

Comprehensive Monitoring Report

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Bulgaria, by its geopolitical situation in South-East Europe, constitutes an interface between the European Union (EU) and Balkan as well as Black Sea regions. After the fall of the Berlin wall and the emergence of a democratic regime, Bulgaria very soon established diplomatic relations with the EU in 1989. In 1990, it signed a Trade and Co-operation Agreement with the EU. In 1993, a far-reaching Association Agreement called "Europe Agreement" which already indicated Bulgaria's goal of becoming a member of the EU. This agreement, which created a free trade zone between Bulgaria and the Member States, was already part of the strategy of the EU to prepare Bulgaria for accession, which also included substantial financial and technical assistance.

In 1993 in Copenhagen, the Member States decided that associated countries in Central and Eastern Europe that so desired could become members of the European Union once they met the necessary economic and political conditions. This led Bulgaria to submit, in 1995, its application for membership. Accession negotiations were opened in February 2000 together with Romania and with several other countries which joined the Union in 2004. This is why Bulgaria is part of the fifth enlargement process that successfully brought ten countries into the EU in May 2004. Bulgaria's accession process contributes to secure democracy, stability and economic development in Europe. This is in line with the fundamental aims of the European project to make Europe a place of peace and prosperity and to overcome the divisions of the past.

Accession negotiations were closed in December 2004 with the objective of welcoming Bulgaria as a Member State in January 2007. The Treaty of Accession was signed by the 25 Member States and Bulgaria and Romania in April 2005. The ratification process by the Member States is on-going. Bulgaria has already ratified it.

The Commission, as guardian of the Treaties, is now monitoring Bulgaria's preparations for accession in order to ensure that this country can meet all the duties and requirements of a fully-fledged Member State by accession, in the interest of both current Member States and Bulgaria. This Comprehensive Monitoring Report presents the results of the Commission's assessment of Bulgaria's preparations for accession. It covers the political and economic reforms undertaken by Bulgaria to meet EU requirements as well as its implementation of the EU legal order which is to be respected by each and every Member State, the so-called *acquis communautaire*. The Report assesses the situation up to the end of September 2005.

The findings of this Report can be summarized as follows:

As regards the political requirements for membership, Bulgaria continues to meet them. Overall, it has reached a satisfactory level of compliance with EU requirements. However, despite progress, a number of shortcomings still exist. Enhanced efforts are needed to improve the functioning of the justice system, particularly as regards the pre-trial phase and the penal procedures, to address the problem of backlogs at courts and to combat efficiently organised crime and corruption. As regards human rights and the protection of minorities, further efforts are needed, in particular for the integration of the Roma minority.

Concerning the economic requirements for membership, Bulgaria continues to be a functioning market economy. The continuation of the current pace of its reform path should enable Bulgaria to cope with competitive pressure and market forces within the Union. Bulgaria has maintained a high degree of macro-economic stability with strong economic growth, relatively low inflation and falling unemployment. However, in particular the business environment still needs further improvement.

Bulgaria has made very significant progress in aligning its legislation. Bulgaria should be able to assume the obligations of membership at the envisaged date of accession, provided that it accelerates its efforts to that end in a number of areas and that it focuses on strengthening its overall administrative capacity. The Report identifies three stages of preparations for accession:

- First, areas where Bulgaria is ready or where preparations are ongoing and which should be resolved by accession if the current pace of preparations is maintained. These include for example competition policy, the free movement of capital and payments, and culture and audio-visual policy.
- Secondly, areas where increased efforts are needed. Here the Bulgarian authorities are encouraged to better target their reform efforts to harmonize with EU requirements in the remaining period before accession. This covers for example the need to promote social inclusion or to ensure the full respect of EU standards in air and maritime transport and in relation to industrial pollution.
- Finally, a number of areas of serious concern requiring immediate action from Bulgaria so that it may reap the benefit from EU accession but also in order to preserve the balance of the Union. These areas include the ability to absorb European funds allocated to Bulgarian beneficiaries, the need to ensure a high level of food safety and to fight efficiently and in a pro-active manner corruption and organised crime. The Bulgarian authorities are strongly encouraged to spare no efforts to remedy the existing gaps without further delay.

The exact conclusions of the Report can be found in sections B.3, C.3 and D.3.

The Commission is supporting Bulgarian financially in its preparations for accession and will focus on measures to tackle the shortcomings identified in the Report. The total volume of pre-accession assistance available to Bulgaria is substantial, around EUR 545 million in 2006. It will be used for pre-accession programs.

The Accession Treaty envisages the accession of Bulgaria on 1 January 2007. It includes a number of provisions under which the Union may take action to prevent serious breaches of the functioning of the internal market or to deal with shortcomings in the field of cooperation in civil and criminal matters

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caused by Bulgaria. Other safeguards exist in the EU legal order. If there is clear evidence that the state of preparations for adoption and implementation of the legal order in Bulgaria is such that there is a serious risk of Bulgaria being manifestly unprepared to meet the requirements of membership in a number of important areas, then accession of Bulgaria may be postponed by one year.

The Commission will continue to monitor Bulgaria's preparations and to encourage the country in its reform path in period leading up to accession in order to ensure a smooth integration into the EU.

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The accession negotiations with Bulgaria were successfully concluded on 14 December 2004. After the Commission's favourable opinion, the European Parliament's assent and the Council decision on the admission of Bulgaria, the Accession Treaty was signed on 25 April 2005. The ratification process by all 25 Member States is underway. Bulgaria ratified the Treaty in May 2005. The Treaty envisages accession on 1 January 2007.

In the 2004 Strategy Paper on progress in the enlargement process, the Commission stated it would continue to closely monitor Bulgaria's preparations for membership. This monitoring, which has intensified after the closure of negotiations, will continue until accession.

In December 2004, the European Council concluded on Bulgaria that the European Union will continue to monitor closely Bulgaria's preparations and achievements, including the effective implementation of the commitments undertaken in all areas of the acquis, and in particular in the area of Justice and Home Affairs. To this end the Commission will continue to submit annual reports on Bulgaria's progress towards accession, together with recommendations if appropriate.

This report assesses Bulgaria's preparations for membership. It identifies the remaining gaps in policies, legislation and its implementation and identifies the steps to be taken. The report contains three main parts.

- The first part briefly describes political developments and assesses the state of affairs as regards the political issues which were identified as in need of further improvement in the 2004 report.
- The second part briefly describes economic developments and assesses the economic issues which were identified as in need of further improvement in the 2004 report.
- The third part gives an overview of where Bulgaria stands in implementing all commitments and requirements arising from the accession negotiations for each acquis chapter, both in terms of legislation and implementation.

This report reflects the situation as of 30 September 2005.

Numerous sources of information have been used to compile this report. Bulgaria was invited to provide information on its state of preparedness. The Report also draws on information provided by Bulgaria within the framework of the Association Agreement and the accession negotiations, as well as on peer reviews that have taken place to assess its administrative capacity in specific areas. Council deliberations and European Parliament reports⁽¹⁾ and resolutions have been taken into account in drafting it. Where relevant, the Commission has also drawn on assessments made by various international organisations, the international financial institutions, and by non-governmental organisations.

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(1) The European Parliament rapporteur for Bulgaria is Mr Geoffrey Van Orden

The 2004 Report confirmed the conclusions of previous reports that Bulgaria fulfilled the political criteria. However, the following areas were identified in the conclusions of the 2004 Report as requiring further improvements: public administration reform (all aspects, but especially local and regional administration); justice reform (all aspects, including police and measures to combat organised crime); anti-corruption measures; trafficking in human beings; freedom of expression/media independence; ill-treatment in custody and prison conditions; childcare and mental healthcare system; protection of minorities and integration of the Roma minority.

The principal purpose of this chapter is to assess the state of play on the issues identified last year as requiring further improvements.

1. Political developments

General elections were held in Bulgaria in June 2005. Official turnout was 55.76% of the electorate. The BSP-led Coalition for Bulgaria (socialists) emerged as the biggest political force in the new parliament, gaining 30.95% of the votes. The National Movement Simeon II (NMS) ranked second with 19.88%, ahead of the Movement for Rights and Freedoms (MRF) with 12.81%. These were followed by the "Ataka" Coalition with 8.14%, the United Democratic Forces (UDF) with 7.68%, the Democrats for a Strong Bulgaria (DSB) with 6.44% and the Bulgarian Popular Union (BPU) with 5.19%.

In July 2005, the National Assembly adopted a declaration on the priorities for the parliament's work. These priorities include the adoption of European integration-related legislation, speedy implementation of judicial reform, the establishment of a framework to stimulate economic development and investment, access to quality healthcare and education, and the full-fledged integration of various social and ethnic groups.

Almost two months after the general elections of June, the Coalition for Bulgaria, as strongest grouping in the Bulgarian Parliament, the National Movement Simeon II and the Movement for Rights and Freedom signed a coalition agreement on the formation of a government in August 2005. The new government is headed by Sergey Stanishev, as Prime Minister, and the distribution of the 17 ministerial seats between the three parties BSP/MSN/MRF is 8/5/3, with one minister being non-partisan. The government held its first session in August 2005.

Bulgaria has achieved an acceptable degree of alignment as regards the transposition of directives, but although efforts were made to minimise the interruption of the legislative process due to the election, the adoption of certain key pieces of legislation was disrupted by the election process, and the momentum of the implementation of reforms was somewhat delayed.

2. Implementation of recommendations for improvements

Public administration

Although public administration reform remained a government priority during the reporting period, Bulgaria has made only very limited progress with regard to relevant legislative developments.

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The structures in charge of preparing and implementing public administration reform are difficult to assess, as important changes are still planned, including the establishment of a fully-fledged Ministry of State Administration.

The envisaged amendment to the Law on Administration has still not been adopted. Consequently, the division of responsibilities between the political and administrative levels of the administration still has to be clarified, the position of chief secretaries in the administration regulated, an effective internal control on its work established and all agencies unified under the control of the relevant parent ministries.

The draft Code of Administrative Procedure has also not been adopted yet. It is intended to establish a legal procedure for the implementation of administrative acts and dispute settlement, to better regulate citizens' rights and to increase administrative and judicial control over all administrative acts. In the meantime, most basic procedural principles for control over the public administration are defined in a dispersed way by three other pieces of legislation, as well as the Law on Administration. Principles and procedures such as administrative and judicial review of administrative acts through appeal, and the imposition of administrative penalties as a result of the violation of administrative law are included in these pieces of legislation. Their interpretation and implementation is, however, often governed by the rules of procedure of each administrative body, thus creating conditions which provide room for inefficiency.

Bulgaria needs to give priority to closing gaps in existing legislation and to ensure the establishment of a legislative framework guaranteeing the principles of legality, accountability, reliability and predictability in the workings of the public administration. Further efforts are required in terms of making the public service more resistant towards corruption, including preventive measures.

Openness and transparency of public service, notably as regards access to public information, are covered by the Law on Access to Public Information, as amended in 2003. Although there has been an increase in the number of decisions issued by the Bulgarian administration on the basis of this law, and its acceptance has increased, the impact of the law remains limited.

The first national Ombudsman and a deputy Ombudsman were finally elected in April 2005 on the basis of legislation which had existed since January 2004 and which provided for the election of an Ombudsman by March 2004. The internal rules on the organisation and activities of the Ombudsman entered into force in June 2005. The Ombudsman's office has not yet been definitively set up. A number of local ombudsmen have existed since the beginning of 2004. They are located in municipalities and are elected by municipal councils.

With regard to decentralisation, the Council for Modernisation approved a Strategy for Decentralisation in May 2005, covering the decentralisation of authorities and fiscal decentralisation. On the basis of the strategy, action plans will have to be prepared. However, decentralisation as such has not progressed very far in reality. Attempts at administrative and fiscal decentralisation to the municipal level have stalled and are gradually giving way to a deconcentration of responsibilities and tasks to the NUTS (nomenclature of statistical territorial units) II level, where administrative structures are currently being strengthened.

Under the responsibility of the Ministry of Finance, programme budgeting is being introduced in Bulgarian ministries. There are currently 11 ministries participating in the pilot scheme. The Ministry of the Environment is expected in 2005 to be the first ministry to present a fully programmed budget to the parliament.

The legal basis for the status of civil servants and other public employees was introduced through amendments to the Civil Service Law in 2003. However, in the absence of a central body in charge of implementing the different aspects of civil service legislation, the envisaged full assessment of implementation and of performance after its first year in force cannot be made.

Training is developing well and represents an incentive for civil servants. According to the Civil Service Law, 0.8% of the budget for civil servants' salaries should be available for training purposes. The main training body is the Institute for Public Administration and European Integration, which is attached to the Council of Ministers and is organising courses for newly recruited employees, for senior managers, and also on more specific subjects such as public procurement. Other training bodies include the School of Public Finance (Ministry of Finance), the School for Magistrates (Ministry of Justice) and the Diplomatic School (Ministry of Foreign Affairs). In 2004, 20 683 employees from the central administration and 1 961 employees of local government administrations underwent compulsory training.

In April 2005, the Council for the Modernisation of Public Administration, an inter-ministerial committee, approved a White Paper on the Modernisation of the Administration, which sets out further proposals for improving service delivery, better policy-making, public service, budgetary control and accountability, following the best European practices. If fully implemented, the White Paper could be a positive tool in the modernisation of public administration.

Justice system

For the fourth year now, a reform strategy is being implemented. The legal framework has undergone important changes, including in relation to the establishment of a probation system, witness protection, extradition, international private law, enforcement of civil judgments, legal aid, the execution of penalties and alternative dispute resolution (mediation). These new provisions require swift and correct implementation. Hence it is important that implementing regulations be adopted quickly, that staff be trained to implement them without further delays and that sufficient budgetary provisions be made available. Expected legislation has not been adopted in relation to civil procedures. Overall, there remains considerable scope for improving the technical quality of draft laws in the justice area in view of ensuring a smoother implementation. It is also recommended that monitoring mechanisms be established in order to follow up on the impact a new law generates.

In contrast to legislative developments, the structure of the judicial system has not changed. So far, the impact of the reform on the efficiency of the justice system remains limited, in particular as far as the problem of case backlogs is concerned. Despite some ongoing progress, very considerable efforts are still needed, in particular to improve the pre-trial phase.

Regarding the reform of the pre-trial phase legislative progress was made. However, in practice progress

in the combating of organised crime remained very limited. In December 2004, the Council of Ministers adopted a "National Concept for the Reform of Penal Justice", on the basis of which the new Penal Procedure Code was prepared. In April 2005, some amendments to the previous Penal Procedure Code entered into force, which further limited the possibilities for transforming police investigations into preliminary proceedings carried out by an investigating magistrate. The amendments also provided for a clearer distinction between the competences of the actors involved in the pre-trial phase, so that the role of investigating magistrates has been reduced and transferred to police investigators. So far, however, the impact of the April 2005 amendments remained limited, despite closer cooperation between police, investigation and prosecution bodies via the introduction of the "team work" principle at local and regional levels, which can be observed in a number of places following the Joint Declaration of December 2004 on Cooperation in Reforming Criminal Justice, signed by the Minister for Justice, the Prosecutor-General and the Head of the Investigation Service.

In October 2005, a new Penal Procedure Code was adopted with the aim of doing away with the complicated multi-layer investigation structure and of simplifying the lengthy and formalistic procedures. It remains, however, to be seen to which extent the new code addresses these shortcomings. This reform has to be accompanied by an increase in the efficiency and accountability of the court system. Furthermore, there is a need for revision of other legal acts, including the Judicial System Act, the Attorney Act or the Ministry of the Interior Act, with a view to considerably enhancing the efficiency of the Bulgarian penal justice system and establishing the required capacity to deal with organised crime and corruption. Last but not least, no steps were taken in the reporting period to modernise the prosecution service, although there remains a need to make it more transparent and accountable.

On the administrative capacity side, the Supreme Judicial Council (SJC) now benefits from increased administrative support and numbers 61 employees. Two new departments were created in 2005 and the SJC obtained more offices. The SJC also continued to appoint, promote, transfer and dismiss magistrates. In 2004, the SJC organised a competition for the appointment of junior magistrates, resulting in the effective appointment of 43 junior judges, 43 junior prosecutors and 57 junior investigators. However, since April 2004, the Council has appointed about 30 judges and prosecutors without a competition, on the basis of an extraordinary procedure in the Law on the Judiciary which allowed for the possibility of appointments without competitions, there being a risk that objective criteria were not applied. In order to remedy this, a decision was taken in April 2005 restricting this practice to cases where no candidate has been found after publication of the vacant post and where a detailed motivated statement for the candidate's qualities is issued by the chairman of the relevant judiciary body. Nevertheless, the number of appointments made without a full competition under this extraordinary procedure did not drop. According to official figures, there is no major problem with understaffing in the Bulgarian justice system. 1755 posts out of 1800 for judges are filled and 1068 out of 1109 posts for investigators are occupied. Only in the case of prosecutors there are about 10% vacancies (1224 posts of which 1103 are occupied), which in view of the more important role of prosecutors in the penal procedure should be filled as soon as possible. The adoption of a Regulation on appraisal of magistrates in view of promotion or demotion is being delayed. The SJC also continued to exercise its role in the establishment of the budget. It presented the draft budget of the judicial system to the Council of Ministers and controls its implementation. The budget of the judiciary in 2005 is EUR 115 million, which is an increase of 12 % compared with 2004 and amounts to 2.19% of the State

budget.

All legal professions now have ethical codes. However, there is little evidence of enforcement of these ethical codes, including by the SJC as far as the ethical codes for the three categories of magistrate are concerned. Bulgaria should enhance the fight against corruption in the judiciary by revising the procedure for lifting immunity, as it is now far too protective towards magistrates accused of unlawful behaviour. This would considerably enhance the accountability of the judiciary and increase the trust of the citizens.

As regards the functioning of the court system, Bulgaria intends to foster specialisation in the judiciary, in particular as far as administrative and commercial law is concerned. However, so far no final decision is taken on the establishment of either commercial departments or on administrative courts. Further specialisation is much needed but will only be successful if the required training is also provided by the National Institute for Justice. With a view to better managing the workload in courts and reducing the sometimes considerable delays in deciding cases, temporary rules are in place on the appraisal of the work performance of judges, public prosecutors and investigators, which include qualitative and quantitative criteria for the evaluation of their activities and workload in accordance with the new provisions of the Law on the Judiciary.

As far as equipment and infrastructure is concerned, the Bulgarian IT Judiciary Strategy was further implemented, resulting among other things in the development of software for monitoring insolvency cases, which was installed in the Ministry of Justice and in all courts in June 2005. However, there have been systematic delays in terms of putting into operation various other types of IT equipment such as the national land register, the Uniform System for Data Collection and Statistics and the Unified Information System for Combating Crime. These delays have negative consequences for the quality of the management of the judiciary, as Bulgaria needs a reliable statistical capacity allowing it to use statistics as management and policy development tools. Also, the Unified System for Court Case Management, which should have allowed for the random distribution of cases as of the end of 2004, is not operational. Even if the software is not yet available, there is an urgent need to adopt objective and clear rules for the manual distribution of cases, as this remains an area which allows for the undue influencing of the work of magistrates.

As regards training, the National Institute for Justice continued to implement training programmes for magistrates in close cooperation with foreign donors and partners and started the initial training courses for junior magistrates in spring 2005. For the first time also training courses for court clerks were organised. While the administrative capacity and infrastructure of the Institute is gradually improving, its budget remains very limited. Financially, the Institute continues to rely heavily on foreign support. Its budget for 2005 is approximately Euro 0.65 million. A modern curriculum for continuous training of magistrates still needs to be established as, so far, continuous training is being organised on an ad hoc basis. There remains a need for various types of training for legal professions outside the magistracy and in particular for lawyers.

Anti-corruption measures

Surveys and assessments conducted by both national and international organisations confirm that widespread corruption remains a cause for concern and affects many aspects of society. There is a positive downward trend as far as administrative corruption is concerned, but the overall enforcement record in the field of corruption remains very weak. The main problem is weak results in the investigation and prosecution of corruption cases. There were no reported cases of completed prosecutions of high-level or political corruption cases, and very few concerned members of the magistracy.

There were few significant legal developments in this area in the reporting period. However, the legal instruments required by the acquis are almost all in place. A new Law on Political Parties was adopted in March 2005, setting out a number of anti-corruption measures to guarantee the transparency and accountability of political party funding, including a complete ban on anonymous donations and better mechanisms for monitoring the activities of political parties. In September 2005, the Law amending the Law on Administrative Violations and Sanctions was adopted dealing with liability of legal persons.

Bulgaria also continued to implement the "Updated Action Plan for the National Anti-Corruption Strategy 2004-2005" through the Commission for the Coordination of the Fight against the Corruption. The administrative capacity of this Commission remains weak. The Commission focuses above all on prevention and education measures, such as the development of special programmes for education in anti-corruption practices at the Public Administration and European Integration Institute and in various high schools, and the implementation of specific programmes for prevention in the different ministries and agencies, taking into consideration their specific activities.

In February 2005, the Council of Ministers adopted an amendment supplementing the National Strategy for Combating Corruption of October 2001, which provides for measures to combat high-level corruption. The amendment is aimed exclusively at undertaking measures to prevent corruption in the administration of the executive power at the level of political cabinets and at curbing corruption in other sensitive spheres, such as public procurement. However, deadlines fixed in the National Strategy for Combating Corruption have been largely missed and consequently its impact remained very limited. The Law on making public the property of persons occupying high State positions, which contains provisions for establishing a public register for declaring property, income and expenses of persons occupying high State positions in the Republic of Bulgaria, continued to be implemented. Bulgaria will need to continue vigorously the fight against high-level corruption. Bulgaria's current anti-corruption policy would greatly benefit from an independent audit. The results of such an audit could feed into the new strategy and focus on better targeting remaining problems.

Bulgaria continued to take a number of administrative measures to strengthen the fight against corruption. The necessary structures within law enforcement agencies and the judiciary have been created, but their results so far vary considerably. The overall organisation and intra-departmental control of the prevention and detection of acts of corruption at the Ministry of the Interior has been further improved by refining the mechanism for receiving, checking and taking action on information concerning corruption amongst Ministry of the Interior officials. Integrity tests are carried out on a regular basis. The training curricula of the Police Academy for the academic year 2004-2005 include issues related to the prevention of internal corruption. In the period October 2004 – March 2005, 38

Ministry of the Interior officials were dismissed on disciplinary grounds. Boxes labelled "Anti-corruption" were placed on the premises of the Ministry of Justice to encourage reporting by staff on suspected cases. A "Customs Intelligence and Investigation" unit was established within the customs administration. In the first nine months of 2005 32 customs officers have been subject to disciplinary sanctions. However, despite these measures, and by comparison with the measures taken in other parts of the public administration, there appears to be little effect in practice. The existing specialised anti-corruption structures in all parts of the administration and the judiciary should be assessed and adapted where necessary to improve efficiency. During 2004, the Public Prosecutor's Office investigated 6 535 cases, compared with 6 785 in 2003, related to corruption (of which 2 275 were opened during 2004).

