



MARKT/2534/03-EN

Orig.

11 November 2003

Progress report on implementation of EU legislation in Accession Countries

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This paper reviews the situation and next steps for the ten accession countries and outlines the next steps for four new countries (Bulgaria, Romania, Turkey and Croatia) applying for accession.

Questions:

1. *Do members have any comments on this progress report?*
2. *Are there any particular problem areas, to which members wish to draw attention?*
3. *In what ways could members and the Commission further assist the accession countries?*

1. INTRODUCTION

On November 5, 2003, thirteen progress reports¹ on enlargement have been published on the Commission website². Ten are Comprehensive Monitoring Reports (CMR) concerning the ten accession countries, whose progress towards the implementation of EU insurance legislation has been regularly reviewed by the IC. The three remaining reports are Regular Reports concerning the three new candidate countries, Bulgaria, Romania and Turkey. Croatia has not yet been officially accepted as a candidate for accession.

The insurance extracts from these thirteen Reports are annexed to this paper.

2. TEN ACCESSION COUNTRIES

Transposition of the EU *acquis* has yet to be completed in the Czech Republic, Estonia, Lithuania, Malta, Poland and Slovakia, while Cyprus, Hungary, Latvia and Slovenia still have to proceed with some fine-tuning for their legislation to be fully aligned.

Peer reviews have highlighted the need to strengthen administrative capacity in some supervisory authorities. This still remains the case in Cyprus, Czech Republic, Lithuania, Poland and Slovakia.

The concern mentioned in the July 2003 Insurance Committee about the low state of readiness with regard to the Motor Insurance Directives remains valid as five countries are still not participating fully in the 'green card' system for third party liability insurance (Estonia, Latvia, Lithuania, Poland and Malta). However, a multilateral agreement for all 5 is due to be signed by December 1st, 2003.

Polish legislation raises specific issues concerning language requirements for some board members of insurance companies and the possibility to raise an objection regarding a qualified participation (for example if it conflicts with government plans for restructuring the sector).

Most accession countries have action plans which would achieve a satisfactory condition by the day of accession for implementation of the *acquis*. These action plans have yet to be fully implemented and the urgency is increasing.

¹ The annual progress report is called Regular Report while the country is still a candidate, and becomes a Comprehensive Monitoring Report once the country has signed the Accession Treaty (the ten acceding countries have signed the Accession Treaties on 16 April 2003).

² http://www.europa.eu.int/comm/enlargement/report_2003/index.htm

3. NEW COUNTRIES

The Commission services have started to look at the legislation of the four new countries applying for accession. Three have been already officially accepted as candidate countries but this is not the case for Croatia, which is not yet considered as fulfilling the Copenhagen criteria³. The three candidate countries are not equally advanced on the path to accession: while negotiations have started with Bulgaria and Romania, Turkey has yet to be considered as fulfilling the three Copenhagen criteria.

3.1. Bulgaria and Romania

While the establishment in Bulgaria of the Financial Supervision Commission in January 2003 ensuring unified supervision over insurance, pensions and securities, has been hailed as an important step, most of the *acquis* on insurance has still to be transposed. In Romania, significant work remains to be done both in transposing the *acquis* and in training the Insurance Supervisory Authority's staff.

Romania and Bulgaria will undergo a second peer review before the end of 2003 (first week of December), which will be followed by "follow-up peer reviews" before the date of accession. An annual progress report is due to be published in October 2004. The date of accession is currently forecast for 2007.

3.2. Turkey

Turkey follows a slightly different pattern from the standard accession procedure. As early as 1963, an "association agreement" was signed between Turkey and the then European Economic Union. Although Turkey has been accepted as a candidate country, it is not yet considered as fulfilling the Copenhagen criteria, so negotiations on the different chapters of the accession treaty have not been opened yet. However, on the basis of the Association agreement, regular reports are published since 1998.

In the field of insurance, no developments can be recorded. The level of *acquis* harmonization remains very low and the supervisory capacity is insufficient.

³ In order to become a candidate for entry to the Union, countries need to fulfil the economic and political conditions known as the 'Copenhagen criteria', according to which a prospective member must: be a stable democracy, respecting human rights, the rule of law, and the protection of minorities; have a functioning market economy; and adopt the common rules, standards and policies that make up the body of EU law.

