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# PRIORITISATION OF WORK - PREPARING THE POLAND'S ACCESSION TO THE EUROPEAN UNION(1)

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## Abstract

*The article touches upon the prioritisation of the works aiming at the Polish accession to the EU. Specifically, it addresses the National Programme of Preparation for Membership, being a core progress chart and schedule for the pre-accession period and resulting in the thorough cooperation with the different ministries. Together with various other main technical instruments as the programmes and strategies within various fields of interest, the author describes the present situation underlining the necessity of the step-like approach vis-à-vis EU integration, upon the agreed programmes.*

The launch of the membership negotiations in 1998, a current step of the continuously strengthened and enhanced relations between Poland on the one side and the European Communities/European Union on the other, marks significant progress in a common understanding of Europe as the family of nations, cultures, ideas and societies. This decision provides not only for the historical change in the understanding of our continent as a politically and economically more stable and unified organism (from an external perspective), but also for the real revolution, as seen from the legal and institutional point of view, in different negotiating countries from Central and Eastern Europe (CEE), including Cyprus, Malta and also Turkey.

It is crucial to understand the whole process not only from the political point of view, taking under consideration various declarations and speeches of the EU officials and its Member States' decision-makers, but

additionally by looking at it from the side of the future members of this unique club – the applicant countries. How do they perceive the whole process, what is substantial for them, how to cope with certain problems, what fields of the vast *acquis communautaire* seem to pose problems during their adoption?

One can state several similar questions, but in this very essay, the author puts a stress on the rarely touched issue of the prioritisation of the membership preparations with the example of Poland's experience. Within this topic, we can observe the crossing point of the political and technical sphere of the integration, with numerous influences imposing new priorities and modifying the existing ones. This text will not strictly deal with the institutional aspect of the European integration works in Poland but mostly with the changing face of the basic documents on which the whole process has been built. Priorities are seen here within the strategic programmes, basic official documents binding for the governmental side while performing its statutory and mandatory obligations. This modern approach provides for the notion of dynamic and ever-changing relations between the applicant and the European Union.

### **Voluntary Adjustment Programmes**

It can be clearly stated that the process of the European integration was instigated in Poland soon after the collapse of the communist regime. And even before that moment, we have officially established diplomatic relations between Poland and the European Economic Community (EEC) in September 1988. Shortly after that, Poland began negotiations with the EEC on a trade and economic co-operation agreement (signed eventually in Warsaw on 19 September 1989). With this non-preferential treaty allowing the gradual lift of quota restrictions imposed by the Community on Poland much earlier, our Western partners have managed to gain the chief trading role in Poland's economic relations since 1990. With the first free elections conducted in post-war Poland in 1989, the G7 Summit conclusions of July 1989, the introduction of the PHARE (2) programme and the establishment of the European Bank for Reconstruction and Development (EBRD), further evolution of the EC-Poland relations might have been thoroughly initiated. Nevertheless, it is crucial to underline that next to Poland, there were also Czechoslovakia (at the time) and Hungary taking part in this historical political and economic transformation.

On 25 May 1990 in Brussels, Poland filled out an official application to begin negotiations for an Association Agreement with the European Community, concluded a year later with signing the European Agreement on 16 December 1991 (together with the Interim Agreement, which allows for the earlier introduction of a number of the original Agreement's provisions concerning trade that became effective on 1 March 1992). This treaty entered into force as of 1 February 1994. It allowed for the appointment of the Government Plenipotentiary for European Integration and Foreign Assistance operating as the Office of the Council of Ministers on 26 January 1991 (3). A goal of such institutional change was to prepare the Polish governmental structures for the wide changes relating to the establishment of the far-reaching and structured system of co-operation with the European Community and to run this process on the highly technical and expert level (the Ministry of Foreign Affairs has been assigned at an early state to deal with more diplomatic-oriented aspects of this process).