Some areas of public administration remain particularly vulnerable to corruption. This is the case for those engaged in public works contracting, including the health sector. There have been several exemptions already from the new law on public procurement which entered into force in October 2004. Claims of non-transparent procedures for procurement and the granting of concessions are continuing.

Bulgaria continues to participate in the monitoring of anti-corruption measures adopted by the OECD Working Group on Bribery in International Business Transactions and in GRECO (the Council of Europe Group of States against Corruption).

Trafficking in human beings

Bulgaria remains primarily a country of origin and transit for trafficking in human beings for the purposes of sexual exploitation and is to a lesser extent a country of destination. Mostly women and girls are trafficked for the purposes of sexual exploitation. Trafficking of men exists on a smaller scale, the men usually ending up as slave workers. In 2005 cases of trafficking of newborns to EU Member States have been reported. The overall situation has not improved, as Bulgarian women are also becoming victims of internal trafficking. They are trafficked to be prostitutes in larger towns, tourist centres and in border post areas where international traffic is high. Furthermore, Roma children are still disproportionately represented among victims of trafficking.

Clear information on trafficked persons and the related number of missing people in Bulgaria is still not available. Bulgaria lacks a system of registering missing persons and victims of trafficking. The Bulgarian police registers as "victims" only those willing to testify, and they are very few. Bulgaria has a witness protection programme. Witness protection measures are not being fully implemented in Bulgaria, and victims of trafficking who cooperate with the police are often only partly protected. An enhanced witness protection programme is essential in the fight against trafficking in human beings. To that effect, implementing rules to the Law on the Protection of Individuals Endangered in relation to Criminal Proceedings have been adopted in September 2005.

The institutional framework to combat human trafficking has been reinforced with the creation of the National Anti-Trafficking Commission, a coordination and policy-making body.

In February 2005, the Government approved a National Programme on preventing and combating trafficking in human beings and protecting its victims, which envisages measures to implement existing legislation better, to raise awareness, to provide assistance and rehabilitation to victims, and to enhance

international cooperation and other complementary measures. A manual on best practices for law enforcement agents having to interact with children victim of sexual exploitation was adopted in January 2005. Furthermore, a Code of Conduct for the prevention of trafficking in children and sexual abuse in tourism was endorsed in May 2005, in close coordination with the tourism industry. However, due to the insufficiency of governmental activities, it is mainly non-governmental organisations which continue to play an important role in prevention programmes and assisting victims of trafficking.

Ill-treatment in custody and prison conditions

There continue to be reports of cases of ill-treatment by law enforcement officials, including excessive use of firearms and force by the police. Reports indicate that ill-treatment of persons in custody disproportionately affects Roma. In a number of cases, investigations of complaints of police ill-treatment were not prompt, thorough and impartial.

Concerning prisons, the Bulgarian authorities achieved some positive results in improving penitentiary legislation, mainly related to the implementation of probation as a specific form of sentencing. The establishment of central and local probation services is underway. The population in places of detention has increased slightly. It is encouraging, though, that more inmates are being placed in open and semi-open prison hostels. This would generally provide them with more possibilities for work and for resocialisation. However, the conditions in some Bulgarian prisons and detention centres are still inadequate, mainly because of overpopulation and poor living conditions in the older facilities.

Freedom of expression

The situation in relation to freedom of expression has improved. Freedom of expression is enshrined in the Constitution, and legal provisions are further developed in legislation. Libel is punishable by fines (up to EUR 5 000) under the Criminal Code, and the number of cases brought to court has generally increased. In most cases, however, the courts defined libel and interpreted the law in a manner that favoured journalistic expression.

Regarding audiovisual media, there are no formal restrictions on programming and both television and radio provide a variety of news and public-interest programmes. Bulgarian legislation requires the Council for Electronic Media to issue radio and television programming licences only in accordance with its long-awaited Strategy for Developing Radio and Television Activities. In the absence of such a strategy, the Council could not start new licensing procedures. The Supreme Administrative Court has revoked some of the decisions made by the Council, and this institution needs to ensure its capacity to make transparent, justified and impartial decisions. It needs to reinforce its administrative capacity (see also Chapter 20 – Culture and audiovisual policy).

Child protection

As regards children's rights, the government has shown its commitment through various strategies, action plans (including a new programme for child protection, adopted in December 2004) and legislation. However, real progress in implementing these remains limited and action should be taken urgently. There have been some improvements related to the method of placing children in institutions,

since a large number of children are now placed on the basis of court orders. However, the conditions for children in some State institutions remain poor. Although the legal framework for alternative services to institutional care improved, its promotion is still at an early stage. There is a poor take-up of foster care. Progress in de-institutionalisation remains very limited and falls behind the Bulgarian plan to reduce by 10% the total number of children in specialised institutions in the period 2003-2005.

In the autumn of 2004, the State Agency for Child Protection finalised an assessment of specialised institutions for children. However, despite the critical assessment the conclusions are rather weak and have not been followed up by firm closure plans with systematic parallel development of professionally staffed alternative services. A comprehensive monitoring system should ensure that efforts to support children living in community care are successful in the long term. Resources currently blocked in the institutional system should be available to provide community-based services in the best interests of the child. Many of the children in institutions are not orphans, and little has been done to support re-integration with parents. In spite of existing legislation aiming at enhanced access for all children to mainstream education, access for children in institutional care to mainstream schools remains unsatisfactory, and the share of these children in special schools is a matter of concern. Unlocking the financial and human resources currently supporting the special schools system would help speed up reforms in this area. In view of the still complex institutional set-up for child protection, the competences of the State Agency for Child Protection remain limited and its coordinating function needs to be enhanced. There is a further need to increase the capacity of relevant local structures, particularly child protection departments. Inconsistent policies on integration of minority groups create further obstacles to sound implementation of children's rights.

It appears that changes in adoption legislation and practices have had an impact on the number of children being adopted internationally. However, it is too early to judge if the decrease in international adoptions is a long-term trend. It has proved difficult to obtain reliable statistics on this question. Further efforts are necessary to increase transparency regarding adoptions and to ensure that the best interests of the child are the primary consideration when making decisions relating to inter-country adoption, and to eliminate all possibilities for improper financial gain. Bearing in mind the risk of abuse, it should be ensured that foreign entities are not involved in the identification of children for inter-country adoption.

The disabled and mental healthcare system

A new law on integration of people with disabilities aims at social inclusion of people with disabilities and provides for the shift from a narrow medical model to a social care model. In that context, the establishment of an Agency for People with Disabilities is an encouraging step.

The mental healthcare system is still poorly coordinated between three ministries (Ministry of Health, Ministry of Labour and Social Policy and Ministry of Education), and enhanced efforts are necessary to devise and implement a consistent policy for people with mental disabilities. State financial support for social care homes increased slightly and some measures were taken to improve the material conditions of such institutions. However, living conditions in a number of social care homes continue to be extremely poor, with little improvement in the provision of medical (including psychiatric) care and other therapies and scant regard for the need for privacy and respect for the individual. There is still a lack of an independent review of placement decisions and effective legal safeguards (e.g. against abuse) for the

people concerned. In a number of cases, people with different needs are placed in the same institution. Efforts to develop community-based services and to reintegrate are still at a very early stage (see also Chapter 13 Social Policy and Employment). Despite an existing government decree that gave all children the right to attend mainstream schools, segregation of children with disabilities into special schools continues to lower the quality of their education. In 2005, following an evaluation of social care homes undertaken by the Agency for Social Assistance together with the Ministry of Health, recommendations for reforming institutions and individual care plans for people with mental and physical disabilities were drawn up.

The new Law on Public Health which entered into force in January 2005 requires that placement and treatment in psychiatric dispensaries in principle be carried out on the basis of a court order and be in line with the requirements of the European Court of Human Rights ruling in the *Varbanov v. Bulgaria* case.

Protection and integration of minorities

The effective and sustainable integration of Roma remains an issue of major concern. The efforts made by Bulgaria to implement the "Framework Programme for Equal Integration of Roma into Bulgarian Society" lack sufficient strategic approach, coordination and finance. This Framework Programme is still in its early stages, and related documents and action plans adopted by the government remain largely on paper.

Key reforms in combating discrimination in education, healthcare and housing are still outstanding. A long-term action plan in line with the "Decade of Roma Inclusion 2005-2015" (launched in Sofia in February 2005) has been drawn up and contains objectives in the areas of education, healthcare, housing, culture and discrimination. Bulgaria needs to ensure that this action plan is properly resourced and implemented.

A number of cases were filed under the Protection against Discrimination Act, and in three cases the Sofia Electricity Supply Company was found guilty of treating Roma customers unfavourably in relation to non-Roma customers. An independent Commission for Protection against Discrimination, as envisaged by the law, was established in 2005 (see also Chapter 13 Social Policy and Employment).

The strategic documents and programmes on the educational integration of children from the Roma minority have not significantly changed the situation on the ground. Initiatives aimed at attracting and keeping Roma children in school (e.g. free lunches, subsidised textbooks, teacher assistants in schools with Roma students, bussing programmes) were largely unsuccessful. Although an Agency for Educational Integration of Children and Pupils from Ethnic Minorities has been established, this body has not succeeded so far in fulfilling its main function, namely the coordination of efforts made by different ministries to enhance the educational integration of children from minorities. As already outlined in the 2004 Report, a number of Roma children of mainstream mental ability still continue to be placed in special schools following poorly controlled assessments.

Many Roma continue to be excluded from access to healthcare services. A Health Strategy for Disadvantaged Members of Ethnic Minorities and an associated action plan were adopted in September

2005. The elaboration of this strategy and action plan forms an important part of the Framework Programme for Equal Integration of Roma into Bulgarian Society. Although several initiatives are ongoing with international donor support, a long-awaited National Housing Strategy for Roma has not yet been adopted.

A number of national employment programmes aimed inter alia at addressing long-term unemployment amongst Roma have continued. However, in order to increase their effectiveness, these initiatives need to be further combined with complementary measures such as family counselling and professional assistance in searching for a job.

In spite of the establishment of a new National Council for Cooperation on Ethnic and Demographic Issues, the administrative capacity of the State structure dealing with minority issues continues to be weak. The body is not yet fully operational, and it remains to be seen whether the chosen structure will provide for the powers necessary for effective minority rights protection, including enhanced political influence and staffing. In particular, attention should be paid to ensuring sufficient consultation with Roma representatives with a view to developing and implementing the State policy on the integration of Roma.

The Bulgarian authorities should demonstrate, at all levels, that the country applies a zero-tolerance policy on racism against Roma or against any other minority or group and that this policy is effectively implemented.

3. General evaluation

Bulgaria, as in previous years, continues to fulfil the political criteria for membership. Overall, it has reached a satisfactory level of compliance with EU requirements. Nevertheless, further action is needed in a number of important areas which were highlighted in the 2004 Report as requiring further efforts.

As regards public administration reform, Bulgaria still needs to complete the legislative framework guaranteeing the principles of legality, accountability, reliability and predictability in the workings of the public administration. Also, further efforts are needed to strengthen local and regional administration in the context of decentralisation. The White Paper on the Modernisation of the Administration adopted by the Government in April 2004 now needs to be put into practice.

Important legislative steps have been taken in relation to the judiciary. However, progress in the reform of the pre-trial phase remains limited and the justice system continues to suffer from a lack of accountability. The procedures for administering justice remain cumbersome and slow.

The main problem in combating corruption effectively remains the weak results in the investigation and prosecution of high-level corruption cases. While efforts to combat corruption have had a certain impact, notably in relation to petty corruption, generally the perception remains that corruption continues to be a cause for concern.

In the area of human rights and the protection of minorities, more effort needs to be made to combat efficiently the trafficking of human beings and to improve conditions in a number of state institutions for

children and people with disabilities. Further progress is needed in the process of de-institutionalisation and in improving the management of the mental health care system. Sustained efforts are required to realise the effective integration of the Roma minority. The Framework Programme for Equal Integration of Roma into the Bulgarian Society should be implemented as planned.

In its 2004 Report the Commission concluded that Bulgaria is a functioning market economy. The continuation of its current reform path should enable Bulgaria to cope with competitive pressure and market forces within the Union.

The principal purpose of this part of the Comprehensive Monitoring Report is to assess the implementation of recommendations for improvements in the areas identified in last year's Report.

1. Economic developments

Bulgaria maintained a high degree of macroeconomic stability with strong economic growth, relatively low inflation and falling unemployment, but the external deficit remains high. Boosted by strong domestic demand and high investment, real GDP grew at 5.6% in 2004 which was the highest rate since the start of transition. GDP per capita in purchasing power standards increased to 30.8% of the EU-25 average. At 12%, gross fixed capital formation grew most strongly, whereas the highest contribution to growth came again from domestic consumption which increased by 5%. In the first half of 2005, economic performance continued to be strong with a GDP growth rate of 6.2%. Both investment and consumption growth accelerated further to 13.4% and 6.6%. Average inflation was 6.1% in 2004 and declined to 4.4% until August 2005.

In line with the strong economic expansion, the employment situation continued to improve. Employment grew by 3.1% in 2004, but the employment rate was still very low at 54.2%. In the first half of 2005, employment creation slowed down to 1.3% compared to the first half of the previous year. The unemployment rate declined further from 13.7% in 2003 to 12.0% in 2004. Wage increases remained relatively moderate in 2004 with a real wage growth rate of 0.9%, but accelerated in the first half of 2005 to 5.0%. After reaching a record high of

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□□□□ □□□□□□□□9.2% of GDP in 2003, the current account deficit decreased to 7.4% of GDP in 2004. However, driven by strong imports of both consumer and investment goods, the trade deficit increased from 12.5% of GDP in 2003 to 14% of GDP in 2004. In the twelve months to June 2005, the trade deficit widened further to 15.7% of GDP, contributing to a worsening of the current account deficit to 9.6% of GDP on an annualised basis. As in 2003, strong FDI inflows of 8.4% of GDP more than financed the current account deficit in 2004, while in the twelve months to June 2005 FDI inflows slowed down to an annualised 6.4% of GDP.

The currency board arrangement pegging the Bulgarian lev (BGN) to the euro continued to contribute to macroeconomic stability. Bank credits to households and non-financial enterprises expanded again at almost 50% in 2004 fuelling domestic demand and import growth. The Bulgarian National Bank (BNB)

took additional measures in April 2005 to curb bank credit growth by imposing de facto ceilings on the extension of new credits. Partly in anticipation of these measures, credit growth increased again at record levels in the first quarter of 2005, but cooled down significantly to under 40% until the end of July. Fiscal policy remained stability-oriented. Due to better than expected revenues, the general government balance ended with a surplus of 1.3% of GDP in 2004 (based on EU accounting standards, ESA 95) contributing to the reduction of general government debt to below 40% of GDP in 2004.

Structural reforms have been further deepened in all areas. Reforms of product and capital markets have continued and are broadly in line with key objectives of the Lisbon agenda. Privatisation has been completed in many sectors. Good progress was made since the last Report in the sale of remaining enterprises for example in the energy sector, although not without setbacks and delays as regards for example the failed privatisation of the tobacco company or the cancellation of the privatisation process for a thermal power plant. Company restructuring in the network industries has been triggered by the privatisation of companies and the increasing liberalisation of markets. Preparations for the unbundling of the national electricity company have started with the separation of accounting systems for different units. The implementation of the national programme for the restructuring of the steel industry, adopted in March 2004, is to be completed by 2007. Progress in its implementation in the last year included the closure of some steel mills, staff reductions and further investments. In coal mining, three more coal pits were privatised during the reporting period and preparations for the privatisation of one of the two remaining state-owned mines are under way. State aid for operating mines is to be phased out completely in 2005, while the technical liquidation of closed mines continues. Prices for energy, gas and telecommunication have been fully aligned with costs. Some cross-subsidisation still exists with regard to electricity and

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Market entry of new firms has been dynamic, but both market entry and exit continues to be hampered by relatively costly, complex and time consuming procedures. Financial intermediation has been further deepened both in the banking and non-banking sector. Due to the high credit growth rates, bank credits to non-financial private corporations and households have increased by almost 10 percentage points to 35% of GDP until the end of 2004. In line with credit expansion, the ratio of deposits to GDP increased by more than 10 percentage points to over 50%. Despite the high credit growth, bank performance indicators do not show any obvious deterioration in the financial situation of banks. The share of substandard and non-performing loans stood at 3.5% at the end of 2004 down from 4.2% at the end of 2003. The capital adequacy ratio declined from 22.0% at the end of 2003 to 16.1% at the end of 2004 but is still well above the legal minimum of 12%. A new regulation on the capital adequacy of banks

entered into force in July 2005. The role of the non-banking sector in financial intermediation remains limited but continues to increase. Stock market capitalisation has increased as a share of GDP from 7.9% at the end of 2003 to 21.5% at the end of June 2005. The assets of pension funds have also further increased from 1.5% of GDP to 2.4% over the same period.

2. Implementation of recommendations for improvements

In its 2004 Report, the Commission noted that the current account deficit had widened substantially in 2003 and that this could, if continuing, warrant a further policy response.

After a temporary improvement in 2004, the current account deficit increased again considerably in the first half of 2005 and needs to be closely monitored. In case of a continued deterioration, additional corrective measures may become necessary. Without the possibility for active monetary and exchange rate policies within the currency board arrangement, tight fiscal and wage policies are critical for maintaining internal and external stability. Despite a better than expected export performance mainly due to favourable developments in commodity prices, the trade balance deteriorated further in 2004, because imports surged even more strongly. However, higher incomes from tourism and higher transfers together with a slightly improved income balance contributed to a decline in the current account deficit relative to GDP. In the first half of 2005, trade in goods continued to expand strongly at a rate of more than 20%, with import growth again outpacing the increase in exports. Consequently, the trade deficit and the current account deficit widened considerably in the twelve months to June 2005 to 15.7% and 9.6% of GDP, also fuelled by the recent increase in the oil price.

The continuation of prudent fiscal policies played a key role in containing the external deficit in 2004. The general government ran a budget surplus of 1.3% of GDP (ESA 95 basis) in 2004, which contributed to containing the current account deficit. A relatively tight fiscal stance was maintained in the first half of 2005, where mainly thanks to a large increase in revenues, the general government accumulated a surplus of 2.7% of the forecasted GDP on a cash basis. For the whole year 2005, the fiscal target foresees a surplus of at least 1% of GDP on a cash basis.

Real wage increases were relatively moderate in 2004, but accelerated in the first half of 2005. Real wages increased by less than 1% in 2004 and have been mostly in line with improvements in productivity over the last years. However, in the wake of a substantial 25% increase in the minimum wage in January 2005, average real wages increased by 5.0% in the first half of 2005. Maintaining overall wage restraint will, therefore, be crucial to secure competitiveness and contain further potential demand-side risks for the external balance.

Credit growth continues to be high, but the central bank has taken further steps to bring it under control. Despite some measures taken by the BNB in the second half of 2004, bank credits continued to increase at a rate of close to 50% for the second consecutive year. Additional measures to curb the credit boom entered into force in April 2005, effectively imposing ceilings on the further extension of credits by raising the minimum reserve requirement to prohibitive levels if the average growth rate of credits exceeds 5% for a three-month period, 12.5% for a six-month period, 17.5% for a nine-month period and 23% for a twelve-month period. Partly in anticipation of these measures, growth of credits to

non-financial private corporations and households increased again massively by more than 70% year-on-year by the end of March 2005, but has since come down to below 40% by the end of July.

In its 2004 Report, the Commission noted that the business environment, in particular the efficiency of the administrative and judicial system as well as regulatory procedures, should be further improved to increase Bulgaria's attractiveness for investment.

Efforts to improve the business environment have continued, but many obstacles remain and some reforms have been delayed or still need to be fully implemented. Despite some improvements, business surveys indicate that procedures for market entry and exit as well as contract enforcement still tend to be very time-consuming, costly and complex. Some first steps have been taken to streamline business registration with the adoption of the long-awaited Law on the Bulstat registry on 27 April 2005 and the ensuing adoption of a government strategy for the actual establishment of a central register of legal entities and of an electronic register of Bulgaria. The aim is to unify the registration of businesses with the Registry Agency under the Ministry of Justice, to turn business registration from a court procedure into a purely administrative procedure, and to introduce a single Bulstat number for tax and social security purposes. These measures will be important for making business registration simpler and more transparent, but still need to be fully implemented.

The Tax and Social Security Procedural Code which will provide for the integration of the collection of taxes and social security contributions and thereby lay the basis for the functioning of the National Revenue Agency also still needs to be adopted in this context. The project for the modernisation of the land registration system has encountered delays, although some progress in the functioning of the Cadastre Agency has been made especially at regional level. Hardly any progress has been made to improve the efficiency of bankruptcy procedures. Moreover, further planned amendments to the insolvency legislation are still only in the process of preparation.

Further efforts have been made to improve the functioning of the administration and to streamline existing regulation in line with the Law on the Restriction of Administrative Regulation and Control on Business Activity of December 2003. The review of existing licensing, registration and authorisation regimes with a view to alleviate or lift these regulations has continued, as well as the introduction of one-stop shops. A majority of administrative units have tried to strengthen their service-orientation by adopting clients' charters and by increasing the availability of e-government services. The Law on Investment Promotion was also amended in April 2005 lowering the thresholds for potential investors to receive preferential treatment. However, the extent to which these measures lead to tangible improvements in the conditions for doing business is not always clear. A more systematic and comprehensive assessment of the business impact of existing as well as new legislation beyond the review of regulatory regimes mentioned above, including regulations at local level, would be important to further improve the business environment especially for SMEs. While the Law on the Restriction of Administrative Regulation envisages the introduction of regulatory impact assessments, this needs to be implemented more systematically. The same holds for the introduction of 'silent consent' as a general principle in administrative procedures.

Some steps were taken to improve the functioning of the judicial system, but major challenges remain. Judicial reform made some progress (see also the section on political issues) but improving the

functioning of the judicial system remains crucial for providing a transparent, stable and reliable legal framework for doing business and enforcing property rights. Delays have occurred in the adoption of the Administrative Procedure Code and the revision of the Civil Procedure Code which will be important for speeding up legal procedures, facilitating the review of administrative acts and providing greater clarity and legal certainty. A Law on Mediation as an alternative out-of-court procedure for conflict resolution entered into force in December 2004. The enforcement of judgements by private bailiffs has in principle been facilitated by a law adopted in May 2005. Both measures still need to be fully implemented, but should help improving the functioning of the judicial system and in particular the conditions for contract enforcement.

In its 2004 Report, the Commission noted that in spite of significant achievements, privatisation still needed to be completed.

