**Lesson Learnt PHARE 2006**

<table>
<thead>
<tr>
<th>Identified Gaps or Recommended courses of intervention</th>
<th>Action for covering the Gap or implement the recommended intervention (financed by EU Phare funds)</th>
<th>On going and foreseen actions for covering the Gap or implement the recommended intervention (financed from own resources) legislative and institutional progress</th>
<th>Phare Programming (Project Reference) 2006</th>
</tr>
</thead>
</table>
| **Accession Partnership 2003**                        | • Activities in order to reach a high level of revenues collection by improving the NATA’s capacity to cope with the pressure raised by the accession to the EU  
- Improving the system of fiscal statements administration  
- Harmonizing the procedures for centralized administration of taxes, levies and contributions | ![Cell content](image) | 1.2 Strengthening the fiscal administration (TW) |

**Economic criteria**
In the fiscal sector, reforms should: improve budgetary procedures and the management of public expenditures; simplify tax regulation; and improve the functioning of the tax administration.

**2004 Regular Report on Romania towards accession**
**Economic Criteria**
- Fiscal sustainability needs to be strengthened by advancing expenditure reform and further improving tax compliance.
- Particular attention has to be paid to further strengthening revenue collection, controls and audit as well as to bring activities in the black economy into the open.
- Improvement of the IT system is necessary to speed up the procedures of VAT return.
### 2005 Comprehensive Monitoring Report

#### Economic Criteria

- VAT administration is still perceived as an obstacle by many businesses, particularly as regards reimbursement delays.
- The pro-cyclical impact of public sector wage slippage and major tax cuts, which risk causing a lasting decline of tax revenues.
- The overall policy mix turned less prudent, notably due to pro-cyclical tax cuts and strong wage growth.
- The totality of enterprises in which the state holds majority or minority shares still suffer from low profitability. Out of 1950 such companies, more than half posted net losses.
- The accumulation of new arrears was not brought to a standstill.
- Continued use in 2004 of debt cancellation for individual companies created an adverse incentive in the enterprise sector at large for non-payment of tax and social security obligations.
- No particular success in reforming expenditures can be noted. The modernised Public Finance Law was applied to elaborate indicative multi-annual budgets, set expenditure ceilings for budgetary agents and make use of budgetary reserve funds.

General consolidated budget execution in 2005, was affected by the fiscal lessening measures, maintaining the objective regarding the contribution of sustaining the descending trend of the inflation rate and the current account deficit evolution in sustainable limits. According to this objective, the budgetary deficit target initially established at 1.5 % of GDP has decreased at 1.0 %, obtaining a 0.8 % deficit. At the end of 2005 **the deficit** was in amount of RON 2,362.3 million, respective 0.8 % points of GDP, leading to a primary balance account of 0.2 % of GDP, strengthening the fiscal sustainability.

From the situation presented on 31.12.2005, for the monitored companies, under the provisions of the EGO no. 79/2001 for straightening the economic – financial discipline and other financial provisions, has resulted a total arrears, in amount of 8944.5 million RON, diminishing compared to the program by 2760.6 million RON, namely by 23.6%.
This was complemented by further fiscal decentralisation, which increased the fiscal autonomy of local authorities in terms of the allocation of revenues and expenditures, but without at the same time strengthening control mechanisms for local public finances.  
- Romania has not yet established a clear medium-term expenditure framework to support the reallocation of public expenditure towards human capital, infrastructure and administrative capacity.  
- A better link between the budget execution and an overall strategy for reallocating public spending is needed, including a more prominent role for the multi-annual budgetary framework.  
- The privatisation process continued, but slowed down. The total number of companies in state ownership decreased from 1187 in mid-2004 to 1180 in mid-2005, of which close to 90% belonged to the AVAS.  
- Bankruptcy and other liquidation procedures are not yet effectively applied to foster market exit. Bankruptcy or liquidation procedures remained cumbersome and have not yet become an effective way to foster competition and deter continued accumulation of debts.  

As regards the arrears to the state consolidated general budget, (without increases and/or delay penalties) these are in amount of 1599.8 million RON, and have registered a reduction compared with the established program in amount of 1101.0 million RON, respectively by 40.8%, and compared on 31.12.2004 a reduction in amount of 402.3 million RON.  

According to the Law no. 64/1995 regarding the judicial reorganization and bankruptcy, republished, subsequently amended and completed, during 01.09.2005-31.12.2005, at the competent Court, there have been submitted 699 introductory applications for budgetary claims, amounting of 647.3 million RON.
### 2005 Comprehensive Monitoring Report

**Chapter 5 “Company law”**

With regard to accounting and, in particular, the transposition of the 4th and 7th directive, a number of issues still have to be corrected in the Romanian legislation.

