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BULGARIA

May 2006 Monitoring Report

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1. INTRODUCTION

The accession negotiations with Bulgaria were successfully concluded in December 2004. The Accession Treaty was signed in April 2005. Bulgaria and 14 Member States have already ratified it. The Treaty envisages accession on 1 January 2007 unless the Council decides, upon a Commission recommendation, to postpone it until 1 January 2008.

Following the conclusion of the negotiations, the European Union decided that it would continue closely to monitor Bulgaria's preparations and achievements and that, to this end, the Commission would continue to submit annual reports on Bulgaria's progress towards accession, together with recommendations, if appropriate.

The Commission presented its first such report in October 2005. This report showed that Bulgaria was already well advanced in preparing for accession. It also identified a number of areas where further efforts were needed to complete preparations. The Commission decided to step up its monitoring activities and report again in spring 2006.

This report reviews Bulgaria's preparations for membership, focusing on the areas in need of further improvement in the light of the three Copenhagen accession criteria. Accordingly, the report contains three main parts:

- The *first part* assesses political issues which were identified as in need of further improvement.
- The *second part* assesses economic issues which were identified as in need of further improvement.
- The *third part* assesses where Bulgaria stands in implementing commitments and requirements arising from the accession negotiations.

The report identifies the progress made since October 2005 and the gaps in policies, legislation and implementation which remain to be addressed. On this basis the Commission examines, in a separate Communication presented together with this report, whether or not it needs to recommend postponement of the accession date.

This report reflects the situation at the end of April 2006. It is based on a wide array of sources. Bulgaria was invited to provide information on its state of preparedness. The report also draws on information provided within the framework of the Association Agreement and on peer reviews[1] conducted to assess Bulgaria's administrative capacity in specific areas. Council deliberations and European Parliament reports[2] and resolutions have been taken into account. Where relevant, the Commission has also drawn on assessments made by various international organisations, international financial institutions and non-governmental organisations.

2. POLITICAL CRITERIA

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1 Peer reviews are assessments made by experts of Member States on the state of preparedness of the candidate countries in specific sectors. These experts are responsible for the content of their reports.

2 The rapporteur is Mr van Orden.

Introduction

The Commission considers that Bulgaria fulfils the political criteria for EU membership and has done so continuously since 1997.

The aim of this report is to provide an assessment of certain areas that were considered to need further improvement in the 2005 October monitoring report. Eight such areas were identified: public administration reform; the justice system; the fight against corruption; the fight against trafficking in human beings; ill-treatment in custody and prison conditions; children protection; the disabled and mental healthcare system, and the protection and integration of the minorities.

This section assesses, in each of these outstanding areas, the developments that have occurred since the October 2005 report and Bulgaria's preparedness for membership.

Public administration

Since the October 2005 report, there has been progress in the following areas.

The Law on Administration was amended in March 2006. It introduces a clear distinction between the political and administrative levels in the state administration. The aim of this law is to clarify roles and responsibilities. The law also regulates involvement of public officials in the management of private companies and strengthens the role of the inspectorates. Amendments to the Civil Servant Act were also passed in March 2006. This Act provides for a competitive recruitment procedure, introduces the mobility principle in the state administration and promotes trainings for civil servants. The Code of Administrative Procedure was adopted in March 2006. Following this code, administrative Courts will be established and judges appointed by December 2006.

An updated strategy for the training of civil servants and a relevant action plan was adopted in March 2006. The strategy focuses on strengthening the Bulgarian administrative capacity in implementing the *acquis*, involving all stakeholders in the administrative reform process and enhancing professional capacity and qualification.

However, certain outstanding issues remain to be addressed.

The decentralisation strategy aiming at further decentralising powers and financial resources from the central to regional and municipal level has not been adopted.

Overall, Bulgaria has made good progress in the field of public administration and is on the way to have an efficient state administration provided that the current path of reform is maintained.

Justice system

Since the October 2005 report, there has been progress in the following areas.

In December 2005, the Minister of Justice developed an action plan for implementing the reform strategy for the period 2006-2007. In March 2006, the government approved a report on the implementation of the strategy for the reform of the judiciary. As regards the pre-trial phase, in January 2006 a mechanism to monitor the adequacy of the new penal procedure code which entered into force in April 2006 was established. An action plan for the training of

magistrates on the implementation of the new Penal Procedure Code is being implemented. The law on legal aid and its implementing legislation, including on legal aid fees, entered into force in January 2006. A national bureau for legal aid was set up with a budget of over EUR 3 million. Implementing legislation on the Law on Private Enforcement Agents was adopted in February 2006. The budget for the judiciary has increased with 18% in 2006 to over EUR 136 million. The budget of the Supreme Judicial Council almost tripled and is now close to EUR 4 million. In April 2006 the Supreme Judicial Council decided to increase by ten the number of judges at the Supreme Court of Cassation and by eight the number of prosecutors at the Supreme Administrative Prosecution Office. Amendments to the Law on the Judiciary, which were adopted in April 2006, foresee the application of the principle of competition for the recruitment of magistrates. The responsibilities of the Investigation Service decreased. Around 700 investigators of this service are being redeployed as prosecutors.

The newly adopted amendments to the Law on the Judiciary introduce in the legislation the random allocation of cases in courts, prosecution offices and investigation services. The new judiciary IT system for random allocation of cases has been tested in January 2006 and the software to operate the system is available in 90% of the courts.

The budget of the National Institute for Justice increased with nearly 80% in 2006 to over EUR 1.15 million, allowing it to further focus on building up sufficient capacity for specialised training, including for clerks. In 2005, the number of persons trained increased by around 50 % to just over 2000. In February 2006, the newly elected prosecutor general withdrew the request of the Constitutional Court to check the legality of the Law on Forfeiture of Criminal Assets to the Exchequer, so that the latter could enter into force.

Amendments to the Constitution were adopted in March 2006. They establish the Prosecution Service as being responsible for leading investigations and provide for a reference in the Constitution to the Ombudsman. In March 2006 the new Administrative Procedural Code was adopted. It foresees the establishment of 29 new administrative courts.

However, certain outstanding issues remain to be addressed.

The newly adopted constitutional amendments allow the Minister of Justice to play a role in the establishment of the budget, the training of magistrates, the promotion and dismissal and other human resource decisions, the management of the court infrastructure and the judicial processing of cases. While the Supreme Judicial Council (SJC) continues to have a final say on all these important issues, its role is weakened by the fact that it is not a permanent body. Its members are full time magistrates, often heading courts, prosecution or investigation offices entailing a considerable amount of responsibilities. In view of this and of the fact that the Supreme Judicial Council has only 65 staff members, it will remain a considerable challenge for it to act in practice as a counterbalance to the Minister of Justice and to contribute substantially to the policy formulation in the further reform of the justice system. Against this background, the constitutional amendments leave some ambiguities regarding the guarantees of the independence of the judiciary. Any ambiguity must be removed.

The pre-trial phase continued to be a serious bottleneck for organised and economic crime as well as for corruption cases to find a final settlement within a reasonable delay due to the formalistic character of the Penal Procedure Code which was in force until the end of April. The impact of the new Penal Procedure Code will need to be carefully monitored. The accountability, transparency and internal management of the prosecution service needs to be

further addressed. The announced audit will be a useful first step in the reform of the prosecution service.

The adoption of a new Civil Procedural Code has not taken place yet. Implementation of legislation adopted in 2005 goes in some cases slowly as delays occur between the entry into force of the primary legislation and its implementation.

The random allocation of cases and the installation of the relevant IT system need to become effective nation-wide. As regards the functioning of the court system, no final decisions were taken on the establishment of specialised courts or on the reduction of the number of courts. The new provisions on competitive recruitment procedures for magistrates now need to be implemented. A uniform mechanism with well defined criteria for assessing the quality of the work of magistrates is not in place yet. The Supreme Judicial Council has no specialised department responsible for this task. Corruption within the judiciary remains a serious challenge.

Overall, limited progress has been made both in terms of quality and accountability of justice as well as regarding the institutional relations between the executive and the justice system. Bulgaria needs to complete the reform of the judiciary, ensure tangible results, and take the additional steps to guarantee its independence.

Anti-corruption measures

Since the October 2005 report, there has been progress in the following areas.

In December 2005, the Council of Ministers adopted a Code of Ethics regulating the work of the members of government and other politically appointed officials of the executive. According to this code, the officials concerned must declare and register their financial interests, they are prohibited from participating as partners in companies and are not allowed to work as freelancers, they are accountable for the management of the resources entrusted to them and they must take the necessary measures to prevent corrupt practices in the bodies for which they are responsible.

In December 2005 a report was published on the results of the implementation of the Anti-Corruption Action Plan for 2004-2005. The report lists actions that have been taken to prevent corruption in the state administration. In January 2006, following consultation with NGOs, the Anti-Corruption Strategy covering the period 2006-2008 and an accompanying Action Plan were adopted. The strategy and action plan provide a comprehensive framework for combating corruption and focuses extensively on fighting high level corruption. Following amendments in April 2006 to the Law on publicity of the property owned by persons occupying high state positions, the National Audit Office will be obliged to publish annually a list of people who did not comply with the obligation to declare their property. The fines for non-compliance were increased.

In January 2006, a Council to improve coordination between the anti-corruption committees of the National Assembly, the Council of Ministers and the Supreme Judicial Council was established. The Ministry of Health has taken additional measures to monitor and control health care institutions with regard to the risk of petty corruption. An ethics committee was established in the Parliament.

In March 2006 constitutional amendments were adopted making members of Parliament liable

for all types of crimes and allowing for lifting the immunity if a Member of Parliament gives his consent in writing for the court case to be initiated. The Prosecutor General retains his monopoly to request the lifting of immunity of Member of Parliaments. Since February 2006 ten requests for lifting the immunity of Members of Parliament were tabled. Five Members of Parliament have voluntarily abstained from their immunity and the immunity of a sixth one was lifted by vote of the Parliament, thus allowing the court to formally pursue allegations of corruption. In March 2006 one, and in April 2006 eight other requests to lift the immunity were tabled by the Prosecutor General. Five of the individuals concerned have in the meantime given their written consent for lifting their immunity.

At the end of March 2006 a specialised department was established at the General Prosecutor's Office with as main task to lead and supervise the pre-trial procedure in cases related to organised crime and corruption.

35 indictments were filed between 1999 and end 2005 against high-level politicians. Since October 2005, convictions subject to further appeals have occurred against former members of government, five magistrates and a bailiff. In the same period, three final convictions can be reported as regards medium level corruption, involving civil servants.

However, certain outstanding issues remain to be addressed.

Overall the administrative capacity and, more specifically, the coordination capacity of the Commission on Preventing and Counteracting Corruption, now headed by the Minister of Interior and placed in the Council of Ministers, needs to be further enhanced. So far, the track record of measures put in place to fight against high level corruption remains poor and the implementation of the new strategy and action plan needs therefore to be monitored closely. The implementation of the Law for Publicity of the Property of Persons Occupying High State Positions requires the National Audit Office to enhance its capacity to verify asset declarations. The recent amendments to the law require prior permission for publication of asset and income declarations in the media. The Law on Political Parties does not cover donations in kind. Donations from political foundations to parties are not subject to scrutiny by the national audit office. Political parties are not obliged to make public their donors. Indictments, prosecutions, trials, convictions and dissuasive sentences for high-level corruption remain rare. Petty corruption is still a concern in sectors such as health and education. The Commission for the Prevention and Counteracting of Corruption needs to increase its capacity if it is to perform its role effectively.