Further good progress was made in this area, although some delays occurred. The privatisation process is well advanced with the privatisation of almost 90% of all assets due to be privatised in the medium-term having been achieved by March 2005. In many sectors privatisation has already been completed. For 2005, the privatisation of another 46 majority-owned enterprises, 20 separate parts and 167 minority stakes is foreseen according to the Action Plan of the Privatisation Agency. Until June 2005, 37 deals have been completed involving 29 majority packages and 8 parts of companies. In addition, 156 minority packages have been sold, mostly over the stock exchange.

Good progress was made on the privatisation of companies in the energy sector. Majority stakes in the seven regional electricity distribution companies were successfully privatised at the end of 2004. The winners in the bids for the thermal power plants in Varna, Rousse and Bobov Dol were announced in May 2005. However, the final decision on the sale of the power plants in Rousse and Varna has been postponed several times because of negotiations on certain details of the regulatory framework and a negative verdict by the competition agency on the sale of the two plants to the same bidder; the sale of the power plant in Bobov Dol was cancelled because the offer of the winning bidder was considered too low. Three hydro-power plants were sold in May and preparations for the sale of a further seven plants are under way. The privatisation of the former telecommunication monopoly was completed when the remaining 35% stake in the Bulgarian Telecommunication Company was sold on the Bulgarian stock exchange in January 2005. The winning bidders for the remaining 70% stake in the Bulgarian River Shipping Company and the Boyana film studios were chosen in June 2005. However, both deals are currently blocked because of judicial reviews following appeals by the losing bidders. The privatisation of Bulgartabac failed for a third time when the sole remaining bidder for the holding's cigarette manufacturing companies withdrew its offer in February 2005. The privatisation plans for Bulgaria Air and the Maritime Fleet have not been endorsed by Parliament and a revision of the privatisation strategies for the two companies was announced in September 2005. 25 Bulgarian commercial banks jointly acquired a majority stake in the card operator BORICA in May 2005. Preparations for the sale of a number of arms producers (Teraton, Kintez and VMZ Sopot) have started. The privatisation plan for VMZ Sobot military plant was approved by the Council of Ministers in June 2005.

In its 2004 Report, the Commission noted that the actual restructuring and liberalisation of the network industries needed to progress further in order to enhance competition and efficiency.

Good progress has been made in the liberalisation and restructuring of the energy sector. Privatisation in the energy sector has advanced substantially with the sale of the regional electricity distribution companies at the end of 2004, several district heating companies in 2004 and 2005 and several hydro-power plants and coal mines. The liberalisation of the electricity sector continued with the lowering of the threshold for direct contracting between power generators and large industrial consumers. By August 2005, the liberalised market segment included eleven licensed buyers and five licensed producers and covered approximately 12.5% of the overall consumption. This process is set to continue gradually until full liberalisation will be achieved in mid-2007. Alignment of electricity prices with cost-recovery levels had already been achieved in several steps until mid-2004 although a certain cross-subsidisation of household consumption of electricity and heating energy continues to exist. In line with the successful restructuring of the energy sector, state aid has almost entirely been phased out. Restructuring of the national electricity company still needs to be completed with the unbundling of activities due to take place before accession. In line with the electricity sector, liberalisation of the gas market has also started in 2004 and covers in principle 80% of the whole market. However, while growing, the gas market remains relatively small and the actual degree of opening is only about 6.6% of total consumption. Several investment projects to upgrade existing facilities in the energy sector were being implemented in the reporting period but further investments will be needed in the coming years.

Good progress has been made in the liberalisation and restructuring of the transport sector, but the process needs to continue. Steady progress in the restructuring of the railway sector through the closure of loss-making lines and services as well as staff reductions has improved the productivity and financial position of the national rail operator. Following a decision by the Council of Ministers in November 2004, further lines are due to be closed in 2005 and 2006. Tariff increases have raised cost-recovery ratios and government transfers have been put on a more transparent and stable basis through the conclusion of a public service contract which will be reviewed regularly. The basis for more competition has been laid with the licensing of a second private, national freight operator in April 2005. While the modernisation of the network and the rolling stock has started, further efforts are needed to reduce costs and to bring tariffs in line with costs. Concessions for private operators were granted for the airports in Varna and Bourgas where the deals have, however, been halted following a legal appeal by some of the losing bidders. Concessions were also granted for one sea port and one river port. Overall, more than 20 river and sea ports are due to be offered for concession. A concession agreement was signed for the construction and operation of Trakia motorway in March 2005. This deal is currently subject to a judicial review, after the Deputy Prosecutor General challenged the award of the concession in June 2005 before the Supreme Administrative Court because it did not involve an open tender procedure. While the involvement of private investors through concession agreements should aid the much-needed modernisation of the national transport infrastructure, ensuring the transparency of the process will be crucial for maintaining the confidence of potential future investors and for avoiding lengthy legal conflicts.

The liberalisation of the telecommunication sector continued, but attention needs to be given to effectively increase competition.

Regarding telecommunications, the privatisation of the former monopoly was completed with the sale of the remaining state-owned shares on the Bulgarian stock exchange in January 2005. Six additional

licenses for fixed-line services were granted in the first half of 2005, bringing the total number of licenses to 16. Eight inter-connection agreements have so far been signed between new operators and the network provider. Actual competition in the market for fixed-line telephony is, however, still limited due to the small market share of new entrants. While competition for mobile phone services should increase with the launch of a third GSM operator, which was delayed until the end of the year, prices for mobile phone calls are still relatively high. Three UMTS licenses were granted in April 2005, but services are not expected to start before mid-2006. The liberalisation and restructuring of the telecommunication sector is well advanced, but ensuring non-discriminatory network access for cable, internet and fixed-line service providers and preventing the abuse of market power by incumbents will be crucial for improving competition. This implies an increasingly important role for the regulators, who have already adopted a number of important decisions in this respect in the first half of 2005.

In its 2004 Report, the Commission noted that the ongoing reduction in unemployment should be further supported by reducing rigidities in labour market regulation.

While the situation in the labour market has continued to improve, only limited progress was made in making labour markets more flexible. In March 2005, an amendment to the Labour Code facilitated the extension of normal weekly working hours to some extent. However, rules on working time still remain relatively rigid and provide little room for introducing more flexible working time arrangements, including for example through collective agreements. Measures to promote the employment of disadvantaged groups in the labour market were accompanied by a certain tightening of eligibility criteria for unemployment benefits in April 2005, which together with appropriate control and activation should increase the incentives to take up work. A reform in the unemployment insurance system, shifting responsibilities for the administration and control of contributions and benefits to the National Social Security Institute should help to reduce the size of the informal sector. The transposition of EU legislation on fixed-term work which puts fixed-term workers on an equal footing with regular employees as regards employment and working conditions has not been used as an opportunity to alleviate existing restrictions on the use of fixed-term contracts. Job mobility continues to be hampered by the portability of seniority-based bonuses. Talks between the social partners on integrating these bonuses into the normal pay scale as well as dialogue on more comprehensive measures to improve labour market flexibility have not led to any results so far. Active labour market programmes aim at the integration of disadvantaged groups in the labour market and at improving the employability of the workforce by providing education and training. A regular evaluation of these programmes is important to ensure their effectiveness. The functioning of the labour market also continues to be hampered by low regional mobility of the workforce and skills mismatches, due to persistent labour market rigidities and an education and training system, which is ill-adapted to labour market needs and does not adequately provide for continuous updating of skills through life-long learning.

3. General evaluation

As regards the economic criteria for accession, Bulgaria continues to be a functioning market economy. The continuation of the current pace of its reform path should enable Bulgaria to cope with competitive pressure and market forces within the Union. Bulgaria has broadly maintained macroeconomic stability, even if external deficits have further risen. It continued implementing its structural reform programme,

albeit not equally vigorously in all fields.

Progress has been made in most areas where improvements were suggested in last year's report, but a number of challenges remain. After narrowing in 2004, the trade and current account deficit widened considerably again in the first half of 2005. Further measures have been taken to curb bank credit growth, but the continuation of prudent fiscal policy and moderate wage increases remains critical to containing potential risks for the external balance and the situation needs to be closely monitored. Further reforms are needed to improve the business environment, and in particular the functioning of the administrative and judicial system. The streamlining of business registration has started but remains to be completed. While already well advanced, the momentum in completing the privatisation programme should be maintained. Little progress has been made in improving labour market flexibility, which, together with a comprehensive reform of the education system, would be crucial for dealing with skills mismatches and improving the adaptability of the Bulgarian economy.

This chapter gives an overview of where Bulgaria stands in implementing all commitments and requirements arising from the accession negotiations for each of the 29 chapters of the acquis. Each chapter contains one or several areas. Each area is assessed, both in terms of legislation and from the perspective of implementing structures, including administrative capacity and enforcement. In cases where transitional arrangements have been agreed, their effect on Bulgaria's obligations is duly reflected in the assessment.

For each chapter, a conclusion is provided, structured in the following way.

Firstly, it identifies those areas where Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations and is expected to be, or is already, in a position to implement the acquis from accession. This does not exclude the possibility that certain actions are still to be taken, but these are not likely to pose serious difficulties.

In a second paragraph, the assessment identifies any areas where increased efforts are needed in order to ensure that Bulgaria completes preparations for membership in time. These are issues which can still be remedied taking into account the envisaged accession date of 1 January 2007 but which require the special attention of the authorities.

Thirdly, where relevant, the assessment also identifies issues that are of serious concern. These are areas where serious shortcomings exist which are likely to persist after accession unless immediate remedial action is taken. These issues require the urgent attention and action by the authorities.

1. Chapters of the acquis

Chapter 1: Free movement of goods

The principle of the free movement of goods implies that products must be traded freely from one part of the Union to another. In a number of sectors this general principle is complemented by a harmonised regulatory framework, following the "old approach" (imposing precise product specifications) or the "new approach" (imposing general product requirements). The transposition of harmonised European product legislation represents the largest part of the acquis under this chapter. In addition, sufficient administrative capacity to apply horizontal and procedural measures in areas such as standardisation, certification and market surveillance is essential. This chapter also covers detailed EU rules on public procurement, requiring specialised implementing bodies.

Framework legislation for the horizontal and procedural measures necessary for the administration of the acquis in the new approach sector is almost in place. The principles of the new and global approach have been introduced into the Law on technical requirements for products, last amended in May 2005. Implementing structures are in place in the fields of standardisation, metrology, accreditation, conformity assessment and market surveillance. However, the measures taken to segregate standardisation, certification, market surveillance and accreditation could sometimes be a formality, as the state organisations concerned are all under the budget of the Ministry of Economy. This could give rise to a conflict of interests.

Bulgaria has transposed most of the sectoral legislation under the new approach. However, further efforts are needed with regard to equipment and protective systems for use in potentially explosive atmospheres, radio equipment and telecommunications terminal equipment personal protective equipment, pressure equipment, cableway installations, recreational crafts and non-automatic weighing instruments. The transposition of the acquis on medical devices has not yet begun. The latest transpositions on machinery, simple pressure vessels and construction products remain to be assessed. Market surveillance inspections on products regarding compliance with legislation have found significant percentages of non-conforming products (for example 19% of machinery in 2004).

With regard to old approach directives, a considerable amount of legislation has been adopted, in particular as regards motor vehicles. Further efforts are necessary regarding legal metrology, good laboratory practice for tests on chemical substances, aerosol dispensers, cosmetics, pharmaceuticals for human and veterinary use, wood in the rough, as well as agricultural and forestry tractors. Amendments are needed in the legislation transposing the acquis on glass, footwear and textiles. The latest transpositions on chemicals remain to be assessed. In the field of metrology, inspections carried out by the State Agency for Metrology and Technical Surveillance have found significant rates of non-conformity (for example 24% of fuel pumps). Regarding motor vehicles, a considerable amount of legislation has been adopted. Regarding foodstuffs, most of the legislation has been transposed, with the exception of legislation on novel foods and the 2004 acquis. The new Law on health which has been adopted dismantles the system of authorisations (sanitary certificates) prior to marketing. A National Council for Food Safety has been set up; an important development with respect to inter-service coordination. The tasks of responsible authorities have been defined in the amendments adopted to the Law on foodstuffs. The HACCP (Hazard Analysis Critical Control Points) requirements have been made obligatory under the Law on foodstuffs. Manufacturers in this field must comply with HACCP requirements by end-2006 (end-2005 for certain groups of food operators). A national training programme in this field is still in the early stages of development and needs further work.

In the field of public procurement, a new law entered into force in October 2004. However, there is still need to address a number of important shortcomings such as the lack of a fully efficient remedies mechanism. Moreover, the new provisions of the 2004 procurement directives must still be implemented. Particular attention should be paid to align the concessions Act with the EU acquis. Related legislative efforts need to be continued and the implementation of the new legal framework will have to demonstrate Bulgaria's genuine commitment to competitive and transparent public procurement procedures. Special efforts are needed to strengthen administrative capacities and to ensure an effective implementation of the procurement rules. Since its establishment, the Public Procurement Agency has continuously developed and improved its administrative capacity, but further efforts are required, notably as regards a clear separation of advisory and review functions and the improvement of staff professional skills. Furthermore, the adoption of an overall strategy and action plan for the establishment of a fully compliant and efficient procurement system, which would benefit the whole procurement community (contracting entities and private sector) in addition to the Public Procurement Agency, should be accelerated.

In the non-harmonised area, a screening of the legislation has been partly carried out to identify provisions that could be in breach of Articles 28-30 of the EU Treaty. Such provisions are being

amended. Some import/export authorisation or license regimes still exist under the current legislation. Administrative arrangements for the future monitoring in this area still have to be completed. The principle of mutual recognition remains to be adopted and implemented throughout the legislation.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in the fields of horizontal and procedural measures, sectoral legislation under the new approach, as well as old approach directives and is expected to be in a position to implement this acquis from accession. As regards the horizontal measures, conflict of interest should be avoided through further segregation of standardisation, certification, market surveillance and accreditation functions. Some parts of legislation remain to be adopted or adjusted, both in the new and old approaches.

Increased efforts are needed in the field of public procurement and in the non-harmonised area. In order to complete preparations for membership, attention must be given to completing legislative alignment on time and improving the capacity to implement the acquis in the field of public procurement. The principle of mutual recognition remains to be adopted and implemented throughout the legislation.

Chapter 2: Free movement of persons

The acquis under this chapter provides for non-discriminatory treatment of workers who are legally employed in a country other than their country of origin. This includes the possibility of cumulating or transferring social security rights, which requires administrative cooperation between Member States. In order to facilitate the practice of certain professions, the acquis also includes specific rules concerning mutual recognition of qualifications and diplomas; for certain professions a harmonised training curriculum must be followed in order to be able to have the qualification automatically recognised in an EU Member State. Furthermore, this area also covers the residence and voting rights of EU citizens in any Member State.

Progress can be recorded on mutual recognition of professional qualifications, where framework legislation on mutual recognition has been adopted, but remains to be assessed. Several pieces of legislation, aiming at improving Bulgaria's alignment with the general system directives and with sectoral directives were adopted in September 2005. Amendments to the Law on vocational education and training and to the Law on higher education, aiming at transposing two out of the three general system Directives, were also adopted in September. The Law on health, adopted in 2004 and amended in 2005 and establishing the legal basis for transposing the main directives in this sector (doctors, dentists, nurses, midwives, pharmacists and vets), is not in line with the acquis and with the Act of Accession. Much work remains to be done regarding the adoption of the necessary implementing legislation. The Law on the Bar is partly in line with the acquis. Further measures are necessary to fully ensure freedom of establishment and the free provision of services in Bulgaria by lawyers as well as architects from the other Member States.

The Ministry of Education and Science and the respective authorities (according to the list of regulated professions) will be competent to recognise legal capacity in the professions concerned. Further strengthening of administrative capacity both in terms of training and of the further development of appropriate administrative structures is needed with a view to enforcing the legislation (general systems directives and sectoral directives) in the field of mutual recognition of qualifications upon Bulgaria's accession.

As regards citizens' rights, alignment on right of residence is still to be achieved. Also, new *acquis* on the right of EU citizens and their family members to move and reside freely within the territory of the Member States still needs to be transposed. Concerning electoral rights, amendments to Bulgaria's Constitution were adopted in February 2005, providing in particular for the adoption of special legislation to regulate elections of Members of the European Parliament and the participation of EU citizens in local government bodies. Such special legislation remains to be adopted. Measures must also be taken to ensure, by accession, that all Bulgarian and non-Bulgarian EU nationals receive equal treatment on access to education and education fees. In July 2005, Bulgaria adopted a new Law on Foreign Nationals. Provisions in this law prohibit the right to legal remedy in case a foreign national is revoked the right to stay in Bulgaria for reasons of national security. Bulgaria will need to bring these provisions in line with the *acquis* and more specifically with the directive on the co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security and public health. Furthermore, a new directive, which will enter into force in April 2006, takes over the provisions of the above directive as well as all relevant jurisprudence of the Court.

As for the free movement of workers, transitional arrangements have been agreed. For the first two years following accession, current Member States will apply national measures, or bilateral agreements, to regulate the access of Bulgarian workers to their labour markets. These arrangements may continue for a maximum of seven years. Although Bulgaria may apply equivalent measures to any current Member State applying restrictions, it must have legislation in place to comply with the *acquis* on free movement of workers by accession. During the transitional period, Bulgaria may continue to apply bilateral agreements with any current Member State applying restrictions.

Concerning future participation in the EURES network, preparations should continue for connection to the European Job Mobility Portal to ensure that all job vacancies displayed on the Public Employment Services website will be available upon accession.

Bulgaria has strengthened bilateral relations through agreements with a series of Member States, with a view to the future coordination of social security systems. Administrative capacity, particularly staff numbers, needs to be increased. Preparations should continue for the introduction of the European Health Insurance Card from the date of accession.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in respect of citizens' rights, the free movement of workers and the coordination of social security systems. It is expected to be in a position to implement this *acquis* from accession. Some legislation

remains to be adopted or aligned in the field of citizens' rights, and preparations should continue for the introduction of the European Health Insurance Card from the date of accession.

Increased efforts are needed with regard to the mutual recognition of professional qualifications, where more attention needs to be paid to transposing the remaining legislation and ensuring its enforcement, especially as regards health professions.

Chapter 3: Freedom to provide services

Under this chapter, Member States must ensure that the right of establishment and the freedom to provide services anywhere in the EU is not hampered by national legislation. In some sectors, the *acquis* prescribes harmonised rules which must be respected if the internal market is to function; this concerns mainly the financial sector (banking, insurance, investment services and securities markets) but also some specific professions (craftsmen, traders, farmers, commercial agents). Harmonised rules concerning the personal data protection and certain information society services must also be respected.

As regards the right of establishment and freedom to provide non-financial services, the screening for possible legislative and administrative restrictions is completed, but the process of removing restrictions is ongoing and requires increased efforts. (See also Chapter 2 – Free movement of workers). The Law on foreigners, the Law on gambling, the Law on higher education and the Law on healthcare have been amended, but the Law on child protection, the Law on the protection and development of culture and the Law on tourism are still problematic from the point of view of the freedom to provide services and need to be amended. Tariff discrimination in the tourism sector (e.g. museums, car rental, ski passes, rental apartments, hotels) still exists and needs to be removed.

In the field of financial services, the transposition of legislation in the banking sector has made good progress but needs to be completed as regards the single passport principle, the differentiation between foreign and EU credit institutions and the definition of branches. The Law on deposit guaranty has been amended in order to increase the level of coverage, which currently exceeds the level agreed during the negotiation for a gradual increase with a view to reaching the minimum level of coverage required by the *acquis*. The *acquis* on e-money and on financial conglomerates remains to be transposed, as well as part of the *acquis* on the winding up of credit institutions. By the time of accession, the new capital requirements framework (known as "Basel II") needs to be incorporated in the respective legislation. The banking supervision structure is well equipped and competently supervises the banks with a view to ensuring compliance with prudential regulations. The capacity and expertise of the supervision has been constantly upgraded.

In the insurance sector, important parts of the *acquis* remain to be transposed, in particular through the adoption of a new Insurance Code and a new Law on supervision of institutions for occupational pensions. To respect the target date foreseen for the Insurance Code (end 2005), Bulgaria will need to increase its efforts in this sector. Enforcement of the motor insurance against third party liability is weak; sources indicate that up to 45% of the cars circulating in Bulgaria are not insured. This is therefore an

issue of serious concern. Bulgaria should continue its efforts to significantly decrease this percentage and ensure better enforcement of the legislation on third party liability. In that context, Bulgaria should also ensure accessibility to insurance products on third party liability in order to increase the number of insured vehicles. The procedure for signing the "green card" Multilateral Guarantee Agreement needs to be finalised and preparations should be made without delay to meet the obligations incumbent on signatories to this agreement, in order to avoid the risk that Bulgaria is not ready in this area by the time of accession.

In the investment services sector, important parts of the *acquis* remain to be transposed. Further alignment is needed as regards the *acquis* on market abuse and prospectuses, as well as the newly adopted *acquis* on securities markets (markets in financial instruments). The *acquis* on capital adequacy remains to be transposed.

Bulgaria has been granted a transitional period until the end of 2009 as regards the investor compensation scheme, at the end of which it should reach the minimum level of coverage set out in the *acquis*.

Since March 2003, the supervision of large parts of the financial sector (securities, insurance and pension funds) has been brought together under the Financial Supervision Commission (FSC). The FSC is functioning well overall in the area of securities and investment services but an upgrading of the skills, motivation and expertise of the staff is needed as well as elaboration of a supervision strategy, including for human resources development within the Securities Department of FSC. Independence from the Ministry of Finance should be increased. It is important that the FSC establishes even closer cooperation with the BNB Supervision to have a unified approach and avoid gaps in supervision concerning investment intermediaries.

Bulgaria still needs to fully align its legislation on the protection of personal data and the free movement of such data. (See Chapter 24 – Justice and home affairs). The current legislation needs revision. Serious efforts are required for the Commission on personal data protection to be effectively staffed and to take the appropriate measures to allocate the resources at its disposal in such a way as to become fully operational. The Commission should proceed to duly concentrating on the core tasks most needed at the present, such as guidelines to controllers, inspections and awareness-raising activities. Excessive expenditure outside its core tasks as well as the establishment of regional offices should be avoided.

In the area of information society regulations, some progress has been made as regards e-document and e signature. Bulgaria has recently transposed the directive on electronic commerce, the compliance of which remains to be assessed.

Conclusion

Increased efforts are needed in the areas of banking, investment services and securities markets as well as in the fields of information society regulations and the right of establishment and the freedom to provide non-financial services. Restrictions towards EU citizens and companies need to be eliminated urgently. In order to complete preparations for membership, attention must be given to completing

legislative alignment. Increased efforts are also needed with regard to the protection of personal data, where legislation should be aligned with the EU standards. The Commission on personal data protection should urgently establish a sensible administrative practice and effectively perform its core tasks.

