup>8</sup> Survey by SAR in the Romanian Chamber of Deputies. Results were adjusted by the algorithm of parties's seats occupancy.

<sup>9</sup> Attribution by the rest of the parties.

## **Focus: How does the Hungarian ‘Status bill’ affect Romania?**

**The Orban Government has decided to show the world that Hungarians are more nationalistic than Romanians. The Romanian Government should not spoil this opportunity to appear moderate and European.**

The adoption on June 19 by the Hungarian parliament of the so-called ‘Status bill’, opposed only by the tiny Liberal Party (SDSZ), provoked a storm in Romania. Of all the countries in the first wave of EU accession, Hungary has struggled the most to keep its borders open to neighboring countries. This is mainly due to the presence of important Hungarian communities living in these countries, notably in Transylvania (Romania), Ruthenia (Ukraine), Vojvodina (Yugoslavia) and Slovakia. The heatedly debated ‘status bill’ will grant a ‘Hungarian card’ to each ethnic Hungarian living abroad who would apply. The holders would be able to travel visa-free and work in Hungary for three months per year with all benefits included. They will not be granted the right to vote, however, following long and ardent internal debates. According to Foreign Ministry Secretary of State Szolt Nemeth, some 25 percent of ethnic Hungarians abroad wish to settle in Hungary, and the rate might increase when Hungary becomes a EU member. Viktor Orban contradicted this, however, when stating later that Hungary is prepared to receive up to 4 million Hungarians from the diaspora in the next years to make up for its declining labor force. It is not clear to what extent this decision by the Hungarian Government is in agreement with EU rules, as the European Commission (EC) made a long list of observations of which only few were reflected in the new law. The EC also sent a warning that if the law is discriminatory towards citizens of member states Hungary would be asked to cancel it upon accession.

All Romanian political parties have had hysterical reactions on the matter, forcing the government to react. However, in order to do some damage control, the Romanian Government should consider two issues:

- i. The issue is not new and Hungary did not invent these special rights for its minorities abroad. Romania and Slovakia introduced them before Hungary. Since 1997, during the Meciar Government, Slovakia adopted the ‘Slovak card’ meant to extend some citizenship rights to ethnic Slovaks living in neighboring countries, notably Ukraine. Following this gesture Slovakia introduced visas for CIS countries, thus complying with the request to have the full Schengen acquis adopted by the first day of

accession. Romania had extended full citizenship rights, including voting rights, to applicants from the Republic of Moldova earlier in the '90's.

- ii. The EC was not pleased with the Status bill. Parts of it clearly run against EU law, and as such they are not sustainable.

The Romanian Government should let the EC deal with the matter. An escalation of nationalism in Romania would add to the image deficit of Romania, not of Hungary. There is no reason, for instance, to threaten that the law will not be implemented on Romanian territory, when this is not entirely within the power of our Government. Romania should instead hire good lawyers to advocate with the Commission the serious break of EU law put forward by the Status Bill. Viktor Orban may have made a serious mistake, but Romania will not benefit from it if Orban's nationalism is met with even more nationalism on our side. No domestic elections are in sight, so the government should not compete in nationalism with PRM or PNL. Endorsing a PRM motion in the Parliamentary Assembly of the Council of Europe will not win international community trust and sympathy for our Government.