Therefore, the first step, taking under consideration the governmental working priorities, was to prepare an implementation of the European Agreement, in which Poland has managed to sketch its substantial strategic goal: membership in the European Union (then the Communities). This aspiration has been connected with the desire to achieve the fundamental targets of the Polish policy in three spheres: political, economic and social. The European Agreement openly mentioned the need to start the legal harmonisation as soon as possible, in order to achieve a common level of understanding between the Community and Poland from the economic and legal perspective. Thus, the Polish Government had to prepare itself during the pre-accession period for the vast changes to be introduced in almost each area of life according to the need of implementation of the new Community legal order.

The European Agreement has created the first listing of the priorities – mostly economic ones, strengthened later on with the introduction of the Copenhagen criteria. In June 1993, the European Council meeting in Denmark constituted a breakthrough in the process. In the summit's conclusion, the "twelve" stated that the associated countries that so desire shall become members of the Union once having fulfilled certain conditions, that is:

- Stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities;
- Existence of a functioning market economy;
- Capacity to cope with competitive pressures and market forces within the EU;
- Ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union (4).

The fulfilment of the criteria has constituted the core elements of Poland's emerging strategy for the integration into the European Union.

But even before the introduction of the criteria, the Polish government adopted at the turn of 1992 to 1993 a rolling Programme of Adjustment to the requirements of the European Agreement (5). It defined the measures indispensable for the adjustment of the Polish economy to the requirements of the European Agreement and for undertaking efforts related to the restructuring of the economy so that it could be able to cope with the new conditions. It also envisaged steps necessary in the sphere of harmonisation of the legal system to the requirements of the European Agreement. Once a year, this Programme has been subject to an updating procedure and a debate in the Polish Parliament, and it has been implemented since the beginning of 1993. It provided for continuous monitoring and annual reporting on its implementation. Such reports had been prepared in 1993 and 1994. Additionally, a special timetable has been elaborated that listed the activities to be undertaken by individual ministries and institutions in the following years. What deems to be crucial, it has also been subject of the enrichment and updating in the course of implementation. It is important to point out that in November 1993, the Polish Government has published its own White Paper on the economic aspects of the Copenhagen criteria (printed in 47 separate volumes). This document aimed at underlining the most relevant changes to be introduced in the pre-accession period. Later on in September 1995, a similar documentation set has been published, now strictly devoted to the legal matters (24 volumes).

The Copenhagen conclusions of 1993 and a pre-accession strategy as adopted by the Union in 1994 together with a White Paper of 1995 (6)

had a great influence on the work programmes gradually introduced by the Polish government. Due to these documents, an exceptional challenge has been constituted and its content was reflected in Poland's strategy of integration into the European Union. The EC White Paper, since it gives an indication of the priority areas that create the basics of the Common Market, required a very systematic analysis. Such analysis was approved by the Council of Ministers on 15 July 1997 – schedule for actions adjusting the Polish legal system to the recommendations of the White Paper of the European Commission Concerning Integration with the Single Market of the European Union.

According to the governmental self-initiatives that aim at presenting the comprehensive plans and schedules for the further integration process to be run, one can argue whether it was truly necessary to produce such documents in a voluntary way as the 1992 and 1993 Gradually Update Programmes or the 1997-Schedule. Would it not be easier to wait for the direct thorough suggestions from the Union how shall such document look like, what shall it consist of and which priority areas shall it touch upon? The answer seems to be negative over here. As the Polish government performed a specific test, it managed to gain a vast experience with its decision to adopt the papers mentioned above (7). Unforced by the Community, Poland already got used to the system of work based on the structured adoption of the previously scheduled priorities and tasks.

### **National Strategy for Integration**

On 14 March 1996, the Polish Parliament has recommended that the government shall prepare in the due time a strategy dealing with Poland's EU integration process. Later on in July, the Polish government approved the entire package of responses to an extensive questionnaire presented by the European Commission on 26 April 1996 in the need of accessing the candidate countries' ability to conduct the accession negotiations (so called *avis* – EC's opinion). This complex exercise pushed the Polish government to a deeper monitoring of the areas to be amended as the first. The opinion on Poland's EU membership application was issued by the European Commission on 16 July 1997.