As regards the insurance sector, weak enforcement of rules on motor vehicle insurance remains an issue of serious concern. Unless efforts to enforce motor insurance legislation are accelerated, Bulgaria risks not to be ready by the envisaged time of accession.

Chapter 4: Free movement of capital

Member States must remove all restrictions in national law on the movement of capital between themselves, but also with third countries (with some exceptions), and adopt EU rules to guarantee the proper functioning of cross-border payments and transfers of all forms of capital. The *acquis* also includes harmonised rules on payment systems. The money laundering directives establish money laundering as a criminal offence. They require financial institutions to identify and know their customers, keep appropriate records and report any suspicions of money laundering. The directives also address the activities of auditors, external accountants, notaries and lawyers, casinos, real estate agents and certain dealers in high-value items involving large cash transactions. Adequate enforcement capacity is required.

In the area of capital movements and payments, Bulgarian legislation is to a large extent in line with the *acquis*. Legislation regarding the full harmonisation of prudential rules relating to the placement of assets of pension funds, insurance companies and savings and credit unions remains to be adopted (i.e. through amendments of the Social Insurance Code). In accordance with the transitional arrangement it has been granted, Bulgaria has committed to remove restrictions on the acquisition of secondary residences by EU nationals not resident in Bulgaria within five years after accession. Similarly, in accordance with the transitional arrangement, Bulgaria has committed to remove restrictions on the acquisition of agricultural land and forests by EU nationals within seven years after accession.

In the field of payment systems, Bulgaria has almost completed its legislative alignment, with the exception of the area of cross-border payments in Euro and concerning financial collateral arrangements. With regard to the Regulation on cross-border payments in euro, effective sanctions for non-compliance will need to be applied. With regard to the settlement finality Directive, Bulgaria still maintains a requirement, which will need to be eliminated, that a system operator must be established in Bulgaria to be able to obtain a license. The Law on Funds Transfers, Electronic Payment Instruments and Payment Systems, adopted in March 2005, establishes adequate and effective redress procedures for the settlement of disputes between banks and customers. The administrative capacity as regards the proper functioning of this new scheme, however, remains to be monitored.

In the area of money laundering, Bulgarian legislation is generally in line with the *acquis*, except for the outstanding alignment with the revised recommendations of the Financial Action Task Force on money laundering and terrorist financing. Bulgaria must also pay particular attention to the effective implementation of legislation in this field. This includes further improving capacity building in this area,

improving supervision on reporting entities, more effective cooperation between relevant entities and in particular ensuring effective enforcement and prosecution in this area. (See also Chapter 24 – Justice and home affairs).

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in the areas of capital movements and payments and payment systems and is expected to be in a position to implement this *acquis* from accession. Some legislative alignment is still needed as regards the Social Insurance Code and in the area of cross-border payments in euro, financial collateral arrangements and concerning the requirement for system operators to be established in Bulgaria. Minor adjustments are also needed in the field of redress procedure for the settlement of disputes between banks and customers.

Increased efforts are needed in the field of money laundering. In order to complete preparations for membership, Bulgaria must align with the revised recommendations of the Financial Action Task Force on money laundering and terrorist financing, and notably ensure that legislation in this area is fully and effectively enforced and that proven cases of money laundering are prosecuted.

Chapter 5: Company law

Under this chapter, Member States must adopt and apply harmonised rules required for the proper operation of companies in the internal market. They concern five legislative fields: company law in the strict sense, accounting law, intellectual property rights, industrial property rights, and the recognition and enforcement of judgments in civil and commercial matters and of contractual obligations.

In the field of company law as such, Bulgarian legislation is well aligned with the *acquis*, thanks in particular to the amendments to the Commerce Act adopted in August 2005. Now the work should concentrate on transposition of the amendments to the Directive on disclosure requirements in respect of certain types of companies (the transposition deadline expires on 31 December 2006). This will *inter alia* necessitate improvements to the presently existing commercial registration system. Today it is still kept on paper, which leads to delays and uncertainties and limits accessibility. In November 2004, the Government adopted a concept on the new single electronic register of all legal entities and in April 2005 it adopted a strategy for the establishment of a centralised electronic register and a National Registration Agency. The strategy provides for the existing legislation to be amended and a single electronic register of all legal persons to be set up by 2007.

Simultaneously, Bulgaria must also draft implementing measures for the Directive on takeover bids. While for the present Member States the transposition deadline will expire on 20 May 2006, Bulgaria will have to complete the transposition process by the end of 2006.

It is important that Bulgaria translates the Regulations on the European legal forms in due time into Bulgarian language: the Regulation on the European economic interest grouping, the Regulation on the

statute for an European company as well as the Regulation on the statute for an European cooperative. The company register must also allow for the registration of European legal forms.

Bulgaria's legislation on accounting and auditing is not fully in line yet with the *acquis* (4th, 7th and 8th Directives). Further efforts are needed in particular regarding the implementation of international accounting standards.

As regards the protection of intellectual and industrial property rights (IPR), the Bulgarian legislation is largely in line with the *acquis*. However, the Directives on artist's resale rights, on enforcement of the legislation on intellectual and industrial property rights, and on the legal protection of biotechnological inventions will have to be transposed by the date of accession. Bulgaria has to amend the Law on copyright and neighbouring rights, with a view of implementing the Directive on artist's resale right and the Directive on enforcement and aligning further the Bulgarian legislation with certain copyright provisions regarding satellite broadcasting and cable retransmission, rental and lending rights, the legal protection of databases, copyright in the information society. Furthermore, limited legislative improvements are still needed with regard to industrial designs. The Law regarding parallel imports should be clarified and the principle of Community exhaustion must be applied upon accession. Bulgaria has ratified the two 1996 Treaties of the World Intellectual Property Organisation (WCT and WPPT) and has acceded to the European Patent Convention.

Specific transitional rules will apply in relation to pharmaceutical products patents, involving the non-application of Community exhaustion to certain exports from Bulgaria, as regards the granting of supplementary protection certificates for medicinal and plant protection products, and in relation to the extension of registered and pending Community trademarks and Community designs to the territory of Bulgaria.

As regards enforcement of IPR, particular efforts remain necessary to improve inter-agency cooperation and to effectively implement the Memorandum of Understanding on enhanced measures for protection of IPR, which was signed in June 2005. Although some efforts have been made in order to strengthen enforcement bodies, Bulgarian authorities should ensure stronger enforcement of IPR, in particular by means of an effective pre-litigation system, enhanced border enforcement, specific training for enforcement bodies (custom officers, prosecutors, judges and the police) and awareness campaigns. Also, Bulgarian authorities should ensure a better cooperation with industry. An effective implementation of the Law on the administrative regulation of the production and trade of optical discs, matrices and other media carrying works protected by copyright and related rights, which was adopted in September 2005, should help reducing the very high levels of music and software piracy. Furthermore, there is a need to disrupt street sales. Also, the levels of counterfeiting (notably in textile products and luxury goods) still give cause for serious concern. Judicial enforcement should become much more efficient and the authorities should ensure that provisional and precautionary measures are effectively adopted and implemented.

The Regulation replacing the Brussels Convention on mutual recognition and enforcement of foreign judgments in civil and commercial matters will be directly applicable upon accession. Some of its provisions have already been introduced in the Code on international private law. Accession to the Rome

Convention will only be possible upon accession to the EU, but its provisions have already been introduced in the Law on liabilities and contracts.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in the fields of company law and accounting, but some adjustments are still needed. Upon accession, Bulgaria is expected to be in a position to implement this *acquis*, as well as the Regulation replacing the Brussels Convention and the provisions of the Rome Convention.

Urgent attention is needed to improve the implementation and enforcement of the protection of intellectual and industrial property rights, which is an area of serious concern. In particular, border controls should be considerably strengthened and coordination between customs, police and the judiciary and inter-agency cooperation improved.

Chapter 6: Competition policy

The competition *acquis* covers both anti-trust and state aid control policies. It includes rules and procedures to combat anti-competitive behaviour by companies (restrictive agreements between undertakings and abuse of dominant position), and to prevent governments from granting state aid which distorts competition in the internal market. Generally, the competition rules are directly applicable in the whole Union, and Member States must cooperate fully with the Commission in enforcing these rules.

In the anti-trust sector, legislation is in place which contains the main principles of Community anti-trust rules as regards restrictive agreements, abuse of dominant position and merger control. However, there is still a need to fine-tune the legislative framework and prepare for the application of Regulation 1/2003. The necessary amendments should also cover preparation for participation in the European Competition Network, an improved appointment procedure for members of the Commission on Protection of Competition (CPC), the introduction of turnover-related fines and measures to increase the effectiveness of dawn raids and of the overall enforcement. The necessary implementing legislation has largely been adopted, but remaining block exemptions need to be appropriately implemented. The Directive on competition in the markets for electronic communication networks and services needs to be fully implemented.

As regards the necessary implementing structures, the administrative capacity of the CPC has been steadily improving. This process needs to continue, including through budgetary reinforcement and more competitive salaries. Efforts need to continue as regards refocusing staff resources in the CPC towards core competition cases, training the CPC and the judiciary, and public awareness activities. Attention needs to be paid to the confidentiality of case-specific information. Co-ordination with sector regulators and law-enforcement bodies (including the police and judiciary) needs to be further strengthened.

Comprehensive Monitoring Report

The CPC enforcement record has improved. In order to ensure further strengthening, emphasis needs to be given to the cases which most seriously distort competition, in particular cartels. The CPC made progress towards a deterrent sanctioning policy, but further efforts are needed. The CPC and judiciary are starting to acquire experience with investigative tools such as dawn raids, but need to improve both methods and legislation. The number of opinions on draft legal acts of the CPC has increased, but appropriate follow-up needs to be ensured. The CPC also needs to be more pro-active in identifying and removing obstacles to competition, whether due to regulation or the behaviour of companies.

In the field of state aid, legislation and implementing rules covering the main principles of the acquis have been adopted. Future amendments will be necessary to adapt to new acquis.

As regards the necessary implementing structures, the administrative capacity of both the CPC (responsible for enforcement) and the State Aid Department of the Ministry of Finance (responsible for monitoring and reporting) has been steadily improving, but this process needs to continue. The CPC's expertise in the field of state aid continues to show improvement. Efforts have been made, but need to continue, as regards training of the authorities and the judiciary, cooperation within the administration, and public awareness activities. A plan for state aid coordination upon accession is needed, ensuring that current know-how is not lost.

The state aid enforcement record of the CPC has improved considerably, both with regard to scope and quality, but it is essential to continue this process, and also to continue improving the follow-up to decisions. Efforts have been made, but need to continue, to ensure conformity with the notification obligation and a comprehensive application of state aid rules, not least in relation to indirect aid and privatisations. An alignment of schemes for fiscal aid and deferrals has taken place, but the application of these rules must be subject to strict monitoring. As regards the steel sector, a National Restructuring Programme for the Steel Industry until 2007 (NRP) has been adopted, and strict adherence to this programme must be ensured, in particular the commitment not to grant restructuring aid to the steel sector after 2005. There are indications of significant delays in the implementation of various obligations outlined in the NRP, and progress will have to be accelerated in order for the beneficiary company to achieve viability by the end of the restructuring period. As regards the energy sector, Bulgaria has committed to discontinue current aid to coal production and to district heating companies by end-2005.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in the fields of anti-trust and state aid, and is expected to be in a position to implement this acquis from accession. In completing preparations for membership, particular attention must be paid to fine-tuning and updating legislative alignment, continuing to strengthen administrative capacity and, most importantly, continuing the development of a track record of proper application and enforcement of both anti-trust and state-aid legislation. More efforts are needed to ensure strict adherence to the national restructuring programme for the steel industry, in particular the commitment not to grant restructuring aid to the steel sector after 2005.

Chapter 7: Agriculture

The agricultural chapter covers a large number of binding rules, many of which are directly applicable. The proper application of these rules and their effective enforcement by an efficient public administration are essential for the functioning of the Common Agricultural Policy. This includes the setting up of management systems such as a paying agency and the Integrated Administration and Control System, and also the capacity to implement rural development actions. EU membership requires integration into the common market organisations for a range of agricultural products, including arable crops, sugar, animal products and specialised crops. Lastly, this chapter covers detailed rules in the veterinary field, which are essential for safeguarding animal health and food safety in the internal market, as well as in the phytosanitary field, including issues such as the quality of seed, plant protection products and harmful organisms.

Horizontal issues

No real progress can be reported regarding the setting up of the paying agency. Legislative measures remain to be adopted to set up a Paying Agency for the administration of national and EU support to agriculture and rural areas, forestry and fisheries. Strategic decisions have still to be formalised regarding critical issues such as the option to apply SAPS (Single Area Payment Scheme) or SPS (Single Payment Scheme), and subsequently there is a need to decide on the minimum size of eligible agricultural holdings, the complementary national direct payments and the appropriate budget. The procedures and checklists for the CAP schemes have been identified and developed. In addition, a substantial amount of work remains to be done in particular with regard to the development of the IT system and the training of staff on the new IT system. A substantial amount of work remains to be done if Bulgaria is to have a fully- functioning Paying Agency by the date of accession.

A similar situation has to be described currently as concerns setting up the Integrated Administration and Control System (IACS). The associated legislation remains to be adopted. Bulgaria has made some progress, in particular as concerns the preparation of a master plan, but much work remains to be done. The setting up of a land parcel identification system (LPIS) is a source of concern since no real progress can be reported regarding the establishment of ortho-photos – so far no ortho-photos have been acquired – and their subsequent digitisation. Other basic elements, such as the customisation of the IACS software based on the Austrian system, pre-registration of farmers, on-the-spot controls and training of staff are still to be undertaken. There must be serious concerns over Bulgaria's rate of progress in this area and urgent attention must be paid to the issue if Bulgaria is to have a fully-functioning IACS by accession.

Concerning trade mechanisms, some good progress has been made since last year. The Bulgarian authorities have now formally allocated responsibilities for licensing and quota management. Legislation remains to be adopted for the future Paying Agency to become responsible for export refunds while the Ministry of Agriculture will administer import licences. The coordination between all bodies involved for implementing the trade mechanisms (State Fund Agriculture, Customs Service, National Veterinary Service and Phyto-Sanitary Service) has improved but cooperation agreements and procedures remain

to be formally established.

At central level administrative structures concerning quality policy have been put in place; however, further implementing legislation needs to be adopted and additional administrative structures remain to be established.

Concerning organic farming further amendments to the national legislation are necessary for full harmonisation with the acquis, in particular with regards to the registration of producers and market control. On the other hand, the administrative capacity for the implementation and enforcement has made good progress. An inspection body has been approved and a commission on organic farming established.

Bulgaria is making satisfactory progress in the area of Farm Accountancy Data Network.

Legislation concerning state aid measures in the field of agriculture remains to be adopted. EU rules on state aid will be applied by the future paying agency.

Common market organisations (CMO)

Regarding all CMO, in general an effective administrative structure for the enforcement of these market organisations remains to be set up.

More specifically, in the field of arable crops legal measures on intervention centres and private storage has been prepared but further legislation remains to be adopted and structures for the intervention, monitoring of imports/exports and price reporting including statistics remain to be established.

Legislation concerning sugar has been partly transposed. A working group has been set up, dealing with elaboration of tasks and competences of those units responsible for the implementation of the quota system and the levies.

Implementing legislation for marketing standards of fruit and vegetables has been adopted. Checks are currently applied at the import and export stage, but the control system needs to be strengthened and extended to cover the domestic market. Some training of inspectors, producers and traders has been carried out. The Ministry is also developing the capacity to apply the acquis on recognition of producer organisations. However, the mechanisms for reporting entry prices remain to be strengthened.

In the area of wine and alcohol, progress has been made but the biggest challenge lies with completion of the vineyard register. Only 16.5% of the vineyard area had been registered by 31 May 2005; over 80% of the vineyard area remains to be registered. Further implementing legislation is required regarding certain market mechanisms, in particular concerning controls and certification.

No real progress can be reported in relation to othe CMO for milk. Implementing legislation for the main mechanisms including the allocation and administration of milk quotas remains to be adopted. Most mechanisms of the common market organisation for milk and milk products as well as the quota system

remain to be put into place. Preparations should be accelerated if Bulgaria is to have a fully functioning quota system in place by accession. The National Milk Board and one of the eight regional milk boards have been set up but a clear distribution of tasks and responsibilities between all the bodies involved in implementing the milk quota system is missing. The database including the basic quota register needs to be finalized as the system has to cover all producers and also direct sellers of milk; The process of approval of purchasers needs to be carried out, as the installation and accreditation of independent laboratories for the analysis of the fat content of all individual milk factories. Political decisions on principles for administering the national reserve and principles for transfer of quota need to be taken. Bulgaria has a transitional arrangement until 30 April 2009 for marketing milk in Bulgaria with fat content of 2 % as semi-skimmed and 3 % as whole milk.

The transposition of legislation has made good progress in the beefmeat, sheepmeat and pigmeat sectors. Likewise, the administrative structures for price reporting and classification were established. These structures are further strengthened through ongoing training programmes.

As far as eggs and poultry are concerned the relevant legislation has been transposed, but administrative structures involving the National Veterinary Services and a specialised unit in the Ministry of Agriculture and Fishery need further support regarding the enforcement of marketing standards, price reporting, and the reporting of production statistics.

Rural development and forestry

The Rural Development and Investment Directorate of the Ministry of Agriculture has overall responsibility for rural development policy. Management and enforcement of individual rural development measures will be carried out after accession by the future paying agency. Bulgaria has been granted a transitional period of three years after accession allowing the use of special measures for rural development. A working group including representatives from trade unions, branch organisations and ministries has been established to draw up a draft Bulgarian Agriculture and Rural Development Plan 2007 – 2013. The working group has prepared risk analyses to serve as a base for choosing appropriate rural development measures. Supported by Community assistance a code for good farming practice and an action plan for critical zones have been prepared for strengthening Bulgarian administrative capacity in relation to agri-environmental issues but it remains to be adopted. Further strengthening of administrative capacities and establishment of mechanisms remain to be undertaken."

Veterinary and phytosanitary issues, including food safety

A special effort needs to be made as regards legislative alignment in the veterinary field, in particular as regards the Veterinary Framework Law. With this Act Bulgaria intends to transpose the key components of the EU acquis concerning animal health, animal welfare, veterinary public health and the horizontal veterinary control instruments into its national legislation. The draft of the Act still needs final parliamentary approval.

In more detail, the transposition of legislation on Transmissible Spongiform Encephalopathy (TSE) and animal by-products has been partly achieved. TSE surveillance is not yet in line with the acquis; in

particular, testing remains inadequate although it was improved at the beginning of 2005. The removal of Specific Risk Material is almost aligned with the acquis. The collection and treatment of animal waste is not yet aligned, however, mainly because a collection system covering the whole country is not yet in place and a second planned rendering plant is not yet in operation. The total feed ban is not in place, because of the lack of a legal basis (see the first paragraph of this section, on the Veterinary Framework Law).

The transposition of legislation on the veterinary control system in the internal market remains to be completed, in particular with regard to the registration requirements for stakeholders involved in the trade (see also Veterinary Framework Law). Strengthening of administrative structures is continuing with Community support. Bulgaria has to prepare to join the computerised network linking EU veterinary authorities, TRACES, which has replaced the previous system ANIMO.

The legislation transposing the acquis on the identification and registration of animals is in place for bovine species. However, efforts are still needed to ensure full implementation. Legislation still has to be adopted for the other relevant species such as small ruminants and pigs, as well as for sanctions and control issues (see also above re. the Veterinary Framework Law). A bovine identification and registration database is in place, but is not yet fully operational (real time online). The system is currently being updated and upgraded to include other species.

The acquis on the financing of veterinary inspections and controls has yet to be transposed (see also above; the Veterinary Framework Law); at present, fees are collected according to Bulgarian national rules.

As regards veterinary checks on third country imports and rules for imports, legislation still has to be finally transposed and enforced (see also the Veterinary Framework Law). Only one of the eight long-term veterinary Border Inspection Posts (Kapitan Andreevo on the land border to Turkey) is complete. The setting up of others is under preparation.

The establishment of an animal health fund for expenditure in the veterinary field is a key component for successfully implementing EU policy on animal health; the legal basis for the health fund is still lacking (see also the Veterinary Framework Law).

Legislation in the area of animal disease control has been transposed as regards the EU rules for combating individual diseases. However, general control measures (vaccination ban, certain eradication measures) still need to be transposed (see also Veterinary Framework Law). Bulgaria has joined the Animal Disease Notification System. The contingency plans for Classical Swine Fever, Foot and Mouth Disease, Newcastle Disease and Avian Influenza have been provided. Surveillance programmes for Foot and Mouth Disease, Blue tongue, Classical Swine Fever, TSE and fish diseases will be implemented in the course of 2005. Particular attention needs to be paid to the control of Classical Swine Fever and the review of Bulgaria's strategy to manage the evolution of the disease situation in the field.

Legislation on trade in live animals and animal products remains to be transposed (see also Veterinary Framework Law).

Legislation on veterinary public health in relation to establishments has been transposed and provides for a gradual entry into force until accession. However, the enforcement of the measures depends on the adoption of the Veterinary Framework Law. Furthermore, legislation still needs to be aligned with the new EU Hygiene Package. Bulgaria has been granted a transitional arrangement until December 2009 for 80 milk processing establishments allowed to process milk which is not in line with EU requirements and 20 milk processing establishments allowed to process both milk which satisfies EU requirements and milk which does not, for the domestic market only. The review plan for upgrading the establishments has been provided, but the situation needs to be reassessed with regard to certain establishments in the light of the requirements of the new EU Hygiene Package entering into force before the accession of Bulgaria. Currently, the percentage of establishments to be upgraded is around 86%. As regards the quality of raw milk and its control systems, major efforts are still required to improve the present situation.

The acquis concerning common measures (including zoonoses) has been transposed for zoonoses and almost for residues and contaminants. Regarding zoonoses, Bulgaria's legislation needs further review in the light of the recently adopted EU acquis. Attention must also be given to verifying the implementation of controls in relation to residues, veterinary medicinal products, contaminants and zoonoses, in particular to the diagnostic methods and the standards applied.

EU legislation has been transposed in the area of animal welfare, except for the recently adopted Regulation on transport. However, implementation and enforcement of the rules depends on the adoption of the Veterinary Framework Law. Further training in the application of the new legislation is also needed.

In the field of zootechnics, the monitoring of transposition and implementation needs to be completed.

The transposition of phytosanitary legislation is at a rather advanced stage with the exception of implementing measures concerning aspects of plant hygiene. Transposed measures in the fields of quality of seeds and propagating material, harmful organisms, plant protection products and plant hygiene continue to be implemented and enforced and the administrative capacity of field services and the laboratory sector is steadily increasing.

All the basic acquis on animal nutrition has been transposed. The National Grain Service and the National Veterinary Service share the competence for the implementation and enforcement of the acquis in this sub-sector and are continuing to establish rules for their cooperation and communication. Furthermore, implementation of a risk-based inspection and sampling programme covering all stages of the feed chain still need to be implemented.

