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ON

BULGARIA'S

PROGRESS TOWARDS ACCESSION

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A. Introduction

a) Preface

In Agenda 2000, the Commission said it would report regularly to the European Council on progress made by each of the candidate countries of Central and Eastern Europe with preparations for membership, and that it would submit its first Report at the end of 1998.

The Luxembourg European Council decided that:

“From the end of 1998, the Commission will make Regular Reports to the Council, together with any necessary recommendations for opening bilateral intergovernmental conferences, reviewing the progress of each Central and Eastern European applicant State towards accession in the light of the Copenhagen criteria, in particular the rate at which it is adopting the Union *acquis* [...] The Commission’s reports will serve as the basis for taking, in the Council context, the necessary decisions on the conduct of the accession negotiations or their extension to other applicants. In that context, the Commission will continue to follow the method adopted by Agenda 2000 in evaluating applicant States’ ability to meet the economic criteria and fulfil the obligations deriving from accession.”

On this basis, the Commission presented a first series of Regular Reports in October 1998, a second in October 1999, a third in November 2000, and a fourth in November 2001.

In its 2001 Enlargement Strategy Paper, which accompanied the 2001 Regular Reports, the Commission indicated that, given the pace of negotiations and the progress made so far, the Commission should be able to make recommendations on those candidate countries ready for accession on the basis of its 2002 Regular Reports. At its meeting in Seville in June 2002, the European Council concluded that “in order to enable the European Council to be held in the coming autumn to decide which will be the candidate countries with which negotiations can be concluded at the end of 2002, [...] the Commission will have to draft appropriate recommendations in the light of the Regular Reports.” The Commission has prepared this fifth series of Regular Reports with a view to the Brussels European Council in autumn 2002.

The structure followed for this Regular Report is largely the same as that used for the 2000 and 2001 Regular Reports. In line with previous Regular Reports, the present Report:

- describes the relations between Bulgaria and the Union, in particular in the framework of the Association Agreement;
- analyses the situation in respect of the political criteria set by the 1993 Copenhagen European Council (democracy, rule of law, human rights, protection of minorities);
- assesses Bulgaria’s situation and prospects in respect of the economic criteria defined by the Copenhagen European Council (a functioning market economy and the capacity to cope with competitive pressures and market forces within the Union);

- addresses the question of Bulgaria's capacity to assume the obligations of membership, that is, the *acquis* as expressed in the Treaties, the secondary legislation, and the policies of the Union. In this part, special attention is paid to nuclear safety standards, which were emphasised by the Cologne and Helsinki European Councils. This part includes not only the alignment of legislation, but also the development of the judicial and administrative capacity necessary to implement and enforce the *acquis*. The European Council stressed the importance of this latter aspect at its meeting in Madrid in 1995 and on a number of subsequent occasions, most recently at Seville in June 2002. At Madrid, the European Council stressed that the candidate countries must adjust their administrative structures, so as to create the conditions for the harmonious integration of these States. The Seville European Council also stressed how important it was that candidate countries should continue to make progress with the implementation and effective application of the *acquis*, and added that candidate countries must take all necessary measures to bring their administrative and judicial capacity up to the required level.

This Report takes into consideration progress since the 2001 Regular Report. It covers the period until 15 September 2002. In some particular cases, however, measures taken after that date are mentioned. It looks at whether planned reforms, referred to in the 2001 Regular Report have been carried out, and examines new initiatives. In addition, this Report provides an overall assessment of the overall situation for each of the aspects under consideration, setting out for each of them the main steps still to be taken by Bulgaria in preparing for accession.

Furthermore, in view of the fact that the 2002 Regular Reports will provide the basis on which the Commission will formulate its recommendations as to which countries are ready to conclude negotiations, this Report includes an evaluation of Bulgaria's track record since the 1997 Opinion. As regards the economic criteria, the report also provides a dynamic, forward-looking evaluation of Bulgaria's economic performance.

For each of the negotiating chapters, this Report provides a summary evaluation of the extent to which commitments made in the negotiations have been implemented, as well as an overview of transitional arrangements that have been granted. The commitments made by each country reflect the result of the accession negotiations, and, in accordance with the principle of differentiation underlying the negotiation process, may differ between countries. Where negotiating countries have committed themselves to completing specific measures by the time of accession, the Commission assesses the relevant preparatory processes. For chapters on which the accession negotiations continue, and final commitments remain to be defined, an indicative assessment is given of the state of implementation of the commitments that have been made to date.

Bulgaria has set itself 2007 as the target date for accession. The time scale for the implementation of commitments made by Bulgaria takes account of this perspective.

The Report contains a separate section examining the extent to which Bulgaria has addressed the Accession Partnership priorities. This section also assesses the progress Bulgaria has made in implementing the measures set out in the Action Plan for strengthening administrative and judicial capacity that the Commission has developed with each negotiating country in the spring of 2002.

As has been the case in previous Reports, “progress” has been measured on the basis of decisions actually taken, legislation actually adopted, international conventions actually ratified (with due attention being given to implementation), and measures actually implemented. As a matter of principle, legislation or measures which are in various stages of either preparation or Parliamentary approval have not been taken into account. This approach ensures equal treatment for all the candidate countries and permits an objective assessment of each country in terms of their concrete progress in preparing for accession.

The Report draws on numerous sources of information. The candidate countries have been invited to provide information on progress made in preparations for membership since the publication of the last Regular Report. The information each of the candidate countries has provided within the framework of the Association Agreement and the negotiations, the National Programmes for the Adoption of the *Acquis* where they are available, as well as the process of developing the Action Plans, and various peer reviews that have taken place to assess candidate countries' administrative capacity in a number of areas, have served as additional sources. Council deliberations and European Parliament reports and resolutions¹ have been taken into account in the preparations. The Commission has also drawn on assessments made by various international organisations, and in particular the contributions of the Council of Europe, the OSCE and the international financial institutions, as well as those of non-governmental organisations.

b) Relations between the European Union and Bulgaria

Recent developments under the Europe Agreement, including bilateral trade

Bulgaria has continued to implement the Europe Agreement and has contributed to the smooth functioning of the various joint institutions.

The Association Council met in November 2001. An Association Committee meeting was held in July 2002. The system of sub-committees continues to function as a forum for technical discussions.

The Joint Parliamentary Committee comprising representatives of the Bulgarian and European Parliaments met in June 2002. The Joint Consultative Committee with the Economic and Social Committee met in April 2002. In July 2002, an Association Council adopted a Decision to create a Joint Consultative Committee between representatives of Bulgaria and of the Committee of the Regions.

The share of the European Community in Bulgaria's foreign trade has continued to increase. Turnover in trade with the EC in 2001 was 19.4% up on 2000 and accounted for 51.6% of Bulgaria's overall trade. In 2001, exports to the EC were 13 % up on 2000, accounting for 54.8% (€ 3.4 billion) of Bulgaria's total export sales. Its main industrial exports to the EC were metals (copper and iron) and textiles (clothing). Bulgaria's main agricultural exports to the EC were wine, meat, sunflower seeds and tobacco. In 2001, imports from the EC were up by 24.9% on 2000, accounting for 49.4% (€ 3.8 billion) of Bulgaria's total imports. Its main industrial imports were vehicles and pharmaceuticals. Its main agricultural imports were food products, animal feed, alcohol and spirits.

¹ For the European Parliament the *rapporteur* is Geoffrey van Orden.

Under the agreement resulting from the first round of trade negotiations in the agriculture sector (adopted on an autonomous basis, pending the conclusion of an Additional Protocol to the Europe Agreement), approximately 58% of EC agricultural imports from Bulgaria and 82% of EC agricultural exports to Bulgaria are duty-free or benefit from preferential rates (average trade figures 1998-2000).

Negotiations on a further round of liberalisation, covering more sensitive sectors where trade is currently rather low, in particular on account of high border protection rates, began at the end of 2001.

For processed agricultural products, additional mutual trade concessions have been negotiated and an agreement reached during the first half of 2002. The agreement adopted by the Association Council entered into force in September 2002. This agreement covers additional trade concessions regarding import duties and quotas.

Negotiations regarding a free trade agreement on fish and fishery products are near completion.

With regard to rules of origin, Bulgaria participates in the pan-European zone for cumulation of origin and introduced and applied the modifications and annexes to the multilaterally agreed rules of origin for preferential trade partners (European Union, EFTA, CEFTA and Turkey) as of 1 January 2002.

An anti-dumping complaint relating to imports of urea was lodged in October 2000 against Bulgaria (among other countries). The investigation was concluded and definitive duties reapplied as of January 2002. Definitive anti-dumping duties were imposed in May 2002 on imports of hot rolled coils. Bulgaria has initiated a safeguard investigation against the EC on imports of urea.

In March 2002, in response to protectionist measures taken by the US, which greatly restricted access to their market and created the risk of considerable trade diversion, the EU initiated provisional safeguard measures, with erga omnes effect, on imports of certain steel products. The measures were partly confirmed in September 2002.

Accession Partnership

A revised Accession Partnership was adopted in January 2002. Its implementation is reviewed in Part D of this Report.

Action Plan for reinforcing administrative and judicial capacity

As announced in the Commission's 2001 Enlargement Strategy, in spring 2002 the Commission and Bulgaria jointly developed an Action Plan to strengthen Bulgaria's administrative and judicial capacity, on which a common understanding was reached in April. The revised Accession Partnership adopted in January has served as the point of departure for this exercise.

The purpose of this Action Plan is to identify jointly the next steps required for Bulgaria to achieve an adequate level of administrative and judicial capacity by the time of accession, and ensure that all necessary measures in this regard are taken, providing Bulgaria with targeted assistance in areas that are essential for the functioning of an

enlarged Union. As such, the Action Plan is a key tool for meeting the common objective of the EU and Bulgaria, i.e. to ensure that Bulgaria's preparations for accession take place as effectively as possible within the planned timeframe.

The implementation of the Action Plan is reviewed in Part D of this Report.

National Programme for the Adoption of the Acquis

There has been no update of the National Programme for the Adoption of the Acquis during the reporting period.

Community Assistance

Three **pre-accession instruments** have been financed by the European Community to assist the applicant countries of Central and Eastern Europe with their pre-accession preparations: the **Phare** programme; **SAPARD**, which provides aid for agricultural and rural development; and **ISPA**, which finances infrastructure projects in the fields of environment and transport. The support provided by these programmes is focused on the Accession Partnership priorities which are intended to help the candidate countries meet the criteria for membership.

For the years 2000-2002, total financial assistance to Bulgaria amounts to around € 100 million annually from Phare, € 53 million from SAPARD, and between € 83 and 125 million from ISPA.

The **Phare** programme has been providing support to the countries of Central and Eastern Europe since 1989, helping them through a period of fundamental economic and social transition and political change. Its current "pre-accession" focus was established in 1997, in response to the Luxembourg European Council's launching of the present enlargement process.

Phare provides the applicant countries of Central and Eastern Europe with support for institution building, investment to strengthen the regulatory infrastructure needed to ensure compliance with the *acquis*, and investment in economic and social cohesion. This support comprises co-financing for technical assistance, "twinning" and investment-support projects, to help these countries with their efforts to adopt the *acquis* and strengthen the institutions necessary for implementing and enforcing the *acquis*. Phare also helps the candidate countries develop the mechanisms and institutions that will be needed to implement Structural Funds after accession and is supported by a limited number of measures (investment and grant schemes) with a regional or thematic focus. In the context of the Action Plans for strengthening administrative and judicial capacity, particular emphasis is placed on the issue of institution building and associated investment intended to ensure compliance with the *acquis*. For 2002, the Commission has mobilised special financial assistance of up to € 250 million to accompany negotiating countries' efforts, over and above the indicative annual allocations for each of the Phare countries, bringing total Community assistance for strengthening the administrative and judicial capacity of the negotiating countries in 2002 to around €1 billion.

In addition to its annual Phare allocation, Bulgaria receives additional Phare funding in the framework of the understanding reached in November 1999 on early closure dates for

Units 1 to 4 of the Kozloduy nuclear power plant. The agreement makes provision for additional Phare funding of € 200 million over the period 2000-2007, subject to certain conditions being met. The funds are used for nuclear decommissioning and associated measures in the energy sector, and are largely managed by the EBRD.

The Phare programme allocated commitments of € 1000 million to Bulgaria during the 1992-1999 period, € 146 million in 2000, and € 110.8 million in 2001². The **2002 Phare Programme** for Bulgaria consists of an allocation of € 72 million for the National Programme, complemented by € 22.9 million under the Phare 2002 supplementary institution building facility. The 2002 Phare programme focuses on the following priorities:

- Economic reform and the adoption and implementation of the acquis: projects to improve the business environment and assist with the pre-accession strategy for agriculture and institution building; phytosanitary, veterinary and TSE control; company law; competition policy; consumer and health protection; gas liberalisation; wetlands management; and national conformity assessment (€ 24 million).
- Economic and social cohesion: projects to enhance youth employment; develop eco-tourism; and support the reform of vocational education and training. In addition, an unallocated amount for institution building was introduced, with the key objective of helping to implement institutional change and capacity building in support of Bulgaria's strategy for transition to the Structural Funds (€ 14 million).
- Strengthening public administration: projects to implement the strategy for judicial reform; combat corruption (four projects); strengthen the Public Prosecutor's Office; strengthen human resource capacity in the public administration; develop customs standards and practices and border control; implement the National Schengen Action Plan; strengthen border control and management; improve regional statistics; and develop tax standards and practice. (€ 36 million).
- Ethnic integration and civil society: projects to foster a more active and self-sustaining civil society; and promote social development in areas with disadvantaged minority populations (€ 8 million).

An additional € 28 million was allocated for cross-border co-operation programmes mainly for infrastructure projects on Bulgaria's borders with Greece and Romania.

Bulgaria also participates in and benefits from Phare funded multi-country and horizontal programmes, such as TAIEX, the Small and Medium-sized Enterprises Facility, SIGMA and the nuclear safety programme.

Furthermore, Bulgaria currently participates in the following Community programmes and agencies using Phare funds: Culture, Customs 2002, the Multi-annual Programme for Enterprises and Entrepreneurship, European Digital Content for the Global Networks, European Environmental Agency, Leonardo da Vinci II, Media (Plus), Socrates II and Youth. It also takes part in the Fifth Framework Research Programme, including

² These figures include an allocation for Cross-Border Co-operation (CBC) Programmes of € 28 million in 2000, and € 28 million in 2001. In addition, it received an allocation for nuclear decommissioning of € 27 million in 2000, and € 70 million in 2001.

Euratom. Phare helps meet part of the costs of participation in these programmes and agencies. In order to streamline Community legal procedures and thereby facilitate future participation by Bulgaria in Community programmes, a Decision is in the process of being adopted by the EU-Bulgaria Association Council establishing the general principles for such participation.

Overall, the impact of Phare has been positive. Effective transfer of know-how, equipment and financial resources has taken place in a number of important fields such as agriculture, customs, border police, public sector finances and the environment. Phare support in the area of customs has strengthened customs operations and management and provided a basis for the Bulgarian government's current package of broad-based reforms and improvements..

In Bulgaria, Phare played a particularly important role in the following:

- Supporting institution building and the approximation of air quality legislation through a twinning arrangement worth € 0.55 million. The project has helped with a detailed analysis of and programme for improving air quality in the area of the municipality of Pernik. It has contributed to the dissemination of knowledge on air quality assessment and management and can be replicated.
- The EC allocated some € 0.6 million under Phare 1998 and 1999 to support systems for animal identification and veterinary surveillance and to enable bovine identification, registration and movement control. The results obtained so far significantly improve surveillance of the epidemiological situation of bovines in Bulgaria, essential if unrestricted trade with the EC is to recommence.
- The creation of the SAPARD Agency in Bulgaria was supported by a succession of Phare projects, delivered by consultants and SIGMA experts. Bulgaria was the first candidate country to secure partial accreditation of its SAPARD Agency in May 2001, allowing implementation of the SAPARD programme to commence.

The 2000 Phare Review confirmed the accession-driven approach and emphasised the importance of helping countries to prepare for the Structural Funds. The trends introduced in 1997 have continued, with an increased role for Commission Delegations, further streamlining of procedures and increasing emphasis on raising the verifiable and quantifiable impact of Phare projects on institution building, investment in compliance with the *acquis*, and economic and social cohesion.

The Review also provided for the possibility of further decentralisation of Phare management by waiving the requirement for *ex ante* approval by the Commission Delegations for tendering and contracting. For this to be possible strict pre-conditions covering programme management, financial control and structures regarding public finance must be met. An extended decentralised implementation system (EDIS) should be put in place for each negotiating country at the latest by the time of accession. High Level Working Groups are being established for each country to oversee this process, along with other key procedural steps in the run up to accession.

The Commission approved the Bulgarian **SAPARD** programme in October 2000. The indicative allocation for SAPARD in Bulgaria for 2002 is € 54.6 million at 2002 prices (allocation 2001: € 54 million at 2001 prices).

The operational programme is based on four priorities: Improvement of the production, processing and marketing of agricultural and forestry products as well as the processing and marketing of fishery products in compliance with the acquis; promotion of environmentally - friendly farming and environmental protection; integrated rural development aimed at protecting and strengthening rural economies and communities; investment in human resources and technical assistance.

The Multi-annual Financing Agreement (MAFA), which sets out the rules for implementing SAPARD, was signed in December 2000. *The Annual Financing Agreement (AFA)* setting out the Community financial commitment for the year 2000 is in force since April 2001. The AFA 2001 was signed in February 2002. It will enter into force when Bulgaria notifies the Commission of the completion of all requisite national formalities.

The following structures are responsible for the implementation of SAPARD: the National Fund, located within the Ministry of Finance administers SAPARD funds allocated under the responsibility of the National Authorising Officer (NAO) and is responsible for the national accreditation of the SAPARD Agency; the Ministers of Finance and Agriculture have been appointed Competent Authority; the State Fund of Agriculture (SFA) has been designated as the SAPARD Agency, responsible for the implementation of the programme and for payment of financial aid to beneficiaries; the Managing Authority is the Ministry of Agriculture.

Bulgaria was the first candidate country to have its SAPARD Agency accredited and to receive provisional conferral of management authority (Commission Decision of May 2001). Its initial mandate is for the implementation, on a fully decentralised basis, of 3 out of 11 measures of the SAPARD programme (covering 61% of the amount available for Bulgaria and targeting investments in agricultural holdings, processing and marketing and diversification of economic activities).

An initial payment on account of € 13 million was made to the SAPARD € Account in the National Fund. Up until May 2002, additional payments of € 1.4 million were made. By 2002 the SAPARD Agency had received 258 project applications submitted by potential beneficiaries and approved contracts for the implementation of 156 selected projects, involving around € 20.7 million of public support.

A Monitoring Committee has been established by the Managing Authority and has met three times.

The **ISPA** programming framework is governed by the environment and transport strategies drawn up by the Bulgarian authorities in agreement with the Commission. In the case of transport infrastructure, the emphasis is on completing or upgrading the main Trans-European Networks and developing border connections. Priorities include the upgrading of railway infrastructure along priority sections of TINA corridors (Transport Infrastructure Needs Assessment: 5 of the 10 priority TINA corridors pass through Bulgaria) so as to enable higher speeds and improved services, and completing the reconstruction and modernisation of major highway sections through pan-European transport corridors. As for the environment, the Bulgarian Government has focused on the improvement of water quality. Urban waste management and air pollution are also priority areas.

Three environmental projects were approved in 2001: waste water collection and treatment projects in Gorna (€ 12.5 million) and Pazardjik (€ 12.4 million), and a waste water treatment plant in Blagoevgrad (€ 8.5 million). Two transport projects were approved in 2001: upgrading and electrifying the railway track between Plovdiv and Svilengrad (€ 153 million) and a technical assistance project for the Danube bridge (both rail and road) (€ 5.0 million).

Implementation of ISPA projects in Bulgaria is progressing slowly and the capacities of some of the implementing agencies are limited. An audit of financial management and control systems carried out in December 2001 made recommendations for the strengthening of structures and improvement of procedures. An adequate pipeline of projects should be prepared so as to be ready to take up the full future allocation of ISPA resources. Technical assistance from ISPA is available for all preparatory stages of projects, including technical, financial and economic feasibility studies, and environmental assessments. Moves towards the extended decentralisation (EDIS) of ISPA in Bulgaria are currently in progress.

The full (mid-range) allocation for Bulgaria has been committed, i.e. € 210.8 million, (€ 104 million for 2000 and € 106.8 million for 2001). The allocation for 2002 will be between € 87.1 million and € 130.7 million.

Twinning

One of the main challenges still facing the candidate countries is the need to strengthen their administrative and judicial capacity to implement and enforce the *acquis*. As of 1998, the European Commission began to mobilise significant human and financial resources to help them with this process, using the mechanism of twinning administrations and agencies. In 2001, the Commission strengthened this emphasis on institution building further, through the launch of the Action Plans for strengthening administrative and judicial capacity.

The twinning process makes the vast body of Member States' expertise available to the candidate countries through the long-term secondment of civil servants and accompanying short-term expert missions and training.

A total of 503 twinning projects were funded by the Community between 1998 and 2001. Between 1998 and 2000, these projects primarily targeted the main priority sectors identified in the Accession Partnerships: agriculture, the environment, public finance, justice and home affairs and preparation for the management of Structural Funds. Since 2000, other important sectors of the *acquis* have also been addressed through twinning, such as social policy, the fight against drugs, transport, and telecommunications regulation. Twinning now covers all sectors pursuant to the *acquis*.

Thanks to the strong support of the EU Member States, 103 twinning partnerships were funded by Phare 1998 involving all the candidate countries and almost all the Member States. These first-generation projects have already come to an end. Under Phare 1999, a further 123 projects are currently being implemented and the programming exercise for Phare 2000 included a further 146 twinning projects. The 2001 programming exercise includes 131 twinning projects embracing all the Phare beneficiary countries, as well as Cyprus and Malta. Under the 2002 programming exercise, 119 twinning projects have already been planned and approved for implementation. A substantial number of

additional twinning projects are planned, and these should be approved and implementation launched before the end of 2002. They include twinning projects identified in the Action Plans for strengthening administrative and judicial capacity in the negotiating countries. It is estimated that around 300 twinning projects are operational throughout the candidate countries at any one time. Furthermore, the candidate countries are being offered a further way of drawing on Member States' expertise through "Twinning light", a mechanism to address carefully-circumscribed projects of limited scope which emerge during the negotiation process as requiring adaptation.

For Bulgaria, eleven projects are being delivered under the 1998 Phare programme, fifteen under the 1999 programme, fourteen under the 2000 programme and twelve under the 2001 programme wholly or partly using twinning. Twinning will again be an important element under the 2002 programme, contributing to the results of around fifteen projects. These span a broad range of sectors including improving the business environment, agriculture, rural development, veterinary control, company law, competition policy, consumer health, eco-tourism, judicial and administrative strengthening, combating corruption and border control.

Negotiations

Bulgaria has met the objectives set in the Laeken European Council Conclusions to open all the negotiation chapters in 2002. This was achieved during the Spanish Presidency in the first half of 2002.

By the end of September 2002, the following 22 chapters had been provisionally closed: Free movement of goods, Free movement of persons, Freedom to provide services, Free movement of capital, Company law, Fisheries, Taxation, Financial Control, Economic and Monetary Union, Statistics, Social policy and employment, Industrial policy, Small and medium-sized enterprises, Science and research, Education and training, Telecommunications and Information Technology, Culture and audio-visual policy, Consumers and health protection, Customs Union, External relations, Common foreign and security policy, Institutions.

B. Criteria for membership

1. Political criteria

Introduction

The political criteria for accession to be met by the candidate countries, as laid down by the Copenhagen European Council in June 1993, stipulate that these countries must have achieved “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.”³

In its 1997 Opinion on Bulgaria's application for EU membership, the Commission concluded:

“Bulgaria has set up democratic institutions and their stability now seems secure. They must be reinforced by practices more in keeping with the rule of law at all levels of the State apparatus. Free and fair elections produced changeovers of government in 1994 and 1997.

Shortcomings remain on respect for fundamental rights but the new government elected in April 1997 has announced a series of reforms in the right direction. Considerable efforts must be made to combat corruption, improve administration of justice and provide fuller protection for individual freedoms, particularly as cases of abuse of power on the part of the police and the secret services are still all too frequent.

Although the Turkish minority seems well integrated, this is not the case with the Romany (tzigane) population.

The improvements since the new government came to power suggest that Bulgaria is on the way to meeting the political conditions set by the European Council in Copenhagen.”

In its 2001 Regular Report, the Commission found that:

"In its 1997 Opinion, the Commission concluded that Bulgaria fulfilled the political criteria. Since that time, Bulgaria has made considerable progress in further consolidating and deepening the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. Over the past year, further efforts have been made in this direction. Bulgaria continues to fulfil the Copenhagen political criteria.

Since last year, further progress has been made in public administration reform. Many employees have civil servant status and there is now a Code of Ethics for Civil Servants.

³ In the meantime, through the entry into force of the Treaty of Amsterdam in May 1999, the political criteria defined at Copenhagen have been essentially enshrined as a constitutional principle in the Treaty on European Union. Article 6(1) of the consolidated Treaty on European Union reads: "The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law." Accordingly, Article 49 of the consolidated Treaty stipulates that "Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union." More recently, these principles were emphasised in the Charter of Fundamental Rights of the European Union, that was proclaimed at the Nice European Council in December 2000.

The Law on Access to Public Information is a positive step, but needs further clarification to ensure effective implementation. Further steps are needed to ensure an efficient, transparent and accountable public administration.

The recent adoption by the government of two strategies, one on judicial reform and the other on combating corruption, is a significant development. The challenge now is to implement these. The judicial system remains weak and there is as yet no reason to change the assessment made last year that further efforts are needed for it to become strong, independent, effective and professional and able to guarantee full respect for the rule of law as well as effective participation in the internal market. Corruption has continued to give serious cause for concern. Enforcing the legal framework effectively presents a challenge and greater focus is needed on prevention of corruption.

Some progress has been made on human rights training of police and on combating trafficking of human beings. However, there is a need to address police behaviour, notably as regards reported cases of ill-treatment, which continues to give cause for serious concern.

A child protection agency and a national advisory council for child protection have been set up. Further steps need to be taken to make the Child Protection Agency operational. On child welfare, there is not yet a significant change in the number of children in institutions. Poor conditions in some homes for children with mental disabilities are cause for concern.

Roma continue to suffer from widespread social discrimination. Political commitment from the government to remedy their problems has still not been matched by concrete action. One more positive development is that some NGOs have pursued projects on desegregation of Roma schools.

Very little further progress has been made to meet the Accession Partnership priority to start implementation of the Roma Framework Programme, and to strengthen the National Council on Ethnic and Demographic Issues.

Concerning other related Accession Partnership priorities, Bulgaria has made further progress to implement the Civil Service Law. However, the priority of strengthening the judiciary has not yet been met."

The section below provides an assessment of developments in Bulgaria, seen from the perspective of the Copenhagen political criteria, including the overall functioning of the country's executive and its judicial system. Such developments are in many ways closely linked to developments regarding Bulgaria's ability to implement the *acquis*, in particular in the domain of justice and home affairs. Specific information on the development of Bulgaria's ability to implement the *acquis* in the field of justice and home affairs can be found in the relevant section (*Chapter 24 - Co-operation in the field of justice and home affairs*) of part *B.3.1.* of this Report.

Recent developments

The political situation has remained stable over the past year. The Government has pursued the policy of integration with the European Union. The broad political support for EU and NATO accession has been further consolidated and there is a strong degree of

consensus on this between President, government and all the political forces in Parliament.

A strategy for accelerating Bulgaria's negotiations for accession to the EU was adopted in February 2002 by the National Assembly. The need for certain changes to the Constitution ahead of EU membership has been acknowledged and a broad debate began in July 2002.

Presidential elections took place in November 2001. President Georgi Parvanov, former leader of the Bulgarian Socialist Party, was elected new President of the Republic of Bulgaria. The OSCE-ODIHR decided not to deploy a monitoring mission.

The National Movement Simeon II (NMS), in governmental coalition with the Movement for Rights and Freedoms, was established as a political party in April 2002 and the Prime Minister was elected NMS party leader.

1.1. Democracy and the rule of law

Bulgaria has achieved stability of institutions guaranteeing democracy and the rule of law. This was the conclusion of the 1997 Opinion and the subsequent Regular Reports, and has been confirmed by developments over the past year. This section focuses on the most significant developments since the last Regular Report.

The parliament

Parliament has continued to operate satisfactorily over the past year. The Committee on European Integration continues to take decisions through consensus, which is considered a reflection of the strong support of all parties represented in Parliament for EU membership. The composition of the committee reflects the number of seats each party has in Parliament.

The structure of the parliamentary administration responsible for EU integration changed in April 2002 with the creation of a new Directorate for Legislation and European Law formed by merging the former European Integration Directorate with the former Law and Legislation Directorate. The new structure should improve the way in which parliamentary committees and the legislative process receive expert advice on EC law, ensuring that such advice is available at all stages of the parliamentary process, not only when a draft law is first submitted to Parliament but in particular between first and second readings, which was sometimes lacking in the past. Attention needs to be paid to ensuring that the new Directorate is adequately staffed.

The executive

Progress on public administration reform has continued since the last Regular Report with further revisions to the legislative framework and the adoption of a Strategy for Modernisation of the State Administration. There has been some improvement in access to information through the implementation of the Law on Access to Public Information, but further improvements are needed.

The main structural changes since the last Regular Report are the creation of a Ministry of Energy and Energy Resources, decided by the Council of Ministers in December 2001, and the appointment of a Minister for European Integration in May 2002.

Reform of public administration is a priority in the Government programme, which sets three main aims: modernisation in line with the principles of the rule of law, market economy and respect for human rights; further strengthening of the capacity to prepare for EU membership; and preparation for effective administration after EU accession. The Minister for State Administration leads work on this.

A Strategy for Modernisation of the State Administration was adopted in June 2002. It is built on five main principles: openness to citizens, participation of social and economic partners and civil society in policy design, accountability of the administration, effectiveness of national policies, and coherence of the political process. Concrete measures are planned: firstly, to strengthen the civil service through a range of improvements to administrative capacity and working methods, including measures to improve planning and policy-making, consultative mechanisms with economic and social partners, to prevent and combat corruption, to integrate minorities and vulnerable groups, and to improve the business climate; secondly, to strengthen the administrative capacity to implement the *acquis communautaire*; and thirdly, to strengthen Bulgaria's administrative capacity for managing structural funds. The time frame for the implementation of the strategy is 2002-2005.

The Laws on State Administration and the Civil Service remain the basic legal framework. Implementation of these has continued. By May 2002, the number of people with civil servant status had increased to about 22660 which represents about 33% of the total number of people employed in the central administration. For district and municipal administration, around 3460 people, about 18% of the 19 000 employees, have civil servant status.

When the Law on State Administration was amended in November 2001, provisions were introduced to regulate the distinction between the political and administrative responsibilities of heads of administrative structures. Whilst this is in general terms a positive change, it is important to ensure that transparent procedures are applied. The provisions permit the dismissal of certain senior officials and their deputies at the discretion of their appointing authority. The Civil Service Law and the Law on State Administration set the general values for public administration. These are legality, loyalty, responsibility, stability, political neutrality and hierarchical subordination. There is a non-binding Code of Conduct but this does not foresee any administrative sanctions for violations of the Code. People working in the public administration are also affected by other laws and regulations, which are not always harmonised, are sometimes difficult to understand and thus leave considerable scope for interpretation. Provisions on conflict of interest for civil servants are not sufficiently clear.

As mentioned last year, transparent and competitive schemes for recruitment and promotion are not mandatory and are the exception rather than the rule. The Civil Service Law defines the salary system. Currently this does not take sufficiently into account the jobs, skills and performance of individual civil servants. Civil service salaries were increased by 10% in 2002, but remain low. There remains a shortage of qualified staff to ensure sustainability of reforms. Human resource management in the state administration is generally very weak and inconsistent across institutions.

The legal framework for administrative decision-making and the numerous administrative procedures in place needs to be simplified and clarified to ensure legal certainty. Administrative justice continues to be regulated by a number of different laws and procedures that result in an overly complex system. The judicial reform strategy includes proposed legal amendments which, when implemented, could help improve the situation. The Supreme Administrative Court has continued to function and has seen an increase in its caseload since the last report.

The main piece of legislation regulating the openness and transparency of public information is the Law on Access to Public Information, in force since July 2000. This law has been amended twice, in January and April 2002, to align its provisions with the new Laws on Personal Data Protection and Classified Information. In the short time the Law on Access to Public Information has been in force, there has been a rise in the number of requests from citizens for access to public information and access has improved significantly. However, a considerable percentage of requests for information is not answered and there remain some imprecise provisions in the law, which leaves scope for discretion. Civil servants responsible for dealing with requests need more special training. There have been several court cases on the basis of the law, which have resulted in interpretations related to its implementation. These include the right of appeal when an administrative body does not reply to a request, and also acknowledgement that the definition of “public information” is imprecise in the law.

The current structure for co-ordination on European integration, of which most elements have been in place for over two years, is clear and works well, and is strengthened by the creation of a post of full Minister for European Integration. The Council of Ministers devotes at least one meeting a month to European integration, and a separate ministerial Council of European Integration, also chaired by the Prime Minister, meets once or twice a month. The two main units supporting this process, one in the Foreign Ministry and one in the Council of Ministers, have clear functions and good working relations. The working groups (one for each *acquis* chapter) work well. A further positive step is the creation of a new working group on administrative capacity to implement the *acquis*. However, further substantial strengthening of administrative structures is necessary to ensure that Bulgaria has the necessary capacity for fully effective use of EC funds.

As regards planning and policy-making capacity, the Council of Ministers administration has some capacity for providing policy advice, but capacity on strategic planning is still poor. On the framework for policy making, there are clear procedures for preparing draft laws and submitting them to the Council of Ministers. As mentioned in previous reports, the quality of draft legislation is often poor. There is a need to improve impact assessment. Efforts are being made to improve quality and offer training on this. When the EC *acquis* is transposed, insufficient consideration is often given to how this can be adapted to the situation in Bulgaria and to implementation and enforcement capacity. Also, as mentioned last year, after new laws enter into force, more attention needs to be paid to monitoring implementation and enforcement, in particular in the court system. Consultations with civil society and economic and social partners are improving and there is increasing recognition that this can be beneficial in helping prepare better quality drafts which will be easier to implement. Since the last Regular Report, there have been several good examples of co-operation with civil society, for instance on the development of action plans to implement the anti-corruption and judicial reform strategies.

There have been positive developments concerning training for civil servants. The Institute for Public Administration and European Integration is now operational. By the end of 2001, 1,159 civil servants had attended courses. In February 2002, the Council of Ministers adopted a Strategy for the Training of Civil Servants in the Bulgarian State Administration. This covers introductory, continuous and specialised training for civil servants. Training on the implementation of EC legislation is stressed. The first general training programme for newly appointed civil servants started at the beginning of 2002.

There have been no concrete developments as regards decentralisation of government functions or as regards strengthening the regional and local levels. In June 2002 the Government approved a programme for fiscal decentralisation which aims to achieve financial independence of municipalities and covers health, education and social support.

The judicial system

Since the adoption in October 2001 of the Strategy on the Reform of the Bulgarian Judicial System, referred to in the last Regular Report, Bulgaria has made considerable progress. An Action Plan for implementation of the strategy was approved in March 2002, and major amendments to the Law on the Judicial System to implement elements of the strategy were adopted in July 2002. The aim of the judicial reform strategy is “the development of European standards in justice”. Its objectives include improvement of human resources, management, administration and the physical infrastructure of the judicial system. The Action Plan covers many of the problems in the current judicial system but not yet the overall structure of the judicial system itself (which covers judges, prosecutors and investigators), or their high level of immunity, where Constitutional change is required.

Despite good recent progress on reforms, the judicial system remains weak and there has been little concrete change in its functioning. During the work on reform, co-operation between the Ministry of Justice and the Supreme Judicial Council (SJC) has developed considerably. Also, there is now wider and more public discussion of issues related to judicial reform, which is in itself a positive development. The SJC was active in helping the Ministry of Justice to prepare the strategy and was consulted on the preparation of the Action Plan and draft amendments to the law. The SJC raised concerns where it considered reforms did not fully respect judicial independence (e.g. introduction of time-limited mandates for some appointments and establishment of the National Institute of Justice under the Minister of Justice, expressing concern that this may not be fully independent).

However, one area not yet addressed by the reforms is the structure of the Bulgarian judiciary, which consists of judges, prosecutors and investigators, as set out in the Constitution. As mentioned in previous reports, the fact that criminal investigators with the functions they exercise in Bulgaria (some of which are exercised by police elsewhere) are members of the judiciary is unusual, and reforms will be needed as regards the place where, and the responsibility under which, investigations are carried out. A second area which is not addressed by the ongoing reforms is that the Constitution and the Law on the Judicial System also give members of the judiciary (judges, prosecutors, and investigators) immunity from prosecution for all but serious crimes that carry over five years in prison. Immunity for the judiciary is being increasingly widely discussed, but there are as yet no concrete proposals for change.

Surveys indicate that the public perceives there to be a high level of corruption in the judiciary and legal professions, a claim disputed by the judiciary. The problem with the current system of immunity and ineffective disciplinary procedures is that it is also difficult to demonstrate that corruption does not exist.

According to Bulgarian law, the judiciary should have its own budget. The budget for the judiciary remains very low. As in previous years, the basis for discussion in Parliament was not the draft prepared by the SJC, but the draft prepared by the executive, the justification being the budgetary restrictions imposed by the currency board arrangement and poor absorption capacity of the judiciary. After consultations between the SJC and the Ministry of Finance with the mediation of the Minister of Justice in the presence of the Prime Minister, the budget for the judiciary was increased (by comparison with the first proposal from the Ministry of Finance). The budget adopted by Parliament for 2002 was BGN 121.8 million (approx. €61 million), about half what the SJC proposed and around 0.3% of GDP. In EU Member States it is often around 2 to 4% of GDP. Around 73% of the budget goes on staff salaries and social contributions, with most of what remains going on day-to-day running costs, leaving little for equipment.

The SJC represents judges, prosecutors, and investigators, and its members comprise representatives of all three groups, as well as a number of members elected by Parliament. The three groups have different roles in the judicial system, and hence different interests and management structures. This makes it difficult for the SJC to play a fully effective role in the professional management of judges and of the court system. The SJC administration needs to be reinforced to ensure its effective functioning.

As required by the Bulgarian Constitution, the Bulgarian court system consists of three instances: first instance, second instance and cassation. There is also a Constitutional Court, a Supreme Administrative Court and a system of military courts.

There is little concrete change to report on court administration since the last report, and the assessment given then remains largely valid. Court administration remains weak. Court Presidents do not yet receive systematic training to carry out their administrative role. Insufficient attention is paid to the selection and training of court support personnel who could take on administrative tasks. However, with the amendments to the Law on the Judicial System in July 2002, the position of "Court Administrator" has been introduced to take on administrative tasks including financial issues. Administrative support for judges, prosecutors and investigators remains poor, so they are obliged to spend a lot of time on administrative and clerical matters. The number of magistrates is still considered insufficient, and lack of appropriate support is a contributory factor. Case management continues to lack transparent standards for assignment. The SJC has decided that a case distribution system based on objective criteria should be used throughout the court system, but this still has to be put into practice. As mentioned in previous reports, the conditions in the majority of the courts, prosecution offices and investigation services remain very poor. An issue which still needs to be addressed is the clear demarcation of the roles of the SJC and the Ministry of Justice in the management of the judicial system, again whilst respecting the independence of the judiciary.

The length of judicial proceedings still gives cause for concern. No comprehensive statistical data on the average length of civil or criminal cases is available, but there are reports of civil cases routinely taking 5-8 years and of labour disputes suffering 3-4 year delays. The problems identified include the time it takes for a case to move between

different instances and the high proportion of cases returned because the quality of an investigation is considered unsatisfactory. These problems are the result of structural and administrative weaknesses in the judicial system. As mentioned last year, a high proportion of cases is still returned from courts to the public prosecutor, and there is a lack of transparent conditions for return.

Whilst the legal framework for access to justice and legal aid is essentially adequate, there are significant problems in practice in ensuring defendants have access to a lawyer at all stages of judicial proceedings (*see section on civil and political rights*).

Uniform methods or criteria are not yet in use for the competitive selection of judges or for monitoring performance before granting tenure or promotion.

In the prosecution service, selection, appointment and promotion policies are also not transparent. The prosecution service needs to modernise management methods in order to improve the transparency and efficiency of case handling.

The Magistrates Training Centre has continued to develop its important role over the last year, providing training for newly appointed judges, and general and specialised continuing training for members of the judiciary, covering *inter alia* EC law. The Centre remains very heavily dependent on donor funding. The Law on the Judicial System establishes a National Institute for the Judiciary, which will be a public institution, which is a positive step. It will be important to ensure that it builds on the experience of the Centre and that priority is given to adequate state funding, so that it can further develop training for the judiciary.

