

**EUROPEAN UNION COMMON POSITION
(Replaces doc. 20260/01 CONF-BG 21/01)**

Subject : Chapter 28: Financial Control

This position of the European Union is based on its general position for the Accession Conference with Bulgaria (CONF-BG 2/00), and is subject to the negotiating principles endorsed by the Conference (CONF-BG 14/00), in particular:

- "- any view expressed by either party on a chapter of the negotiations will in no way prejudice the position which may be taken on other chapters;
- agreements - even partial - reached during the course of the negotiations on chapters to be examined successively may not be considered as final until an overall agreement has been established".

The EU underlines the importance for Bulgaria of compliance with the Association Agreement as well as with the Accession Partnership, which constitute basic elements of the enhanced pre-accession strategy. The EU encourages Bulgaria to continue the process of alignment with the *acquis* and its effective implementation.

The EU recalls that Bulgaria, in its positions CONF-BG 4/01, 46/02 and 48/02 ADD 25, accepts the *acquis* as in force on 30 June 2002 and declares that it will be able to implement it by the time of accession. The EU takes note of the additional information provided by Bulgaria (CONF-BG 44/01, 82/01 and 47/02), relating to its public internal financial control systems, external audit, EU pre-accession and future funding as well as to the protection of the EU financial interests.

The EU underlines that it is important for Bulgaria to continue close co-operation with Community bodies to ensure, upon accession, sound financial management, transparency and control of the use of EU funds, as well as the protection of the financial interests of the EU.

With regard to Public Internal Financial Control (PIFC), the EU notes the elaboration of the Act on the Amendments to the PIFC Act, which has been adopted by the government on 22 August 2002 and is currently undergoing the Parliamentary procedure. The Act, which is expected to be adopted in October 2002, improves the functional independence of the PIFC Agency, establishes the ex ante financial control function within the budget spending centres and abolishes the practice of partially financing the PIFC Agency out of fines put on the auditees. The EU notes furthermore the establishment in July 2002 of the Council for Public Internal Financial Control with the aim to enhance the development and the implementation of PIFC policies in the public sector. The Council consists of the Ministers, the President of the National Audit Office (NAO) and the Director of the PIFC Agency. The EU takes furthermore note of the adoption and entering into force in May 2001 of the Regulation on the Implementation of the Public Internal Financial Control Act. The EU notes that the guidelines on the organisation of financial management and control systems in the spending centres have been endorsed by the PIFC Agency in July 2001. The EU notes that the PIFC Agency, which is centrally responsible for internal audit in Bulgaria, has delegated internal auditors to 12 Ministries and to 27 municipalities. The EU takes note of Bulgaria's commitment to delegate internal auditors to 4 remaining Ministries by the end of September 2002. The EU furthermore takes note of the adoption of the Manual on the Control over Public Procurement Procedures and of the instructions on the activities of the delegated internal auditors, on the common rules for the performance of the internal audit and the preventive control. The EU takes note of the timetable for the elaboration, in the course of 2002, of further PIFC Manuals and Audit Trails relating, among others, to control over the EU pre-accession and future funding. The EU invites Bulgaria to keep the EU informed about the progress in the adoption of these documents allowing for an adequate implementation of the PIFC systems in Bulgaria.

Concerning the administrative capacity, the EU takes note of the information on the level of staffing in the central and regional branches of the PIFC Agency and on the training activities for the PIFC staff.

With regard to the combination of the tasks within the PIFC Agency, the EU notes that the PIFC Agency does not carry out functions related to the criminal investigations and that, in cases where the audit data indicates the commitment of crime, it submits these data to the authorities of Public Prosecution.

With regard to external audit, the EU notes that the National Audit Office (NAO) Act has been adopted on 4 December 2001. The EU notes that the Draft Act ensures the compliance of the NAO's activities with internationally accepted and EU-compliant external audit standards, covers audits of EU funded activities and improves the formal mechanism for the follow-up procedures of the NAO audit reports by the Parliament. The EU notes the adoption of the secondary legislation aiming, among others, at the improvement of the relationship between the NAO and the Parliament as well as between the NAO, the PIFC Agency and the Office of Chief Prosecutor.

The EU takes note of the adoption in April 2001 of the National External Audit Standards and of the ongoing elaboration of the Audit Manual to implement these standards.

The EU encourages Bulgaria to continue its efforts with regard to control measures relating to EU Own Resources and invites it to closely follow up any future changes of the EU financial system in order to adapt its own mechanisms as necessary. The control modules developed by Member States in co-ordination with the Commission in the framework of the Joint Audit Initiative for improving national administration systems for establishing the EU own resources should be taken into consideration. Furthermore, the EU underlines in this context the importance for Bulgaria of ensuring timely fiscal controls and an effective customs administration.

With regard to EU pre-accession and future funding, the EU takes note of Bulgaria's plans to adopt in the course of 2002 several Regulations relating to the control measures of the EU pre-accession and future funding, among others the Regulation on Certification Procedures (to be adopted in October 2002) and on the Risk Assessment Procedures (to be adopted in December 2002). The EU also takes note of Bulgaria's commitment to develop by the end of 2002 Audit Manuals and Audit Trail related to PHARE and ISPA. With regard to the role of PIFC Agency in auditing of ISPA projects, the EU notes that internal auditors from the PIFC Agency have been delegated to audit the ISPA Agencies.

The EU takes note of the conferral of management of the SAPARD system to Bulgaria, which was decided on 14 May 2001. The EU also notes that Audit Manuals and Audit Trail for the SAPARD Agency have been elaborated as a part of the accreditation process.

The EU underlines that the correct use, control, monitoring and evaluation of EU funding will constitute a key indicator of Bulgaria's ability to implement the financial control *acquis*.

Regarding protection of EU financial interests, the EU notes that Bulgaria is currently in the process of identifying an adequate institution to be a single contact point for co-operation with the EU bodies in charge of the protection of the EU financial interests and that this institution is expected to be designated by the end of 2002 at the latest.

The EU invites Bulgaria to ensure the development of the administrative capacity necessary to implement the *acquis* in this field, including the capacity of the Bulgarian law enforcement bodies and judiciary to address cases where EU financial interests are at stake. The first stage of the SIGMA peer review of Bulgaria's PIFC (Public Internal Financial Control) System noted that further efforts are needed to increase the coherence and depth of institutional reform. The EU notes that the second phase of the peer review, due to take place in early 2003, will provide an update on the issues identified in the first phase.

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The EU notes that, at this stage, this chapter does not require further negotiation. Monitoring of the progress in the alignment with and implementation of the *acquis* will continue throughout the negotiations, in particular concerning public internal financial control, external audit, control measures related to EU pre-accession and future funding and the protection of EU financial interests. A final assessment on the conformity of Bulgaria's legislation, structures and policies with the *acquis* and its implementation can only be made at a later stage of the negotiations. Particular consideration needs to be given to the links between the present chapter and other negotiating chapters, notably those on Agriculture, Taxation, Statistics, Regional Policy and Coordination of Structural Instruments, Customs Union, and Financial and Budgetary Provisions. In addition to all the information the EU may require for the negotiations on this chapter and which is to be provided to the conference, the EU invites Bulgaria to provide regularly detailed, written information to the Association Council on progress in its alignment with the implementation of the *acquis*.

The EU will also keep under close review throughout the negotiations developments affecting the conditions under which agreements have been reached in this chapter.

In view of the above considerations, the EU may return to this chapter at an appropriate moment.

Furthermore, the EU recalls that there may be new *acquis* between 1 July 2002 and the conclusion of the negotiations.