Bulgaria has to ensure that international veterinary and phytosanitary agreements are brought into line with the EU acquis by accession.

A new Food Directorate in the Ministry of Agriculture and Fishery now has a coordinating role in relation to food safety issues, in particular food of animal origin, whereas aspects of food safety (in particular food of non animal origin under the competence of the Ministry of Health) are also covered in Chapter 1.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations for horizontal agricultural issues such as quality policy and organic farming, the Farm Accountancy Data Network, state aid, and rural development. In the veterinary field, the requirements are essentially met regarding zootechnics and animal nutrition. For the phytosanitary sector some adjustments are still necessary. Subject to good progress being maintained in these areas, Bulgaria should be in a position to implement the *acquis* from accession.

Increased efforts are needed as regards external trade mechanisms, the majority of Common Market Organisations (CMO) and in relation to common measures (including zoonoses) in the veterinary field. Unless efforts are accelerated in these areas, there is a risk that functioning systems will not be in place by accession.

Serious concerns exist with regard to Bulgaria's preparations in the field of the horizontal agricultural issues relating to the Paying Agency, the Integrated Administration and Control System (IACS) (including the Land Parcel Information System and the direct payment scheme to farmers) and the CMO for milk. Likewise, urgent attention needs to be paid to the veterinary field given the difficulties in the transposition process (Veterinary Framework Law and further legal measures necessary for a complete transposition, implementation and enforcement of the *acquis*). This applies to the area of TSEs and animal by-products (the building of a second rendering plant and the introduction of a feed ban), veterinary control systems in the internal market (identification and registration of animals and the establishment of border inspection posts). Urgent attention also has to be paid to the areas of animal disease control (Classical Swine Fever, animal health emergency fund), trade in live animals and animal products, veterinary public health (for the upgrading of agri-food establishments), and animal welfare (enforcement at farm level during transport and at slaughter). Unless immediate remedial action is taken, Bulgaria will not be in a position to implement the *acquis* in this area by the date of accession.

Chapter 8: Fisheries

The *acquis* on fisheries consists of regulations, which do not require transposition into national legislation. However, it requires the introduction of measures to prepare the administration and the operators for participation in the Common Fisheries Policy (in the areas of market policy, resource and fleet management, inspection and control, structural actions and state aid). In some cases, existing fisheries agreements or conventions with third countries or international organisations need to be adapted.

In the field of resource and fleet management, inspection and control, the Bulgarian Fisheries and Aquaculture Act of 2001 covers legislation on catch data, control, inspection and conservation. Regarding the legal basis for granting fishing licenses, structural actions and market organisation with the EU *acquis*, however, an amendment to the Act still needs to be adopted by parliament. Further adaptations of implementing legislation are also necessary concerning the vessel monitoring system, the

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collection and computerised retrieval of catch data, including the establishment of a Fisheries statistics system, and the issue of licenses for commercial fishing. Progress, in the form of amendments to national legislation, has been made in aligning the rules for the Fishing Fleet Register.

Bulgaria has set up its Fishing Fleet Register including all its fishing vessels, but progress needs to be made in order to collect all the data required by Community law as well as to make significant progress as the re-measurement of its fleet in gross tonnage (GT) is concerned. The National Agency for Fisheries and Aquaculture (NAFA) regularly informs the Executive Agency for Maritime Administration concerning licenses issued. Coordination between the two institutions, both responsible for the Register, has been established in compliance with the relevant provisions of the Fisheries and Aquaculture Act, however further administrative details for their cooperation need to be agreed on.

In relation to fleet management issues (development of harmonised parameters at EU levels to measure the vessel capacity, concrete understanding and implementation of entry/exit regime) technical discussions need to be held with the EC to make sure that the managing authorities fully understand their obligations and rights under Community law and that their fleet management measures are compatible with the Community provisions.

Further work has then to be undertaken to adapt the information systems in order to allow Bulgaria to transmit these data to the Community Fishing Fleet Register in the adequate format and periodicity. This task should start as soon as possible since experience shows that it would take at least one year to have such a system fully compatible and operational.

The management plan concerning the Bulgarian fisheries fleet capacity was drafted at the end of 2003, but has still to be adopted.

The Installation of the Fishing Vessel Monitoring System remains to be completed specifically with a view to upgrading to a satellite-based system. Concerning administrative capacity, a new statute will be necessary for the operation of NAFA in line with Bulgaria's commitments as well as additional recruitment of staff and further training.

In the area of structural actions, rules and procedures for the use and implementation of structural measures remain to be established. A first step has been made by establishing a structural assistance unit in NAFA, but the administrative capacity regarding planning and implementation of fisheries structural actions needs considerable strengthening.

Regarding market policy, further implementing legislation has been prepared, but is still awaiting the adoption of the amendments to the Fisheries and Aquaculture Act. The creation of wholesale market infrastructure is not yet finalised (producers' organisations, Intervention agency, information system). A decision has been taken to establish a market organisation unit in NAFA.

As regards state aid to the fisheries sector, the aid measures must be brought into line with the acquis by accession.

Concerning international fisheries agreements, Bulgaria has postponed proceedings to withdraw from the North Atlantic Fisheries Organisation (NAFO) to take effect by the end of 2006.

Bulgaria has bilateral fisheries agreements with five countries, but they are no longer applied, and Bulgaria is a member of several conventions and regional fisheries organisations. On the other hand, Bulgaria should ratify as soon as possible the amendments to the General Fisheries Commission for the Mediterranean Basic Agreement and become an active, financially contributing member of the Commission.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations with regard to state aid and international fisheries agreements. Subject to good progress being maintained in these areas, Bulgaria should be in a position to implement the *acquis* from accession. Bulgaria needs to make increased efforts in the areas of resource and fleet management, inspection and control, structural actions and market policy. In order to complete preparations for membership, particular attention needs to be paid to reinforcing administrative capacity and cooperation between institutions, preparing the management of the structural policy for the fisheries sector, completing the Fishing Vessel Monitoring System, the re-measurement of fishing vessels and the continuous updating of the Fishing Fleet Register, adopting market policy legislation and setting up structures for the common market organisations.

Chapter 9: Transport policy

EU transport legislation aims at improving the functioning of the internal market by promoting efficient environment- and user-friendly transport services. The transport *acquis* covers the sectors of road transport, railways, aviation, maritime transport and inland waterways. It covers technical and safety standards, social standards, and market liberalisation in the context of the European Single Transport Market.

The extension of the trans-European transport networks to Bulgaria has been defined. While the necessary implementing structures in this area are in place, the capacity of the Ministry of Transport to prepare, manage and monitor transport projects must be increased, both in terms of quality and quantity. Bulgaria should make every effort to implement within the given deadlines the road, rail and inland waterway priority projects contained in Annex III of the Decision concerning the guidelines on the trans-European transport networks.

In the land transport sector, transposition of the road transport *acquis* is on schedule. Further improvement is needed as regards social legislation and in the implementation of roadworthiness testing, driving licences, roadside checks, control visits to the premises of undertakings as well as in road safety. More attention should be paid to the control of the installation and use of seat belts and of alcohol consumption. Further alignment is also needed in the area of digital tachographs. Bulgaria is preparing adaptations to its legal framework in order to avoid double road charges for lorries. Bulgaria has been granted transitional periods until 31 December 2010 for financial standing criterion applied to domestic vehicles and 31 December 2013 for maximum authorised weights of vehicles in international traffic.

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Bulgaria has agreed to a transitional arrangement put forward by the EU concerning access of non-resident haulers to the national transport market of other Member States until 31 December 2009 (plus a maximum two years).

Transposition of the rail transport acquis is on schedule. In the framework of the ongoing reorganisation process, the capacity of the railway administrations needs to be further strengthened, in particular the infrastructure manager and the regulatory body. Further progress should be made with ensuring management independence of the Bulgarian State railway company BDZ EAD from the state.

Regarding inland waterways transport, legislative alignment has not yet been completed, namely as regards the technical requirements for waterway vessels. With the recent establishment of the Inland Waterway Fund in July 2005, administrative structures in this area are in place and satisfactory. With regard to newly adopted acquis, the exchange of information between Romania and Bulgaria in relation to the river Information Services for the Danube, as well as on emergency plans and environmental issues needs to be improved.

In the field of air transport, the relevant legislation has been transposed and is generally in line with the acquis. Implementing legislation remains to be adopted. Administrative capacity needs further strengthening. A European Common Aviation Area Agreement is currently under negotiation with Bulgaria.

In the field of maritime transport, framework legislation is in place and in line with the relevant acquis. However, the adoption of implementing legislation remains to be completed, in particular in relation to the acquis on the accelerated phasing-in of double-hull tankers ('Erika I package'), and on vessel traffic monitoring and information system ('Erika II package'). The administrative structures in this area are in place and generally work properly even though the EU average standard has not been achieved in some areas (e.g. port state control) and there is still no proper follow-up to Bulgarian vessels detained in foreign ports. The detention rate stood at 7.54% in 2004 as against 7.95% in 2003. The Bulgarian flag was moved from the blacklist to the grey list of the Paris Memorandum of Understanding. The independence of the Bulgarian Maritime Administration BMA as the flag state control body is not fully ensured, since 90% of Bulgarian ships are owned by a state-owned company (Navybulgar). This implies that the State acts at the same time as controlling and controlled entity. In fact, in its capacity of Flag State, it acts as controller on Bulgarian flagged ships; while, as the owner of the same ships, the State is in the position of the controlled entity. However a plan for the privatisation of the latter is being examined by the Bulgarian Parliament and measures have also been taken to reduce the threats to inspectors' independence. The most serious among such threats no longer exists since it is no longer possible for Bulgarian inspectors to be granted a special leave and to work as seafarers onboard Navybulgar ships during that period. With regards to maritime security, Bulgaria has fulfilled its international obligations under the SOLAS Convention/ Chapter XI/2 and the ISPS Code. By the time of accession, Bulgaria will need to incorporate the acquis in the field of maritime security which goes beyond the International Maritime Organisation's instruments.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in the areas of trans-European networks, road transport, inland waterways transport and rail transport. Bulgaria needs to reinforce administrative capacities regarding trans-European transport networks and further improve implementation of the road transport acquis. It also has to transpose the revised railway acquis and complete the reorganisation of the railway sector. Subject to good progress being maintained in these areas, Bulgaria should be in a position to implement the acquis from accession.

Increased efforts are needed in the in the areas of, air transport and maritime transport. In order to meet the commitments and requirements arising from the accession negotiations in these areas, Bulgaria has to further improve safety standards, notably through port state control inspections, and to fully transpose the implementing legislation on air transport.

Chapter 10: Taxation

The acquis on taxation covers extensively the area of indirect taxation, as concerns VAT (value-added tax) and excise duties. It lays down definitions and principles of VAT, while excise duties on energy products, tobacco products and alcoholic beverages are subject to EU directives as concerns the structures of the duties, the levels of minimum rates and the holding and movement of excisable goods. As concerns direct taxation, the acquis covers some aspects of corporate taxes and aims mainly at removing obstacles to cross-border activities between enterprises. Finally, the Community legislation in the area of administrative cooperation and mutual assistance provides tools to avoid intra-Community tax evasion and tax avoidance for both direct and indirect taxation.

In the area of VAT, the overall level of alignment is advanced, but further efforts are still needed in a few areas, most notably as regards intra-Community transactions and the special schemes. During accession negotiations, Bulgaria was granted specific arrangements to continue exempting international passenger transport from VAT with the right of deduction on a permanent basis and to apply a registration and exemption threshold of EUR 25 000 to small and medium-sized enterprises.

As regards excise duties, Bulgaria has aligned the structures of the duties and increased their levels in accordance with the programme of commitment. However, substantial efforts are still required to complete alignment, in particular with regard to the introduction of tax warehousing and the duty-suspension movement regime, the provisions related to intra-Community movements for all the harmonised product categories, the uniform duty on cigarettes and the reaching of minimum levels.

Furthermore, Bulgaria has to introduce legislation introducing the reduced excise duty rate (50%) for rakya distilled from fruit and grapes for personal consumption, in accordance with the transitional arrangement obtained during accession negotiations. In this respect, Bulgaria will also need to ensure that adequate administrative capacity is in place to enforce effectively the limits of distillation at reduced rates for own consumption, as the enforcement of the relevant legislation will require extensive controls upon a large number of small distilleries.

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During negotiations, Bulgaria was granted a transitional arrangement concerning the application of the minimum excise duty levels on cigarettes (until 31 December 2009). Furthermore, Bulgaria may apply a reduced excise duty rate to rakya produced from fruits and grapes for own consumption (up to 30 litres of fruit spirits per year per household). Transitional arrangements have also been granted for gradual alignment with regard to the rates of excise duties applicable to energy products (unleaded petrol, gas oil, kerosene, coal and electricity) until 1 January 2011 with intermediate dates.

As regards direct taxation, the alignment remains to be completed. Bulgaria still needs to complete transposition of parent-subsidiary, interest and royalties and savings Directives. Bulgaria also needs to address as a matter of urgency the transposition of the Merger Directive. In addition, Bulgaria needs to ensure that existing and future legislation complies by accession with the principles of the Code of Conduct for business taxation. Bulgaria should undertake the necessary preparations to ensure by accession effective exchange of information under the directive on taxation of savings income in the form of interest payments. During negotiations, Bulgaria was granted a transitional arrangement for the taxation of interest and royalty payments until January 2015.

Legislation on administrative cooperation and mutual assistance remains to be completed. A central liaison officer has been appointed and staff is being recruited. The number of staff needs to be adequately increased in view of accession. Actions have been taken to ensure that the computerised tax information system is fully operational, including links with the customs information system and interconnectivity with EU systems.

As regards administrative capacity, significant efforts need to be made to reach a satisfactory level by accession, in particular with regard to the collection and control capacity of the tax administration. Very limited VAT is collected from the vast majority of small and medium enterprises, the burden being placed essentially on the largest taxpayers. Collection is also weak in the area of excise duties, most notably on alcoholic products, where significant efforts will be required to reach a satisfactory level of capacity upon accession. As regards the implementation structures, legislative arrangements remain to be adopted to transfer functions from the General Tax Directorate to the National Revenue Agency and transfer responsibility for excise duties from the General Tax Directorate to the National Customs Agency.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in the area of VAT and is expected to be in a position to implement this acquis from accession. In completing preparations for membership, Bulgaria must strengthen the tax administration, in particular with regard to the full establishment of the National Revenue Agency as soon as possible, and the reinforcement of tax collection and controls. Bulgaria should maintain its current pace of progress in IT (interconnectivity with EU systems).

Increased efforts are needed in the areas of excise duties (in particular as regards some IT aspects, tax warehousing and cigarettes), direct taxation and administrative cooperation and mutual assistance. In order to complete preparations for membership, Bulgaria must pay attention to the full transposition of the acquis in these fields.. Attention needs also to be paid to the timely implementation of the planned

changes in the implementation structures.

Chapter 11: Economic and Monetary Union

EU legislation on Economic and Monetary Union (EMU) contains specific rules requiring the independence of central banks in Member States, prohibiting direct financing of the public sector by the central banks and prohibiting privileged access to financial institutions by the public sector. These rules must have been implemented by the date of accession. Upon accession, new Member States will be expected to coordinate their economic policies and will be subject to the provisions of the Stability and Growth Pact and the Statute of the European System of Central Banks. They are also committed to work towards compliance with the criteria laid down in the Treaty for adopting the euro. Until they adopt the euro, they will participate in Economic and Monetary Union as a Member State with a derogation and shall treat the exchange rate of their currency as a matter of common concern.

In the area of prohibition of direct financing of the public sector, Bulgaria has largely aligned national legislation with the relevant acquis, except for the Law on the Structure of the State Budget for which Article 26(3) still needs to be repealed. Administrative capacity is in place and functions effectively.

In the area of prohibition of privileged access of the public sector to financial institutions, Bulgaria has largely met the commitments and requirements arising from the accession negotiations and is expected to be in a position to implement the relevant acquis as from the date of accession. Amendments still need to be made to the Social Insurance Code with regard to the rules on the investment of assets from additional compulsory and voluntary pension insurance contracts.

In the area of the independence of the national central bank, legislation is largely in place and in line with the acquis. Minor adjustments are still needed with regard to the Bulgarian National Bank Law concerning the dismissal of members of the Governing Council and judicial review in this context. The necessary administrative structures are in place and function adequately.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in the area of Economic and Monetary Union and is expected to be in a position to implement this acquis as from accession. Some legislative adjustments are still needed.

Chapter 12: Statistics

The acquis in the field of statistics requires the adoption of basic principles such as impartiality, reliability, transparency, confidentiality of individual data and dissemination of official statistics. It also covers methodology, classifications and procedures for data compilation in various areas such as macro-economic and price statistics, business statistics, transport statistics, external trade statistics,

demographic and social statistics, agricultural statistics, environment statistics, science and technology statistics and regional statistics. The focal point of the statistical system of a country is the National Statistical Institute, which acts as the reference point for the methodology, production and dissemination of statistical information.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in the area of statistics and is expected to be in a position to implement the *acquis* as from accession. Bulgaria should pay attention to further methodological development and to improving the quality, timeliness and completeness of data in certain areas such as national accounts, business statistics and agriculture statistics.

Chapter 13: Social policy and employment

The *acquis* in the social field includes minimum standards in areas labour law, equal treatment of women and men, and health and safety at work. Specific binding rules have also been developed in public health (on tobacco control and surveillance and control of communicable diseases. The European Social Fund (ESF) is the main financial instrument through which the EU supports the implementation of its Employment Strategy and contributes to social inclusion efforts (implementation rules are covered under Chapter 21, which deals with all structural instruments

As regards labour law, the recently amended law on health and safety at work and the recently adopted Ordinance on working time in civil aviation aim at transposing the Directives on measures to encourage improvements in the safety and health at work of workers with a fixed- duration employment relationship or a temporary employment relationship and on Working Time of Mobile Workers in Civil Aviation, respectively. However, recent *acquis* (namely the Directives supplementing the statutes of the European Company and the European Cooperative Society as well as the Information and Consultation Directive) remains to be transposed. The same holds true as regards the European Works Council Directive. Transposition needs to be further completed, in particular as regards some provisions of the posting of workers Directive. Furthermore, several shortcomings need to be addressed with regard to a number of directives, such as those concerning collective redundancies, transfers of undertakings, part-time work, fixed-term work, working time or protection of young people at work.

Most of the *acquis* in the area of equal treatment of women and men has been transposed. Further efforts are still necessary, in particular as regards statutory pensions and social security. It still has to be verified on the basis of further information provided by the Bulgarian authorities whether the retirement age of civil servants needs to be equalised according to the principle of equal pay laid down in the Treaty. With regard to occupational social security schemes, the *acquis* needs to be transposed regardless of whether such schemes already exist in Bulgaria. The Law on Protection against Discrimination has to be reviewed with regard to preferential employment of the under-represented sex in state and public bodies. Moreover, the *acquis* on the equal treatment of self-employed persons still

has to be transposed. Implementing structures are in place, but further strengthening is needed in order to ensure legislation is enforced.

In the area of health and safety at work, most of the *acquis* has been transposed. Recent *acquis* on the exposure of workers to noise was transposed in August 2005. Recent *acquis* on asbestos remains to be transposed. The authorities responsible for enforcing health and safety legislation (General Labour Inspectorate) have been established, but must be further strengthened in terms of both staffing and technical facilities. Serious delay has occurred in abolishing the compensation system for bad working conditions. The administrative framework regarding social dialogue is in place, but the structures of social dialogue need to be considerably improved. The National Economic and Social Council and the National Council for Employment are in place: however, dialogue in these councils needs to be strengthened. The withdrawal of the two major trade unions (Confederation of Independent Trade Unions in Bulgaria CITUB and Podkrepa Labour Confederation) from the National Council for Tripartite Cooperation can be seen as symptomatic of the need to improve the functioning of these structures. There is an urgent need to reinforce particularly bipartite procedures. Social dialogue at the enterprise and sectoral levels should also be improved. Moreover, the administrative capacity of both the social partners and the Government remains to be strengthened.

In the field of public health, the framework for establishing a national surveillance system for communicable diseases is in place but must be further strengthened, including by enhancing laboratory equipment and technologies. Further legislative, organisational measures as well as investment are needed in order to bring the system fully in line with Community legislation. The transposition of the *acquis* in the area of blood and blood components, tissues and cells needs to be completed, and substantial capacity-building efforts must be undertaken to ensure legislation is properly implemented. Further sustained efforts are required to fully implement the *acquis* on the manufacture, presentation and sale of tobacco products. Bulgaria has been granted a transitional arrangement (until 31 December 2010) for the implementation of EU legislation on tobacco, in particular the maximum tar yield of cigarettes. Access to health care, including preventive services, should be ensured for all citizens in order to improve the health status of the population. Despite the adoption of a new Law on Health, which includes a chapter on mental health, particular efforts are still needed to improve conditions in care institutions such as psychiatric hospitals and to make progress in de-institutionalisation.

Concerning employment policy, further efforts are necessary to effectively implement the priorities identified in the Joint Assessment Paper on Employment Priorities in a more coherent and efficient way, including the integration of ethnic minority groups, in particular Roma, on the labour market. There is a need to improving the effectiveness and efficiency of the Bulgarian Public Employment Services, in particular as regards organisational issues, staff training and strengthening of the human and financial resources available. Furthermore, there is a need to activate the important number of persons who do not participate in the Labour Market.

Preparations for managing the European Social Fund (ESF) should be stepped up. In particular, urgent action is needed with regard to the development of an operational programme to strengthen institutional capacity and the efficiency of public administration (see also Chapter 21 – Regional policy and coordination of structural instruments).

The Commission and Bulgaria have finalised the Joint Inclusion Memorandum of the European Commission and Bulgaria which identifies key challenges and policy orientations for promoting social inclusion. The Joint Inclusion Memorandum and its follow-up process represent an important step in preparing Bulgaria for the open method of coordination in the area of social inclusion, and sustained efforts are needed to ensure its full implementation. Enhanced efforts are required particularly in relation to health care and child welfare. The problem of inappropriate living conditions in institutions has also to be addressed urgently, including the need to improve the de-institutionalisation process and to further develop an alternative system of community-based social services. Moreover, further efforts are needed to improve the situation of vulnerable groups and promote their full integration into society, such as the Roma community, who face extremely high risks of poverty, exclusion and isolation across the country or the persons with disabilities by improving access to public areas, buildings and transport as well as to education and the labour market.