Significant amendments to the Law on the Judicial System were adopted in July 2002. These include the establishment of a system of accountability of courts, prosecution offices and investigation services to the SJC; various anti-corruption measures for the judiciary, such as property and income declarations; adoption by the SJC of codes of ethics for magistrates and administrative staff of the judiciary; a competitive recruitment system for magistrates, and promotion according to objective criteria; and the creation of a public institution — the National Institute of Justice — to train members of the judiciary and administrative staff. The structure and status of the administrative services of the judiciary are brought in line with the Law on Administration and the Law on Civil Service. The procedure for adoption of the budget of the judiciary is also amended: the Council of Ministers will no longer be entitled to amend the budget, but only to express an opinion on it when it comes before Parliament. The amendments also put in place a structure to provide better security for the premises of the judiciary and, where necessary, for certain magistrates. If fully implemented, most of these amendments will address many of the weaknesses in the current judicial system identified in this and previous Regular Reports. It is important to ensure that these changes are implemented in a way which fully respects the independence of judges.

The progress on reform of the judiciary since the last Regular Report is a positive development. As these reforms only started recently, it is not yet possible to assess their contribution to ensuring that Bulgaria's judicial system will be able to guarantee full respect for the rule of law and human rights and play its role in the further development of the economy and future enforcement of the *acquis*. The planned changes do not yet tackle the overall structure of the judicial system, nor the high level of immunity, for which constitutional changes will be required.

Anti-corruption measures

As mentioned in last year's report, a National Anti-Corruption Strategy was adopted in October 2001. Further good progress has been made with the adoption by the Council of Ministers, in February 2002, of an Action Plan for Implementation of the Strategy. The Action Plan, which covers the period 2002-2003, sets out who is responsible for actions and deadlines for these to be taken. A Committee was also set up to co-ordinate activities in the fight against corruption, chaired by the Minister of Justice. The challenge now will be to maintain the momentum to ensure full implementation of the programme.

Whilst the Government and civil society have succeeded in putting the need to tackle corruption high on the public agenda and a considerable step forward has been taken through the National Anti-corruption Strategy and Action Plan, surveys indicate that corruption remains a serious problem. However, Bulgaria's ranking in indexes of international perceptions has improved. The public still ranks corruption as one of the most serious problems facing the country. The high level of corruption is attributed to factors such as low salaries, imperfect legislation, lack of transparent administrative controls and poor functioning of the judicial system. Customs, occupations linked to the judicial system, tax officials, parliamentarians, police and ministry officials are perceived to be among the most corrupt groups. Corruption is also seen as having a negative effect on the business and investment climate and therefore on economic development.

The overall strategy aims to create an institutional and legal environment for tackling and preventing corruption, for example by improving financial and fiscal control, reforming the customs agency, adopting measures in the Ministry of the Interior, improving the functioning of authorities at local level, creating more transparency in financing of political parties, and strengthening the role of the Parliament in combating corruption. It also includes anti-corruption measures related to the judicial system and the economic sector. Increased transparency and simplification of procedures were common features. Most elements have been followed up in the Action Plan.

The Government undertook a serious consultation exercise with NGOs and donors on the preparation of the Strategy and the Action Plan, and these bodies will be involved in implementation. The strong role of NGOs is to be welcomed. Measures are aimed at preventing as well as tackling corruption. However, on some important aspects of the strategy, such as decentralisation, the improvement of local governance, and the establishment of improved mechanisms for financing political parties, there is no detail as yet on concrete measures and deadlines. Likewise, no progress has been made on the draft Act provided for in the Strategy concerning MPs' immunity.

As mentioned above, police corruption is perceived to be a problem. Cases of bribery in the traffic and border police have been raised by EU citizens driving in and through Bulgaria. The Ministry of the Interior has developed an intra-departmental programme to combat corruption and prepared a draft code of ethical behaviour for the police, and in the past 6 months, of 150 corruption cases brought to the attention of the Ministry of the Interior, 40 cases were forwarded to the prosecution and 73 dealt with by disciplinary measures.

The Government has identified improving the customs administration as one of its top priorities in the fight against corruption.

The specialised anti-corruption unit in the National Service for Combating Organised Crime has been reinforced, with a doubling of its operational staff.

A number of new or revised laws have been adopted which should contribute to fighting corruption. In April 2002, the Public Procurement Law was amended. The changes made to the privatisation law, inter alia to make procedures more transparent, have started to have an effect. Following a review of licensing regimes, the Government has decided to abolish certain regimes and simplify others. In September 2002, amendments to the Penal Code were adopted which introduce more precise provisions on corruption and organised crime (*see Chapter 24 - Co-operation in the field of justice and home affairs*).

Corruption at the level of local offices of central institutions (e.g. inspectorates) is also seen as a problem. Public-private Councils have been set up with local municipalities and NGOs in a number of cities to develop local anti-corruption activities.

As mentioned above in the section on the executive, the Civil Service Law and Law on Administration set the general values for public administration and there is a non-binding Code of Conduct.

In accordance with the Act on property disclosure of people in senior positions in the State of May 2000, parliamentarians, ministers, senior judges and magistrates, district governors etc. have to submit annual asset declarations. The President of the National Audit Office holds a register. However, there is a need for effective monitoring and sanctions for those not complying.

The Institute for Public Administration has started to provide a training course on "Preventing corruption – risks and challenges to the public administration."

Bulgaria is a party to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and to the Criminal Law Convention on Corruption, which it ratified in November 2001, as well as to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. It has signed but not ratified the Council of Europe Civil Law Convention on Corruption. Bulgaria continues to participate in the monitoring of anti-corruption measures adopted by the OECD Working Group on bribery in international commercial transactions, and is a member of GRECO, the Council of Europe Group of States against Corruption (*see Chapter 24 – Co-operation in the field of Justice and Home Affairs*).

Bulgaria received a GRECO expert mission in September 2001. An evaluation report was adopted in May 2002 and subsequently made public. The GRECO report noted that so far, Bulgaria had made more progress in the adoption of legislation than in its implementation and enforcement. It stressed the need for an evaluation of the judicial system and for clarifying the functions of its various components. It noted that criminal procedure was slow and that relatively few cases of corruption had resulted in judicial sanctions in comparison with the estimated level of corruption. In its conclusions, the GRECO report addressed fourteen specific recommendations to Bulgaria. The majority of these are addressed in the Action Plan adopted in February 2002. Bulgaria is strongly encouraged to ensure due follow-up to these recommendations.

Whilst progress has been made in setting the framework for tackling corruption, practical steps have yet to be taken to fully enforce this. It is still difficult to obtain a full and

objective picture of the situation in the country and clear information on investigation, prosecution and sentencing in corruption cases.

1.2. Human rights and the protection of minorities

Bulgaria continues to respect human rights and freedoms. This was the conclusion of the 1997 Opinion and the subsequent Regular Reports, and has been confirmed over the past year. The following section focuses on the most significant developments since the last Regular Report.

Bulgaria has acceded to the main human rights conventions (*see annex*). The Bulgarian Constitution incorporates the European Convention for the Protection of Human Rights and Fundamental Freedoms in Bulgarian law, and accords the Convention supremacy over domestic legislation. In practice, there are hardly any cases of direct application of the Convention's provisions or of the jurisprudence of the European Court of Human Rights.

The principle of anti-discrimination is enshrined in the Bulgarian Constitution (Article 6). So far, however, comprehensive anti-discrimination legislation has still not been adopted and the EC anti-discrimination acquis has still not been transposed (*see Chapter 13 - Social policy and employment*).

The introduction of the institution of Ombudsman has now been under discussion for almost four years, and legislation (in the form of several different draft laws) has been before Parliament since November 2000, but has still not been adopted. Projects are under way in some municipalities. A Public Mediator was appointed in Sofia in 2001, and there are local ombudsmen in some other cities.

Civil and political rights

Since last year, Bulgaria has made some progress in improving the legal framework for asylum and for tackling the trafficking of human beings. However, problems remain, notably regarding police violence, conditions in prisons, and access to legal aid.

In June 2002, the European Court of Human Rights ruled against Bulgaria in the case of *Anguelova v. Bulgaria*⁴. The case related to the death of the applicant's son, aged 17, in January 1996 while in police custody following arrest for attempted theft. The Court held that there had been a violation of Article 2 (right to life), in respect of the death of the applicant's son, as the authorities had failed to provide timely medical care and had not met the obligation to conduct an effective investigation. The same case found violations of Article 3 (prohibition of inhuman or degrading treatment or punishment), Article 5 (right to liberty and security) and Article 13 (right to an effective remedy).

In January 2002, the Government decided to make public the Council of Europe's Committee for the Prevention of Torture report on Bulgaria prepared after a visit in 1999.

As last year, there continues to be serious criticism as regards *degrading treatment by the police*. Concerns have been raised in particular about physical ill-treatment of people by

⁴ Case of *Anguelova v. Bulgaria* (Application No. 38361/97), Judgment of 13 June 2002.

the police at the time of arrest and during questioning. Members of the Roma community, including minors, are reported to be at particular risk of such treatment. The law on the use of firearms during arrest also needs to be aligned with international standards on use of force to ensure it does not allow police excessive freedom of action. Investigations into police abuse remain rare and from the small number of cases that do come to court there are few convictions. Further steps are still needed to set up a more effective system for dealing with police misconduct. Police still come under the military, rather than civilian, jurisdiction. Whilst some steps have been taken on training in human rights, these need to continue. Some steps are being taken to ensure better minority representation amongst police forces. As of May 2002, 158 Roma worked in police structures. With donor support, a police training centre has been created in the Roma Stolipinovo district of Plovdiv. 60 policemen of Roma and Bulgarian origin were trained in working in a multiethnic environment.

Trafficking in human beings remains a serious problem in Bulgaria, which is a country of origin, transit and to a lesser extent destination, for women and girls trafficked for the purpose of sexual exploitation. However, the Government is making significant efforts to tackle this. It has co-operated closely with international organisations and NGOs to prevent trafficking. Specialised units set up within the National Service to Combat Organised Crime and the border police to specifically address trafficking problems have conducted investigations and made arrests, but there appear to have been few convictions. The legal framework has been significantly reinforced with the Amendments to the Penal Code adopted in September 2002, which introduce more precise definitions and new penalties for trafficking of human beings. Reports also suggest that a disproportionately high share of trafficked women and girls from Bulgaria belong to the Roma community.

Conditions in *prisons* and in places of *pre-trial detention*, in particular police stations, continue to be inadequate, with conditions in pre-trial detention reportedly still much worse than in the prisons. Steps still need to be taken to bring all police stations into line with the basic requirements identified in the Council of Europe Committee for the Prevention of Torture report. Improvements to some investigation detention facilities have been made but efforts need to be pursued. Some are still located underground and very few have outdoor exercise yards. Overcrowding remains a serious problem. Besides a lack of financial resources, inadequate management and organisation are also contributing factors. The Ministry of Justice has increased the daily budget for food in prisons by 20% but this still remains very low. As regards access to medical treatment for prisoners, an agreement has been signed with the National Health Insurance Fund to cover initial and regular medical check-ups. There are still reports of physical ill-treatment of prisoners by staff in some prisons.

Amendments to the law on execution of penalties were adopted in June 2002. These amendments increase the range of detainees who can be held in open prison hostels and increase the possibilities for them to work. They also regulate for the first time the use of physical force and of other means of dealing with emergency situations and group protests. The amendments to the Penal Code adopted in September also introduce probation as an alternative punishment.

There has still not been any improvement in the legal framework for placing young people in correctional boarding schools and social educational boarding schools. As mentioned in previous reports, this needs to be revised to ensure cases have been heard in full conformity with the right to a fair trial before detention.

Whilst the legal framework for access to justice and *legal aid* is essentially adequate, there are significant problems in implementation and ensuring sufficient budgetary resources. Neither the Ministry of Justice nor the judiciary keeps official statistics, but surveys conducted indicate that in around 50% of cases at the pre-trial phase and around 30% of cases during the trial, defendants do not actually have legal representation. Funding for this comes out of the general budget for the judiciary, which remains very low. However, the Strategy for the Reform of the Judiciary (*see section on the judicial system*) foresees improvements in the medium term through establishment of a National Bureau for Legal Aid.

In 2001, there was an increase in the number of persons seeking *asylum* in Bulgaria. A new Asylum Law adopted in May 2002 considerably improves the legal framework. The National Agency for Refugees has a clear set of aims and objectives; however, its administrative capacity needs to be improved. Co-operation between the Agency, international organisations and NGOs has improved. However, co-ordination between the Agency and the border police is poor. It is important to ensure that there is adequate judicial control over decisions of the border police. If the new law is fully implemented, at all stages of the procedure, asylum applications will be dealt with by the Agency for Refugees, which will have representatives present at the border posts.

The Bulgarian Criminal Code penalises a number of acts inspired by *racism and xenophobia*, including incitement to hatred. However, the implementation of these provisions reportedly remains unsatisfactory and there continue to be reports of public expressions of racism and racist attacks against Roma.

Whilst the Bulgarian Constitution guarantees *freedom of expression* and press freedom, libel remains an offence under criminal law. Fines remain very high for the economic conditions of the country and in comparison to fines for other crimes at BGN 3 000 – 7 000 (approx. €1 500 – €3 500). Whereas in principle this could be justified, these provisions must be applied in accordance with the principles of proportionality and the right of the public to information. There were criminal cases against journalists accused of libel in 2001, especially against investigative journalists.

As regards *religious freedom*, a new Act on Denominations has still not been adopted. The last report raised concerns that not all interested parties had been consulted; it is positive that the debate has recently been broadened and will be important to ensure that the Act adopted fully respects international human rights standards.

The 2001 Regular Report commented on discrimination on the grounds of *sexual orientation* in the Bulgarian Penal Code. Amendments to the Penal Code adopted in September 2002 eliminate these discriminatory provisions. They equalise the age of consent, the legal situation for homosexual and heterosexual prostitution, the penalties for rape and decriminalise provisions on homosexual actions in public.

NGOs continue to play an important role. The continuity and sustainability of their activities remain a major issue, as funding is scarce and mostly donor-driven. The National Assembly Committee on Civil Society Issues, which was established in July 2001, immediately set up a Public Council of 21 NGO representatives, nominated by NGOs through an open public procedure. The Council's main function is to mediate between NGOs and the Committee to ensure transparency, dialogue and participation. Its meetings are open to the public. NGOs have contributed to many draft acts (NGO tax

environment, Ombudsman law, Penal Code changes to avoid discrimination on grounds of sexual orientation etc.). In April 2002, the National Assembly Committee on Civil Society Issues and the Public Council adopted a Charter for Interaction between NGOs and the public authorities, which is a notable achievement.

Economic, social and cultural rights

Limited progress has been made on the legal framework for children's rights. The situation of people in institutions for the mentally handicapped gives serious cause for concern and needs to be addressed urgently.

No further progress has been made on the adoption of general *equal opportunities* legislation. However, as concerns specific legislation relating to employment, the Employment Promotion Act, which came into force in January 2002, contains provisions on non-discrimination (*see chapter 13: social policy and employment*).

As regards political representation, as mentioned last year, following the June 2001 elections, women make up about 25% of the new National Assembly, a significant increase from 11% in the previous assembly. There are three female ministers, including one Deputy Prime Minister.

As regards *children's rights*, in February 2002, Bulgaria became a party to the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict. In May 2002, Bulgaria ratified the Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption. It entered into force in September 2002. The State Agency for Child Protection has been functioning for one year. However, enforcement and implementation of the Child Protection Act seems to be difficult, due to the weak authority and capacity of the Agency, the poor capacity of local child protection departments and the lack of effective co-ordination between the Ministries involved. Necessary secondary legislation has not yet been adopted and there remain some contradictions between the Child Protection Act and other relevant laws. As a consequence, the Act has not yet led to improved protection of children, especially those in institutions (e.g. children's homes and special schools). The measures on promoting and facilitating a community-based childcare approach and non-institutional care in the Act have not yet been enforced and consequently there is little change in the high number of children in institutions, despite the Act's aim. Living conditions in institutions continue to be inadequate. Some changes have been made to the Family Allowances Act to ensure that child benefits are better targeted towards low-income families. Bulgaria needs to continue and strengthen its efforts in reform of the child care system, ensuring that the UN Convention on the Rights of the Child is fully respected and that the best interests of the child are reflected and children are placed in institutions only as a last resort.

As regards *socially vulnerable* people, living conditions in institutions in particular for the mentally handicapped (social care homes) and psychiatric hospitals give serious cause for concern. Conditions are very poor with overcrowding and shortages of sanitary facilities, medication, staff and, in some cases, food. There are also reports of ill-treatment. It is important to ensure that such institutions provide decent living conditions and that inhuman and degrading treatment of those in care is prevented.

A further major problem is the legal framework for placement and detention in institutions. The law on this needs to be changed to avoid arbitrary detention or violations of the right to a fair trial. Last year's report mentioned that in October 2000, the European Court of Human Rights delivered a judgment in the case of Varbanov v. Bulgaria, establishing a violation of Article 5 of the European Convention on Human Rights, by ruling that his detention in a psychiatric hospital was arbitrary. Deficiencies in Bulgarian legislation were identified but the law has still not been changed. In July 2002, in the European Court of Human Rights case M.S. vs. Bulgaria, a friendly settlement was found. The court noted the similarity to the Varbanov judgment and the need for relevant amendments in domestic law to provide necessary safeguards against arbitrariness of detention in psychiatric institutions.

The Bulgarian Constitution provides for the right of all workers to form or join *trade unions*. The right to strike was generally respected.

Bulgaria is a party to the revised *European Social Charter*. It has not signed the Additional Protocol providing for a System of Collective Complaints.

Minority rights and the protection of minorities

In the census conducted in 2001, 4.6% of the population identified themselves as Roma and 9.4% as of Turkish ethnic origin.

As reported in previous years, Bulgaria has a good Framework Programme on integration of minorities targeted at the Roma. Regrettably, however, this has not yet been put into practice. There has been very little change in the situation of the Roma minority since the last Regular Report, and there are no significant developments in their socio-economic situation and living conditions to report. Roma continue to suffer from social inequalities due to the accumulation over time of factors that have worsened living conditions. There has been no change in the very high rates of unemployment. If serious actions are not taken urgently, further deterioration can be expected. Discrimination, and cases of violence against members of the Roma community continue to be reported. This situation needs to be addressed urgently. In this context, the adoption of comprehensive anti-discrimination legislation would be an important step forward.

Living conditions for the Roma remain extremely poor. There is little progress to report on the call in the Framework Programme for municipalities to legalise illegally-built homes in Roma neighbourhoods, which means there is very limited access to public services. Where measures are taken, this is mainly through EC and other donor-funded projects. Major urbanisation projects are under way in Sofia and Plovdiv. Few municipalities in Bulgaria have approved strategic plans for regional development where projects for legalising the illegal Roma housing and the urbanisation of Roma quarters are included.

Problems remain as regards access to the health care system. Not all of the Roma population is aware of the procedures and the need to have health insurance. Financial contributions required from the patients, no matter how small, are often too high. Participation in education remains poor. Poverty is one of the factors in this, as families cannot provide their children with basic items for school or children have to help with income generation. Out of Roma children who do enter school, very few go on to secondary education. As reported last year, schools in Roma areas remain in practice

segregated and offer low-quality education and poor facilities. Roma make up about 32% of children in “special” schools and 21% of children in labour education schools. Efforts need to be made to combat segregation and encourage integration. Whilst some initiatives are underway through donors to address segregation, this is not yet in practice a Government policy.

If the Framework Programme is to be effectively implemented, institutional and administrative strengthening of the National Council on Ethnic and Demographic Issues (NCEDI) is essential. Whilst some new appointments of well-qualified people have been made, this is insufficient. Roma representation in the public administration at central level is very limited. At municipal level, many municipalities have a Roma expert or Roma Council. At local level, as of May 2002, 12 out of 28 districts had adopted district programmes on integration of minorities and five of these planned concrete activities.

There have been signs of increased tension between the Roma and ethnic Bulgarian communities. Roma protests were observed in some cities where people claimed that they have not been paid welfare benefits for a long time. Violent protests by the Roma community took place in Stolipinovo, one of the areas most densely populated by Roma families on the outskirts of Plovdiv, after the local electricity company cut off the power due to unpaid electricity bills.

The Turkish minority is integrated into political life through elected representation at national and local levels and increasing representation in public administration. Further efforts are still needed for the socio-economic integration of those ethnic Turks who live in economically underdeveloped regions.

In April 2002, the Minister of Education and Science created a Consultative Council on Education of Children and Schoolchildren from the Minority Groups. Its role includes the preparation and implementation of a national education strategy for the integration of children from the minority groups, including proposing concrete measures for the desegregation of schools.

Seminars for journalists from local, regional and national media were carried out to raise positive public awareness on minority issues.

As reported in previous years, Bulgaria is a party to the Council of Europe Framework Convention for the Protection of National Minorities. In view of delays on the Bulgarian side in reporting on the implementation of the Convention, the Advisory Committee on the Framework Convention has not yet adopted an Opinion on Bulgaria.

1.3. General evaluation⁵

In its 1997 Opinion, the Commission concluded that Bulgaria fulfilled the political criteria. Since that time, Bulgaria has made considerable progress in further consolidating and deepening the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. This has been confirmed over the past year. Bulgaria continues to fulfil the Copenhagen political criteria.

⁵ See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

Significant progress has been made on the judicial reform strategy with the adoption of an Action Plan and major amendments to the Law on the Judicial System. These need now to be implemented in order to translate them into concrete improvements in the functioning of the system. Issues relating to the structure of the judicial system and immunity still need to be addressed.

There have also been positive further developments in the fight against corruption, which remains a cause for serious concern, with *inter alia* the adoption of an action plan to implement the National Anti-Corruption Strategy. Whilst the need to tackle corruption is now high on the agenda Bulgaria needs to continue to make concerted efforts to implement the measures.

There has been some further progress on public administration reform with revisions to the legislative framework and the adoption of a Strategy for Modernisation of the State Administration but serious efforts are now required to develop and implement reforms to ensure an efficient, transparent and accountable public administration.

Bulgaria continues to respect human rights and freedoms. Bulgaria has considerably improved the legal framework, for tackling trafficking, corruption and organised crime as well as for asylum. However, there are a number of areas which continue to give cause for concern. A new issue that has been identified is the very poor living conditions of people in institutions, in particular the mentally handicapped. This needs to be addressed urgently. Bulgaria also needs to strengthen its efforts to reform the child care system, to make sure that the best interests of the child are reflected and reduce the number of children in institutions. Poor conditions for detainees in particular in police stations and pre-trial detention also need to be addressed.

The recent changes to the Penal Code are an important step in removing discrimination on the grounds of sexual orientation.

Concerning the Roma community, little has been done to remedy problems of social discrimination or to take concrete action to improve very poor living conditions. The adoption of comprehensive anti-discrimination legislation would be an important step forward in this regard.

2. Economic criteria

2.1. Introduction

In its 1997 Opinion on Bulgaria's application for EU membership, the Commission concluded:

“Bulgaria's progress in the creation of a market economy has been limited by the absence of a commitment to market-oriented economic policies; it would not be able to cope with competitive pressure and market forces within the Union in the medium term.”

In its 2001 Regular Report the Commission found that:

“Bulgaria is close to being a functioning market economy. It should be able to cope with competitive pressure and market forces within the Union in the medium term, provided it continues implementing reform and intensifies the reform effort to remove persistent difficulties.”

In examining economic developments in Bulgaria since the Opinion, the Commission's approach was guided by the June 1993 conclusions of the Copenhagen European Council, which stated that membership of the Union requires:

- the existence of a functioning market economy;
- the capacity to cope with competitive pressure and market forces within the Union.

In the analysis below, the Commission has followed the methodology applied in the Opinion and in the previous Regular Reports. The analysis in this year's Regular Report takes stock of developments since the Opinion was drafted.

2.2. Summary of economic developments since 1997

Following the economic crisis in 1996/97 with negative real GDP growth, the currency board arrangement introduced in July 1997 has helped to stabilise the economy and to achieve real GDP growth of close to 4% on average since 1998. Inflation came down from above 1,000% on average in 1997 to 9.8% on average since then. Fiscal discipline kept the deficit below 1% of GDP in all years, which gradually brought down public debt. A slowly rising share of private investment in GDP and substantial inflows of foreign direct investment indicate an improving business climate. Foreign direct investment has also been the main source of an orderly financing of high current account deficits. However, as a consequence of structural reforms, but also sometimes of their late implementation, unemployment has kept on rising until 2001 and is slowly declining since then.

Main Economic Trends								
Bulgaria		1997	1998	1999	2000	2001	Average	2002 latest
Real GDP growth rate	per cent	-5.6	4.0	2.3	5.4	4.0	2.0	3.2 Q1
Inflation rate		:						
- annual average	per cent		18.7	2.6	10.3	7.4	9.8	6.4 July ^b
- December-on-December	per cent	:	1.6	7.0	11.3	4.8	6.2	5.5 July
Unemployment rate								
- LFS definition	per cent	13.7	12.2	14.1	16.3	19.9	15.2	17.6 Q2
General government budget balance	per cent of GDP	-0.3	1.3	0.2	-0.6	1.7p	0.5p	
Current account balance	per cent of GDP	10.0	-0.5	-5.3	-5.5	-6.0	-1.5	
	Million ECU/€	923	-55	-642	-760	-940 ^c	-290	-424 Jan.-June ^c
Gross foreign debt of the whole economy	per cent of exports of goods and services	165.9	165.0	183.8	132.0	:	:	
- debt export ratio	Million ECU/€	9,211	8,172 ^a	9,451	10,083	:	:	
Foreign direct investment inflow	per cent of GDP	4.8	4.2	6.2	7.9	5.1	5.6	
- balance of payments data	Million ECU/€	445.1	479.3	756.3	1,084.3	775 ^c	708	256 Jan.-June ^c

Sources: Eurostat. National sources. OECD external Debt Statistics

^a series break as a result of some technical changes to the definition.

^b Moving 12 months average rate of change.

^c Source: Website of the National Bank.

Substantial progress has been made with the restructuring of the economy and privatisation. Enterprises representing more than half of all state-owned assets have been sold. New privatisation procedures were put in place in April 2002 to provide clearer rules and greater transparency for the remaining 2,000 firms or so which are majority state-owned. A strategy for the liberalisation of the electricity sector was started in 2002 with substantial price increases and the privatisation of distribution companies. The conditions for business in Bulgaria have improved although substantial efforts are still required to enhance the efficiency of the public administration and the judicial system regarding corruption, red tape, tax and customs procedures and bankruptcy rules. The largely foreign-owned banking sector is developing in terms of credit growth and savings

deposits, and only one major state-owned bank remains to be privatised. The capital market is still underdeveloped.

Average per capita income is low at only 28% of the EU average (in purchasing power standards). However Bulgaria made good progress in the catching-up to EU income levels. The employment rate of the working-age population fell from 54.5% in 1997 to 50.7% in 2001. The unemployment rate increased from 13.7% of the labour force to 19.9%. More than 60% of the unemployed are long-term unemployed. Unemployment rates for men have increased slightly more than for women, and almost 40% of the persons under 25 years old are unemployed. Regional income differences are small, ranging from 23% to 28% of the EU average, with the exception of the Southwest region, which includes Sofia, where the figure is 36.5% (data for level-2 statistical regions in 1999). Regional differences in unemployment are more pronounced. While in the Southwest region the unemployment rate was 9.7%, in all other regions it was above 20%, reaching up to 32.8% in the Northwest (data for level-2 statistical regions in 2001).

Main Indicators of Economic Structure in 2001		
Population (average)	Thousand	7,915
GDP per head ^a	PPS	6,500
	per cent of EU average	28
Share of agriculture ^b in:		
- gross value added	per cent	13.8 ^c
- employment	per cent	26.7 ^c
Gross fixed capital formation/GDP	per cent	17.8
Gross foreign debt of the whole economy/GDP ^c	per cent	77.4
Exports of goods & services/GDP	per cent	55.7
Stock of foreign direct investment	Million €	2,151 ^d
	€ per head ^a	272
Long term unemployment rate	per cent of labour force	12.6

^a Figures have been calculated using the population figures from National Accounts, which may differ from those used in demographic statistics.

^b Agriculture, hunting, forestry and fishing.

^c Data refer to 2000.

^d Data refer to 1999.

2.3. Assessment in terms of the Copenhagen criteria

The existence of a functioning market economy

The existence of a functioning market economy requires that prices, as well as trade, are liberalised and that an enforceable legal system, including property rights, is in place. Macroeconomic stability and consensus about economic policy enhance the performance of a market economy. A well-developed financial sector and the absence of any significant barriers to market entry and exit improve the efficiency of the economy.

There has been continued support for the medium-term economic reform programme and for EU accession-related policies. Tight fiscal policies and market-based economic reform are among the main objectives of the new government. There is a broad consensus on the fundamentals of economic policies. Announced policies have mostly been implemented by government, although sometimes delayed or softened for social reasons. In February 2002, the International Monetary Fund approved a two-year stand-by credit and a first review has been successfully concluded in July 2002. Prior to the programme's approval a "Memorandum on Economic Policies of the Government and the Bulgarian National Bank" had been submitted which was re-confirmed in the context of the first review. It specifies the economic policy programme based on the currency board arrangement (CBA) at least until accession to the EU, a cautious and flexible fiscal policy aimed at a balanced budget over the medium term and an acceleration of structural reforms to create a fully functioning and competitive market economy. In August 2002, the Bulgarian authorities submitted their latest pre-accession economic programme which had been prepared by the Ministry of Finance, following consultations of social partners, NGOs, academic circles and various government institutions. This programme confirms the government commitment to its reform agenda.

Macroeconomic stability has allowed sustained economic growth at an average of almost 4% since 1998. This was the case in spite of successive adverse external conditions, including the Kosovo crisis, the conflict in the Former Yugoslav Republic of Macedonia, the economic crisis in Turkey and the global economic slowdown. Last year, real GDP growth was 4%, despite a slowdown following more adverse global economic conditions during the year, and real GDP growth in the first quarter of 2002 is estimated at 3.2% (compared with the corresponding period of 2001). It was largely based on buoyant domestic demand, while the external balance continues to be a drag on growth. Investment growth was high at 20% in 2001. Although the investment-to-GDP ratio has increased over the years, it stood at only 17.8% in 2001 which is still relatively low for a sustained process of catching-up.

The high current account deficit continues to reflect the gap between domestic savings and investment, but is exceeded by net inflows of foreign direct investment in most years. Total foreign debt declined to below 80% of GDP and this was further accelerated in March 2002 by a swap of Brady bonds against fixed interest rate bonds denominated in both EUR and USD. Exports of goods remain low and this contributes to a high trade deficit, which is only partly balanced by exports of services, in particular tourism.

Unemployment increased until 2001 due to the high pace of restructuring of the economy and some regional and skills mismatch. The unemployment rate increased steadily from 12.2% in 1998 to 19.9% in 2001 in spite of high economic growth. Registered unemployment in the first half of 2002 was lower than in the corresponding period in 2001 and stood at 17.0% of the labour force in July 2002. However, the amount of

employment in the large informal economy as well as in agriculture is difficult to assess. The presence of a large informal economy tends to add some flexibility to a labour market which is formally rather highly regulated and characterised by high non-wage labour costs. An improved functioning of the administrative system, which will reduce the informal sector and tax evasion, should therefore go in parallel with an increased labour market flexibility and lower non-wage labour costs in the formal sector of the economy. Social partners do not yet have sufficient responsibility at a decentralised level for labour relations, including wage bargaining. The proper functioning of the labour market is also hampered by the fairly low regional mobility of the workforce, caused by a combination of mentality, imperfections on the housing market and underlying skills mismatches between regional labour demand and supply.

Bulgaria continues to adhere to the currency board arrangement which was introduced in July 1997 and fixes the Bulgarian lev (BGN) against the euro. Due to higher inflation than anticipated, real short-term interest rates turned negative at the end of 2001⁶. The broad monetary aggregate M3 grew by 18% in nominal terms and by 9% in real terms between March 2001 and March 2002. As, under the currency board, money supply is determined exclusively by economic actors' demand for money, this shows that the economy is being remonetised and that money demand is being re-established after its strong decline in the 1996-97 period of high inflation. The currency board arrangement continues to be well covered by foreign exchange reserves.

The introduction of the currency board arrangement has contributed to containing inflation. Inflation, measured by the harmonised index of consumer prices on annual average, has come down to 7.4% in 2001. Compared to the corresponding month of the previous year, inflation was low at the end of 2001, increased to somewhat higher levels in the first quarter of 2002, following increases in indirect taxes and food prices, and declined again in the second quarter of 2002 due to lower food prices. The overall year-on-year growth of administered prices declined from three-digit rates at the beginning of 1998 to 23.3% in May 2002. Inflation excluding administered prices was fairly volatile with negative rates in 1999, positive rates around 10% in 2000 and 2001 and a rate of 2.7% in May 2002.

Fiscal policy has been tight. The general government deficit has been below 1% of GDP in all years. In 1998 and 1999 there was even a surplus.⁷ Low deficits and high nominal GDP growth contributed to a constant reduction of general government debt to a level of below 70% of GDP in 2001. In 2001, the government implemented an income tax reform in order both to gradually shift from direct to indirect taxation and to reduce the revenue-to-GDP ratio. Corporate and personal income tax rates were reduced by several percentage points in 2001 and 2002 to maximum 23.5% and 29% respectively, and are now fairly low by international standards. VAT refunding was speeded up by further reducing its legal deadline from 4 to 3 months and was made more resistant to fraud by an obligation to open a VAT bank account. Reforms of the pension and health care systems have been implemented to reduce long-term fiscal risks, but the already high social security contributions require further attention in view of an ageing population. For

⁶ In terms of one-month credit and deposit rates, corrected for by CPI inflation

⁷ The general government balance in 2001, based on harmonised EU standards (ESA95), was +1.7% of GDP, but this figure is subject to change due to a statistical reclassification of the Bank Consolidation Company (BCC) as part of the central government. However, even after this reclassification, the balance for 2001 is still likely to be less than -1% of GDP.

2002, the government has kept a budgetary reserve of 0.3% of GDP which will only be spent if there is no deterioration of macroeconomic conditions. Despite the pursuit of fiscal consolidation, general government gross fixed capital formation has varied between 3% and 4% of GDP in all years, except 1997.

The macroeconomic policy mix has been adequate. In the absence of monetary policy instruments and changes to exchange rates, fiscal policy has been the main instrument of macroeconomic stabilisation. The tight fiscal policy pursued was appropriate in order to stabilise the currency board arrangement and to avoid a pro-cyclical stimulus to demand, which, in view of the high growth rates and the still limited capacity of the Bulgarian economy, would have triggered further inflationary pressures and an increase in the already high current account deficit. The current account deficit has so far not been a problem, since it allowed higher investment than domestic savings alone would do and was covered by net inflows of foreign direct investment except in 2001. In order to maintain external competitiveness vis-à-vis the euro area as the main trading partner against which the Bulgarian *lev* had some real exchange rate appreciation, wage increases in the budgetary sector, which tend to serve also as a benchmark for the private sector, should remain within the limits of real productivity increases in the private sector plus the euro area inflation rate.

Liberalisation of prices has progressed, but further steps need to be taken. The number of goods and services with administered prices has decreased. In 2001 prices for coal were liberalised, but prices for tobacco, water supply, electricity, gas, heating, medicines, postal services and telecommunications are still administered or regulated. Measured by their shares in the consumer price index in 1997, their weight went down from 14.5% in 1997 to 13.2% in 2002. However, due to their increased weight in the consumer price index, in particular because of increased demand for telecommunication services, more than one fifth of inflation is still arising from the adjustment of administered prices. In July 2002, a three-year schedule for an increase of approximately 50% in electricity prices for households was decided.

Private ownership has become predominant in the economy. In 2001, 73.4% of all employees were working in the private sector. The private sector's share of gross value added grew from 63.4% in 1997 to 71.7% in 2001. Houses and land are largely in private hands since land restitution was finalised in 2000. More than 90% of all forest land property has been restituted until April 2002. Between the start of transformation and April 2002, 4821 privatisation deals were concluded so that 79.8% of all assets slated for privatisation (i.e. all assets of enterprises not on a shortlist for definitive public ownership) have actually been privatised and less than 2000 companies remain to be privatised.

New privatisation procedures were set up in 2002. These are intended to accelerate the privatisation of the remaining state-owned assets (chiefly telecommunications, banking, insurance, energy, maritime transport, and tobacco) in a more transparent and efficient way through auctions, tenders and public offering of shares. Management or employee buy-outs, which have created many problems in the past, are no longer treated preferentially. 1500 minority stakes in companies will go to a specific segment of the stock exchange. 360 companies are for direct sale and 100 are provisionally excepted from privatisation either because they are not for sale for reasons of national security or because they need prior restructuring. One of the two remaining state-owned banks (*Biochim*) was sold to a foreign bank in July 2002 and an 80% share of the last state-

owned insurance company, the State Insurance Institute (*DZI*), was privatised in August 2002. By early September 2002, a buyer for 80% of the national tobacco company (*Bulgartabac*) was selected, but the finalisation of the procedure was still under preparation, and a short list of bidders for 65% of the telecom monopoly (*BTC*) was established. Given that post-privatisation commitments of previously privatised companies were often not met because they proved to be too demanding, procedures for post-privatisation control have also been simplified.

Market entry and exit are still not working properly, although the situation is improving. The proportion of new companies (including self-employed) in the business register relative to all existing companies was 11.7% in 2000 and 6.6% in 2001. At the same time, the number of companies eliminated from the business register was 0.8% in 2000 and 0.7% in 2001. While these figures indicate high, though falling, net creation of new firms, they may also reflect both the overall business cycle and a lack of rigour in market exit procedures. Market entry is still hampered by numerous licensing procedures, which slow down start-ups and bind considerable amounts of enterprises' and public administrations' resources. In 2002, a working group at the Ministry of Economy proposed to eliminate 74 of the 360 regimes existing at central level and to simplify 120 of them, for which the government is carrying out the corresponding legislative procedures. Still, administrative obstacles will continue to exist at local level. Reforms of the customs and tax administrations are ongoing in order to enhance the sometimes very poor performance of these institutions. In spite of these improvements, many businesspeople still complain about considerable problems of starting and running a business because of red tape, corruption, slow administrations and courts. Regarding market exit, insolvency procedures remain to be slow. For the year 2001, courts statistics show that 408 insolvency cases were pending from previous years, 457 new cases were initiated, decisions were taken on 433 cases, so that 432 cases were still pending at the end of the year. Domestic legislation currently does not specify a deadline for insolvent debtors to pay outstanding dues to their creditors, so courts have to find evidence of the debtor's inability to pay. In order to speed up insolvency proceedings, the government has presented a draft amendment to the Commercial Code which states that a company which fails to make an outstanding payment within 60 days after the date the payment was due will be considered insolvent. In addition, special legal chambers have been created to deal exclusively with bankruptcy cases. A new bank bankruptcy law has been adopted in September 2002 which should increase transparency and speed up procedures mainly by giving a strong control on the receivers' activities to the Banking Deposits Guarantee Fund. Although progress has been made, a number of firms are still operating at a loss, implicitly subsidised through a toleration of arrears on wages, taxes, social security contributions and bills from state-owned suppliers, without being forced to restructure or close down.

Enforcement of property rights remains difficult in some areas. The slow proceedings of the judicial system often discourage parties from taking cases to court, which contributes to the lack of reliable enforcement. Progress has been made in reducing red tape, but these still impose substantial costs on the private sector. Whilst large foreign companies are sometimes able to bridge these shortcomings in the legal and regulatory environment by turning directly to political decision-makers, this path is not always available to smaller or domestic companies. The enforcement of intellectual property rights legislation is insufficient, and this contributes to widespread software and audio-visual piracy and counterfeiting. Housing property is mostly clearly defined and markets are working properly. However, in spite of the finalisation of land restitution, the number of

transactions and the prices of agricultural land are low due to a range of factors such as fragmented land plots with often shared ownership, insufficient documentation of ownership in land registries and slow legal disputes as well as low expectations of making profits in agriculture. This is a serious impediment to increasing productivity in agriculture and it is estimated that currently about 25% of the farmland is idle. Efforts are being made to modernise the land registration system, also with the support of international donors, but this takes time.