Overall, certain progress has been made in fighting corruption. Bulgaria needs to present clear evidence of results in its fight against corruption, in particular high-level corruption.

Trafficking in human beings

Since the October 2005 report, there has been progress in the following areas.

The National Anti-Trafficking Commission has recently been installed and has published its policy. The law on Bulgarian identification documents was amended in order to prevent children travelling abroad unaccompanied for criminal purposes and to prevent trafficking of children. Increased cooperation with Member States to fight trafficking of human beings has led to the dismantling of networks trafficking in women. Cooperation agreements were signed with several Member States. Bulgaria has started its witness protection programme. Four

persons were granted such protection.

However, certain outstanding issues remain to be addressed.

Bulgaria remains a country of transit and to a lesser extent a country of origin for the trafficking of human beings. An increasing problem is the trafficking of new born babies involving pregnant women giving birth abroad. Absence of reliable registration mechanisms leads to lack of clear information on trafficked persons and the number of missing people. The implementation of the Law on Bulgarian identification documents remains incomplete. The implementation of the witness protection programme has been limited.

Overall, limited progress has been made with regard to trafficking in human beings.

Ill-treatment in custody and prison conditions

Since the October 2005 report, there has been progress in the following areas.

In some localities the number of incidents of ill-treatment by law enforcement officials has been successfully reduced. There has been some improvement in living conditions of prisoners in certain detention centres. There are probation councils in each probation service and training continued.

However, certain outstanding issues remain to be addressed.

There continue to be cases of ill-treatment of detainees by law enforcement staff, including excessive use of force and firearms. Torture under the meaning of the UN Convention against Torture and Inhuman or Degrading Treatment or Punishment is not evenly defined. There are still cases where the appropriate post-mortem and inquest procedures have not been fully respected. The rules and procedures for the functioning of the probation councils are not developed yet.

Overall, some progress was made in addressing ill-treatment in custody and with regard to prison conditions.

Child protection

Since the October 2005 report, there has been progress in the following areas.

Early 2006, Bulgaria ratified the Hague Convention for the protection of children. Amendments to the Law of Child Family Allowances and The National Child Protection Programme 2006 have been adopted. It aims at providing alternatives to institutionalised children, improving conditions in child care institutions. The programme addresses the issues of street children, and child abuse and exploitation and it ensures equal access to education and establishing a national information system for child protection. Amendments to the law on child protection have been adopted in April 2006, which introduce a legal basis for professional foster care in Bulgaria and aims at enhancing de-institutionalisation as well as the provision of alternative social services. In addition, it establishes legal basis for enhancing control and sanction mechanisms.

Furthermore, the government adopted in April 2006 a concept for de-institutionalisation of specialised institutions for children and social institutions for elderly with disabilities. The

concept defines the objectives of the process of deinstitutionalisation and basic guidelines for its implementation. Living conditions in institutions for children have improved in some cases and apart from the institutions under the responsibility of the Ministry of Health there is a slight decrease in the numbers of people in institutions in 2005. The development of alternative care continues to be mainly organised by NGOs. Two institutions have been closed and the restructuring of some is on-going. International adoption has decreased from 217 in 2004 to 101 in 2005. The number of national adoptions has increased. A register of missing persons is in place in line with the Schengen Agreement.

However, certain outstanding issues remain to be addressed.

In many institutions, living and sanitary conditions are of a very low level. The Agencies for Child Protection and for Social Assistance still have no reliable monitoring and supervision system which verifies the implementation of their recommendations. The number of children in institutions remains high. A central database for national adoptions has not been established. There remains a lack of transparency of procedures, particularly regarding international adoptions.

Limited progress was made in the area of child protection. The creation of alternative childcare systems is a priority. The monitoring capacity of the responsible agencies needs to be improved.

The disabled and mental health care system

Since the October 2005 report, there has been progress in the following areas.

In December 2005, the government adopted an action plan on equal opportunities for people with disabilities for 2006-2007. It envisages improving the quality of life and combating the social exclusion of disabled people. A plan for improving the situation of elderly people with mental disabilities in institutions for 2006 to 2008 was approved. These plans are in line with the overall policy framework of the government. In February 2006, the Law on Integration of People with Disabilities was amended, aiming at entitling people with disabilities to a monthly allowance for social integration. The number of people with disabilities benefiting from monthly supplements for social integration increased significantly between August 2005 (180 000 persons) and December 2005 (430 000 persons). In addition, the National Programme 'Assistants for People with Disabilities' was amended aiming to provide social assistants to people who have recently been integrated into families.

A framework agreement between the Ministries of Health and the Ministry of Labour and Social Policy has been signed with the aim of coordinating mental health issues.

However, certain outstanding issues remain to be addressed.

Appropriate medical and legal procedures need to be applied systematically in cases of institutionalisation. Community services continue to be underdeveloped. The school integration of children with disabilities is lagging behind. Many institutions for people with mental handicaps are overcrowded, provide poor living conditions and lack adequate services.

The system of reintegrating people with disabilities is not yet effective. De-institutionalisation and the combat against prejudices needs to be pursued more vigorously. Community-based care structures for the mentally disabled are being developed slowly. The system of

reintegrating people with disabilities or mental disorders is not yet effective. Implementation of the legislation on mental health care needs to be monitored and encouraged.

Overall, some progress was made in this area. However, there is still a need to improve living conditions in institutions and the situation of people with special needs and mental illness. There is a need to increase efforts to support the development of alternative services and to improve monitoring.

Protection and integration of minorities

Since the October 2005 report, there has been progress in the following areas.

The National Action Plan for the Decade of Roma Inclusion 2005-2015 has been drawn up. Since the establishment of the Commission for Protection against Discrimination in November 2005, the majority of an increasing amount of cases the Commission handled were about ethnic discrimination. The profession of 'assistant teacher' was accredited by the Ministry of Labour and Social Policy in January 2006. In March 2006 the government adopted a National Programme for Improvement of the Living Conditions of Roma for the period 2005-2015. The allocated budget for the ten years period is around EUR 630 million, out of which 40% are coming from the national budget. Initiatives aimed at attracting and keeping young Roma children in school continue to be largely successful. National employment programmes aimed inter alia at addressing in particular long-term unemployed and unskilled people have continued and mostly involved Roma.

Amendments to the regulation on the structure and activity of the National Council for Cooperation on Ethnic and Demographic Issues have enabled a small increase in the administrative capacity of the State structures dealing with minority issues. The vast majority of the Regional Councils for 'Ethnic and Demographic Issues' have been established. There are a number of cases in which NGOs are successfully addressing the issue of de facto segregated schools in Bulgaria.

However, certain outstanding issues remain to be addressed.

Additional measures are needed to enhance implementation of the Action Plan for the Decade of Roma Inclusion 2005-2015. The Commission for Protection against Discrimination is still not adequately resourced and not fully operational. It needs to develop a strategic approach to litigation and to become more pro-.active in terms of prevention, training and awareness-raising activities *(see also chapter 13: Social Policy and Employment).*

The job profiles and the budgets for the assistant teachers are not defined yet. Measures to integrate Roma children in schools do not concern pupils in higher grades. These measures often remain limited due to limited funding. Many Roma still do not have adequate access to healthcare services. Incentives for the social inclusion of the Roma remain limited. Efforts to include vulnerable groups, in particular Roma, in the labour market, need to be enhanced by fostering access to vocational training measures. Ill-treatment of persons in custody still appears to disproportionately affect Roma.

The administrative capacity of the National Council for Cooperation on Ethnic and Demographic Issues remains incomplete. Regional Councils for Ethnic and Demographic Issues lack human resources and adequate infrastructure especially to enhance their communication with the central and local substructures.

Overall, some progress was made in the area of the protection and integration of the Roma minority. However, substantial efforts are still needed to promote the social inclusion and integration of Roma into the Bulgarian society. Living conditions need to be improved. Further efforts are needed to combat all forms of intolerance, particularly by fully applying existing legislation on broadcasting and other activities aiming to combat any form of racism, discrimination or xenophobia.

2.1. General evaluation

Bulgaria fulfils the political criteria for EU membership.

Since the October 2005 report, there has been progress in a number of areas, including the reform of the judiciary. As regards the justice system, the new penal procedure code and a legal framework for legal aid entered into force. Constitutional amendments have entrusted the prosecution service with the responsibility for leading investigations. Amendments to the Law on the Judiciary have been adopted.

Bulgaria has taken a number of measures to fight corruption. A code of ethics was adopted for the executive branch. An anti-corruption strategy for 2006-2008 was adopted. Constitutional amendments have reduced the scope of immunity of Members of Parliament. The prosecutor general presented requests for lifting the immunity of ten Members of Parliament. Five voluntarily abstained from their immunity and the immunity was lifted for a sixth one by a vote in Parliament; the other cases are still being examined. This allowed investigations into high-level corruption cases to be launched.

Bulgaria has made progress in the field of public administration, in particular with the adoption of amendments to the laws on administration and on civil servants, and a new Code of Administrative Procedure. As regards ill-treatment in custody, there has been some reduction of incidents, while conditions have improved in certain detention centres. Policy initiatives were taken for the disabled and for the mental health care system. Social support for the disabled has been increased.

However, certain outstanding issues remain to be addressed. The accountability, transparency and efficiency of the justice system need further strengthening. Further efforts are needed to consolidate implementation of the random allocation of cases throughout the country. More objective and transparent mechanisms are needed for assessing the quality of magistrates' work. Any ambiguities regarding the independence of the judiciary need to be removed. There were bottlenecks in the pre-trial process due to procedural rules and insufficient investigators. There have been few tangible results in combating organised crime.

The structures to coordinate and implement the anti-corruption policy need strengthening in order to perform their roles effectively. Indictments, prosecutions, trials, convictions and dissuasive sentences remain rare in the fight against high-level corruption. Bulgaria needs to present clear evidence of results in this area.

The strategy to decentralise the administration has not been adopted yet. Bulgaria remains a country of transit and to a lesser extent a country of origin and destination for trafficking in human beings. There continue to be cases of ill-treatment of detainees. Living conditions in many child welfare and mental health care institutions need to be improved by implementing policy initiatives, and alternative care systems created. Social inclusion of the Roma minority

still requires substantial efforts. Further efforts are needed to combat all forms of intolerance, particularly by fully applying existing legislation on broadcasting and other activities aiming to combat any form of racism, discrimination or xenophobia.

3. ECONOMIC CRITERIA

Introduction

In its 2005 Report, the Commission concluded that Bulgaria continues to be a functioning market economy. It concluded that the continuation of the current pace of its reform path should enable Bulgaria to cope with competitive pressure and market forces within the Union. Bulgaria had broadly maintained macroeconomic stability, even if external deficits had further risen. It had continued implementing its structural reform programme, albeit not equally vigorously in all fields.