The full harmonization with European Directives from the accounting field (4th and 7th) has been ensured by the MoPF Order no. 1.752/17.11.2005 for approving the accounting regulation in accordance with European directives. (OJ. no. 1.080 bis/30.11.2005);

### Accession Partnership 2003

**Competition policy**
- Complete the legislative framework in both State aid and anti-trust;
- Improve the State aid enforcement record.

### 2004 Regular Report on Romania towards accession

**Chapter 6 “Competition policy”**
- Major efforts are needed to ensure ex-ante notification of all new aid measures, proper accumulation control and full enforcement of state aid rules in relation to restructuring cases, payment deferrals and measures in connection with privatization. A pro-active follow-up of the actual implementation of decisions is also important;
- As regards state aid, major efforts should be made to resolve the problem of alignment of incompatible state aid schemes and to enforce state aid rules.

- Activities in order to improve the notification process for the state aid and to establish the measures needed for the recovery of illegal and forbidden state aids.
- Analyzing of the current legal framework that allows financial state aids.
- Improving norms by which the Ministry of Public Finance will apply coherent measures in order to recover illegal and forbidden state aids.

### 2.11 Improving the MoPF capacity to apply the EC Regulation no. 659/1999 (TA)
<table>
<thead>
<tr>
<th>2005 Comprehensive Monitoring Report</th>
<th>Competition policy</th>
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<tbody>
<tr>
<td><strong>Competition policy</strong></td>
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<tr>
<td>- Romania must increase efforts to meet the commitments and requirements arising from the accession negotiations in the state aid area;</td>
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<td>- Furthermore, attention needs to be given to following up the actual implementation of decisions;</td>
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<tr>
<td>- Major continued efforts are therefore required to ensure ex-ante notification of all new aid measures in relation to restructuring cases, payment deferrals and measures in connection with privatization;</td>
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<tr>
<td>- Knowledge and respect of state aid rules among aid granting authorities need to be further developed.</td>
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<tr>
<td><strong>Commitments in negotiations</strong></td>
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<tr>
<td>- Assessment of all exiting state aid, including the fiscal aids and alignment of the incompatible ones;</td>
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<tr>
<td>- Strict implementation of the ex-ante notification of all state aid measures before their approval;</td>
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<tr>
<td>- Recovery of illegal or forbidden state aids.</td>
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</table>

Training of the staff in order to strengthen the notification of the state aids measures from the required information quality point of view.

- Identifying the minimum information needed for notifying a financial state aid measure;
- Diagnostic study regarding the financial state aids categories;
- Further improving the State aids notifications;
- Improved norms for applying by the Ministry of Public Finance coherent measures in order to recover illegal and forbidden state aids.
### Accession Partnership 2003

- **Chapter 10 Taxation**

Develop IT systems so as to allow for the exchange of electronic data.

### 2004 Regular Report on Romania towards accession

#### Chapter 10 „Taxation”

The administrative capacity of the entire Romanian tax administration needs to be improved significantly. Romania still needs to complete transposition of the Directives concerning indirect taxes on the raising of capital, parent-subsidiary, interest and royalties and savings.

### 2004 Regular Report on Romania towards accession

#### Chapter 10 Taxation

As regards administrative capacity, Romania has made some progress. Nevertheless, its administrative capacity remains weak. Particular attention has to be paid to strengthening the revenue collection, control and audit functions. Although a new system for risk-based controls at refund has been introduced, delays in VAT refund continue to occur.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Details</th>
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<tbody>
<tr>
<td><strong>Continuing the development of the IT infrastructure in order to efficiently support all the financial and fiscal activities of the Ministry of Public Finance and to be in line with the European standards.</strong></td>
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<tr>
<td>• Drawing-up the legislation (regulating and administration provisions) necessary for implementing the Directive 49/2003/CE on a common system of taxation applicable to interests and royalty payments made between associated companies of different Member States;</td>
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<tr>
<td>• Improving the system of administration for the not resident persons subject to VAT taxation, who develop taxable operations in Romania by elaborating new working procedures;</td>
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<tr>
<td>• Improving the risk analysis on VAT reimbursement, as the result of the implementation of the harmonised legislation and the exchange information procedure;</td>
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<tr>
<td>• Improving the procedures for control of VAT reimbursement;</td>
<td></td>
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<tr>
<td>• Improving the VAT reimbursement system;</td>
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<td></td>
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<tr>
<td><strong>At the budget rectification for year 2005 (GEO no. 66/29.06.2005) it was approved a supplementary amount of Meuro 3 for the Ministry of Public Finance. This amount was meant for purchasing IT equipment helping the ministry preparation for the IT exchange of information with European Union.</strong></td>
<td></td>
</tr>
<tr>
<td><strong>The main objective of the fiscal policy in the VAT field is represented by the legal approximation with the European legislation, until the date of accession to the European Union. Thus, it was elaborated a draft for amending the Tax Code through which several amendment were made in the field of VAT, that will enter into force at the date of accession. The most important amendment regard:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>1. Including in the national legislation the transitional regime in the VAT field, which will be applied only in the relation with the EU member states.</strong></td>
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</table>