Following the crisis in 1996 and 1997, the banking sector has been restructured and is gradually developing. Since the crisis, when 17 banks were closed down, the number of banks has stayed more or less constant (35 at the end of 2001). Following major privatisations in 2000 (*Bulbank*) and in 2002 (*Biochim*), 85% of commercial banking in terms of total assets is in private hands of which about 80% is majority foreign-owned. Government still controls the State Savings Bank (*DSK*), accounting for 12% of total commercial banks' assets, which is scheduled for privatisation in 2003. The Municipal Bank of Sofia and the Encouragement Bank, whose mandate is to support SMEs, account for the remaining 2.5% of banking in state control. Banks have maintained a policy of prudent lending which has contributed to a low rate of banking intermediation. Credit to the private sector is very low, but increased steadily from 10.5% of GDP in 1999 to 14.4% of GDP in 2001. Accordingly, the capital adequacy ratio, although declining over the years, is still high (31% in 2001). This loan restraint also keeps systemic risks to banking within close limits. The situation as regards non-performing loans steadily improved from 21.3% (December 1997) to 6.5% (March 2002).⁸ Interest rate spreads in terms of average short-term bank lending and deposit rates have decreased slightly, but remain high at some 10 percentage points, possibly due to a lack of alternatives to banks, but also due to the average risk profile of borrowers in the country.

The non-banking financial sector is still in its early development stage. The stock exchange remains underdeveloped and is largely illiquid with very low turnover despite a high number of companies quoted. The market capitalisation of companies listed on the Bulgarian Stock Exchange was €678 million or 4.5% of GDP in June 2002. The government intends to improve the situation by means of privatisation and by gradually shifting from foreign to domestic sources of financing public debt. The ratio of gross premium income of all insurance companies (including life and non-life insurance) to GDP was still rather low at 1.6% in 2001.

The capacity to cope with competitive pressure and market forces within the Union

The ability to fulfil this criterion depends on the existence of a market economy and a stable macroeconomic framework, allowing economic agents to make decisions in a climate of predictability. It also requires a sufficient amount of human and physical capital, including infrastructure. State enterprises need to be restructured and all enterprises need to invest to improve their efficiency. Furthermore, the more access enterprises have to outside finance and the more successful they are at restructuring and innovating, the greater will be their capacity to adapt. Overall, an economy will be better able to take on the obligations of membership the higher the degree of economic

⁸ Calculated as all loans not categorised as standard (i.e. watch, substandard, doubtful and loss) as a percentage of all loans.

integration it achieves with the Union before accession. Both the volume and the range of products traded with EU Member States provide evidence of such integration.

Bulgaria has achieved a sufficient degree of macroeconomic stability and market mechanisms are working sufficiently to allow a more efficient allocation of resources. However, further progress is needed on the efficiency of the public service and the legal enforcement of property rights so that economic agents can make decisions in a climate of stability and predictability.

Further efforts are needed to increase the efficiency and the quality of education. Demographic decline and insufficiencies in the management of resources indicate a need for further improvements in the efficiency of spending on education. Overall, Bulgaria has a well-educated and trained workforce. In 2001, according to the Labour Force Survey, 16% of the working-age population had tertiary education, 46% had secondary education and 38% had primary or lower levels of education. Of those having upper secondary education, only 34% had a secondary vocational education. At the age of 18, less than half of the students remain in education, and at the age of 19 less than a third. For those low-skilled (less than upper secondary education) the unemployment rate in 2001 was a particularly high 34%. While Bulgarians usually score high in international surveys on mathematics and natural sciences, this is less so for social sciences. The shortage of corporate management skills and a properly trained judiciary and public administration adversely affect the performance of the economy and its competitiveness prospects. Expenditure on active labour market policies is currently about €50 million (0.34% of GDP), of which somewhat less than half is for recruitment subsidies for disadvantaged groups, a quarter each for support to self-employed and temporary job schemes, and 5% for training measures. The government has also introduced tax incentives for employers who finance training for their employees. Total expenditure on research and development was 0.6% of GDP in 1999, of which about 20% was spent by the business sector.

Renewal of the private and public capital stock is progressing, although from a low starting level. High investment growth, supported by relatively low interest rates, has increased the ratio of gross fixed capital formation to GDP from 10.6% in 1997 to 17.8% in 2001. However, this ratio is still too low to support continued high growth and catching-up. Net inflows of foreign direct investment (FDI) had an important role in private capital formation since it was above 4% of GDP in all years, peaking at almost 8% in 2000, and FDI related to greenfield investment was higher than FDI related to privatisation in all years except 1997. Accumulated FDI inflows from 1997 to 2001 were rather high at €430 per capita. However, FDI inflows were fairly low in the first quarter of 2002, but have been higher again in the second quarter due to the conclusion of several privatisation deals with foreign investors. More than half of total foreign direct investment is channelled into industry; trade, finance and tourism are the next most important sectors.

The quality of infrastructure is low, but slowly improving. The overall quality of transport infrastructure is such that domestic and foreign investors see it as a major problem. Nevertheless, the infrastructure is slowly improving through the efforts of the Bulgarian authorities and the support from EU pre-accession funds. The ratio of general government gross fixed capital formation to GDP varied between 3% and 4% from 1998 to 2001, up from only 1.5% in 1997. The length of motorways has increased from 314 km to 328 km, while the railway network maintained its size. The information and

telecommunication structure is improving. The fixed telephone network is making some progress, but its digitalisation is still low at only 17%. The mobile telephone network, with two currently active independent operators and a third license being an option in the ongoing privatisation of the fixed-line telecom monopoly (BTC), has improved rapidly and internet use is growing, albeit from a very low level. Energy infrastructure investment is oriented towards improving quality and connecting networks to neighbouring countries. Local infrastructure, such as streets, sewerage, water supply and schools, is often in a poor state since municipalities have little funds for investment.

Enterprise restructuring has made progress, mostly in the context of privatisation, but restructuring is still unfinished in some sectors. Energy efficiency is still very low. In the electricity sector, the government has adopted a new strategy based on the institutional separation of transmission, generation and distribution. Transmission infrastructure will remain regulated and state-owned, while generation and distribution are being liberalised in order to allow third party access, initially only for clients whose annual consumption exceeds certain thresholds. Privatisation has started for 7 regional electricity distribution companies, and several hydropower plants are being sold. Restructuring is ongoing in the gas sector, coal mines, and district heating companies. There has been further progress in restructuring the steel industry, though several privatised enterprises still depend on soft budget constraints in the form of wage, tax and customs duty arrears. In the telecommunications sector, the privatisation procedure of the telecom monopolist was started in summer 2002 and the fixed-line monopoly is set to expire at the end of 2002, with transitory arrangements still under discussion. In the transport sector, several state-owned enterprises still continuously make losses. On 1 January 2002, the institutional separation of the railway infrastructure and operations was legally completed, which also ended the state monopoly on rail transport.

The structure of the economy is changing at a fast pace. The agricultural sector's share of gross value added has roughly halved, from 26.6% in 1997 to 13.6% in 2001: this is due not only to economic reform, but also to adverse weather conditions in recent years. While the share of industry (including construction) has remained at about 28% in this period, services have expanded from 45.2% in 1997 to 57.7% in 2001. This sectoral shift was much less pronounced in terms of employment, with more than a quarter of the labour force remaining in agriculture, and only some 3% of the labour force shifting from industry into services.

Small and medium-sized enterprises (SMEs) have not yet developed their full potential for growth and employment. The share of enterprises with less than 250 employees accounted for 35% of the gross value added and for 56% of employment in 1997, and increased to 43% of the gross value added and 65% of employment in 2000. In spite of this positive development, it is still insufficient to compensate for the substantial job losses of large enterprises following their privatisation and restructuring. One explanation is that SMEs tend to suffer from the worst aspects of the often difficult conditions of doing business in Bulgaria, including red tape, corruption and lack of access to finance, information and management skills. Banks often refuse to grant loans to SMEs because they ask overly high requirements for collateral, which is difficult to use due to the shortcomings of the judicial system, and because many firms' accounts do not look promising, since they understate their figures in order to avoid taxes. The government has created a micro-lending scheme and a guarantee fund, but the number of beneficiaries (around 100 by end of April 2002) and the effects on economic development remain very limited.

The state is gradually reducing its involvement in the productive sector. Privatisation and trade liberalisation have been the most important reductions of state intervention. Hidden subsidies in the form of tax and social securities arrears as well as debt to state-owned suppliers have decreased, but still amounted to 1.6% of GDP for tax arrears and 0.7% of GDP for social security arrears. The energy and transport sectors still receive substantial amounts of state aid to cover losses. A new law on state aid, which entered into force in June 2002, provides a good procedural framework for state aid control, but still requires the adoption of clear implementing provisions. The Ministry of Finance has maintained the financial discipline of state-owned enterprises by monitoring closely their use of credits and wage increases. Nevertheless, the state remains responsive to sector-specific requests for protection, for example by introducing up to 40% protective import duties for nitrogen fertilisers as of July 2002. The government also intends to retain golden shares after the privatisation of the tobacco and telecom monopolies.

Trade integration of the Bulgarian economy has increased. The general openness of the economy, measured by trade in goods and services as a percentage of GDP, decreased slightly from 58% (1997) to 56% (2001) for exports and increased from 54% (1997) to 63% (2001) for imports. Bulgaria's most important export product is tourism whose revenues accounted for almost 9% of GDP in 2001. In the course of the abolition of tariffs in the context of the Europe Agreements, the EU has become Bulgaria's most important trading partner, the value of merchandise trade with the EU accounting for more than half of total exports and almost half of total imports. Goods exports consist mainly of ores, petroleum products, pharmaceuticals, perfumes, fertilisers, textiles and clothing, footwear, iron and steel, non-ferrous metals and machinery. Of the EU Member States, Italy, Germany and Greece have become the most important destination for Bulgarian exports, while the most important destinations outside the EU are Russia and Turkey. With the exception of Greece, these countries had rather low economic growth in 2001 and 2002, which partly explains Bulgaria's relatively weak export performance in these years. Reforms were started in 2002 to improve the functioning of customs offices, which lack the administrative capacity required for an open trade policy because of complicated and inconsistent procedures which also led to substantial losses in the collection of VAT and excise duties.

In spite of some real exchange rate appreciation, international competitiveness has not deteriorated. Due to the inflation differential between the euro area and Bulgaria, the Bulgarian *lev* experienced a real appreciation of more than 7% against the euro in 2000 and of almost 5% in 2001, measured in terms of consumer price inflation. The appreciation of the real effective exchange rate from the beginning of 1998 until the end of 2001 was about 10%. However, since labour productivity increased more than real wages, unit labour costs at the end of 2001 were still below their level at the beginning of 1998.⁹

⁹ IMF calculations.

2.4. General evaluation¹⁰

Bulgaria is a functioning market economy. It should be able to cope with competitive pressure and market forces within the Union in the medium term, provided that it continues implementing its reform programme to remove remaining difficulties.

Bulgaria has achieved a high degree of macroeconomic stability and market mechanisms are now working sufficiently to allow for a better allocation of resources. Good progress has been made in structural reforms, especially as regards procedures for market entry, the restructuring of the financial sector and privatisation, thus setting the microeconomic basis for a process of sustained growth.

However, further efforts are needed to improve the flexibility of markets. In particular, the efficiency of the administrative and judicial system has to be reinforced, to allow economic agents to make decisions in a climate of stability and predictability. Administrative procedures affecting the enterprise sector, including bankruptcy procedures, must be streamlined. The level of financial intermediation continues to be low. Specific deficiencies remaining in the land market affect the performance of this market and of related economic sectors. An implementation of these reform measures should contribute to higher levels of private and public investment which are key requirements for sustained growth and sufficient competitiveness within the Union.

¹⁰ See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

3. Ability to assume the obligations of membership

Introduction

This section addresses the question of Bulgaria's ability to assume the obligations of membership – that is, the legal and institutional framework, known as the *acquis*¹¹, by means of which the Union implements its objectives. Alongside an evaluation of relevant developments since the 2001 Regular Report, this section seeks to provide an overall assessment of Bulgaria's ability to assume the obligations of membership, and of what remains to be done. Furthermore, it includes an evaluation of Bulgaria's track record since the 1997 Opinion. It also provides, for each of the negotiating chapters, a summary evaluation of the extent to which commitments made in the negotiations have been implemented, as well as an overview of transitional arrangements that have been granted.

This section is structured in accordance with the list of 29 negotiating chapters, and incorporates an assessment of Bulgaria's administrative capacity to implement the *acquis* in its various aspects. Bulgaria's progress in translating the *acquis* into its official language is assessed in a separate section.

In December 1995, the Madrid European Council remarked on the need to create the conditions for the gradual, harmonious integration of the candidate countries, particularly through the adjustment of their administrative structures. Taking up this theme, in Agenda 2000 the Commission underlined the importance of effectively incorporating Community legislation into national legislation, and the even greater importance of implementing it properly in the field, via the appropriate administrative and judicial structures. This is an essential precondition for creating the mutual trust indispensable for future membership.

In June 2002, the Seville European Council repeated how important it was that candidate countries should continue to make progress with the implementation and effective application of the *acquis*, and added that candidate countries must take all necessary measures to bring their administrative and judicial capacity up to the required level. Building on the assessment of Bulgaria's administrative capacity provided in the 2001 Regular Report, the present Report seeks to add further depth and detail, focusing on the main administrative structures required for implementing the various aspects of the *acquis*.

In its 1997 Opinion on Bulgaria's application for EU membership, the Commission concluded:

"Despite the progress that has been made, Bulgaria has neither transposed nor taken on the essential elements of the acquis, particularly as regards the internal market. It is therefore uncertain whether Bulgaria will be in a position to assume the obligations of membership in the medium term. In addition, considerable efforts will be needed in the areas of environment, transport, energy, justice and home affairs as well as agriculture. More generally, substantial administrative reform will be indispensable if Bulgaria is to have the structures to apply and enforce the acquis effectively."

¹¹ A description of the *acquis* for each chapter can be found in the Commission's 1997 Opinion on Bulgaria's application for EU membership.

In the 2001 Regular Report, the Commission found that :

"Bulgaria has continued a good pace of alignment of legislation with the acquis but still needs to pay more attention to how this will be implemented and enforced. Progress on public administration reform has continued and is a positive sign. This needs to be sustained to ensure public administration is prepared for its role at EU accession. However, little has been done to prepare the judicial system, which needs to be modernised and strengthened, in particular to ensure effective enforcement of the acquis.

Regarding the internal market, Bulgaria has made further progress in most areas. In free movement of goods progress continued with membership of European Accreditation as a major achievement. Reinforcement of administrative infrastructure for standardisation and certification, and of market surveillance systems, is still necessary. On financial services, Bulgaria has developed sound banking supervision practices. Company law has been further aligned and the legal framework for protecting intellectual and industrial property rights improved, but further steps are needed to ensure this is enforced. On state aids, Bulgaria is at last starting to develop and implement a framework for state aids but this is not yet compatible with the acquis. Bulgaria still lacks a legal framework on data protection compatible with the acquis.

In agriculture, Bulgaria has continued generally good progress on approximation of legislation but implementing the acquis poses a significant challenge. Veterinary and phytosanitary inspection arrangements need further upgrading. The partial accreditation of SAPARD is a noteworthy success. Progress on fisheries has accelerated compared to previous years.

Whilst progress has been made to amend labour law towards alignment with the acquis, progress on equal treatment legislation remains slow. Whilst administrative capacity of the general labour inspectorate has been reinforced, the capacity to implement the acquis on occupational health and safety will need to be increased.

Concerning regional policy, Bulgaria has made little further progress and much more attention needs to be paid to preparation for implementing structural policies.

Bulgaria has continued its positive efforts on transposition of the EC environmental acquis but implementation and the cost of alignment remain a challenge.

The pace of progress on transport has been pursued both on adoption and creation of implementing structures. There has also been an increase in investments.

The restructuring of the energy sector has progressed at a very slow pace throughout 2001 following delays in the planned revision of the legislative framework. These delays have hindered efficiency improvement and preparation for privatisation. As regards nuclear energy, Bulgaria must respect the de-commissioning commitments of the Memorandum of Understanding and ensure a high level of nuclear safety.

In justice and home affairs, further progress has been made in most areas in terms of legislation but progress on strengthening administrative capacity was not as strong as required. Some progress has been made on control of external borders; however, there is scope for further improvement, in particular in inter-agency co-operation.

In external policies, Bulgaria's performance remains strong, continuing to make a substantial contribution to regional stability and following the path of trade liberalisation with the EC and its preferential partners.

For customs and taxation, Bulgaria will need to develop IT systems that allow for exchange of data with the EC.

Further progress has been made to strengthen financial control and on improving public expenditure management and control. Efforts should be pursued.

*Whilst some progress can be noted on establishment of the institutions necessary to implement the *acquis* and on public administration reform, the capacity of the Bulgarian administration remains limited. Further sustained progress and allocation of the necessary resources will be necessary to meet the challenges ahead. Further efforts are also required in establishing the necessary administrative capacity to ensure the sound, efficient and controllable management of EC funds.*

*Whilst work on public administration is progressing, the slow pace of preparation of the judicial system to enforce the *acquis* is worrying. Progress on judicial reform needs to be substantially accelerated.*

*Bulgaria has fulfilled partially and made progress since last year on all of the short-term Accession Partnership priorities relating to the *acquis*. Concerning administrative capacity, Bulgaria has moved forward on priorities, with the exception of that of strengthening the judiciary, where little progress has been made. The implementation of the recently adopted strategy for judicial reform should make a difference. Bulgaria has started to address the majority of medium-term Accession Partnership priorities."*

3.1. The chapters of the *acquis*

As indicated, the following review of Bulgaria's ability to assume the obligations of membership has been structured in accordance with the list of 29 negotiating chapters. Accordingly, this section opens with an assessment of progress relating to the cornerstones of the internal market which are known as the "four freedoms", and continues with a systematic review of progress on each of the chapters, covering all aspects of the *acquis*, including sectoral policies, economic and fiscal affairs, regional policy, environment, justice and home affairs, external policies, and financial questions.

Chapter 1: Free movement of goods

Progress since the last Regular Report

Since last year's Regular Report, Bulgaria has continued to make good progress in this area.

In the area of **horizontal and procedural measures**, a number of legislative measures were taken to remove remaining discrepancies between Bulgarian legislation and the *acquis* and to further separate the functions of standardisation and certification bodies, where a potential for conflict of interest was perceived. With the amendments to the Law on standardisation, conflicts of interest between standardisation and regulatory functions and/or certification were removed. However, certification activities are still not

adequately segregated from accreditation. Horizontal legislative measures include in particular amendments to the Measurements Act and to the National Standardisation Act.

Work has progressed well in aligning **sector specific legislation** with the *acquis*. In the areas covered by the *New Approach Directives*, twelve directives (gas appliances, construction products, machinery, recreational crafts, toys, lifts, electromagnetic compatibility, simple pressure vessels, civil explosives, low voltage devices, equipment and protective systems for use in potentially explosive atmosphere, personal protective equipment) have been transposed.

In the sectors covered by the *Old Approach Directives*, some progress can be recorded on chemicals, cosmetics, glass, textiles and footwear, but none in the fields of motor vehicles and wood.

As regards the issue of food safety and foodstuffs legislation (*see also Chapter 7 – Agriculture*), several ordinances have been adopted as regards labelling, additives, packaging material, hygiene, irradiation and contamination, which constitutes considerable progress.

There are no developments to report on the *acquis* on firearms or cultural goods.

Further progress has been made on the development of administrative capacity for the implementation of horizontal and procedural measures as well as sector-specific legislation. The market surveillance infrastructure for enforcement of the newly-transposed legislation has been strengthened further since the last Report. In particular, the Customs Agency has included co-operation with market surveillance authorities as part of its strategy.

In the **non-harmonised area**, the principle of mutual recognition of conformity has not yet been introduced into Bulgarian legislation.

In the area of **public procurement**, a significant step forward was taken by amending the Law on public procurement, with effect from May 2002. However, preparation of implementing legislation foreseen under the revised law is still outstanding. The amended law confirms the Public Procurement Directorate in the Council of Ministers as the institution designated to apply national procurement legislation.

Overall assessment

While Bulgaria has reached a reasonable level of transposition in most areas, the framework Law on technical requirements adopted in September 1999, which introduced the New and Global Approach principles into domestic legislation and established the legal base for the adoption of specific New Approach directives, is still not fully in line with the *acquis*.

The Bulgarian Institute for Standardisation has been created as a result of the amendment to the National Standardisation Act. However, it is not yet operational as an independent State body. It will need to maintain the speed of the harmonisation process on European standards to cope with legislative development and to meet the requirements for CEN, CENELEC, and ETSI membership.

The creation of an effective network of independent certifying bodies and laboratories is still lagging behind.

As regards food safety legislation, a considerable amount of legislation has been transposed. Efforts are still required to harmonise Bulgarian legislation with the *acquis*, in particular removing the pre-market approval system and ensure proper implementation and enforcement of the *acquis*. Reinforcement of administrative capacity is still needed. In particular, laboratories need to be upgraded and accredited. Furthermore, Bulgaria should put priority on training inspectors and staff working with food.

There is co-operation between the customs authorities and market surveillance bodies. This co-operation is not yet formally regulated.

In non-harmonised areas, the Bulgarian authorities should ensure that the principle of mutual recognition is integrated into every piece of relevant Bulgarian legislation on goods. Bulgaria should also ensure that the ongoing screening procedure of Bulgarian legislation concerning all provisions which might be in breach of Articles 28 -30 of the EC Treaty, will eliminate all restrictions well before accession.

The amendment to the public procurement Act is a further step towards implementation of the *acquis*, although it does not yet ensure full alignment and further efforts will have to be made in line with Bulgaria's commitments in this regard. Its effective enforcement, in line with the principles of the *acquis*, has still to be ensured. In particular, it is not yet clear how equal treatment of domestic and foreign bidders will be implemented in practice and what consequences the exemption of (semi-) private providers of mobile telecommunication services from the obligations of the law will bring. The necessary implementing legislation has not yet been developed. The review capacity of the Public Procurement Directorate remains limited and needs to be strengthened. The complaint system does not function effectively and does not provide enough protection for contractors. The appeal system needs to be further improved. New amendments to the law go as far as the Constitution allows and more substantial changes would require an amendment of the Constitution. Audit functions still need considerable strengthening. Bulgaria has made a commitment to establish a Public Procurement Agency by the end of 2002, but no formal decisions have yet been taken to this effect.

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria's record on the implementation of its commitments on free movement of goods under the Europe Agreement was generally good. It noted, however, that the Bulgarian authorities should also ensure that, in areas not covered by Community harmonisation, their own national laws did not hamper trade. It added that, in particular, they should check that measures were proportionate to their objectives. It concluded that although there were positive indications, a considerable effort remains needed before the *acquis* will be fully and effectively implemented by Bulgaria. On public procurement, further efforts would be needed to adopt all the relevant *acquis*.

Since the Opinion, Bulgaria has made substantial progress in the field of free movement of goods as regards both the legislation and the separation of administrative responsibilities where a potential of conflict of interest existed. A reasonable level of

transposition of the *acquis* has been reached in most areas but the level of administrative capacity and enforcement has not kept pace with this.

Negotiations in this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangement in this area. It is generally meeting the commitments it has made in the negotiations on this chapter.

Bulgaria should focus further efforts on in particular the development of a national conformity assessment system. In the field of public procurement, attention should be focused on the establishment of an Agency as scheduled and in line with the commitment made by Bulgaria, as well as on ensuring effective remedies and abolition of the national preference scheme.

Chapter 2: Free movement of persons

Progress made since the last Regular Report

Bulgaria has made further progress in alignment with Community provisions, as well as in the establishment of the required administrative structures.

Some progress can be reported on **mutual recognition of professional qualifications**. With the adoption of the law on the chambers of architects and the chambers of engineers in investment design, Bulgaria has made progress in aligning with provisions on mutual recognition of qualifications and freedom to provide services as an architect.

In the area of **citizens' rights**, there are no particular developments to report. It should be recalled that the Constitution will need to be amended to allow full alignment with the *acquis* in this area.

Bulgaria has made further progress in the area of free movement of workers. The new Employment Promotion Act, which entered into force in January 2002, makes it possible to remove the work permit regime for EU citizens upon accession. With the adoption of an ordinance in April 2002, family members of foreign workers have access to the labour market without being required to wait for 24 months. Bulgaria has also introduced new rules as regards residence permits for self-employed workers.

Preparatory work has continued to facilitate Bulgaria's participation in the European Employment Services system (EURES).

Bulgaria has continued to strengthen bilateral relations with a view to the future **co-ordination of social security** matters and development of institutional capacity has accelerated. A bilateral agreement with Spain, covering health insurance, pensions, unemployment benefits and family allowances, has entered into force.

Overall assessment

Further legislative work is necessary in the area of mutual recognition of qualifications, both as regards the legislative framework and alignment with the individual directives. Outstanding issues include alignment with EC legislation on lawyers, pharmacists and vets. By accession, it has to be ensured that all Bulgaria's legislation is aligned with Community rules, in particular with respect to nationality, residence and language

requirements. Legislation on mutual recognition needs to be monitored to ensure that it distinguishes between academic and professional recognition and includes simpler procedures to allow the provision of services. With respect to professional qualifications obtained before harmonisation, Bulgaria needs to introduce measures to ensure that all its professionals can, as of accession, meet the requirements laid down by the directives. Curricula and training will need to be adjusted in a number of cases to ensure full compliance with the sectoral directives. Specific training is needed to enable midwives to work autonomously.

Bulgaria has taken some steps to align with the *acquis* on citizens' rights, but preparations must continue and include amendments to the provisions on voting rights.

The adoption of the new employment promotion law is a step forward in the area of the free movement of workers. However, further efforts are required to ensure complete alignment by accession, including the social and cultural integration of migrant workers and their families.

As regards future participation in the European Employment Services system (EURES), efforts should continue, especially with regard to language training.

With a view to the future co-ordination of social security systems, Bulgaria must ensure that it will have reached the required level of budget capacity as well as the necessary administrative capacity to carry out the required financial transfers by the time of accession. Agreements such as that signed with Spain on social security will facilitate Bulgaria's compliance with the regulations as of accession, as they normally rely on the same principles as the social security co-ordination regulations, and this will familiarise the administration with the relevant procedures.

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria's transposition and implementation of the *acquis* were very limited. Notwithstanding progress in several areas, a major legislative policy and administrative reform effort was required in order that Bulgaria could accomplish the full *acquis* on the free movement of persons in the medium term.

Since the Opinion, Bulgaria has made substantial progress in aligning with the *acquis* in this area. It has taken further steps to ensure that its administrative structures will be sufficiently developed by the time of accession in order to meet the requirements for full implementation of the *acquis*, including with regard to the future co-ordination of social security systems. Bulgaria is now partially aligned with the *acquis* in this area, but further work is needed to achieve full alignment and to provide for the establishment of the necessary administrative bodies.

Negotiations in this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area. Bulgaria has agreed to a transitional arrangement in respect of the free movement of workers put forward by the EU. Restrictions on the movement of workers from Bulgaria to the EU will apply for a minimum two-year period as of the date of accession and may remain in force for a maximum of seven years. Bulgaria is generally meeting the commitments it has made in the accession negotiations in this field.

Bulgaria should focus further efforts in particular on ensuring that the curricula and training of health professionals covered by the sectoral directives are in line with the *acquis*. It will also need to prepare, in good time, to meet the financial and administrative obligations that result from the application of the rules on co-ordination of social security.

Chapter 3: Freedom to provide services

Progress made since the last Regular Report

Since last year's Regular Report, Bulgaria has made good progress in implementing the banking *acquis* but is less advanced in the field of insurance and securities.

In the field of **the right of establishment and the freedom to provide services** (other than financial services), Bulgaria has made progress as regards the general non-discriminatory regime of national treatment for foreign nationals and companies performing economic activities in Bulgaria. In particular, amendments to the Law on Foreigners entered into force in January 2002 to eliminate discriminatory permit requirements imposed on EU nationals engaged in free-lance activities. However, related amendments to the Ordinance have not yet been adopted.

In the field of **financial services**, with regard to the banking sector, in December 2001, the Parliament adopted amendments to the Law on Bank Deposit Guarantee. Bank deposits of up to BGN 10 000 (approx. €5 000) will be guaranteed by the State in case of bank bankruptcy. A Law on Bank Bankruptcy was adopted in September 2002. The establishment of the Consultative Council for Financial Sector Supervision is a step in the right direction but it still remains to be seen if this will function effectively.

Only one amendment to the Ordinance on mandatory insurance can be reported during the period under review. The Insurance Supervision Agency was established as of January 2002, when the amendment to the Law on Gambling provided for the separation of the supervision of insurance from the supervision of gambling. Progress was made in the area of motor vehicle insurance ("green-card insurance") with the establishment of the Green-Card Bureau.

Two new regulations were adopted in the field of securities.

The Law on **Personal Data Protection** was adopted by Parliament in December 2001. The Bulgarian National Assembly adopted a decision on the ratification of Council of Europe Convention No 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data. The Law also provides for the establishment of an independent supervisory authority (*see also Chapter 24 – Justice and Home Affairs*).

Concerning **information society directives**, three Ordinances were adopted in January 2002, as required by the Law on E-Document and E-Signature adopted in April 2001 to transpose the EC Directive on a Community framework for electronic signatures.

Overall assessment

In the field of the right of establishment and freedom to provide services, the amendments to the Law on Foreigners attempt to exempt free-lance activities from the

requirement for a permit to exercise economic activity. However, the definition of “freelance activity” is not clear and it remains to be seen whether discrimination against EC economic operators providing services is removed in practice. Bulgaria needs to identify and eliminate remaining legal provisions and administrative practices that are incompatible with the EC Treaty provisions on right of establishment and freedom to provide services.

The financial sector of Bulgaria continues to be small and dominated by the banking sector.

As regards banking services, the amendments to the Law on Bank Deposit Guarantee contributed to the gradual adoption of the respective *acquis* within the set timeframe.

The performance of the banking sector has improved in terms of extended credit, total banking assets and profitability. However, the recovery of confidence in the banks is a slow process and the pre-1996 level has not been reached yet. The banking supervision structure is well equipped and competently supervises the commercial banks and financial brokerage houses with a view to ensuring compliance with prudential regulations. However, the Bulgarian National Bank needs to obtain broader powers to investigate the identity and suitability of direct and indirect shareholders of banks especially in some offshore jurisdictions.

In the field of insurance, most of the EC insurance *acquis* (2nd and 3rd generation of Directives, insurance accounts Directive, motor insurance Directives) remains to be transposed in the period 2003-2005. The decision to separate supervision of insurance from supervision of gambling is a positive step and should help improve the operation of supervision in both sectors. The insurance sector, although well diversified and with good representation of foreign companies, is relatively small. Privatisation of the sector has advanced with one company privatised and procedures for others in progress. Bulgaria is gradually transposing the *acquis* on the approximation of the laws relating to insurance against civil liability in respect of the use of motor vehicles.

Since the last Report, Bulgaria has only made limited progress on bringing its legislation into line with the securities *acquis*. Bulgaria will need to intensify its efforts in order to avoid falling behind in a sector that is already changing rapidly. The Directive on undertakings for collective investments in transferable securities (UCITS) is only partially implemented.

In the area of pension funds, capacity strengthening is needed as regards both the State Insurance Supervision Agency (the supervising authority) and corporate governance of pension funds.

Concerning data protection, the Data Protection Act of December 2001 aims at aligning Bulgarian legislation in this field with the *acquis*. However, the structure of the Act, the concepts and the criteria introduced are in many cases different from those of the *acquis*. This poses a number of problems of compatibility. Some of the provisions of the Directive have not been transposed either. Therefore further amendments will be necessary if the Act is to be brought in line with the *acquis*. Steps should be taken to put administrative capacity in place to implement and enforce the Act.

Conclusion

In its 1997 Opinion, the Commission concluded that, while there was some progress in the financial services area and a clear commitment existed on the part of the authorities to undertake further steps, the full adoption of the *acquis* was dependent on the implementation of the economic and structural reform programme, including the strengthening of the supervisory structure, for which several steps had already been undertaken. The Commission added that the process would require a sustained effort over several years before Bulgaria's financial system would be able to sustain the impact of integration in the internal market.

Since the Opinion, Bulgaria has made steady progress in most areas of the chapter, both in terms of legislation and strengthening the administrative and regulatory infrastructure required to supervise the financial services sector. It has reached a reasonable degree of alignment and needs to further strengthen administrative capacity for implementation and enforcement.

Negotiations on this chapter have been provisionally closed. Bulgaria has been granted a transitional period (until 31 December 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*. Bulgaria is generally meeting the commitments it has made in the accession negotiations in this field.

Bulgaria should focus further efforts on the field of insurance and securities. Bulgaria has made some progress as regards discrimination in the areas of freedom of establishment and freedom to provide services, but further efforts are still required to identify and implement measures that will ensure full non-discrimination.

Chapter 4: Free movement of capital

Progress made since the last Regular Report

The previous Regular Report indicated that Bulgaria had already achieved substantial alignment of its legislation with the *acquis* in this area and since then there are few new developments to report.

In the field of **capital movements and payments**, limited legislative developments have taken place. Although two of the related laws, the Foreign Investment Law and the Law on Public Offering of Securities, were amended in March 2002, the amendments were not *acquis*-related but resulted from the adoption of the new Law on Privatisation and Post-Privatisation Control.

In the field of **payment systems**, in November 2001, the Bulgarian National Bank amended its regulation on payments with bankcards to partially transpose the *acquis* on electronic payments instruments, particularly on relations between the card-issuer and cardholder.

As regards **money laundering**, an amended Law on Measures against Money Laundering entered into force in January 2002. The amendments reflect the transformation of the Bureau of Financial Intelligence into an Agency, as part of Bulgaria's on-going public administration reforms. Concerning co-operation between the different institutions

involved in fighting money laundering, instructions on co-operation procedures between the Bureau of Financial Intelligence Agency and the National Customs Agency, General Tax Directorate, Insurance Supervision Agency and Gambling Supervision Agency have also been approved since the last Regular Report. Whilst in 2001 the Bureau received over 301 reports on suspicious transactions and deals, only 16 were transmitted to the Prosecutor's office and there were no prosecutions for money laundering in Bulgaria in the period covered by this report.

Overall assessment

In the field of capital movements, liberalisation in line with the *acquis* is well advanced. A number of transactions, mainly outflows, are not, as yet, liberalised. However, the main remaining restrictions relate to the acquisition of real estate by foreigners. This issue still needs to be addressed.

In the field of payment systems, the adoption of legislation in line with the *acquis* in the areas of cross-border credit transfers, settlement finality and securities settlement systems has yet to be completed. Further work is also needed in order to fulfil the *acquis* on electronic payment instruments. Further amendments to the Foreign Exchange Law for the transition from a registration to a declaration regime for export of capital are still to be finalised.

As far as administrative capacity is concerned, the Ministry of Finance and Bulgarian National Bank are responsible for supervising foreign exchange and collecting statistical data.

As regards money laundering, whilst the legislative amendments introduced increase alignment with the *acquis*, further changes are still required for this to be complete.

The specialised institutions - the Bureau of Financial Intelligence and the Police Service for the Identification of Corruption and Serious Economic Crime- are now working on improving their co-operation with the goal of being able to work together effectively in the near future.

The administrative capacity of the Bureau needs to be reinforced further by recruiting additional staff. Its stability and functional independence have to be fully ensured; in particular, attention needs to be paid to ensuring the functional independence of the Head of the Bureau. The slowness of investigations and lack of prosecutions in those cases that have been forwarded to the Prosecutor's Office continue to give cause for concern and need to be addressed. The Bureau also suffers from a lack of proper supervision of its activities. The effectiveness of the Bureau's management and staff needs to be improved so it can deal effectively with requests for investigations from both international and domestic sources. The reorganisation of the Bureau to increase the number of analytical staff is a positive development. The Bureau's inspection function, however, needs to be considerably reinforced so that, for example, it can pay more attention to exchange bureaux and casinos.

There is also a need to increase the resources available in other institutions such as the Bulgarian National Bank in order to combat money laundering effectively. Financial institutions need to develop programmes against money laundering, to include

development of internal policies, procedures and controls, and ongoing training and audit functions.

Whilst the adoption of instructions on the co-operation between the Bureau and other agencies is a positive step, attention needs to be paid to their implementation. This is particularly the case for the Insurance and Gambling Supervision Agencies, where co-operation is at an early stage.

Concerning payment systems, Bulgaria still needs to establish an out-of-court redress scheme to deal with the settlement of complaints between banks and their customers.

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria had introduced currency convertibility for most current account transactions, but limited liberalisation of capital movements. The liberalised capital transactions concerned inward capital movements exclusively. A relaxation of restrictions, notably on outward capital movements, could be envisaged only once durable improvement had been achieved in the financial situation and performance of the banking sector and depending on the progress of economic stabilisation and structural reform. On money laundering, the Commission concluded that, whilst Bulgaria was party to the 1990 Money Laundering Convention and adopted a Money Laundering Act in May 1996, considerable work remained to be done to enable the system to work effectively in practice.

Since the Opinion, Bulgaria has made significant progress, both in aligning its legislation and in developing the necessary administrative structures. Bulgaria has achieved substantial alignment of its legislation but needs to further improve administrative capacity.

Negotiations in this chapter are provisionally closed. Bulgaria has been granted transitional periods concerning the acquisition of ownership over land for secondary residences by EU citizens (for a period of five years following accession), and concerning the acquisition of agricultural land, forests and forestry land (for a period of seven years following accession) Bulgaria has accepted the condition that self-employed farmers who want to establish themselves and reside in Bulgaria are excluded from the scope of the transitional period. Bulgaria is generally meeting the commitments it has made in the accession negotiations in this field.

Bulgaria should focus further efforts on completing alignment and eliminating all remaining restrictions, completing the administrative structures necessary to properly implement the *acquis* in this area, and reinforcing administrative capacity, paying particular attention to the bodies involved in the fight against money laundering.

Chapter 5: Company law

Progress made since the last Regular Report

Since last year's Regular Report, Bulgaria has continued to make progress in the area of company law and the legal framework for protection of intellectual and industrial property rights, but enforcement remains weak, especially at borders.

Regarding **company law** as such no major developments can be reported.

With regard to accounting, the new Law on accounting entered into force in January 2002. Through the Law, the provisions of the Fourth and the Seventh EC Directives on accountancy were transposed into Bulgarian national legislation. The Law on independent financial audit entered into force in January 2002. It introduces the requirements of the Eighth EC Directive.

Concerning administrative capacity, the Institute for certified public accountants has intensified its activities in line with its new competence for licensing and controlling the quality of auditors and auditing companies. With the entry into force of the new Law on accounting and the Law on independent financial audit, the Institute licensed around 540 certified auditors.

In the field of **intellectual and industrial property rights**, in January 2002, the Parliament adopted a Law on ratification of the European Patent Convention and of the Act revising the European Patent Convention. Bulgaria has agreed to the EC proposal relating to industrial property rights for pharmaceuticals products and Community Trademark.

As regards administrative capacity, the Ministry of Culture and the Patent Office have processed a substantial number of applications for registration of copyrights and of industrial property rights under the Law on copyrights and related rights, and the Decree on control over the usage of copyrights and licensing of CD productions, as well as under the Patent Law.

Legislative work is ongoing to harmonise Bulgarian legislation with the requirements of the **Rome Convention** on the law applicable to contractual obligations.

Overall assessment

As regards company law, several of the EC directives in this field have already been incorporated into Bulgarian national law. However, while preparatory work is under way, legislation still needs to be brought fully into line with elements of the *acquis*, especially on acquisitions, mergers and divisions of companies.

The court system has gained experience in applying commercial law. Progress is observed in the commercial register proceedings. Register cases are handled within 3 to 7 days. In many district courts, there is a system for electronic processing and maintenance of the commercial register. Since there have not been recent changes in the legislation related to the registration of commercial agents, the courts have established relatively unified practice in the area. There are almost no cases of appeal on a registration procedure. Despite this progress, there are problems due to the fact that the original commercial register is kept on paper. Sometimes there are delays in registering factual changes even though a case has been dealt with in court. The court administration sometimes lacks the necessary expertise, and relevant training is not provided.

Whilst Bulgaria's legislation is to a large extent in line with the *acquis* on accounting, some amendments are still needed in order to reach full compliance.

The laws on intellectual and industrial property protection are largely in line with the *acquis*. Bulgaria has not implemented legislation on the *sui generis* protection of databases.

Furthermore, as regards enforcement of intellectual and industrial property rights (IPR), whilst efforts have been made, high levels of pirate software and counterfeiting still give cause for concern. According to industry information, pirate software and CD levels are respectively at 75% and 75-80%. Bulgaria is no longer a centre for the manufacture of pirate products, and import is the main source of such products on the Bulgarian market. Particular efforts are needed to enhance enforcement of border controls and to train law enforcement bodies and the judiciary to handle IPR matters.

An action plan exists concerning the implementation of the Regulation replacing the Brussels Convention on jurisdiction and enforcement of judgements in civil and commercial matters. Legislative work is well advanced as regards the implementation of the Rome Convention on the law applicable to contractual obligations (*see also Chapter 24 – Co-operation in the fields of justice and home affairs*).