Following a very strong expansion by 6.2% in the first half of 2005, real GDP growth slowed down in the third quarter mainly as a result of the heavy floods during the summer months and reached 5.5% for the whole year. Gross fixed capital formation grew particularly strongly at a rate of 19.0%; final consumption also continued to expand at a rate of 6.8%. Both the trade deficit and the current account deficit increased further from 15.1% of GDP in 2004 to 20.4% of GDP in 2005 and from 5.8% to 11.8% of GDP. Consumer price inflation (interim HICP) accelerated towards the end of the year due to increases in oil and food prices. While average inflation dropped from 6.1% in 2004 to 5.0% in 2005, end-of-year inflation thus rose from 4.0% to 6.5%.

This section assesses, in each of the outstanding areas, the developments that occurred since the October 2005 Report and Bulgaria's preparedness for membership.

Macroeconomic stability and current account deficit

The 2005 Report concluded that the continuation of prudent fiscal policy and moderate wage increases remained critical to containing potential risks for the external balance. Since then, there has been progress in the following areas.

Tight fiscal policies and relatively moderate wage increases continued and additional measures to curb credit growth were taken. Still, the current account deficit increased further in the second half of 2005 and reached 11.8% of GDP for 2005. This increase has been mostly triggered by negative exogenous shocks, while macroeconomic policies remained overall very prudent. The general government balance ended with a surplus of 3.1% of GDP (ESA 95) compared to 1.9% in 2004. Minimum wages increased by 25% in January 2005, but average wage increases remained more moderate. Real annual average wages grew by around 4.1%, and thus largely in line with productivity gains.

Additional measures to curb bank credit growth entered into force in April 2005 and were relatively effective in bringing down the annual growth rate from close to 50% in 2004 to below 30% by March 2006. As from January 2006, measures have been tightened further, aiming at bringing down the annual growth rate to below 20% in 2006. Further measures have also been taken to target more specifically household and mortgage lending. Some further fiscal tightening is foreseen in 2006 with a revised fiscal target of a 3% of GDP surplus (cash basis). Public sector wages are scheduled to increase by 6% in June 2006 which together with

a more moderate minimum wage increase should help to maintain stability-oriented wage developments.

However, certain outstanding issues remain to be addressed.

The widening of the current account deficit in 2005 was almost exclusively due to a higher trade deficit and a lower surplus in the service balance. Higher oil prices and particularly strong imports of investment goods led to an acceleration of import growth to over 26%. At the same time, export growth slowed down during the year to 18.4% largely because of flood-related disruptions. Consequently, the trade deficit increased to 20.4% of GDP in 2005. High import growth also implied an increase in the transport expenditures, which together with a slowdown of growth in the tourist industry reduced the surplus in the services balance. While the restrictions on credit growth were effective in bringing down credit expansion, their impact on containing the external deficit was more limited, because enterprises are increasingly relying on other sources of financing, including leasing and direct foreign borrowing. In view of the very high trade and current account deficits, the continuation of tight fiscal policies and measures to contain credit growth as well as moderate wage increases remain crucial.

Overall, appropriate steps have been taken to contain the external deficit, but could not prevent a further widening. The continuation of prudent macroeconomic policies together with a further deepening of structural reforms will therefore be critical to achieve a sustained reduction of the current account deficit.

Privatisation and industrial restructuring

The 2005 Report concluded that the momentum in completing the privatisation programme should be maintained. Since then, there has been progress in the following areas.

Out of a total of more than 5 800 enterprises with state ownership foreseen for privatisation, the state still holds majority or minority stakes in 520 enterprises. Stakes in 74 enterprises were sold since September 2005, mostly involving minority shareholdings, but the share of privatised assets increased only slightly and remained just below 90% of all assets foreseen for privatisation. Of the larger privatisation deals mentioned in the 2005 report, only three (Boyana film studios, Varna thermal power plant and the river shipping company) were close to finalisation in April 2006. Revised privatisation strategies for the Maritime Fleet and Bulgaria Air were adopted by the Council of Ministers in October 2005 and February 2006. The strategy for Bulgaria Air was approved by Parliament in March 2006. In February 2006, the Bulgartabac Holding adopted a strategy for the restructuring and sale of several individual units.

Some further progress has been made in the liberalisation and restructuring of network industries. The opening up of the gas and electricity markets continued in line with the existing timetable. Plans for the unbundling of the National Electricity Company and Bulgargas have been elaborated. The railways liberalisation is well advanced. Concessions for the operation and upgrading of ports and airports are being granted to private operators, although the granting of the concession for the airports in Varna and Bourgas has been delayed due to court appeals. In the telecommunications sector, the conditions for effective competition have improved, partly due to a third mobile phone operator starting services in November 2005.

However, certain outstanding issues remain to be addressed.

The privatisation process is well advanced, but remains to be completed. Further efforts will be required to successfully conclude the privatisation process in the energy and transport sectors. In the energy sector, the sale of the thermal power plants in Rousse and Bobov Dol has not been completed. The privatisation strategy for the Maritime Shipping Company has not yet been adopted by Parliament and is currently being revised.

The unbundling of the National Electricity Company and Bulgargas as well as the liberalisation of the gas and electricity markets remains to be completed until accession. Regarding rail transport, the rail operator and the infrastructure company continue to make losses and to accumulate arrears. Further progress in the restructuring of the railway sector, including through cost-cutting measures, will be essential to improve the financial situation. Strengthening the capacity of regulatory bodies will be important to further improve the conditions for competition in the network industries.

Overall, while being at an advanced stage, limited further progress was made on privatisation. The liberalisation and restructuring of the gas and electricity sectors remain to be completed. Further efforts are required on the restructuring of the railways sector.

Business environment

The 2005 Report concluded that further reforms were needed to improve the business environment, in particular the functioning of the administrative and judicial systems. Since then, there has been progress in the following areas.

The business registration reform has continued and a new Commercial Register Law was adopted in March 2006. The law foresees that business registration will be taken out of the courts and be turned into a purely administrative procedure. The National Revenue Agency became operational in January 2006 and has the sole responsibility for the collection of central government taxes and social security contributions. Amendments to the insolvency legislation to improve the efficiency, transparency and speed of insolvency procedures were submitted to Parliament in November 2005. The review of regulatory regimes has continued, but with limited progress. The newly established Ministry for State Administration and Administrative Reform is in charge of co-ordinating the review and optimisation of existing regulatory regimes and of giving guidance on improving the methodology for impact assessments. Measures to optimise the size and structure of public administration, to improve training and to promote the provision of e-government services have been proposed. The new Administrative Procedure Code has been adopted in March 2006. Following the adoption of the Law on Arbitration, three arbitration centres have been opened.

However, certain outstanding issues remain to be addressed.

Major challenges remain for improving the conditions for market entry and exit and for contract enforcement, for increasing the efficiency of the administrative and legal system, and for reducing the regulatory burden on business. The new Commercial Register Law still needs to be fully implemented to simplify and speed up business registration. The proposed amendments to the insolvency legislation have not yet been adopted by Parliament. Renewed efforts will be required to achieve further, tangible progress in facilitating the regulatory framework, including through more systematic impact assessments and further simplification. The functioning of the administration needs to be further improved. The Administrative Procedure Code did not introduce the 'silent consent' principle more universally. Important

challenges remain to increase the efficiency of court procedures. The new draft Civil Procedure Code has not yet been submitted to Parliament. Mediation as an out-of-court settlement procedure is still not widely used. Private bailiffs still need to become operational.

Overall, limited progress has been made in this area. Efforts to improve the functioning of the administrative and in particular the judicial system and to further ease the regulatory burden on businesses should be intensified further.

Labour market flexibility

The 2005 Report concluded that little progress had been made in improving labour market flexibility which, together with a comprehensive reform of the education system, would be crucial for dealing with skills mismatches. Since then, there has been progress in the following areas.

In line with the strong economic growth, employment grew by 2.0% in 2005 and the average unemployment rate fell from 12% in 2004 to 10.1% in 2005. Limited steps were taken to improve the functioning of the labour market. As from January 2006, pension contributions were reduced by 6 percentage points and the share paid by the employer was reduced from 70% to 65%, thus reducing non-wage labour costs and providing incentives for job creation and moving jobs out of the informal sector. The Employment Promotion Law was amended in February 2006, providing for certain financial incentives to regional mobility and for actively searching employment. Preparations for an evaluation of the effectiveness of active labour market programmes have started. A programme for the reform of secondary education was adopted by the Council of Ministers in February 2006. It envisages a re-organisation of the secondary education system, the introduction of short-term vocational training modules, and standardised national examinations.

However, certain outstanding issues remain to be addressed.

Hardly any progress has been made on removing labour market rigidities and modernising the regulatory framework, in particular as regards working time or the use of fixed-term contracts. The integration of seniority bonuses into the regular pay scale has been delayed. A Strategy for Higher Education Development is not yet adopted. The planned reforms of the education system still need to be fully implemented to improve the quality of education and better align educational outcomes with labour market needs.

Overall, only little progress has been made on increasing labour market flexibility. Increased efforts to reform the education system will be important to reduce skills mismatches.

3.1. General evaluation

Bulgaria is a functioning market economy. The continuation of the current reforms should enable it to cope with competitive pressure and market forces within the Union in the near term. Bulgaria has broadly maintained macroeconomic stability and advanced structural reforms.

Progress has continued since the October 2005 report. Useful steps were taken to contain the external deficit. The privatisation process and the liberalisation and restructuring of utilities are well advanced. Some additional progress has been made in improving the business environment and in reducing non-wage labour costs.

However, the current account deficit widened and warrants continued prudent fiscal and wage policies. Deepening of structural reforms requires improving the functioning of the judicial system and further easing the regulatory burden on businesses. The regulatory framework for the labour market needs to be made more flexible.

4. COMMITMENTS AND REQUIREMENTS ARISING FROM THE ACCESSION NEGOTIATIONS

Introduction

In the October 2005 reports the Commission concluded that Bulgaria had already achieved a considerable degree of compliance with the *acquis*.

In most chapters of the *acquis* either Bulgaria was ready or preparations were being made to resolve the last outstanding issues by accession. This was the case with the following chapters: capital movements, competition policy, statistics, economic and monetary union, industrial policy small and medium-sized enterprises, science and research, education and training, telecommunication and audio-visual policy, external relations, common foreign and security policy, EU budgetary provisions and competition. For all these chapters, Bulgaria was considered to be sufficiently prepared for a smooth integration into the EU. This conclusion remains valid. Moreover, further progress has been made, for instance on competition, where the Commission for Protection of Competition has continued to build up a positive track record of anti-trust decisions. These chapters are therefore not examined below.

The remaining chapters included issues which required increased efforts from Bulgaria and, in a limited number of cases, immediate and decisive action in order to be ready by accession. These issues are re-examined in the relevant chapters below.

This section therefore gives an overview of all the remaining issues which Bulgaria needs to address in order to be prepared for implementing the *acquis* by accession.

4.1. Chapters of the *acquis*

4.1.1. Chapter 1: Free movement of goods

In the **non-harmonised area**, Bulgaria has screened its legislation to identify provisions that could be in breach of Articles 28 to 30 of the EC Treaty. Only two measures have so far been found by Bulgaria to be inconsistent with the requirements of Articles 28 to 30. The new Law on Consumer Protection adopted in December 2005 and amendments being prepared to the Law on Accountancy aim at addressing this issue. Amendments to the Law on Cultural Monuments and Museums were adopted in February 2006. The Law on Control of Explosive Substances, Firearms and Ammunition was amended in April 2006. The process of internal screening is to be repeated continuously. Measures remain to be adopted to enable the import of used cars.