4. FUTURE ACTION

Accession countries are strongly encouraged to rapidly implement outstanding EU insurance legislation in due time to allow the Commission to check its implementation. Receiving updated legislation as early as possible will ensure a smooth ending to the accession process. Strengthening supervisory capacity is also a priority. Although clearly it is hoped such steps will not be required, should the current situation not improve adequately, the Commission may adopt safeguard measures and, as from May 1st 2004, infringement procedures to ensure the correct functioning of the single market, although we hope not to have to resort to them.

Extract from the CMR

Extracts related to Insurance from the Comprehensive Monitoring Reports of the 10 Acceding Countries

CYPRUS

As regards the insurance sector, legislative alignment has been largely completed, although further fine-tuning is needed. Cyprus will have to make sure that the remaining off-shore insurance companies continue under the harmonised legal framework, failing which they will have to be dissolved.

The supervisory authority (Insurance Companies Control Service) is staffed with competent personnel, but additional staff for the approved posts should be recruited and further training is needed.

Conclusion

Cyprus is essentially meeting the requirements for membership in the area of banking and insurance services, and is expected to be in a position to implement this *acquis* by the time of accession.

CZECH REPUBLIC

Legislative progress is necessary in the insurance sector, where some further transposition is needed concerning life, non-life and motor vehicle insurance, insurance contracts, intermediaries and loss adjusters.

In the field of insurance, the supervisory body is not yet fully independent in political and budgetary terms. The Czech Republic should ensure that it is able to meet its target in establishing this regulator; and in particular that it has sufficient specialised staff.

ESTONIA

As regards the insurance sector, legislative alignment has been mostly completed, with the exception of, in particular, the rules related to cross-border operations and the directives relating to motor vehicles. The procedure for Estonia becoming a signatory of the 'green card' Multilateral Guarantee Agreement, as foreseen in the 1st motor vehicle directive, still needs to be finalised and efforts should be made to cope with the responsibilities linked to this status.

In terms of administrative capacity, at the beginning of 2002 the three supervisory authorities for banking, insurance and securities exchange were merged into one authority, the Estonian Financial Supervision Authority (EFSA). By doing this, many of the structural and organisational recommendations previously made have been followed up and the average quality of supervision across the financial sector has increased. Estonia should continue to pursue its 2002 Action Plan in order to meet each of the remaining recommendations.

Conclusion

Estonia is essentially meeting the requirements for membership and is expected to be in a position to implement the *acquis* in the area of banking and insurance by the time of accession. Some legislative work in this area still needs to be completed.

HUNGARY

As regards the insurance sector, legislative alignment has been largely completed with the adoption in June 2003 of a new Act on Insurance and Insurers. The new law, which will come into force from 1 May 2004, incorporates all relevant EC legal provisions, including the most recent EC legislation. However, some further fine-tuning is needed with regard to implementing legislation, which is currently under preparation. Also, the 4th motor insurance directive still remains to be fully transposed before accession. In addition, some further changes are still needed to the legislation on insurance accounting.

The Hungarian Financial Supervisory Authority essentially has the required infrastructure and human resources to deal with the *acquis*-related tasks as a supervisory authority in the field of financial institutions. It has reinforced its administrative capacity and appears to be effective. However, it should be given the power to issue its own regulations. The institutional framework required by the 4th motor insurance directive still needs to be set up.

Conclusion

Hungary is essentially meeting the requirements for membership and is expected to be in a position to implement the *acquis* in the areas of banking and insurance services, investment services and security markets, protection of personal data as well as regarding the right of establishment and the freedom to provide non-financial services by accession. It can be expected that the preparations in these sectors will be completed in time and that the remaining legislative and administrative restrictions will be lifted before accession. The alignment with the *acquis* on motor insurance still needs to be finalised.

LATVIA

As regards the insurance sector, core provisions on life and non-life insurance are transposed. Latvia must still adopt the legislation on reinsurance and insurance against civil liability for inland motor vehicles. The procedure for Latvia becoming a signatory of the 'green card' Multilateral Guarantee Agreement, as foreseen in the 1st motor vehicle directive, still needs to be finalised and efforts should be made to cope with the responsibilities linked to this status.

The Financial and Capital Market Commission essentially has the required infrastructure and human resources to deal with the *acquis*-related tasks as a unified autonomous supervisory authority for the financial sector.