Concerning social protection, the establishment of an Agency for Social Assistance has further centralised the social assistance system. However, increased efforts are needed to better synchronise the different social support schemes, target them more effectively and make them more accessible to clients. Moreover, in spite of the reforms undertaken, there is still the need to improve social protection, particularly in the field of pension to ensure adequate and sustainable pensions, especially through an active participation to pension (to statutory schemes and possibly also to voluntary pension insurance), as well as to make greater efforts to increase older workers' employment. The health care sector has been undergoing important changes in terms of financing, organisation and delivery of services. Health and social care still face a situation of limited resources. The need to ensure equity of access of all groups and the efficiency of the system are important challenges. Moreover, more attention is to be put on addressing risk factors to improve health status.

Concerning anti-discrimination, the law on protection against discrimination is largely in line with the *acquis* in this area. Minor adjustments are still necessary as regards instructions to discriminate and the legal standing of associations. The equality body required by the *acquis* has been established and legislation has started to be applied by Bulgarian courts in several cases to protect victims of discrimination. The Commission for Prevention of Discrimination has been established but it is not clear whether it has sufficient human and financial resources in order to perform its functions independently. Despite continuous efforts, the situation of the Roma minority still requires fundamental improvements.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in the areas of equal treatment of women and men, health and safety at work, social protection as well as employment policy, and is expected to be in a position to implement this *acquis* from accession. However, some legal adjustments are needed, and implementing structures must be further strengthened, in particular in the fields of the equal treatment of women and men as well as health and safety at work. As regards employment policy, the effective implementation of the priorities identified in the Joint Assessment Paper is necessary to prepare for full participation in the European Employment Strategy.

Bulgaria needs to make increased efforts to meet the requirements for membership in the areas of labour law, public health, social dialogue, the European Social Fund (as regards the operational programme to strengthen institutional capacity and the efficiency of public administration, see Chapter 21), social inclusion as well as anti-discrimination. The transposition of the acquis in the area of labour law needs to be completed and further strengthening of the Labour Inspectorate is needed. In order to complete preparations for membership, Bulgaria must take further measures in the field of surveillance and control of communicable diseases. The transposition of the acquis in the area of blood and blood components, tissues and cells needs to be completed and substantial capacity building efforts must be undertaken to ensure the legislation is properly implemented. Representativeness criteria of social partners and capacity building of all actors involved in social dialogue are the two key areas in which further progress is required. Increasing efforts will also be necessary in order to strike a balance between tripartite and bipartite social dialogue in Bulgaria. The situation of the Roma minority still requires fundamental improvements, particularly concerning training and employment, education, healthcare and housing. Increased efforts must be made in the area of social inclusion to prepare Bulgaria for membership. Although considerable efforts have been made in applying EU acquis on public health and in reforming the health care system, Bulgaria urgently needs to continue the work to improve the capacity and the efficiency of the healthcare system and the child welfare system. Particular focus should be on ensuring access to health services, particularly for vulnerable groups, and urgent attention should be paid to improving the health status of the population. Decent and equal living conditions need to be ensured in all institutions, including by closing certain of them. Furthermore, sustained efforts are needed to develop community-based services and to reintegrate institutionalised people into the community. Unless significant additional efforts are made in the field of social inclusion and public health, there is a serious risk that Bulgaria will not have effectively functioning systems in place by the date of accession. In general terms, increased efforts are needed to strengthen the administrative capacity to ensure due implementation of the social policy and the employment acquis.

Chapter 14: Energy

EU energy policy objectives include the improvement of competitiveness, security of energy supplies and protection of the environment. The energy acquis consists of rules and policies, notably regarding competition and state aid (including in the coal sector), the internal energy market (for example the opening up of the electricity and gas markets, promotion of renewable energy sources, crisis management and oil stock security obligations), energy efficiency and nuclear energy.

With respect to security of supply, legislation on oil stocks is in place and in line with the acquis. Regarding the build-up of oil stocks, Bulgaria did not initially meet the target for the end of 2004, but has by mid-2005 significantly increased the level of stocks. According to a transitional agreement, Bulgaria's oil stocks should reach the acquis-required equivalent of 90 days' consumption by the end of 2012. Bulgaria has been providing the required reports on stocks to the Commission on a regular monthly basis since May 2005. Continuous efforts should be made to further strengthen the capacity of the State Reserve and War-time Stocks State Agency and to provide the financial means for the progressive build-up of stocks.

In the field of competitiveness and the internal energy market (electricity and gas sectors), framework and implementing legislation (Energy Law) has been adopted. The Energy Regulator, the State Energy and Water Regulation Commission, is in place and its financial independence has improved. Nonetheless, this Commission needs further strengthening, notably since it has also become responsible for regulating the water sector.

The legal opening of the electricity market is delayed and, at the same time, the actual opening is considerably lagging behind. Increased efforts are needed to achieve full opening in line with the acquis. The preparation of the national electricity company for unbundling needs to continue. Regarding the opening of the gas market, further implementing legislation needs to be adopted. The legal opening of the gas market has reached 82%, whereas real opening stands at 6.6%. As a matter of priority, Bulgaria has to initiate the unbundling of Bulgargaz. The removal of price distortions has taken place in line with the commitments taken in early 2005.

In the gas sector, the construction of the Nabucco gas pipeline project is among the priority projects of the European Union and has received support from the programme for trans-European energy networks. The Nabucco Company Pipeline Study GmbH was established in late 2004. Special attention should be paid to the protection (security) of the pipeline infrastructure, taking into account its important role in the security of supply of the European Union.

In the solid fuel sector, further restructuring of the coal sector is needed, and Bulgaria has to ensure that state intervention is in line with the acquis.

In the area of energy efficiency and renewable energy, Bulgaria has achieved a good level of legal alignment, adopting the Energy Efficiency Act and the majority of implementing legislation in 2004. In addition, a target for the share of consumption of electricity from renewable energy sources of overall electricity consumption of 11% for 2010 has been set. The Energy Efficiency Agency has been established under the Energy Efficiency Act, but needs further strengthening. Continued efforts should be devoted to developing and implementing the National Long-Term Programme 2005-2015 on efficiency and renewable energy sources, for which adequate financial means must be provided. The upgrading of Bulgaria's considerable district heating system can make an important contribution to the realisation of Bulgaria's energy efficiency potential.

In the field of nuclear energy and nuclear safety the legal framework is mainly in place, provided by the Law on the Safe Use of Nuclear Energy, and almost all implementing legislation has been adopted. Bulgaria has accepted and addressed all the recommendations contained in the June 2001 Council Report on Nuclear Safety in the Context of Enlargement, and completed most of its implementing measures. Bulgaria has honoured its commitment to close down units 1 and 2 of Kozloduy nuclear power plant before 2003, and is committed to closing down units 3 and 4 in 2006. In order to proceed with the decommissioning of units 1 and 2, a licence needs to be granted by the Regulatory Authority.

Bulgaria will need to ensure compliance with the Euratom Treaty requirements and procedures. In this respect, due attention will need to be paid to preparing the implementation of Euratom safeguards, in particular regarding the reporting of nuclear material flows and inventories directly by the persons or

undertakings operating nuclear installations or storing nuclear materials. This includes small holders like universities and medical facilities.

The Nuclear Regulatory Agency is in place but still needs to continue strengthening its capabilities and financial and institutional independence. Bulgaria should devote special attention to strengthening the state-owned enterprise dealing with radioactive waste management and to funding the radioactive waste-storage programme, and generally ensure a high level of nuclear safety.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from accession negotiations in relation to security of supply, energy efficiency and renewable energy, and nuclear energy, and is expected to be in a position to implement the *acquis* in these areas by accession. Bulgaria should nonetheless further strengthen the relevant administrative structures, and complete its preparations for building up oil stocks. Continued efforts should be made regarding the development of energy efficiency and the use of renewable energy.

Increased efforts are needed as regards the area of competitiveness and the internal energy market. In order to complete preparations for membership, efforts should be made to achieve full - legal and real- and timely opening of the electricity and gas market.

Chapter 15: Industrial policy (1)

EU industrial policy seeks to enhance industrial competitiveness and rates of employment whilst operating in markets open to international competition. Its aim is to speed up adjustment to structural change, encouraging an environment favourable to initiative and to the development of businesses throughout the Community. EU industrial policy mainly consists of policy principles and horizontal and sectoral industrial policy communications. An important element of any industrial policy is controlling state aid and ensuring support schemes are in line with EU rules (see Chapter 6 – Competition policy).

Bulgaria's industrial strategy essentially complies with the concepts and principles of EU industrial policy, i.e. it is market-based, stable and predictable. The strategy adopted in 2002 would benefit from an update. The administrative structures in this area are in place but remain to be strengthened. Inter-institutional cooperation needs to be further improved. Consultation with business on policy formulation, which has been put in place, needs to be continued.

The privatisation and restructuring process is almost complete in Bulgaria with regard to privatisation, except notably for the Bulgartabac company for which a new strategy may be required after a third attempt to privatise it failed. Post-privatisation control, i.e. non-compliance with contractual obligations by new owners and reluctant contract enforcement by authorities, remains a problem. The full implementation of the National Restructuring Programme for the steel sector and the relevant business plan, which now appear to be significantly delayed, must be ensured. Great care will have to be taken that the policy of restructuring is implemented in a manner that conforms with the competition (state

aid) acquis so as to create efficient, competitive firms. The administrative structures in this area are in place.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations as regards industrial strategy and is expected to be able to implement the acquis as of accession. Bulgaria should continue to strengthen its administrative capacity.

Increased efforts are needed in the area of privatisation and restructuring. In order to complete preparations for membership, Bulgaria must successfully bring to an end the restructuring of the steel industry. Bulgaria should also fully implement its privatisation strategy.

Chapter 16: Small and medium-sized enterprises (2)

EU SME policy aims to improve the formulation and coordination of enterprise policy across the internal market with a view to supporting the development of SMEs. In doing so, it seeks to improve the overall business environment in which SMEs operate. SME policy consists largely of consultation forums and Community programmes, as well as communications, recommendations and exchanges of best practices.

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in the chapter small and medium-sized enterprises. Coordination of SME policy implementation needs to be further improved and the relevant implementation structures strengthened. Efficient consultation on policy matters with businesses and business associations must be ensured. Bulgaria needs to ensure full alignment with the EU SME definition. The implementation of the principles of the European Charter for Small Enterprises should be continued.

Chapter 17: Science and research

Due to its specificity, the acquis in the field of science and research does not require any transposition into national legislation. Implementation capacity does not relate to the application and enforcement of legal provisions but rather to the existence of the necessary conditions for effective participation in the Framework Programmes. In order to ensure the successful implementation of the acquis in this domain, and in particular successful association with the Framework Programmes, Bulgaria will need to create the necessary implementing capacities in the field of research and technological development, including an increase in personnel related to Framework Programme activities.

Bulgaria has met the commitments and requirements arising from the accession negotiations in the area of science and research and is expected to be in a position to implement the acquis as from accession.

Chapter 18: Education and training

Education, training and youth are primarily the responsibility of the Member States. The EC Treaty provides that the Community will contribute to the development of quality education and implement a vocational training policy that supports and supplements the action of Member States. The *acquis* consists of a Directive on the education of children of migrant workers, and action programmes and recommendations. Member States need to have the necessary implementing capacity in place to participate effectively in the Community programmes related to this chapter (Leonardo da Vinci, Socrates and Youth).

Bulgaria's participation in the second generation of the relevant Community programmes is basically satisfactory. In the context of the planned reorganisation of the Youth National Agency, any possible new structure should ensure a clear delimitation of functions and responsibilities between the National Agency and the national authorities which monitor it.. In view of Bulgaria's participation in the future programmes, the implementing capacity of the national agencies will need to be stepped up to deal with the considerable increase in volume of activity following accession.

In the area of education of children of migrant workers, Bulgaria should complete its preparations to implement the *acquis* by the time of accession.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in the area of education and training and is expected to be in a position to implement the *acquis* from accession. The operational capacity of the national agencies managing the relevant Community programmes should continue to be upgraded.

Chapter 19: Telecommunications and information technologies

The *acquis* in the field of telecommunications is aimed at the elimination of obstacles to the effective operation of the Single Market in telecommunications services and networks, and the achievement of universally available modern services. The last regulatory framework on electronic communications was adopted by the EU in 2002. As regards postal services, the objective is to implement the Single Market by opening up the sector to competition in a gradual and controlled way within a regulatory framework which assures a universal service.

In the area of electronic communications and information technologies, Bulgaria's legislation is largely in line with the 1998 *acquis*, thereby providing for the prerequisites for competition in the market. Access to the incumbent operator's networks and reforms aimed at enhanced liberalisation have significantly progressed since the Telecommunications Act was adopted in September 2003. Progress has been made in terms of implementation of secondary legislation which has established the conditions for opening the

market. Important decisions have been taken in areas such as interconnection offers and carrier pre-selection, the attribution of a third mobile telephony licence and attribution of UMTS licences. Remaining shares in the incumbent operator have been sold by the state on the local stock market.

The regulatory authority still needs to be given power to resolve commercial disputes as required by the acquis. Sustained arrangements are necessary for the provision of universal service, in particular to ensure affordability and the monitoring of the financing scheme. An updated telecommunications sector policy lays down directions and deadlines for implementing the 2002 acquis; however, the 2002 EU regulatory framework for electronic communications networks and services remains to be transposed by the date of accession. The present Telecommunications Act requests mobile voice market operators with a significant market power (SMP) to interconnect their networks in a transparent and non-discriminatory manner. For the time being there is no other regulation on the mobile market or the interconnection market. As a result, mobile termination prices are rather high, and this restricts competition in the mobile market.

National regulatory authorities (the Commission for the Regulation of Communication and the Commission for the Protection of Competition) need to be properly resourced to undertake new tasks related to the implementation of the new legislation (extended scope, shift from individual authorisation to general authorisations, shift from pre-defined SMP conditions to SMP assessment procedure). Moreover, coordination between the authorities has to become more effective.

Bulgaria has been granted a transitional arrangement until 31 December 2008 as regards the implementation of number portability as required under the Numbering Directive, but mobile number portability will be implemented on 1 January 2007 according to the Telecommunications Act.

In the area of postal services, legislative alignment remains to be completed. A draft law, currently under preparation, should lead to an effective supply of universal services and to a complete transposition of the second Postal Services Directive, especially concerning the reserved area. Systems for quality measurement, cost accounting and accounting mechanisms still need to be put in place. Further steps need to be taken to improve the administrative capacity and independence of the regulator in this area (the Communications Regulation Commission).

Conclusion

Increased efforts are needed to meet the commitments and requirements arising from the accession negotiations in the area of electronic communications and information technologies. This relates in particular to the implementation of the acquis and the transposition of the 2002 acquis. In spite of progress in liberalisation and market growth, it is necessary to ensure that basic starting conditions regarding access and interconnection are in place (particularly in the mobile telephony market) until the market analysis process has been completed. The regulatory authorities must be given the necessary resources to perform market analysis, assess significant market powers and impose remedies. Increased efforts are also needed in the area of postal services. In order to complete preparation for membership in this field, Bulgaria must accelerate the transposition and implementation of the acquis in this field.

Chapter 20: Culture and audiovisual policy

This chapter requires legislative alignment with the Television without Frontiers Directive, which creates the conditions for the free movement of television broadcasts within the EU. It includes basic common requirements concerning jurisdiction, advertising, major events, the promotion of European works, the protection of minors and public order, and the right of reply. The chapter also includes the Community programmes Culture 2000, Media Plus and Media Training.

As regards audiovisual policy, Bulgarian legislation is in line with the *acquis*. The Bulgarian Parliament adopted the Strategy for Radio and Television in September 2005, which will allow the Council for Electronic Media to initiate new tenders for television and radio programming licenses. Bulgaria should now focus on strengthening the administrative and monitoring capacity of a stable regulatory authority.

In the field of culture, Bulgaria continues to participate in the Culture 2000 programme.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations on culture and audiovisual policy and will be in a position to implement the *acquis* by accession. Bulgaria needs to complete its preparations to ensure the predictable, transparent and effective implementation of the regulatory framework.

Chapter 21: Regional policy and coordination of structural instruments

The *acquis* under this chapter consists mostly of framework and implementing regulations, which do not require transposition into national legislation. They define the rules for drawing up, approving and implementing Structural Funds programmes and Cohesion Fund actions. These programmes are negotiated and agreed with the Commission, but implementation is the responsibility of the Member States. It should be noted that the Structural Funds regulations will be revised by the end of 2006 at the latest. It is essential that Member States respect Community legislation in general, for example in the areas of public procurement, competition and the environment, when selecting and implementing projects, and have the necessary institutional structures in place to ensure implementation in a sound and cost-effective manner from the point of view of both management and financial control.

Bulgaria has agreed with the Commission on a NUTS classification of its territorial organisation.

The legislative framework necessary to ensure full compatibility of operations financed by the Structural Funds with EU policies and legislation is largely in place. However, in the context of public procurement legislation, EU provisions relating to work concessions have not yet been transposed. Full implementation of the legislative framework at all levels is also still hampered by limited administrative capacity and the lack of guidance documentation for those who need to implement the legislation. In this context, the

weakness by the Bulgarian authorities to implement procurement legislation and procedures effectively is of particular concern. Key features of the legislative framework, namely in the area of multi-annual budget programming and budgetary flexibility, are incomplete due to delays in passing relevant legislation, notably the Organic Budget Law.

The principal institutional structures for the preparation and implementation of the Structural Funds have been designated and are being established. However, it is essential to maintain and further reinforce an effective coordination role by the Ministry of Finance as well as to ensure an effective inter-ministerial and cross-sectoral cooperation. Furthermore, the design of the delivery structure placed under the responsibility of the Managing Authorities, including a clear delegation of tasks to the Intermediate Bodies, is not complete. Considerable efforts are needed to establish operational and efficient delivery structures at all levels, in particular at infra-national level. Some Managing Authorities, the Intermediate Bodies and bodies at regional and local levels are as yet ill-prepared for their future role under the Structural Funds. In particular, urgent action is needed with regard to the development, under the European Social Fund, of an operational programme to strengthen institutional capacity and the efficiency of public administration and services. Weaknesses notably in administrative capacity are a serious concern, in particular as regards the level and skills of staff in the Managing Authorities and Intermediate Bodies. Preparing, where not done already, and implementing efficient human resource development strategies for all bodies involved in Structural Funds implementation is therefore an urgent priority. Urgent efforts are also needed to coordinate overall preparations more efficiently and more pro-actively with a clear definition of responsibilities in this field. The capacity for co-financing, notably at local and regional levels, is a matter of concern.

The Ministry of Finance has been designated as single paying authority and as single certifying body. Financial control structures have been established. Internal audit units still need to be created in all intermediate bodies and staff need to be trained appropriately, including in those audit units located in the managing authorities. Inter-ministerial coordination must be improved.

Bulgaria has made progress in the programming exercise and has produced socio-economic analyses and assessments, a SWOT analysis and drawn up priorities for its National Development Plan and for five of its Operational Programmes. While work on the National Development Plan is on track, efforts should be maintained in order to respect the foreseen timetable for all Operational programmes. Immediate action is needed as regards the preparation of an operational programme to strengthen institutional capacity and the efficiency of the public administration. The partnership principle in programming has largely been applied. However, full and efficient participation of some partners is limited due to their lack of knowledge and capacity with regard to the Structural Funds. A more effective inter-ministerial and cross-sectoral coordination is necessary. Considerable and sustained efforts are needed to establish a pipeline of projects ready to be implemented under the Structural Funds and the Cohesion Fund.

In relation to monitoring and evaluation, monitoring units have not yet been established in all designated managing authorities or intermediate bodies. There are serious delays in the design and setting-up of the management information system.

Arrangements for financial management and control have been designed but need to be adapted

following the adoption of relevant legislation by the end of 2005. Substantial structural weaknesses in this area in the context of the management of the pre-accession funds are raising serious concerns regarding Bulgaria's capacity to manage the Structural Funds and the Cohesion Fund in a sound and efficient way. Therefore financial management and control functions need to be strengthened in a timely manner. An early testing of procedures, as well as the development of relevant administrative capacity, needs to be ensured across all Operational Programmes.

Additionality should be verified before relevant programming documents are finalised.

Conclusion

Bulgaria is meeting the commitments and requirements arising from the accession negotiations in relation to territorial organisation.

Increased efforts are needed by Bulgaria as regards preparations on the legislative framework, programming and monitoring and evaluation. Bulgaria must urgently bring its legislation on public procurement, multi-annual budget programming and budgetary flexibility, as well as on financial management and control, into line with requirements. As regards programming, Bulgaria needs to make considerable efforts to ensure quality and timely delivery of documents. Preparations on all operational programmes and specifically that on strengthening institutional capacity and the efficiency of public administration need to be speeded up. In relation to monitoring and evaluation, increased efforts are needed with regard to the setting-up of a functional management information system by accession, covering all Operational Programmes.

There are serious concerns in relation to the institutional structures and in particular with regard to administrative capacity and in the area of financial management and control. Immediate action is required with regard to the strengthening of institutional structures and administrative capacity, in particular of some managing authorities and most intermediate bodies, as well as of other bodies concerned at local and regional levels; the establishment under the European Social Fund of the above-mentioned operational programme; the establishing of clear structures and operating procedures including in the area of public procurement and financial management and control should also be given urgent attention. Increased efforts are needed to establish an adequate pipeline of well-prepared projects in all sectors.

Chapter 22: Environment

Community environment policy aims to promote sustainable development and protect the environment for present and future generations. It is based on the integration of environmental protection into other Community policies, preventive action, the polluter pays principle, fighting environmental damage at source and shared responsibility. The *acquis* comprises over 200 legal acts covering horizontal legislation, water and air pollution, management of waste and chemicals, biotechnology, nature protection, industrial pollution and risk management, noise and radiation protection. Ensuring

compliance with the acquis requires significant investment, but also brings significant benefits for public health and reduces costly damage to forests, buildings, landscapes and fisheries. A strong and well-equipped administration at national, regional and local levels is imperative for the application and enforcement of the environment acquis.

Horizontal legislation is largely in place and is in line with the acquis, with the recent adoption of the amendments to the Framework Environmental Protection Act. The relevant administrative capacities have been strengthened through additional recruitment of staff and the training of staff at all levels, but further strengthening is needed, particularly at regional and local levels, given the amount and variety of tasks needed to enforce the requirements of the Directive. In addition, linkages to other permitting procedures such as Integrated Pollution Prevention and Control (IPPC) require better coordination and integration. For both the Environmental Impact Assessment (EIA) and the Strategic Environmental Assessment (SEA), specific training is still essential. Application of the precautionary principle in EIA and SEA procedures, especially regarding potential Natura 2000 sites, should also be strengthened.