#### 3.1 Development and implementation of new IT applications related to the optimisation of the business environment and taxpayers’ assistance (TA)

#### 1.2 Strengthening the fiscal administration (TW)
The system needs to be improved and extended in order to reduce delays and combat fraud, which remain significant problems. Romania should address as a matter of urgency tax evasion, most notably in the area of excise duties and with specific regard to alcoholic products, by strengthening control mechanisms and structures. Adequate plans should also be developed for the shift in VAT controls from import to domestic and intra-EU transactions after accession.

**2005 Comprehensive Monitoring Report**  
*Chapter 10 „Taxation”*

Romania needs to step up significantly its efforts if it is to ensure that it will be able to meet its tax IT interoperability requirements upon accession.

As regards administrative cooperation and mutual assistance, Romania should complete legislative alignment and undertake the necessary preparations to be able effectively to exchange information with EU Member States as of accession.

- Finalising the specific web-enabled applications;
- Improving the data warehouse;
- Consolidating the appropriate IT infrastructure;
- Finalising the migration of the applications to web-enabled technology and centralised architecture;
- Finalising the implementation of the project for the building of the Disaster Recovery Centre;
- Extension of the project for invoices management if new requirements are growing or changes of the current specifications are required;
- Training activities on analysis, development and programming activities, specific to the methods and tools proposed, project management, management of the system, databases, applications, communications and the inventory;
- **2. Transposition of the directives VIII and XIII**, that establish the VAT refund procedure for transactions carried on in Romania by foreign taxable persons, established both in EU member states (Directive VIII) and in third countries (Directive XIII).
- **3. Elimination of VAT exemptions that are not allowed by the Sixth Directive:**
  - VAT exemption for operations financed from non-reimbursable funds granted by international bodies or foreign governments;
  - VAT exemption for commodity exchange; VAT exemption for veterinary medical care;
  - VAT exemption for river transport for the inhabitants of the Danube Delta and on the routes between Orsova-Moldova Noua, Braila-Harsova, Galati-Grindu;
  - VAT exemption with the right of deduction for the construction of religious building;
  - VAT exemption for the activity of research-development and innovation.

3.3. [Increasing the integration level of new IT and communication systems](#) (Technical Assistance and Investments)
- Up-grading the hardware, software and communications for the Disaster Recovery Centre in order to become Business Continuity Centre in order to secure the centralised databases;
- Data security system for data storage, transmission and usage; data access control system;
- Purchasing workstations (WS), printers, communications equipment to increase the ratio WS/staff from 80% to 90%.

4. Introducing VAT exemptions that are provided by the Sixth Directive and were not implemented yet in the national legislation, as:
- VAT exemption for deliveries of constructions that are not considered new, as well as deliveries of land, excepting for that designated for constructions;
- VAT exemption for postal public services;
- VAT exemption for private lessons by teachers at secondary school and university level;
- VAT exemption for postal stamps with marking role within the country.

5. Introducing in the national legislation other provisions like:
- adjusting of the right to deduction;
- introducing the special schemes for farmers, at the same time with eliminating the respective VAT exemption;
- introducing the special schemes for travel agents, second hand goods, works of art, antiques and collectors' items, investment gold, goods on consignment and gage. Currently, for these fields, special rules are applied, alike those provided by the directive.
### 2004 Regular Report on Romania towards accession

With regard to IT and interconnectivity, Romania has started to make progress in this area but efforts should be sustained with high momentum, as the time frame is already tight.

- Developing new portal applications for taxpayer’s assistance;
- Continuing migration of the applications designated to support the taxpayer’s assistance and customs’ business (as priority) to web-enabled technology and centralised architecture;
- Further training on analysis, development and programming using specific methods and tools.