Conclusion

In its 1997 Opinion, the Commission concluded that special efforts were necessary to improve the protection of intellectual and industrial property rights. It concluded that problems existed for the implementation of company law, due to insufficient knowledge and experience in the judiciary of company and commercial law issues, in particular company insolvency proceedings. Law enforcement was also hampered by deficiencies in laws relating to privatisation and concessions. The Commission added that as regards accounting and auditing, a high degree of conformity with the Directives had already been achieved but the profession's compliance with the legislation needed to improve. Major efforts were needed to ensure the practical application of the existing legislation.

Since the Opinion, Bulgaria has made good legislative progress in the field of company law, but efforts are still required to reach full alignment with the *acquis* and ensure implementation

Negotiations in this chapter are provisionally closed. Bulgaria has not requested any transitional arrangements in this area and has agreed to the proposal put forward by the EU relating to industrial property rights for pharmaceutical products and Community Trademark. Bulgaria is generally meeting the commitments it made in the accession negotiations in this field.

Bulgaria should focus further efforts on full alignment with the *acquis*, intensifying measures to combat piracy and counterfeiting in particular through strengthening border controls and improving co-ordination between the customs, police and judiciary on enforcement of intellectual and industrial property rights.

Chapter 6: Competition policy

Progress made since the last Regular Report

Since last year's Regular Report, Bulgaria has made further progress in this area.

In the area of **anti-trust**, no further legislative developments can be reported as the Bulgarian legislation was already largely in line with the *acquis*.

The *Commission for the Protection of Competition* (CPC), which is the national competition authority in Bulgaria, has continued to build on its anti-trust enforcement record over the past year. In 2001, 53 decisions were adopted, including six prohibitions (all with fines) and one conditional merger approval. However, fines that act as a more effective deterrent are needed, and work should focus on the most serious distortions of competition.

In the area of **state aid**, important progress has been made on the legislative side with the entry into force of the Law on State Aid in June 2002. The new law provides a good procedural framework for state aid control. It does not, however, provide details on the substantive criteria that should be used for the assessment of notified aid. In this respect, the Council of Ministers has adopted substantive implementing rules for the application of the law, intended to transpose the EC's substantive state aid *acquis*. Bulgaria has also proposed for adoption under the Europe Agreement mechanisms a regional aid map in line with the *acquis*. The state aid report for 2001 follows the methodology and presentation of the "Survey on State Aid in the European Union".

The new Law on State Aid confirms that the State Aid Department within the Ministry of Finance is responsible for ex post state aid monitoring (annual report and inventory). The State Aid Directorate within the Commission for the Protection of Competition is in charge of ex ante state aid control (authorising or prohibiting aid projects after compulsory notification). Co-operation between the two bodies has improved during the reporting period. The state aid enforcement record of the Commission for the Protection of Competition is still emerging. Since the last report, important efforts have been made to improve the ex ante notification practice of aid-granting bodies. The Commission for the Protection of Competition took 39 state aid decisions between October 2001 and the end of August 2002. Both the quality and quantity of the decisions need to be improved.

Regarding steel, Bulgaria has confirmed that it will apply for an extension of the period during which aid can be granted for restructuring, as provided for in Protocol 2 to the Europe Agreement. An overall restructuring plan needs to be prepared, along with individual plans notably concerning Kremikovtsi, Bulgaria's main steel industrial complex (*see also Chapter 15 – Industrial policy*). In the steel industry aid for restructuring can only be given if the national and individual restructuring programmes of the companies would include necessary measures for reaching viability and necessary cuts in production capacity, in line with the requirements set out in Protocol 2 of the Europe Agreement.

Overall assessment

As regards anti-trust, the overall assessment is positive, with some further efforts still required. The Bulgarian Law on the Protection of Competition of 1998 contains the main principles of the EC's anti-trust rules as regards restrictive agreements, abuse of dominant position and merger control. As regards implementing legislation, in 2001 Bulgaria introduced a block exemption for vertical agreements that is compatible with the new EC policy. Further efforts are needed with respect to the approximation of implementing legislation on horizontal agreements. The Commission for the Protection of Competition is a fully independent authority. It has broad powers to enforce competition rules. In the

area of anti-trust, the most important challenge for the Commission for the Protection of Competition is to continue building on a record of effective implementation and enforcement of the rules, giving priority to cases concerning the most serious distortions of competition. Efforts to ensure a more effective and deterrent sanctions policy should also be continued. It is important to do more to increase awareness of the rules, especially within the business community. In view of the planned modernisation and decentralisation of the application of EC anti-trust rules, training efforts should be pursued, in particular with regard to the judiciary.

As regards state aid, the overall assessment is not yet satisfactory because there is not yet a solid enforcement record. The new Bulgarian Law on State Aid entered into force in June 2002. It provides a good procedural framework for the control of state aid. Under this law, the Commission for the Protection of Competition (CPC) has broad powers to enforce state aid rules. The CPC needs to make additional efforts, in particular to upgrade its expertise in the area of state aid control and to improve the quality of its state aid decisions. Whilst there have been improvements in co-operation between the Commission for the Protection of Competition and the State Aid Department of the Ministry of Finance, this needs to be further intensified; the ultimate aim is to exchange information on a day-to-day basis, and in particular to share the state aid inventory on-line. Following the entry into force of the new State Aid Law, one of the main priorities of the CPC should be to assess all existing schemes in Bulgaria under which state aid is being granted. Incompatible existing aid schemes should be brought into line with the *acquis*. It is important to increase awareness of the rules, in particular among aid grantors, the business community and the judiciary.

Conclusion

In its 1997 Opinion, the Commission concluded, in the field of anti-trust, that Bulgaria had made some progress with the institutional and legislative requirements, but also that the implementation, enforcement and control of the legislation would require sustained structural reforms. In the field of state aid, the Commission concluded that progress had been limited in all aspects and that considerable efforts were necessary to meet the requirements of credible control of state aid, in particular as regards transparency in the granting of state aid and the establishment of a well-functioning monitoring authority with sufficient powers to monitor state aid and a sufficiently qualified staff.

Since the Opinion, Bulgaria has made steady progress in adopting anti-trust and state aid legislation, in developing the administrative capacity of the Commission for the Protection of Competition and in establishing an enforcement record. However, overall Bulgaria is only partially in line with the EC requirements as regards legislative alignment, administrative capacity and enforcement record, in particular in relation to the enforcement of State aid discipline.

Negotiations on this chapter continue. Bulgaria has not requested any transitional arrangements in this area.

Bulgaria should focus further efforts in particular on improving the enforcement of state aid rules and developing administrative capacity in order to develop a credible state aid enforcement record.

Chapter 7: Agriculture

Progress made since the last Regular Report

Since the last Regular Report, Bulgaria has made steady progress in this area on alignment of legislation and institution building. Progress has been more limited in the enforcement of legislation.

Agriculture in Bulgaria accounted for 13.8% of gross value added in 2000, compared to 16.2% in 1999¹². Employment in agriculture accounts for 26.7% of total employment¹³.

In 2001, overall **agricultural** trade¹⁴ between Bulgaria and the EC increased significantly, largely due to the "double-zero-agreement" to liberalise trade in agriculture. EC imports of agricultural products originating in Bulgaria increased by 15% to € 247 million. EC exports to Bulgaria increased by 8% to € 291 million. The trade balance in favour of Bulgaria amounted to € 44 million compared to € 55 million in 2000. Meat, wines and oil seeds dominated EC imports. Meat, fruit and nuts, cotton and essential oils were the main export goods from the EC.

Since the last Regular Report, Bulgaria has taken further steps in developing its agricultural policy. In 2001, a total sum equivalent to €148 million was allocated to agriculture.

In its 2001 Programme released in October 2001, the Bulgarian Government identified five priorities for the agriculture and forestry sector: efficient management of land and forest resources and development of market structures; enhancement of the competitiveness of the farming and processing sector, and creation of conditions for export orientation of agriculture; preparation for introduction of the requirements of the EC internal market and the elements of the Common Agricultural Policy; sustainable development of rural areas, improvement of living conditions for employees in agriculture and forestry and for residents of rural areas; and environment-friendly sustainable management of forest and hunting resources and protected wilderness tracts.

A Consultative Council on Agriculture was set up in March 2002. Its task is to draw up a national strategy on the development of agriculture in the next seven years in order to achieve a level of production and development that will facilitate integration into the European Union.

The process of restitution of ownership of agricultural land has been completed. At the end of 2001, 91% of woodlands and forests had been restituted. The preparation of a national cadastre and property register is under way. However, in spite of this, the number of transactions and prices of agricultural land remains low because of factors such as fragmented plots of land with shared ownership, lack of documentation in land

¹² The source for all agricultural statistics is EUROSTAT unless otherwise specified. Figures for share of agriculture in gross value added for 2001 not available.

¹³ Data from the national LFS for the period 1997-2000. Other indicators derived from the Community LFS. Agricultural employment is defined in LFS terms as economically active persons who gain a significant part of their income from agriculture.

¹⁴ Source of trade figures: WTO definition of agricultural products, figures from EUROSTAT COMEXT (see U.E. 12.15: Commerce des produits agricoles 1998-2000, 1 Partie D.G. AGRI/G.2 Analyses quantitatives, prévisions, statistiques, études, 2001, pp. 10-57 et 86-89).

registries and slowness of handling of legal disputes. Cadastral maps have been designed for over 90% of this country's territory in connection with land and forest restoration. However, these maps do not yet provide the necessary legal certainty.

Horizontal issues

Bulgaria has not yet established a Paying and Intervention Agency but has decided to establish a Paying and Intervention Agency consistent with EC requirements within the State Fund Agriculture by 2005. It is to constitute a single Paying and Intervention Agency, channelling both *European Agricultural Guidance and Guarantee Fund* (EAGGF) support and national funds for support to agricultural producers.

Further progress was made on the key registers, on which the *Integrated Administration and Control System* (IACS) will be built, in particular with the system for the identification and registration of animals and the identification system for agricultural parcels.

On *organic production*, Bulgaria adopted further legislation in September 2001 aimed at implementing the *acquis* on preparation, marketing, labelling, inspection and import of organic products. A Commission on Organic Farming was established as a consultative body in particular for the approval of the control bodies. Its operational rules were adopted in February 2002.

There have also been further preparations for Bulgaria's participation in the *Farm Accountancy Data Network* (FADN) through work to determine the typology of farms, and progress on transferring operational know-how concerning FADN, which started in April 2002.

Common market organisations

Feasibility studies for the alignment and implementation of CMOs in the wine and meat sectors are underway. The studies cover legal, institutional and economic aspects and proposals on how to introduce CMOs in Bulgaria.

Concerning *arable crops*, in the cereal sector, no new legislation has been adopted. The intervention centres for buying-in of cereals were identified in 2001. An analysis carried out in 2001 provided recommendations about the introduction of a cereal CMO.

As regards *specialised crops*, in the fruit and vegetables sector, an Ordinance on the quality requirements and conformity checks on fresh fruit and vegetables was promulgated in March 2002.

In the tobacco sector, legislation has been introduced to fix the prices of tobacco products of local origin and of imports. In March 2002, the process of privatising the national tobacco holding company started.

In the *wine* sector, a number of ordinances have been adopted since the last Regular Report. These cover terms and procedures for planting, replanting, grafting and grubbing-up of wines and on the rules for classification of wine varieties, the control of production potential through the introduction of planting rights, the accompanying documents for the movement of wines and products made of grapes, the rules for the production of regional wines and the classification of vine areas, the declaration system for vine-derived

products and a control system based on actual checks of the declarations. Bulgaria is also carrying out a regional pilot project to set up administrative controls over wine production potential, including a register of wine producers. Since the last Regular Report, progress has also been made in establishing Vine and Wine Chambers in all regions and these have recruited personnel.

In relation to *animal products*, no new developments can be reported.

Rural development and forestry

Bulgaria's practical experience with the SAPARD programme contributes to the preparation for the implementation of the EC rural development measures (*see Section A.b.- Relations between the European Union and Bulgaria*). Rural development is an important part of the Bulgarian Government Programme 2001, with 2 priorities out of the 5 agricultural ones. Progress has been made regarding co-ordination between institutions in the rural development and regarding the drafting of the National Agri-environmental Programme.

With regard to forestry, in March 2002, the Minister of Agriculture and Forests and the Interior Minister signed a joint memorandum laying down the most urgent measures for forest fire prevention.

Veterinary and phytosanitary issues, including food safety

Since last year's Regular Report, approximation of legislation in the veterinary and phytosanitary sectors has progressed well. Further efforts are still necessary in the transposition of the *acquis* and much remains to be done in the field of enforcement of veterinary/hygiene control standards.

In the **veterinary** sector, a number of regulations have been adopted since the last report on the identification of small ruminants, on prophylactics, on the implementation of the computerised network linking veterinary authorities ANIMO, on border inspection, on the measures to monitor residues in live animals and animal products and on the placing on the market of meat.

In the field of *animal health*, the National Veterinary Service (NVS) has developed detailed surveillance and monitoring programmes for various animal diseases and the response to the bluetongue outbreak in 2001 was satisfactory. The Animal Disease Notification System (ADNS) has been operational since the end of 2001.

With regard to *animal welfare*, progress was made with the adoption of ordinances on the protection of laying hens and on the slaughtering conditions. The NVS appointed veterinary experts in all 28 regions to control the implementation of regulations but further efforts are needed on the actual enforcement of rules.

Animal identification and animal holding *registration* has made good progress and the identification of bovine animals has been completed although some further improvements are needed (e.g. in 17 of the 28 regions, bovines have only one ear-tag instead of double tags and metal tags need to be replaced by plastic). As for small ruminants, an Ordinance on the identification of small ruminants (goats and sheep) was adopted in November 2001 and work on ear-tagging started in April 2002. The introduction of EUROVET in

one region, a system compatible with ANIMO and SHIFT, was successfully completed at the end of 2001 and it is being installed in the remaining NVS regional offices.

Bulgaria has started the implementation of its integrated programme for border veterinary control and the construction of the post at Kapitan Andreevo on the border with Turkey has started. Bulgaria initiated BSE epidemiological surveillance in 2001 but needs to ensure this is fully in line with EC requirements. Laboratories for BSE diagnostics have been refurbished and BSE rapid test kits were delivered.

Some progress was made with the adoption in March 2002 of an Ordinance for the disposal and processing of *animal waste*, aimed at further aligning with the *acquis*.

In the **phytosanitary** sector, good progress has been made on the application of legislation since the last Regular Report in particular in the field of harmful organisms and plant protection products. Some laboratories and five border inspection posts have been equipped and the central office, the 15 regional services and the 13 units have also received information technology equipment.

The National Service for Plant Protection, Quarantine and Agro-Chemistry, renamed the National Service for Plant Protection (NSPP), was reorganised. The general reduction in the number of staff in autumn 2001 seriously affected the NSPP regional offices.

Since the previous Regular Report, approximation of legislation in the phytosanitary sector has progressed well. In November 2001, amendments to the Plant Protection Law introduced the general legal framework for the use of plant protection products and establish a legal basis for the adoption of Regulations providing for detailed rules. These amendments introduce in particular a licence regime for testing, import and trade and a control system for the use, storage and movement of these products.

Bulgaria has transposed Directives relating to the control of potato diseases and made good progress on the adoption of legislation and implementing legislation on phytosanitary control. Further steps have been taken towards development and implementation of quality assurance schemes for phytosanitary control and phytosanitary inspectors have been trained in border inspection.

In the field of registration of plant protection products, a system of internal quality control has been developed and steps taken towards development of a comprehensive Good Experimental Practices scheme.

Amendments to the basic Seeds Law were adopted at the end of March 2002 and preparation of legislation related to seed and propagation material is currently being further harmonised with EC Directives and international rules. With regard to plant variety registration and seed certification, officials have been trained in field inspection.

As regards **food safety**, further progress has been made in the adoption of implementing legislation. On food safety standards, progress was made since the last Regular Report. However, most facilities and equipment used by the food processing industry are obsolete and fail to meet the requirements for safety and hygiene of the national legislation.

Overall assessment

In the area of **horizontal measures**, priority should be given to establishing the capabilities to operate CAP support regimes in particular the *Integrated Administration and Control System* (IACS). Bulgaria does not yet have a system for the administration and control of payments similar to the IACS, and needs to continue its preparations for the establishment of this to become operational by its target date of 2005. The key registers on which the IACS system will be built have been partially created. They include the statistical register of agricultural producers and holdings, the alphanumeric system for the identification and registration of animals and the identification system for agricultural parcels.

Bulgaria is at an early stage in the development of **Common Market Organisations** (CMOs). Further progress should be made in the field of implementation of the CMOs for arable crops, sugar, fruit and vegetables and animal products (carcass classification and labelling system). In the milk sector in particular, there is a need for a clear strategy and to ensure that all dairy plants respect the regulatory framework.

In the wine sector, further work is needed to set up a vineyard register, and to ensure proper control of production potential. In addition grape and wine producers could usefully be more involved in the decision-making process in this sector.

Bulgaria has demonstrated an increasing commitment to **rural development** and has made concrete progress with the implementation of rural development programmes.

As regards land reform, Bulgaria has to continue work for the creation of the national cadastre and property register in order to improve the situation of the land market. Work on consolidation of land needs to be continued.

In the **veterinary** sector, the National Veterinary Service (NVS) is generally well structured and reliable. Inspectors are well-qualified. The total number of staff in the NVS is 2 785 (658 people for animal health, 898 for public health, 255 for border veterinary control and 227 for laboratory control), including 1 676 veterinarians. Staff of the NVS have received training in the area of animal health and public health. However, there needs to be better control of inspectors who apply control procedures, especially at the border.

Concerning *animal health*, the situation in Bulgaria is generally acceptable but there are some shortcomings, for example in certain regions improved supervision of the regional and district level by the central level is required.

Concerning *animal welfare*, further training is needed for official veterinarians. Producers' associations should also be informed of the need to apply animal welfare rules and on enforcement methods.

Regarding *animal identification, registration and movement control*, the EUROVET system still needs to cover the whole territory of Bulgaria and loading of data needs to be completed to enable improved surveillance of the epidemiological situation in Bulgaria and allow unrestricted trade of livestock and animal products to recommence with the EC. Identification of all ruminants by double plastic ear-tagging should be completed. Bulgaria must now guarantee an effective functioning of its registration system supported

by an adequate system of controls and sanctions. Special attention should be placed on the registration of animal movements.

Concerning *establishments*, slaughterhouses are old and equipment needs to be modernised. Procedures are not always followed and controlled.

Bulgaria has established a programme to upgrade the agri-food establishments, including an identification of shortcomings and deadlines to correct them until 2005.

As regards *animal waste*, significant further efforts are needed. Systems for collection of animal waste need to cover the whole territory of Bulgaria. Collection and processing of risk materials should be done separately. Severe deficiencies remain in rendering plants. Whilst Bulgaria has a feed ban on processed animal proteins, this is not in line with EC requirements and cross contamination of ruminant feed with animal proteins for ruminants and cross feeding remains likely.

A system of certification of internal movements is in place for animals and products. However, these documents do not always contain the necessary guarantees to support export certification.

The programme of upgrading of the Veterinary Border Inspection Posts needs to be continued for all 8 long-term Veterinary Border Inspection Posts. Concerning BSE, investigation of BSE epidemiology and use of approved diagnostic methods should be improved. In general, in the field of TSE controls there are still discrepancies compared to the EC system and considerable further efforts are necessary.

In the **phytosanitary** sector, progress on harmonisation with the *acquis* continues, but the National Service for Plant Protection (NSPP) needs adequate resources to implement it.

Concerning control and certification of seeds and planting material, a number of ordinances still need to be adopted, following the amendments to the basic Seeds Law.

In respect of **food safety** standards, most EC Directives have been transposed into Bulgarian law but some have not yet entered into force. However, considerable work needs to be done on implementation and enforcement. The various services responsible for food safety have well-qualified staff, but the co-ordination of tasks between the NVS and the Hygiene and Epidemiological Inspectorate and the Chief Directorate of Feeding Stuffs Control should be clarified. Investment is required in the control service. It is important that training of all staff in relation to requirements of the *acquis* is given a high priority. In food safety controls, priorities are mainly focused on premises, equipment and their maintenance rather than on procedures, control systems and certification. The main bodies responsible for food safety matters in Bulgaria are the Ministries of Agriculture, Health and Economy under the co-ordination of the National Council for Food Safety within the Council of Ministers. The main framework legislation on food safety has been transposed and is in force.

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria had made very limited progress in adapting to the Community *acquis* and that considerable sustained effort would be needed with regard to restructuring the agriculture and the agri-food sectors and reform of agricultural policy to prepare to apply the *acquis*. It noted that particular efforts

were needed in relation to: the adoption, implementation and enforcement of veterinary and phytosanitary requirements and upgrading of establishments to meet EC standards, particularly with regard to the inspection and control arrangements for protecting the EU external borders; strengthening of the administrative structures to ensure the necessary capacity to implement and enforce the policy instruments of the CAP; restructuring of the agricultural and agri-food sector to improve its competitive capacity. The Opinion went on to note that fundamental reforms would be necessary before Bulgaria would be able to meet the obligations of membership.

Since the Opinion, Bulgaria has made considerable progress in adopting legislation and steady efforts to organise its administrative structures. Some specific progress can also be reported in the adoption of legislation in the wine sector. Substantial efforts will be necessary to develop the necessary administrative, inspection and control mechanisms.

Negotiations on this chapter continue.

Bulgaria needs to focus further efforts on enforcement of legislation, in particular in the veterinary sector and ensure appropriate controls. Particular attention should also be paid to developing the administrative capacity necessary to administer and enforce the *acquis*, including preparations for the setting up of the Integrated Administration and Control System. Bulgaria also needs to ensure the functioning of markets. In the dairy sector in particular, further effort should be made to ensure organisation of production and processing. With regard to BSE, Bulgaria needs to take action to guarantee full conformity with EC requirements in the field of epidemiological surveillance, animal waste treatment and rendering activities.

Chapter 8: Fisheries

Progress made since the last Regular Report

Since the last Regular Report, Bulgaria has further progressed towards the adoption and implementation of the Common Fisheries Policy (CFP).

The National Agency for Fisheries and Aquaculture (NAFA), which was established in the Ministry of Agriculture and Forestry, is responsible for the management of commercial and recreational fisheries in Bulgarian waters. The administrative capacity of NAFA has considerably improved with the increase of regional offices from 6 to 27, and the increase of staff from 48 at the beginning of 2001 to 156 in August 2002. The 27 regional offices are responsible for field monitoring, control and surveillance activities.

Since the adoption in April 2001 of the Fisheries and Aquaculture Act, which provides the framework for the harmonisation of Bulgarian legislation with major aspects of the Common Fisheries Policy (resource conservation, control and inspection, fisheries data, market policy), further progress has been made on implementing legislation. Ordinances on logbooks and licensing of fishing activities were adopted in November 2001 and January 2002 respectively.

As regards **resource management, inspection and control**, the Fisheries and Aquaculture Act introduces the requirements of EC *acquis* on landing declarations and first sale information. No progress can be reported on the installation of the Vessel Monitoring System.

In the field of **structural actions**, significant progress was achieved by the finalisation of the creation of the Fishing Vessel Register at the Executive Agency of Maritime Administration (under the Ministry of Transport and Communications) and the training of personnel to operate it.

As regards **market policy**, limited progress can be reported in this field. A feasibility study was prepared, with recommendations on regulating the activities of producers' organisations and the organisation of market intervention in the fisheries and aquaculture sector.

As regards **state aid to the fisheries sector**, there are no new developments to report.

Following a decision of the Standing Veterinary Committee in spring 2002, Bulgaria was reincluded in the list of countries that can export fishery products to the European Union.

As regards **international fisheries agreements**, no new developments can be reported. However, a conference of the Black Sea countries on the management of sturgeon populations held under the auspices of the Secretariat of the Convention on International Trade in Endangered Species (CITES) agreed on joint action, including research, for preservation and sustainable use of sturgeons, and set permissible catches and export quotas.

Overall assessment

Whilst the administrative capacity of the National Agency for Fisheries and Aquaculture (NAFA) has considerably improved, it still lacks adequate equipment and trained personnel to effectively implement requirements relating to the establishment of a control system applicable to the CFP.

Whilst progress has been made on legislation in areas such as resource conservation, control and inspection, fisheries data and market policy, further steps (notably the adoption of implementing legislation) will be needed to ensure full conformity with the *acquis*.

Regarding resource management, inspection and control, further efforts are needed to develop the NAFA's control system, in particular to ensure adequate administrative capacity and equipment.

Regarding the fish processing industry, 44 fish processing establishments are registered with the National Veterinary Service (NVS) but only about 20 are currently actively operating. Their activities encompass freezing, smoking, canning, marinating and production of caviar.

As regards structural actions, adoption of further implementing legislation is still needed to finalise the Fishing Vessel Register. The State Fund for Agriculture has been nominated as the body to manage future aid. It will also act as the Paying Agency for the fisheries sector. However further efforts will be needed to ensure it is sufficiently equipped and trained to perform such functions in compliance with EC structural action requirements.

On market policy, further progress will be needed on adoption of implementing legislation and on creation of market and wholesale infrastructure. Bulgaria still needs to

create producer organisations, implement market regulation and create an Intervention Agency, promote an information system and set up and maintain a system for communication of information with the European Commission.

A Bulgarian Fisheries Association was created to represent marine fishing and processing companies, but there is no collective representation of individual fishermen. Those involved in aquaculture have an informal association.

On veterinary issues, although the situation has generally improved, problems still remain regarding legislation, laboratories, the residue monitoring programme and official supervision. It is important to ensure that steps are taken to introduce an adequate certification procedure for caviar, *inter alia* to avoid potential fraud on origin. At present, the NVS is not in a position to guarantee the health status regarding viral diseases of aquaculture fish originating in Bulgaria, so efforts are needed to address this.

On structural actions, particular attention needs to be paid to the supply of adequate equipment and the training of the personnel appointed to manage future aid and to act as the paying agency in compliance with EC structural actions requirements.

Conclusion

In its 1997 Opinion, the Commission concluded that the process of modernisation and *acquis* implementation would require significant efforts. However, it noted that in the medium term the fishery sector did not appear to present a major problem.

Since the Opinion, Bulgaria has made progress. Considerable further work is needed for the fisheries sector in Bulgaria to achieve compliance with the *acquis*.

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements. Bulgaria is generally meeting the commitments it has made in the accession negotiations in this field.

Bulgaria should focus further efforts on developing an adequate marketing infrastructure, and on measures to ensure full compliance with EC hygiene and health requirements and to ensure sufficient financing.

Chapter 9: Transport policy

Progress made since the last Regular Report

During the past year, Bulgaria has made further progress in aligning transport legislation with the *acquis*, notably in the road transport and the railway sectors, including through adoption of the necessary implementing legislation. The administrative bodies which implement and enforce the *acquis* have been restructured.

As regards **Trans-European Transport Networks**, a number of infrastructure projects are being implemented on corridors IV, VII and X, such as the modernisation of the E-79 road, the second Danube bridge, the electrification of major railway lines and the construction of a second terminal at Sofia airport. In October 2001, the Government updated the Programme for Transport Infrastructure Development (2001-2005). The total

cost of projects in this programme is € 4.2 billion, of which the State budget will fund 31%.

In the **land transport** sector, progress was achieved in all areas. In the field of *road transport*, amendments to the Road Traffic Law and to the Road Transport Law were adopted. These provide the legal basis for alignment with the *acquis*, clear the way for establishment of the necessary institutions and prepare the ground for the forthcoming implementing legislation. Much of the social and technical *acquis* on tachographs, admission to the occupation, licensing requirements, driving times and rest periods, roadside inspections and transport of dangerous goods has now been transposed. Progress has also been made in the field of vehicle taxation. Revision of the road taxation system has started, following adoption in January 2002 of the Law on Local Taxes and Fees, and full alignment with the taxation level required by the *acquis* will be reached by the end of 2006. As regards roadside inspections, a new Executive Agency for Road Transport Administration replaces the former General Directorate of the Ministry. The agency has a staff of 523 in 27 regional offices.

On *railways*, Bulgaria has advanced in the process of aligning its legislation and has now already aligned its legislation with a substantial part of the revised railway *acquis*. The Law on railway transport entered into force in January 2002, abolishing the State monopoly on railway transportation. The functional separation of infrastructure management from rail transport operations of the Bulgarian Railways Company has been completed, which should stimulate the legal and economic restructuring of Bulgaria's railways, and particularly debt restructuring. The railway company BDZ was therefore split into two companies, one for infrastructure (the National "Railway Infrastructure" company) and the other the operator (BDZ plc). The law also created rules on access to railway infrastructure and on separating the income and expenditure accounts of railway enterprises, as well as on the introduction of user charges on railway infrastructure and a licensing regime for railway operators. Further legislative progress was recorded with the adoption in April 2002 of an important set of implementing legislation. Preferences for *combined transport* are envisaged in these amendments.

On *inland waterway* transport, there are no particular developments to report.

As regards **air transport**, Bulgaria is continuing to adopt implementing legislation for the Civil Aviation Act of 1999 and to create the conditions for competition and "step-by-step" market liberalisation upon accession. The unclear situation of the national carrier Balkan Airlines, currently awaiting a court ruling related to its liquidation or the choice of a new strategic investor, still affects the economics of this sector. Bulgaria has made significant efforts to improve the qualifications of the aviation administration personnel, in particular of inspectors.

As regards **maritime transport**, the delay in adoption of amendments to the Merchant Shipping Code has slowed further transposition of the *acquis*. These amendments should cover improved maritime safety and protection of the marine and river environment, as well as providing the framework for further implementing legislation.

Inspections of Bulgarian flag vessels as well as Port State control inspections are at present carried out by 42 qualified inspectors. According to 2001 statistics under the Paris Memorandum of Understanding, the percentage of Bulgarian flag vessels detained following Port State control was 15.7%. This is a sharp increase compared with 2000

(7.2%) and 1999 (8.1%), when improvement was recorded, bringing Bulgaria back to a level close to that of 1998 (19.7%). This compares with an average for EU-flagged vessels of 3.1% in 2001.

Overall assessment

As regards Trans-European Transport Networks, the Bulgarian authorities place the main emphasis on further modernisation and development of priority transport infrastructure along the TINA corridors. Special emphasis should be given to ensure the necessary administrative capacity (both in qualitative and quantitative aspects) to prepare for the significant investments that will be needed in rail and road infrastructure, in particular to ensure that Bulgarian roads can cope with EC vehicle axle-weight standards. This will entail upgrading 1200 km of Bulgarian roads. In view of the ambitious programme of infrastructure upgrading, the ability of the Bulgarian authorities to implement several projects simultaneously could be a matter of concern if administrative capacity is not reinforced appropriately. Co-financing for the ambitious € 4.2 billion programme of investment in the transport sector will need to be assured for the years 2003-2005. More attention should be given to ensuring that feasibility studies for construction work comply with EC environmental rules, notably the preparation of sound and complete Environmental Impact Assessments, a necessary condition for any Community funding for a construction project.

As regards road transport, Bulgaria has advanced in the area of harmonisation of vehicle taxation and road user charges. Further alignment through the adoption of implementing legislation will be necessary, in particular as regards the installation of tachographs, and in general the extension of rules to vehicles engaged in national transportation only. Administrative capacity should be strengthened further, in particular through specialised staff training for people in key supervisory and control functions relating to access to the profession, social rules (particularly driving times and rest periods), vehicle taxation and road user charges, as well as technical and safety standards. Moreover, Bulgaria should prepare operators for the major investments which they will need to make to ensure conformity of the road haulage fleets, particularly the part of the road haulage fleet which carries out national operations, with *acquis* requirements. Whereas the international transport fleet conforms to EC technical and safety norms, the domestic transport fleet is still far from meeting these requirements. Bulgaria still has to ratify the INTERBUS Agreement on the international occasional carriage of passengers by coach and bus.

In the railway sector, Bulgaria has also made good progress, not only in aligning its legislation with the *acquis* (including the latest railway *acquis*), but also in restructuring the railway company. All the institutions needed to implement the relevant *acquis* are in place. Attention should be paid now to implementing these changes, for instance, by ensuring the independence of the management of railway undertakings, by strengthening the railway administration, the implementation of an efficient and fair rail infrastructure charging scheme and the smooth implementation of the business plans for the two newly-created companies, which are both confronted with difficult financial situations.

As regards air transport, the establishment of an independent body for investigation of civil aviation aircraft accidents is still pending. Bulgaria needs to continue legislative alignment with the *acquis* in the sector and to continue with the gradual implementation of the Joint Aviation Requirements.

In the field of maritime transport, despite an obvious commitment to maritime safety, the safety record of the Bulgarian fleet remains a cause for concern. Bulgarian vessel detention rates as a result of Port State control are deteriorating, accentuating the gap compared with the average for EU-flagged vessels. This has placed the Bulgarian Flag back on the black list of the Secretariat of the Paris Memorandum of Understanding on Port State Control. Bulgaria is aware that it needs to continue strengthening its Flag State implementation policy and resources. Improving the performance of maritime safety administrative institutions, firstly as a Flag State, and then as a Port State, must be a priority. Increased co-ordination between the different levels of the relevant authorities is necessary. Alignment with EC legislation on maritime safety and prevention of pollution, as foreseen in the delayed amendments to the Merchant Shipping Code, must also be a priority. Implementing legislation on the Maritime Safety Law needs to be adopted.

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria had made progress with implementing the existing Community legislation on transport, but that rapid alignment was necessary and that in this respect, maritime, air and road freight sectors posed the most potential problems, particularly on safety. In other sectors, particularly rail, implementation of the existing Community legislation in practice still had to be monitored. Bulgaria also needed to make sure that the resources necessary to lay the foundation for extension of the future trans-European transport network to the acceding countries were provided, and rapidly to compensate for the current shortcomings in the road network and the consequences of implementation of the existing Community legislation on fleet renewal. The Commission added that it would also be necessary rapidly and systematically to reinforce Bulgaria's administrative structures, including the supervisory bodies, for example for safety.

Since the Opinion, Bulgaria has made steady overall progress, in particular in the fields of road and railway transport; some progress can also be recorded in the area of aviation, while only limited progress can be reported in the area of maritime safety. Bulgaria has also gradually started to reinforce its administrative structures.

Negotiations on this chapter continue.

Bulgaria should focus further efforts on investment, on the implementation of the fiscal and social/technical *acquis* in the road sector, on the further liberalisation of rail and road transport and on the transposition and implementation of the *acquis* in the aviation and maritime sector. Particular attention will need to be paid to improvement of the maritime safety record, and to further strengthening the maritime safety authorities and guaranteeing their independence. Further efforts will be needed on the reinforcement and strengthening of the newly-established administrative structures in order to ensure adequate administrative capacity for enforcement of the *acquis* and implementation of the investment plans.

Chapter 10: Taxation

Progress made since the last Regular Report

Since the last Regular Report, Bulgaria has made further progress in aligning its legislation with the *acquis*. The reform of Bulgaria's tax administration has made limited progress.

In the area of **indirect taxation**, amendments to the Value Added Tax Law entered into force in January 2002. The amendments introduce the standard VAT rate on the supply of pharmaceuticals and pharmaceutical products and a special scheme for travel agents.

In December 2001 the Excise Tax Law was amended, further aligning legislation in the area of excise duty. In particular, Bulgaria fully harmonised the scope of excise duty on beer, introduced a uniform rate per hectolitre degree Plato and introduced excise duties per tonne on LPG and methane, heavy fuel oils, and gas oil and kerosene used for industrial purposes or heating. Moreover, excise duty levels on filter cigarettes were increased.

In the area of **direct taxation**, amendments to corporate income tax passed in December 2001 introduced a unified rate of corporate income tax.

As regards **administrative cooperation and mutual assistance**, there are no developments to report.

Since last year's Regular Report, little progress has been made with reforming and strengthening Bulgaria's tax administration, besides some changes in the top management. Little progress has been made with improving taxpayer compliance, although the amended Administrative Punishments Act passed in February 2002 introduced heavy penalties for violation of or failure to implement an ordinance or act issued by the Council of Ministers in relation to taxation. In the area of tax collection, the term for the repayment of the VAT credit was reduced from 4 months to 45 days for entities using the newly introduced VAT account system.

Overall assessment

Further alignment is still needed in the area of VAT, in particular with regard to special schemes for second-hand goods, travel agents and intra-community transactions. Concerning excise, the minimum rates on cigarettes, alcoholic beverages and certain fuels should be increased to the minimum levels required by the *acquis*.

As regards direct taxation, **legislation will have to be reviewed in order to** eliminate potentially harmful tax measures, so as to comply with the Code of Conduct for Business Taxation to the same extent as current Member States upon accession. The Commission's initial technical assessment of potentially harmful measures applied in Bulgaria is ongoing. Further alignment should be pursued in the area of administrative co-operation and mutual assistance.

Significant further efforts are needed to strengthen the tax administration. Bulgaria should develop an updated business strategy for the tax administration and approve other linked strategies, such as audit strategies and the creation of a unified National Revenue

Agency. Moreover, Bulgaria needs to improve the effectiveness of tax compliance, collection of revenues and VAT refund management. The administration suffers from a lack of human resources in the tax policy directorate and from a lack of staff with relevant experience in modern human resource management to drive the necessary changes. Further efforts are needed to establish a strong change management structure to guide, structure and support the change process.

Ensuring that the computerised tax information system is fully operational, including links with the customs information system and interconnectivity with EC systems ahead of accession, should also be given priority, as little has been done in this field. It is estimated that Bulgaria may need around five years to enable interoperability, provided that significant steps are taken in the near future. Bulgaria should continue to give high priority to improving administrative capacity in this area.

Conclusion

In its 1997 Opinion, the Commission concluded that the *acquis* concerning direct taxation should present no significant difficulties, and that, where indirect taxation was concerned, Bulgaria should be able to comply with the *acquis* on VAT and excise duties in the medium term, provided a sustained effort was made. The Commission added that it should be possible for Bulgaria to start participating in mutual assistance as the tax administration developed its expertise in this respect.

Since the Opinion, and especially over the last two years, Bulgaria has made progress in aligning with the *acquis* on taxation, although a number of weaknesses still need to be addressed and administrative capacity strengthened. Bulgaria has achieved a good degree of alignment on the tax *acquis* but further alignment is needed in some areas. Administrative capacity needs significant strengthening in order to be ready to implement the *acquis*.

Negotiations in this chapter have been provisionally closed. Bulgaria was granted a transitional arrangement concerning the application of the minimum excise duty levels on cigarettes (until 31 December 2009), as well as specific arrangements to continue exempting international passenger transport from VAT with right of deduction, to apply a reduced excise duty rate to rakya produced from fruits and grapes for own consumption (up to 30 litres of fruit spirits per annum per household), and to apply a registration and exemption threshold of € 25,000 to small and medium-sized enterprises. Bulgaria is generally meeting the commitments it has made in the context of the accession negotiations.

Bulgaria should focus further efforts on completing alignment – except where transitional arrangements have been agreed - with the *acquis* in the areas of direct and indirect taxation, including intra-Community transactions, and strengthening its administrative capacity, in particular through pursuit of measures to modernise and reinforce the tax administration.

Chapter 11: Economic and Monetary Union

Progress made since the last Regular Report

A detailed assessment of the various aspects of Bulgaria's economic policy has been given above, in the Chapter discussing the economic criteria (B-2). Therefore, the present section is limited to a discussion of those aspects of the Economic and Monetary Union *Acquis* – as defined by Title VII of the EC Treaty and the other relevant texts – which candidate countries should implement before accession, i.e. the prohibition of direct public sector financing by the central bank, the prohibition of privileged access of the public sector to financial institutions, and the independence of the national central bank. As to the process of liberalisation of capital movements, upon the completion of which compliance with the EMU *acquis* is conditional, this aspect has been covered above, in the section on *Chapter 4 – Free movement of capital*.

There have been no legislative developments on the adoption of the *acquis* in this area since the last Regular Report.

Overall assessment

Bulgaria will participate in EMU upon accession with the status of a country with a derogation under Article 122 of the EC Treaty, and it will need to implement the necessary changes to its institutional and legal framework by the date of accession.

In the area of **central bank independence**, further alignment is needed in the areas of institutional and personal independence (in particular on safeguarding against possible conflicts of interest relating to the duties of Members of the Board, making rules for dismissal compatible with the *acquis* and introducing provisions for judicial review of dismissal decisions).

Bulgaria also needs to further align its legislation with the provisions of the *acquis* prohibiting **privileged access of public sector authorities to financial institutions**, in particular as regards the remaining restrictions on insurance companies and on investment of pension scheme assets, and with the provisions of the *acquis* prohibiting **direct financing of the public sector**.

Conclusion

In its 1997 Opinion, the Commission concluded that it was premature to judge whether Bulgaria would be in a position, by the time of its accession, to participate in the Euro area. The Commission also concluded that Bulgaria's participation in the third stage of EMU as a non-participant in the Euro area could pose serious problems, even in the medium term, as the country had made only very limited progress in the transition to a market economy. The Commission considered that it was therefore hard to evaluate when Bulgaria, after the eventual cessation of the currency board arrangement, would be able to have an independent Central Bank.

