

Safeguard clauses / Super-safeguard clauses

1. Super-safeguard clauses – only for Bulgaria, Romania

(Postponement of accession from 1.1.2007 to 1.1.2008)

➤ **General (Art. 39 para. 1 AA-BR)**

- Against **both Bulgaria and Romania** (each separately)
- For **all areas of competence**, in case of non-capacity to implement the acquis
- **Unanimous** council decision on a recommendation by the Commission (COM)

➤ **Specifically justice and home affairs/Schengen (Art. 39 para. 2 AA-BR)**

- Only against **Romania**
- Only concerning **justice and home affairs/Schengen** (Annex IX Nr. I)
- Council decision by **qualified majority** on a recommendation by COM

➤ **Specifically competition policy (Art. 39 para. 3 AA-BR)**

- Only against **Romania**
- Only concerning **certain issues of economic policy** (Annex IX Nr. II)
- Council decision by **qualified majority** on a recommendation by COM

=> in all cases: **necessary** adaptation of the Act of accession by **Council decision** taken by **qualified majority** (Art. 39 para. 4 AA-BR).

2. Standard safeguard clauses (Suspension of certain rights from the acquis up to 3 years after accession)

➤ **General (Art. 37 AA-HR)**

- In **favor** (Art. 37 para. 1 subp. 1 AA-HR) and **against** (subp. 2) Croatia
For **all areas of competence**, in case of difficulties which are serious and liable to persist in any sector of the economy
- **COM determines necessary measures**, on application by a member state concerned

➤ **Specifically for the internal market (Art. 38 AA-HR)**

- In case of **serious breach** of the functioning of the **internal market**
- **COM determines necessary measures**, on application by a member state concerned **or on its own initiative** („may“ = equitable discretion)

➤ **Specifically justice and home affairs (Art. 39 AA-HR)**

- **Imminent risk of serious shortcomings** concerning the transposition of the acquis in the fields of **police, criminal or civil law**
- **COM determines necessary measures**, on application by a member state concerned **or on its own initiative** („may“ = equitable discretion)

AA-BR = Act of accession Bulgaria Romania; AA-HR = Act of accession Croatia