And in August, the Committee for European Integration has been created, taking the place of the former Bureau Governmental

Plenipotentiary for European Integration and Foreign Assistance. It is a supreme organ of state administration charged with programming and co-ordinating the policy of Poland's integration with the European Union, consisting of the leading ministers responsible for the particular areas being subject, to the wide extent, to the *acquis*-oriented law-harmonisation. It is currently chaired by the Prime Minister. The Committee's Office began the work on 16 October 1996.

On 28 January 1997, the National Strategy for Integration (NSI) has been adopted by the Council of Ministers and on 22 May by the Parliament. An additional implementation schedule to the strategy has been prepared on 3 July 1997. NSI included tasks stemming from the adjustment process in the period preceding membership negotiations, during these negotiations and also in the initial post-accession period. NSI put existing integration activities into a consistent framework, defined priorities and key elements of the adjustment process as well as it identified development challenges. The strategy took into account the existing schedules of legal approximation and it forms the basis for the formulation of new programmes and timetables. The main objective of the strategy was to achieve beneficial integration into the EU, incorporating political, security, economic, social, cultural and technological aspects. NSI was based on the four following assumptions:

- Poland's membership in the Union will include integration in all areas;
- Poland's integration with the Union will facilitate the maximization of the rate of economic growth accompanied by a gradual meeting of the criteria set for the Economic and Monetary Union (8);
- Poland's integration into the Union is a mutually advantageous process;
- There are certain adjustment costs that have to be borne as a result of the integration.

NSI was primarily addressed to the administrative organs of the government that implement the strategy, the President and Parliament, and to other institutions such as political parties and social organisations, enterprise and employers' organisations, trade unions, and citizens (continuous dialogue with society was also foreseen). As the main co-ordination body for the ministries and central administration bodies

involved in the implementation of the NSI was appointed the Committee for European Integration. It required the allocation of the necessary financial resources. New, adequately trained personnel had to be employed in the ministries. Therefore, NSI was one of the main elements of the negotiation preparations and of the drawing up of Poland's negotiation mandate, systemising the hitherto existing steps.

It has been envisaged that during the first quarter of 1997, the Committee for European Integration would prepare an action programme for the period of 1997 to 2000 based upon NSI. Furthermore, the sector adaptation programmes and negotiation recommendations would supplement and develop the strategy. On this basis, the government of the Polish Republic would determine the negotiation objectives and the methods for their achievement. The government would also define existing contentious issues and collate the necessary documentation, define the mechanism of co-operation between institutions and identify the analytical potential required for solving negotiation problems. But these ambitious plans have not been achieved due to the intervention of the Union itself that changed the existing scheme

### **National Programme of Preparation for Membership in the European Union**

The membership of Poland in the European Union requires the implementation of a broad adjustment of both the economic and the social system. Many of these indispensable adjustments have been undertaken in parallel to signing of the European Agreement and the entry into force of the commercial part of it, e.g. in 1992 already. However, the current pre-accession stage, after the positive *Avis* of the European Commission, required the intensification of efforts and the adoption of a comprehensive approach with the aim to ensure the most appropriate sequence of steps leading to the best possible progress in the preparation for a membership in short and medium term. During its session of December 10 1997, the Committee for European Integration instructed the office of the Committee for European Integration to prepare a draft of the National Programme of Preparation for Membership in the European Union (NPPM) in co-operation with the appropriate ministries and government institutions. The Committee for European Integration also laid down a set of premises on which this document was to be based. On April 29 1998, the Committee for

European Integration finally accepted the NPPM. It is crucial to mention that this very document is being updated yearly.

The Programme of Preparation for Membership in the European Union is a document which sets the direction for the adjustment measures and lays down a schedule for their implementation until the year 2002 within the context of Poland's approaching accession to the EU. Its first version's contents were based on three basic elements: previous fulfilment of the provisions of the European Agreement and the recent state of the preparation of Poland for membership in the EU; the comments and recommendations of the European Commission included in its Opinion on the Polish Application for Membership and the priorities set out in the EU's document Accession Partnership. The latter NPPMs had to take under consideration the whole range of new documents, especially the Regular Report from the Commission on Poland's Progress Towards Accession edited since 1998 each year. The practical necessity for NPPM amendment results from the assumption adopted by the government that it is to be an open document, subject to regular definitions and adaptations to the changing conditions of the adjustment process, and from the necessity of considering the conclusions from the screening within the first stage of negotiations. The implementation of priorities set out in the NPPM is subject to the monitoring of Poland run by the Committee for European Integration and technically operated by its office.