The legislative shortcomings in the field of **public procurement** are being solved. The new Law on Concessions and amendments to the Law on Public Procurement were adopted in April 2006. Both laws include a remedies mechanism in line with EU requirements.

Some improvement of administrative capacity and development of professional skills can be

reported. As regards remedies, the Commission for the Protection of Competition (CPC) is now in charge of processing pending complaints lodged from all over the country.

Amendments have to be made to the implementing legislation on public procurement as a consequence of the new laws, and a whole set of implementing legislation on concessions is being drafted to enter into force in June 2006. Various national provisions that are incompatible with the new provisions in the Laws on Concessions and on Public Procurement have been identified and removed.

On the institutional side, the Public Procurement Agency and the Economic and Social Policy Directorate of the Council of Ministers have been continuously improving their administrative capacity. Staff increases are foreseen in order to enable to cope with the added remedies workload. Overall, preparations are now on track in this area.

Conclusion

Bulgaria is now generally meeting the commitments and requirements arising from the accession negotiations in the **non-harmonised** and **public procurement** areas, as a result of significant progress. Continued efforts are nonetheless needed in the non-harmonised area. Efforts are also needed to transpose and implement the *acquis* on foodstuffs entry points and medical devices. Preparations in the field of public procurement need to be completed as regards implementing rules.

4.1.2. Chapter 2: Free movement of persons

Legislation has been developed in the field of **mutual recognition of professional qualifications**. The Law on Higher Education and the Law on Health were amended and the new Law on Veterinary Activities was adopted in October 2005. Much work has been done on adoption of the implementing legislation for the health professions – medicine, veterinary medicine, dentistry, pharmacy, general care nursery and midwifery.

However, that legislation remains to be completed, in particular on the automatic and unconditional recognition and on cross-border provision of services. The Law on the Bar was amended in January 2006 to bring it generally into line with the *acquis*. Strengthening of the administrative capacity continued, in terms of both training and further development of appropriate administrative structures, but must be reinforced. Preparations need to be stepped up.

Conclusion

Some progress has been made on **mutual recognition of professional qualifications**. Preparations are continuing, but there are concerns that Bulgaria would not be in a position to fully implement the *acquis* from the time of accession if the current pace of progress is not raised. Swift action is needed in this area.

4.1.3. Chapter 3: Freedom to provide services

The process of removing restrictions to the **right of establishment and freedom to provide non-financial services** is close to completion. A new Law on Veterinary Activities was adopted in October 2005. The Laws on Tourism and on Protection and Development of Culture were amended in November 2005. The Laws on Employment Promotion and on Social

Promotion were amended in February 2006. The Law on Child Protection was amended in April 2006.

In the field of tourism, despite legislative changes, reports about irregularities and different prices, mainly at tourist facilities, continue. Non-EU nationals are also being forced to buy health insurance at the border. The Bulgarian authorities have to find ways of enforcing the new non-discriminatory provisions in the Law on Tourism and other legislation. Preparations are well on track as regards the right of establishment and freedom to provide non financial services, excepted in the field of tourism.

Bulgaria has made efforts to align its **banking** legislation, but the secondary legislation needs to be completed. Increased efforts are required for the transposition and implementation of the new, more stringent, capital requirements directive in order to provide sufficient time to the banks and the investment firms to make the necessary adaptations. Consistency remains to be ensured in order to enable coherent supervision of banks and investment firms. Preparations need to be accelerated.

The new Code on **insurance** was adopted in December 2005. Bulgaria has also drawn up an action plan to combat uninsured driving, which contains substantial measures (amendments to legislation, a national campaign on the importance of motor third party liability insurance, increased police checks, etc.). Work is in progress to clean up the registration database and de-register unusable vehicles, which are estimated at 26% of the vehicle fleet.

However, the impact of these measures taken against uninsured vehicles needs to be materialised and the financial capacity of the Bulgarian Guarantee Fund needs still to be strengthened to enable Bulgaria to sign the multilateral agreement and the Commission to take its decision concerning the removal of border checks for insurance certificates. Preparations need to be accelerated in the field of insurance as a matter of urgency.

In the case of **investment services** and the **securities market**, Bulgaria is continuing its preparations for transposition of the outstanding directives. The timetable aiming for final adoption of the relevant acts in autumn 2006 seems reasonable, but needs to be duly respected. Preparations need to be stepped up on investment services and the securities market.

Transposition of the *acquis* on the **information society** has to be completed. Preparations need to be speeded up in this area.

As regards the **protection of personal data**, Bulgaria's legislation is not yet aligned with the *acquis*, despite amendments introduced in December 2005. Shortcomings still affect a number of significant issues such as the scope of legislation, applicability of national law, principle of data quality, legal basis for processing, data on criminal convictions, information to the data subject, scope of derogations, system for notification and prior checking by the authority, transfers of data to third countries. Despite steps taken in the right direction, the administrative capacity of the Data Protection Commission is still weak. Its budgetary independence is not guaranteed, cuts in the 2006 budget have taken place, and it does not have sufficient staff. The functioning of the registration and notification scheme is still unsatisfactory. Its level of activity is quite low, with the handling of complaints remaining insufficient, as is the enforcement record in general. Legislative preparations need to be accelerated considerably in this field.

Bulgaria is not yet in a position to ensure full implementation of the *acquis* in the area of

protection of personal data. *(see also Chapter 24 – Justice and home affairs).*

Conclusion

Significant progress has been made on the **right of establishment and freedom to provide non-financial services**. Bulgaria is now generally meeting the commitments and requirements arising from the accession negotiations. Preparations are continuing and Bulgaria is expected to be in a position to implement the *acquis* from the time of accession if the current pace of progress is maintained.

Progress has been made in the area of financial services, notably on **banking** and **insurance**, but increased efforts are still needed in order to complete the preparations for accession in the fields of **banking** (Directive on capital requirements for investment firms)**, investment services and the securities market** and **protection of personal data**. In addition, increased efforts are required on motor vehicle **insurance** and on the **information society**. Increased efforts are required in these areas.

4.1.4. Chapter 4: Freedom movement of capital

The Bulgarian legislation on **money laundering** is generally in line with the *acquis*. Positive developments can be reported on responses to international requests for cooperation and on operations targeting suspected money laundering activities by foreign nationals. The Financial Intelligence Agency is functioning in an adequate and professional way as the administrative body analysing suspicious transaction reports (STRs).

Gaps remain in the Law on Measures against Money Laundering, which do not yet fully reflect the requirements of the second EU Anti-Money Laundering Directive. Furthermore, legislation needs to align with the revised recommendations of the Financial Action Task Force on money laundering and terrorist financing. Effective implementation of legislation remains very limited. Awareness of reporting obligations amongst reporting entities, suspicious transaction reporting (STRs) and supervision of reporting entities need to be improved, particularly outside the financial sector.

The essential shortcoming in this area remains mainly the absence of tangible results in terms of enforcement and prosecution of cases of money laundering (*see Chapter 24 – Justice and home affairs*). Preparations in this area need to be stepped up.

Conclusion

Progress in the field of **money laundering** has remained limited in terms of effective implementation and enforcement. Increased efforts and swift action are now needed in the field of the prevention of money laundering in order to overcome the shortcomings by accession. This concerns in particular the areas of awareness and suspicious transaction reporting by reporting entities, and the supervision of reporting entities.

4.1.5. Chapter 5: Company law

As regards **protection of intellectual and industrial property rights**, there have been positive developments, particularly in inter-institutional cooperation, in coordinated enforcement and in the legislative framework. These improvements are the result of a national action plan for 2005-2006 in the field of intellectual and industrial property rights (IPR).

The Law on Optical Carriers was adopted in September 2005 as one weapon in the fight against piracy. The action plan aims at improving administrative structures and IPR enforcement. Better cooperation between IPR agencies and law enforcement authorities, awareness and training are recognised as key factors and efforts have been made to improve communication between institutions.

Legislation on patents and other outstanding measures (amendments to the Law on Trade Marks and Geographical Indications and the Law on Industrial Design) have yet to be further aligned with the *acquis* in the field of industrial property.

Further improvements are required as regards enforcement of IPR. IPR-related crime remains a continuing threat and poses a real challenge. Bulgaria should now convert plans into further action and produce more concrete and tangible results. Closer cooperation, awareness raising, additional staffing at critical location in the country and more training are required. Communication between institutions and between institutions and right-holders' organisations must be further developed.

Preparations need to be stepped up on protection of intellectual and industrial property rights.

Conclusion

Significant progress has been made on **protection of intellectual and industrial property rights**, but further steps are still needed in order to complete the preparations for accession. Increased efforts and swift action are now needed in this area in order to solve the shortcomings in time, before accession.

4.1.6. Chapter 7: Agriculture

Horizontal issues

Legislation to set up a **Paying Agency** (PA) for the administration of national and EU support to agriculture and rural areas, forestry and fisheries and on the strategic decisions was adopted by Parliament in February 2006, in the form of the amendment to the Law on Farmers' Support. Critical issues have been formalised, such as the option to apply the Single Area Payment Scheme (SAPS), to decide on the minimum size of eligible agricultural holdings, the complementary national direct payments and the appropriate budget.

Development of the IT system for operation of the PA and the training and recruitment of staff are still incomplete. Preparations need to be stepped up.

The original master plan for setting up the **Integrated Administration and Control System (IACS)** has been updated to reflect the delays in its implementation. To set up the land parcel identification system (LPIS), Bulgaria decided to use archived satellite images in addition to aerial ortho-photos; contracts for the provision of all data have been concluded but the time schedule is very tight. Digital ortho-photos and usable satellite images exist for around 25% of the territory. The digitisation of the LPIS blocks has been done so far for around 17% of the area. Work has just started for the establishment of the link between the farmers and the LPIS blocks, needed to supply the farmers with graphical material indicating boundaries of the reference parcels, their single identification number and their area. Much work has been done in relation to adopting and installing of new software but it has not been subject to final testing.

Other basic tasks, such as pre-registration of farmers, on-the-spot controls and training of staff, have also been accelerated. Urgent action is still needed.

Concerning **trade mechanisms,** formal coordination has been established between all bodies involved (State Fund for Agriculture, Customs Service, National Veterinary Service and Phyto-Sanitary Service). In general, preparations are on track but efforts are still needed as operational and detailed knowledge on trade mechanisms is still generally missing.

Common market organisations (CMOs)

In general an effective administrative structure is being set up for enforcement of all these market organisations, in the form of recruitment of additional staff, appropriate training and clear definition of procedures.

In the case of **wine,** the setting up of Bulgaria's vineyard register has not been completed.

Additional implementing legislation has not been adopted for certain market mechanisms, in particular controls and certification. Preparations need to be stepped up in this sector.

Legislation has been adopted to enforce the CMO for **milk** and measures have been taken to put in place the milk quota as well as most of the mechanisms for the common market organisation for milk and milk products. The database including the basic quota register has been finalised, covering all producers and direct sellers; allocation of the indicative individual quota is under preparation. The process of approval of purchasers is on good track.