Since the Opinion, progress was initially slow, but major steps forward have been taken over the past few years, and Bulgaria has now achieved a high level of alignment with the EMU-related *acquis*.

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area. It is generally meeting the commitments it has made in the accession negotiations in this area.

Bulgaria should focus further efforts on completing alignment along the lines set out above, in particular to guarantee the independence of the Central Bank and the prohibition of privileged access of the public sector to financial institutions.

Chapter 12: Statistics

Progress made since the last Regular Report

Bulgaria has continued to make progress over the past year.

As regards **statistical infrastructure**, there were no recent changes.

Concerning **classifications**, there have been no significant changes since the last Regular Report.

Concerning **demographic and social statistics**, further progress has been made since the last Regular Report and a good level of compliance has been achieved. The results of the March 2001 population census have been made available and are now used for population projections and migration statistics. Most other surveys in this area are now in place and for these data transmission takes place as required.

As regards availability of statistics at **regional** level, there has been an increase in the number of indicators available at levels 2 and 3 under the Nomenclature of Territorial Units for Statistics (NUTS 2 and 3).

In the field of **macro-economic statistics**, an improvement in the exhaustiveness and timeliness of national accounts can be reported. The development of the financial account has now started in close co-operation with the Bulgarian National Bank and the Ministry of Finance. The Harmonised Consumer Price Index is now largely compliant with EC standards.

For **business statistics**, good compliance can be reported for structural business statistics as well as for service and tourism statistics. For short-term statistics, first steps have been made to reach full compliance for the industry and construction sectors. Further efforts to improve the business register have also been made during the past year.

For **transport statistics**, many areas like road transport of goods and air and port statistics are now in line with the *acquis*.

For **external trade**, work is under way to improve the quality of primary data involving co-operation between the Customs Agency and the National Statistical Institute (NSI) to develop additional requirements for data control and checks. The NSI is also conducting comparisons of data on trade flows with other countries and has started preparing for INTRASTAT, the system measuring trade among Member States.

For **agricultural statistics**, during the past year, Bulgaria has made progress in testing the methodologies and questionnaires for the farm structure survey, the farm typology,

and livestock and vineyard surveys. Good progress has been made to strengthen the administrative infrastructure and to enlarge the already good co-operation with the Ministry of Agriculture.

Overall assessment

Bulgaria's statistical infrastructure, the legal basis for statistics and the organisational structure of the NSI are now appropriate for fulfilment of tasks in this area. The NSI has improved its long-term and annual planning system through work to implement the Strategy for the Development of the statistical system for the period 2000-2006.

As regards administrative capacity, the high turnover of qualified staff has slowed the pace of progress during the past years. With this in mind, particular attention should be paid to further staff development and training in the statistics administration, especially training of staff in regional offices and establishing a career development system to encourage retention of qualified staff .

The NSI is still responsible for some administrative tasks which do not fall within the usual competence of a statistical office. When the NSI is finally relieved of these tasks (e.g. maintenance of administrative registers), some additional budgetary support will be needed to compensate for loss of revenues.

Particular efforts are required to further improve regional statistics, the quality and coverage of national accounts, short-term statistics and the quality and coverage of the business register. There is also a need to establish a farm register based on the data from the population census. An agriculture census is planned for 2003 and its results should help improving the quality of agriculture statistics. INTRASTAT is another area to be developed further.

The creation of information technology capacity remains a priority. Whilst some investments have been made, further training and investments are still needed to ensure that effective use is made of the equipment and the software applications, in particular for staff of regional offices.

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria would need to make a sustained effort if it was to comply with EU requirements for official statistics in the medium term.

Since the Opinion, Bulgaria has made good progress, in particular in developing a planning system and a training strategy, conducting a population census and starting to develop the necessary administrative capacity.

Negotiations in this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area. Bulgaria is generally meeting the commitments it has made in the accession negotiations in this field.

Bulgaria should focus further efforts on strengthening administrative capacity and on upgrading methodology and improving the quality and completeness of data in general.

Chapter 13: Social policy and employment

Progress made since the last Regular Report

Some progress has been made in this area since the last Regular Report.

Concerning **labour law**, the Employment Promotion Act, which entered into force in January 2002, further aligns Bulgaria's legislation with the Directive on collective redundancies. The newly created Employment Agency has been designated as the competent state body required by the Directive on the posting of workers in the framework of the provision of services.

No progress has been made in the field of adoption of framework legislation on **equal treatment for men and women**.

Through the Employment Promotion Act, the General Labour Inspectorate has been strengthened for its role in the enforcement of the *acquis* in the area of **health and safety at work** and it has been allocated additional tasks.. In some companies, a risk assessment in this area has been undertaken.

In the area of **public health**, a National Health Strategy for 2001–2006 was adopted in 2001 and a national programme for the restriction of smoking was adopted in January 2002. Public health reform continued. Implementing legislation was adopted in March 2002 on inpatient and outpatient health care reform and in May 2002 on structural changes in health care. Amendments to the Medical Establishments Act were adopted in May 2002. A number of contractual relationships between the National Health Insurance Fund and providers of medical services were concluded.

In the area of **social dialogue**, regional councils for tripartite co-operation are envisaged in legislation adopted in December 2001. The Employment Promotion Act, which entered into force in January 2002, aims to promote social dialogue, *inter alia* through the establishment of a tripartite National Council on employment promotion. The Act transforms the existing Regional Employment Councils into permanent or temporary Employment Committees in the framework of District Regional Development Councils. The law stipulates that regional employment programmes are to be developed and implemented by Employment Commissions at district level and monitored by Co-operation Councils. Both bodies involve the regional authorities, social partners and NGOs. In February 2002, the Government and a number of social partners signed a Charter of Social Co-operation.

Bulgaria and the European Commission have continued the work on the **Employment Policy Review**, with a view to finalising the Joint Assessment on Employment Policy Priorities (JAP). The purpose is to examine the progress made by Bulgaria in adapting its employment system for preparing its future participation in the European Employment Strategy after accession. This document, in its final stage, sets out the key priorities and tasks in the field of labour market for the pre-accession period. The situation on the labour market remains difficult with the high unemployment rate rising from 16.3% in 2000 to 19.9% in 2001. The unemployment rate for men was 20.8% and 18.9% for women in 2001. The high and increasing share of long-term unemployed at 63% is of great concern. A microcredit guarantee scheme was launched in November 2001 to support entrepreneurship and job creation. In January 2002, through the Employment

Promotion Act, the former National Employment Service was transformed into an Employment Agency solely responsible for active labour market measures. The Act (and implementing legislation adopted in March 2002) also envisages financial compensation for employers providing jobs to unemployed persons. After joint efforts by relevant ministries and social partners, the 2002 National Action Plan on Employment was adopted in March 2002.

As regards the future management of the European Social Fund in Bulgaria, the Ministry of Labour will act as the managing authority of the human resources development operational programme.

As a follow-up to the Gothenburg European Council, where the EU invited the candidate countries to translate the EU objectives into their national policies, the Commission and Bulgaria have initiated a joint co-operation exercise to prepare for future participation in the EU **social inclusion** process after accession. This exercise consists in joint identification of the social exclusion challenges and relevant policy responses. In this context, the Statistical Office of Bulgaria co-operates with Eurostat to produce data on poverty and social exclusion. Preliminary figures suggest that overall income disparities seem to be rather moderate and the poverty rate after social transfers (9.2%) rather low.

As regards other areas of **social protection**, some measures have been taken to further implement a three-pillar pension system. In January 2002, amendments to the compulsory social security law increased the share of social security contributions to be paid by employees from 20 to 25%. The Act on Family Allowances adopted in March 2002 repealed the outdated Birth Promotion Decree of 1968 and aims to target assistance more appropriately. Amendments to the Act on protection, rehabilitation and social integration of disabled people were adopted in December 2001. The amendments aim to clarify the structure and criteria for membership of the National Council on Rehabilitation and Social Integration (a consultative body with the Council of Ministers) and to define the conditions for award of targeted benefits.

No progress has been made in adopting general **anti-discrimination** legislation, however the Employment Promotion Act, which came into force in January 2002, contains provisions on non-discrimination. It stipulates that when posting job vacancies, employers will not have the right to set requirements relating to gender, age, nationality, ethnic identity, or physical condition. Exceptions are allowed only when gender, age, and/or physical condition are essential factors for performing a particular type of job.

Overall assessment

As regards labour law, Bulgarian legislation is partly in line with workers' rights as defined in the *acquis*. Further alignment will be needed in areas where the *acquis* has been only partially transposed and to address other areas such as protection of employees in the case of insolvency, part-time work and European Works Councils.

Most of the *acquis* in the area of equal opportunities for women and men has not been transposed, including the Directives on equal pay, equal treatment in employment, pregnant workers and burden of proof. The prohibition for certain categories of women to undertake night or overtime work will have to be removed.

Regarding health and safety at work, considerable work remains with regard to transposition and particularly implementation and enforcement in this area. The capacity of the General Labour Inspectorate to perform the relevant checks in a satisfactory way needs to be further improved also in view of the additional tasks transferred to this body through the Employment Promotion Act. Given the considerable investment needed both by the Government and by companies to comply with the *acquis* in this area, an assessment of the financial impact from implementing individual directives in this field should be undertaken.

With regard to public health, current legislation in the field of communicable diseases is outdated. Therefore further legislative and organisational measures are needed in order to set up a system for the surveillance and control of communicable diseases in line with Community legislation. More progress is needed to improve the health status of the population, which is well below the EU average. Financial resources devoted to health are also well below the EU average and would need to be increased.

Social dialogue, particularly autonomous social dialogue, needs to be further improved. There are few collective agreements and social dialogue at the enterprise and sectoral level is weak. Further efforts are necessary to establish clear and respected criteria for representation in tripartite consultations, which should also be extended to several policy areas such as employment or social inclusion.

Regarding employment policy, the Joint Assessment of the Employment Policy Priorities of Bulgaria will represent an important step in preparation for future participation in the European Employment Strategy upon accession. It is important to ensure effective monitoring of the phasing-in of the priorities and commitments contained in the JAP. The scope of active labour market measures continued to be modest due to limited financial resources and the share of unemployed people involved in vocational training programmes is very low. The reform of vocational education needs to be completed and adapted to future needs of the labour market. This is particularly important to ease the ongoing restructuring process. It is important to review the benefit systems and their interactions to increase the incentives for unemployed and inactive to search and take up work. Further efforts need to be made to strengthen and modernise the Public Employment Services with a view to increasing involvement in active labour measures.

In the Strategy for Structural Funds, which was adopted in May 2002, the Ministry of Labour is designated as the managing authority for the human resource development operational programme. In view of its important role for future management of European Social Fund (ESF) activities after accession, the Ministry of Labour needs to improve its capacity and clarify co-operation with other relevant bodies, including the Social Investment Fund. The Ministry of Labour also needs to ensure appropriate complementarity with the ESF component of the envisaged regional operational programme.

A national integrated strategy on promoting social inclusion, taking into account the EU objectives, needs to be developed. As poverty and social exclusion are multidimensional by nature, it is important to promote an integrated approach mobilising various governmental bodies and all relevant stakeholders in the process. It is also crucial to improve and develop social statistics systems on poverty and social exclusion in line with the EU commonly agreed indicators on social inclusion.

As regards other areas of social protection, sustained efforts are required to implement the reforms that have been introduced, including health care reform.

Bulgaria should give more attention to combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The *acquis* in this area has not been transposed and attention needs to be paid to proper enforcement of existing anti-discrimination law. There is not yet a comprehensive anti-discrimination act or specialised anti-discrimination body to enforce such an act.

Conclusion

In its 1997 Opinion, the Commission concluded that compatibility with EC standards was low, and existing measures were not always applied in accordance with EC practice. It added that the social system was in need of reform, and the social dialogue needed to be improved, and that very considerable efforts would be needed to ensure effective implementation. It concluded that substantive progress was required on legislative alignment and the application of the *acquis* before Bulgaria would be able to take on the obligations of membership.

Since the Opinion, Bulgaria has made progress in aligning with the *acquis*. It has achieved a degree of legislative alignment in some areas but the level remains low in other areas. Likewise much remains to be done on administrative capacity.

Negotiations on this chapter have been provisionally closed. Bulgaria has been granted a transitional arrangement (until 31 December 2010) for the implementation of EC legislation on tobacco, in particular the maximum tar yield of cigarettes. Bulgaria is generally meeting the commitments it made in the accession negotiations in this field.

Bulgaria should focus further efforts on continuing transposition, particularly in the areas of anti-discrimination, equal opportunities, labour law and occupational safety and health where considerable work remains with regard to transposition of the *acquis*. Furthermore, Bulgaria's efforts need to focus on effective implementation of the *acquis* in these areas. Social dialogue in line with EC practice needs to be fostered.

Chapter 14: Energy

Progress made since the last Regular Report

Bulgaria has stepped up its progress in reforming a sector where restructuring had been slow in previous years. Legislative alignment has advanced with the adoption of the legislative basis for market opening. Privatisation of the distribution companies is under preparation.

A new national energy strategy was adopted by the Parliament in July 2002. This lays down the basis for introducing market mechanisms and transforming the sector, including improving Bulgaria's energy efficiency.

Concerning **security of supply** and the constitution of mandatory oil stocks, Bulgaria adopted a new Classified Information Act in April 2002. As a result, the level of Bulgaria's oil stocks is no longer a state secret. Current levels of stocks are extremely low, which confirms the need for rapid measures to meet oil stock requirements.

In relation to **competitiveness and the internal energy market**, amendments to the Law on Energy and Energy Efficiency were adopted in November 2001, laying the basis for legislative alignment. Ordinances on the definition of eligible customers, for both electricity and gas, were adopted in April 2002, as was implementing legislation on network access. Ordinances on the methodology for the formation and application of prices and tariffs for power, natural gas and heating were adopted in December 2001. This provides a regulatory framework for the transition from administrative pricing of energy to standard price regulation, which is being carried out this year. The State Energy Regulatory Commission (SERC) has now formally taken over responsibility for developing and implementing a tariff and price-setting methodology for electricity, gas and heating, and for approval of tariff proposals submitted by companies in the energy sector.

In November 2001, the Bulgarian Government approved a privatisation programme for seven power distribution companies, twenty heating utilities and seven thermoelectric power plants.

In the *district heating sector*, the Government adopted a decision to introduce a two-component price for district heating, the two components being a fixed price for capacity and a price for energy consumed. Heating price subsidies for household consumers are being phased out and replaced by social support for specific groups of needy customers.

In the *solid fuels* sector, Bulgaria is implementing its Action Plan for the sector and is in the process of selling most of its coalmines and liquidating those that are not profitable. The coal mining sector currently includes 21 companies, of which 6 are in the process of liquidation and 2 were declared insolvent this year.

As regards **energy efficiency and the use of renewable energy sources**, some limited legislative progress can be recorded. Amendments to the Energy and Energy Efficiency Law provide for the possibility for local producers of renewable energy to sell power directly to customers.

As regards *administrative capacity*, a Ministry of Energy and Energy Resources was created in December 2001, replacing the former State Agency for Energy and Energy Resources (SAEER). The State Energy Efficiency Agency (SEEA) was subsequently attached to the Ministry and transformed into an Executive Agency, but it has not been reinforced (27 staff). The State Energy Regulatory Commission (SERC)'s main task since its creation in September 1999 has been to issue licences to operating power companies. The SERC, since the beginning of 2002, also has the leading role in fixing prices and tariffs for power, natural gas and heating. As far as the strengthening of its independence is concerned, there have been improvements in the collection of fees, which before were merged into the State budget and now are directly paid to the SERC through the Ministry of Finance. SERC currently has 77 employees, of the planned 92.

In the field of **nuclear energy**, Bulgaria operates the Kozloduy Nuclear Power Plant with four units of VVER 440/230 design type (Units 1 to 4), and two units of the VVER 1000/320 design type (Units 5 and 6). Kozloduy NPP provides around 45 % of the country's electricity. In addition to the Kozloduy reactors, Bulgaria has one research reactor close to Sofia, which is presently shut down pending decisions on its future. Spent fuel from the power reactors is stored at Kozloduy and spent research fuel at the research

reactor. Existing waste treatment and disposal facilities are being upgraded and new ones are planned.

As regards *nuclear safety*, Bulgaria has continued to make progress on improving the legislative and regulatory framework with the adoption of the Law on the Safe Use of Nuclear Energy, which came into force in July 2002. The law specifies, *inter alia*, nuclear and radiation safety principles, the licensing regime and responsibilities of the licensees, the principles of safe management of radioactive waste and spent fuel, and the responsibilities of regulatory authority and regulatory control. Through this law, the Committee for the Use of Atomic Energy for Peaceful Purposes (CUAEPP) is transformed into a Nuclear Regulatory Agency, which has no promotional functions. A new action plan was prepared and approved by the CUAEPP in order to increase its independence and technical competence. The action plan has to be implemented by 2004. Its chairman is to be appointed for a 5-year mandate and for a maximum of two mandates. A state enterprise is to be established (planned for January 2004) for the safe management of radioactive waste and spent fuel and in particular for their safe disposal. It will cover mostly disposal management, but also pre-treatment, conditioning and operations conducted outside the facility where the waste is generated. The law confirms the funds established to secure the financing of radioactive waste management and safe decommissioning of installations. It also lifts the State monopoly on the use of nuclear energy and on the ownership of nuclear facilities and nuclear material. A decree of May 2002 provides for an increase of the CUAEPP's staff from 80 to 102 people. In order for the law to have full effect in the coming years, 22 related regulations still need to be developed and implemented.

Reactors 1 to 4 of the Kozloduy Nuclear Power Plant are subject to closure commitments entered into by the Bulgarian government. These commitments are contained in the Understanding signed with the European Commission in November 1999. During the reporting period, Bulgaria has continued to undertake various steps to implement this commitment under supervision of a special project management unit established in the Kozloduy Nuclear Power Plant to oversee the process of decommissioning of Units 1 and 2, which are to be closed down before 2003. These efforts continue to be supported by the Kozloduy International Decommissioning Support Fund, managed by the EBRD. In March 2002, the Bulgarian Parliament ratified the framework agreement between Bulgaria and the EBRD concerning the activities of the Fund. In November 2001 and June 2002, the Fund held meetings of the Assembly of Contributors, who formally approved the installation of a Project Management Unit on the site of the Kozloduy Nuclear Power Plant and the construction of a dry spent fuel storage facility on site. In addition, funding was granted for projects designed to support efficiency measures in the energy sector in Bulgaria. Through this the Fund contributes to the rehabilitation of the Sofia District Heating network, in which other international institutions also participate. This should bring improvements in the living conditions of around 900 000 people living in Sofia. The Fund also finances a project for the reduction of non-technical losses in the power distribution system. Close to € 78 million have been committed so far and several other projects related to decommissioning, nuclear safety and support to the energy sector have been initiated or are currently under examination. The Assembly is chaired by the Commission representing the European Community, which is the main contributor to the Fund. Several other donors, including some Member States, also contribute to the Fund.

In the reporting period, Kozloduy NPP continued its programme of investments on Units 3 and 4, notably with the installation of an accident localisation system. This was

accompanied by a domestic debate on closure dates. The Bulgarian Government has recently announced its decision to close units 3-4 in 2006. The Government also requested an EU peer review of the safety of these units. Modernisation programmes for Units 5 and 6 are continuing with the support of the European Union. Two parts of the Euratom loan of € 212.5 million for the modernisation of these units, totalling € 55 million, have been disbursed.

Overall assessment

As regards *oil stocks*, Bulgaria needs urgently to adopt a framework law for alignment with the *acquis*, given the time needed to create the necessary oil stocks. Particular attention should be given to ensuring adequate administrative capacity to manage these stocks. The amendments to the Energy and Energy Efficiency Law were an important legislative development. Market opening, access to the network and price adaptations have been introduced. However, it is still not yet legally possible for eligible customers to switch supplier and the timetable for reaching cost coverage and eliminating price distortions has not yet been defined. Restructuring of the utilities should be completed. An improvement in the recovery of unpaid bills can be recorded and should continue.

Investments in the distribution network and to improve energy resources are under way, with the aim of full interconnection to the western European electricity networks (UCTE) in 2003. The transmission system operators NEK (for electricity) and Bulgargaz are working to improve the energy networks. Bulgaria is keen to maintain its role as a transit country both for electricity power and gas.

The administrative capacity and the independence of the State Energy Regulatory Commission (SERC) have improved, though still need further reinforcement. Low salaries and budgetary restrictions and the lack of flexibility in using this budget hamper its effective functioning. The SERC is participating in drafting laws and regulations for the sector in order to develop the future market model.

In the solid fuel sector, the implementation of the Action Plan for the restructuring of this sector is progressing. 6 companies have already been partially or fully privatised and production subsidies are being phased out. Productivity in the sector has improved by more than 10%. The alleviation of the social consequences of these plans needs attention.

Energy efficiency in Bulgaria remains extremely low. Price modifications should be an incentive for consumers to start investing in energy efficiency projects and initiatives, as well as for investors in the production of renewable energy, but this alone cannot address Bulgaria's problems. An active and co-ordinated policy, both on the production and end-user side, has still to be defined with a view to rapidly enhancing support for energy efficiency, energy savings and the use of renewable energy sources. The Energy Efficiency Agency has no clear mandate, its management has still not been appointed following the recent change in the institutional framework, and it needs to be strengthened as part of a wide-ranging policy to promote energy efficiency.

The European Union has repeatedly emphasised the importance of a high level of nuclear safety in candidate countries. In June 2001, the Council of the European Union took note of a Report on Nuclear Safety in the Context of Enlargement. This Report contains recommendations to all candidate countries to continue their national safety improvement

programmes, including those on the safe management of spent fuel and radioactive waste, and on the safety of their research reactors.

During the first half of 2002, a special Peer Review on nuclear safety assessed the progress made by candidate countries in implementing all recommendations. This exercise under the auspices of the Council resulted in a Status Report, published in June 2002, which concludes that Bulgaria has accepted all recommendations contained in the Report on Nuclear Safety in the Context of Enlargement of June 2001. Most recommendations have been adequately addressed. Bulgaria should devote further attention to three recommendations: it should clarify the legal status of the safety analysis reports, implement as soon as possible the new Law on the Safe Use of Nuclear Energy which entered into force in July, and give special attention to the funding of the radioactive waste storage programme. The Status Report recommends further monitoring with regard to five recommendations, regarding the provision of adequate human and financial resources to the regulatory authority, as well as the timely completion of the plant specific safety improvement programmes, safety analysis reports and emergency operating procedures, and the implementation of the remedial programme regarding high-energy pipe brakes at Kozloduy Units 5 and 6.

Furthermore, the Status Report reaffirms the importance of Bulgaria's commitment on the definitive closure of Units 1 to 4 of the Kozloduy NPP at the earliest possible dates.

Units 1 to 4 of the Kozloduy Nuclear Power Plant are subject to early closure commitments. They have a number of deviations from safety requirements due to their original design, not least the absence of containment. In 1999, Bulgaria agreed and committed itself, in an Understanding signed with the Commission, to close down definitely Units 1 and 2 before the year 2003 and to decide, on the occasion of the updating of the energy strategy which will be completed in 2002, on the dates of the definitive closure of Units 3 and 4, which will be before the initially envisaged dates of 2008 and 2010 respectively. The European Union's understanding is that the closure of Units 3 and 4 will take place in 2006 at the latest. These closure commitments must be duly respected.

One important development in Bulgaria's progress on improving the nuclear energy and safety legislative and regulatory framework was the adoption of the new Law on the Safe Use of Nuclear Energy. This should improve the status and the independence of Bulgaria's nuclear safety regulatory authority, which has its own budget as part of the budget of the Council of Ministers. Attention will have to be given to the timely implementation of the new action plan to increase the authority's independence and technical competence. As well as the annual contribution from the State budget, it receives funding from the licensing of nuclear energy activities. The decree for increasing staff has to be confirmed in the Budget Law.

Longer-term solutions for spent fuel and nuclear waste will continue to need attention. The new law provides for the creation of a State enterprise to deal exclusively with management of radioactive waste.

Bulgaria will need to ensure compliance with Euratom requirements and procedures. In this respect, due attention will need to be given 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. It should be noted that Bulgaria has concluded a Full Scope Safeguards Agreement with the IAEA.

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria needed to step up considerably its efforts in the energy sector in order to prepare for integration, particularly in the following areas: the adjustment of monopolies; access to networks; energy pricing; emergency preparedness (including the building up of mandatory oil stocks); restructuring and state interventions in the solid fuel sector and the development of energy efficiency. Bulgaria had to implement certain international nuclear regimes and make some legislative adjustments in order to comply with the Euratom Treaty. It also noted that nuclear safety required continued particular attention, with rapid implementation of agreed realistic programmes, including closure where necessary. Long-term solutions for waste needed to be found.

Since the Opinion, Bulgaria has made only limited progress, due to the absence of restructuring and a streamlined policy in the sector until the year 2001. Since this date, Bulgaria has accelerated its progress towards compliance with the *acquis*, and reached a certain level of alignment, notably in the area of the internal energy market, through the adoption of the legislative basis for market opening, and the ongoing restructuring of the industry, including privatisation of the distribution companies. Restructuring of the solid fuel sectors is progressing. Nuclear safety has been improved as far as operational safety of the nuclear installations and the legal framework is concerned, and Bulgaria has committed itself to closure of some installations on agreed dates. The regulatory authority is being strengthened.

Negotiations on this chapter are continuing.

Bulgaria should now focus its further efforts on further implementing and refining its overall energy policy, as a first step to full and timely implementation of legislation, in particular with regard to the internal energy market. Bulgaria should set clear timetables for restructuring the energy sector, including the alleviation of related social consequences, and prepare for the closure and decommissioning of certain units of Kozloduy NPP. Concrete measures to improve energy efficiency, and strengthening of the administrative capacity of the newly-established bodies, in particular the energy regulator, the body responsible for managing oils stocks and the nuclear safety authority, are needed. Bulgaria also needs to make arrangements to ensure the progressive building up of oil stocks as required by the *acquis*.

Chapter 15: Industrial policy¹⁵

Progress made since the last Regular Report

Since the last Regular Report, Bulgaria has made further progress with the development of industrial policy, aiming at promotion of investment and competitiveness in a market-oriented economy.

¹⁵ Developments concerning Industrial policy should be seen in relation to the overall enterprise policy, including the SME policy (*see Chapter 16 - Small and medium-sized enterprises*).

As regards **industrial strategy**, the government presented in March 2002 a policy document entitled “Industry 2002”. It concentrates on macro-economic trends and underlines the Government’s commitment to restructure and further enhance liberalisation of the economy by privatisation, and to focus on factors that contribute to the overall competitiveness and stability of the economy. In addition to several horizontal industrial policy principles, the Ministry of Economy has also identified branches that are considered particularly promising as regards bringing extra added value to Bulgaria’s industrial output. Amongst the sectors identified are IT, tourism, energy, textiles and clothing, other manufacturing products and food processing.

Since last year, government policy has again focused mainly on investment promotion, in particular through reduction of taxes. No major progress has been achieved on simplification of legal and administrative procedures for taxation.

In 2001 the real growth rate of fixed capital formation was 19.9% and the share of gross fixed capital formation in GDP reached 17.8%. In 2002, Bulgaria witnessed lower foreign investments than expected, amounting to only about €230 million for the first half of the year. Apart from the global macro-economic situation, this is partly due to lower revenues from privatisation deals which – following the implementation of new procedures after the adoption of a new Law on Privatisation and Post Privatisation Control in April 2002 – only became more substantial since the summer 2002.

Concerning **privatisation and restructuring**, the privatisation process is almost complete for the large industrial enterprises in the major sectors. Some problems remain with post-privatisation control (e.g. non-compliance with contractual obligations by new owners) and the viability of several management-buy-out companies.

The restructuring of the steel industry remains incomplete. The authorities have asked for an extension of the grace period as laid down in Protocol II of the Europe Agreement. In order to allow a decision to be taken on this extension, a global restructuring plan needs to be provided and positively assessed. The authorities have emphasised that the steel industry does not receive state aid any more and have made progress in enforcing state aid rules in this respect, notably the write-off of debts and payment arrears to public utilities (*see also chapter 6 – Competition policy*).

The liquidation of non-viable state-owned enterprises is continuing.

Regarding administrative structures, there has been progress in streamlining administrative procedures and improving the qualification of staff in the Foreign Investment Agency, though its participation in policy-making decisions remained limited.

Overall assessment

Bulgaria should continue its efforts to seek participation of the business community and the financial sector in policy making. Strengthening its competitiveness with a view to integrating its enterprise sector into the Single Market remains one of the main challenges the country faces. Whilst a Council for Economic Growth has been created, in which the business community is only selectively represented, attempts to create a functioning structure to further integrate the business community in the policy-making process should be further encouraged.

During the last couple of years investments in manufacturing have increased and diversified.

It is uncertain whether steps taken so far to restructure the steel industry are sufficient to ensure medium-term viability. Arrears of payments of certain companies to public utilities and the State administration should be subject to enhanced state aid control. Restructuring of the steel industry remains a challenge that needs to be tackled in order to fulfil Bulgaria's obligations under the Europe Agreement as regards state aid in the sector.

The central body responsible for the formulation and co-ordination of industrial policy is the Ministry of Economy. The Ministry generally tries to develop a pro-active approach to industrial policy for the sectors under its responsibility. It needs to continue and improve close co-operation with the various other public institutions involved in this area, such as the Agency for Small and Medium-Sized Enterprises, the Privatisation Agency, the Foreign Investment Agency, the Bulgarian Trade Promotion Agency and the Bulgarian Export Insurance Agency, as well as with non-governmental organisations, such as chambers of commerce, professional chambers, unions and business associations. While the necessary administrative bodies have been established, the administrative structure in this area still remains too fragmented. The Ministry of Economy should strengthen its role as co-ordinator and delegate tasks for implementation to the agencies involved.

The development of business associations and their top-level organisations in Bulgaria needs to be further encouraged and streamlined. Over the past years, Bulgaria has witnessed the proliferation and increasing activity of these business associations and significant improvement in their dialogue with the Government. A tripartite dialogue has now been institutionalised with enterprise and trade union representatives. These efforts can only be encouraged but should also be reflected at the level of firms.

It should be noted that an important element of any industrial policy is the control of state aid and the compatibility of support schemes with EC rules (*see also Chapter 6 - Competition policy*).

Conclusion

In its 1997 Opinion, the Commission concluded that the integration into the European market would pose serious difficulties for Bulgarian industry in the medium term. In addition, many sectors were facing important restructuring and privatisation needs. A major potential impediment to restructuring and diversification efforts was the lack of investment capital due to the low levels of foreign investment and the bad debt situation, which restricted the banking system's capacity to provide capital.

Since the Opinion, Bulgaria has made progress in most areas, and Bulgaria's policy towards industry generally complies with the principles of EC industrial policy, i.e. it is market-based, stable and predictable.

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this field. Bulgaria is generally meeting the commitments it has made in the accession negotiations in this domain.

Bulgaria should focus further efforts on the speedy completion of privatisation, the restructuring process of some remaining important industrial sectors, such as steel, attracting foreign capital into the country, further co-ordinating its currently rather fragmented administrative structures and further enhancing the business environment and competitiveness in the enterprise sector so as to achieve full integration into the Single Market. Great care will have to be taken that the policy of restructuring is implemented in a manner which conforms to the competition and state aid *acquis* so as to create efficient competitive firms.

Chapter 16: Small and medium-sized enterprises¹⁶

Progress made since the last Regular Report

Since the last Regular Report, Bulgaria has made further progress in the implementation of its SME policy and in building up a state support system for business promotion. Efforts to improve the business environment have continued.

As regards **SME policy**, in March 2002 the government adopted a new National Strategy for Promotion of SMEs, covering the period 2002-2006. This aims to improve the business environment. In April 2002, Bulgaria endorsed the European Charter for Small Enterprises as the basis for its action to support and develop small enterprises. The European Charter, adopted by the European Council in June 2000, is the reference document in the field of enterprise policy within the socio-economic strategy set up at the Lisbon European Council. The reporting process on the implementation of the European Charter in Bulgaria started in May 2002.

Bulgaria has made further progress with the improvement of the **business environment**. The concept of “one-stop-information desks” has been further developed and pilot projects have been established. Co-ordinated efforts at government level continue to examine and subsequently reduce the number of licensing requirements for SMEs. In June 2002, the Council of Ministers approved suggestions from the inter-institutional task force, which examined 360 licensing, permit and registration regimes, to remove 74 and simplify a further 120 regimes. Dialogue between the public administration and the business community has intensified since the last Regular Report but remains limited.

Access to finance remains an important obstacle to the development of SMEs in Bulgaria. However, the situation shows signs of improvement with the further consolidation of the macro-economic framework, also thanks to increased competition among a growing number of commercial banks entering the sector of SME lending. Some progress has been made in this area because of Government support schemes for SMEs, including state guarantees for bank loans, but these are still in the inception phase and the number of beneficiaries has so far remained limited. However, a number of banks operating in Bulgaria still seem reluctant to extend credits due to remaining difficulties in getting guarantees.

¹⁶ Developments concerning SME policy should be seen in relation to overall enterprise policy, including industrial policy (see Chapter 15 - Industrial policy).

The Ministry of Economy and the Agency for SMEs are responsible for developing and implementing SME policy. The Bulgarian Export Promotion Centre was merged with the Trade Research Institute in early 2002 to become the Bulgarian Trade Promotion Agency.

There is no progress to report over the last year as regards the **SME definition** applied by Bulgaria, which is not yet fully in line with the recommendations of the European Commission.

Overall assessment

While Bulgaria's policy towards SMEs is broadly in line with the principles and objectives of EU enterprise policy, lack of resources and co-ordination, as well as unclear perspectives in the institutional organisation for SMEs, have limited the effective implementation of SME policy.

The business environment in Bulgaria still requires improvement. A dense fabric of viable SMEs is essential for attracting investors. Particular attention should be given to the way in which implementing legislation affecting company creation and business activities is effectively applied, notably areas such as taxation (e.g. where increased patent taxes have a particularly negative effect on SMEs). There is a need to tighten law enforcement by improving the efficiency of the administrative and judicial system and to create incentives for informal businesses to legalise themselves. The most important issues affecting the Bulgarian business environment have been identified through effective dialogue between the policy-making institutions and the business community and should now be addressed. Further efforts are still needed to improve information to enterprises, especially in relation to the changes made by the Government to business and taxation legislation. It is also important to define a mechanism for assessing the remaining barriers affecting micro and small businesses. The Agency for SMEs also needs further strengthening in this area.

The central body responsible for the formulation and co-ordination of enterprise and SME policy is the Ministry of Economy. While the basic structures have been established at national and local level (e.g. chambers of commerce, professional chambers, branch associations and regional development agencies), the administrative structure for this sector remains fragmented and inadequately co-ordinated, and therefore its actions have often limited impact on the business community. The future of governmental organisations which seek to support SME development, such as the SME Agency, needs to be ensured and their functioning significantly improved in order to prepare Bulgaria's SME sector for integration into the European Union. Enhanced co-operation and co-ordination among these structures would allow them to provide more effective support to companies.

The absence of solid business organisations representing the interests of smaller businesses remains a problem. The Ministry of Economy and the SME Agency should take a more active role in developing the capacity of business associations and ensure their transparent consultation in all matters of policy relevant to their members. The translation of the results of sectoral analyses into coherent SME strategies would also benefit from systematic consultation among public and non-governmental structures representing SME interests.

Some further adjustments to the SME definition will be necessary.

Conclusion

In its 1997 Opinion, the Commission concluded that the basic structures for SMEs were in place in Bulgaria, but that several years would be necessary to overcome the barriers for private sector growth in Bulgaria by means of determined efforts to stabilise the macro-economic environment, simplify legislation and administrative routines so as to make it more SME-friendly, strengthen support infrastructure, improve the tax environment and develop SMEs' access to financing.

Since the Opinion, Bulgaria has made good progress in stabilising the economic environment, reducing and stabilising taxation, introducing more legislative certainty, formulating SME policy, and improving the business environment. Its policy towards SMEs is broadly in line with the approach promoted at EU level.

Negotiations in this chapter are provisionally closed. Bulgaria has not requested any transitional arrangements in this area. Bulgaria is generally meeting the commitments it has made in the accession negotiations in this field.

Bulgaria should focus further efforts on resolving the remaining uncertainties, notably in the legislative and taxation areas, reinforcing delivery mechanisms for promoting entrepreneurship to make them fully operational, and ensuring appropriate co-ordination between the various bodies concerned, including at local level, on implementation and enforcement of legislation.

Chapter 17: Science and research

Progress since the last Regular Report

Little progress has been made since the last Regular Report.

In 2001, a National Framework for the development of science and research was adopted. This aims *inter alia* at an annual growth of 0.15% of GERD/GDP (gross expenditure on research and development as part of GDP). Amendments to the law on public procurement adopted in April 2002 give universities and research institutes equal rights with companies in public procurement tenders. A “2002 – 2006 SME strategy” was adopted with a view to increasing participation by SMEs in science-related activities.

Since the last Regular Report, Bulgaria has continued to be associated with the Fifth EC **Framework Programme**, as well as with the Fifth Euratom Framework Programme. Bulgaria has expressed its interest in being associated with the Sixth Framework Programme (2002-2006). With a view to this, a government decision approved five national scientific programmes in genomics, the information society, nanotechnologies and new materials, “Bulgarian society – part of Europe” and cosmic research. The programmes are co-ordinated by the National Council on Scientific Research.

Overall assessment

The framework for co-operation in the field of science and technology (including National Contact Points) continues to be well established. However, in the absence of an effective policy maker for this sector, an overall strategy for scientific research and technological development is still missing and relevant legislative measures, including a

law for the promotion of research or legislation on high-tech park activities, have been delayed for a long time. The gross domestic expenditure on R&D is low and needs to be increased. The decision to aim for annual growth of 0.15% in gross domestic expenditure on research and technological development could be a positive step, provided that it is implemented. Though science is indicated as one priority in the Government Programme adopted in September 2001, the concrete objectives and tasks set out have hardly been addressed. This includes better co-operation among science, education and the economy. Business expenditure on research and development needs to be further increased.

Conclusion

In its 1997 Opinion, the Commission concluded that making Bulgarian research and technological development efficient and competitive at European level would need greater efforts. It added, however, that no major problems should be expected in this field in the perspective of accession.

Since the Opinion, Bulgaria has become associated with the Framework Programme and with the Euratom Framework Programme and the necessary financial and institutional conditions for these have been created.

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area. Bulgaria is generally meeting the commitments it has made in the accession negotiations in this field.

Bulgaria should now focus efforts on further reinforcement of research-related administrative capacity and infrastructure, *inter alia* to ensure the successful association of Bulgaria with the relevant Framework Programmes.

Chapter 18: Education and training

Progress made since the last Regular Report

Some further progress has been made in this area since the last Regular Report.

Bulgaria continued to participate in the second generation of the Leonardo da Vinci and Socrates **Community programmes** (*see section A.b – Relations between the European Union and Bulgaria*). Bulgaria started to participate in the new Youth programme in October 2001. Since December 2001, the National Agencies for both Socrates and Leonardo da Vinci have been located in the Human Resource Development Centre.

There are no particular developments to report regarding the **Directive concerning education of children of migrant workers**.

Bulgaria has made little progress with reforming its **education and training system**. A Law on Employment Promotion entered into force in January 2002 (*see also Chapter 13- Social policy and employment*). This law provides some incentives for employers to hire and train unemployed persons and for allowances for unemployed people participating in vocational education and training. It also aims to regulate the licensing of training providers, which will now be done by the National Agency for Vocational Education and Training, instead of the Ministry of Labour. New implementing legislation dealing with entry to general education and procedures for approval and dissemination of textbooks

has also been adopted. Implementing legislation has been adopted for the Public Education Act of January 2002. This aims *inter alia* to address shortcomings in co-ordination and monitoring and to address the problem of lack of resources for the secondary school system.

Concerning vocational education and training, a fifth year for all types of professional schools was introduced and programmes for the ninth, tenth and eleventh classes were drawn up to ensure compliance with newly-established curricula for vocational education. The National Agency for Vocational Education and Training has also made progress in licensing 14 centres for vocational education and training and has also drawn up general state requirements for a number of professions.

The Ministry of Education and Science was involved in the consultation process on the European Commission's Memorandum on Lifelong Learning.

Overall assessment

While Bulgaria's participation in Community programmes is basically satisfactory, more efforts should be devoted to respecting the financial obligations arising from its participation in the Community programmes, and the management of the Socrates and Leonardo da Vinci programmes needs to be improved. The operational capacity of the three National Agencies needs to be upgraded. Whilst Bulgarian legislation seems to be largely in line with the requirements set out in the Directive concerning education of children of migrant workers, further efforts are necessary to ensure this Directive can be effectively implemented.