A careful analysis of the above documents and assessments allowed to formulate precise fundamental adjustment priorities, which in the opinion of the Polish government should be implemented in the coming years. These priorities cover adjustments tasks divided into two categories: short-term priorities foreseen for the implementation in 1998 (their implementation is to be carried out without additional PHARE financing) and medium term priorities for the coming years (until year 2002) for which there are uniform financial frames foreseen, which will include, apart of Poland's own resources, financing from the PHARE in its new orientation as well as from other sources including international financial institutions. Part of the adjustments tasks were to be implemented in 1998 and then continued in the following years. A part of them was of a more horizontal-like character influencing the effective functioning of the whole economy, and the



rest of them concerned particular sectors. On January 29 1998, the Committee for European Integration adopted the draft list of the adjustment priorities for Poland.

The Programme of Preparation for Membership in the EU attaches great importance to the proper sequence of adjustment measures in order to secure the most advantageous approach in the process of Poland's integration with the European Union. Priority will be accorded to the most important objectives (as seen by Poland as well as by the EU), with the remaining measures subordinated to them and, if necessary, implemented at a later time. The NPPM has been consolidated with the tasks set out in the "Schedule of National Strategy for Integration" and the "Schedule of Measures Adapting the Polish Legal System to the European Commission's White Paper Regarding Integration with the Internal Market of the European Union". The unaccomplished tasks set out by both schedules, which under the *Accession Partnership* still remain effective, have been incorporated into the national programme. Then the Committee for European Integration will apply to the Council of Ministers for repealing both of the above-mentioned schedules. This way, transparency will be ensured in the programming and monitoring of the adjustment measures.

The purpose of the NPPM modified in 2000 is to consolidate this programming document, to precise – on the basis of the obligations resulting from negotiation positions (9) – deadlines for the elaboration of adjustment programmes, both legal and institutional, as well as to specify better and to define basic adjustment priorities, which must still be implemented in the pre-accession period (i.e. according to the assumptions of the Polish government by the end of 2002) and to identify new priorities resulting from the social and economic policy of the government and from the modified version of the *Accession Partnership*. Those priorities continue to cover short- and medium-term adjustment tasks to be implemented by the end of 2002. Certain adjustment tasks, which were not implemented in the years 1998-1999, will be continued in subsequent the years. A new version of the NPPM, in accordance with the Resolution of the Sejm (10) of 18 February 2000, includes a schedule of governmental legislative initiatives, thus, creating a programme of adjusting the Polish legislation to the *acquis communautaire*. It must be emphasised that the existing system of production expert opinions regarding the governmental

legislative drafts in terms of their compliance with the EU legislation, has been supplemented by the process of producing expert opinions regarding the parliamentary drafts of legal acts. (11) It should ensure the better efficiency in executing cohesion of the elaborated or amended legislation in Poland with the legislation of the European Communities.

### **Accession Partnership**

During the European Council meeting in Luxembourg in December 1997, it has been envisaged that in order for the accession process to progress smoothly, it will be necessary to set up appropriate legal and organisational frameworks to shape efforts undertaken by the European Commission and the associate members towards the preparation of the adjustment programmes and their implementation. Accordingly, it was decided to create a new instrument, the *Accession Partnership*, next to ensuring the fuller utilisation of procedures provided for under the European Agreement and providing for greater participation in Community programmes and in *acquis* mechanisms.

The core of the Commission's document *Accession Partnership* was approved by the European Council in late March 1998 and subsequently presented to the Polish government. It included two legal acts of the Council:

- The Council Regulation (EC) No 622/98 of 16 March 1998 on assistance to the applicant countries in the framework of the pre-accession strategy, and in particular on the establishment of accession partnerships (12);
- The Council Decision 98/260/EC of 30 March 1998 on the principles, priorities, intermediate objectives and conditions contained in the *Accession Partnership* with the Republic of Poland (13).