### 2005 Comprehensive Monitoring Report

#### Chapter 11 “Economic and Monetary Union”

Romania needs to establish the necessary safeguards to avoid that the national bank bears financial commitments of the state sector through monetary financing.

During this year the Law of Public Dept will be modify in accordance with these recommendations.

#### Commitments in negotiations

**Chapter 21 „Regional policy and coordination of structural instruments”:**

- Setting up of an integrated management information system.

Through the Law of State budget in 2006 (no.370/2005) is ensured the necessary flexibility for absorption and implementation of the structural funds. Thus, starting with 2007, the necessary measures between the main spending agencies that are managing non-reimbursable funds, including the ones regarding the co-financing from the State budget, with the condition of registering in the total level of the non-reimbursable external funds of the related co-financing.

#### 2005 Comprehensive Monitoring Report

- Some budgetary legislation and instruments still need to be revised and completed to ensure full multi-annual budget programming and budgetary flexibility;
- The legislation related to Public Private Partnership and concessions as well as secondary legislation and methodological norms need to be further harmonized. A reliable ex-ante procurement control system needs to be set up and become fully operational on all relevant levels;
- Action is needed regarding the strengthening of the administrative capacity across all main ministries and other relevant bodies on central, regional and local level, including in relation to the European Social Fund and especially for some lagging structures such as the management of the future Competitiveness programme.
- Staffing level and the pace of recruitment needs to be improved in order to reduce the related backlogs;
- Cooperation between central and regional level must be significantly strengthened. The Single action plan aiming at improving the management of EU funds in Romania needs to be put into effective and rapid implementation.
- The co-financing mechanisms especially at local level need to be clarified and secured.

The co-financing mechanism was included in the draft legal act regarding the amendment and completion of the Emergency Government Ordinance no. 45/2003 regarding the local public finance, with subsequent amendments and completions.
- There are serious concerns in relation to the administrative capacity of the **institutional structures**, and in the area of **financial management and control**. Immediate action is required to strengthen administrative capacity across all concerned bodies at national, regional and local level, including in relation to the European Social Fund;
- The cooperation between the central and regional level needs to be clarified and considerably improved. The ability of Romania to guarantee sound financial management and control should be considerably strengthened to be ready by the date of accession.
- Improvements to the tax administration remain heavily reliant on the modernization of its IT infrastructure and training of staff across the country.

- Increasing voluntary tax compliance remains an important element of improving tax collection.

<table>
<thead>
<tr>
<th>1.2 Strengthening the fiscal administration (TW)</th>
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<tbody>
<tr>
<td>- Training the necessary number of personnel within the Tax Administration;</td>
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<td>- Updating the actions plans for the tax administration field training;</td>
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<tr>
<td>- Improving the organizational chart and the professional requirements for the professional training structure.</td>
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<tr>
<td>- Making an inventory of the assistance services granted by the Fiscal administration to the taxpayers:</td>
</tr>
<tr>
<td>- identifying the weak and the strong points of the services system;</td>
</tr>
<tr>
<td>- proposals on improving the existing services and for introducing new services adapted to the Romanian Fiscal Administration; recommendations on the methods to be adopted for their implementation.</td>
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</tbody>
</table>
Chapter 25 “Customs”

The eCustoms multi-annual strategic plan (MASP), sets down the vision, objectives, the strategic framework and the milestones to implement the eCustoms initiative. The MASP contains the following elements:
- Legal changes and simplification;
- Operational convergence;
- Development of computerized customs systems.

The Council Resolution of December 5, 2003, which endorsed the Communication by the Commission on a simple and paperless environment for customs and trade, invites the Commission to “draw up, in close cooperation with Member States, a multi-annual strategic plan, aiming at creating a European electronic environment, which is consistent with the operational and legislative projects and developments scheduled or underway in the areas of customs and indirect taxation”.

(2005 – e-Customs Multi-Annual Strategic Plan)

The results of the DG TAXUD monitoring visit held on NCA premises on 10 November 2005, reflect the following milestones:
- Setting up a Help Desk environment
- Optimize the actual infrastructure
- Improvement of IT working procedures and provide the necessary hardware and software equipments
- Participate to the strengthening of CCN network.

Development of the following computerized components to sustain a paperless environment, an e-Government platform based on:
- Portal applications in order to sustain the business environment
- IT application to support the taxpayers assistance and business environment, including customs application
- Dedicated electronic interfaces

Improvement of the security procedures and deploying new IT solutions in order to provide a secure environment ready to sustain the electronic exchange of information.

Development of training activities to ensure with human resources trained for business and technical support within the Help Desk.