Conclusion

Latvia is partially meeting the requirements for accession in the areas of insurance, investment services and securities markets. In order to complete preparations for membership, a number of major directives remain to be properly transposed in these areas.

LITHUANIA

As regards the insurance sector, Lithuania has partially transposed the *acquis* and needs to complete alignment in the fields of motor insurance (4th motor insurance directive) and the insurance group directive. The procedure for Lithuania becoming a signatory of the 'green card' Multilateral Guarantee Agreement, as foreseen in the 1st motor vehicle directive, still needs to be finalised and efforts should be made to cope with the responsibilities linked to this status. The administrative capacity of the State Insurance Supervisory Authority needs to be further strengthened and the qualifications and staffing levels in the Deposit Insurance Fund remain to be improved.

Conclusion

Lithuania is meeting the majority of the commitments and requirements arising from membership in the insurance sector and investment services and securities markets. In order to complete preparations for accession, a number of major directives still need to be transposed in these areas. Overall administrative capacity should be strengthened.

MALTA

As regards the insurance sector, the core insurance provisions are broadly already in place. The procedure for Malta becoming a signatory of the 'green card' Multilateral Guarantee Agreement, as foreseen in the 1st motor vehicle directive, still needs to be finalised and efforts should be made to cope with the responsibilities linked to this status. Some areas still require further fine-tuning, in particular the fourth motor insurance directive. Also, some major updates to the implementing regulations are needed (concerning, in particular minimum solvency and guarantee fund amounts in Euro).

Conclusion

Malta is essentially meeting the commitments and requirements arising from the accession negotiations and expected to be in a position to implement the *acquis* the areas of banking, insurance, investment services and securities markets, by the time of accession. Malta needs to complete alignment with the *acquis* in these areas.

POLAND

Efforts to address the problem of a language requirement for members of a bank's management board, as well as the lack of cross-border co-operation between supervisory authorities need to be continued.

As regards the insurance sector, Poland is in the process of completing legislative alignment. Clarification is needed on the issue of qualified participation in the insurance legislation. The problem of the language requirement also concerns the insurance sector (*see above*). The procedure for Poland becoming a signatory of the 'green card' Multilateral Guarantee Agreement, as foreseen in the 1st motor vehicle directive, still needs to be finalised and efforts should be made to cope with the responsibilities linked to this status. The Commission for Supervision of Insurance and Pension Funds is staffed with competent personnel, but continued training and modernisation of the information technology system are needed. The insurance supervisory authority must be given more functional and operational independence.

Poland is partially meeting the commitments and requirements for accession in the areas of banking, insurance services, and investment services and securities markets. In order to complete preparations for membership, enhanced efforts are required to complete the alignment in those areas. Poland needs to lift disproportionate language requirements for board members of service providers, particularly in the financial sector, and to clarify legislation with respect to the procedure for the exchange of information between cross-border banking supervisors. The operational independence of the supervisory authorities must be sufficiently safeguarded.

SLOVAKIA

As regards the insurance sector, legislative alignment remains to be completed. The insurance legislation will need to be amended to address the remaining gaps as regards life, non-life and insurance accounts directives. Recent amendments to the legislation on motor insurance aim at fully aligning with the *acquis* in this area. The administrative capacity of the supervisory authority, the Financial Market Supervision Office, should be further strengthened, including through the hiring of more staff. and continued training.

Conclusion

Slovakia is meeting the majority of the requirements for accession in the areas of insurance and information-society services and the protection of personal data. In order to complete preparations for membership, a number of important directives remain to be fully transposed in these areas. This work must now be accelerated. Enhanced efforts are also needed to remove all administrative and legal restrictions on the freedom to provide the right of establishment and the freedom to provide non-financial services.

SLOVENIA

In the insurance sector, prior authorisation for compulsory transport and supplementary health insurance still exists. All systems of prior authorisation must be abolished, including for these types of compulsory insurance. The requirement to notify certain information to the Slovenian supervisory authority should also be modified. According to the *acquis*; the obligation of notification should concern the home Member State only. The Constitutional Court ruling of February 2003 regarding the act on the ownership transformation of insurance companies paved the way for the restructuring and privatisation of the insurance sector, and thus for increasing the competition in the domestic market. The ownership transformation process is therefore still ongoing.

