

THE IMPLEMENTATION OF EUROPEAN LAW IN ROMANIA

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Chapter 1

The History of the Relations between the European Union and Romania

Romania is the first country in Central and Eastern Europe to have official relations with the European Community. The two parties signed an agreement which included Romania into the Generalized System of Preferences in 1974, and in the year 1980 the Agreement on Industrial Products was also signed.

Romania's diplomatic relations with the European Union date back to 1990. In the year 1991 the Agreement on Commerce and Cooperation was signed following Romania's reorientation toward democratic values. The European Agreement came into force on 1. February 1995 after the commercial stipulations had already come into force in 1993 through the means of a "Provisory Agreement".

Romania files its application to become a member state of the European Union on 22. June 1997.

In July 1997, the European Commission publishes its "Opinion on Romania's application for Membership of the EU" and the next year a "Regular Report on Romania's Progress toward Accession" is drawn.

In the second "Regular Report on Romania", published in October 1999, the Commission recommended that negotiations with Romania should start under specific conditions, among which the improvement of the situation of institutionalized children and the elaboration of a middle-term economical strategy. The Regular reports are published on a yearly basis.

Following the Decision of the European Council from December 1999 on the Helsinki Summit, the accession negotiations with Romania began in February 2000. At the same time negotiations with Malta, Slovakia, Lithuania, Latvia, and Bulgaria were initiated.

In order to support Romania's efforts to prepare for EU accession, the European Commission drew in the year 2002 the "Communication from the Commission to the Council and the European parliament - Roadmaps for Bulgaria and Romania".

In June 2003, the accession negotiations for 19 from the 30 chapters of the acquis were already included provisorily. The negotiations for the other 11 chapters were going on.

Romania becomes a member of the European Union starting with 1. January 2007.

Chapter II

The Community Acquis

The Community Acquis represents the body of rights and obligations which bind all the Member States of the European Union together and comprises all the judicial norms which regulate the institutions of the EU as well as the Community's actions and policies:

- the content, principles and political objectives of the original Treaties of the European Communities (CECO, CEE, CEEA) and of the later ones (The Single European Act, The Treaty of Maastricht, and the Treaty of Amsterdam);
- the legislation adopted by the EU institutions in application of the treaties (regulations, directives, decisions, opinions and recommendations)
- the case law of the Court of Justice of the European Communities;
- the declarations and resolutions adopted by the European Union;
- common actions, common positions, conventions signed, resolutions, declarations and other acts adopted relating to the common foreign and security policy and to cooperation relating to justice and home affairs;
- international agreements concluded by the Community and those concluded by the Member States between themselves in the field of the Union's activities.

Community aquis is a term with a more than juridical meaning, and its complexity derives from the very "sui generis" structure and functionality of the bodies that elaborated it (the institutions of the European Communities)

and from its functionality as it is. It represents a relatively new concept, not only in the Romanian juridical language, but also in the international one, being used like that – *acquis communautaire* – even in English texts.

The term of community *acquis* is not found in the Treaty of Rome relating to the European Economic Community, 1957, but is present several times in the Treaty of the European Union from Maastricht, in 1992, according to which: The Union shall be served by a single institutional framework which shall ensure the consistency and the continuity of the activities carried out in order to attain its objectives while respecting and building upon the ‘*acquis communautaire*’. (art.3)

In Romanian legislation, the term of *acquis communautaire* was defined by the governmental decision no. 1367/2000 relating to the constitution and functioning of the workgroup for the study of the concordance of the dispositions and principles of Romania’s Constitution with the *acquis communautaire* for the perspective of Romania joining the EU.

According to art. 1, by *acquis communautaire* is understood:

“a) the dispositions of the Treaty instituting the European Community signed on 25th March 1957 in Rome and of the Treaty on the European Union signed in 1992 in Maastricht, as well as of any other treaties which shall modify and complete the previous, until the time when the Treaty for Romania’s accession to the EU comes into force;

b) the regulations, directives, and decisions issued by the institutions of the European Union as compulsory acts, as well as the other acts adopted by the institutions of the EU like: declarations, resolutions, common strategies, common actions, common positions, conclusions, frame decisions and others of this kind.

c) multilateral conventions opened only to the member states of the European Union as well as those opened to a larger number of states to which the member states of the European Union and, as the case may be, the European Commission are parts, stipulated as it is by the later ones as being part of the *acquis*;

d) the jurisprudence of the Court of Justice of the European Communities;

e) the European Agreement ratified by the Law no. 20/1993”.

Chapter III

The Harmonization of Romanian Law with Community Regulations

1. The harmonization of Romanian law with Community Regulations in the pre-accession period

In the period of preparation of the accession, the activity of harmonization of Romanian legislation with the *acquis communautaire* was coordinated on a national level by the Ministry of European Integration. A political strategy of administration and coordination of the activity of harmonization was adopted, which was a proper thing for that period when negotiations for accession were undergoing. Within this strategy, the basic principles to consider in the process of harmonization were established:

- The *acquis communautaire* must be adopted entirely, no derogations are possible, but only technical and transitory commitments, limited in time and space;
- No negotiation chapter is definitively closed until all 31 chapters are closed;
- Any point of view expressed by any of the parties on a negotiation chapter will not prejudice the position relating to another negotiation chapter.