Most of the recommendations in the last Regular Report on the education and training system are still valid. For example, it is still necessary to further develop the vocational education and training system at regional level, to ensure co-operation between companies and schools and to invest in active labour market measures. There is still a skill mismatch in the area of vocational education and training, including higher education, which needs to be addressed. Reliable labour market data, at both national and regional levels, is needed so that analysis and forecasts of labour market trends can be made. In this context, further involvement of social partners in the development of training standards, based on occupational requirements and curricula at national, regional and branch level, needs to be encouraged so that training responds better to the needs of the labour market. The capacity of the Agency for Vocational Education and Training, which is responsible *inter alia* for accreditation and licensing in the area of vocational education, is still limited and needs to be increased. Continuing vocational training needs to be strengthened. Further reforms in teacher training are also needed. Co-operation between the Ministry of Education and Science and the Ministry of Labour and Social Policy needs to be strengthened, particularly in the area of vocational counselling.

A major challenge will be to ensure the best possible network of secondary schools, including adjusting the number of schools and teachers in line with demographic developments.

Conclusion

In its 1997 Opinion, the Commission concluded that, in the perspective of accession, no major problems should be expected in these fields.

Since the Opinion, the process of bringing Bulgaria's legislation and structures into line with the *acquis* has generally developed satisfactorily.

Negotiations in this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area. Bulgaria is generally meeting the commitments it has made in the accession negotiations in this field.

Bulgaria should focus further efforts on improvement of the financial management of its participation in the Community programmes, better co-ordination between all the bodies involved, effective implementation of the Directive concerning education of children of migrant workers and on a comprehensive reform of the vocational education and training system to ensure that it is flexible and can adapt in line with the needs of the labour market.

Chapter 19: Telecommunications and information technologies

Progress made since the last Regular Report

Bulgaria has made some progress since the last Regular Report in terms of both liberalisation of the telecommunications market and implementation of its regulatory framework.

As regards the **liberalisation of the telecommunications market**, the Communications Regulation Commission has taken measures to enhance its capacity with a view to the envisaged liberalisation of the telecommunications market from January 2003. In May 2002, the Council of Ministers approved a revised sector policy document which confirms the envisaged abolition of the current monopoly over voice telephony and leased lines from January 2003, and which outlines the concept for the development of a fully liberalised telecommunications market.

Amendments to the Telecommunications Act adopted in December 2001 aim at enhancing the **regulatory framework**. In line with this, in February 2002, the Communications Regulation Commission replaced the State Telecommunications Commission as the new regulatory authority for telecommunications. Moreover, the amendments envisage ensuring that senior staff of this body are appropriately qualified.

The National (Radio) Frequency Plan was approved by the Government in May 2002. This provides for the comprehensive release of frequency bands for GSM, DECT and S-PCS.

In the area of the information society, rules for the structure of the Information and Communications Technology Development Agency were adopted in February 2002. Bulgaria participated actively in eEurope+ and shows commitment to the development of information society services.

Concerning **postal services**, amendments to the Postal Services Act were adopted in December 2001 and entered into force in February 2002. The regulatory functions in this field were transferred from the Ministry of Transport and Communications to the Communications Regulation Commission.

Overall assessment

Through amendments to the Telecommunications Law adopted in December 2001, a more effective separation between ownership and regulatory functions was achieved. An important step forwards was made concerning independence of the national regulatory authority (NRA). In June 2002, the Communications Regulation Commission had 218 staff, including the five members of the Commission. 49 of them were concerned with implementation of the telecommunications regulatory framework (excluding spectrum management).

The power of the Communications Regulation Commission to resolve disputes was enhanced compared to its predecessor and the services to be provided under an authorisation regime were extended. However, the capacity of the regulator needs to be enhanced if it is to be able to fulfil its regulatory responsibilities effectively. Further steps need to be taken to improve its financial independence. Consideration should be given to increasing staff levels and staff training to cope with the requirements of effective implementation of the existing legislation, taking into account that competition will be introduced from January 2003, as well as the increased responsibilities of the new *acquis*.

Penetration of mobile services has reached 16%. There are two GSM operators but UMTS licences have yet to be issued. Fixed network penetration reached 37% and is static. Network modernisation is seriously delayed and price rebalancing has a long way to go.

Investments will be necessary to meet spectrum monitoring needs across the whole country.

Bulgaria has not yet been able to evaluate the economic implications of fully implementing the universal service *acquis* so as to achieve affordability and a decision on this point remains outstanding.

In the area of postal services, the regulatory framework for postal services seems weak and the quality of service in the postal sector is limited. Work for licensing and registration has started (one licence and 20 registrations have been granted). Further implementing legislation needs to be adopted in order to achieve full compatibility with the *acquis* in this area, including universal service provision and quality of service. Bulgaria needs to ensure the supply of the universal service at the appropriate level of quality if full liberalisation takes place in 2003, i.e. before the NRA becomes fully independent.

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria would have difficulties in adopting the EU model of telecommunications liberalisation because of the slow development of its telecommunications sector and of delays in the field of regulatory reform. It added that the competitiveness of the public network operator would crucially depend on a substantial increase in foreign investment and an in-depth internal restructuring, aiming in particular at improving the commercial flexibility of the company.

Since the Opinion, Bulgaria has made some progress in aligning with the *acquis* through the adoption of a law on telecommunications in 1998 and the establishment of a National Regulatory Authority. Legislative alignment has made good progress, but Bulgaria will need to transpose the updated *acquis*. Institutional structures are largely in place, but implementation of the legislation must be speeded up.

Negotiations in this chapter have been provisionally closed. Bulgaria has been granted a transitional arrangement (until 31 December 2008) regarding the implementation of number portability as required by the *acquis*. Bulgaria is generally meeting the commitments it made in the accession negotiations in this field.

Bulgaria should focus further efforts on completing transposition of the *acquis* and on its effective implementation in time for market opening on January 2003. Particular attention should be paid to the definition of operators with SMP, application of the principle of cost orientation, publication of the Reference Interconnection Offer and unbundled access to the local loop.

Chapter 20: Culture and audio-visual policy

Progress made since the last Regular Report

Bulgaria has made some progress since last year's Regular Report.

Amendments to the Law on Radio and Television entered into force in November 2001 aiming at further transposing the **audio-visual** *acquis*. These were intended to strengthen the regulatory body in this sector and to streamline licensing procedures. As a result, a Council for Electronic Media was established in November 2001 to replace the National Council on Radio and Television as the Bulgarian national regulatory body. Like its predecessor, the Council for Electronic Media is an independent specialised body. It regulates radio and television activity through the registration and issuing of licenses and exercises supervision to ensure that the actions of radio and television operators are in line with the law. The Council's staff has increased from 45 in 2001 to 61 in spring 2002 and the institution has been allocated new premises. The budget for 2002 for this body has been increased by around 13%.

Since the law came into force, the Director of the Bulgarian National Television was dismissed in December 2001 because of failure to comply with the newly-introduced requirement of five years of experience. The amendments to the Law on Radio and Television were applied retroactively. The director who had been dismissed appealed against the decision in court and won.

A Memorandum of Understanding, providing for Bulgaria's participation in the Media Plus and Media Training Community programmes, was signed in July 2002 taking effect from January 2002.

In the field of **culture**, the Association Council decision allowing Bulgaria to participate fully in the "Culture 2000" programme from 2001 was adopted in October 2001.

Overall assessment

Progress has been made in implementation through the introduction of a single licensing procedure. The introduction of a new registration regime can be seen as a step towards deregulation of the media environment. However, the 2001 amendments to the Law on Radio and Television did not address the issues of financing the Council of Electronic Media and the public broadcasters.

The Council for Electronic Media's administrative capacity to deal with monitoring and sanctioning powers needs to be further strengthened, particularly as far as monitoring of regional and local broadcasters is concerned.

Bulgaria is party to the Council of Europe Convention on Transfrontier Television and its amending Protocol.

Conclusion

In its 1997 Opinion, the Commission concluded that provided that the necessary legislative measures were pursued with sufficient urgency and were accompanied by the necessary structural adaptation of the industry, it was reasonable to expect that Bulgaria should be able to meet EC requirements in the audio-visual sector in the medium term.

Since the Opinion, Bulgaria has made significant progress, particularly through the adoption in 2000 of a Law amending the 1998 Law on Radio and Television, as a result of which Bulgarian legislation in this area has achieved a high degree of alignment with the *acquis*. The necessary administrative structures are in place.

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area. It is generally meeting the commitments it made in the accession negotiations in this field.

Bulgaria should focus further efforts on the strengthening of the administrative capacity of the national regulatory body in the field of broadcasting.

Chapter 21: Regional policy and co-ordination of structural instruments

Progress made since the last Regular Report

Bulgaria has made some progress in this area since the last Regular Report in preparing for the implementation of structural policies.

No particular developments have taken place as regards **territorial organisation**.

As regards the **legislative framework**, the Council of Ministers passed a regulation adopting a Strategy on the Preparation for EC Structural Funds in May 2002, whereby the Ministry of Finance was designated as the co-ordinator for the preparation and implementation of Structural and Cohesion Funds assistance.

Following the adoption of the Strategy for Structural Funds, the envisaged **institutional structure** for Structural and Cohesion Funds assistance was clarified. The Ministry of Finance will be the authority responsible for the co-ordination of programming of

Structural Funds assistance. In addition, it will become the Managing Authority for the Community Support Framework and for the Cohesion Fund. A number of operational programmes (OP) are envisaged, namely a Regional OP (to be managed by Ministry of Regional Development), an OP on Competitiveness of Bulgarian Industry (to be managed by Ministry of Economy), a Development of Human Resources OP (to be managed by Ministry of Labour) and an OP on Rural Development (managed by the Ministry of Agriculture). The future paying authority for all Structural Funds and the Cohesion Fund will be the Ministry of Finance (“Directorate National Fund”).

In March 2002, a new department of programming and co-ordination was established within the General Directorate for Regional Policy of the Ministry of Regional Development. Within the above-mentioned Department, 25 experts for the 28 District Units were appointed. They will participate *inter alia* in programming and implementation of CBC and ESC projects and have the role of improving the co-ordination between the Ministry of Regional Developments and district authorities.

As regards **programming**, the Strategy clarified that the Agency for Economic Analysis and Forecasts at the Ministry of Finance will be responsible for co-ordinating and updating the National Development Plan. The regulation of the Ministry of Regional Development adopted in November 2001 sets out that the National Plan for Regional Development will form an integral part of the National Development Plan. Furthermore, the role and status of the Commissions for Economic and Social Cohesion in the six planning regions was addressed. These were established through legislation adopted in 2000 and include representatives of local administration as well as economic and social partners. Apart from this, little has been done to prepare for the application of the partnership principle.

No progress has been made in the area of **monitoring and evaluation**.

No significant developments can be reported with respect to **financial management and control** as well as **statistics**.

Overall assessment

Concerning territorial organisation, Bulgaria has already agreed with the Commission on its provisional NUTS classification (six planning regions corresponding to NUTS II). More work is necessary to adopt the framework legislation needed to implement the *acquis* under this chapter.

Bulgaria has started to design the necessary institutional structures for the implementation of the Structural Funds and the Cohesion Fund after accession. Bulgaria must now implement the government decision of May 2002. The mechanisms of co-ordination and management for the implementation of the strategy on structural funds will need to be refined. Much needs to be done to improve the administrative capacity of the managing and paying authorities. Inter-ministerial co-ordination remains limited. Further clarification is necessary as regards the definition of tasks and responsibilities to be performed by the bodies or authorities involved in the preparation and implementation of Structural and Cohesion Funds assistance.

Considerable further efforts are needed to bring administrative capacity up to the level required for Structural Funds and Cohesion Fund implementation.

With regard to programming, there is little capacity to discuss and clarify development priorities both at national and regional level and to identify proper projects. Co-ordination and co-operation between ministries, as well as with relevant agencies and other stakeholders, remains limited. These factors have led *inter alia* to rather unsatisfactory management of some of the pre-accession funds that help Bulgaria prepare for the Structural and the Cohesion Funds. More progress is needed in further developing the National Development Plan so that it can serve as the basis for the establishment of a development plan as required by the Structural Funds regulations. Further efforts are necessary to enhance the quality of this document and to make it compatible with requirements under the structural funds *acquis*. This includes further embedding the National Development Plan in national policy-making as well as consultation of relevant stakeholders, including economic and social partners. Since there is no regional partnership structure, transparent involvement of regional and local stakeholders, including economic and social partners, is not yet in place. There is a need to strengthen the existing Commissions for Economic and Social Cohesion and to undertake further steps to enhance the application of the partnership principle.

Work on ensuring compliance with the *acquis* requirements for monitoring and evaluation has hardly advanced.

Appropriate systems of financial management and control need to be established, i.e. in setting up of bodies, structures and specific procedures for financial control, auditing, certification of expenses and correction of irregularities. Particular attention needs to be given to an adequate separation of functions within the implementation structure. Bulgaria's budget legislation does not provide for multi-annual budget programming and flexibility required for the implementation of Structural Funds programmes.

As regards statistics, as outlined in the last Regular Report, further efforts are necessary to bring these up to the level required for regional policy planning, in particular for ex-ante evaluation. There is still a lack of regional statistics.

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria's administrative capacity to manage integrated regional development programmes needed to be improved. It added that in particular, administrative and budgetary procedures needed to be strengthened. Furthermore, it was concluded that significant reforms were still necessary, including the establishment of efficient inter-ministerial co-ordination and the introduction of appropriate counterpart funds, before Bulgaria would be able to apply Community rules and to channel effectively the funds from EC structural policies.

Since the Opinion, Bulgaria made little progress reaching a low level of readiness for the *acquis* in this area. However, work has started to gather speed recently with in particular the adoption of the Strategy for Structural Funds.

Negotiations on this chapter continue.

Bulgaria should focus further efforts on strengthening the capacity for future implementation of structural funds in key ministries, including appropriate control, monitoring and evaluation mechanisms. Bulgaria needs to prepare a coherent

development plan as required by the Structural Funds regulations and integrate it into the national budgetary and policy-making framework.

Chapter 22: Environment

Progress since the last Regular Report

Since the last Regular Report, Bulgaria has continued its progress in terms of transposition of the EC environmental *acquis* as well as preparing for implementation of legislation. However, implementation, together with the need for increased administrative capacity and the cost of alignment, remains a major challenge.

Some progress in the **integration of the environment into other policies** has been made in areas such as agriculture and transport, but generally the use of sustainable development approaches remains limited in other areas of economic interest. For example, the recent energy strategy (*see chapter 14: energy*) whilst placing emphasis on energy efficiency, incorporates the environmental aspects in a limited and inconsistent way.

In the field of **horizontal legislation**, the Environmental Protection Act was adopted in September 2002. This provides the necessary legislative framework for further progress on environmental impact assessment, access to information and industrial pollution protection and control (IPPC).

As regards **air quality**, further legislative progress can be recorded with the adoption in November 2001 of a second amendment to the Ambient Clean Air Act, which introduces a national fuel quality control system.

In the area of **waste management**, a regulation on end-of-life vehicles was adopted.

In the field of **water quality**, progress can be noted, although delayed in comparison to earlier schedules. Implementing legislation was adopted enabling partial transposition of the EC water framework Directive, as well as on urban waste water, drinking water, bathing water and the quality of surface water for abstraction of drinking waters. New basin management authorities have been set up.

In the field of **nature protection**, the Law on Biological Diversity was adopted in August 2002 with a view to transposing the *acquis* on birds and habitats. Administrative capacity at central level and in the three national parks remains insufficient because of understaffing or insufficiently trained staff. There is however good progress in awareness raising and in relation to the involvement and participation of other bodies or interest groups in the area, including at local level.

As regards **industrial pollution control and risk management**, the adoption of the Environmental Protection Act has set out the legislative framework for this. The Environment Executive Agency has now set up a department for IPPC. No progress can be reported on the Seveso directive.

As regards **genetically modified organisms**, the schedule for transposing EC legislation by the end of 2001 was not respected.

In the area of **chemicals**, further progress has been made with the adoption in July 2002 of implementing legislation on import and export of certain dangerous substances and on risk assessment of new chemical substances to human health and the environment.

No further developments can be recorded in the area of **noise** from household appliances and outdoor equipment.

In the field of **nuclear safety and radiation protection** (*see also chapter 14 – Energy*), Bulgaria has made some legislative progress with the adoption in April 2002 of the regulation on the maximum allowable radioactive contamination for agricultural products and of the regulation on the requirements to limit the radioactive contamination of foodstuffs. The law on the Safe Use of Nuclear Energy was adopted in June 2002.

As regards **administrative capacity**, governmental bodies remain understaffed. However, in June 2002 the Council of Ministers approved a decree for the recruitment, as of January 2003, of 519 new staff. These will be allocated to the central level (62 to the Ministry itself and 47 to the Executive Environmental Agency), to the regional inspectorates (180) and to the River Basin Directorates.

Overall assessment

In relation to legislative alignment, Bulgaria has achieved a generally good level and efforts should continue to prepare legislation in all areas, in particular as regards environmental impact assessment, waste management, nature protection, industrial pollution and risk management, chemicals and genetically modified organisms, and nuclear safety and radiation protection. Now that the delays in the adoption of the Environmental Protection Act have been overcome and the Act adopted, there should be no further barriers to adoption of implementing legislation. Preparatory work is underway to complete legislative alignment and with a view to preparing implementation of the *acquis*.

Achieving full implementation still poses a major challenge for Bulgaria and will take significant time and effort. Bulgaria should concentrate resources into the preparation of detailed directive-specific implementation plans together with financing strategies, taking account of available resources and institutional strengthening, and into further elaborating mechanisms to monitor effective implementation. Close attention needs to be paid to the implementation of the *acquis* in all sectors, particularly as regards waste management (drafting of management plans, strengthening the administrative capacity, notably at local level, and setting up the necessary infrastructure, including upgrading of landfills.), water quality (designation of sensitive areas and identification of vulnerable zones, preparation of inventories and programmes, and permits for discharges of dangerous substances), industrial pollution and risk management (integrated permits, and strengthening the administrative capacity), chemicals and genetically modified organisms (strengthening the administrative capacity) and nature protection (management and protection of habitats and species, and strengthening the administrative capacity). This includes the need for enhanced co-ordination with other ministries, notably in the case of investments in infrastructure and nature protection where sound and complete environmental impact assessments must be prepared.

Most of the observations made last year as regards the environmental situation in the country remain valid. The majority of industry and of the general public is not well aware

of environmental issues and this is a matter of concern, given the role industry could and should play on environmental issues. In this area, work should be undertaken with particular attention to the integrated pollution prevention and control directive.

The principle of integration requires continuous attention both at national and at Community level. Bulgaria needs to continue integrating environmental protection requirements into the definition and implementation of all other sectoral policies so as to promote sustainable development, including in the energy sector. In this respect, the inter-ministerial co-ordination on issues related to the environment remains very weak.

Bulgaria's administrative capacity to implement the *acquis* requires close attention. In particular, regional inspectorates and municipalities need to be further strengthened. Staff resources remain limited and awareness of the requirements of EC environmental rules needs to be further improved. It is positive that a decision has been taken to reinforce staffing of the Ministry and other public bodies as of 2003. It is important that relevant funding for this purpose is foreseen in the 2003 Budget Law. Moreover, further actions will be needed, in particular to improve the qualification of existing and newly-recruited staff.

Significant investments are needed to ensure the implementation of the environment *acquis*. Bulgaria should focus on planning, identification and availability of financial resources. The existing limitations as to the use of the National Environment Protection Fund, merged this year into the State budget, should not hamper public co-financing. In addition, the management of support funds, including ISPA, should be further improved.

Conclusion

In its 1997 Opinion, the Commission concluded that full transposition of the environmental *acquis* could be expected in the medium- to long-term, if the development of a comprehensive, cost-effective and focused environmental strategy and of adequate implementation and enforcement structures were followed. The Commission added that other prerequisites were a positive turn in the economic situation and a greater and consistent emphasis on environmental issues. It noted, however, that effective compliance with a number of pieces of legislation requiring a sustained high level of investment and considerable administrative effort (e.g. urban waste water treatment, drinking water, aspects of waste management and air pollution legislation) could be achieved only in the very long term.

Since the Opinion, Bulgaria has made steady progress in aligning its legislation with the *acquis* in most environment sectors and in preparing for its implementation. Bulgaria has achieved a generally good level of legislative alignment but full implementation still poses a major challenge. Administrative capacities have improved somewhat.

Negotiations on this chapter continue.

Bulgaria should now focus its efforts in particular on environmental impact assessment, waste management, nature protection, industrial pollution and risk management, chemicals and genetically modified organisms, and nuclear safety and radiation protection. Implementation and enforcement of the *acquis* in this area continue to constitute a major challenge for the future, in particular because of the need to increase administrative capacity, especially at regional and local level. In addition, the fact that environmental considerations are not often thoroughly considered in the context of other

economic issues is a cause for concern. Relevant investments in the environment sector have produced some positive results, but much still remains to be done. Bulgaria needs to focus on investments, and on reinforcing administrative capacity and implementation within all environment sectors, while continuing progress with transposition.

Chapter 23: Consumers and health protection

Progress made since the last Regular Report

Since the last Regular Report, little progress has been made in this sector in terms of legal alignment.

No particular progress can be reported with respect to **safety related measures**.

Concerning **non-safety related measures**, the adoption of the Law on Tourism in June 2002 repealed the Law on Tourism of 1998 and aims at transposing requirements of the Directive on package travel.

Little progress has been made in further developing **a functioning market surveillance mechanism**. Some measures were taken to strengthen the administrative capacity of the Commission for Trade and Consumer Protection (CTCP), to enhance co-operation with other bodies dealing with control of consumer protection and to provide methodological assistance to consumer protection units within municipal administrations. Some training has been provided to staff of the Consumer Protection Department and the CTCP in the Ministry of Economy, to consumer protection departments within municipalities and to consumer associations. The technical equipment of the CTCP has been slightly modernised. Bulgaria continued its participation in the TRAPEX system for exchange of information on dangerous goods in countries of central and eastern Europe.

A 10% staff cut took place in the Commission for Trade and Consumer Protection. The staff has therefore been reduced to 170 employees, including some 133 inspectors and field officers.

Some measures were taken to upgrade premises and equipment of the conciliation commissions, which assist in out-of-court dispute settlements.

Three new consumer associations were founded, including the Bulgarian Academy of Consumers and the National Association for Consumer Information and Advice, thus bringing the total of consumer associations to nine. Financial support from the Government targeting consumer associations has increased slightly to €45,000. Consumer associations have set up Citizens Advice Bureaux and Consumer Information Centres; they provide advice and information to consumers, organise seminars on consumer issues, consider complaints and represent consumer interests in conciliation procedures. Under the amended law on standardisation of January 2002, a representative of consumer associations has been included in the National Council on Standardisation. During the reporting period, a Memorandum of co-operation and exchange of information was signed between the CTCP and consumer associations.

Overall assessment

Though comprehensive legislation in this field was adopted in 1999, Bulgaria still needs to complete the legislative framework in the area of consumer protection. Further alignment with the *acquis* is needed, particularly concerning certain aspects of the sales of consumer goods and associated guarantees, injunctions for the protection of consumer interests, timeshare, consumer credit, distance contracts, comparative advertising and product liability.

Enforcement of consumer protection legislation is still crucial, particularly the strengthening of the Commission on Trade and Consumer Protection, including its nine regional centres and 28 district units. The human and financial resources allocated to this institution need to be increased so that it can carry out its important tasks, e.g. the development of a national system for exchange of information on dangerous goods.

The lack of a clear concept on consumer policy, demonstrated, *inter alia*, by little activity on the part of either the Ministry of Economy as the policy-maker in this field, or the National Council on Consumer Protection, as the consultative body, hampers the development of a market surveillance system. Inefficiencies in this area need to be overcome in order to ensure the safety of non-food consumer products. The CTCP supervises the general safety of products apart from those products where special legislation to regulate safety requirements exist. The CTCP should have a more proactive role in promoting the importance of product safety among all involved parties, e.g. by organising specific campaigns on this topic.

Though some efforts have been made in co-ordinating the activities of the CTCP with other institutions dealing with market surveillance, as well as with consumer NGOs, further co-ordination between the CTCP and other controlling bodies (including in particular the State Agency for Standardisation and Metrology and customs) is necessary. The range of products controlled by market supervision authorities should be widened in type and quantity in order to include more products falling under the coverage of EC *acquis* on general product safety. Laboratory testing of the safety-related characteristics of products should be further developed.

Consumer protection units, which have been partially established within each municipal authority, remain weak, partly due to an overlap of functions with local offices of the CTCP.

Further progress is also needed on effective access of consumers to justice and out-of-court dispute settlement (in particular through the Conciliation Commissions provided for in the Law on Consumer Protection and Trade Rules). As in 2000, in 2001 a high number of cases submitted to conciliation commissions have not led to the conclusion of an out-of-court agreement.

Though consumer associations are relatively numerous and have, in general, a good working relationship with the government, they lack capacity themselves, which results in a relatively low impact on the development of a culture of consumer protection. The government should further promote the important role played by consumer organisations.

Conclusion

In its 1997 Opinion, the Commission concluded that if Bulgaria was to comply with EC standards on the protection of consumer interests, it would need to accelerate preparations of consumer policy legislation considerably. The Commission added that the main principles of the *acquis* had not been transposed into Bulgarian law and that achieving full compatibility in the medium term would require commitment and substantial efforts.

Since the Opinion, Bulgaria has made progress by transposing a reasonable part of the *acquis* but does not yet have a fully functioning system to implement this.

Negotiations in this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area. Bulgaria is generally meeting the commitments it has made in the accession negotiations in this field.

Bulgaria should focus further efforts on continuing alignment of legislation in particular in the field of sales of consumer goods and associated guarantees, injunctions for the protection of consumer interests, timeshare, consumer credit, distance contracts, comparative advertising and product liability and ensuring effective implementation of legislation, in particular through an efficient market surveillance mechanism. Bulgaria should further integrate consumer concerns into other policy areas.

Chapter 24: Co-operation in the field of justice and home affairs

Progress since the last Regular Report

Since the 2001 Regular Report, Bulgaria has made good progress in aligning with the *acquis* in most fields of justice and home affairs. However, a major effort is still needed in order to strengthen implementation capacity.

Significant progress can be reported in the area of **data protection**. The new law on personal data protection entered into force in January 2002, and in June 2002 the Bulgarian National Assembly adopted a decision on the ratification of Council of Europe Convention N°108 for the Protection of Individuals with regard to Automatic Processing of Personal Data. Other categories of data were covered in April 2002 by the adoption of the Law on Protection of Classified Information. The Government also appointed five members of the Commission on Protection of Personal Data. The Commission is a standing body supported by an administration of 15 experts. The 2002 national budget allotted BGN 200 000 (approx. € 100 000) to cover salaries and costs.

With the amendments to the Foreign Nationals Act in April 2002 and the adoption of a new regulation on the terms and conditions for issuing visas, Bulgaria made further progress in aligning its **visa policy** with the policy of the EU. A new version of the visa control computer system has been installed in 30 consular offices. The capacity of the visa centre has been further strengthened by means of additional staff and technical equipment.

An action plan for the adoption of **Schengen** requirements was approved in November 2001. It defines measures and deadlines in order to achieve compliance with the Schengen *acquis*. Some progress can be reported in the area of **external border control**.

In May 2002, the Government adopted a regulation on border checkpoints, thus creating the necessary inter-departmental conditions for integrated border control as an element of the future strategy for integrated border management. Progress has been made with demilitarisation of the border police, which is now in its final stage.

As regards **migration**, the new ordinance on work permits for foreigners, which entered into force in June 2002, brought the Bulgarian legislation further into line with the *acquis*. The readmission agreement between Bulgaria and Ireland was signed in January 2002. Readmission agreements were also concluded with Albania and Ukraine.

Bulgaria adopted a new law on **asylum** in May 2002, which represents significant progress in aligning with the *acquis* in this field. The number of asylum seekers in Bulgaria remains limited, but continues to increase. Within the first five months of 2002, 1,938 people lodged a request for asylum in Bulgaria. Over the same period, thirty-nine people from six countries were granted refugee status and 377 people from seven countries received humanitarian protection.

With the adoption of amendments to the Penal Code in September 2002, Bulgaria made further progress in the field of **police co-operation and the fight against organised crime**. The amendments concern acts of terrorism, corruption, organised crime, trafficking of human beings, computer crimes as well as development, accumulation and use of chemical and biological weapons. In order to counteract organised crime, the amendments provide a legal definition of "organised criminal group" and new penalties for the establishment, operation and participation in organised criminal groups. They also criminalise conspiracy with respect to organised activities. As regards trafficking of human beings, provisions on penalisation of the trafficking in human beings for the purposes of prostitution, forced labour, transplantation of body organs or keeping human beings in forcible subjection were incorporated in the Penal Code as a separate section. The amendments also criminalise the possession of child pornography. In December 2001 Bulgaria ratified the 2000 UN Convention against transnational organised crime (Palermo Convention) and its supplementary Protocols on trafficking in persons and smuggling of migrants. In August 2002, it ratified the supplementary Protocol on firearms. In July 2002, Bulgaria signed a protocol with Romania aiming at combating transborder organised crime more efficiently.

As regards the **fight against terrorism**, Bulgaria ratified the International Convention for the Suppression of Terrorist Bombings in November 2001. At the same time, it withdrew its reservation on the extradition clause in Article 13, paragraph 1, of the European Convention for Combating Terrorism. In January 2002, it ratified the 1999 United Nations Convention for the Suppression of the Financing of Terrorism. The amendments to the Penal Code introduced special rules on terrorism and the financing of terrorist activities. They criminalise the establishment and participation in terrorist groups as well as the preparation of terrorist acts and establish rules on confiscation of property.

As far as the fight against **fraud and corruption** is concerned (*see also Section B.1.1. - Democracy and the rule of law*), in October 2001, Bulgaria adopted a National Strategy against Corruption. This gives special attention to fighting corruption within the customs administration, within agencies under the responsibility of the Ministry of the Interior and within the judiciary. The amendments to the Penal Code adopted in September 2002 criminalise bribery in the private sector, passive bribery of foreign public officials, bribery of arbiters and, in particular cases, of defence lawyers. Moreover, they extend the

notion of 'foreign public official', reduce the scope of protection providing for acquittal in some cases of active bribery, and introduce fines as penalty for bribery as well as more severe punishments for passive and active bribery of judges, jury members, prosecutors and investigators. Finally, non-material benefits were included in the subject of bribery.

The adoption of a national **drugs** strategy in September 2002 by the National Drugs Council represents significant progress in the area. The strategy aims to fulfil the measures set out in the EU Drugs Strategy 2000-2004 and the EU Drugs Action Plan for 2002-2004, but needs to be supplemented by an action plan for its implementation. Bulgaria has established a National Council on Narcotic Drugs, but the administrative capacity of the council is weak and co-ordination of tasks remains a difficult issue. In March 2002, Bulgaria concluded an agreement on information exchange for the prevention of drugs trafficking with Austria, FYROM, and Iran. In February 2002, Bulgaria acceded to the Joint Declaration between the EU member states and candidate countries on drugs.

As regards the fight against **money laundering** (*see also Chapter 4 - Free movement of capital*), an amended Law on Measures against Money Laundering entered into force in January 2002. The amendments reflect the transformation of the Bureau of Financial Intelligence into an Agency, as part of Bulgaria's on-going public administration reforms.

In the area of **customs co-operation**, in July 2002 the National Assembly adopted amendments to the Road Traffic Act which give specialised mobile customs units the authority to stop vehicles inside Bulgaria for customs controls and inspection.

Some progress has been registered in the field of **judicial co-operation in civil and criminal matters**. In October 2001, Bulgaria ratified bilateral treaties with Lebanon on extradition, legal aid in civil matters, legal aid in criminal cases and transfer of convicted persons. In January 2002, it amended the law for ratification of the European Convention on Mutual Assistance in Criminal Matters and the Additional Protocol thereto, the Convention on the Transfer of Sentenced Persons, and the European Convention on Extradition and the two Additional Protocols. Bulgaria thereby withdrew its reservation that all requests for assistance in criminal matters, for transfer of convicted persons and for extradition must be submitted to the Bulgarian authorities in Bulgarian, as well as in one of the official languages of the Council of Europe. This reservation had created many practical difficulties, especially in criminal procedures where extradition was requested.

Overall assessment

Since the adoption of the law on personal **data protection** (*see also Chapter 3 – Freedom to provide services*) and the National Assembly's decision on the ratification of Council of Europe Convention N°108 for the Protection of Individuals with regard to Automatic Processing of Personal Data, legal alignment with the *acquis* is now well advanced. However, Bulgaria has not yet adopted the necessary implementing legislation.

Despite further efforts, Bulgaria's **visa policy** is not fully aligned with the EU visa obligations list with regard to nationals of the Federal Republic of Yugoslavia, FYROM and Tunisia. Moreover, it is not yet fully aligned with the EU visa-free travel list. For 22 South and Latin American states, there is still no visa free regime. Although the security features of the new Bulgarian visa sticker meet very high standards, the on-line

processing system does not yet extend to all visa-issuing offices. Efforts to equip all diplomatic and consular missions with devices to detect forged or falsified documents should be strengthened, with special priority given to high-risk countries. In order to better combat illegal migration, Bulgaria should limit the number of countries whose holders of diplomatic and service passports are exempted from the visa obligation. Finally, Bulgaria still needs to align its legislation on seamen in transit with the EU *acquis*.

As regards **external borders** and preparations for **Schengen**, major efforts are needed to implement effectively a Schengen-type border security system and to bring Bulgaria's infrastructure and the border police equipment up to EU standards. Preparations for full implementation of the Schengen *acquis* should comprise further legislative alignment for, *inter alia*, the differentiation of controls at external and internal borders, the separation of passenger flows for all airports and seaports, cross-border police co-operation as regards hot pursuit and surveillance, extradition and the definition of the term "foreign national". As regards administrative capacity, Bulgaria should adopt an integrated border management strategy covering, *inter alia*, distribution of equipment and staff along the borders and a sea surveillance system. Co-operation with neighbouring countries should be further developed. Major efforts are still required to develop intelligence-based risk assessment and to improve the capacity to conduct co-operation with other law enforcement bodies. Bulgaria should also work on a clear plan for the extension of the Automated Information System and begin to prepare for the establishment of an operational interface to SIS II.

As regards **migration**, the new ordinance on work permits for foreigners is a positive step towards bringing Bulgaria's legislation further in line with the *acquis* but further amendments to the 1998 Foreign Nationals Act are still necessary. Readmission agreements have been concluded with all EU Member States, except the United Kingdom, and with Norway, the Czech Republic, Hungary, Poland, Romania, Slovenia, Slovakia, FYROM, Georgia, Ukraine and the Federal Republic of Yugoslavia. Bulgaria should strive for the development of a comprehensive migration policy and for the establishment of a national body for its implementation and co-ordination.

The number of **asylum** seekers in Bulgaria remains limited, but continues to increase. Bulgaria needs to make further efforts to increase the capacity of the reception centres for refugees and asylum seekers, improve the conditions for integration of refugees, accelerate screening procedures and strengthen the administrative capacity of the State Agency for Refugees. Bulgaria needs to ensure that the criteria and mechanisms for determining the responsible Member State (Dublin Convention) and the rules on comparison of fingerprints can be effectively implemented upon accession.

Limited progress has been made in the field of **police co-operation and the fight against organised crime**. Bulgaria should adopt and implement a strategy to counter crime, giving special attention to the need to have an accountable, reliable and fully co-ordinated police organisation. It should also establish a National Contact Point for police co-operation and regulate the operation of foreign police officials in Bulgaria. Statistical instruments for measuring crime rate should be improved, while new methods of technical crime investigation, including development of forensic investigation should be further developed. Legislative change is also needed as regards the operation of services in the area of public order. Bulgaria is a country of origin, transit and to a lesser extent destination, for trafficking in human beings. Existing figures for arrests of traffickers are

low and sanctions are weakly implemented, especially when it comes to court cases and sentences. Bulgaria should strengthen its efforts to combat such trafficking and adopt a programme for protection of victims. As regards administrative capacity, the need to further reform law enforcement bodies falling under the responsibility of the Ministry of the Interior continues to require attention. Priority should be given to removing over-complicated organisational structures, avoiding overlap of responsibilities and to the introduction of a modern human resources policy. There is a strong need for a clear definition of the functional competencies of the different service units and for better co-ordination and interaction. Moreover, further efforts are needed to prevent police misconduct and corruption. One area where problems have been reported concerns EU citizens driving through Bulgaria and car thefts.

Bulgaria has aligned itself with the international coalition in the **fight against terrorism**. A number of activities have been undertaken in this respect, but Bulgaria does not yet comply with the *acquis* and other international standards on the fight against the misuse of the financial system and the financing of terrorism. Further activities should include measures against money laundering and the prevention of the use of the financial system for such purposes.

As regards the **fight against fraud and corruption** (*see also Section B.1.1 - Democracy and the rule of law*), Bulgaria has ratified the Criminal Law Convention on Corruption and is continuing preparations for full co-operation with OLAF upon accession. Bulgaria should pay more attention to the fact that prevention through transparency and accountability standards is as important as repressive tools. With the amendments to the penal code, Bulgaria has achieved part of the objectives of the programme for the implementation of the national anti-corruption strategy. However, full implementation of the strategy requires substantial further efforts.

Strategically located for the fight against **drugs** and drug trafficking, Bulgaria reports that its authorities seized the largest quantities of heroin and marihuana of all European countries in the first half of 2002. However, implementation of the *acquis* in this area remains difficult. Bulgaria should as soon as possible elaborate an action plan for the implementation of the newly-adopted drugs strategy, including ensuring sufficient budgetary resources. The National Focal Point to participate in the European information network on drugs and drug addiction (Reitox) of the European Monitoring Centre for Drugs and Drug Addiction still needs to be created. Bulgaria should give priority to strengthening the administrative capacity of the National Drugs Council and make a major effort to improve operational co-operation between the different ministries and services involved.

As regards **money laundering**, Bulgaria should continue to align its legislation with the *acquis*. Further steps are needed to strengthen the performance and capacity of the Bureau of Financial Intelligence (*see also Chapter 4: Free movement of capital*). Enforcement of the existing legislation needs to be considerably improved. Major efforts are needed to improve co-operation between the unit and other law enforcement agencies in the framework of a general review of the procedural and material provisions governing the pre-trial phase. The Bureau of Financial Intelligence needs to have sufficient administrative capacity, stability and independence. Specialised training and adequate equipment should be provided.

Bulgaria is party to the major international agreements in the area of customs co-operation. Bulgaria has started to take some measures in order to implement upon accession the 1997 Convention on Mutual Assistance and Co-operation between Customs Administrations and the 1995 Convention on the use of information technology for customs purposes. Further alignment with the *acquis* is needed as regards controlled deliveries, cross-border surveillance and hot pursuit. Bulgaria should continue to conclude Memoranda of Understanding with business organisations and step up inter-agency co-operation in the field of drugs. Bilateral co-operation agreements have been concluded with Armenia, Austria, Azerbaijan, FYROM, Greece, Iran, Mongolia, Romania, the Russian Federation, Turkey, the United Kingdom, Ukraine, the USA and the Federal Republic of Yugoslavia. Bulgaria should conclude further co-operation agreements on mutual assistance in customs matters and strengthen the administrative capacity for handling requests for international mutual assistance and co-operation. As regards administrative capacity and the fight against corruption in this sector, Bulgaria has launched an in-depth reform of the Customs Agency (*see also Chapter 25 -Customs Union*) and the Strategy and Action Plan to combat corruption include special measures to combat corruption in the customs administration.

As regards **judicial co-operation in criminal and civil matters**, Bulgaria has continued to ratify international conventions included in the *acquis*. However, in the civil area, it has not yet acceded to the European Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (1980) or to the Convention on the Civil Aspects of International Child Abduction (1980). Bulgaria should take further measures to ensure implementation of the Community instruments in the area of judicial co-operation in civil matters, notably as regards mutual recognition and enforcement of judicial decisions. Direct contacts between competent judicial authorities should be made possible. As regards judicial co-operation in penal matters, amendments to the Penal Procedure Code and further amendments to the Penal Code are necessary in order to accede to and implement the EU Convention on Mutual Assistance in Criminal Matters. Bulgaria should take the necessary steps to prepare for the full implementation upon accession of the instrument applying the principle of mutual recognition and in particular the Framework Decision on the European arrest warrant and the Framework Decision on the execution of orders freezing property or evidence. It should also ratify the Council of Europe Convention on Cybercrime.

Bulgaria is a party to all **human rights** instruments that are part of the justice and home affairs *acquis*.

Conclusion

In its 1997 Opinion, the Commission concluded that it would be difficult to meet the *acquis* requirements in the medium term, given the scale of the problems facing Bulgaria in the justice and home affairs field. It added that a major, sustained effort would be needed, with particular emphasis on improving the efficiency and effectiveness of justice and home affairs institutions.