Detailed rules for management of milk quotas and of the national reserve have yet to be adopted. The national and regional milk boards are not fully operational nor are the independent laboratories for the analysis of fat content at all individual milk factories. The laboratories are neither installed nor accredited yet. Preparations need to be accelerated.

In the area of **fruit and vegetables**, progress has been achieved for the implementation of the quality control of fresh products and marketing standards. Progress has also been made with regard to the administrative structure for the recognition of producers.

With regard to **beef** carcass classification, the Bulgarian legislation has been fully harmonised, but it is not in force at present. In order to implement the classification properly by accession, training of the classifiers in the abattoirs needs to be accelerated.

Veterinary and phytosanitary issues, including food safety

By adopting the Veterinary Framework Law (VFL) Bulgaria has established the basis for transposing into its national legislation the *acquis* concerning animal health, animal welfare, veterinary public health and the horizontal veterinary control instruments. The VFL entered into force on 1 May 2006.

Some parts of secondary legislation or amendments to existing legislation to ensure full compliance with the *acquis* in the veterinary sector following the necessary corresponding checks have not been adopted yet. Likewise, final parliamentary adoption of the Plant Protection Act is outstanding. Preparations need to be stepped up.

The legislation on **transmissible spongiform encephalopathy** (**TSE**) **and animal by-**

products has been transposed. The ban on feeding certain processed animal proteins to farm animals has been in place since early January 2006.

Concerning TSE surveillance, in particular the collection, treatment and testing of fallen stock, Bulgaria has presented a national collection plan. This plan needs further improvement. Compliance with the EU requirements as regards one of the two rendering plants, located in Varna, has not been demonstrated yet. The *acquis*-compliant destruction of the rendering product (meat and bone meal) by incineration in a cement plant has also been shown. The destruction of meat and bone meal in particular stocks, which is ongoing in that cement plant must be guaranteed. Urgent action is also needed as regards the construction of a new rendering part in the south of Bulgaria.

Transposition of the principles of the legislation on the **veterinary control system in the internal market** is covered by the VFL.

Secondary legislation with a view to joining the TRACES network linking EU veterinary authorities (the successor to ANIMO) has not yet been adopted and enforced. Preparations need to be stepped up.

Legislation transposing the *acquis* on the **identification and registration of animals** is now in place for all relevant species as well as for sanctions and control issues. A bovine identification and registration database has been set up. The system is being updated and upgraded to include other species.

Online operation of the database for all species has yet to be demonstrated. Preparations need to be stepped up.

The *acquis* on the **financing of veterinary inspections and controls** has been transposed. Preparations are well on track.

The legislation on veterinary checks on third-country imports and rules on imports has been transposed. One of the eight long-term veterinary border inspection posts (Kapitan Andreeovo on the land border with Turkey) is operational, but few adaptations are still required. Works have started and equipment for setting up the others has been contracted.

The necessary infrastructure for the seven long-term veterinary border inspection posts on the EU's future external borders in Bulgaria has not been established nor have the EU inspection procedures and import conditions yet been enforced. Preparations need to be stepped up considerably.

The Veterinary Framework Law provides the legal basis for establishment of an animal health fund for **expenditure in the veterinary field.**

General measures on **animal disease control** (vaccination ban and certain eradication measures) have been transposed into Bulgaria's national legislation.

As regards disease control, an animal health emergency fund has yet to be established. In the case of control of classical swine fever, the transition from a vaccinating to a non–vaccinating country has not yet been managed completely. The practice is now focusing on detection of potentially circulating field viruses since the vaccination of the domestic pig population ceased in 2005. Before Bulgaria can be treated as a truly non-vaccinating country as regards the

domestic pig population, preparations need to be stepped up.

Legislation on **trade in live animals and animal products** has been transposed. Preparations are well on track in this area.

In addition, the Veterinary Framework Law provides the legal basis for enforcing legislation on veterinary **public health** in establishments. Alignment with the new EU hygiene package and upgrading of establishments are continuing. As regards the quality of raw milk and its control systems, a clear strategy for management of the transition period has been adopted.

However, it has not yet been demonstrated that the upgrading process concerning the establishments has been completed. Preparations need to be stepped up.

As regards enforcement of the *acquis* concerning **common measures** (including **zoonoses**), Bulgaria has identified its upgrading needs and is working on eliminating the deficiencies.

As for veterinary public health, enforcement of controls on residues, veterinary medicinal products, contaminants and zoonoses has not been verified, in particular with regard to the diagnostic methods and standards applied in laboratories. Preparations need to be furthered.

Implementation and enforcement of the **animal welfare** rules at farm level during transport and slaughter have started, accompanied by training on application of the new legislation.

The EU norms and standards on animal welfare are not yet fully enforced. Preparations need to be stepped up.

Conclusion

Progress has been made on some **CMOs**. Bulgaria is now generally meeting the commitments and requirements arising from the accession negotiations in this area.

Good progress has also been made on the **Paying Agency** but further steps are still needed in order to complete the preparations for accession. This area requires increased efforts and swift action now in order to solve the shortcomings in time before accession. Some progress has also been noticed for the area of trade mechanisms and the **CMOs** for **wine and alcohol,** and for **milk and beef meat.** Progress has also been registered as regards the full transposition of the *acquis* in the **veterinary sector,** completion of the work on **animal disease control** (classical swine fever and the animal health emergency fund), **veterinary control systems in the internal market (**establishment of all of the long-term border inspection posts**) trade in live animals and animal products, trade mechanisms** and **animal welfare,** and completion of the work on **veterinary public health** by upgrading the establishments. Progress has also been made with the sampling and testing capacity for enforcing the **common measures** (including **zoonoses**) in the veterinary field. Increased efforts and swift action are now needed in these areas in order to solve shortcomings in time, before accession.

Limited progress has been made on **IACS**, especially with regards to the Land Parcel Identification system (LPIS), and on **TSEs and animal by-products**, including with regard to the upgrading of the rendering plants. These areas are still of serious concern. Bulgaria should take immediate and decisive action now in order to be ready by the date of accession.

4.1.7. Chapter 8: Fisheries

In the field of **resource and fleet management, inspection and control**, the Bulgarian Fisheries and Aquaculture Act of 2001 was amended in November 2005 to provide the legal basis for granting fishing licences, structural action and market organisation also, including the vessel monitoring system and the recognition of producer groups. The National Agency for Fisheries and Aquaculture (NAFA) is in charge of keeping and reporting on the Fishing Fleet Register.

Test data have not yet been transmitted to the EU Fishing Fleet Register in the appropriate format. Installation of the Fishing Vessel Monitoring System has yet to be completed, specifically with a view to upgrading to a satellite-based system. Likewise, reporting on catch registration data from logbooks, landing declarations and sales notes and availability of those data have not improved significantly. Preparations need to be accelerated.

In the area of **structural action**, rules and procedures for use and implementation of structural measures are being drafted, in line with the establishment of the Paying Agency for agriculture (*see Chapter 7 - Agriculture*). Preparations need to be speeded up.

Regarding **market policy**, a market organisation unit was established in NAFA at the end of 2005.

No further implementing legislation to establish wholesale market infrastructure (producers' organisations, intervention agency and information system) has been adopted. No system for collecting catch registration data has been established and consequently cross-checks are not yet possible. Preparations need to be stepped up.

Conclusion

Progress has been made on **resource and fleet management, inspection and control**, **structural action** and **market policy**. However, the results remain limited. Bulgaria needs to make increased efforts and take swift action with a view to preparing for management of the structural fund for the fisheries sector, completing the Fishing Vessel Monitoring System, adopting legislation and establishing a system for collecting catch registration data.

4.1.8. Chapter 9: Transport policy

In the field of **air transport**, significant efforts have been made and most of the relevant legislation has been transposed and is generally in line with the *acquis.* Bulgaria has initialled the general air transport agreement and the European Common Aviation Area Agreement, and provisional application of both agreements is envisaged as of the day of signature.

The relevant policies, notably on airport security and safety, must still be fully implemented by accession. Preparations are generally on track in this area.

The framework legislation on **maritime transport** has been transposed in line with the *acquis*. The situation regarding port state control functions is improving, notably in terms of the decrease in the detention rate.

The independence of the Bulgarian Maritime Administration for flag state control is still not fully ensured since Navybulgar, as a controlled entity, remains a state-owned company. Preparations need to be stepped up in this area.

Conclusion

Significant progress has been made in the area of **air transport** legislation, where Bulgaria is now generally meeting the commitments and requirements arising from the accession negotiations in these areas. The legislation is being implemented and the requirements should be met by accession if the current pace of preparations is maintained.

Progress has been made in the area of **maritime transport**. However, the standards are still lagging behind the European Union average. Increased efforts and swift action are now needed in order to solve the shortcomings in time, before accession, in particular by ensuring the full independence of the Bulgarian Maritime Administration as the inspection body.

4.1.9. Chapter 10: Taxation

The Law on **Excise Duties** and Tax Warehouses was adopted in November 2005. In particular, it provides for transferring responsibility for administering excise duties from the tax to the customs administration. The same law also contains provisions on the system of bonded warehouses, and on holding, moving and monitoring excisable products under duty suspension arrangements. The Law on Excise Duties was amended in December 2005, with a view to increasing excise duty rates in accordance with the agreed calendar of approximation. Preparations are well on track in the field of excise duties.

In the area of **VAT,** legislation which was planned for the end of 2005 has not yet been adopted. In the area of **direct taxation**, the draft Corporate and Income Tax Act has not been adopted either. Preparations need to be stepped up.

In the area of **administrative cooperation and mutual assistance,** good progress has been made. The National Revenue Agency (NRA) became operational in January 2006 upon the entry into force of the new Code on tax and social security procedures. The NRA brought together the collection and servicing of both central government taxes (such as VAT and corporate taxes) and compulsory social security contributions (such as health insurance). The ongoing reform of the sector, in particular the successful transformation of the tax administration into the NRA, has improved the collection and control capacity, as shown by the increase in total tax collection.

The tax collection requires continued efforts at management level to ensure that the newly established institution functions smoothly. Implementation of the new laws will require coordination between all stakeholders. Administrative capacity should be further enhanced by developing the professional skills of the staff and continuous training. Preparations for IT interconnectivity have continued at good pace and, if no delays occur, Bulgaria should meet its obligations upon accession. Overall, preparations are on track.

Conclusion

Significant progress has been made on **excise duties** and on **administrative cooperation and mutual assistance**. Bulgaria is now generally meeting the commitments and requirements arising from the accession negotiations in these areas. Bulgaria is expected to be in a position to implement the *acquis* as from of accession if the current pace of progress is maintained.

In the areas of **VAT** and **direct taxation,** little progress was made. These areas require

increased efforts in terms of legislation and implementation of the new laws.

4.1.10. Chapter 13: Social policy and employment

As regards **labour law**, the Bulgarian Labour Code was amended in October 2005. The Labour Inspectorate has increased its number of staff.

Transposition of the *acquis* is still incomplete, in particular regarding the directives supplementing the European Company and European Cooperative Society Statutes, the directive on information and consultation and the European Works Councils directive. Furthermore, a number of issues to ensure the correct and full transposition need to be addressed, particularly as regards the directives on posting of workers, employer insolvency, health and safety of workers, collective redundancies, part-time work, fixed-term work, working time, and protection of young people at work. In addition, the administrative capacity and internal control mechanisms of the Labour Inspectorate are insufficient to guarantee effective, even-handed application of the *acquis* in this area. Preparations need to be stepped up.