In May 2000, the Romania's national accession program to the European Union (PNAR) was adopted, and updated in June 2001 for the period 2001-2004.

The Program was structured according to the chapters of the community law and was setting not only the necessary objectives for meeting the three accession criteria (set by the Councils of Copenhagen 1993, Madrid 1995 and Santa Maria da Feira in 2000), but also clear responsibilities. This way, its annex stipulated and inventoried concretely the community acts that were about to be transposed into the Romanian legislation in all economic and social sectors.

An important modality for harmonizing the internal legislation with the *acquis communautaire* is the abrogation of a large number of old laws in a short time. In our judicial system there were 6149 judicial acts on 25th September 2000, out of which only 348 were elaborated in the period 1864-1989. This was achieved following the efforts of the Legislative Council of

reexamining the legislation prior to the Constitution, and made up of 2100 judicial acts, by abrogating a number of 1752 acts in a period of 4 years, thus only 348 remaining valid. Out of these many have been modified, adapting them to the present legislation, therefore their enforcement is not anachronic and does not interfere with the constitutional state.

A substantial part of the legislation adopted in the period prior to accession is harmonized with the community regulations or with modern regulations of the member states. This conclusion is based also on the reality that Romania has ratified also a series of instruments of some regional organizations like the European Council or having a universal vocation – United Nations Organization or the International Labor Organization. Although these last instruments are obviously no community regulations, they align the Romanian legislation to the modern thinking of law, the most of it being part of what is generically called *acquis communautaire*. This is the case, for instance, of the Law for the ratification of the revised social Charta or the Law for Romania's adherence to the European Convention relating to the elaboration of a European Pharmacopoeia, of the Decision relating to Romania's adherence to the 1990 Convention relating to the preparing, answer and cooperation in cases of pollution with hydro carbonates.

In the end we would like to mention that, from methodological reasons, during Romania's accession negotiations to the European Union, there was a 31 chapter structure, as follows:

1. Free movement of goods
2. Free movement of persons
3. Free movement of services
4. Free movement of capital
5. Company legislation
6. Competition policies
7. Agriculture
8. Fishery
9. Transportation policies
10. Taxation
11. Economic and monetary union
12. Statistics
13. Social policies and employment
14. Energy
15. Industrial policies
16. Small and medium enterprises
17. Science and research
18. Education, professional training and youth
19. Telecommunication and information technology

20. Culture and audiovisual policies
21. Regional policies and coordination of structural instruments
22. Environmental protection
23. Consumer and health protection
24. Justice and internal affairs
25. Customs union
26. External affairs
27. Common external and security policies
28. Financial control
29. Financial and budgetary dispositions
30. Institutions
31. Other

2. The harmonization of Romanian legislation with the community regulations after accession.

After a decade of structural, legislative, and institutional reforms, of economic and social restructuring for the preparation of accession, Romania has to face now a significantly changed contest with a higher level of interdependencies among the member states, requiring thus a rational and efficient strategic behavior.

First, the accession to the EU represents the opportunity and the means to increase the quality of life for its citizens, together with all European citizens. The fact that Romania is a EU member state with a GDP per capita way below the European average stresses the need to efficiently use the own resources and the community fund, and to stimulate more actively foreign and national investments.

Romania needs to maintain as long as possible its rapid, balanced and sustainable economic growth, it needs efficient and strong institutions, a coherent legislative system and a predictable fiscal system.

Romania must also meet in time the obligations it assumed through the Accession Treaty and to contribute to the achievement of the objectives of united Europe.

This includes the modernization of the physical infrastructure, the adaptation of the educational system to European standards, the revitalization of scientific research and innovation, stressing its application into the economy, based on the partnership between the business environment, universities and research institutes, the fundamental restructuring of agriculture and support for rural

development, as well as the consolidation of the administrative capacity in order to be able to implement the *acquis communautaire*.

Romania must act further for a sustainable development and environmental protection, for a more flexible labor market and for proper conditions for the development of an optimal competition climate.

As a EU member state and for the achievement of its objectives, Romania will apply the fundamental principles and values of the Union: solidarity, consensus and the spirit of compromise. Romania will have a constructive approach of cooperation in fulfilling its role of equal partner in the development of the EU, to be able to reach in 2013 the status of a state with a high standard of development and a credible partner in the European space.

For this purpose, the general objective will have to be the maximal valorization of its quality of a EU member state.

Within this general objective the following specific objectives will be necessary part of:

- Consolidation of the model of Romania's social and economic development;
- Deepening the process of European integration on a national level;
- Defining Romania's strategic role and position within the EU;
- To create and promote the country's profile.

The multitude of programmatic documents elaborated before Romania's

Accession to the EU made it necessary to draw a strategic frame to set the priorities of Romania's development from 2007-2013 and to guide this way all strategies, politics, programs, and sectoral action plans, according to the requirements of rapid and complete integration of Romania into the EU.

The premise of drawing this strategy is that Romania's interests are convergent with those of the EU, and promoting the interests of the EU as an entity, represents equally Romania's interests.

Finally, we would like to mention the principles that lay at the basis of the post-accession strategy: participation, concordance with the existing national programs and strategies, and correlation with EU strategies and programs.

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