In the air quality sector, legislation is largely in place and in line with the acquis, except for implementing legislation relating to the quality of petrol and diesel fuels, which was foreseen for the end of 2004. Administrative capacities are in place. However, their adequate functioning will require additional training support. Air-quality plans and programmes have been prepared. The monitoring system needs to be completed by the end of 2005, in accordance with the 2004 National Action Plan for the Development and Maintenance of the Air-Quality Monitoring System. The establishment of a regulatory system covering exceptional circumstances in accordance with the rules on fuels also remains to be put in place. Transitional arrangements as regards the sulphur content of liquid fuels (until 31 December 2011) and as regards volatile organic compound emissions from the storage and distribution of petrol (until 31 December 2009), have been agreed for a certain number of installations, with intermediate targets.

As regards waste management, legislation is basically in place and is in line with the acquis, except for the acquis on polychlorinated biphenyls, polychlorinated terphenyls and waste oils. Draft legislation has been prepared but not yet adopted. Concerning batteries, the legal basis for transposing the acquis has been adopted recently. Administrative capacities are in place. However, substantial attention still needs to be paid to recruiting additional specially trained human resources, particularly at regional and local levels, for the implementation of the waste management plans. It is imperative that substantially more efforts are made in this respect.

Regarding the enforcement of the Waste Framework and Hazardous Waste Directives, an integrated network of disposal installations requires further development. The national system for the control of waste oils is yet to be put in place, including a register of collectors and permits for disposers. A system for the collection of batteries has yet to be established. The establishment of an inventory of polychlorinated biphenyls and terphenyls is also delayed. Transitional arrangements, until 31 December 2014 for the landfill of certain liquid wastes, until 31 December 2011 for packaging waste, until 31 December 2009 for the shipment of waste and until 31 December 2008 for electrical and electronic waste have been agreed for Bulgaria, with intermediate targets.

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As regards water quality, legislation is largely in place and is in line with the acquis, except for implementing legislation concerning the Water Framework Directive; however, a draft of the transposing act is pending final parliamentary approval. Administrative capacities are ready and were strengthened through a training programme on water quality which took place at national, regional and local levels. However, the administrative capacity remains to be further strengthened, in particular at the regional level and with regard to human resources as well as to laboratories and equipment. Cooperation and coordination between the different institutions and administrations involved in water management need to be improved.

It should also be noted that, under the Water Framework Directive, the register of protected areas remains to be drawn up. Under the nitrates rules, a code of good practice, the adoption of an inventory of manure storage capacities and an action programme are delayed. Under the Discharge of Dangerous Substances Directive, the issuing of permits is near completion, as well as the review of the monitoring network. Under the Drinking Water Directive, the monitoring systems remain to be completed at regional level, in particular as regards the part which falls within the competence of the Ministry of Health. Particular attention should be paid to improving the drinking water network, which is currently in a bad condition. Under the Surface Water Directive, action plans for the improvement of water quality and management of resources need to be developed and implemented. As regards urban waste water, transitional arrangements until 31 December 2015 have been agreed, with intermediate targets.

As regards nature protection, legislation is in place and is in line with the acquis. Administrative capacities are in place and were further strengthened through recruitment of additional staff and the provision of staff training at all levels. Further efforts are needed to finalise the preparation of a list of proposed sites of Community interest and the designation of special protection areas and to apply the relevant protection measures by accession. Close attention needs to be paid to ensuring proper consultation while avoiding delays. So far, standard formats and maps for 581 potential NATURA 2000 sites have been prepared.

As regards industrial pollution and risk management, legislation is in place and is in line with the acquis, except for the establishment of national emission ceilings, foreseen for the end of 2005. Although administrative capacities are in place and were further strengthened through the provision of staff training at all levels, the capacity at the regional inspectorates is inadequate in terms of number of staff, specific training and experience. The issuing of integrated permits is on-going, in accordance with a timetable outlined in the Regulation establishing terms and procedures for issuing integrated permits for the construction and operation of new, and for the operation of existing, industrial installations and facilities. By August 2005, 62 integrated permits had been issued out of the 289 required by accession. Implementing new technologies and performing according to the permits remains difficult for industry. The administrative capacity of the authorities needs to be reinforced.

As regards large combustion plants, monitoring is in place, but reporting needs to be completed. Concerning the national emission ceiling, the programmes and information databases are operational in the executive environmental agency. Taking into consideration the acquis on major accident hazards, there is a need to establish compliance programmes. Finally, a register for the Pollutant Release and Transfer System remains to be established. As regards Integrated Pollution Prevention and Control,

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transitional arrangements have been agreed for certain installations in Bulgaria (until 31 December 2011) and for large combustion plants (until 31 December 2014).

The legislation concerning chemicals and genetically modified organisms has been transposed and is in line with the acquis, except for the acquis on the contained use of genetically modified micro-organisms (GMMs) and on the deliberate release into the environment of genetically modified organisms (GMOs), which is delayed. Administrative capacities are in place and have been further strengthened through recruitment of staff at central level and staff training at all levels. However, as regards GMOs and biocides, there appears to be a shortage of trained human resources. Authorisation procedures for biocides need to be established. Concerning GMOs, a permit regime needs to be put in place, as do notification procedures, a register of locations has still to be drawn up and a system for enforcing the rules remains to be established. As regards GMMs, classification and notification procedures remain to be established, as do criteria for emergency plans.

Legislation on environmental noise has recently been adopted. Generally, administrative capacities still need to be established, although the competent authorities have been defined, testing bodies have been approved and conformity assessment procedures are established. Action plans and strategic noise maps remain to be established.

As regards nuclear safety and radiation protection, legislation concerning the shipment of radioactive waste and medical exposure has yet to be adopted. Concerning the nuclear regulatory agency's administrative capacity, a three-year plan for gradually increasing human resources is being implemented. Administrative capacities are in place but need to be strengthened, with a particular focus on the enforcement of the aspects relating to medical exposure.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations as regards air quality, noise and nature protection. Bulgaria is expected to be in a position to implement the acquis in these areas, provided the current pace of reform is maintained. Bulgaria should improve air quality management and monitoring as well as establish a regulatory system covering exceptional circumstances in accordance with the rules on fuel. As regards nature protection, Bulgaria should focus on finalising its lists of proposed nature protection sites and special bird protection areas.

Increased efforts are needed by Bulgaria to finalise the transposition process and to ensure the implementation and enforcement of transposed legislation as regards horizontal legislation, waste management, water quality, industrial pollution and risk management, chemicals and genetically modified organisms, and nuclear safety and radiation protection. Administrative capacity needs to be substantially reinforced in these areas, with particular attention to the regional and local environment authorities. As regards waste management, the establishment of waste collection systems and recovery and disposal facilities needs to be made a key priority. In this context, particular attention should be paid to linking the necessary permit procedures for the disposal of waste with the access of the public to the relevant information. Concerning water quality, particular attention needs to be paid to the completion by accession of the monitoring system at regional level for drinking water, as well as to the development

of the requisite action plans and programmes. As regards industrial pollution, permits for installations covered by the IPPC directive need to be issued and complied with by the acquis deadlines. It is essential that industry perform in accordance with the permits and that the administrative capacity of the enforcing authorities is adequate in view of the very complex and highly demanding tasks to be accomplished by them and the current pace for issuing permits is sustained. Administrative capacity concerning chemicals and genetically modified organisms needs to be strengthened, and authorisation procedures for biocides need to be established. As regards noise, action plans and strategic noise maps remain to be established. Bulgaria has to speed up its efforts to complete the alignment process and strengthen the administrative capacity of the environmental authorities at all levels. This requires further staff and training. The coordination between the different environmental institutions and authorities has to be improved.

Chapter 23: Consumer and health protection

The acquis covers protection of the economic interests of consumers (concerning misleading and comparative advertising, price indication, consumer credit, unfair contract terms, distance and doorstep selling, package travel, timeshare, injunctions for the protection of consumers' interests, certain aspects of the sale of consumer goods and associated guarantees and distance marketing of consumer financial services) as well as the general safety of goods (liability for defective products, dangerous imitations and general product safety). EU Member States need to effectively enforce the acquis through appropriate judicial and out-of-court dispute resolution mechanisms and administrative systems, including market surveillance and a role for consumer organisations.

Bulgaria has achieved a reasonable degree of alignment with the acquis in the area of safety related measures, but it still needs to finalise its legislative framework through full transposition of the relevant acquis on liability for defective products and general product safety. Some adjustments are needed to fully transpose the acquis on dangerous imitations.

While the institutional and administrative framework for market surveillance relating to general product safety is in place, the market surveillance system should be improved in order to guarantee the safety of non-food consumer products. Coordination between the National Consumer Protection Council and the State Agency for Metrology and Technical Surveillance, as well as with the other enforcement bodies and institutions, needs to be strengthened, and their cooperation needs to become more operational. In August 2005 a decree setting up a Council for Coordination and Exchange of Information between market surveillance authorities entered into force. However, at present the lack of a clear approach to consumer policy is still hampering the development of an effective market surveillance system.

As regards non-safety-related measures, Bulgaria has transposed part of the acquis. Further alignment is needed, i.e. regarding certain aspects of the sale of consumer goods and associated guarantees, injunctions for the protection of consumer interests, timeshare, consumer credit, distance contracts and distance marketing of consumer financial services.

The relevant institutional framework is in place, but further strengthening, in terms both of staffing and of technical facilities, is needed. The decision to upgrade the Consumer Protection Department into a Directorate is a positive development which might help raise the profile of consumer policy. However, the new Statutory Rules of the Ministry of Economy and Energy, which include the creation of the new Directorate, remain to be approved.

Although the number of cases initiated increased, the conciliation mechanism under the auspices of the conciliation commissions is currently not functioning effectively, since the number of disputes resolved continues to be low.

The number of consumer organisations remained stable at 14. More efforts are needed to develop a strong independent, representative and effective consumer movement, which would help consumers and play an effective role in consumer policy-making and market surveillance.

Conclusion

Although some positive developments may be noted, increased efforts are needed in the area of consumer and health protection. In order to complete preparations for accession, attention must be given to the completion of legislative alignment, both in terms of safety and non-safety-related measures. Enhanced efforts are required to improve market surveillance in order to ensure proper enforcement of legislation on safety and non-safety-related measures, including by strengthening administrative capacity and structures. Progress in involving consumer organisations in the development and implementation of consumer policy has been limited. Overall, consumer policy should be given higher priority, which may allow for a better integration of consumer concerns into other policy fields.

Chapter 24: Cooperation in the field of justice and home affairs

EU policies in the area of justice and home affairs aim to maintain and further develop the Union as an area of freedom, security and justice. On issues such as border control, visas, migration, asylum, drug trafficking and money laundering, combating organised crime, the fight against terrorism, fraud and corruption, police and judicial co-operation, customs co-operation, data protection and the mutual recognition of court judgements, as well as human rights legal instruments, Member States need to be equipped to ensure they achieve adequate and acceptable standards of implementation. Administrative capacity must be up to these standards by the date of accession. Furthermore, an independent, reliable, and efficient judiciary and police organisation are also of paramount importance. The most developed part of this chapter concerns the Schengen acquis, which entails the lifting of internal border controls in the EU. However, substantial parts of this acquis do not apply upon accession of a new Member State, but only later, after a separate Council decision.

As regards preparations for applying the Schengen acquis and the management of the future EU external borders, legal approximation has continued and Bulgaria has now generally aligned its legislation on border control and border surveillance. In October 2004 amendments to the Ordinance for Border Check

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Points were adopted, which aim at achieving better co-ordination between the services at the border. In February 2005 a Regulation on Guarding the River Section of the State Border and the Internal Water Ways of the Republic of Bulgaria and a Regulation on Guarding the Sea Section of the State Border were adopted. An Agreement between the Governments of Bulgaria and Romania on co-operation between the Border Guarding Authorities was signed in December 2004 and entered into force in July 2005. The Law on Foreign Nationals adopted in July 2005 lays down the entry regime and stay of foreigners. Bulgaria has suspended the agreements on simplified border crossing that were in force with some of its neighbours.

However, there have been delays in meeting a significant number of deadlines in the Schengen Action Plan as agreed in the accession negotiations. The adoption of the Integrated Border Management Strategy has been postponed by a year to the end of 2005 and it is strongly recommended that it be implemented as soon as possible and that Bulgaria speeds up its efforts to upgrade border facilities. The conclusion of memoranda of understanding between border management agencies would strengthen operational co-operation and it is planned for these to enter into force after the Integrated Border Management Strategy is adopted. In addition, efforts will be needed after accession to prepare for the lifting of internal borders and full implementation of the Schengen acquis on the basis of a further decision to be taken by the Council. Ongoing efforts to strengthen control and combating cross border crime must be enhanced on the basis of sound and proactive risk analysis. This is particularly relevant in the fight against trafficking of human beings and smuggling of goods, including weapons and counterfeited Euros. The preparation for hosting the connection point to the Schengen Information System (SIS II) and for hosting a national system continued. Bulgaria needs to continue to monitor the situation closely so that the available information such as parameters for connecting to SIS can be used by Bulgarian experts to speed up preparations.

On the management of the future EU external borders, serious concerns exist about some of the procedures being applied and the consequent level of control, especially at airports and sea ports. The Commission regrets to note that the port of Nessebar did not figure in list of authorised Border Crossing Points notified in the framework of the technical adaptations in the context of the Accession Treaty. Hence its status should be clarified. Border control procedures in all ports will need to be clarified. In addition, appropriate passenger control facilities should be introduced and controls at these ports will have to be carried out in accordance with Schengen standards. The surveillance capacity along the international river Danube needs to be enhanced, preferably in close co-ordination with the relevant Romanian authorities. It is important that sufficient funds are available in the medium and long term to meet the border management needs, including the running and maintenance costs.

Regrettably official figures on staffing levels cannot be made public, but at the moment it appears that insufficient human resources are made available to ensure an appropriate implementation of the border control acquis. Bulgaria should take immediate measures to remedy this situation. The availability and use of detection equipment should be further improved. The training centre in Pazardjik continued its activities and provides initial training to 121 sergeants and continued training to 300 sergeants in 2005.

On visa policy, Bulgaria has to a large extent aligned with the provision and administrative structures needed to ensure effective implementation of the acquis upon accession. An Instruction for issuing visas

to seamen was adopted in June 2005 as well as an Instruction for issuing visas at the border checkpoints in July 2005. Bulgaria still has to make provision for introducing a visa regime for the former Yugoslav Republic of Macedonia and Serbia and Montenegro, but is committed to do so upon accession. Bulgaria also made progress in further aligning its policy as regards the "positive" visa list. An agreement for a visa free regime with Uruguay was signed in January 2005 and entered into force in May 2005. Visa free agreements with SAR Hong Kong and SAR Macao were signed in April 2005. Preparatory measures to revoke the visa obligation for the other countries have continued. Bulgaria needs to start preparing for the implementation of VIS (Visa Information System) in view of lifting the internal borders upon accession to Schengen. As regards implementation and administrative capacity, Bulgaria now has 88 diplomatic and consular missions connected with its headquarters. Bulgaria is experiencing serious delays in installing of equipment to detect forged and falsified documents in diplomatic and consular posts and at the moment 50% of its missions have the required equipment.

In the area of migration, legislative alignment has nearly been completed. Bulgaria has been active in its efforts to conclude agreements on readmission. Negotiations with Tunisia are under way. There is an overall satisfactory level of co-operation with neighbouring countries on readmission, although agreements have not yet been concluded with Russia and Turkey. The basic administrative structures are in place but the capacity of the Migration Directorate in the Ministry of Interior needs further strengthening. Secondary legislation regulating the functioning of the Directorate is underway. The staff of the Directorate needs further training in order to ensure a correct application of the acquis. A coherent training system for all those agencies working in the area of migration policy (in addition to Migration Directorate, the border police, the police and the Agency for Refugees) should be developed in view of fostering a harmonised approach for interception, identification and expulsion procedures. Finally, there are considerable delays with respect to the opening of an accommodation centre in Sofia and the plans to open 4 other centres have been abandoned.

In the field of asylum, Bulgaria completed its legislative alignment with the 1951 Geneva Convention by adopting a Law amending the Law on Asylum and Refugees in March 2005. These amendments introduced a clear distinction between refusal, discontinuation of the procedure and withdrawal in line with the Geneva Convention. A national programme for the integration of refugees was adopted in May 2005. As regards implementation capacity, the Agency of Refugees is operational but should continue to be strengthened. Capacity-building activities with the authorities and the judiciary on asylum legislation, procedures and practices should also continue. There continues to be a downward trend in asylum applications in Bulgaria: in the first half of 2005, 406 new applications for asylum were received compared to 429 for the same period in 2004. Bulgaria has elaborated a master plan which sets out tasks, deadlines and priorities in the process of preparation for implementing EUODAC. It is of crucial importance that the necessary financial resources will be allocated for the implementation of the master plan. Strict implementation is required as a matter of priority if Bulgaria is to be ready to implement EUODAC before accession and allow for a few months of testing of the system. Finally, two new reception centres, one at the Turkish border and the other in Sofia, are planned but a legal challenge has caused delays in the preparation process.

In the area of police co-operation and combating organised crime, Bulgaria has to a large extent completed the legislative alignment. In October 2004 Bulgaria transposed the Council Decision

concerning security in connection with football matches with an international dimension. Further recent legal initiatives include amendments to the Criminal Procedure Code adopted in September 2004 to speed up the pre-trial phase. Furthermore the Law on the Protection of Persons Endangered in Criminal Proceedings was adopted in November 2004 and the Law on Forfeiture of Criminal Assets was adopted in February 2005. Bulgaria is further expanding its police liaison officers network and has now 18.

As regards the administrative capacity a Co-ordination Centre for Countering Organised Crime was established under the authority of the Prime Minister as well as a National Crime Prevention Commission within the Ministry of Interior. The latter's task will be to identify crime trends and find effective remedies to the proliferation of crime in everyday life. Nevertheless, there remains a lack of capacity in the pre-trial phase by the competent investigative authorities and the judiciary to deal effectively with the prevention, detection, investigation and prosecution of crime. In October 2005, a new Penal Procedural Code was adopted, the impact of which has not yet been assessed. The gradual process of modernising and reforming the police which started in 2003, continued with the adoption of a Strategy on the Police Career and the Optimisation of Human Resources Management at the Ministry of Interior. Further efforts are required to reform the training system and to adapt it to the needs of a modern police force. In general, Bulgaria has developed intensive and fruitful relations in particular with EU member states, however, regional co-operation needs to be further strengthened as well as co-operation with international law enforcement agencies. An Agreement between Bulgaria and Turkey on police co-operation was signed in February 2005 and entered into force in July 2005.

Very serious concerns exist about the high levels of organised crime in Bulgaria, which so far has not been a priority on the political agenda. In particular the frequent contract killings of people linked to organised crime groups represent a significant challenge to the rule of law. Some types of organised crime, such as trafficking in human beings, including some cases of illegal adoption, exploitation of prostitution, trafficking in stolen vehicles and insurance fraud as well as currency and document counterfeiting, which originate within Bulgaria itself affect EU member states directly. Immediate action is required to enhance the Bulgarian state's response to organised crime. In order for law enforcement agencies to become more effective they need the necessary tools to fight organised crime. These include the resources to implement a variety of special intelligence means, in view of evidence gathering for use in courts. It is of key importance that the witness protection scheme becomes fully operational. To that effect implementing rules were adopted in September 2005. A considerably more proactive approach towards tackling organised crime networks is urgently required. Further action is needed to strengthen the co-operation and co-ordination between the police and the prosecuting and judicial bodies. Finally, Bulgaria needs to equip itself quickly with a harmonised statistical approach of crime figures, including detection and prosecution.

Bulgaria is well advanced in its legislative alignment with the *acquis* on money laundering (see also chapter 4 – Free movement of capital). A Financial Intelligence Agency is in place and working in a satisfactory manner. Control on entities under reporting obligations should be further strengthened. However, results in terms of prosecutions for money laundering are still non-existent due to the fact that the predicate offence needs to be proven in order to obtain conviction. The rather passive attitude of the investigative and prosecutorial bodies also explains the non-existent conviction rate, although for the first time 7 indictments can be reported. Furthermore, the effectiveness of anti- money laundering

defences is seriously hampered by corruption, organised crime and the large informal economy. Training for judges and public prosecutors on dealing with money laundering cases should be considerably enhanced.

On the fight against drugs, Bulgaria has largely completed its legislative alignment with the *acquis*. As far as the fight against drugs smuggling is concerned, controlled deliveries and undercover operations for the purposes of the international legal co-operation were introduced in the Criminal Procedure Code which entered into force in April 2005. However, so far these tools cannot be used to collect valid evidence admissible in Bulgarian courts. The above amendments have thus not simplified the complex approach in the Bulgarian pre-trial phase significantly and there have been only limited results prosecuting major drug smugglers. Further legal amendments to the Narcotic Drugs and Precursors Control Act are required in order to improve the organisation and activity of the National Drug Council, the municipal drug councils and the prevention and information centres. Bulgaria continued to implement the National Anti-Drug Strategy 2003-2008 and its Action Plan broadly according to the deadlines. Bulgaria should align its strategy with the new European Strategy on Drugs (2005-2012). In terms of drug demand reduction, Bulgaria still relies heavily on funding from civil society, especially as the state budget for such activities was reduced in 2005 compared to 2004.

A Regulation on the organisation and the activity of the National Focal Point is being delayed. Hence, no progress can be reported as regards the much needed enhancement of the administrative capacity of the National Focal Point with the European Monitoring Centre for Drugs and Drug Addictions. On the contrary, due to recent changes in the definition of the role and tasks of the National Centre for Addiction (NCA) which resulted in a considerable reduction of its staff, budget and activities, the NFP lost expertise which so far had been provided by the NCA. The NFP is for the moment not in a position to fulfil its tasks. Efforts are also required for allowing a greater participation of Bulgarian experts in the Centre's technical meetings. The National Drug Intelligence Unit in the Ministry of Interior could become a useful instrument in the fight against drugs trafficking, however, it is still suffering from problems linked to lack of training, lack of access to an analytical database and difficulties in sharing information and intelligence with other law enforcement agencies.

As regards the fight against fraud and corruption, efforts have continued on the implementation of the National Anti-Corruption Strategy 2004-2005 and the Program for Execution of the National Strategy for Counteraction to the Corruption 2004-2005. The Bulgarian authorities have made a concerted effort to limit the occurrence of petty corruption within the state administration as a whole but the main problem remains the poor track record in investigating and prosecuting corruption cases, including in law enforcement bodies and in particular among magistrates. There are very few cases of completed prosecutions of high level corruption cases. In February 2005 the National Anti-Corruption Strategy was amended to include a number of measures to fight high level corruption, though deadlines to implement these measures have been missed. The overall enforcement record in the field of corruption remains very weak. (As regards corruption, see also chapter 'B.2.c. Anti-corruption measures' in the section on Political Issues)

Bulgaria is continuing the process of aligning to Community legislation related to the protection of the financial interests of the European Communities and the protection of the euro against counterfeiting. Bulgarian organised crime groups are reported to be specialised in the production of good quality

counterfeited Euros. In October 2004 an Ordinance entered into force that amended the Co-ordination Council to Combat Offences Affecting the Financial Interests of the European Communities. Amendments to the Criminal Code were adopted in March 2005 to further align with the 1995 Convention on the Protection of the Community's Financial Interests (PIF Convention) and its protocols. In terms of criminal liability of heads of businesses, the Bulgarian Criminal Code is fully harmonised with PIF Convention. In September 2005 the Law amending the Law on Administrative Offences and Sanctions providing for liability of legal persons for crimes entered into force. In March 2005 amendments to the Criminal Code were adopted achieving full compliance with Council Framework Decision on increasing protection by criminal penalties and other sanctions against counterfeiting the euro. Administrative structures for the co-operation with OLAF have recently been established but need further efforts in order to become fully operational.