Since the Opinion, Bulgaria has made substantial progress in strengthening the relevant institutions and in aligning with the *acquis*. Fundamental reforms have been initiated in several areas. The judicial reform programme has been partly implemented and is brought forward according to plan. While the level of approximation achieved so far is

encouraging, considerable further work lies ahead in terms of alignment and in particular to further strengthen the administrative capacity in this area.

Negotiations on this chapter are continuing. Bulgaria has not requested any transitional arrangements in this field.

Bulgaria should focus further efforts on substantially strengthening the capacity of its judiciary and law enforcement agencies and improving co-operation between the different agencies. Particular attention should be given to the bodies in charge of the fight against fraud, corruption, money laundering, Schengen, co-ordination of police activities and anti-drugs policy. Work on legislative alignment (visa policy, migration, money laundering) should continue.

Chapter 25: Customs union

Progress made since the last Regular Report

Since last year's Regular Report, Bulgaria has made some progress in this field.

As regards alignment of Bulgaria's legislation with the **customs *acquis***, no new developments can be reported, but Bulgaria had already achieved a high degree of legislative alignment.

The 2002 customs tariff adopted by Bulgaria is in compliance with the changes to the Harmonised System and Combined Nomenclature for 2002. It also includes the changes to the lists of countries (along same lines as those adopted by the EC) to which preferential and MFN rates are to be applied, and changes to MFN tariff rates made in accordance with Bulgarians WTO obligations (*see also Chapter 26 – External relations*).

Concerning **administrative and operational capacity** to implement the *acquis*, changes in the senior management of the National Customs Agency took place in February 2002. The need for serious reforms in the customs administration has been recognised. In November 2001, the Minister of Finance brought in substantial outside expertise to advise the government on the reform of customs. As regards strengthening of administrative capacity, there was little progress until March 2002; since then, the situation has improved and implementation of the reforms is progressing. The updated Business Strategy adopted for the period up to 2006 has four key goals: (i) adaptation of customs administration to EC requirements, (ii) strengthening co-operation between the customs administration, economic operators, trade sector and the public, (iii) improving the efficient collection of customs duties and other state receivables within the competence of the National Customs Agency, and (iv) implementing the state customs policy to combat customs offences and currency offences and crimes. Although a financial plan for the strategy has been developed, operational plans should be further developed in order to ensure the achievement of the strategic objectives.

The national strategy against corruption adopted in October 2001 includes specific measures to implement "Anti-corruption reform in the Customs Agency". The programme foresees a number of measures, including legislative improvements and strengthening of internal control. The Customs Ethics Code adopted by the Customs Agency became applicable to all officials in July 2002.

The Customs Agency adopted a strategy for the rationalisation of border operations in May 2002. The detailed plan of activities for implementation of the objectives and tasks included in the strategy was also approved.

Since the beginning of 2002, administrative instructions have been developed to provide detailed rules on the implementation of customs legislation in some areas. A Customs Consultative Council has been established. It will provide a forum for exchange of information and serve as generator of advice and assistance to the Minister of Finance and the Director General of the Customs Agency.

An updated IT Strategy has been developed, but a six-month delay has accumulated in the development of the Bulgarian Integrated Customs Information System (BICIS).

Overall assessment

The adoption of the Integrated Customs Tariff for 2002 introducing the changes to the EC Combined Nomenclature is an important achievement of the Bulgarian administration in its efforts to adopt the *acquis*. The introduction of this new instrument will simplify customs procedures and make the tariff more transparent for economic operators.

The adoption of the national strategy against corruption and the programme for its implementation, including specific measures to implement “Anti-corruption reform in the Customs Agency” shows a significant commitment by the government to tackle the issue of corruption.

The development of the Bulgarian Integrated Customs Information System (BICIS), which had previously been progressing well, suffered as a result of staffing, organisational and financial problems related to the development of the integrated system. However, if current progress is sustained, a satisfactory level of IT operational capacity should be achieved by the Customs Administration in the medium term.

Customs control should be improved when the mobile teams foreseen become operational. Further strengthening of co-operation with customs authorities of neighbouring countries is required.

Conclusion

In its 1997 Opinion, the Commission concluded that the Bulgarian Customs Administration was in the process of reorganisation and that it would be necessary to align the organisation to the duties that had to be carried out by a modern customs organisation. Low salaries made it difficult to recruit staff. The Commission concluded that it seemed unlikely that Bulgaria would be ready to fulfil the responsibilities of an EC customs administration within the next few years.

Since the Opinion, Bulgaria has made steady progress achieving a high degree of legislative alignment, but progress on development of operational and administrative capacity has not kept pace with this and further work is necessary, especially in terms of implementation and enforcement.

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area. Bulgaria is generally meeting the commitments it made in the accession negotiations in this field.

Bulgaria should focus further efforts on continued implementation of the business strategy, which is of great importance with a view to ensuring the necessary administrative and operational capacity to implement the *acquis*. Bulgaria needs in particular to focus on further alignment with the Community customs *acquis*, strengthening information technology and human resource policy, as well as on completing major projects on revenue collection, transit control and risk analysis. Moreover, in order to complete customs reform, Bulgaria needs to improve human resource management in customs and ensure it has a stable and professional body of staff and management. The percentage of staff with civil servant status should increase to align the Customs Agency with best practice in EU Member States. Bulgaria also needs to prepare for the application of measures and provisions that will be introduced only at the time of accession.

Chapter 26: External relations

Progress made since the last Regular Report

Since the previous Regular Report, Bulgaria has continued to align with the *acquis* on common commercial policy and to co-ordinate positions and policies within the World Trade Organisation with the EU, in particular with regard to the Doha Development Agenda negotiations.

As regards the **common commercial policy**, upon accession Bulgaria will be required to align its tariffs with those of the EC. Bulgaria's applied tariffs currently average 11.6% (MFN) on all products, 23.2% on agricultural products, 11.7% on fishery products and 8.6% on industrial products. By comparison, EC tariffs currently stand at 6.3% on all products, 16.2% on agricultural products, 12.4% on fishery products and 3.6% on industrial products.

With regard to the *acquis* in the area of dual-use goods, the Bill on amendment of the Law on Control on Foreign Trade in Armaments and Dual-Use Goods and Technologies entered into force in September 2002. The government organised several seminars regarding government industry relationships in the field of dual use export controls.

In the field of export credits, amendments to the Export Insurance Act were adopted in December 2001.

As regards **bilateral agreements with third countries**, Free Trade Agreements with Israel and Lithuania entered into force in 2002. Bulgaria has concluded negotiations on Free Trade Agreements with Estonia and Latvia. Bulgaria signed a Free Trade Agreement with Croatia and initiated negotiations with the Federal Republic of Yugoslavia (FRY) and FYROM, in line with its commitment under the Stability Pact Memorandum of Understanding on trade liberalisation, according to which a network of bilateral free trade agreements should be concluded between all signatories by December 2002. Bulgaria ratified an agreement on Reciprocal Protection and Investment Promotion with Syria and signed an agreement on Trade and Economic, Scientific and Technical Co-operation with the Russian Federation.

Within CEFTA, Bulgaria signed the Additional Protocol No. 10 relating to the liberalisation of agricultural and food trade, and the Additional Protocol No. 11 relating to the rules of origin of goods. With regard to **development policy**, co-operation and assistance, humanitarian assistance has been delivered on an ad hoc basis (Afghanistan, FYROM). For the implementation of **humanitarian aid** initiatives, the authorities co-operate with Non-Governmental Organisations established in Bulgaria.

Overall assessment

The EU and Bulgaria have established a framework for co-operation regarding WTO issues at both ministerial and departmental level. Bulgaria has been supportive of EU policies and positions within the WTO framework in particular also during the preparation for and the launching of the Doha Development Agenda. This close co-operation should continue. Bulgaria is a signatory to the Information Technology Agreement, a member of the WTO plurilateral agreement on trade in Civil Aircraft and an observer to the WTO plurilateral agreement on Government Procurement. Close co-ordination is needed and should continue to ensure the alignment of Bulgaria's GATS commitments with the EC's commitments and MFN exemptions. With regard to the WTO Agreement on Trade in Textiles and Clothing (ATC), co-ordination has taken place within the third stage of integration under the ATC to align Bulgaria's integration programmes with those of the EC.

With regard to the *acquis* in the area of dual-use goods, a higher degree of legislative alignment has been achieved with the new bill on amendment of the Law on Control on Foreign Trade in Armaments and Dual-Use Goods and Technologies. Full alignment to the *acquis*, in particular the general export authorisations, can only take place upon accession. Bulgaria keeps the industry regularly informed of developments in this field and has developed bilateral contacts with the EU Member States to exchange best practices on export control issues.

Where medium and long-term export credits are granted, further efforts are necessary to align with the *acquis*.

In addition to its bilateral free trade agreements with Croatia, Estonia, Israel, Latvia and Lithuania, Bulgaria is a member of CEFTA. Bulgaria needs to ensure that the Union is kept fully informed both about existing trade agreements and about any negotiations aimed at the conclusion of the new trade agreements with a third country. Prior to accession, Bulgaria will need to renegotiate or renounce all international agreements concluded with third countries that are incompatible with future obligations as an EU Member State. Decisive steps are needed, as a matter of urgency, to bring bilateral investment treaties into conformity with the Treaty obligations. Failure to do so will mean that the conflict between the bilateral investment treaties and Treaty obligations will need to be resolved in the Accession Treaty.

Alignment with and future participation in the common commercial policy is administered by the Ministry of Economy. The administrative infrastructure which needs to be in place with respect to customs services is discussed in the chapter on customs union (*Chapter 25 – Customs union*).

Bulgaria does not yet have a national policy on, or system for, development co-operation. It needs to shape progressively a development policy along EC lines. Humanitarian assistance is administered by the Ministry of Foreign Affairs.

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria would be able to meet Community requirements in this field in the medium term.

Since the Opinion, Bulgaria has made gradual progress and has achieved a satisfactory level of alignment with the *acquis*.

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area. It is generally meeting the commitments it has made in the accession negotiations in this field.

Bulgaria should focus further efforts on finishing the process of legislative alignment, and in particular on ensuring that the capacity exists to fully implement and enforce the *acquis* in this field upon accession, and on taking decisive steps, as a matter of urgency, towards the renegotiation or abrogation of its bilateral investment treaties in full conformity with its EU membership obligations.

Chapter 27: Common foreign and security policy

Progress since the last Regular Report

Since the previous Regular Report, Bulgaria has continued to position its foreign and security policy in line with that of the European Union.

The regular **political dialogue** established by the Association Agreement with Bulgaria is proceeding smoothly and Bulgaria has played a constructive role within the framework of the Common Foreign and Security Policy (CFSP), including meetings at the level of Political Directors, European Correspondents and Working Groups.

Bulgaria has shown a keen interest in continuing its active participation in the development of the European Security and Defence Policy (ESDP). It has taken part in exchanges on this subject in the EU + 15 format (i.e. non-EU European NATO members and candidates for accession to the EU).

As regards **alignment with EU statements and declarations**, Bulgaria has regularly aligned its positions with those of the Union and, when invited to do so, has associated itself with the Union's **joint actions**.

Since the 2001 Regular Report, progress has been made with the adoption of the necessary legislative framework for effective participation in the CFSP. Bulgaria has confirmed its willingness to adopt the entire CFSP *acquis* upon accession and to comply with the commitments resulting from it. Bulgaria ratified the Rome Statute establishing the International Criminal Court. It has aligned with the EU Plan of Action of 21 September and with four Common Positions on combating terrorism. It has ratified all international conventions relating to terrorism.

Bulgaria has continued to comply with **international sanctions and restrictive measures** imposed by the UN and the EU.

The Law on Amendment and Supplement to the Foreign Trade with arms and with dual-purpose goods and technologies Act was adopted in July 2002. The law introduced a list of dual-use goods identical to the EU list adopted in 2001. During the reporting period, Bulgaria confirmed its preparedness to contribute both to the EU Rapid Intervention Force missions and to EU civilian instruments for crisis management. It participated in the Capabilities Improvement Conference in November 2001 and the EU +15 Defence Ministers' meeting on 14 May 2002. It has shown an active interest in participating in the forthcoming EU Police Mission (EUPM) in Bosnia and Herzegovina.

Bulgaria has made considerable efforts to support international peacekeeping missions, and has participated in a series of UN, KFOR, SFOR, ISAF and OSCE peacekeeping and observer operations. Bulgaria became a non-permanent UN Security Council member for the period 2002-2003.

Overall assessment

Bulgaria continues to participate in regional cooperation schemes, such as the trilateral cooperation established with Greece and Romania, Romania and Turkey, FYROM and Albania, and Greece and Turkey. It takes part in the Stability Pact, playing an active role in regional fora such as the Southeast Europe Defence Ministerial Process (SEDM), the Southeast Europe Cooperation Process (SEECP) and the Southeast Europe Security Cooperation Steering Group (SEEGROUP). Relations with most neighbours remain good or have even improved (Romania, FRY).

Bulgaria has subscribed to the content and principles contained in the EU Code of Conduct on Arms Export.

As regards administrative capacity to implement the provisions relating to the CFSP, the Bulgarian Ministry of Foreign Affairs has an administrative set-up compatible with EU CFSP structures. However, it is unclear whether the Ministry has established permanent Political Director and European Correspondent.

The Ministry of Foreign Affairs is connected to the Associated Correspondents' Network information system, through which the EU communicates with associated partners within the CFSP.

Conclusion

In its 1997 Opinion, the Commission concluded that Bulgaria was well placed to effectively fulfil its obligations in this field.

Since the Opinion, Bulgaria has made steady progress in aligning with the CFSP *acquis*, and its alignment is in general satisfactory at this stage.

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area. Bulgaria is generally meeting the commitments it made in them accession negotiations in this field.

Bulgaria should focus its further efforts on ensuring that its foreign policy orientation remains in line with the Union's developing foreign and security policy, that draft legislation is adopted and implemented and that the development of the necessary administrative structures is finalised. In particular, Bulgaria should ensure that its national policies and practice conform to the EU's common positions, should defend these positions in international fora and should ensure that all sanctions and restrictive measures can be duly implemented.

Chapter 28: Financial control

Progress since the last Regular Report

Since the last Regular Report, Bulgaria has made substantial progress in this area.

As regards public internal financial control, a new **Public Internal Financial Control (PIFC)** law came into effect at the beginning of 2001. Since then, progress has been steady, but increased during the summer of this year. In July 2002, the Bulgarian authorities established a Council under the Council of Ministers to discuss PIFC policies. This Council has approved the latest version of the PIFC Policy Paper of 2000 - as agreed with the Commission - giving direction for the short term and intermediate future of Bulgarian PIFC policies. In August 2002 the Council of Ministers adopted the first series of amendments to the PIFC Act in compliance with the recommendations of the updated Policy Paper. Under these amendments the independence of the Head of the PIFC Agency will be satisfactorily established. Responsibility for the ex ante financial control function will be moved from the PIFC Agency to a newly established financial control function under the responsibilities of the Heads of the national budget spending agencies. The PIFC Agency has started placing internal auditors in most, but not yet all budget spending centres.

As regards **external audit**, progress has been substantial. The National Audit Office (NAO) Act came into effect in December 2001. A number of important supplementary regulations and forms on the implementation of the Act have also been adopted. A new organisational structure for the NAO and its Regional Offices was adopted in March 2002. The NAO has prepared a new information technology strategy. Arrangements to update audit standards and internal regulations in line with the Act are nearing completion. The NAO has been a member of the International Organisation of Supreme Audit Institutions (INTOSAI) since July 2001 and became a member of its European counterpart (EUROSAI) in March 2002.

With regard to **control of structural action expenditure**, a programme of institution-building is under way and aims to improve the capacity of the National Fund and the various implementing agencies to manage pre-accession funding, in preparation for the eventual extended decentralisation of Phare and ISPA implementation, scheduled for 2004. For ISPA, Bulgaria has taken the necessary steps to start up the EDIS process. Good progress has been made with regard to establishing a management and control system in particular the establishment of a Financial Control Unit in the Ministry of Finance and of project teams at the level of implementing agencies. However, further steps are needed to meet the requirement for internal financial control and internal audit. Bulgaria's SAPARD Agency has operated reasonably well in its first year. The National Audit Office Act establishes an audit trail on EC funds and the NAO has a special unit to

audit EC funds. In mid-2002, Bulgaria tabled a strategy for transition to the Structural Funds, including developing its administrative capacity in this regard (*see Chapter 21: Regional policy and co-ordination of structural instruments*)

In the field of **protecting EC financial interests**, the Bulgarian authorities have set up a temporary structure within the Ministry of Interior following a decision in principle to create an operationally independent anti-fraud co-ordinating service or structure which will be responsible for co-ordination of all legislative, administrative and operational aspects of the protection of EC financial interests.

Overall assessment

The adoption of the Public Internal Financial Control Law constitutes an important step towards the establishment of the legal basis for adequate public internal financial control. However, further amendments are still required to implement the Strategy Paper and the Operational Plan for the PIFC Agency. Bulgaria also needs to improve the secondary legislation and adopt tertiary regulations on manuals for financial management and control systems and internal audit, audit trails, the audit charter and the Code of Ethics. Bulgaria further needs to strengthen the administrative capacity of the PIFC institutions and further develop sustainable training facilities for internal auditors. There is a need for further sustained and determined efforts to implement the new legislative framework and to ensure that the PIFC Agency discharges its responsibilities in an effective manner, which delivers tangible improvements in the area of public internal financial control.

Concerning external audit, as a result of the National Audit Office Act, the legal basis for adequate public financial control has now been established. This Act contains all the necessary provisions for organising and operating external audit to international standards and EC requirements. Bulgaria now needs to make further progress as regards upgrading external audit functions, especially in terms of systems-based and performance audits, developing an external audit manual and enhancing training efforts.

These activities will need to be supported by substantial investment in developing administrative capacity and training staff in the PIFC Agency, the NAO and line ministries.

A timetable has been established for the extended decentralisation of Phare and ISPA implementation. Bulgaria needs to continue to strengthen the capacity of the National Fund, the CFCU and other implementing agencies dealing with pre-accession funds in preparation for the extended decentralisation of Phare and ISPA implementation, which will itself be essential preparation for participation in the Structural Funds after accession. The Ministry of Finance should play a pro-active role in ensuring progress in this area. The strategy for transition to the Structural Funds should be implemented as soon as possible.

In May 2001 the Commission adopted a Decision provisionally conferring management authority for SAPARD, on a fully decentralised basis, to the SAPARD Agency. The Commission's guidelines concerning certification of Bulgaria's accounting procedures have been respected and judged satisfactory.

As regards the prevention and fight against fraud, Bulgaria should designate as soon as possible, in consultation with OLAF, an operationally independent institution or

administrative structure with the appropriate competencies to co-ordinate all legislative, administrative and operational activities related to the protection of the EC financial interests.

Conclusion

In its 1997 Opinion, the Commission concluded that provided the current commitment persisted, the National Audit Office would be able to function in accordance with EC standards within the medium term. It noted that major efforts would be essential to strengthen internal financial control functions.

Since the Opinion, Bulgaria has made considerable progress towards the establishment of the legal basis for adequate financial control and to start to develop necessary administrative capacity. It still needs to finalise the legislative framework and complete and strengthen administrative structures.

Negotiations on this chapter have been provisionally closed. Bulgaria has not requested any transitional arrangements in this area. Bulgaria is generally meeting the commitments it has made in the accession negotiations on this chapter.

Bulgaria should focus its further efforts in particular on the continuing amendment of the legal framework and completion and strengthening of the required institutional structures, including in the area of the protection of the EC financial interests where ongoing substantial efforts are still required.

Chapter 29: Financial and budgetary provisions

Progress since the last Regular Report

Bulgaria has made some further progress over the reporting period, notably as regards the national budget and EC co-financed measures.

A number of new relevant legislative measures have been introduced concerning **national budget and EC co-financed measures**. The most significant of these are an Annual Budget Act, an Act on the Budget of the Health Insurance Fund, an Act on the Budget of the National Social Security Institute and a Decree of the Council of Ministers on the Implementation of the State Budget.

The state budget planning and forecasting systems have been reformed to orient them towards policy- and results-oriented budgeting in order to achieve efficient resource allocation and service delivery. Fiscal transparency has been improved by streamlining budgetary structures and reducing the number of extra-budgetary accounts. Revenue forecasting at municipality level has been strengthened. An enhanced drafting procedure for the 2003 state budget started in early 2002. The Treasury Single Account was further developed, including the adaptation of the accounting procedures to EC standards. A financial management information system has been piloted in selected spending units. A system for electronic budgetary payments is now largely operational.

As regards **application of the own resources system**, Bulgaria's customs administration has continued to strengthen its administrative and operational capacity through reform of customs activities including collection of VAT and duties. In addition, the National

Statistics Institute has upgraded the calculation of GNP in line with ESA 95 standards (*see also Chapters 12 Statistics and 25 Customs union*).

A division has been set up within the Budget and State Treasury Directorate of the Ministry of Finance to deal with European integration issues, including participation in the EC own resources system.

Overall assessment

Although budgetary rules are broadly satisfactory and the Treasury is functioning well, Bulgaria should continue efforts to bring the budgetary principles and rules into line with those standards generally applicable in the Community. Public expenditure management and control has steadily improved. The increased orientation towards policy and results, greater transparency of the budgetary process, strengthened forecasting systems, development of the Treasury Single Account and introduction of new systems are all positive developments. Further across-the-board strengthening in these areas is needed, as well as progress on the Public Debt Management Bill. Bulgaria now needs to bring this Bill into force and develop and implement a strategy for restructuring and modernising the Ministry of Finance, including upgrading administrative capacity in a number of areas.

In the immediate future, the priorities include further development of the Treasury Single Account, the Financial Management Information System and the System for Electronic Budgetary Payments, and continued strengthening of the drafting procedure for the annual state budget. In the medium term, national accounts statistics must be brought more closely into compliance with the ESA 95 standard, a more detailed functional budget classification should be developed, budget legislation should be further aligned with EC and international standards, the very few remaining extra-budgetary funds should be closed and the number of budget entities further reduced, and the Ministry of Finance should implement its strategy for reform and restructuring, especially to strengthen its strategic capacity to evaluate the composition and quality of public expenditure.

In relation to future EC own resources, Bulgaria needs to develop plans for an effective government-wide co-ordinating body in the area of own resources. It should further strengthen its efforts to set up effective instruments to combat fraud relating to VAT and customs duties so that the protection of the financial interests of the EC can be assured. Appropriate administrative steps should be taken by Bulgaria to ensure effective co-ordination between the various authorities involved in the application of the system of own resources. The division set up within the Budget and State Treasury Directorate of the Ministry of Finance to deal with European integration issues, including participation in the EU own resources system, needs to be developed and its staff trained. The capacity to calculate in a reliable, accurate and transparent way the level of customs duties and VAT collected by Bulgaria and to calculate Bulgaria's GNP needs to be further improved to allow calculations to be made in a harmonised and controllable way. Adequate administrative capacity to duly collect and transfer in a timely manner all own resources to the Community budget, including developing the division established in the Ministry of Finance, will need to be established prior to accession, as will the ability accurately and regularly to report to the Commission on the situation with regard to each of the types of own resources.

In addition to the need for central co-ordination of the proper collection, monitoring and payment of funds to and from the EC budget, administrative capacity should continue to be strengthened in the context of the relevant policy areas described elsewhere in this report, such as agriculture, taxation, customs and regional policy.

Conclusion

In its 1997 Opinion, the Commission concluded that, in order to ensure that own resources were established, monitored and made available in line with Community regulations, Bulgaria would have to overhaul its current customs system. In addition, for the purposes of accurately calculating the GNP resource, considerable improvements would have to be made to the national accounts to ensure that they were reliable, homogeneous and complete. The Commission added that improving the statistics would also be essential for drawing up the VAT own resources base, which would mean bringing Bulgaria's VAT system fully into line with the Community directives.

Since the Opinion, Bulgaria has made progress in these areas; however, it has only recently started serious reform of the customs system. Budgetary rules are generally satisfactory and the Treasury is functioning well. However, budgetary principles and rules are not yet in line with those standards generally applicable in the Community.

Negotiations on this chapter are ongoing.

Bulgaria should focus further efforts on the legal framework for budgetary management and for the transparency and efficiency of financial flows to and from the EC budget, which is in the process of being created. Bulgaria's efforts need to focus in particular on improving administrative structures.

3.2. Translation of the *acquis* into the national languages

Applicant countries are required to translate the various legal texts constituting the *acquis* into their national languages by the time of their accession. Primary and secondary legislation alone represents a considerable volume of texts, roughly estimated at 60 000-70 000 pages of the Official Journal. 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). To help the candidate countries in this process, assistance is being provided under the Phare programme. With the help of TAIEX, a dedicated database has been set up to act as a repository of all translated acts and as a tool through which candidate countries forward their translations to the Commission and the Council. The legal revisers of the Commission and the Council vet the submitted texts; they meet regularly and liaise with representatives of the centralised Translation Co-ordination Units in each country.

In March 2002, the Bulgarian Translation and Revision Centre (created in May 2001) moved to better premises, which have adequate equipment. The Centre is an independent body under the responsibility of the Minister of State Administration with its own budget. New staff have been taken on following competitions and a total of 12 are now employed. The Centre carries out linguistic and legal revisions of translations done by 30 external free-lance translators, who were also selected through competitive procedures. Priorities for translation of legislation are set by the European integration directorate in

the Council of Ministers, based on needs identified by heads of the working groups on the *acquis* chapters. 2005 is the target set for translation of all the *acquis* into Bulgarian.

As reported last year, the basic treaties have been translated. As at September 2002, a total of some 15 000 pages had been translated and revised and a further 11 000 were awaiting revision, according to the dedicated Commission database. The increase since last Regular Report stands at roughly 4 700 pages revised, according to Bulgarian sources, which indicates that work has accelerated considerably since the Centre became operational. Efforts in this area need to be sustained if targets are to be met.

Due attention must also be paid to the training of conference interpreters. In the autumn of 2001, a School of Interpreters was created in the foreign language department of Sofia University to prepare conference interpreters.

3.3. General evaluation¹⁷

Since the Opinion in 1997, Bulgaria has made good progress in most areas of the *acquis*. It has maintained a generally good pace of alignment of legislation throughout this period and has advanced on development of administrative capacity albeit at a slower pace.

Over the past year, Bulgaria has continued to progress in terms of legal alignment and administrative capacity, with an acceleration of efforts on judicial reform.

Overall, and in view of Bulgaria's target date for accession, Bulgaria has achieved a reasonable degree of alignment with the *acquis* in many areas. Administrative capacity has also developed, although significant further efforts remain to be made. More attention needs to be paid to how laws will be implemented and enforced. In this regard, progress on public administration and judicial reform needs to be sustained.

Regarding the *internal market*, Bulgaria has made further progress in most areas. In *free movement of goods*, progress continued with amendments to the Law on Standardisation, which remove conflicts of interest between standardisation and regulatory functions and/or certification. Considerable efforts are still needed to reinforce administrative infrastructure for standardisation and certification and to systems for national conformity assessment and market surveillance. The new Public Procurement Act is a further step towards implementation of the *acquis*, but is not yet fully aligned. This and enforcement, in line with the principles of the *acquis*, needs to be ensured. As regards food safety, a considerable amount of legislation has been transposed but efforts need to be pursued to ensure proper implementation and enforcement of the *acquis*. Reinforcement of administrative capacity is still needed, notable laboratory upgrading and accreditation. On the *freedom to provide services*, Bulgaria has developed sound banking supervision practices. It has made good progress in implementing the banking *acquis* but is less advanced in the field of insurance and securities. The establishment of the Consultative Council for Financial Sector Supervision is a further step in the right direction. Bulgaria has made progress on legal alignment with the *acquis* on data protection but needs to ensure full alignment with the *acquis* and take steps to put administrative capacity in place to implement and enforce this.

¹⁷ See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

Company law has been further aligned but still needs to be brought fully into line with elements of the *acquis*, especially on acquisitions, mergers and divisions of companies. On the legal framework for protecting intellectual and industrial property rights (IPR), there have been further improvements but steps need to be taken to ensure this is enforced at borders and that law enforcement bodies and the judiciary are trained to handle IPR matters. On *competition policy*, important progress has been made with the entry into force of the Law on State Aid. Further efforts are now needed to develop a credible state aid enforcement record. On anti-trust, Bulgarian legislation is largely in line with the *acquis*. Bulgaria needs to continue to build a record of effective application and enforcement of rules. The restructuring of the steel sector will need to be closely monitored.

For *customs* and *taxation*, Bulgaria still needs to develop IT systems that allow for exchange of data with the EC. As regards strengthening of administrative capacity, in customs, implementation of reforms is progressing, but there has been limited progress in the reform of tax administration.

Bulgaria has progressed in aligning with the *telecommunications acquis*. Efforts should focus on completing transposition, speeding up effective implementation, and enhancing the capacity of the regulator.

In *agriculture*, approximation of legislation in the veterinary and phytosanitary sectors has progressed well. Further efforts are still necessary in the transposition of the *acquis*. However, substantial efforts will be necessary to develop the necessary administrative, inspection and control mechanisms, in particular to ensure enforcement of veterinary/hygiene control standards. Progress on *fisheries* has continued, but Bulgaria needs to take further measures to ensure full compliance with EC hygiene and health requirements.

On *social policy and employment*, some progress has been made. But considerable further work remains on legal transposition in the areas of labour law, equal opportunities, anti-discrimination and health and safety at work. Social dialogue in line with EC practice needs to be fostered.

Concerning *regional policy*, Bulgaria has made progress in preparing for the implementation of structural policies with the adoption of a strategy for structural funds, which clarifies the institutional structure for structural and cohesion fund assistance. Bulgaria needs to focus efforts on strengthening capacity for future implementation of structural funds in key ministries, including appropriate control, monitoring and evaluation mechanisms. Bulgaria still needs to prepare a coherent development plan as required by the structural funds regulations and integrate it into the national budgetary and policy-making framework.

Bulgaria has continued to transpose the *environmental acquis* with the adoption of the Environmental Protection Act. Efforts are needed to prepare directive-specific implementation plans and financing strategies, on environmental investments, and to further elaborate mechanisms to monitor effective implementation. Implementation remains a major challenge as is the need for increased administrative capacity and the cost of alignment.

Bulgaria has continued to make progress in aligning *transport* legislation with the *acquis*, notably in the road transport and the railway sectors. The newly-established

administrative structures need to be strengthened. For maritime transport, the poor safety record of the Bulgarian fleet remains a cause for concern.

Bulgaria has stepped up progress in reforming the *energy* sector where restructuring had been slow in previous years. A new national energy strategy was adopted. The legislative basis for market opening has been created and privatisation of the distribution companies is under preparation. Bulgaria now needs to set clear timetables for restructuring of the energy sector. Bulgaria must respect closure commitments for Kozloduy NPP and ensure a high level of nuclear safety.

In *justice and home affairs*, Bulgaria made good progress in aligning with the *acquis* in most areas. It has adopted an action plan for the adoption of Schengen requirements. However, a major effort is still needed in order to strengthen implementation capacity.

Substantial progress has been made in strengthening *financial control* with the entry into force of the new laws on Public Internal Financial Control and the National Audit Office. Bulgaria should focus now on strengthening the required institutional structures, including for the protection of the EC financial interests.

Bulgaria still needs to make sustained efforts to develop sufficient administrative and judicial capacity to implement and enforce the *acquis*. As well as continuing horizontal reform of the public administration, it needs to focus in particular on developing the capacity to be part of the internal market and to apply the *acquis* in areas such as agriculture, environment and regional policy. Further efforts are also required to establish the necessary administrative capacity to ensure the sound and efficient management of EC funds.

In the accession negotiations, 22 chapters have been provisionally closed. The commitments made in the negotiations are with a view to accession from 2007 and are generally being met by Bulgaria.

C. Conclusion¹⁸

In its 1997 Opinion, the Commission concluded that Bulgaria fulfilled the political criteria. Since that time, Bulgaria has made considerable progress in further consolidating and deepening the stability of its institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. This has been confirmed over the past year. Bulgaria continues to fulfil the Copenhagen political criteria.

Significant progress has been made on the judicial reform strategy with the adoption of an Action Plan and major amendments to the Law on the Judicial System. These need now to be implemented in order to translate them into concrete improvements in the functioning of the system. Issues relating to the structure of the judicial system and immunity still need to be addressed.

There have also been positive further developments in the fight against corruption, which remains a cause for serious concern, with *inter alia* the adoption of an action plan to implement the National Anti-Corruption Strategy. Whilst the need to tackle corruption is now high on the agenda Bulgaria needs to continue to make concerted efforts to implement the measures.

There has been some further progress on public administration reform with revisions to the legislative framework and the adoption of a Strategy for Modernisation of the State Administration but serious efforts are now required to develop and implement reforms to ensure an efficient, transparent and accountable public administration.

Bulgaria continues to respect human rights and freedoms. Bulgaria has considerably improved the legal framework, for tackling trafficking, corruption and organised crime as well as for asylum. However, there are a number of areas which continue to give cause for concern. A new issue that has been identified is the very poor living conditions of people in institutions, in particular the mentally handicapped. This needs to be addressed urgently. Bulgaria also needs to strengthen its efforts to reform the child care system, to make sure that the best interests of the child are reflected and reduce the number of children in institutions. Poor conditions for detainees in particular in police stations and pre-trial detention also need to be addressed.

The recent changes to the Penal Code are an important step in removing discrimination on the grounds of sexual orientation.

Concerning the Roma community, little has been done to remedy problems of social discrimination or to take concrete action to improve very poor living conditions. The adoption of comprehensive anti-discrimination legislation would be an important step forward in this regard.

Bulgaria is a functioning market economy. It should be able to cope with competitive pressure and market forces within the Union in the medium term, provided that it continues implementing its reform programme to remove remaining difficulties.

¹⁸ See "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries", COM (2002) 700.

Bulgaria has achieved a high degree of macroeconomic stability and market mechanisms are now working sufficiently to allow for a better allocation of resources. Good progress has been made in structural reforms, especially as regards procedures for market entry, the restructuring of the financial sector and privatisation, thus setting the microeconomic basis for a process of sustained growth.

However, further efforts are needed to improve the flexibility of markets. In particular, the efficiency of the administrative and judicial system has to be reinforced, to allow economic agents to make decisions in a climate of stability and predictability. Administrative procedures affecting the enterprise sector, including bankruptcy procedures, must be streamlined. The level of financial intermediation continues to be low. Specific deficiencies remaining in the land market affect the performance of this market and of related economic sectors. An implementation of these reform measures should contribute to higher levels of private and public investment which are key requirements for sustained growth and sufficient competitiveness within the Union.

Since the Opinion in 1997, Bulgaria has made good progress in most areas of the *acquis*. It has maintained a generally good pace of alignment of legislation throughout this period and has advanced on development of administrative capacity albeit at a slower pace.

Over the past year, Bulgaria has continued to progress in terms of legal alignment and administrative capacity, with an acceleration of efforts on judicial reform.

Overall, and in view of Bulgaria's target date for accession, Bulgaria has achieved a reasonable degree of alignment with the *acquis* in many areas. Administrative capacity has also developed, although significant further efforts remain to be made. More attention needs to be paid to how laws will be implemented and enforced. In this regard, progress on public administration and judicial reform needs to be sustained.

Regarding the *internal market*, Bulgaria has made further progress in most areas. In *free movement of goods*, progress continued with amendments to the Law on Standardisation, which remove conflicts of interest between standardisation and regulatory functions and/or certification. Considerable efforts are still needed to reinforce administrative infrastructure for standardisation and certification and to systems for national conformity assessment and market surveillance. The new Public Procurement Act is a further step towards implementation of the *acquis*, but is not yet fully aligned. This and enforcement, in line with the principles of the *acquis*, needs to be ensured. As regards food safety, a considerable amount of legislation has been transposed but efforts need to be pursued to ensure proper implementation and enforcement of the *acquis*. Reinforcement of administrative capacity is still needed, notable laboratory upgrading and accreditation. On the *freedom to provide services*, Bulgaria has developed sound banking supervision practices. It has made good progress in implementing the banking *acquis* but is less advanced in the field of insurance and securities. The establishment of the Consultative Council for Financial Sector Supervision is a further step in the right direction. Bulgaria has made progress on legal alignment with the *acquis* on data protection but needs to ensure full alignment with the *acquis* and take steps to put administrative capacity in place to implement and enforce this.

Company law has been further aligned but still needs to be brought fully into line with elements of the *acquis*, especially on acquisitions, mergers and divisions of companies. On the legal framework for protecting intellectual and industrial property rights (IPR),

there have been further improvements but steps need to be taken to ensure this is enforced at borders and that law enforcement bodies and the judiciary are trained to handle IPR matters. On *competition policy*, important progress has been made with the entry into force of the Law on State Aid. Further efforts are now needed to develop a credible state aid enforcement record. On anti-trust, Bulgarian legislation is largely in line with the *acquis*. Bulgaria needs to continue to build a record of effective application and enforcement of rules. The restructuring of the steel sector will need to be closely monitored.

For *customs* and *taxation*, Bulgaria still needs to develop IT systems that allow for exchange of data with the EC. As regards strengthening of administrative capacity, in customs, implementation of reforms is progressing, but there has been limited progress in the reform of tax administration.

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Concerning *regional policy*, Bulgaria has made progress in preparing for the implementation of structural policies with the adoption of a strategy for structural funds, which clarifies the institutional structure for structural and cohesion fund assistance. Bulgaria needs to focus efforts on strengthening capacity for future implementation of structural funds in key ministries, including appropriate control, monitoring and evaluation mechanisms. Bulgaria still needs to prepare a coherent development plan as required by the structural funds regulations and integrate it into the national budgetary and policy-making framework.

Bulgaria has continued to transpose the *environmental acquis* with the adoption of the Environmental Protection Act. Efforts are needed to prepare directive-specific implementation plans and financing strategies, on environmental investments, and to further elaborate mechanisms to monitor effective implementation. Implementation remains a major challenge as is the need for increased administrative capacity and the cost of alignment.

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In *justice and home affairs*, Bulgaria made good progress in aligning with the *acquis* in most areas. It has adopted an action plan for the adoption of Schengen requirements. However, a major effort is still needed in order to strengthen implementation capacity.

Substantial progress has been made in strengthening *financial control* with the entry into force of the new laws on Public Internal Financial Control and the National Audit Office. Bulgaria should focus now on strengthening the required institutional structures, including for the protection of the EC financial interests.

Bulgaria still needs to make sustained efforts to develop sufficient administrative and judicial capacity to implement and enforce the *acquis*. As well as continuing horizontal reform of the public administration, it needs to focus in particular on developing the capacity to be part of the internal market and to apply the *acquis* in areas such as agriculture, environment and regional policy. Further efforts are also required to establish the necessary administrative capacity to ensure the sound and efficient management of EC funds.

In the accession negotiations, 22 chapters have been provisionally closed. The commitments made in the negotiations are with a view to accession from 2007 and are generally being met by Bulgaria.

D. Accession Partnership and Action Plan for strengthening administrative and judicial capacity: Global assessment

Bulgaria's progress and overall state of preparation in respect of the Copenhagen criteria has been examined and conclusions drawn above. The present section assesses the extent to which the priorities of the Accession Partnership have been met and the measures foreseen under the Action Plan implemented according to schedule. It should be noted that both the Accession Partnership and the Action Plan have a time perspective of two years covering 2002 and 2003, providing for another 15 months for priorities to be met. Furthermore, much has already been achieved based on previous Accession Partnerships. The present one focuses on remaining specific and well-circumscribed topics identified as requiring more work to prepare Bulgaria for membership. Therefore the analysis below only focuses on these specific topics and does not give an overall picture of the state of preparation of Bulgaria in each domain.

The purpose of the Accession Partnership is to set out in a single framework:

- the priority areas for further work identified in the Commission's Regular Report;
- the financial means available to help candidate countries implement these priorities;
- the conditions which will apply to this assistance.

The Accession Partnerships are revised on a regular basis, to take account of progress made, and to allow new priorities to be set. The Council adopted a revised Accession Partnership for Bulgaria in January 2002, based on a proposal from the Commission.

The revised Accession Partnership has served as the point of departure for the Commission and Bulgaria to develop jointly an Action Plan to strengthen Bulgaria's administrative and judicial capacity.

The purpose of the Action Plan is to identify jointly the next steps required for Bulgaria to achieve an adequate level of administrative and judicial capacity by the time of accession, and ensure that all necessary measures in this regard are taken, providing Bulgaria with targeted assistance in areas that are essential for the functioning of an enlarged Union.

Developing adequate administrative and judicial capacity for EU membership is a demanding and wide-ranging task, which requires detailed preparations in each and every domain covered by the Union's policies and legislation. In preparing individual Action Plans, the Commission has taken a comprehensive approach. All priorities from the revised Accession Partnerships which relate to the development of administrative and judicial capacity have been included in the Action Plans. Each of these priorities is treated separately in the Action Plans, and specific measures have been designed to address each of them.