With regard to **social dialogue**, the bipartite dialogue needs to be further strengthened in order to prepare the social partners for their future role in the formulation and implementation of EU social policy. The representativeness criteria have to be applied in an impartial way for all social partner organisations. Participation in the tripartite dialogue needs to be restricted to social partner organisations with a social mandate. Preparations need to be stepped up.

Some progress can be reported on operational implementation of the regulatory provisions in the field of **public health**. In particular, progress has been made to bring the legislative system for communicable diseases into line with the *acquis*. Significant progress has been made to transpose the *acquis* on the manufacture, presentation and sale of tobacco products. The Framework Convention for Tobacco Control was ratified in November 2005. The Directive on Tobacco Advertising has been fully transposed. Changes have been made to funding of the hospital sector and greater attention has been given to preventive health measures.

The *acquis* on blood and blood components and tissues and cells has yet to be fully transposed, in particular concerning the quality and safety standards for human blood and blood components, traceability requirements and notification of serious reactions and events and the Community standards and specifications relating to a quality system for blood establishments. Further alignment of the law on transplantation of organs, tissues and cells is also awaited. The surveillance system for communicable diseases needs further enhancement and continued investment in laboratory capacity and IT equipment.

Further efforts continue to be necessary to improve the health status of the population and to enhance access to health and health care, especially at regional level and among poorer socio-economic groups and minorities. As regards access to healthcare, the conditions applicable to the population as a whole have not improved. Basic conditions in institutions caring for the elderly, the physically and mentally handicapped and children are appalling. The legal basis for their institutionalisation, along with the slow and sometimes badly planned process towards real de-institutionalisation are unsatisfactory and still give cause for considerable concern. Continued increased efforts are still needed.

Progress has been made on the preparations for managing the **European Social Fund (ESF)**,

particularly in terms of recruiting staff, continuing training for civil servants and designating the managing authority for the Human Resources Development Operational Programme and the Operational Programme for Administrative Capacity.

The building-up of the administrative capacity, particularly regarding the Operational Programme for Administrative Capacity and staffing and training in the Ministry of Education and Science and the Social Assistance Agency, is incomplete *(see also Chapter 21 – Regional policy and coordination of structural instruments)*. Preparations need to be stepped up.

In the area of **social inclusion,** amendments to the Law on Social Assistance which, in particular, open up the market for provision of social services, were adopted in February 2006. In April 2006, the government approved an updated national plan for fight against poverty and social exclusion 2005-2006 which foresees support to activities in education, re-qualification, employment and assistance to vulnerable groups. Analytical work and development of social statistics on poverty and social exclusion have to continue in line with the EU indicators on social inclusion. Efforts need to continue to improve the situation of vulnerable groups, including Roma, and to promote their full integration into society. In some municipalities the desegregation and integration in the standard school system of Roma pupils and pupils with special needs have led to positive results.

Access to quality health care services has not been broadened, as a significant number of the population, particularly amongst the Roma community, still lack access to care services. The processes of desegregation and integration in the standard school system of Roma pupils and pupils with special needs need to be accelerated. Nor has any continuous strengthening of coordination of child welfare policies and of the administrative capacity of the Child Protection Agency, including at municipal level, been noted. The process of de-institutionalisation and development of community-based services have not been stepped up. There is still a need to implement specific social, educational and medical services addressing the issues of social exclusion. Further efforts have to be made to include vulnerable groups, particularly from the Roma community, in the labour market by further promoting quality education and vocational training. Access of persons with disabilities to public areas, buildings, transport, education and the labour market has yet to be improved. Preparations need to be stepped up.

Concerning **anti-discrimination**, the Commission for Protection against Discrimination was finally established in November 2005 and has started to deal with its first cases.

Due to administrative and staff constraints, this Commission is under-performing and no urgent efforts have been made to ensure that it will soon become fully operational. The situation of the Roma minority still requires fundamental improvements. Efforts to ensure effective implementation of the Framework Programme for Equal Integration of Roma in Bulgarian Society have been insufficient. Preparations need to be stepped up.

Conclusion

Progress was made in the preparations for the **European Social Fund** (ESF), but this area still requires increased efforts to address remaining challenges. Only limited progress has been made in five other areas of this chapter, which were identified in October 2005 as requiring increased efforts. These still requires increased efforts and swift action now in order to solve the outstanding issues in time before accession. Legal alignment needs to be completed and enforced in the areas of **labour law** and **public health**. Bipartite **social dialogue** needs to be

further strengthened and the correct participation of social partners in tripartite structures must be ensured. On **social inclusion**, access to quality health care services and education, de-institutionalisation, child welfare and integration of vulnerable groups into the labour market should be significantly improved. The situation of the Roma minority continues to call for structural improvements. As regards **anti-discrimination**, the administrative capacity of the Commission for Protection Against Discrimination needs to be increased. In general, increased efforts are needed to strengthen the administrative capacity to ensure due implementation of the social policy *acquis*.

4.1.11. Chapter 14: Energy

Framework and implementing legislation has been adopted in the field of **competitiveness and the internal energy market**.

The electricity and gas market has yet to be fully opened in line with the *acquis*. The implementation of the elaborated plans should lead to the unbundling of Bulgargas before accession.

In addition, in the solid fuel sector Bulgaria has to ensure that state intervention is in line with the *acquis.* Preparations in this area need to be stepped up.

In the field of **nuclear energy and nuclear safety,** the legal framework is in place and the implementing legislation has been adopted.

Regarding Bulgaria's commitments to early closure of units 1 to 4 of the Kozloduy nuclear power plant, as enshrined in the Act of Accession, Bulgaria has not yet taken the necessary steps to ensure irreversible dismantling of units 1 and 2, which were shut down in 2002. It has also not yet taken tangible operational and administrative action to secure the definitive closure of units 3 and 4 in 2006 and to guarantee their subsequent decommissioning, thereby allowing appropriate use of the available EU funds. There is no full compliance yet with the Euratom Treaty requirements and procedures. Preparations in this area need to be significantly improved.

Conclusion

Limited progress has been made on **competitiveness and the internal energy market.** Increased efforts and swift action are now needed in order to complete the opening of the electricity and gas markets before accession. In the area of **nuclear energy and nuclear safety**, the situation has deteriorated with regard to the decommissioning process. Increased efforts and swift action are now needed to guarantee the irreversible closure of units 1 to 4 of the Kozloduy nuclear power plant.

4.1.12. Chapter 15: Industrial policy

The **privatisation and restructuring** process has continued in Bulgaria, albeit at a slower pace than planned. Privatisation is almost complete but the process has slowed down significantly recently with few privatisation measures actually terminated. The restructuring of network industries has continued.

The privatisation process is still not sufficiently transparent, and problems with post-privatisation control persist.

Restructuring of the steel industry has been seriously delayed and it will not be possible to restore the main steel producer, which is subject to an individual viability plan, to viability by the end of the agreed restructuring period. Bulgaria has formally notified the Commission of planned changes to its National Restructuring Plan for the steel industry and to the relevant business plan. The Commission will analyse these changes carefully, in particular from the angle of their compatibility with the state aid rules. Preparations need to be stepped up in the area of privatisation and restructuring.

Conclusion

Some progress has been made on **privatisation and restructuring**. However, the results are limited, notably in terms of restructuring of the steel industry. Increased efforts and swift action are now needed in this area in order to solve the shortcomings before accession.

4.1.13. Chapter 19: Telecommunications and information technologies

No significant developments can be reported in the area of **electronic communications and information technologies**.

Little progress has been made on addressing outstanding issues regarding transposition of the 1998 *acquis*. A number of basic competitive safeguards imposed on the incumbent operator in the fixed telephony market have yet to be implemented. On the mobile market, the present Telecommunication Act does not define a market for interconnection and consequently imposes no cost orientation in wholesale call termination rates on the operator with significant market power (SMP). Preparations for mobile number portability are limited. Preparation for the 2002 *acquis* is in its early phase. National regulatory authorities are not properly resourced for their tasks related to implementation of the new Electronic Communications Law, in particular on market analysis, assessment of SMPs and imposition of remedies. Coordination between the regulatory authorities remains to be improved. Preparations in this area need to be enhanced.

In the area of **postal services**, amendments to the Postal Services Law have been adopted in April 2006. They aim at completing the transposition of the second Postal Services Directive.

Strengthening of the administrative capacity for quality measurement, cost accounting and accounting mechanisms of the regulator in this area, the Communications Regulation Commission, is not yet completed. In general, preparations in this area are generally on track.

Conclusion

Significant progress has been made on **postal services**. The strengthening of the administrative capacity of the regulator needs to be completed. Bulgaria is now generally meeting the commitments and requirements arising from the accession negotiations in this area if the current pace of progress is maintained.

Little progress has been made on **electronic communications and information technologies,** including addressing outstanding issues related to the 1998 *acquis*. Alignment with the 2002 *acquis* remains to be achieved. The legislative timetable needs to be reviewed and new plans activated in order to comply with accession deadlines. Increased efforts and swift action are now needed in this area.

4.1.14. Chapter 21: Regional policy and coordination of structural instruments

The **legislative framework** necessary to ensure full compatibility of operations financed by the Structural Funds with EU policies and legislation is now in place. Bulgaria has adopted the necessary amendments to its Public Procurement Law and passed a new Concessions Law in line with the *acquis*. Bulgaria has adopted the Organic Budget Law, which introduces multi-annual budget programming and has already started with programme budgeting in several line Ministries. Implementation of the new legislation on public procurement needs attention. In general, preparations are well underway in this area.

The principal **institutional structures** for preparation and implementation of the Structural Funds have been established. Decisions have been taken on the distribution of tasks between the different bodies within each Operational Programme and delivery structures are being established. Inter-ministerial coordination has been improved.

A major challenge for a number of bodies will be to achieve the ambitious recruitment plans, with a high number of experienced staff still being sought and with many bodies potentially competing for a limited number of adequately qualified people. Most intermediate bodies and final beneficiaries as well as some managing authorities still need considerable capacity-building in particular on public procurement. Preparations for inter-ministerial and cross-sectoral coordination on planning and subsequent implementation of operations at regional level as well as guidance on implementing procedures need to be completed. Preparations in this area need to be enhanced.

Bulgaria is on track with **programming**. It has prepared drafts of all the required programming documents.

Some programming documents, including the National Strategic Reference Framework, lack focus and strategic vision, which makes it more difficult to coordinate implementation. The *ex-ante* evaluations have started with a considerable delay. Concerns remain about establishment of a pipeline of projects ready to be implemented under the Structural Funds and the Cohesion Fund. Preparations in the area of programming need to be enhanced.

In relation to **monitoring and evaluation**, monitoring systems have been established in a number of managing authorities and intermediate bodies. Bulgaria has ordered a single management information system covering all operational programmes and is in the process of building it up.

The interconnection of certain subsystems of the single management information system and the readiness and preparation of final users at national, regional and local level to operate the systems needs to be ensured. Staff recruitment and training in this context need to be completed. Evaluation units have yet to be established and staffed in a number of managing authorities. Preparations for monitoring and evaluation need to be stepped up.