In the area of customs co-operation, Bulgaria is preparing for accession to the 1997 Convention on Mutual Assistance and Co-operation between Customs Administrations (Naples II) and the 1995 Convention on the Use of Information Technology for Customs Purposes. The amendments to the Law on Customs which were adopted in May 2005 expand the customs officers' powers in the sphere of customs investigation and control, which, will contribute to more comprehensive application of the regulations laid down in the Convention. Preparations for the adoption of the Customs Information System related to the CIS Convention are well on track and should continue.

In the fight against terrorism, Bulgaria has ratified the most important Conventions in this area. The law implementing the 2000 Convention on Mutual Assistance in Criminal Matters entered into force in April 2005. The timely ratification of the new 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism would be a further positive step in this regard. Further efforts to prevent, detect, investigate and above all prosecute money laundering are required in the overall context of countering financing of terrorism.

In the field of data protection, Bulgaria ratified Convention 108 of the Council of Europe and has legislation covering data protection in law enforcement agencies. However, this part of the *acquis* also requires effective control mechanism in line with the *acquis* in chapter 3. (See also chapter 3 – Freedom to provide service). However, there is a risk that Bulgaria will be unprepared to implement the data protection *acquis*, as the administrative capacity of the Commission on Personal Data Protection is still weak. It should be effectively staffed and there is a need to allocate the resources at its disposal in such a way as to become fully operational and perform its functions under this chapter by duly concentrating on the core tasks most needed at this moment.

In the area of judicial co-operation in civil and criminal matters legislative alignment, where still necessary, is ongoing and Bulgaria should be ready upon accession to apply the *acquis* and to accede to all relevant conventions. In February 2005 the Parliament adopted a Law on Amendments to the Constitution that permits Bulgarian citizens to be surrendered under the European Arrest Warrant and in May 2005 an Act on Extradition and the European Arrest Warrant was adopted, which completed preparations for implementing. In May 2005 a new Code on International Private Law was also adopted, which aligns with various provisions of the EU *acquis*. Bulgaria has nominated a Eurojust contact point. Administrative structures for direct contacts between competent judicial authorities are in place but need

to be further strengthened. Nevertheless, serious concerns exist about the functioning and efficiency of the Bulgarian justice system. Corruption remains a serious problem within the justice system and this may impede on a smooth and correct implementation of instruments in the area of mutual recognition.

There have been no developments with regard to human rights legal instruments and Bulgaria has not yet signed Protocol 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms dealing with the general prohibition of discrimination.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in the areas of migration, the fight against terrorism, customs co-operation, and human rights legal instruments and is expected to be in a position to implement this acquis from accession.

Increased efforts are needed if Bulgaria is to meet the requirements for membership in relation to visa policy, asylum, judicial co-operation in civil and criminal matters, money laundering and the fight against drugs. In order to complete preparations for membership, Bulgaria must improve and accelerate implementation in these areas. Action to implement EURODAC is required as a matter of priority if Bulgaria is to be ready before accession. Increased efforts are also needed to fully align the Data Protection Act and to ensure the effective functioning of the Commission on Personal Data Protection. As regards the protection of personal data (see also chapter 3 – Freedom to Provide Services), increased efforts are now required to properly implement the legislation; the Commission for the protection of personal data should establish a sound administrative practice and effectively perform its core tasks, in order to ensure that Bulgaria will be ready to implement the acquis in this area at the time of accession.

Serious concerns exist in relation to Bulgaria's preparation for implementing the acquis in the following areas: in the fields of Schengen and external borders, the fight against fraud and corruption, police co-operation and the fight against organised crime. Immediate action is needed to clarify the procedures being applied on the future EU external border, especially at airports and sea ports, and increase staffing levels and availability and use of control and detection equipment. Furthermore urgent attention is required to tackle corruption and organised crime, which are challenging the rule of law. The existing anti-corruption legislation must be enforced rigorously, particularly in cases of high level corruption. In addition, corruption in certain law enforcement agencies and in particular the judiciary must be tackled in a more pro-active manner. Law enforcement agencies must be provided with more effective procedures in the pre-trial phase as well as training and equipment to combat organised crime effectively and in a proactive manner. Overall, inter-agency co-operation across the justice and home affairs acquis needs to be improved considerably and co-ordination structures must be strengthened.

Chapter 25: Customs union

The Customs union acquis consists almost exclusively of legislation which is directly binding on the Member States and does not require transposition into national law. It includes the Community's

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Customs Code and its implementing provisions; the Combined Nomenclature, Common Customs Tariff and provisions on tariff classification, customs duty relief, duty suspensions and certain tariff quotas; and other provisions such as those on customs control of counterfeit and pirated goods, drugs precursors and cultural goods and on mutual administrative assistance in customs matters, together with Community agreements in the areas concerned, including transit. Member States must ensure that the necessary enforcement capacity, including links to the relevant EU computerised customs systems, is in place.

As regards customs legislation, Bulgaria has achieved a high degree of alignment with the acquis. The Customs Act was adopted in February 1998 and has been amended several times since then. The latest amendment was adopted in May 2005, introducing provisions on post-clearance control, which represents important progress towards alignment with the acquis. In the field of customs tariff, a combined nomenclature exists and rules have been adopted on duty suspensions and tariff quotas.

Bulgaria has adopted legislation aimed at alignment with the acquis on the control of exports of dual-use goods and technology and with the acquis on cultural goods.

Concerning administrative and operational capacity, a customs administration is in place and strengthening of capacity is in progress. A business strategy for the rationalisation of border operations during the period 2002-2006 has been adopted and its implementation is ongoing. Good progress has been made, notably on revenue collection. There is growing activity as regards the prevention, detection and investigation of customs and currency offences and crimes, including in the field of intellectual and industrial property rights. Significant and sustained efforts are required for the development of simplified procedures, in particular as the law authorising post-clearance audits by the National Customs Agency (NCA) has entered into force; the use of simplified procedures should be actively promoted by the NCA management. A new border post has been opened at the border with Turkey, thus relieving part of the incoming traffic from the congested checkpoint at Kapitan Andreevo. Refurbishment of the infrastructure has been ongoing, but further efforts are required to reduce bottlenecks and lead times for traffic.

Work is ongoing for the transfer of the control and collection of domestic excise duties from the General Tax Directorate to the NCA, but the necessary legislation for that purpose is not yet adopted. In addition, committed and strong management is necessary to ensure effective planning and implementation of the transfer.

The integrated customs information system has been put into operation on all customs sites and applications within the system have gradually been developed. Considerable efforts have been put in place with a view to achieving interconnectivity with EU systems by the time of accession. However, significant delays have occurred in the tariff-related IT systems. Intense efforts will be required to ensure timely implementation of the ambitious development plans, also taking into account the technical choices made by the NCA.

In order to improve the technical capacity of its customs laboratories, the NCA has updated a Strategy for customs laboratories, providing relevant support for the new tasks for which the NCA will be responsible as of accession (i.e. administering the new Act on excise and customs control measures

related to the common agricultural policy).

The Customs Code of Ethics entered into force in July 2002 and its implementation is ongoing. Integrity rules are defined in the NCA's Rules of Procedure and the NCA participates actively in the implementation of the National Anti-Corruption Strategy. A component on customs ethics is included in the training programmes. Corruption, in particular petty corruption at border posts, remains however a serious problem. Significant efforts are necessary to address this problem.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from accession negotiation in the field of customs legislation and is expected to be in a position to implement this *acquis* from accession.

Increased efforts are needed to improve administrative and operational capacity by completing by accession the IT preparations in the area of tariff-related systems. Accumulated delays must be overcome in order to meet the ambitious calendar for development. The administrative capacity of the NCA needs to be strengthened. Simplified customs procedures need to be developed and actively promoted, post-clearance controls have to be reinforced, and the physical infrastructure needs additional investments. Attention should be paid to the planning and execution of the transfer of responsibilities for the collection of domestic excise duties to the NCA.

Chapter 26: External relations

The *acquis* in this field consists mainly of directly binding EU legislation which does not require transposition into national law. This EU legislation results from the Community's multilateral and bilateral commercial commitments, as well as from a number of autonomous preferential trade measures. In the area of humanitarian aid and development policy, an applicant country will need to comply with EU legislation and international commitments in this field and ensure capacity to participate in the EU's development and humanitarian policies.

The administrative structures to deal with the common commercial policy are essentially in place and satisfactory.

Bulgaria has coordinated its positions and policies with the Commission with regard to the Doha Development Agenda (DDA). With regard to GATS, and with a view to being fully in line with the EC GATS commitments, Bulgaria should carry out the necessary harmonisation by taking up EU Most Favoured Nation exemptions and, if need be, by withdrawing certain commitments or accepting certain limitations. This will be done within a procedure of consolidation of Bulgaria's GATS commitments into those of the EC. Developments in the ongoing DDA services negotiations will define key elements in the scope of such consolidation. Therefore, close cooperation and coordination with the Commission in GATS related matters should continue. On trade in dual-use goods, regular legislative adaptations have

resulted in a high degree of alignment with the acquis. However, there is a need for Bulgaria to amend its legislation and export control systems with a view to making Bulgaria's entry into the EU export control system easier upon accession, including in particular a simplification of the two-tier export control system. While administrative structures are generally in place and sufficient, improvements are needed to inter-departmental cooperation, notably as regards export control enforcement.

Bulgaria has reached a good level of compliance with the acquis in the field of export credits, and administrative structures are in place. However, uptake of export insurance remains very low.

Bulgaria has assessed the compliance of its bilateral agreements with third countries with its EU obligations. It is taking steps to denounce all preferential trade agreements with third parties and to modify or terminate non-preferential trade or other agreements so as to bring them into line with the relevant acquis by accession.

Bulgaria needs to draw up a humanitarian aid and development policy which is in line with EU principles, as well as an institutional framework to coordinate and implement it. Bulgaria must continue to strengthen its administrative capacity to participate in the EU's development and humanitarian aid policies. In June 2005, the EU agreed to commit to new intermediate and global Official Development Assistance (ODA) targets and Bulgaria must make adequate budgetary provisions in this context upon accession.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in this area and is expected to be able to implement the acquis on external relations. In order to complete preparations, Bulgaria must continue the process of renegotiating or terminating bilateral agreements with third countries in order to bring them into line with the acquis by accession. Bulgaria must also establish a humanitarian aid and development policy in line with EU principles and needs to make further progress in setting up the institutional framework for the implementation of the EU acquis in the area of development.

Chapter 27: Common foreign and security policy

The acquis related to the common foreign and security policy (CFSP) is based on legal acts under the second and, indirectly, the first pillar including legally binding international agreements. It is also based on political declarations and agreements to conduct political dialogue in the framework of the CFSP, to align with EU statements, and to apply sanctions and restrictive measures where required.

Bulgaria continues to participate in the political dialogue within the framework of the CFSP and has regularly aligned its positions with those of the Union, including sanctions and restrictive measures, statements, declarations and demarches. The full implementation of the Code of Conduct of Arms Exports and the fight against unauthorised weapons transfers deserves further attention. The

administrative structures in this area are in place and satisfactory.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in the chapter on the Common Foreign and Security Policy, and is expected to be in a position to implement the *acquis* from accession.

Chapter 28: Financial control

The *acquis* under this chapter consists mostly of general internationally agreed and EU compliant principles of public internal financial control that need to be transposed into the control and audit systems of the entire public sector. In particular, the *acquis* requires the existence of effective and transparent financial management and control systems; functionally independent internal audit systems; central harmonisation units for these two fields, responsible for the coordination and harmonisation of methodologies; an independent external audit of public internal financial control systems in the public sector (Supreme Audit Institution); an appropriate financial control mechanism for EU funds; and the administrative capacity to give effective and equivalent protection to EU financial interests.

In the area of public internal financial control, the Council of Ministers has recently approved a strategy paper cum action plan for better alignment of the PIFC aimed at meeting international standards and EU best practices. A steering group at the level of Deputy Ministers of Finance has been established to monitor the implementation of the action plan. Separate task forces are working on drafting three separate but related acts on financial inspection, financial management and control, and internal audit. Continuous efforts should be made to ensure the relevance of the new legal framework to the reforms in this sector, notably the separation between financial inspection and internal audit, the decentralisation of internal audit, and the operational capacity of the Internal Control Directorate in the Ministry of Finance responsible for harmonisation of Financial Management and Control as well as Internal Audit throughout the public sector.

As regards external audit, the Act amending the Bulgarian National Audit Office Act was adopted in 2004, aiming at a better harmonisation with best practices. However, further efforts have to be devoted to the improvement of the administrative and operational capacity of this office, particularly to prepare itself for the changes in the public internal financial control-systems. Better coordination with the future inspection agency and the Internal Control Directorate within the Ministry of Finance should be achieved.

As regards control over structural action expenditure, legislation is partly in place. Even if some improvements were made to the capacity of the National Fund and the implementing agencies to manage pre-accession funding, further substantial strengthening of these institutions remains necessary to reach the required degree of management and control capacity. In addition, Bulgaria needs to significantly reinforce and urgently speed up measures in order to respect the agreed timetable regarding the gap plugging and the compliance assessment for the Extended Decentralised

Implementation System (EDIS) by March 2006 in order to allow the Commission services to carry out the verification audit before the end of June 2006. That would allow Bulgaria to have accreditation both for the Phare and for the ISPA programmes by the end of July 2006.

With respect to the protection of EU financial interests, legislation has been reinforced, notably with the establishment of the Council for Coordination of Action to Combat Offences Affecting the Financial Interests of the European Communities, but still needs to be further developed. In particular, the role of the anti-fraud coordination service should be better defined as regards its competences and coordination with other relevant institutions and bodies. Bulgaria should adopt and implement a national anti-fraud strategy covering the protection of EU financial interests.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from accession negotiations in relation to public internal financial control and external audit systems. Efforts have to be maintained to ensure the implementation of a strong and adequate internal control system compliant with international requirements and EU best practices. Further strengthening of the relevant institutions and bodies remains necessary.

Increased efforts are needed if Bulgaria is to meet the commitments and requirements arising from the accession negotiations as regards control over structural action expenditure, as well as the protection of EU financial interests. Bulgaria needs to speed up accreditation for the Phare- and ISPA-related Extended Decentralised Implementation System as a matter of urgency by significantly increasing management and control capacity. In the field of protection of EU financial interests, the anti-fraud coordination service must be developed further and a national anti-fraud strategy is to be adopted. These actions will contribute to ensuring the required level of readiness for the sound and secure management both of pre-accession assistance and of Structural and Cohesion funds.

Chapter 29: Financial and budgetary provisions

The acquis in this field covers the rules concerning the financial resources necessary for the funding of the EU budget ('own resources'). These own resources are made up mainly of contributions from Member States based on traditional own resources from customs and agricultural duties and sugar levies; a resource based on VAT; and a resource based on the level of gross national income (GNI). Member States must put in place the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources and reporting to the EU in order to comply with the own resources rules. The acquis in this area is directly binding and does not require transposition into national law.

As regards traditional own resources, Bulgarian customs legislation is largely in line with the acquis, and the administrative infrastructure, together with the necessary organisation for the collection and recovery of customs duties, is in place, although the administrative capacity should be further developed

in particular for post-clearance control based on the operator's records. The Bulgarian authorities should now focus attention on completing their preparations for traditional own resources by establishing the necessary structures and procedures for data gathering and for communicating cases of fraud and irregularity to the Commission (OWNRES). They should also complete the legal framework and procedural and administrative arrangements necessary for collecting, accounting for, and controlling sugar levies. The reporting and accounting requirements as regards A and B accounts should be further developed. In particular, the development of the IT application in the Customs Debt module for managing A and B accounts and generating the related statements automatically requires close attention. The adequacy of the Customs Debt Module should be reassessed and adapted where necessary to satisfy traditional own resources' accounting requirements.

Concerning the VAT-based resource, a number of improvements and additions to the preliminary statement on the 2003 VAT base are still to be made in order to achieve an acceptable level of correctness and completeness.

Concerning the GNI-based resource, a satisfactory level of compliance with ESA95 accounting standards has been reached, but there is still some way to go before full compliance can be certified, in particular as regards the exhaustiveness of the national accounts. To this end, the administrative capacity of the National Statistical Institute should be further improved, including sufficient and adequate staffing.

Conclusion

Bulgaria is generally meeting the commitments and requirements arising from the accession negotiations in the field of financial and budgetary provisions, and is expected to be in a position to implement this acquis from accession. Continued attention needs to be paid to the development of an adequate level of administrative capacity so that the own resources to be contributed to the EU budget can be properly calculated.

2. Translation of the acquis into Bulgarian

In accordance with Articles 2 and 58 of the Act of Accession, all acts adopted by the Union's institutions prior to accession become applicable to the new Member States and are to be published in a special edition of the Official Journal of the European Union, also in the new official languages. While the EU institutions take responsibility for the final revision and publication of the translations, it falls to the acceding States to produce the translations and to ensure a thorough legal and linguistic revision. In the framework of the translation of the acquis, the Court of Justice has defined a set of key judgements to be translated as a priority (representing about 15 000 pages).

Of the (presently) nearly 90 000 pages of acquis, Bulgaria has already translated more than 95%. However, around 60% of these have still to be revised by the national authorities before they can be submitted to the EU institutions. The translation and revision capacity in Bulgaria has not yet reached the necessary throughput level of some 6 000 pages per month, largely due to difficulties in recruiting and retaining staff. The Bulgarian Government has been urged to give this matter the attention it deserves, without which the publication of the acquis might not occur in time for accession on 1 January

2007.

3. General evaluation

Bulgaria has reached a considerable level of alignment with the acquis in most policy areas. Efforts to strengthen overall administrative capacity should continue with a view to properly implementing the adopted legislation.

It is expected to be in a position to implement the acquis as required in the following areas by the envisaged date of accession: horizontal and procedural measures and new and old approach sectoral legislation in the free movement of goods chapter; the free movement of workers, the coordination of social security systems and citizens' rights as regards free movement of persons; capital movements and payment systems in the field of free movement of capital; company law, accounting and the Regulation replacing the Brussels Convention and the Rome Convention in the company law chapter; competition policy. In relation to the agriculture chapter, by the envisaged date of accession Bulgaria is expected to be in a position to implement the acquis as in the areas of quality policy, organic farming, the Farm Accounting Data Network, state aid, rural development, zootechnics, animal nutrition and the phytosanitary sector as well as in relation to international fisheries agreements and state aid in the fisheries chapter.

By the envisaged date of accession Bulgaria is also expected to be in a position to implement the acquis in the areas of trans-European networks, inland waterways, road transport and rail transport in the field of transport policy; VAT in the area of taxation; the chapters on economic and monetary union as well as statistics; with regard to equal treatment of women and men, health and safety at work, social protection and employment policy in the area of social policy and employment; with regard to security of supply measures, energy efficiency and renewable energy and nuclear energy in the area of energy; industrial strategy in the area of industrial policy; the chapters on small and medium-sized enterprises, science and research, education and training and culture and audio-visual policy; territorial organisation in the area of regional policy; nature protection and air quality in the field of the environment; the areas of migration, the fight against terrorism, customs cooperation and human rights legal instruments in the justice and home affairs chapter; customs union legislation, external relations and common foreign and security policy; the areas of public internal financial control and external audit in the field of financial control; and with regard to financial and budgetary provisions.

Secondly, Bulgaria needs to make increased efforts in certain areas in order to complete its preparations for accession.

This includes the non-harmonised area and public procurement in the chapter of free movement of goods; mutual recognition of professional qualifications in the field of free movement of persons; the right of establishment, the areas of banking, investment services and securities markets, information society regulations and protection of personal data in the chapter on freedom to provide services; money laundering in the area of the free movement of capital; most common market organisations and the external trade mechanisms in the field of agriculture, as well as common measures in the veterinary field; fleet management, inspection and control, structural actions and market policy in relation to

fisheries policy.

This also includes the fields of: air transport and maritime transport in transport policy; excise duties, direct taxation, administrative cooperation and mutual assistance in the field of taxation; the areas of labour law, social dialogue, public health, the European Social Fund (except the operational programme for strengthening the institutional capacity and the efficiency of public administration, for which a serious concern exists), anti-discrimination and social inclusion in the chapter on social policy and employment; competitiveness and the internal energy market in the area of energy; privatisation and restructuring measures in the area of industrial policy, and in particular of the steel industry; telecommunications and information technologies; the legislative framework and the areas of programming and monitoring and evaluation in the field of regional policy; horizontal legislation, and the areas of water quality, industrial pollution and risk management, chemicals and GMOs, nuclear safety and radiation protection and waste management with regard to the environment; the chapter on consumers and health protection; visa policy, the area of asylum, judicial cooperation in civil and criminal matters, the fight against drugs and money laundering, and data protection in the field of justice and home affairs; administrative and operational capacities to apply the customs union rules; and the control over structural action expenditure and the protection of the EU financial interests in the financial control chapter.

Thirdly, Bulgaria must take immediate and decisive action to address issues of serious concern if it is to be ready by the envisaged date of accession.

This covers the protection of intellectual and industrial property rights in the company law field and motor vehicle insurance in the services chapter. It concerns the paying agency and the integrated administration and control system as well as the common market organisation on milk, transmissible spongiforme encephalopathies (TSEs) and animal by-products (in particular the construction of a second rendering plant and the introduction of a feed ban), the veterinary control system (identification and registration of animals, the establishment of border inspection posts) and animal diseases control, the trade in live animals and animal products, veterinary public health and animal welfare in the chapter on agriculture; institutional structures and financial management and control in the area of regional policy, including in relation to the above-mentioned operational programme under the European Social Fund. Finally, urgent action is required in the field of justice and home affairs, in particular as regards preparations for applying the Schengen acquis and for the management of the future EU external border as well as police cooperation and the fight against organised crime and fraud and corruption, if Bulgaria is to be ready for membership by the envisaged date.

(1) Developments concerning industrial policy should be seen in relation to overall enterprise policy, including SME policy (see Chapter 16 - Small and medium-sized enterprises).

(2) Developments concerning SME policy should be seen in relation to overall enterprise policy, including industrial policy (see Chapter 15 - Industrial policy).

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□ [Annexes](#) (54.29 Kb)

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