In the following, progress in addressing each of these priorities is reported. For ease of reference and to avoid repetitions, wording from the *Accession Partnerships* is rendered in italics. As regards the measures foreseen by the Action Plan, implementation is checked against timetables and reported.

Political criteria

Bulgaria has *continued to make progress with public administration reform* with further revisions to the legislative framework and the adoption of a Strategy for Modernisation of the State Administration in July 2002. Some further steps have been taken to *ensure effective implementation of the provisions of Civil Service Act and related regulations* and work is progressing in line with the Action Plan but efforts in this area need to continue. There has been little change as regards *ensuring accountability of the public service*. There has been some improvement as regards *openness and transparency of public service* through the implementation of the Law on Access to Public Information. There are few developments in the *capacity for strategic planning, policy analysis and evaluation at the centre of government and in line ministries*. There have been some good examples of *consultation with affected parties (e.g. social and economic partners, civil society, and private sector) on preparation of strategies and new legislation*. Some further progress has been made towards meeting this priority.

Good progress has been made *to start to implement the strategy for reform of the judicial system*, an area identified as in need of particularly *urgent action*. For example work is in hand to improve the *administrative capacity of key institutions* and some discussion has started to *review the degree of immunity of members of the judiciary to ensure this is in line with international standards*. The programme to implement the strategy on judicial reform was approved, and amendments to the Law on the Judicial System adopted, so work to implement the Action Plan is on track. A conference on judicial reform took place in February in line with the Action Plan. Concerning *the full implementation of fundamental rights in penal cases such as legal aid*, plans to improve this are on going but there has not yet been any significant change in practice. Good progress has been made *to start to implement the national strategy to combat corruption*, another area considered in need of particularly urgent action. The Bulgarian Government adopted an Action Plan to implement the strategy and prepared a progress report on implementation which indicates that this is proceeding on track. Considerable progress has been made towards meeting these priorities.

As regards human rights and the protection of minorities, further steps are still needed to set up a more *effective system for redressing police misconduct*. Very little progress has been made on the further *implementation of the Roma Framework Programme*. Bulgaria has not yet *adopted secondary legislation necessary for the effective functioning of the Child Protection Act* or *to improve community care services for children*. Bulgaria needs to reinforce its efforts to *ensure the full implementation of the UN Convention on the Rights of the Child*. More progress is needed for these priorities to be met.

Overall, the Accession Partnership priorities related to the political criteria have been partially met. The implementation of measures in the Action Plan is largely on track.

Economic criteria

Bulgaria has achieved a high degree of *macro-economic stability*. *Enterprise restructuring and promotion of private sector development* has continued. In line with the Action Plan, work on analysis of the restructuring in the banking sector continued and considerable further progress has been made on restructuring and privatising this sector. The development of the non-banking *financial sector* remains at an early stage and continued *measures* will be needed *to improve the functioning of the capital market*. As concerns the *strengthening of the banking sector*, the largely foreign-owned banking

sector is developing in terms of credit growth and savings deposits. New privatisation procedures have been set up aimed at accelerating *the privatisation process* and making this more transparent and efficient. Bulgaria has started to make progress to prepare for the *restructuring of the energy sector*. Efforts are needed to further develop and start to implement an *energy efficiency strategy* and to attract increased investment. Concerning *restructuring of the steel sector*, Bulgaria has undertaken to ensure that no further state aid will be given which is incompatible with EC state aid rules for the steel sector. Amendments to the bank bankruptcy law were adopted with the aim of *further improving and accelerating bankruptcy and liquidation procedures*. However, market exit procedures still need to be improved to *reduce the time needed to complete procedures and improve enforcement of decisions*. Work to *establish a functioning land market and finalise the land and property register* is ongoing but is not yet complete and needs to be pursued. Further *measures* are being taken to *improve the business environment and stimulate domestic and inward investments*, but these need to be pursued. Further work is needed to *ensure business-friendly legal, tax, regulatory and administrative frameworks (including improved contract enforcement and licensing procedures) that provide a level playing field for all businesses* (small and large, foreign and domestic). Work to remove or reduce the burden of permit and registration regimes is ongoing which contributes towards developing *a more favourable business environment for SMEs, through addressing the remaining obstacles to SME development*.

Overall, the Accession Partnership priorities related to the economic criteria have been only partially met although steady progress has been made. The implementation of measures in the Action Plan is largely on track.

Ability to assume the obligations of membership

Chapter 1: Free movement of goods

Further progress is needed to *modify the framework law on technical requirements implementing New and Global Approach principles to ensure it is in line with the acquis*. Work to *reinforce horizontal administrative infrastructure* has continued. Concerning *separation of standardisation and certification functions*, some progress has been made in restructuring following the amendments to the Law on Standardisation but certification activities are still not adequately segregated from accreditation so the Action Plan objective has not been fully met. *Alignment of traditional sectoral legislation* has progressed well. Further work has been carried out to *prepare the administration and food operators for EC principles of food safety* through the adoption of several ordinances. An *amended public procurement act* is in force but some further changes are still required to ensure *full compatibility with the acquis* and a public procurement agency still needs to be established to *ensure transparent public procurement procedures at central and regional level*. The *screening of legislation in the non-harmonised area to ensure that it is in compliance with Articles 28-30 of the EC Treaty* is on going. Overall, Accession Partnership priorities in the area of free movement of goods have been partially met. Implementation of the measures under the Action Plan is largely on track.

Chapter 2: Free movement of persons

Bulgaria has continued to pursue alignment of *mutual recognition of professional qualifications and diplomas* and to introduce *required administrative structures, education and training programmes*. Implementation of the measure under the Action

Plan to establish a unit for mutual recognition in the medical professions has started. Overall, Accession Partnership priorities in the area of free movement of persons have been partially met. Implementation of the measure under the Action Plan is largely on track.

Chapter 3: Freedom to provide services

Concerning *reinforcement of supervision of financial services*, a Consultative Council for Financial Sector Supervision was set up. The banking supervision structure is well equipped but further strengthening is needed in the insurance supervision area and pension funds. Implementation of the measures under the Action Plan on financial services supervision is on track. This priority has been partially met. *National legislation has been adopted on data protection and an independent public supervisory authority responsible for monitoring the correct application of Data Protection provisions* has been created, so this priority has been met and the implementation of the Action Plan is on schedule. The Accession Partnership priorities in the area of freedom to provide services have been largely met. Implementation of the measures under the Action Plan appears to be on track.

Chapter 4: Free movement of capital

Further steps *to prevent use of financial system for money laundering* have been taken through the new law on measures against money laundering. Changes have been made to transform the *Bureau of Financial Intelligence* into an Agency but it has yet to be seen whether this *strengthens sufficiently its capacity to deal with money laundering*. Instructions on co-operation with other relevant bodies have been adopted. Further steps are needed to *complete alignment of legislation with the Second Directive against money laundering* and to *ensure compliance with the Recommendations of the Financial Action Task Force*. Overall, Accession Partnership priorities in the area of free movement of capital have been partially met. Implementation of the measures under the Action Plan appears to be on track.

Chapter 5: Company law

Further steps have been taken to *upgrade accounting and auditing standards and practices, and to further align the regulatory framework with the acquis* but further amendments are needed for legislation to be fully aligned with the *acquis*. Concerning the need to *enhance the enforcement of industrial and intellectual property rights*, further efforts are still required, in particular as regards strengthening border controls and training of law enforcement officials. In line with the Action Plan, the strengthening of the administrative capacity of the special unit of customs police in the field of intellectual and industrial property rights protection has begun but still needs to be reinforced. The Accession Partnership priorities in the area of company law have been partially met. Implementation of the measures under the Action Plan appears to be on track.

Chapter 6: Competition policy

Further steps have been taken to *complete the legislative framework in both anti-trust and state aid*. Concerning *strengthening of administrative capacity*, the Commission for the Protection of Competition (CPC) has continued to build up its enforcement record in anti-trust but this is still at an early stage for state aid control so further work is needed to *ensure full enforcement of anti-trust and state aid rules*. A *state aid inventory* and an

annual state aid report exist. The state aid report for 2001 follows the methodology and presentation of the “Survey on State Aid in the European Union”. Further measures need to be taken to *increase awareness of anti-trust and state aid rules among market participants and aid granters and training of the judiciary in anti-trust and state aid matters* needs to be *intensified*. As foreseen in the Action Plan, on anti-trust, steps are being taken to enhance the theoretical knowledge and the practical training of CPC officials in conformity with the *acquis*. These include study visits, supply of computer hard and software. On state aid, some progress has been made on staff training. Overall, Accession Partnership priorities in the area of competition policy have been partially met. Implementation of the measures under the Action Plan appears to be on track.

Chapter 7: Agriculture

Bulgaria has taken some steps to *prepare the administrative structures needed for EC funded rural development programmes*, and to start to prepare *the agricultural administration for the practical implementation and enforcement of the management mechanisms of the Common Agricultural Policy*. Some further progress was made to lay the foundations for *the Integrated Administration and Control System*. Bulgaria has not yet established a *Paying Agency for the management of Common Agricultural Policy funds*. Concerning *the implementation and enforcement of veterinary and phytosanitary legislation and food safety legislation*, further progress was made on adoption of legislation but much remains to be done on enforcement. Work is underway to create *the necessary conditions for the emergence and strengthening of efficient land, labour and capital markets in the rural and agricultural sectors*; however, considerable further efforts will be necessary to ensure the development of efficient markets. Bulgaria needs to *continue the upgrading of food processing establishments so that they are in a position to respect EC food safety standards*. It also needs to *continue the reinforcement of the food control administration*. Bulgaria needs to undertake further work to *prepare the vineyard register*. Progress has continued on *alignment of veterinary and phytosanitary legislation* and to implement the programme to *upgrade inspection arrangements, in particular at future external borders*. Bulgaria made progress on *implementation and enforcement, including testing of animal diseases, in particular transmissible spongiform encephalitis*. However, it needs to ensure that this is fully in accordance with the *acquis*. Overall, Accession Partnership priorities in the area of agriculture have been partially met. Implementation of the measures under the Action Plan appears to be on track.

Chapter 8: Fisheries

Further progress has been made to *complete the establishment of the adequate organisation, adequate institutional resources and equipment relating to inspection and controls at central and regional levels*. The staff of the National Agency for Fisheries and Aquaculture (NAFA), established in the Ministry of Agriculture and Forestry, has been increased to 156. The *fishing vessel register* has been finalised but further steps are needed to ensure this is *in full compliance with EC requirements*. Overall, Accession Partnership priorities in the area of fisheries have been met. Implementation of the measures under the Action Plan is largely on track.

Chapter 9: Transport policy

Bulgaria has continued to make progress in *legal alignment* in the *road transport* sector. Further steps to *reinforce administrative capacity in the road and inland waterway sector*

are needed. Progress has been made on vehicle *taxation* and on road user *charging*. Efforts to improve the screening of entry to the profession are needed. Further measures are required to prepare for the *adaptation of the fleet to technical and safety requirements*. Further progress has been made to *continue legal alignment and reinforce administrative capacity in railway transport with a view to the implementation of the revised railway acquis*. Concerning the *pursuit of the restructuring of Bulgarian railways*, the functional separation of infrastructure management from rail transport operations of the Bulgarian Railways Company has been completed. However, there have been delays in the adoption of necessary amendments in the area of *maritime transport legislation* and in *strengthening the administrative capacity to improve the Flag State performance in the field of maritime safety*. Due to this, Bulgaria has not yet achieved its objective of being removed from the Black List of the Paris MOU. Overall, priorities in the area of road and rail transport have been largely met with the exception of maritime transport. Implementation of the measures under the Action Plan is delayed.

Chapter 10: Taxation

Bulgaria has *continued alignment of VAT legislation* but further alignments are still needed in particular on *special schemes*. Further *alignments* have been made on *legislation on excise duties, with particular regard to the applied rates*, but further increases will be needed to reach the minimum levels required by the *acquis*. A review of legislation to ensure compliance with the *Code of Conduct for Business Taxation* is in progress. Little progress has been made to *continue to modernise and strengthen tax administration to ensure laws are effectively implemented and enforced* and significant further efforts are needed. Bulgaria needs in particular to ensure that VAT refunds are paid in an efficient and timely way. Further efforts should also be made in the area of *administrative co-operation and mutual assistance*. Little has been done to develop IT systems so as to allow for the exchange of electronic data with Member States. Bulgaria has to implement the Holding and Movements Directive concerning excisable products. The Accession Partnership priorities in the field of taxation have been partially met. Implementation of the measures under the Action Plan is largely on track.

Chapter 12: Statistics

Bulgaria has made further progress to *improve quality and coverage of statistics*. It will need to pursue efforts to ensure *adequate resources are available to further strengthen statistical capacities, including at regional level*. The Accession Partnership priority in the area of statistics has been partially met. Implementation of the measures in the Action Plan appears to be on track.

Chapter 13: Employment and social policy

Alignment of the social acquis has continued but with little progress on *adoption of legislation in the field of equal treatment for women and men and against discrimination*. The *General Labour Inspectorate* has been *strengthened* for its role in the enforcement of the *acquis* in the area of health and safety at work. Work on *alignment of legislative framework for the acquis on public health* has continued and a national programme for the restriction of smoking been adopted. Further efforts are necessary to *accelerate the development* of an information system for *surveillance and control of communicable diseases and health monitoring and information*. Some progress has been made to *support social partners' capacity-building efforts* through the adoption of the

Employment Protection Act. In line with the Action Plan, a National Institute for Conciliation and an Economic and Social Council were established. However, further efforts will be needed to prepare for the social partners' future role in the *elaboration and implementation of EC employment and social policy, including the European Social Fund*. Particular efforts will be needed to further improve *autonomous bipartite social dialogue*. Concerning the *preparation of a national strategy, including data collection, with a view to future participation in the European strategy on social inclusion*, this priority has not yet been met. Overall, Accession Partnership priorities in the area of social policy have only been met to a limited extent. Implementation of the measures under the Action Plan is largely on track.

Chapter 14: Energy

Bulgaria has adopted *a new energy strategy*. However, whilst this identified gaps in *energy efficiency*, it does not yet define an active policy to improve this or *revise energy demand forecasts on the basis of more realistic growth and energy intensity scenarios*. Bulgaria has confirmed its *commitment made in the Understanding of 1999 to close down definitively Units 1 and 2 of the Kozloduy Nuclear Power Plant before the year 2003*. A decision on *closure of Units 3 and 4, due to be decided in 2002*, is still outstanding. Bulgaria has accepted *the recommendations contained in the Council report on "Nuclear Safety in the Context of Enlargement" with due regard to the priorities assigned in the report* and is addressing most of these adequately. However Bulgaria should devote further attention to three recommendations: clarifying the legal status of the safety analysis, implementing the new Law on the Safe Use of Nuclear Energy as soon as possible and giving special attention to the funding of the radioactive waste storage programme. The *independence of the national regulatory authority for nuclear energy* has been formally *strengthened* as the Committee for the Use of Atomic Energy for Peaceful Purposes (CUAEPP) has been transformed into a Nuclear Regulatory Agency. Secondary regulations still need to be developed and enforced for full implementation of the law. Bulgaria has continued its efforts to *ensure a high level of operational nuclear safety* at the Kozloduy Nuclear Power Plant. It is too early to evaluate *the decommissioning phase* of Units 1-4 as this has not yet started. A *framework law on oil stocks* has not yet been adopted but progress has been made as the level of oil stocks is no longer a state secret. The Action Plan deadline for adoption of the law by July 2002 was not met. It is important that Bulgaria begin to progressively build up its oil stocks as required by the *acquis*. The new Law on Safe Use of Nuclear Energy also foresees *improved management of radioactive waste*. Little progress has been made towards *starting to implement energy efficiency measures and step up the use of renewable energy*, or to *ensure that the Energy Efficiency Agency is adequately resourced*. Amendments to the energy and energy efficiency law do lay the basis for legislative alignment as regards market opening. Further steps are needed to put in place *transparent market rules with a clear schedule for opening the market to competition*. The role of the *State Energy Regulatory Commission* has been *enhanced* through the new law but its capacity and independence need further strengthening. Further progress has been made to *restructure the solid fuels sector* through sales of coal mines and liquidation of unprofitable mines. *Preparations for participation in the internal market for electricity and for natural gas* have progressed through the adoption of the new Energy and Energy Efficiency Law, which includes provisions to allow for *market opening*. Overall, Accession Partnership priorities in the area of energy have been partially met. Implementation of the measures under the Action Plan is largely on track.

Chapter 15: Industrial policy

Bulgaria has made further progress to *develop and implement a market-oriented competitiveness strategy*, which identifies, *inter alia*, sectors seen as particularly promising. This Accession Partnership priority has been largely met.

Chapter 19: Telecommunications and information technologies

Through amendments to the telecommunications law, further progress has been made towards completing the *transposition of the acquis* and to *ensure independence of the regulatory bodies* from operational activities and strengthen their capacity in preparation for planned full liberalisation of these sectors by 1 January 2003. However, implementation capacity of the telecommunications regulator and particularly the regulator for postal services need to be strengthened. The Accession Partnership priority in the area of telecommunications has been partially met. Implementation of the measures under the Action Plan is largely on track.

Chapter 20: Culture and audio-visual policy

Further progress has been made towards *strengthening the administrative capacity of the national regulatory body in the field of broadcasting*, however further attention will need to be paid to this. To meet the Action Plan priority, steps have been taken to strengthen the administrative capacity and increase the budget of this body but more efforts are needed to ensure it can carry out its monitoring role effectively and ensure its independence. This Accession Partnership priority has been partly met. Progress towards implementation of the Action Plan priorities is largely on track.

Chapter 21: Regional policy and co-ordination of structural instruments

Considerable further efforts are still needed to bring *administrative capacity* up to the level required *in key ministries, particularly at the central level, to design strategies and to implement and evaluate projects for regional development and economic and social cohesion, financed by EC and national funds*. As mentioned in the Action Plan, a strategy paper to clarify institutional arrangements for managing structural and cohesion funds after accession was adopted but this was done in May 2002, several months later than expected. Bulgaria has not *yet prepared a coherent development plan as required by the Structural Funds regulations*. Progress has been made to *clarify the proposed institutional arrangements for managing structural and cohesion funds after accession*, but further efforts need to be made including on *appropriate control, monitoring and evaluation mechanisms and the necessary administrative structures consistent with these arrangements need to be built*. Much needs to be done to *prepare to comply with basic financial management and control provisions as laid down by the respective regulations of the Structural Funds*. Overall, the Accession Partnership priorities in the area of regional policy have been met to a limited extent. There were some delays in meeting the time schedule set in the Action Plan.

Chapter 22: Environment

Bulgaria has made progress to *continue transposition of the acquis* but the delay in the adoption of the Environmental Protection Act slowed progress on *environmental impact assessment and integrated industrial pollution prevention and control*. Further efforts are needed to continue implementation of the *acquis* with *particular emphasis on*

environmental impact assessment, air quality, waste management, water quality, nature protection, industrial pollution control and risk management and radiation protection. Equally, efforts to continue *preparation and development of directive-specific implementation plans, including financing plans,* require close attention. Concerning *strengthening administrative, monitoring and enforcement capacity at national and regional levels,* whilst decisions have been taken to *strengthen the administrative capacity of the Ministry of Environment and Water as well as Regional Inspectorates,* these need now to be matched by appropriate budgetary provisions. Although steps have been taken in *integrating environmental protection requirements into all sectoral policies,* continuing attention to this is needed at both national and local level. Overall, Accession Partnership priorities in the area of the environment have been met to a limited extent. Implementation of the measures under the Action Plan is largely on track.

Chapter 23: Consumers and health protection

Little further progress has been made to *continue alignment of legislation and to ensure effective implementation of the Consumer Protection Act.* Further attention needs to be paid in particular to development of an *independent and efficient market surveillance mechanism.* Overall, Accession Partnership priorities in the area of consumer protection have been only partially met. Implementation of the measures under the Action Plan appears to be on track.

Chapter 24: Co-operation in the fields of justice and home affairs

Bulgaria has submitted a *Schengen Action Plan.* Further steps have been taken to *upgrade and modernise infrastructure at the future EU external borders* but major efforts are still needed to complete this. A new law on asylum has been adopted but administrative capacity needs to be strengthened and resources provided to *ensure its proper implementation.* Limited progress has been made to *improve the internal co-operation within the police and with other law enforcement agencies and with the judiciary in particular to strengthen capacities to fight organised crime.* Bulgaria still needs to *update and implement an integrated strategy for the fight against organised crime, from prevention to prosecution, in collaboration between the Ministry of Justice, the Ministry of Interior and any other concerned agency.* The strategy to combat organised crime has not yet been adopted, thus the target in the Action Plan of adoption by end May 2002 has not been met. Bulgaria has *developed a national drugs strategy* and now needs to *strengthen the administrative capacity of and the co-ordination among bodies involved in its implementation.* Further steps are still needed to *ensure the implementation of Community instruments in the area of judicial co-operation in civil matters.* Overall, Accession Partnership priorities in the area of justice and home affairs have been partially met. With the exception of the adoption of the strategy on combating organised crime, implementation of the measures under the Action Plan is largely on track.

Chapter 25: Customs Union

Concerning *implementation of the Bulgarian customs code and its implementing provisions,* some progress has been made but more is needed. A major reform strategy has commenced to support work to *guarantee the stability and strengthen the administrative and operational capacity of the customs administration to enable it to enforce legislation and improve co-operation with other law enforcement bodies.* As mentioned in the Action Plan, a Customs Consultative Council has been established.

Work on the urgent priority of *implementing the IT strategy of the Bulgarian customs administration* is ongoing but has fallen behind schedule. Work on *implementation of the customs ethics policy* is ongoing and this is now also covered in the National Anti-Corruption Strategy. Overall, Accession Partnership priorities in the area of customs have only been partially met. Implementation of the measures under the Action Plan is largely on track.

Chapter 28: Financial control

Substantial progress has been made to amend the *Public Internal Financial Control Act* to establish *functional independence* of the PIFC Agency and to bring ex ante financial control under the responsibility of the spending centre's manager. Further progress has been made to *implement the new legislative framework on public internal financial control and strengthen the administrative capacity and the functional independence of the relevant institutions*. Bulgaria has started to work on the priority of *setting the framework for systems based and performance audits or to develop a culture of managerial accountability*. The first steps towards establishment of a sustainable training facility for controllers and auditors have been made in line with the Action Plan measure on training. Some progress has been made to *develop coherent and comprehensive standards for external audit supported by appropriate methodology and manuals*. Steps have been taken to *strengthen the capacity of the National Audit Office*, in particular through adoption of a law, which *completes the legislative framework for external audit*. *A contact point for the protection of the Communities' financial interests for the start of effective co-operation with OLAF has not yet been designated*. Bulgaria has made some progress to *strengthen the fight against fraud and efforts to ensure the correct use, control, monitoring and evaluation of EC pre-accession funding* but needs continue and reinforce these. Overall, Accession Partnership priorities in the area of financial control have been partially met. Implementation of the measures under the Action Plan is largely on track.

Annexes

***Human Rights Conventions ratified by the Candidate Countries,
15 September 2002***

<i>Adherence to following conventions and protocols</i>	BG	CY	CZ	EE	HU	LV	LT	MT	PL	RO	SK	SI	TK
ECHR (European Convention on Human Rights)	X	X	X	X	X	X	X	X	X	X	X	X	X
Protocol 1 (right of property)	X	X	X	X	X	X	X	X	X	X	X	X	X
Protocol 4 (freedom movement et al.)	X	X	X	X	X	X	X	X	X	X	X	X	O
Protocol 6 (death penalty)	X	X	X	X	X	X	X	X	X	X	X	X	O
Protocol 7 (ne bis in idem)	X	X	X	X	X	X	X	O	O	X	X	X	O
European Convention for the Prevention of Torture	X	X	X	X	X	X	X	X	X	X	X	X	X
European Social Charter	O	X	X	O	X	X	O	X	X	O	X	O	X
Revised European Social Charter	X	X	O	X	O	O	X	O	O	X	O	X	O
Framework Convention for National Minorities	X	X	X	X	X	O	X	X	X	X	X	X	O
ICCPR (International Covenant on Civil and Political Rights)	X	X	X	X	X	X	X	X	X	X	X	X	O
Optional Protocol to the ICCPR (right of individual communication)	X	X	X	X	X	X	X	X	X	X	X	X	O
Second Optional Protocol to ICCPR (death penalty)	X	X	O	O	X	O	X	X	O	X	X	X	O
ICESCR (International Covenant on Economic, Social and Cultural rights)	X	X	X	X	X	X	X	X	X	X	X	X	O
CAT (Convention against Torture)	X	X	X	X	X	X	X	X	X	X	X	X	X
CERD (Convention on the Elimination of All Forms of Racial Discrimination)	X	X	X	X	X	X	X	X	X	X	X	X	O
CEDAW (Convention on the Elimination of All Forms of Discrimination against Women)	X	X	X	X	X	X	X	X	X	X	X	X	X
Optional Protocol to the CEDAW	O	X	X	O	X	O	O	O	O	O	X	O	O
CRC (Convention on the Rights of the Child)	X	X	X	X	X	X	X	X	X	X	X	X	X

X = Convention ratified

O = Convention **NOT** ratified

BG=Bulgaria; CY=Cyprus; CZ=Czech Republic; EE=Estonia; HU=Hungary; LV=Latvia; LT=Lithuania; MT=Malta; PL=Poland; RO=Romania; SK= Slovak Republic; SV=Slovenia; T=Turkey

Statistical data

	1997	1998	1999	2000	2001
Basic data	in 1000				
Population (average)	8,312	8,257	8,211	8,170	7,915
	in km²				
Total area	110,975	110,975	110,910	110,910	110,910

National accounts	Mio New Lev a)				
Gross domestic product at current prices	17,433	22,421	23,790	26,753	29,618
	1000 Mio ECU/euro				
Gross domestic product at current prices	9.2	11.4	12.2	13.7	15.2
	ECU/euro				
Gross domestic product per capita b) at current prices	1,100	1,400	1,500	1,700	1,900
	% change over the previous year				
Gross domestic product at constant prices (nat. currency)	-5.6	4.0	2.3	5.4	4.0
Employment growth	-3.9	-0.2	-2.1	-4.7	:
Labour productivity growth	-1.8	4.2	4.4	10.6	:
	in Purchasing Power Standards				
Gross domestic product per capita b) at current prices	5,400	5,700	6,000	6,000	6,500
	in % of Gross Value Added c)				
Structure of production					
- Agriculture	26.6	20.2	16.2	13.8	:
- Industry (excluding construction)	25.4	23.9	21.6	23.0	:
- Construction	2.8	3.6	3.5	3.5	:
- Services	45.2	52.4	58.7	59.8	:
	as % of Gross Domestic Product				
Structure of expenditure					
- Final consumption expenditure	85.5	82.9	87.9	87.1	87.2
- household and NPISH	73.0	67.6	71.3	69.2	69.6
- general government	12.6	15.3	16.6	17.9	17.6
- Gross fixed capital formation	11.0	13.0	15.1	15.7	17.8
- Stock variation d)	0.6	3.1	3.0	0.4	:
- Exports of goods and services	58.3	47.1	44.6	55.7	55.7
- Imports of goods and services	53.7	46.8	50.3	61.1	63.2

Inflation rate	% change over the previous year				
Consumer price index	:	18.7	2.6	10.3	7.4

Balance of payments	In Mio ECU/euro				
-Current account	922.6	-54.8	-642.3	-759.6	-940 g
-Trade balance	283.1	-339.6	-1,014.3	-1,272.7	:
<i>Exports of goods</i>	4,240.6	3,740.6	3,759.1	5,223.6	:
<i>Imports of goods</i>	3,957.5	4,080.1	4,773.4	6,496.4	:
-Net services	745.4	332.4	295.8	547.3	:
-Net income	-314.6	-252.9	-205.0	-347.8	:
-Net current transfers	208.8	205.2	281.2	313.6	:
<i>-of which: government transfers</i>	113.6	52.8	63.5	59.4	:
- FDI (net) inflows	445.1	479.3	756.3	1,084.3	775 g

Public finance	in % of Gross Domestic Product				
General government deficit/surplus	-0.3	1.3	0.2	-0.6	1.7p
General government debt	107.4	79.6	79.3	73.6	66.3p

Financial indicators	in % of Gross Domestic Product				
Gross foreign debt of the whole economy e)	102.7	74.6	81.2	77.4	:
	as % of exports				
Gross foreign debt of the whole economy e)	165.9	165.0	183.8	132.0	:

	1000 Mio ECU /euro				
Monetary aggregates					
- M1	1.2	1.5	1.7	2.0	2.5
- M2	2.9	3.3	3.7	4.9	6.2
- M3	3.1	3.5	3.9	5.1	6.5
Total credit	2.9	2.9	3.3	3.6	4.2
Average short-term interest rates	% per annum				
- Day-to-day money rate	136.8	2.4	2.6	2.9	3.7
- Lending rate	191.3	14.8	14.6	13.6	13.2
- Deposit rate	79.8	3.0	3.3	3.2	3.2
ECU/EUR exchange rates	(1ECU/euro=New Lev)				
- Average of period	1.902	1.969	1.956	1.948	1.948
- End of period	1.976	1.956	1.956	1.954	1.946
	1994=100				
- Effective exchange rate index	5.6	5.4	5.8	5.9	6.2
Reserve assets	Mio ECU/euro				
-Reserve assets (including gold)	2,257	2,619	3,234	3,756	4,120
-Reserve assets (excluding gold)	1,986	2,361	2,943	3,455	3,798

	Mio ECU/euro				
External trade					
Trade balance	337	-328	-1,007	-1,280	-1,764p
Exports f.o.b.	4,386	3,747	3,734	5,253	5,707p
Imports f.o.b.	4,049	4,075	4,741	6,533	7,471p
	previous year=100				
Terms of trade	:	:	:	:	99.2p
	as % of total				
Exports with EU-15	43.2	50.4	52.1	51.1	54.8p
Imports with EU-15	37.7	45.2	48.4	44.0	49.4p

	per 1000 of population				
Demography					
Natural growth rate	-7.0	-6.4	-4.8	-5.1	-5.6
Net migration rate (including corrections)	:	:	:	:	:
	per 1000 live-births				
Infant mortality rate	17.5	14.4	14.6	13.3	14.4
Life expectancy	at birth				
Males:	:	67.6	:	68.15	:
Females:	:	74.6	:	75.34	:

	% of population				
Labour market (Labour Force Survey) f)					
Economic activity rate (15 - 64)	63.2	63.3	61.6	61.0	63.3
Employment rate (15-64), total	54.5	55.5	52.9	51.0	50.7
Employment rate (15-64), male	58.4	59.4	57.0	54.9	53.6
Employment rate (15-64), female	50.7	51.8	49.0	47.2	47.9
	in % of total				
Average employment by NACE branches i)					
- Agriculture and forestry	25.3	26.2	25.8	26.7	:
- Industry (excluding construction)	27.6	26.5	24.6	23.1	:
- Construction	4.4	4.1	4.3	4.1	:
- Services	42.7	43.2	45.4	46.1	:
	% of labour force				
Unemployment rate, total	13.7	12.2	14.1	16.3	19.9
Unemployment rate, males	13.9	12.6	14.0	16.7	20.8
Unemployment rate, females	13.5	11.8	14.1	15.9	18.9
Unemployment rate of persons < 25 years	33.5	28.4	31.4	33.4	39.3
	as % of all unemployed				
Long-term unemployment share	60.4	61.5	60.0	58.7	63.1

Infrastructure	in km per 1000 km²				
Railway network	38.7	38.7	38.7	38.9	38.9
	in km				
Length of motorways	314	319	324	324	328

Industry and agriculture	previous year=100				
Industrial production volume indices	81.7	91.5	90.3	110.3	97.6p
Gross agricultural production volume indices	112.4	98.5	102.7	90.9	99.7p

Standard of living	per 1000 inhabitants				
Number of cars	208.9	219.1	232.4	243.9	262.3
Main telephone lines	323.7	335.1	345.9	353.6	368.5
Number of subscriptions to cellular mobile services	4.5	15.9	40.1	90.6	:
Number of Internet subscriptions h)	:	0.1	0.4	0.7	17.0

p=provisional figures

- a) Note that Bulgaria has rebased their currency in July 1999. dividing it by 1000. The currency is now called "New Bulgarian Lev".
- b) Figures have been calculated using the population figures from National Accounts. which may differ from those used in demographic statistics.
- c) Including FISIM.
- d) These figures include changes in inventories. acquisitions less disposals of valuables and the statistical discrepancy between the GDP and its expenditure components.
- e) series break after 1997.
- f) Data from the national LFS for the period 1997-2000. Other indicators derived from the Community LFS.
- g) Source: Website of the National Bank
- h) Since 2001. a survey on internet services providers is carried out. Up to 2001. only data from the main operator are covered.
- i) Rates are based on National accounts data (ESA) and therefore not entirely comparable to those of other Candidate Countries. which are based on the LFS. The most important difference concerns the conscripted forces. which are not included in the LFS. but are included in ESA under general government services.

Methodological Notes

Inflation rate

As part of the preparations for the common currency the EU Member States (MSs) have designed a new *consumer price index* in order to comply with the obligations of the EU Treaty. The aim was to produce CPIs comparable between Member States. The main task was to harmonise methodologies and coverage. The result was the Harmonised Index of Consumer Prices (HICP). A similar exercise has been started with Candidate Countries (CC). In respect to enlargement it is equally important that their economic performance is assessed on the basis of comparable indices. Some progress has already been made towards adapting the new rules. Since January 1999 CCs report monthly to Eurostat so-called proxy HICPs that are based on national CPIs but adapted to the HICP coverage. They are not yet fully compliant with the HICPs of the MSs. In the table the proxy HICPs are back-calculated to 1996 (rates from 1997).

Finance

Public finance: The government deficit and debt statistics of the Candidate Countries are provisional, in the sense that they do not yet fully comply with EU methodological requirements. Broadly speaking, the general government deficit / surplus refers to the national accounts concept of consolidated general government net borrowing / net lending of ESA95. General government debt is defined as consolidated gross debt at end-year nominal value. The series are available from 1997; the 1996 data are an approximation derived from the IMF's GFS methodology.

Gross foreign debt is of the whole economy, covering both short- and long-term, but excluding equity investment and money market instruments. The source for stock of outstanding debt is OECD while the source of GDP is Eurostat. For the ratio of gross foreign debt to exports the national accounts definition of exports of goods and services is used (source: Eurostat). The data for 2000 are Eurostat estimates, based on joint OECD/IMF/BIS/World Bank series.

Monetary aggregates are end-year stock data, as reported to Eurostat. Generally M1 means notes and coin in circulation plus bank sight deposits. M2 means M1 plus savings deposits plus other short-term claims on banks. M3 means M2 plus certain placements in a less liquid or longer-term form. Not all countries produce an M3 series. Total credit means loans by resident monetary financial institutions (MFIs) to non-MFI residents.

Interest rates: Annual average rates based on monthly series reported to Eurostat. Lending rates refer to bank lending to enterprises for over 1 year. Deposit rates refer to bank deposits with an agreed maturity of up to one year. Day-to-day money rates are overnight interbank rates.

Exchange rates: ECU exchange rates are those that were officially notified until 1 January 1999, when the ECU was replaced by the euro. Euro exchange rates are reference rates of the European Central Bank. The effective exchange rate index (nominal), as reported to Eurostat, is weighted by major trading partners.

Reserve assets are end-year stock data as reported to Eurostat. They are defined as the sum of central bank holdings of gold foreign exchange, SDRs, reserve position in the IMF and other claims on non-residents. Gold is valued at end-year market price.

External trade

Imports and exports (current prices). The data is based upon the special trade system according to which external trade comprises goods crossing the customs border of the country. Trade data excludes direct re-exports and trade in services and trade with customs free zones as well as licences know-how and patents. Value of external trade turnover includes the market value of the goods and the additional costs (freight, insurance, etc.). The term FOB means that all costs incurred in the course of transport up to the customs frontier are charged to the seller. The term CIF means that the purchaser pays the additional costs. Exports are recorded here on FOB basis. Imports are recorded on CIF basis.

Trade Classifications. Merchandise trade flows are recorded according to Combined Nomenclature (CN) and the Single Administrative Document (SAD).

Imports and exports with EU-15. Data declared by Bulgaria.

Demography

Net migration rate. Crude rate of net migration (recalculated by EUROSTAT) for year X. is: population (X+1) - population (X) - Deaths (X) + Births (X). This assumes that any change in population not attributable to births and deaths is attributable to migration. This indicator includes therefore also administrative corrections (and projection errors if the total population is based on estimates and the births and deaths on registers). Figures are in this case more consistent. Further most of the difference between the Crude rate of net migration provided by a country and the one calculated by Eurostat is caused by an under reporting or delay in reporting of migration.

Life expectancy. Data are compiled on the basis of a survey carried out with three-years periodicity.

Labour force

The European Labour Force Survey is conducted in spring each year in accordance with Council Regulation (EEC) No. 577/98 of 9 March 1998. A detailed description of the sampling methods, the adjustment procedures, the definitions and the common Community coding currently used in the labour force survey is presented in the publications 'Labour Force Survey – Methods and definitions. 1998' and 'Labour Force Survey in central and east European countries – Methods and definitions 2000'.

All definitions apply to persons aged 15 years and over living in private households. The concepts and definitions used in the survey follow the guidelines of the International Labour Organisation. Persons carrying out obligatory military service are not included.

Persons in employment were those who during the reference week did any work for pay or profit for at least one hour or were not working but had jobs from which they were temporarily absent. Family workers are included.

The rates on **average employment by NACE branches** are based on National accounts data (ESA) and therefore not entirely comparable to those of other Candidate Countries which are based on the LFS. The most important difference concerns the conscripted forces which are not included in the LFS but are included in ESA under general government services. For details see chapter 11, paragraph 19 of the ESA methodology.

As from 2001 (Commission Regulation (EC) No 1897/2000 of 7 September 2000) unemployed persons comprise persons aged 15 to 74 who were:

(a) without work during the reference week. i.e. neither had a job nor were at work (for one hour or more) in paid employment or self-employment;

(b) currently available for work. i.e. were available for paid employment or self-employment before the end of the two weeks following the reference week;

(c) actively seeking work. i.e. had taken specific steps in the four weeks period ending with the reference week to seek paid employment or self-employment or who found a job to start later. i.e. within a period of at most three months.

Comparability with results prior to 2001: unemployment results used to refer to persons aged 15 and more. Persons who found a job to start later used to be considered as unemployed with the unique condition to have no job in the reference week.

Duration of unemployment is defined as:

(a) the duration of search for a job. or

(b) the length of the period since the last job was held (if this period is shorter than the duration of search for a job).

The active population is defined as the sum of persons in employment and unemployed persons.

Inactive persons are those who are not classified as persons in employment nor as unemployed persons.

Employment rates represent employed persons aged 15-64 as a percentage of the same age population.

Unemployment rates represent unemployed persons as a percentage of the active population aged 15 years and more.

Economic activity rates represent the active population aged 15-64 as a percentage of the population of the same age.

Data refer to June of each year.

Infrastructure

Railway network. All railways in a given area. This does not include stretches of road or water even if rolling stock should be conveyed over such routes; e.g. by wagon-carrying trailers or ferries. Lines solely used for tourist purposes during the season are excluded as are railways constructed solely to serve mines; forests or other industrial or agricultural undertakings and which are not open to public traffic. The data considers the construction length of railways.

Length of motorway. Road, specially designed and built for motor traffic, which does not serve properties bordering on it, and which:

(a) is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other, either by a dividing strip not intended for traffic, or exceptionally by other means;

(b) does not cross at level with any road, railway or tramway track, or footpath;

(c) is specially sign-posted as a motorway and is reserved for specific categories of road motor vehicles.

Entry and exit lanes of motorways are included irrespectively of the location of the signposts. Urban motorways are also included.

Industry and agriculture.

Industrial production volume indices. Industrial production covers mining and quarrying, manufacturing and electricity, gas, steam and water supply (according to the NACE Rev.1 Classification Sections C,D,E).

The index of annual industrial production is based on the exhaustive survey of enterprises (public and private) assigned to industrial sector.

Gross agricultural production volume indices. Data are based on SNA methodology and include agriculture and forestry (NACE sections A and B).

Standard of living

Number of cars. Passenger car, road motor vehicle, other than a motor cycle, intended for the carriage of passengers and designed to seat no more than nine persons (including the driver).

The term "passenger car" therefore covers microcars (need no permit to be driven), taxis and hired passenger cars, provided that they have less than ten seats. This category may also include pick-ups.

Internet subscriptions: Data are provided by Bulgarian Telecommunication Company.

Sources

Total area, external trade, labour market, infrastructure, demography, industry and agriculture, standard of living (except Internet connections): National sources.

National accounts, inflation rate, balance of payment, public finance, finance: Eurostat.