With regard to **financial management and control**, a new legislative framework has been adopted and institutional structures are largely in place. A central Audit Authority and internal audit units in the managing authorities have been created.

Ambitious recruitment plans and potential competition for the few available specialists between the different bodies involved in this area are causing concern. Most of the training in this area

still needs to be carried out. Relevant inter-body agreements and procedure manuals are not yet available. Strong, efficient coordination of preparation and implementation of financial management and control systems is lacking. Implementation of the control system for public procurement still needs further strengthening in the light of the implementation of ISPA and PHARE cohesion projects. Preparations in this area need to be stepped up.

Conclusion

Bulgaria has made sufficient progress on the **legislative framework** and is now generally meeting the commitments and requirements arising from the accession negotiations in this area.

Progress has been made on **programming** and on **monitoring and evaluation** but Bulgaria still requires increased efforts to prepare an efficient project pipeline and establish a functional management information system in time for accession. Bulgaria has made progress on **institutional structures** and in the area of **financial management and control**. These areas still require increased efforts and swift action now in order to solve all shortcomings in time, before accession. Attention has to be paid, in particular, to rapid establishment of an audit and control system enabling sound and efficient implementation of the Structural Funds and to substantially strengthening the administrative capacity. Efforts are also needed to ensure full operation at all levels of an *ex-ante* control system with regard to public procurement.

4.1.15. Chapter 22: Environment

Concerning **horizontal legislation** the relevant administrative capacity is being strengthened.

Coordination, integration, public awareness and public involvement need further strengthening for areas such as Integrated Pollution Prevention and Control (IPPC) and the NATURA 2000 programme. Further efforts are needed with regard to the implementation of legislation transposing the Environmental Impact Assessment and the Strategic Environmental Assessment directives both at national and regional levels. Preparations need to be stepped up.

Waste management legislation is in line with the *acquis.*

Inadequate attention is paid to recruiting additional specially trained staff for implementation of the waste management legislation, particularly at regional and local levels. Further implementing steps are required regarding the Waste Framework and Hazardous Waste Directives. Preparations need to be stepped up, in particular for the development of an integrated network of disposal installations.

Legislation on **water management** is largely in place and in line with the *acquis.*

Legislation implementing the Water Framework Directive is pending final parliamentary approval. Further strengthening of the administrative capacity is needed, in particular at regional level and in terms of human resources, laboratories and equipment. Cooperation and coordination between the different institutions and administrations involved is lagging behind. As regards the Nitrates Directive, the Drinking Water Directive and the Surface Water Directive implementation is lagging behind. Preparations need to be stepped up.

As regards **industrial pollution** progress has been noted with the view to issuing the permits for industrial plants. Resources at the central competent authority seem to be adequate and the procedures for the issuing of permits are clearly defined and established. Cooperation between

central and regional level is functioning well and marked by a clear division of tasks and responsibilities.

Some additional capacity is required at regional level. The total number of integrated permits issued so far is around 80 out of the 230 sites which need to be assessed. In addition, another 14 permits are under review. Preparations need to be stepped up.

The legislation on **chemicals and genetically modified organisms** has been transposed and is in line with the *acquis,* including on the contained use of genetically modified micro-organisms and on the deliberate release into the environment of genetically modified organisms (GMOs). Preparations are generally on track, but the administrative capacity on chemicals and genetically modified organisms needs further strengthening.

As for **noise**, action plans and strategic noise maps have not yet been completed, but in general preparations are on track.

Concerning **nuclear safety and radiation protection**, legislation has been adopted on the shipment of radioactive waste and medical exposure. Administrative capacity is largely in place, except for the enforcement of the aspects relating to medical exposure. Preparations in this area need to be stepped up.

Conclusion

Bulgaria is now generally meeting the commitments and requirements arising from the accession negotiations in the area of **noise and chemicals** and **genetically modified organisms**.

Progress has been made on **horizontal legislation**, **waste management**, **water management**, **industrial pollution and risk management** and **nuclear safety and radiation protection**. Increased efforts and swift action are now needed by Bulgaria to finalise the transposition process and to implement and enforce the legislation. Administrative capacity still needs to be further increased in these areas, with particular attention to the regional and local environmental authorities and the inspectorates.

4.1.16. Chapter 23: Consumer and health protection

Bulgaria has now achieved a reasonable degree of alignment with the *acquis* in the area of **safety-related measures**, including liability for defective products, general product safety and dangerous imitations. Preparations are on track.

The **market surveillance** system in this area has been improved. However, coordination between the bodies and institutions involved still has not been strengthened. Preparations need to be stepped up.

As regards the **non-safety-related measures**, the adoption of the new Consumer Protection Law represented an important step forward in the transposition of several directives. Bulgaria has not transposed parts of the *acquis* on consumer credit, distance marketing of consumer financial services and injunctions and has not strengthened the institutional framework. Both staffing and technical facilities of the newly established Consumer Protection Directorate as well as of the Commission of trade and Consumer Protection, in particular for the latter to perform additional functions and tasks deriving from the new Consumer Protection Law are

limited. Furthermore, few efforts have been made to develop a strong independent, representative and effective consumer movement, which would help consumers and play an effective role in consumer policy-making and market surveillance. Preparations need to be stepped up.

Conclusion

Progress has been made on **consumer and health protection.** However, increased efforts and swift action are still needed in this area in order to solve the shortcomings before accession. Alignment of the legislation needs to be completed, notably on non-safety-related measures. Market surveillance activities, and the administrative capacity and structures need further improvement, as well as promoting the involvement of consumer organisations in the development and implementation of consumer policy.

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

As regards preparations for applying the **Schengen *acquis* and the management of the future EU external border**, an updated Schengen Action Plan for the period 2006-07 and an implementation report for 2005 were adopted in January 2006. An integrated border management strategy was approved by the Council of Ministers in January 2006 and an Action Plan in April 2006. The strategy outlines 11 sets of actions to be accomplished before accession and 13 sets of actions to be accomplished between accession and the integration in Schengen. In February 2006, a pilot project on introducing the one-stop principle was introduced in a few places for private cars. This now needs to be introduced in all border crossing points, including for the truck lanes. Bulgaria and Romania have agreed to intensify their border co-operation, especially on the surveillance of the Danube.

On the management of the future EU external borders, significant progress was made in procedures and the level of control, particularly at the airports and sea ports. The status of the five sea ports that handle international traffic has been now clarified. The equipment used for border control seems to be sufficient for conducting high-quality controls. Around 270 border police officials were recruited, reducing the vacancies to less than 750.

The setting up of joint mobile teams of the customs and border police for in-depth checks along the borders is delayed. Given their role in the implementation of the Schengen *acquis*, further efforts are needed to ensure timely establishment of the teams. The infrastructure of the border crossings is not adapted yet to the goals of the strategy.

There is still a lack of border police officers to carry out checks at certain border crossing points. Additionally, even if an operational risk analysis capacity generally exists, improvements at local level are still required.

As regards Bulgaria’s preparations for joining the Schengen Information System (SIS) at a later stage after accession, it is essential that Bulgaria's preparations for inclusion in the SIS II and participation in relevant working groups are stepped up to ensure that Bulgaria is working towards SIS II requirements. A number of deadlines set in earlier Action Plans have been missed; full and timely implementation of measures is essential in this area. Overall, preparations in this area need to be stepped up.

On **visa policy**, alignment with the EU positive list has continued by concluding bilateral

agreements with Brazil and Venezuela. Bulgaria now participates in all VIS-related working groups and technical meetings and this should help to ensure that its national visa system is correctly aligned with VIS requirements.

Bulgaria is committed to introducing a visa regime for the former Yugoslav Republic of Macedonia and Serbia & Montenegro before accession. Alignment with the EU positive list is yet incomplete. All Bulgarian consular posts have magnifying glasses, UV lamps and three metro-viewers. Furthermore, the missions have been equipped with specialised software to control documents. Overall, preparations in the area of visa policy are well on track.

In the field of **asylum**, the technical preparations to be ready to use EURODAC as from accession are on track. The EURODAC Master Plan Project is being implemented and a Directorate was established in the Ministry of Interior to deal with Dublin II and EURODAC.

The administrative capacity of the Agency for Refugees needs to be further strengthened. Capacity building activities with the authorities and with the judiciary on asylum legislation, procedures and applications are yet to be completed. The setting up of two new reception centres in Sofia and Pastrogor is seriously delayed. Preparations in this area need to be stepped up.

In the area of **police co-operation and combating organised crime**, a new Law on the Ministry of Interior was adopted in February 2006 that aims to improve the co-operation between the various law enforcement agencies fighting crime, streamlining their work and introducing a professional career path for the Ministry of Interior officials. Preparations for the implementation of the new Penal Procedure Code continued, including recruitment and training of police officers with investigative powers. Regarding the operational results in the fight against organised crime an increase in activity of various police forces was noticeable. International co-operation with neighbouring countries and EU Member States in dismantling international criminal networks continued. The fight against organised crime has gained more political attention and some law enforcement agencies are more active in this field. Some measures are taken in order to uncover links between law enforcement bodies and organised crime groups.

The impact of recently adopted legislation on the overall crime situation needs to be followed since it entered into force at the end of April 2006. The impact and adequacy of the new Penal Procedure Code on fighting organised crime has to be closely monitored. Its effectiveness could be weakened by the considerable reduction of police investigators leaving only 2000 of them, the two years time limit within which an investigation must be completed while organised crime cases take often much longer to solve and the fact that police investigators are not allowed to be a witness in court. Given its geographic location and the challenges the entire area is facing as regards organised crime, Bulgaria's regional co-operation, in particular at operational level, needs to be intensified. Data protection and confidential information treatment is not yet always adequate, which affects international cooperation.

There remain serious concerns about the effectiveness of Bulgaria's fight against organised crime. While this has been a stated national priority there are still no tangible results in investigating and prosecuting organised crime networks, including the implementation of a multi-disciplinary strategy. A harmonised approach towards crime statistics, allowing Bulgaria to monitor the situation more closely, is yet to be established. The frequent contract killings of people linked to organised crime groups seldom give rise to successful investigations and

prosecutions and continue to represent a challenge to the rule of law in the country. The illegal possession of firearms remains a problem. The success rate in prosecuting crimes often linked to organised crime such as money laundering, counterfeiting of goods, currency and documents, trafficking of human beings, prostitution and drug smuggling is still very low. Mechanisms aiming at enhancing the fight against organised crime such as the witness protection scheme are not fully operational yet.

The National Service to Combat Organised Crime continues to suffer from a lack of high quality staff and seems in general to have a reactive instead of a pro-active attitude. Bulgaria had since years, legal tools allowing the investigation and effective prosecution of known organised criminals. It therefore remains to be seen if the changed legal framework will lead to a real improvement of the fight against organised crime. Urgent attention is still needed in this area.

In the field of **money laundering** *(see also chapter 4 – Free movement of capital),* some gaps remain. Proper implementation of its legislation is unsatisfactory especially in the lack of tangible results in enforcement, in particular the absence of convictions. The co-operation between law enforcement agencies is still insufficient. Finally, the effectiveness of the fight against money laundering continues to be seriously hampered by corruption, organised crime and the informal economy. Sufficient training in all bodies dealing with money laundering cases has still not been provided. Urgent attention is now needed in this area.