As regards administrative capacity, the enforcement powers and resources of certain supervisory authorities, in particular those of the Securities Market Agency, should be appropriately reinforced. Out-of-court redress schemes still remain to be established for banks, insurance companies, as well as for investment firms and stockbrokers.

Conclusion

Slovenia is essentially meeting the requirements for membership and is expected to be in a position to implement the *acquis* in the areas of banking, insurance and investment services and securities markets by the time of accession, subject to the adoption of the remaining legislative amendments. Slovenia should complete preparations in the financial services sector.

Extract from the Regular Report

Bulgaria

Amendments were made in October 2002 to the law on insurance, introducing some provisions of the 2nd and 3rd generations *acquis*. In addition, the amounts of third-party liability compensation in the area of motor vehicles were increased in line with Bulgaria's commitments.

The Law on Financial Supervision Commission was adopted in January 2003, aimed at ensuring unified supervision over insurance, securities and pension funds.

Most of the *acquis* on insurance remains to be transposed. The establishment of the Financial Supervision Commission is an important step towards strengthening supervision by an independent body, reporting to the Parliament.

Conclusion

Progress was (...) made in the field of financial services, in particular as regards financial supervision. Enhanced efforts are required to further align the Bulgarian legislation with the *acquis*, notably in the field of (...) insurance (...). Further efforts are also required in order to eliminate any remaining provision with discriminatory effect in the area of right of establishment.

Negotiations on this chapter have been provisionally closed.

Bulgaria is essentially meeting the commitments and requirements arising from the accession negotiations on this chapter.

Romania

The Insurance Supervisory Commission is the competent authority to regulate the insurance sector. Numerous implementing measures have been adopted, notably on third-party liability motor insurance and on conditions for drawing up annual financial reports. The law on insurance companies and insurance supervision was amended in March 2003 with a view to further alignment with the *acquis*.

Legislation in relation to the insurance sector lacks precision, and both implementing provisions and the decisions of the Romanian Insurance Supervisory Commission are not always consistent over time. Substantial further amendments and new implementing measures will be required to fully align Romanian legislation with the insurance *acquis* – these are planned in several steps until 2006.

The human resources of the Insurance Supervisory Committee should be further strengthened through the provision of training.

Conclusion

While Romania's banking legislation is being progressively aligned with relevant EC regulation, transposition in the insurance and securities sectors has seen only limited progress.

The institutional framework of financial supervision should be further improved and alignment of legislation pursued, in particular as regards securities and insurance supervision.

Negotiations on this chapter continue.

Turkey

In the fields of insurance and information society regulations, no developments can be recorded.

In the field of financial services except insurance services, harmonisation is well advanced and the market is largely open to entry of foreign operators.

In the field of insurance, the level of *acquis* harmonisation, in particular in comparison with other financial services, is low. Some restrictions to exclude foreigners from the market still exist. The principles on insurance accounting and financial data collected from insurance companies are not in line with the relevant *acquis*. Furthermore, prudential standards should be aligned with the *acquis* and international standards. There are differences between EU legislation and Turkish legislation as regards solvency requirements of insurance undertakings. Turkish legislation does not apply the minimum solvency margin requirements laid down in the insurance directives. The Insurance Surveillance Board is not operationally independent, and the monitoring quality in the insurance sector is low, since the relevant regulations are not fully in line with the *acquis*. The maintained reinsurance monopoly remains a substantial contradiction with the *acquis*. The same goes for the ex-ante tariff control, which still exists and should be abolished to align with the *acquis*.

The insurance sector is regulated and supervised by the Undersecretariat of Treasury in Turkey. The General Directorate of Insurance (GDI) is responsible for the preparation and implementation of legislation as well as for off-site supervision, while the Insurance Surveillance Board conducts on-site supervisory activities. The GDI has a total staff of 34 persons. The Insurance Surveillance Board is composed of a total of 56 staff. Overall, the administrative capacity of the insurance supervisory bodies needs to be substantially increased.

Conclusion

In the area of financial services, the overall harmonisation level in the banking and securities sectors is high. However, substantial effort is needed to harmonise insurance legislation with the relevant *acquis*. Furthermore, the administrative capacity of insurance supervisory bodies should be strengthened.