Enhancement of the IT staff capacity in order to manage the hardware and software equipments.
The 4th Meeting of the Customs 2007 IT Technical Group joined with the SCAC Information Technology Sub-Committee (SCIT) and the Excise Computerisation Working Party (ECWP) underlined the necessity to raise awareness among the political environment in order to sustain with staff and equipment for the implementation of e-Customs programme.

### Romania 2005 Comprehensive Monitoring Report:

- Attention also needs to be paid to improving the practical use of risk-analysis criteria, coupled with post-clearance controls.
- Post-clearance audits need to be improved significantly. Clear and uniform procedures need to be developed and distributed to all post-clearance control departments at regional level.
- Several issues will need to be resolved rapidly, such as plans to redeploy staff after accession, rationalising the training approach and channels, or full use of the School for Public Finance facilities.

- The pre-conformance tests and the conformance tests for NCTS 3.2. and TARIC & tariff related systems have been fulfilled successfully in direct connection with the EC systems.
- The draft of the new Romanian Customs Code was drawing up, observing as such the structure of the Community Customs code and changing significantly the Romanian customs legislation. The Customs Code draft was approved by the Government of Romania, adopted by the Senate of Romania and it is at present under consideration at the Deputies Chamber of Romania.
- A Commission of analyzing the reorganization of the customs activity after the adhesion of Romania to the European Union was set up at the NCA level.

In 2005 the percentage of using simplified procedures was of 40% as compared to the whole customs operations.
### Chapter 25 “Customs union”:

Accelerate the implementation of the IT strategy of the Romanian customs administration; develop IT systems to permit the exchange of computerized data within the enlarged Community; prepare for installation and operation of CCN/CSI (Common Communication Network / Common System Interface).

- Methodological norms of post-clearance control were drawn up, based on the stipulations of the new Romanian Customs Code and Rules of Application of the Romanian Customs Code, norms which are significantly improved as compared to the current methodological framework. The norms have in view the harmonization of the stipulations contained by the internal fiscal regulations and the concept existent at Community level on the general principles of the customs control activity based on the risk analysis.

- Starting with March 2005 the courses delivered through the School of Public Finance and Customs included about 1050 customs officers, out of which over 200 persons was trained as trainers in different fields (e.g: common agriculture policy, simplified procedures, origin of goods etc). Monthly training sessions were carried out in each interior or border customs office and the inter-institutional professional training programs are on-going.

### 3.3. - Increasing the integration level of new IT and communication systems (Technical Assistance and Investments)
As far as the control over structural action expenditure is concerned, the manuals on internal audit for the Phare, ISPA and SAPARD programmes still need to be improved. Progress by Romania’s implementing agencies has not been sufficient, given the increase in programmed levels of EU support from 2004 onwards. The lack of a corresponding increase in management and control capacity has prevented Romania providing the required degree of assurance on the decentralised authorities’ systems.

In accordance with the recommendation of the Assessment Mission have been revised and completed the manuals of procedures for Phare and ISPA programmes.

The Romanian official request to pass at EDIS phase, has been submitted to European Commission in 23 December 2005.
Chapter 29 “Financial and budgetary provisions”

The implementation of the Customs Accounting System needs to be completed and the IT module in the accounting system for managing the A & B accounts and generating the related statements automatically needs to be developed.

Continued efforts are needed to strengthen administrative capacity for the calculation of the VAT-based resource, in particular for the Weighted Average Rate (WAR) of VAT. The capacity to collect and control VAT, including instruments to combat fraud and evasion must be further developed.

- Implementation procedures and the structures to collect and control the tax on sugar;
- Development of the capacity to collect and control of VAT and customs tax;

Procurement procedure for this IT application was started, terms of reference being drawn-up. The tender process will take place during 27 February and 3 March within National Authority for Customs;

The handbook on the administration of European Union own resources drawn-up with support of Greek experts (October, 2005) includes also working procedures for submitting the fraud and irregularity reports by OWNRES system;

National Authority for Customs identified the related legal acts for post-clearance control and analyzed the existing reports for best practice in some Members States; and also there were required from local bodies the proposals for amending the post-clearance control procedures;

Experts from the Ministry of Public Finance and National Institute for Statistics, with support of Greek experts, have performed during 2005, the simulation exercises for computing the weighted average rate calculated for 2004 taking into
consideration the application of the VAT standard rate of 19% and reduced VAT rate of 9% and the correction for farmers integrated in the flat-rate scheme – its impact on the calculation of the VAT own resources base if this special regime would applied in Romania starting with 2006.