On the **fight against drugs**, limited progress can be reported as regards the strengthening of the administrative capacity of the National Focal Point within the European Monitoring Centre for Drugs and Drugs Addictions. Rules on the establishment and functioning of the National Focal Point were adopted in December 2005. Some recent developments can also be noted as regards investigating and prosecuting major drug smugglers. Bulgaria elaborated a report on the implementation of the action plan to the National Anti-Drugs Strategy in March 2006 and continued to implement the National Anti-Drug Strategy 2003-2008 and its Action Plan broadly according to the deadlines. Domestic programmes regarding public awareness and prevention are now being implemented.

However, a fully consistent and well-coordinated national drug policy, addressing particularly demand reduction and enhancing funding for treatment programmes, has not been developed yet. The administrative capacity is still limited, particularly as concerns highly qualified staff as well as regarding the co-operation between various actors involved in the implementation of the National Drug Strategy. The National Focal Point on drugs has only limited resources. Therefore, preparations in this area need to be speeded up.

As regards the **fight against fraud and corruption**, a new anti-corruption strategy covering the period 2006-08 was adopted. It was underpinned by an Action Plan. They can provide a comprehensive framework for combating corruption if fully implemented.

However, the implementation of the strategy is not linked to a performance management system, with concrete and measurable targets. The Secretariat of the Commission on Prevention and Counteracting Corruption still has an insufficient administrative capacity. The role of this Commission is essential, as it is the institution which encompasses knowledge about all key anti-corruption measures.

Law enforcement agencies, including the Customs Agency, remain very vulnerable to

corruption and improper behaviour. A comprehensive risk management programme that addresses the business sector is still missing. Risk management has to be underpinned by a reliable and regular reporting system.

A review of the system of a number of cash payments at external border posts is not addressed yet. Boxes at the borders where customers can leave their complaints are barely used indicating that public awareness campaigns are not efficient yet *(see also the political section)*. Overall, urgent attention is still needed in this area.

In the field of **data protection**, while the Data Protection Law was amended in December 2005, significant further alignment with the *acquis* is still required. This particularly concerns the automated processing of personal data, the processing of personal data for defence, national security and public order purposes, the mechanisms for adopting codes of conduct, the tasks of data controllers, the time limits to lodge complaints and the provisions concerning notification of processing operations. The administrative capacity of the Data Protection Commission is still weak, which is partly caused by significant cuts in its 2006 budget. The Commission does not have sufficient staff.

The handling of complaints remains ineffective. The budgetary independence of the Commission is not fully guaranteed. The functioning of the registration and notification scheme is still unsatisfactory as is the enforcement record in general. Co-operation with the Ombudsman and other agencies is still insufficient. At this moment, Bulgaria is not completely in a position to ensure full implementation of the *acquis* in the field of protection of personal data (*see also chapter 3*). Therefore, preparations in this area need to be stepped up considerably.

In the area of **judicial cooperation in civil and criminal matters**, Bulgaria is well advanced in its legal alignment with the *acquis*. In January 2006 the Bulgarian Parliament ratified the 1996 Hague Convention on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children.

However, the stipulation of the terms and conditions for enforcement of this convention by the Ministry of Justice as central body under this Convention is outstanding. Questions remain as regards the quality of the implementation of the *acquis* as well as regarding the overall functioning and efficiency of the Bulgarian judicial system. The implementation of the new penal procedure code will need to be monitored closely given its importance for the quality of Bulgaria's international judicial co-operation in penal matters. Fight against cross border organised crime need to be speeded up as this is one of the most important areas covered by the judicial co-operation in criminal matters within the EU. Corruption continues to be a serious challenge within the justice system and this may affect the smooth and correct implementation of instruments in the area of mutual recognition. Preparations in this area need to be enhanced.

Conclusion

Significant progress has been made in the area of **visa policy** and Bulgaria now generally meets the commitments and requirements arising from accession negotiations in this area.

Significant progress has been made in the area of **Schengen and future EU external border**. However, further steps are still needed in order to complete the preparations for accession, in

particular to fully implement the Integrated Border Management Strategy and the Schengen Action Plan 2006-2007. Some progress in the areas of **asylum** and of **fight against drugs** and of **judicial cooperation in civil and criminal matters** was made. Specific attention is needed in the area of **data protection** where progress remains slow. In these areas, remaining preparations should be intensified. All these areas still require increased efforts and swift action now in order to solve the outstanding issues before accession.

In the areas of **police cooperation and fight against organised crime** and of **fight against fraud and corruption** only very limited progress was made despite the fact that urgent action was requested in October 2005. In the area of **money laundering**, the situation deteriorated substantially. Bulgaria should take immediate and decisive action now in these three areas order to be ready by the date of accession.

4.1.18. Chapter 25: Customs union

Concerning **administrative and operational capacity,** revenue collection and the fight against counterfeiting and drugs have developed in the right direction. Preparations in the IT system, notably with a view to achieving interconnectivity with EU systems, have progressed well and, if no delays occur, Bulgaria appears on track to meet its obligations upon accession. The infrastructure and equipment of crucial border crossing points are continuously being upgraded.

The National Customs Agency (NCA) is actively promoting the use of simplified procedures, in particular through its website and by liaising with business operators. Sustained efforts are being made to reinforce post-clearance controls.

The Law on Excise Duties and Tax Warehouses, adopted in November 2005, provides for transferring responsibility for administering excise duties from the tax administration to the NCA as of July 2006 *(see Chapter 10 – Taxation)*. The management of the NCA is putting in place the necessary organisational measures to perform this task.

Customs officers' knowledge of customs rules and procedures remains good, thanks to the effective training policy put in place within the NCA. As regards the fight against corruption, a number of disciplinary measures have been taken along the lines of the NCA's action plan. NCA should maintain fight against corruption as its top priority.

Preparations are well on track as regards administrative and operational capacity in the customs field. The NCA has made good progress towards IT systems inter-connectivity. Bulgaria should maintain its pace of progress in preparing its IT systems for interconnectivity upon accession.

Conclusion

Significant progress has been made on **administrative and operational capacity** in the customs field. Bulgaria is now generally meeting the commitments and requirements arising from the accession negotiations. Preparations are continuing and Bulgaria is expected to be in a position to implement the *acquis* from the time of accession if the current pace of progress is maintained.

4.1.19. Chapter 28: Financial control

As regards **control over structural action expenditure**, the compliance assessments for Phare and ISPA have been initiated.

However, Bulgaria has accumulated substantial delays with Extended Decentralised Implementation System (EDIS) accreditation for both the Phare and the ISPA programmes. The timetables included in the relevant action plans for EDIS accreditation, which envisage final accreditation by the end of June 2006, have not been adhered to for the intermediate steps, and there are serious risks that the process will not be completed by the end of 2006, with substantial consequences involving the loss of large amounts of pre-accession funding. This also casts doubts over Bulgaria's capacity properly to control future Structural Funds expenditure. Urgent action is now needed in this area.

On **protection of the EU's financial interests**, an Action Plan and a Strategy on Combating Fraud affecting the financial interests of the European Communities have been adopted and training has been provided for relevant bodies. The output on communication of irregularities and suspected fraud has significantly improved recently.

The Anti-Fraud Strategy, which is the framework for protecting the EU's financial interests in Bulgaria, is too vague to become effective. An inter-institutional working group has been created on 12 April to propose a new draft strategy for fight against fraud affecting the European Communities' financial interests. The working procedures and the operational capacity of the Bulgarian AFCOS (Council Coordinating the Fight against the Infringements affecting the Financial Interests of the European Community) in inter-institutional cooperation and coordination between the authorities involved remains insufficient. Two Working Groups have been set up on 14 April by the decision of the Minister of Interior. They will have the tasks to improve the cooperation between the bodies having competencies in checks and investigations and the report of irregularities affecting.

Preparations need to be stepped up in this area.

Conclusion

Progress has been made with regard to the **protection of the EU's financial interests**. However, increased efforts are still needed to sustain the progress made. Action is needed with regard to the strengthening of administrative capacity and the improvement of coordination by the new working groups.

The situation with **control over structural action expenditure** has deteriorated. This area is now a cause of serious concern. Bulgaria should take immediate and decisive action now and significantly speed up EDIS accreditation in order to be ready by accession.

4.2. Translation of the *acquis* into Bulgarian

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

about 15 000 pages).

Of the nearly 90 000 pages of *acquis*, Bulgaria has already translated nearly 95%. However, 44% of this still has to be revised by the national authorities before submission to the EU institutions. Translation and revision capacity in Bulgaria has not yet reached the necessary throughput level of some 6 000 pages per month, largely due to difficulties with recruiting and retaining staff. The Bulgarian government is urged to give this matter due attention, otherwise the *acquis* might not be published in time for accession on 1 January 2007.

4.3. General evaluation

Bulgaria has reached a considerable degree of alignment with the *acquis.*

The October 2005 report concluded that Bulgaria would be ready by accession in a large number of areas. A number of other areas required increased efforts, and 16 areas gave rise to serious concern.

Since then, further progress has been made. Bulgaria should be ready by accession in the following additional areas if the current pace of progress is maintained: public procurement, mutual recognition of industrial product specifications; freedom to provide non-financial services; most agriculture Common Market Organisations; aviation; excise duties; taxation implementing structures; postal services liberalisation; regional policy legislation; chemicals and genetically modified organisms, noise legislation; visa policy; and customs preparations.

Progress has also been made in a number of areas, which no longer give rise to serious concern but still require increased efforts to complete preparations: the insurance sector, the protection of intellectual property rights, the paying agency for agriculture, the milk common market organisation, animal diseases control measures, veterinary border inspection posts; animal welfare, trade in live animals and animal products, veterinary aspects of public health; institutional and financial management structures for regional policy, as well as Schengen preparations and the management of the future EU external borders.

Increased efforts are also needed for: mutual recognition of professional qualifications; financial services, information society services, protection of personal data; legislation to fight money laundering; agriculture trade mechanisms; the Common market organisations on wine and alcohol and on beefmeat; legislation in the veterinary and phytosanitary sector; most aspects of fisheries; sea transport; VAT, direct taxation rules; labour law, social dialogue, social inclusion, anti-discrimination policy, the European Social Fund, public health; energy market liberalisation; nuclear energy and nuclear safety, in particular the commitments to early closure and subsequent decommissioning of the reactors of the Kozloduy plant; steel industry restructuring; electronic communications; programming, monitoring and procurement capacity for regional policy; horizontal environmental legislation, water quality, integrated pollution prevention and control, waste management; consumer protection; asylum, judicial co-operation; fight against drugs; protection of the EU's financial interests; and the translation of the *acquis* into Bulgarian.

There remain six areas of serious concern, which require urgent action:

– setting up a proper integrated administration and control system (IACS) in agriculture, (*acquis* chapter 7);

– building-up of rendering collection and treatment facilities in line with the *acquis* on TSE and animal by-products (*acquis* chapter 7);

– clearer evidence of results in investigating and prosecuting organised crime networks (*acquis* chapter 24);

– more effective and efficient implementation of laws for the fight against fraud and corruption (*acquis* chapter 24);

– intensified enforcement of anti-money laundering provisions (*acquis* chapter 24);

– strengthened financial control for the future use of structural and cohesion funds (*acquis* chapter 28).