Apart from a list of short-term (till 1998) and medium-term priorities for action and financial support from the EU, the Partnership

document also included an annex, which summarises all of the recommendations of the European Commission's Opinion regarding the application for EU membership. The Commission emphasised that these are not priorities but, rather, recommendations concerning certain measures. All this meant that Poland would, in the course of the coming years, have to embark on a series of complex adjustment measures (whose list is by no means limited to those which the EU plans to support with financial aid) so as to achieve maximum readiness for the acceptance of the rights and duties associated with full membership in the European Union.

The *Accession Partnership* contained, on the one hand, a list of the priorities recommended by it on the basis of the Opinion and, on the other hand, a concept for the introduction of a uniform framework for financing the adjustment priority implementation. Accordingly, it was planned to introduce new principles for the operation of PHARE next to creating new structures for the management of EU financial aid. The objectives set out in the Partnership for Accession will be implemented as a part of the Programme of Preparation for Membership in the European Union.

Additional instruments for assisting associated countries in their preparations for accession to the EU included “The Joint Assessment of Economic Policy Priorities”, “The Pact Against Organised Crime”, and the “Road Map for Progressing Towards the Internal Market” of 9 March 1998. The Road Map is a working document which describes the methods by which internal market priorities should be included in the Programme of Preparation for Membership in the European Union. Accordingly, this document also dealt with preparing what are known as the end users of the internal market as well as increasing the quality of institutions and the qualification of personnel, which is to ensure the effective implementation of Community law. The latter editions of the *Accession Partnership* have proven its indispensable and efficient influence on the whole process of the prioritisation of the Polish government's work.

### **Accession Negotiations**

On 24 March 1998, just 4 days before the official opening of the accession negotiations with the six accession oriented front-runners from the Central and Eastern Europe in Brussels, in response to the readiness of the European Union to expand, the Polish Prime Minister and the Council

of Ministers created both the institution of the Government Plenipotentiary for Poland's Accession Negotiations (14) to the European Union and the Negotiation Team (15). This institutionalisation aimed at the swift and competent progress within the forthcoming talks. One of the technical aspects of the process was the work of an Inter-ministerial Team for the Preparation of Documentation for Poland's Negotiations Regarding Membership in the European Union as created in March 1997. This team had been working on the so-called *acquis* lists, composed of the titles of the Community legal acts relevant to the different areas of interest such as CFSP, external relations or customs union. Later on, the EU side had provided the accession countries with the "screening lists", as the very first stage of the negotiations included a review of the legislation of the applicants regarding their compatibility with the *acquis*. The screening exercise was carried out on multilateral and bilateral levels in twenty-nine of the thirty-one negotiation chapters. During the second stage of negotiations, on the basis of the screening results, the applicant states prepared their position papers in individual areas and presented them to the European Union. In fact it made the whole process far more dynamic, as the "real" negotiations could be started even before the entire review of the law had been concluded.

One of the main differences between this enlargement and earlier enlargements is that the size and complexity of the *acquis communautaire* are infinitely larger than at any of the first four enlargements of the European Union. The completion of the internal market provisions, while simplifying the trade within the EU, has made the preparations for accession far more complex. Numerous new rights and obligations are to be imposed on the accession countries together with the almost uncountable EC regulations, directives and decisions. This creates a totally new environment for the Polish government according to the implementation of the laws, especially as the new *acquis* is still being adopted by the EC/EU institutions on an almost daily basis. Therefore, it makes the continuous monitoring of the deepening of the Union's integration and resulting changes within its legal order inevitable, taking under consideration the need to implement just and only the presently binding *acquis*.

**What Will Be Next? How Much Longer Will the Priorities Function As Essential Assets?**

This question might have a sole, only one answer. Always and ever the prioritised activities will be a framework of the integration process, also after the accession. It is enough though to look at the present decision-making system in the EU, based on the far-reaching consensus in various areas and an often used system of programming, scheduling and planning the priorities and tasks to be fulfilled in the future. It is rather impossible to run away from this approach, still, one can even find it difficult to note down the negative aspects of the prioritisation, but one.

The statistical citizen might see it quite difficult to understand while being flooded with the information about next programmes and action plans adopted in the course of the European integration process, why it happens this way. And it is actually the government's role to educate its country's citizens about certain steps undertaken, as the transparency is the core issue not only for the EC/EU bodies' and institutions' work, but also each for the applicant countries' governments.

We can foresee as of the beginning of 2001 that within a short period of time, with the further development of the applicants and the Union itself, the Community side might easily create new steps to pass, new priority areas, or simply change the understanding of a number of them. It has already happened within the last series of the Commission's Regular Reports where the political membership criteria have been deeply enhanced (i.e. an introduction of the new anti-discriminatory provisions according to the recent creation of the *acquis* dealing with these matters in the European Union).

## **Conclusions**

It is not an easy task to sum up what already has been mentioned above. One might try to prove that the whole process is messy, vague or unclear, based upon too many documents, some smaller (like NSI – 70 pp.) and some larger (NPPM – 500 pp.), some more (NPPM) and some less detailed (NSI). But it is important to underline that usually the previous documents are amended or simply replaced by the new ones and most of the priorities are taken over by them and enhanced. In a number of situations European Union does provide for the new understanding of the particular priority areas, furthermore the areas already covered by the legal harmonisation and implementation are replaced by the ones that used to be

less important at a previous stage of the integration process.

With new priorities being adopted practically all the time, it is relevant to state that apart from the creation of the priorities, the applicant countries must put the biggest stress on their scheduled implementation and fulfilment. Without it and its monitoring, the whole process is simply useless.

### Notes

- 1) Based upon "Accession Negotiations. Poland on the Road to the European Union". Government Plenipotentiary for Poland's Accession Negotiations to the European Union, Chancellery of the Prime Minister, Warsaw 2000; and numerous governmental and Community documents as mentioned in the text.
- 2) Poland and Hungary Assistance for Restructuring Their Economies.
- 3) The Office of the Council of Ministers was transformed into the Chancellery of the Prime Minister in 1997.
- 4) That is the full acceptance of *acquis communautaire* and the participation in II and III pillars of the EU.
- 5) Programme of Actions Adjusting the Polish Economy to the Requirements of the Europe Agreement of 1 December 1992 and Programme of Actions Adjusting the Legal System to the Requirements of the Europe Agreement of 26 January 1993.
- 6) White Paper Concerning Integration of the Associated Central and Eastern European Countries with the Internal Market of the European Union as adopted in June 1995.
- 7) Additionally some priorities have been set in various other documents produced by the Polish side such as the mid-term "Strategy for Poland" of June 1994, "From the Membership in the OECD to the EU", "International Competitiveness of Polish Industry – Industrial Policy Programme for the Years 1995-1997", "Privatisation Programme Until the Year 2001", "Proposed Measures for Limiting the Range of the Economic Grey Area",

„Medium-Term Financial Strategy for the Years 1999-2001”, “Concept of Spatial and Physical Development of the Country - Poland 2000 Plus”, existing almost within each area of law approximation and *acquis* adjustments.

8) The Maastricht convergence criteria concerning exchange rate stability, decrease of inflation and interest rates and the level of public debt.

9) The renumbered chapters of the NPPM are now aligned with the numbering of the negotiations chapters.

10) The lower chamber of the Polish parliament.

11) Cf. Resolution of the Sejm of the Republic of Poland of 19 March 1999 concerning amendments to the statute of the Sejm of the Republic of Poland, OJ No. 11, Item 150.

12) OJ L 85/98 of 20 March 1998.

13) OJ L 121/98 of 23 April 1998. This decision entered into force on 27 April 1998.

14) Regulation of the Council of Ministers of 24 March 1998 (Dz.U. No. 39, item 225).

15) Ordinance of the Chairman of the Council of Ministers No. 19, of 27 March 1998

### **Bibliographical sketch**

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